

IN THE SUPREME COURT OF THE STATE OF NEVADA

KATHERINE DEE FLETCHER

Appellant,

v.

STATE OF NEVADA

Respondent.

CASE NO. 82047

Appeal from a Judgment of Conviction After Jury Verdict
in Case CR17-0690A
Second Judicial District Court of the State of Nevada, Washoe County
Honorable Egan Walker, District Judge

APPELLANT'S APPENDIX VOLUME 4

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1 4185
2 STEPHANIE KOETTING
3 CCR #207
4 75 COURT STREET
5 RENO, NEVADA
6

7 IN THE SECOND JUDICIAL DISTRICT COURT
8 IN AND FOR THE COUNTY OF WASHOE
9 THE HONORABLE EGAN WALKER, DISTRICT JUDGE

10 --oOo--

11 STATE OF NEVADA,)	
)	
12 Plaintiffs,)	
)	
13 vs.)	Case No. CR17-0690A
)	
14 KATHERINE DEE FLETCHER,)	Department 7
)	
15 Defendant.)	
<hr/>)	

16
17
18 TRANSCRIPT OF PROCEEDINGS

19 TRIAL VOLUME I

20 January 27, 2020

21 9:30 a.m.

22 Reno, Nevada

23
24 Reported by: STEPHANIE KOETTING, CCR #207,
Computer-Aided Transcription

1 APPEARANCES:

2 For the State:

3 OFFICE OF THE DISTRICT ATTORNEY
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7 For the Defendant:

8 SCOTT EDWARDS, ESQ.
9 Attorney at Law
10 Reno, Nevada
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1 RENO, NEVADA, January 27, 2020, 9:30 a.m.

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3 --oOo--

4 THE COURT: This case CR17-0690A, the State of
5 Nevada versus Katherine Dee Fletcher. You've been summoned
6 to Department Seven. This is a criminal case. The
7 allegation in this case, ladies and gentlemen, is murder.
8 You've been summoned as the potential jury in this matter.
9 I'm going to ask the clerk to please call roll.

10 THE CLERK: When I state your name, please state
11 present.

12 (Jury roll called at this time.)

13 THE COURT: Ms. Oates, would you please administer
14 the oath of prospective juror service to the panel.

15 THE CLERK: I will, your Honor. Please stand and
16 raise your right hands.

17 (All jurors sworn at this time.)

18 THE COURT: Thank you very much, ladies and
19 gentlemen. Let's set the table for our conversation together
20 in this way. The process we're now undertaking is called
21 voir dire. That's a Latin phrase meaning literally to speak
22 or find the truth. I'm going to have some questions for all
23 of you in a bit. The attorneys are going to have some
24 questions for you. Let me assure you, the purpose for those

1 questions is simply to choose a fair and impartial jury in
2 this case.

3 I understand that jury duty can be seen as an
4 enormous inconvenience. Your commute this morning may have
5 been tortuous, parking around the Courthouse can be an
6 exercise in frustration and the disruption to your lives can
7 be maddening and upsetting. I apologize for that. Trust me
8 when I say the attorneys and I understand and appreciate your
9 sacrifices. We would not impose upon your time or your lives
10 without very, very important work for you to do.

11 If you serve as a juror in this case, you're going
12 to be asked whether or not a fellow citizens should be
13 deprived of his or her liberty. There is no more solemn task
14 a citizen can be asked to undertake than jury service in my
15 view.

16 Because of the rights we may interrupt if a
17 verdict of guilt is entered for any crime in this case, we'll
18 now be directly connected with the founding fathers of our
19 constitutional system of justice. The authors of the
20 documents, which led to the formation and adoption of the
21 United States Constitution, Adams, Franklin, Jefferson, Jay
22 and Hamilton, the founding fathers of our democratic
23 constitutional system, you will have direct connection with
24 by your service as a juror in this case.

1 Interestingly to me, before them you'll touch
2 through your service the authors of the Magna Carta in the
3 12th Century, because our system is based on the English
4 system of common law and justice and before them the
5 Egyptians and even before them the Greeks. This process of
6 choosing jurors to decide issues, contested issues in
7 societies is an ancient one.

8 My favorite story is that in Egypt,
9 notwithstanding that the Pharos ruled, common issues between
10 persons were decided by choosing people who lived on opposite
11 sides of the Nile River to resolve disputes.

12 In my view, juries and if you serve in this case,
13 you will be the heart and lungs of liberty. Even when the
14 Supreme Court of the United States interprets the
15 constitution, it does so knowing that it touches the spinal
16 cord of the American justice system and that juries actually
17 speak for justice through their verdicts.

18 I remind myself daily and especially on this
19 morning, there are young men and women serving all over the
20 world right now as we meet, some in harm's way. Their
21 service guarantees that your hearts and lungs can beat and
22 give voice to liberty. Let us honor their service through
23 your service here this morning.

24 In my view, the American jury system is the most

1 powerful method devised for the ascertainment of truth. We
2 are by this process keeping faith with history and with our
3 founding fathers as a consequence. The jury chosen in this
4 case will decide the facts and join me in partnership to try
5 this case. I am the arbitrator of the law. Together we'll
6 arrive at a verdicts once all the evidence is adduced.

7 Let me begin by introducing myself. My name is
8 Egan Walker. I'm 1 of 15 district judges. I have the
9 privilege of serving here in Department Seven. This is my
10 12th -- entering my 12th year as a judicial officer, my tenth
11 year as a district court judge.

12 To my right is Ms. Kim Oates. She is the court
13 clerk in this case. Her job is to work as air traffic
14 controller and make sure more than anything else I stay out
15 of trouble.

16 To her right is Ms. Jenifer Encallado. She is
17 also one of the court clerks. She's backup to Ms. Oates,
18 because I'm such a problem child, it takes two of them. To
19 my far right is my law clerk, Ms. Ebeth Palafox. Ms. Palafox
20 is a trained lawyer and it's her job to make sure that we are
21 spot-on on the law.

22 Over to my right, the closest to me is Deputy
23 Vietti. Deputy Vietti is a sworn peace officer. It's her
24 job to keep us all safe in this room and I have the privilege

1 of working with her.

2 In front of me here in the well of the court is
3 the hardest job in the room, in my opinion, and that's
4 Ms. Stephanie Koetting's job to be the court reporter. She
5 is literally required to take down every word, figure or
6 communicative term that is used in this courtroom and so I
7 will try to slow myself down at times and you may see me
8 slowing other people down.

9 I'm going to ask the attorneys to stand and turn
10 and introduce themselves and introduce their clients. First,
11 Mr. Stege, if you would be kind enough.

12 MR. STEGE: Good morning. My name is Amos Stege.
13 This is a criminal case. I am the prosecutor of the case.
14 I'm employed as a Deputy District Attorney with the Washoe
15 County District Attorney's Office.

16 THE COURT: Please.

17 MR. EDWARDS: Good morning, everyone. My name is
18 Scott Edwards. I'm a local attorney here. I'm the defense
19 attorney in this case. And this is my client Katherine
20 Fletcher.

21 THE COURT: Good morning. Thank you, Mr. Edwards.
22 As I indicated to you, ladies and gentlemen, Ms. Fletcher is
23 accused of the crime of murder, often known as homicide.

24 I want you to understand that if you're chosen as

1 jurors in this case, it will not be your obligation to choose
2 the sentence and sentence or whatever sentence may be imposed
3 in this case only if there's a conviction is not for your
4 consideration.

5 I'll now ask the clerk to call names to fill the
6 vacant seats. Please follow the deputy's direction, because
7 there's going to be a dance as we fill the seats in the well
8 of the Court and you some replace folks in the back of the
9 courtroom. Ms. Clerk.

10 THE CLERK: Paul Tyler Young. Mary Graham.
11 Daniel McKinnon. Lynette Kenney. Victoria Vasenden. Steven
12 Sundstrom. Carlos Cruz. Deanna Marie McKay. Amber Ortiz.
13 Cheryl Demers. Wendy Pearson. Cameron Lafferty. Amber
14 Hague. Katie Walls. Andrew Shane Gorman. Stephen Jaynes.
15 Georgina Wilson. Yolanda Miller. Douglas Davidson. Jeffrey
16 Hills. Erica Schutz. Hiram Johnson. Sarah Martinez. Jay
17 Whatley. Dominika Batten. Diana Simeroth. Steven
18 Yarborough. Randy Sorensen. Richard Echard. Amber Lee
19 Hart. Dillon Dana Larson. Paul Savage.

20 THE COURT: Thank you, Ms. Oates. So, ladies and
21 gentlemen in the back of the courtroom, I have bad news for
22 you. The bad news is I can guarantee one or more of you are
23 going to join us here in the well of the court. So you're
24 not free to leave as it were.

1 In particular, I need to emphasize the requirement
2 that I ask each of you to pay close attention to the
3 questions I may ask and the questions the attorneys may ask,
4 because in the normal course of events, there will be
5 challenges, some for cause, some peremptory challenges, and
6 many of you will be called on to join us in the well of the
7 court.

8 In the well of the court, I'm going to offer some
9 introductions here in a moment and I'm going to ask each of
10 you to do the same thing. I want you to know the attorneys
11 and I are very mindful of the reality that when people are
12 asked to list in order of fear their greatest fears, usually
13 the number one for people is not getting hurt or injured, but
14 it's talking in public. So I assure you this will be a safe
15 place.

16 I'll try to lighten the appropriate gravity of the
17 circumstance, it is a serious circumstance, with some
18 occasional light-hearted banter. And part of the way I'll do
19 that is this: In a moment I'm going to introduce myself to
20 you and use myself as an object lesson to all of you of how
21 I'd like you to introduce yourselves to each of us. So in
22 turn, I'm going to ask you each of you to stand and state
23 your name.

24 Obviously you know my name is Egan Walker. My

1 occupation is District Judge. I'm 1 of 15 district judges,
2 I've already told you. I am married. My wife's name is
3 Shelley. Shelley is an accountant up at TMCC. We have six
4 children, 37, 33, 31, 28, 23 and 21. I did it. I'm not
5 going to tell you all their names, because I promise I can
6 remember them, but not really. I lived in Washoe County for
7 more than 30 years.

8 That is what I'm going to ask each of you to do in
9 turn as we sort of break the ice to our conversation that is
10 again called voir dire. Mr. Young, you sit in what will be
11 juror number one's position. Would you please stand and
12 introduce yourself to us related to those demographics?

13 A JUROR: Paul Young, I work at a private firm
14 government affairs now. Previous career was a deputy DA, so
15 I'm an attorney as well, but I don't practice much anymore.
16 Marital status, I'm not married. I have a girlfriend,
17 manager at a cosmetics store in town. No kids. Been here 32
18 years.

19 THE COURT: Good morning, Mr. Young. Welcome.

20 A JUROR: My name is Mary Graham. I'm retired
21 from 30 years in the postal service. I'm married. My
22 husband is Ron Wood. He's also retired from the postal
23 service. Between us, we have four children 51, 49, 42 and
24 39.

1 THE COURT: Welcome.

2 A JUROR: I've been here 17 years.

3 THE COURT: Good morning. Mr. McKinnon.

4 A JUROR: My name is Dan McKinnon. I work for
5 Allied Universal Security. I've been in Washoe County eight
6 years. Married, I have a dog and no kids.

7 THE COURT: Okay. What's your dog's name?

8 A JUROR: Bella.

9 THE COURT: Ms. Kenney.

10 A JUROR: My name is Lynette Kenney. I'm a
11 physical therapist in town. I'm married. My husband name is
12 Jim Kenney. He owns his own business. He's a traveling
13 salesman. And I have two children, 6 and 9. And I've been
14 here for 15 years.

15 THE COURT: Good morning to you, ma'am. Welcome.
16 Ms. Vasenden.

17 A JUROR: Hi, I am Victoria Vasenden. My
18 occupation is a flight attendant with Southwest Airlines.
19 Married 25 years to my husband John who is a pilot with
20 American Airlines. We have three daughters, 30, 23 and 21.
21 And I've been in Washoe County for nine years.

22 THE COURT: Welcome to you, ma'am. Good morning.
23 Mr. Sundstrom.

24 A JUROR: I'm Steven Sundstrom. I'm a physician

1 in Reno, married, have two children, 20 and 21, lived in Reno
2 for 26 years.

3 THE COURT: Good morning to you, sir. Welcome.
4 Mr. Cruz.

5 A JUROR: My name is Carlos Cruz. My occupation
6 is property management, maintenance. Never been married. I
7 do have a domestic partner. We both have two children. My
8 children are 23 and 33 and her daughter is 33. I've been in
9 Reno about 11, 12 years now.

10 THE COURT: Good morning. Ms. McKay.

11 A JUROR: Deanna McKay, I am an accountant at
12 Clark and Sullivan Construction, married, my husband's name
13 is Wayne, he's the director of operations at Merry
14 Contractors, I have one child, 39, and we've lived here six
15 years.

16 THE COURT: Good morning, Ms. Ortiz.

17 A JUROR: My name is Amber Ortiz. I'm a store
18 manager at the UPS Store. I'm engaged. My fiance is Michael
19 Robinson and he owns a landscaping business. We have no
20 kids. And I've been in Washoe County seven years.

21 THE COURT: Good morning to you. Ms. Demers.

22 A JUROR: My name is Cheryl Demers, and, let's
23 see, I'm retired. I'm not married. I have two kids, born in
24 1981 and '87, so whatever that makes them. They change every

1 year. And then I was also born here.

2 THE COURT: Good morning to you, ma'am. Those
3 kids, they refuse to keep adding numbers on.

4 A JUROR: It happens.

5 THE COURT: Ms. Pearson.

6 A JUROR: My name is Wendy Dale Pearson. I go by
7 Dale. For 31 years, I've been a subcontractor with
8 Children's Cabinet. I care for low income at risk special
9 needs children with behavioral issues that have been
10 physically or mentally abused. This would be 32 years I was
11 married, but my husband passed away four months and nine days
12 ago.

