

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD ABDIEL SILVA

Appellant,

v.

STATE OF NEVADA

Respondent.

CASE NO. 81627

Appeal from a Judgment of Conviction After Jury Verdict
in Case CR18-1135(B)
Second Judicial District Court of the State of Nevada, Washoe County
Honorable David A. Hardy, District Judge

APPELLANT'S APPENDIX VOLUME 3

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1 especially in a case of this significance to both the state
2 and Mr. Silva.

3 It is very cumbersome to move the jury in and out,
4 and we don't have the ability to quickly move the reporter
5 to a sidebar, and so if the sidebar is quick, often
6 procedural, I will go to sidebar out of the presence of the
7 reporter, and then when we return and are not in the
8 presence of the jury, I will memorialize the sidebar
9 conversation noting the contemporaneous objection and ask
10 counsel to confirm my summary and/or clarify my summary.

11 If you think the sidebar is going to be
12 substantive enough where we need to, I need to hear it in
13 the first instance, we will remove the jury. Sometimes
14 during sidebar what I think will be quick turns into a
15 spirited conversation between counsel and I will just say
16 stop, let's go back into the courtroom and we will remove
17 the jury.

18 So if you will work with me in good faith to
19 ensure that everything that occurs within this room is
20 reflected in the record, but also as we manage the jurors'
21 efficiency.

22 Okay. In Department 15, ladies and gentlemen, we
23 always stand as our jury enters and exits the courtroom.

24 (Whereupon the following proceedings
25 were in the presence of the jury panel.)

1 THE COURT: Good morning. We are on the record in
2 Case Number CR18-1135B. It is the State of Nevada versus
3 Richard Silva. The state is present through its attorney,
4 Mr. Matthew Lee. Mr. Silva is present with his attorney,
5 Ms. Theresa Ristenpart.

6 A panel of citizens have just entered the
7 courtroom. Much of what I'm about to say is scripted, but
8 yet each jury trial begins with its own moment, and as you
9 so quietly entered the courtroom, with some solemnity I was,
10 I was inspired by your presence. I'm confident that the
11 state's attorney, Ms. Ristenpart, and Mr. Silva join in that
12 moment as they have in good faith entrusted important
13 questions to you.

14 Today will be long. To some it may become
15 tedious, but it is a critical phase of any jury trial. I
16 know that some of you have entered the courtroom with the
17 hope of speaking quickly and being excused to your lives. I
18 ask that you patiently await your time to be heard. It will
19 arrive.

20 Welcome to the Second Judicial District Court.
21 This is Department 15 and I am Judge David Hardy. We sit in
22 a historic courtroom. This room was constructed in 1911,
23 109 years ago. It was once the only courtroom in the
24 courthouse. It's beautiful.

25 It speaks to, it invokes imagery of justice hard

1 battled and well earned regardless of the outcomes. I think
2 about the ghosts of history in this room. Those who have
3 stood in the well of the court and passionately argued on
4 behalf of what they perceive justice to be.

5 I should one day try and count the number of jury
6 trials that have occurred in this room. It's probably
7 possible. I don't think we have the records, but hundreds
8 and hundreds of trials have occurred in this room.

9 Each slightly different in claims and facts, each
10 presented by temporary guardians of our system, the lawyers
11 and judges who come and go, but each with a common thread of
12 a room composed of members in our community different from
13 elsewhere, where we step past quick judgments, superficial
14 facts, sound bite justice, but instead create a venue where
15 the rule of law controls our conduct, a venue that prevents
16 vigilante justice, a venue with procedural safeguards in
17 place, a venue that feels the significance of the work that
18 we do.

19 This will not be a courtroom television drama.
20 What you will hear, both for the state and for Mr. Silva,
21 are real people and for you to decide real events one way or
22 another with real outcomes for or against the state, for or
23 against Mr. Silva.

24 This idea of summoning citizen jurors is
25 historically rich. We know at least it's traceable to 4,000

1 years ago. It existed during, in different eras. It was
2 codified in writing 805 years ago in the Magna Carta.

3 This idea of mutual citizens coming together to
4 form the voice and values of justice is traceable to our
5 very first colonies. It was a form of grievance established
6 in the Bill of Rights, and it was firmly placed within the
7 Constitution of the United States in the State of Nevada.

8 I know, ladies and gentlemen, that you have
9 elsewhere to be. I know that for many of you today will be
10 inconvenient. For some of you it will be an expensive
11 opportunity cost-loss.

12 But your presence today in this venue in this case
13 is one brick in the foundation that holds our communities
14 together. It is with that seriousness that we, the
15 attorneys and the Court and Mr. Silva, entrust these
16 questions to you, and I invite you to look upon this jury
17 service not just as an inconvenient burden, but also as an
18 opportunity for you to touch constitutional principles, for
19 you to leave your fingerprint on our system of justice.

20 And I pledge to you that no matter how you feel
21 today or throughout the case, there will be a moment during
22 your service when you fully understand the significance of
23 your service. Often that moment arrives when the verdict is
24 read. Regardless of what the verdict is, you will feel the
25 significance of your service.

1 Thank you for responding to the call of service,
2 though you did not have much choice. You join that great
3 legacy in courtrooms throughout the country throughout the
4 decades and centuries.

5 You are not too dissimilar from those who respond
6 to the call of service, military service. You have joined
7 that reluctant cadre of taxpayers every April 15th in doing
8 something beyond yourselves.

9 So, again, I ask you to consider this opportunity
10 as a responsibility of citizenship. Our jury system
11 prevents despotism and rule by the individual in authority.
12 We place great faith in our jurors to reach objective
13 decisions with mutual participation in matters of great
14 importance.

15 We will strive to honor your responsibility as
16 citizens with dignity and with understanding for the cost
17 this service imposes upon you.

18 So, ladies and gentlemen, we will stand a lot in
19 this room. It is often symbolic. Much of what we do is
20 symbolic. We stand, for example, because we all stand
21 before the law as a monument of our governing documents.

22 We also swear oaths. You will see each witness
23 subscribe to an oath to tell the truth. That's symbolic,
24 but it's also practical, because those who violate their
25 oaths can be held to account individually to the Court.

1 So at this point I'm going to have the clerk read
2 your names aloud. If you will respond audibly, please, and
3 then at the conclusion of the roll call, I will have you all
4 stand, face the clerk, and be sworn.

5 Ladies and gentlemen, in this beautiful courtroom
6 is the biggest problem of all courtrooms in the building and
7 that is the acoustics. My hearing aid doctor told me not
8 long ago I still didn't need hearing aids, but every time
9 I'm in a jury trial I'm convinced I do.

10 There is this barrier that occurs, so please
11 amplify your voices. You are going to hear me ask that
12 throughout the day, but it's critical that the attorneys and
13 Mr. Silva and the reporter hear everything that is said.

14 When I amplify my voice, I'm not yelling at
15 anyone. Please don't infer that I am, but I am occasionally
16 trying to show how we should be speaking.

17 All right. Ms. Clerk, if you will please call the
18 roll.

19 THE CLERK: Esperanza Beltran.

20 THE COURT: Respond audibly with a here or
21 present, please.

22 PROSPECTIVE JUROR BELTRAN: Present.

23 THE CLERK: Heather Brooks.

24 PROSPECTIVE JUROR BROOKS: Present.

25 THE CLERK: Jaime Brown.

1 PROSPECTIVE JUROR BROWN: Here.
2 THE CLERK: Rosanne Catron.
3 PROSPECTIVE JUROR CATRON: Present.
4 THE CLERK: Jessie Chambers.
5 PROSPECTIVE JUROR CHAMBERS: Present.
6 THE CLERK: Thomas Christeck.
7 PROSPECTIVE JUROR CHRISTECK: Present.
8 THE CLERK: Guy Cordray.
9 PROSPECTIVE JUROR CORDRAY: Present.
10 THE CLERK: Jason Cowles.
11 PROSPECTIVE JUROR COWLES: Here.
12 THE CLERK: Paul Denson.
13 PROSPECTIVE JUROR DENSON: Here.
14 THE CLERK: Maria Denzler.
15 PROSPECTIVE JUROR DENZLER: Here.
16 THE CLERK: Janie Dice.
17 PROSPECTIVE JUROR DICE: Here.
18 THE CLERK: Craig Dickson.
19 PROSPECTIVE JUROR DICKSON: Here.
20 THE CLERK: Denis Dolan.
21 PROSPECTIVE JUROR DOLAN: Here.
22 THE CLERK: Anthony Dyer.
23 PROSPECTIVE JUROR DYER: Here.
24 THE CLERK: Alyxia Dynes.
25 PROSPECTIVE JUROR DYNES: Here.

1 THE CLERK: Joseph Esposito.
2 PROSPECTIVE JUROR ESPOSITO: Here.
3 THE CLERK: Sandra Fawcett.
4 PROSPECTIVE JUROR FAWCETT: Here.
5 THE CLERK: Caleb Fawley.
6 PROSPECTIVE JUROR FAWLEY: Present.
7 THE CLERK: Marianne Finnoff.
8 PROSPECTIVE JUROR FINNOFF: Present.
9 THE CLERK: Cynthia Fite-Fuhrman.
10 PROSPECTIVE JUROR FITE-FUHRMAN: Here.
11 THE CLERK: Monica Freeman.
12 PROSPECTIVE JUROR FREEMAN: Here.
13 THE CLERK: Terri Gilmore.
14 PROSPECTIVE JUROR GILMORE: Here.
15 THE CLERK: Gamalie Gonzalez-Escobar?
16 PROSPECTIVE JUROR GONZALEZ-ESCOBAR: Present.
17 THE CLERK: William Gustafson?
18 PROSPECTIVE JUROR GUSTAFSON: Present.
19 THE CLERK: Loretta Huber-Casazza.
20 PROSPECTIVE JUROR HUBER-CASAZZA: Here.
21 THE CLERK: Cody James.
22 PROSPECTIVE JUROR JAMES: Here.
23 THE CLERK: Tony Jensen.
24 PROSPECTIVE JUROR JENSEN: Here.
25 THE CLERK: William Johnson.

1 PROSPECTIVE JUROR JOHNSON: Here.
2 THE CLERK: Charles Jones.
3 PROSPECTIVE JUROR JONES: Present.
4 THE CLERK: Pamela Knab.
5 PROSPECTIVE JUROR KNAB: Present.
6 THE CLERK: Aime Lamdaburu.
7 PROSPECTIVE JUROR LAMDABURU: Present.
8 THE CLERK: Stanley Lutz.
9 PROSPECTIVE JUROR LUTZ: Here.
10 THE CLERK: Charlotte Maclucas.
11 PROSPECTIVE JUROR MACLUCAS: Here.
12 THE CLERK: Dennis Mariano.
13 PROSPECTIVE JUROR MARIANO: Present.
14 THE CLERK: Alexander Markley.
15 PROSPECTIVE JUROR MARKLEY: Here.
16 THE CLERK: Karel Ann Mathews.
17 PROSPECTIVE JUROR MATHEWS: Here.
18 THE CLERK: Zachary Menneke.
19 PROSPECTIVE JUROR MENNEKE: Here.
20 THE CLERK: James Morsberger.
21 PROSPECTIVE JUROR MORSBERGER: Here.
22 THE CLERK: Nathalie Murillo.
23 PROSPECTIVE JUROR MURILLO: Here.
24 THE CLERK: Garrett Newman.
25 PROSPECTIVE JUROR NEWMAN: Here.

1 THE CLERK: Paul Oxborrow.
2 PROSPECTIVE JUROR OXBORROW: Here.
3 THE CLERK: Taylor Pearce.
4 PROSPECTIVE JUROR PEARCE: Here.
5 THE CLERK: Marian Robson.
6 PROSPECTIVE JUROR ROBSON: Here.
7 THE CLERK: Angela Rodriguez.
8 PROSPECTIVE JUROR RODRIGUEZ: Here.
9 THE CLERK: Maria Ruiz.
10 PROSPECTIVE JUROR RUIZ: Here.
11 THE CLERK: Matthew Ruiz.
12 PROSPECTIVE JUROR RUIZ: Here.
13 THE CLERK: Billy Santiago.
14 PROSPECTIVE JUROR SANTIAGO: Here.
15 THE COURT: Hold on, Ms. Clerk. You mentioned
16 Maria Ruiz and then a Matthew Ruiz.
17 THE CLERK: Correct.
18 THE COURT: I do not have two separate Ruizes on
19 my notations.
20 THE CLERK: Who do you have, Your Honor?
21 THE COURT: I have Maria Ruiz.
22 Continue, please.
23 THE CLERK: Rachel Seed.
24 PROSPECTIVE JUROR SEED: Here.
25 THE CLERK: Dena Sheldon.

1 PROSPECTIVE JUROR SHELDON: Present.

2 THE CLERK: Angela Smith.

3 PROSPECTIVE JUROR SMITH: Present.

4 THE CLERK: Sheila Stover.

5 PROSPECTIVE JUROR STOVER: Present.

6 THE CLERK: Richard Tiger.

7 PROSPECTIVE JUROR TIGER: Here.

8 THE CLERK: Raymond Torres.

9 PROSPECTIVE JUROR TORRES: Here.

10 THE CLERK: Gregory Vasquez.

11 PROSPECTIVE JUROR VASQUEZ: Present.

12 THE CLERK: Michael Zierten.

13 PROSPECTIVE JUROR ZIERTEN: Here.

14 THE CLERK: Thank you.

15 THE COURT: Thank you. Is anybody present whose

16 name was not called?

17 We will endeavor, I will endeavor to make whatever

18 physical accommodations are necessary so that all who are

19 selected to serve can serve. Those can be physical

20 accommodations. They can often be emotional in the sense of

21 being weary.

22 We will stand often. We will break often. We

23 will do what's necessary. To those of you who can stand,

24 please do so, face my clerk, and raise your right hand. If

25 you are unable to stand, please just face my clerk and raise

1 your right hand.

2 (Whereupon the prospective jurors were sworn.)

3 THE COURT: Thank you. I, and the attorneys, and
4 Mr. Silva are deeply interested in participating in a trial
5 in which the jury is composed of 12 open-minded citizens who
6 are completely neutral who can hear the facts, judging them
7 appropriately, and applying principles of law the Court will
8 provide. We do not want to have any out-of-court biases or
9 prejudices influence this proceeding. I particularly need a
10 panel of jurors who will follow the Court's written
11 instructions of law.

12 To select the jury, we begin a process referred to
13 as voir dire. It is a Latin phrase meaning to say what is
14 true. Here, the Court and the attorneys take a slight
15 departure from each other. We are each operating within our
16 sphere of responsibility, so nobody is working in bad faith.

17 The attorneys have carefully reviewed your
18 questionnaire responses and have some ideas about who they
19 hope would be selected and deselected from jury service. In
20 contrast, I care only that we seat a jury of citizens who
21 according to their oath will render a fair and impartial
22 verdict on facts presented, not considering external
23 influences.

24 This does not mean that any juror with an opinion
25 this morning is excluded, but we have to inquire about some

1 of those opinions to be certain that you can be an impartial
2 juror following the instructions, carefully considering the
3 facts, and applying the law.

4 I have no desire to pry into your personal lives,
5 ladies and gentlemen, but voir dire jury selection cannot be
6 effective if we don't know you better, so I will balance the
7 private intrusions with the public disclosures. It is
8 critical to the state and to Mr. Silva that we have this
9 fair jury and some of what lies within is important to that
10 fairness, and so we are going to make some inquiries.

11 Although it is your duty as citizens to serve when
12 called to jury service, it is also your duty not to serve if
13 you are not right for the case. You might be better suited
14 for a different type of trial, and we will learn more about
15 that in the next few hours.

16 Please understand the significance of complete
17 answers to the Court's questions and to the attorneys'
18 questions. Please don't hide or withhold any information;
19 for if you do, it may cause delays, it may contaminate the
20 verdict, and it may create personal exposure for you. It's
21 better just to start from the beginning with full and honest
22 disclosures.

23 Throughout this process of voir dire, we will be
24 looking for, I will be looking for a legal basis to excuse
25 any of you for cause. It comes to me through the attorneys'

1 requests and argument, and it's a little delicate because
2 the attorneys want to be viewed and should be viewed
3 positively by all.

4 And when they stand and start arguing against one
5 of you, at least one person's feelings are going to be hurt.
6 It's not personal to you. It's not even about you, because
7 you have arrived this morning with honor responding to the
8 call of service and I will ensure that you leave this
9 courtroom with dignity regardless of what is disclosed.

10 But the attorneys may ask that I excuse you for
11 cause. If I do so, again, it's not because you have done
12 anything wrong. It's because you may be better suited for a
13 different type of case.

14 There is also a second filter that occurs. It
15 occurs behind the scenes. You will not observe it, but
16 after the panel is approved, meaning there is no legal cause
17 to excuse any of you, the attorneys will then out of your
18 presence and separately write some notes, because they each
19 have the right to strike a number of you without any
20 explanation to the Court, and it's important that those
21 peremptory challenge rights be informed.

22 And so part of what they are doing is looking for
23 cause, but they are also listening carefully just to decide
24 if you are on the jury that they want, and so we will make
25 sure that everybody is heard and that a little tiny bit of

1 each personality is disclosed.

2 Again, I know some of you want to speak to me
3 specifically, but just follow some of the orchestrated
4 sequence here. Let me first begin with a question about the
5 English language. I'm following the legal standards that
6 are established for jury selection and de-selection.

7 Is there anybody here who does not speak the
8 English language with a comfort that creates confidence in
9 your ability to participate? That's a lot of words. Boy,
10 that's embarrassing as I say that. Is anybody concerned
11 about their ability to follow the law in English? Anybody
12 at all?

13 Does anybody here speak Spanish fluently?

14 I will have you identify yourself by name, please.

15 PROSPECTIVE JUROR MURILLO: Nathalie Murillo.

16 THE COURT: Ms. Murillo?

17 PROSPECTIVE JUROR MURILLO: Murillo.

18 THE COURT: Okay. Thank you, Deputy. We will
19 pass the microphone as we can.

20 Does anybody else speak Spanish? Raise your hand,
21 please. All right. Just starting here, your name, please,
22 sir.

23 PROSPECTIVE JUROR ESCOBAR: Gamalie Gonzalez-
24 Escobar.

25 THE COURT: Thank you. Next, your name, please.

1 PROSPECTIVE JUROR BROWN: Jaime Brown.

2 THE COURT: Thank you. Anybody else? Yes,

3 please.

4 PROSPECTIVE JUROR RUIZ: Maria Ruiz.

5 THE COURT: Maria?

6 PROSPECTIVE JUROR RUIZ: Ruiz.

7 THE COURT: Ruiz. Thank you.

8 PROSPECTIVE JUROR CATRON: Rosanne Catron.

9 THE COURT: Is that with a C or a K?

10 PROSPECTIVE JUROR CATRON: C.

11 THE COURT: Thank you. Anybody else?

12 Is there anybody here who has a physical

13 disability that would make your service difficult? I won't

14 have you disclose it publicly. I did read a few notes in

15 the questionnaires, but I would like to write your names

16 down now. Does anyone have a concern about their physical

17 ability? Your name, please, ma'am.

18 PROSPECTIVE JUROR FAWCETT: Sandra Fawcett.

19 THE COURT: Thank you. Yes, sir.

20 PROSPECTIVE JUROR LUTZ: Stanley Lutz.

21 THE COURT: Thank you. Anybody else?

22 The attorneys have told me that this case is going

23 to last through this entire week and into next week. I

24 don't know yet how much of next week will be trial time.

25 I'm required to balance a fair proceeding. I'm

1 not required to. It is my honor to provide a fair
2 proceeding to the state and to Mr. Silva balanced with our
3 efficient use of your time.

4 As the trial progresses, I will have a sense of
5 its cadence, how quickly the witnesses are in and out, and I
6 will be able to better predict how many days of next week
7 your service will be required, but as of right now I know it
8 will go into next week.

9 Having said that, ladies and gentlemen, when our
10 computer randomly selected your name, it had no idea what
11 was going on in your life. I am not asking about work
12 responsibilities. That comes later. I'm now asking about
13 nonnegotiable fixed calendar conflicts.

14 I'm going to give you a few examples. There
15 should just be a few of them. For example, you have surgery
16 scheduled Thursday. It's been on the schedule for months
17 and you can't move it. Another example, you are attending a
18 sibling's funeral on Monday.

19 A final example, you are married 50 years. Your
20 golden anniversary begins Sunday in Hawaii. Each of those
21 things you can't do at another time. All right. Not work
22 inconvenience or concerns yet.

23 Who has a fixed -- And let me also say that if I
24 excuse you, it does not mean that you are excused from jury
25 service. It means that you will be recalled to begin this

1 process anew.

2 Those of you in contrast who stay through the
3 process and are not selected will punch your jury service
4 ticket and not be recalled for future service. So there are
5 consequences of when I let you go.

6 To those fixed nondiscretion calendar conflicts,
7 does anybody wish to be heard? All right. Let's start in
8 the front. Your name, please.

9 PROSPECTIVE JUROR FREEMAN: Monica Freeman.

10 THE COURT: Ms. Freeman, yes.

11 PROSPECTIVE JUROR FREEMAN: My husband is disabled
12 and he does have a surgery scheduled for the 3rd of March.

13 THE COURT: Thank you. Next, on the right side of
14 the courtroom, my left, anybody else who wishes to be heard?
15 Always begin with your name, please.

16 PROSPECTIVE JUROR BELTRAN: Esperanza Beltran, I
17 have to get a surgery next week.

18 THE COURT: I need you to say your name slower,
19 please.

20 PROSPECTIVE JUROR BELTRAN: Esperanza Beltran.

21 THE COURT: What is the first letter of your last
22 name?

23 PROSPECTIVE JUROR BELTRAN: B, as in boy.

24 THE COURT: Thank you. Esperanza Beltran. I know
25 you say it much more beautifully, but that's what I have in

1 front of me. So you have to have surgery next week?

2 PROSPECTIVE JUROR BELTRAN: Yes, sir.

3 THE COURT: Thank you. Next.

4 PROSPECTIVE JUROR KNAB: Pamela Knab. I have a
5 medical procedure on this Friday.

6 THE COURT: Thank you. To the other side of the
7 courtroom, please, Deputy. Anybody else?

8 PROSPECTIVE JUROR DOLAN: Yes, Denis Dolan. I had
9 a visit scheduled with my son coming from Connecticut next
10 week to arrive on the 5th of March. The only reason it is
11 locked in is it's in conjunction with a business trip that
12 he has.

13 THE COURT: So I heard you say Denis Stolen?

14 PROSPECTIVE JUROR DOLAN: Denis Dolan, with a D.

15 THE COURT: Oh, okay. Thank you.

16 PROSPECTIVE JUROR MURILLO: Nathalie Murillo. I
17 am a full-time college student.

18 THE COURT: We love having college students serve
19 on our juries, but thank you for the disclosure.

20 Anybody on the left side of the courtroom?

21 PROSPECTIVE JUROR GUSTAFSON: William Gustafson.

22 THE COURT: Hold on, I want to make a note. The
23 woman who just spoke, the college student, your last name
24 again, please?

25 PROSPECTIVE JUROR MURILLO: Nathalie Murillo,

1 M-U-R-I-L-L-O.

2 THE COURT: Nathalie?

3 PROSPECTIVE JUROR MURILLO: Yes.

4 THE COURT: Okay. Let me just write that down.

5 Okay. Go ahead.

6 PROSPECTIVE JUROR GUSTAFSON: William Gustafson.

7 THE COURT: Who is speaking? There you are.

8 PROSPECTIVE JUROR GUSTAFSON: Yes, right here. So

9 I have a son with special needs. My wife is currently

10 traveling this week, and I'm taking care of him, and he is

11 out of school I think a couple days this week to do ACT

12 testing, so I'm the only person who can actually watch him

13 at home.

14 THE COURT: Thank you. Next.

15 PROSPECTIVE JUROR RUIZ: Maria Ruiz. I have a

16 wedding in Las Vegas on Saturday.

17 THE COURT: So it's Maria --

18 PROSPECTIVE JUROR RUIZ: Ruiz.

19 THE COURT: Ruiz.

20 PROSPECTIVE JUROR RUIZ: Yes, and I'm scheduled to

21 return Monday.

22 THE COURT: The wedding is Saturday, and what time

23 on Monday do you return?

24 PROSPECTIVE JUROR RUIZ: In the afternoon. I'm

25 driving, so I would leave Friday and not return until

1 Monday.

2 THE COURT: Okay. Anybody else?

3 All right. I now read directly from our statute.

4 Is there anybody this moment who is suffering from a
5 sickness or physical disability that would authorize your
6 excusal from service? Physical disability or sickness where
7 you seek to be excused?

8 Next, is there a serious illness or death of a
9 member of the immediate family, beyond those who have
10 already disclosed? Is there anybody who is at the moment
11 experiencing a serious illness or death of an immediate
12 family member?

13 Is there a primary caregiver -- do you have
14 somebody?

15 THE DEPUTY: Your Honor, I have someone.

16 PROSPECTIVE JUROR FAWCETT: When you say death --
17 I'm sorry, Sandra Fawcett. When you say death in the
18 family, what does that mean?

19 THE COURT: That means that you cannot be in jury
20 service because you are attending to funeral arrangements.
21 You are overtaken by grief. You are in the process of
22 bereavement. Something that would distract you or make your
23 presence impossible.

24 PROSPECTIVE JUROR FAWCETT: I recently lost my
25 son.

1 THE COURT: Okay. Hold that. And I saw that. We
2 will come back to you. Thank you, ma'am.

3 Anybody else?

4 All right. Ladies and gentlemen, here is the big
5 one. Here is where you will want to be heard, and so I'm
6 trying to set it up in a way to dissuade you as I read
7 directly from the law.

8 You can be excused if you will experience undue
9 hardship or extreme inconvenience. Please note the words
10 hardship and inconvenience are modified. It is undue
11 hardship and extreme inconvenience.

12 The reason why I am focussing on those words is
13 that we need to have a jury comprised of citizens who not
14 all want to be here. The genius of our jury system is that
15 we bring together diverse experiences, perspectives,
16 professions, and we strike a balance, a statistical balance
17 of our community by having different people seated together.
18 So I have had cardiologist surgeons sitting next to plumbers
19 and it's critical they both be there, because they both
20 bring something vital to the conversation.

21 I have had stay-at-home mothers and little old
22 grandfathers seated next to each other because they bring
23 the balance we need. So if I excuse you at this point,
24 remember your name goes back into the hopper to be recalled
25 at some other time. I hope I have been sufficiently stern

1 with a slight smile on my face.

2 Does anybody have an undue hardship or extreme
3 inconvenience that would prevent your service? And, if so,
4 I invite you to tell me what it is and we will see where it
5 leads. Yes, over here.

6 PROSPECTIVE JUROR OXBORROW: It's work related, is
7 that okay?

8 THE COURT: This is the time.

9 PROSPECTIVE JUROR OXBORROW: Okay. Paul Oxborrow.

10 THE COURT: And before you say anything,
11 Mr. Oxborrow, let me just acknowledge that probably 70 to
12 80 percent of you have a work conflict of some type, so the
13 fact there is a work conflict will not excuse you. It's the
14 nature of the conflict. Go ahead, please, Mr. Oxborrow.

15 PROSPECTIVE JUROR OXBORROW: It's a new job I'm
16 starting Friday and I need to get the medical all done,
17 because my daughter is a Type I and I need to have the
18 medical in place, but I start, Friday is my first day with a
19 new company.

20 THE COURT: Thank you. All right. Just kind of
21 look over your shoulder and start pushing the microphone
22 back. Your name, please.

23 PROSPECTIVE JUROR LAMDABURU: Aime Lamdaburu.

24 THE COURT: Lamdaburu. Yes, please.

25 PROSPECTIVE JUROR LAMDABURU: I have two trips

1 currently scheduled this week and next week.

2 THE COURT: I'm sorry, I mispronounced your name.

3 You are Aime Lamdaburu?

4 PROSPECTIVE JUROR LAMDABURU: Yeah. I think there

5 was a bit of a typo on there, Lamdaburu.

6 THE COURT: Lamdaburu.

7 PROSPECTIVE JUROR LAMDABURU: Yes.

8 THE COURT: Thank you. Okay.

9 PROSPECTIVE JUROR LAMDABURU: My company is based

10 in Chicago and I'm the West Coast rep for my organization,

11 so I travel about 75 percent of the time for work. I have

12 two trips currently scheduled this week and next week.

13 THE COURT: Thank you.

14 PROSPECTIVE JUROR LAMDABURU: Sure.

15 THE COURT: Next.

16 PROSPECTIVE JUROR SANTIAGO: Billy Santiago.

17 THE COURT: Yes.

18 PROSPECTIVE JUROR SANTIAGO: I'm a full-time

19 college student and I have three exams on Wednesday that

20 occur during the day this week.

21 THE COURT: And where are you a student?

22 PROSPECTIVE JUROR SANTIAGO: University of Nevada,

23 Reno.

24 THE COURT: We have had great success, I'm not

25 trying to be sarcastic, we have had great success

1 coordinating with professors to make alternate arrangements,
2 because of how important jury service is. We don't want to
3 impair your work or your studies, but we will see how it
4 unfolds. Okay. In the back.

5 PROSPECTIVE JUROR RUIZ: Matthew Ruiz.

6 THE COURT: Yes.

7 PROSPECTIVE JUROR RUIZ: I'm a part-time student
8 of the University of Nevada, Reno with midterms this week.

9 THE COURT: Thank you. Mr. Jensen, if you will
10 just hold any personal comment, I intend to speak to the
11 attorneys out of the panel's presence, but as to any work
12 conflicts, just reserving some issues that you may be able
13 to project.

14 PROSPECTIVE JUROR JENSEN: I'm Dr. Tony Jensen.
15 I'm a sole practitioner. Nobody else takes care of my
16 patients. I have multiple patients that have injuries right
17 now from anywhere from traumatic brain injuries on down and
18 they need their care. If not, I'm basically breaking the
19 law by not, by abandoning their care at this time.

20 THE COURT: Thank you. Anybody else?

21 PROSPECTIVE JUROR MATHEWS: Karel Mathews.

22 THE COURT: Is it Mathews?

23 PROSPECTIVE JUROR MATHEWS: Mathews with one T.

24 THE COURT: Yes.

25 PROSPECTIVE JUROR MATHEWS: Karel with a K. I

1 basically live paycheck-to-paycheck and I live alone, and I
2 don't know that I could afford to miss 8 days of work or
3 5 days of work. They will reimburse me after I get my check
4 from here, but that takes 30 to 45 days I heard, so.

5 THE COURT: Thank you.

6 PROSPECTIVE JUROR MATHEWS: Thank you.

7 THE COURT: I do appreciate the disclosures,
8 because it helps the attorneys as they observe you, think
9 about their peremptory challenges. I don't want to chill
10 your comments to me. It's just not all of you are going to
11 be excused because you want to be.

12 So, anyway, next. I thought I saw another hand
13 here.

14 PROSPECTIVE JUROR FAWLEY: Caleb Fawley, full-time
15 hourly employee and full-time student.

16 THE COURT: Thank you. All right. Turning to the
17 other side of the courtroom. Let's go from the back to the
18 front, I guess.

19 PROSPECTIVE JUROR SHELDON: I'm Dena Sheldon. I'm
20 a sole practitioner attorney and my husband is a sole
21 practitioner CPA. I am also the only administrative
22 assistant he has during this time, which is tax season.

23 THE COURT: Thank you. Anybody else?

24 PROSPECTIVE JUROR FITE-FUHRMAN: My name is Cindy
25 Fite-Fuhrman.

1 THE COURT: Who is speaking, please? There you
2 are. Okay.

3 PROSPECTIVE JUROR FITE-FUHRMAN: I have three
4 children that I pick up and take to school.

5 THE COURT: Thank you. Anybody else?

6 Okay. Now we are going to move you around a
7 little bit. You might hear me or the attorneys refer to the
8 box. It's just an old fashion way of identifying the jury
9 box, but we are going to place some of you in a much larger
10 box and that box has imaginary boundaries beyond the bar.

11 And so I'm going to have in just a moment all of
12 you who are seated to the right of the courtroom, my left,
13 stand in just a moment and just work your way against the
14 walls, and then the clerk is going to randomly select your
15 names and you will be seated in a specific order.

16 The clerk has the Keno looking device. It's a
17 circular device that she spins and inside that device has
18 each of your names. This further illustrates the random
19 nature of your jury service. We have no control over it,
20 again, attempting to follow that genius of random service.

21 All right. With that, all who are on this side of
22 the courtroom, if you will stand and just work your way
23 against the walls.

24 Ms. Clerk, before you do, let me provide one more
25 instruction. 55 of you have arrived in Department 15 this

1 morning. 32 of you are going to participate by answering
2 questions, so there is a higher percentage who will
3 participate than not, and I will have a little more to state
4 about that in a moment.

5 All right. Ms. Clerk, go ahead, please.

6 THE CLERK: William Johnson. Gamalie Gonzalez-
7 Escobar. Karel Mathews. Pamela Knab.

8 THE COURT: Ms. Clerk, is that Knab, N as in
9 November or --

10 THE CLERK: It is Knab or Nab.

11 THE COURT: Oh, Knab.

12 PROSPECTIVE JUROR KNAB: Knab, bank spelled
13 backwards.

14 THE CLERK: Marianne Finnoff. Raymond Torres.
15 Jessie Chambers. Angela Smith. Monica Freeman.
16 Charlotte Maclucas. Dena Sheldon. Denis Dolan.
17 Terri Gilmore, Nathalie Murillo. Sheila Stover.
18 Aime Lamdaburu. Heather Brooks. Tony Jensen.
19 Sandra Fawcett.

20 THE COURT: Hold on, please. Would everyone just
21 stand and shake it out for a moment. Just be comfortable.

22 Counsel, if you will see me at sidebar, please.

23 (Whereupon a sidebar discussion was held off the record.)

24 THE COURT: Be seated, please.

25 Ms. Fawcett, just stay right there for a moment.

1 Would you like to serve or do you wish to be excused?

2 PROSPECTIVE JUROR FAWCETT: I would wish to be
3 excused, please.

4 THE COURT: Based upon what you wrote in your
5 questionnaire and my observation of you this morning, as you
6 discussed your personal grief, I think it's appropriate that
7 you take some time before jury service. Thank you for being
8 here this morning. You are free to leave.

9 Ms. Clerk, we are looking for the 19th position.

10 THE CLERK: Guy Cordray. Charles Jones.
11 Alexander Markley. Paul Denson. Maria Denzler.
12 Rachel Seed. Richard Tiger. Cody James. Loretta
13 Huber-Casazza. Billy Santiago. Michael Zierten.
14 Maria Ruiz. Craig Dickson. Janie Dice.

15 THE COURT: Thank you, Ms. Clerk.

16 If you are still standing, I would like you to be
17 seated, but on the left side of the courtroom, so I have a
18 clear vision of those who are in the box.

19 If necessary, the gentleman who is in the last row
20 can stay, but I just need to have some spacial separation as
21 I view people. Thank you, sir.

22 There is still going to be a lot of movement.
23 Some of you are going to be excused, but we now have our
24 first separation between those who are called to answer
25 questions and those who are not.

