

IN THE SUPREME COURT OF THE STATE OF NEVADA

DAVONTAE WHEELER,)	SUPREME COURT NO. 81374
)	
Appellant,)	
)	
vs.)	APPEAL
)	
STATE OF NEVADA,)	
)	
Respondent.)	
)	DISTRICT COURT NO. C-17-328587-3
)	
)	

APPELLANT'S APPENDIX

(VOL. 7 OF 14)

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1 would make you partial for one side or the other?

2 PROSPECTIVE JUROR NO. 540: No.

3 MR. PESCI: Some people might say, hey, you were
4 finding probable cause for a year for the government; are you
5 really someone that should be determining whether someone
6 committed a crime?

7 PROSPECTIVE JUROR NO. 540: I don't think that would
8 affect me.

9 MR. PESCI: Okay. You can still assess the evidence
10 and determine whether or not we make our case?

11 PROSPECTIVE JUROR NO. 540: Right.

12 MR. PESCI: Okay. Anything else on the other
13 questions that you wanted to answer?

14 PROSPECTIVE JUROR NO. 540: No.

15 MR. PESCI: All right, thank you very much, ma'am.
16 Okay, this is Mr. Widdison. I apologize.

17 PROSPECTIVE JUROR NO. 541: Yes, sir. 541.

18 MR. PESCI: 541. Thank you very much. All right,
19 so I am just perplexed by this. You got robbed at gunpoint in
20 Switzerland?

21 PROSPECTIVE JUROR NO. 541: In Switzerland.
22 Lausanne, Switzerland.

23 MR. PESCI: How did they not know you didn't have
24 any money?

25 PROSPECTIVE JUROR NO. 541: That's a really good

1 question.

2 MR. PESCI: Right?

3 PROSPECTIVE JUROR NO. 541: They must not have been
4 casing us very long.

5 MR. PESCI: I was just going to say, if they spent
6 just five minutes casing you, they'd know you didn't have any
7 money.

8 PROSPECTIVE JUROR NO. 541: They didn't get much, I
9 can tell you that.

10 MR. PESCI: All right. Joking aside, did you have
11 to make a police report?

12 PROSPECTIVE JUROR NO. 541: We did. They came over,
13 they sent over three officers, and they didn't do much.

14 MR. PESCI: Yeah.

15 PROSPECTIVE JUROR NO. 541: When I wrote home, I
16 remember I said, they sent over Huey, Dewey, and Louie,
17 because they had no -- they just came in and said, well,
18 you're still alive.

19 MR. PESCI: Okay.

20 PROSPECTIVE JUROR NO. 541: And that was really the
21 goal of what they just -- well, you're okay, it's all right.

22 MR. PESCI: So that's kind of where I wanted to go,
23 is I was trying to figure out if you ever had to go to court
24 based on that case.

25 PROSPECTIVE JUROR NO. 541: No, not at all. There

1 was no contact or anything after that at all.

2 MR. PESCI: All right, so you didn't have to take a
3 witness stand?

4 PROSPECTIVE JUROR NO. 541: Never.

5 MR. PESCI: All right. But unfortunately, that was
6 not the only time you were victimized, correct?

7 PROSPECTIVE JUROR NO. 541: Correct.

8 MR. PESCI: There was a burglary of your home?

9 PROSPECTIVE JUROR NO. 541: Yep, in North Las Vegas.

10 MR. PESCI: In North Las Vegas? Okay. Was anybody
11 caught?

12 PROSPECTIVE JUROR NO. 541: No.

13 MR. PESCI: All right. Did the police even respond?

14 PROSPECTIVE JUROR NO. 541: Yes, they did. They
15 were there when I got home.

16 MR. PESCI: They police got there before you?

17 PROSPECTIVE JUROR NO. 541: Yes.

18 MR. PESCI: Okay. Did they dust for prints?

19 PROSPECTIVE JUROR NO. 541: They did.

20 MR. PESCI: And then, just nothing ever came from
21 it?

22 PROSPECTIVE JUROR NO. 541: Nothing. Nothing came
23 up.

24 MR. PESCI: You know, the criminal justice system,
25 did it fail you? Do you feel like something more should have

1 been done?

2 PROSPECTIVE JUROR NO. 541: No, I think they did

3 what they could.

4 MR. PESCI: Okay. You wouldn't hold that against

5 the police or the prosecution?

6 PROSPECTIVE JUROR NO. 541: Not at all.

7 MR. PESCI: All right. The fact, however, that

8 you've been the victim of a crime before, and specifically a

9 robbery, an armed robbery, can you still be fair and impartial

10 in this case?

11 PROSPECTIVE JUROR NO. 541: Yes, I can.

12 MR. PESCI: All right. Would you agree that that

13 situation in Switzerland, or even the burglaries here in North

14 Las Vegas have nothing to do with these specific facts?

15 PROSPECTIVE JUROR NO. 541: I agree.

16 MR. PESCI: Okay. You can be fair and impartial to

17 both sides?

18 PROSPECTIVE JUROR NO. 541: Yes, I can.

19 MR. PESCI: All right. And then, you have an

20 accounting degree, the certified --

21 PROSPECTIVE JUROR NO. 541: I do. Certified manager

22 accountant.

23 MR. PESCI: All right, for the non-accountants --

24 PROSPECTIVE JUROR NO. 541: Explain what that means.

25 MR. PESCI: Yeah, thank you.

1 PROSPECTIVE JUROR NO. 541: So the best way to
2 explain it is a CPA does the public accounting part of it,
3 like on your taxes, and the reporting for SEC, that kind of
4 stuff. A CMA does it for inside the business to benefit the
5 bosses and the managers.

6 MR. PESCI: Gotcha. Okay. Do you ever have an
7 account not add up?

8 PROSPECTIVE JUROR NO. 541: It happens.

9 MR. PESCI: All right. As much as this sounds
10 weird, are you okay with that, that sometimes --

11 PROSPECTIVE JUROR NO. 541: No, it drives me crazy.

12 MR. PESCI: That's where I was trying to go, right?

13 PROSPECTIVE JUROR NO. 541: Yeah.

14 MR. PESCI: So if every little piece doesn't add up,
15 is it going to drive you crazy?

16 PROSPECTIVE JUROR NO. 541: I -- well, if it's a
17 number, then it drives me crazy; but this wouldn't bother me,
18 no.

19 MR. PESCI: All right, so --

20 PROSPECTIVE JUROR NO. 541: And I know what you
21 mean.

22 MR. PESCI: Outside of a number count, like, you
23 might get this piece of evidence, but just -- you just don't
24 have this piece over here, but we have this piece over there.
25 Are you okay with that, or do you want every single piece?

1 PROSPECTIVE JUROR NO. 541: Well, you want every
2 single piece, but sometimes you're not going to get it.

3 MR. PESCI: That's a really good point. Are you
4 able or do you think you can make a decision without every
5 single piece?

6 PROSPECTIVE JUROR NO. 541: I think so, yes.

7 MR. PESCI: All right, thank you very much, sir.
8 If you could pass the microphone over to Mr. Kubota?

9 PROSPECTIVE JUROR NO. 546: Kubota.

10 MR. PESCI: Okay.

11 PROSPECTIVE JUROR NO. 546: John Kubota, 546.

12 MR. PESCI: Thank you very much. All right.
13 Unfortunately, you've been in a courtroom before?

14 PROSPECTIVE JUROR NO. 546: A few times.

15 MR. PESCI: If I've heard you correctly, were you
16 actually on the witness stand?

17 PROSPECTIVE JUROR NO. 546: No.

18 MR. PESCI: Oh, never called as a witness?

19 PROSPECTIVE JUROR NO. 546: We never went to court.
20 It was always through the -- we gave depositions, and never
21 got past depositions and such.

22 MR. PESCI: All right. Were you present when some
23 of the depositions were held? I'm going to try to make it
24 simple.

25 PROSPECTIVE JUROR NO. 546: Yes. I -- well, I could

1 be, but I wasn't always there, because too many other --
2 MR. PESCI: Too many times?
3 PROSPECTIVE JUROR NO. 546: Right.
4 MR. PESCI: Okay. In that -- and this is where I
5 wanted to go with this. Did you assess the witnesses based on
6 what they said?
7 PROSPECTIVE JUROR NO. 546: Well, yes, but they were
8 just saying, we've reviewed these calculations, and we've
9 reviewed this. And that's why I say, the judge always said,
10 well, nobody ever said you did anything wrong, but you're
11 still guilty.
12 MR. PESCI: Okay. And that concept, I assume,
13 doesn't sit well with you?
14 PROSPECTIVE JUROR NO. 546: Doesn't sit well.
15 MR. PESCI: Okay. Are you okay then with the
16 concept of somebody being held responsible, even though they
17 didn't do every act in the process?
18 PROSPECTIVE JUROR NO. 546: Every -- they --
19 MR. PESCI: So if Mr. -- Parker Brooks and I, we're
20 the DAs in this case.
21 PROSPECTIVE JUROR NO. 546: Right.
22 MR. PESCI: We're both involved in this. Right now,
23 he's just sitting there, right?
24 PROSPECTIVE JUROR NO. 546: Right.
25 MR. PESCI: He hasn't really added a lot to this

1 process, has he?

2 PROSPECTIVE JUROR NO. 546: He's looked pretty.

3 Look at that smile.

4 THE COURT: He will.

5 MR. PESCI: Joking. I'm joking, but on purpose,

6 right?

7 PROSPECTIVE JUROR NO. 546: Right.

8 MR. PESCI: He's here with me; he is attached to me.

9 PROSPECTIVE JUROR NO. 546: Right.

10 MR. PESCI: We're the prosecutors, so he's on the

11 hook for what's going on in here, even though, right now, he's

12 not talking.

13 PROSPECTIVE JUROR NO. 546: Right. He's supposed to

14 be, if nothing else, learning as to how you approach it, and

15 how you ask questions, and where you go with --

16 MR. PESCI: He's got witnesses, believe me.

17 PROSPECTIVE JUROR NO. 546: Right.

18 MR. PESCI: He's going to take some witnesses. So

19 are we okay with the concept of, like, we might be both held

20 to a standard, even though we didn't do the exact same thing?

21 PROSPECTIVE JUROR NO. 546: Oh, yeah.

22 MR. PESCI: Okay. Because, like, differentiating

23 that versus what you've experienced, which was like, look, I

24 didn't do this, but I'm being held responsible; you don't like

25 that concept?

1 PROSPECTIVE JUROR NO. 546: Right.

2 MR. PESCI: But you're open to the idea, assuming we
3 prove it, like, hey, if Person A did this, and Person B did
4 this, they're both responsible?

5 PROSPECTIVE JUROR NO. 546: Yeah.

6 MR. PESCI: Okay, all right. That was the main
7 focus. Now, are you retired now?

8 PROSPECTIVE JUROR NO. 546: No.

9 MR. PESCI: Okay, you're still working?

10 PROSPECTIVE JUROR NO. 546: Still have two kids in
11 high school. I got five, six years to go.

12 MR. PESCI: Understood. Totally get that. All
13 right, anything as far as the other things that we talked
14 about that you wanted to share?

15 PROSPECTIVE JUROR NO. 546: Oh. As I'm watching how
16 much -- how long this takes, and you brought up the subject
17 takes until next week, the end of next week, I am supposed to
18 make a presentation, I believe it's in Ely; and Monday the
19 24th, I'm due in court in Fort Collins, Colorado.

20 MR. PESCI: Okay. The presentation in Ely, what day
21 is that?

22 PROSPECTIVE JUROR NO. 546: It's the 20th.

23 MR. PESCI: So let's see. So is that Thursday?

24 PROSPECTIVE JUROR NO. 546: It's next Thursday.

25 MR. PESCI: Thursday? Okay.

1 PROSPECTIVE JUROR NO. 546: My birthday's the 21st,
2 so.
3 MR. PESCI: Oh, don't want to be in court that day?
4 PROSPECTIVE JUROR NO. 546: No.
5 MR. PESCI: All right. So the 21st, you have a
6 potential conflict?
7 PROSPECTIVE JUROR NO. 546: 20th.
8 MR. PESCI: 20th?
9 PROSPECTIVE JUROR NO. 546: And the 24th for sure.
10 MR. PESCI: Okay, all right. Thank you.
11 PROSPECTIVE JUROR NO. 546: I just got my lawyer's
12 notice that we are scheduled for the 24th, Fort Collins.
13 MR. PESCI: Okay. All right, thank you very much,
14 sir. If you could pass the microphone over.
15 Okay. Trying to find your badge number, Ms. Bell.
16 554?
17 PROSPECTIVE JUROR NO. 554: Yeah, 554.
18 MR. PESCI: Thank you so much for being here.
19 You've got two kids, correct?
20 PROSPECTIVE JUROR NO. 554: Correct.
21 MR. PESCI: All right. And if I remember correctly,
22 they're of age where they can work, correct?
23 PROSPECTIVE JUROR NO. 554: Correct.
24 MR. PESCI: And what do they do again? I apologize.
25 PROSPECTIVE JUROR NO. 554: One's a dental

1 assistant, and one works for Wells Fargo.

2 MR. PESCI: Is that here in Las Vegas?

3 PROSPECTIVE JUROR NO. 554: Yes, here in Las Vegas.

4 MR. PESCI: Okay. When they were younger, did they

5 ever have any disputes?

6 PROSPECTIVE JUROR NO. 554: My oldest did, yes.

7 MR. PESCI: All right. With each other?

8 PROSPECTIVE JUROR NO. 554: Yes.

9 MR. PESCI: Right.

10 PROSPECTIVE JUROR NO. 554: They didn't even talk

11 until after high school.

12 MR. PESCI: Did you have to kind of work with them

13 on that?

14 PROSPECTIVE JUROR NO. 554: Yes, yes.

15 MR. PESCI: Did you sometimes have to resolve

16 conflicts or allegations that they both made?

17 PROSPECTIVE JUROR NO. 554: Yes.

18 MR. PESCI: Do you feel you're in a position, based

19 on your experience, to do that kind of thing?

20 PROSPECTIVE JUROR NO. 554: Yes.

21 MR. PESCI: Could you do that in this case?

22 PROSPECTIVE JUROR NO. 554: Yes.

23 MR. PESCI: Anything about sitting in judgment of

24 another human being that would prevent you from serving?

25 PROSPECTIVE JUROR NO. 554: No.

1 MR. PESCI: Okay, kind of paused for a second there.
2 PROSPECTIVE JUROR NO. 554: I just don't like it.
3 MR. PESCI: Okay. That's understandable, right?
4 PROSPECTIVE JUROR NO. 554: Yeah.
5 MR. PESCI: The question is though, if you're
6 selected, there's a responsibility to assess the facts, right?
7 Is that something you think you could do?
8 PROSPECTIVE JUROR NO. 554: Yes.
9 MR. PESCI: All right, thank you so much, ma'am.
10 PROSPECTIVE JUROR NO. 554: I do have a conflict.
11 MR. PESCI: Okay.
12 PROSPECTIVE JUROR NO. 554: On the 21st, I have
13 airplane tickets to Salt Lake to take my grand baby to a
14 gymnastics tournament.
15 MR. PESCI: Yes. Yeah, I remember.
16 PROSPECTIVE JUROR NO. 554: So will we -- I'm just
17 hoping we'll be done by then.
18 MR. PESCI: So we've got some conflicts at the end
19 of the week next week?
20 PROSPECTIVE JUROR NO. 554: Right, right.
21 MR. PESCI: All right, thank you so much, ma'am. Is
22 it all right if I grab the mic, Your Honor?
23 THE COURT: Absolutely.
24 MR. PESCI: Okay. See, Parker's going to do
25 something.

1 PROSPECTIVE JUROR NO. 556: 556.
2 MR. PESCI: Look at that, right to it. Thank you
3 very much. And last name?
4 PROSPECTIVE JUROR NO. 556: Delgadillo.
5 MR. PESCI: For the record. Thank you. All right,
6 sir. You've been in Las Vegas for the past 16 years?
7 PROSPECTIVE JUROR NO. 556: Yes, sir.
8 MR. PESCI: Okay, and I apologize. I was trying to
9 figure out -- you said your wife worked at the Mirage, did you
10 say Workforce?
11 PROSPECTIVE JUROR NO. 556: Workforce, yes.
12 MR. PESCI: What does that mean?
13 PROSPECTIVE JUROR NO. 556: So like, that's who you
14 call when you want to call in. She gives you the point,
15 because they go by points, and she gets somebody to cover the
16 shift that's an on-call person.
17 MR. PESCI: Okay, all right. Makes sense now, okay.
18 And then, what you're doing now is roadside assistance,
19 correct?
20 PROSPECTIVE JUROR NO. 556: Yes, sir.
21 MR. PESCI: And in that capacity, have you ever
22 dealt with either Highway Patrol or Metro in maybe some car --
23 PROSPECTIVE JUROR NO. 556: Not at all, no.
24 MR. PESCI: No interactions with them in their job?
25 PROSPECTIVE JUROR NO. 556: No.

1 MR. PESCI: Okay. All right. Any reason why you
2 couldn't be fair and impartial to either side?

3 PROSPECTIVE JUROR NO. 556: Not at all.

4 MR. PESCI: Any reason why you couldn't make a
5 judgment about another person, about whether they did or
6 didn't do something?

7 PROSPECTIVE JUROR NO. 556: No.

8 MR. PESCI: Okay. Thank you very much, sir.

9 PROSPECTIVE JUROR NO. 556: Thank you.

10 MR. PESCI: Pass it on to Mr. Randall.

11 PROSPECTIVE JUROR NO. 557: Yeah. 557.

12 MR. PESCI: Thank you. You said it's a small --
13 your -- could you tell me your business again? Small computer
14 software?

15 PROSPECTIVE JUROR NO. 557: Sure. It's -- it's a
16 small company. It's just me, in effect. It's an LLC. I
17 actually work with a company that's based in Geneva that sell
18 corporate treasury solutions to major corporations, and I'm
19 their representative in the US, selling to US corporations.

20 MR. PESCI: Okay.

21 PROSPECTIVE JUROR NO. 557: So they have about 15
22 people, and I'm the only person that works for them in the US.

23 MR. PESCI: How long have you been doing that?

24 PROSPECTIVE JUROR NO. 557: I've been doing that for
25 four years now.

1 MR. PESCI: Here in Vegas?

2 PROSPECTIVE JUROR NO. 557: No. Before here -- I've
3 been in Vegas two-and-a-half years. Before that, I was in
4 Washington State for two years.

5 MR. PESCI: Okay. How are you enjoying that
6 contrast between Washington State and Las Vegas?

7 PROSPECTIVE JUROR NO. 557: Well, before Washington
8 State, I was in California. And so Washington State was just
9 -- I'm sorry if anyone lives there, but -- or lived here. But
10 it was very rainy, very gray, and very depressing, so it's
11 nice to be back south again.

12 MR. PESCI: So you enjoy the sun more?

13 PROSPECTIVE JUROR NO. 557: Absolutely.

14 MR. PESCI: All right. You mentioned earlier about
15 concerns or feelings based on potentially a co-defendant
16 testifying. If I've understood correctly, you said you might
17 have some suspicion, but you're willing to listen?

18 PROSPECTIVE JUROR NO. 557: Absolutely, yeah.

19 MR. PESCI: You're not closed off to it?

20 PROSPECTIVE JUROR NO. 557: Not closed off. You
21 know, always a little bit suspicious of that kind of thing,
22 but --

23 MR. PESCI: Sure.

24 PROSPECTIVE JUROR NO. 557: -- you know, willing to
25 see. I have an open mind to all the evidence.

1 MR. PESCI: Gotcha. All right. Anything else as
2 far as concerns with serving?
3 PROSPECTIVE JUROR NO. 557: No, not at all.
4 MR. PESCI: Do you think you can be fair to both
5 sides?
6 PROSPECTIVE JUROR NO. 557: I do, sir.
7 MR. PESCI: Thank you very much.
8 PROSPECTIVE JUROR NO. 557: Thank you.
9 MR. PESCI: Your Honor, may we approach?
10 THE COURT: Yes.
11 (Bench conference)
12 MR. PESCI: So, Judge, I wanted to -- Giancarlo
13 Pesci for the State. I wanted to make a challenge for cause
14 for Ms. Young.
15 THE COURT: Which one is she?
16 MR. SANFT: Which one is that?
17 MR. PESCI: She's in Seat 18, and --
18 THE COURT: Seat 18?
19 MR. PESCI: -- she's Badge number 485. She's the
20 individual who, on multiple occasions, became very emotional
21 during the process of explaining her brother-in-law's case and
22 the situation. And she indicated that it would give her pause
23 to, in essence, do her job.
24 She said that she didn't necessarily disagree with
25 the law, but she disagreed with the punishment, and she even

1 made the comment about how maybe he should just be put on
2 probation. I'm concerned, the State's concerned, that her
3 emotions will substantially -- or potentially substantially
4 impair her ability to fulfill her duty as a juror, and based
5 on that, we're making a challenge for cause.

6 THE COURT: Any objection?

7 MR. SANFT: Do you have an objection to it?

8 MR. RUGGEROLI: Yeah.

9 MR. SANFT: Well, I think I should have an
10 opportunity to traverse a little bit more about that issue as
11 to why she was emotional. I think she was more emotional
12 because of the fact that it's a family member who obviously
13 needed help and exhibited this type of behavior. I think that
14 she was asked yesterday whether or not she could be fair and
15 impartial, and I think she said yes.

16 MR. PESCI: Mr. Sanft, I apologize, and also Mr.
17 Ruggeroli. Obviously, they have the right to that. I just
18 didn't want to pass the panel, and tell you I was passing it
19 for cause, when in fact --

20 THE COURT: Okay.

21 MR. PESCI: -- I do have a cause challenge.

22 THE COURT: Okay.

23 MR. PESCI: And so --

24 MR. SANFT: You want to --

25 THE COURT: I mean, I will allow you to --

1 MR. PESCI: I'm not trying to short-circuit it at
2 all.
3 THE COURT: I will allow you to --
4 MR. SANFT: We could just reserve that until the
5 end.
6 THE COURT: -- traverse Ms. Young --
7 MR. SANFT: Okay.
8 MR. PESCI: Right.
9 THE COURT: -- if you'd like to, and then I can just
10 hold him off on the challenge for cause.
11 MR. SANFT: Yes, ma'am.
12 MR. PESCI: And then, I'm just a little concerned
13 Ms. Newell is missing a test.
14 THE COURT: With who?
15 MR. PESCI: Ms. Newell is missing a test, but --
16 THE COURT: I know, but she told me yesterday --
17 MR. PESCI: Yeah.
18 THE COURT: I mean, and I'll give her whatever she
19 wants me to. It's undergrad.
20 MR. PESCI: I was actually going to ask if you could
21 mention that.
22 THE COURT: Yeah, I will.
23 MR. PESCI: So it doesn't appear that we were trying
24 to suck up, but like --
25 MR. SANFT: Yeah.

1 THE COURT: Yeah, of course.
2 MR. PESCI: Okay, thank you.
3 THE COURT: Okay, all right.
4 MR. SANFT: Oh, by the way, just one more. What
5 about the grandma that's going to Salt Lake for her daughter's
6 thing?
7 MR. PESCI: It's the 21st.
8 MR. SANFT: I mean, can we --
9 THE COURT: Yeah.
10 MR. SANFT: -- just do that now, and just --
11 THE COURT: Well, do you think we'll be done?
12 MR. PESCI: I hope so. Depends on --
13 THE COURT: Yeah, kind of hoping we'll just be done.
14 MR. SANFT: Well, what if they're still in
15 deliberation by the end of Thursday? I mean, that's the
16 problem.
17 THE COURT: Then we'll keep them --
18 MR. SANFT: But grandma --
19 THE COURT: -- until they reach a verdict.
20 MR. SANFT: But she's got to go to Salt Lake for her
21 granddaughter.
22 THE COURT: I know, I'm just --
23 MR. PESCI: Maybe you could ask her when she comes
24 back --
25 THE COURT: I'm just hoping that we'll be --

1 MR. PESCI: -- how long the trip is.
2 MR. SANFT: Okay.
3 THE COURT: I'm just hoping that we'll be done.
4 MR. SANFT: Okay.
5 THE COURT: Okay?
6 MR. PESCI: 21st is Thursday, right?
7 THE COURT: Pardon?
8 MR. PESCI: The 21st is Thursday?
9 THE COURT: The 21st is --
10 MR. RUGGEROLI: Isn't it Friday?
11 THE COURT: -- a Friday.
12 MR. PESCI: It's Friday? Okay.
13 THE COURT: Okay, here's the thing I'm concerned
14 about. That gentleman said he wanted to be in Ely on
15 Thursday. Like, if we're not done, he's not going.
16 MR. SANFT: I know.
17 THE COURT: So I don't know if you want to --
18 MR. SANFT: Can we just --
19 THE COURT: -- follow up with that.
20 MR. SANFT: I mean, is it all right if we just agree
21 right now to strike, and just put people in there now, so we
22 don't have to deal with that later and waste time? I mean, I
23 don't --
24 THE COURT: Well, who do you want to strike?
25 MR. SANFT: What if we just did -- like, the

1 gentleman that needs to go to Fort Collins, and then the
2 grandma. I feel bad for grandma.

3 THE COURT: Number 19?

4 MR. PESCI: I know, Judge. I think --

5 THE COURT: Which one is he?

6 MR. PESCI: He's Mr. Kubota, he's Seat 29.

7 THE COURT: Yeah.

8 MR. PESCI: He's Badge --

9 THE COURT: I really like him.

10 MR. SANFT: I like him, too.

11 MR. PESCI: He's Badge number 546.

12 MR. SANFT: I think he'd be really good.

13 THE COURT: I think he'd be a great juror.

14 MR. SANFT: Yeah.

15 THE COURT: I mean, here's the deal --

16 MR. SANFT: He'd be smart.

17 THE COURT: -- he won't be going on Thursday if
18 we're not done.

19 MR. PESCI: I'm more concerned with him because
20 that's Thursday. If I understand, Ms. Bell, I think, is
21 Friday.

22 THE COURT: Uh-huh.

23 MR. PESCI: So maybe you could follow up with when
24 she's flying, but I think that's Friday, and I really expect
25 this to be done by next Friday.

1 THE COURT: Okay. Well, I can talk to Mr. Kubota.
2 MR. SANFT: And I think he'd be one of the
3 alternates anyhow, so necessarily, he won't even be on --
4 THE COURT: Well, it just depends on how you guys
5 exercise your challenges.
6 MR. PESCI: Right. Well, I agree with you. He's
7 probably not going to make it to the 12.
8 MR. SANFT: Yeah, (indiscernible).
9 MR. PESCI: And on that note, are we going to do two
10 alternates?
11 THE COURT: Um-hum.
12 MR. PESCI: And then --
13 THE COURT: Yeah, so 14.
14 MR. SANFT: Okay.
15 MR. PESCI: Okay, perfect.
16 THE COURT: 14 jurors. All right, I'll follow up --
17 MR. PESCI: Thank you.
18 THE COURT: -- with Kubota.
19 (End of bench conference)
20 THE COURT: All right. Ms. Newell, I just want to
21 make sure you know that I'm happy to give you a letter. I
22 remembered, and you were -- we went looking for you yesterday,
23 and you were already gone. So if you want that letter today,
24 I'm happy to provide it so you can give it to your professor,
25 because I don't want you to have any issues because you didn't

1 take that test today.

2 PROSPECTIVE JUROR NO. 468: Okay, thank you.

3 THE COURT: Do you want it today?

4 PROSPECTIVE JUROR NO. 468: Yes, please.

5 THE COURT: Okay, then I'll make sure it's done, and

6 Officer Hawkes will provide it to you.

7 And then, Mr. Kubota, I have a concern -- where's

8 that microphone at? Okay. I just have a concern, because you

9 indicated on voir dire from the District Attorney that you had

10 plans to be in Ely on next Thursday --

11 PROSPECTIVE JUROR NO. 546: Yes.

12 THE COURT: -- February 20th?

13 PROSPECTIVE JUROR NO. 546: Yes.

14 THE COURT: Okay. And you understand that if you're

15 selected to serve on this jury panel and we're not done by

16 then, that would be a problem? I would tell you, you can't go

17 to Ely, you got to stay here because we're still in trial.

18 PROSPECTIVE JUROR NO. 546: Right.

19 THE COURT: How would that affect you?

20 PROSPECTIVE JUROR NO. 546: I believe it's just

21 meeting with a city council, so it's --

22 THE COURT: Okay.

23 PROSPECTIVE JUROR NO. 546: We'd just have to make

24 it later in the --

25 THE COURT: Okay, so it wouldn't be --

1 PROSPECTIVE JUROR NO. 546: -- schedule, but.
2 THE COURT: -- like the end of the world if you
3 weren't there next Thursday?
4 PROSPECTIVE JUROR NO. 546: Right.
5 THE COURT: Okay.
6 PROSPECTIVE JUROR NO. 546: Now, the one in Fort
7 Collins, that one is. It's a million dollar lawsuit and such.
8 THE COURT: Right, the -- you have to be in court,
9 and that's --
10 PROSPECTIVE JUROR NO. 546: Right.
11 THE COURT: -- the following Monday, correct?
12 PROSPECTIVE JUROR NO. 546: Right, correct.
13 THE COURT: I think you said the 24th?
14 PROSPECTIVE JUROR NO. 546: 24th.
15 THE COURT: Okay, yeah. I believe that we'll have
16 no issues, but if we did and you were on the panel, I would
17 allow you to leave.
18 PROSPECTIVE JUROR NO. 546: Thank you.
19 THE COURT: Okay? But thank you. Thank you very
20 much. And is the State going to pass the panel?
21 MR. PESCI: Based on the representations at the
22 bench, yes, Your Honor.
23 THE COURT: Okay. All right, Mr. Sanft, do you want
24 to -- I don't know -- I don't care who goes first. Mr. Sanft,
25 you can go first.

1 MR. SANFT: Yes, Your Honor. Thank you.

2 THE COURT: You can have a seat though. Mr. Sanft
3 will grab the microphone, and he'll hand it to whichever juror
4 he wants to start off.

5 MR. SANFT: All right.

6 Good morning. My name's Michael Sanft, again. I
7 represent Raekwon Robertson, who's seated here to my right,
8 wearing the red shirt.

9 Let me just ask questions here of all of you as a
10 whole first. This is a case involving accusations that have
11 been made, charges that have been made against my client, Mr.
12 Robertson, and the other co-defendants on this case.

13 Does anyone here have an issue with the idea that
14 you have to evaluate each person separately with regards to
15 the charges? Meaning that, just because the two of them are
16 sitting there at defense counsel table doesn't mean that
17 they're both equally responsible or criminally responsible for
18 any of the charges that have been charged against them. Does
19 anyone have a problem with that? Uniform no response. Okay.

20 Let me put it this way. Has anyone ever heard of
21 the term, where there's smoke, there's fire?

22 MEMBERS OF THE PROSPECTIVE JURY PANEL: Yes.

23 MR. SANFT: Okay. Now, believe it or not, I've been
24 doing this for a minute, and there's been times when I've had
25 entire panels say no, which is strange. Okay.

1 Well, let me ask you this. When I say that there's
2 smoke, there's fire, does anyone here not understand how that
3 could be applicable with the idea of Mr. Robertson sitting
4 over there at defense counsel table? Did I not ask the right
5 question?

6 All right, let me try this again. All right. I'm
7 just going to pick on somebody, how's that? And I will pick
8 on the first juror that I see looking directly at me, which
9 means everyone's going to look away.

10 But Ms. Bruer?

11 PROSPECTIVE JUROR NO. 019: Yes.

12 MR. SANFT: And this is Juror number --

13 PROSPECTIVE JUROR NO. 019: 019.

14 MR. SANFT: Thank you, and I'll just get the
15 microphone over to you. Thank you. Question?

16 PROSPECTIVE JUROR NO. 019: Well, I understand the
17 concept, where there's smoke, there's fire, but just because
18 one of them did it does not necessarily mean that the other
19 one was involved or did it. I'd have to have more evidence.

20 MR. SANFT: Okay, thank you. I appreciate that.
21 Let me ask you -- I'm going to follow up with this
22 (indiscernible).

23 PROSPECTIVE JUROR NO. 019: Okay.

24 MR. SANFT: Now, the mere fact that Mr. Robertson's
25 sitting over here, does anyone besides -- including yourself,

1 Ms. Bruer, feel that, well, he must have done something;
2 otherwise, why would he be sitting over here at this table?
3 Does anyone have that kind of feeling?
4 PROSPECTIVE JUROR NO. 409: Yes.
5 MR. SANFT: Okay. And I'm going to ask you --
6 PROSPECTIVE JUROR NO. 019: No, I don't.
7 MR. SANFT: Oh, okay. Thank you, Ms. Bruer.
8 PROSPECTIVE JUROR NO. 019: I think I'd have to see
9 real evidence.
10 MR. SANFT: Okay, thank you, and I appreciate that.
11 Mr. Casucci?
12 PROSPECTIVE JUROR NO. 409: Hi. Vito Casucci, 409.
13 MR. SANFT: Were you the one that said "Yes"
14 emphatically? I heard somebody say yes. Oh. All right, and
15 that's Mr. --
16 PROSPECTIVE JUROR NO. 410: McGinty, 410.
17 MR. SANFT: McGinty, yes. It was very emphatic.
18 Why -- can you --
19 PROSPECTIVE JUROR NO. 410: Well, to be to this
20 point, let's face it, to be sitting in that chair, then
21 there's got to be some considerable evidence that provokes the
22 defendants to be sitting here, so.
23 MR. SANFT: Okay. And I think the State had asked
24 this question earlier, I believe of Ms. -- Ms. McCarthy, about
25 the different standards of proof, right? I'm going to ask Ms.

1 McCarthy some questions about being on a grand jury, which is
2 what's called probable cause. Now, just to let you know,
3 probable just means you can charge someone with a crime; it
4 doesn't mean they're guilty beyond a reasonable doubt. Do you
5 understand the difference?

6 PROSPECTIVE JUROR NO. 410: Yes.

7 MR. SANFT: Okay. And if you were selected as a
8 juror in this case, you understand that you would have to hold
9 the State of Nevada to its burden of proving to you each
10 element of each crime beyond a reasonable doubt? Do you
11 understand that?

12 PROSPECTIVE JUROR NO. 410: I understand it. I do
13 not believe that that is always the case, and with that, it is
14 circumstantial to what is presented in each case. But I think
15 that proving beyond a reasonable doubt is lost sometimes in
16 the system, and people go with either the pressure of the --
17 the jurors, or somebody makes a speech, or a pitch, or you've
18 got a slick attorney. And so, you know, people are persuasive
19 and are persuaded, people are gullible by human nature, and
20 so, no, I don't really believe that that's always the case.

21 MR. SANFT: Okay. So, and are you saying that,
22 because of the fact it's -- as a matter of human nature, we
23 are all susceptible to subjective things -- subjective issues
24 as much as objective issues like facts, right?

25 PROSPECTIVE JUROR NO. 410: Yeah. Most of society's

1 not capable of processing really the facts. They go with
2 their instincts and consider that a fact.

3 MR. SANFT: Well, and just tell me if you agree with
4 me on this position. It would be fair, of course, that if the
5 criminal justice system was a computer, and you just put in
6 certain facts into a computer, and it would spit out a result,
7 that that's really, on one level, a computer, right? That's
8 not human beings?

9 PROSPECTIVE JUROR NO. 410: Who put it in, and what
10 data was put, where'd the data come from, who did the coding.

11 MR. SANFT: Okay, you're being way too smart for me
12 right now. I'm just saying as a basic premise, right?

13 PROSPECTIVE JUROR NO. 410: Sure.

14 MR. SANFT: All right. But once again, you're going
15 to be expected to bring your everyday experience. That's one
16 of the reasons why we have juries is, you as an individual,
17 your background, your history, those things are important in
18 weighing evidence to make a determination whether the State of
19 Nevada has proven its case beyond a reasonable doubt. Are you
20 okay with that idea?

21 PROSPECTIVE JUROR NO. 410: Yes.

22 MR. SANFT: Okay. So, and I guess in the one level,
23 with jury verdicts and so forth, if you're selected as one of
24 the 12, and you're back into the deliberation process, and
25 you're arguing with your juror -- fellow jurors on what the

1 facts are and whether or not the State has proven its case
2 beyond a reasonable doubt, that it is messy, are you okay with
3 this idea that when you go back there, there may be two other,
4 three other people that disagree with what you believe you
5 heard during the course of the a trial? Are you going to be
6 okay with that idea?

7 PROSPECTIVE JUROR NO. 410: No.

8 MR. SANFT: Okay, and why is that?

9 PROSPECTIVE JUROR NO. 410: Once I have my opinion,
10 I'll stick to it.

11 MR. SANFT: Okay, and that's fair. And I appreciate
12 that, because it sounds that you would be the type of person
13 that, if you believe something, you would stick by what you
14 believe, right?

15 PROSPECTIVE JUROR NO. 410: Always.

16 MR. SANFT: Now, as you sit here right now though,
17 do you -- have you already formulated an opinion as to this
18 case?

19 PROSPECTIVE JUROR NO. 410: An opinion, or -- no.

20 MR. SANFT: You have not? Okay. And when do you
21 believe you're going to form an opinion on this case?

22 PROSPECTIVE JUROR NO. 410: I think that's a vague
23 question. It would depend on the process and what happens
24 through the process of the trial; what's presented, who's up
25 there, who's got the best lines, so.

1 THE COURT: Who's got the best what?
2 PROSPECTIVE JUROR NO. 410: Lines.
3 THE COURT: What does that mean?
4 PROSPECTIVE JUROR NO. 410: Who's been trained the
5 best on the stand, and who's got the best --
6 MR. SANFT: I would say --
7 PROSPECTIVE JUROR NO. 410: -- vocabulary.
8 MR. SANFT: -- just persuaded, but just whoever
9 persuades you one way or the other, right?
10 PROSPECTIVE JUROR NO. 410: Yeah. Who's most
11 believable, and do I really believe them.
12 MR. SANFT: Okay. Now, during the time that you --
13 if you're selected as a juror in this case, would you be the
14 type of juror -- because the process will go as follows. If
15 you're picked, then you're going to hear what's called opening
16 statements between -- well, the State of Nevada will tell you
17 what they believe the evidence is going to show, and then the
18 defense might get up, and they might say -- they don't have
19 to, but they can get up and say what they believe the evidence
20 will show.
21 Are you the type of person that, once you hear the
22 opening from the State, say, okay, I'm done here, and then
23 spend --
24 PROSPECTIVE JUROR NO. 410: No.
25 MR. SANFT: -- the rest of the time sitting around,

1 just waiting for the end of this thing to be over? Would you
2 be that type of juror?