13 THE COURT: I'm so sorry for your loss.

14 A JUROR: I have five children, three biological,
15 two adopted, 29, 23, 18 are the biological, 27 and 21 are the
16 adopted. And I was born in what was Paradise, California,
17 but I'm a lifer Nevadan.

18 THE COURT: Good morning to you. Mr. Lafferty.

19 A JUROR: Cameron Lafferty, project manager at
20 Reno Tahoe Construction, married, no kids. I've lived here
21 in Reno all my 29 years.

22 THE COURT: Ms. Hague.

23 A JUROR: Amber Hague, I'm a communications
24 specialist with the sheriff's office. My husband Eric Hague

1 is a police officer. We have three children, 11, 7 and 2.
2 And I've lived here 31 years.

3 THE COURT: Good morning to you, Ms. Hague.
4 Ms. Walls.

5 A JUROR: Katie Walls, I work at the Wal-Mart
6 distribution center out in McCarran, Nevada. I have one
7 child, two-year-old, and I'm currently carrying my second one
8 at 37 weeks, single and I've been living in Reno all my life
9 for almost 36 years.

10 THE COURT: Good morning you to, Ms. Walls.
11 Mr. Gorman.

12 A JUROR: I'm Andrew Shane Gordon. I'm an
13 electricians apprentice for IBEW. I'm currently married at
14 the moment and her name is Rita Gorman. She's a health care
15 specialist. I have two children, one 5, one 4. And I've
16 been here for about six years.

17 THE COURT: Good morning to you, Mr. Gorman.
18 Mr. Jaynes.

19 A JUROR: My name is Stephen Jaynes. I'm a human
20 resources clerk. I'm married. My wife's name is Melissa
21 Jaynes. She's a director of children's ministries at Reno
22 First. Children, we have two children one is 21 and one is
23 23. And I've lived in Washoe County for seven years.

24 THE COURT: Good morning to you. Welcome. Ms.

1 Wilson.

2 A JUROR: Hi, Georgina Wilson. I'm an e-commerce
3 listing manager for a clothing company called Merge Four.
4 I'm single, no kids, and I've been here for six years.

5 THE COURT: Welcome to you, ma'am. Ms. Miller.

6 A JUROR: Good morning. My name is Yolanda Miller
7 and I am a Spanish interpreter for Nevada Early Intervention
8 and my husband's name is Joseph Miller. He is a Spanish
9 interpreter for the courts here in Nevada. We have no
10 children and we've been here for about 13 years.

11 THE COURT: Good morning, Mr. Miller.
12 Mr. Davidson.

13 A JUROR: Doug Davidson, territory sales manager,
14 married, she's a health insurance broker, we have two
15 children, 28 and 26, and been here for 20 years.

16 THE COURT: Welcome to you. Good morning.
17 Mr. Hills.

18 A JUROR: Jeff Hills, lead mechanic for Washoe
19 County Sheriff's Office, married to Brandy Hills, she works
20 for a doctor in town, two children, 25 and 21, been here
21 47 years.

22 THE COURT: Good morning. Ms. Schutz.

23 A JUROR: My name is Erica Schutz. I work in the
24 nursing assistant at Reno hospital. I stay here for Washoe

1 County about 13 years. I'm single. I live in Washoe County.

2 THE COURT: Good morning. Mr. Johnson.

3 A JUROR: My name is Hiram Johnson. I'm retired
4 from the postal -- as a senior manager for the postal
5 service. Presently working at Delta Airlines as a rep agent.
6 I've been married to Patty Johnson. We've been married
7 46 years and she's retired. I have 13 children, six adopted
8 and seven, 53, 52, two at 51, one at 48, one at 44 and one at
9 38. Adopted children, we have 23, 21, 19, 17, 16 and 13.

10 THE COURT: You get the Metal of Honor,
11 Mr. Johnson.

12 A JUROR: I've lived in Washoe County for
13 14 years.

14 THE COURT: Good morning to you. Ms. Martinez.

15 A JUROR: My name is Sarah Martinez. I'm a shift
16 leader at College Union. I'm married to Albert Martinez.
17 He's a plumber. I have two children, one is 8 and one is
18 five. And I've been here for 33 years.

19 THE COURT: Good morning, ma'am. Mr. Whatley.

20 A JUROR: My name is Jay Whatley. I'm a heavy
21 duty repairman and mechanic. I'm married, five kids, 44, 42,
22 40, 13 and 12 with the two adopted grandchildren I'm raising.
23 And 20 years I've been in Washoe County.

24 THE COURT: Good morning, sir. Welcome.

1 Ms. Batten.

2 A JUROR: Good morning. My name Dominika Batten.
3 I'm an attorney. I work for the Nevada Commission on
4 Judicial Discipline. I am married and my husband is a
5 materials inspector for SNC slash Q&D. I do have three
6 girls, a five-year-old, a four-year-old and a ten-month-old.
7 I also had a little boy, he died in 2018 at 18 months. He
8 would have been four this year.

9 THE COURT: I'm sorry.

10 A JUROR: Thank you. I've lived in Reno since
11 2012.

12 THE COURT: Ms. Simeroth.

13 A JUROR: I'm Diana Simeroth. My husband Joseph
14 and I are both retired. He worked in construction. We both
15 have two children the same age, 43 and 48.

16 THE COURT: Why is it that retirees always rub it
17 in so much?

18 A JUROR: Because we like it. We've been here
19 about 25 years.

20 THE COURT: Good morning, ma'am. Welcome.
21 Mr. Yarborough.

22 A JUROR: Good morning. My name is Steve
23 Yarborough. My wife and I are owner operators of Sierra
24 Service Stations and UAS Fleet Solutions. Her name is Laurie

1 and we're co-owners of the business. I'm also a minister
2 with Spiritual Living in Reno. And our children are 29, 28
3 and 18 and I've been in Reno for 48 years.

4 THE COURT: Good morning, sir. Mr. Sorensen.

5 A JUROR: My name is Randy Sorensen. I'm a
6 general manager for a production and warehousing facility for
7 NMAR. I'm married 42 years. Spouse, my spouse's name is
8 Deborah Sorensen. She is an office manager for Fennemore
9 Craig Cooper, et al.. We have two children, a daughter is 41
10 and our son just turned 36. We lived -- we've moved back
11 into Washoe County in 1990.

12 THE COURT: Mr. Echard.

13 A JUROR: Richard Echard, I go by Chris, my middle
14 name. Married to Amy Echard 17 years. She's a program
15 director for Drive Wellness. Four kids, 15, 17, 21 and 22
16 and I've been here for 40 plus years.

17 THE COURT: Good morning, sir. Ms. Hart.

18 A JUROR: I'm Amber Hart. I'm a stay-at-home mom.
19 My husband's name is Tom Petaka and he is a financial planner
20 for Merrill Lynch. We have two kids, three years old and
21 eight months old, and we've been here now for almost five
22 years.

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

24 A JUROR: I'm Dillon Larson. I work for Panasonic

1 as a shift leader. I have a girlfriend, no kids and I moved
2 here in 2011.

3 THE COURT: Good morning. Mr. Savage.

4 A JUROR: My name Paul Savage. I'm a retired
5 financial controller. I work part-time at a local fly shop.
6 I've been married 45 years. She's the food and beverage
7 director for a retirement home here in Reno. I have one
8 child 35 and two grand kids.

9 THE COURT: Pleasure to meet you. It's a pleasure
10 to meet all of you this morning. Thank you for your time
11 this morning. I'm going to begin by asking some questions
12 and then the attorneys are going to follow. But let me make
13 it clear to you, we're asking questions concerning your
14 qualifications to serve. We're not asking questions to
15 embarrass you or to cause you any unnecessary discomfort.

16 No one asking questions today intends to be
17 intrusive unnecessarily in your lives or to embarrass you in
18 any way, although the questions can sometimes feel that way.
19 Truly, our only objective is to determine whether or not
20 there's a reason you can't serve fairly and impartially. I
21 ask you that you please give your full, complete and honest
22 answers to all the questions we ask, and, in fact, that's the
23 oath you took.

24 To prospective jurors in the back, again, I ask

1 you to bookmark or red flag any questions that you think you
2 would have answers to if you're called upon to replace any of
3 the persons here in the well of the court.

4 Do any of you recognize the attorneys, the court
5 staff, another juror, the defendant or the prospective
6 witnesses. Let me read the prospective witnesses to you:
7 Dustin Allen, Steven Bassett, Kristin Bellinger, Dustin
8 Butler, Ron Chalmers, Sean Donnelly, Rogelio Espinoza, Ryan
9 Gott, Matthew Green, Mark Griffin, Allison Jenkins, Scott
10 Johnson, Ernie Kazmar, Michael Long, William Curry Lynch,
11 David Millsap, Michael Mullen, Scott Nelson, David Nevils,
12 Scott Smith, Larman Smith, Allen Weaver, Joshua Tone, Brandon
13 Zercle, Benjamin Russell, Steve Gresko, Michael Ivers, Victor
14 Ruvalcava, Steve Schinmay, Ashlyn Zarnowski, Kate O'Driscoll.
15 Next page, please, deputy. Jeffrey Masten, Deborah Moreno or
16 a designation for her, Eric Preciado, Max T, Kevin Osborne,
17 Mary Doyle, Amanda Roberts, Pamela Gregory, Jesse Hensley,
18 Edwin Cabrerra, Kevin William Natsal, Robert Dean Jorgensen,
19 Karen Jorgensen, Sue Klinko, John Gareer, Ryan Williamson,
20 Colleen Horton, Sean Chalmers, Brandi Jorgensen, Michael
21 Jorgensen, Jennifer Bascomb, Megan Daters, Elena Hooper,
22 Steven Zuchowski, Melissa Piasecki, Fay Ann Springer or Laura
23 Knight.

24 Let's breakdown my multi-prong question in this

1 way: First, do any of you recognize any of the persons
2 identified as potential witnesses in this case? So I'm going
3 to work from the back to the front one row at a time.

4 Mr. Young.

5 A JUROR: On the first page, are you talking about
6 up there?

7 THE COURT: Yes.

8 A JUROR: Bassett, Donnelly, Chalmers, Gott.

9 THE COURT: Those are police officers in the Reno
10 Police Department, correct?

11 A JUROR: Correct.

12 THE COURT: You recognize them in your former
13 capacity as a Deputy District Attorney?

14 A JUROR: Correct.

15 THE COURT: Let's jump right in a little deeper
16 with you only because it may save time than I would with
17 others. Mr. Young, when did you work in the District
18 Attorney's Office?

19 A JUROR: January of 2013 through January or
20 February of 2017.

21 THE COURT: And the concern, of course, sitting
22 where the defense is that you could be fair and impartial in
23 a criminal case. What are your thoughts about that?

24 A JUROR: I completely understand my role has

1 changed from sitting at the plaintiff's desk to sitting over
2 here and I understand that. I don't think any issues with
3 that. I want to be fully up front and we can continue to go
4 through the relationships I have in law enforcement. I've
5 maintained many relationships at the Deputy DA's Office and
6 Mr. Stege and I work together, not on cases, but when I was
7 at the DA's Office.

8 THE COURT: Well, the good news is I can use you
9 as an object lesson to demonstrate to the jurors what we mean
10 by fair and impartial, because I know a defense attorney and
11 a Deputy DA can both be fair and impartial if they're called
12 as a jurors. Let me break it down a little bit. Are you
13 personal friends with any of the officers who are listed?

14 A JUROR: No.

15 THE COURT: And do you have anything other than a
16 professional relationship with any of the officers?

17 A JUROR: No.

18 THE COURT: Are you going to have any trouble in
19 this case if you're called to serve as a juror, you hear the
20 facts and the evidence in this case, you believe for whatever
21 reason the State has failed to carry its burden of proof, are
22 you going to have trouble telling your friends or police
23 officers, I found not guilty?

24 A JUROR: No.

1 THE COURT: The flip side of the question is
2 appropriate as well. Are you going to have any trouble
3 telling any of your defense colleagues or any of your police
4 officer friends that you found a verdict of guilty whatever
5 the crime may be?

6 A JUROR: No.

7 THE COURT: Does either side begin a step ahead or
8 a step behind because you're a former prosecutor and you know
9 peace officers?

10 A JUROR: I would say no, but I would also, being
11 transparent, I think probably a civil case would probably be
12 better for me, just because of my relationships I have
13 throughout the law enforcement community in town. That's
14 just my honest opinion.

15 THE COURT: I get it. There's former prosecutors
16 in the room and defense attorneys. Mr. Edwards and I both
17 worked both sides of the street. Many people have. The
18 question isn't whether there would be a better case, but I
19 know you, I know you've sworn to follow your obligations as a
20 juror and will you do that in this case?

21 A JUROR: Yes.

22 THE COURT: Anything about the fact that you know
23 any of the peace officers that causes concern about being
24 fair and impartial other than the way you've described?

1 A JUROR: No.

2 THE COURT: Anybody else in the first row know any
3 of the potential witnesses to be called in this case? I see
4 no other hands in the first row. In the row that begins with
5 Ms. Ortiz.

6 MR. STEGE: Your Honor.

7 THE COURT: Mr. McKinnon.

8 A JUROR: You're asking if I recognize anybody in
9 here?

10 THE COURT: Well, right now I'm talking about the
11 witness list.

12 A JUROR: No.

13 THE COURT: Ms. Hague.

14 A JUROR: Yes.

15 THE COURT: Who do you know?

16 A JUROR: A lot of the officers, the supervisor on
17 the second page is a supervisor I work with. I'm not under
18 her, but I do work with her in the same room.

19 THE COURT: Which agency does your husband work
20 for?

21 A JUROR: Reno Police Department.

22 THE COURT: Many of these officers if not all of
23 them are RPD officers, correct.

24 A JUROR: Correct and several deputies.

1 THE COURT: Do you work as a dispatcher?

2 A JUROR: Yes.

3 THE COURT: Do you have any recollection of any
4 call related to this case?

5 A JUROR: Not the names or anything.

6 THE COURT: Any work related discussion related to
7 this case?

8 A JUROR: Not that I can recall.

9 THE COURT: I know your husband and I smile when I
10 ask this question: If you're asked to serve in this case and
11 you go and look your husband in the eye in the privacy of
12 your home and say, look, I found not guilty, are you going to
13 be okay with that?