1 With two exceptions, ladies and gentlemen, if you
2 are seated on the left side of the courtroom and your name
3 was not called, you will not answer the Court's questions,
4 but I need you to follow along, please, because if you are
5 called to fill a vacant seat, we need to travel over the
6 same territory quickly. So your participation is passive,
7 but participatory, nonetheless.

8 Now, I said two exceptions. The first is, the
9 question is for everybody in the room, all 55 of you, do any
10 of you self-identify with a race other than Caucasian? I'm
11 just going to do this in order. Anybody in the jury box?

12 Mr. Gonzalez, and how would you describe your
13 race?

14 PROSPECTIVE JUROR GONZALEZ: Latino.

15 THE COURT: Thank you. Anybody else?

16 PROSPECTIVE JUROR MURILLO: Nathalie Murillo,
17 Hispanic Latino.

18 THE COURT: Thank you. Here, Mr. Tiger?

19 PROSPECTIVE JUROR TIGER: Yes, Native American.

20 THE COURT: Thank you.

21 PROSPECTIVE JUROR RUIZ: Maria Ruiz.

22 THE COURT: Where are you? There you are.

23 PROSPECTIVE JUROR RUIZ: Hispanic Latino.

24 THE COURT: Last name Ruiz?

25 PROSPECTIVE JUROR RUIZ: Yes.

1 THE COURT: Let me just find where you are, Maria.
2 Thank you. Anybody else until I -- yes, sir.

3 PROSPECTIVE JUROR TORRES: Raymond Torres,
4 Hispanic.

5 THE COURT: Mr. Torres, thank you.
6 Anybody else? Yes.

7 PROSPECTIVE JUROR SANTIAGO: Billy Santiago,
8 Hispanic Latino.

9 THE COURT: All right. This side of the
10 courtroom. Speak loudly or wait for the microphone, one of
11 the two. What is your name, please?

12 PROSPECTIVE JUROR RODRIGUEZ: Angela Rodriguez,
13 Hispanic Latino.

14 THE COURT: Thank you. Anybody else? Yes.

15 PROSPECTIVE JUROR CATRON: Rosanne Catron, I'm
16 Japanese, Japanese American.

17 THE COURT: And you speak Spanish?

18 PROSPECTIVE JUROR CATRON: I do.

19 THE COURT: Wonderful. Thank you.

20 Mr. Lee, I will first have you just stand and
21 introduce yourself so the panelists in the entire courtroom
22 can hear your voice.

23 MR. LEE: Thank you, ladies and gentlemen. Good
24 morning. My name is Matthew Lee. I'm the Chief Deputy
25 District Attorney with the Washoe County District Attorney's

1 Office. My client in this case is the State of Nevada.

2 THE COURT: Ms. Ristenpart.

3 MS. RISTENPART: Good morning, ladies and

4 gentlemen. My name is Theresa Ristenpart and this is

5 Mr. Richard Silva.

6 THE COURT: Thank you. And I am Judge David

7 Hardy. Does anybody in this courtroom know me, the state's

8 attorney, Ms. Ristenpart, or Mr. Silva?

9 Mr. Jensen, we are going to talk in your presence

10 out of the panel's presence. Yes.

11 PROSPECTIVE JUROR DICE: I know Matt Lee

12 personally.

13 THE COURT: Would you please, I just need to have

14 a moment. Ms. Janie Dick?

15 PROSPECTIVE JUROR DICE: Dice.

16 THE COURT: Dice. I'm sorry, I read that

17 incorrectly. And how do you know Mr. Lee? You referred to

18 him by Matt on a first name informal basis. What is the

19 general nature of your relationship?

20 PROSPECTIVE JUROR DICE: We belong to the same

21 church.

22 THE COURT: Thank you, Ms. Dice. You attend the

23 same congregation?

24 PROSPECTIVE JUROR DICE: Correct.

25 THE COURT: Do you see Mr. Lee or his family on a

1 regular basis?

2 PROSPECTIVE JUROR DICE: I wouldn't say regular
3 basis, on Sunday and I also have an acquaintance with his
4 wife.

5 THE COURT: Okay. Thank you for that disclosure.
6 Anybody else?

7 Yes. Hold on. I'm going to practice this,
8 because if you are seated in the box, you don't need to
9 introduce yourself by name. I should have it in front of
10 me. You are Ms. Sheldon?

11 PROSPECTIVE JUROR SHELDON: Yes, Your Honor. I
12 was in a case against you many, many years ago.

13 THE COURT: Against me?

14 PROSPECTIVE JUROR SHELDON: Against you. I do not
15 see you on a regular basis, but I did see you then.

16 THE COURT: Would you just, don't tell the entire
17 panel what I did wrong. Just generally, just be very
18 diplomatic. It's been at least 15 years. What was, were we
19 opposing attorneys or --

20 PROSPECTIVE JUROR SHELDON: We were opposing
21 attorneys.

22 THE COURT: Oh, it wasn't against me.

23 PROSPECTIVE JUROR SHELDON: Oh, no, not against
24 you, no. We were opposing attorneys. I'm sorry for that
25 misstatement.

1 THE COURT: What type of case was it?

2 PROSPECTIVE JUROR SHELDON: It was a custodial

3 conservatorship case in Family Court.

4 THE COURT: Okay. Is there anything about that

5 experience with me as opposing counsel that would cause you

6 to disrespect this process or disregard the Court?

7 PROSPECTIVE JUROR SHELDON: Not in the least.

8 THE COURT: All right. Thank you.

9 Anybody else? All the way in the back. Yes,

10 please.

11 PROSPECTIVE JUROR BROWN: I have been present in

12 your courtroom.

13 THE COURT: I will need your name, please, because

14 we don't have the same roster for those on this side.

15 PROSPECTIVE JUROR BROWN: Jaime Brown.

16 THE COURT: Ms. Brown, yes.

17 PROSPECTIVE JUROR BROWN: And I have been present

18 in your courtroom in my prior work.

19 THE COURT: Okay. Thank you. We will examine

20 that if necessary a little bit in the future.

21 Anybody else?

22 All right. We are going to take a break shortly,

23 but I'm going to follow up on some of the initial

24 disclosures that were made. Mr. Santiago, you attend UNR?

25 PROSPECTIVE JUROR SANTIAGO: Correct.

1 THE COURT: There you are. And what are you
2 studying?

3 PROSPECTIVE JUROR SANTIAGO: Political science and
4 economics.

5 THE COURT: Okay. So you should know that I have
6 great success interacting with professors at UNR. I have
7 high confidence in their understanding of your absence.
8 And, in fact, they are compelled to make alternate
9 arrangements for you just as if you were called to military
10 service, whether it be active duty or reserves.

11 So we will have to work through the
12 inconveniences, but the fact that you are a student doesn't
13 create any excuse and especially if you are studying
14 political science.

15 Okay. Ms. Maria Ruiz, I'm a little worried about
16 this thing on Saturday. You are going to be in Las Vegas on
17 Saturday?

18 PROSPECTIVE JUROR RUIZ: I leave Friday.

19 THE COURT: What time on Friday?

20 PROSPECTIVE JUROR RUIZ: 1:00. So I drive with my
21 husband and my children and we check in and the wedding is
22 Saturday.

23 THE COURT: What time on Saturday is the wedding?

24 PROSPECTIVE JUROR RUIZ: I believe 1:00.

25 THE COURT: All right. Now, I'm not trying to be

1 mean here, but worst case scenario you could leave an hour
2 or two later on Friday. It would cause you to be up later.
3 Your family would be grouchy with you, but if we recessed
4 for the weekend Friday at 3:30 or 4:00, you could still make
5 that. The question is on your return. The wedding is
6 Saturday and you intend to return driving on Monday.

7 PROSPECTIVE JUROR RUIZ: On Monday, yes. We check
8 out of our hotel on Monday.

9 THE COURT: Okay. Who is being married?

10 PROSPECTIVE JUROR RUIZ: My cousin.

11 THE COURT: And you already have the hotel
12 arrangements made for Sunday night?

13 PROSPECTIVE JUROR RUIZ: Correct.

14 THE COURT: Okay. Thank you.

15 Let's see, Ms. Lamdaburu.

16 PROSPECTIVE JUROR LAMDABURU: Yes.

17 THE COURT: So I want to be delicate here. You
18 don't get a special pass because your job is on an airplane
19 as opposed to in an office. Everybody has these work
20 conflicts. Tell me what you do. Your company is in
21 Chicago?

22 PROSPECTIVE JUROR LAMDABURU: Correct.

23 THE COURT: What type of company?

24 PROSPECTIVE JUROR LAMDABURU: We are a healthcare
25 software company.

1 THE COURT: Healthcare software. What is your job
2 description?

3 PROSPECTIVE JUROR LAMDABURU: Director of sales
4 for the West Coast.

5 THE COURT: And you fly regularly, 75 percent of
6 your time?

7 PROSPECTIVE JUROR LAMDABURU: Correct.

8 THE COURT: How long are these trips in duration?

9 PROSPECTIVE JUROR LAMDABURU: I'm scheduled to
10 leave tomorrow at 5:00 a.m. and return on Thursday
11 afternoon.

12 THE COURT: And where are you going this week?

13 PROSPECTIVE JUROR LAMDABURU: This week is Utah,
14 Salt Lake City, Utah, and the challenge is more this week
15 than next week. It's a partnership meeting with our largest
16 partner in the state of Utah that I have been instrumental
17 in facilitating. So next week is San Francisco. I have
18 flexibility there for sure.

19 THE COURT: Thank you. Ms. Mathews.

20 PROSPECTIVE JUROR MATHEWS: Yes, sir.

21 THE COURT: Paycheck-to-paycheck, thank you for
22 that very vulnerable and public disclosure.

23 PROSPECTIVE JUROR MATHEWS: Sorry.

24 THE COURT: People don't want to say, we don't
25 want to talk about our financial circumstances in public.

1 Where do you work right now?

2 PROSPECTIVE JUROR MATHEWS: RC Willey.

3 THE COURT: Are you commission based?

4 PROSPECTIVE JUROR MATHEWS: No.

5 THE COURT: What do you do for RC Willey?

6 PROSPECTIVE JUROR MATHEWS: Delivery coordinator.

7 THE COURT: How long have you worked there?

8 PROSPECTIVE JUROR MATHEWS: 14 years.

9 THE COURT: Ms. Bank backwards, I'm not trying to

10 be cute. It's either Knab or Nab.

11 PROSPECTIVE JUROR KNAB: Knab.

12 THE COURT: So it's a silent K?

13 PROSPECTIVE JUROR KNAB: Correct.

14 THE COURT: All right. Now, you do have privacy

15 rights associated with your medical care, so be very general

16 and diplomatic in the way you answer. You told me you have

17 a medical procedure on Friday. I can address this out of

18 the panel's presence or you can tell us just a little bit.

19 Your call. It doesn't matter.

20 PROSPECTIVE JUROR KNAB: I could give you a hint,

21 that Thursday I start prepping for Friday.

22 THE COURT: Okay. Those of us over the age of 50

23 know exactly what you mean.

24 PROSPECTIVE JUROR KNAB: Sorry.

25 THE COURT: How long has that been scheduled?

1 PROSPECTIVE JUROR KNAB: A month and a half.

2 THE COURT: You should be asking me to keep you on
3 this panel.

4 PROSPECTIVE JUROR KNAB: I know, but it's
5 hereditary. I have been doing this since I was 49.

6 THE COURT: So you have had prior similar
7 procedures in the past. What interval are you on, three
8 years, five years, one year?

9 PROSPECTIVE JUROR KNAB: The last one was five
10 years. Previous it was every three.

11 THE COURT: All right. Ms. Freeman.

12 PROSPECTIVE JUROR FREEMAN: Yes.

13 THE COURT: Your husband is disabled and has
14 surgery scheduled for Wednesday, the 3rd.

15 PROSPECTIVE JUROR FREEMAN: Correct.

16 THE COURT: Again, I don't want you to disclose
17 what you are uncomfortable disclosing. We can do it in
18 private or you can give me some hints.

19 PROSPECTIVE JUROR FREEMAN: He --

20 THE COURT: Whatever you want.

21 PROSPECTIVE JUROR FREEMAN: I think, Your Honor, I
22 could actually try and coerce one of my children to take him
23 that day.

24 THE COURT: Perfect. Blame me when you talk to
25 your child.

1 PROSPECTIVE JUROR FREEMAN: Okay.

2 THE COURT: Ms. Dena Sheldon.

3 PROSPECTIVE JUROR SHELDON: Yes.

4 THE COURT: I have never known a lawyer who is
5 ever excused for cause, because you understand more than
6 this entire panel times something how critical and sacred,
7 secular or sacred your service is. You help your husband
8 who is approaching tax time and you have a private business,
9 law business on the side?

10 PROSPECTIVE JUROR SHELDON: I'm excited to be
11 here. In the interest of marital harmony, I told him I
12 would do that, because I am his secretary during tax time.

13 THE COURT: Mr. Dolan, you told me that your son
14 is coming next Wednesday, the 5th. It's a big deal.

15 PROSPECTIVE JUROR DOLAN: I think, I believe the
16 6th is Thursday.

17 THE COURT: The 6th is Thursday.

18 PROSPECTIVE JUROR DOLAN: Oh, let me, I said the
19 5th, but it's Thursday, whichever that is.

20 THE COURT: Oh, that's right. Okay.

21 PROSPECTIVE JUROR DOLAN: No, I have the 5th as
22 being Thursday, supposed to arrive midday. Do you
23 anticipate we might be through by then?

24 THE COURT: Maybe, maybe not, but if I take a
25 couple hours away from you and your son, that's one thing.

1 If I take an entire week away from you and your son, that's
2 another thing, so.

3 PROSPECTIVE JUROR DOLAN: He will be here from
4 Thursday through, into Saturday for about 48 hours.

5 THE COURT: What time on Thursday?

6 PROSPECTIVE JUROR DOLAN: Midday.

7 THE COURT: Is it Murilla or Murillo?

8 PROSPECTIVE JUROR MURILLO: Murillo.

9 THE COURT: Murillo. What are you studying at
10 UNR?

11 PROSPECTIVE JUROR MURILLO: Public health.

12 THE COURT: You heard what I said to the other
13 students?

14 PROSPECTIVE JUROR MURILLO: I did, yeah.

15 THE COURT: Okay. All right.

16 PROSPECTIVE JUROR DOLAN: Your Honor, did you want
17 an answer on that time? I checked. It's 12:30.

18 THE COURT: 12:30 on Thursday?

19 PROSPECTIVE JUROR DOLAN: That's when he is due
20 in, yes.

21 THE COURT: All right. Ladies and gentlemen, we
22 are going to break. Nothing is fast, because you are each
23 entitled to refresh yourselves and we only have so many
24 public facilities, but please be quick, because today is
25 going to be a long day, and those of you who are not going

1 to serve really want to go home and know that sooner rather
2 than later.

3 Those of you who are seated to my right, your
4 left, will generally sit in the same place, but you are not
5 required to. Those of you who are in the box must sit in
6 your exact same location, so if you would take a quick
7 survey and make sure you know where you are.

8 All right. We will stand for our panel.
9 Mr. Jensen, you will stay, please.

10 Ladies and gentlemen, you will hear me offer the
11 same admonition every time. It is required by law.

12 During this recess, please do not discuss this
13 case amongst yourselves. Please do not form or express any
14 opinion about this matter until it's been submitted to you.

15 I deeply believe in that admonition, because our
16 rule of court is that the jury will hear everything about
17 this case when they are together and the attorneys are
18 present and information comes through me as the gatekeeper.

19 If there is independent conversations or
20 investigations or research, anything of that nature, it
21 affects the proceeding. This is so serious that you will
22 hear me say it every time, and it is so serious that as soon
23 as the jury is selected, you will be given a name badge,
24 which is this huge neon warning to the entire court
25 organization, and the attorneys, and Mr. Silva, they can't

1 even say hello to you, because we don't want any question of
2 any context.

3 We will be in recess and it will be 20 minutes,
4 ladies and gentlemen, and I will be with counsel and
5 Mr. Jensen for probably 3 or 4 minutes. Yes, ma'am.

6 PROSPECTIVE JUROR: Will this be our last recess
7 for an extended amount of time, as in should we eat food for
8 people who need to eat food?

9 THE COURT: If you can in 20 minutes feel free.
10 At some point we are going to break for an hour, because I
11 think jury selection is going to go into the midpart of our
12 afternoon.

13 PROSPECTIVE JUROR: But it might be a couple more
14 hours? I'm just a person who needs to eat to be present
15 and --

16 THE COURT: Do you have something to eat?

17 PROSPECTIVE JUROR: I will find something, like I
18 will go get some food.

19 THE COURT: Our next break will probably be in two
20 hours.

21 PROSPECTIVE JUROR: Okay. Thank you.

22 THE COURT: All right. We will stand for our
23 panel.

24 (Whereupon the following proceedings were
25 outside the presence of the jury panel.)

1 THE COURT: Mr. Jensen is a chiropractor who wants
2 to be attendant to his patients, and he will be very grouchy
3 with me when I say that's not yet enough, but I think it's
4 important that you know, counsel, that Mr. Jensen and I have
5 a very close personal relationship and I wanted to share
6 that, but not in public.

7 As you know, I suffered a very deep personal
8 tragedy. The facts of that tragedy involved another driver.
9 At the time of my personal tragedy, Mr. Jensen's daughter
10 Danika worshipped with me in the same congregation and I had
11 some ecclesiastical responsibilities with her.

12 I got to know her very, very well. I just loved
13 that young woman, and shortly after our own family tragedy
14 Danika was killed by a drunk driver.

15 Mr. Jensen asked me to speak at her funeral, which
16 I was honored to do. He and his wife and I and my wife
17 remain very, very close and that's the extent of the
18 disclosure.

19 You would agree with that, Mr. Jensen?

20 PROSPECTIVE JUROR JENSEN: Yeah.

21 THE COURT: All right. Counsel, do you have any
22 questions for Mr. Jensen?

23 MR. LEE: I don't. Thank you.

24 MS. RISTENPART: Are you intending to excuse
25 Mr. Jensen?

1 THE COURT: I just want to make that disclosure.
2 I'm actually confident that Mr. Jensen will follow my
3 directions and I'm confident I will put him in jail if he is
4 in contempt, but there is this dynamic that is much larger
5 than our work.

6 MS. RISTENPART: And, Mr. Jensen, knowing all of
7 this and the background, would another case not involving
8 Judge Hardy possibly be a bit more appropriate for you?

9 PROSPECTIVE JUROR JENSEN: The problem I'm having
10 right now is I'm a sole practitioner. I'm usually booked
11 two and a half to three, four weeks out. I have patients
12 that really do need care. Nobody else can see them. I
13 don't have PA's. I don't have another doctor. I think this
14 service is great. I travel outside the United States and I
15 consider it a great thing.

16 I am working on getting an associate and in the
17 future I would love to serve, but right now for you to have
18 me on a panel, I'm going to be worried about my patients.
19 Like I said, I have one that has a traumatic brain injury
20 from being rear ended by a semi.

21 I have another one rear ended by a semi, and he
22 has neck issues and we are working as much as we can to
23 restore life and happiness to him, and I have multiple other
24 car accidents, but I'm always working. I work on the
25 average 10 to 15 hour days and I don't have anybody to take

1 care of those people.

2 So, in a way, by law I'm actually breaking that
3 law by abandoning them for a short period of time, which
4 would hurt their cases, so I'm really stuck in a pickle
5 right now.

6 THE COURT: Let me return this to the purpose for
7 our in camera proceeding. Mr. Jensen, what you don't know
8 is that this case involves the death of a young woman and
9 Mr. Silva is accused, only accused --

10 PROSPECTIVE JUROR JENSEN: I understand that.

11 THE COURT: -- to be responsible for her death.
12 There will be fairly graphic autopsy photographs. There
13 will be a lot of grief broadcast throughout this room.

14 And given your experience in the criminal justice
15 system, as you participated as a victim, I believe that
16 Mr. Jensen appeared at a sentencing proceeding and he has
17 had personal interaction with the gentleman who caused his
18 daughter's death. That's my focus at the moment. I'm not
19 sure about his emotional ability.

20 MS. RISTENPART: And I did notice when the Judge
21 brought up the nature of the case that you immediately got a
22 bit emotional. I'm very sorry for everything that your
23 family has suffered.

24 PROSPECTIVE JUROR JENSEN: Thank you.

25 MS. RISTENPART: Based upon that possibly a

1 different case at a different time would be better for you.

2 PROSPECTIVE JUROR JENSEN: Definitely a different
3 case would be nice.

4 MS. RISTENPART: Your Honor, I would just
5 challenge for cause based on what you disclosed.

6 THE COURT: So we will do that out of his
7 presence.

8 MS. RISTENPART: Thank you.

9 THE COURT: Thank you, Mr. Jensen. You are free
10 to go and see you in 20 minutes.

11 PROSPECTIVE JUROR JENSEN: Thank you.

12 (Prospective Juror Jensen was excused from the courtroom.)

13 THE COURT: I know Mr. Jensen to put up a veneer
14 of normalcy, deeply wounded, and that's why I wanted to
15 bring up the nature of the case.

16 Now, we will arrive at him when we arrive at him,
17 but I want to see if there are others that there may be
18 agreements or arguments and I want to know sooner rather
19 than later. I have beginning -- well, I will just go to the
20 first position, let's see, I have got Karel Mathews,
21 paycheck-to-paycheck, RC Willey. I haven't heard anything
22 yet there. Pamela Knab has what sounds like a --

23 MS. RISTENPART: Colonoscopy.

24 THE COURT: -- colonoscopy. She could certainly
25 reschedule it. It's not urgent. It's not life critical.

1 And so if you had an agreement, I would accept it, but if
2 not I'm going to keep her on the panel.

3 In the ninth position, Monica Freeman, disabled
4 husband. She is going to get a son to help, that's okay.
5 Dena Sheldon, the attorney, there is no way I'm letting an
6 attorney off for cause. Denis Dolan, sounds like his son is
7 coming next Thursday. I'm not ready to let him go. I have
8 Nathalie Murillo, who is a UNR student, not ready to let her
9 go.

10 Lamdaburu, I started to like her, excuse me, not
11 like her personally, like her story a little bit more. She
12 didn't seem to be looking for an excuse as she contrasted
13 San Francisco versus Utah. I would listen, counsel, if you
14 had something to say there.

15 And the 30th position, Maria Ruiz, I would
16 probably let her go if she has a hotel already scheduled for
17 Sunday night, but if you want to argue against it, I would
18 certainly let you make inquiries of her and not excuse her.
19 That's all I have. Do we have any agreements?

20 MR. LEE: Judge, I would be okay letting Ms. Ruiz
21 go and Ms. Lamdaburu. I agree with Your Honor. I think
22 it's a little bit different from what she said at the start
23 to when she clarified with a little more detail. I just
24 don't think she would be -- she would have a hard time being
25 engaged at this point.

1 THE COURT: Okay. So you are suggesting Ruiz and
2 Lamdaburu. By the way, Ms. Dice sounds like she is very
3 close to you and your family.

4 MR. LEE: I know her well. I have been to her
5 house. She has been to ours.

6 THE COURT: Would you agree, Ms. Ristenpart, she
7 would be better on a different case?

8 MS. RISTENPART: I would, Your Honor.

9 THE COURT: First let me have you respond to Ruiz
10 and Lamdaburu before offering any others.

11 MS. RISTENPART: Your Honor, we agree that
12 Aime Lamdaburu, it sounds like she has a very big meeting
13 next week and I think she would be distracted.

14 In regards to Ms. Ruiz, Your Honor, that is tough,
15 because even though the state continually says that they may
16 go into next week, I don't know if we actually are going to
17 go into next week. I will just be very frank with the
18 Court.

19 So, again, I can't plan what the state is
20 expecting or doing, but to release someone preemptively when
21 we may not go into next week, coupled with she is by all
22 other accounts able to assist, and we can accommodate her
23 schedule on Friday so she could leave earlier, that would be
24 a different situation, or if we are not in trial that would
25 be very different.

1 THE COURT: All right. I will think about her.
2 I'm not inclined to keep her because of the Sunday night
3 confirmed hotel, and I'm not sure that I expect this case,
4 I'm not as confident as you, because I didn't identify the
5 witnesses, because I'm told that there are 90 witnesses and
6 there were no agreements about which witnesses would
7 actually be called.

8 Counsel, I appreciate spirited advocacy, but I
9 also need a little civil cooperation. I'm not going to read
10 a list of 90 names when Mr. Lee has been telling me for
11 weeks it's 36 witnesses and so I'm going to just bypass that
12 part. I don't know how far this case is going to go.

13 Okay. Do you have any others, Ms. Ristenpart?

14 MS. RISTENPART: Your Honor, I agree with the
15 Court's assessment as to Mr. Lee's acknowledgment that
16 Janie Dice is much more closer in friendship to the family.
17 We would ask that she be challenged for cause. I believe
18 the Court has already heard a challenge for cause for
19 Dr. Jensen.

20 THE COURT: Mr. Lee, do you have a response to
21 Dr. Jensen?

22 MR. LEE: No. I'm fine with that as well.

23 MS. RISTENPART: Your Honor, in regards to
24 Pamela Knab, the only thing is that with a colonoscopy, she
25 is not allowed to eat for the entire day, and I know the

1 Court can ask her to reschedule, but she did state she had
2 this appointment for approximately a month and a half and
3 she had a hereditary reason as to why she is being
4 continually tested.

5 I just would like the Court to take that into
6 consideration as to how easy it is for her to reschedule
7 this particular procedure and also given the fact that it is
8 necessary because of her hereditary genetic disposition.
9 With that, Your Honor, I would just like to put on the
10 record what we spoke about in regards to Ms. --

11 THE COURT: Sandra Fawcett.

12 MS. RISTENPART: Thank you.

13 THE COURT: That's the first and only sidebar so
14 far.

15 MS. RISTENPART: And that the Court and all
16 parties were aware that Ms. Fawcett came in and was in a
17 wheelchair as she came in, but also that when she spoke
18 about the death in her family referring to her son, which
19 she also put on her jury selection sheet, that the Court
20 informed us that she was obviously very emotional, crying.
21 The bailiff handed her some tissues.

22 And then, again, when the Court on the record
23 asked her if she wanted to serve, she then became very
24 emotional and very upset, so obviously is still grieving
25 quite a lot from that. Based upon the conversation we had

1 in chambers, all parties agreed to release her based upon
2 that information.

3 THE COURT: I agree with that summary at sidebar.
4 Mr. Lee, do you agree?

5 MR. LEE: I do.

6 THE COURT: All right. I am not asking for any
7 concession. I'm just asking -- I'm not asking you to make a
8 concession. I'm asking if there is a concession as to
9 Ms. Knab. I probably would have her reschedule if the
10 question came to me, but if you want to let her go, it's
11 your chance to say yes or no.

12 MR. LEE: So, again, in my mind and not having had
13 that procedure, it seems to me it's a procedure different
14 than a surgery.

15 THE COURT: She cannot have the procedure Friday
16 and be a member of this jury. She serves on this jury and
17 she reschedules or we let her go.

18 MR. LEE: That's what I'm saying. I think the
19 procedure is easier to reschedule than a full-on surgery.

20 THE COURT: Oh, I do believe she can reschedule
21 based upon -- I mean, I'm not an expert in this, but I have
22 some experience, and although she mentioned hereditary
23 urgency, it's also been five years. So if you are asking me
24 to make a decision, I would want to hear more from her
25 before I excused her for cause, but if you want to excuse

1 for cause, this is your time.

2 MR. LEE: I think I would like to have her stay
3 on.

4 THE COURT: All right. Let's all be in recess for
5 probably 8 minutes now and then we will come back. I will
6 quickly excuse those for whom there is an agreement. We
7 will replace them and then I will carry on.

8

9 (Whereupon a break was taken from 11:45 a.m. to 11:53 a.m.)

10 (The following proceedings were outside the
11 presence of the jury panel.)

12 THE COURT: This will be the first trial where I
13 don't identify potential witnesses. The state has no
14 obligation to whittle its list of those who he intends to
15 call, but in every single case there is a difference between
16 disclosed witnesses and called witnesses.

17 I will not have my staff write the names of 90
18 people on the board and I will not read that list of 90
19 people, because after about 6 to 10 or 15 they will blend
20 together.

21 Mr. Lee has consistently told me there was going
22 to be somewhere in the range of 36 witnesses in this case.
23 So what will happen is I'm going to instruct the jury after
24 they are seated that if they recognize a witness let me
25 know, and if the recognition is such and there is a

1 conflict, you will lose that juror and we will bring in an
2 alternate. That's the risk, but, counsel, that's all I have
3 to say about it. All right. The panel.

4 (Whereupon the following proceedings were
5 in the presence of the jury panel.)

6 THE COURT: Be seated, please.

7 Ms. Dice, you are excused from service. Thank you
8 for being here. Please check in with the jury manager on
9 your way out of the building. You may be called to serve in
10 another trial this week if you will go downstairs.

11 In fact, everybody who leaves the courtroom needs
12 to check in with the jury manager. They are trying to seat
13 juries in other departments. I don't think you will be
14 used, but there is a very small possibility. Thank you,
15 Ms. Dice.

16 PROSPECTIVE JUROR DICE: Okay.

17 THE COURT: Ms. Clerk.

18 THE CLERK: Paul Oxborrow.

19 THE COURT: Where is Mr. Oxborrow? There you are.

20 Ms. Lamdaburu, you are excused from service.

21 Please check in with the jury manager on your way out.

22 Thank you.

23 Ms. Clerk.

24 THE CLERK: Jason Cowles.

25 THE COURT: K or C?

1 THE CLERK: C.

2 THE COURT: Mr. Cowles.

3 Mr. Jensen, you are thanked and excused from

4 service. I appreciate your presence this morning.

5 Ms. Clerk.

6 THE CLERK: James Morsberger.

7 THE COURT: Counsel, I invite you to focus on

8 Mr. Paul Oxborrow for a moment. Earlier today he indicated

9 that he starts a new job on Friday and the start day is

10 important to him because of some medical insurance issues.

11 Mr. Oxborrow, tell me what is the last job you

12 had?

13 PROSPECTIVE JUROR OXBORROW: I'm still currently

14 employed, but I'm going to a new job on Friday.

15 THE COURT: Where are you employed now?

16 PROSPECTIVE JUROR OXBORROW: It's an engineering

17 firm, R.O. Anderson.

18 THE COURT: And who is the new employer?

19 PROSPECTIVE JUROR OXBORROW: HDR.

20 THE COURT: Won't you have continuing coverage

21 even available at your expense through Cobra?

22 PROSPECTIVE JUROR OXBORROW: Yeah, but that's a

23 hardship that I really can't afford because it's pretty

24 expensive for family insurance.

25 THE COURT: I'm not trying to invalidate. I'm

1 just trying to understand it. So whether you go to work
2 this Friday or the following Wednesday or Thursday --

3 PROSPECTIVE JUROR OXBORROW: It's the way they
4 cover me with their insurance. If I start the end of, if I
5 start this month, I'm covered completely, covered by
6 insurance next month. If I don't, I won't be covered until
7 30 days later.

8 THE COURT: And Friday is the last day of this
9 month?

10 PROSPECTIVE JUROR OXBORROW: Yes.

11 THE COURT: If I were to call your employer on the
12 record with counsel present and ask if they could have your
13 start date be Friday, even though you don't arrive until
14 next Wednesday or Thursday, how do you think your employer
15 would respond?

16 PROSPECTIVE JUROR OXBORROW: I don't know if they
17 would allow that because of the insurance, the way the
18 insurance works. It's not upon, it's not their choice.
19 It's the insurance.

20 THE COURT: Okay. So that's a very unusual fact
21 pattern. I haven't heard that before. I believe
22 Mr. Oxborrow is telling me the truth. It makes sense
23 because it's the last day of the month, so I will entertain
24 a stipulation or just hold it for now.

25 MR. LEE: Judge, I think we would agree that

1 that's a hardship.

2 THE COURT: Thank you, Mr. Oxborrow. You are free
3 to go. You will be called to serve hopefully in the next
4 trial. Ms. Clerk.

5 THE CLERK: Anthony Dyer.

6 THE COURT: I now ask questions of the panelists
7 whose name were called and who are in the box. Those of you
8 who are not, just please passively listen in anticipation,
9 in anticipation you may participate.

10 We all learned in our early education the concept
11 of innocent until proven guilty or the presumption of
12 innocence. I want you to know that this is not a classroom
13 setting. Those words have deep meaning. I will provide
14 some instructions to you about that presumption of
15 innocence.

16 I just want to say this once so I don't have to
17 continually encourage the concept. Mr. Silva has been
18 charged with a crime. I'm about to tell you what that
19 charged crime is, but nothing in my words and nothing in the
20 charging document change the fact that he sits here today an
21 innocent man charged by the state, but unless the state
22 proves his guilt beyond a reasonable doubt, he will walk out
23 of this room an innocent man.

24 I have no opinion or idea about what will happen,
25 but it is very significant that just because I use the words

1 you don't start thinking that Mr. Silva is guilty. Await
2 the evidence which will either show he is or he is not.

3 With that, ladies and gentlemen, Mr. Silva is
4 charged with the crime Murder with the Use of a Deadly
5 Weapon. The deadly weapon the state will attempt to
6 demonstrate by evidence is a 9mm handgun. The state further
7 alleges that Mr. Silva shot the decedent about her body and
8 head.

9 I tell you that because I just want you to have a
10 context of what this trial is about. Is there anybody here
11 who is extraordinarily concerned about seeing images,
12 photographic images of a deceased person? Mr. Morsberger.

13 PROSPECTIVE JUROR MORSBERGER: Yeah. Your Honor,
14 I don't think I can be impartial, because my niece was
15 murdered, but that's all I wanted to say.

16 THE COURT: Okay. Hold on just a second. I
17 appreciate your disclosure. How long ago?

18 PROSPECTIVE JUROR MORSBERGER: About 35 years ago.

19 THE COURT: Where?

20 PROSPECTIVE JUROR MORSBERGER: Huh?

21 THE COURT: Where?

22 PROSPECTIVE JUROR MORSBERGER: Actually right
23 downstairs in 12.

24 THE COURT: Right downstairs in 12?

25 PROSPECTIVE JUROR MORSBERGER: Isn't that the

1 courtroom right downstairs?

2 THE COURT: Your niece was killed in this
3 building?

4 PROSPECTIVE JUROR MORSBERGER: No, no, no, no. I
5 just walked down the stairs. I thought it was the one right
6 under this one. It was actually Mills Lane that prosecuted.

7 THE COURT: And you believe your experience in
8 that event will affect your judgment in this event?

9 PROSPECTIVE JUROR MORSBERGER: I don't know, but I
10 am concerned.

11 THE COURT: Let me return to the question. Is
12 there anything about photographic images that will cause an
13 unusual or emotionally painful response such that you will
14 be too distracted by and cannot impartially view the facts?
15 We will come back to you, Mr. Morsberger.

16 PROSPECTIVE JUROR MORSBERGER: What?

17 THE COURT: We will come back to you in a minute
18 about your niece. I'm looking now just for photographic
19 images. Is anybody going to be so disturbed by that you
20 close your eyes, won't look, be unnaturally influenced in
21 any way?

22 Some of you really want to be here. Some of you
23 might have even read on the internet how to get into or out
24 of jury service. Some of you are neutral. You want to
25 serve, serve your community and will call to serve, but

1 don't really need to, and others of you don't want to serve
2 at all and can't wait for a chance to speak to persuade me
3 to let you go.