3 PROSPECTIVE JUROR NO. 410: No to your first
4 question, but waiting for it to get over, yes.

5 MR. SANFT: Okay. And with regards to waiting for
6 it to get over -- and once again, I just want to make sure
7 that we are picking good jurors for this panel. Waiting to
8 get over. Would you be the type of person that would sit
9 there and just completely zone out the rest of the time you're
10 here because of the fact that you're just waiting for this
11 thing to be over?

12 PROSPECTIVE JUROR NO. 410: Full transparency. It's
13 very distracting with everything that goes on with my daily
14 routine and daily life, but yeah, it would be extremely
15 distracting, so.

16 MR. SANFT: Okay.

17 PROSPECTIVE JUROR NO. 410: Knowing that, as soon as
18 I turn on my phone, I've got to get outside, and catch up, and
19 respond, and make decisions. And so, yeah, it's -- this is
20 problematic for me.

21 MR. SANFT: All right. And with that being said,
22 would you consider yourself to be the type of juror that would
23 be appropriate for this kind of case here today?

24 PROSPECTIVE JUROR NO. 410: In another day, another
25 time, yes.

1 MR. SANFT: But for this particular --

2 PROSPECTIVE JUROR NO. 410: Today, this week, no.

3 MR. SANFT: All right. And so, the last question
4 then is that would you be the type of juror that could be
5 considered to be fair and impartial if you were selected to be
6 a juror on this case?

7 PROSPECTIVE JUROR NO. 410: Of course.

8 MR. SANFT: But it's just a matter of your other
9 obligations that would cause you to not devote 100 percent
10 attention and focus on this case?

11 PROSPECTIVE JUROR NO. 410: Yeah. If -- you know,
12 if I find something that rubs me wrong, then I could begrudge
13 that.

14 MR. SANFT: Okay, I appreciate that. Thank you for
15 sharing with us. Anyone else felt during the time that I've
16 spoken here with Mr. McGinty that there's something that
17 triggers in their mind that they would like to raise their
18 hand over? I'm not scaring anyone, am I? Okay. Thank you, I
19 appreciate that. That's a uniform no response, by the way, on
20 that, for the record.

21 Let me ask you this. Now, we're talking -- the
22 charges that we're talking about in this case are very serious
23 charges. In fact, they're probably the most serious charges
24 that anyone could ever face, the idea of they're accused of
25 killing someone else. Does anyone not believe that? Okay.

1 Now, during the time that we're spending together,
2 there's been times when we're able to chuckle, and smile, and
3 there is a certain levity when we are sitting here as a group.
4 Does anyone have a problem with that; that, as human beings,
5 we can have some levity, even amongst something as serious as
6 a murder trial? Does anyone have any issue with that? All
7 right, Mr. -- I apologize here.

8 PROSPECTIVE JUROR NO. 513: 513, Michael Laurie.

9 MR. SANFT: You already know the process. Thank
10 you, Mr. Laurie.

11 PROSPECTIVE JUROR NO. 513: No, yeah, I -- yesterday
12 when I was here, I had a moment where there was some laughter
13 and smiling, and I felt it was a little unnecessary.

14 MR. SANFT: Okay. Now, during the time that you
15 spend here with us, if you're selected as a juror, there may
16 be times where, if you're in the hallway, and I'm walking down
17 the hallway, and I may be smiling or laughing. Would that be
18 something that would tell you that somehow I'm not taking this
19 seriously?

20 PROSPECTIVE JUROR NO. 513: No, only in the
21 courtroom.

22 MR. SANFT: Okay, because I do have a sense of
23 humor.

24 PROSPECTIVE JUROR NO. 513: Um-hum, I hope so.

25 MR. SANFT: And I -- yeah. Getting into this job,

1 sometimes you have to have a sense of humor --
2 PROSPECTIVE JUROR NO. 513: Sure.
3 MR. SANFT: -- right? But just to let you know,
4 would you have any issue if any of us here in the courtroom
5 during the time period that we spend together, if there's a
6 chuckle on something that isn't a serious portion to the case,
7 but say something that happens, would you be the type of
8 person that would hold that against anybody?
9 PROSPECTIVE JUROR NO. 513: Not relating to the
10 case, no, I wouldn't hold it against you.
11 MR. SANFT: Thank you, I appreciate it. Let me ask
12 you a few questions, since you're holding the mic --
13 PROSPECTIVE JUROR NO. 513: Sure.
14 MR. SANFT: -- and standing up there. You live in
15 Mesquite?
16 PROSPECTIVE JUROR NO. 513: Correct.
17 MR. SANFT: Right? And you're making efforts to
18 come down every day from Mesquite to here?
19 PROSPECTIVE JUROR NO. 513: Yeah.
20 MR. SANFT: You're not driving?
21 PROSPECTIVE JUROR NO. 513: I am today, yes.
22 MR. SANFT: Okay.
23 PROSPECTIVE JUROR NO. 513: Today, yes, sir.
24 MR. SANFT: Okay. So during the time, if you're
25 selected as a juror in this case, would you be able to

1 continue to do that in order for you to be here?

2 PROSPECTIVE JUROR NO. 513: For next week, three or
3 four days, correct, I could do that.

4 MR. SANFT: Okay. And if you were to be taking the
5 shuttle and so forth, are you -- would you be paying that?

6 PROSPECTIVE JUROR NO. 513: I would, yeah. If I
7 have to take the shuttle, yeah, it would be coming out of my
8 pocket and it would be expensive.

9 MR. SANFT: Okay. Well, I appreciate you making the
10 effort to be here.

11 PROSPECTIVE JUROR NO. 513: Sure, I understand.

12 MR. SANFT: Thank you. Let me see if I had any
13 other questions for you. Nope, that's it. Thank you so much.
14 I appreciate it.

15 PROSPECTIVE JUROR NO. 513: Sure.

16 MR. SANFT: All right. Ms. Young? I know, you're
17 sitting there so quiet, too. For those of you who are
18 teachers, and those of you who give lectures, you can look out
19 at an audience and kind of know who does not want to be
20 picked. And just to let you know, I do not get that sense at
21 all from you.

22 PROSPECTIVE JUROR NO. 485: Oh, okay.

23 MR. SANFT: All right. But Ms. Young, this is --

24 PROSPECTIVE JUROR NO. 485: Yes.

25 MR. SANFT: -- badge number --

1 PROSPECTIVE JUROR NO. 485: 485.
2 MR. SANFT: 485. We had some very sensitive
3 discussion with you yesterday --
4 PROSPECTIVE JUROR NO. 485: Yes.
5 MR. SANFT: -- about your family member?
6 PROSPECTIVE JUROR NO. 485: Yes.
7 MR. SANFT: And I think there was some discussion as
8 to your emotional reaction to what had happened with your
9 brother-in-law?
10 PROSPECTIVE JUROR NO. 485: Yes. Sorry, I'm just
11 sensitive.
12 MR. SANFT: That's fine. And just to let you know,
13 in all honesty, not to be humorous about this, this is a safe
14 place.
15 PROSPECTIVE JUROR NO. 485: Okay.
16 MR. SANFT: And the reason why I say that is because
17 you're not being held in judgment for anything.
18 PROSPECTIVE JUROR NO. 485: Okay.
19 MR. SANFT: We're just trying to find people that
20 can be the best jurors on this case.
21 With regards to your brother-in-law, how close were
22 you to him?
23 PROSPECTIVE JUROR NO. 485: Very close. I've been
24 with my husband for 21 years, since we were 90 -- excuse me,
25 19. So I've known him since he was in the eighth grade, my

1 brother-in-law.

2 MR. SANFT: All right. And I'm assuming that you
3 were aware of any potential problems that he had in his life
4 personally that --

5 PROSPECTIVE JUROR NO. 485: Yes.

6 MR. SANFT: -- probably led him to the point where
7 he was there in federal court?

8 PROSPECTIVE JUROR NO. 485: Yes.

9 MR. SANFT: Okay. Now, because that happened, and
10 because he was sentenced, my guess is that you probably were
11 feeling like he should have gotten something other than what
12 he received in --

13 PROSPECTIVE JUROR NO. 485: Yes.

14 MR. SANFT: All right. Now, you do understand that
15 he pled and took responsibility --

16 PROSPECTIVE JUROR NO. 485: Yes.

17 MR. SANFT: -- for what had happened with his case?

18 PROSPECTIVE JUROR NO. 485: Yes.

19 MR. SANFT: All right, and that this -- that was
20 federal court; this is state court?

21 PROSPECTIVE JUROR NO. 485: Yes.

22 MR. SANFT: All right. Is there anything at all
23 that would preclude you from being a fair and impartial juror
24 in this case, knowing that -- what happened with your
25 brother-in-law and what he was sentenced to in the federal

1 case?

2 PROSPECTIVE JUROR NO. 485: No.

3 MR. SANFT: Okay. Now, once again, we would love
4 for you to serve as a juror, but we want to make sure that
5 you'd be fair and impartial, meaning that you wouldn't do
6 something because you're thinking that these people over here
7 are not good people, or both people over here are not good
8 people. Is there anything at all that would tell us that you
9 wouldn't be an appropriate juror for this case?

10 PROSPECTIVE JUROR NO. 485: Well, my thing is I was
11 born and raised in Hawaii, so I was -- I was taught that we
12 always look at people and look at the good in them. That's,
13 like, my opinion on it. I would look at it that way. I just
14 think everybody has a good side to them, you know? They might
15 have did something that brought them to where they are today,
16 but I still look at, you know, the good points of them.

17 MR. SANFT: Okay.

18 PROSPECTIVE JUROR NO. 485: Yeah. I want to believe
19 that everybody is good, you know?

20 MR. SANFT: And would it be fair to say that what
21 you're talking about is like the spirit of Aloha, right?

22 PROSPECTIVE JUROR NO. 485: Yeah.

23 MR. SANFT: The idea that we all are friends, we're
24 all --

25 PROSPECTIVE JUROR NO. 485: Yes.

1 MR. SANFT: -- brothers and sisters on some level,
2 right?

3 PROSPECTIVE JUROR NO. 485: Yes.

4 MR. SANFT: Now, with that being said though, would
5 it be fair to say though that if someone does something that's
6 not correct or right, that even though you might have a spirit
7 of Aloha towards that person, they still have to be held
8 accountable and responsible for whatever it is they chose to
9 do on their own?

10 PROSPECTIVE JUROR NO. 485: Yes.

11 MR. SANFT: Okay. And that would include -- like,
12 say for instance, in this case, if you're selected as a juror,
13 even though you might feel something towards the people that
14 would be participating in this case --

15 PROSPECTIVE JUROR NO. 485: Um-hum.

16 MR. SANFT: -- that you would still hold the people
17 accountable for what they did or did not do, right?

18 PROSPECTIVE JUROR NO. 485: Yes.

19 MR. SANFT: Okay. And as a result, if the State of
20 Nevada is presenting evidence in this case, you wouldn't
21 necessarily just hold it against the State of Nevada and say,
22 well, it's the State of Nevada, and I'm just going to
23 disregard everything they say --

24 PROSPECTIVE JUROR NO. 485: No.

25 MR. SANFT: -- would you? Okay.

1 PROSPECTIVE JUROR NO. 485: No.
2 MR. SANFT: Thank you, I appreciate that.
3 PROSPECTIVE JUROR NO. 485: Thank you.
4 MR. SANFT: Now, let me ask the group here as a
5 whole, does anyone else know anyone else in the panel? I know
6 we had Ms. McCarthy, right? And her son. Anyone else here
7 know anyone from church, from work, from racket ball club,
8 something, golf?
9 PROSPECTIVE JUROR NO. 554: There was a guy
10 yesterday I worked with.
11 MR. SANFT: Okay.
12 THE COURT: Need you to state your name and badge
13 number.
14 PROSPECTIVE JUROR NO. 554: Oh, I'm sorry.
15 MR. SANFT: Yes.
16 PROSPECTIVE JUROR NO. 554: Roberta Bell, 554. But
17 he's not here today.
18 MR. SANFT: Okay.
19 PROSPECTIVE JUROR NO. 554: So.
20 MR. SANFT: Anybody else?
21 PROSPECTIVE JUROR NO. 554: No.
22 MR. SANFT: All right. Thank you, I appreciate
23 that.
24 PROSPECTIVE JUROR NO. 554: Um-hum.
25 MR. SANFT: In addition to that, when -- if you're

1 selected as a juror in this case, you will have an opportunity
2 to listen to the testimony of professionals, people that will
3 come forward and testify who do this on a regular basis;
4 police officers, crime scene analysts, that kind of thing.

5 Does anyone here have a problem with holding police
6 officers, crime scene analysts to their specific standard of
7 performance? Does anyone know what I mean?

8 PROSPECTIVE JUROR NO. 546: No.

9 PROSPECTIVE JUROR NO. 541: No.

10 MR. SANFT: Okay, let me ask you this. You are
11 Mr. --

12 PROSPECTIVE JUROR NO. 541: Widdison.

13 MR. SANFT: Widdison. And if you could just pass
14 the microphone over. And just for your --

15 PROSPECTIVE JUROR NO. 541: 541.

16 MR. SANFT: Thank you, I appreciate it.

17 Now, as a person who does internal accounting --
18 let's put it that way.

19 PROSPECTIVE JUROR NO. 541: That works.

20 MR. SANFT: Internal accounting for Deseret
21 Industries?

22 PROSPECTIVE JUROR NO. 541: That's correct.

23 MR. SANFT: You have certain expectations in your
24 job?

25 PROSPECTIVE JUROR NO. 541: Absolutely.

1 MR. SANFT: That you're held accountable to?
2 PROSPECTIVE JUROR NO. 541: Yes, sir.
3 MR. SANFT: So if you don't do your -- or the
4 expectations or the standard of performance in your case,
5 potentially you can get fired, you can demoted, you can get
6 all kinds of stuff, right?
7 PROSPECTIVE JUROR NO. 541: Absolutely, yes.
8 MR. SANFT: Okay. Now, would it be fair to say
9 that, as someone who does internal accounting, your standard
10 performance would be different from someone who's a pilot or
11 teacher?
12 PROSPECTIVE JUROR NO. 541: Of course, yes.
13 MR. SANFT: Okay. But if a pilot or a teacher were
14 to get up on the stand and testify, and it was established
15 that they had a certain standard performance they had to meet,
16 and they didn't meet that standard performance, would you be
17 able to hold them accountable for that?
18 PROSPECTIVE JUROR NO. 541: You're talking at their
19 -- at their job?
20 MR. SANFT: At their job.
21 PROSPECTIVE JUROR NO. 541: I'd have to understand
22 the whole 360 about it before I could form an opinion on it.
23 That would be hard just to say. I guess I'm not quite
24 understanding what you mean. I'm sorry.
25 MR. SANFT: You are such an accountant.

1 PROSPECTIVE JUROR NO. 541: I just -- I'm
2 analytical, I'm sorry. I'm hyper-analytical; it's just what I
3 do.
4 MR. SANFT: Well, let me ask you this, and that's
5 exactly what it is. If you understand -- it's all right,
6 there's no wrong answer. But if you understand what the
7 standard performance is --
8 PROSPECTIVE JUROR NO. 541: Uh-huh.
9 MR. SANFT: -- could you hold someone accountable to
10 that specific standard performance?
11 PROSPECTIVE JUROR NO. 541: If we're told to, yes.
12 MR. SANFT: Okay.
13 PROSPECTIVE JUROR NO. 541: Yes, I can.
14 MR. SANFT: Thank you. That's it.
15 PROSPECTIVE JUROR NO. 541: Okay.
16 MR. SANFT: I appreciate it. Since you've got the
17 microphone, let me ask you a couple more questions here.
18 PROSPECTIVE JUROR NO. 541: Okey-doke.
19 MR. SANFT: Sorry about that.
20 PROSPECTIVE JUROR NO. 541: That's okay.
21 MR. SANFT: Now, in Switzerland --
22 PROSPECTIVE JUROR NO. 541: Yes.
23 MR. SANFT: -- you said you were there on a church
24 mission?
25 PROSPECTIVE JUROR NO. 541: Yes.

1 MR. SANFT: What languages did you speak there?
2 PROSPECTIVE JUROR NO. 541: Just French.
3 MR. SANFT: No German or --
4 PROSPECTIVE JUROR NO. 541: No.
5 MR. SANFT: -- anything else?
6 PROSPECTIVE JUROR NO. 541: No.
7 MR. SANFT: All right. And when the situation
8 happened where you were robbed --
9 PROSPECTIVE JUROR NO. 541: Um-hum.
10 MR. SANFT: Do you -- is that a yes?
11 PROSPECTIVE JUROR NO. 541: Yes, yes, sorry.
12 MR. SANFT: Do you remember -- do you still remember
13 that situation?
14 PROSPECTIVE JUROR NO. 541: I do.
15 MR. SANFT: Okay. Was it during the day, or at
16 night?
17 PROSPECTIVE JUROR NO. 541: It was at night.
18 MR. SANFT: Okay. And was it outside proselytizing,
19 or was it inside your --
20 PROSPECTIVE JUROR NO. 541: No, we were inside
21 asleep. It was middle of the night.
22 MR. SANFT: Okay, so someone broke in and --
23 PROSPECTIVE JUROR NO. 541: They broke in the patio
24 door, um-hum.
25 MR. SANFT: Okay. Now, when the State had asked you

1 if the police report was filed, there was a police report that
2 was filed?

3 PROSPECTIVE JUROR NO. 541: Well, they -- I have to
4 assume so, because the police came. I never saw anything in
5 writing.

6 MR. SANFT: I see.

7 PROSPECTIVE JUROR NO. 541: But they came and wrote
8 stuff up.

9 MR. SANFT: Were you able to describe the individual
10 that was responsible?

11 PROSPECTIVE JUROR NO. 541: No, didn't see any of
12 them.

13 MR. SANFT: There was more than one person?

14 PROSPECTIVE JUROR NO. 541: Oh, yeah. We were both
15 held down; plus, one person was going through the apartment.

16 MR. SANFT: I see. Okay. And -- but you gave as
17 much information as you could to --

18 PROSPECTIVE JUROR NO. 541: Yes, sir.

19 MR. SANFT: -- the police officer that arrived?

20 PROSPECTIVE JUROR NO. 541: Yes.

21 MR. SANFT: But nothing ever happened as a result of
22 that?

23 PROSPECTIVE JUROR NO. 541: Not at all.

24 MR. SANFT: Okay, thank you.

25 PROSPECTIVE JUROR NO. 541: Um-hum.

1 MR. SANFT: Now, to the panel as a whole, has anyone
2 here ever read the Choose Your Own Adventure books? That's
3 how I got myself through law school, by the way, is Choose
4 Your Own Adventure. Anyone ever done that same thing?

5 PROSPECTIVE JUROR NO. 513: Yes.

6 MR. SANFT: Okay. And I just want to make sure
7 we're clear because -- for those of us who may be a little bit
8 younger that they don't understand what those books are.

9 The idea is that you had a book that wasn't
10 necessarily, you agree, from page 1 to page 100.

11 It would be, you'd read one portion, and then there
12 would be a choice at the bottom as to what you should choose
13 because of what happened on that page. And you would choose,
14 you know, go left, it would be on page 40; and then go right
15 would be on page 68. That's the kind of books I'm talking
16 about, okay?

17 Does anyone here believe that they're the type of
18 person that wants to just get to the end of the book already?
19 Has anyone ever done that, besides myself? No? All right,
20 that's -- okay.

21 Once again, here we go. This is Mr. McGinty on
22 number 410. I'm sorry, I apologize.

23 PROSPECTIVE JUROR NO. 410: McGinty, 410.

24 MR. SANFT: Yeah. You just want to get to the end
25 of the book?

1 PROSPECTIVE JUROR NO. 410: Today, yes. Yeah.
2 Typically, yeah.
3 MR. SANFT: Okay.
4 PROSPECTIVE JUROR NO. 410: You know, there's --
5 there's times where, yes, I feel like it's a waste of my time,
6 and it may not interest me, it may not be relevant to what's
7 going on. So yeah, I have those moments, but.
8 MR. SANFT: Okay, I appreciate that. Anybody else?
9 How come Mr. McGinty feels like he's the only person standing
10 on the line right now?
11 PROSPECTIVE JUROR NO. 513: Choose Your Own
12 Adventure book?
13 MR. SANFT: Yeah, and --
14 PROSPECTIVE JUROR NO. 513: You ruin it by
15 (indiscernible).
16 MR. SANFT: And I apologize. Mr. Laurie is badge
17 number --
18 PROSPECTIVE JUROR NO. 513: 410 (sic).
19 MR. SANFT: Okay. Anyone else besides Mr. McGinty
20 and Mr. Laurie? I think -- yeah, we'll just -- well, you can
21 just hold onto that for a second.
22 Mr. Devargas, if I could just pass the microphone
23 back over to you. Juror number 429. Photographer for the
24 Sun?
25 PROSPECTIVE JUROR NO. 429: Yes, correct.

1 MR. SANFT: All right. Did you go to school for
2 that?

3 PROSPECTIVE JUROR NO. 429: Yes.

4 MR. SANFT: Where did you go for that?

5 PROSPECTIVE JUROR NO. 429: CSN.

6 MR. SANFT: All right. And the -- did you ever do
7 any photography in high school?

8 PROSPECTIVE JUROR NO. 429: No.

9 MR. SANFT: So how did you become a photo
10 journalist?

11 PROSPECTIVE JUROR NO. 429: Initially, when I got
12 out of the Army, I went to school for graphic design. Halfway
13 through, I got bored with just sitting at a computer,
14 designing logos and brochures. Took a Photo 101 class just to
15 kind of spice it up; fell in love with photography.

16 MR. SANFT: I see.

17 PROSPECTIVE JUROR NO. 429: Um-hum.

18 MR. SANFT: And would it be fair to say that photo
19 journalism is a different type of photography versus say
20 fashion shoots or landscape photography, that kind of thing?

21 PROSPECTIVE JUROR NO. 429: Yes, that's correct.

22 MR. SANFT: All right. What would be the main
23 difference between say photo journalism versus some of those
24 other photography that we know to talk of?

25 PROSPECTIVE JUROR NO. 429: So, for commercial, it's

1 more you're creating an image. You're setting everything up;
2 the lighting, the model. You're creating a final image.

3 For photo journalism, you're capturing an image off
4 of real life that's happening then and there. There's no
5 stepping back and recreating a moment; you have to capture it
6 then and there. If you miss it, it's gone and over with.

7 MR. SANFT: Now --

8 PROSPECTIVE JUROR NO. 429: No interference as well,
9 either.

10 MR. SANFT: Okay. So you are aware of what's called
11 post-production?

12 PROSPECTIVE JUROR NO. 429: Yes.

13 MR. SANFT: Meaning that once you take an image,
14 photographers will sometimes download it into a computer, and
15 then they'll run Photoshop to clean up the image, or change
16 the image, or do something like that?

17 PROSPECTIVE JUROR NO. 429: Yes, that's correct.

18 MR. SANFT: What you're describing to us would tell
19 me that you don't use Photoshop?

20 PROSPECTIVE JUROR NO. 429: In photo journalism,
21 there is a small amount of Photoshop you could do; adjustments
22 to lighting. Maybe like, for example, in this courtroom, it's
23 very dark. I might brighten the image just because there's
24 not a lot of light in here. That's acceptable under the
25 standards of journalism.

1 MR. SANFT: I see.

2 PROSPECTIVE JUROR NO. 429: But I cannot manipulate
3 anything in the image. I can't retouch something out, bring a
4 person out of a photo, or change the background. All those
5 are completely off-limits in photo journalism.

6 MR. SANFT: Okay. If you're selected as a juror in
7 this case, would you be the type of person that would consider
8 this case based upon -- do you want the facts; do you want
9 color? I mean, how would that work for you if you were
10 selected as a juror in this case?

11 PROSPECTIVE JUROR NO. 429: It's based upon facts.
12 I want to know exactly what's going on and base my decision
13 off of that. I'm not trying to create a story in my head, or
14 think of what I assume is going to happen or has happened.

15 MR. SANFT: Okay, thank you. I appreciate that.
16 Thank you for sharing with us.

17 To the group as a whole, has everyone here -- has
18 everyone here been to school of some sort, whether it's
19 elementary school, high school, college, post-grad? Is that a
20 uniform yes? Anyone that would say no to that question?

21 MEMBERS OF THE PROSPECTIVE JURY PANEL: Yes.

22 MR. SANFT: Okay. Let me ask you this. If you're
23 selected as a juror in this case, does anyone here just absorb
24 information just by listening? Meaning, if you're selected as
25 a juror in this case, if I were to look over and see you, and

1 you're just with your arms folded and not taking a single
2 note, would that be a fair way of us describing how you
3 process information in this case? Would anyone be that type
4 of juror? All right, and this is Mr. --

5 PROSPECTIVE JUROR NO. 513: Laurie, 410 (sic).

6 MR. SANFT: Thank you. If I can just get the
7 microphone down to you. How do you do that?

8 PROSPECTIVE JUROR NO. 513: How do I do it? Just
9 like you said, just with my arms crossed and listen.

10 MR. SANFT: Okay. So if you're here with us, and
11 you're here until next Wednesday, for instance, and there's
12 been, you know, testimony from different witnesses, would you
13 be able to go back into the deliberation room and discuss
14 specifically details of the testimony of one person, another
15 person, with --

16 PROSPECTIVE JUROR NO. 513: Sure, yeah. I've never
17 been on a jury before, so I would probably take notes, but I'm
18 known for just listening a lot, yes.

19 MR. SANFT: Okay, and I appreciate that. Thank you.

20 PROSPECTIVE JUROR NO. 513: Sure.

21 MR. SANFT: Does anyone else have that same ability
22 as Mr. Laurie? Uniform no response.

23 Let me say this, and I want to make sure we're
24 clear. During the time that we spend together, if you are
25 selected as a juror on this case, you could take notes any

1 which way you want. I'm just -- I just want to know how
2 people do it.

3 And the reason why that's important is because of
4 this. You understand that the State of Nevada has to prove
5 its case to you beyond a reasonable doubt, we've talked a
6 little bit about that, but they have to prove each element of
7 each crime beyond a reasonable doubt. Does anyone understand
8 that idea? Meaning that if they prove to you one or two of
9 the elements of a crime, they have to prove all of them beyond
10 a reasonable doubt, not just one or two. Does anyone have any
11 issue with that? Uniform no response.

12 And let me ask it this way. Well, actually, yes.
13 Mr. --

14 PROSPECTIVE JUROR NO. 546: Kubota. Well, I came
15 prepared. I got my notebook right here.

16 MR. SANFT: Thank you, I appreciate it.

17 PROSPECTIVE JUROR NO. 546: But as I understand it,
18 there's three charges against each person. Do we have to
19 divide the decision? Can we say "Yes" on one, and "No" on two
20 and three, or do we have to be "Yes" on all three of them,
21 or --

22 MR. SANFT: Well, here's the thing. I'm going to
23 just shortchange this right now. There are going to be jury
24 instructions that are going to be read to you by the Court.
25 The Judge will advise you and tell you what the law in the

1 State of Nevada specifically on that issue. So in terms of --
2 what we're doing here today is each individual is charged
3 specifically with the crimes that they're charged with, but
4 they're charged individually.

5 PROSPECTIVE JUROR NO. 546: Okay.

6 MR. SANFT: So you have to hold each one of them
7 individually to that standard of beyond a reasonable doubt.

8 PROSPECTIVE JUROR NO. 546: So if there are three
9 charges on each of the two people, then we're doing first
10 person, 1, 2, and 3 --

11 MR. SANFT: Correct.

12 PROSPECTIVE JUROR NO. 546: -- second person, 1, 2,
13 and 3?

14 MR. SANFT: Yes, exactly. Whatever charges they're
15 charged with, you're going to hold each one individually
16 accountable.

17 UNKNOWN MALE SPEAKER: So there's six different
18 charges, right?

19 PROSPECTIVE JUROR NO. 546: Right, that's what I'm
20 saying.

21 MR. SANFT: Yeah.

22 THE COURT: No, there's only three charges.

23 UNKNOWN MALE SPEAKER: Well, but --

24 THE COURT: But I will --

25 PROSPECTIVE JUROR NO. 546: On two people.

1 MR. SANFT: Two different people.

2 THE COURT: Right, but -- and I will instruct you,
3 and yes, I will instruct you that you are to consider each
4 count and each defendant separately.

5 PROSPECTIVE JUROR NO. 546: Yeah, so that's the six.
6 Each individual --

7 THE COURT: Okay.

8 PROSPECTIVE JUROR NO. 546: -- has three charges.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 546: Okay.

11 MR. SANFT: That's it. Anything else?

12 PROSPECTIVE JUROR NO. 546: No.

13 MR. SANFT: Okay, thank you. Going back to the
14 group as a whole. Now, you do understand that the burden
15 relies -- is strictly on the State of Nevada. Does anyone
16 have a problem with the idea that I could sit down, take the
17 hair out of my bun, and sit there and play on the computer the
18 rest of the time that we spend together, but the State of
19 Nevada would still have to prove its case to you beyond a
20 reasonable doubt? Does anyone have a problem with that
21 concept?

22 And I -- once again, I don't want to be frivolous
23 about this, but the idea is that -- does anyone here believe
24 that they would be expecting something from me during the
25 course of the trial?

1 PROSPECTIVE JUROR NO. 557: Sure.

2 MR. SANFT: Thank you. Let's see here. This is --

3 PROSPECTIVE JUROR NO. 557: 557, Randall.

4 MR. SANFT: Thank you. I appreciate it, Mr.

5 Randall.

6 PROSPECTIVE JUROR NO. 557: Yeah. I guess I was

7 wholly expecting to -- I would expect to see some kind of

8 defense, whether you're just cross-examining the witnesses

9 that are coming to the court, or something, but you would be

10 just not sitting there.

11 MR. SANFT: But why would that be -- why is it that

12 you would expect that?

13 PROSPECTIVE JUROR NO. 557: Well, I mean, if people

14 are here being tried for something, it would seem like you're

15 not doing your job, for example, if you weren't doing

16 something. I would expect you to at least question, argue,

17 discuss charges.

18 MR. SANFT: Well, let me -- and that's fair. I

19 appreciate that, because I'm sure that people feel that way,

20 but let me ask you this. You do understand that the State of

21 Nevada is the one here that's responsible of proving to you

22 that they've satisfied their burden beyond a reasonable doubt,

23 right?

24 PROSPECTIVE JUROR NO. 557: Yes.

25 MR. SANFT: Say for instance they put up a witness

1 up on the stand and it just doesn't feel like they did. Would
2 you still expect the defense attorney to get up and say
3 something if the person or the evidence that they provided to
4 you just didn't rise to that level?

5 PROSPECTIVE JUROR NO. 557: Not necessarily for any
6 one witness, but over the course of the trial, it would
7 intrigue me a little bit if you weren't to do something.

8 MR. SANFT: Okay, thank you.

9 PROSPECTIVE JUROR NO. 557: So I mean, I could see
10 you not necessarily questioning every witness that comes up
11 here, but if you were to not -- clearly, something.

12 MR. SANFT: Okay, I appreciate that. Thank you.
13 Anyone else that would share that same opinion? And --

14 PROSPECTIVE JUROR NO. 451: Sort of.

15 MR. SANFT: Were you stretching, or were --

16 PROSPECTIVE JUROR NO. 451: No, no, I was --

17 MR. SANFT: Okay. And I'm sorry, this is --

18 PROSPECTIVE JUROR NO. 451: Graham.

19 MR. SANFT: Ms. Graham, Badge number 451.

20 PROSPECTIVE JUROR NO. 451: 451, correct. I kind of
21 understand what he's saying in the standpoint that we're all
22 human, and we have expectations of lawyers, defense and
23 District Attorneys. So you would expect that, if you've been
24 hired, you're going to at least make some effort to do a job.

25 On the other hand, I understand what you're saying,

1 that it is up to the District Attorney to prove their case.
2 They are the ones that have initiated this case. You're kind
3 of here de facto because a case has been brought against
4 clients.

5 So would it bother me per se if you just sat back
6 and did nothing? Not necessarily, you know, if they're
7 presenting their case. However, if they've presented their
8 case and met their burden of proof, I would expect that you
9 would, you know, fight for your clients, or stand up at that
10 point, and, you know, interact, so.

11 MR. SANFT: Thank you. Let me ask -- oh, before you
12 turn it over --

13 PROSPECTIVE JUROR NO. 451: Okay.

14 MR. SANFT: -- Ms. Graham, just hold onto it. Now
15 you're in the hot seat. Now, make sure we're clear though.
16 You -- have you ever watched a lawyer movie before?

17 PROSPECTIVE JUROR NO. 451: Yes, I have. Many.

18 MR. SANFT: Oh, you were shaking your head like you
19 were going to say no.

20 PROSPECTIVE JUROR NO. 451: Many, many, many.

21 MR. SANFT: Okay. And would it be fair to say that
22 what we see on TV in terms of movies and so forth depicting
23 what happens in courtrooms is not real life?

24 PROSPECTIVE JUROR NO. 451: Probably not even close.

25 MR. SANFT: Okay. Are you going to be the type of

1 juror that says that, hey, it seems like these guys all got
2 along, like, you know, we got along during the course of a
3 trial, and expect the fireworks, the yelling, the screaming --

4 PROSPECTIVE JUROR NO. 451: No.

5 MR. SANFT: -- the throwing of the pens, like
6 getting up and tearing off, something, right?

7 PROSPECTIVE JUROR NO. 451: No, no, no. And
8 honestly, that might turn me off a little bit more if there
9 was. You know, we're all civil. And just because you're
10 having a trial, and there's this side against that side, it
11 doesn't mean that it's, you know, WWF in the courtroom.

12 MR. SANFT: Right, and I appreciate that. Thank
13 you. Does anyone else have any opinion with regards to that
14 question? Mr. Kubota?

15 PROSPECTIVE JUROR NO. 546: I have given expert
16 witness in cases, too, and I know I sometimes leave out some
17 information because my client wants me to make it seem like
18 it's the other guy's fault. I would expect you to know enough
19 to say, well, he gave a good testimony, and he gave a lot of
20 the right information, but did you leave this out? Did you --
21 did you give the spin to it this way and not that way to get
22 the persuasion that they want? I would expect you to show up
23 and bring out the rest of the story.

24 MR. SANFT: So I actually have to do something on
25 this case is what you're saying?

1 PROSPECTIVE JUROR NO. 546: He's paying you, or
2 we're paying you, the State's paying you, so one or the other.
3 If someone's paying you, they should watch it.

4 MR. SANFT: I appreciate that. Thank you. One
5 other question, since Mr. Kubota was saying, has anyone ever
6 testified under oath in either a deposition or during the
7 course of some type of court proceeding before? Outside of
8 Mr. Kubota, uniform no response. Thank you, appreciate that.

9 In addition to that, does anyone here have any
10 problem with lawyers? No? I know you were going to raise
11 your hand. But just like, say, just overall, the idea that we
12 have lawyers. You know, there's always that lawyer joke. I
13 don't know which one I'm talking about, but you know, there's
14 a ton of them about lawyers. But does anyone have a problem
15 with the fact that there are lawyers involved in this kind of
16 thing, this case that we're doing, this courtroom, this whole
17 thing, the system? Anyone have any issues with that? No?
18 Uniform no response.

19 PROSPECTIVE JUROR NO. 546: Am I allowed?

20 MR. SANFT: Yeah, sure. And just, Mr. Kubota, if
21 you'd just say your name again and number.

22 PROSPECTIVE JUROR NO. 546: My name's John Kubota,
23 and I'm 546.

24 MR. SANFT: Thank you.

25 PROSPECTIVE JUROR NO. 546: Well, my sister's a very

1 good lawyer too in LA, and she gives me lots of grief that I
2 can't dump on lawyers all the time. But you're supposed to
3 know the subject of what you're dealing with. I mean, I deal
4 with lawyers in construction defect who have no understanding
5 of what construction is, and they're getting paid how much a
6 day?

7 You're a criminal lawyer, so you may have a better
8 -- it may be easier to be understood and have a feel for the
9 kind of information that they deal with, but lawyers are
10 overpaid for, usually, what they know. They're doing more
11 presentation. My sister's a very good lawyer because she's a
12 very good actress, and she talks to the jury better than she
13 talks to anyone else, and that's why she lost her first case
14 at the age of 63 or something like that.

15 So the idea is, you have to know your material, you
16 have to know -- talk to the people. Her husband is a lawyer
17 too, and my mother listened to him make a presentation on an
18 accounting case, and she said he just talked right over the
19 jury the whole time, and they presented all this information,
20 and the jury looked at him and says, not guilty.

21 You got to talk to the people, too. Yours is -- you
22 have to know what you're doing, you have to talk -- know the
23 people you're talking to, all sorts of stuff, and I don't
24 always see it that way.

25 MR. SANFT: Well, let me ask you this. If you're

1 selected as a juror on this case, you're going to be
2 instructed that the words that I say, the words that the State
3 says is not evidence in the case; that the evidence comes
4 from --

5 PROSPECTIVE JUROR NO. 546: Right.

6 MR. SANFT: -- the exhibits we present and the
7 testimony of these witnesses.

8 PROSPECTIVE JUROR NO. 546: Right.

9 MR. SANFT: So I could be the most eloquent person
10 in the world, but that doesn't necessarily take away from the
11 fact that the evidence will be what the evidence is, right?

12 PROSPECTIVE JUROR NO. 546: But you have to make
13 sure that the evidence is presented in a way people can
14 understand it, and you make sure that all of the evidence is
15 presented, not just the certain spin, and not a certain
16 portion of it that seems to be good for what somebody wants.