14 A JUROR: Yes.

15 THE COURT: Do you have any trouble telling your
16 husband no?

17 A JUROR: No.

18 THE COURT: That was a softball question. I think
19 I knew the answer to that already. Do you have any concern
20 about being fair and impartial in this case because you may
21 know some of the persons listed as witnesses?

22 A JUROR: No.

23 THE COURT: Would you agree with me that any
24 officer that comes in, takes the witness stand and takes the

1 oath is subject to the same scrutiny, the same examination
2 and the same weight to be given for or against as any other
3 witness?

4 A JUROR: Yes.

5 THE COURT: Anyone else in the second row know any
6 of the potential witnesses in this case? In the row that
7 begins with Mr. Gorman, anyone know any of the potential
8 witnesses? Yes, Ms. Miller.

9 A JUROR: I just recognize the name, but I don't
10 know if it's the same person.

11 THE COURT: Which name?

12 A JUROR: Steven Bassett.

13 THE COURT: If this is the same Steven Bassett you
14 know, how do you know him?

15 A JUROR: He's an older person that was in the
16 same congregation as my husband and I were in.

17 THE COURT: If you have the right person in mind
18 and that is the person you know, do you have any concern
19 about being fair and impartial in this case?

20 A JUROR: No.

21 THE COURT: All right. Anyone else in that third
22 row? Mr. Hills.

23 A JUROR: Matt Long.

24 THE COURT: And how do you know Matt?

1 A JUROR: Acquaintances.

2 THE COURT: Any concern you have about being fair
3 and impartial in this case?

4 A JUROR: No.

5 THE COURT: The reason, ladies and gentlemen, we
6 ask, by the way, if you know any of the witnesses or any of
7 us or anyone else is this: If you're called upon to serve as
8 a juror in this case, the only evidence you may consider, let
9 me say that again, the only evidence you may consider is the
10 evidence that comes to you through the witness stand or
11 through documents or other physical evidence that I admit in
12 this room. It cannot and must not come from conversations or
13 contact you had with any other people and that's why we ask
14 if you know who the witnesses are.

15 Fair to say you don't know anything about this
16 case through that connection, is that accurate?

17 A JUROR: I know nothing of the case.

18 THE COURT: Are you willing to go home, tell your
19 friend, I found guilty or not guilty, whatever the verdict
20 may be, even if you think they may disagree?

21 A JUROR: No.

22 THE COURT: No problem with that?

23 A JUROR: No problem.

24 THE COURT: In the fourth row that begins with

1 Ms. Schutz? Mr. Whatley.

2 A JUROR: I recognize the name of -- put that list
3 up there again -- Scott Nelson.

4 THE COURT: How do you know Mr. Nelson?

5 A JUROR: If it's the same Scott Nelson, I worked
6 with him at SNC.

7 THE COURT: And if it is, do you have any concern
8 about being fair and impartial if he's called upon to
9 testify? That was a no, correct?

10 A JUROR: No.

11 THE COURT: Anyone else you know?

12 A JUROR: I didn't recognize anybody else.

13 THE COURT: Mr. Johnson.

14 A JUROR: Benjamin Russell.

15 THE COURT: How do you know Mr. Russell?

16 A JUROR: If it's the same one, he worked for the
17 postal service.

18 THE COURT: If it is the same Benjamin Russell
19 that worked for the postal service, how did you know him?

20 A JUROR: He was one of my managers in the special
21 delivery department, express mail department.

22 THE COURT: Any concern about serving on a jury
23 where he may be called as a witness?

24 A JUROR: No problem.

1 THE COURT: Do you know anyone else on the
2 potential witness list?

3 A JUROR: That's the only person.

4 THE COURT: In the fourth row that begins with
5 Mr. Yarborough, anybody know any of the potential witnesses?
6 I don't see any hands. Anybody know me or any of the court
7 staff?

8 My ugly mug has been around. Mr. Young, you don't
9 even have to explain how I may have savaged you over the
10 years. Any concern about being fair and impartial to the
11 parties in the case? As you know, as the judge, I'm sort of
12 the referee. I'm not a participant in the case except as the
13 arbitrator of the law. But do you have any concerns about
14 your knowledge of the Court, the court system or the process?

15 A JUROR: No.

16 THE COURT: Anyone else in the first row or the
17 second row? Ms. Hague.

18 A JUROR: I know the deputy.

19 THE COURT: Good morning. She is one of the
20 people tasked with keeping us safe. She works very hard.
21 She's very good. How do you know her?

22 A JUROR: I went to school with her and now we
23 work together.

24 THE COURT: Right. It is your voice she hears

1 over dispatch sometimes?

2 A JUROR: Yes.

3 THE COURT: Do you have any concerns about being
4 fair and impartial to either side in this case? My deputies
5 are not going to be witnesses in this case. They're really
6 not going to be participants, except it's their job to
7 traffic manage and keep us all safe. Do you have any
8 concerns about that?

9 A JUROR: No.

10 THE COURT: Mr. McKinnon.

11 A JUROR: I recognize both deputies from
12 responding to the library on Center Street.

13 THE COURT: They're good, honest public servants
14 and I'm sure you've seen them around the downtown area quite
15 a bit.

16 A JUROR: Quite a bit.

17 THE COURT: Anyone else know me or any of the
18 court staff? So Mr. Hills.

19 A JUROR: The deputies just from work.

20 THE COURT: All right. Again, any concern you
21 have, if you were sitting where Ms. Fletcher is sitting or if
22 you were sitting where Mr. Stege is sitting, about your
23 ability to be fair and impartial because you know some of the
24 cops?

1 A JUROR: No concern.

2 THE COURT: Anyone else know any of the court
3 staff? How about the attorneys? Anybody know -- Mr. Young,
4 obviously, you know the attorneys. You got any problem with
5 going out in the community and telling Mr. Stege, hey,
6 Mr. Stege, I'm sorry, but the State didn't carry the burden,
7 or if you find guilt of an offense, telling Mr. Edwards the
8 same thing?

9 A JUROR: No.

10 THE COURT: Anyone else know any of the attorneys?
11 I'm going to ask if any of you had any prior jury service.
12 I'll ask whether it was civil or criminal, when and where it
13 was and whether you were able to reach a verdict. So the
14 first row, any prior jury service? Ms. McKay.

15 A JUROR: I've had criminal and civil, it was
16 about 20 some years ago in Houston, Texas, and we found
17 guilty for the criminal and we ruled against the defendant on
18 the civil.

19 THE COURT: Thank you for sharing that
20 information. So you all know, I literally don't care what
21 the verdict was, just interested in whether or not you were
22 able to reach a verdict and if you have any concern because
23 of those experiences about serving here.

24 A JUROR: No.

1 THE COURT: And you understand there's a big
2 difference between the civil burden of proof, which is
3 usually more likely than not, and the criminal burden of
4 proof, which is beyond a reasonable doubt?

5 A JUROR: Yes.

6 THE COURT: Anyone else with jury service in the
7 first row? So in the second row, Ms. Demers.

8 A JUROR: Uh-huh. I've done it twice. One was
9 settled out of Court while we were in the jury room. The
10 second one was that mock trial that they put on once a year
11 for the attorneys, I guess, and that's it.

12 THE COURT: Anything about either of those
13 services that cause you concern about serving in this case?

14 A JUROR: No.

15 THE COURT: Again, in the second row, anyone else
16 with jury service? Ms. Pearson.

17 A JUROR: Twice, criminal, civil. Criminal was
18 with the Honorable Mills Lane.

19 THE COURT: Right here in this room.

20 A JUROR: No, because it was marble or maybe the
21 chairs are different.

22 THE COURT: The chairs were different, but when
23 Mills was a District Judge, he practiced in this room. I'm
24 so old, I know that because I was in Mr. Young's position in

1 front of him.

2 A JUROR: We were sequestered and it was really
3 dramatic. But what I appreciated after the trial is he
4 brought us into chambers so we could vent. Then he sent us
5 personal letters. But I didn't have children then, so
6 serving was okay. The second was a civil, it was a hung
7 jury.

8 THE COURT: Anything about either of those
9 experiences that causes you concern about being fair and
10 impartial in this case?

11 A JUROR: I'm a very different person now than I
12 was then.

13 THE COURT: Well, of course, we all age.

14 A JUROR: I felt I was more open then and now I'm
15 56.

16 THE COURT: We all age and mature. My mom thinks
17 it's miraculous that I have finally matured a little bit.

18 A JUROR: I think I was more mature then. Now
19 with menopause. And tomorrow it will be a year since my
20 husband passed. My eldest son's father-in-law was the one
21 who was killed on Moana and Virginia. So three deaths in 12
22 months --

23 THE COURT: It's a lot of trauma.

24 A JUROR: And menopause, I just feel like the

1 control I had in my 20s and 30s is just -- like I was a
2 merry-go-round, now I'm the roller coaster.

3 THE COURT: It's a lot of trauma, but none of that
4 --

5 A JUROR: It shouldn't affect me. I don't know.

6 THE COURT: I agree it shouldn't. Let me respond
7 in this way: So the purpose of voir dire is to discover
8 biases, prejudices, preconceptions that people may have
9 formed either because of the facts, they know about the
10 facts, because they know of a witness or a party or because
11 of preconceptions they have. Let's take an aside in this way
12 since you were kind enough to share a little bit.

13 We all have biases and prejudices. Anybody who
14 tells you they don't have a bias or prejudice is not being
15 truthful with you. It's as simple as this: When I leave the
16 Courthouse late at night, which I'm often want to do, and if
17 I park on the street, which I sometimes do, I'll look around
18 when I leave and see who is around. Is it safe for me to
19 transit, to go from where I'm at to where I'm going? And I
20 form snap judgments about people or places or circumstances
21 that serve my purposes, right. We need to know,
22 fundamentally, as human beings whether we're safe.

23 That's not about profiling anybody because of
24 their race, religion or national origin, right, it's about

1 understanding, am I safe? If my wife starts talking to me
2 about things I've done wrong, it might be the case that I
3 perhaps don't pay adequate attention, because I have a bias
4 or a prejudice or preconception about what is coming next.
5 We've all got them.

6 What we're trying to get at in this case is not
7 what your own human experience has been. We need that. The
8 12 jurors and two alternates chosen to serve in this case
9 will be the most powerful vehicle for figuring out what the
10 truth is that we know of and that's because people are
11 individuals and they have their own background. I just want
12 to get at if you have a particular bias or prejudice and
13 you've identified none. So thank you for giving me that
14 segue.

15 Anyone else in the second row who has any prior
16 jury service? In the third row? Mr. Davidson.

17 A JUROR: Yes. It was a civil case about 15 years
18 ago and they settled. They settled before we had to make a
19 judgment.

20 THE COURT: Was it here in Washoe County?

21 A JUROR: Yes.

22 THE COURT: Anything about your prior service that
23 causes you concern here today?

24 A JUROR: No.

1 THE COURT: In the fourth row that begins with
2 Ms. Schutz? No prior service that I see. Or in the fifth
3 row? Mr. Sorensen. Mr. Yarborough, you can first.

4 A JUROR: Yes. A criminal -- no, it was a civil
5 court in the federal courthouse about three years ago.

6 THE COURT: All right.

7 A JUROR: We found no charge against the
8 government I guess it was.

9 THE COURT: All right. And any criminal service?

10 A JUROR: I can't remember. I've been in several
11 juries, but I can't remember if it was criminal.

12 THE COURT: The reason for asking the question is
13 this: To make sure if people have served previously, they
14 will agree with me that they'll follow the instructions I
15 give in this case, not the instructions they may have gotten
16 in another case.

17 Because civil juries, again, have a very different
18 standard of proof than criminal juries, and this is a
19 criminal case. So if you're chosen as a juror, will you
20 agree to follow the instructions I give in this case?

21 A JUROR: Yes, sir.

22 THE COURT: Mr. Sorensen.

23 A JUROR: Early in 1990s, it was a federal civil
24 case over on Booth Street and we found for the defendant.

1 THE COURT: All right. Anything about your prior
2 service that causes you concern about being fair and
3 impartial here?

4 A JUROR: None.

5 THE COURT: Anyone else in are the bottom row,
6 then? Anyone I missed about prior jury service? I don't see
7 any other hands.

8 Any of you now involved in law enforcement or
9 acquainted with a law enforcement officer? Mr. Young, I
10 think that's a yes for you.

11 A JUROR: Yes.

12 THE COURT: I missed it, you said it twice, I
13 apologize, what are you doing now?

14 A JUROR: Government affairs for a private firm.

15 THE COURT: Anything about your prior service as a
16 DA that you haven't already shared that causes you concern
17 about being fair and impartial here?

18 A JUROR: No.

19 THE COURT: Any other people in the first row
20 associated with, historically employed by or employed by law
21 enforcement? And the second row, I know, Ms. Hague, that
22 applies to you. The most pointed way I ask the question,
23 some judges allow this, some judges don't, but it's the best
24 know to get at the heart of it, if you were sitting where

1 Ms. Fletcher is sitting, would you want someone of your
2 mindset, because you're the only one who can know it, sitting
3 in judgment of the facts in this case?

4 A JUROR: Yes, because I know more how it works.
5 So yes.

6 THE COURT: All right. And anything about, again,
7 your connection with law enforcement that causes you concern
8 about being a fair and impartial in a criminal case here?

9 A JUROR: No.

10 THE COURT: Anyone else in the second row or in
11 the third row? Again, I'm asking about connections to law
12 enforcement. Or the fourth? Ms. Batten.

13 A JUROR: Previous to my current position, I'm
14 currently at the commission for judicial discipline.

15 THE COURT: I'm going to be good, I promise.

16 A JUROR: But I did just start that job last
17 summer. Previous to that, I worked for the Attorney
18 General's Office. I was a Deputy Attorney General. I did
19 represent -- that's a law enforcement agency on its own and
20 then I also represented the Department of Corrections at
21 times, DPS, very limited. My main client was the Department
22 of Transportation, but I do have that connection.