4 Those are the three categories. Who does not want
5 to be here this morning under any circumstances, wants to be
6 quickly excused? Anybody? Ms. Murillo.

7 PROSPECTIVE JUROR MURILLO: Yes.

8 THE COURT: Tell me why.

9 PROSPECTIVE JUROR MURILLO: Because I am a
10 full-time college student. I have midterms starting next
11 week. I know that you did say that we could get it excused,
12 but I just feel that that would be an inconvenience for me
13 just to have to prolong the test taking.

14 THE COURT: Thank you. If you weren't a student
15 and had the luxury of time would you want to serve on this
16 jury?

17 PROSPECTIVE JUROR MURILLO: Definitely.

18 THE COURT: Okay. Thank you. Mr. Torres.

19 PROSPECTIVE JUROR TORRES: I probably should have
20 spoke up about the physical part, but it's on my
21 questionnaire of what I'm going through right now, but I
22 really don't want to go into detail what it is.

23 THE COURT: I understand. Is there any --

24 PROSPECTIVE JUROR TORRES: If it was like a couple
25 of days it would be fine, but to sit here for a week and a

1 half is --

2 THE COURT: Is there any physical accommodation we
3 can make, frequent breaks, standing in place?

4 PROSPECTIVE JUROR TORRES: I can stand. I stand
5 all day at work.

6 THE COURT: How long is your seat duration?

7 PROSPECTIVE JUROR TORRES: Depends on the seat.

8 THE COURT: Those are not good seats.

9 PROSPECTIVE JUROR TORRES: No, they are not very
10 good seats.

11 THE COURT: Yeah. Are you sitting on cushions at
12 least?

13 PROSPECTIVE JURORS: Yeah.

14 THE COURT: All right. Besides that would you
15 want to serve or do you not want to serve on a jury?

16 PROSPECTIVE JUROR TORRES: I would rather not.

17 THE COURT: Okay.

18 PROSPECTIVE JUROR TORRES: To be honest.

19 THE COURT: Right. I should say this is not a
20 wishing well. You don't get what you want.

21 PROSPECTIVE JUROR TORRES: Yeah.

22 THE COURT: I'm just trying to understand you a
23 little bit.

24 Okay. Anybody else not want to serve under any
25 circumstances? Mr. Dolan.

1 PROSPECTIVE JUROR DOLAN: I think under any
2 circumstance is an exaggeration, because some of the
3 concerns of other people I think outweigh mine, but if I had
4 my choice I would not serve at this time, but that's at your
5 discretion, Your Honor.

6 THE COURT: Why don't you want to serve?

7 PROSPECTIVE JUROR DOLAN: Well, because I
8 wouldn't, the visit with my son is only going to be for
9 48 hours and the trial, as you said, may continue into
10 Thursday or even Friday of next week, and if it were going
11 to be over, I would be more than happy to serve.

12 THE COURT: Okay. Thank you. I can't guarantee
13 anything, but I think it's going to be over, but I can't
14 guarantee that.

15 Anybody else not want to serve? All the way in
16 the back, Ms. Ruiz?

17 PROSPECTIVE JUROR RUIZ: Yes. It's not that I
18 wouldn't want to. My only concern is that I have already
19 committed to my cousin's --

20 THE COURT: I understand that. We have talked
21 about it. I get it and I know I'm being short with you.
22 I'm looking for anybody who just has an emotional response
23 to jury service who doesn't believe in the system, hates
24 being here, and is going to somehow punish the state,
25 Mr. Silva or me because you are, I hope I'm saying this

1 correctly or politely, you are passively aggressive about
2 your presence.

3 You are here because you have to be, but you are
4 going to make it hard on everyone. That's what I'm looking
5 for. Anybody? Not you, sir, because you are not in the
6 box. I'm just talking to these people.

7 All right. So you have offered some good faith
8 concerns. I have not ignored them. I just haven't yet
9 ruled on them.

10 Okay. Who really wants to serve? You picked out
11 your first day of service clothing last night and laid it
12 out and circled it on your calendar. There is some of you
13 who want to do that. That's okay.

14 So let's start in the back, Ms. Ruiz. I'm sorry,
15 I looked at the wrong name. You are Ms. Knab. So you
16 really want to serve?

17 PROSPECTIVE JUROR KNAB: I do.

18 THE COURT: Why?

19 PROSPECTIVE JUROR KNAB: Timing is just not good,
20 but I spoke to my husband and he said don't you have
21 48 hours to reschedule? And if I can reschedule by tomorrow
22 morning, they won't charge me the \$100 to cancel.

23 THE COURT: Why do you want to serve, though?

24 PROSPECTIVE JUROR KNAB: If you get called, it's
25 your duty.

1 THE COURT: Okay. Who else really wants to be
2 here? Ms. Sheldon.

3 PROSPECTIVE JUROR SHELDON: I got my jury summons
4 on my 50th birthday, the first one I've ever got, and I
5 would love to see it from this side. I know it sounds odd,
6 but I find the process fascinating and I love our justice
7 system. I love the study of law.

8 THE COURT: Well said. Thank you.

9 Who else? I saw a hand here, yes, Mr. Markley?

10 PROSPECTIVE JUROR MARKLEY: Yes. So my degree is
11 in political science.

12 THE COURT: I will need a microphone or I will
13 need you to speak up, one of the two, please.

14 PROSPECTIVE JUROR MARKLEY: Yeah, my degree is in
15 political science and I believe that our institutions are a
16 lot stronger when they have participation and so I want to
17 show that participation for my community.

18 THE COURT: Thank you. Anybody else?

19 So everybody who has not spoken is okay about
20 being here? Just by show of hands, we will do this very
21 quickly, who watches regularly one or a few television crime
22 shows or courtroom shows? Just keep your hands up. In
23 fact, let's do it this way. Who does not?

24 Counsel, just take a minute and kind of survey.

25 Okay. Who watches more than three a week? Keep them high.

1 Mr. Tiger, Ms. Huber-Casazza, Ms. Stover, Ms. Alden --
2 Sheldon, excuse me, Ms. Sheldon.

3 PROSPECTIVE JUROR SHELDON: Yes.

4 THE COURT: Okay. Mr. Dolan?

5 PROSPECTIVE JUROR DOLAN: About three.

6 THE COURT: Mr. Zierten?

7 PROSPECTIVE JUROR ZIERTEN: Yes.

8 THE COURT: Which ones do you watch, Mr. Zierten?

9 PROSPECTIVE JUROR ZIERTEN: Detective shows, true
10 crime shows, documentaries, you name it.

11 THE COURT: Okay. Some of you have served on
12 juries before. Has anybody been the foreperson?

13 Ms. Freeman, where and when?

14 PROSPECTIVE JUROR FREEMAN: In the other building
15 and it was about 15 years ago.

16 THE COURT: What type of case?

17 PROSPECTIVE JUROR FREEMAN: It was a drug case.

18 THE COURT: Why were you selected as foreperson?

19 PROSPECTIVE JUROR FREEMAN: I was the very last
20 one. I replaced someone else.

21 THE COURT: Did your jury reach a verdict?

22 PROSPECTIVE JUROR FREEMAN: Yes, we did.

23 THE COURT: Was there anything about that
24 experience that would influence your participation in this
25 case?

1 PROSPECTIVE JUROR FREEMAN: No.

2 THE COURT: Anybody else been a foreperson?

3 Has anybody with prior jury service had a negative

4 experience?

5 Mr. Johnson, I see you have a book with you. What

6 are you reading?

7 PROSPECTIVE JUROR JOHNSON: Lethal Agent.

8 THE COURT: What's it about?

9 PROSPECTIVE JUROR JOHNSON: Spies.

10 THE COURT: Fiction?

11 PROSPECTIVE JUROR JOHNSON: Yes.

12 THE COURT: I saw somebody in the back earlier who

13 had a book with her. Who was that? Yes, there you are.

14 Ms. Stover, what are you reading?

15 PROSPECTIVE JUROR STOVER: The Darkest Night.

16 THE COURT: What's that about?

17 PROSPECTIVE JUROR STOVER: Two sisters that were

18 murdered.

19 THE COURT: Who is the author?

20 PROSPECTIVE JUROR STOVER: Ron Franscell.

21 THE COURT: Okay. Any other book readers in the

22 courtroom? I see a Kindle. Mr. Dolan, what are you reading

23 today?

24 PROSPECTIVE JUROR DOLAN: A book about poker math.

25 THE COURT: Poker math. Okay. Who else is

1 reading today in the courtroom? Well, let's just go through
2 this quickly. Ms. Freeman, what are you reading?

3 PROSPECTIVE JUROR FREEMAN: Michelle Obama's book.

4 THE COURT: Okay. Ms. Mathews.

5 PROSPECTIVE JUROR MATHEWS: Women's devotional.

6 THE COURT: Religious or spiritual?

7 PROSPECTIVE JUROR MATHEWS: Christian.

8 PROSPECTIVE JUROR FINNOFF: Mine is about --

9 THE COURT: Hold on. Let me just identify you.
10 Ms. Finnoff?

11 PROSPECTIVE JUROR FINNOFF: Yes. Mine is about
12 the, it's called Into The Silence and it's about the Great
13 War, Mallory and the Conquest of Everest.

14 THE COURT: Ms. Murillo.

15 PROSPECTIVE JUROR MURILLO: Kitchen Confidential
16 by Anthony Bourdain.

17 THE COURT: Ms. Chambers.

18 PROSPECTIVE JUROR CHAMBERS: Extreme Life of the
19 Seas, Marine Biology.

20 THE COURT: Ms. Denzler.

21 PROSPECTIVE JUROR DENZLER: I'm reading Bird by
22 Bird. It's a book on writing.

23 THE COURT: I didn't hear that, I'm sorry.

24 PROSPECTIVE JUROR DENZLER: The title of the book
25 is Bird by Bird by Anne Lamott and it's a book on writing.

1 THE COURT: You are writing a book about birds?

2 PROSPECTIVE JUROR DENZLER: No. I'm reading, I'm

3 reading a book called, the title is Bird by Bird by

4 Anne Lamott and it's a book on writing.

5 THE COURT: Oh, it's a book about writing.

6 PROSPECTIVE JUROR DENZLER: About writing.

7 THE COURT: Okay. Did I miss anybody?

8 Ms. Brooks.

9 PROSPECTIVE JUROR BROOKS: I'm reading The

10 Puzzling World of Winston Breen.

11 THE COURT: What's that about?

12 PROSPECTIVE JUROR BROOKS: It's fiction. It's

13 about puzzles. It's a non, it's a fiction for elementary

14 school students.

15 THE COURT: Okay. Are you our librarian?

16 PROSPECTIVE JUROR BROOKS: Correct.

17 THE COURT: From the Washoe County School

18 District?

19 PROSPECTIVE JUROR BROOKS: Correct.

20 THE COURT: Okay. Who else? Anybody? That's an

21 unusual question and answer. I don't get this very often.

22 Maclucas.

23 PROSPECTIVE JUROR MACLUCAS: Ender's Game.

24 THE COURT: Ender's Game.

25 Well, just to be fair, who has not read a book in

1 the last year? Okay. No shame. I'm just asking. So,
2 Mr. Morsberger, you have not read a book in the last year?

3 PROSPECTIVE JUROR MORSBERGER: Oh, hell, no, I'm
4 56.

5 THE COURT: Hold on. Hold on. Hold on. We don't
6 say some words in this court. That's the first and only
7 time. I appreciate you are here and you seem to be a
8 spirited citizen, but we will all give to the state and to
9 Mr. Silva a dignified proceeding.

10 Yes, sir. Mr. Denson.

11 PROSPECTIVE JUROR DENSON: I have not read a book.

12 THE COURT: You haven't read?

13 PROSPECTIVE JUROR DENSON: No.

14 THE COURT: Anybody else? Mr. Tiger?

15 PROSPECTIVE JUROR TIGER: Nope.

16 THE COURT: That's all right. Mr. Torres?

17 PROSPECTIVE JUROR TORRES: Not much of a reader.

18 THE COURT: Not much of a reader.

19 Okay. Who personally has any law enforcement
20 experience? Ms. Smith, tell us a little bit about it.

21 PROSPECTIVE JUROR SMITH: I'm a crime scene tech
22 of the Truckee Police Department.

23 THE COURT: I noted that. I forgot to mention it.
24 So you are a crime scene investigator for the Truckee
25 Police?

1 PROSPECTIVE JUROR SMITH: I respond to crime
2 scenes, yes.

3 THE COURT: Do you have professional, do you have
4 academic training?

5 PROSPECTIVE JUROR SMITH: Yes.

6 THE COURT: What is your degree?

7 PROSPECTIVE JUROR SMITH: Biology.

8 THE COURT: And are you a certified criminalist, a
9 forensic criminalist, something of that nature?

10 PROSPECTIVE JUROR SMITH: No.

11 THE COURT: So you respond to crime scenes. Do
12 you collect evidence?

13 PROSPECTIVE JUROR SMITH: I collect evidence and
14 then I see the evidence from the beginning to the end, so
15 I'm, also, my title is field and evidence specialist, but I
16 also store all of the evidence and I'm responsible for --

17 THE COURT: So you provide some custodial
18 oversight?

19 PROSPECTIVE JUROR SMITH: Yes.

20 THE COURT: Do you do any of the testing?

21 PROSPECTIVE JUROR SMITH: No. Well, I will swab
22 stuff for DNA and collect fingerprints, but I don't do the
23 analysis or testing. We send that to our state lab.

24 THE COURT: How long have you had this job?

25 PROSPECTIVE JUROR SMITH: 10 years.

1 THE COURT: If you were Mr. Silva would you want
2 you on this jury?

3 PROSPECTIVE JUROR SMITH: I don't really know how
4 to answer that. I might have a different perspective,
5 but --

6 THE COURT: Well, the appearance is that you are
7 close to law enforcement.

8 PROSPECTIVE JUROR SMITH: Yes, I am.

9 THE COURT: And law enforcement is going to be a
10 big part of this trial. There will be testimony from law
11 enforcement witnesses.

12 PROSPECTIVE JUROR SMITH: Yes.

13 THE COURT: And so Mr. Silva may be concerned that
14 you are just naturally embedded into the law enforcement
15 community. I invite you to dispel this concern.

16 PROSPECTIVE JUROR SMITH: I would understand that
17 concern. I do support law enforcement. I have worked with
18 law enforcement for 15 years, but I do also believe that I
19 have the ability to look at evidence and look at proof and
20 not form an opinion without seeing that.

21 THE COURT: I won't ask you for case numbers or
22 names or details, but have you ever known law enforcement to
23 be slightly less than perfect?

24 PROSPECTIVE JUROR SMITH: Yes.

25 THE COURT: Try and give me an example, keeping it

1 sufficiently anonymous, when has law enforcement failed to
2 reach the highest standard you expect?

3 PROSPECTIVE JUROR SMITH: Oh, dear. I think maybe
4 some shortcuts are taken sometimes. I don't have a specific
5 example that I would discuss. I don't really know how to
6 answer.

7 THE COURT: Are you married or born into law
8 enforcement or by relationship of the heart associated with
9 law enforcement?

10 PROSPECTIVE JUROR SMITH: No. It's a job for me.

11 THE COURT: Who else has law enforcement
12 experience?

13 PROSPECTIVE JUROR: Experience as in personally?

14 THE COURT: Personally.

15 Mr. Johnson.

16 PROSPECTIVE JUROR JOHNSON: I'm the treasurer for
17 a nonprofit that supports Douglas County Sheriffs providing
18 equipment, otherwise purchased through the budget process.
19 Been doing that for about 15 years.

20 THE COURT: So this nonprofit foundation raises
21 money and then uses it to supplement the Douglas County law
22 enforcement budget?

23 PROSPECTIVE JUROR JOHNSON: Correct.

24 THE COURT: Why do you do that work?

25 PROSPECTIVE JUROR JOHNSON: I think it's important

1 to have a police force that is fully equipped to the latest
2 technology and whatnot, and sometimes that doesn't happen
3 through the budget process, and this was a good way to have
4 an accountant, so to speak, so it was a good way to offer my
5 services.

6 THE COURT: Do you ever do ride alongs or go to
7 the shooting range or anything of that nature?

8 PROSPECTIVE JUROR JOHNSON: Never.

9 THE COURT: Never.

10 Who else has personal experience with law
11 enforcement? Mr. Tiger.

12 PROSPECTIVE JUROR TIGER: I have done ride alongs
13 with the Las Vegas Paiute Tribe Tribal Police. I used to
14 work as a security guard for one of the facilities there.

15 THE COURT: How long ago?

16 PROSPECTIVE JUROR TIGER: It's been about 17 years
17 since I moved to Reno, or Nevada, Las Vegas-Reno.

18 THE COURT: Okay. Thank you. Mr. Zierten.

19 PROSPECTIVE JUROR ZIERTEN: Yes. I have an uncle
20 who is a retired police detective, and I also have a friend
21 whose daughter is currently in law enforcement in Washoe
22 County.

23 THE COURT: You are anticipating my next question.
24 We are going to talk about those who surround you. We will
25 come back to that in a moment. I'm looking for personal

1 experience in law enforcement. Sometimes the questionnaires
2 tell us what you are doing, but not what you have done.

3 Yes, Ms. Sheldon.

4 PROSPECTIVE JUROR SHELDON: I have been on ride
5 alongs years ago, multiple ride alongs.

6 THE COURT: Why?

7 PROSPECTIVE JUROR SHELDON: Because I was
8 interested in the study of law and I had a very good friend
9 who worked for the Sparks Police Department and then he told
10 me I couldn't.

11 THE COURT: All right. Now, moving past personal
12 experience, tell me about someone you love. You were born
13 into a family, you married into a family, you share a
14 relationship of the heart, in close proximity to you,
15 parents, sibling, child, something like that, beginning with
16 Ms. Freeman.

17 PROSPECTIVE JUROR FREEMAN: My son is a
18 correctional officer for the federal system in Herlong.

19 THE COURT: Thank you. You disclosed that in your
20 questionnaire, right?

21 PROSPECTIVE JUROR FREEMAN: I did.

22 THE COURT: All right. How often do you talk to
23 your son about his job?

24 PROSPECTIVE JUROR FREEMAN: About his job? Not
25 very often.

1 THE COURT: Okay. Who else did I see?

2 Ms. Mathews -- no, excuse me, Knab.

3 PROSPECTIVE JUROR KNAB: My daughter currently

4 works for the victim services unit for the City of Reno, and

5 my sister, who is now deceased, she was a criminal

6 investigator for the District Attorney's Office in

7 California in San Jose, or Santa Clara County, so grew up

8 with her and her life as a deputy.

9 THE COURT: Okay. Who else is close to law

10 enforcement but not personal to it? Yes, Ms. MacLucas.

11 PROSPECTIVE JUROR MACLUCAS: My husband is

12 actually an ex military cop and he was a police officer for

13 a very short period of time.

14 THE COURT: We will have to get the microphones

15 ready. Your husband was a military police officer?

16 PROSPECTIVE JUROR MACLUCAS: Yes.

17 THE COURT: And then was in law enforcement?

18 PROSPECTIVE JUROR MACLUCAS: Yes.

19 THE COURT: Where?

20 PROSPECTIVE JUROR MACLUCAS: It was down in Carson

21 City.

22 THE COURT: How long ago?

23 PROSPECTIVE JUROR MACLUCAS: Oh, probably about

24 14 years ago.

25 THE COURT: Were you married to him at the time?

1 PROSPECTIVE JUROR MACLUCAS: Yes.

2 THE COURT: So you were a law enforcement, a
3 police officer's wife?

4 PROSPECTIVE JUROR MACLUCAS: Yes.

5 THE COURT: Why did his law enforcement career
6 end?

7 PROSPECTIVE JUROR MACLUCAS: He didn't pass the
8 probationary period.

9 THE COURT: Okay. All right. Anybody else?
10 Anybody else, law enforcement?

11 This is, this experience is like filing a tax
12 return, ladies and gentlemen. You are only as good as
13 self disclosures. We cannot pry into your hearts and minds.
14 I just trust you to be part of a system that requires
15 integrity.

16 I'm wondering if any of you have had any negative
17 experiences with law enforcement in a way that would
18 influence the way you would view law enforcement witnesses?
19 Mr. Tiger. Give Mr. Tiger a microphone, please.

20 PROSPECTIVE JUROR TIGER: I used to ride with a
21 motorcycle club and we were pulled over quite frequently,
22 harassed pretty much just because of the passenger on the
23 back. A military club, but they still harassed us
24 constantly. I was charged with four felony counts for a
25 50 second bar fight in Vegas. After \$18,000 and four and a

1 half years, they dropped it down to disorderly conduct, so.

2 THE COURT: So not a great experience with law
3 enforcement?

4 PROSPECTIVE JUROR TIGER: Not really a good
5 experience.

6 THE COURT: How does your experience affect this
7 trial, if at all?

8 PROSPECTIVE JUROR TIGER: I think police tend to,
9 I think a lot of them are doing a good job, a lot of them
10 tend to bully people around and stuff behind the badge.

11 THE COURT: Okay. Thank you.

12 Anybody else? Mr. Cowles. Microphone, please.
13 Thank you.

14 PROSPECTIVE JUROR COWLES: In 2002 I was arrested
15 for a felony, sent to prison, and then also in 2007 I was
16 convicted, but just probation, finished that honorably.
17 Other than that, no other law enforcement.

18 THE COURT: So thank you for answering what will
19 be the next question. I'm going to ask who has been charged
20 with a crime, prosecuted and so forth. I'm looking for
21 whether your experience with law enforcement has created a
22 negative opinion.

23 PROSPECTIVE JUROR COWLES: No. I was an idiot.

24 THE COURT: Okay. So were you treated fairly
25 despite how, what your conduct was?

1 PROSPECTIVE JUROR COWLES: Overall, yes.

2 THE COURT: Thank you. Anybody else?

3 Now turning to the question Mr. Cowles has

4 answered. Thank you for anticipating it, but who has been

5 investigated, charged, prosecuted, anything of that nature

6 for a crime? You have already disclosed it, Mr. Cowles.

7 Yes, Mr. Morsberger.

8 PROSPECTIVE JUROR MORSBERGER: Yeah, uh, felony

9 possession of marijuana back in the 60's. It's nothing.

10 And a few years ago possession of methamphetamine, but it's

11 nothing either.

12 THE COURT: Were you treated fairly or unfairly?

13 PROSPECTIVE JUROR MORSBERGER: Oh, every step of

14 the way, you know, it was so long ago I forget.

15 THE COURT: Every step of the way it was fair --

16 PROSPECTIVE JUROR MORSBERGER: Yeah.

17 THE COURT: -- or it was unfair?

18 PROSPECTIVE JUROR MORSBERGER: Yeah, very fair.

19 THE COURT: Okay. Who else has been investigated,

20 charged, prosecuted, had any such experience with law

21 enforcement?

22 Who has somebody close to them who has been

23 investigated, charged, prosecuted for a crime? Mr. Zierten?

24 PROSPECTIVE JUROR ZIERTEN: Yes. My stepdaughter,

25 she was investigated and prosecuted for felony possession of

1 controlled substances.

2 THE COURT: Was she treated fairly or unfairly?

3 PROSPECTIVE JUROR ZIERTEN: That's a tough

4 question. I don't think she should have been prosecuted in

5 the first place. That's my personal opinion.

6 THE COURT: Do you still have contact with her?

7 PROSPECTIVE JUROR ZIERTEN: No, I do not.

8 THE COURT: Okay. How is she doing now?

9 PROSPECTIVE JUROR ZIERTEN: Not well, Your Honor.

10 THE COURT: Anybody else?

11 Let's go to Ms. Brooks.

12 PROSPECTIVE JUROR BROOKS: My father.

13 THE COURT: Tell me a little bit about it.

14 PROSPECTIVE JUROR BROOKS: It was 26 years ago.

15 Was he treated fairly?

16 THE COURT: What was he accused of doing?

17 PROSPECTIVE JUROR BROOKS: I don't remember the

18 exact charges. It had something to do --

19 THE COURT: Of a private nature?

20 PROSPECTIVE JUROR BROOKS: Yes, but knowing the

21 parties involved, so.

22 THE COURT: Sure, I understand.

23 PROSPECTIVE JUROR BROOKS: The process went the

24 way the process goes.

25 THE COURT: Okay. Was it a good process or a bad

1 process?

2 PROSPECTIVE JUROR BROOKS: It was quick, and we
3 knew everything as much as we were told everything going in,
4 and it wasn't a good thing going on, but the process
5 continued.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR BROOKS: I mean, you know, my
8 opinion as to why and everything, but the process worked.

9 THE COURT: Thank you. Mr. Zierten had something
10 else to add.

11 PROSPECTIVE JUROR ZIERTEN: Yeah. My
12 brother-in-law was also charged and convicted of a felony.

13 THE COURT: Which felony?

14 PROSPECTIVE JUROR ZIERTEN: I think it was assault
15 with a deadly weapon.

16 THE COURT: Where?

17 PROSPECTIVE JUROR ZIERTEN: Southern California.

18 THE COURT: When?

19 PROSPECTIVE JUROR ZIERTEN: It was probably about
20 7, 8 years ago.

21 THE COURT: Your brother-in-law?

22 PROSPECTIVE JUROR ZIERTEN: My brother-in-law,
23 yes, my sister's husband.

24 THE COURT: Do you still have contact with him?

25 PROSPECTIVE JUROR ZIERTEN: Yes, I do,

1 occasionally.

2 THE COURT: What is your perception of how he was
3 treated?

4 PROSPECTIVE JUROR ZIERTEN: From my opinion of the
5 facts of the case, I thought he was treated somewhat
6 harshly, but I also understand that the charges were fairly,
7 what he was accused of was fairly severe and significant.

8 THE COURT: Thank you. Who else? Mr. Tiger.

9 PROSPECTIVE JUROR TIGER: My son was charged with
10 conspiracy, conspiracy to sell drugs. Never found any, but
11 the other three that was charged with him, they had lawyers
12 and they got out of it. He was the one who couldn't afford
13 a lawyer and he did 5 years.

14 THE COURT: Okay. Has he served that 5 years now?

15 PROSPECTIVE JUROR TIGER: He served it, got out
16 and doing great.

17 THE COURT: Wonderful. Seriously, thank you.

18 All right, who else? Ms. Maclucas.

19 PROSPECTIVE JUROR MACLUCAS: My husband three
20 years ago, he was charged with being intoxicated while
21 having a firearm.

22 THE COURT: Where?

23 PROSPECTIVE JUROR MACLUCAS: Here in Washoe
24 County.

25 THE COURT: Was he convicted of a crime?

1 PROSPECTIVE JUROR MACLUCAS: He went through the
2 VA program, so he was very fairly treated.

3 THE COURT: Okay. Thank you.

4 Anybody else have a family or a loved one who was
5 part of the criminal justice system as somebody charged?

6 Yes, Ms. Stover.

7 PROSPECTIVE JUROR STOVER: My son.

8 THE COURT: Tell me about it.

9 PROSPECTIVE JUROR STOVER: DUI.

10 THE COURT: When?

11 PROSPECTIVE JUROR STOVER: Five years ago.

12 THE COURT: One and only or multiple?

13 PROSPECTIVE JUROR STOVER: Multiple.

14 THE COURT: What's your perception of how he was
15 treated?

16 PROSPECTIVE JUROR STOVER: Fine. It was good.

17 THE COURT: Does anybody have any experience in
18 any way with the concept of murder? Has it personally
19 touched anybody's life in any way? Mr. Dolan.

20 PROSPECTIVE JUROR DOLAN: I think to say it's
21 touched me personally would be an exaggeration, but I was an
22 assistant principal and I did know at least two different
23 students who at one time later on in their lives were
24 murdered, but I don't think it would affect things here.

25 THE COURT: Thank you. I'm now going to ask about

1 who has been a victim of a crime personally.

2 Ladies and gentlemen, I acknowledge that some
3 crimes are so personal that you may wish to keep them
4 private and on this narrow issue I would honor that request.
5 It means we will have to talk to you during another break.
6 I hope to reduce the number and length of breaks, but I want
7 to know who has been affected personally as the victim of a
8 crime? Mr. Tiger.

9 PROSPECTIVE JUROR TIGER: November 14th, 2018, I
10 was stabbed and car jacked in my apartment.

11 THE COURT: What happened to the person who did
12 this?

13 PROSPECTIVE JUROR TIGER: He was, about a month
14 ago he was sentenced to 10 to 30.

15 THE COURT: He was convicted?

16 PROSPECTIVE JUROR TIGER: Convicted.

17 THE COURT: Of a personal violent assault against
18 you?

19 PROSPECTIVE JUROR TIGER: Assault with a deadly
20 weapon causing serious bodily harm while committing a crime.

21 THE COURT: Did you know him?

22 PROSPECTIVE JUROR TIGER: No.

23 THE COURT: Thank you.

24 Anybody else personally affected by the criminal
25 conduct of another person? Mr. Zierten.

1 PROSPECTIVE JUROR ZIERTEN: Yeah, I was assaulted
2 several times.

3 THE COURT: What type of setting would lead to
4 several assaults?

5 PROSPECTIVE JUROR ZIERTEN: The first time I was
6 going into my apartment. I was a kid. I was attacked by a
7 group of young people. Another time I was attacked by a
8 couple of young people walking to my house, and the third
9 time, same thing, another group of young people assaulted
10 me, strong armed robbery, basically.

11 THE COURT: When was the last time?

12 PROSPECTIVE JUROR ZIERTEN: Probably over 30 years
13 ago.

14 THE COURT: Okay. Thank you, Mr. Zierten.

15 Anybody else personally?

16 Does anybody want to have a private conversation
17 with the Court and the attorneys about this?

18 Now, not just you personally, but someone you know
19 who is in your orbit, family or beloved friend or romantic
20 partner, who has somebody who has been personally victimized
21 by the criminal conduct of others? Mr. Markley.

22 PROSPECTIVE JUROR MARKLEY: May I --

23 THE COURT: I can't hear you, I'm sorry.

24 PROSPECTIVE JUROR MARKLEY: May I discuss it
25 privately?

1 THE COURT: Yes, of course. Not now. We will in
2 a moment.

3 Anybody else have someone close to them personally
4 affected by a crime? Ms. Ruiz.

5 PROSPECTIVE JUROR RUIZ: My nephew's best friend
6 was murdered back in October.

7 THE COURT: Where?

8 PROSPECTIVE JUROR RUIZ: By Eldorado.

9 THE COURT: Here?

10 PROSPECTIVE JUROR RUIZ: Yes.

11 THE COURT: Did you go to any of the court
12 proceedings --

13 PROSPECTIVE JUROR RUIZ: No.

14 THE COURT: -- or talk to law enforcement or
15 anything of that nature?

16 PROSPECTIVE JUROR RUIZ: No.

17 THE COURT: Okay. Thank you. Anybody else?

18 Either I'm going too fast or this is the most
19 protected panel of citizens I've ever had.

20 Let me pause. Has anybody thought about answering
21 one of my questions but just didn't because I was going too
22 fast? Oh, Mr. James Cody.

23 PROSPECTIVE JUROR JAMES: I tried to answer
24 earlier, but I don't think you could see me.

25 THE COURT: Mr. Cody James, I should say.

1 PROSPECTIVE JUROR JAMES: Yes.

2 THE COURT: James is the last name. Yes.

3 PROSPECTIVE JUROR JAMES: My father was convicted.

4 THE COURT: Of what?

5 PROSPECTIVE JUROR JAMES: Assault about 12 years

6 ago.

7 THE COURT: Who was the victim?

8 PROSPECTIVE JUROR JAMES: Family.

9 THE COURT: What was the nature of the assault?

10 PROSPECTIVE JUROR JAMES: I prefer not to --

11 THE COURT: Anybody else? Thank you. You would

12 have answered, Ms. Seed, if I wasn't going so fast?

13 PROSPECTIVE JUROR SEED: Well, it's more or less

14 just didn't want to answer. I was actually a victim of my

15 children's father. He attempted to try to murder me a

16 couple times.

17 THE COURT: I need to know a little bit more about

18 that.

19 PROSPECTIVE JUROR SEED: He tried to run me off

20 the road. He has held a gun to me. Held me by knifepoint a

21 few times.

22 THE COURT: Did you ever call on the person?

23 PROSPECTIVE JUROR SEED: Yes.

24 THE COURT: Was he ever prosecuted?

25 PROSPECTIVE JUROR SEED: Not for those crimes.

1 THE COURT: Other crimes?

2 PROSPECTIVE JUROR SEED: Yes.

3 THE COURT: What crimes?

4 PROSPECTIVE JUROR SEED: Abuse towards our child

5 twice. He has had multiple DUIs and he has had a lot of

6 assaults towards others.

7 THE COURT: You referred to him as the father of

8 your children. Was he once your spouse?

9 PROSPECTIVE JUROR SEED: Yes.

10 THE COURT: How long were you married?

11 PROSPECTIVE JUROR SEED: We were married 6 months.

12 We were together about 8 years.

13 THE COURT: Where in the 8 years did that 6 months

14 land?

15 PROSPECTIVE JUROR SEED: Towards the end, so back

16 in 2005 I want to say is when we parted ways.

17 THE COURT: Do you have any ongoing contact with

18 him now?

19 PROSPECTIVE JUROR SEED: No.

20 THE COURT: Do you think any of those experiences

21 would affect your participation in this case?

22 PROSPECTIVE JUROR SEED: Yes.

23 THE COURT: How?

24 PROSPECTIVE JUROR SEED: Because I can't look past

25 things such as that. I think that that's a very big, it's a

1 big huge problem that people have and it's not something I
2 can just move past, I'm sorry.

3 THE COURT: Don't be sorry. I'm always reluctant
4 to say much about the facts of the case, because nothing I
5 say is evidence, and I don't want to get anything wrong and
6 I don't want to create any favor or disfavor. With that
7 caveat, remember the only evidence you are going to hear is
8 from the witnesses.

9 It is my understanding that the state will
10 introduce facts in which there was some form of family
11 relationship between the decedent in this case and
12 Mr. Silva. I believe the state will demonstrate the
13 decedent was a sister-in-law. Does that deepen your concern
14 or resolve your concerns?

15 PROSPECTIVE JUROR SEED: I don't think it resolves
16 it in any way.

17 THE COURT: Thank you. I'm glad that I paused.
18 This is critical information and some of you who are
19 thinking about answering should answer now. Mr. Dolan.

20 PROSPECTIVE JUROR DOLAN: I have a friend whose
21 wife was killed by another human being. I don't know if it
22 was a murder or not. It was long before I knew him, or at
23 least not long before, but before I knew him. I don't
24 believe it would affect things for me.

25 THE COURT: Thank you.

1 Anybody else close to answering, but concerned
2 about the public conversation or the nature of the answer?
3 Who beyond Ms. Sheldon has any legal training? I
4 think there is a Vargas & Bartlett employee here somewhere.
5 No? Burton, Bartlett or Glogovac? I can't remember. No
6 legal law firm employees?
7 Who here thought about going to law school?
8 Mr. Markley.
9 PROSPECTIVE JUROR MARKLEY: Yes.
10 THE COURT: Why didn't you?
11 PROSPECTIVE JUROR MARKLEY: I didn't know how I
12 would fair in a courtroom setting being an occupation.
13 THE COURT: Thank you. Anybody else? Who wanted
14 to go to law school, briefly considered it? I thought I saw
15 two hands.
16 PROSPECTIVE JUROR SANTIAGO: I didn't know if it
17 was only past tense. I am considering it.
18 THE COURT: Mr. Santiago?
19 PROSPECTIVE JUROR SANTIAGO: Yes.
20 THE COURT: Political science major considering
21 law school?
22 PROSPECTIVE JUROR SANTIAGO: Yes.
23 THE COURT: Why?
24 PROSPECTIVE JUROR SANTIAGO: Because my family
25 with immigration has had some issues and so I would like to

1 have a career in immigration law.