17 MR. SANFT: Sure. Now, would that be something that
18 you could hold that sort of expectation of performance with
19 both myself as well as the State of Nevada? Could you hold us
20 both to the standard of --

21 PROSPECTIVE JUROR NO. 546: Oh, yeah, you're both
22 lawyers.

23 MR. SANFT: -- making sure we do our case? Okay,
24 thank you. I appreciate that. Anyone else have any opinions
25 with regards to that question? Okay.

1 One other question here real quick. With regards to
2 this case, it's a murder case, and there will be pictures that
3 will be shown to you of the person who passed, who died in
4 this case. Does anyone here have any problems with looking at
5 that kind of photography if you're selected as a juror in this
6 case?

7 All right, Ms. Young, and this is Badge number --
8 PROSPECTIVE JUROR NO. 485: 485.

9 MR. SANFT: Okay. Let me just cut to the chase,
10 because I'm sure everyone here would probably agree with you,
11 but could that prevent you from being a fair and impartial
12 juror in this case if you saw pictures of the crime scene or
13 whatever it is that we're going to see in this case?

14 PROSPECTIVE JUROR NO. 485: Yes.

15 MR. SANFT: Why?

16 PROSPECTIVE JUROR NO. 485: It would probably scare
17 me, just, you know, having to see that kind of stuff.

18 MR. SANFT: Okay. But if you were to see a picture
19 like that that would scare you or make you feel uncomfortable,
20 would that automatically tell you, okay, I can no longer be
21 fair and impartial --

22 PROSPECTIVE JUROR NO. 485: No.

23 MR. SANFT: -- and be done with it? Okay. Could
24 you still hold the State of Nevada to its burden upon seeing
25 the photographs in this case that may be uncomfortable for

1 you?

2 PROSPECTIVE JUROR NO. 485: Yes.

3 MR. SANFT: Okay. Is there anyone else that would
4 have a difference of opinion with Ms. Young with regard to
5 this question? Thank you, Ms. Young.

6 PROSPECTIVE JUROR NO. 485: Thank you.

7 MR. SANFT: Someone else raised their hand, I
8 thought. And just --

9 PROSPECTIVE JUROR NO. 554: Roberta, 554.

10 MR. SANFT: Okay.

11 PROSPECTIVE JUROR NO. 554: Yeah, I would just feel
12 uncomfortable looking at the pictures. I've seen somebody
13 come out of a -- from a drowning, you know, like eight hours
14 later, and it's still in my mind.

15 MR. SANFT: Now, once again, the question -- the
16 more important question that we have with regard to this is
17 could you still be fair and impartial if you did see a
18 photograph like that in the middle of a trial?

19 PROSPECTIVE JUROR NO. 554: Yeah.

20 MR. SANFT: Okay.

21 PROSPECTIVE JUROR NO. 554: But I just feel
22 uncomfortable.

23 MR. SANFT: Right. And I -- and just to let you
24 know -- anyone here would not feel uncomfortable; be okay with
25 the idea of seeing photographs like this during the course of

1 a trial? All right, and if you could just -- thank you very
2 much, ma'am. Appreciate it.

3 PROSPECTIVE JUROR NO. 482: Salazar, 482.

4 MR. SANFT: Thank you.

5 PROSPECTIVE JUROR NO. 482: And so what was the
6 question again, so I can make sure I --

7 MR. SANFT: Well, I just want to make sure, would
8 you be the type of person who would be just completely okay
9 with the idea of --

10 PROSPECTIVE JUROR NO. 482: Yeah.

11 MR. SANFT: -- seeing these photographs?

12 PROSPECTIVE JUROR NO. 482: Yeah, because, you know,
13 if we're not here analyzing the pictures closely, we can't
14 really be good jurors and, like, that. You know, the legal
15 system wouldn't work if we're not here to do our job.

16 MR. SANFT: Okay, and I appreciate that. Now, let
17 me ask you this though. Obviously, someone passed, someone
18 died. Would it be fair to say that most people would feel
19 something about that; that that shouldn't happen, right?

20 PROSPECTIVE JUROR NO. 482: Yeah.

21 MR. SANFT: Okay. Would you be the type of person
22 that would be colored by that? Meaning that you would look at
23 it and you would think, okay, well, someone passed, and as a
24 result, someone needs to be held responsible; and Mr.
25 Robertson is over here, and he's been charged with a crime, so

1 he should just be responsible for that? Would you be that
2 type of juror or have that type of reaction?

3 PROSPECTIVE JUROR NO. 482: No, not at all.

4 MR. SANFT: Okay, even though we know that this is a
5 horrible thing that happened, right?

6 PROSPECTIVE JUROR NO. 482: Yeah.

7 MR. SANFT: Okay.

8 PROSPECTIVE JUROR NO. 482: Yeah. Unless the
9 evidence pointed to him, I'm not going to just blame him just
10 on getting emotional.

11 MR. SANFT: Thank you, appreciate that. A couple
12 more questions here. Mr. O'Brien? This is Badge number 464?

13 PROSPECTIVE JUROR NO. 464: Correct, 464.

14 MR. SANFT: All right. We've had some discussion
15 about your inclinations about, say, you believe in law
16 enforcement?

17 PROSPECTIVE JUROR NO. 464: Sure.

18 MR. SANFT: Okay. Would you be the type of person
19 that we would want on this jury if I was -- if I was a defense
20 attorney?

21 PROSPECTIVE JUROR NO. 464: I believe I can be fair
22 and impartial.

23 MR. SANFT: Okay, meaning that even though you know
24 other police officers and you work with people like that in
25 the law enforcement area, that you could still be fair and

1 impartial in this case?

2 PROSPECTIVE JUROR NO. 464: Sure.

3 MR. SANFT: Okay. Now, during the time that we
4 spend here together, you may hear police officers testify
5 during the course of this case that may not have done things
6 according to their standard performance. Could you hold
7 police officers to their specific standard performance in this
8 case?

9 PROSPECTIVE JUROR NO. 464: 100 percent.

10 MR. SANFT: Okay, thank you. I appreciate that.

11 And then, finally, if I could turn the microphone
12 over to Rodriguez, 475. Sir, you were in the Navy?

13 PROSPECTIVE JUROR NO. 475: Yes, that's correct.

14 MR. SANFT: What was your MOS?

15 PROSPECTIVE JUROR NO. 475: AD.

16 MR. SANFT: What is that?

17 PROSPECTIVE JUROR NO. 475: Aviation Machinist's
18 Mate.

19 MR. SANFT: And you were doing that for --

20 PROSPECTIVE JUROR NO. 475: Work on aircraft.

21 MR. SANFT: I see. Was that on a ship, or was that
22 -- okay.

23 PROSPECTIVE JUROR NO. 475: I belonged to squadrons,
24 and we do it on carriers.

25 MR. SANFT: Okay.

1 PROSPECTIVE JUROR NO. 475: Part of an air wing.
2 MR. SANFT: And is that what you did the entire time
3 you were in the Navy?
4 PROSPECTIVE JUROR NO. 475: Um-hum.
5 MR. SANFT: Is that a yes?
6 PROSPECTIVE JUROR NO. 475: Yes.
7 MR. SANFT: And the -- how long were you in the Navy
8 for? Because I --
9 PROSPECTIVE JUROR NO. 475: 22 years.
10 MR. SANFT: And then, when you retired, then you
11 went and worked --
12 PROSPECTIVE JUROR NO. 475: For Cox Communications.
13 MR. SANFT: Okay, and doing -- what did you do for
14 them specifically?
15 PROSPECTIVE JUROR NO. 475: Internet and video
16 services, things like that.
17 MR. SANFT: Okay. Let me ask you just one question
18 here. Is -- I think you had answered this before, but can you
19 be fair to both sides --
20 PROSPECTIVE JUROR NO. 475: Yes.
21 MR. SANFT: -- if you're picked as a juror in this
22 case?
23 PROSPECTIVE JUROR NO. 475: Um-hum.
24 MR. SANFT: Is that a yes?
25 PROSPECTIVE JUROR NO. 475: Yes.

1 MR. SANFT: And I'm sorry we keep saying that, but
2 this is -- a record has to be made, and so "um-hum" doesn't
3 translate good for the record.

4 PROSPECTIVE JUROR NO. 475: H-m-m.

5 MR. SANFT: Right, exactly. It doesn't -- it's
6 like, what is this? But let me ask you this. When you say --
7 when we ask the question "Can you be fair to both sides," what
8 does that mean to you?

9 PROSPECTIVE JUROR NO. 475: Fair to both sides?
10 I'll have to evaluate all the information that's presented and
11 see where the facts are facts, and things like that, and I
12 don't know. I've never been in that position before, so.

13 MR. SANFT: All right, and I appreciate that,
14 because I think a lot of us here have never been in this
15 position before, mostly.

16 But let me ask you this one last question. You were
17 in the military. The question was asked earlier about whether
18 or not you had ever been on a court-martial or been part of
19 that type of proceeding.

20 PROSPECTIVE JUROR NO. 475: I haven't.

21 MR. SANFT: Okay. Had you at any point during your
22 career ever been in a position where you had to report
23 something; something that happened, you know, that you saw
24 other people doing or anything like that while you were in the
25 military?

1 PROSPECTIVE JUROR NO. 475: No.
2 MR. SANFT: Thank you, I appreciate that.
3 PROSPECTIVE JUROR NO. 475: Okay.
4 MR. SANFT: Your Honor, I have no further questions.
5 THE COURT: Okay. Mr. Ruggeroli?
6 MR. RUGGEROLI: Judge, logistically, what time will
7 we be going to? I don't know if --
8 THE COURT: How much time do you need?
9 MR. RUGGEROLI: It will be a little while.
10 THE COURT: Okay, well, you can start. You can
11 start.
12 MR. SANFT: And Your Honor, do I -- do I pass for
13 cause now, or should I wait?
14 THE COURT: Did you pass -- did you pass for cause?
15 MR. SANFT: I'll pass for cause, Your Honor.
16 THE COURT: Okay, thank you.
17 MR. SANFT: Thank you.
18 MR. RUGGEROLI: Judge, could I just inquire? We may
19 need a bathroom break, and I --
20 THE COURT: Okay.
21 MR. RUGGEROLI: Just in case.
22 THE COURT: Okay. All right. At this time, ladies
23 and gentlemen, we're going to recess.
24 During this recess, you're admonished not to talk or
25 converse amongst yourselves or with anyone else on any subject

1 connected with this trial, or read, watch, or listen to any
2 report of or commentary on the trial, or any person connected
3 with this trial, by any medium of information, including,
4 without limitation, newspapers, television, the internet, or
5 radio, or form or express any opinion on any subject connected
6 with this trial until the case is finally submitted to you.
7 We'll be in recess until 1:30. Thank you.
8 THE MARSHAL: Thank you. All rise for the exiting
9 jury. Jurors, please.
10 (Court recessed at 12:13 P.M. until 1:33 P.M.)
11 (Outside the presence of the prospective jurors)
12 THE MARSHAL: All rise for the entering jury,
13 please.
14 (Within the presence of the prospective jurors)
15 THE COURT: Does the State stipulate to the presence
16 of the panel?
17 MR. PESCI: Yes, Your Honor.
18 THE COURT: Mr. Sanft?
19 MR. SANFT: Yes, Your Honor.
20 THE COURT: Mr. Ruggeroli?
21 MR. RUGGEROLI: Yes, Your Honor.
22 THE COURT: Okay, you may begin your voir dire.
23 MR. RUGGEROLI: Thank you, Your Honor.
24 Good afternoon, ladies and gentlemen. My name is
25 James Ruggeroli. I represent only Mr. Wheeler. He is present

1 at the far end of that table in the blue shirt.

2 I appreciate your patience. I know you've been
3 asked a lot of questions. There are some things that I need
4 to follow up on though, because Mr. Sanft talked a little bit
5 about this, but we do not represent the individuals together;
6 we represent them separately. So I'd like to start with Mr.
7 Kubota. Your badge number, sir?

8 THE MARSHAL: Hang on a second, the microphone's not
9 on yet.

10 PROSPECTIVE JUROR NO. 546: Okay. I'm 546.

11 MR. RUGGEROLI: Thank you, Mr. Kubota. You had some
12 questions earlier about the differences in terms of verdicts
13 for each individual and each count.

14 PROSPECTIVE JUROR NO. 546: Right.

15 MR. RUGGEROLI: This is a little different, and I
16 wanted to touch on a couple of things, and I thought you'd be
17 a good person to start with. When I say that I only represent
18 Mr. Wheeler, do you understand that I don't have any
19 obligation to prove that a crime occurred or that anyone in
20 particular committed that crime? Does that make sense to you?

21 PROSPECTIVE JUROR NO. 546: Well, only partly,
22 because we're because a crime was committed.

23 THE COURT: Okay, it's because that is the State of
24 Nevada's burden.

25 PROSPECTIVE JUROR NO. 546: Right.

1 THE COURT: The State of Nevada is the only party
2 that has a burden in this action. The State of Nevada has the
3 burden to prove that what they've alleged happened by proof
4 beyond a reasonable doubt.

5 PROSPECTIVE JUROR NO. 546: Right.

6 THE COURT: And the defense does not have -- in our
7 constitutional system, they do not have a burden during a
8 criminal trial. Do you understand that?

9 PROSPECTIVE JUROR NO. 546: Yeah.

10 THE COURT: Okay, and you're okay with that?

11 PROSPECTIVE JUROR NO. 546: Yeah.

12 MR. RUGGEROLI: So when I say that my job -- and
13 you've got a lot of experience, because you've been a
14 litigant --

15 PROSPECTIVE JUROR NO. 546: Yeah.

16 MR. RUGGEROLI: -- many times, correct?

17 PROSPECTIVE JUROR NO. 546: Yeah.

18 MR. RUGGEROLI: You've also been an expert witness?

19 PROSPECTIVE JUROR NO. 546: Right.

20 MR. RUGGEROLI: What capacity would that have been
21 in?

22 PROSPECTIVE JUROR NO. 546: Like, maybe the first
23 one I did was somebody's house was remodeled, and part of it
24 collapsed. And I went in and said, okay, this is what
25 happened, this is how it was built, this is how it should have

1 been built, they missed this part, they missed that part, and
2 I said, that's why it had problems.

3 MR. RUGGEROLI: Okay. You've never served as a
4 juror though?

5 PROSPECTIVE JUROR NO. 546: No.

6 MR. RUGGEROLI: Okay. Do you think your experience,
7 having been an expert, and also having been a litigant many
8 times, will have any impact on your service as a juror?

9 PROSPECTIVE JUROR NO. 546: I'll have a lot more
10 questions; a lot more wanting to know than people who haven't
11 been through this process a couple of times, I think.

12 MR. RUGGEROLI: Right. And that's one of the
13 reasons why I wanted to start with this question, just to
14 clarify it. And so, the Judge will instruct you on the law.
15 She gets to tell you, here's what the law says, and then it
16 would be your obligation to follow it. But as a starting
17 point, I wanted to see if you're comfortable with the idea of
18 separating me in terms of your mind from the parties that are
19 at the table that I'm actually sitting at. You understand?
20 And that's what I'm getting at --

21 PROSPECTIVE JUROR NO. 546: Right.

22 MR. RUGGEROLI: -- in terms of my question.

23 PROSPECTIVE JUROR NO. 546: Right. You've got two
24 defendants sitting at one table. You're representing one, and
25 the other lawyer's defending the other. And what the

1 prosecutor's going to try to say is they were both there, they
2 both did this. And you'll try to say, well, you know, it
3 wasn't my guy, he wasn't in that area, something like that, so
4 he couldn't have been involved in the act. His fingerprints
5 or his footprints may show up here and there, but I mean, he
6 was there middle of the day too, so, yeah.

7 MR. RUGGEROLI: Right. And then also though, I
8 don't have any responsibility to try and do the prosecutor's
9 job --

10 PROSPECTIVE JUROR NO. 546: Right.

11 MR. RUGGEROLI: -- of saying, here's who did this.

12 PROSPECTIVE JUROR NO. 546: Right.

13 MR. RUGGEROLI: And --

14 PROSPECTIVE JUROR NO. 546: And you're not trying to
15 say, well, it's his fault, not my guy's fault.

16 MR. RUGGEROLI: Right. Okay. You have a sister
17 that's actually a lawyer?

18 PROSPECTIVE JUROR NO. 546: Yes.

19 MR. RUGGEROLI: And I wanted to follow up, because
20 you made an interesting explanation of some of what she does.
21 You referred to her as an actress?

22 PROSPECTIVE JUROR NO. 546: Yes.

23 MR. RUGGEROLI: Okay. And so, because you've never
24 served on a jury, you may have some preconceptions about what
25 lawyers and what their roles are? I think that's fair to say.

1 PROSPECTIVE JUROR NO. 546: Yes.

2 MR. RUGGEROLI: As a juror, are you okay sitting in
3 the ultimate position though and trying to put those
4 preconceptions aside to look at -- the focus not on the
5 lawyers, but the focus on the individual witnesses that
6 actually get up and testify?

7 PROSPECTIVE JUROR NO. 546: What I'm worried about
8 is I'm going to sit there and say, why didn't he ask this, why
9 didn't he do this? I mean, if he'd have just taken one more
10 question or two, and gone just another step or two, I mean --

11 THE COURT: Okay, and you understand jurors are
12 permitted to ask questions of witnesses?

13 PROSPECTIVE JUROR NO. 546: Really?

14 THE COURT: Really.

15 PROSPECTIVE JUROR NO. 546: In the middle of the
16 court, we raise our hands and --

17 THE COURT: Yeah. Well, I'll tell you what the
18 procedure is.

19 PROSPECTIVE JUROR NO. 546: Okay.

20 THE COURT: I usually allow you to do it after both
21 sides has had an opportunity to question that witness. And at
22 that time, if you have a question, yes, I will take the
23 question, I'll review it, and determine if it's appropriate;
24 and if I think it's appropriate, I'll ask the question.

25 PROSPECTIVE JUROR NO. 546: I wasn't aware.

1 MR. RUGGEROLI: Okay. Just in terms of those
2 aspects, do you have anything else that you wanted to add as
3 far as preconceptions based on your experience?

4 PROSPECTIVE JUROR NO. 546: Well, I've been debating
5 this one between me and myself here. We just had a number of
6 Republican senators stand up in front of the TV and say, yeah,
7 Trump did this, and it was wrong, but it wasn't bad. And gee,
8 I don't think I'm going to convict him, even though he said he
9 did it; even though they said, yeah, well, it was bad, but it
10 wasn't that bad. And the wording of the law that defines what
11 he was supposed to and not supposed to do is kind of fuzzy, so
12 we're going to not convict him. I mean, this is from the
13 Senate on down --

14 THE COURT: Okay, and you know what, I don't want to
15 delve all out into that, but you understand that was a
16 constitutional --

17 PROSPECTIVE JUROR NO. 546: Right, well, this --

18 THE COURT: -- trial. It was not a criminal trial.
19 They don't have to follow the rules of criminal procedure or
20 criminal laws. I mean, it was a constitutional act.

21 PROSPECTIVE JUROR NO. 546: But all of the laws are
22 supposed to be followed in the Constitution.

23 THE COURT: I agree.

24 PROSPECTIVE JUROR NO. 546: And they just said, well
25 -- rule of law kind of went out the window, and I said, what?

1 THE COURT: Okay. I just don't think that's --
2 PROSPECTIVE JUROR NO. 546: Yeah.
3 THE COURT: -- a good example.
4 PROSPECTIVE JUROR NO. 546: Okay.
5 THE COURT: You understand, that's not a good
6 example of what we should do, and what a -- and it wasn't
7 really a trial either.
8 PROSPECTIVE JUROR NO. 546: Right.
9 THE COURT: Right?
10 PROSPECTIVE JUROR NO. 546: Well, in theory, it was
11 sort of. I mean, they had a judge, they had -- they all had
12 to do an oath that they will do -- just like when we came in
13 here and I --
14 THE COURT: Yeah.
15 PROSPECTIVE JUROR NO. 546: -- promised to listen.
16 Yeah, yeah, yeah.
17 THE COURT: Impartial justice.
18 PROSPECTIVE JUROR NO. 546: Everything is similar.
19 It may not have been exactly the same, but the idea of rule of
20 law was put to test.
21 MR. RUGGEROLI: So in this trial, if you get
22 selected as a juror, you've been given some very minimal
23 allegations about what this case is about, right?
24 PROSPECTIVE JUROR NO. 546: Murder.
25 MR. RUGGEROLI: You haven't heard any actual

1 evidence yet?

2 PROSPECTIVE JUROR NO. 546: Correct.

3 MR. RUGGEROLI: You have a vast wealth of experience
4 and opinions about a number of things based on your career,
5 your experiences as an expert, and things like that. As a
6 juror though, will you listen to the evidence in this case to
7 see if the State has done their job?

8 PROSPECTIVE JUROR NO. 546: Yes.

9 MR. RUGGEROLI: And then, am I going to be held to a
10 unreachable standard? Because you probably had a lot of very
11 expensive lawyers on your teams over the years, and you've got
12 a lot of questions that you hope will be followed up on, but
13 will you do your job as a juror --

14 PROSPECTIVE JUROR NO. 546: Yes.

15 MR. RUGGEROLI: -- and pay attention, and evaluate
16 the credibility of these witnesses in this particular case?

17 PROSPECTIVE JUROR NO. 546: And I will ask my extra
18 questions if I think that you missed a few questions --

19 MR. RUGGEROLI: Right.

20 PROSPECTIVE JUROR NO. 546: -- you could have asked
21 a little further in-depth into this questioning.

22 MR. RUGGEROLI: Thank you, sir. I'm going to ask to
23 pass the microphone, if you wouldn't mind. I'll take it,
24 thank you.

25 Mr. Randall, going to come to you, if that's okay.

1 Could you state your badge number, please?

2 PROSPECTIVE JUROR NO. 557: Sure. 557, Colin
3 Randall.

4 MR. RUGGEROLI: Thank you, sir. Mr. Randall, I
5 wanted to go to you because you made a statement -- and I
6 think you were, like everybody, really just trying to give us
7 information so that we can know a little bit more about you --
8 regarding the idea of a co-defendant or a former co-defendant
9 testifying. Do you remember that?

10 PROSPECTIVE JUROR NO. 557: I do, yes.

11 MR. RUGGEROLI: And you had, I think it's fair to
12 say, some potential reservations that caused you to volunteer?

13 PROSPECTIVE JUROR NO. 557: Sure. I mean, I think
14 the example you mentioned is the fact that there's a third
15 person who's potentially going to be a witness or whatever,
16 and even your client is possibly going to be a witness, and --
17 but maybe get a deal out of it, too.

18 MR. RUGGEROLI: Right. But the notion that somebody
19 may have been charged and now has reached some type of an
20 agreement, you did have some concern?

21 PROSPECTIVE JUROR NO. 557: Well, it certainly gives
22 me pause, because you just wonder what motivations there are,
23 and you know, without having a picture of what the whole crime
24 was and what -- you know, what went on, it's really difficult
25 to say. But it just gives me pause. It's kind of -- it's

1 just not --

2 MR. RUGGEROLI: Right.

3 PROSPECTIVE JUROR NO. 557: You know.

4 MR. RUGGEROLI: At this point, because you haven't
5 heard anything, it is difficult to say. Will you listen to
6 the evidence that's presented if you're selected as a juror,
7 and do your job as a jury member?

8 PROSPECTIVE JUROR NO. 557: Yes, absolutely. I
9 mean --

10 MR. RUGGEROLI: In that context? And I apologize
11 for interrupting.

12 PROSPECTIVE JUROR NO. 557: Yeah, I'm sorry. I was
13 just saying it gave me pause. It kind of -- it's not
14 something I've, you know, come across too often, other than
15 seeing it on TV once in a while. But being a jury member,
16 yes, I'd, you know, be willing to hear all the discussions and
17 make a judgment based on what we see.

18 MR. RUGGEROLI: So as a potential juror, what do you
19 think a good juror would do when a witness gets on the stand?
20 And even in a situation where a former co-defendant is
21 testifying, what would a good juror do in sitting in judgment
22 on that witness?

23 PROSPECTIVE JUROR NO. 557: Well, I mean, I think
24 you'd want to keep an open mind and really be prepared to
25 listen to what they're saying and what's being discussed in

1 the court. And you know --

2 MR. RUGGEROLI: Do you think you can do that?

3 PROSPECTIVE JUROR NO. 557: I do, yes.

4 MR. RUGGEROLI: Okay. I do want to pass the
5 microphone, if we could, to Mr. O'Brien, please.

6 PROSPECTIVE JUROR NO. 464: Thank you. 464, Jeff
7 O'Brien.

8 MR. RUGGEROLI: Thank you, sir. I wanted to segue
9 from asking the last question about a co-defendant testifying,
10 and being a good juror, and doing the things that a good juror
11 would do. I wanted to follow up because you had made some
12 statements early on about you have a lot of experience with
13 police officers; you've got contracts and things like that. I
14 do want to go over it a little bit again though.

15 If an officer testifies, the idea of your experience
16 -- and there's not a right or wrong answer. It's just, how do
17 you view things? Because of your particular friendship with
18 people and things of that nature that are officers, are you
19 going to listen to a police officer and just take it at pure
20 face value? And I'm asking for an honest answer, not one that
21 you think we may want.

22 You mentioned this on your own, and we greatly
23 appreciate that. But if an officer gets up, are you going to
24 tip the scales because he's an officer, and give him more of
25 the benefit of the doubt than an average witness?

1 PROSPECTIVE JUROR NO. 464: I just want to say, I
2 think the context of the question was that, would you give
3 more or less credence to the honesty of their answer.

4 MR. RUGGEROLI: Okay.

5 PROSPECTIVE JUROR NO. 464: And I stated that I
6 probably would, because I know a lot of them, and I have no
7 reason to think that they would lie to me.

8 MR. RUGGEROLI: Right. Now, these are going to be
9 individuals that you don't know. You didn't --

10 PROSPECTIVE JUROR NO. 464: Probably, yeah.

11 MR. RUGGEROLI: Well, did you recognize any of the
12 names that were --

13 PROSPECTIVE JUROR NO. 464: Negative, no.

14 MR. RUGGEROLI: Okay. So these are officers, and
15 you would agree with me that there's a lot of really good
16 officers, and then there are some that might not have been
17 able to observe certain things. Part of your job as a juror
18 and being a good juror is to take each one individually.
19 Would you agree with that?

20 PROSPECTIVE JUROR NO. 464: And be impartial about
21 it, correct.

22 MR. RUGGEROLI: Okay. And so, just because you're
23 an officer, would you agree that doesn't automatically make
24 you super perceptive?

25 PROSPECTIVE JUROR NO. 464: No, of course not.

1 MR. RUGGEROLI: Or super honest?

2 PROSPECTIVE JUROR NO. 464: No, and they're not
3 great shots either.

4 MR. RUGGEROLI: Okay. So based on what you said,
5 you'd be willing to listen to the officers' testimony and
6 serve as a good juror; not just take it at face value, but
7 analyze it independently?

8 PROSPECTIVE JUROR NO. 464: Certainly.

9 MR. RUGGEROLI: Okay. I did want to follow up with
10 you, since you have the microphone, and you do have the
11 experience with the firearms. Are you familiar with the open
12 carry law?

13 PROSPECTIVE JUROR NO. 464: I am.

14 MR. RUGGEROLI: Do you have any particular feelings
15 or views about open carry?

16 PROSPECTIVE JUROR NO. 464: I'm all for it.

17 MR. RUGGEROLI: Okay. When I say open carry, not
18 everybody on the panel may understand what we're talking
19 about. So what would that mean to you in a firearms context?

20 PROSPECTIVE JUROR NO. 464: It means that you can be
21 out in public with a firearm in full display without suffering
22 any penalties.

23 MR. RUGGEROLI: Okay. And is it your understanding
24 that, for the most part, that is legal?

25 PROSPECTIVE JUROR NO. 464: Yes.

1 MR. RUGGEROLI: All right, and do you have any views
2 about that being a positive or negative right?

3 PROSPECTIVE JUROR NO. 464: I think that it's
4 awesome.

5 MR. RUGGEROLI: Okay. Does anybody -- and now I'm
6 going to open it up. I haven't done that yet. But does
7 anybody else have any views about open carry law in particular
8 that is the same, but really different than what he just
9 expressed? Nobody? Okay, sir, please. If I could start with
10 right behind you --

11 PROSPECTIVE JUROR NO. 410: McGinty, 410.

12 MR. RUGGEROLI: Yes, thank you.

13 PROSPECTIVE JUROR NO. 410: So I find it a rather
14 antiquated law and something that has not really changed with
15 the environment and what's gone on through society, and as
16 we've evolved, the law has not evolved, right?

17 Prime example, in a pizza shop a few weeks ago, an
18 individual comes in with a 9 on the outside of his clothing,
19 and just shirt tucked in. He was just a -- he wasn't a
20 model-looking citizen, so yeah, there's a perception. It was
21 like he was inviting something, and that's the problem I have
22 with it today, is it's probably not appropriate to have an
23 open carry to -- in most situations.

24 MR. RUGGEROLI: Okay, and just to follow up on that.
25 Were you actually present?

1 PROSPECTIVE JUROR NO. 410: Yeah.
2 MR. RUGGEROLI: Okay, so this is something that you
3 observed and saw, and you had --
4 PROSPECTIVE JUROR NO. 410: Correct, yes.
5 MR. RUGGEROLI: And you had a feeling about that?
6 PROSPECTIVE JUROR NO. 410: Yes.
7 MR. RUGGEROLI: All right.
8 PROSPECTIVE JUROR NO. 410: Very much so.
9 MR. RUGGEROLI: And I appreciate you sharing that
10 with us. There was another hand, I think it was right in
11 front of you. Could you give us your badge number?
12 PROSPECTIVE JUROR NO. 475: 475.
13 MR. RUGGEROLI: Yes, sir.
14 PROSPECTIVE JUROR NO. 475: I disagree with open
15 carrying because not everybody has a stable mind, and it's
16 easy for somebody to like get in an argument, and be angry,
17 and pull out their guns.
18 MR. RUGGEROLI: Okay. Have you been in a situation
19 where you saw somebody open carry?
20 PROSPECTIVE JUROR NO. 475: No.
21 MR. RUGGEROLI: No? Okay, I appreciate that. Thank
22 you. Could we hand the microphone down to Ms. O'Brien?
23 PROSPECTIVE JUROR NO. 483: Ms. O'Brien?
24 MR. RUGGEROLI: Oh, I'm sorry, it's Ms. Cook.
25 PROSPECTIVE JUROR NO. 483: Yeah.

1 MR. RUGGEROLI: Correct. I apologize. Your badge
2 number, please? Thank you, Ms. Cook.

3 PROSPECTIVE JUROR NO. 483: Lisa Cook, 483.

4 MR. RUGGEROLI: I ask that you would answer some
5 questions, because you've mentioned that your husband is
6 involved in the shooting range, and I think that one of your
7 stepsons is also involved?

8 PROSPECTIVE JUROR NO. 483: Correct.

9 MR. RUGGEROLI: Can you tell me a little bit about
10 the shooting range and what that is?

11 PROSPECTIVE JUROR NO. 483: They -- they build
12 shooting ranges.

13 MR. RUGGEROLI: Oh.

14 PROSPECTIVE JUROR NO. 483: It's modular shooting
15 ranges in North Las Vegas --

16 MR. RUGGEROLI: Okay.

17 PROSPECTIVE JUROR NO. 483: -- for all over, across
18 the world, and for the military and law enforcement and such.

19 MR. RUGGEROLI: All right. Are you familiar with
20 open carry?

21 PROSPECTIVE JUROR NO. 483: I am.

22 MR. RUGGEROLI: And do you have a view about that?

23 PROSPECTIVE JUROR NO. 483: I'm for it.

24 MR. RUGGEROLI: Okay. Have you ever been in public
25 when somebody was open carry that you observed?

1 PROSPECTIVE JUROR NO. 483: Yes.
2 MR. RUGGEROLI: Besides family members?
3 PROSPECTIVE JUROR NO. 483: Yes.
4 MR. RUGGEROLI: Okay. What was your reaction?
5 PROSPECTIVE JUROR NO. 483: Neither. I mean, you
6 know, it didn't affect me either way, because -- yeah.
7 MR. RUGGEROLI: All right, thank you.
8 PROSPECTIVE JUROR NO. 483: Um-hum.
9 MR. RUGGEROLI: Was there anybody else that I may
10 have missed that had feelings about open carry or firearms?
11 And I'm seeing no responses. Thank you.
12 If we could go back to Mr. McGinty, please. Thank
13 you. Badge number again?
14 PROSPECTIVE JUROR NO. 410: McGinty, 410.
15 MR. RUGGEROLI: Mr. McGinty, I know you -- we've
16 talked a lot, but that's one of the reasons why I wanted to go
17 to you again, because I know that you're sharing with us, and
18 if that leads to some participation, that would be greatly
19 appreciated.
20 I would like to ask about your view because of some
21 of the answers that you gave previously about the concept of
22 somebody electing not to testify at trial. Do you have any
23 particular view about that?
24 PROSPECTIVE JUROR NO. 410: Somebody electing not to
25 testify?

1 MR. RUGGEROLI: Right.

2 PROSPECTIVE JUROR NO. 410: As a -- a defendant, or?

3 MR. RUGGEROLI: Right.

4 PROSPECTIVE JUROR NO. 410: Okay. No, I see the

5 rationale behind that. Not everyone's going to be perceived

6 and come across in a positive light or the right light that

7 they want to, so I have no problem with that.

8 MR. RUGGEROLI: So that right that we all share, and

9 that's an individual right that each individual has, you

10 believe in that right to not testify if you choose not to do

11 so if you were accused?

12 PROSPECTIVE JUROR NO. 410: Absolutely.

13 MR. RUGGEROLI: Now, you did make some other

14 statements that -- and that's one of the reasons why I was

15 asking you is because I think you mentioned you've served as

16 an expert witness as well?

17 PROSPECTIVE JUROR NO. 410: No, I --

18 MR. RUGGEROLI: No?

19 PROSPECTIVE JUROR NO. 410: I know expert witnesses.

20 MR. RUGGEROLI: Okay. You would agree that there

21 may be a number of potential reasons why an attorney may

22 advise a particular individual not to testify, even apart from

23 the concept of whether or not they committed the alleged

24 crime?

25 PROSPECTIVE JUROR NO. 410: Absolutely.

1 MR. RUGGEROLI: Okay, and you personally have no
2 problem with that?

3 PROSPECTIVE JUROR NO. 410: I do not.

4 MR. RUGGEROLI: Okay. Now, I do want to open it up
5 to the panel as well, if there are any volunteers, this right
6 that we have. Does anybody have a different feeling about
7 that right, where, hey, somebody should get on the stand, and
8 I'm not going to be okay with it if they don't? Does anybody
9 have that feeling? I see no responses. Okay, thank you.

10 If we could hand it to Mr. Deperio, and I believe
11 he's down here.

12 PROSPECTIVE JUROR NO. 488: 488.

13 MR. RUGGEROLI: Mr. Deperio, I wanted to follow up
14 because you mentioned that you have served as a juror in the
15 past?

16 PROSPECTIVE JUROR NO. 488: Yes.

17 MR. RUGGEROLI: And you mentioned that, in that
18 case, you might not have felt like you had the opportunity to
19 fully express yourself; is that accurate?

20 PROSPECTIVE JUROR NO. 488: Yeah.

21 MR. RUGGEROLI: If you're -- now, you've had that
22 experience, and so you know more than the average potential
23 juror that doesn't, obviously.

24 PROSPECTIVE JUROR NO. 488: Yes.

25 MR. RUGGEROLI: Do you think that you'd be more

1 inclined, if you're selected for this jury, to go in the back
2 and be more assertive?

3 PROSPECTIVE JUROR NO. 488: I mean, that's just the
4 nature of my personality to be quiet all the time, so --

5 MR. RUGGEROLI: Right.

6 PROSPECTIVE JUROR NO. 488: -- probably not.

7 MR. RUGGEROLI: Right. Now, you were able
8 internally to listen to all the evidence in that case?

9 PROSPECTIVE JUROR NO. 488: Yes.

10 MR. RUGGEROLI: Do you think you -- you'd do that in
11 this case as well?

12 PROSPECTIVE JUROR NO. 488: Yes.

13 MR. RUGGEROLI: Some people, as you're mentioning,
14 are just naturally more quiet and reserved?

15 PROSPECTIVE JUROR NO. 488: Yes.

16 MR. RUGGEROLI: And you're one of those individuals?

17 PROSPECTIVE JUROR NO. 488: Yes.

18 MR. RUGGEROLI: Nothing wrong with that. Do you
19 think though that you -- now, in that case, I don't know if
20 they did anything in particular. But in this case, even if
21 you don't have the kind of fortitude to maybe be real
22 assertive if you have an opinion that goes against the
23 majority, but if you see it differently than the majority of
24 the other jurors, does your quietness mean that you might not
25 be assertive and go with the majority simply because, or?