23 THE COURT: It is a connection. It's funny
24 because the Attorney General and the DAs always spar with one

1 another about who the chief law enforcement officer in any
2 county and state is. Thank you for that. Really, again, the
3 question narrows down to: Can you be fair and impartial?
4 Are you willing to put aside your professional history and
5 fairly adjudge the facts in this case?

6 A JUROR: Certainly.

7 THE COURT: I always ask my lawyer friends, any
8 quarrel with the idea that I'll be the arbitrator of what the
9 law is, not you?

10 A JUROR: Not at all.

11 THE COURT: Thank you for that. Anyone else with
12 law enforcement connections or experience, if any, on the
13 panel? I don't see -- Mr. Yarborough.

14 A JUROR: Yes, I'm personal friends with Karl
15 Hall, City Attorney.

16 THE COURT: Mr. Hall is -- I worked with him. We
17 all know him. He's been around. He's been in the news as
18 the city attorney. Any difficulty with the idea that if you
19 sat down to break bread with Karl and his wife Anne and told
20 him, hey, I found whatever your verdict was in this case, you
21 could stand up to them if you disagreed with it?

22 A JUROR: Certainly.

23 THE COURT: All right. Any of you give more
24 weight to the testimony of a law enforcement officer simply

1 because of their employment? Again, the emphasis is this:
2 Every witness that testifies in this room is going to raise
3 their right hand and take an oath. That oath subjects them
4 to moral results if they aren't truthful and potential
5 criminal charges.

6 Every person who takes the stand is entitled to
7 the same scrutiny by you, their demeanor on the stand, their
8 motive for testifying, their desire in any particular
9 outcome. And peace officers by virtue of their employment
10 get no more or less weight in that process simply because
11 they're peace officers. Can we agree on that?

12 A JUROR: I respect them.

13 THE COURT: As do I.

14 A JUROR: Yes, for what they do. And so I don't
15 know if I would be more inclined, because I really respect
16 their whole job.

17 THE COURT: Let me give you an example using the
18 chief judge of the district. The chief judge of the district
19 is Scott Freeman. Scott Freeman you may all remember was a
20 local defense attorney. His show was Lawyers, Guns and
21 Money, always made me grin. I tease him about it still. He
22 was well-known, well-respected, long-term defense attorney in
23 this county, has a lot of police officer friends, had to have
24 a lot of police officer friends to do his job. He's a judge

1 now.

2 When he was a defense attorney, the fact that he
3 had police officer friends didn't take away from the fact
4 that he was a good defense attorney. The issue is what are
5 the facts in this case? You are going to have to determine
6 who you believe about what they say.

7 If there were an accident on Virginia Street
8 outside the courtroom right now and we could all see it, we
9 can't, but if there were an accident, there would be 65
10 different opinions about what happened, right. People see,
11 perceive, remember and recall things differently. All we're
12 trying to get at is: You're not going to homer just somebody
13 a dentist on the stand or a peace officer, right?

14 A JUROR: No.

15 THE COURT: Anyone else have any response to that
16 question? I don't see any other hands.

17 Have any of you been the victim of a crime? This
18 is a sensitive one. This is a safe place. I'm not trying to
19 pry unnecessarily. The reason for the question is this:
20 Some people have had contact with the police. I've had to
21 explain to the governor twice why I got arrested as a kid.
22 Imagine that conversation. But we have contact with law
23 enforcement in different ways, getting tickets, being
24 arrested, being victims of a crime.

1 And we, none of us, in this room want someone on
2 this jury who has been victimized by a crime, who says, well,
3 because I was victimized, I'm going to make sure any victim
4 is taken care of no matter what the facts are. Do you see my
5 point? That the mere point of victimization would cause you
6 to sway one way or the other. Is there anything who fits in
7 that category? I don't see any hands at all.

8 Do any of you have anything other than a passing
9 interest in the outcome of this case? I already told you
10 it's a murder case. It's among the most serious species of
11 case we can consider in these rooms.

12 There has been some press in the distant past
13 about this case. I don't know if there will be any press
14 during the trial. I don't care if there's any press during
15 the trial, but I want to make sure that none of you have
16 anything other than a passing interest in this case.

17 Anybody connected to the case, want to see a
18 particular outcome because they've heard about it or
19 otherwise? I don't see any hands.

20 Any of you entertain a bias or prejudice for or
21 against the State of Nevada? Mr. Stege has an important,
22 serious job. It is to represent the interests of the
23 citizens of the State of Nevada. Anybody got an ax to grind
24 with the District Attorney's Office, for example, because

1 they've been prosecuted or had a friend prosecuted or know
2 someone who was prosecuted? I don't see any hands.

3 I've known Mr. Edwards for the better part of 25
4 or 30 years. I've been privileged to work in courtrooms with
5 him all across the state. He has a critical role in this
6 case and that is to defend the constitutional rights of
7 Ms. Fletcher who sits next him. Anybody have anything for
8 against him or her, because in our system of justice if the
9 State makes an accusation, the defendant is entitled to a
10 vigorous defense? Any bias or prejudice against the defense?
11 I don't see any hands.

12 I always ask this question, because I think it's
13 an interesting one in today's world and dialogue, you all may
14 look at me and think you know what my ethnic history is. You
15 might be surprised what my history is. I can look at some
16 people in the panel and see folks with more melatonin in
17 their skin than I have and some people with less. But can we
18 agree that the color of a person's skin, the accent they may
19 have in their speech, the origin of their family, that none
20 of that has anything to do with anything in this case? Can
21 we all agree on that?

22 It happens in case the defendant is a woman,
23 Ms. Fletcher. Does she have more or less sympathy or more or
24 less prejudice simply because she happens to be a woman? I

1 see no hands and no concerns.

2 Obviously, my next question is going to apply to
3 you, Mr. Young. Do any of you have any legal training? We
4 have at least two trained lawyers. And I think I asked this,
5 just to emphasize this, can we agree that the attorneys and I
6 will agree on a set of jury instructions. They'll be
7 lengthy. Will you follow those instructions and not what you
8 think the law is or ought to be based upon your training and
9 experience? First, Ms. Batten.

10 A JUROR: Yes, sir.

11 THE COURT: Mr. Young.

12 A JUROR: Yes.

13 THE COURT: Anyone else have any legal training?
14 Mr. Sundstrom.

15 A JUROR: Previously I was trained as a CPA and
16 part of that is going through training regarding application
17 of tax law.

18 THE COURT: When I was reviewing these jury
19 questionnaires, Dr. Sundstrom, I had to say what jumped out
20 in my mind is you're a glutton punishment, sir. Anybody who
21 can take and pass the CPA exam and then go to medical school
22 and become a licensed physician is a glutton for punishment
23 and clearly very smart.

24 Here's the question to Mr. Sundstrom: You've had

1 some legal training, you know what laws are related to taxes
2 and accounting, et cetera, would you agree with me that the
3 laws that apply in this case I'll give to you?

4 A JUROR: Uh-huh.

5 THE COURT: Anyone else with any legal training?
6 So I don't see any hands.

7 Other than a divorce or child custody, are you now
8 or have you been involved in any litigation, plaintiff,
9 defendant, been sued or had to sue someone? I saw your hand
10 go up first, Mr. Sorensen, so we'll go from bottom to top.

11 A JUROR: Okay. I was in an industrial accident.
12 I was run over by a forklift.

13 THE COURT: Good golly, I'm sorry.

14 A JUROR: And I took Ralston Foods to court.

15 THE COURT: Anything about that process that
16 causes you concern about being fair and impartial here?

17 A JUROR: None.

18 THE COURT: All right. Anyone else been a party
19 to a lawsuit? Dr. Sundstrom.

20 A JUROR: Named as a defendant in a lawsuit, was
21 settled with prejudice, was discharged with prejudice.

22 THE COURT: I have been sued more than once as
23 well. I'm the kind of person that has to answer this
24 question. Really, the purpose for the question is to make

1 sure that you have either no lingering resentment or no
2 overriding fear that just because somebody files a lawsuit,
3 in this case, Mr. Stege on behalf of the State has filed a
4 lawsuit, it's called a complaint or an information, but it is
5 a lawsuit. We just want to make sure nothing about your
6 experience is going to wash over here. I see you shaking
7 your head no.

8 A JUROR: No.

9 THE COURT: Ms. Batten.

10 A JUROR: I forgot about this, when I was at the
11 Attorney General's Office, I was improperly named as a
12 defendant by a plaintiff that was representing himself and I
13 believe that we had to just move to dismiss me and anybody
14 else that was named improperly.

15 THE COURT: Anything about that process that
16 causes you concern about being fair and impartial here?

17 A JUROR: No, not at all.

18 THE COURT: Thank you. Anyone else in the first
19 or second row, the row that begins with Mr. Gorman?
20 Mr. Jaynes.

21 A JUROR: Yeah, I was -- it was a defamation of
22 character situation. So I had to appear in court and we went
23 back and forth quite a bit and then both parties agreed to go
24 their separate ways.

1 THE COURT: Anything about that process that
2 you'll bring into this room that will cause you to sway your
3 verdict one way or another because of your experience?

4 A JUROR: No.

5 THE COURT: Anyone else in that row been sued
6 or -- Mr. Hills.

7 A JUROR: I was in a car accident and had to sue
8 an insurance company.

9 THE COURT: About when was that?

10 A JUROR: '98.

11 THE COURT: Long time ago, then. Anything about
12 that experience that causes you concern as to being fair and
13 impartial here?

14 A JUROR: No, sir.

15 THE COURT: Anyone in the row that begins with
16 Ms. Ortiz? Ms. Pearson.

17 A JUROR: January 2015, I had a dangerous dog
18 accusation. It was dismissed with prejudice. 2018, same
19 neighbor sued me because my dog gets his paws over the fence,
20 which caused their dog to bark. They got noise complaints.
21 They tried to sue me for the noise complaints. That was
22 dismissed with prejudice.

23 2009, I was a managing member of a senior daycare
24 that had opened, they closed, one of the bills wasn't

1 settled, they sued, they sued me personally. I didn't bring
2 the proper paper work in the third time I appeared and the
3 judge found me in contempt of Court.

4 THE COURT: Those pesky judges.

5 A JUROR: That went on for two and a half years of
6 my life.

7 THE COURT: Sounds like you've had some trauma
8 associated with that.

9 A JUROR: I showed up.

10 THE COURT: Are you going to have concern about
11 being fair and impartial here?

12 A JUROR: No. When you're talking about the --
13 has any crimes been committed against you, I have a little
14 black cloud. My house was vandalized. I caught one of the
15 kids. Reno PD said to get over it, they were just holiday
16 decorations.

17 At my son's soccer game, my car was broken into
18 when I was at the game. The kids were 17 and the sheriff's
19 department told me they already had pending criminal cases
20 against them and they were going to dismiss mine, even though
21 I was out a couple of thousand dollars.

22 I was assaulted in Sparks once at the Rib Cook Off
23 and the Sparks PD told me that he was drunk, but he seemed
24 like a nice guy. He hit me in the face because I was

1 blocking his way.

2 There's more, but just weird, unpleasant. So one
3 of my clients is a retired police lieutenant, Wes Myers, who
4 is wonderful, kind of changed my mind and I realized that
5 they put their lives on the line and they serve a purpose,
6 but for me personally, things have not been good.

7 THE COURT: I began with, have you been sued or
8 not been sued and you shared that related to another
9 question, which I appreciate. At the heart of it, though,
10 continues to be this overriding concern. Again, I emphasize,
11 we all have the experiences we have in our lives today. In
12 fact, that's the strength of jurors is each has individual
13 experiences and individual history. What we want to make
14 sure is that individual experience and individual history
15 isn't going to cause you to be swayed one way or another
16 simply because of what's happened to you.

17 A JUROR: That's why I didn't speak up initially.
18 I wanted to think about it. I'm not comfortable around law
19 enforcement because of my personal experiences. Like I said,
20 I had a client, I lived near -- there's two retired sheriffs
21 that live near me and they're great neighbors, but when I see
22 law enforcement, I'm not comfortable.

23 THE COURT: I think most people would agree that
24 if you have made the mistake, like somebody I know, to

1 perhaps on occasion in your life exceed the speed limit --

2 A JUROR: I have a perfect driving record.

3 THE COURT: Well, I can't say that.

4 A JUROR: I'm not bragging, but I have a perfect
5 driving record.

6 THE COURT: I'm trying to offer a point, though,
7 which is, I'm old enough that I remember bubble gum machines,
8 but when the lights go on and you're ordered to stop, which
9 you are, you get nervous.

10 A JUROR: I feel like I have been in positions
11 where I wasn't doing anything wrong, I called the police and
12 was told that my opinions didn't matter.

13 THE COURT: I hear strong feelings and that's
14 okay. Again, the question is: In spite of what happened, is
15 Mr. Stege going to begin a step behind, because he's going to
16 have to call police officers, because they're who respond to
17 scenes where one person has been killed by another and
18 investigate, is he going to be a step behind because of your
19 personal experiences?

20 A JUROR: I feel that if they didn't respond to
21 me, why are they responding to somebody else?

22 THE COURT: Is that a yes to my question?

23 A JUROR: Say it again.

24 THE COURT: My question is: Does Mr. Stege begin

1 a step behind because he will call law enforcement officers
2 who are inevitably the first responders to a case like this
3 to testify here?

4 A JUROR: I feel like I'm behind the eight ball.

5 THE COURT: Like you are or he is?

6 A JUROR: I guess like he is.

7 THE COURT: Does that -- you're doing a great
8 thing, by the way.

9 A JUROR: I want to be 100 percent honest.

10 THE COURT: That's exactly what I want. I already
11 said, we all have biases and prejudices and this process is
12 designed to do exactly what you're revealing.