2 THE COURT: So this next question segues from what
3 Mr. Santiago said. And, again, I rely only upon your
4 integrity as self-disclosures. I believe the evidence will
5 show that Mr. Silva speaks Spanish. I wonder if anybody has
6 a negative opinion of those who speak Spanish? That is such
7 a hard question to answer. Mr. Tiger.

8 PROSPECTIVE JUROR TIGER: The company I work for,
9 the majority is Spanish. I'm a mechanic there. They won't,
10 they are trying to push me out because I won't learn to
11 speak Spanish so that they can speak with me.

12 THE COURT: Okay. Thank you. Anybody else?

13 Does anybody have any moral or religious
14 convictions that would prevent you from sitting in judgment
15 of others?

16 The jury room is sacred. That's not a religious
17 term. In this room it's not a religious term. It's
18 secular. There is something very tender and sacred about
19 jury deliberation, such that we never know what happens in
20 that room. You will not tell me and I will not ask.

21 My concern is if somebody knows themselves so well
22 that you think you won't participate in jury deliberations,
23 that you will just kind of stay silent and go with the
24 crowd. Any of you have that inclination, stay silent, go
25 with the crowd?

1 Some of you even this morning have not said
2 anything. We have some introverts in the group. Anybody
3 worried that they would just remain silent and go with the
4 crowd?

5 Okay. Do any of you know one another?

6 Are any of you Veterans of military service,
7 whether active duty or reserve service? Mr. Tiger.

8 PROSPECTIVE JUROR TIGER: Marine Corps.

9 THE COURT: Marine Corps, what years?

10 PROSPECTIVE JUROR TIGER: '84 to '88.

11 THE COURT: Anybody else? No other Veterans?

12 What about gun ownership, who owns guns? Okay.

13 Let me narrow it down a little bit, then. Put your hands
14 down and see if I can do it differently.

15 Who has a CCW permit to carry a concealed weapon?
16 Ms. Maclucas, Ms. Knab, who else? And Mr. Tiger, those are
17 my three CCW holders.

18 Okay. Who owns a rifle, but not a handgun?
19 Anybody?

20 All right. Now, who owns handguns? Keep your
21 hands high, because I'm going to identify you by name.
22 Ms. Knab, Mr. Torres, Ms. Sheldon, Ms. Maclucas, Mr. Denson.
23 Thank you. What gun -- well, let me get the rest of you. I
24 think you are Ms. Seed, thank you, Mr. Tiger, Mr. James.

25 PROSPECTIVE JUROR JONES: Jones.

1 THE COURT: Is it Jones?

2 PROSPECTIVE JUROR JONES: Uh-huh.

3 THE COURT: Wait a second. I'm looking at

4 Charles Jones in the front.

5 PROSPECTIVE JUROR JONES: That's me.

6 THE COURT: And Cody James right behind you. So

7 Mr. Cody James, you own a handgun?

8 PROSPECTIVE JUROR JAMES: Yes.

9 THE COURT: Mr. Jones, do you?

10 PROSPECTIVE JUROR JONES: Yes.

11 THE COURT: Okay. What do you own, Mr. Jones?

12 PROSPECTIVE JUROR JONES: A couple old revolvers

13 and a .40 caliber pistol.

14 THE COURT: Okay. Mr. Dickson did I see?

15 PROSPECTIVE JUROR DICKSON: Yes.

16 THE COURT: What do you own?

17 PROSPECTIVE JUROR DICKSON: A .357 Smith & Wesson

18 and a Taurus 9mm.

19 THE COURT: Did you buy them or inherit them?

20 PROSPECTIVE JUROR DICKSON: I bought both.

21 THE COURT: Within the last 10 years or longer

22 than 10 years?

23 PROSPECTIVE JUROR DICKSON: The Taurus has been

24 longer than 10 years.

25 THE COURT: Mr. Jensen, what do you own?

1 PROSPECTIVE JUROR JENSEN: A .357 magnum that I
2 inherited.

3 THE COURT: You inherited it?

4 PROSPECTIVE JUROR JENSEN: Yeah.

5 THE COURT: Have you shot it?

6 PROSPECTIVE JUROR JENSEN: Yeah.

7 THE COURT: Ms. Huber-Casazza, what are you
8 thinking this morning?

9 PROSPECTIVE JUROR HUBER-CASAZZA: I'm just taking
10 it all in. It's interesting, very interesting to hear all
11 of the stories, sad stories. Just here doing my civic duty
12 and proud to do so.

13 THE COURT: Proud to do so?

14 PROSPECTIVE JUROR HUBER-CASAZZA: Yes.

15 THE COURT: How did you respond when I told you
16 that the charge against Mr. Silva is murder?

17 PROSPECTIVE JUROR HUBER-CASAZZA: I didn't really
18 have a feeling either way. I just wanted to listen to all
19 of the evidence if I had the opportunity to do so and judge
20 accordingly.

21 THE COURT: At the conclusion of the evidence
22 phase of trial, I will provide written instructions of the
23 law that must govern your deliberations. Sometimes jurors
24 don't like when I say you must follow my written
25 instructions of law. They think, yeah, well, we will see.

1 And I would like to know who you are now as
2 opposed to during deliberation. Does anybody have any
3 concern with the Court telling you what the law is as
4 opposed to what you think it should be?

5 Is there anybody who cannot or will not follow the
6 Court's written instructions of law? I'm trying to say this
7 in a kind way and I want you to hear between my words a
8 little bit. Is there anyone who just kicks against
9 authority? Whatever you are told to do, you do the
10 opposite. Anybody like that in this group?

11 Mr. Morsberger, you are thinking?

12 PROSPECTIVE JUROR MORSBERGER: Me? I can go?

13 THE COURT: No. No, you were thinking about --

14 PROSPECTIVE JUROR MORSBERGER: No. I was just
15 giving it a shot.

16 THE COURT: Anybody else? It's a serious
17 question. I know it's so hard to ask, but I was wondering
18 if there are any who just want to be slightly different from
19 the Court's instructions and instead research and write your
20 own?

21 Throughout this trial, every evening recess I'm
22 going to say the same thing. It's a larger admonition. It
23 will say no independent research, no private investigation
24 or experimentation. That means you cannot go home and start
25 looking at Google, and all you have for me is your personal

1 integrity not to do so.

2 Who thinks they might go home and look at Google
3 even though I instructed you not to? Remember, the rule is
4 designed to ensure the accuracy of the admissibility of the
5 evidence before you, not to keep anything from you.

6 All right. So you all understand the admonition
7 and will live by it? Yes? Everybody is shaking their head
8 yes.

9 Because Mr. Silva is presumed innocent, the state
10 must attempt to prove his guilt beyond a reasonable doubt,
11 and I will define what reasonable doubt is at the right
12 time, but some people think that Mr. Silva must be a little
13 bit or a lot guilty just because he is sitting here.

14 Mr. Denson unknowingly just kind of shook his head
15 yes, not that he agrees personally but he is not surprised.
16 Mr. Denson, what do you think when I tell you some of this
17 number will believe Mr. Silva must have done something?

18 PROSPECTIVE JUROR DENSON: Can you repeat the
19 question?

20 THE COURT: Yeah. How do you respond when I say
21 that some of you might think Mr. Silva did something just
22 because he is sitting there?

23 PROSPECTIVE JUROR DENSON: I guess I missed the
24 question again, sorry.

25 THE COURT: Let's get a microphone. Let me see if

1 I can ask it differently.

2 PROSPECTIVE JUROR DENSON: All right.

3 THE COURT: That's better. Do you think Mr. Silva
4 did something?

5 PROSPECTIVE JUROR DENSON: I can't say that. My
6 first thought goes to that, but I want to be better about
7 that and not just think that way.

8 THE COURT: Let me use your words and just sit
9 back for answers. You know what I'm asking. Does anybody
10 think Mr. Silva must be guilty because he is sitting here?
11 Ms. Murillo.

12 PROSPECTIVE JUROR MURILLO: I don't think he is
13 guilty, but I think there was enough evidence to convict
14 him.

15 THE COURT: To convict him?

16 PROSPECTIVE JUROR MURILLO: Or, I mean, to get him
17 in court today.

18 THE COURT: So there will come a time when I
19 describe the burden of proof. The level of evidence
20 required for arrest is different and much lower than the
21 evidence required for conviction.

22 So just because the police found probable cause to
23 arrest Mr. Silva does not in any way suggest that there is
24 evidence beyond a reasonable doubt. Anybody else?

25 Because Mr. Silva is presumed innocent, he does

1 not have to prove his innocence. The only lawyer who will
2 attempt to prove anything is the state's attorney, Mr. Lee.
3 He will attempt to prove Mr. Silva's guilt beyond a
4 reasonable doubt.

5 Mr. Silva does not have to help the state, and he
6 enjoys the constitutional right to be silent, and I want to
7 know will it bother anybody if he chooses to remain silent?
8 Will it cause you to question, will it be influential in
9 your deliberations if Mr. Silva chooses to remain silent?
10 Nobody.

11 Let me see if I can ask it differently. Does
12 anybody want Mr. Silva to testify? Nobody. I have no idea
13 if Mr. Silva will testify or not. It is his constitutional
14 prerogative. I will honor whatever choice he makes, but
15 should he remain silent, I will instruct you not to consider
16 his silence and not to discuss his silence. Anybody have a
17 problem with that?

18 Does anybody have any concern about whether they
19 can be a fair juror in this case? I have heard from
20 Ms. Seed. I'm going to hear from Mr. Markley and Mr. James,
21 but does anybody else harbor some concern that you might not
22 be fair?

23 Have any of you heard of this case involving
24 Mr. Silva? The decedent's name is Luz Linarez-Castillo.
25 Has anybody seen anything or read anything about this case?

1 Ms. Murillo.

2 PROSPECTIVE JUROR MURILLO: I think I saw it on

3 the news.

4 THE COURT: How long ago?

5 PROSPECTIVE JUROR MURILLO: I think a couple

6 months ago.

7 THE COURT: Anybody else? Mr. Dolan?

8 PROSPECTIVE JUROR DOLAN: I believe I saw

9 something about it on the news, but I'm not positive,

10 because I don't remember the names.

11 THE COURT: Okay. Ms. Chambers, you know you

12 can't go through this process without saying something.

13 PROSPECTIVE JUROR CHAMBERS: I'm anxious to say

14 something. I'm thinking I'm ready to contribute, but so far

15 you haven't asked a question I can speak directly to.

16 THE COURT: Can you think of a question I should

17 ask that would cause you to respond about your participation

18 in this?

19 PROSPECTIVE JUROR CHAMBERS: I can't think of a

20 single one. I don't own a gun. I do have family members

21 that have guns, or a family member, but so far you have been

22 very thorough.

23 THE COURT: Is anybody opposed to gun ownership

24 just as a matter of conscious? Ms. Freeman.

25 PROSPECTIVE JUROR FREEMAN: Yes.

1 THE COURT: I thought you owned a gun?

2 PROSPECTIVE JUROR FREEMAN: No, I do not.

3 THE COURT: You do not own a gun?

4 PROSPECTIVE JUROR FREEMAN: No.

5 THE COURT: And you oppose gun ownership generally

6 as a matter of conscious?

7 PROSPECTIVE JUROR FREEMAN: I do.

8 THE COURT: Why?

9 PROSPECTIVE JUROR FREEMAN: Well, I think that the

10 only reason that you have a handgun in particular would be

11 to use it in a situation that would not be necessary.

12 Obviously, my son owns handguns as well as hunting rifles.

13 That does not take place anyplace around me or my husband or

14 my other son, so, yes, I am opposed to gun ownership.

15 THE COURT: Thank you. Is there anybody else who

16 is opposed to gun ownership just as a matter of personal

17 philosophy or conscious? Nobody.

18 Ms. Gilmore, you know I'm coming to you, right?

19 PROSPECTIVE JUROR GILMORE: I have been too quiet.

20 I'm boring, sorry. Go ahead.

21 THE COURT: What question would you have wanted to

22 answer if I just had a personal conversation with you

23 slower?

24 PROSPECTIVE JUROR GILMORE: What question would I

25 want to answer?

1 THE COURT: Yeah. Would you have almost answered
2 if I would have done my job differently?

3 PROSPECTIVE JUROR GILMORE: I don't know. I would
4 have to go back to all of the questions. I don't have -- Do
5 you have something in mind? I don't know.

6 THE COURT: Tell me how you feel about being here
7 this morning.

8 PROSPECTIVE JUROR GILMORE: Well, being honest, I
9 have a lot of work to do. I manage a lot of people, but I
10 find it interesting. I have served on a jury before.

11 And it doesn't matter what you think. What
12 matters is, you know, the rules you are given. The laws are
13 in place. You may not like them, but you have to abide by
14 it, abide by the instructions given. So it's interesting.
15 It's inconvenient, of course, but it's interesting.

16 THE COURT: Thank you.

17 Ms. Mathews, I feel like I've heard from you just
18 a little bit, but not enough.

19 PROSPECTIVE JUROR MATHEWS: Okay.

20 THE COURT: I know you work at RC Willey and you
21 are super concerned about finances.

22 PROSPECTIVE JUROR MATHEWS: Not super concerned.
23 I have a little bit of a buffer right now.

24 THE COURT: Okay. How do you feel about serving?

25 PROSPECTIVE JUROR MATHEWS: I'm for it. I'm okay

1 with it, absolutely.

2 THE COURT: Ms. Smith, I'm still unsure about you.
3 I'm still not sure about your service in this case. Why did
4 you look for the job you presently have? What called you to
5 your work?

6 PROSPECTIVE JUROR SMITH: Well, I like science. I
7 just kind of fell into law enforcement. I wanted to go to
8 vet school, but I ended up at the Santa Barbara Police
9 Department in the records section, and so to combine science
10 with my job, I got an interest in forensics. So I took some
11 forensic courses, and then this job in Truckee opened up and
12 I just kind of fell into it.

13 THE COURT: Do you associate with law enforcement
14 in the evening and off duty hours?

15 PROSPECTIVE JUROR SMITH: I have a lot of friends.
16 My best friend's husband is an officer. I do have a lot of
17 law enforcement friends.

18 THE COURT: Mr. Cordray, good morning.

19 PROSPECTIVE JUROR CORDRAY: Good morning.

20 THE COURT: Good afternoon, I guess. How are you
21 feeling about all of this?

22 PROSPECTIVE JUROR CORDRAY: Just trying to stay
23 awake.

24 THE COURT: Do you have a problem staying awake
25 for long periods of time?

1 PROSPECTIVE JUROR CORDRAY: No.

2 THE COURT: Could you serve on this jury

3 physically?

4 PROSPECTIVE JUROR CORDRAY: Yes.

5 THE COURT: Emotionally?

6 PROSPECTIVE JUROR CORDRAY: Yes.

7 THE COURT: Do you want to serve on this jury?

8 PROSPECTIVE JUROR CORDRAY: Yes.

9 THE COURT: Why?

10 PROSPECTIVE JUROR CORDRAY: It's a responsibility.

11 THE COURT: What would you be doing this week if

12 you were not serving?

13 PROSPECTIVE JUROR CORDRAY: I would be at work.

14 THE COURT: Tell me what you do at work.

15 PROSPECTIVE JUROR CORDRAY: Grunt work. I just

16 work in a used book warehouse.

17 THE COURT: Used book warehouse?

18 PROSPECTIVE JUROR CORDRAY: Yes.

19 THE COURT: How long have you had that job?

20 PROSPECTIVE JUROR CORDRAY: A couple of years.

21 THE COURT: Do you know anybody close to you that

22 has ever been charged with a crime?

23 PROSPECTIVE JUROR CORDRAY: Not off the top of my

24 head.

25 THE COURT: What do you think about Mr. Silva's

1 constitutional right to remain silent?

2 PROSPECTIVE JUROR CORDRAY: He has that right.

3 THE COURT: What do you think about it?

4 PROSPECTIVE JUROR CORDRAY: He deserves it.

5 THE COURT: What more can you tell us about you in
6 about 20 seconds?

7 PROSPECTIVE JUROR CORDRAY: I'm not very
8 interesting. When I'm put on the spot, I usually don't have
9 anything to say.

10 THE COURT: I think you are interesting.

11 PROSPECTIVE JUROR CORDRAY: Thank you.

12 THE COURT: And you are witty. You said a few
13 things that reveal your humor, so thank you for being here.

14 PROSPECTIVE JUROR CORDRAY: Thank you.

15 THE COURT: Mr. Jones.

16 PROSPECTIVE JUROR JONES: Yes.

17 THE COURT: What have you thought this morning and
18 into the early afternoon as I have done this voir dire?

19 PROSPECTIVE JUROR JONES: It's an interesting
20 process, never done this before.

21 THE COURT: Is there anything that would cause the
22 state to be concerned about your participation in this
23 trial?

24 PROSPECTIVE JUROR JONES: I don't think so.

25 THE COURT: What about Mr. Silva, is there

1 anything that would cause him to be concerned?

2 PROSPECTIVE JUROR JONES: No.

3 THE COURT: What do you do?

4 PROSPECTIVE JUROR JONES: A mechanic.

5 THE COURT: Is that an airplane mechanic?

6 PROSPECTIVE JUROR JONES: Heavy equipment.

7 THE COURT: Heavy equipment. Have you ever done

8 anything illegal at any time in your life?

9 PROSPECTIVE JUROR JONES: Yeah.

10 THE COURT: Think about the worst thing you have

11 done and you are willing to disclose to me in public.

12 PROSPECTIVE JUROR JONES: Driving related when I

13 was young.

14 THE COURT: Like what?

15 PROSPECTIVE JUROR JONES: Bad driver, driving

16 fast.

17 THE COURT: Dangerous driver?

18 PROSPECTIVE JUROR JONES: Uh-huh.

19 THE COURT: Tell me about your personal life.

20 PROSPECTIVE JUROR JONES: Divorced.

21 THE COURT: Romantic partner, children, live close

22 to your parents, tell us about you.

23 PROSPECTIVE JUROR JONES: Divorced and have an

24 8 year old daughter.

25 THE COURT: Where does she live?

1 PROSPECTIVE JUROR JONES: With me.

2 THE COURT: Does she alternate time with her
3 mother?

4 PROSPECTIVE JUROR JONES: I have her for five
5 days. Her mom has her for two.

6 THE COURT: Thank you. Mr. Cowles, we barely
7 heard from you. What would you be doing this week if you
8 weren't here?

9 PROSPECTIVE JUROR COWLES: Working.

10 THE COURT: Where?

11 PROSPECTIVE JUROR COWLES: I own a vapor shop,
12 electronic cigarettes.

13 THE COURT: I can't hear you, a baker shop that
14 you sell cigarettes?

15 PROSPECTIVE JUROR COWLES: No, electronic
16 cigarettes. I have a vapor shop.

17 THE COURT: Vaping, right. I did see that. You
18 own it?

19 PROSPECTIVE JUROR COWLES: Yes.

20 THE COURT: Do you vape?

21 PROSPECTIVE JUROR COWLES: Yes.

22 THE COURT: What do you think about Mr. Silva?

23 PROSPECTIVE JUROR COWLES: Don't know the guy.

24 THE COURT: What do you think about him being here
25 this morning?

1 PROSPECTIVE JUROR COWLES: I have been over there
2 and it sucks.

3 THE COURT: Is there a reason why the state should
4 be concerned about your participation on this jury?

5 PROSPECTIVE JUROR COWLES: I don't think so.

6 THE COURT: What about Mr. Silva?

7 PROSPECTIVE JUROR COWLES: No.

8 THE COURT: Could you find Mr., if the state
9 failed to prove this case beyond a reasonable doubt, could
10 you vote that way and say not guilty?

11 PROSPECTIVE JUROR COWLES: If he was not like
12 proven?

13 THE COURT: Yeah.

14 PROSPECTIVE JUROR COWLES: Absolutely.

15 THE COURT: Would you want to begin with some
16 conclusion in mind that he either is or is not guilty?

17 PROSPECTIVE JUROR COWLES: No.

18 THE COURT: Denzler, Ms. Denzler.

19 PROSPECTIVE JUROR DENZLER: Yes.

20 THE COURT: Take that microphone and give us some
21 open mic time for about a minute.

22 PROSPECTIVE JUROR DENZLER: I'm happy to be here.
23 It's the fourth time I have been called. I served on two
24 juries previously. I'm a writer, currently writing a novel,
25 also a photographer.

1 I'm a Nevada native, and I'm very happy to be here
2 to be participating in my civil duty, and lived in Reno many
3 years and seen all of the changes. Grew up here as a child.
4 I love being in this room. I love seeing all of the history
5 here and feeling it, and I like participating with my peers.

6 THE COURT: Thank you. Ladies and gentlemen, we
7 are going to be in recess until 2:10. During this recess
8 please do not discuss this case amongst yourselves. Please
9 do not form or express any opinion about this matter until
10 it's been submitted to you.

11 I would like Mr. Markley to remain in the
12 courtroom. I would like Mr. Cody James to remain out of the
13 courtroom, but ready for summons. We will stand for our
14 jury panel.

15 Remember, ladies and gentlemen, please do not form
16 or express any opinion about this matter until it's been
17 submitted to you. Please be careful of all conversations
18 that you have. You are free to go now.

19 (Whereupon the following proceedings were
20 outside the presence of the jury panel.)

21 THE COURT: Mr. Markley, if you will sit in that
22 corner seat, please. Be seated, please.

23 Mr. Markley, what did you want to tell us
24 privately?

25 PROSPECTIVE JUROR MARKLEY: So the question was if

1 I had any sort of a family member or someone close to me
2 that was a victim of a crime. Both my ex-wife and my
3 current wife were both victims of child molestation. I
4 didn't feel like it was mine to tell the public.

5 THE COURT: All right. I understand. How has
6 that knowledge and how have those relationships between you
7 and other women affected you in a way that would influence
8 this proceeding?

9 PROSPECTIVE JUROR MARKLEY: They wouldn't
10 influence this proceeding.

11 THE COURT: Okay. Counsel, do you have any
12 questions for Mr. Markley?

13 MR. LEE: Thank you for disclosing. I don't,
14 Your Honor.

15 MS. RISTENPART: No. Thank you, Your Honor.

16 THE COURT: Thank you. You are free to step away.
17 (Prospective Juror Markley was excused from the courtroom.)

18 THE COURT: Mr. Cody James, please.

19 Mr. James, have a seat right in this corner chair,
20 please.

21 PROSPECTIVE JUROR JAMES: Closest to you?

22 THE COURT: No, the corner right there. I sensed
23 a lot of hesitation in your voice as you were about to
24 disclose something involving your father.

25 PROSPECTIVE JUROR JAMES: Yeah. He was convicted

1 of sexually assaulting my sister.

2 THE COURT: Do you have a relationship with him
3 now?

4 PROSPECTIVE JUROR JAMES: No. I haven't talked to
5 him in 12 years.

6 THE COURT: Was he convicted did you say?

7 PROSPECTIVE JUROR JAMES: Yes.

8 THE COURT: What was his sentence?

9 PROSPECTIVE JUROR JAMES: I think it was 8 to 12
10 and he got out I think 4 years ago on good behavior.

11 THE COURT: You have not talked to him?

12 PROSPECTIVE JUROR JAMES: No.

13 THE COURT: Tell me what this means to you. I
14 know it's a very broad question. We really just want to
15 listen to your words and quickly kind of feel your soul, but
16 this was hard for you and I want you to describe it in
17 whatever words you think is appropriate. I'm looking for
18 fairness both to the state and Mr. Silva.

19 PROSPECTIVE JUROR JAMES: For me it was a little
20 bit more rough, I would say, because I'm the one who kind of
21 turned him in. He was almost found guilty of murdering my
22 mom, but there was a lot of vagueness to it and no one in my
23 family ever really wants to talk about it.

24 THE COURT: He was almost convicted of murdering
25 your mother?

1 PROSPECTIVE JUROR JAMES: Yes, but this was when I
2 was 3 months old, sir.

3 THE COURT: Hold on. Is your mother deceased
4 right now?

5 PROSPECTIVE JUROR JAMES: Yes.

6 THE COURT: And some in your family think she is
7 deceased at your father's hands?

8 PROSPECTIVE JUROR JAMES: Yes, her mom, my
9 grandmother to be specific, and that was her story to us as
10 we grew up, but, again, no one really liked to talk about
11 it.

12 THE COURT: What was the nature of the death?

13 PROSPECTIVE JUROR JAMES: Somehow she ended up
14 getting out of the vehicle while she was driving and wanted
15 to go around allegedly to pull him out, and somehow through
16 this course of action the vehicle ended up on top of her
17 severing her brainstem.

18 THE COURT: So it was a vehicle that caused her
19 death?

20 PROSPECTIVE JUROR JAMES: Yes.

21 THE COURT: Counsel?

22 MR. LEE: I appreciate his full disclosure. Thank
23 you. I have no questions.

24 MS. RISTENPART: And you said you were 3 months at
25 the time?

1 PROSPECTIVE JUROR JAMES: When my mother died,
2 yes.

3 MS. RISTENPART: If you had to tell your family
4 that you were sitting on a jury involving, and you haven't
5 heard any evidence, but just the Judge saying this is maybe
6 what you are going to hear, would your family be giving you
7 a difficult time for sitting on this jury?

8 PROSPECTIVE JUROR JAMES: Oh, no, not at all.

9 MS. RISTENPART: Specifically your grandmother?

10 PROSPECTIVE JUROR JAMES: So she has had a lot of
11 substance abuse problems throughout her life and so those
12 type of conversations don't generally come up very often.

13 I would like to add I'm really happy to actually
14 be here. I've always wanted to be part of a jury process.
15 I actually think this whole procedure is pretty fascinating,
16 and I would like to continue to be here, if that's an
17 option.

18 THE COURT: Thank you.

19 MS. RISTENPART: No further questions. Thank you.

20 THE COURT: You are free to leave.

21 (Prospective Juror James was excused from the courtroom.)

22 THE COURT: I'm about to invite your supplemental
23 voir dire. Are there any broad subject areas that you want
24 me to make inquiries before I give it to you?

25 MR. LEE: No. I have just very few questions. I

1 appreciate your thoroughness.

2 MS. RISTENPART: And I don't want to repeat the
3 Court's questioning, but when you asked introverts to speak
4 up in a courtroom full of people, some may have problems
5 speaking up. I find obviously the opposite usually occurs,
6 they fail to speak.

7 So I don't know if the Court would like me to
8 flesh that out a little bit more or for you to readdress
9 that again in regards to jury deliberations and not being
10 concerned about speaking in any public proceeding.

11 THE COURT: I will touch it again quickly and
12 certainly allow you to, if it was supplemental.

13 MS. RISTENPART: Correct.

14 THE COURT: It's like asking who, you know, has
15 ever had a racist thought. People aren't going to raise
16 their hand.

17 MS. RISTENPART: Right.

18 THE COURT: So I can only give an invitation, but
19 we strike for a fair trial, not a perfect trial.

20 MS. RISTENPART: It's a very quiet jury, though.

21 THE COURT: Oh, boy.

22 MS. RISTENPART: I do have my concern, though,
23 Your Honor, if we can readdress Mr. James Morsberger.

24 THE COURT: Yes. Mr. Morsberger is the gentleman
25 whose niece was murdered. He spontaneously uttered kind of

1 a PG rated swear word. It wasn't bad, but it was a lack of
2 awareness.

3 I should say that our record does not reveal, but
4 he looks a little unkempt and slightly out of, out of step,
5 which makes him attractive as a diverse person on the jury
6 but also makes him a little unpredictable. Those are my
7 observations. Are you asking that I excuse him?

8 MS. RISTENPART: With the Court's indulgence.

9 (A discussion was held off the record.)

10 MS. RISTENPART: Your Honor, we would challenge
11 Mr. James Morsberger and I believe there is an agreement to
12 challenge him.

13 MR. LEE: No objection.

14 THE COURT: Let's do it sooner rather than later
15 then.

16 I'm concerned about Rachel Seed. I have the
17 advantage over you, counsel, because you are looking at me
18 and I'm looking at them.

19 There was a very palpable physical part of her
20 communication to the Court in addition to the verbal
21 communication when she talked about having guns and knives
22 held to her head by her former husband and her inability to
23 be fair, and I wanted to invite you to tease that out with
24 me, if you thought now is the time, or with her on
25 supplemental.

1 MS. RISTENPART: Judge, she was pretty adamant
2 this was not the case for her saying that she would not be
3 able to set aside her own personal memories and what
4 happened in her victimization, and then when the Court
5 elucidated that it was a sister-in-law or a familia member
6 that the state would be trying to prove, I did see her
7 reaction for the record was visceral. She kind of opened
8 her eyes wider and definitely seemed upset with defense
9 counsel, so.

10 THE COURT: Are you formally moving that she be
11 excused for cause?

12 MS. RISTENPART: I would, Your Honor, based upon
13 her statement that she just cannot be fair in this case.

14 THE COURT: Mr. Lee.

15 MR. LEE: That was my recollection of her
16 statement as well.

17 THE COURT: Yeah, I would grant the motion for
18 cause, so let's just, whether it's by stipulation or not I'm
19 going to.

20 MR. LEE: It is.

21 THE COURT: Thank you. Okay. Mr. Lee, how long
22 is your opening statement?

23 MR. LEE: 10 to 15, Your Honor. Your Honor, I do
24 have a PowerPoint. Sometimes that causes judges and defense
25 attorneys to not like that. I have printed it out. I could

1 show Your Honor before we start or however you would like to
2 do it. I'm not showing evidence. It's all trying to
3 acquaint people with the jury, four slides.

4 THE COURT: Four slides. That's different.
5 That's better than I thought. Let me first hear from
6 Ms. Ristenpart before I respond.

7 MS. RISTENPART: Your Honor, I know that pursuant
8 to case law that he doesn't have to show his attorney work
9 product prior to putting it on, but in opening statements
10 and closing, I think Mr. Lee, from what I understand of
11 being in trial with him before, may be presenting some kind
12 of timeline for dates based upon my experience with him.
13 I'm guessing, because I have not seen anything.

14 And so nothing has been admitted. Nothing has
15 been stipulated to, Your Honor. If there is no pictures or
16 anything else that touches upon evidence that has not been
17 admitted yet, then it's his prerogative.

18 THE COURT: All right. So my presumption with
19 Mr. Lee and with Ms. Ristenpart is a presumption of good
20 faith and professional integrity. You know the rules,
21 Mr. Lee.

22 I don't like it when there are lengthy opening
23 statement PowerPoints, because they just kind of involve
24 into advocacy, and I really don't like it when they contain
25 evidence that's not yet admitted. I will need you to

1 monitor that.

2 MR. LEE: Certainly I'm talking about evidence,
3 but I'm not showing evidence.

4 THE COURT: Right.

5 MR. LEE: I'm going to talk about DNA, but I'm not
6 going to show any results.

7 THE COURT: That's the purpose of an opening
8 statement. You can tell the jury what to expect.

9 MR. LEE: Thank you.

10 THE COURT: But the evidence will be broadcast
11 after it's admitted and permission is granted to publish,
12 not in the opening preferably. Okay. I would like you to
13 show it to Ms. Ristenpart. She only has 30 minutes, but if
14 it's four pages just show it to her in just a minute.

15 But I want to take this opportunity to talk about
16 closing arguments. I have had the experience, Mr. Lee,
17 where some state's attorneys have given fairly short closing
18 statements, closing arguments, rather, and then on rebuttal
19 went way too long and exhaustively. It's like they held
20 back their closing arguments. I expect your closing
21 argument will be your argument and your rebuttal will not be
22 new PowerPoint material. Do you know what I'm saying?

23 MR. LEE: Judge, I think that's been your concern
24 from day one since I have been in this court, so I
25 understand.

1 THE COURT: I hate the word sandbag, and it does
2 not apply to you and I don't have negative things about your
3 colleagues, but argument needs to be argument and then
4 rebuttal needs to touch upon the defense argument.

5 MR. LEE: Thank you.

6 THE COURT: All right. Very well. We will see
7 you -- Ms. Clerk, at what time?

8 THE CLERK: 2:10.

9 (Whereupon a break was taken from 1:23 p.m. to 2:11 p.m.)

10 (Whereupon the following proceedings were
11 outside the presence of the prospective jury panel.)

12 MS. RISTENPART: Your Honor, there was a matter,
13 Mr. Lee was talked to by one of the potential jurors.

14 MR. LEE: The juror we are excusing,
15 Mr. Morsberger I think is his name, I just walked by out
16 there, and he said, Mr. Attorney, I want to talk to you, and
17 I turned around and gave him a hand and walked off.

18 THE COURT: Well, counsel, that reveals the wisdom
19 of your stipulation. Thank you.

20 We will have the jury in, please.

21 (Whereupon the following proceedings were
22 in the presence of the jury panel.)

23 THE COURT: Ladies and gentlemen, it is the
24 pleasure of the Court and the attorneys to always stand when
25 the jury enters the room, but feel free to sit as soon as

1 you arrive at your seats. That is wonderful. I think we
2 are missing one person. Oh, wonderful. All right. Be
3 seated, please.

4 Mr. Morsberger in the 18th position, thank you for
5 being here and being willing to serve. Based upon your
6 responses to the Court's questions, I'm excusing you. You
7 are released from further service. Thank you.

8 PROSPECTIVE JUROR MORSBERGER: I can check out and
9 go home?

10 THE COURT: Now is the time, yes, sir.

11 PROSPECTIVE JUROR MORSBERGER: Thank you,
12 Your Honor.

13 THE COURT: Ms. Clerk.

14 THE CLERK: Thomas Christeck.

15 THE COURT: Ms. Seed, I have decided that it is
16 appropriate to invite you to serve in a different case. I
17 appreciate your presence and participation. You are free to
18 leave.

19 Ms. Clerk, the 24th position.

20 THE CLERK: Joseph Esposito.

21 THE COURT: Mr. Christeck and Mr. Esposito, to the
22 two of you only, I can't spend the next 90 minutes doing
23 what we did the last 90 minutes, but it's also critical for
24 the attorneys and for Mr. Silva to have a sense for who you
25 are.

1 Beginning with Mr. Christeck, can you think of any
2 answers you would have provided in response to the state's
3 or the Court's questions?

4 PROSPECTIVE JUROR CHRISTECK: So my stepdaughter,
5 her father is on death row for a murder. He raped my
6 ex-wife.

7 THE COURT: All right. Let me take that in
8 smaller pieces. You are married right now?

9 PROSPECTIVE JUROR CHRISTECK: No, I'm divorced,
10 but she still lives with me.

11 THE COURT: All right. So you were married to a
12 woman. When did you marry her?

13 PROSPECTIVE JUROR CHRISTECK: 2016.

14 THE COURT: And you were divorced from her when?

15 PROSPECTIVE JUROR CHRISTECK: Last year.

16 THE COURT: So it was a marriage of three years?

17 PROSPECTIVE JUROR CHRISTECK: We were together for
18 10.

19 THE COURT: You were together 10. And did she
20 bring to the marriage children?

21 PROSPECTIVE JUROR CHRISTECK: Yes, one child.

22 THE COURT: One child. Did you have children with
23 her?

24 PROSPECTIVE JUROR CHRISTECK: No.

25 THE COURT: And her former husband has been

1 convicted of a crime or just the father of her child?