1 PROSPECTIVE JUROR NO. 488: Yes, I think so.
2 MR. RUGGEROLI: That you would be likely to follow
3 with the majority?
4 PROSPECTIVE JUROR NO. 488: No, I'm not saying that,
5 but maybe -- like I said, I think it's a disadvantage because
6 I'm not able to converse, and engage, and you know,
7 participate in the --
8 MR. RUGGEROLI: Debate?
9 PROSPECTIVE JUROR NO. 488: -- what's going on.
10 Yeah.
11 MR. RUGGEROLI: Yeah.
12 PROSPECTIVE JUROR NO. 488: And prove, you know, if
13 I want the opposite, you know.
14 MR. RUGGEROLI: Right.
15 PROSPECTIVE JUROR NO. 488: So.
16 MR. RUGGEROLI: And that's why I wanted to ask you
17 about that, because again, I do want to open this up to
18 others. There's nothing wrong with that. People are
19 different, and sometimes you might have seen something
20 different than everybody else because you're paying attention
21 in a different way.
22 But what I'd like to know is if anybody actually
23 feels the same way, and again, there's nothing wrong with
24 that. But is there anybody that is a bit more reserved, a bit
25 more quiet that would have a tendency to kind of go with the

1 flow of the majority if they're selected on a jury? Anybody?
2 Yes, sir. Could we pass it down to Mr. Rodriguez?
3 Thank you, sir. Badge --
4 PROSPECTIVE JUROR NO. 475: 475.
5 MR. RUGGEROLI: Yes, sir. So could you elaborate on
6 that, please?
7 PROSPECTIVE JUROR NO. 475: Pretty much what he
8 said. There's nothing else (indiscernible), probably because
9 I kind of -- my thinking, my brain is kind of slower than
10 everybody else.
11 MR. RUGGEROLI: Okay.
12 PROSPECTIVE JUROR NO. 475: So when there's a
13 discussion, I kind of can't follow up, can't follow -- I can't
14 keep up with the conversation, so I just step back.
15 MR. RUGGEROLI: All right. We've had a lot going on
16 over the last two days in here. How about the things that
17 have been discussed, the questions and answers? Have you --
18 have you been able to --
19 PROSPECTIVE JUROR NO. 475: Yes, yeah.
20 MR. RUGGEROLI: Okay. Well, you're just trying to
21 give us information right now, and I appreciate that. Thank
22 you. Does anybody else feel similar?
23 All right, could we go back to Ms. -- the microphone
24 to Ms. Graham, please?
25 PROSPECTIVE JUROR NO. 451: 451.

1 THE MARSHAL: Hang on, ma'am.
2 THE COURT: Yeah, I mean --
3 THE MARSHAL: Can we get that phone turned off?
4 THE COURT: Is there --
5 PROSPECTIVE JUROR NO. 546: Yeah, I'm turning it
6 off.
7 THE COURT: Okay.
8 PROSPECTIVE JUROR NO. 546: I'm trying.
9 THE COURT: All right, doesn't seem to be working.
10 PROSPECTIVE JUROR NO. 546: There.
11 THE COURT: Thank you.
12 MR. RUGGEROLI: Okay.
13 PROSPECTIVE JUROR NO. 546: Sorry.
14 MR. RUGGEROLI: Ms. Graham?
15 PROSPECTIVE JUROR NO. 451: Yeah.
16 MR. RUGGEROLI: I wanted to ask you, because you
17 made an interesting statement about kind of the demeanor of
18 some of the attorneys, and I think your statement was, we're
19 all civil. Do you recall that?
20 PROSPECTIVE JUROR NO. 451: Yes.
21 MR. RUGGEROLI: Something to that effect.
22 PROSPECTIVE JUROR NO. 451: Okay.
23 MR. RUGGEROLI: You know that during this trial,
24 there might be times where an attorney needs to make an
25 objection?

1 PROSPECTIVE JUROR NO. 451: Um-hum.

2 MR. RUGGEROLI: And there may be a sympathetic
3 witness on the stand, it may be an officer. But if a lawyer
4 needs to object and do things that may not seem polite in
5 everyday society, are you okay with that, that the lawyers
6 need to do their job?

7 PROSPECTIVE JUROR NO. 451: Yes, of course, because
8 I see it as that is the job of the lawyers, so it is part of
9 society. It might not be -- that's what they're supposed to
10 do. Does that make sense? So, whereas if you're outside, not
11 doing your lawyer job, it might be seen as rude; but in a
12 courtroom, that's what happens, so it's not rude.

13 MR. RUGGEROLI: Right. And you had made that
14 statement. I think that's a perfect fulfillment of the
15 context of the nature of the conduct.

16 PROSPECTIVE JUROR NO. 451: Um-hum.

17 MR. RUGGEROLI: And so, I am appreciative of you
18 filling in on that.

19 Does anybody else not agree with that though? Is it
20 -- does anybody have any feelings that if one of us is overly
21 loud or potentially rude, what would be rude in a different
22 context, is anybody going to potentially hold it against my
23 client if I do that? And there's no response. Thank you.

24 If we could hand it to Mr. Salazar. Thank you. Mr.
25 Salazar?

1 PROSPECTIVE JUROR NO. 482: 482.

2 MR. RUGGEROLI: Thank you, sir. So, Mr. Salazar,
3 what makes a good juror?

4 PROSPECTIVE JUROR NO. 482: They have to look at the
5 facts without bias. Like, earlier, when I was asked, if you
6 see a graphic image, are you going to like shy away or be
7 emotional? Like, no, you have to put all that aside and just
8 look at the facts, don't let anything else intervene.

9 MR. RUGGEROLI: Okay. What other traits do you
10 think a good juror has?

11 PROSPECTIVE JUROR NO. 482: You have to, you know,
12 pay attention. Like, like you said, if you have a question,
13 like, you feel like something's left out, speak up. And then,
14 at the very end, like, participate in the debates.

15 MR. RUGGEROLI: And you've never served as a juror
16 before?

17 PROSPECTIVE JUROR NO. 482: No, sir.

18 MR. RUGGEROLI: Do you believe you'd be a good
19 juror?

20 PROSPECTIVE JUROR NO. 482: Yes, sir.

21 MR. RUGGEROLI: Because of those traits?

22 PROSPECTIVE JUROR NO. 482: Yes, sir.

23 MR. RUGGEROLI: Is there anything else about you,
24 your background or your experience that you think I should
25 know to decide if you're going to be a good juror?

1 PROSPECTIVE JUROR NO. 482: No, sir.

2 MR. RUGGEROLI: Okay, thank you. If we could hand
3 it up to Ms. Bruer. She's up top.

4 PROSPECTIVE JUROR NO. 019: Barbara Bruer, 019.

5 MR. RUGGEROLI: Bruer, I apologize.

6 Good afternoon. So I'm going to follow up on that,
7 and it's going to be with pretty much the rest of the panel.
8 Everyone is very important. If I don't ask any particular one
9 of you a question, it's not because you're not; it's just
10 you've been here quite a long time. There are going to be
11 some things I'd like to follow up on. Generally speaking
12 though, you've been paying attention of the questions that
13 have been asked and answered?

14 PROSPECTIVE JUROR NO. 019: Yes.

15 MR. RUGGEROLI: This notion of what it would be --
16 what it would take to be a good juror, do you think you would
17 be a good juror?

18 PROSPECTIVE JUROR NO. 019: Yes.

19 MR. RUGGEROLI: Why is that?

20 PROSPECTIVE JUROR NO. 019: I have strong attention
21 skills, like I pay attention to detail. And pretty good
22 intuition, like reading body language and small words and
23 hints that can indicate if somebody's being truthful.

24 MR. RUGGEROLI: Excellent. Do you have anything in
25 your background that causes you hesitation about being a good

1 juror on this particular jury --
2 PROSPECTIVE JUROR NO. 019: No.
3 MR. RUGGEROLI: -- in this particular case?
4 PROSPECTIVE JUROR NO. 019: No.
5 MR. RUGGEROLI: Okay, thank you. If you could hand
6 the microphone right next to you.
7 PROSPECTIVE JUROR NO. 409: Vito Casucci, 409.
8 MR. RUGGEROLI: Good afternoon, Mr. Casucci.
9 PROSPECTIVE JUROR NO. 409: Good afternoon.
10 MR. RUGGEROLI: There was -- there was some
11 questions that I believe you asked about this notion of
12 burden. Do you recall being asked, or was that a different --
13 I'm going to come back to another panel member on that one.
14 You were asked though about making decisions in the
15 poker room, and sometimes there are disputes?
16 PROSPECTIVE JUROR NO. 409: Right.
17 MR. RUGGEROLI: Sometimes you've got to decide which
18 player may have played the hand properly, or a lot of
19 different circumstances?
20 PROSPECTIVE JUROR NO. 409: In the casino world that
21 I live in, someone has to win, someone has to lose, and I have
22 to make the decision on the spot.
23 MR. RUGGEROLI: Right.
24 PROSPECTIVE JUROR NO. 409: That's not the forum
25 that we're in today. I think the forum that we're in today is

1 they are presumed innocent until proven guilty, and it's their
2 job to prove that they are guilty; and if they can't do that,
3 then they would be considered to be innocent in the eyes of
4 the law.

5 MR. RUGGEROLI: Right.

6 PROSPECTIVE JUROR NO. 409: That's the way I feel.

7 MR. RUGGEROLI: When you say, "their job," you mean
8 the prosecutors?

9 PROSPECTIVE JUROR NO. 409: The prosecutors' job,
10 yes.

11 MR. RUGGEROLI: Excellent. So that's something that
12 I think you agree makes a good juror; that you would do that?

13 PROSPECTIVE JUROR NO. 409: Yes.

14 MR. RUGGEROLI: Is there anything else about you
15 that I should know in making a determination of whether or not
16 you would be a good juror?

17 PROSPECTIVE JUROR NO. 409: I consider myself to be
18 a good listener. And also, once we get into the deliberation
19 part of it, I don't think I would be overwhelming with other
20 people, I don't think I would be influenced by other people, I
21 think we would just reason together on what we've all heard,
22 and come to an agreement.

23 MR. RUGGEROLI: Very good. Thank you, sir. If you
24 could pass it right next to you, please. I'll be quick this
25 time.

1 PROSPECTIVE JUROR NO. 410: McGinty, 410.

2 MR. RUGGEROLI: Thank you, sir. Mr. McGinty, are
3 you able to look at Mr. Wheeler and --

4 PROSPECTIVE JUROR NO. 410: Yes.

5 MR. RUGGEROLI: -- tell me right now that you are
6 able to view him as being presumed innocent? And you're
7 hesitating, which is fine, and this is why I'm asking.
8 Because we can't skip to the back of the book in this process.

9 PROSPECTIVE JUROR NO. 410: Yeah. You're asking do
10 I have maybe a preconceived notion? Do I -- do I read him in
11 a certain way?

12 MR. RUGGEROLI: Well --

13 PROSPECTIVE JUROR NO. 410: And yeah, I read both of
14 them differently.

15 MR. RUGGEROLI: Okay.

16 PROSPECTIVE JUROR NO. 410: And --

17 MR. RUGGEROLI: Let me ask you this so that I can
18 clarify the question to help you. The notion of when anybody
19 walks in, they're presumed innocent at this point --

20 PROSPECTIVE JUROR NO. 410: Correct.

21 MR. RUGGEROLI: -- you agree with that?

22 PROSPECTIVE JUROR NO. 410: Absolutely.

23 MR. RUGGEROLI: But I did ask it specifically to the
24 individual that this is about from my point of view.

25 PROSPECTIVE JUROR NO. 410: How about this? Do I

1 understand that both individuals are presumed innocent until
2 otherwise? Yes, absolutely.

3 MR. RUGGEROLI: Okay. Have you ever got a speeding
4 ticket that you thought the officer made a mistake about?

5 PROSPECTIVE JUROR NO. 410: No. I think he
6 shouldn't have wrote it, but yeah.

7 MR. RUGGEROLI: Okay. But the reason why I ask you
8 that is because if officers always gave tickets the right way,
9 and nobody was ever innocent, and everybody was always guilty,
10 there wouldn't be that presumption of innocence, and everybody
11 would just have to pay their tickets, take their points, get
12 no reductions. You would agree with that, right?

13 PROSPECTIVE JUROR NO. 410: Correct.

14 MR. RUGGEROLI: So we have a formalized procedure in
15 place, and I don't want you to just give me what sounds like
16 the political answer about that individual right there in the
17 blue shirt with the dark tie. If you can't say that, right
18 now, you can look at him and presume that he's innocent, then
19 I think that there might be other juries that you're better
20 on, and there's no -- there's nothing wrong with that.

21 So when I ask you, is there anything that would
22 cause you to hesitate, I would just like you to be honest, and
23 that's all we can ask from any of you.

24 PROSPECTIVE JUROR NO. 410: With all due respect, I
25 don't know that me stating this out loud is fair to the other

1 members of the panel.

2 MR. RUGGEROLI: Okay.

3 PROSPECTIVE JUROR NO. 410: I don't want to cloud a
4 good pool of jurors for you.

5 MR. RUGGEROLI: Okay. Without getting into those
6 specifics, do you really think that you can listen to all the
7 evidence and be fair to Mr. Wheeler?

8 PROSPECTIVE JUROR NO. 410: Well, sure. Absolutely.

9 MR. RUGGEROLI: Okay. Should I want you on this
10 jury though? If you were me, you're Mr. Defense Lawyer for
11 Mr. Wheeler, I have a suspicion you would probably not want
12 somebody like that on your jury if you were me.

13 PROSPECTIVE JUROR NO. 410: Looking at the current
14 situation and -- yeah, no, I wouldn't.

15 MR. RUGGEROLI: Thank you, sir. That's all I ask.
16 Okay, if you could just hand the microphone down. Hello.

17 PROSPECTIVE JUROR NO. 417: Hello.

18 MR. RUGGEROLI: Could you state your name and badge
19 number, please?

20 PROSPECTIVE JUROR NO. 417: Mary Newcome, 417. Yes.

21 MR. RUGGEROLI: Would you mind standing?

22 THE COURT: I would prefer if the attorneys, when
23 they're -- if you have a current challenge, you would approach
24 the bench and make it.

25 MR. RUGGEROLI: Okay, thank you, Judge.

1 THE COURT: Okay.
2 MR. RUGGEROLI: I would like to do that then.
3 THE COURT: Okay.
4 MR. RUGGEROLI: Thank you.
5 (Bench conference)
6 THE COURT: I mean, I don't know what in the world
7 he was going to say that he didn't want to --
8 MR. RUGGEROLI: Sure.
9 THE COURT: I don't know.
10 MR. RUGGEROLI: I didn't want to go into it either.
11 THE COURT: I know, I got that. But I mean, if you
12 want me to excuse the panel and you can question him.
13 MR. RUGGEROLI: I think it's -- do you feel the
14 same? It's -- because he didn't want to discuss it, he might
15 have a --
16 THE COURT: Well, yeah, of course.
17 MR. RUGGEROLI: Okay.
18 THE COURT: But I'm just saying, if you want --
19 MR. RUGGEROLI: If that's okay.
20 THE COURT: Yeah.
21 MR. PESCI: Do you want to bring him up here instead
22 of kicking everybody out, or what do you prefer?
23 THE COURT: I mean, we can try that.
24 MR. RUGGEROLI: I'm happy with whatever the Court
25 wants.

1 MR. PESCI: Yeah, whatever you want, Judge.
2 THE COURT: Maybe we should take a break, because I
3 worry about --
4 MR. RUGGEROLI: Okay.
5 MR. PESCI: Sounds good.
6 MR. RUGGEROLI: Thank you, Judge.
7 THE COURT: -- what he might say.
8 MR. RUGGEROLI: I appreciate it.
9 THE COURT: Okay.
10 (End of bench conference)
11 THE COURT: All right. At this time, ladies and
12 gentlemen, we're going to take a recess.
13 During this recess, you're admonished not to talk or
14 converse amongst yourselves or with anyone else on any subject
15 connected with this trial, or read, watch, or listen to any
16 report of or commentary on the trial, or any person connected
17 with this trial, by any medium of information, including,
18 without limitation, newspapers, television, the internet, or
19 radio, or form or express any opinion on any subject connected
20 with this trial until the case is finally submitted to you.
21 Mr. McGinty, if you would stay in. The rest of the
22 jurors, you are excused.
23 THE MARSHAL: Thank you. All rise for the exiting
24 jury, please. Jurors.
25 THE COURT: Mr. McGinty -- okay, I just wanted to

1 make sure you -- thank you, sir.

2 (Outside the presence of the prospective jurors)

3 (Within the presence of Prospective Juror No. 410)

4 THE COURT: You can come up to the podium, Mr.
5 McGinty.

6 Okay. The record will reflect that this hearing is
7 taking place outside the presence of the jury panel, with the
8 exception -- I have Juror number 3, Mr. McGinty present in the
9 courtroom.

10 PROSPECTIVE JUROR NO. 410: Correct.

11 THE COURT: Okay. You indicated -- defense counsel
12 was asking you some questions, and you made a statement that
13 you didn't think it was fair to say what you were going to say
14 in front of the whole panel. So --

15 PROSPECTIVE JUROR NO. 410: Right.

16 THE COURT: -- go ahead.

17 PROSPECTIVE JUROR NO. 410: Again, relevance, I'm
18 not sure, but I'll state it. So if I was -- and I don't
19 remember your name, sorry -- but in his seat, the defense
20 lawyer's seat and position, I would probably have coached my
21 defendant a little differently in posture and expression.
22 That's it. Just how you would -- how you're coming across to
23 the room.

24 THE COURT: Okay. So have you made opinions or
25 formed any opinions based on the defendant's posture and

1 expressions?

2 PROSPECTIVE JUROR NO. 410: Of course, same as you
3 have for me. I mean, that's --

4 THE COURT: Pardon?

5 PROSPECTIVE JUROR NO. 410: I said, same as
6 everybody has for me. Same thing, right? It's -- well all
7 have. It's human nature to make some first impression.

8 THE COURT: Okay, so what are those conclusions that
9 you've reached?

10 PROSPECTIVE JUROR NO. 410: Conclusions? I didn't
11 say conclusion.

12 THE COURT: Well, you --

13 PROSPECTIVE JUROR NO. 410: What opinions.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NO. 410: Yeah, opinions, right?
16 First impressions are somewhat off-putting for Mr. Wheeler,
17 and I don't know the other defendant's name, but he's
18 certainly more relaxed. And so, could be personality
19 differences, but who knows?

20 THE COURT: Okay, relaxed and off-putting?

21 PROSPECTIVE JUROR NO. 410: Off-putting, yeah.

22 THE COURT: Okay. The fact that you have formed
23 these opinions already, would they interfere with your ability
24 to sit as a fair and impartial juror?

25 PROSPECTIVE JUROR NO. 410: I don't -- as long as

1 the evidence was presented correctly or -- I mean, yeah. Do I
2 -- do one of the defendants, in my mind initially, first
3 impression, lean on the side -- maybe not the most favorable
4 side? Probably so, but it can be brought back, just like any
5 negotiations or --

6 THE COURT: Okay, but that's --

7 PROSPECTIVE JUROR NO. 410: -- any situation.

8 THE COURT: I mean, that's not what we do in here.

9 PROSPECTIVE JUROR NO. 410: I understand.

10 THE COURT: Okay?

11 PROSPECTIVE JUROR NO. 410: Well, you're asking me;
12 I'm telling you the truth, so.

13 THE COURT: And I appreciate that, but you
14 understand, you know, we judge cases and reach verdicts and
15 conclusions based on the evidence, and not based upon any
16 opinion that we form that somebody --

17 PROSPECTIVE JUROR NO. 410: Absolutely.

18 THE COURT: -- is off-putting, or we don't like
19 their expression or do --

20 PROSPECTIVE JUROR NO. 410: Understand.

21 THE COURT: -- like their expression.

22 PROSPECTIVE JUROR NO. 410: Understand.

23 THE COURT: Do you understand that?

24 PROSPECTIVE JUROR NO. 410: Absolutely.

25 THE COURT: Okay, so do we have to worry about that

1 with you?

2 PROSPECTIVE JUROR NO. 410: Do you have to worry
3 about me formulating a fair and honest conclusion, opinion, or
4 -- no. It would ultimately be based on the evidence and
5 what's presented by the DA, so.

6 THE COURT: Okay. So can you set aside any opinions
7 that you've developed and base this case solely on the
8 evidence that you hear in the courtroom?

9 PROSPECTIVE JUROR NO. 410: Why, certainly.

10 THE COURT: Okay. I don't know. Mr. Ruggeroli, do
11 you have any follow up?

12 MR. RUGGEROLI: If I could.

13 PROSPECTIVE JUROR NO. 410: Sure.

14 MR. RUGGEROLI: Thank you, sir. And you're not in
15 trouble, anything like that. I greatly appreciate your
16 candor. I think you're being fair in explaining this, but it
17 sounds like there is a starting point that we've already
18 reached. And would it be fair to say that I am probably going
19 to have to do something to overcome somewhat of a
20 preconception that you've already formed about Mr. Wheeler?

21 PROSPECTIVE JUROR NO. 410: That is a great way to
22 present that question, and the answer is yes.

23 MR. RUGGEROLI: Okay. And because of that, you
24 might be inclined to hold me to a burden of establishing
25 innocence rather than exclusively holding the State to prove

1 beyond a reasonable doubt his guilt?

2 PROSPECTIVE JUROR NO. 410: It would be a -- it
3 would be a 10th of a 100th of a percentage, yeah, sure. But
4 there is, yeah.

5 MR. RUGGEROLI: Thank you.

6 PROSPECTIVE JUROR NO. 410: I don't know what that
7 is. Yeah.

8 MR. RUGGEROLI: Okay. Thank you, Judge. I have
9 nothing further.

10 THE COURT: Anything else?

11 MR. RUGGEROLI: No, Your Honor.

12 THE COURT: All right.

13 MR. PESCI: Could I?

14 THE COURT: Sure.

15 MR. PESCI: So, sir, if, as the prosecution, we
16 present our case, and you feel that we have fallen short,
17 separate and distinct from any impression that you got from
18 Mr. Wheeler, from me, from the Judge, from anybody, could you
19 return a verdict of not guilty if we don't prove the case to
20 you?

21 PROSPECTIVE JUROR NO. 410: If I think that your --
22 the presentation of the case, the evidence before us was weak
23 and poorly presented, or just weak in general -- let's say
24 it's just weak, right?

25 MR. PESCI: Okay.

1 PROSPECTIVE JUROR NO. 410: Yeah, absolutely.
2 MR. PESCI: All right, and that's really kind of
3 what this boils down to.
4 PROSPECTIVE JUROR NO. 410: Yeah.
5 MR. PESCI: And we appreciate your honesty, because
6 if I'm understanding you correctly, you're saying you got an
7 impression from one defendant, and a different impression from
8 the other. Would it be safe to say you've got an impression
9 from me?
10 PROSPECTIVE JUROR NO. 410: As we all do, right?
11 MR. PESCI: Yes, of course. And my co-counsel?
12 PROSPECTIVE JUROR NO. 410: Absolutely.
13 MR. PESCI: All right. Let's assume -- hopefully
14 it's not this way -- it's a negative impression for one of us
15 or both of us, right? Notwithstanding that impression, if we
16 bring the evidence in and we prove to you, hey, he did it,
17 could you come back with a guilty verdict?
18 PROSPECTIVE JUROR NO. 410: Yeah, of course. Sure.
19 MR. PESCI: So I guess what I'm trying to say is the
20 impression isn't the basis of your decision, is it?
21 PROSPECTIVE JUROR NO. 410: No, no. Absolutely not.
22 MR. PESCI: Will it be the evidence?
23 PROSPECTIVE JUROR NO. 410: The evidence, correct.
24 MR. PESCI: Thank you very much, sir.
25 THE COURT: Okay. Anything else?

1 MR. RUGGEROLI: Just one follow up.
2 THE COURT: Okay.
3 PROSPECTIVE JUROR NO. 410: Sure.
4 MR. RUGGEROLI: Would it be fair to say though that,
5 based on your observations, you've already established a sense
6 of presumption of guilt of something connected to this case?
7 PROSPECTIVE JUROR NO. 410: Well, that --
8 MR. PESCI: Well, Judge, I apologize.
9 PROSPECTIVE JUROR NO. 410: That may be --
10 MR. PESCI: I'm going to interrupt. I apologize.
11 THE COURT: Right.
12 MR. PESCI: One second.
13 PROSPECTIVE JUROR NO. 410: Yeah.
14 MR. PESCI: There's a difference between the
15 original question he was asked, which --
16 THE COURT: Right.
17 MR. PESCI: -- was an impression, which was not
18 about guilt.
19 THE COURT: You're correct.
20 MR. PESCI: It was an impression, so --
21 THE COURT: So I would just ask you to rephrase it.
22 MR. RUGGEROLI: It is a different question. Okay.
23 We'll stick with that then, because the original question was
24 that are you able to look at him and presume that he's
25 innocent right now. So I won't -- I won't ask you the

1 inverse. I'll ask it again. Have you already formed an
2 opinion that you're not presuming that he's innocent right
3 now?

4 PROSPECTIVE JUROR NO. 410: I have not. Maybe to
5 help, if I may, with the question, have I -- or could I have
6 come to a conclusion that Mr. Wheeler at some point in his
7 life is probably guilty of something based on his demeanor?
8 Yeah, I could.

9 MR. RUGGEROLI: Okay. And I just --

10 PROSPECTIVE JUROR NO. 410: Completely different
11 than this gentleman here.

12 MR. RUGGEROLI: One last --

13 THE COURT: I'm sorry, and what was that?

14 PROSPECTIVE JUROR NO. 410: Completely different
15 than this gentleman here, the other defendant. But go ahead.

16 MR. RUGGEROLI: Judge, if I may, just one last
17 question.

18 THE COURT: Um-hum.

19 MR. RUGGEROLI: You've not heard any evidence, and
20 Mr. Pesci asked you, if they do not prove their case, that you
21 could acquit. If the case was concluded now though with no
22 evidence, would you be able to acquit?

23 MR. PESCI: Judge, I'm going to --

24 PROSPECTIVE JUROR NO. 410: I wouldn't --

25 MR. PESCI: I apologize, just one second.

1 PROSPECTIVE JUROR NO. 410: I wouldn't make a
2 decision, there's no way --

3 MR. PESCI: I'm sorry, one second. I object to
4 that, Your Honor, because it's asking to form an opinion on a
5 case that hasn't been presented. That's why I can't --

6 THE COURT: Right, you're asking him about a
7 hypothetical, so.

8 MR. RUGGEROLI: Thank you, Judge. I have nothing
9 further.

10 THE COURT: Okay. Sir, if you don't mind going
11 outside with the rest of the panel. Don't discuss with the
12 rest of the panel members anything that we've discussed in
13 here, please.

14 THE MARSHAL: Sh, sh, sh, sh, sh.

15 (Outside the presence of Prospective Juror No. 410)

16 THE COURT: What was that?

17 THE MARSHAL: She started to say something to him.

18 MR. RUGGEROLI: Thank you, Your Honor.

19 THE COURT: Mr. Ruggeroli?

20 MR. RUGGEROLI: I appreciate that. Judge, I am
21 going to move to strike. I know that he has wavered on a
22 couple of different things. When it comes down to it though,
23 I think that he admitted that he's formed an opinion based on
24 my client's posture, demeanor in court, things that are not
25 part of evidence at all.

1 He's gone to the lengths of distinguishing between
2 the two defendants, and so he's done a fair amount of thought
3 about this. And these are not general notions of
4 constitutional principles or anything like that; these are
5 impressions that he's formed from observing things that are in
6 court that are not considered to be evidence in the case. And
7 so, I just fall back on his initial hesitation and inability
8 to talk about the starting point being presumption of
9 innocence.

10 I just don't believe that he can be fair to my
11 client. And I do think that it goes over the line in terms of
12 whether or not he can be a fair and impartial juror, because
13 my starting point in representing Mr. Wheeler is -- and I
14 think he conceded this -- that I'm going to have to kind of
15 earn my way out of where we're starting, rather than where we
16 should start, which is total presumption of innocence.
17 There's been nothing to dispute that because there's been no
18 evidence. And because of that, Judge, we're going to move to
19 strike.

20 THE COURT: Mr. Pesci?

21 MR. PESCI: I didn't know Mr. Sanft's position.

22 THE COURT: Are you joining in?

23 MR. SANFT: We'll submit --

24 THE COURT: I guess you can take no position.

25 MR. SANFT: We would submit, Your Honor.

1 THE COURT: Okay.

2 MR. PESCI: So, Judge, I object, because I admire
3 his honesty, and he's been forthright about talking how he got
4 an impression, and he distinguishes between the two defendants
5 as far as that impression, but I think he's much like Ms.
6 Young, 485. I get a negative impression from Ms. Young
7 because she says, I don't think that the law is fair in
8 certain situations when she talks about how her brother-in-law
9 shouldn't have gone to prison even though he pled guilty. It
10 wasn't even a jury finding, he pled guilty.

11 And so there are people that we won't necessarily
12 like, but we're stuck with the answers when they say, for
13 example, with this gentleman, "I'm going to make the decision
14 based on the evidence." He clearly said to me that if we
15 don't prove the case, he can come back with a not guilty, and
16 that's with the impression in mind that he shared with
17 everybody. And so I don't think he qualifies for a cause
18 challenge.

19 THE COURT: Okay. At this time, I'm going to grant
20 the challenge for cause. So I'm going to put -- when we come
21 back in, Sharon Morrison will be in Seat number 3. I'll
22 question Ms. Morrison, then I'll let the State question her,
23 and then the defense. So, Officer Hawkes?

24 THE MARSHAL: Yes, ma'am.

25 THE COURT: When we come in, if you'd just have Mr.

1 McGinty sit in the gallery.
2 THE MARSHAL: Yes, ma'am.
3 THE COURT: Can we bring them back in?
4 THE MARSHAL: Okay.
5 THE COURT: Everybody good?
6 MR. PESCI: Can I just ask a question before we do
7 that?
8 THE COURT: I'm sorry.
9 MR. PESCI: Mr. Ruggeroli, did you have more besides
10 Ms. Morrison? Are there others you're going to go to?
11 MR. RUGGEROLI: There are no challenges for cause
12 for any of the other panel members that I would have right
13 now.
14 MR. PESCI: Because I was waiting to reassert my
15 challenge for cause --
16 THE COURT: Oh, okay, go ahead.
17 MR. PESCI: -- on Ms. Young. And so, I can wait,
18 Judge.
19 THE COURT: Go ahead.
20 MR. PESCI: It's just that we've got everybody out.
21 THE COURT: Yeah, you might as well.
22 MR. PESCI: All right, and I didn't know if he was
23 going to go back to her and try to do anything else with her.
24 THE COURT: Oh, okay. So are you done with Ms.
25 Young?

1 MR. RUGGEROLI: I didn't -- I don't plan on -- well,
2 no, I think we can make the argument for cause now. I would
3 have maybe one or two questions, but she's already said what I
4 would argue in opposition to the State's position.

5 THE COURT: Okay. Go ahead.

6 MR. PESCI: So, Judge, she's talked about how she's
7 born in Hawaii and that she wants to see the good in
8 everybody. She wants to believe everyone can do good. She
9 thinks the law is unfair in certain ways. She did not like
10 the way her brother-in-law was treated. She paused numerous
11 times. She started crying and became emotional on several
12 different occasions, and it wasn't even just in the context of
13 her brother-in-law. I believe that that behavior, just that
14 right there, could potentially impair her ability to be a fair
15 and impartial juror.

16 She said specifically that her brother-in-law is
17 serving for a robbery. It was three banks, and it was here in
18 Las Vegas. It's a very similar charge. I'm afraid she's
19 going to look at these defendants and see her brother-in-law,
20 and I don't think that's a fair -- I think I'm not starting at
21 an even playing field, I think I'm behind in that kind of a
22 situation, and so I reissue my challenge for cause.

23 MR. SANFT: I think the concern on behalf of Mr.
24 Robertson is that the inverse happens all the time. Someone
25 says, hey, I was robbed, I was a victim -- like in this case,

1 we have an individual that's in the front row over here, and I
2 don't remember his name off the top of my head, but was robbed
3 at some point.

4 THE COURT: Switzerland.

5 MR. SANFT: Yeah. And as a result, we can't just
6 automatically say that, hey, the inverse is -- somehow it
7 doesn't -- it changes the dynamic if it's the other way
8 around.

9 The issue that I have though with Ms. Young is she's
10 already admitted in court that she comes from a place in
11 Hawaii where there's a presumption that everyone is good, and
12 as a result of that, now you've added -- or compounded the
13 issue with the fact that it's a family member. I don't think
14 she's necessarily disappointed in the fact that -- or somehow
15 would think that the State is always wrong because it's a
16 family member. I think she's just sad because of the fact
17 that it's her family member who went to prison.

18 Now, I don't know if necessarily that would be
19 enough to say that she would be fair -- not fair and impartial
20 to the State. I think she's articulated over again she could
21 be fair and impartial to the State. The reason why she was
22 crying and emotional was because it was a family member that
23 was going to prison, which I think is a normal reaction in any
24 situation with anyone who loves somebody who is now going to
25 prison.

1 I don't think necessarily that any of her answers
2 would indicate to me that she could not be fair and impartial
3 to the State of Nevada as much as she could be fair and
4 impartial to my client, Mr. Robertson.

5 MR. RUGGEROLI: Judge, I had written in my notes
6 that she responded, "I will follow the law," though. So even
7 though she had reservations about what the law was,
8 specifically to her brother, I wrote down specifically, "Will
9 follow the law." And I think that because she said that, she
10 will follow the law, and do her job, and will be fair and
11 impartial.

12 MR. PESCI: Judge, if I could just perfect the
13 record to make an argument based on what Mr. Sanft said, which
14 I understand as far as him saying, look at the inverse when
15 you have someone who's been robbed.

16 The difference is that Mr. Widdison, Badge 541, he
17 hasn't cried once. He hasn't had a pregnant pause when he's
18 going to answer about when he got robbed at gunpoint in
19 Switzerland, right? He wasn't affected that way. If he was
20 in the inverse situation, they'd have a more compelling
21 argument to get rid of him, right?

22 And then, also to perfect the record, she didn't cry
23 or give pause just for the brother-in-law. It was also her
24 job. You'll recall, she said --

25 THE COURT: Yeah.

1 MR. PESCI: -- "I missed this day to shine. This
2 was my day to shine. The big boss" -- that was the term she
3 used. "The big boss was there." And then I said, "Is that
4 going to affect you?" And she paused on that answer; she
5 became emotional on that answer.

6 And so that's where I agree with defense counsel,
7 that, you know, there are people that are victims of crime who
8 say they can set it apart, but she's not that person. She's
9 not Mr. Widdison who said, "Yeah, police showed up, they took
10 a report, and then I was on my way, that was it."

11 THE COURT: Okay. At this time, I'm going to deny
12 the challenge for cause. Anything else before we bring them
13 in?

14 MR. PESCI: Not from the State.

15 MR. RUGGEROLI: No, Your Honor.

16 MR. SANFT: No, Your Honor. Thank you.

17 THE COURT: Okay. We're just going to take a few
18 minutes because we need to do something with the printer. So
19 we can take about five minutes.

20 THE CLERK: Okay, thanks, Judge.

21 (Off the record at 2:28 P.M. until 2:35 P.M.)

22 (Outside the presence of the prospective jurors)

23 MR. PESCI: Are we on the record?

24 THE COURT RECORDER: We are.

25 MR. PESCI: Okay. Judge, could we ask, with the way

1 this is going, I just don't know that we're going to get to
2 witnesses today. We had five lined up, we've narrowed it down
3 to two. Could we cut those last two loose? Because I just
4 don't think we're going to --

5 THE COURT: Yeah. How many do you have -- you want
6 to just cut your last two witnesses?

7 MR. PESCI: We had scheduled five.

8 THE COURT: Okay.

9 MR. PESCI: And then we've narrowed it down to two,
10 and we're trying to maybe call those two off, with your
11 permission.

12 THE COURT: Oh, you want to call off all your
13 witnesses?

14 MR. PESCI: Well, I just don't see how we --

15 THE COURT: It's only 2:30.

16 MR. PESCI: Right. He's got to finish, we've got to
17 do preempts, then we've got to do openings.

18 MR. BROOKS: I got him on the phone, so I can tell
19 him to keep coming. It's up -- it's whatever.

20 MR. PESCI: We'll do it either way, Judge. I guess
21 what I'm saying is if we do bring them, can we go late if they
22 get here instead of having them come and then leave?

23 THE COURT: Yeah, see, that's the problem. I'll say
24 yes, you can go late, because I'm okay with it, and then I'll
25 have a juror that has childcare.

1 MR. PESCI: Yeah, yeah.
2 THE COURT: So I try not to go past 5:00 o'clock
3 just because a lot of people have childcare issues. So you
4 can turn them loose. Let's see. We can start 10:30 tomorrow,
5 right?
6 THE CLERK: Tomorrow's 10:30.
7 THE COURT: Yeah, we can start at 10:30 tomorrow.
8 (Pause in the proceedings)
9 MR. PESCI: Why don't we just keep going? He can
10 step out, we can keep going.
11 THE COURT: Okay.
12 MR. PESCI: Is that all right?
13 THE COURT: All right, we can keep going.
14 MR. PESCI: I'm sorry for the delay. Thank you.
15 (Pause in the proceedings)
16 MR. PESCI: You said we can tell them tomorrow?
17 THE COURT: Yeah, yeah.
18 MR. PESCI: Okay, thank you very much.
19 THE COURT: Tomorrow at 10:30.
20 MR. PESCI: Thank you.
21 THE MARSHAL: Your Honor, are you ready?
22 THE COURT: Yes, yes.
23 THE MARSHAL: All rise for the entering jury,
24 please. Jurors.
25 (Within the presence of the prospective jurors)

1 THE COURT: Does the State stipulate to the presence
2 of the panel?
3 THE MARSHAL: Thank you, everyone. Please be
4 seated.
5 MR. PESCI: Yes, Your Honor.
6 THE COURT: Mr. Sanft?
7 MR. SANFT: Yes, Your Honor.
8 THE COURT: Mr. Ruggeroli?
9 MR. RUGGEROLI: Yes, Your Honor.
10 THE COURT: Okay. At this time --
11 THE MARSHAL: Where's the microphone? Did I have
12 it?
13 THE COURT: At this time, I'm going to ask Sharon
14 Morrison to take Seat number 3. Sharon Morrison. Oh, okay.
15 Well, you're up there already.
16 PROSPECTIVE JUROR NO. 562: I'm up here already.
17 THE COURT: Okay. Thank you very much for being
18 here. Can you tell us how long you've lived in Clark County?
19 PROSPECTIVE JUROR NO. 562: Since '64.
20 THE COURT: Okay. And your education background?
21 PROSPECTIVE JUROR NO. 562: High school.
22 THE COURT: Okay. And your employment background?
23 PROSPECTIVE JUROR NO. 562: Well, I'm retired now.
24 THE COURT: Okay.
25 PROSPECTIVE JUROR NO. 562: I've been retired for

1 ten years. I was a buyer at the Venetian.
2 THE COURT: What kind of buyer?
3 PROSPECTIVE JUROR NO. 562: Gifts, souvenirs for the
4 hotel.
5 THE COURT: Okay. Your marital status?
6 PROSPECTIVE JUROR NO. 562: I am single, but --
7 THE COURT: Okay.
8 PROSPECTIVE JUROR NO. 562: -- I have a partner of
9 31 years.
10 THE COURT: Okay, and is your partner employed?
11 PROSPECTIVE JUROR NO. 562: No, he's retired also.
12 THE COURT: Okay, and what did he retire from?
13 PROSPECTIVE JUROR NO. 562: He was president of the
14 Luxor for ten years.
15 THE COURT: President?
16 PROSPECTIVE JUROR NO. 562: The Luxor.
17 THE COURT: Of the Luxor Hotel?
18 PROSPECTIVE JUROR NO. 562: Um-hum.
19 THE COURT: Is that a yes?
20 PROSPECTIVE JUROR NO. 562: I'm sorry?
21 THE COURT: President of the Luxor Hotel?
22 PROSPECTIVE JUROR NO. 562: Yeah, he was -- that's
23 when he retired. He was there about ten years.
24 THE COURT: Okay.
25 PROSPECTIVE JUROR NO. 562: He was in the, you know,

1 casino business.