13 A JUROR: I'm trying not to. I'm trying to think
14 can I get over 1, 2, 3, 4, 5 incidents.

15 THE COURT: Okay. And you said you think he does
16 begin a step behind? It sounds like you have concern about
17 being fair and impartial in this case? Is that a yes?

18 A JUROR: Yes.

19 THE COURT: Mr. Stege.

20 MR. STEGE: I would ask that Ms. Pearson be
21 excused.

22 THE COURT: Mr. Edwards.

23 MR. EDWARDS: I would, too, your Honor.

24 THE COURT: So thank you for your honesty and your

1 openness and your willingness to serve. Please check in with
2 the commissioner downstairs, Ms. Pearson, before you leave.

3 A JUROR: I still got that letter from Mills Lane.
4 It's framed.

5 THE COURT: That's good.

6 THE CLERK: Alyssa Lightfoot.

7 THE COURT: Good morning, Ms. Lightfoot. Before
8 you sit down, if you would please introduce yourself.

9 A JUROR: My name is Alyssa Lightfoot. I'm a
10 dental hygienist. I'm married to Jake. He's a firefighter
11 with the Reno Fire Department. I've lived here for about
12 30 years. No children, three fur babies.

13 THE COURT: Good morning to you.

14 A JUROR: Good morning.

15 THE COURT: Ms. Lightfoot, any of the questions
16 I've asked thus far that caused any of those bookmarks or red
17 flags to go up for you?

18 A JUROR: No.

19 THE COURT: All right. Thank you. So we were in
20 the middle, ladies and gentlemen, of me asking if you've been
21 sued or sued and whether or not that might carry forward into
22 this case. Anyone else? Ms. Demers.

23 A JUROR: Yes. I had to sue my neighbor, because
24 I wanted to put up a fence and he didn't want the fence and

1 he kept tearing off my stakes so I had to sue him to get the
2 right to build my fence and so my fence is up. That is the
3 happy suit. The other suit was my parents were killed.

4 THE COURT: I'm sorry.

5 A JUROR: And so I -- we had to with the trust and
6 everything, there was a big lawsuit with my parents' trust,
7 because they had a lot of money and then we had to sue the
8 person that killed my dad for unlawful death or --

9 THE COURT: Wrongful death.

10 A JUROR: Wrongful death.

11 THE COURT: When and where did that occur?

12 A JUROR: It happened in California when they
13 died, so they were in California.

14 THE COURT: When was that?

15 A JUROR: 2008.

16 THE COURT: I'm sorry for your loss. So you've
17 had some significant loss.

18 A JUROR: Yes.

19 THE COURT: And some lawsuits about that loss.

20 A JUROR: Yes.

21 THE COURT: Anything about that process that
22 causes you concern about being fair and impartial here?

23 A JUROR: I'm just still upset about the
24 unlawful -- the wrongful death, that he has never apologized

1 for killing my parents.

2 THE COURT: Are you going to hold that against the
3 defendant in this case Ms. Fletcher?

4 A JUROR: I don't think I will.

5 THE COURT: That's all anybody can do.

6 A JUROR: Yes. Every circumstance is different.

7 THE COURT: It is indeed. Anyone else sued or
8 been sued that I haven't talked to? I see a hand in the
9 front. Mr. Larson.

10 A JUROR: Savage.

11 THE COURT: I'm sorry, Mr. Savage.

12 A JUROR: When I was controller here in town, I
13 probably sued dozens of individuals and companies in small
14 claims court.

15 THE COURT: My condolences to the attorneys,
16 including me, in the room.

17 A JUROR: Condolences to me.

18 THE COURT: Because being around attorneys that
19 often can be a little bit harrowing. Anything about that
20 that causes you concern about being fair and impartial here?

21 A JUROR: No.

22 THE COURT: Were there any other hands?

23 A JUROR: I have another hand.

24 THE COURT: I'm sorry.

1 A JUROR: I have a lot, a lot, a lot of rentals,
2 and so, yes, I -- now my manager does this, but I used to
3 take them to court.

4 THE COURT: For evictions and that sort of thing?

5 A JUROR: Yes, exactly, but that has nothing to do
6 with this, but since he mentioned it.

7 THE COURT: All right. Mr. Yarborough.

8 A JUROR: Yes, several small claims over the years
9 in business for collection services, no partiality involved.

10 THE COURT: That was really at the heart of the
11 question. Anything about your experiences with the justice
12 system broadly or the criminal justice system in particularly
13 that causes you concern about being fair and impartial?

14 A JUROR: Not at all.

15 THE COURT: Did I miss anybody? Will you all
16 agree, and you heard me ask this question several times
17 already, to follow my instructions, the instructions of the
18 Court, even if they differ from what your personal
19 conceptions of what the law is or ought to be?

20 Sometimes people have closely held philosophical
21 or religious beliefs, for example, that they can't sit in
22 judgment of someone else. I'm not going to ask anybody to
23 sit in judgment of anyone in this room. I'm going to ask you
24 if you're jurors and try the case with me to sit in judgment

1 of the facts and the facts alone. Anybody have any quarrel
2 with that?

3 MR. STEGE: Excuse me, your Honor.

4 THE COURT: I'm sorry. I didn't see the hands.
5 Ms. Miller.

6 A JUROR: Yes.

7 THE COURT: Your concern.

8 A JUROR: With the nature of the case, the fact
9 that a life was taken, so my views, my personal views are
10 shaped by principles I've learned for many years. So I -- to
11 me, this is beyond my scope, I guess, I could say that. I
12 feel highly uncomfortable.

13 THE COURT: Well, any time we discuss -- let me
14 backup. We don't know in this room yet whether a crime has
15 been committed. As she sits here today, Ms. Fletcher is
16 innocent of any crime. There's been no evidence produced of
17 any kind. If you're chosen as the jurors and the alternate,
18 you'll hear an information in the case. An information is
19 just a document that accuses somebody of a crime.

20 The determination of the guilt or innocence will
21 only be made after hearing all the evidence and the
22 conclusion of all that evidence and witnesses.

23 Trials happen almost every week in this courtroom,
24 sometimes multiple trials. Some of those trials involve

1 allegations of violence. Violence is a tear in the fabric of
2 the community, to be sure, but your job as a juror is simply
3 to determine the guilt or innocence of the person accused,
4 not what will happen to them.

5 So that's what I meant when I said penalty, you
6 will not determine the penalty. In other words, not the what
7 to do about it if anybody is guilty of anything. I want you
8 to be nervous, not so nervous that you're terrified. This is
9 a safe room. Nobody will be embarrassed or belittled in any
10 way of any kind. But only because of the gravity of the
11 situation. Are you still concerned?

12 A JUROR: Uh-huh.

13 THE COURT: I don't want to press you too much,
14 Ms. Miller, but I always begin my voir dire by pointing out,
15 there are young men and women in combat zones right now whose
16 lives are on the line. I'm sure they would rather not have
17 their lives on the line, right. If they could do what they
18 can do, I believe we can do what we can do. I want you to be
19 open and you are, thank you for that, and I'm in no way
20 belittling you. I asked if you had a religious or
21 philosophical prescription. Is that what you're referring
22 to?

23 A JUROR: Yes.

24 THE COURT: Can you be more specific?

1 A JUROR: Because I have a higher person that I
2 answer to and because of the label of this case is murder,
3 that in itself causes me -- I'm uncomfortable with that. I
4 have to be unprejudiced, I have to listen to the facts.
5 We're all imperfect. What if there is an error in that, the
6 accountability that tacked to that? So I am just being
7 honest with how I feel.

8 THE COURT: That's all I can ask and I appreciate
9 your honesty. What you haven't told me is that you won't
10 follow the instructions as I give them to you. You would do
11 that, correct?

12 A JUROR: Correct.

13 THE COURT: You would try to be fair and impartial
14 to both sides, correct?

15 A JUROR: As far as I can, unless there is a
16 higher law that I'm aware of that impedes that.

17 THE COURT: Well, I guess--

18 A JUROR: I'm not sure what the case is about,
19 because it just says murder.

20 THE COURT: We're not going to tell you the facts,
21 unfortunately.

22 A JUROR: I'm kind of like between a rock and a
23 hard place.

24 THE COURT: You are indeed and you've teed up the

1 question nicely for me. So the issue becomes one of this:
2 I'm unaware of any philosophy, religion or more that stands
3 in the way of anyone serving as a juror. I've never had a
4 rabbi or a priest or anyone else indicate to me that there's
5 a religious prescription against service.

6 The issue is whether or not you'll follow the law
7 and the law is, of course, made by men and not made by a
8 higher power. If you tell me, look, if you give me an
9 instruction, judge, that the sky is blue and the sun is
10 shining, but my God tells me neither is true, I'm going to
11 follow what my higher power says, then I can't let you serve.
12 That's what it comes down to.

13 Are you telling me that there might be a
14 circumstance in your mind where you think the law established
15 by us is contrary to your own religious feelings?

16 A JUROR: I completed with my service, so I am
17 here, and I want to be honest. But a way to demonstrate it
18 is to give you an illustration is with the abortion, which in
19 Exodus talks about that, that if a woman loses her child.

20 THE COURT: That's not what this case is about.

21 A JUROR: I'm just saying that to illustrate there
22 is a law, so that would -- that's to illustrate that there
23 are certain laws that I'm aware of.

24 THE COURT: Perfect. Thank you for the

1 illustration and I think I understand it. It would appear to
2 me fore close felt, honest feelings, Ms. Miller is
3 communicating to me, gentlemen, that there are circumstances
4 in which she could not follow the law as instructed, and for
5 that reason, I think I would thank and excuse her. Do you
6 have any quarrel with that, Mr. Stege?

7 MR. STEGE: No, your Honor.

8 MR. EDWARDS: No, your Honor. I think she would
9 be better suited to another case.

10 THE COURT: Again, Ms. Miller, let me say, I love
11 your husband. You can tell him I said that if you want or
12 not. Maybe when you're happy with him you can tell him I
13 said that. I thank you for your service and your willingness
14 to be open. If you would check in with the jury commissioner
15 downstairs.

16 THE CLERK: Kenneth Thrasher.

17 THE COURT: Before you sit down, Mr. Thrasher,
18 would you be kind enough to introduce yourself?

19 A JUROR: My name is Ken Thrasher. I'm retired
20 vice president of operations for Sierra Nevada Corporation.
21 I'm married 39 years. Spouse's name is Carol. She's a
22 stay-at-home-mom, raised me and my family. I have children,
23 45, 42 and 22. And I've been here for 19 years.

24 THE COURT: Good morning to you, Mr. Thrasher.

1 Thank you for being here. Sir, any of those red flags or
2 bookmarks go up for you as a result of any of the questions I
3 asked in this case?

4 A JUROR: No.

5 THE COURT: As I indicated or began to indicate
6 previously, ladies and gentlemen, any person, in fact, every
7 person accused of a crime is presumed to be innocent. The
8 State of Nevada must prove each element of the criminal
9 allegation by evidence beyond a reasonable doubt. Are there
10 any of you that disagree with this proposition? I see no
11 hands.

12 Ms. Fletcher doesn't have to prove anything in
13 this case. Even if she presents no evidence of any kind, do
14 you understand you must find her not guilty if the State
15 fails to prove its case beyond a reasonable doubt? I don't
16 see any hands in opposition to that.

17 Have any of you been accused of a crime? Again,
18 I've shared with you that when I was a juvenile, I was
19 arrested. I'm not proud of that and I don't brag about it,
20 but I share it with kids here in court and the kids I work
21 with at Jan Evans, because I think it is important that they
22 understand that can be accused of a crime, you can in some
23 circumstances commit a crime and still, as it were, turn
24 things around. Have any of you been accused of a crime?

1 Mr. Sorensen.

2 A JUROR: This was quite a long time ago, I was
3 working for Pepsi Cola and they had a tech come out to the
4 building to put in some equipment and they had large
5 toolboxes and I was accused of stealing tools. I didn't
6 steal the tools. Eventually, they found out who did it, but
7 they made my life pretty miserable in the meantime, my
8 employer did, and I quit.

9 THE COURT: Anything about that false accusation
10 that causes you to carry forward a bias or prejudice for or
11 against the State or for or against the defense?

12 A JUROR: No, not at all.

13 THE COURT: Thank you for sharing that. Anyone
14 else been accused or had a close family member accused of a
15 crime? So Mr. Johnson -- Mr. Jaynes. I apologize.

16 A JUROR: I was 12 years old and I stole a Guns
17 and Roses tape from K Mart.

18 THE COURT: Which one? Appetite for Destruction?

19 A JUROR: Appetite for Destruction and I served my
20 community service cleaning up Highway 395.

21 THE COURT: Thank you for that. Anyone else?

22 Mr. Gorman.

23 A JUROR: You said close family, too?

24 THE COURT: Yes.

1 A JUROR: My uncle was accused of first degree
2 murder.

3 THE COURT: Where at?

4 A JUROR: In Eureka, California.

5 THE COURT: Was he actually prosecuted?

6 A JUROR: He was. He was sentenced 20 years to
7 life, even though it wasn't him himself, but it was
8 associated.

9 THE COURT: So, first, I have members of my family
10 that have been sentenced to prison here in Nevada. Having
11 members of your family commit crimes doesn't wash on you in
12 any way.

13 A JUROR: Not necessarily, no.

14 THE COURT: Do you have any concerns about what
15 happened with your uncle in terms of being fair and impartial
16 to either side here?

17 A JUROR: Yes, I do, because there wasn't
18 substantial evidence enough to say that he was actually
19 there.

20 THE COURT: So it sounds like you think he's
21 innocent of what he's serving time for?

22 A JUROR: Yes.

23 THE COURT: Are you going to carry that into this
24 case?

1 A JUROR: Probably not.

2 THE COURT: That's all I can ask anybody to do,
3 right. We all have, again to emphasize, our experience, our
4 beliefs, our preconceptions, if you will. All I can ask is
5 you'll give an open mind to the facts and witnesses in this
6 case, you'll listen to the law as I instruct it and make a
7 fair deliberation based on those facts and that law, based on
8 this case and not sort of an extra super cautious look
9 because of what you think happened to your uncle. Does that
10 make sense?