2 PROSPECTIVE JUROR CHRISTECK: The father of her

3 child.

4 THE COURT: What year was the child born?

5 PROSPECTIVE JUROR CHRISTECK: 2006.

6 THE COURT: What year was this man convicted of a

7 crime?

8 PROSPECTIVE JUROR CHRISTECK: 2006.

9 THE COURT: And what was the nature of the crime?

10 PROSPECTIVE JUROR CHRISTECK: Rape and murder.

11 THE COURT: Who was the victim of the rape?

12 PROSPECTIVE JUROR CHRISTECK: It was --

13 THE COURT: I don't need to know names. It wasn't

14 the stepdaughter?

15 PROSPECTIVE JUROR CHRISTECK: No, it was a sister,

16 a friend.

17 THE COURT: Who was the victim of the murder?

18 PROSPECTIVE JUROR CHRISTECK: The same person.

19 THE COURT: Same person.

20 PROSPECTIVE JUROR CHRISTECK: And then there was

21 another person at UNR he raped.

22 THE COURT: What is the name of this gentleman?

23 PROSPECTIVE JUROR CHRISTECK: Tamir Hamilton.

24 THE COURT: Did you ever meet Mr. Hamilton?

25 PROSPECTIVE JUROR CHRISTECK: No, I did not.

1 THE COURT: You have heard of Mr. Hamilton through
2 your wife?
3 PROSPECTIVE JUROR CHRISTECK: Yes.
4 THE COURT: You said yes emphatically. You shook
5 your head as if yes times three. You heard about him a lot?
6 PROSPECTIVE JUROR CHRISTECK: A lot.
7 THE COURT: And this former wife still lives with
8 you?
9 PROSPECTIVE JUROR CHRISTECK: No, just the
10 stepdaughter.
11 THE COURT: The stepdaughter?
12 PROSPECTIVE JUROR CHRISTECK: Yes.
13 THE COURT: She is how old now?
14 PROSPECTIVE JUROR CHRISTECK: 13.
15 THE COURT: Were you with your wife at the time of
16 Mr. Tamir Hamilton's prosecution?
17 PROSPECTIVE JUROR CHRISTECK: Of his trial, yes.
18 THE COURT: Did you attend any days of his trial?
19 PROSPECTIVE JUROR CHRISTECK: No, I did not.
20 THE COURT: Did your wife attend?
21 PROSPECTIVE JUROR CHRISTECK: Yes.
22 THE COURT: Did she participate as a witness?
23 PROSPECTIVE JUROR CHRISTECK: She was called as a
24 witness, yes. I do not know if she testified. I don't
25 remember.

1 THE COURT: Taking that event aside do you have
2 any other answers you would have provided to this Court?
3 PROSPECTIVE JUROR CHRISTECK: My co-worker was
4 also just recently charged with murder.
5 THE COURT: Your co-worker was just charged with
6 murder?
7 PROSPECTIVE JUROR CHRISTECK: Yes.
8 THE COURT: Charged or convicted?
9 PROSPECTIVE JUROR CHRISTECK: Charged.
10 THE COURT: What was the nature of the murder
11 allegation?
12 PROSPECTIVE JUROR CHRISTECK: A shooting.
13 THE COURT: A shooting. How well did you know
14 this co-worker?
15 PROSPECTIVE JUROR CHRISTECK: I mean, I talked to
16 him. I don't know if we were friends, but, you know, more
17 than acquaintances.
18 THE COURT: Where do you work?
19 PROSPECTIVE JUROR CHRISTECK: Carson Tahoe.
20 THE COURT: Have you had any contact with your
21 co-worker since his arrest?
22 PROSPECTIVE JUROR CHRISTECK: He may have sent a
23 message in an e-mail to my name, but I didn't send one
24 myself.
25 THE COURT: Did you ever meet Mr. Hamilton?

1 PROSPECTIVE JUROR CHRISTECK: No.

2 THE COURT: What are your thoughts about

3 Mr. Hamilton today?

4 PROSPECTIVE JUROR CHRISTECK: I think he got what

5 he deserved or is going to hopefully get it.

6 THE COURT: So when you say he got what he

7 deserved, you are referring to the punishment?

8 PROSPECTIVE JUROR CHRISTECK: Correct.

9 THE COURT: And you are hoping that punishment is

10 completed?

11 PROSPECTIVE JUROR CHRISTECK: Correct.

12 THE COURT: Sounds like you don't have a lot of

13 sympathy or tolerance in any way.

14 PROSPECTIVE JUROR CHRISTECK: (Shakes head.)

15 THE COURT: You are shaking your head no.

16 PROSPECTIVE JUROR CHRISTECK: Not for him.

17 THE COURT: How will your experience with

18 Mr. Tamir Hamilton's romantic partner, your wife, affect

19 your participation in this case?

20 PROSPECTIVE JUROR CHRISTECK: I think it makes me

21 think you are charged for a reason, but that doesn't mean he

22 killed somebody.

23 THE COURT: I need a microphone please, Deputy. I

24 can't hear. I'm trying my very best and I'm sorry about

25 that.

1 PROSPECTIVE JUROR CHRISTECK: No, sorry, it's my
2 fault. I said they are charged for a reason. That doesn't
3 mean they are guilty, but there is obviously something
4 there.

5 THE COURT: Counsel, I would like you to see me at
6 sidebar, please. Ladies and gentlemen, during this brief
7 recess, you may stand and be at ease.

8 (Whereupon a sidebar discussion took place.)

9 THE COURT: Mr. Christeck, I want to be clear, you
10 have Mr. Tamir Hamilton's child as your stepdaughter living
11 in your home with you right now?

12 PROSPECTIVE JUROR CHRISTECK: Uh-huh.

13 THE COURT: And that stepdaughter lives with you
14 instead of her mother?

15 PROSPECTIVE JUROR CHRISTECK: Both, kind of a
16 shared custody.

17 THE COURT: Okay. Mr. Christeck, you have done
18 nothing wrong. I appreciate your appearance today. Just in
19 light of the circumstances, I think it's better that you
20 serve on a different type of case.

21 PROSPECTIVE JUROR CHRISTECK: Okay.

22 THE COURT: You are free to leave the courtroom.
23 Thank you.

24 PROSPECTIVE JUROR CHRISTECK: Thank you,
25 Your Honor.

1 THE COURT: Ms. Clerk.

2 THE CLERK: Taylor Pearce.

3 THE COURT: Mr. Esposito.

4 PROSPECTIVE JUROR ESPOSITO: Yes.

5 THE COURT: Talk to me for a few minutes about

6 your observations this morning, what questions you would

7 have answered, anything the attorneys should know about your

8 participation in this case.

9 PROSPECTIVE JUROR ESPOSITO: I was the one that

10 raised my hand when you asked if we don't want to be here

11 today because we have some kind of ill will, not ill will,

12 but just not very happy with the state I should say, because

13 I'm kind of forced here against my will. I don't really

14 like that, but I do understand the need for it, I guess you

15 could say, the need for an impartial jury to judge upon the

16 case.

17 THE COURT: Tell me a little bit more about that.

18 Without any fear of judgment from me, I just want you to

19 feel free to tell us a little bit more about why you resent

20 being here and why you feel compelled to be here.

21 PROSPECTIVE JUROR ESPOSITO: I just don't like the

22 fact that I'm forced to be here under essentially what I

23 view is a threat of death. If I don't come here, I'm

24 assuming that a warrant would be issued for my arrest?

25 THE COURT: Yes.

1 PROSPECTIVE JUROR ESPOSITO: And if I resisted
2 arrest, there would be bodily harm and possibly murder
3 brought upon me; is that incorrect?

4 THE COURT: Well, let me take that in small steps.
5 If you chose to ignore a subpoena --

6 PROSPECTIVE JUROR ESPOSITO: Yeah.

7 THE COURT: -- I have the lawful authority to sign
8 a warrant for your arrest. If I sign a warrant for your
9 arrest, at some point law enforcement would arrest you and
10 put you in Parr Boulevard, so there I agree with you. But
11 then you said you would be in fear of bodily harm or murder?

12 PROSPECTIVE JUROR ESPOSITO: Well, yeah, because,
13 I mean, if I don't agree with the reason being arrested,
14 which is for not showing up here, if I resist the arrest, if
15 an officer comes to arrest me and I say, no, I don't agree
16 with this and I'm not coming with you and I resist it, I'm
17 assuming a physical altercation may occur and at that point
18 I feel like my life ends, essentially.

19 And I'm just being completely honest. That's just
20 kind of my viewpoint. I don't really agree with that, but
21 that's kind of the way things are and that's why I'm here
22 right now.

23 THE COURT: What do you do for work?

24 PROSPECTIVE JUROR ESPOSITO: I work in quality
25 assurance for an appraisal management company.

1 THE COURT: Do you have feelings about government
2 authority that you would like to share with us?

3 PROSPECTIVE JUROR ESPOSITO: I do have feelings,
4 not ones that I would like to share.

5 THE COURT: May I infer that those feelings are
6 somewhat hostile to government authority?

7 PROSPECTIVE JUROR ESPOSITO: Yes.

8 THE COURT: Can you tell me what caused those
9 feelings you have?

10 PROSPECTIVE JUROR ESPOSITO: I just like to be
11 left alone, I guess. I don't like people meddling in my
12 business. I don't like meddling in theirs. And when I feel
13 like I'm being forced to do something against my will,
14 that's kind of coming against me and I don't really
15 appreciate that.

16 THE COURT: So it's more of an opinion that has
17 grown as you aged as opposed to a singular event in your
18 life that has then caused you to react to it?

19 PROSPECTIVE JUROR ESPOSITO: Yes, that's correct.

20 THE COURT: How do your feelings about government,
21 how does it manifest in other choices you make; for example,
22 voting, or taxes, or prepping? And I'm not trying to be
23 sarcastic or mean spirited. I honor you for being here
24 today, but I need to know more about who you are.

25 PROSPECTIVE JUROR ESPOSITO: I don't vote because

1 I don't really think it matters. Yeah, I don't really vote.
2 I pay my taxes. I do all that because like kind of the
3 discussion we had earlier. I didn't want to be arrested and
4 all of that stuff, but I just kind of live my life and try
5 not to impose my will on others and try to make it so they
6 don't have to impose their will on me.

7 THE COURT: Have you ever had reason to call 911?

8 PROSPECTIVE JUROR ESPOSITO: I got in a car
9 accident two months ago and called 911 then.

10 THE COURT: So you did call 911?

11 PROSPECTIVE JUROR ESPOSITO: Well, I didn't call.
12 I was at fault for the accident. The person I hit called,
13 yes.

14 THE COURT: If somebody was breaking into your
15 home or threatening you or your family on the streets in the
16 community would you call 911?

17 PROSPECTIVE JUROR ESPOSITO: No. 911 isn't
18 responsible for my safety. I am. I'm also a gun owner. I
19 know that's a question you asked earlier, so if someone
20 broke in my home, I would grab that before I grabbed a phone
21 to call 911.

22 THE COURT: So you would, you would use self help
23 before requesting the help from others?

24 PROSPECTIVE JUROR ESPOSITO: Yes.

25 THE COURT: How does your life orientation

1 influence the state's presentation of evidence or
2 Mr. Silva's defense of the evidence? Like would you be
3 anti-state or against constitutional rights for those who
4 are accused? I'm trying to figure out where on the spectrum
5 you fall.

6 PROSPECTIVE JUROR ESPOSITO: I'm not sure I would
7 be anti-state, but I also wouldn't be looking at the charges
8 being brought forth. I'm not sure it would be anti-state,
9 because the charges are harm against another person, I
10 should say. Also, I'm not anti-constitutional rights if
11 that's what you were asking; is that correct?

12 THE COURT: I mentioned constitutional rights.
13 Mr. Silva enjoys great constitutional rights which we will
14 endeavor to protect.

15 PROSPECTIVE JUROR ESPOSITO: And I agree that he
16 enjoys those rights and I support those rights. And I don't
17 believe that he has those rights because of the
18 Constitution. I believe he has those rights just as a human
19 being. Every human on this earth should enjoy those rights.
20 I don't think a piece of paper gives you those rights. I'm
21 born with those rights and nobody can take them away from
22 me. And, yeah, that's what I believe.

23 THE COURT: I want you to leave this courtroom
24 whenever you do with the observation that you saw people
25 doing their best within a system that exists. You haven't

1 yet heard from the attorneys. You have heard from me.

2 That's how I want you to leave this experience, but I have
3 got to probe just a little bit more and then I will be done.

4 PROSPECTIVE JUROR ESPOSITO: All right.

5 THE COURT: I'm trying to understand what's going
6 on a little bit. If everybody on this panel shared your
7 views would there be any jury trials?

8 PROSPECTIVE JUROR ESPOSITO: Probably not. Well,
9 actually, no, I don't believe so, because I like to believe
10 that people are naturally good inside, and I think, you
11 know, if we had a system where maybe people volunteered to
12 be on a jury or something like that, but, yeah, that's what
13 I believe.

14 THE COURT: So you believe in the jury trial, just
15 the voluntary participation and not compulsion?

16 PROSPECTIVE JUROR ESPOSITO: Yes.

17 THE COURT: Have you been charged or investigated
18 or arrested in the past?

19 PROSPECTIVE JUROR ESPOSITO: I'm currently charged
20 from a car accident with failure of due care. I haven't had
21 a trial. That's in April, I believe.

22 THE COURT: Do you read literature or watch
23 YouTube or anything of that nature for entertainment or
24 education?

25 PROSPECTIVE JUROR ESPOSITO: Not a whole lot, a

1 little bit here and there.

2 THE COURT: What's the primary source for your
3 information?

4 PROSPECTIVE JUROR ESPOSITO: Social media, I would
5 say.

6 THE COURT: Do you believe that Mr. Silva is
7 presumed innocent, not because he has granted, been granted
8 the presumption by the state, but he was born into that
9 presumption?

10 PROSPECTIVE JUROR ESPOSITO: Yes.

11 THE COURT: If I ordered you to stay on this jury
12 even against your wishes would you participate in good
13 faith?

14 PROSPECTIVE JUROR ESPOSITO: Yes.

15 THE COURT: Why?

16 PROSPECTIVE JUROR ESPOSITO: You are, I feel like
17 you are kind of the law, and even though I may not agree
18 with the law, I still have to respect it I feel like in
19 order to live out my life peacefully.

20 THE COURT: Would you follow the Court's
21 instructions of law or would you infuse your own opinion
22 into what the law should be?

23 PROSPECTIVE JUROR ESPOSITO: I don't know if I
24 would infuse my own opinion as to what the law should be. I
25 think I might try to, you know, just kind of, I think I

1 would bring a broader view into what the law is. I'm not
2 sure if that makes sense, but I would follow your
3 instructions, yes, but I would also try and kind of look at
4 other ways of viewing it, I guess you could say. I'm not
5 sure if that makes sense.

6 THE COURT: Tell me a little bit about your
7 personal life. What do you do for fun? Who do you choose
8 to be with in your personal life?

9 PROSPECTIVE JUROR ESPOSITO: For fun I just enjoy
10 hanging out with my friends. I got married 8 days ago down
11 in Las Vegas, so there is that.

12 THE COURT: Still married?

13 PROSPECTIVE JUROR ESPOSITO: Yeah, still married.

14 THE COURT: When you say Las Vegas sometimes
15 that's --

16 PROSPECTIVE JUROR ESPOSITO: We have been together
17 for 6 years, my wife and I, so we do enjoy camping, you
18 know, like to go shooting, and I try to stay away from
19 politics as much as I can. I'm sure you probably think I
20 have some pretty crazy opinions on that stuff.

21 THE COURT: I don't think you have crazy opinions.
22 I am grateful for a community in which many different people
23 live. I think our community is stronger because of our
24 differences, and there is nothing you have said that causes
25 me to disrespect you. My concern is whether you would

1 intentionally thwart this process because you disbelieve in
2 it. That's my concern.

3 PROSPECTIVE JUROR ESPOSITO: I don't believe I
4 would intentionally thwart it. I don't think that's a
5 concern you should have. I would definitely look at all of
6 the facts presented before me and interpret the law as you
7 instruct us to do so, and I still think that's important in
8 a society.

9 THE COURT: Thank you. Would you hand the
10 microphone right ahead of you to Mr. Taylor Pearce, please.

11 Mr. Pearce, you know the drill. Tell us a little
12 bit about yourself and what questions you would have
13 answered this morning.

14 PROSPECTIVE JUROR PEARCE: I don't know. I'm not
15 super interesting. The only question I think I might have
16 answered would be you asked about religious conscious, and
17 I'm one of Jehovah's Witnesses, so I always put my Bible
18 trained conscious first and that's the only question I think
19 I would answer.

20 THE COURT: Is there anything in your religious
21 training or belief system that would prevent you from
22 sitting on this jury and participating as a deliberating
23 voting member?

24 PROSPECTIVE JUROR PEARCE: No.

25 THE COURT: Deputy, would you figure out who is

1 making noise in the rotunda and kindly ask them to keep it
2 down?

3 What do you do, Mr. Pearce, for work?

4 PROSPECTIVE JUROR PEARCE: I install hardwood
5 floors.

6 THE COURT: Why did you choose to wear a tie and a
7 suit jacket today?

8 PROSPECTIVE JUROR PEARCE: One, for respect of the
9 Court and, also, if I was able to leave at a reasonable time
10 I wanted to go and tell people about the Bible today.

11 THE COURT: So part of your dress today is for
12 potential, I want to be very careful and respectful,
13 proselytizing and ministering efforts?

14 PROSPECTIVE JUROR PEARCE: That's correct.

15 THE COURT: Have you had any experience with law
16 enforcement?

17 PROSPECTIVE JUROR PEARCE: No.

18 THE COURT: Have you or somebody close to you been
19 a victim of crime?

20 PROSPECTIVE JUROR PEARCE: No, I don't -- not that
21 I can easily recall.

22 THE COURT: How would you respond if Mr. Silva
23 chose to remain silent as he is allowed to do?

24 PROSPECTIVE JUROR PEARCE: I would have no problem
25 with that.

1 THE COURT: Why not?

2 PROSPECTIVE JUROR PEARCE: Well, even Jesus when

3 he was on trial, he remained silent, too.

4 THE COURT: If you just pause, I know that we have

5 got the microphone in your hand and microscope on top of you

6 and everybody is listening and watching, what else would you

7 have offered today if you were in one of the first seats?

8 PROSPECTIVE JUROR PEARCE: You mean like as far as

9 my family is concerned --

10 THE COURT: Yeah.

11 PROSPECTIVE JUROR PEARCE: -- or just in general?

12 THE COURT: Just answers that help us understand

13 whether you are fit to serve on this jury.

14 PROSPECTIVE JUROR PEARCE: Well, my uncle was

15 convicted of a felony, but it was when I was too young to

16 remember and he has since, he is a great guy now. Yeah, I

17 can't really, I'm having difficulty remembering all of the

18 questions, but I can't think of anything.

19 THE COURT: Do you agree with gun ownership or do

20 you oppose gun ownership as a matter of conscious?

21 PROSPECTIVE JUROR PEARCE: I am neutral about gun

22 ownership. I agree that it's a right that people have. I

23 would never own a gun, but I would never impose my view on

24 anyone else.

25 THE COURT: How do you respond when I tell you

1 that Mr. Silva speaks Spanish and evidence may reveal that
2 he has a Hispanic Latino culture?

3 PROSPECTIVE JUROR PEARCE: I have many friends who
4 are Hispanic, so it would not bother me in the least.

5 THE COURT: Do you worship in a diverse
6 congregation of people of different ethnicity and race and
7 culture?

8 PROSPECTIVE JUROR PEARCE: In fact, I'm learning
9 French specifically to preach to people from different
10 ethnic backgrounds, so, yes, very diverse.

11 THE COURT: So any reason why the state would be
12 concerned about your participation in this trial?

13 PROSPECTIVE JUROR PEARCE: Not that I can think
14 of.

15 THE COURT: What about Mr. Silva?

16 PROSPECTIVE JUROR PEARCE: No. Just, like I said,
17 just all of my decisions are based on my Bible trained
18 conscious. That's the only concern for both parties, I
19 think.

20 THE COURT: Can you think of any Bible based
21 concept that would be inconsistent with the work we do in a
22 courtroom?

23 PROSPECTIVE JUROR PEARCE: The only thing I can
24 think of is the potential punishments. The Bible says that
25 life belongs to God and so the only, I would participate up

1 to that point, if that makes sense.

2 THE COURT: Is there anything else you want to
3 share?

4 PROSPECTIVE JUROR PEARCE: No, Your Honor.

5 THE COURT: Okay. I thought during the lunch hour
6 how awkward my question was when I said those of you who are
7 introverted please disclose yourselves in a public setting.
8 My fear is that would have caused some of you to dig even
9 further into your introversion, but I meant the question to
10 be serious.

11 Every member of the jury has a vital voice and
12 role, and we should not have a member of the jury who
13 shrinks from the responsibility by remaining silent. So I
14 want you to just think for a moment about whether you,
15 whether you can participate in a closed room in a setting of
16 12 people. Does anybody have concerns?

17 Mr. Markley.

18 PROSPECTIVE JUROR MARKLEY: So the idea --

19 THE COURT: Microphone, please.

20 PROSPECTIVE JUROR MARKLEY: The idea of capital
21 punishment was just brought up and --

22 THE COURT: Yeah, I don't want you to ask any
23 questions about that. Okay. You notice that I --

24 PROSPECTIVE JUROR MARKLEY: I was --

25 THE COURT: Hold on. Hold on. There is still a

1 role for you, but you notice I did not respond in any way.
2 I will just have you know this is not a case in which there
3 will ever be a discussion of capital punishment, so I don't
4 want you to editorialize into a place we don't need to go.
5 But now it's your turn again. Is there something you wanted
6 to say?

7 PROSPECTIVE JUROR MARKLEY: I was just going to
8 say I've always been against capital punishment, and if that
9 were to bias me, I would have to speak up about it.

10 THE COURT: Okay. That's fair. Thank you.

11 I know that I preempted you by interrupting you.
12 The question was whether anybody would remain so silent we
13 would have the 11 members of the jury instead of 12 and you
14 raised your hand, and it was to offer the other comment?

15 PROSPECTIVE JUROR MARKLEY: It was.

16 THE COURT: Somebody among you will be the
17 foreperson, and whoever that person is may encourage you to
18 consider this question I have asked about vital
19 participation. I say nothing beyond that.

20 All right. Ladies and gentlemen, I am weary of
21 listening to myself and talking too much. I have had the
22 platform for a very long time. The attorneys are entitled
23 to supplemental questions.

24 You should know that I have entered an order, a
25 written guideline for them to follow, and it restricts how

1 they are going to participate in jury selection voir dire.

2 And so if you are patient, you will begin to see their
3 personalities and their preparation and so forth.

4 I know these attorneys. I know that they are
5 going to embody the very best of what we have in our
6 criminal justice system, but during jury selection they will
7 ask specific questions initiated by my general questions and
8 they might go a little bit beyond that.

9 But they are under strict guidelines not to begin
10 advocating, not asking hypothetical questions, not lecturing
11 about principles of law, and not being repetitive and so
12 forth. So if you find their participation is too narrow,
13 blame me, not them.

14 And in particular Ms. Ristenpart, who is
15 Mr. Silva's attorney, she doesn't go until last. And so if
16 she started, I'm sure that she would have a lot more to say,
17 so don't infer anything about the length of the questions,
18 because so much has already been done.

19 And with that, I turn to the state.

20 MR. LEE: Can I pull the podium over, Your Honor?

21 THE COURT: Yes.

22 MR. LEE: Thank you.

23 All right. Ladies and gentlemen, what I intend to
24 do here is just ask a few follow-up questions from really
25 just some of the demographic background information you

1 provided and then very few questions after that, okay?

2 First of all, Ms. Finnoff, I understand you have a
3 degree in education, correct?

4 PROSPECTIVE JUROR FINNOFF: Yes.

5 MR. LEE: I'm sorry, I was looking at the wrong
6 person.

7 PROSPECTIVE JUROR FINNOFF: That's okay.

8 MR. LEE: Strike one right out of the gate. Tell
9 me about that degree.

10 PROSPECTIVE JUROR FINNOFF: I have a Master's in
11 secondary education and I am a high school science teacher.

12 MR. LEE: Where at?

13 PROSPECTIVE JUROR FINNOFF: I work for Nevada
14 Connections Academy right now, which some of you may know is
15 in the process of seeking to renew their charter and it was
16 denied, and so there is litigation potentially coming up, so
17 it's all over the place.

18 MR. LEE: Okay. And then what subjects do you
19 teach?

20 PROSPECTIVE JUROR FINNOFF: I currently teach
21 earth and space science. I have taught physics. I have
22 taught chemistry. I have taught biology. I have taught
23 environmental science. I have done it all.

24 MR. LEE: All of the sciences, huh?

25 PROSPECTIVE JUROR FINNOFF: (Nods head.)

1 MR. LEE: Would you be able to teach about the
2 political sciences and have discussions with say
3 Mr. Markley?

4 PROSPECTIVE JUROR FINNOFF: You know, political
5 science is something that I am not as versed in, although my
6 ex husband is a high school government teacher, so I have
7 got a little bit of training there.

8 MR. LEE: All the sciences. What about
9 Mr. Torres, what do you do for work?

10 PROSPECTIVE JUROR TORRES: Fabricator.

11 MR. LEE: What does that mean?

12 PROSPECTIVE JUROR TORRES: I, for instance, I'm
13 currently building a race car from scratch pretty much,
14 welding, machining.

15 MR. LEE: Do you have a place of business you go
16 or do you work out of your garage or home?

17 PROSPECTIVE JUROR TORRES: I work for a company.

18 MR. LEE: Okay. And so if you are building a race
19 car from scratch, is that from a client's order of some
20 sort?

21 PROSPECTIVE JUROR TORRES: I build toys for my
22 boss, not a bad gig.

23 MR. LEE: You are a good guy to have around.

24 All right. Ms. Chambers, now I'm to the right
25 person here. Ms. Chambers, what do you do? Do you work?

1 PROSPECTIVE JUROR CHAMBERS: I'm a retired
2 archaeologist.

3 MR. LEE: Tell us about that, if you could. What
4 did you do?

5 PROSPECTIVE JUROR CHAMBERS: Worked mostly in the
6 western United States, Anasazi Pueblo Ruins, all of the
7 coastal California sites in California, National Park
8 Service, private salvage companies, archeological impact
9 reports. When someone wants to build a structure, we have
10 to have an archeological impact report as well as an
11 environmental impact report.

12 MR. LEE: Okay. So if I were to say Indiana Jones
13 does that describe your work at all?

14 PROSPECTIVE JUROR CHAMBERS: Not exactly. That's
15 pretty dramatic.

16 MR. LEE: Thank you for that. Ms. Freeman.

17 PROSPECTIVE JUROR FREEMAN: Yes.

18 MR. LEE: And, I'm sorry, if I'm skipping you, it
19 just means I generally know these answers, actually, so
20 that's why I'm not asking everybody.

21 Ms. Freeman, do you live in Sparks?

22 PROSPECTIVE JUROR FREEMAN: Yes.

23 MR. LEE: Could you, would you mind telling us
24 just what street you live on?

25 PROSPECTIVE JUROR FREEMAN: Sheffield Court.

1 MR. LEE: Do you know your neighbors?

2 PROSPECTIVE JUROR FREEMAN: We only moved there

3 last April, so we are just starting to know the people

4 around us.

5 MR. LEE: Just last April?

6 PROSPECTIVE JUROR FREEMAN: Yes.

7 MR. LEE: Where did you, again, I hate feeling

8 like I'm prying, but if you wouldn't mind, where did you

9 live in 2017?

10 PROSPECTIVE JUROR FREEMAN: On, I just, the name

11 just went right out of my head.

12 MR. LEE: Close to that area?

13 PROSPECTIVE JUROR FREEMAN: No, opposite side of

14 town.

15 MR. LEE: In Reno?

16 PROSPECTIVE JUROR FREEMAN: Yes. No, in Sparks.

17 MR. LEE: In Sparks.

18 PROSPECTIVE JUROR FREEMAN: Up off of the Vistas.

19 MR. LEE: Okay. Going back to my first question,

20 Ms. Freeman, so you recently moved to that area, but do you

21 know is it a street, a cul-de-sac?

22 PROSPECTIVE JUROR FREEMAN: It is a cul-de-sac.

23 MR. LEE: Do you know neighbors in that

24 cul-de-sac?

25 PROSPECTIVE JUROR FREEMAN: A few people to wave

1 to, and my immediate neighbor is a Korean family, got to
2 know them relatively well.

3 MR. LEE: Okay. Do you know anyone with the last
4 name Silva-Guzman?

5 PROSPECTIVE JUROR FREEMAN: No.

6 MR. LEE: Ms. Murillo, I hope I'm saying that
7 right.

8 PROSPECTIVE JUROR MURILLO: That's correct, yes.

9 MR. LEE: I think you may have answered this
10 already, excuse me if you have, but you had raised your hand
11 originally that you didn't really want to necessarily be
12 here. Was that because of your status as a student?

13 PROSPECTIVE JUROR MURILLO: Yeah. I'm graduating
14 this May, so it's my senior year, so midterms, and just like
15 all of the duties that school requires, I don't think I
16 could be present here fully.

17 MR. LEE: Are midterms all this week?

18 PROSPECTIVE JUROR MURILLO: Next week. Sometimes
19 they are spread out, but they are beginning next week.

20 MR. LEE: And what do you mean can't be here
21 fully?

22 PROSPECTIVE JUROR MURILLO: I mean, I can
23 physically be here fully, but I don't think mentally. I
24 think I can definitely like put that aside, but I would be a
25 little bit stressed like trying to manage everything.

1 MR. LEE: Okay. Do others feel that way?

2 PROSPECTIVE JUROR MURILLO: Yeah, I'm sure.

3 MR. LEE: Anyone else? Another student's hand

4 goes up. Mr. Santiago, right?

5 PROSPECTIVE JUROR SANTIAGO: Yes.

6 MR. LEE: Because of school?

7 PROSPECTIVE JUROR SANTIAGO: Yeah.

8 MR. LEE: Okay. And, Mr. Dyer, did you put your

9 hand up, too?

10 PROSPECTIVE JUROR DYER: Yes.

11 MR. LEE: School as well?

12 PROSPECTIVE JUROR DYER: Yes.

13 MR. LEE: Despite whatever stresses you have and

14 anyone else, work, whatever stresses, if you are selected

15 for this jury, Ms. Murillo, I'm focused on you, but if you

16 are selected would you be able to still focus on what is

17 being said, focus on the evidence that you see presented

18 here in the courtroom?

19 PROSPECTIVE JUROR MURILLO: Yes.

20 MR. LEE: And try your best to put everything else

21 aside?

22 PROSPECTIVE JUROR MURILLO: Yes.

23 MR. LEE: Mr. Santiago, same, could you put it

24 aside?

25 PROSPECTIVE JUROR SANTIAGO: Yes.

1 MR. LEE: And Mr. Dyer?

2 PROSPECTIVE JUROR DYER: Yes.

3 MR. LEE: Thank you. All right. Mr. Santiago,
4 let me just follow up with you. You have three exams.

5 PROSPECTIVE JUROR SANTIAGO: Wednesday, yeah.

6 MR. LEE: Two days from now?

7 PROSPECTIVE JUROR SANTIAGO: Correct.

8 MR. LEE: Are they midterms?

9 PROSPECTIVE JUROR SANTIAGO: Yeah.

10 MR. LEE: All in one day?

11 PROSPECTIVE JUROR SANTIAGO: Yeah, it sucks.

12 MR. LEE: Are your professors going to be okay
13 with you, do you think?

14 PROSPECTIVE JUROR SANTIAGO: Yeah. I think if I
15 left today knowing that I would be sitting on the jury, if I
16 talked to them I think they would be hopefully willing to
17 make accommodations.

18 MR. LEE: What is your major?

19 PROSPECTIVE JUROR SANTIAGO: Political science and
20 economics.

21 MR. LEE: Okay. You said that you were currently
22 considering law school, right?

23 PROSPECTIVE JUROR SANTIAGO: Correct.

24 MR. LEE: And you were interested in immigration
25 law?

1 PROSPECTIVE JUROR SANTIAGO: Yes.

2 MR. LEE: What about immigration law excites you
3 or interests you?

4 PROSPECTIVE JUROR SANTIAGO: I just sort of have
5 been surrounded by that, because my family are immigrants
6 from Mexico, so I sort of have seen their difficulties, and
7 if I could help other people in that situation, then I would
8 be more than happy to do so.

9 MR. LEE: Okay. Your interest, correct me if I'm
10 wrong, is in helping individuals who come to this country
11 and just through the whole red tape process?

12 PROSPECTIVE JUROR SANTIAGO: Correct.

13 MR. LEE: Okay. Ms. Stover, what kind of crime
14 shows do you watch?

15 PROSPECTIVE JUROR STOVER: All of them. I watch
16 the ID channel.

17 MR. LEE: You watch what?

18 PROSPECTIVE JUROR STOVER: The ID channel.

19 MR. LEE: I'm sorry, that's more my fault.

20 PROSPECTIVE JUROR STOVER: Investigation
21 Discovery.

22 MR. LEE: That's a channel?

23 PROSPECTIVE JUROR STOVER: Yes.

24 MR. LEE: So are the shows about like courtroom
25 stuff as well?

1 PROSPECTIVE JUROR STOVER: No, not really. It's
2 more about just crimes.

3 MR. LEE: Okay. And are they true crime type
4 things?

5 PROSPECTIVE JUROR STOVER: Yes.

6 MR. LEE: Okay. And it doesn't follow say the
7 ultimate prosecution of a given case?

8 PROSPECTIVE JUROR STOVER: No.

9 MR. LEE: Mr. Cordray, did I say it right?

10 PROSPECTIVE JUROR CORDRAY: Yes.

11 MR. LEE: And you mentioned warehouse work. What
12 exactly do you do?

13 PROSPECTIVE JUROR CORDRAY: I just carry heavy
14 books around.

15 THE COURT: I'm sorry, I can't hear.

16 PROSPECTIVE JUROR CORDRAY: I just carry around
17 heavy books and ship them.

18 MR. LEE: You said it's a used book warehouse?

19 PROSPECTIVE JUROR CORDRAY: Yes.

20 MR. LEE: How do you feel about being here today?

21 PROSPECTIVE JUROR CORDRAY: I'm obligated to be
22 here, so I'm here.

23 MR. LEE: Okay. Thank you. And, Mr. Jones, what
24 type of construction is it that you do?

25 PROSPECTIVE JUROR JONES: I'm actually a mechanic.

1 MR. LEE: A mechanic, I'm sorry.

2 PROSPECTIVE JUROR JONES: Heavy equipment.

3 MR. LEE: Heavy equipment?

4 PROSPECTIVE JUROR JONES: Yes.

5 MR. LEE: So does that mean fixing, repairing when

6 things go bad?