2 THE COURT: All right. And do you have any

3 children?

4 PROSPECTIVE JUROR NO. 562: I do, I have one.

5 THE COURT: And is that child old enough to be

6 employed?

7 PROSPECTIVE JUROR NO. 562: Yes, yes. She works for

8 Citibank.

9 THE COURT: Okay. Have you ever served as a juror

10 before?

11 PROSPECTIVE JUROR NO. 562: Yes. It was probably 30

12 years ago, and I was picked --

13 THE COURT: Was it here in Clark County?

14 PROSPECTIVE JUROR NO. 562: Yes, it was.

15 THE COURT: And so it was at the old building?

16 PROSPECTIVE JUROR NO. 562: It was.

17 THE COURT: Okay. Was it civil or criminal?

18 PROSPECTIVE JUROR NO. 562: It was civil.

19 THE COURT: Okay. Were you selected to be the

20 foreperson?

21 PROSPECTIVE JUROR NO. 562: I was an alternate, but

22 they pleaded out that same day, so.

23 THE COURT: Okay. And that was your only prior

24 experience?

25 PROSPECTIVE JUROR NO. 562: Yes.

1 THE COURT: Anything about that that would affect
2 your ability to be fair and impartial if we select you to
3 serve in this case?
4 PROSPECTIVE JUROR NO. 562: No.
5 THE COURT: Have you or anyone close to you, such as
6 a family member or friend, ever been the victim of a crime?
7 PROSPECTIVE JUROR NO. 562: No.
8 THE COURT: Have you or anyone close to you, such as
9 a family member or friend, ever been accused of a crime?
10 PROSPECTIVE JUROR NO. 562: No.
11 THE COURT: Okay. Would you have a tendency to give
12 more weight or credence or less weight or credence to the
13 testimony of a witness simply because that witness is a police
14 officer?
15 PROSPECTIVE JUROR NO. 562: No.
16 THE COURT: Okay. Ms. Morrison, do you know of any
17 reason why you could not be a fair and impartial juror if you
18 were selected to serve?
19 PROSPECTIVE JUROR NO. 562: No.
20 THE COURT: Okay, thank you. Mr. Pesci, you may
21 voir dire Ms. Morrison.
22 MR. PESCI: Thank you. If I stand here, can you --
23 THE COURT RECORDER: I can hear you.
24 MR. PESCI: Okay. Ma'am, how are you doing?
25 PROSPECTIVE JUROR NO. 562: Great.

1 MR. PESCI: You've heard the questions the last
2 couple of days. Anything that stood out to you?
3 PROSPECTIVE JUROR NO. 562: No, not really.
4 MR. PESCI: All right.
5 PROSPECTIVE JUROR NO. 562: I've listened and taken
6 it all in.
7 MR. PESCI: Anything you said, yeah, I want to
8 answer that question?
9 PROSPECTIVE JUROR NO. 562: I guess the most recent
10 was the open carry law.
11 MR. PESCI: Okay. Speaking about that, what are
12 your thoughts about that?
13 PROSPECTIVE JUROR NO. 562: Well, I'm for the Second
14 Amendment, so yes.
15 MR. PESCI: Okay. And then, with that feeling about
16 the Second Amendment, would that affect your ability to be
17 fair to either side?
18 PROSPECTIVE JUROR NO. 562: No.
19 MR. PESCI: All right. Do you feel that there's any
20 reason, religiously, morally, philosophically, that you could
21 not sit in judgment of another human being?
22 PROSPECTIVE JUROR NO. 562: No.
23 MR. PESCI: Okay. Do you think you could be fair
24 and impartial to both sides?
25 PROSPECTIVE JUROR NO. 562: Absolutely.

1 MR. PESCI: Thank you very much, ma'am. Pass for
2 cause.
3 THE COURT: Mr. Sanft?
4 MR. SANFT: Hi, Ms. Morrison. Is there any question
5 I should be asking you right now?
6 PROSPECTIVE JUROR NO. 562: Gees. No.
7 MR. SANFT: All right.
8 PROSPECTIVE JUROR NO. 562: I don't think so.
9 MR. SANFT: That's fine, that's fine. Well, let me
10 ask you this. When I was asking questions earlier, was there
11 anything about any of my questions you thought, oh, that's an
12 interesting question, I kind of wish he would ask me that
13 question, something like that?
14 PROSPECTIVE JUROR NO. 562: No, I guess just the
15 Second Amendment one was -- I was paying attention. Maybe
16 that was yours. I don't remember whose it was, but --
17 MR. SANFT: Mr. Ruggeroli over here to my left?
18 PROSPECTIVE JUROR NO. 562: Yes.
19 MR. SANFT: Okay.
20 PROSPECTIVE JUROR NO. 562: No, not really.
21 MR. SANFT: All right, thank you. I have no further
22 questions, Your Honor.
23 THE COURT: And you'll pass Ms. Morrison for cause?
24 MR. SANFT: Yes, Your Honor. Thank you.
25 THE COURT: Okay. Mr. Ruggeroli?

1 MR. RUGGEROLI: Thank you, Judge. And Judge, I'll
2 just pick up with the rest of the panel.
3 THE COURT: That's fine.
4 MR. RUGGEROLI: Thank you.
5 THE COURT: Yep, you're right.
6 MR. RUGGEROLI: Thank you. Good afternoon. You
7 might not remember the open-ended questions that I gave to the
8 panel, so for your benefit, I'd like to just quickly go back
9 over them, okay?
10 PROSPECTIVE JUROR NO. 562: Okay.
11 MR. RUGGEROLI: I had asked if you understood and
12 have any objection to the notion that I only represent Mr.
13 Wheeler.
14 PROSPECTIVE JUROR NO. 562: I understand that.
15 MR. RUGGEROLI: And I also asked about any feelings
16 regarding a former co-defendant that may testify. Some of the
17 other prospective jurors did have some feelings. Do you
18 remember that question?
19 PROSPECTIVE JUROR NO. 562: I do.
20 MR. RUGGEROLI: Did you have any --
21 PROSPECTIVE JUROR NO. 562: I think it's -- I think
22 it's totally up to the defendant if he should testify or not.
23 MR. RUGGEROLI: Okay. I'm going to skip to -- I'm
24 going to get to the idea of a defendant testifying in one
25 second.

1 PROSPECTIVE JUROR NO. 562: Okay.

2 MR. RUGGEROLI: Let me clarify some terms so that I
3 am clear.

4 PROSPECTIVE JUROR NO. 562: Okay.

5 MR. RUGGEROLI: The State had originally asked the
6 panel about somebody that may have been charged in this case
7 that might testify as a witness. Do you recall that?

8 PROSPECTIVE JUROR NO. 562: I do.

9 MR. RUGGEROLI: Okay, so somebody that might have
10 been a defendant, but now would be a witness. Is there
11 anything that would cause you concern, like some of the other
12 prospective jurors, about -- any reason about alerting your
13 suspicions to that, generally speaking?

14 PROSPECTIVE JUROR NO. 562: No.

15 MR. RUGGEROLI: Okay. The other question I asked
16 was about the right not to testify. You have strong feelings
17 about Second Amendment rights?

18 PROSPECTIVE JUROR NO. 562: Yes.

19 MR. RUGGEROLI: Okay. How about right not to
20 testify? Is that something that doesn't sit well with you,
21 where you would want to hear from somebody, regardless of what
22 the law might say?

23 PROSPECTIVE JUROR NO. 562: I would leave that up to
24 my attorney.

25 MR. RUGGEROLI: Okay, thank you. I had asked --

1 also asked if you're somebody that's more reserved and might
2 not be as vocal if you're selected to serve on the jury when
3 you go back to deliberate. The idea would be -- I would just
4 like to know, do you think you just kind of go with the
5 majority, or are you somebody that would be more assertive and
6 make the rest of the members aware of your opinions,
7 perspectives, things like that?

8 PROSPECTIVE JUROR NO. 562: Yeah, do I look
9 reserved? No, I would give my opinion.

10 MR. RUGGEROLI: Okay, thank you. Would you also
11 listen to the other jurors to hear --

12 PROSPECTIVE JUROR NO. 562: Of course.

13 MR. RUGGEROLI: -- how they observe the evidence --

14 PROSPECTIVE JUROR NO. 562: Of course.

15 MR. RUGGEROLI: -- as well?

16 PROSPECTIVE JUROR NO. 562: Of course I would.

17 MR. RUGGEROLI: Okay. And I asked if things that
18 lawyers have to do about objecting, things like that, is that
19 something that you would not hold against my client if I have
20 to object and may seem rude to a witness or something like
21 that?

22 PROSPECTIVE JUROR NO. 562: No, not at all.

23 MR. RUGGEROLI: Okay.

24 PROSPECTIVE JUROR NO. 562: That's --

25 MR. RUGGEROLI: Thank you.

1 PROSPECTIVE JUROR NO. 562: That's your job.
2 MR. RUGGEROLI: And then, this notion of whether or
3 not you'd be a good juror.
4 PROSPECTIVE JUROR NO. 562: Um-hum.
5 MR. RUGGEROLI: It sounds like you would say that
6 you are.
7 PROSPECTIVE JUROR NO. 562: I think I would be.
8 MR. RUGGEROLI: Okay. Is there anything in
9 particular about your background or experience that you think
10 would make you a good juror?
11 PROSPECTIVE JUROR NO. 562: Just that I know I would
12 listen to both sides equally, and pay attention to both.
13 MR. RUGGEROLI: Okay.
14 PROSPECTIVE JUROR NO. 562: I can't say it's
15 anything in my background.
16 MR. RUGGEROLI: Right. Some people have specialized
17 experiences or unique things. You have --
18 PROSPECTIVE JUROR NO. 562: Well, I had a staff, you
19 know --
20 MR. RUGGEROLI: Huh?
21 PROSPECTIVE JUROR NO. 562: -- of about 30 people,
22 and I had a -- you know, listened to them back and forth, and
23 -- but you know, I would make a judgment call.
24 MR. RUGGEROLI: Okay.
25 PROSPECTIVE JUROR NO. 562: But most the time, it

1 would go to HR.

2 MR. RUGGEROLI: Right. Okay, thank you, Ms.

3 Morrison. If we could just hand the microphone to your right,
4 please. Thank you.

5 Could you state your name and give us your badge
6 number again, please?

7 PROSPECTIVE JUROR NO. 417: 417, Mary Newcome.

8 MR. RUGGEROLI: Thank you, Ms. Newcome. You were
9 pretty emphatic about -- when asked if there were any reason
10 why you can't be fair, I think your statement was, "Absolutely
11 not."

12 PROSPECTIVE JUROR NO. 417: I am very fair.

13 MR. RUGGEROLI: Right.

14 PROSPECTIVE JUROR NO. 417: I -- I make my own
15 opinion, but I do listen and pay attention.

16 MR. RUGGEROLI: You were a juror on a criminal panel
17 before, but they -- they did reach a verdict; is that correct?
18 Without --

19 PROSPECTIVE JUROR NO. 417: That's correct.

20 MR. RUGGEROLI: Okay. How long ago was that?

21 PROSPECTIVE JUROR NO. 417: After I went home and
22 thought about it, it's been more than ten years ago.

23 MR. RUGGEROLI: And is there anything from that
24 experience that you think might have some overlap, or it might
25 have some impact, or affect you serving as a juror in this

1 case at all?

2 PROSPECTIVE JUROR NO. 417: You know, to me, it was
3 an eye-opener. I never had any conception that this is really
4 what took place in a real life courtroom. It was a learning
5 experience for me. I'm glad I got a chance to be on a juror
6 (sic) because I never thought I would. It's been difficult
7 being here because you miss work, but, you know what, it's --
8 it's an opportunity I think for all of us. And I think I'm a
9 very honest and open-minded person, and I think I would be a
10 good juror.

11 MR. RUGGEROLI: Okay, very good. Thank you.

12 PROSPECTIVE JUROR NO. 417: You bet.

13 MR. RUGGEROLI: If you could hand the microphone.
14 Mr. Bryan?

15 PROSPECTIVE JUROR NO. 420: William Bryan, 420.

16 MR. RUGGEROLI: Good afternoon, sir.

17 PROSPECTIVE JUROR NO. 420: Good afternoon.

18 MR. RUGGEROLI: Good juror, yes or no?

19 PROSPECTIVE JUROR NO. 420: I think so. I think I'm
20 a very rational, logical person. And, well, I would like to
21 say that --

22 MR. RUGGEROLI: Yes, please.

23 PROSPECTIVE JUROR NO. 420: -- every -- every juror
24 brings something different. I don't think there's one ideal
25 juror. For example, Ms. Bruer down here on the end spoke

1 about what her qualities and characteristics are that would
2 make her a good juror. I have a different set of
3 characteristics from what she does, and the two I think would
4 be complimentary, and there are other people that might bring
5 other characteristics.

6 MR. RUGGEROLI: Could you give me an idea
7 specifically? Because this is exactly why I'm asking this.

8 PROSPECTIVE JUROR NO. 420: Well, I think I'm a
9 very, very rational, logical person. I can follow the
10 instructions from the Court precisely, I understand that the
11 prosecution has to prove each element of the law, and
12 regardless of how I may feel or whatever, things have to be
13 done the way they have to be done, according to the
14 instructions of the Court.

15 MR. RUGGEROLI: Right. You've never served on a
16 jury?

17 PROSPECTIVE JUROR NO. 420: No.

18 MR. RUGGEROLI: Have you ever wanted to?

19 PROSPECTIVE JUROR NO. 420: Yes, I'm very interested
20 in how our government works and how the -- you know, the
21 civics lessons involved and that sort of thing.

22 MR. RUGGEROLI: Okay. In terms of listening to
23 statements that are made by witnesses on the stand, being
24 rational, paying attention, those are very important. How
25 about being critical in terms of not just saying, well, they

1 said it, so it must be true? Is that something that you think
2 you can do?

3 PROSPECTIVE JUROR NO. 420: Well, of course. For
4 example, if you had two expert witnesses from opposing sides
5 and conflicting information, a person might have to use their
6 -- where there's no clear-cut answer as to which expert
7 witness is correct, you would have to use your own faculties,
8 your own judgment, your own decision to come to that
9 conclusion. I'm not going to automatically believe that a
10 person's right because of their credentials, or the letters
11 behind their name, or anything like that.

12 MR. RUGGEROLI: Is there anything else in your
13 background or experience that you think that I would want to
14 know?

15 PROSPECTIVE JUROR NO. 420: You know, I'm military,
16 so, you know, we tend to be more or less cut from the same
17 cloth. I would say that I'm a little bit different than most
18 people like that. Most of them tend to be very conservative,
19 and I tend to be very, very rational, and not -- I don't let
20 emotion get in the way of my judgment.

21 MR. RUGGEROLI: Okay, thank you, sir. If you could
22 pass the microphone. Good afternoon.

23 PROSPECTIVE JUROR NO. 429: Christopher Devargas,
24 429.

25 MR. RUGGEROLI: You've had a number of questions. I

1 just wanted to follow up, generally speaking.

2 PROSPECTIVE JUROR NO. 429: Yes.

3 MR. RUGGEROLI: I know that you've probably been
4 paying attention to everything. Is there anything though
5 specific to your work and what you've done that you think
6 would be a specific benefit to being a juror in this case?

7 PROSPECTIVE JUROR NO. 429: Well, like I had
8 mentioned before as far as not having a controlling hand in
9 the things that I photograph and report on, I have to stay
10 neutral even within my own organization. I mean, the Las
11 Vegas Sun is very -- more of a Liberal newspaper, and I'm -- I
12 try to stay out of any kind of left or right, you know, as far
13 as viewpoints and things like that.

14 MR. RUGGEROLI: Um-hum.

15 PROSPECTIVE JUROR NO. 429: Aside from all that, my
16 ethics in journalism, I mean, I was in the military as well.
17 I spent four years in the Army. So following directions,
18 following instruction, doing what's right, regardless of maybe
19 a decision that somebody might make, and not letting their
20 rank influence right or wrong. I just -- that's pretty much
21 what I bring.

22 MR. RUGGEROLI: Thank you. Was there any of the
23 questions that I had asked that were open-ended to the panel
24 that you may have wanted to volunteer for that you didn't, and
25 thought about later?

1 PROSPECTIVE JUROR NO. 429: No, not really. Nothing
2 that would change whether or not I believe that I'm a good
3 person for this, or I wouldn't give a, you know, fair -- fair,
4 you know, viewpoint, so.

5 MR. RUGGEROLI: Right. And just to be clear, when I
6 say good potential juror, I'm not getting to like character
7 and things. It's just, you would agree with me that there are
8 certain aspects that are unique to serving as a juror as
9 opposed to many, many other types of things that we do in the
10 community?

11 PROSPECTIVE JUROR NO. 429: Yeah, absolutely.

12 MR. RUGGEROLI: Okay, thank you sir. If you could
13 pass the microphone. Hi.

14 PROSPECTIVE JUROR NO. 430: Hi.

15 MR. RUGGEROLI: And it's Ms. Hernandez?

16 PROSPECTIVE JUROR NO. 430: Yes, 430.

17 MR. RUGGEROLI: Thank you. You haven't had an
18 opportunity to say a whole lot. You work as a host though,
19 right?

20 PROSPECTIVE JUROR NO. 430: Yes.

21 MR. RUGGEROLI: And so, at the Cosmo?

22 PROSPECTIVE JUROR NO. 430: Yes, Cosmopolitan.

23 MR. RUGGEROLI: Very nice casino. You're dealing
24 with high-rollers, I'm guessing, and so --

25 PROSPECTIVE JUROR NO. 430: Yes.

1 MR. RUGGEROLI: -- you're a professional?
2 PROSPECTIVE JUROR NO. 430: Yes.
3 MR. RUGGEROLI: And sometimes, I'd guess that those
4 -- that clientele can be demanding?
5 PROSPECTIVE JUROR NO. 430: Yes, very, sometimes.
6 MR. RUGGEROLI: Do you have the kind of temperament
7 that matches that, where people may come to you and air their
8 grievances, things like that?
9 PROSPECTIVE JUROR NO. 430: Yes. I do think I'm a
10 very patient person.
11 MR. RUGGEROLI: Okay.
12 PROSPECTIVE JUROR NO. 430: So that's the reason why
13 I'm still there and I'm able to keep up with my job. I have
14 had some challenges, but usually, it just goes to -- straight
15 to management, so I don't really deal with a lot. I just deal
16 with at the front. So I get to, you know, talk to guests,
17 welcome guests, and just walk them to a table, or talk to them
18 about instructions of the table, so that's all I get to do.
19 MR. RUGGEROLI: Okay.
20 PROSPECTIVE JUROR NO. 430: I get to spend about
21 five minutes with a guest.
22 MR. RUGGEROLI: Uh-huh. As a juror, you wouldn't be
23 able to delegate to a supervisor. Would you be comfortable
24 doing that? You would be one of the 12, if you're selected,
25 to decide what the facts are. Is that something that you

1 would be comfortable with?

2 PROSPECTIVE JUROR NO. 430: I'm not sure. I am a
3 very emotional person, so I feel like this is like a first
4 time being in this atmosphere.

5 MR. RUGGEROLI: Yeah.

6 PROSPECTIVE JUROR NO. 430: So I wouldn't know what
7 to expect or how I would react. However, I am a very
8 open-mind (sic) person, so I do believe that I can collect a
9 lot of information, and be open-mind, like I said, and
10 communicate with who I'm working with as to the rest of the
11 people here.

12 MR. RUGGEROLI: Yeah. So let's say you are on the
13 jury and a witness gets called. Do you believe that you'll be
14 comfortable listening to them, and not just assuming that it's
15 accurate, or not just assuming that it's true? Are you able
16 to be critical, and listen to them, and decide for yourself,
17 regardless of what they may claim?

18 PROSPECTIVE JUROR NO. 430: Not without evidence,
19 no.

20 MR. RUGGEROLI: Okay. Do you think that -- one of
21 the aspects about being a good juror though, if there's not
22 some type of test, then you would agree there's really no
23 reason for a trial, right?

24 PROSPECTIVE JUROR NO. 430: Right.

25 MR. RUGGEROLI: Okay. Do you think that you'd be a

1 good juror in that sense of being -- I know you'll listen, you
2 said that, and that's very clear. You'd pay attention,
3 obviously, correct?

4 PROSPECTIVE JUROR NO. 430: Yes.

5 MR. RUGGEROLI: And then you'd work with the other
6 jurors when you deliberate, right?

7 PROSPECTIVE JUROR NO. 430: Correct.

8 MR. RUGGEROLI: But in terms of testing or
9 evaluating the witness and the evidence to decide, are they
10 credible, are they truthful, do they maybe have a motive to
11 say what they're saying, how do you feel about doing that?

12 PROSPECTIVE JUROR NO. 430: That would be
13 challenging, but I think I would do a very good job as well.

14 MR. RUGGEROLI: Okay, thank you.

15 PROSPECTIVE JUROR NO. 430: No prob.

16 MR. RUGGEROLI: If you could just hand it -- hello.

17 PROSPECTIVE JUROR NO. 437: Hi. It's 437.

18 MR. RUGGEROLI: Yes, Ms. Amorosa?

19 PROSPECTIVE JUROR NO. 437: Yes.

20 MR. RUGGEROLI: Amoroso?

21 PROSPECTIVE JUROR NO. 437: Amoroso.

22 MR. RUGGEROLI: Thank you. I know you've been
23 hearing a lot of the questions and answers. Has there been
24 anything that I have asked in particular about certain
25 questions that grabbed your attention that you'd like to

1 follow up on?

2 PROSPECTIVE JUROR NO. 437: There are sometimes, I

3 -- I'm not good in English.

4 MR. RUGGEROLI: Um-hum.

5 PROSPECTIVE JUROR NO. 437: So sometimes, I can't

6 understand what you guys saying, so.

7 MR. RUGGEROLI: Since I've been talking, has there

8 been anything that I may have talked to fastly that made you

9 miss some of the things that I said?

10 PROSPECTIVE JUROR NO. 437: Yeah, a lot of -- a lot

11 of the phrases I can't understand, so.

12 MR. RUGGEROLI: Okay. That is --

13 PROSPECTIVE JUROR NO. 437: And my English is

14 broken, so, sorry.

15 MR. RUGGEROLI: That's okay. I appreciate you

16 telling us.

17 THE COURT: Okay, just a minute, just a minute.

18 You're indicating that you haven't been able to understand

19 everything; is that correct?

20 PROSPECTIVE JUROR NO. 437: Yeah, some -- because my

21 English is broken, and sometimes I can't understand.

22 THE COURT: Okay. About how much do you --

23 PROSPECTIVE JUROR NO. 437: I'm from Phillippines,

24 so.

25 THE COURT: Okay. About how much do you think that

1 you've understood?

2 PROSPECTIVE JUROR NO. 437: A lot -- a lot, I can --

3 I'm just listening, but sometimes I can't understand.

4 THE COURT: Okay. Is there a lot of things you

5 can't understand? Like, you know --

6 PROSPECTIVE JUROR NO. 437: Because I'm not good in

7 English.

8 THE COURT: Okay. You think your language is not

9 good enough in order to sit on this panel?

10 PROSPECTIVE JUROR NO. 437: Yeah, it's not good

11 enough.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NO. 437: Because I can't

14 understand --

15 THE COURT: All right.

16 PROSPECTIVE JUROR NO. 437: -- a lot.

17 THE COURT: And you indicated you do work, correct?

18 PROSPECTIVE JUROR NO. 437: Say it again.

19 THE COURT: You do work, correct?

20 PROSPECTIVE JUROR NO. 437: Yeah, I'm just -- bus

21 the table.

22 THE COURT: Okay. What language do you speak at

23 work?

24 PROSPECTIVE JUROR NO. 437: Tagalog -- some -- a

25 little bit English.

1 THE COURT: Okay.
2 PROSPECTIVE JUROR NO. 437: Like, I just speak
3 Tagalog.
4 THE COURT: All right. I mean, do you think it's --
5 can you give me a percentage of how much you've understood?
6 Have you understood 5 percent, 80 percent?
7 PROSPECTIVE JUROR NO. 437: Like 5 percent.
8 THE COURT: Okay.
9 PROSPECTIVE JUROR NO. 437: Sorry.
10 THE COURT: All right. Okay, I'm just going to ask
11 you to step down out of the box. And I'm going to ask Aria
12 Flores-Virgen to take Seat number 8.
13 MR. PESCI: Judge, can we approach for a minute?
14 Can we approach for a minute?
15 THE COURT: Oh, you want to approach? Okay.
16 (Bench conference)
17 MR. PESCI: Judge, I just want to make a record. I
18 didn't know if defense counsel was asking to have her removed.
19 I don't think there's been a position stated --
20 THE COURT: No.
21 MR. PESCI: -- on the record.
22 THE COURT: Yeah.
23 MR. PESCI: And so --
24 THE COURT: I -- I removed her for cause.
25 MR. PESCI: Right, and I just wanted to see if they

1 had a position one way or the other, so.

2 MR. RUGGEROLI: I agree with the position. I had
3 not intended -- I wasn't sure how much she knew, and it kind
4 of came up as an aside. And if you recall, I started out by
5 saying, am I talking too fast?

6 MR. PESCI: I'm not arguing --

7 MR. RUGGEROLI: Yeah.

8 MR. PESCI: -- against it.

9 THE COURT: Right.

10 MR. RUGGEROLI: Yeah.

11 MR. PESCI: I just wanted the record. Are you --

12 MR. SANFT: Oh, I see.

13 MR. RUGGEROLI: Yeah.

14 MR. SANFT: Yeah, I have no objection to --

15 MR. PESCI: There we go.

16 MR. SANFT: -- the exclusion of --

17 MR. PESCI: Thank you very much.

18 MR. SANFT: -- that --

19 THE COURT: Okay.

20 MR. RUGGEROLI: Thanks.

21 THE COURT: Thank you.

22 (End of bench conference)

23 THE COURT: Okay, thank you very much for being here
24 this afternoon. I'm just going to ask you a few questions.
25 Can you tell me how long you've lived in Clark County?

1 PROSPECTIVE JUROR NO. 563: 24 years.
2 THE COURT: Okay. Your education background?
3 PROSPECTIVE JUROR NO. 563: High school.
4 THE COURT: And what do you do for a living?
5 PROSPECTIVE JUROR NO. 563: I work at Amazon.
6 THE COURT: I'm sorry?
7 PROSPECTIVE JUROR NO. 563: I work at Amazon
8 Fulfilment.
9 THE COURT: And your marital status?
10 PROSPECTIVE JUROR NO. 563: Married.
11 THE COURT: Okay. Is your spouse employed?
12 PROSPECTIVE JUROR NO. 563: Yes.
13 THE COURT: What does your spouse do?
14 PROSPECTIVE JUROR NO. 563: He also works at Amazon.
15 THE COURT: Okay. Do you have any children?
16 PROSPECTIVE JUROR NO. 563: Yes.
17 THE COURT: How many?
18 PROSPECTIVE JUROR NO. 563: Just one.
19 THE COURT: Okay. I'm assuming that's a minor
20 child?
21 PROSPECTIVE JUROR NO. 563: Yes.
22 THE COURT: Okay. Have you ever served as a juror
23 before?
24 PROSPECTIVE JUROR NO. 563: No.
25 THE COURT: Have you or anyone close to you, such as

1 a family member or friend, ever been the victim of a crime?
2 PROSPECTIVE JUROR NO. 563: No.
3 THE COURT: Have you or anyone close to you, such as
4 a family member or friend, ever been accused of a crime?
5 PROSPECTIVE JUROR NO. 563: No.
6 THE COURT: Would you have a tendency to give more
7 weight or credence or less weight or credence to the testimony
8 of a witness simply because that witness is a police officer?
9 PROSPECTIVE JUROR NO. 563: No.
10 THE COURT: Do you know of any reason why you could
11 not be a fair and impartial juror in this particular case?
12 PROSPECTIVE JUROR NO. 563: No.
13 THE COURT: Okay. Mr. Pesci?
14 MR. PESCI: Thank you. Ma'am, do you have any
15 strong opinions about firearms that would affect your ability
16 to be fair in this case?
17 PROSPECTIVE JUROR NO. 563: I mean, not strong
18 opinions. I'm all for the Second Amendment. I open carry as
19 well, so.
20 MR. PESCI: Okay. So that wouldn't make you convict
21 or acquit for that matter?
22 PROSPECTIVE JUROR NO. 563: No.
23 MR. PESCI: Okay. Any reason why you cannot sit in
24 judgment of another human being?
25 PROSPECTIVE JUROR NO. 563: No.

1 MR. PESCI: Okay. And then, can you follow the law
2 as the Court gives you it, even if you don't agree with it?
3 PROSPECTIVE JUROR NO. 563: Yeah, I could follow.
4 MR. PESCI: Do you think you can be fair to both
5 sides?
6 PROSPECTIVE JUROR NO. 563: Yeah.
7 MR. PESCI: Thank you very much, ma'am. Pass for
8 cause, Your Honor.
9 THE COURT: Mr. Sanft?
10 PROSPECTIVE JUROR NO. 563: No.
11 MR. SANFT: You answered my question; I don't even
12 know what it was. Let me ask you this, ma'am. You work for
13 Amazon, and I forget. Do you work in the warehouse that's up
14 in North Las Vegas?
15 PROSPECTIVE JUROR NO. 563: I work at the new
16 fulfilment center that just opened up.
17 MR. SANFT: What do you do for them?
18 PROSPECTIVE JUROR NO. 563: I'm an ambassador; I'm a
19 team lead. I train the new hires.
20 MR. SANFT: I see. Now, the -- and they work in
21 like fulfilling orders and stuff like that?
22 PROSPECTIVE JUROR NO. 563: Yeah, it depends on
23 which department we're in. I'm in the pack department, so if
24 my new hires are assigned to pack, then I will train them, and
25 I will show them around the warehouse of what their job is.

1 MR. SANFT: I see. And so how long have you been
2 working for Amazon?

3 PROSPECTIVE JUROR NO. 563: I've been working there
4 for about three years.

5 MR. SANFT: And your husband also does the same sort
6 of thing for Amazon as you do?

7 PROSPECTIVE JUROR NO. 563: He just recently started
8 working at Amazon.

9 MR. SANFT: I see. Now, I think I asked this
10 question before with Ms. Morrison. Is there anything that I
11 should be asking you that you're thinking in your mind I --
12 Mr. Sanft should be asking me the question?

13 PROSPECTIVE JUROR NO. 563: No.

14 MR. SANFT: Please ask me this question, something
15 like that?

16 PROSPECTIVE JUROR NO. 563: No.

17 MR. SANFT: How about a question that I shouldn't be
18 asking you? Is there anything, like, I hope they don't ask me
19 this question?

20 PROSPECTIVE JUROR NO. 563: Not that I can think of,
21 no.

22 MR. SANFT: Okay, I have no further questions.
23 Thank you, Your Honor. We'll pass for cause.

24 THE COURT: Thank you. Mr. Ruggeroli?

25 MR. RUGGEROLI: I don't want to make you think that

1 I'm being short with you compared to any of the others.

2 Anything that you have to say is very important though; in
3 particular, background experience, anything like that, that
4 you think that would impact your serving as a juror in this
5 particular case?

6 PROSPECTIVE JUROR NO. 563: No. I mean, I'm very --
7 I will listen to both sides. You know, I'm fair.

8 MR. RUGGEROLI: Okay. I did ask a number of
9 open-ended questions. I don't want to be too repetitive, but
10 were there any of those that stuck out to you?

11 PROSPECTIVE JUROR NO. 563: No, only just the
12 firearm.

13 MR. RUGGEROLI: Okay.

14 PROSPECTIVE JUROR NO. 563: That was the only thing.

15 MR. RUGGEROLI: Yeah, I appreciate you letting us
16 know about that. Thank you. If you could just hand the
17 microphone to your right.

18 Could you give us your badge number again?

19 PROSPECTIVE JUROR NO. 451: Sure. Graham, 451.

20 MR. RUGGEROLI: You have experience teaching special
21 education, correct?

22 PROSPECTIVE JUROR NO. 451: Correct.

23 MR. RUGGEROLI: And you emphasized "psychology."
24 Could you elaborate on that?

25 PROSPECTIVE JUROR NO. 451: Well, as part of my

1 undergrad study towards becoming a teacher, I minored in child
2 psychology.

3 MR. RUGGEROLI: Okay. Is there anything from that
4 experience that you think would enhance your ability to serve
5 as a juror?

6 PROSPECTIVE JUROR NO. 451: I don't know necessarily
7 enhance it. I mean, we're talking about children versus
8 adults, which sometimes you can't tell the difference. But I
9 mean, it was specific to children between the ages of two and
10 nine, so I don't know if it would enhance anything.

11 MR. RUGGEROLI: Okay. You were on the civil jury
12 previously; is that right?

13 PROSPECTIVE JUROR NO. 451: Yes, um-hum.

14 MR. RUGGEROLI: And you were the foreperson?

15 PROSPECTIVE JUROR NO. 451: Correct.

16 MR. RUGGEROLI: Okay. All right, thank you.

17 Ms. Quinn?

18 PROSPECTIVE JUROR NO. 461: 461.

19 MR. RUGGEROLI: I did want to follow up on the
20 notion of whether or not you think you'd be a good juror.

21 PROSPECTIVE JUROR NO. 461: I think I would be good.
22 I'd listen, listen to both sides, and be fair.

23 MR. RUGGEROLI: Okay.

24 PROSPECTIVE JUROR NO. 461: Um-hum.

25 MR. RUGGEROLI: How about this idea of evaluating

1 credibility and motive, things like that? That's a little bit
2 different; you would agree?

3 PROSPECTIVE JUROR NO. 461: Yes. Again, listening
4 to all the information given.

5 MR. RUGGEROLI: Okay. You say, "be fair." We
6 talked a little bit about this. I don't think you mean
7 "fair," meaning we're on an even playing field, right?

8 PROSPECTIVE JUROR NO. 461: Right.

9 MR. RUGGEROLI: Because we're not.

10 PROSPECTIVE JUROR NO. 461: Right.

11 MR. RUGGEROLI: Do you agree with that, that --

12 PROSPECTIVE JUROR NO. 461: Correct.

13 MR. RUGGEROLI: -- I don't have a burden as a
14 defense attorney to prove anything? And you would follow the
15 law that the Judge gives you?

16 PROSPECTIVE JUROR NO. 461: Absolutely.

17 MR. RUGGEROLI: But other than that, evaluating the
18 witnesses or the evidence, that in particular, is that
19 something that you think you'd be good at doing?

20 PROSPECTIVE JUROR NO. 461: Yes, I do. Um-hum.

21 MR. RUGGEROLI: Okay, thank you. If you could hand
22 the microphone.

23 PROSPECTIVE JUROR NO. 462: 462, Camille.

24 MR. RUGGEROLI: Ms. Estrella?

25 PROSPECTIVE JUROR NO. 462: Yeah.

1 MR. RUGGEROLI: Okay. You're going to school, and I
2 wanted to ask you, anything that I've asked about specific
3 characteristics, traits, experiences that you have in your
4 background that you think would come into play during this
5 trial?

6 PROSPECTIVE JUROR NO. 462: Well, I believe that you
7 should be open-minded, because if you aren't open-minded, your
8 intuition could lead you to form -- to making a conclusion or
9 an opinion based on what you want to believe, rather than
10 forming an unbiased opinion based on the actual evidence or
11 statements that you've listened to.

12 MR. RUGGEROLI: Okay. I asked some of the other
13 prospective jurors about open carry. Do you recall that?

14 PROSPECTIVE JUROR NO. 462: Yes.

15 MR. RUGGEROLI: So do you have any opinions about
16 people's right to carry firearms if they're open and
17 displayed?

18 PROSPECTIVE JUROR NO. 462: I think it's fine, but
19 there -- like, there are limitations. So it's -- it's the
20 person who carries the firearm, whether or not they choose to,
21 like, do anything wrong with it.

22 MR. RUGGEROLI: Very good. Thank you. If we could
23 hand it down to the front, Mr. -- yeah, down here, please. I
24 apologize. To Mr. O'Brien.

25 I'm going to be short, Mr. O'Brien. Your badge

1 number is 464?

2 PROSPECTIVE JUROR NO. 464: 464.

3 MR. RUGGEROLI: You've been asked a lot of
4 questions. I just wanted to give you the opportunity if you
5 had anything additional that you wanted to add.

6 PROSPECTIVE JUROR NO. 464: No.

7 MR. RUGGEROLI: Okay. If you could hand it to Ms.
8 Newell.

9 PROSPECTIVE JUROR NO. 468: 468.

10 MR. RUGGEROLI: Okay. Everything's worked out with
11 school now; you would be able to pay attention, correct?

12 PROSPECTIVE JUROR NO. 468: Yeah.

13 MR. RUGGEROLI: And you're not worried about the
14 test?

15 PROSPECTIVE JUROR NO. 468: No.

16 MR. RUGGEROLI: And so you're going to be able to
17 pay attention and serve on this jury really unimpeded?

18 PROSPECTIVE JUROR NO. 468: Yeah.

19 MR. RUGGEROLI: Fair to say?

20 PROSPECTIVE JUROR NO. 468: Um-hum.

21 MR. RUGGEROLI: Okay, is that a yes?

22 PROSPECTIVE JUROR NO. 468: Yes, that's a yes.

23 MR. RUGGEROLI: Okay. You're studying criminal
24 justice. I've asked a number of open-ended questions. Do you
25 have anything that you would like to follow up on that you

1 didn't happen to volunteer for?