11 A JUROR: That makes sense.

12 THE COURT: Do you have any concerns at all in
13 this case?

14 A JUROR: No, not necessarily.

15 THE COURT: Thank you for sharing that.
16 Mr. Johnson.

17 A JUROR: Yes. I have a grand daughter that
18 served time in Phoenix, Arizona, six years, for when you get
19 a vehicle at gunpoint and she did her time and now she's out.
20 She lives here and she's doing very well. But then my
21 daughter, my youngest daughter, also, she had drug
22 paraphernalia and a nuisance, so she spent a year and a half,
23 this is all in Arizona.

24 THE COURT: Anything about your family's

1 experience that causes you concern about being fair and
2 impartial here, Mr. Johnson?

3 A JUROR: No.

4 THE COURT: Thank you. Anyone else with the
5 disclosure? Ms. Kenney.

6 A JUROR: I have, this was years ago, but my
7 brother was caught selling pot. So he went to like a white
8 collar type of, I thought of it as a resort. So he went
9 there. And he got out very quickly. I have an uncle who is
10 an attorney that kind of got him out. So he didn't spend
11 very long there, which got me upset, because I think he
12 should have stayed there to learn a lesson, but he didn't
13 have to stay.

14 THE COURT: Do you have concern about being fair
15 and impartial to either side here because of that?

16 A JUROR: I'm not sure I trust like the whole
17 system because of that, because I had a father who was a
18 Teamster and I saw a lot of corruption and so I'm not sure I
19 trust the whole system. Because I know things -- people can
20 get off, because my brother did.

21 THE COURT: Anecdote is when we hear or see
22 something from someone else and not with our own eyes and
23 then based on anecdote, we can form opinions about it. So,
24 for example, anecdotally, I think OJ got off, but I wasn't in

1 the room. I didn't hear the evidence. I only know what was
2 reported on TV. I only know, you know, the small snippets I
3 could watch or somebody else could summarize for me.

4 And I might say, well, I don't trust what happened
5 in that case, but I do this job every day, let me assure you,
6 and no one comes in this room and lies knowingly in front of
7 me or any of the lawyers I work with without consequences for
8 it.

9 I can only tell you that this case and this system
10 will be true to the Constitution of the United States and the
11 State of Nevada. If that is true, do you have any concern
12 about being fair and impartial here?

13 A JUROR: Somewhat.

14 THE COURT: What do you mean?

15 A JUROR: I don't know. I just, like I said, my
16 father was friends with Jimmy Hoffa and I saw a lot of
17 corruption.

18 THE COURT: To be sure, there is corruption in the
19 world. And to be sure, there have been judges, our colleague
20 can tell us, there are publications that go out around the
21 country all the time that talk about judges engaging in
22 misconduct. To be sure, there are physicians and teachers
23 and priests and others who are dishonest at times. That's a
24 different thing than saying you can't be fair and impartial

1 here.

2 I can't tell, honestly, I need to make a record,
3 do you want to get out of service, or if you're being open
4 with me, because you have this fundamental concern about
5 being a juror at all?

6 A JUROR: Like you say, you have things that shape
7 your life. And I've been around that all my life with the
8 Teamsters and it's just how it is. I don't know. I've seen
9 good, I've seen bad, so I don't know.

10 THE COURT: Will you honor the oath you took?

11 A JUROR: Yes.

12 THE COURT: Will you follow the instructions I
13 give?

14 A JUROR: The best I can, yes, I will.

15 THE COURT: And will you be fair and impartial as
16 you evaluate witnesses to determine their credibility to
17 decide what the facts are?

18 A JUROR: I'll try.

19 THE COURT: That's all anybody can do. Thank you
20 for being open about skepticisms you have. Skepticisms are a
21 good thing, not a bad thing. Anyone else have a concern
22 about being fair and impartial in case or about the
23 presumptions of innocence? That's what it means when I say
24 Ms. Fletcher is innocent right now, she's presumed to be

1 innocent, if and until her guilt is proved beyond a
2 reasonable doubt. I don't see any concerns about that
3 prospect, correct?

4 Let me talk about the length of the trial in this
5 case. I want to give you some information. So there are
6 statutory exemptions what the law says I can let people out
7 of service for, if you will. One is while the legislature is
8 in session. It doesn't apply in this case, because the
9 legislature is not in session. Any police officer can be
10 excused from jury service. Any person of the age of 70 years
11 or over is exempt from serving as a juror. Anyone over 65
12 who lives more than 65 miles from the Court is exempt. I can
13 excuse a juror for sickness or physical disability, serious
14 illness or death of a member of the juror's immediate family,
15 undue hardship or extreme inconvenience or public necessity.
16 Those are the statutory bases.

17 This trial is anticipated to last two weeks. I
18 don't believe it's going to last all two weeks, but it will
19 go through this week and likely into the middle of next week.
20 The Court will go from 9:00 or 9:30 to 5:00 each day. Is
21 there anyone who seeks a hardship excuse from service? Let
22 me begin, we'll work from back to front. The first row that
23 includes Mr. Young, I see no hands. Ms. Kenney.

24 A JUROR: I care for two small children. I know

1 I'm older, but I adopted.

2 THE COURT: I want to you assure, I assume
3 nothing.

4 A JUROR: Okay. But anyways, yes, I have a
5 six-year-old and a nine-year-old.

6 THE COURT: Congratulations on that.

7 A JUROR: Thank you.

8 THE COURT: Unfortunately, none of that fits in
9 what I described. So, for example, it's the case that I have
10 breast feeding moms in court and I am required to offer them
11 an opportunity to pump or to express milk for their children,
12 but I can't excuse them from service for the purpose that
13 they have young children. Does that make sense?

14 A JUROR: Uh-huh.

15 THE COURT: Thank you for that. And if you serve,
16 I know it will be an inconvenience with young children.
17 Child care was always the bane of my existence with six, let
18 me assure you. Anyone in the second row? Ms. Walls.

19 A JUROR: I have a scheduled doctor's appointment
20 this Thursday and a scheduled C section next week.

21 THE COURT: I think that's one of the better
22 excuses I've heard. A Scheduled C section next week, trust
23 me, is something that I know better than to try to interfere
24 with. Thank you for sitting patiently with us. Thank you

1 for being here today. I hope the delivery goes well next
2 week. I'm sure it will.

3 A JUROR: Thank you.

4 THE COURT: I'll thank and excuse Ms. Walls,
5 unless there's any objection, counsel.

6 MR. STEGE: No.

7 MR. EDWARDS: No.

8 THE CLERK: Camille Chalk.

9 THE COURT: Welcome to you, Ms. Chalk. Would you
10 kind enough to introduce yourself?

11 A JUROR: I'm Camille Chalk. I'm a registered
12 nurse at Carson Tahoe Hospital. I'm married. My husband is
13 Michael Chalk and he is an accountant. We have one child who
14 is 14 months and I've lived in Reno for 11 years.

15 THE COURT: Good morning and welcome to you, Ms.
16 Chalk. Have a seat. Any of those bookmarks or red flags go
17 up for you as a result of any of the questions I asked?

18 A JUROR: No.

19 THE COURT: Anyone else have a scheduled C section
20 in the next two weeks? We're clear on that.

21 So I left off, did anyone want to discuss the
22 availability of a hardship excuses? In the second row,
23 Ms. Demers.

24 A JUROR: I don't know if this is a hardship.

1 It's a fun ship. I'm leaving for France on February 8th. I
2 have all the hotels and everything booked.

3 THE COURT: That's next --

4 A JUROR: February 8th is when the plane takes
5 off.

6 THE COURT: Two Saturdays or Sundays from now?

7 A JUROR: Yes. So I don't know if that --

8 THE COURT: We'll be done.

9 A JUROR: Cool. Then I can enjoy my trip.

10 THE COURT: Anyone else in the second row? In the
11 third row that begins with Mr. Gorman? Mr. Gorman.

12 A JUROR: I'm actually going to be a single
13 father. The only way I can watch my kids is during the
14 nighttime from 3:00 on. And also I live day by day by
15 paycheck, so \$40 a day is not going to cut it.

16 THE COURT: I'm sorry, Mr. Gorman. I have been in
17 both of those positions. I, too, have been a single father
18 with very young children and been struggling from paycheck to
19 paycheck and neither of those are a reason I can excuse you
20 for hardship. Any other concerns you wanted?

21 A JUROR: I'm also deaf in one ear.

22 THE COURT: Me, too.

23 A JUROR: Other than that, no. Just money
24 hardship.

1 THE COURT: Thank you for that. Ms. Schutz.

2 A JUROR: I have an appointment with a doctor for
3 my surgery, sciatic, 1:00.

4 THE COURT: 1:00 today? When the surgery?

5 A JUROR: He check first.

6 THE COURT: You don't know that you're going to
7 have surgery?

8 A JUROR: No.

9 THE COURT: I am so sorry --

10 A JUROR: And English is my second language.

11 THE COURT: Let's dive into that first, perhaps,
12 Ms. Schutz. I forgot, you told me, how long have you lived
13 here in Washoe County?

14 A JUROR: 13 years.

15 THE COURT: You have a driver's license?

16 A JUROR: Yes.

17 THE COURT: You work as a nurse's aid.

18 A JUROR: Yes.

19 THE COURT: Principally in the English language?

20 A JUROR: Yeah. But then medical, but I don't
21 know about guilty people, make me nervous.

22 THE COURT: All the charting is in English?

23 A JUROR: Excuse me?

24 THE COURT: All the charting you do is in English?

1 A JUROR: Yes.

2 THE COURT: Most of the patients --

3 A JUROR: Spanish, too.

4 THE COURT: I'm not trying to be hard on you. I'm
5 trying to demonstrate a point. And the point is, a jury of
6 one's peers means a cross-section of the community, members
7 from every part of the community, including people who have
8 the beauty, and it is a beauty, of two languages. I can tell
9 you also speak Spanish. I assure you, your Spanish is way
10 better than my English.

11 And I am satisfied as a licensed driver, somebody
12 with a license to act as a certified nurse's assistant who
13 has lived in the county for 13 years, you have an adequate
14 knowledge base of the language. Let's move back, though, to
15 the doctor's appointment.

16 A JUROR: I have an appointment at 1:00 at Renown
17 for my sciatic, because I have accident in the car accident
18 two times. And the last accident was in two weeks ago,
19 January 9th. And I have appointment, you know, with three
20 scheduled appointments in two months. I can't go too much,
21 because it really hurts.

22 THE COURT: I'm sorry for your hurt. That is not
23 the kind of doctor's appointment referred to by the statute.
24 Serious illness or death of a member's family is what the

1 statute says. So I apologize. If you're chosen to serve, I
2 assure you, I'll let you get up and move around if you need
3 to on occasion if you're in pain. We can talk about another
4 appointment that was set in the following two weeks, if you
5 were chosen to serve. Does that help?

6 A JUROR: Okay. But I need to call the doctor.

7 THE COURT: We'll have a break at some point and
8 you certainly can do that.

9 A JUROR: Okay.

10 THE COURT: Thank you for that. I'm sorry, ma'am.
11 Anyone else? Ms. Batten.

12 A JUROR: It's not a hardship, but I thought I
13 would share that I am breast feeding.

14 THE COURT: I assure you I will make reasonable
15 accommodations of your choosing in concert with the deputy.
16 I had a juror serve in a very serious case just a few weeks
17 ago who was likewise was breast feeding and it seemed to work
18 pretty well. If that need arises for you, please let me or
19 my deputy know. Mr. Whatley.

20 A JUROR: I'm the sole breadwinner of the family.
21 I know that probably won't excuse me.

22 THE COURT: It won't. In the way that emergencies
23 and urgencies come up in our lives, this is an emergency of
24 civic service, I call it, and so it is not a reason for me to

1 excuse you for cause. I apologize, Mr. Whatley. Anyone
2 else? I don't see any other hands in the prospective panel.

3 MR. STEGE: I'm sorry, your Honor. Mr. Savage.

4 THE COURT: Because, Mr. Echard, you're not doing
5 anything wrong, because he sits forward in his seat, I don't
6 see him.

7 A JUROR: My chair is broken.

8 THE COURT: Yes, sir.

9 A JUROR: Right now in the middle of physical
10 therapy for a torn rotator cuff, didn't mind a couple of
11 days, but two weeks of missing it would put me that much
12 further behind in the recovery.

13 THE COURT: I understand completely, Mr. Savage.
14 I promise I have a heart. I promise I have a heart. I know
15 there are physical therapy appointments that you can get at
16 7:00 a.m., for example. So I would impose upon you, if you
17 were chosen, to rearrange that schedule and I'm sorry.
18 Anyone else? Yes, please, Ms. Hart.

19 A JUROR: I know you already mentioned it's not a
20 hardship, but I am, too, a nursing mom and I'm a
21 stay-at-home-mom. I'm the sole child care giver.

22 THE COURT: I understand completely in the way
23 that urgencies come up in life and one has to ask parents or
24 others or friends to step in, I would do that in this case.

1 I apologize for that. Anyone else?

2 A JUROR: I have a question.

3 THE COURT: Yes, ma'am.

4 A JUROR: Is it illegal for me to offer this
5 gentleman some money to help him?

6 THE COURT: Yes, it probably is.

7 A JUROR: It is. So that he doesn't have to worry
8 about his --

9 THE COURT: I can't thank you enough for your
10 immediate thought of kindness towards another citizen. In
11 the end, there can be no money exchanged for or related to
12 jury service --

13 A JUROR: Okay.

14 THE COURT: -- save and except the statute. The
15 good news, ladies and gentlemen, is almost all of you, if not
16 all of you, are voters. And if as voters you think \$40 a day
17 for jury service is not adequate to the task, you can change
18 the law, and I would invite your consideration of that as you
19 talk to your legislators moving forward.

20 A JUROR: Okay. It wouldn't do anything illegal.

21 THE COURT: I appreciate it so much. Thank you
22 for the offer. Anyone else? Have I missed anything? Are
23 any of you sitting, if you just ask me this, judge, it would
24 demonstrate my inability to serve. I see no hands.