7 PROSPECTIVE JUROR JONES: Yes.

8 MR. LEE: Okay. Ms. Ruiz.

9 PROSPECTIVE JUROR RUIZ: Yes.

10 MR. LEE: You know what, I had questions and I'm

11 looking at them and we answered them with the Judge's

12 questions. Thank you very much.

13 Mr. Dyer, do you work right now?

14 PROSPECTIVE JUROR DYER: I'm a full-time student

15 at UNR.

16 MR. LEE: Okay. What are you hoping your future

17 career to be?

18 PROSPECTIVE JUROR DYER: Engineering.

19 MR. LEE: What kind?

20 PROSPECTIVE JUROR DYER: Electrical.

21 MR. LEE: How much further in school do you have?

22 PROSPECTIVE JUROR DYER: Two years left. I'm a

23 sophomore right now by credits.

24 MR. LEE: So is it safe to say about right now is

25 when you start getting into all of your specific engineering

1 classes?

2 PROSPECTIVE JUROR DYER: Yeah, yeah.

3 MR. LEE: But up to this point you have been doing

4 the general stuff?

5 PROSPECTIVE JUROR DYER: It's general within the

6 College of Engineering, so like introduction to like the

7 engineering process.

8 MR. LEE: Okay. Thank you.

9 Mr. Esposito, how do you feel about law

10 enforcement?

11 PROSPECTIVE JUROR ESPOSITO: I should say I have a

12 negative view of law enforcement.

13 THE COURT: I'm sorry to keep saying this, but I

14 need the microphone to travel, because Mr. Lee is standing

15 in front of some of what I can see. No fault of yours.

16 It's okay. I just need to be able to hear.

17 PROSPECTIVE JUROR ESPOSITO: I said I have a

18 negative view of law enforcement.

19 MR. LEE: Is that, what does that come from?

20 PROSPECTIVE JUROR ESPOSITO: Not past experiences,

21 but just other people's experiences, I guess seeing them

22 share their experiences.

23 MR. LEE: If a law enforcement officer sits right

24 here on the stand, how would you view that person's

25 testimony?

1 PROSPECTIVE JUROR ESPOSITO: I would probably take
2 it with a grain of salt.

3 MR. LEE: So that's fine. I think every witness
4 we would ask you to consider, right; however, would you view
5 it negatively just because they are wearing a uniform?

6 PROSPECTIVE JUROR ESPOSITO: Not necessarily. I,
7 I think I probably would, yeah. I can't say for sure.

8 MR. LEE: Okay. So if there is a law enforcement
9 officer that the state calls, would that law enforcement
10 officer or the State of Nevada being represented by me have
11 a leg up or a leg down?

12 PROSPECTIVE JUROR ESPOSITO: A leg down.

13 MR. LEE: You mentioned I think a current case,
14 you said due care?

15 PROSPECTIVE JUROR ESPOSITO: Yes.

16 MR. LEE: Is that a car accident?

17 PROSPECTIVE JUROR ESPOSITO: Yes.

18 MR. LEE: Okay. Is it going to court or anything?

19 PROSPECTIVE JUROR ESPOSITO: I have to go to the
20 one on Sierra Street on April 3rd.

21 MR. LEE: Just across the street?

22 PROSPECTIVE JUROR ESPOSITO: Yeah.

23 MR. LEE: Do you know who -- Actually, let me ask
24 this, who issued the ticket to you, what law enforcement?

25 PROSPECTIVE JUROR ESPOSITO: Nevada Highway

1 Patrol.

2 MR. LEE: Okay. Has anyone had any experience
3 with the District Attorney's Office, positive or negative?
4 Yes, sir. Mr. Tiger, correct?

5 PROSPECTIVE JUROR TIGER: Yes. I was dealing with
6 them when I got stabbed.

7 MR. LEE: And you dealt with a Deputy District
8 Attorney like myself?

9 PROSPECTIVE JUROR TIGER: Yes.

10 MR. LEE: And it was here in Washoe County?

11 PROSPECTIVE JUROR TIGER: Yes.

12 MR. LEE: Did that give you any positive or
13 negative feelings about things?

14 PROSPECTIVE JUROR TIGER: I felt that they were
15 doing their job and felt like the Court did his job and
16 sentenced him to murder. They dropped a lot of the charges
17 that they charged him with.

18 MR. LEE: Okay. So the fact that I'm from that
19 same office, the Washoe County District Attorney's Office,
20 does that, kind of a similar question, does that put the
21 state with a leg up or a leg down on anything?

22 PROSPECTIVE JUROR TIGER: It didn't really, I have
23 no ill feelings. The Court kind of let me down a little bit
24 because they were doing the best they could with what they
25 had at the time, yes, trying to get the best conviction I

1 will say.

2 MR. LEE: And you said it's done, the sentencing
3 already happened?

4 PROSPECTIVE JUROR TIGER: Yes.

5 MR. LEE: Thank you for that.

6 Anyone else had any experience with the District
7 Attorney's Office? Uh-oh. Let me start in the back.

8 PROSPECTIVE JUROR SMITH: Just work related where
9 I've had to e-mail the Washoe County District Attorney for
10 case dispositions for cases in Truckee that might have been
11 transferred over here.

12 MR. LEE: Okay.

13 PROSPECTIVE JUROR SMITH: That's it.

14 MR. LEE: Thank you for that. And your job, is it
15 only in the Truckee area?

16 PROSPECTIVE JUROR SMITH: Yes.

17 MR. LEE: Do you ever do work here on a
18 contingency or consulting basis?

19 PROSPECTIVE JUROR SMITH: No.

20 MR. LEE: If the state is to present -- well, say
21 if we have a person who does crime scene on the stand here,
22 can you put aside any of your personal thoughts or feelings
23 of how things should be and just listen to what the evidence
24 is?

25 PROSPECTIVE JUROR SMITH: Yes.

1 MR. LEE: Okay. Ms. Sheldon, you raised your
2 hand, I believe.

3 PROSPECTIVE JUROR SHELDON: Yes. I clerked in
4 general jurisdiction in 2000.

5 MR. LEE: Okay. So just like this one and so you
6 saw the D.A.'s Office on a regular basis?

7 PROSPECTIVE JUROR SHELDON: Yes.

8 MR. LEE: Did that cause you any feelings one way
9 or another?

10 PROSPECTIVE JUROR SHELDON: No.

11 MR. LEE: And so would that affect this proceeding
12 at all?

13 PROSPECTIVE JUROR SHELDON: No.

14 MR. LEE: And you and I don't know each other; is
15 that right?

16 PROSPECTIVE JUROR SHELDON: That's correct.

17 MR. LEE: Anyone else? Yes, Ms., I should have
18 this, Ms. --

19 PROSPECTIVE JUROR BROOKS: Brooks.

20 MR. LEE: Brooks. There you are. Thank you.

21 PROSPECTIVE JUROR BROOKS: When I was getting my
22 two youngest children, we went through Washoe County
23 Department of Social Services, so we had the D.A., who they
24 were terminating parental rights, so they were kind of on
25 our side, because eventually we got our children.

1 MR. LEE: Okay. So the D.A.'s Office worked to
2 terminate the parental rights of --
3 PROSPECTIVE JUROR BROOKS: On somebody else.
4 MR. LEE: And then you were able to adopt those
5 children?
6 PROSPECTIVE JUROR BROOKS: Yes.
7 MR. LEE: Okay. Anything from that that would put
8 the state a leg up or a leg down on anything?
9 PROSPECTIVE JUROR BROOKS: No, just took too long.
10 That was all, but no.
11 MR. LEE: That wouldn't affect you here?
12 PROSPECTIVE JUROR BROOKS: No.
13 MR. LEE: Thank you for that. Anyone else?
14 Okay. Mr. Pearce, I think you touched on this, so
15 let me just follow up a little bit, if I could. Assuming
16 you felt the state proved the case beyond a reasonable doubt
17 could you find guilt?
18 PROSPECTIVE JUROR PEARCE: Yeah.
19 MR. LEE: But it is, your concern would be what,
20 then, about that?
21 PROSPECTIVE JUROR PEARCE: I don't know how to
22 articulate clearly, to be honest. I would be concerned. I
23 always first and foremost is my Bible based conscious, so
24 even the laws and all of that may be one thing, but my Bible
25 based conscious would say another.

1 So things that you talked about, that's not going
2 to be a problem. Capital punishment would not be something
3 that I could do, things like that. That was my primary
4 concern.

5 MR. LEE: Okay. As the Judge told you before, he
6 would instruct on the law. With each of those laws would
7 you feel like you have an obligation to interpret it
8 differently than what it says?

9 PROSPECTIVE JUROR PEARCE: No.

10 MR. LEE: You could follow that law whatever the
11 Judge gives you?

12 PROSPECTIVE JUROR PEARCE: As long as that law
13 doesn't cross God's laws, I'm fine. And as far as I can
14 tell, that's not going to be a problem.

15 MR. LEE: Well, let me just ask, does murder cross
16 God's laws?

17 PROSPECTIVE JUROR PEARCE: Yep.

18 MR. LEE: So, I mean, so if the instruction was
19 regarding murder, you could follow that instruction?

20 PROSPECTIVE JUROR PEARCE: Yes, correct.

21 MR. LEE: But I think you said beyond just a
22 finding of guilt, is that where you would need to end?

23 PROSPECTIVE JUROR PEARCE: Essentially, yeah.

24 MR. LEE: Okay. Ladies and gentlemen, thank you
25 for your time. I believe that's all of the questions I

1 have.

2 THE COURT: Okay. Pass the panel for cause?

3 MR. LEE: Your Honor, I would move for cause with
4 regard to Mr. Esposito.

5 THE COURT: I will make a note of that and return
6 to it.

7 MR. LEE: Thank you.

8 THE COURT: To the defense.

9 MS. RISTENPART: Thank you, Your Honor.

10 Good afternoon, ladies and gentlemen. As you
11 heard the Judge say, there is a benefit and also a negative
12 to going last, right, because there is only so many
13 questions and so many, so much patience we can have in one
14 day, so thank you for that.

15 We were just talking about and I'm going to touch
16 upon the idea of law enforcement witnesses, and I am smiling
17 at you, Ms. Smith. So we had talked to Mr. Esposito who was
18 very frank. He said with law enforcement they have a leg
19 down for the state.

20 And, Ms. Smith, through your work, and because
21 literally the next day after you are released from jury
22 service you will go back to work with law enforcement, would
23 law enforcement have a leg up in their testimony?

24 PROSPECTIVE JUROR SMITH: Honestly, probably,
25 because I know what's involved in preparing a report,

1 presenting it to the District Attorney to file on him, so.

2 MS. RISTENPART: And you see how hard your
3 co-workers work?

4 PROSPECTIVE JUROR SMITH: Yes.

5 MS. RISTENPART: With that and kind of the
6 questions going off of what the Judge asked you earlier
7 would a noncriminal case be better given your expertise?

8 PROSPECTIVE JUROR SMITH: Probably.

9 MS. RISTENPART: Mr. Johnson.

10 PROSPECTIVE JUROR JOHNSON: Uh-huh.

11 MS. RISTENPART: I know that you worked 15 years
12 for a not for profit to assist the Douglas County Sheriff's
13 Office, and I know you don't have any hands-on experience
14 with that, but same kind of question. The day you are
15 released would you, if you found not guilty, would you feel
16 that you may have an issue going back to your friends and
17 colleagues at the Douglas County Sheriff's Office and
18 telling them?

19 PROSPECTIVE JUROR JOHNSON: Not at all.

20 MS. RISTENPART: And why not?

21 PROSPECTIVE JUROR JOHNSON: I believe in the
22 process, so if that's what is determined, I believe in that
23 process and would support it.

24 MS. RISTENPART: And we didn't learn much about
25 you on your jury form. Are you currently working?

1 PROSPECTIVE JUROR JOHNSON: Yes. I'm a CPA and
2 it's tax season time, so there is lots of returns waiting to
3 be had at the end if I get released. And I have been a Reno
4 resident for most of my life. I snuck down to Gardnerville
5 for a few years, and this is the first time I ever have been
6 selected for jury duty, so I feel it's my civic duty to
7 participate.

8 MS. RISTENPART: Because it is unfortunately right
9 at tax season, or fortunately the tax season for you, is
10 that going to be so distracting that it's going to take away
11 from you listening and analyzing what's being presented?

12 PROSPECTIVE JUROR JOHNSON: I don't believe so.

13 MS. RISTENPART: Okay. Does anyone else feel that
14 law enforcement would have a leg up testifying because they
15 are wearing a uniform and they seem to have some experience?

16 Ms. Mathews?

17 PROSPECTIVE JUROR MATHEWS: No.

18 MS. RISTENPART: What about you, Ms. --

19 PROSPECTIVE JUROR MACLUCAS: MacLucas.

20 MS. RISTENPART: Thank you, MacLucas, with your
21 husband being former law enforcement?

22 PROSPECTIVE JUROR MACLUCAS: No, no problem at
23 all.

24 MS. RISTENPART: Ms. Huber-Casazza.

25 PROSPECTIVE JUROR HUBER-CASAZZA: Yes.

1 MS. RISTENPART: Would you feel differently if
2 there was a law enforcement person testifying versus just a
3 cashier at a store?

4 PROSPECTIVE JUROR HUBER-CASAZZA: No.

5 MS. RISTENPART: What about you, Ms. Stover?

6 PROSPECTIVE JUROR STOVER: No, I wouldn't.

7 MS. RISTENPART: Mr. Dickson?

8 PROSPECTIVE JUROR DICKSON: (Shakes head.)

9 MS. RISTENPART: Looks like a shake of the head
10 no.

11 THE COURT: I'm sorry, if you will just help with
12 the microphone.

13 PROSPECTIVE JUROR DICKSON: I'm sorry, I wouldn't
14 have any problem with it.

15 MS. RISTENPART: Mr. Cordray, did I say that
16 correctly?

17 PROSPECTIVE JUROR CORDRAY: Yes.

18 MS. RISTENPART: And I know you just gave me a
19 look like why are you picking on me. I just happened to
20 notice that you said you were tired today. Do you have a
21 nighttime job, a night shift?

22 PROSPECTIVE JUROR CORDRAY: No.

23 MS. RISTENPART: It's just pure boredom out of
24 court?

25 PROSPECTIVE JUROR CORDRAY: Sure.

1 MS. RISTENPART: And that's okay, too.

2 Okay. And, Mr. Torres, sitting here for this

3 long, how have you been?

4 PROSPECTIVE JUROR TORRES: Sore. I would rather

5 be standing.

6 MS. RISTENPART: Okay.

7 THE COURT: I would like to remind everyone to

8 amplify their voices, please. I don't want to keep yelling

9 for a microphone. Your voices are trailing off.

10 Ms. Ristenpart, I can't hear you, because your back is to

11 me, so if you will, also.

12 MS. RISTENPART: I will enunciate, Your Honor,

13 yes.

14 THE COURT: Thank you.

15 MS. RISTENPART: Mr. Markley, you had stated, I

16 know you kind of started to answer along the lines of like

17 you didn't go to law school because you don't like

18 confrontation?

19 PROSPECTIVE JUROR MARKLEY: Correct.

20 MS. RISTENPART: And we kind of talked about this,

21 but being in a jury deliberation room, I'm not saying this

22 to scare anyone, but it can be intense. I mean, you are

23 nodding your head, Ms. Gilmore, and you have served on a

24 jury before, right?

25 PROSPECTIVE JUROR GILMORE: Yes. It was a civil

1 case, but, yes, everybody has opinions.

2 MS. RISTENPART: Okay.

3 PROSPECTIVE JUROR MARKLEY: I served in jury
4 deliberation before, and I certainly have an occupation
5 that's a lot more confrontational now than I would have
6 foreseen 20 years ago.

7 MS. RISTENPART: So you see what I'm getting at,
8 Mr. Markley, that you wouldn't have any issue of voicing
9 your own opinions with 12 people?

10 PROSPECTIVE JUROR MARKLEY: Correct.

11 MS. RISTENPART: And the Judge asked you that and
12 had asked you again like, you know, I'm asking the
13 introverts to raise their hands, but I'm going further than
14 that. It's not just even speaking, but it's about feeling
15 comfortable to discuss your opinion and frankly sticking
16 with your opinion until otherwise convinced and that's where
17 jury deliberations are so key and that's why we have you
18 versus just us sitting here.

19 And so I asked that, because if you are a person
20 that's like, whoa, when we start talking politics at
21 Christmas, I walk out of the room, right, like I just don't
22 even want to deal with it, or you can sit and listen,
23 discuss. That's who we are looking for.

24 Ms. Sheldon, do you have any problem voicing your
25 opinions?

1 PROSPECTIVE JUROR SHELDON: I do not.
2 MS. RISTENPART: Ms. Knab?
3 PROSPECTIVE JUROR KNAB: Of course not, no
4 problem.
5 MS. RISTENPART: Ms. Murillo?
6 PROSPECTIVE JUROR MURILLO: I do not.
7 MS. RISTENPART: What if it was someone older than
8 you?
9 PROSPECTIVE JUROR MURILLO: I do think, I mean,
10 that's kind of what I thought about like the age, but I
11 don't think that's a big factor. I think that I can still
12 listen and voice my opinions. I'm going to school, so I do
13 that like on a daily basis.
14 MS. RISTENPART: Mr. Dolan?
15 PROSPECTIVE JUROR DOLAN: Yes.
16 MS. RISTENPART: Any problems voicing your
17 opinion?
18 PROSPECTIVE JUROR DOLAN: No.
19 MS. RISTENPART: Ms. Finnoff?
20 PROSPECTIVE JUROR FINNOFF: Absolutely not.
21 MS. RISTENPART: Ms. Brooks?
22 PROSPECTIVE JUROR BROOKS: Absolutely not.
23 MS. RISTENPART: Mr. Cowles?
24 PROSPECTIVE JUROR COWLES: No, ma'am.
25 MS. RISTENPART: Mr. Ruiz, any problems talking in

1 a large group? Well, 12, but that's a large group to some
2 people.

3 PROSPECTIVE JUROR RUIZ: No.

4 MS. RISTENPART: Mr. Jones?

5 PROSPECTIVE JUROR JONES: No.

6 MS. RISTENPART: Mr. Dyer?

7 PROSPECTIVE JUROR DYER: No, absolutely not.

8 MS. RISTENPART: Same question as I asked
9 Ms. Murillo, because you appear younger. I don't know your
10 age, but any problem speaking out against someone who is
11 older than you?

12 PROSPECTIVE JUROR DYER: No. My roommates are
13 older than I am and we certainly get along and I have always
14 thought of myself as able to talk to people older than I am
15 respectfully, but also expressing my own opinions, so.

16 MS. RISTENPART: Mr. Santiago.

17 PROSPECTIVE JUROR SANTIAGO: No issues.

18 MS. RISTENPART: Mr. Tiger?

19 PROSPECTIVE JUROR TIGER: Nope.

20 MS. RISTENPART: What happens if you disagree with
21 someone? Are you, do you shut down, do you want to walk
22 away, or are you like let's talk this through?

23 Mr. Denson, I see you nodding your head.

24 PROSPECTIVE JUROR DENSON: Talk it through, just
25 kind of work out what is the problem and go through it.

1 MS. RISTENPART: Mr. Pearce?

2 PROSPECTIVE JUROR PEARCE: What is the question?

3 Sorry.

4 MS. RISTENPART: No, that's okay. When you are in

5 a disagreement with someone, is your first reaction to kind

6 of shut down, walk away?

7 PROSPECTIVE JUROR PEARCE: It depends on the

8 person, honestly. I have some social anxiety, so with a

9 stranger I probably would walk away. With my family, I like

10 to argue.

11 MS. RISTENPART: Ms. Denzler.

12 PROSPECTIVE JUROR DENZLER: I'm a good listener

13 and so I think I can communicate as well, so I would listen

14 to what the other person has to say and give my opinion.

15 MS. RISTENPART: Ms. Freeman.

16 PROSPECTIVE JUROR FREEMAN: Yes.

17 MS. RISTENPART: Are you the type to shut down or

18 continue to want to discuss? How would you describe

19 yourself?

20 PROSPECTIVE JUROR FREEMAN: I'm the youngest of

21 eight.

22 MS. RISTENPART: There you go.

23 PROSPECTIVE JUROR FREEMAN: So I always had to be

24 quite verbal.

25 MS. RISTENPART: Anyone who would not feel brave

1 in that situation?

2 PROSPECTIVE JUROR: I'm not very confrontational.

3 THE COURT: I'm sorry, I cannot hear.

4 PROSPECTIVE JUROR: I'm not very confrontational,
5 so I don't get into arguments too much.

6 MS. RISTENPART: And if you were, I mean, this is
7 such a unique circumstance in life, right? Like we are
8 bringing 12 people together to make a decision, and given
9 this and also the severity of the allegation against
10 Mr. Silva would it be one of those situations where you feel
11 like I can overcome that or it's more of I will revert to --

12 PROSPECTIVE JUROR DICKSON: I could probably
13 overcome it, I think so.

14 MS. RISTENPART: It would be tough, though?

15 PROSPECTIVE JUROR DICKSON: It would be a little
16 tough, yeah.

17 MS. RISTENPART: Absolutely. Mr. James?

18 PROSPECTIVE JUROR JAMES: No issues at all.

19 MS. RISTENPART: Anyone else feel like
20 Mr. Dickson?

21 All right. For all being so wanting to talk, you
22 guys are very quiet, which I guess is okay, but it's just a
23 unique different perspective standing from here.

24 Mr. Esposito has some very strong viewpoints. Who
25 here as he was talking felt aligned with what he was

1 thinking? That's a big word I just kind of gave there,
2 but --

3 PROSPECTIVE JUROR TIGER: Not really aligned, but
4 kind of agreed with some parts of it.

5 MS. RISTENPART: Like what parts of it?

6 PROSPECTIVE JUROR TIGER: With law enforcement,
7 being harassed by them a lot, so kind of put a bad taste in
8 my mouth with them, but I have also called and they would
9 help when I needed them.

10 MS. RISTENPART: All right. Anyone else? Yeah.

11 PROSPECTIVE JUROR MURILLO: I guess I would agree
12 with the part where the jury duty should be voluntary, but
13 then I feel like we wouldn't get anywhere, but I do think
14 that you should have people that want to be on the jury.

15 MS. RISTENPART: That's an interesting
16 perspective. Absolutely, yeah.

17 PROSPECTIVE JUROR CHAMBERS: Is this on?

18 MS. RISTENPART: Yes.

19 PROSPECTIVE JUROR CHAMBERS: My feeling is the
20 opposite. I think it's a privilege. I think it's like
21 voting, jury duty. Anything that could be called our true
22 civic responsibility as citizens, those are privileges.

23 Even paying our taxes, that's a privilege. I know
24 that's not a very popular view, and we may not agree with
25 the way all of our tax dollars are spent, but in this

1 country these are privileges and I feel like I should
2 embrace them.

3 MS. RISTENPART: Absolutely. It's a very
4 decisive --

5 PROSPECTIVE JUROR CHAMBERS: No one really asked
6 that question, but --

7 MS. RISTENPART: No, it's a great point. All of
8 us are here, again, that's why we are bringing all of us
9 together for our opinions, right?

10 And, Ms. Chambers, right?

11 PROSPECTIVE JUROR CHAMBERS: Yes.

12 MS. RISTENPART: Who here feels like
13 Mrs. Chambers? I know we kind of touched upon it, but it's
14 a privilege. It's a right. But, also, the fact that
15 everything you know now, as you have sat here and heard us
16 talk, the more you are like this is maybe not the case for
17 me or maybe this just isn't the jury time for me? That's
18 really what we are getting at. Anyone, besides what we have
19 already talked about?

20 I hate to say it, but the quietest people usually
21 end up as jurors, because we don't know anything about you,
22 so I'm just being very frank.

23 As you are sitting here and you sat and you looked
24 at Mr. Silva throughout today, has anyone here thought I
25 would not want me on this jury if I was sitting where

1 Mr. Silva is sitting for whatever reason?

2 PROSPECTIVE JUROR TIGER: I wouldn't.

3 MS. RISTENPART: Yeah.

4 PROSPECTIVE JUROR TIGER: The only reason is the

5 guy who stabbed me was a Latino guy and that's kind of --

6 MS. RISTENPART: And that was really recent,

7 right?

8 PROSPECTIVE JUROR TIGER: Real recent.

9 MS. RISTENPART: In fact, just sentenced 30 days

10 ago.

11 PROSPECTIVE JUROR TIGER: Last month I believe it

12 was.

13 MS. RISTENPART: And are you recovering from your

14 stabbing or is it still --

15 PROSPECTIVE JUROR TIGER: I'm recovering.

16 MS. RISTENPART: You are pointing to your chest.

17 PROSPECTIVE JUROR TIGER: He stabbed me right in

18 the middle of my chest and tried to kill me, right in the

19 neck, also.

20 MS. RISTENPART: Because it's been so recent and

21 given what you heard that you may hear Spanish in this and

22 some Latino aspects to it, would a different case be better

23 for you that maybe did not involve Mr. Silva?

24 PROSPECTIVE JUROR TIGER: It would, yes.

25 MS. RISTENPART: Thank you for that. That's

1 really hard. It's hard to confront it.

2 Anyone else feel like Mr. Tiger for whatever
3 reason, personal experience?

4 PROSPECTIVE JUROR: Well, I would just like to say
5 that I would be concerned that looking at me as a white
6 female maybe you would feel that I have biases towards you,
7 and I think it's important to note that even though I'm the
8 typical white female and I'm a scientist and it's important
9 to look at the facts and make sure that things follow and
10 I'm compassionate, I'm just on the other side of it. I
11 just think it's important to point out that I'm not just the
12 biased maybe typical white female.

13 MS. RISTENPART: Absolutely. And as we are
14 sitting here, we are somewhat judging you guys, right? We
15 are making snap decisions, unfortunately, because we don't
16 get to sit down and have a coffee with each of you, but I
17 appreciate that.

18 But obviously we are all much more complex than
19 these questions are kind of teasing out, right? But just on
20 the surface level just sitting here, you are like this
21 probably just isn't the case that I would be good for.
22 That's what I'm asking. Yeah, Ms. Ruiz.

23 PROSPECTIVE JUROR RUIZ: I mentioned earlier that
24 my nephew's best friend was murdered.

25 MS. RISTENPART: Okay.

1 PROSPECTIVE JUROR RUIZ: I not only knew the
2 victim, but the shooter himself.

3 THE COURT: Who is speaking, please?

4 MS. RISTENPART: Ms. Ruiz.

5 PROSPECTIVE JUROR RUIZ: Also, a previous
6 co-worker and a good friend of mine, so I knew both of them.
7 Would it change my opinion in this case, no. Would it make
8 it hard, absolutely, just because in that, I guess if you
9 want to say in that occurrence, I knew both of them.

10 MS. RISTENPART: Okay. And it just happened I
11 think you said?

12 PROSPECTIVE JUROR RUIZ: Yes, back in October.

13 MS. RISTENPART: Sorry. And are you going to be
14 part of the court proceedings since you knew both?

15 PROSPECTIVE JUROR RUIZ: Am I what?

16 MS. RISTENPART: Going to be part of the court
17 proceedings?

18 PROSPECTIVE JUROR RUIZ: No.

19 MS. RISTENPART: Okay. Thank you for that.
20 Anyone else?

21 I do have some causes outside the presence,
22 Your Honor, but with that I would pass.

23 Thank you, ladies and gentlemen.

24 THE COURT: Ladies and gentlemen, during this
25 recess, please do not discuss this case amongst yourselves.

1 Please do not form or express any opinion about this matter
2 until it's been submitted to you. We will be in recess for
3 10 minutes.

4 To those who are seated on the left of the
5 courtroom, your service is about to come to an end, but not
6 yet, so please return to the courtroom. Please be in the
7 rotunda in 10 minutes. We will stand for our jury panel.

8 (Whereupon the following proceedings were
9 outside the presence of the jury panel.)

10 THE COURT: The state has moved to excuse
11 Mr. Joseph Esposito, number 24, for cause. Do you want to
12 be heard, Mr. Lee?

13 MR. LEE: Yeah. I mean, ultimately he said any
14 law enforcement witness is going to have a leg down. He
15 bounced a little back and forth as well about following
16 instruction and ultimately said he would, but I have my
17 doubts. I think there is good cause to release
18 Mr. Esposito.

19 THE COURT: Ms. Ristenpart.

20 MS. RISTENPART: Your Honor, I think that when he
21 was asked if they would have a leg down, he said he would
22 still listen to everything just like every other witness,
23 and so, therefore, I think that's not a matter of he is
24 always going to disregard whatever law enforcement says. He
25 will listen openly.

1 And he was very honest. He said, you know, I have
2 these thought processes, but if you tell me the law, Judge,
3 I will follow that, and I don't see how there is for cause
4 on that specifically.

5 THE COURT: Thank you. You indicated other than
6 Mr. Esposito you pass for cause?

7 MR. LEE: Yes. But I would just note on the way
8 out Ms. Freeman told me that she remembered her street name
9 and said her street name to me as she was just right here.

10 THE COURT: I observed the exchange. I appreciate
11 your ethical dismissal of her attempt to engage you.

12 MR. LEE: It's awkward ignoring people.

13 THE COURT: It is. I will emphasize again you
14 were following the Court's rules and not being social and
15 hospitable.

16 MR. LEE: Thank you.

17 THE COURT: To the defense, do you have any
18 motions for cause?

19 MS. RISTENPART: We do. Juror number 8,
20 Your Honor. Angela Smith, who was very frank, stated this
21 is probably not the best case for her, given it's a criminal
22 case and her expertise, and ask for a challenge for cause on
23 her.

24 THE COURT: Does the state wish to be heard?

25 MR. LEE: Yes. I understood she said that, but

1 that's not the standard. There is no reason for dismissing
2 someone just because they don't feel like that's the best
3 case for them. She said she could be fair and impartial.

4 THE COURT: Any other motions for cause?

5 MS. RISTENPART: Your Honor, also defense would
6 ask to challenge on 25, Richard Tiger, who just because he
7 had been recently stabbed in the chest and through the neck
8 by a Latino was very frank and said that he probably would
9 not want to sit on this specific case.

10 And then the Court's commentary of the Latino
11 culture or Latino Hispanic may be brought in and also
12 Spanish speaking, he also did make a statement earlier about
13 his co-workers all speaking Spanish and he was not, so with
14 that coupled with the stabbing.

15 THE COURT: To the state?

16 MR. LEE: I will submit.

17 THE COURT: Do you have any other motions for
18 cause?

19 MS. RISTENPART: Your Honor, I'm really wavering
20 on Ms. Maria Ruiz. I know that she just disclosed that,
21 again brought up for the second time, that her co-worker and
22 one of her co-worker's friend or her friend was just in a
23 murder, in a murder, was murdered and the co-worker was
24 arrested for it and that occurred only a month ago. With
25 the Court's indulgence.

1 With that, Your Honor, I'm just making a record.
2 I'm not challenging her for cause.

3 THE COURT: I'm sorry, what?

4 MS. RISTENPART: I'm just making a record. I'm
5 not challenging her for cause.

6 THE COURT: Thank you.

7 MR. LEE: Judge, I do have one concern. I know I
8 waived. Mr. Pearce said he could not go beyond a finding of
9 guilt. If a first degree murder conviction comes back --

10 THE COURT: Yeah, that's why I paused. I wanted a
11 chance to reflect upon my words, because I didn't want my
12 words to suggest that there would be a verdict. I heard him
13 very clearly say that there was a scriptural basis that he
14 could not take a life.

15 I knew he was referring to the death penalty. I
16 chose to be silent until Mr. Markley responded, and then I
17 definitively said there will not be a discussion of capital
18 punishment.

19 I did not hear him say that he would be unable to
20 render, if the state proves its case and if the jury, and if
21 sentence is presented to the jury, I have heard nothing from
22 Mr. Pearce that he is unable to participate until the death
23 penalty is requested. Push back and clarify, but that's the
24 way it is to me.

25 MR. LEE: So he had told me when I was asking him

1 questions that he can find guilt, but that's it. He can't
2 stand in judgment about anything further about a person.

3 THE COURT: Boy, I could bring him in and I could
4 make further inquiries out of the panel's presence and drill
5 into that. I'm remembering it different, but I respect you
6 as a participating colleague. I just heard it different,
7 but if you want, I will bring him in here and ask.

8 MR. LEE: So right now I believe our intent is to
9 have the jury sentence, correct? I think that's what
10 Ms. Ristenpart told me on Friday anyway, so I think that's
11 an important avenue we need to go down.

12 THE COURT: Anything from defense?

13 MS. RISTENPART: Your Honor, just that my
14 recollection is the same as the Court, that it was not
15 standing in judgment. It was just for the capital
16 punishment issue.

17 THE COURT: Okay. Mr. Esposito presents
18 interestingly in ways that will not be captured by a cold
19 transcript of the proceeding. I observed him to be a
20 citizen of convictions and honest to his own detriment.

21 I did not infer or observe in any way his
22 gamesmanship to be relieved of jury service. I thought his
23 answers were honest, and he was not as emphatic as I needed
24 to excuse for cause.

25 I heard him tell me that despite all of his

1 concerns about government compulsion and authority, he would
2 listen to the Court's instructions and he would do his level
3 best as a member of the jury, and my decision is based at
4 least as much as my observations of him as it is in the
5 words themselves. The request to excuse Esposito for cause
6 is denied.

7 I do believe that it is appropriate to excuse
8 Mr. Richard Tiger for cause.

9 Ms. Smith also presents in a way that cannot be
10 captured by the record. Clearly articulate, engaged,
11 aligned professionally with law enforcement, but I sensed
12 from her, from her words and my observation a good faith
13 honest willingness to serve neutrally without bias and I
14 deny the motion for cause.

15 Deputy, let's bring in first Mr. Pearce.
16 Mr. Pearce only, please.

17 (Prospective Juror Pearce was brought into the courtroom.)

18 THE COURT: Mr. Pearce, have a seat in this corner
19 chair, please.

20 PROSPECTIVE JUROR PEARCE: This one?

21 THE COURT: Yes, in the box itself. Do not hear
22 what I am not saying. I do not know the state's full
23 presentation of evidence and I have no opinion about how
24 this trial will end.

25 In the event that the jury is asked to impose a

1 punishment, there will not be a death penalty option, but
2 there would be an imprisonment option, and I'm not sure I
3 understand what you were saying.

4 Could you sit on this jury, consistent with your
5 religious and moral and philosophical views, could you sit
6 on this jury and participate in a punishment decision if the
7 state had met its burden of proof if you know that there
8 will not be a death penalty involved?

9 PROSPECTIVE JUROR PEARCE: Yes.

10 THE COURT: All right. You are free to leave.
11 Thank you.

12 (Prospective Juror Pearce was excused from the courtroom.)

13 THE COURT: Ms. Clerk, I would like you to
14 randomly select a name, please.

15 THE CLERK: Esperanza Beltran.

16 THE COURT: Deputy, if you will bring Mr. Richard
17 Tiger just inside the courtroom. He can stand at the door.
18 Ms. Beltran will come in and have a seat in the corner,
19 please.

20 (Prospective Juror Tiger entered the courtroom.)