2 PROSPECTIVE JUROR NO. 468: No.

3 MR. RUGGEROLI: Okay, thank you. If you could --

4 Mr. --

5 PROSPECTIVE JUROR NO. 475: Mr. 475?

6 MR. RUGGEROLI: Yes, thank you. And I know that you

7 have answered a number of questions as well. I'm just giving

8 you another opportunity if anything has jumped out that you

9 would like to add or clarify.

10 PROSPECTIVE JUROR NO. 475: No, sir.

11 MR. RUGGEROLI: Okay, thank you. If you could hand

12 it to Mr. Bandics.

13 PROSPECTIVE JUROR NO. 477: 477.

14 MR. RUGGEROLI: We did have a chance to ask you some

15 questions. One of the things that you mentioned -- I wrote a

16 question mark about whether or not you could be fair. You

17 elaborated on some things about why you might have some

18 uncertainties. Is there anything apart from that that would

19 cause you any uncertainty about being fair in this trial as a

20 juror?

21 PROSPECTIVE JUROR NO. 477: Yeah, I think there

22 could be. I believe in the Second Amendment, so I'm all for

23 that. Also, sometimes it's hard for me to keep focus on

24 things at times, so I feel like that may -- could be a problem

25 at times.

1 MR. RUGGEROLI: But you were paying attention
2 throughout what we've been discussing, right?

3 PROSPECTIVE JUROR NO. 477: Yes, just some of the
4 questions, just so many for me, and it's hard for me to keep
5 up with.

6 MR. RUGGEROLI: Right. I appreciate you answering a
7 number of the things that you have. So, unless you wanted to
8 clarify or go back over anything else, that would -- that
9 would be my final question for you.

10 PROSPECTIVE JUROR NO. 477: No, not that I can think
11 of.

12 MR. RUGGEROLI: Okay, thank you. Mr. Salazar?

13 PROSPECTIVE JUROR NO. 482: 482.

14 MR. RUGGEROLI: And I started this off by asking you
15 because you made that statement about being a good juror, and
16 so I've already asked you a number of questions about that.
17 Did you have anything that you wanted to follow up on
18 specifically?

19 PROSPECTIVE JUROR NO. 482: No, sir.

20 MR. RUGGEROLI: Okay. Thank you. If you could hand
21 it to Ms. Cook.

22 PROSPECTIVE JUROR NO. 483: It's Ms. O'Brien.

23 MR. RUGGEROLI: I'm sorry, I did it again.

24 PROSPECTIVE JUROR NO. 483: I'm just -- I'm just
25 messing. It really is Ms. Cook.

1 MR. RUGGEROLI: I did it again.
2 PROSPECTIVE JUROR NO. 483: No, no, no. It is Ms.
3 Cook. I'm just --
4 MR. RUGGEROLI: Now you're just messing with me?
5 PROSPECTIVE JUROR NO. 483: He's not my husband.
6 MR. RUGGEROLI: Okay.
7 PROSPECTIVE JUROR NO. 483: It's Cook, 483. I was
8 falling asleep. I had to, like, mess around (indiscernible).
9 MR. RUGGEROLI: Well, I appreciate that.
10 PROSPECTIVE JUROR NO. 483: Okay.
11 MR. RUGGEROLI: Now, we've got to put you under
12 oath. You are Ms. Cook?
13 PROSPECTIVE JUROR NO. 483: I am Ms. Cook.
14 MR. RUGGEROLI: All right, Ms. Cook.
15 PROSPECTIVE JUROR NO. 483: 483.
16 MR. RUGGEROLI: Thank you. This notion of being a
17 good juror, you're not actually going to have to ask a lot of
18 questions necessarily; but judging credibility, those kind of
19 things, is that something that you feel comfortable doing?
20 PROSPECTIVE JUROR NO. 483: Yes.
21 MR. RUGGEROLI: You have an opinion about the Second
22 Amendment. We went through that, correct?
23 PROSPECTIVE JUROR NO. 483: Correct, yeah, we
24 already did.
25 MR. RUGGEROLI: How do you feel about serving on the

1 jury and going in the back, and then maybe half the jury or 11
2 against you has the different opinion? Are you somebody
3 that's going to assert yourself?

4 PROSPECTIVE JUROR NO. 483: Yes.

5 MR. RUGGEROLI: And express your opinion?

6 PROSPECTIVE JUROR NO. 483: Yes.

7 MR. RUGGEROLI: So you would not just be inclined to
8 go with the majority?

9 PROSPECTIVE JUROR NO. 483: No, definitely not.

10 MR. RUGGEROLI: Okay, and you will use comic relief
11 potentially as well?

12 PROSPECTIVE JUROR NO. 483: Absolutely.

13 MR. RUGGEROLI: All right, thank you. If you could
14 just hand the microphone.

15 PROSPECTIVE JUROR NO. 485: Shannon Young, 485.

16 MR. RUGGEROLI: I'm going to be brief because you've
17 really answered a lot of questions. And so if you had
18 anything additional, it's open to you, but I think you've
19 answered all of my questions.

20 PROSPECTIVE JUROR NO. 485: Yes.

21 MR. RUGGEROLI: Thank you.

22 PROSPECTIVE JUROR NO. 485: Thank you.

23 MR. RUGGEROLI: I have nothing further. Mr. --
24 pronounce it, please.

25 PROSPECTIVE JUROR NO. 488: Deperio.

1 MR. RUGGEROLI: Yes, sir.
2 PROSPECTIVE JUROR NO. 488: 488.
3 MR. RUGGEROLI: Thank you, sir.
4 Because you're more reserved, and you explained a
5 lot of that, I didn't have a lot of follow up either. And so,
6 unless there's something that grabbed your attention, I don't
7 have anything further.
8 PROSPECTIVE JUROR NO. 488: No.
9 MR. RUGGEROLI: Okay, thank you, sir.
10 Mr. Castro?
11 PROSPECTIVE JUROR NO. 490: 490.
12 MR. RUGGEROLI: Thank you, sir. I haven't had a
13 chance to ask you a lot of questions. You had some concerns
14 if the case were to go beyond a certain date. Did you clarify
15 that?
16 PROSPECTIVE JUROR NO. 490: Yes, because my company
17 only pays for like certain number of days.
18 MR. RUGGEROLI: Okay.
19 PROSPECTIVE JUROR NO. 490: So I know I'm good until
20 next week.
21 MR. RUGGEROLI: Okay. And you'll be able to pay
22 attention without that being a distraction for you?
23 PROSPECTIVE JUROR NO. 490: Yes.
24 MR. RUGGEROLI: In terms of evaluating the
25 witnesses, how do you feel about serving as a juror in that

1 (indiscernible)?

2 PROSPECTIVE JUROR NO. 490: I don't feel like I'm a
3 good judge of character.

4 MR. RUGGEROLI: Okay. Could you follow up on that,
5 if you don't mind?

6 PROSPECTIVE JUROR NO. 490: Just by looking at the
7 person, not knowing the person, and forming an opinion on are
8 they credible or not.

9 THE COURT: Just a minute.

10 THE MARSHAL: Hang on a second.

11 THE COURT: You got to make sure when you come back
12 in that your phones are turned off, please. Okay, go ahead.

13 MR. RUGGEROLI: Okay, so --

14 PROSPECTIVE JUROR NO. 490: Just judging the
15 credibility of a witness or a person, without knowing that
16 person, I'm not very good at that.

17 MR. RUGGEROLI: Okay, and I appreciate you sharing
18 that. You might have other skills in terms of paying
19 attention, and --

20 PROSPECTIVE JUROR NO. 490: Paying attention, I can
21 do that. I know I'm going to do my best to do what's asked,
22 but that part --

23 MR. RUGGEROLI: Yes.

24 PROSPECTIVE JUROR NO. 490: -- that you were --

25 MR. RUGGEROLI: Very good.

1 PROSPECTIVE JUROR NO. 490: -- asking --

2 MR. RUGGEROLI: Thank you. I am glad, because
3 that's one of my important questions about being in a position
4 of judging what a witness says, so thank you for sharing that.
5 If you could hand it down to the front, please, in the third
6 row.

7 PROSPECTIVE JUROR NO. 496: Angela Segura, 496.

8 MR. RUGGEROLI: How about that notion of being a
9 good juror in terms of evaluating whether or not somebody
10 might have a motive to lie or might be not credible? How do
11 you feel about that, serving as a juror?

12 PROSPECTIVE JUROR NO. 496: I believe I have
13 critical thinking skills. Assessing people on a daily basis
14 is what I do for a living.

15 MR. RUGGEROLI: Yeah, can you tell us about that as
16 well?

17 PROSPECTIVE JUROR NO. 496: I'm a nurse.

18 MR. RUGGEROLI: Right.

19 PROSPECTIVE JUROR NO. 496: Yeah, so I see lots and
20 lots of different people with lots of different symptoms,
21 and --

22 MR. RUGGEROLI: Has anybody ever come in and tried
23 to get medication? Are you trained if somebody is trying to
24 get maybe painkillers or something?

25 PROSPECTIVE JUROR NO. 496: Yes, but that's not my

1 responsibility.

2 MR. RUGGEROLI: Okay.

3 PROSPECTIVE JUROR NO. 496: That's the doctor's.

4 MR. RUGGEROLI: Okay. But you feel comfortable,

5 because of your background and experience, evaluating the

6 witnesses?

7 PROSPECTIVE JUROR NO. 496: Yes.

8 MR. RUGGEROLI: Is there anything about the other

9 questions that I've asked to the panel members that you --

10 that grabbed your attention that you would like to follow up

11 on?

12 PROSPECTIVE JUROR NO. 496: Oh, just I strongly

13 believe in the Fifth Amendment.

14 MR. RUGGEROLI: Okay, which portion?

15 PROSPECTIVE JUROR NO. 496: The right to remain

16 silent.

17 MR. RUGGEROLI: Okay.

18 PROSPECTIVE JUROR NO. 496: Yeah.

19 MR. RUGGEROLI: Thank you, I appreciate that.

20 PROSPECTIVE JUROR NO. 513: Michael Laurie, 513.

21 MR. RUGGEROLI: Mr. Laurie, you've had a lot of

22 questions and answers as well. Let me see if there was

23 anything in particular. You mentioned -- I think you said, I

24 might be highly suspicious given a possibility of somebody

25 that would have been accused making a deal and potentially

1 testifying. Could you just elaborate on that a little bit?
2 PROSPECTIVE JUROR NO. 513: Why isn't he here right
3 now with these two gentlemen?
4 MR. RUGGEROLI: Okay. And so, let's say, this might
5 not be the time. Let's say you're chosen to serve on the jury
6 and he gets on the stand -- he or she. Will you listen to the
7 evidence to decide? We're talking about being critical or
8 evaluating somebody's --
9 PROSPECTIVE JUROR NO. 513: Oh, of course.
10 MR. RUGGEROLI: -- potential motive.
11 PROSPECTIVE JUROR NO. 513: Yeah.
12 MR. RUGGEROLI: How about the other side of that?
13 Maybe the suspicion that you have is not founded for a
14 particular individual. Do you think that you'll be fair to
15 the State, and listen to the witness, and decide for yourself?
16 PROSPECTIVE JUROR NO. 513: Yes.
17 MR. RUGGEROLI: Okay.
18 PROSPECTIVE JUROR NO. 513: Yeah. I mean, they're
19 under oath, and, you know.
20 MR. RUGGEROLI: Right.
21 PROSPECTIVE JUROR NO. 513: Yes.
22 MR. RUGGEROLI: Okay. Anything about the other
23 questions that you might have wanted to add?
24 PROSPECTIVE JUROR NO. 513: The open carry question.
25 MR. RUGGEROLI: Uh-huh.

1 PROSPECTIVE JUROR NO. 513: I work in retail.
2 MR. RUGGEROLI: Yes, sir.
3 PROSPECTIVE JUROR NO. 513: Any time I see someone
4 enter my store with a firearm on the side of their hip, it
5 does make me suspicious, only because I'm concerned about the
6 employees and people that are in the store. I don't know who
7 that person is.
8 MR. RUGGEROLI: Right. How many times would you say
9 that that's happened, that an open carry came in, somebody
10 that you don't know?
11 PROSPECTIVE JUROR NO. 513: Oh, two or three times
12 probably in my five years.
13 MR. RUGGEROLI: Right.
14 PROSPECTIVE JUROR NO. 513: Yeah.
15 MR. RUGGEROLI: And Mesquite is a smaller town.
16 PROSPECTIVE JUROR NO. 513: It is.
17 MR. RUGGEROLI: So you have regulars?
18 PROSPECTIVE JUROR NO. 513: We do, yes, all the
19 time.
20 MR. RUGGEROLI: And those occasions where somebody
21 came in open carry, did any of those result in a crime?
22 PROSPECTIVE JUROR NO. 513: No, no.
23 MR. RUGGEROLI: Okay. All right, thank you, sir.
24 PROSPECTIVE JUROR NO. 513: Sure.
25 MR. RUGGEROLI: If you could hand the microphone up.

1 PROSPECTIVE JUROR NO. 520: Maria Moreno, 520.
2 MR. RUGGEROLI: Ms. Moreno, let me take a look. You
3 haven't had a chance to be asked a whole lot of questions. I
4 know that you've been in town about 15 years, right?
5 PROSPECTIVE JUROR NO. 520: Um-hum.
6 MR. RUGGEROLI: Is that a yes?
7 PROSPECTIVE JUROR NO. 520: Yes.
8 MR. RUGGEROLI: And your -- are you a Clerk? Or I
9 might have written that down wrong.
10 PROSPECTIVE JUROR NO. 520: Payroll Clerk.
11 MR. RUGGEROLI: Yes, okay. And you have two
12 children; one in high school, one in junior high?
13 PROSPECTIVE JUROR NO. 520: Yes.
14 MR. RUGGEROLI: And your spouse is an electrician?
15 PROSPECTIVE JUROR NO. 520: Electrician, yes.
16 MR. RUGGEROLI: Okay. As far as being a juror, do
17 you think you would be a good juror?
18 PROSPECTIVE JUROR NO. 520: Yes.
19 MR. RUGGEROLI: And why is that?
20 PROSPECTIVE JUROR NO. 520: Because I -- because I'm
21 really good at listening, and I have to pay attention to
22 details, and then so I can come to a conclusion.
23 MR. RUGGEROLI: Okay. How about evaluating
24 credibility, things like that? How do you -- how do you feel
25 about listening to witnesses?

1 PROSPECTIVE JUROR NO. 520: Good.
2 MR. RUGGEROLI: You would do that well?
3 PROSPECTIVE JUROR NO. 520: Yes.
4 MR. RUGGEROLI: Okay, thank you. Was there any
5 other questions that were asked that you wanted to follow up
6 on that may have grabbed your attention?
7 PROSPECTIVE JUROR NO. 520: No.
8 MR. RUGGEROLI: Okay, thank you.
9 PROSPECTIVE JUROR NO. 521: Magdalena Perez-Haywood,
10 Badge number 521.
11 MR. RUGGEROLI: Hello, Ms. Haywood.
12 PROSPECTIVE JUROR NO. 521: Hello.
13 MR. RUGGEROLI: And I had asked you -- you have a
14 little bit of a soft-spoken nature right now.
15 PROSPECTIVE JUROR NO. 521: Yes.
16 MR. RUGGEROLI: Do you think that you would be
17 somebody that has, a bit more like one of the other
18 prospective jurors, a temperament that maybe is not as
19 assertive if you were --
20 PROSPECTIVE JUROR NO. 521: I am quiet, but if I
21 have feelings or something that I need to, I let them know. I
22 am a teacher and I have classroom management, so when I need
23 to, I have to. I will do it.
24 MR. RUGGEROLI: Exactly.
25 PROSPECTIVE JUROR NO. 521: Um-hum.

1 MR. RUGGEROLI: And that's why I'm following up --
2 PROSPECTIVE JUROR NO. 521: Um-hum.
3 MR. RUGGEROLI: -- because you're able to share
4 that, and I appreciate that. You also mentioned that you love
5 your job?
6 PROSPECTIVE JUROR NO. 521: Yes.
7 MR. RUGGEROLI: Do you think that you would love
8 being a juror?
9 PROSPECTIVE JUROR NO. 521: Definitely. I was
10 raised and born in Mexico. I came here when I was 21, and
11 then I began taking classes and I got my degree here in the
12 U.S. And then, it is learning different rules, and that
13 whatever I learned is in the past; now I am in a new system,
14 new rules, and everything.
15 MR. RUGGEROLI: Very good.
16 PROSPECTIVE JUROR NO. 521: Yes, and again,
17 learning.
18 MR. RUGGEROLI: Right.
19 PROSPECTIVE JUROR NO. 521: Learning. I love
20 learning.
21 MR. RUGGEROLI: Okay. And were there any of the
22 questions that I asked to the panel as a whole that you might
23 have wanted to express your opinion about?
24 PROSPECTIVE JUROR NO. 521: The one that you said
25 the open carry, I don't feel very comfortable with it.

1 MR. RUGGEROLI: Okay. That's a little different
2 than some, so if you don't mind, if you could follow up about
3 that a little bit.

4 PROSPECTIVE JUROR NO. 521: I haven't had any
5 experiences, but I think that human nature, you don't know
6 what people can do when they get very upset, and what they can
7 do. So I think that they should be limited to certain people.

8 MR. RUGGEROLI: Okay. Thank you for providing us
9 with that information.

10 Good afternoon.

11 PROSPECTIVE JUROR NO. 524: 524, Jennifer Mendoza.

12 MR. RUGGEROLI: Good afternoon, Ms. Mendoza.

13 PROSPECTIVE JUROR NO. 524: Afternoon.

14 MR. RUGGEROLI: I also just had a couple of follow
15 ups, generally speaking, rather than specific. I know that
16 you're going to school, but you took some time off?

17 PROSPECTIVE JUROR NO. 524: Yes.

18 MR. RUGGEROLI: Were there any subjects that grabbed
19 your attention that you want to make sure that you take in the
20 future?

21 PROSPECTIVE JUROR NO. 524: Just maybe like my
22 history courses, because I do want to teach history later on.

23 MR. RUGGEROLI: Right. What -- I was going to
24 follow up on that. What time period is most interesting for
25 you in history?

1 PROSPECTIVE JUROR NO. 524: I mean, I can't like
2 decide really.

3 MR. RUGGEROLI: Okay.

4 PROSPECTIVE JUROR NO. 524: Yeah.

5 MR. RUGGEROLI: Okay, you just like history
6 generally?

7 PROSPECTIVE JUROR NO. 524: Yeah.

8 MR. RUGGEROLI: Is there anything of the questions I
9 asked -- some people are talking about Second Amendment.
10 That's kind of the one that's most prevalent right now, I
11 think. Were there any other questions that I asked that you
12 might have had a strong opinion on?

13 PROSPECTIVE JUROR NO. 524: Just the open carry
14 really.

15 MR. RUGGEROLI: What was yours?

16 PROSPECTIVE JUROR NO. 524: Just like Magdalena
17 said, like, I don't feel comfortable. Like, if I'm in public
18 and I see somebody like with a firearm, I don't know, like it
19 just -- I'm not comfortable with it.

20 MR. RUGGEROLI: Okay.

21 PROSPECTIVE JUROR NO. 524: Like, I don't see a
22 reason why people want to have it in public.

23 MR. RUGGEROLI: Okay.

24 PROSPECTIVE JUROR NO. 524: Um-hum.

25 MR. RUGGEROLI: Thank you. Badge number, please?

1 PROSPECTIVE JUROR NO. 561: 561.
2 MR. RUGGEROLI: Yes, sir. Mr. Keang?
3 PROSPECTIVE JUROR NO. 561: Yes.
4 MR. RUGGEROLI: Okay. You have two younger
5 children; they're not of working age, correct?
6 PROSPECTIVE JUROR NO. 561: No, they're minor.
7 MR. RUGGEROLI: Okay. We're getting near the end,
8 and you've heard an awful lot, and I greatly appreciate your
9 patience. So I don't mean to be short, but --
10 PROSPECTIVE JUROR NO. 561: Um-hum.
11 MR. RUGGEROLI: -- was there anything in particular,
12 your background or experience, that would make you let's say a
13 bad juror?
14 PROSPECTIVE JUROR NO. 561: Um-hum. Yeah, I cannot
15 -- I'm a bad juror. Yeah.
16 MR. RUGGEROLI: Okay, why is that?
17 PROSPECTIVE JUROR NO. 561: Because I'm -- I'm a
18 Christian.
19 MR. RUGGEROLI: Okay.
20 PROSPECTIVE JUROR NO. 561: Yeah. I'm a born-again
21 Christian, and I forgive the sin because everybody make
22 mistake. And God forgave my sin, too, and I forgive all the
23 people of their sin, too.
24 MR. RUGGEROLI: Okay.
25 PROSPECTIVE JUROR NO. 561: Because in the Bible, it

1 said that -- God said that you have to forgive somebody of
2 sin, doesn't matter what they do. You know, like in Isaiah 1,
3 Chapter 1, Verse 18, even their -- even their -- their crimes
4 are like scarlet like blood, you know, God made them like
5 Snow, so.

6 MR. RUGGEROLI: Okay.

7 PROSPECTIVE JUROR NO. 561: That's why we have to
8 forgive their sin, you know?

9 MR. RUGGEROLI: Yes, sir.

10 PROSPECTIVE JUROR NO. 561: Forgive their --

11 MR. RUGGEROLI: What if you were asked to maybe
12 limit your view of things, and agree to put the idea of
13 punishment or forgiveness on hold, and look at the facts of
14 the case; not to decide some other areas? What if you were
15 simply asked to decide whether or not something was true, or
16 in this particular case, with a trial, whether or not the
17 State can prove beyond a reasonable doubt that a crime
18 happened and that a specific individual committed that crime?
19 Perhaps that would not really implicate the things that are
20 very important to you. Do you think you could follow the
21 instructions from the Judge to do that as a juror?

22 PROSPECTIVE JUROR NO. 561: I can.

23 MR. RUGGEROLI: You don't think so?

24 PROSPECTIVE JUROR NO. 561: No.

25 MR. RUGGEROLI: And so your inclination would be

1 that you don't believe that you can be fair to the State, the
2 prosecution? You're saying that somebody that's accused, you
3 would have a very hard time convicting, or that your religious
4 views are such that you don't want to sit in judgment?

5 PROSPECTIVE JUROR NO. 561: I cannot sit in
6 judgment.

7 MR. RUGGEROLI: Okay.

8 THE COURT: If you're asked to serve on this panel,
9 what will you do then? Will you listen to the evidence?

10 PROSPECTIVE JUROR NO. 561: I listen -- yeah, I
11 listen to the evidence, but --

12 THE COURT: Okay, and will you follow the law?

13 PROSPECTIVE JUROR NO. 561: I cannot -- I cannot
14 judge them.

15 THE COURT: Okay. You understand that a jury panel
16 just judges the facts? You understand that?

17 PROSPECTIVE JUROR NO. 561: Yes, but I think it's
18 two different law between God law and state law. It's
19 different, you know?

20 THE COURT: Okay, but if you were selected to serve,
21 would you listen to the evidence?

22 PROSPECTIVE JUROR NO. 561: I'll listen, yeah.

23 THE COURT: Would you follow the law?

24 PROSPECTIVE JUROR NO. 561: I think if I followed --
25 if I followed the law, and if God law is different -- you

1 know, it's --
2 THE COURT: Okay.
3 PROSPECTIVE JUROR NO. 561: -- two different things.
4 Yeah.
5 THE COURT: Do you have a religious belief that
6 prevents you from serving as a juror?
7 PROSPECTIVE JUROR NO. 561: Yes.
8 THE COURT: What is that?
9 PROSPECTIVE JUROR NO. 561: I'm a born-again
10 Christian.
11 THE COURT: Okay.
12 PROSPECTIVE JUROR NO. 561: Yeah.
13 THE COURT: And you believe that your religious
14 beliefs will be compromised if you sit as a juror?
15 PROSPECTIVE JUROR NO. 561: I think so, yeah.
16 THE COURT: Okay. If you were asked to serve, would
17 you deliberate with your other jurors, or will you just say,
18 I'm not going to do it?
19 PROSPECTIVE JUROR NO. 561: I cannot -- I cannot do
20 it.
21 THE COURT: Okay. So if you were asked to serve,
22 you would refuse to serve?
23 PROSPECTIVE JUROR NO. 561: I cannot serve, you
24 know.
25 THE COURT: Okay, all right. I'm going to -- you

1 can leave the microphone there. I'm going to ask you to step
2 out of the box.

3 Nicholas Campo, I'm going to ask you to take Seat
4 number 26.

5 PROSPECTIVE JUROR NO. 571: 571, Nicholas Campo.

6 THE COURT: Thank you for being here. How long have
7 you lived in Clark County?

8 PROSPECTIVE JUROR NO. 571: 20 years.

9 THE COURT: And your education background?

10 PROSPECTIVE JUROR NO. 571: Some college.

11 THE COURT: What did you study?

12 PROSPECTIVE JUROR NO. 571: I studied business and
13 marketing.

14 THE COURT: Okay. And what do you do for a living?

15 PROSPECTIVE JUROR NO. 571: I do design and sales
16 for a swimming pool contractor, and I coach high school
17 lacrosse.

18 THE COURT: Your marital status?

19 PROSPECTIVE JUROR NO. 571: Single.

20 THE COURT: Do you have kids?

21 PROSPECTIVE JUROR NO. 571: Nope.

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

23 PROSPECTIVE JUROR NO. 571: Nope, first time.

24 THE COURT: Okay. Have you or anyone close to you,
25 such as a family member or friend, ever been accused of a

1 crime?

2 PROSPECTIVE JUROR NO. 571: Nope.

3 THE COURT: Have you or anyone close to you, such as

4 a family member or friend, ever been accused of a crime?

5 PROSPECTIVE JUROR NO. 571: No.

6 THE COURT: Okay. Would you have a tendency to give

7 more weight or credence or less weight or credence to the

8 testimony of a witness simply because that witness is a police

9 officer?

10 PROSPECTIVE JUROR NO. 571: No.

11 THE COURT: Do you know of any reason why you could

12 not be a fair and impartial juror if selected to serve?

13 PROSPECTIVE JUROR NO. 571: No.

14 THE COURT: Okay, thank you, sir. Thank you for

15 being here.

16 Mr. Pesci?

17 MR. PESCI: Thank you. Sir, the questions about

18 firearms, do you have any strong feelings about firearms one

19 way or the other?

20 PROSPECTIVE JUROR NO. 571: I haven't seen too much

21 of the open carry myself in person, so, no.

22 MR. PESCI: Okay. That wouldn't affect your ability

23 to be fair and impartial to either side?

24 PROSPECTIVE JUROR NO. 571: No.

25 MR. PESCI: Okay. Kind of building on where we

1 ended with the last gentleman as far as maybe a religious, or
2 a moral, or philosophical reason, would that impede you or
3 prevent you from standing in judgment on another human being?

4 PROSPECTIVE JUROR NO. 571: No.

5 MR. PESCI: Okay. Could you follow the law, even if
6 you don't necessarily agree with all of it?

7 PROSPECTIVE JUROR NO. 571: Yes.

8 MR. PESCI: Think you could be fair to both sides?

9 PROSPECTIVE JUROR NO. 571: Yes.

10 MR. PESCI: Thank you very much.

11 Pass for cause, Your Honor.

12 THE COURT: Thank you. Mr. Sanft, any questions?

13 MR. SANFT: Yes, Your Honor. Sir, you teach
14 lacrosse at a high school?

15 PROSPECTIVE JUROR NO. 571: I coach high school
16 lacrosse.

17 MR. SANFT: Okay. Is that a full-time job?

18 PROSPECTIVE JUROR NO. 571: It's part-time.

19 MR. SANFT: All right. Did you play lacrosse in
20 high school?

21 PROSPECTIVE JUROR NO. 571: I did.

22 MR. SANFT: College?

23 PROSPECTIVE JUROR NO. 571: Yes.

24 MR. SANFT: There's not a pro team, right?

25 PROSPECTIVE JUROR NO. 571: It wasn't a pro team,

1 no.

2 MR. SANFT: No, but there's no pro teams as far as

3 -- you know, for lacrosse?

4 PROSPECTIVE JUROR NO. 571: There are.

5 MR. SANFT: Oh, there are?

6 PROSPECTIVE JUROR NO. 571: Yeah, there's a few, but

7 there's none locally.

8 MR. SANFT: I see.

9 PROSPECTIVE JUROR NO. 571: Yeah.

10 MR. SANFT: And are you from Las Vegas?

11 PROSPECTIVE JUROR NO. 571: I was born in New York,

12 lived in Florida until I was ten, and I moved out here when I

13 was ten. So went to college in California for two years, but

14 other than that, I've been in Las Vegas since I was

15 ten-years-old.

16 MR. SANFT: So you played on a high school lacrosse

17 team here in Las Vegas?

18 PROSPECTIVE JUROR NO. 571: Yes.

19 MR. SANFT: Okay. Just a couple other quick

20 questions. Your other job -- what do you do for a living

21 besides coaching lacrosse?

22 PROSPECTIVE JUROR NO. 571: Sales and design for a

23 swimming pool contractor.

24 MR. SANFT: Okay. And does that mean, for instance,

25 you go into somebody's back yard and you listen to what the

1 homeowner wants in terms of a pool, and then you advise them
2 as to what you think it ought to be, and then you put together
3 like some type of CAD presentation as to what it --

4 PROSPECTIVE JUROR NO. 571: Yeah, we use something
5 called Pool Studios, not CAD, but some guys in our company do
6 CAD. But yeah, that's essentially what it is. And then we
7 try to sell the design, and then they either go with us -- and
8 then I am not part of the construction aspect; my higher-ups
9 are, so.

10 MR. SANFT: I see. So you just do the sale portion
11 of it, and maybe like customer relations sort of thing, but --

12 PROSPECTIVE JUROR NO. 571: Yeah, some
13 communications the whole time. So say they have a problem
14 with their bill, they contact me, and then I talk to my boss,
15 and he takes care of it. So I make his life easy.

16 MR. SANFT: Okay. Do you want to be on this jury?

17 PROSPECTIVE JUROR NO. 571: Yes.

18 MR. SANFT: Why would you want to be on this jury?

19 PROSPECTIVE JUROR NO. 571: It's an interesting
20 opportunity, very unique, and this is the first time I've ever
21 been called in for jury duty, so I definitely feel like
22 there's the upmost integrity involved with doing something
23 like this, and I have that.

24 MR. SANFT: Okay. Now, if you're selected as a
25 juror in this case, would you be fair and impartial with both

1 sides?

2 PROSPECTIVE JUROR NO. 571: Yes.

3 MR. SANFT: I had asked earlier about this idea of
4 where there's smoke, there's fire. Do you understand what
5 that concept is?

6 PROSPECTIVE JUROR NO. 571: Somewhat.

7 MR. SANFT: Okay. Just to give you a rundown, if
8 you see smoke, there's an implication that what's creating the
9 smoke is a fire. My client's sitting here next to me to the
10 left. He's been charged with a very serious crime. Because
11 he's sitting here to the left of me, are -- do you feel or
12 believe that, obviously, he must have done something for him
13 to be sitting here next to an attorney?

14 PROSPECTIVE JUROR NO. 571: I don't have a -- it's
15 exactly like you guys said, it's innocent until proven guilty,
16 so I would need facts put in front of me before I can make an
17 honest assessment of what it is.

18 MR. SANFT: Okay. Now, do you also understand --
19 well, let me ask you this. Are you okay with the idea that if
20 I sat back down, didn't say anything at all during the time
21 that we spend together if you're a juror, at all, that you'd
22 still have to hold the State of Nevada to its burden, beyond a
23 reasonable doubt?

24 PROSPECTIVE JUROR NO. 571: From being here, that's
25 what I understand, yes.

1 MR. SANFT: Okay. And you do understand that we're
2 not here to determine whether my client is guilty or innocent;
3 it's guilty or not guilty? Do you understand that?

4 PROSPECTIVE JUROR NO. 571: Yes.

5 MR. SANFT: Meaning that I'm not here to prove his
6 innocence; we're just here to say, can the State prove its
7 case beyond a reasonable doubt.

8 PROSPECTIVE JUROR NO. 571: I understand that.

9 MR. SANFT: Are you okay with that?

10 PROSPECTIVE JUROR NO. 571: Yes.

11 MR. SANFT: Okay. And then, just lastly, going back
12 to lacrosse, with regards to lacrosse, do you teach anything
13 besides just coach lacrosse?

14 PROSPECTIVE JUROR NO. 571: I just coach.

15 MR. SANFT: Okay.

16 PROSPECTIVE JUROR NO. 571: Yeah.

17 MR. SANFT: And just between you and me -- and
18 everyone else here in the room -- but between you and me, with
19 regard to lacrosse, have you thought at all while you're here
20 about maybe teaching opportunities for the people on lacrosse
21 based upon your experience here today if you were chosen as a
22 juror?

23 PROSPECTIVE JUROR NO. 571: I would use what's been
24 given to me, yes, as far as opportunities.

25 MR. SANFT: Well, in terms of your experience here,

1 have you thought at all about, hey, it would be great if I was
2 a juror on this case; I can share that experience with my
3 lacrosse team at some point in the future?

4 PROSPECTIVE JUROR NO. 571: Sure. Not -- not now,
5 but later on, absolutely.

6 MR. SANFT: All right. And just to be clear, once
7 again, you understand you've been instructed by the Court you
8 can't talk about this case at all until such time as she
9 discharges you from your duty?

10 PROSPECTIVE JUROR NO. 571: I understand.

11 MR. SANFT: Okay. I have no further questions, Your
12 Honor. We'll pass for cause.

13 THE COURT: Mr. Ruggeroli?

14 MR. RUGGEROLI: Thank you, Your Honor. Mr. Campo,
15 you just answered rapid-fire questions, so I only want to ask
16 you, anything about you, your background or experience, that
17 would have an impact with you, positive or negative, as
18 serving as a juror in this case?

19 PROSPECTIVE JUROR NO. 571: I -- no, nothing that
20 I'm hiding.

21 MR. RUGGEROLI: No, I know, but anything that you
22 think I would want to know about you that might be a
23 particularly important asset?

24 PROSPECTIVE JUROR NO. 571: Just that I am unbiased,
25 I'm very fair, and I'd be open to listening to the evidence

1 and everything that is put in front of me, and making the
2 right decision. Again, like it's the upmost integrity
3 involved with something like this.

4 MR. RUGGEROLI: Okay.

5 PROSPECTIVE JUROR NO. 571: So you want to make sure
6 you're doing the right thing.

7 MR. RUGGEROLI: Thank you. If you could just hand
8 the microphone.

9 PROSPECTIVE JUROR NO. 571: Sure.

10 MR. RUGGEROLI: Afternoon.

11 PROSPECTIVE JUROR NO. 540: Staci McCarthy, 540.

12 MR. RUGGEROLI: Okay, Ms. McCarthy, thank you. I
13 wanted to follow up and start with this terrible situation
14 with your father, right?

15 PROSPECTIVE JUROR NO. 540: Right.

16 MR. RUGGEROLI: 1989?

17 PROSPECTIVE JUROR NO. 540: Yes.

18 MR. RUGGEROLI: And he was actually shot?

19 PROSPECTIVE JUROR NO. 540: Yes.

20 MR. RUGGEROLI: In the head?

21 PROSPECTIVE JUROR NO. 540: Yeah.

22 MR. RUGGEROLI: And he lived, thankfully?

23 PROSPECTIVE JUROR NO. 540: Um-hum. Yes.

24 MR. RUGGEROLI: Is that a yes?

25 PROSPECTIVE JUROR NO. 540: Yes.

1 MR. RUGGEROLI: Okay. That's a very difficult
2 experience, and thankfully, it had a happy ending. The
3 allegations here involve something that, on the one hand, may
4 not have any significance or commonality with; and on the
5 other hand, it might have. Is there anything from that
6 experience that you went through that you think would cause
7 you hesitation to sitting in judgment on this case?

8 PROSPECTIVE JUROR NO. 540: No.

9 MR. RUGGEROLI: Your father, did he wind up speaking
10 to the police, and giving statements and things like that?

11 PROSPECTIVE JUROR NO. 540: Yes. There was a whole
12 investigation, but the person was never caught, so.

13 MR. RUGGEROLI: Okay. There's nothing about that --
14 and you understand why I would want to be cautious?

15 PROSPECTIVE JUROR NO. 540: Yeah.

16 MR. RUGGEROLI: There's nothing about that, because
17 somebody got away with that horrible crime, that would cause
18 you to tilt the balance in this case because of the nature of
19 the allegations?

20 PROSPECTIVE JUROR NO. 540: Not at all. I treat
21 each person individually. Everyone's equal in my mind, so.

22 MR. RUGGEROLI: Okay. Got a lot of experience in
23 teaching, and so you've probably had a lot of experiences.
24 You've heard me talk about being critical or evaluating?