1 Counsel, I would suggest we've been at it an hour
2 and 45 minutes or so, I would suggest a break. The only
3 reason I hesitate about a break, ladies and gentlemen, is
4 there are 65 of you and there are only a few number of
5 bathrooms on each floor of the court and I can't begin again
6 until everybody is in the same seat again and we've taken
7 roll.

8 So we'll take a break, I'm going to try to keep it
9 to 20 minutes. Please follow the directions of the bailiffs.
10 They will point you to the vagaries of where the restrooms
11 are located and then please return immediately to the
12 courtroom. We'll be in recess subject to recall.

13 (A short break was taken.)

14 THE COURT: Well done to all of you moving that
15 many people around the courthouse in 20 minutes. Thank you
16 for making it happen, ladies and gentlemen. Let's begin with
17 roll.

18 THE CLERK: When I state your name again, please
19 state present.

20 (Jury roll taken at this time.)

21 THE COURT: So thank you for that, ladies and
22 gentlemen. I've not offered this admonition before, but,
23 ladies and gentlemen, an admonition I'm invited to offer in
24 light of some sound that accompanied us is this, please don't

1 use your cell phones for research about this case, reference
2 about this case, look at your cell phones, make reference to
3 your cell phones, and if your cell phone rings, it's mine.
4 So please make it an iPhone 11, if it rings. I appreciate
5 that. I'm kidding. At this time, Mr. Stege, I turn to you
6 and ask if you would like to inquire of the panel.

7 MR. STEGE: I would, thank you.

8 THE COURT: Please.

9 MR. STEGE: Let's start with some follow-up
10 questions to some things that grabbed my attention, starting
11 with Mr. Gorman. This issue of your uncle, how closely were
12 you involved in that case?

13 A JUROR: I mean, technically, I was involved with
14 it for the past 15 years, but not closely.

15 MR. STEGE: What have you been doing sort of
16 involvement in the last 15 years?

17 A JUROR: He's been in prison this whole time.

18 MR. STEGE: You communicate with him?

19 A JUROR: Yes.

20 MR. STEGE: How frequently?

21 A JUROR: Maybe once or twice a year.

22 MR. STEGE: And there was a trial?

23 A JUROR: There was a trial. He was sentenced and
24 he is in the federal penitentiary.

1 MR. STEGE: Were you involved in the trial at all
2 or did you go, for example, watch the trial?

3 A JUROR: Only for one of them, no. Other than
4 that, that's it, just because I was young.

5 MR. STEGE: What do you mean one of them? Were
6 there multiple trials?

7 A JUROR: Yes.

8 MR. STEGE: What was the charge for the trial you
9 watched?

10 A JUROR: It was just first degree murder, but it
11 was associated instead of being the main person. I don't
12 know how to explain it.

13 MR. STEGE: I'll try to explain it, aider and
14 abettor or vicarious liability. So he was part of maybe the
15 people who killed the person.

16 A JUROR: Yeah, he was a part of it.

17 MR. STEGE: What was the killing about?

18 A JUROR: That's where it comes in where I can't
19 say what it was for sure. But from what the Court had said
20 it was, was he planned it and someone else did it.

21 MR. STEGE: Okay. And at the time that the crime
22 happened, how close were you to your uncle?

23 A JUROR: I was very close at that time.

24 MR. STEGE: Were you living in the same town as

1 him?

2 A JUROR: Pretty much, yes.

3 MR. STEGE: How often would you see him at the
4 time?

5 A JUROR: Be four months every year straight,
6 because I lived in Sacramento and he lived up in Eureka and I
7 would visit my family every summer.

8 MR. STEGE: Would you stay with him in the summer?

9 A JUROR: Yes, because they all stayed in one
10 house.

11 MR. STEGE: Do you feel like he was treated
12 fairly?

13 A JUROR: I feel like he was treated unfairly,
14 because I felt like there wasn't enough evidence, because of
15 the fact that he wasn't anywhere near it. And it was just
16 saying, he said, she said, by the people who actually
17 committed the crime and involved him into it. So I've lost
18 my uncle for the past 15 years.

19 MR. STEGE: You understand why that probably
20 causes me some concern about having someone like you on this
21 jury?

22 A JUROR: I do.

23 MR. STEGE: And it sounds to me like you maybe
24 come to this expecting either a lot from the State, more than

1 the average person?

2 A JUROR: Uh-huh.

3 MR. STEGE: Do you think that's true?

4 A JUROR: Yes.

5 MR. STEGE: You think you come into this, not
6 knowing anything about the case, but maybe with a sympathy or
7 a predisposition for the defendant.

8 A JUROR: Most likely, yes. I feel like there's
9 not enough evidence for me to even say yes or no.

10 MR. STEGE: Right now there's not.

11 A JUROR: Right.

12 MR. STEGE: What about if you do get on this case,
13 you sit on this jury, and you are convinced, do you think you
14 will reflect on the pain caused to you for the loss of your
15 uncle?

16 A JUROR: I probably would reflect on the pain. I
17 would feel like it wouldn't be enough, unless it was very
18 substantial.

19 MR. STEGE: Even if it might be enough, because of
20 this experience with your uncle, you would be inclined to say
21 it's not enough.

22 A JUROR: Yeah.

23 MR. STEGE: Is that you saying that maybe you
24 couldn't be fair in this case?

1 A JUROR: I can't say if I would be fair with the
2 plaintiff or the defendant.

3 MR. STEGE: Even though you sort of have a --
4 would you call it a bias against the prosecution because of
5 your experience?

6 A JUROR: Yes.

7 MR. STEGE: How firmly held is that bias?

8 A JUROR: Pretty strongly, because all of my
9 family has the same position on it, too.

10 MR. STEGE: And do you have any experience in your
11 life that is the opposite of that, that justice was done?

12 A JUROR: No. I even had my mother-in-law
13 vandalize my house and it was denied, even though I had
14 substantial evidence. I've had people attack me and stuff
15 like that and just ignored it. So added with my uncle, which
16 was pretty bad, and then with the smaller cases, I've done
17 civil dispute on my mother-in-law, who was an alcoholic, and
18 put my children in danger and it was dismissed.

19 MR. STEGE: I noticed you put that in your jury
20 questionnaire about this suit involving your mother-in-law.

21 A JUROR: Uh-huh.

22 MR. STEGE: It sounds to me, and please correct me
23 if I'm wrong, but you probably would not be a good juror for
24 a case of this nature.

1 A JUROR: Most likely not, not when it comes to
2 this actual case itself.

3 MR. STEGE: Okay.

4 A JUROR: Just because it's murder and not
5 something else like a car accident or that kind of thing.

6 MR. STEGE: Right, but doesn't your experience
7 sort of infect your entire world view about justice?

8 A JUROR: Most likely, yes, because, like I said,
9 I've gone through civil, too, I still didn't get any justice.

10 MR. STEGE: Do you feel like -- well, I hear you
11 saying you wouldn't give the State, me, a fair shake in this
12 case?

13 A JUROR: It would be very hard. It's just
14 because, like I said, with my uncle, it didn't feel fair. It
15 felt like, no.

16 MR. STEGE: This dispute a jury of his peers
17 convicted him?

18 A JUROR: Uh-huh.

19 MR. STEGE: Is that a yes?

20 A JUROR: Yes.

21 MR. STEGE: Your Honor, I move to excuse
22 Mr. Gorman.

23 THE COURT: Do you wish to traverse?

24 MR. EDWARDS: Could I have a word with him?

1 THE COURT: Go ahead.

2 MR. EDWARDS: Mr. Gorman, are you saying that you
3 possess an inability to follow the law as it's given to you
4 by the judge?

5 A JUROR: It's not that I wouldn't be able to
6 follow a law, it would be very hard to make a decision on my
7 own account, just because, like I said, with my uncle. I
8 didn't feel like it was fair. I didn't feel like justice was
9 served properly. But that's just my opinion and my family's
10 opinion and from evidence that my family had given, it felt
11 very unfair. It wasn't enough, substantial enough. So I
12 felt like I would always just go with the defendant unless
13 there's pretty good, obvious evidence that it's the
14 plaintiff's side instead.

15 MR. EDWARDS: That's all I have, your Honor.

16 THE COURT: I'll thank and excuse Mr. Gorman.
17 Thank you. You honestly have indicated there would be sort
18 of an extra burden of proof for the State and no extra burden
19 of proof is required, certainly, on behalf of the State. So
20 thank you for your time. Please check in with the
21 commissioner downstairs. Mr. Gorman, that means you'll go
22 back into the hopper for service in another trial.

23 A JUROR: Thank you, sir.

24 THE CLERK: Jon Mittelstadt.

1 THE COURT: Thank you, Mr. Mittelstadt. Before
2 you have a seat, go ahead and introduce yourself.

3 A JUROR: Jon Mittelstadt. I'm a meteorologist
4 with the National Weather Service. I'm married. My wife's
5 name is Tia. She's an administrative assistant. I have two
6 children, both boys, 16 and 22. And I've lived here in
7 Washoe County for eight years.

8 THE COURT: Welcome to you, sir. Please go ahead
9 and have a seat, Mr. Mittelstadt. Mr. Mittelstadt, any of
10 those red flags or bookmarks go up as a result of any of the
11 questions I asked?

12 A JUROR: They did not.

13 THE COURT: Mr. Stege, I invite you to continue.

14 MR. STEGE: Thank you. Next following up,
15 Mr. Cruz, we didn't hear a lot from you during the judge's
16 portion, but I was struck by on your questionnaire indicating
17 you have some court history yourself.

18 A JUROR: Yes.

19 MR. STEGE: Can you tell us about that?

20 A JUROR: It's been, you know, 21 years, but I was
21 a very violent young man.

22 MR. STEGE: Okay.

23 A JUROR: I had a lot of anger issues.

24 MR. STEGE: Okay.

1 A JUROR: I had some help with it, you know, with
2 my family helped me with psychiatrists and I was diagnosed --

3 MR. STEGE: I'm not trying to embarrass you.

4 A JUROR: I'm okay with talking about it. I took
5 the classes and that's what helps me, anyways, talking about
6 it.

7 MR. STEGE: Okay.

8 A JUROR: I separate myself from things that anger
9 me, because that's how I live my day every day. Because, you
10 know, when you have an anger problem, you have to -- I got a
11 little book.

12 MR. STEGE: Okay. You write down stuff?

13 A JUROR: No. It just kind of tells you things,
14 you know, to sit back and think for a second, is this going
15 to matter in five minutes? Is it something that you can live
16 with next week? Or do you really have to get this off your
17 chest right now?

18 MR. STEGE: Right.

19 A JUROR: And there's things like that that I've
20 dealt with. I got an on/off switch. I don't have a medium.

21 MR. STEGE: Sounds like that approach has been
22 pretty helpful to you in your -- at least later life.

23 A JUROR: Yes. I mean, you know, like I said, I
24 was violent when I was younger and I took it to middle age,

1 probably. But, you know, I'd say in the last 21 years I have
2 had no police contact and I'm not -- I used to have a little
3 prejudice with the police.

4 MR. STEGE: Okay.

5 A JUROR: Because I come from Arizona.

6 MR. STEGE: Okay.

7 A JUROR: I'm a Hispanic American. My family has
8 been here. My grandfather was here since 1827 in the trading
9 posts in Arizona. But I never could shake the prejudice that
10 was put on all of us who live in Arizona, very prejudiced
11 state.

12 MR. STEGE: Right.

13 A JUROR: Police were very prejudice during the
14 time I was raised there and it's noted if you look back in
15 Arizona, it's noted.

16 MR. STEGE: Right.

17 A JUROR: I've been here and I have to say that I
18 am very pleased, I guess, with the police department, because
19 I'm never had an incident where I've been disrespected or --
20 so that doesn't carry to here, I guess.

21 MR. STEGE: That's a bright spot. That's good to
22 hear.

23 A JUROR: I like Nevada. That's why I haven't
24 moved back home. I have a lot of things at home, a lot of

1 properties and stuff. I just don't like Arizona. Arizona
2 don't like me.

3 MR. STEGE: I'm going to dig a little bit deeper
4 about some of these issues back, I guess, in the late '90s.

5 A JUROR: Yes.

6 MR. STEGE: You said you haven't had any police
7 contact recently. Was there a time back in Arizona where you
8 were having some criminal legal issues?

9 A JUROR: Yes. It was mainly because of my anger
10 and my lifestyle, maybe partly that I never married. You
11 know, I spent a lot of time in the bars and with an anger
12 issue and you drink a little bit, it's not the place to be.

13 MR. STEGE: Is that where some of this violence
14 that you mentioned occurred?

15 A JUROR: Most of it always occurred there.

16 MR. STEGE: Besides sort of bar violence, was
17 there other violence in your past?

18 A JUROR: Well, you know, I've had girlfriends and
19 probably all of them, either she threw me out or I threw her
20 out.

21 MR. STEGE: Well, you're a good looking man. You
22 wrote on here something about a domestic violence, 1999
23 Arizona.

24 A JUROR: Yes, I had a domestic violence from

1 1999.

2 MR. STEGE: You wrote this in the area for
3 questions about felony offenses.

4 A JUROR: Yes.

5 MR. STEGE: Was that a felony conviction?

6 A JUROR: Yes, it was.

7 MR. STEGE: And what was the consequence?

8 A JUROR: I kind of, I don't know, I kind of gave
9 up on it to get some help.

10 MR. STEGE: Okay.

11 A JUROR: And I took the charges.

12 MR. STEGE: Okay.

13 A JUROR: So much that it wasn't something I
14 couldn't beat, but I needed some help.

15 MR. STEGE: Was the result of that not a trial,
16 something other than a trial?

17 A JUROR: No, there was never a trial.

18 MR. STEGE: So you entered a plea?

19 A JUROR: I entered a plea.

20 MR. STEGE: And served a felony sentence?

21 A JUROR: Yes.

22 MR. STEGE: Was that sort of the end of this
23 violence?

24 A JUROR: Yes, it has been. And there's a few

1 things, you know, because I spent a little time inside the
2 system, you know, when you're in and out or whatever.