21

22 THE COURT: Mr. Tiger, thank you for your
23 participation today. I have decided that your service is
24 better used elsewhere. You will not be required to sit as a
25 member of this jury.

1 PROSPECTIVE JUROR TIGER: Okay.

2 THE COURT: You are free to leave. Thank you,
3 sir.

4 PROSPECTIVE JUROR TIGER: Thank you, Your Honor.

5 THE COURT: Esperanza Beltran.

6 (Prospective Juror Beltran entered the courtroom.)

7 THE COURT: Ms. Beltran, have a seat in this
8 corner, please. Ms. Beltran, your name has been randomly
9 selected to fill a vacant seat. Have you been able to
10 understand everything that I have said in English?

11 PROSPECTIVE JUROR BELTRAN: Sometimes.

12 THE COURT: Microphone, please.

13 I'm not trying to be mean, but when you spoke to
14 me before I couldn't understand what you were saying, and so
15 I presume English is not your first language?

16 PROSPECTIVE JUROR BELTRAN: Yeah, it's not.

17 THE COURT: What is your first language?

18 PROSPECTIVE JUROR BELTRAN: Tagalog.

19 THE COURT: So you are --

20 PROSPECTIVE JUROR BELTRAN: Philippine.

21 THE COURT: Philippine. Have you understood my
22 words?

23 PROSPECTIVE JUROR BELTRAN: Yeah.

24 THE COURT: You have surgery scheduled for next
25 week?

1 PROSPECTIVE JUROR BELTRAN: Yes, sir, and I need
2 to meet my surgeon this coming Thursday.

3 THE COURT: What is the nature of the surgery?

4 PROSPECTIVE JUROR BELTRAN: Oh, I got a problem
5 with my thyroid glands and it's too big already. That's why
6 they need to take it out.

7 THE COURT: How long has this surgery consultation
8 been scheduled?

9 PROSPECTIVE JUROR BELTRAN: I talked to the
10 primary doctor the other week, and then because on that
11 first month of January I went to urgent care, and then they
12 asked me to do a lot of tests, including the X-rays.

13 THE COURT: So how long has the, how long has your
14 meeting on Thursday been scheduled?

15 PROSPECTIVE JUROR BELTRAN: Long, because I need
16 to meet the doctor at 10:00 on Thursday.

17 THE COURT: Ms. Beltran, I want to know how long
18 it takes to get in to see the doctor. Is it a four week
19 waiting list? Is it a ten week waiting list? How long has
20 this appointment been on the schedule?

21 PROSPECTIVE JUROR BELTRAN: It was scheduled a
22 week ago.

23 THE COURT: A week ago. Okay. So if you
24 rescheduled it, it would not be very far out?

25 PROSPECTIVE JUROR BELTRAN: Because I received the

1 letter from the, from our insurance that it was, that the
2 surgeon was operating until March 4th, sir.

3 THE COURT: So is the surgery scheduled for next
4 week?

5 PROSPECTIVE JUROR BELTRAN: Yeah, that's what the
6 surgeon said.

7 THE COURT: And the consultation is scheduled for
8 this week?

9 PROSPECTIVE JUROR BELTRAN: Because the oncologist
10 talked to the surgeon already and then I just need to meet
11 only the surgeon, but it was scheduled already.

12 THE COURT: So you are meeting the surgeon this
13 week and your surgery is scheduled for next week?

14 PROSPECTIVE JUROR BELTRAN: Yeah, that's what they
15 said.

16 THE COURT: Counsel, I can continue and go through
17 the whole --

18 PROSPECTIVE JUROR BELTRAN: If you want, I can
19 show you that.

20 THE COURT: Hold on, please. We are running out
21 of time and so I want you to let me do this for a moment.

22 Counsel, I can go through the entire scripted
23 questions or --

24 MS. RISTENPART: Challenge for cause, Your Honor.

25 MR. LEE: That's fine.

1 THE COURT: I'm going to let you go to your
2 medical appointment and not stay on this jury.

3 PROSPECTIVE JUROR BELTRAN: Thank you.

4 THE COURT: Thank you. I appreciate it.

5 PROSPECTIVE JUROR BELTRAN: I'm concerned --

6 THE COURT: It's okay. Thank you for being here
7 today. You are free to leave.

8 Ms. Clerk.

9 THE CLERK: Dennis Mariano.

10 THE COURT: Mr. Mariano, please.

11 (Prospective Juror Mariano entered the courtroom.)

12 THE COURT: Mr. Mariano, will you sit in the
13 corner, please.

14 PROSPECTIVE JUROR MARIANO: Yes, Your Honor.

15 THE COURT: Your name has been selected to fill a
16 vacant seat.

17 PROSPECTIVE JUROR MARIANO: Great.

18 THE COURT: Have a seat. How do you feel about
19 that?

20 PROSPECTIVE JUROR MARIANO: Speechless. I really
21 don't mind doing that.

22 THE COURT: All right. So I'm going to invite the
23 state to ask some questions and then the defense to ask some
24 questions. Be at liberty, counsel, to tread any territory
25 you wish. Mr. Lee.

1 MR. LEE: Sir, how do you feel about law
2 enforcement?
3 PROSPECTIVE JUROR MARIANO: I have no issues.
4 MR. LEE: Have you ever been a victim of a crime
5 or charged with a crime?
6 PROSPECTIVE JUROR MARIANO: I have not.
7 MR. LEE: And if you were selected to serve on
8 this trial, could you be fair to both sides?
9 PROSPECTIVE JUROR MARIANO: I will try my best,
10 yes.
11 MR. LEE: And would you be able to hold me as the
12 state accountable to its burden of proof beyond a reasonable
13 doubt?
14 PROSPECTIVE JUROR MARIANO: Yes, sir. Sorry, I
15 have been sitting in the same place all day.
16 MR. LEE: You work at GSR?
17 PROSPECTIVE JUROR MARIANO: Yes, sir.
18 MR. LEE: What do you do for them?
19 PROSPECTIVE JUROR MARIANO: Convention manager for
20 33 years. We set up for banquets. Basically, any type of
21 convention event, we deal with that.
22 MR. LEE: And do you have children?
23 PROSPECTIVE JUROR MARIANO: I have two, two sons.
24 MR. LEE: How old are your sons?
25 PROSPECTIVE JUROR MARIANO: One is 29 and the

1 other one is, my youngest one is 14 years old.

2 MR. LEE: And then are you from Reno?

3 PROSPECTIVE JUROR MARIANO: I consider myself,

4 yes, been here since '87.

5 MR. LEE: Okay. So that's about 30 plus.

6 PROSPECTIVE JUROR MARIANO: Basically all my life,

7 yeah, I have been here.

8 MR. LEE: Thank you, Mr. Mariano. That's all the

9 questions, Judge.

10 MS. RISTENPART: Sorry, I get to ask, too.

11 PROSPECTIVE JUROR MARIANO: Sorry.

12 MS. RISTENPART: No problem. Any problem with,

13 the Judge told you that the defense doesn't have any burden

14 in this case, meaning that I don't have to do anything.

15 It's all on the state, the prosecutor. How do you feel

16 about that?

17 PROSPECTIVE JUROR MARIANO: I'm not sure what to

18 say.

19 MS. RISTENPART: Does it strike you as weird that

20 I wouldn't do anything or I don't have to do anything?

21 PROSPECTIVE JUROR MARIANO: No. What do you mean

22 you don't have to do anything exactly?

23 MS. RISTENPART: So, as you heard the Court state,

24 Mr. Silva is innocent sitting here.

25 PROSPECTIVE JUROR MARIANO: Right.

1 MS. RISTENPART: And that the state has to present
2 evidence.

3 PROSPECTIVE JUROR MARIANO: Right, I see.

4 MS. RISTENPART: And it's all on the state, all on
5 the prosecutor. That I don't have to do anything, because
6 they have the entire burden.

7 PROSPECTIVE JUROR MARIANO: I don't really, I'm
8 not so sure what to, how to answer that. I have never been
9 to any, you know, any event like this.

10 MS. RISTENPART: Is this your first time being in
11 a court proceeding?

12 PROSPECTIVE JUROR MARIANO: Yes, yes, yes, for a
13 very long time since I got a parking, like a speeding ticket
14 30 something years ago, sorry.

15 MS. RISTENPART: Long time, that's great.

16 PROSPECTIVE JUROR MARIANO: Yes.

17 MS. RISTENPART: So going with that, you heard the
18 Court ask and tell you that Mr. Silva does not have to say
19 anything, because everything is laying on this guy's
20 shoulders in front of me, meaning the prosecutor. How do
21 you feel if Mr. Silva did not testify in the case where he
22 is accused of something?

23 PROSPECTIVE JUROR MARIANO: I'm not sure. I don't
24 know.

25 MS. RISTENPART: Just right off the bat, what's

1 your initial reaction when I tell you that, that he doesn't
2 have to testify and he may not?

3 PROSPECTIVE JUROR MARIANO: Is that his choice? I
4 mean, if that's his choice, then, you know.

5 MS. RISTENPART: Are you expecting someone to say
6 something? I know we are putting you on the spot here.
7 Explain that.

8 PROSPECTIVE JUROR MARIANO: I don't know if he is
9 supposed to say anything. I mean, everything, I guess still
10 everything has to, there has got to be evidence and we have
11 got to go through all of that, you know, before you get
12 somehow being convicted of doing something, you know.

13 So either you say something or the prosecutor or
14 whatever say something. Then I think that's, you know, it's
15 just, that's the system, you know. We are still going
16 through, you know, the process. We are still processing
17 everything, you know, so.

18 MS. RISTENPART: You also heard some comments by
19 the Judge that you may hear some Spanish?

20 PROSPECTIVE JUROR MARIANO: Yes.

21 MS. RISTENPART: Do you speak a different
22 language?

23 PROSPECTIVE JUROR MARIANO: I'm Filipino.

24 MS. RISTENPART: That's what I figured, yeah.
25 Okay. It's been 30 years.

1 PROSPECTIVE JUROR MARIANO: We kind of have the
2 same, you know, I can say table is same thing, but I can't
3 really, just really small, I mean, yeah, I work with a lot
4 of Hispanic people.

5 MS. RISTENPART: At work?

6 PROSPECTIVE JUROR MARIANO: At work, but, you
7 know, like they still, they are able to, I mean, if they
8 talk about me, I won't be able to understand if they really
9 wanted to say something bad about me, you know.

10 MS. RISTENPART: And do you hold that against
11 someone who speaks Spanish?

12 PROSPECTIVE JUROR MARIANO: No.

13 MS. RISTENPART: You also heard the Judge ask the
14 questions and you heard me ask the questions about law
15 enforcement, and you just said you never had a bad
16 experience with law enforcement.

17 PROSPECTIVE JUROR MARIANO: Yeah.

18 MS. RISTENPART: But if it was an officer
19 testifying would you feel differently about their testimony?

20 PROSPECTIVE JUROR MARIANO: No, not in any way,
21 no.

22 MS. RISTENPART: Say one of the guys that worked
23 underneath you at the Grand Sierra setting up tables.

24 PROSPECTIVE JUROR MARIANO: To do what?

25 MS. RISTENPART: If you were comparing a law

1 officer, a person who showed up in a uniform to testify,
2 would you hold their testimony or their statements any
3 higher --

4 PROSPECTIVE JUROR MARIANO: No.

5 MS. RISTENPART: -- or have more credence?

6 PROSPECTIVE JUROR MARIANO: No, everybody is
7 entitled.

8 MS. RISTENPART: No further questions, Your Honor.
9 Thank you.

10 THE COURT: Thank you. Pass this juror for cause?

11 MS. RISTENPART: I will.

12 MR. LEE: Yes.

13 THE COURT: All right. Thank you. You are free
14 to step out. In fact, you are going to sit, Mr. Mariano, in
15 the 25th position, so it's the middle row, second position.
16 It will be just a moment. Have a seat there, please.

17 Deputy, if you will bring everyone into the
18 courtroom, we will stand for them, please.

19 (Whereupon the following proceedings were
20 in the presence of the jury panel.)

21 THE COURT: Ladies and gentlemen, if you were not
22 called to answer questions and you sat on the left side of
23 the courtroom, my right where I'm pointing, your day has
24 come to an end. When we recess, you are free to leave the
25 courthouse. You will not be called to serve as a member of

1 this jury.

2 I just want to acknowledge your presence, the way
3 in which you conducted yourself, and proud to be a member of
4 your same community. In a moment, you will leave.

5 To those who answered questions, all 32 of you,
6 your day has not come to an end. In about 15 minutes I will
7 bring you back into the courtroom, you will quickly sit
8 anywhere, and I will call the name of the 14 members of the
9 jury. So make sure you take everything with you. You will
10 not be seated in the same seats.

11 During this recess, please do not discuss this
12 case amongst yourselves. Please do not form or express any
13 opinion. Please do not attempt to communicate with the
14 attorneys, the court staff, or other people in the
15 courthouse. You are free to leave. Thank you so much.

16 (Whereupon the following proceedings were
17 outside the presence of the jury panel.)

18 THE COURT: All right. I will invite the state's
19 attorney and investigator to reconvene in the jury
20 deliberation room for private conversations. We will have
21 Mr. Silva and his team present in the courtroom. You have
22 sight supervision, but please give them separation so they
23 can huddle and talk. I will call you back into session in
24 10 minutes where I will elicit your peremptory strikes.

25 MS. RISTENPART: Thank you, Your Honor.

1 MR. LEE: Thank you.

2 (Whereupon a break was taken from 3:51 p.m. to 4:03 p.m.)

3 (Whereupon the following proceedings were
4 outside the presence of the jury panel.)

5 THE COURT: You will each have eight peremptory
6 challenges and then we will have a challenge to the, a
7 single challenge on each side to the four potential
8 alternates.

9 To the state, your first.

10 MR. LEE: Juror number 21, Markley.

11 THE COURT: To the defense.

12 MS. RISTENPART: Juror number 8, Angela Smith.

13 THE COURT: To the state.

14 MR. LEE: Juror number 5, Finnoff.

15 MS. RISTENPART: Juror number 12, Denis Dolan.

16 THE COURT: Number 12, Denis Dolan. To the state.

17 MR. LEE: Number 24, Joseph Esposito.

18 THE COURT: To the defense.

19 MS. RISTENPART: Juror number 1, William Johnson.

20 THE COURT: To the state.

21 MR. LEE: Juror number 14, Nathalie Murillo.

22 THE COURT: To the defense.

23 MS. RISTENPART: Court's indulgence. I just need
24 to count. Thank you. Juror number 15, Sheila Stover.

25 THE COURT: To the state.

1 MR. LEE: Juror number 9, Monica Freeman.

2 THE COURT: Defense.

3 MS. RISTENPART: Juror number 19, Guy Cordray.

4 THE COURT: You each exercised five.

5 To the state, your sixth.

6 MR. LEE: Juror 16, Jason Cowles.

7 THE COURT: Defense.

8 MS. RISTENPART: Your Honor, how many more do we

9 have?

10 THE COURT: I'm sorry?

11 MS. RISTENPART: I'm sorry, what number are we on?

12 THE COURT: This is your number sixth.

13 MS. RISTENPART: Juror number 3, Karel Mathews.

14 THE COURT: To the state.

15 MR. LEE: Juror number 17, Heather Brooks.

16 THE COURT: Defense.

17 MS. RISTENPART: Juror number 13, Terri Gilmore.

18 THE COURT: Now, counsel, you have one more

19 peremptory strike and then a peremptory strike for the

20 alternate. So right now the alternates are Dyer, Dickson,

21 Ruiz, and Zierten. Those four will remain the same after

22 this last round of strikes. To the state.

23 MR. LEE: 26, Cody James.

24 THE COURT: And to the defense.

25 MS. RISTENPART: Court's indulgence, Your Honor.

1 Juror number 27, Loretta Huber-Casazza.

2 THE COURT: To the state, your peremptory strike
3 to one of the four alternates.

4 MR. LEE: 29, Michael Zierten.

5 THE COURT: To the defense.

6 MS. RISTENPART: Juror number 31, Craig Dickson.

7 THE COURT: Our 12 deliberating jurors beginning
8 in the first position in order, Gonzalez-Escobar, Knab,
9 Torres, Chambers, Maclucas, Sheldon, Pearce, Jones, Denson,
10 Denzler, Mariano, Santiago. Our two alternate jurors are
11 Maria Ruiz and Anthony Dyer.

12 Bring in the panel, please. Just have them stand
13 against the wall or behind the seats. Please have them come
14 in quickly.

15 (Whereupon the following proceedings were
16 in the presence of the jury panel.)

17 THE COURT: Ladies and gentlemen, we began with
18 32. The attorneys have deselected, as is their right
19 through peremptory challenges, 18 of you. I asked no
20 questions. They provided no explanations. That is
21 appropriate.

22 As I call your name, you are selected for jury
23 service and where you sit is very important. There are
24 12 deliberating jurors and two alternate jurors. If you are
25 selected to serve as one of the 14, you will need to make

1 arrangements to be here everyday, including through next
2 week. And I will give you a better idea of when next week
3 ends as this week unfolds.

4 If I do not call your name, you are not selected
5 to serve and, again, I thank you for your participation. I
6 observed great, good faith today in members of my community
7 and I shall drive home inspired to be a co-resident with
8 you.

9 In the first position, Gonzalez-Escobar, Knab,
10 Torres, Chambers, Maclucas, Sheldon, Pearce, Jones, Denson,
11 Denzler, Mariano, Santiago, Maria Ruiz, Dyer. The rest of
12 you are excused. Thank you.

13 Be seated everyone, please. Denzler should be in
14 the 10th position and Mariano in the 11th position. These
15 will always be your seats.

16 Mr. Santiago, if you need assistance with your
17 professors, the Court's staff will provide that assistance
18 with notice to counsel. Other people who have work-related
19 concerns we will equally assist.

20 There is one juror who is scheduled to be gone
21 Friday afternoon and Monday. That may likely change. I am
22 not sure what time we will end on Friday and what time we
23 will begin on Monday. I want you to know I acknowledge the
24 conflict and, if possible, we will strive to assist you to
25 do a workaround.

1 It's possible we start Monday afternoon,
2 midafternoon. It's possible we end Friday for you to leave.
3 It just depends upon the pacing. All right. So you are
4 going to have to be ready to make some adjustments, but not
5 quite yet.

6 If you will all stand, you are required to take a
7 different oath than the oath you previously took. Please
8 face my clerk, raise your right hand, and be sworn.

9 (Whereupon the jurors were sworn.)

10 THE COURT: To juror number 13, I just want to
11 clarify, you are scheduled to leave Friday at what time?

12 JUROR RUIZ: 1:00.

13 THE COURT: And you are scheduled currently to
14 awaken in Las Vegas on Monday morning?

15 JUROR RUIZ: Correct.

16 THE COURT: We have in the courtroom a court
17 reporter. The District Court is a court of record.
18 Everything that occurs in this court is memorialized.

19 You will occasionally hear me ask witnesses or
20 attorneys to slow the cadence. I might interrupt when two
21 or more voices are attempting to speak at the same time.

22 Sometimes I will just ask everyone to stop and
23 stand, because I can smell the smoke coming from her
24 fingers. It's hard work to be in the well of the court.
25 It's very hard work to be a reporter. We will regularly

1 take breaks to accompany all of us and the reporter.

2 You have seen the court clerk. The clerk is
3 always present when the Court is in session. She swears
4 witnesses, marks exhibits, controls the evidence after it's
5 admitted, well, after it's marked. She will prepare minutes
6 or other descriptions of the proceedings.

7 Because this is the District Court, we are
8 required by statute to always have security staff present.
9 The security staff is for your convenience, your assistance.
10 They are present. They alternate in and out of the
11 courtroom. Our primary deputy is Deputy Cos.

12 Our security staff are trained to interact with
13 you, but not be one of you. They are trained to decline
14 personal conversations. They are not going to talk about
15 the game, the television show, the hunt, nothing.

16 But they will be the Court's representative as I
17 interact with you. If you have any questions, they will go
18 through Deputy Cos or one of his colleagues in written form
19 to me. I will review the questions with counsel out of your
20 presence. It is the deputy sheriff, Deputy Cos, who has the
21 only interaction with you outside of this room.

22 In a moment, the clerk will read the charging
23 document. I just want you to know that it is a statement of
24 charges. It is not evidence of any act or a crime, but it's
25 appropriate that you have the context of the charging

1 document.

2 Ms. Clerk, please read the charging document.

3 THE CLERK: In the Second Judicial District Court
4 of the State of Nevada, in and for the County of Washoe,
5 State of Nevada, Plaintiff versus Yiovannie Guzman (A) and
6 Richard Abdiel Silva (B), Defendant, Case Number CR18-1135,
7 Department Number D15, Information, filed electronically
8 CR18-1135B, July 3, 2018, Jacqueline Bryant, Clerk of the
9 Court.

10 Christopher J. Hicks, District Attorney within and
11 for the County of Washoe, State of Nevada, in the name and
12 by the authority of the State of Nevada, informs the above
13 entitled Court that Yiovannie Guzman and Richard Abdiel
14 Silva, the defendants above-named, have committed the crime
15 of: Murder with the Use of a Deadly Weapon, a violation of
16 NRS 200.010, NRS 200.030, NRS 193.165, and NRS 195.020, a
17 category A felony, in the manner following, to wit:

18 That the said defendants, Richard Abdiel Silva and
19 Yiovannie Guzman, on or about November 2nd, 2017, within the
20 County of Washoe, State of Nevada, did willfully,
21 unlawfully, and with malice aforethought, deliberation, and
22 premeditation, kill and murder Luz Linarez-Castillo, a human
23 being, by means of shooting Luz Linarez-Castillo in the head
24 and body with a deadly weapon, to wit: A 9mm handgun, at or
25 near Parkview Street and Mazzone Avenue, thereby inflicting

1 mortal injuries upon the said Luz Linarez-Castillo from
2 which she died on or about November 2, 2017.

3 And/or the said defendants did willfully and
4 unlawfully aid or abet each other and/or act as conspirators
5 with each other in committing the crime of Murder with the
6 Use of a Deadly Weapon as set forth above in that the
7 defendants counseled and encouraged each other to kill
8 Luz Linarez-Castillo, and conspired and agreed to kill
9 Luz Linarez-Castillo, and thereafter in furtherance of their
10 agreement, the defendants planned and discussed the killing,
11 stayed together at the same residence and awoke together in
12 the early morning hours, armed themselves with a
13 9mm handgun, set out together with Yiovannie Guzman driving
14 and assisting each other in searching for
15 Luz Linarez-Castillo at multiple locations before she left
16 for work, and upon finding her, while Yiovannie Guzman
17 waited in the vehicle as a lookout and getaway driver,
18 Richard Silva approached Luz Linarez-Castillo while she was
19 inside her vehicle and shot her multiple times about the
20 head and body, thereby causing her death, and, further, as
21 previously planned, did drive away at regular speeds so as
22 not to arouse suspicion.

23 All of which is contrary to the form of the
24 statute in such case made and provided, and against the
25 peace and dignity of the State of Nevada, and to which

1 Richard Abdiel Silva has pled not guilty. Christopher J.
2 Hicks, District Attorney, Washoe County, Nevada, by Matthew
3 Lee, Deputy District Attorney.

4 THE COURT: Thank you, Ms. Clerk.

5 I will take a few minutes to provide additional
6 instructions. Remember that at the conclusion of the
7 evidence, you will have written instructions of law to
8 govern your deliberations, but some I want to highlight just
9 briefly as you begin to hear the evidence.

10 First, at no time can you speak to a fellow juror
11 about your own personal knowledge of facts about this case.
12 If at any time you discover that you know something about
13 this case, that you know one of the participants in this
14 trial, for example, a witness, please don't talk about it.
15 Instead write your concern on a piece of paper and hand it
16 to Deputy Cos, who will give it to me.

17 We have somewhere in the neighborhood of 35 and 90
18 witnesses, and so it's possible that you will recognize
19 somebody that you know. Let me know and do not discuss it,
20 please.

21 At no time can you conduct any form of field
22 research, no field trips, no research into Google, no
23 experimentation. Trust that the attorneys are highly
24 skilled. This trial is orchestrated and you will be given
25 the evidence you need to make a decision one way or another.

1 If at any time you need further assistance, again, through
2 Deputy Cos to me in writing.

3 I have reminded the attorneys about their out of
4 court, well, about their obligation to remain distant from
5 you. Today already two members of the jury panel have
6 attempted to talk to the attorneys. It is strictly
7 prohibited. Everything you learn about this case should
8 occur in this room when you are altogether.

9 Now, those attempts were not harmful, intended to
10 be harmful, but it is so important that you will be wearing
11 name badges. And these attorneys, who I know to be polite,
12 wonderful people, are not even going to say hello to you.
13 That applies to Mr. Silva as well. They will not even say
14 hello to you. It's not because they are anti-social. It's
15 because they are following the rules of court. Further,
16 your badge will signify to the entire court organization
17 that you are not to be part of any conversations.

18 There are different types of evidence. I will
19 discuss those two types, direct and circumstantial evidence,
20 at the conclusion of the case presentations. Just know at
21 the outset that no matter how the information comes to you,
22 it's yours to consider, to hold, to weigh in any way that
23 you think is appropriate.

24 What I say is not evidence and what the lawyers
25 say is not evidence. I'm the gatekeeper. I preside over

1 this trial. The attorneys are advocates. Their job is to
2 zealously represent competing interests, to provide
3 arguments about the evidence that's presented, but nothing
4 they or I say is evidence in this case.

5 Please always be conscious of your personal
6 feelings of sympathy or prejudice or bias. Work against
7 those. Keep your mind open. Keep your ears open. Await
8 the presentation of evidence to include any arguments the
9 defense may have.

10 Now, from time to time I will be asked to rule on
11 the admissibility of evidence. I will say for a third time
12 and the last time, I know these attorneys. They are skilled
13 advocates. They are ethical. They are professional. They
14 are civil to the Court, to each other, and to you, but they
15 are going to disagree, and when they do, I must make a
16 decision.

17 My decision is never intended to signal my opinion
18 about this case. You will be the judges of the facts, so
19 please don't watch me too carefully, don't listen to me too
20 carefully. Don't listen, don't infer from my evidentiary
21 rulings what I do not intend.

22 Please do not speculate as to what the evidence
23 would have been if I disallow it. It doesn't mean anybody
24 is doing anything wrong, but there are rules of evidence
25 that govern the admission of evidence.

1 Throughout trial you will be entitled to take
2 notes. In a moment, you will reconvene in the jury room
3 quickly to receive your badges and your notepads and pens.
4 You may take notes throughout trial, but you may not share
5 those notes with each other until you deliberate. Keep them
6 confidential to yourself.

7 Also, be mindful of how note taking can distract
8 you from what occurs at trial. You will listen, but you
9 will watch and you are entitled to weigh everything that
10 occurs within this room, so balance your note taking with
11 your in person personal observations.

12 The State of Nevada technically allows you to ask
13 questions. At no time will you ask any questions orally.
14 If you wish, you can write a question on a piece of paper.
15 I will discuss it with the attorneys out of your presence,
16 but will mostly not answer your questions, because, again,
17 this is highly orchestrated, and if you will await the
18 presentation of evidence, these attorneys know what
19 information to give and not give and how to argue the
20 evidence that's before you, so just be patient, if you
21 would, please, but you are authorized to submit no questions
22 to me.

23 If at any time anybody attempts to communicate
24 with you, please let me know. Social science research
25 reveals that you will watch me and I don't want you to,

1 because I'm not a member of the jury.

2 Nothing I say, no gesticulation, no tone, no
3 quickness with counsel or a witness is intended to convey
4 anything to you. I will work at being dispassionate. I
5 often interact with legal research and so forth while I'm at
6 this bench. Your job is to listen to the attorneys and
7 watch what occurs here.

8 You alone will decide what occurred. You may give
9 to all witnesses and all evidence the appropriate weight.
10 You may consider the appearance, attitude, and behavior of
11 witnesses, the interest of the witness in the outcome of the
12 trial, the relationship of the witness to the parties in
13 this trial, the inclination to speak truthfully or
14 untruthfully, the probability or improbability of the
15 evidence that you hear and so forth. It is all yours to
16 weigh, to deliberate, and to rely upon.

17 Please avoid all forms of social media regarding
18 this trial. Please don't start posting that you are in
19 trial. This is what the Judge said. I saw this particular
20 piece of evidence. If you do something such as that, it
21 could create problems. I ask you and direct you not to do
22 so.

23 The trial is about to begin. From time to time, I
24 will have a bench conference with the attorneys out of your
25 presence. It's easier for me to meet with them than to

1 remove all of you.

2 Every time we speak out of your presence, I at
3 some point confirm on our record what we discussed, so
4 nothing is ever secret. On procedural quick matters, we
5 will just reconvene in the anteroom there. We will attempt
6 to keep the length and number of these bench conferences to
7 a minimum.

8 We are going to push hard this week, because I'm
9 hopeful about this schedule and how it might actually be
10 shorter than anticipated, so I'm going to push you very hard
11 this week. For example, we are going to do opening
12 statements today at 4:35, probably not until 4:42 or so. I
13 have been told by the attorneys how long they will take. I
14 expect you will be out of here by 5:30 today.

15 After the attorneys speak to you in the form of
16 opening statements, I raise this invisible pane of glass
17 where there is no interaction with you at all. You become
18 passive observers of this process. I alone might say can
19 you hear? Does anybody need a restroom break?

20 Neither the attorneys nor the witnesses will
21 interact with you. That's part of our orchestrated process.
22 It's not meant to diminish your presence or intelligence.

23 Deputy, we are going to convene in the jury
24 deliberation room long enough to give notepads and a very
25 quick bathroom break and then we will return for opening

1 statements. Please don't discuss this case. Please don't
2 form or express any opinions. You are free to follow the
3 deputy.

4 (Whereupon the following proceedings
5 were outside the presence of the jury.)

6 THE COURT: Does anybody, do either of the
7 attorneys want to memorialize what happened with Christeck?

8 MS. RISTENPART: I would, Your Honor. Just that
9 we had a conversation about Tamir Hamilton, that I was the
10 public defender at the time of that case. I didn't work
11 directly on the case, I was aware of it, and both parties
12 stipulated to challenge him for cause.

13 MR. LEE: I agree.

14 THE COURT: Thank you. I will see you in about
15 five or six minutes, counsel.

16

17 (Whereupon a break was taken from 4:35 p.m. to 4:41 p.m.)

18 (Whereupon the following proceedings
19 were outside the presence of the jury.)

20 MS. RISTENPART: Your Honor, prior to starting I
21 would like to invoke the Rule of Exclusion formally.

22 Coupled with, Your Honor, I did overhear
23 conversations between Sylvia Guzman and her son
24 Yiovannie Guzman where Sylvia, who has been subpoenaed,
25 excluded, was informing Yiovannie that she would have

1 members of her family in court to tell her what was going on
2 every single day.

3 I did speak with Ms. Guzman this morning. She was
4 here pursuant to her subpoena. I did remind her that the
5 Rule of Exclusion would be invoked most likely and that it's
6 not to be reported daily as to what is going on.

7 I have noticed that Yiovannie Guzman's family has
8 been here present throughout the day and I anticipate them
9 being present everyday.

10 THE COURT: The Rule of Exclusion has been
11 invoked. It is a provision of our evidence code that
12 prevents one witness from being present during another
13 witness' testimony. It also prevents the discussion of
14 trial testimony among witnesses outside of this courtroom.

15 The request is granted. Everyone should adhere to
16 that admonition and, counsel, if you will assist the Court
17 in policing.

18 MS. RISTENPART: Thank you, Your Honor.

19 (Whereupon the following proceedings
20 were in the presence of the jury.)

21 THE COURT: Be seated, please. The entire jury is
22 present. To the state, you may begin with opening
23 statements.

24 Ladies and gentlemen, these are not arguments.
25 They are brief introductions to what the attorneys

1 anticipate the evidence will show. You may again.

2 MR. LEE: Good afternoon, ladies and gentlemen.

3 On November 2nd, 2017, early in the morning, approximately
4 4:48 a.m., Richard Silva shot and killed Luz Linarez-
5 Castillo as she was driving in her car at a stop sign.

6 Just to acquaint you with people, if you can look
7 to your left, Luz Linarez-Castillo was born in 1991 and she
8 was married to an individual named Bernard Silva-Guzman.

9 Bernard has a brother. His brother is Richard
10 Silva. Richard Silva goes by a moniker, a nickname Willow.
11 In fact, you will see the license plate on his car is
12 Willow. Mr. Silva worked at the DMV. With that employment,
13 he had access to information and he used that information.

14 Richard Silva was also having an affair with his
15 sister-in-law Luz Linarez-Castillo unbeknownst to Bernard.
16 In late October, mid to late October of 2017, Bernard and
17 also Mr. Silva learned something else. Luz was having an
18 affair with another person by the name of Arturo Manzo.

19 With that information, Richard Silva had a plan.
20 His plan was to kill Luz Linarez-Castillo; Lucy, as most of
21 her family knows her.

22 Mr. Silva had a cousin Yiovannie Guzman.
23 Yiovannie Guzman was 18 years old at the time. Richard
24 approached Yiovannie. He told him he had a job for him. He
25 asked to borrow his car, asked for some help. Yiovannie

1 Guzman joined in that conspiracy. They together planned and
2 carried out the murder of Lucy.

3 Now, as they joined up, the plan became apparent.
4 November 1st of 2017, the early morning, was the date that
5 they were to commit this crime. You will find that
6 Mr. Guzman overslept that morning and it could not be
7 carried out.

8 In fact, you will find, you will hear from
9 witnesses who will present text messages from Mr. Guzman's
10 phone to Mr. Silva. They are back and forth in a
11 conversation where Mr. Silva is stating, "Where are you at,
12 bro," at 4:00 something in the morning, early morning.

13 It is one-sided until eventually Mr. Guzman
14 acknowledges that he slept in, and so they missed their
15 opportunity that morning, buying Lucy one more day of her
16 life. You will also hear that Mr. Silva's phone was
17 searched, but the texts aren't on there. He deleted them.

18 So that brings us to November 2nd. And, in fact,
19 let me go back. Still November 1st. Precedent to all of
20 this, Mr. Silva, who I told you worked at the DMV, looked up
21 information with no transaction being run at the DMV.

22 Meaning he had access, but he wasn't there to help
23 a customer in looking up this information and no transaction
24 was being run. He was just looking up information about
25 Lucy, and then he had, through a co-worker's terminal,

1 looked up information about Arturo Manzo; if you recall, the
2 other individual that Lucy was involved with. With that
3 information comes addresses, vehicles. Armed with that
4 information, that's part of their plan. That's where they
5 knew where to go.

6 Late in the evening, excuse me, going to
7 November 2nd, in the early, early morning, Mr. Guzman drove
8 Mr. Silva. Mr. Guzman drives a gray Toyota Sequoia, 2002
9 approximately. He drives Mr. Silva to the scene, Parkview
10 and Mazzone. That's an area roughly Neil and Moana, if you
11 are familiar, and they wait.

12 You see heading eastbound most cars will be parked
13 along the north side of the road, excuse me, if you are
14 heading west on Parkview, cars will be parked facing west;
15 however, that morning there was one gray Toyota Sequoia
16 parked the wrong way. It was facing eastbound on the north
17 side of the road.