25 PROSPECTIVE JUROR NO. 540: Right.

1 MR. RUGGEROLI: How do you think you would be -- I
2 mean you were already on the grand jury, obviously. This is a
3 different context, right?
4 PROSPECTIVE JUROR NO. 540: Right.
5 MR. RUGGEROLI: How about in terms of the different
6 standard, and evaluating motive, credibility, things of that
7 nature?
8 PROSPECTIVE JUROR NO. 540: I mean, I think I would
9 be good. I'm a good listener, patient. I learn to kind of
10 collect all the information before I make any decisions. I've
11 learned to do that with teaching and with resolving conflicts
12 with students, parents, and so on.
13 MR. RUGGEROLI: Okay. So, as my role as a defense
14 attorney, should I have any concerns though about you?
15 PROSPECTIVE JUROR NO. 540: I don't think so.
16 MR. RUGGEROLI: Okay, thank you. If you could pass
17 the microphone.
18 Mr. Widdison?
19 PROSPECTIVE JUROR NO. 541: 541, Kevin Widdison.
20 MR. RUGGEROLI: Good afternoon.
21 PROSPECTIVE JUROR NO. 541: Hi.
22 MR. RUGGEROLI: You were asked a number of follow up
23 questions, but --
24 PROSPECTIVE JUROR NO. 541: Yes, sir.
25 MR. RUGGEROLI: -- there is some similarities. You

1 understand why I would want to make sure?
2 PROSPECTIVE JUROR NO. 541: Yes, sir.
3 MR. RUGGEROLI: So I give you that same opportunity.
4 Me, serving as the representative of a client that's accused
5 of a crime --
6 PROSPECTIVE JUROR NO. 541: Um-hum.
7 MR. RUGGEROLI: -- is there anything about your
8 unique experiences that should cause me some second thoughts
9 about whether or not I would have you serve on this jury?
10 PROSPECTIVE JUROR NO. 541: Not at all.
11 MR. RUGGEROLI: Not at all? And why is that?
12 PROSPECTIVE JUROR NO. 541: It's completely
13 different.
14 MR. RUGGEROLI: Okay.
15 PROSPECTIVE JUROR NO. 541: Not associated at all.
16 MR. RUGGEROLI: Okay. The questions that I've
17 asked, there were a number of open-ended questions.
18 PROSPECTIVE JUROR NO. 541: Yes, sir.
19 MR. RUGGEROLI: The open carry is the one that most
20 people seem to have a particular opinion, compared to some of
21 my other questions.
22 PROSPECTIVE JUROR NO. 541: Um-hum.
23 MR. RUGGEROLI: Is that question or any of the
24 others something that you -- that grabbed your attention?
25 PROSPECTIVE JUROR NO. 541: Yeah, I'm pro-Second

1 Amendment. I have a CCW myself, but I don't open carry. I
2 think that's stupid, for me. It would be stupid for me to do
3 it.

4 MR. RUGGEROLI: Okay, and could you elaborate on
5 that and why?

6 PROSPECTIVE JUROR NO. 541: Well, I think it kind of
7 makes you kind of a target. "Oh, look," you know? I just
8 don't want that attention.

9 MR. RUGGEROLI: Okay. All right, thank you.
10 Anything else that you would want to add in terms of any of
11 the questions that have been asked or answered?

12 PROSPECTIVE JUROR NO. 541: No, sir.

13 MR. RUGGEROLI: Okay, thank you.

14 Mr. Kubota, you've also -- and your badge number,
15 please?

16 PROSPECTIVE JUROR NO. 546: Yes. My badge number is
17 546.

18 MR. RUGGEROLI: I'm just giving you the opportunity,
19 because you've answered an awful lot of questions as well, if
20 anything stirred up new that you would like to add.

21 PROSPECTIVE JUROR NO. 546: Yeah, all sorts of --

22 MR. RUGGEROLI: Okay. Well, maybe I can --

23 PROSPECTIVE JUROR NO. 546: You want to start with
24 the Second Amendment? You know, like --

25 MR. RUGGEROLI: Yeah, why don't we do that.

1 PROSPECTIVE JUROR NO. 546: I hunt.
2 MR. RUGGEROLI: Okay.
3 PROSPECTIVE JUROR NO. 546: I've killed lots of elk.
4 Deer elk, bull elk, cow elk. At the same time, I agree with
5 the idea that guns don't kill people; people kill people.
6 MR. RUGGEROLI: Okay.
7 PROSPECTIVE JUROR NO. 546: You should have the
8 ability to carry a gun if you're sane enough. And the laws
9 haven't gone, I don't think, in the right direction. They're
10 worried about just taking everybody's gun away, and they only
11 should have to take certain people's guns away.
12 MR. RUGGEROLI: I don't mean to cut you off, but I
13 had a follow up --
14 PROSPECTIVE JUROR NO. 546: Okay.
15 MR. RUGGEROLI: -- about a different right though.
16 PROSPECTIVE JUROR NO. 546: Okay.
17 MR. RUGGEROLI: That right, the Fifth Amendment, to
18 not testify. You had made some answers previously that I did
19 want to follow up about that.
20 PROSPECTIVE JUROR NO. 546: Okay. That's another
21 one I was going to bring up, because I know that some people,
22 like me, aren't always good with words. And I can be twisted
23 around by lawyers who are better talkers than me and twist
24 what I said into what I didn't want to say. So I understand
25 he shouldn't have to talk --

1 MR. RUGGEROLI: Okay.

2 PROSPECTIVE JUROR NO. 546: -- because some of us

3 aren't good talkers.

4 MR. RUGGEROLI: Okay. Thank you, sir. That really

5 is what I had for you, and I appreciate it.

6 PROSPECTIVE JUROR NO. 546: Okay.

7 MR. RUGGEROLI: I'm sure you have more. If you're a

8 juror, perhaps you will ask some questions, but I'm going to

9 ask you if you could pass the microphone off. Thank you, sir.

10 Ms. Bell?

11 PROSPECTIVE JUROR NO. 554: 554.

12 MR. RUGGEROLI: Good afternoon. I want to just

13 follow up, because I know you brought up a couple times, and I

14 may have missed it. You did have some concerns about the --

15 is it the 21st?

16 PROSPECTIVE JUROR NO. 554: Yes.

17 MR. RUGGEROLI: And your --

18 PROSPECTIVE JUROR NO. 554: Friday.

19 MR. RUGGEROLI: Okay. If we get down there,

20 Wednesday, Thursday, do you think that that's going to be a

21 distraction that you stop paying attention? I would guess

22 your grand -- is it your granddaughter or grandson?

23 PROSPECTIVE JUROR NO. 554: Yes, my granddaughter.

24 MR. RUGGEROLI: Okay. This is important, I can

25 tell. You agree that this case is very, very important as

1 well?

2 PROSPECTIVE JUROR NO. 554: Right.

3 MR. RUGGEROLI: Is this something that would be a
4 distraction to where you might not be fulfilling your job as a
5 good juror though?

6 PROSPECTIVE JUROR NO. 554: Right, it would.

7 MR. RUGGEROLI: It would?

8 THE COURT: Okay, but you indicated it wasn't until
9 February 21st, correct?

10 PROSPECTIVE JUROR NO. 554: Yeah, next Friday.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR NO. 554: Next Friday.

13 THE COURT: I really believe that we will be done.

14 PROSPECTIVE JUROR NO. 554: And if you're done --

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NO. 554: -- then it would be
17 okay.

18 THE COURT: And I'm going to give you my word that
19 you won't have to miss your granddaughter's event.

20 PROSPECTIVE JUROR NO. 554: Okay.

21 THE COURT: Okay? Does that help you?

22 PROSPECTIVE JUROR NO. 554: Yes.

23 THE COURT: Okay.

24 MR. RUGGEROLI: And I appreciate that, Judge,
25 because I forgot. That's a caveat that I remember now. So

1 unless you had anything else to add, that was the one thing I
2 was going to follow up on.

3 PROSPECTIVE JUROR NO. 554: That's it.

4 MR. RUGGEROLI: Okay, thank you. If we could --
5 I'll take that.

6 PROSPECTIVE JUROR NO. 556: 556.

7 MR. RUGGEROLI: Yes, sir.

8 PROSPECTIVE JUROR NO. 556: Andrew Delgadillo.

9 MR. RUGGEROLI: Yes, sir.

10 PROSPECTIVE JUROR NO. 556: Okay.

11 MR. RUGGEROLI: A lot has been asked and answered,
12 sir. I'm going to just open it to you. Anything, background,
13 about you, your experience, that you think would have an
14 impact on your ability to serve as a juror?

15 PROSPECTIVE JUROR NO. 556: Not at all.

16 MR. RUGGEROLI: Any particular opinion about any of
17 the subjects that we discussed? Second Amendment rights,
18 Fifth Amendment?

19 PROSPECTIVE JUROR NO. 556: No.

20 MR. RUGGEROLI: No, sir?

21 PROSPECTIVE JUROR NO. 556: No, no.

22 MR. RUGGEROLI: Okay. And because, Mr. Randall, I
23 had already asked you a number of questions, I don't have any
24 follow up for you either. So, thank you.

25 Judge, I'll pass for cause.

1 THE COURT: You'll pass this panel for cause? And
2 the State passes the panel for cause?
3 MR. PESCI: Yes, Your Honor.
4 THE COURT: Okay. And Mr. Sanft, just so we're
5 clear, you're passing for cause?
6 MR. SANFT: Yes, Your Honor. Thank you.
7 THE COURT: Okay. The Clerk has prepared what will
8 be marked Court's Exhibit --
9 THE CLERK: Number 1.
10 THE COURT: -- Number 1.
11 MR. PESCI: Judge, while that's being marked, can we
12 approach?
13 THE COURT: Yeah, yeah.
14 (Bench conference)
15 MR. PESCI: So just by way of review, the State will
16 have eight, and defense has to share eight?
17 THE COURT: Right.
18 MR. PESCI: And then, whenever we get to 12 --
19 THE COURT: Right.
20 MR. PESCI: -- the next seats in order, we exercise
21 that one alternate for those remaining?
22 THE COURT: Right. Uh-huh. So as soon as -- I
23 mean, when both sides are done exercising their challenges,
24 I'll count down. That will be our 12. And so you will only
25 have those jurors at the bottom or wherever they fall to

1 exercise that final challenge.

2 MR. SANFT: So --

3 MR. PESCI: Unless --

4 THE COURT: So there should be four.

5 MR. SANFT: Right.

6 THE COURT: There would be four jurors left, and

7 each side will have one.

8 MR. SANFT: So if one of us were to waive a

9 challenge, then that would just push up the four to whoever is

10 next in line, right?

11 THE COURT: It would just --

12 MR. SANFT: Because it wouldn't just be the last

13 one?

14 THE COURT: If you waive, then it would probably be

15 five people.

16 MR. SANFT: Okay.

17 MR. PESCI: But there would be two alternate seats?

18 THE COURT: Two alternates.

19 MR. RUGGEROLI: Just one clarification. Let's say

20 number 2 gets stricken.

21 THE COURT: Um-hum.

22 MR. PESCI: Sh.

23 MR. RUGGEROLI: Who would fall into that second

24 slot?

25 MR. SANFT: The next in line.

1 THE COURT: Yeah, I don't know --
2 MR. RUGGEROLI: Is it 3 goes over?
3 THE COURT: There's -- I don't count 1 through 12 --
4 MR. RUGGEROLI: Oh, okay.
5 THE COURT: -- until both sides have exercised their
6 challenges.
7 MR. RUGGEROLI: Okay.
8 THE COURT: So you'll be able to tell. Just go down
9 the list --
10 MR. RUGGEROLI: And then, they fill in?
11 THE COURT: -- and you'll be able to tell who's on
12 the panel.
13 MR. RUGGEROLI: Okay.
14 MR. SANFT: Right.
15 MR. PESCI: Thank you, Your Honor.
16 (End of bench conference)
17 THE COURT: The defense can exercise their first.
18 (Pause in the proceedings)
19 THE COURT: State may exercise their second.
20 MR. PESCI: Thank you, Your Honor.
21 (Pause in the proceedings)
22 THE COURT: Defense may exercise their second.
23 MR. SANFT: Your Honor, may we approach?
24 THE COURT: You may.
25 (Bench conference)

1 MR. SANFT: Do you want to entertain a Batson
2 challenge now, or do we do that at some other time?

3 THE COURT: Well, if you're going to make a Batson
4 challenge, I'll excuse the jurors and you can make it.

5 MR. SANFT: Okay.

6 THE COURT: Okay.

7 (End of bench conference)

8 THE COURT: Okay. At this time, ladies and
9 gentlemen, we're going to take a recess.

10 During this recess, you're admonished not to talk or
11 converse amongst yourselves or with anyone else on any subject
12 connected with this trial, or read, watch, or listen to any
13 report of or commentary on the trial, or any person connected
14 with this trial, by any medium of information, including,
15 without limitation, newspapers, television, the internet, or
16 radio, or form or express any opinion on any subject connected
17 with this trial until the case is finally submitted to you.

18 We'll be in recess. Officer Hawkes will let you
19 know when we're ready. Thank you.

20 THE MARSHAL: Thank you. All rise for the exiting
21 jury, please. Jurors.

22 (Outside the presence of the prospective jurors)

23 THE COURT: Okay. The record will reflect that the
24 hearing is taking place outside the presence of the panel.
25 Mr. Sanft, go ahead.

1 MR. SANFT: Your Honor, we had asked the Court to
2 consider the possibility at this particular point of a
3 challenge under Batson, specifically as to the State's number
4 2, their second peremptory challenge, which I believe
5 identified and struck Juror number -- Badge number 468, Alexis
6 Newell.

7 Just for the record, Ms. Newell is an African-
8 American female who is on the panel, among the individuals
9 that we would be considering with regards to potentially being
10 on this jury. The State struck this particular person. I
11 don't recall during the time that she was canvassed, either by
12 the State, by the Court, or by defense, as to her being not
13 fit to be on a jury. There was nothing that would indicate to
14 me that she would be an individual that would not be
15 appropriate to be on this jury.

16 The problem, I think, with regards to the Batson in
17 this case is that I don't know if we necessarily have a --
18 what you would call a pattern, but what we do have in this
19 case is one individual black juror on this jury that's being
20 struck for a reason, at this particular point, is -- I don't
21 know. I don't know what the State would offer at this point.
22 I just don't see a glaring reason.

23 She never said she would not be fair and impartial;
24 there is no issues with regards to her school. Outside of the
25 fact that she's black, I don't know why she was being struck

1 at this particular point, and that's the reason why we raised
2 the Batson challenge.

3 THE COURT: Okay, because my concern is, it can't
4 just be, "The State used a challenge to strike a minority
5 group." It has to be more than that.

6 MR. SANFT: Well, but that's what I'm saying. I
7 don't --

8 THE COURT: I have to be able to make an inference
9 that the only reason they struck that juror was for a
10 discriminatory purpose.

11 MR. SANFT: Well, the discriminatory purpose for us
12 would be -- is the fact that she's black, and she's the only
13 black juror on this jury panel. I mean, I don't know what
14 else to say besides that. That's why --

15 THE COURT: Well, that's the problem with exercising
16 it when the State's -- I mean, I don't know what to say, but I
17 can just tell you, you know, the three-part test; the first
18 part, there's no pattern. Doesn't necessarily have to be a
19 pattern.

20 MR. SANFT: Right.

21 THE COURT: However, it can't just be, "Batson, the
22 State challenged an African-American." It has to be more than
23 that. There has to be sufficient facts for me to make an
24 inference that they don't have a good purpose; that they
25 struck that juror for a discriminatory purpose.

1 So I don't know if the State wants to be heard as to
2 the first step.

3 MR. PESCI: Well, I do, in the sense that there is
4 no pattern, right? As defense counsel pointed out, this is,
5 as far as in the 32, the only ostensibly African-American
6 person that we have in this group, right? So there hasn't
7 been a pattern, right? And their argument is that there's
8 some sort of a pretext, right? Because I'm going to go to the
9 next step, Judge, and I know I shouldn't --

10 THE COURT: Okay, but if you go to the next step --

11 MR. PESCI: Right, but --

12 THE COURT: -- you waive the first step.

13 MR. PESCI: But the problem is -- I don't disagree
14 with you.

15 THE COURT: Okay.

16 MR. PESCI: I agree with you 100 percent, Judge.
17 But I've been in front of the Supreme Court when I've stood on
18 the, "they didn't even make the pattern, they didn't even show
19 this," and they don't -- well, I won't say it. They want to
20 go to the next step. They just want to go to the next step.

21 So I'm not conceding the first step, but I'm going
22 to put on the record the fact that this is the only human
23 being in this room who's a potential juror who says -- Mr.
24 Sanft talked about school. She wants to go be a criminal
25 defense attorney. I'm never picking a criminal defense

1 attorney, no matter what color, no matter what ethnicity, no
2 matter what sex, no matter what gender, on my jury. Never,
3 ever having someone who aspires to be a criminal defense
4 attorney.

5 And I dare say, if my son who wanted to go to law
6 school -- which he doesn't -- and wanted to be a DA -- which
7 he doesn't -- was seated in this panel, there's no way on
8 God's green earth a defense attorney would sit him when he
9 says he wants to go to law school; not just go to law school,
10 but be a District Attorney. That's my race-neutral. There is
11 no pretext in any way, shape, or form.

12 THE COURT: Okay. I don't know if you want to
13 respond. I know, although the State did state their
14 race-neutral reason, I don't believe that the defense has met
15 the first prong --

16 MR. SANFT: I think the issue though --

17 THE COURT: -- that there's an inference that they
18 utilized that challenge for a discriminatory purpose.

19 MR. SANFT: Well, I mean, just to be fair to the
20 State, there's been multiple times in my career picking juries
21 where there's an individual that's up there who's a police
22 officer, or an FBI agent I had once. I mean, it's -- just
23 because an individual says, "I want to become a criminal
24 defense attorney" doesn't necessarily make it to the point
25 where you can say that she would not be fair and impartial to

1 the State. My question would have been --

2 THE COURT: But that's not the standard.

3 MR. SANFT: Well, but here's the issue though. I
4 mean, I think if the State wanted to delve more into that
5 situation and flesh it out, and say, "Why do you want to
6 become a criminal defense attorney?" "Well, because I believe
7 that, you know, people get unfairly treated, people in my
8 community get fairly" -- whatever it is, then I think at this
9 point I would have more of a reason to not say anything and
10 sit back down.

11 But the problem I'm having is, just because she
12 articulates that she's a criminal justice major and she wants
13 to become a criminal defense attorney in and of itself is not
14 necessarily saying she cannot be a fair and impartial juror.
15 Now, once again, my problem is --

16 THE COURT: But they don't have to -- they just have
17 to state a race-neutral basis. I mean, we're done with
18 challenges for cause. We're on peremptory challenges.

19 MR. SANFT: Well, yes, I understand that, Your
20 Honor. I just think that -- going back again to the pattern,
21 the reason why the pattern and -- you know, let's get back to
22 that issue for a second.

23 We had a long hearing this morning on the issue of
24 whether or not we had a -- you know, a representative, you
25 know, representation of the community up on this jury with

1 regards to potential black jurors. Now we have the only
2 person that was a black juror on this jury, and that person's
3 being struck because of the fact that the State says, well,
4 she wants to become a criminal defense attorney, but there was
5 no effort to regards to fleshing out that issue.

6 If they really believed that that would have been an
7 issue that made her not impartial, not fair to both sides in
8 this case, I think that should have been fleshed out, but we
9 didn't do that. And as a result, what happens now is that we
10 presume that she would be, you know, not fair to the State of
11 Nevada.

12 That's the reason why we had objected. That's the
13 reason why we had made this challenge. And we understand the
14 Court's position with regards to the fact that, you know,
15 yeah, I mean, the State can articulate that as a reason and
16 strike that person.

17 I just look at it and I think in my mind, like, I
18 don't know if that's enough. I don't know if that's enough to
19 say, hey, you know what, we're going to just excuse the image
20 of this whole thing by striking the only black juror off of
21 this jury, when you have two individuals here who are black,
22 and this is the whole reason why we even did this hearing in
23 the beginning of today's proceedings with regards to
24 representation. I just -- I just find that unfair. And as a
25 result of that, that's the reason why I had raised a Batson

1 challenge, so.

2 THE COURT: Okay. Anything else?

3 MR. PESCI: Judge, it doesn't matter if she were a
4 Caucasian female who said she wanted to go to law school to be
5 a criminal defense attorney, I'm never keeping her. And I
6 don't need to ask her the reasons why she wants to be the
7 person who would be in opposition to me in a courtroom.
8 That's it. She wants to take the job that's in opposition to
9 me in the courtroom. I'm not comfortable with someone, no
10 matter what race they're from, in that position, and that's
11 why she's been kicked by the State.

12 THE COURT: Okay. I'm --

13 MR. BROOKS: Judge, can I add just one thing that
14 wouldn't have been on the record?

15 THE COURT: Of course.

16 MR. BROOKS: Do you remember yesterday when we
17 ended? We ended session, and at this point, we didn't know
18 yet that she wanted to be a defense attorney. And remember, I
19 ran up to you as you were getting off the bench and said, can
20 we go get Ms. Newell so you can write her a letter to excuse
21 her from her test?

22 So those are two different -- I mean, I was the one
23 who was trying to get her so she could come back today. Do
24 you remember that? At around --

25 THE COURT: Yeah, I do.

1 MR. BROOKS: So, I mean, it's a little -- it's
2 completely different when yesterday I'm trying to make sure
3 she's allowed to come back, and then today we learned
4 something that's a completely different new fact.

5 MR. RUGGEROLI: Thank you, Judge.

6 THE COURT: I should have given you an --

7 MR. RUGGEROLI: Oh, no.

8 THE COURT: -- opportunity to join in.

9 MR. RUGGEROLI: Mr. Sanft expressed all of my
10 arguments. I just wanted to note that we did join in that
11 motion.

12 THE COURT: Okay. At this time, I'm going to deny
13 the challenge and make a determination that there wasn't a
14 showing made as to the first step of the analysis.

15 You know what? Do you mind doing your challenges
16 with them out there?

17 MR. SANFT: No.

18 THE COURT: Okay.

19 MR. SANFT: We could do that.

20 MR. RUGGEROLI: We don't object.

21 THE COURT: Sometimes lawyers want to look at the
22 people, but, I mean --

23 MR. SANFT: No.

24 THE COURT: -- I guess you've been looking at them
25 for two days. Oh, wait, I don't know if I -- let's see.

1 THE MARSHAL: Well, defense hadn't gone yet.
2 THE COURT: Okay, defense hasn't done their second?
3 THE MARSHAL: No, ma'am.
4 (Pause in the proceedings)
5 THE COURT: You know what, if it would be easier so
6 you can see the jurors -- is that a problem?
7 MR. RUGGEROLI: It's not.
8 THE COURT: Okay.
9 (Pause in the proceedings)
10 THE COURT: State may exercise their third.
11 MR. PESCI: Thank you, Your Honor.
12 (Pause in the proceedings)
13 THE COURT: State may exercise their fourth.
14 MR. PESCI: Thank you, Your Honor.
15 (Pause in the proceedings)
16 THE COURT: Defense may exercise their fourth.
17 (Pause in the proceedings)
18 THE COURT: Okay, the State may exercise their
19 fifth.
20 MR. PESCI: Thank you, Your Honor.
21 (Pause in the proceedings)
22 THE COURT: The State may exercise their sixth
23 peremptory challenge.
24 MR. PESCI: Thank you.
25 (Pause in the proceedings)

1 THE COURT: Defense may exercise their fifth -- I'm
2 sorry, sixth.

3 (Pause in the proceedings)

4 THE COURT: Thank you. Okay. Okay, the State may
5 exercise their seventh.

6 MR. PESCI: Thank you, Your Honor.

7 (Pause in the proceedings)

8 THE COURT: Defense may exercise their seventh.

9 (Pause in the proceedings)

10 THE COURT: The State may exercise their eighth
11 peremptory challenge.

12 MR. PESCI: Thank you, Your Honor.

13 (Pause in the proceedings)

14 THE COURT: All right. At this time, the State and
15 the defense can exercise your final peremptory challenge as to
16 29 through 32 only.

17 (Pause in the proceedings)

18 THE COURT: Thank you. Just a minute, let me just
19 go through the jury list with the attorneys.

20 THE MARSHAL: Yes, ma'am.

21 THE COURT: Okay. Juror number 1 will be Vito
22 Casucci. Number 2, Sharon Morrison. Number 3, Flores-Virgen.
23 Number 4, Suzanne Quinn. 5, Camille Estrella. 6, Rodriguez.
24 7, Salazar. 8, Cook. Deperio, 9. Castro, 10. Segura, 11.
25 Moreno, 12. And our number 13, our first alternate, Roberta

1 Bell. And number 14, our second alternate, Colin Randall.
2 Any objection by the State?
3 MR. PESCI: No, Your Honor.
4 THE COURT: Mr. Sanft, any objection?
5 MR. SANFT: No, Your Honor. Thank you.
6 THE COURT: Mr. Ruggeroli, any objection?
7 MR. RUGGEROLI: No, Judge.
8 THE COURT: Okay. If you want to bring them in,
9 Haly can start calling them, so they can just sit out in the
10 gallery.
11 THE MARSHAL: All rise for the entering jury,
12 please.
13 (Within the presence of the prospective jurors)
14 THE MARSHAL: And we'll just fill in both sides like
15 I told you, and listen for your name to be called.
16 THE COURT: Vito Casucci, you're Juror number --
17 you're Juror number 1.
18 THE CLERK: Juror number 2, Sharon Morrison.
19 THE COURT: Sharon Morrison? I don't think she's
20 here yet. Sharon Morrison? Sharon Morrison?
21 MR. SANFT: She's coming in, Your Honor.
22 THE COURT: Okay.
23 THE MARSHAL: Fill in both sides, folks.
24 THE COURT: Sharon Morrison, you are Juror number 2.
25 THE CLERK: Juror number 3 is Aria Flores-Virgen.

1 Juror number 4, Suzanne Quinn. Juror number 5, Camille
2 Estrella. Juror 6, Danilo Rodriguez. Juror 7, Jonathan
3 Salazar. Juror number 8, Lisa Cook.

4 THE COURT: Ms. Cook?

5 THE CLERK: Juror number 9, Markdelan Deperio.
6 Juror number 10, Caesar Castro. Juror number 11, Angela
7 Segura. Juror number 12, Maria Moreno. Juror number 13,
8 Roberta Bell. Juror number 14, Colin Randall.

9 THE COURT: Okay. At this time ladies and
10 gentlemen, we do have our impaneled jury. I want to thank you
11 very much for your willingness to be here, especially over
12 these last two days. Thank you very much, and you are
13 discharged as jurors.

14 THE MARSHAL: Thank you. On your way out the door,
15 folks, there's a cardboard box right there. You can deposit
16 those clear plastic badges in that box. Thank you.

17 THE COURT: Okay. Does the State stipulate to the
18 presence of the jury panel as now impaneled?

19 MR. PESCI: Yes, Your Honor.

20 THE COURT: Mr. Sanft?

21 MR. SANFT: Yes, Your Honor. Thank you.

22 THE COURT: Okay. Mr. Ruggeroli?

23 MR. RUGGEROLI: Yes, Your Honor.

24 THE COURT: Okay. Thank you very much, ladies and
25 gentlemen, for your willingness to be here and your

1 willingness to serve. I know it has been a long day, so I'm
2 just going to give you a few instructions, and then we will
3 come back tomorrow morning at 10:30.

4 Now that you are jurors -- Officer, did you give
5 them their badges yet?

6 THE MARSHAL: Yes, ma'am.

7 THE COURT: Okay. Officer Hawkes is giving you blue
8 -- oh, I didn't see the blue badges. You can take those white
9 badges off and just put the blue badges on. I just ask that
10 you wear those badges at all times when you are in the
11 courthouse so that everyone knows that you are jurors and they
12 know not to speak to you about this case. That just
13 identifies you as a juror, and I think it's helpful when you
14 go out. You can take it off when you're walking in and out,
15 but as long as you're in the courthouse, please make sure you
16 have those badges on.

17 When you come back tomorrow, you can come straight
18 up to the 14th floor. 10:30 is our start time. If you'll
19 wait outside, Officer Hawkes will greet you, and he'll bring
20 you in when we're ready.

21 I want to remind you that you're not permitted to
22 discuss the case with anyone, even your fellow jurors, until
23 you are excused to go deliberate upon your verdict. So when
24 you go home tonight, you can tell your family member, your
25 friends, your coworkers that you are a juror in a criminal

1 case, but you cannot tell them anything else about this case.

2 So at this time, during this recess, you're
3 admonished not to talk or converse amongst yourselves or with
4 anyone else on any subject connected with this trial, or read,
5 watch, or listen to any report of or commentary on the trial,
6 or any person connected with this trial, by any medium of
7 information, including, without limitation, newspapers,
8 television, the internet, or radio, or form or express any
9 opinion on any subject connected with this trial until the
10 case is submitted to you.

11 You're further admonished you may not communicate
12 with anyone, including your fellow jurors, on your cell phone,
13 through e-mail, Blackberry, iPhone, text messaging, through
14 Twitter, or any blog or website, through any internet chat
15 room, or by way of any other social networking website,
16 including Facebook, Myspace, Linked In, and YouTube.

17 Again, thank you very much for your willingness to
18 serve, and we will see you tomorrow morning at 10:30.

19 THE MARSHAL: Thank you. All rise for the exiting
20 jury, please. Jurors.

21 (Outside the presence of the jurors)

22 THE COURT: Anything outside the presence?

23 MR. PESCI: Yes, Judge.

24 THE COURT: Okay.

25 MR. PESCI: Tomorrow, with the openings -- sorry,

1 the door wasn't all the way closed. Tomorrow, with the
2 openings, the State's going to be introducing some evidence.
3 We have marked all of the evidence. It's been provided -- or
4 the defense has been able to see it.

5 There's one piece of evidence in particular that
6 hasn't been marked yet, but we're going to bring it in
7 tomorrow to have it marked. But we showed it to the defense,
8 and we wanted to make a record before we started.

9 THE COURT: Okay.

10 MR. PESCI: And I'm trying to log on, and for
11 whatever reason, I can't. But there is -- in one of the
12 phones, a forensic analysis of the phone produces a Facebook
13 posting via Messenger on Facebook, and it's coming from
14 Raekwon Robertson's account, going to DeMario -- I'm sorry,
15 DeShawn Robinson's account.

16 And there is a commentary in there about hitting a
17 house, and we want to show it to you, which is why I'm trying
18 to get on here. I apologize. We intend to use that in our
19 case-in-chief, and we wanted to bring that to the attention of
20 defense now, before we're in the midst of doing the opening.

21 THE COURT: And it's from Mr. Robertson to?

22 MR. PESCI: Raekwon Robertson's Facebook account,
23 going to DeShawn Robinson, who will be the testifying
24 co-defendant.

25 THE COURT: And it says?

1 MR. PESCI: Yeah.

2 THE COURT: Did you give us the -- okay, it looks
3 like you're looking for it.

4 MR. PESCI: Well, I'm just trying to connect so
5 you'll be able to see it, Your Honor.

6 THE COURT: Okay.

7 MR. PESCI: So I apologize that I haven't gotten
8 that done. I was on the wrong -- okay, I think I'm attached
9 now. So you can see here, Your Honor --

10 THE COURT: Okay.

11 MR. PESCI: -- Ray Logan, which is a screen name
12 associated with Raekwon Robertson.

13 THE COURT: Okay.

14 MR. PESCI: It's --

15 THE COURT: Okay.

16 MR. PESCI: -- Tuesday at 11:40 A.M. Our event
17 happens Wednesday at 12:10 A.M., so it's just within a 12-hour
18 time period. It's saying, "Ask DJ" -- DJ, as an offer of
19 proof, is the nickname for DeMario Lofton-Robinson, who is
20 currently in competency court -- "if he trying hit a house
21 tonight. Me, you," this is DeShawn. Sace -- there will be,
22 as an offer of proof, information from the detectives that
23 Sace is a nickname or a street name for the co-defendant, Mr.
24 Wheeler -- "and him." So, "Me, you, Sace, and him. Sace
25 already said yeah."

1 So our intent is to introduce this information
2 because it's talking about "trying to hit a house tonight."
3 The co-defendant's going to testify that "hit a house" means
4 that they were going to go into the house and steal. And so
5 that's, from our perspective, information first and foremost
6 that would be kind of a res gestae, because it's what they're
7 doing, what they're out there doing, and that the victim was
8 caught, in essence, in the middle of the efforts to hit his
9 house.

10 And it would go to intent as far as why they were
11 there. So, separate and distinct from res gestae, we think
12 it's evidence also of their intent. And so we don't feel that
13 this falls under other bad acts, and even if somehow it was
14 perceived that way, we believe that it would be an exception
15 for what their intent and motive was when they were there,
16 when they ran into the victim.

17 MR. SANFT: Your Honor, we have received that item
18 through the discovery. In speaking with my client though, at
19 this particular point, we're going to object to it being
20 admitted.

21 Two things. First of all, I think that the basis as
22 to how it's going to come in would be potentially through the
23 testimony of the cooperating witness in this case. I'm not
24 quite clear if they would be able to get it in through a
25 detective. I think at this particular point, if we were to

1 allow this to come in at opening, and then, all the sudden,
2 during the course of trial, it doesn't come in, it doesn't get
3 admitted into evidence for some reason, I think we would have
4 a problem at that particular point of it being published to
5 the jury in opening.

6 And as a result, just out of an abundance of
7 caution, until such time as they've laid a proper foundation
8 and with regards to the admissibility of this particular
9 document through, once again, the proper witness or the
10 detective, we would object to it being admitted at this point.
11 I think they can talk about it, but I think showing the actual
12 picture of it up on the screen I think would be highly
13 prejudicial.

14 THE COURT: Okay. Does the State have a good faith
15 belief that you will be able to get this piece of evidence in
16 through your witnesses?

17 MR. PESCI: Yes. And the basis would be this,
18 Judge. There was a search warrant --

19 THE COURT: Okay.

20 MR. PESCI: -- executed on all these phones.
21 Pursuant to a legally authorized search warrant, the -- at
22 that time, the CFL detectives downloaded the information from
23 this phone, and the phone came back to information, the
24 detectives could testify, separate and distinct from DeShawn,
25 of being associated with these particular defendants, and this

1 defendant in particular. You'll hear about contacts in the
2 different phones associated with this. This particular
3 version, you can't see very well, but there's a photo -- where
4 is the other photo?

5 MR. BROOKS: It's --

6 MR. PESCI: The photo of the facial picture
7 associated with the person who's texting you'll see is
8 actually a picture of the defendant, Raekwon Robertson.

9 Additionally, Judge, we have a burden to provide
10 independent corroboration of what it is that the co-defendant
11 testifies to. So it's one thing for us to bring DeShawn in
12 and say, this is what the plan was. It's a whole other thing
13 when we bring in physical evidence to corroborate that
14 witness. And that's why we're bringing it in, so that the
15 witness himself, as well as the detectives, as well as the
16 detective who did the forensic analysis of the phones.

17 THE COURT: Okay. Mr. Ruggeroli?

18 MR. RUGGEROLI: Thank you, Judge. And I just needed
19 to clarify. I'm familiar with this; we were provided it. My
20 understanding is that the particular message is from Raekwon
21 Robertson; is that correct?

22 MR. PESCI: Yes.

23 MR. RUGGEROLI: And it's to DJ?

24 THE COURT: Mr. Wheeler.

25 MR. PESCI: No, it's to DeShawn Robinson --

1 MR. RUGGEROLI: Okay.

2 MR. PESCI: -- referencing DJ, the other
3 co-defendant. So it's -- sorry, go ahead.

4 MR. RUGGEROLI: Okay, thank you. And these are
5 important, and I wanted to clarify that, because you'll recall
6 that I filed a Motion to Sever co-defendants. One of the
7 reasons for that was this particular statement.

8 And so my first objection is that it's hearsay, and
9 it's hearsay within hearsay. The damage to Mr. Wheeler is
10 that Ray is making a statement that's attributing something to
11 Mr. Wheeler, who's claimed to be Sace, that I have no ability
12 to cross-examine because it's coming from Mr. Robertson. I
13 don't expect him to testify. And so, one, I believe it is
14 hearsay. I also object on the Confrontation Clause grounds.

15 I would also point out that, at this point of the
16 conversation, I think there's an argument that DJ is not
17 actually a co-conspirator at that point.

18 Additionally, I don't think that this establishes
19 that Mr. Wheeler is part of a conspiracy at the point that
20 that statement is sent. So these statements were not made in
21 the course of an alleged conspiracy, they predate the
22 formation of that, and they are also not made in furtherance
23 of the conspiracy.

24 And so I took a look at this. I believe that one of
25 the cases on point -- and I don't know if we need to cite

1 this, but I will, because I had a couple. But it's -- Court's
2 indulgence.

3 MR. PESCI: While he's looking for that, Judge --

4 MR. RUGGEROLI: Thank you.

5 MR. PESCI: -- I'm going to point out to you State's
6 149, proposed exhibit, which is in fact a blow up of that very
7 circle that you see in the Facebook page where you can clearly
8 see the defendant, Raekwon Robertson. While he's looking for
9 that -- and James, I'm sorry if I'm interrupting you.

10 MR. RUGGEROLI: Yeah, go -- please.

11 MR. PESCI: Okay. So there is not a Confrontation
12 Clause for a statement among co-conspirators. This is in
13 course and furtherance of the conspiracy. It's the very act
14 of the roll call for the conspiracy. Who's in, what's the
15 plan. It tells the parties, it tells the plan. We tell
16 jurors all the time that it's not necessary for a written
17 agreement. We've got one in print. That's the evidence.

18 There is an ability to cross-examine the actual
19 witness who's going to be here. DeShawn is going to be here
20 to be cross-examined, and you don't have a right to
21 cross-examine a statement that's made in the course and
22 furtherance of the conspiracy.

23 Bruton is when you're talking about a defendant in
24 custody talking to a cop and says X, and it's introduced
25 against the co-defendant. That's not what we have here. This

1 is before they've been arrested. This is the conspiracy
2 hatching, formulating, progressing, and explaining what the
3 conspiracy is.

4 THE COURT: Are you done?

5 MR. PESCI: Yeah, sorry.

6 THE COURT: Okay.

7 MR. PESCI: Sorry.

8 MR. RUGGEROLI: Thank you, Judge.

9 Judge, that's why I distinguished the timing of
10 this, because one of our arguments is that this would be a
11 precursor to the conspiracy. I know the State disagrees.
12 They're saying that that statement binds everybody in the
13 conspiracy, and I would say it does not. At best, it's a
14 statement from one individual that's seeking a conspiracy,
15 that's making representations to DeShawn, that binds a person
16 that there's no other evidence of, and it's -- it doesn't
17 establish the conspiracy at that moment.

18 I can't cross-examine because he's making a
19 statement that says "Sace is in." Well, that presumes that
20 that's true. But it's -- this would predate the actual
21 formation of the conspiracy. And so I would object that it
22 does not -- that statement does not establish the conspiracy.
23 It predates it; it hasn't formed yet. I don't think that
24 anything is stated immediately thereafter where it's -- is
25 there a statement from DeShawn in response to that?

1 MR. PESCI: There is. It's in blue.
2 THE COURT: It's still up on the screen.
3 MR. PESCI: Oh, I -- our screen is not on, Judge.
4 THE COURT: Oh.
5 MR. PESCI: It's in blue.
6 THE MARSHAL: Oh, I'm sorry. Let me turn it on for
7 you real quick.
8 THE COURT: Sorry about that.
9 THE MARSHAL: I thought we were done and I shut them
10 off.
11 MR. RUGGEROLI: Okay. You could see that there's a
12 time lapse, and that the statement at issue -- that's not the
13 statement.
14 MR. PESCI: Well, you asked if there was a response.
15 That's the response --
16 MR. RUGGEROLI: Okay.
17 MR. PESCI: -- in blue.
18 MR. RUGGEROLI: So if -- yeah, all right.
19 THE COURT: 11:40, and then 11:53 on Tuesday.
20 MR. RUGGEROLI: I would say that, like I said,
21 Judge, at that particular moment, the conspiracy has not been
22 established. It's an invitation to join a conspiracy, and
23 there's a difference. I would say that the conspiracy that
24 happens later, it binds Mr. Robertson and DeShawn. And if
25 there was a conspiracy that somehow linked Mr. Wheeler, it

1 would only come after that statement.

2 So this, "Me, you, Sace, and him. Sace already said
3 yeah," I can't cross-examine that. It presumes it to be true.
4 It creates a situation where there's no way to challenge it,
5 so we're denied the Confrontation Clause of the ability to
6 challenge that. We won't even be able to do it.

7 And I would suggest and argue that that statement is
8 not made in the course of a conspiracy because it predates the
9 formation. It's an invitation to join the conspiracy. If --
10 and when I say, "join a conspiracy," I mean a conspiracy
11 between Ray, Mr. Robertson, and DeShawn; not a conspiracy that
12 has been formed and established by Mr. Wheeler and Mr.
13 Robertson, and it's not made in the course of that conspiracy.
14 And so my two grounds are hearsay and Confrontation Clause.

15 MR. PESCI: Part of the basis was that this hadn't
16 been formed. We've charged conspiracy to commit robbery.
17 It's one of the charges. And the instruction you're going to
18 give is, "Anyone who conspires to commit robbery is guilty of
19 conspiracy to commit robbery." This is the very act of
20 conspiring to commit robbery. It is the evidence of the crime
21 itself.

22 THE COURT: Okay. I'm going to allow the State to
23 publish it during opening statements.

24 MR. PESCI: Thank you, Your Honor.

25 THE COURT: Can I give this back to the Clerk, 149?

1 MR. BROOKS: I'll put it in order.

2 THE COURT: Okay, thank you. Did you give the
3 defense your witness lineup?

4 MR. PESCI: No, because we --

5 THE COURT: Just so they can be ready.

6 MR. PESCI: We did for the ones that we had today.

7 THE COURT: Okay.

8 MR. PESCI: But honestly, I don't know what we're
9 going to get to --

10 THE COURT: Oh.

11 MR. PESCI: -- because we had to change everything.
12 So our intent was --

13 THE COURT: Okay.

14 MR. PESCI: In a perfect world, we would start
15 tomorrow with what we did -- were planning on today, which
16 would be Robert Mason, the jogger; Lucy Mendoza, his wife who
17 calls 911. I hope to get Mr. Relato, the cousin. He's got
18 some scheduling issues. Then, the first responding officer,
19 Calleja.

20 And then, from there, we also had a CSA or we did
21 have a CSA Speas who documents that scene, who's also involved
22 in another scene. Beyond that, I got to see what we still
23 have --

24 THE COURT: Okay.

25 MR. PESCI: -- because we had to change everything

1 and push everything back. And on that note, Judge, I think
2 you've seen we have an appointment for the blue jeans on
3 Friday in the afternoon. Did that come across to either of
4 you?

5 THE COURT: No.

6 MR. PESCI: Okay, all right.

7 THE COURT: Oh. Sara? Okay.

8 MR. PESCI: Did anybody see it?

9 THE COURT RECORDER: I saw it.

10 MR. PESCI: Okay. So the witness is in West
11 Virginia. It's a three-hour time frame. This is Noreen
12 Charlton.

13 THE COURT: Oh.

14 MR. PESCI: It was the subject of the motion for the
15 videotape. She told me -- she was asking if we can do it
16 after 3:00 P.M. our time because then she'll be out of
17 whatever she's doing back there.

18 THE COURT: Okay, so we're doing a witness's
19 testimony by video?

20 MR. PESCI: Video. Yes, we had a motion.

21 THE COURT: Okay.

22 MR. PESCI: It was unopposed by the defense.

23 THE COURT: Okay.

24 MR. PESCI: Because she's moved on; she's not
25 working here anymore. She was a crime scene analyst, one of

1 the many, and she's back in --
2 THE COURT: That's right.
3 MR. PESCI: -- West Virginia and New Jersey,
4 working.
5 THE COURT: And she wants to do it after 3:00
6 o'clock our time?
7 MR. PESCI: She said that would be easier, because
8 her work responsibilities there will be over because it will
9 be 6:00 o'clock her time.
10 THE COURT: I don't have a problem with that.
11 MR. SANFT: No problem, Your Honor.
12 MR. RUGGEROLI: No, Your Honor.
13 THE COURT: Okay.
14 MR. PESCI: So we'll just be juggling based on that,
15 in part.
16 THE COURT: Okay, that's fine.
17 MR. PESCI: Okay, thank you.
18 THE COURT: Anything else?
19 MR. PESCI: Not from the State.
20 THE COURT: Okay, have a good evening.
21 MR. SANFT: Thank you.
22 THE COURT: See you in the morning.
23 THE MARSHAL: Thank you, everyone.
24 * * * * *
25 (Court recessed at 5:00 P.M., until Thursday,
26 February 13, 2020, at 10:31 A.M.)

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INDEX OF WITNESSES

EVIDENTIARY HEARING RE: BATSON

(Outside the presence of the jury panel)

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

Julie Lord

JULIE LORD, COURT TRANSCRIBER
VERBATIM DIGITAL REPORTING, LLC

JURY LIST

CASE NO C328587-2&3

TRIAL DATE 02/11/20

EPT. NO. XII

JUDGE MICHELLE LEAVITT

CLERK HALY PANNULLO

RECORDER KRISTINE SANTI

GIANCARLO PESCI & PARKER BROOKS

COUNSEL FOR PLAINTIFF

JAMES RUGGEROLI FOR DEFT WHEELER

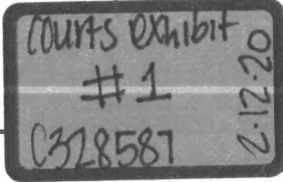
MICHAEL SANFT FOR DEFT ROBERTSON

COUNSEL FOR DEFENDANT

STATE OF NEVADA

RAEKWON ROBERTSON & DAVONTAE WHEELER

DEFENDANT



Badge No.	Name of Jurors	Plaintiff	EXCUSED		Court
			Defendant		
0019	1. BARBARA BRUER	7			
0409	2. VITO CASUCCI				
0562	3. SHARON MORRISON				
0417	4. MARY NEWCOME		5		
0420	5. WILLIAM BRYAN	3			
0429	6. CHRISTOPHER DEVARGAS		3		
0430	7. CELESTE HERNANDEZ	6			
0563	8. ARIA FLORES-VIRGEN				
0451	9. SHANNON GRAHAM	5			
0461	10. SUZANNE QUINN				
0462	11. CAMILLE ESTRELLA				
0464	12. JEFFORY OBRIEN		1		
0468	13. ALEXIS NEWELL	2			
0475	14. DANILO RODRIGUEZ				
0477	15. CAVAN BANDICS	4			
0482	16. JONATHAN SALAZAR				
0483	17. LISA COOK				
0485	18. SHANNON YOUNG	1			
0488	19. MARKDELAN DEPERIO				
0490	20. CAESAR CASTRO				
0496	21. ANGELA SEGURA				
0513	22. MICHAEL LAURIE		2		
0520	23. MARIA MORENO				
0521	24. MAGDALENA PEREZ-HAYWOOD		7		
0524	25. JENNIFER MENDOZA	8			

1724

2-12-20

JURY LIST

CASE NO C328587-2&3

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JUDGE MICHELLE LEAVITT

CLERK HALY PANNULLO

STATE OF NEVADA

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RAEKWON ROBERTSON & DAVONTAE WHEELER

COUNSEL FOR PLAINTIFF

DEFENDANT

JAMES RUGGEROLI FOR DEFT WHEELER

MICHAEL SANFT FOR DEFT ROBERTSON

COUNSEL FOR DEFENDANT

[illegible]

**DISTRICT COURT
CLARK COUNTY, NEVADA****Felony/Gross Misdemeanor****COURT MINUTES****February 13, 2020**

C-17-328587-3 State of Nevada
 vs
 Davontae Wheeler

February 13, 2020 10:30 AM Jury Trial

HEARD BY: Leavitt, Michelle **COURTROOM:** RJC Courtroom 14D

COURT CLERK: Pannullo, Haly

RECORDER: Richardson, Sara

REPORTER:

PARTIES PRESENT:

Davontae Amarri Wheeler	Defendant
Giancarlo Pesci	Attorney for Plaintiff
James J. Ruggeroli	Attorney for Defendant
Parker Brooks	Attorney for Plaintiff
State of Nevada	Plaintiff

JOURNAL ENTRIES

Michael Sanft, Esq., present on behalf of Co-Defendant.

JURY PRESENT:

Jury Sworn.

Clerk read the Amended Superseding Indictment to the jury and stated the defendant s plea thereto.

Opening statements by counsel.

Testimony and exhibits presented. (See worksheets)

COURT ORDERED, Trial CONTINUED.



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,)	CASE NO. C-17-328587-2
)	CASE NO. C-17-328587-3
Plaintiff,)	
)	DEPT. NO. XII
v.)	
)	
RAEKWON SETREY ROBERTSON,)	
a/k/a RAEKWON ROBERTSON,)	
and DAVONTAE AMARRI WHEELER,)	
)	
Defendants.)	

BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

THURSDAY, FEBRUARY 13, 2020

RECORDER'S TRANSCRIPT OF PROCEEDINGS:
JURY TRIAL - DAY 3

APPEARANCES:

FOR THE STATE:	GIANCARLO PESCI, ESQ. Chief Deputy District Attorney
	PARKER P. BROOKS, ESQ. Deputy District Attorney
FOR DEFENDANT ROBERTSON:	MICHAEL W. SANFT, ESQ.
FOR DEFENDANT WHEELER:	JAMES J. RUGGEROLI, ESQ.

RECORDED BY: SARA RICHARDSON, COURT RECORDER
TRANSCRIBED BY: VERBATIM DIGITAL REPORTING, LLC

1 LAS VEGAS, NEVADA, THURSDAY, FEBRUARY 13, 2020

2 (Case called at 10:31 A.M.)

3 (Outside the presence of the jurors)

4 THE COURT: Good morning.

5 MR. RUGGEROLI: Good morning.

6 MR. SANFT: Good morning, Your Honor.

7 THE COURT: This hearing is taking place outside the
8 presence of the jury panel. Mr. Wheeler and Mr. Robertson are
9 both present.

10 So, Mr. Ruggeroli, it's my understanding you have
11 something outside the presence?

12 MR. RUGGEROLI: Yes, Your Honor.

13 THE COURT: Does it have to be now?

14 MR. RUGGEROLI: Because of the State's opening.

15 THE COURT: Okay.

16 MR. RUGGEROLI: It's a carryover from the argument
17 from yesterday --

18 THE COURT: Sure.

19 MR. RUGGEROLI: -- if I may.

20 THE COURT: Uh-huh.

21 MR. RUGGEROLI: Judge, you'll recall that the State
22 has asked to be able to publish a copy of an email from Mr.
23 Robertson to DeShawn Robinson-Lofton, who's the juvenile
24 former co-defendant who will testify in this case. There was
25 -- and this was the subject of a big portion of my Motion to

1 Sever the defendants.

2 And so I did want to clarify something as to how
3 this may put the evidence regarding my client, who the State
4 claims is Sace. If you recall, the specifics of the portion
5 of the text at issue that is most important to the defense for
6 Mr. Wheeler is that it indicates that Mr. Robertson texted
7 DeShawn and said to the effect, "Are you in? Sace is in."

8 And so what we've got is the co-defendant in this
9 case specifically identifying Mr. Wheeler, who other evidence
10 I believe the State will use to establish that Sace is Mr.
11 Wheeler. And so he's making a direct identification I wanted
12 to bring to the Court's attention, and also ask to clarify.

13 When we had the State present their Opposition to
14 our Motion to Sever, they specifically addressed the Bruton
15 issue and said -- and I'm quoting from page 21 of their
16 Opposition: "If the State were to introduce the statement in
17 question," and that's the one we're specifically talking
18 about, "defendant is not implicated without further evidence
19 of who Sace is. The State is aware of the evidentiary
20 implications of Bruton and it's progeny. The State is aware
21 of the need to redact any statement admitted so that
22 assertions which facially incriminate co-defendants are
23 removed, and will do so at trial if necessary, thus
24 eliminating the need for a severance."

25 So what we have right now is, if they are going to

1 use it, then I think we need a ruling to prohibit them from
2 using other evidence to establish that Mr. Wheeler is Sace,
3 because they recognize that if Mr. Robertson is establishing
4 this, then we do have a Bruton issue.

5 MR. PESCI: I don't understand that, because if Mr.
6 Robinson is under --

7 THE COURT: I'm not sure I'm following the argument.

8 MR. PESCI: -- under oath and being cross-examined,
9 that's the very person. You actually have a live witness
10 who's going to say who Versace is. That's just one. There's
11 other ways of establishing that.

12 And so State's response is, in the context of a
13 Bruton allegation, which is when you have a defendant's
14 statement given to the police --

15 THE COURT: Right.

16 MR. PESCI: -- we were responding to that
17 allegation. I can tell you now, we're not introducing either
18 defendants' statement in our case-in-chief, so counsel
19 shouldn't rely on that in their opening statements if they
20 have the anticipation of that coming in from the State,
21 because we're not going to.

22 So there's no Bruton concerns there, right? We had
23 the hearing to preserve the right to use it if we change our
24 mind, but that's not our intent in our case-in-chief, so no
25 one can rely on that, and that's the Bruton situation. What

1 we have here is not Co-Defendant A telling to the police what
2 Co-Defendant B said.

3 THE COURT: Right.

4 MR. PESCI: We have, prior to anybody being
5 arrested, the actual solicitation to the crime, the
6 conspiracy. So I'm not sure, I think he has more to argue. I
7 apologize, I jumped in there.

8 MR. RUGGEROLI: No, it's not DeShawn's statement,
9 it's Ray; Mr. Robertson's statement. Mr. Robertson's
10 statement is the one that identifies Mr. Wheeler, and so --

11 THE COURT: But it's still a statement not given to
12 police. It's before -- I mean, the State's contending it's
13 before anything even happens, correct?

14 MR. RUGGEROLI: Yes, and -- but the --

15 THE COURT: Okay.

16 MR. RUGGEROLI: The Bruton issue and the concern for
17 us is -- based on the Confrontation Clause, is that, although
18 DeShawn is going to testify, the State, even in using that
19 text from Ray, the co-defendant in this case, is --

20 THE COURT: Uh-huh. You mean DeShawn?

21 MR. RUGGEROLI: No, Ray.

22 THE COURT: Oh, okay. You're talking about this --
23 okay, I'm sorry.

24 MR. RUGGEROLI: Yeah, and it does get confusing.
25 That's why --

1 THE COURT: Mr. Robertson sitting here? Okay.

2 MR. RUGGEROLI: Correct. It's Mr. Robertson's text,
3 so it's Mr. Robertson's evidence against Mr. Wheeler. It's
4 not -- it's not DeShawn that's going to come about at trial,
5 and that's why we have a situation where we have no
6 Confrontation Clause right to challenge Mr. Robertson's
7 identification and claim that there is this conspiracy. It's
8 just going to be assumed that that must be true because we've
9 got no way to challenge that because we have no Confrontation
10 Clause right.

11 We can challenge DeShawn; DeShawn didn't send the
12 text. And based on the way I'm reading their Opposition, even
13 apart from the idea that a statement was made to the police,
14 which this was not, the State --

15 THE COURT: Right.

16 MR. RUGGEROLI: -- was going to redact any
17 identification of Ray, Mr. Robertson, of Sace. So I think if
18 they want the text, they need to remove the name "Sace,"
19 because otherwise, I think they're specifically utilizing the
20 co-defendant, who cannot be cross-examined, who we have no
21 confrontation rights for, to essentially convict Mr. Wheeler
22 by establishing that there was a conspiracy before this
23 shooting even happened.

24 THE COURT: Are you done?

25 MR. RUGGEROLI: Yes.

1 THE COURT: Okay, thank you. Thank you, Mr.
2 Ruggeroli.

3 MR. PESCI: Thank you, Your Honor. So, Judge, we're
4 not having the portion of a co-defendant's statement when he
5 looks at the surveillance and says, yeah, that's my
6 co-defendant, that's my co-defendant, that's my co-defendant.
7 That's the kind of situation that we were referring to in our
8 Motion that we are not going to do. That's the kind of
9 situation that Bruton applies to.

10 The Confrontation Clause does not apply to
11 statements made in the course and the furtherance of the
12 conspiracy. And if you -- you look at Burnside v. State, 352
13 P.3d 627, it states, "A statement may be in furtherance of a
14 conspiracy even though it is susceptible of alternative
15 interpretations and it was not exclusively or even primarily
16 made to further the conspiracy, so long as there is some
17 reasonable basis for concluding that it was designed to
18 further the conspiracy."

19 There is an extremely reasonable basis to understand
20 the design, because it says verbatim, "Let's go hit a house,"
21 okay? It's -- you don't even have to debate it. It's very
22 clear on its face, and this is actions by co-defendants before
23 police become involved.

24 Additionally, separate and distinct from the actual
25 text message, there is going to be evidence that comes in from

1 cell phone data; there's going to be information that comes in
2 from a co-defendant who will be in the courtroom, subject to
3 cross-examination; there's going to be evidence of things from
4 the scene to corroborate what was happening there, independent
5 of the co-defendant, and in conjunction with that text via
6 Facebook Messenger.

7 THE COURT: I just want to make --

8 MR. RUGGEROLI: Just to put on the record, because
9 it --

10 THE COURT: Absolutely.

11 MR. RUGGEROLI: -- incorporates our argument from
12 yesterday, I'm objecting on the dual basis of not only
13 hearsay, but it really would be double-hearsay. And also,
14 that the statement, we would argue, is not made in furtherance
15 of the conspiracy, nor is it made in the course of the
16 conspiracy, because Mr. Robertson's text message predates the
17 establishment of a conspiracy. We don't -- I need to make
18 these arguments based on my --

19 THE COURT: Sure.

20 MR. RUGGEROLI: -- reading of the law, but it's --

21 THE COURT: Sure.

22 MR. RUGGEROLI: It's that we're arguing that DeShawn
23 at that time was not a co-conspirator, Mr. Wheeler at that
24 time was not a co-conspirator, the statement was not made in
25 the course of the conspiracy, and the statement was not made

1 in further of the conspiracy.

2 And also, because of the Bruton issue that I raised,
3 because they are going to be using Mr. Robertson's statement
4 to identify Sace, which will be established through other
5 evidence as being Mr. Wheeler, and that that conspiracy from
6 that written statement essentially is the State's heart of the
7 case against Mr. Wheeler.

8 We cannot cross-examine Mr. Robertson, and because
9 of that, that shouldn't have been allowed, or we should have
10 been able to sever. Or the State -- I think -- I thought that
11 they were saying that they would redact that, but I guess
12 either I didn't understand it or they have a position that is
13 different. So that's my record, Judge.

14 THE COURT: Okay. Anybody else want to say
15 anything?

16 MR. PESCI: Yes. It's on or about August 9th.
17 That's the charge -- charging document. Conspiracy to commit
18 robbery is one of the actual charges. The furtherance of that
19 conspiracy will go into Counts 2 and 3. So we're covering the
20 very act of this text, and then the actions in conjunction
21 with the text. So it's covering the very crime, because that
22 is the inception of the crime.

23 THE COURT: Okay. The objection's been noted, and
24 the ruling from yesterday will stand. Can we bring the jury
25 panel in?

1 MR. RUGGEROLI: Just one last quick issue.
2 THE COURT: Of course.
3 MR. RUGGEROLI: There's been some statements about
4 referring to street names.
5 THE COURT: Okay.
6 MR. RUGGEROLI: My request, that we use "Nicknames."
7 I think that there's a prejudicial connotation. There's no
8 allegations of any gang involvement or anything like that, but
9 I think that there is a potential prejudice if we start using
10 notions of street names. And there are a number of what I
11 would call nicknames.
12 THE COURT: Okay, what do -- oh, you mean like
13 monikers?
14 MR. RUGGEROLI: Yeah. Well, you can use "Sace," you
15 can use --
16 THE COURT: Okay.
17 MR. RUGGEROLI: -- other names that are going to be
18 used, but I just have some concern about the State or the
19 witnesses saying, "Is his street name." I think that that's
20 potentially prejudicial, because a juror could conclude that,
21 well, maybe that's a gang name and that's what we're really
22 talking about, when we're not.
23 THE COURT: Okay, so what exactly are you trying to
24 object to?
25 MR. RUGGEROLI: If -- and --

1 THE COURT: That they shouldn't -- witnesses
2 shouldn't call your client "Sace"?
3 MR. RUGGEROLI: No, that they --
4 THE COURT: Okay.
5 MR. RUGGEROLI: -- shouldn't use the term "Street
6 name." They should say, "His nickname is."
7 THE COURT: Oh, okay. You just don't want them to
8 say "Street name"?
9 MR. RUGGEROLI: Yes.
10 THE COURT: Okay, a "Nickname"? Okay.
11 MR. PESCI: Okay.
12 THE COURT: Is there any --
13 MR. PESCI: Some people don't use the language
14 "Nickname."
15 THE COURT: I know. They use the term "Moniker" or
16 "Street" --
17 MR. PESCI: No, some people say, "His name on the
18 street," "His street name."
19 THE COURT: Right.
20 MR. PESCI: I mean, we're not eliciting that, we're
21 not looking for that, but there are some people who are going
22 to say, nickname, what? So we're not intending to do that,
23 nor are we ever making an inference that there's anything
24 about gangs, nor is it a logical leap to just say, if
25 someone's saying, "Street name," that we've got into gangs, so

1 we object to that characterization.

2 We have no intent to make an argument about gangs or
3 make any sort of veiled reference to it, but I cannot promise
4 you that someone who knows somebody from their life on the
5 street is not going to say, "His street name is." We'll try
6 really hard, we'll tell people not to say that. We'll use and
7 couch the term of "Nickname."

8 THE COURT: Okay.

9 MR. RUGGEROLI: Thank you.

10 THE COURT: Let's bring them in.

11 THE MARSHAL: All rise for entering jury, please.
12 Jurors.

13 (Within the presence of the jurors at 10:45 a.m.)

14 THE COURT: And ladies and gentlemen, if you will
15 please remain standing when you come in, because the Clerk is
16 going to administer the oath of service. If you'll all please
17 raise your right hand. Thank you.

18 JURY PANEL SWORN

19 THE CLERK: You may be seated.

20 THE COURT: Thank you.

21 THE MARSHAL: Thank you, everyone. Please be
22 seated.

23 THE COURT: Before I do allow the attorneys to speak
24 to you in their opening statements, I am going to give you a
25 few instructions.

1 Ladies and gentlemen, you are admonished that no
2 juror may declare to a fellow juror any fact relating to this
3 case of his or her own knowledge, and if any juror discovers
4 during this trial or after the jury has retired that he, or
5 she, or any other juror has personal knowledge of any fact in
6 controversy in this case, he or she shall disclose such
7 situation to myself in the absence of the other jurors.

8 This means that if you learn during the course of
9 this trial that you are acquainted with the facts of this case
10 or the witnesses, and you've not previously told me this
11 relationship, you must then declare that fact to me.

12 I want to remind you that you communicate through --
13 you communicate with the Court while we're in the courtroom in
14 the presence of both sides or through Officer Hawkes.

15 What I will now say is intended to serve as an
16 introduction to the trial of this case. It is not a
17 substitute for the detailed instructions on the law which I
18 will give you at the close of the case and before you retire
19 to consider your verdict.

20 This is a criminal case commenced by the State of
21 Nevada, which I may sometimes refer to as the State, and this
22 is a criminal complaint against Mr. Wheeler and Mr. Robertson.
23 At this time, the Clerk will now read the charging document
24 and state the plea of the defendants to that document.

25 (Amended Superseding Indictment read by the Clerk)

1 THE COURT: Thank you. This case is based upon the
2 Amended Superseding Indictment which has been read to you by
3 the Clerk. You should distinctly understand that the
4 Indictment is simply a charge, and that it is not in any sense
5 evidence of the allegations it contains.

6 The defendants have entered pleas of not guilty to
7 the Indictment. The State therefore has the burden of proving
8 each of the elements as alleged in their charging document by
9 proof beyond a reasonable doubt. As the defendants sit here
10 today, they are presumed innocent. The purpose of this trial
11 is to determine whether the State of Nevada will meet their
12 burden of proof.

13 It is your primary responsibility as jurors to find
14 and determine the facts. Under our system of criminal
15 procedure, you are the sole judge of the facts. You are to
16 determine the facts from the testimony you hear and the other
17 evidence, including exhibits introduced in court. It is up to
18 you to determine the inferences which you feel may be properly
19 drawn from the evidence.

20 The parties may sometimes present objections to some
21 of the testimony or other evidence. It is the duty of a
22 lawyer to object to evidence which he or she believes may not
23 properly be offered, and you should not be prejudiced in any
24 way against a lawyer who makes objections on behalf of the
25 party he or she represents.

1 At times, I may sustain objections or direct that
2 you disregard certain testimony or exhibits. You must not
3 consider any evidence to which an objection has been sustained
4 or which I have instructed you to disregard.

5 Anything you may have seen or heard outside the
6 courtroom is not evidence and must also be disregarded.
7 Remember, statements, arguments, and opinions of counsel are
8 not evidence in the case. However, if the attorneys stipulate
9 as to the existence of a fact, you must accept the stipulation
10 as evidence and regard that fact as proved.

11 You must not speculate to be true any insinuation
12 suggested by a question asked a witness. A question is not
13 evidence and may be considered only as it supplies meaning to
14 the answer.

15 You must not be influenced in any degree by any
16 personal feeling of sympathy for or prejudice against the
17 State or the defendants. Both sides are entitled to the same
18 fair and impartial consideration.

19 In considering the weight and value of the testimony
20 of any witness, you may take into consideration the
21 appearance, attitude, and behavior of the witness, the
22 interest of the witness in the outcome of the case, if any,
23 the relation of the witness to the defendant or to the State,
24 the inclination of the witness to speak truthfully or not, and
25 the probability or improbability of the witness's statements,

1 and all of the facts and circumstances in evidence. Thus, you
2 may give the testimony of any witness just such weight and
3 value as you believe the testimony of that witness is entitled
4 to receive.

5 There are two kinds of evidence: direct and
6 circumstantial. Direct evidence is testimony by a witness
7 about what that witness personally saw, or heard, or did.
8 Circumstantial evidence is testimony or exhibits which are
9 proof of a particular fact, from which, if proven, you may
10 infer the existence of a second fact. You may consider both
11 direct and circumstantial evidence in deciding this matter.
12 The law permits you to give equal weight to both, but it is
13 for you to decide how much weight to give to any evidence.

14 Opening statements and closing arguments of the
15 attorneys are intended to help you in understanding the
16 evidence and applying the law, but they are not evidence. No
17 statement, ruling, remark, or comment which I make during the
18 course of this trial is intended to indicate my opinion as to
19 how you should decide the case or to influence you in any way
20 in your determination of the facts.

21 At times, I may even ask questions of witnesses. If
22 I do so, it is for the purpose of bringing out matters which I
23 feel should be brought out, and not in any way to indicate my
24 opinion about the facts, or to indicate the weight I feel you
25 should give to the testimony of any witness. I may also find

1 it necessary to admonish the attorneys, and if I do, you
2 should not show prejudice against a lawyer or his or her
3 client because I have found it necessary to admonish him or
4 her.

5 Until the case is submitted to you, you must not
6 discuss it with anyone, even with your fellow jurors. After
7 it is submitted to you, you must discuss it only in the jury
8 room with your fellow jurors. It is important that you keep
9 an open mind and not decide any issue in the case until the
10 entire case has been submitted to you under instructions from
11 the Court.

12 The trial will proceed in the following manner. The
13 deputy district attorney will make an opening statement, which
14 is an outline to help you in understanding what the State
15 expects to prove. Next, the defendant's attorneys may, but do
16 not have to make an opening statement. Opening statements
17 serve as an introduction to the evidence which the party
18 making the statement intends to prove.

19 The State will then present its evidence and counsel
20 for the defendants may cross-examine the witnesses. Following
21 the State's case, the defendants may present evidence and the
22 deputy district attorney may cross-exam the witnesses.
23 However, as I have said, the defendants are not obligated to
24 present any evidence.

25 After all of the evidence has been presented, I will

1 instruct you on the law. After the instructions on the law
2 have been read to you, each side will have the opportunity to
3 present oral argument. What is said in closing argument is
4 not evidence. The arguments are designed to summarize and
5 interpret the evidence. Since the State has the burden of
6 proving the defendants guilty by proof beyond a reasonable
7 doubt, the State has the right to open and close the
8 arguments. After the arguments have been completed, you will
9 then retire to deliberate upon your verdict.

10 Again, let me remind you that until this case is
11 submitted to you, do not talk to each other about it or about
12 anyone who has anything to do with it until the end of the
13 case when you go to the jury room to deliberate upon your
14 verdict. Do not talk with anyone else about this case or
15 about anyone who has anything to do with it until the trial
16 has ended and you've been discharged as jurors.

17 Anyone else includes members of your family and your
18 friends. You may tell them that you are a juror in a criminal
19 case, but don't tell them anything else about it until after
20 you've been discharged by the Court.

21 Do not let anyone talk to you about the case or
22 about anyone who has anything to do with it. If someone
23 should try to talk to you, please report it to me immediately
24 by contacting Officer Hawkes.

25 Do not read any news stories, or articles, or listen

1 to any radio or television reports about the case or about
2 anyone who has anything to do with it.

3 As jurors, you will be given the opportunity to ask
4 written questions of any of the witnesses called to testify in
5 this case. You are not encouraged to ask large numbers of
6 questions because that is the primary responsibility of the
7 attorneys. Questions may be asked, but only in the following
8 manner: after both lawyers have finished questioning the
9 witness, and only at this time, if there are additional
10 questions you would like to ask that witness, you may then
11 seek permission to ask that witness a written question.

12 Should you desire to ask a question, write your
13 question down with your juror number on a full sheet of clean
14 paper; raise your hand. All questions from jurors must be
15 factual in nature and designed to clarify information already
16 presented.

17 In addition, jurors must not place undue weight on
18 the responses to their questions. The Marshal will pick your
19 question up and he will present it to the Court. All
20 questions must be directed to the witness and not to the
21 lawyers or to the Judge. After consulting with counsel, I
22 will then determine if your question is legally proper. If I
23 determine that your question may properly be asked, I will ask
24 it. No adverse inference should be drawn if the Court does
25 not allow a particular question.

1 Both sides have the right to question a witness. So
2 the State will call their witness, they'll do direct. The
3 defendants will have an opportunity to do cross, then the
4 State has the right to do redirect. And if there's redirect,
5 the defense has the right to do recross. So both sides have a
6 couple opportunities to question each witness. When we're
7 done with the witness, I'm going to turn to the witness, I'm
8 going to thank them for being here, and I'm going to excuse
9 them from their subpoena.

10 Get my attention before I do excuse a witness. I'll
11 have the witness sit here and wait until you write your
12 question down. What I won't do is, next week, have a witness
13 come back that testified today. Once I excuse them from their
14 subpoena, I will not require them to come back to answer a
15 question of the jurors. So it's just really important you get
16 my attention or Officer Hawkes's attention before I excuse
17 that witness from their subpoena.

18 You also have juror notebooks. Those will be placed
19 on your chair every morning when you come in. In the back,
20 there are blank pages for you to take notes. When you do go
21 back to deliberate upon your verdict, you will not have a
22 transcript to consult. So, during your deliberations, it will
23 be your memory and your notes collectively that will prevail
24 during your deliberations.

25 Those notebooks are required to be in the court --

1 in the courtroom at all times until you go back to deliberate
2 upon your verdict. When you go back, I'll allow you to take
3 those notebooks back there with you, but you can't take them
4 out of the courtroom until we go back to deliberation.

5 The instructions that I gave you this morning are in
6 that notebook, as well as the procedure for asking a written
7 question, and at the end, you will be given a copy of the jury
8 instructions. I will be required to read them to you by law;
9 however, each of you will have a copy of those instructions,
10 you'll be able to follow along, and you'll be able to take
11 those written jury instructions with you when you go back to
12 deliberate upon your verdict.

13 On the inside of that folder, there's -- in the
14 pocket, there's one sheet of paper. That just gives you
15 information about the courtroom that you're in, in case, when
16 we're out of session, anyone has a need to contact my office,
17 all the information is on that sheet of paper. You can take
18 that sheet of paper out; you can take that with you when you
19 leave the courtroom.

20 At this time, I'm going to allow the State of Nevada
21 to address the panel in their opening statement.

22 STATE'S OPENING STATEMENT

23 MR. BROOKS: August 8th, 2017 was a Tuesday. August
24 9th, 2017 was a Wednesday. Right around midnight, when it
25 shifted from Tuesday to Wednesday, Robert Mason decided to go

1 for a jog. Now, this wasn't really all that unusual for him.
2 He worked the swing shift, roughly 3:00 to 11:00 P.M., so when
3 he got home at night, typically, he would go on a jog. This
4 was August, so it's not like it was really cold around
5 midnight, and he got dressed in his athletic clothes, he left
6 his house.

7 He'd lived in the neighborhood at that point in time
8 for quite a while, and so he went on his typical route. He
9 started heading south down Zachary Street, and then made a
10 left -- made a left and started heading east on Dewey. And as
11 he started heading east on Dewey and made that corner,
12 something struck his eye, something a little unusual.

13 So you see where that circle is on the -- on the
14 picture right there? Right around there, he saw four men; a
15 group of two, and a group of two. And these four guys were
16 all dressed in black clothing, and they were wearing hoodies,
17 and their hoods were up. So he was like, that's a little
18 suspicious, that's odd. And as he makes eye contact with them
19 and they make eye contact with him, they kind of huddle up
20 together, and all four of them get together, and kind of go
21 closer to the wall.

22 And he at that point in time was driving down the
23 side -- running down the sidewalk, and as he's running down
24 the sidewalk, he just veers off into the street. He's in the
25 street, keeps going, and passes them. Makes note of it,

1 thinks it's a little unusual, and then makes a left.

2 Now, as he makes a left, he starts heading north on
3 Lindell. And see where that white arrow is? Right around
4 about there, there's a car. That's unusual for him, because
5 he'll tell you, I've lived in this area for a long time, and
6 no one parks there. No one parks on Lindell; it's just
7 there's too much traffic, you wouldn't do that. And it's a
8 white, older model car, and he's going to refer to it as
9 something similar to like a Crown Victoria.

10 And he's like, I've never seen this in the area
11 before. That's unusual. I've lived in the neighborhood for a
12 while and never seen this car. So he looks at the front, sees
13 the license plate. Kind of looks inside, sees a lot of trash
14 and clutter. And just kind of looks at the back, sees the
15 license plate on the back, makes a mental note, and keeps
16 jogging.

17 So he gets about 20, 30 seconds down on the jog and
18 says, you know what, I'm going to enter that license plate
19 into my phone. And I realize I just left my wife at home, and
20 I think I left the doors unlocked. Feeling a little uneasy,
21 so I'm going to call her.

22 So he calls his wife and he says, hey, honey, can
23 you lock the doors? And I -- I just saw something a little
24 odd; you might want to call 311. I saw four guys, black male
25 adults. They're kind of young, in their 20s, and they're all

1 just wearing dark clothing. She's like, what? And they're in
2 hooded sweatshirts with their hoodies up, and it's August,
3 almost 100 degrees. And she -- oh, okay, I will call 311.
4 I'll just -- I'll let them know. So she does.

5 Now, this arrow right here, right around about there
6 is where the mailbox is located for these two homes, one of
7 which is that 5536 West Dewey. That will come into play
8 later. That's why that arrow's there.

9 But Robert Mason continues on his jog. Now, what he
10 didn't realize is who those four men were. Around 12:10 A.M.,
11 so that's Tuesday night into -- that's Wednesday morning at
12 that point, the four men that he saw were DeMario
13 Lofton-Robinson; sometimes during the trial, you may hear him
14 referred to as DJ. DeShawn Robinson, who's DJ's younger
15 brother. At that point in time, he was 14-years-old. Raekwon
16 Robertson, one of the defendants. And Davontae Wheeler, one
17 of the defendants. You may hear Raekwon Robertson sometimes
18 referred to as Ray or Ray Logan, and you may hear Davontae
19 Wheeler sometimes referred to as Sace.

20 So why were they there? Earlier that day, at around
21 11:00 A.M. on that Tuesday, defendant Raekwon Robertson's cell
22 phone sends a message to DeShawn Robinson's phone. So
23 DeShawn's the younger brother of DJ. And it's a text message
24 via Facebook Messenger, and he says, "Ask DJ if he trying to
25 hit a house tonight. Me, you, Sace, and him. Sace -- Sace