18 People noticed that. You will hear from
19 individuals who came out that morning heading to work in the
20 4:00 hour. They noticed an individual wearing dark clothing
21 standing at the corner.

22 When it appeared to them that individual noticed
23 them, that individual turned and walked east towards this
24 dark colored, or this SUV, and then after leaving, then the
25 person came back.

1 Then at approximately 4:48 a.m., Lucy gets in her
2 car. She works early. At the time she was working at
3 Cintas over in Sparks.

4 She was parked on the north side of Mazzone.
5 Mazzone ends at Parkiew. Parkview is an east/west street.
6 Mazzone ends north/south on Parkiew. It's parallel with
7 Neil Road. She had been staying the night at Arturo Manzo's
8 house. Okay. Mr. Silva had this information because of
9 where he worked.

10 They waited. They waited approximately 45 minutes
11 until Mr. Silva saw the car coming. Lucy drove a 2018
12 bright red Dodge Charger vehicle. It came down the road,
13 and as it T's into Parkiew, there is a stop sign. She
14 stops.

15 Mr. Silva is right there armed with a 9mm handgun.
16 With that handgun, at 4:48 a.m. he fires 6 shots into the
17 passenger side window of that vehicle striking Lucy in the
18 middle of the forehead, two in her lower face, and three in
19 the back shoulder area killing her.

20 Now, others heard the gunshots. You will hear
21 from Ms. Vasquez, who will testify that she heard multiple
22 shots. She had seen this individual on the corner who
23 walked towards this SUV and then she saw this individual
24 come back when her husband left for work.

25 Ms. Vasquez heard multiple shots, and as she went

1 to her balcony and looked, she saw this same SUV now pulling
2 out and leaving the area.

3 Another individual was going to work at the time.
4 As this SUV turns north onto Neil Road, another individual,
5 Mr. Gonzalez, does a U-turn to head north on Neil Road as
6 well going to work. He noticed a gray SUV leaving this area
7 after hearing gunshots.

8 He didn't follow the SUV per se, but happened to
9 go the same way. That SUV turned left on Moana and then
10 north on I-580 and that's where Mr. Gonzalez lost it.

11 Now, Mr. Gonzalez later provided a photo of what
12 he believed the SUV to be like to police. In fact, he went
13 on the internet and just did a simple search and what he
14 provided was a picture of a gray Toyota Sequoia.

15 At the crime scene, though, something was
16 interesting. Mr. Silva smokes cigarettes. We know this,
17 because on the night of November 1st at approximately
18 10:48 p.m., at exactly 10:48 p.m. he is at a 7-11 on
19 Greenbrae in Sparks purchasing cigarettes.

20 He is at that 7-11 in a gray Toyota Sequoia. He
21 gets out of the passenger side of that gray Toyota Sequoia.
22 This is 6 hours before the murder.

23 As Mr. Silva waits at that scene, he smokes
24 multiple cigarettes and leaves them there. These are
25 Marlboro NXT C brand cigarettes. The police investigation

1 turned up the fact that he had purchased them at 7-11 hours
2 before.

3 Now, with those cigarettes, the police took those.
4 They were processed at the Washoe County Crime Lab and a DNA
5 profile was found on the cigarettes. At the time the police
6 checked that DNA profile with Bernard, the husband. They
7 had a DNA sample from Bernard, who had given it voluntarily.
8 It turned back negative. It was not Bernard's DNA on that
9 profile.

10 However, the police looked at the crime, asked the
11 Crime Lab to look at the Y chromosome. What that does is
12 links up to male members of Bernard's family, including
13 Mr. Silva. So detectives created a plan and asked Mr. Silva
14 to come in for an interview on November 8 of 2017, 6 days
15 following Lucy's murder.

16 Mr. Silva arrives. They discuss things. The
17 police ask him, have you ever been in this area, Parkiew and
18 Mazzone? Denial. Mr. Silva says no.

19 They later bring in maps of this area. Have you
20 ever been here? No, I would never go to that area. I don't
21 go to that area. He corrected himself. He said he had been
22 there years ago as part of a school project, but he had not
23 been in that area, denial.

24 They gave him a water bottle. He drank from that
25 water bottle. They preserved that water bottle. From that

1 bottle they again developed a DNA profile.

2 That DNA profile, ladies and gentlemen, matched
3 the cigarette that was found at the scene showing the police
4 that Richard Silva had been in that location. The
5 cigarettes were found approximately in the same area where
6 the SUV was found.

7 Now, ultimately a sample was obtained from
8 Mr. Silva, a DNA sample. The Crime Lab processed that,
9 developed a profile from that, and found the estimated
10 frequency of that matching DNA profile of Mr., the cigarette
11 butt and Mr. Silva was 1 in 8.217 octillion, that's 27
12 zeros. That's the estimated frequency of finding another
13 profile that matches, 1 in 8.217 octillion.

14 The medical examiner conducted an autopsy on Lucy
15 and found that Lucy died of multiple gunshot wounds. Manner
16 of death, homicide. At the scene, six 9mm casings were
17 recovered, all fired from the same gun. Those markings were
18 consistent with a Smith & Wesson M&P firearm.

19 Also recovered from the scene and also Lucy's body
20 were bullets. All the bullets that could be tested were
21 found to be fired from the same gun.

22 Now, what happened to the gun? You will not see
23 the gun here today or this week or next week. And we will
24 talk about that, but one thing you will hear, you will hear
25 from Mr. Guzman, Mr. Yiovannie Guzman.

1 Mr. Guzman has entered into negotiations with the
2 state. He is pleading to lesser charges. He has already
3 plead to lesser charges in exchange for his truthful
4 testimony. That's the only caveat of the deal, the
5 negotiation, is truthful testimony.

6 You will hear that his plea, he is pleading guilty
7 to a conspiracy of the murder as well as a battery with a
8 deadly weapon charge. He will tell you things consistent
9 with what we just talked about.

10 To Bernard, after Mr. Silva's arrest, he gives
11 some insight. He told Bernard, "Hey, me and Lucy were
12 having an affair," and shortly thereafter, "That's why I did
13 it." Another line after that, "I didn't mean to kill her,
14 dude. I wanted to kill the dude."

15 Later in a recorded phone call to Mr. Silva's
16 mother, he states, "They have a search warrant for my car.
17 They are trying to find the gun, but they aren't going to
18 find it. I already got rid of it."

19 Ladies and gentlemen, Mr. Silva murdered Lucy in
20 cold blood. It was planned. It was premeditated. It was
21 motivated. Six shots on November 2nd, 2017, that ended
22 Lucy's life prematurely.

23 At the conclusion of the evidence, I will stand
24 before you again in closing arguments and I will ask you to
25 find Mr. Silva guilty of the crime of murder.

1 Thank you, ladies and gentlemen.

2 THE COURT: Ladies and gentlemen, let's stand for
3 just a minute. We will shake it out.

4 Be seated. To the defense.

5 MS. RISTENPART: Ladies and gentlemen, you just
6 heard a story, a story that is based upon what
7 Yiovannie Guzman told the police during his interview on
8 November 16th of 2017. A story that you will hear Yiovannie
9 is stuck with because he made a plea deal with this man,
10 this prosecutor, instead of sitting at a table right next to
11 Mr. Silva accused of the same allegation.

12 You will hear how the state made a plea deal only
13 last Thursday before trial in order to have Mr. Yiovannie
14 Guzman testify about his story as to this alleged conspiracy
15 and also the allegations of what happened in the early
16 morning hours of November 2nd of 2017.

17 You will hear that the plea deal, instead of
18 facing a horrific sentence, he is only facing a couple of
19 years based upon that to speak the truth as the prosecutor
20 stated, but also his plea deal is contingent on cooperating
21 with the state, actually written into his plea deal that he
22 has to cooperate with the state.

23 This case is so much more complex than the story
24 that Yiovannie Guzman is going to tell you for the state.
25 This case, the truth, the relationships, what was actually

1 going on in the early month of November of 2017 and before
2 that in October of 2017 is so much more complex than the
3 story the state wants you to believe.

4 For the next couple days, you will see how the
5 story that the state is presenting to you is belied by the
6 actual evidence, the relationships, and the situation of
7 what's going on. The truth will come out.

8 Thank you, ladies and gentlemen.

9 THE COURT: Thank you, Counsel.

10 Ladies and gentlemen, that concludes our trial
11 day. During this evening recess, you are admonished not to
12 converse amongst yourselves or with anyone else on any
13 subject connected with this trial.

14 You will not read, watch or listen to any report
15 of or commentary on the trial by any person connected with
16 this case or by any medium of information, such as the
17 newspaper, television, radio, and internet. You are not to
18 perform any field investigation, experimentation, or
19 research.

20 You are not to form or express any opinion upon
21 this subject until the evidence is completed, you are given
22 the principles of law, and you are instructed to deliberate.

23 Please return to the jury deliberation room for
24 entry into the courtroom at 8:45 in the morning. We will
25 take a break about every hour and a half. It will be a

1 20 minute break. We usually break for an hour and a half
2 during the lunch hour.

3 I can't promise the exact start time of that
4 break. Depending on the flow of trial, we may shorten that
5 lunch, but I begin with the idea we will have an hour and a
6 half lunch.

7 I don't think we will go this late everyday, but I
8 wanted to conclude opening statements. With that, ladies
9 and gentlemen, I wish you goodnight. I will see you in the
10 morning at 8:45.

11 (Whereupon the following proceedings
12 were outside the presence of the jury.)

13 THE COURT: All right. Well done, counsel.
14 Mr. Lee, as you thought about your first day of schedule
15 were you going to be into witnesses by now or did you think
16 this is where we would end?

17 MR. LEE: We have plenty of witnesses here,
18 Your Honor. I never want to guess wrong on that, so we are
19 a little behind where I was hoping, but that's all right.
20 We are not far.

21 THE COURT: Unless there is anything else, we will
22 see you at 8:45 in the morning.

23 MR. LEE: Thank you.

24 MS. RISTENPART: Your Honor, I didn't object
25 during state's opening, but he used the term moniker, which

1 is not accurate. It's a nickname. It's a childhood
2 nickname. Moniker invokes in my opinion some kind of
3 definite affiliation, so I just ask that the state not use
4 that reference.

5 THE COURT: I must admit that when I heard the
6 term moniker, I thought would there be any gang-type
7 evidence introduced into this case, because I hadn't seen it
8 before and that's what it immediately evoked from me, so be
9 cautious in the future because I think there is an
10 unintended inference.

11 MR. LEE: That was not what, certainly not what
12 was intended, Your Honor.

13 THE COURT: I understand that. See you in the
14 morning.

15 MR. LEE: Thank you.

16 MS. RISTENPART: Thank you, Your Honor.

17 (Whereupon the proceedings concluded at 5:05 p.m.)

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STATE OF NEVADA)
) ss.
WASHOE COUNTY)

I, CORRIE L. WOLDEN, an Official Reporter of the
Second Judicial District Court of the State of Nevada, in
and for Washoe County, DO HEREBY CERTIFY;

That I am not a relative, employee or independent
contractor of counsel to any of the parties; or a relative,
employee or independent contractor of the parties involved
in the proceeding, or a person financially interested in the
proceeding;

That I was present in Department No. 15 of the
above-entitled Court on February 24, 2020, and took verbatim
stenotype notes of the proceedings had upon the matter
captioned within, and thereafter transcribed them into
typewriting as herein appears;

That the foregoing transcript, consisting of pages 1
through 252, is a full, true and correct transcription of my
stenotype notes of said proceedings.

DATED: At Reno, Nevada, this 16th day of March, 2021.

/s/Corrie L. Wolden

CORRIE L. WOLDEN
CSR #194, RPR, CP

1 Code No. 4185

2
3 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
4 IN AND FOR THE COUNTY OF WASHOE
5 THE HONORABLE DAVID A. HARDY, DISTRICT JUDGE

6 -oOo-

7 STATE OF NEVADA,)
8 Plaintiff,) Case No. CR18-1135B
9 vs.) Dept. No. 15
10 RICHARD SILVA,)
11)
12 Defendant.)
_____)

13
14 TRANSCRIPT OF PROCEEDINGS

15 JURY TRIAL - DAY 2

16 Tuesday, February 25, 2020

17 Reno, Nevada
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24 REPORTED BY:SUSAN KIGER, CCR NO. 343
25

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1 RENO, NEVADA, TUESDAY, FEBRUARY 25, 2020, 8:45 A.M.

2 -oOo-

3
4 THE COURT: We are on the record in State versus
5 Richard Silva. This is CR18-1135B.

6 At the end of the day yesterday, Deputy Coss and
7 Deputy Guzman came to chambers and notified me that Deputy
8 Guzman recognized one of the jurors as a former acquaintance
9 or co-worker of some type. There was a remote relationship.
10 Deputy Guzman is here this week training from the jail. I'm
11 not concerned at all about that disclosure other than to
12 remind Ms. Guzman there shall be no -- Deputy Guzman there
13 shall be no personal conversations of any type at any time
14 with any members of the jury. Please let me know if this
15 particular juror or any juror reached out to the you.

16 I now have a question that was tendered by the same
17 juror indicating that he may know some of the family that was
18 present yesterday.

19 Counsel, do you have a copy of that question?

20 MS. RISTENPART: No.

21 THE COURT: All right. So, Deputy, if you'll give
22 it to the attorneys, I intend to address it during the next
23 break.

24 Anything, Counsel, from you before we bring the jury

1 in?

2 MR. LEE: Nothing, Your Honor.

3 MS. RISTENPART: Nothing from defense, Your Honor.

4 THE COURT: Thank you. Please join me in standing
5 for our jury.

6 (The jury entered the courtroom.)

7 THE COURT: Good morning. Be seated. The entire
8 jury is present.

9 To the State, you may call your first witness.

10 MR. LEE: State will call Jose Ponce.

11 THE BAILIFF: Please step all the way up and face
12 the clerk, please.

13 (The witness was sworn.)

14 THE COURT: Be seated. And remember to speak into
15 that microphone, please.

16 THE WITNESS: Okay.

17 THE COURT: Thank you.

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

1 JOSE PONCE,
2 having been first duly sworn, was examined
3 and testified as follows:
4

5 DIRECT EXAMINATION

6 BY MR. LEE:

7 Q Sir, could you give us your first and last name and
8 spell the last name for us.

9 A Jose Ponce. My last name is P-O-N-C-E.

10 Q Let me bring your attention back to November 2nd of
11 2017. Do you recall where you lived at the time?

12 A Yes.

13 Q Where at?

14 A 1175 Park View Street, Apartment 2.

15 Q Is that at or near the intersection of Park View or
16 Mazzone?

17 A It's in front of Carlos.

18 MR. LEE: Your Honor, may I have permission to move
19 about freely?

20 THE COURT: Yes.

21 BY MR. LEE:

22 Q Let me show you Exhibit 1. Hold that to yourself.
23 It hasn't been admitted, so don't show that to the jury.

24 Do you recognize that?

1 A Yes.

2 Q What is that?

3 A It's a picture of my house.

4 Q Is it a map of the whole area?

5 A Yes.

6 Q And it shows your house?

7 A Yeah.

8 MR. LEE: Your Honor, I move to admit Exhibit 1.

9 THE COURT: 1 is admitted, Miss Clerk.

10 THE COURT CLERK: Thank you.

11 (Exhibit 1 was admitted.)

12 BY MR. LEE:

13 Q So showing you now what's Exhibit 1 -- you can see
14 it on your screen there in front of you or the big screen in
15 the back of the courtroom, whichever is easiest for you.

16 If you could, Mr. Ponce, just touch your finger on
17 the area where you live.

18 A (The witness complies.)

19 Q Okay. So you've put a green dot, it looks like, to
20 the left or west of Mazzone?

21 A Yes.

22 Q Okay. Now, at your -- on your property, did you
23 have any camera system?

24 A Yes.

1 Q Where was that camera at?

2 A It's in front of my front door.

3 Q Does the camera record?

4 A Yes.

5 Q Did you have access to recordings?

6 A Yes.

7 Q And on November 2nd, did you talk to officers at the
8 Reno Police Department about that recording?

9 A Yeah.

10 Q Did you provide them a copy of that recording?

11 A Yes.

12 Q I'm going to show you what's been marked now as
13 Exhibit 100. Do you recognize this?

14 A Yeah.

15 Q How do you recognize it?

16 A You showed it to me.

17 Q Just prior to coming in here about ten minutes ago?

18 A Yeah.

19 Q And what does this show?

20 A It shows the video footage.

21 Q Of what your camera recorded that morning?

22 A Yes.

23 MR. LEE: Your Honor, I move to admit Exhibit 100.

24 MS. RISTENPART: No objection.

1 THE COURT: 100 is admitted, Miss Clerk.

2 THE COURT CLERK: Thank you.

3 (Exhibit 100 was admitted.)

4 BY MR. LEE:

5 Q Now is this the view from your camera that we are
6 looking at?

7 A Yes.

8 Q And at the top appears a date and a time; is that
9 right? The top left?

10 A Yeah.

11 Q Is that accurate?

12 A Yeah.

13 Q So is that 4:48 a.m.?

14 A Yes.

15 MR. LEE: Thank you, Your Honor. I'll tender the
16 witness.

17 THE COURT: To the defense.

18 MS. RISTENPART: Thank you, Your Honor.

19

20 CROSS-EXAMINATION

21 BY MS. RISTENPART:

22 Q Mr. Ponce, your Ring doorbell is triggered by
23 movement. Right?

24 A Yes.

1 Q And it starts recording?

2 A Yes.

3 Q And this is just a small portion what you actually
4 had turned over to the police?

5 A Yeah.

6 Q Right? It's just one small clip.

7 You turned over a lot more to the police?

8 A No. I just turned over one.

9 Q Just one clip you're claiming?

10 A Yeah.

11 Q But it had several different times when the movement
12 was triggered. Correct?

13 A Yes.

14 Q So it was more than what we just saw right now?

15 A Yeah.

16 Q And the way your doorbell is situated, that's the
17 only viewpoint is the one we just saw. Right?

18 A Yeah.

19 Q And Mr. Ponce, you didn't see anything?

20 A No.

21 Q Right? You never saw Mr. Silva?

22 A No.

23 Q You never saw anything that occurred?

24 A No.

1 MS. RISTENPART: Thank you. No further questions.

2 THE COURT: Any redirect?

3 MR. LEE: Nothing further.

4 THE COURT: Thank you, sir. You're able to step
5 down and leave the courtroom.

6 Your next witness.

7 MR. LEE: Mr. Vincent Vasquez.

8 THE BAILIFF: Step all the way up and raise your
9 right hand.

10 (The witness was sworn.)

11 THE COURT CLERK: Thank you.

12 THE COURT: Please. To the State. You may proceed.

13 MR. LEE: Thank you.

14

15 VINCENT VASQUEZ,

16 having been first duly sworn, was examined

17 and testified as follows:

18

19 DIRECT EXAMINATION

20 BY MR. LEE:

21 Q Sir, could you please give us your first and last
22 name and spell your last if you would?

23 A Vincent Vasquez. V-A-S-Q-U-E-Z.

24 Q What do you do for a living, sir?

1 A Electrical.

2 Q Back on November 2nd of 2017, did you live in the
3 area of Park View and Mazzone?

4 A Yes.

5 Q Do you recall your address?

6 A 1196.

7 Q 1196?

8 A Park View.

9 Q If I were to put up a map, would you be able to show
10 us where your house is?

11 A Yes.

12 Q I'm going to show you Exhibit 1. Is this all right
13 or do you want me to zoom in?

14 A That should be all right.

15 Q Okay. If you could, just touch pretty hard on that
16 screen where your house is and it will put a dot on there for
17 us.

18 A (The witness complies.)

19 Q That building, is it a single-family home or are
20 there multiple units.

21 A Multiple units.

22 Q At the time on November 22nd of 2017, were you
23 working early in the morning?

24 A Yes.

1 Q Do you recall what time you would go to work?

2 A Before 5:00 I would take off.

3 Q Did you wear any kind of vest by any chance?

4 A No.

5 THE COURT: Sir, I need you to either speak up or
6 speak into the microphone, please. We need to all be able to
7 hear you. Thank you.

8 BY MR. LEE:

9 Q At the time, were you working construction?

10 A Yes.

11 Q When you were on work on the job, did you wear a
12 vest?

13 A At the job site.

14 Q Okay. This area here that we are looking at on
15 Exhibit 1, is this in Washoe County?

16 A Yes.

17 Q And then did you have a car parked out here?

18 A Yes.

19 Q Where was it at?

20 A Do you want me to point?

21 Q Again, if you could touch pretty hard on it.

22 A (The witness complies.)

23 Q Which way were you facing?

24 A I don't know. North? North.

1 Q Okay. So you've drawn a green line facing north on
2 the corner of Mazzone and Park View, but parked on Mazzone; is
3 that accurate?

4 A Yes.

5 Q Did your -- was your wife with you when you were
6 leaving for work?

7 A She walked me, but left me right at the gate of the
8 apartment place.

9 Q Could you roughly show us where that is.

10 A Right there.

11 Q Okay. So just kind of to the corner of the
12 building?

13 A Yes.

14 Q As you were heading into your car, did you see
15 anything?

16 A I seen the guy standing at the corner right where I
17 parked in all black.

18 Q Right there on the corner where you parked?

19 A Yes.

20 Q In all black?

21 A Uh-huh.

22 Q How about could you describe what he was wearing?

23 A Just all black. A hoody. The whole -- everything
24 was black on him.

1 Q Was the hoody up?

2 A Yes, it was on.

3 Q When you approached your car, did this individual do
4 anything?

5 A He like turned away from me and just walked away.

6 Q Did he walk normal?

7 A Yes.

8 Q Did he have any limp or anything like that?

9 A Not that I could tell. I only did see him walk
10 away. I just avoided him and just went to my car.

11 Q Which way did this individual walk?

12 A Towards Neil Road.

13 Q So would it be heading to the right of this picture?

14 A Yeah, to the right.

15 Q Did he walk very far?

16 A Not that I could tell. He saw me turn and I went to
17 my car.

18 Q Did you see any other vehicle that he walked nearby?

19 A There was one car kind of pointing the wrong way
20 toward Neil Road that I thought he was walking toward.

21 Q Okay. Where was that car at again if you could show
22 us on the map?

23 A Right there.

24 Q And so you've drawn a dot kind of in the middle.

1 Was it parked in the middle of the road or was it on the
2 sidewalk?

3 A It was on the sidewalk in front of this guy's
4 driveway.

5 Q Was it facing which way?

6 A Towards Neil Road.

7 Q And was it parked on the north side or the south
8 side?

9 A North side.

10 Q So was it facing the way of other cars or the
11 opposite way?

12 A The opposite way of how you should regularly park.

13 Q Do you recall what kind of car it was?

14 A To my knowledge, it was a white SUV. I'm not sure
15 of model or anything.

16 Q Okay. So after -- did you pay much attention to
17 that person?

18 A No. Kind of got in my car, did my U-turn and made
19 it to the freeway.

20 Q Okay. So you made a U-turn from where you were
21 parked?

22 A Yeah. And then went to Park View, to Neil Road, to
23 Moana, to the freeway.

24 Q Okay. Did you head north on the freeway?

1 A Yes.

2 Q Did you hear any gunshots?

3 A No.

4 Q At some point while you were on the freeway, did you
5 receive phone calls?

6 A Yes.

7 Q From whom?

8 A My wife.

9 Q Where were you at on the freeway?

10 A Barely entering the freeway. The onramp from Moana.

11 MR. LEE: Exhibit 2.

12 BY MR. LEE:

13 Q Sir, this is not yet admitted so just hold that to
14 yourself here.

15 Do you recognize that?

16 A Yeah.

17 Q Is that also a map of the same area just a little
18 bit larger?

19 A Yeah.

20 Q Is it accurate, how you know the roads to be?

21 A Yeah.

22 MR. LEE: I move to admit Exhibit 2.

23 MS. RISTENPART: No objection.

24 THE COURT: Two is admitted, Miss Clerk.

1 THE COURT CLERK: Thank you.

2 (Exhibit 2 was admitted.)

3 BY MR. LEE:

4 Q Showing you Exhibit 2. So if I'm looking toward the
5 left of the road going north and south, is this the freeway?

6 A Yeah, that's the onramp.

7 Q And that's where you entered?

8 A Yes.

9 Q And again, correct me only if I'm wrong, I am just
10 trying to understand. Is it right that as soon as you got on
11 the freeway that you got the phone call from your wife?

12 A Right.

13 Can I touch it?

14 Q Of course.

15 A Right there. The bigger dot.

16 Q Okay. So not even on the freeway. On the onramp?

17 A Yeah.

18 Q And I'm not going to ask you the content or what she
19 told you or said to you, but did she voice some concern to
20 you?

21 A Yes.

22 MR. LEE: Thank you, Your Honor. That's all I have.

23 THE COURT: To the defense.

24 MS. RISTENPART: Thank you.

1

2

CROSS-EXAMINATION

3

BY MS. RISTENPART:

4

Q Mr. Vasquez, you stated that you were on your way to
5 work that morning?

6

A Yes.

7

Q And so you were kind of hustling to get to your car?

8

A Walking.

9

Q Walking?

10

A Yeah.

11

Q But your mind was on going to work right?

12

A What?

13

Q Your mind was ongoing to work?

14

A Yes.

15

Q And you say you saw a man dressed in all black with
16 a black hoody?

17

A Uh-huh.

18

Q Right. It was actually up? The hoody?

19

A Yes.

20

Q And you told us that you saw him kind of in that
21 area standing and that he turned around when you kind of
22 looked at him?

23

A Yes.

24

Q And then you just kept going to your car?

1 A Yes.

2 Q Didn't really look back, look at him, do anything?

3 A No.

4 Q Just focused on getting into your car?

5 A Uh-huh.

6 Q In fact, you didn't really even see him walk toward
7 anywhere. He just kind of turned around?

8 A He kind of took, like, three or four steps. But
9 right after that is when I focused on my car.

10 Q And that individual was not smoking. Correct?

11 A Not to my knowledge.

12 MS. RISTENPART: No further questions. Thank you?

13 THE COURT: Any redirect?

14 MR. LEE: None, Your Honor.

15 THE COURT: Thank you, sir. You're free to step
16 down and leave the courtroom.

17 THE WITNESS: Thank you.

18 THE COURT: Your next witness, please.

19 MR. LEE: Kimberly Vasquez.

20 THE BAILIFF: Step all the way up.

21 THE COURT CLERK: Please raise your right hand.

22 (The witness was sworn.)

23 THE COURT CLERK: Thank you.

24 THE WITNESS: Do I sit?

1 THE COURT: Yes. Thank you.

2 Counsel you may proceed.

3 MR. LEE: Thank you.

4

5 KIMBERLY VASQUEZ,

6 having been first duly sworn, was examined

7 and testified as follows:

8

9 DIRECT EXAMINATION

10 BY MR. LEE:

11 Q Good morning, ma'am.

12 A Good morning.

13 Q Could you please give us your first and last name
14 and spell your last name for us.

15 A Kimberly Vasquez. V-A-S-Q-U-E-Z.

16 THE COURT: Ma'am, do you see that microphone?

17 THE WITNESS: Yes.

18 THE COURT: Either speak into it or speak loudly,
19 please.

20 THE WITNESS: Okay.

21 THE COURT: Thank you.

22 BY MR. LEE:

23 Q Ms. Vasquez, do you see the Exhibit 1 on the screen?

24 A Yes.

1 Q What is the area?

2 A The street.

3 Q Is that where you lived --

4 A Yes.

5 Q -- at the time on November 2nd, 2017?

6 A Yes.

7 Q On that early morning, did your husband go to work
8 early?

9 A Yes.

10 Q Did he always work at that time?

11 A Yes.

12 Q Before 5:00?

13 A Yes.

14 Q Okay. Did you -- when your husband left, did you go
15 with him?

16 A I walked him out, yes.

17 Q How far did you walk out?

18 A I walked out and I passed the first car that was in
19 our parking lot.

20 Q Okay. So on your screen there in front of you, if
21 you touch it really hard it will draw -- it will draw for us.

22 So if you could, show us about how far you walked
23 out.

24 A Okay. The only problem is I can't tell which one is

1 the apartment this way. I'm sorry.

2 Q Okay. Well, let me ask you a couple of questions.

3 Do you recall the street Mazzone?

4 A Yes.

5 Q Does Mazzone end in your building?

6 A Yes.

7 Q I see one building, maybe a white colored one, maybe
8 one to the right that has a brownish roof.

9 A Okay.

10 Q Do you know which one it is?

11 A Okay. Yes.

12 Q Which one is it?

13 A This one.

14 Q Push really hard on that building if you could.

15 Okay.

16 And is this the parking lot that's just to the north
17 of the building?

18 A Yes.

19 Q And only to clarify, you said you walked just to
20 about the first car.

21 A Yes. So it's right here.

22 Q Okay. Was your husband parked facing up, up or
23 north, on Mazzone?

24 A He was facing -- he was facing the street, yes.

1 Q So was he facing, on this map, up?

2 A Yes.

3 Q When your husband was walking to his car, did you
4 notice anything?

5 A There was a car on -- can I?

6 Q Please show us.

7 A There was a car right here.

8 Oh, it's not --

9 Right there. And it was facing that way. And all
10 those cars on that face --

11 THE COURT: Hold on.

12 MR. LEE: I'll clarify.

13 THE COURT: When there's reference to that way and
14 the witness is gesturing, I just want you to clear the record
15 on that.

16 MR. LEE: I will. Thank you.

17 BY MR. LEE:

18 Q So you said, "facing that way." Which way?

19 A It's facing the open way of the street. So it's
20 facing the way you drive in.

21 Q So you drive in from Neil Road?

22 A Yes.

23 Q So is it facing --

24 A Yes.

1 Q On this picture to the right?

2 A Yes.

3 Q Was that normal?

4 A Not really.

5 Q How come?

6 A Because half of those cars when they park they are
7 facing the way they come into the street.

8 Q Okay. And he's on the north side of the street?

9 A Right.

10 Q What kind of car was it?

11 A It looked like an SUV.

12 Q Do you recall anything about this individual you
13 saw?

14 A I remember the car was on. But I can't really tell
15 the color of the car because it was dark. So when it's dark,
16 it kind of plays a trick on your mind on what color it is.

17 Q Was there any street lighting around here?

18 A No. It was dark. That house on the corner has a
19 light, but it's not as bright.

20 Q The house on this northwest corner?

21 A Yes. There's other street lights, but it's more
22 toward the end of the street, so you can't really see toward
23 the corner.

24 Q Okay. As your husband crossed the street to get

1 toward his car, what did that individual do?

2 A It looked like he was just walking past the car, but
3 I wasn't sure if he ever got into the car.

4 Q The SUV?

5 A Right.

6 Q But he walked that way?

7 A Yes.

8 Q Did you see your husband's car leave?

9 A Yes.

10 Q Did he head towards Neil Road?

11 A Yes.

12 Q Is that the only way out really?

13 A Yes.

14 Q After your husband left, what did that individual
15 do?

16 A I wasn't sure.

17 Q Okay. Where did you go?

18 A I was already in my apartment at that time.

19 Q From your apartment is there a balcony?

20 A Yes.

21 Q What floor?

22 A Second floor.

23 Q Can you see out that balcony?

24 A Yes.

1 Q Somewhat -- you have somewhat of a limited view?

2 A Yeah, somewhat.

3 Q In fact, at the time, were you in the back south
4 apartment?

5 A Yes.

6 Q Okay. And so did you go look out that balcony?

7 A I watched my husband leave.

8 Q Okay.

9 A And then I just went straight to bed.

10 Q Okay. After getting to bed, did you hear or notice
11 anything?

12 A I heard noises.

13 Q What was it?

14 A It sounded to me like gunshots.

15 Q Was it loud?

16 A Yes.

17 Q Did it startle you?

18 A Yes.

19 Q What did you do?

20 A I picked the phone -- I ran out and I didn't see
21 anyone. I just picked up the phone and called 911.

22 Q Was that SUV there?

23 A No.

24 Q By the time you got to the balcony --

1 A Yeah, it was gone.

2 Q You called 911?

3 A Yes.

4 Q Did you call anyone else?

5 A I called my husband.

6 Q Okay. Was this -- how soon after the shots did
7 you -- let me ask you, too. Was it that order, 911 and then
8 your husband?

9 A Yes.

10 Q Okay. Did you call 911 immediately?

11 A Yes.

12 Q And then your husband?

13 A Yes.

14 MR. LEE: Your Honor, that's all the questions I
15 have for Ms. Vasquez.

16 Thank you, ma'am.

17 THE COURT: Thank you.

18 To the defense.

19 MS. RISTENPART: Thank you.

20

21 CROSS-EXAMINATION

22 BY MS. RISTENPART:

23 Q Ms. Vasquez, you described the individual you saw as
24 wearing black?

1 A Yes. It was dark colors. I wasn't able to tell
2 exactly what they were wearing.

3 Q But he was wearing a dark hoody?

4 A Yes.

5 Q And the hoody up over the person's head?

6 A Yes.

7 Q And you could see that the car -- which you don't
8 have a color really --

9 A Right.

10 Q It was an SUV?

11 A Right.

12 Q You could see it was on. It had exhaust fumes
13 coming out of it?

14 A Uh-huh.

15 Q Did it also have its brakes lights on?

16 A I don't remember that.

17 Q You just remember the exhaust?

18 A Yeah.

19 Q So the sequence of events, Ms. Vasquez, is that you
20 went down with your husband.

21 A Uh-huh.

22 Q Stood kind of in the -- that green dot, which is not
23 very descriptive, but kind of your fence or the first car in
24 the parking lot of your apartment complex?

1 A Right.

2 Q Said good-bye, saw him walk away. And as you said
3 good-bye, you see the guy in the black hoody?

4 A I didn't see him close. It was probably from where
5 I'm sitting to the officer over there.

6 Q There's a few officers. Are we talking the officers
7 all the way in the corner?

8 A Yes.

9 Q So that's approximately how far would you say from
10 you?

11 A I'm not exactly sure. It was pretty far. I was,
12 like, halfway asleep.

13 Q You had just woken up. Right?

14 A Yeah.

15 Q And you stated that the person you saw turn around?

16 A Uh-huh.

17 Q And you thought they were walking back toward the
18 car? That was your impression?

19 A I thought they were going to take the freeway or
20 something.

21 Q And then you saw your husband get in his car. You
22 walk back upstairs?

23 A I -- so I -- I don't wear, like, pajamas, like
24 sweats or anything. And he had asked me to go inside. So I

1 went inside and I watched him leave from the balcony.

2 Q And then you went inside, checked on the baby, fell
3 back asleep?

4 A Uh-huh.

5 Q And then later were woken to gunshots?

6 A It sounded like it was right away. It was like
7 right as soon as I laid down.

8 Q But you did fall asleep?

9 A I was almost falling asleep, yeah.

10 Q And then you -- when you heard the gunshots --

11 A I picked up my phone and called 911.

12 Q And then called your husband?

13 A Yes.

14 Q And then went outside to look as to --

15 A I -- I did it all at the same time. Like, I grabbed
16 my phone and I looked out for some reason, and then I just
17 called 911.

18 Q Do you know what happened in the street while you
19 were inside checking on your baby and falling asleep?

20 A No. Everything looked pretty normal.

21 Q But do you know what happened?

22 (No audible response.)

23 MS. RISTENPART: Nothing further. Thank you.

24 THE COURT: Any redirect?