3 THE COURT: Mr. Cruz, I'm sorry to interrupt, and
4 I'm sorry interrupt, Mr. Stege, have your civil rights been
5 restored?

6 A JUROR: Oh, yes.

7 THE COURT: Where did you have them restored at?

8 A JUROR: Restored at where?

9 THE COURT: So you can petition in most states of
10 the country, I don't know the process.

11 A JUROR: Yes, in Arizona, we petitioned to have
12 that done and that was probably, I think, probably 2005 or
13 something like.

14 THE COURT: Thank you. Go ahead, Mr. Stege.

15 A JUROR: Maybe a little sooner, right around
16 there. I think it's 3 to 5 years or something.

17 MR. STEGE: That's where I was leading. The
18 question is? Are you still a convicted felon?

19 A JUROR: No.

20 MR. STEGE: You have had your civil rights
21 restored?

22 A JUROR: Yes. I just have a little -- my biggest
23 thing with the judicial system is not that people aren't
24 wrong for what they do, I mean, I knew I was wrong for what I

1 did and I wasn't going to take it to court or nothing. I
2 needed the help. So I realized things like that in myself.

3 But the real bad thing about it is that in the
4 judicial system, I don't know, in the county or the prisons
5 and the courts, you know, I know a lot of people that there's
6 no help for nobody for anything. And I tried to get help
7 with anger management through the courts. I had to reach out
8 and do it on my own.

9 MR. STEGE: You might be surprised at how much
10 things have changed in 20 years if you were to come watch.

11 A JUROR: It's been 21 years or something since
12 I've had any contacts.

13 MR. STEGE: You understand why that maybe causes
14 me some reluctance to have you on the jury.

15 A JUROR: Yes. Yes. I mean -- and I don't -- I'm
16 a pretty fair person. I work with customer service and
17 really good with my temper, with my anger anymore and I
18 learned how to deal with a lot of things. I just, I kind of
19 wonder if I should actually even judge somebody.

20 MR. STEGE: Why?

21 A JUROR: For something so serious. Because I'm a
22 Catholic, I was an alter boy for 18 years and you stray off a
23 little bit, but then you come back to the reality a little
24 bit and you grow up and you try not to, I guess, judge

1 people.

2 MR. STEGE: Do you think, like Mr. Gorman, he sort
3 of indicated he would come in and have a sympathy or a
4 bias -- bias against the State and maybe a sympathy towards a
5 defendant, even without knowing the case.

6 A JUROR: I think I would, you know, just -- I
7 think I'm a pretty fair person, but I would, you know, I'm
8 truthful and I think I would probably be more sympathetic
9 with the defense.

10 MR. STEGE: Are you like Mr. Gorman who ultimately
11 said, you know, he's probably not a good juror for this case,
12 given --

13 THE COURT: Somebody's phone -- I'm sorry for
14 interrupting. Somebody's phone is going off again. If you
15 could please silence it.

16 A JUROR: I don't want this conversation.

17 THE COURT: Hang on.

18 A JUROR: It's muted and it's making noises.

19 THE COURT: Turn it off, please.

20 A JUROR: I'm trying. I'm so sorry.

21 THE COURT: I'm going to ask the deputy to take it
22 out of the courtroom. You can retrieve it from her on the
23 break.

24 Please go ahead, Mr. Stege.

1 MR. STEGE: Sir, are you in that same group or
2 similar to Mr. Gorman where this -- where you call that a
3 bias?

4 A JUROR: You know, I try not to be anymore, but I
5 think I probably still hold a little bias. I do. And I'm
6 trying not to anymore about a lot of things. But I think
7 maybe with some of the years I've had in Arizona, I think I
8 probably hold a little bias.

9 MR. STEGE: And in that sense, you would -- not a
10 bad juror, but maybe not a good juror?

11 A JUROR: Maybe not quite as open. I mean, and I
12 don't know, I believe that people should, you know, you sow
13 your oats and you pay for your crimes and I do believe in
14 that. But I also believe I've ever been treated unfairly. I
15 was just not in the right state of mind back then.

16 MR. STEGE: A product of youth?

17 A JUROR: Yes. And I think it's the anger thing.
18 I carried a lot of anger in my life. My dad was dead when I
19 was a very young boy and the only thing I knew how to do to
20 defend myself living with a single mom for all of those years
21 in a kind of racially bad situation I was in was to put them
22 up and that's what -- that's how I grew up. And then, you
23 know, the anger issue helped me stay in that life I led. But
24 like I said, it's been 21 years and I'm a pretty calm guy

1 now.

2 MR. STEGE: But yet some of that bias --

3 A JUROR: And then I wonder, because I've never
4 been --

5 THE COURT: Let me help, Mr. Cruz, let me help.
6 The question comes down to this, not whether you would be the
7 best juror or not for this case, but does the State begin a
8 step behind because of your own experiences and the bias you
9 describe?

10 A JUROR: I would hope it's the evidence that
11 shows something, no. That's what I would hope.

12 THE COURT: Right. It's sort of like being
13 pregnant, either you are or you aren't. So you've been of
14 affable --

15 A JUROR: I know with pasts like that, sometimes I
16 guess something could sway me real easily maybe.

17 THE COURT: Do you wish to challenge for cause?

18 MR. STEGE: I do. I'm sorry.

19 THE COURT: Mr. Edwards.

20 MR. EDWARDS: Mr. Cruz, are you telling us that
21 you won't listen to what the judge says?

22 A JUROR: No.

23 MR. EDWARDS: What the evidence says?

24 A JUROR: Not at all.

1 MR. EDWARDS: Are you going to start him back like
2 we're in some kind of a weird relay race?

3 A JUROR: No. That's not the case. But what I am
4 only saying about the whole thing is with my past and stuff,
5 because I do have a little bias to the court system.
6 Because, you know, I didn't get convicted, but I put myself
7 there. And then while I was there, I saw no help for people
8 anyway, which makes it hard for me to want to put somebody
9 there.

10 MR. EDWARDS: Can you be fair with my client?

11 A JUROR: Oh, I'm sure I could.

12 MR. EDWARDS: How about Mr. Stege?

13 A JUROR: I might be more than fair.

14 THE COURT: That's at the heart of it and I think
15 that does establish a challenge for cause.

16 A JUROR: That's the only thing.

17 THE COURT: I'm sorry, Mr. Cruz. I apologize. If
18 you would stop talking. Do you want to traverse the
19 challenge? It's clear he said honestly and openly and
20 forthrightly, he has, his words, a little bias.

21 MR. EDWARDS: Can't be fair and impartial?

22 A JUROR: I don't know how much of that will be
23 doable. I could be fair and impartial, but when it comes
24 down to, you know, what we're trying here, I'm not really

1 fair about wanting to be in the position of judging.

2 THE COURT: Well, we're now wandering afield of
3 the question. I apologize for that. Let's just put an end
4 to it. I hear your challenge, you may object on the record
5 if you'd like. I'm going to thank and excuse Mr. Cruz. He
6 has established a bias or prejudice. Thank you for your
7 time, Mr. Cruz. If you would check in with the jury
8 commissioner.

9 A JUROR: I'm sorry.

10 THE CLERK: Michael Hillyer.

11 THE COURT: Mr. Hillyer, would you be kind enough
12 to introduce yourself to us?

13 A JUROR: My name is Michael Hillyer. I'm an
14 inspector is for a fire company. I'm married coming up on
15 25 years. My wife works as a manager for Manor Academy. I
16 have two children, 17 and 19. And I've been in Reno for
17 36 years.

18 THE COURT: Welcome to you, sir. Thank you. Good
19 afternoon to you. Mr. Hillyer, any of those red flags or
20 bookmarks come up for you as a result of any of the questions
21 I've asked thus far?

22 A JUROR: No.

23 THE COURT: Mr. Stege, I return to you, sir.

24 MR. STEGE: Thank you. Ms. Martinez, during the

1 judge's portion of the questioning, there was a question
2 about anyone being accused of a crime or anyone close to you
3 being accused of a crime and I noticed you did not raise your
4 hand.

5 A JUROR: No.

6 MR. STEGE: Why not?

7 A JUROR: Because it wasn't me that was accused of
8 the crime. It was my husband.

9 MR. STEGE: Okay. Are you comfortable telling us
10 a little bit about that?

11 A JUROR: About my husband?

12 MR. STEGE: Because you wrote down in your
13 questionnaire that something about your husband.

14 A JUROR: Yes.

15 MR. STEGE: About his legal --

16 A JUROR: Uh-huh.

17 MR. STEGE: -- issues. Right?

18 A JUROR: Yes.

19 MR. STEGE: Do you feel like he was treated
20 fairly?

21 A JUROR: Honestly, at that time, black or white,
22 I really have -- he told me his side of the story and stuff
23 and I listened, but at the time I wasn't in his life, so --

24 MR. STEGE: Were you guys together during this

1 incident in 2005?

2 A JUROR: No. We got together in 2010.

3 MR. STEGE: Okay. And do you know the result of
4 this, the trial or did he go to trial or did he enter a plea?

5 A JUROR: I think he went through a trial.

6 MR. STEGE: Okay. And do you know the result of
7 it?

8 A JUROR: He was convicted.

9 MR. STEGE: He was convicted. Okay. Do you
10 have -- how does he see how he was treated?

11 A JUROR: He --

12 MR. STEGE: Fairly, unfairly?

13 A JUROR: He told me that he was treated unfairly,
14 because of one weighed out the other and it's just most sides
15 were agreeing on a certain thing and he felt untreated.

16 MR. STEGE: Was the result of his conviction that
17 he went to prison?

18 A JUROR: Uh-huh.

19 THE COURT: I see you shaking your head yes. I
20 have to ask you to answer out loud only so Ms. Koetting can
21 record it.

22 A JUROR: Yes.

23 THE COURT: Thank you.

24 MR. STEGE: I'm not trying to make you

1 uncomfortable. I know it's difficult in front of a lot of
2 people. You understand why it might cause me some concern --

3 A JUROR: Uh-huh.

4 MR. STEGE: -- to have you on this jury?

5 A JUROR: Yes.

6 MR. STEGE: Do you share your husband's views
7 about how he was treated?

8 A JUROR: I try not to, because it's something
9 that he shouldn't have gone through. It's just like, I don't
10 know, it's really difficult.

11 THE COURT: You're doing a good job and it's okay.
12 Nobody is trying to make you uncomfortable. Mr. Stege is
13 doing a good job with being gentle with his questions.
14 Please go ahead.

15 MR. STEGE: So do you share his view or do you
16 have a different view about sort of is our justice system
17 fair, our trials fair, our police are fair?

18 A JUROR: I don't want to judge or nothing like
19 that and I don't want to --

20 MR. STEGE: I'm inviting you to judge, go ahead,
21 because being on a jury you have to make judgments. For
22 example, do you feel that the police are fair?

23 A JUROR: Sometimes, no.

24 MR. STEGE: And sometimes, yes?

1 A JUROR: And sometimes, yes.

2 MR. STEGE: Do you feel like because of what
3 happened to him, maybe there's something wrong with the
4 justice system or that it's unfair?

5 A JUROR: Yes.

6 MR. STEGE: Do you have similar views as the two
7 other -- the two gentlemen who left, Mr. Cruz and Mr. Gorman,
8 that maybe the defendant would start with a leg up just going
9 into trial or I would start sort of behind coming into trial
10 based on your experience and world views?

11 A JUROR: Yes.

12 MR. STEGE: And so even though you don't know
13 anything about this.

14 A JUROR: I don't.

15 MR. STEGE: We haven't even talked about what the
16 allegations are. You only know it's murder.

17 A JUROR: That's a scary thing.

18 MR. STEGE: I agree. But do you think even though
19 you don't know anything about it, do you come into this case
20 with a bias against the state or for the defendant without
21 knowing anything? Do you understand what I'm asking?

22 A JUROR: Huh-uh.

23 MR. STEGE: What I'm asking is: Is there anything
24 I can do to change your mind here about this bias that you

1 have with the system?

2 A JUROR: No.

3 MR. STEGE: Your Honor, I move to thank and
4 excuse.

5 THE COURT: Mr. Edwards.

6 MR. EDWARDS: Your Honor, I'd like to see about
7 that. Ms. Martinez, are you saying you won't listen to the
8 evidence before you decide?

9 A JUROR: It's not that I won't. It's that I used
10 to be on that side and now I'm on this side and it's kind
11 of -- I don't want to --

12 MR. EDWARDS: You used to be here in her position?

13 A JUROR: Yeah.

14 MR. EDWARDS: And you feel you were unfairly
15 treated in the criminal justice process somehow or from what
16 your husband told you about what he went through?

17 A JUROR: Yes.

18 MR. EDWARDS: Do you have any other reason why you
19 would not treat Mr. Stege fairly, the State?

20 A JUROR: No.

21 MR. EDWARDS: If you had to vote right now, what
22 would you vote? You couldn't really vote right now, you know
23 that, because you wouldn't have anything to vote on. It
24 would be just how you feel. Are you telling me -- I mean,

1 the correct answer is it would be not guilty.

2 A JUROR: Uh-huh.

3 MR. EDWARDS: Because of the presumption of
4 innocence that you heard the judge talk about, right.

5 A JUROR: Yes.

6 MR. EDWARDS: But if you were voting not guilty
7 because you had something in for the State or Mr. Stege, that
8 wouldn't be proper.

9 A JUROR: No.

10 MR. EDWARDS: Is that what you're telling us?

11 A JUROR: No.

12 MR. EDWARDS: Obviously, it's a big charge.
13 Everybody here probably feels that way. But that's not
14 necessarily a reason why you shouldn't serve on this jury.
15 If you can tell me that you'll be fair and impartial and not
16 be unfair to the State or Mr. Stege, there is no reason why
17 you shouldn't be part of this jury pool. So what are you
18 telling us?

19 A JUROR: I would like to excuse myself from this
20 service.

21 MR. EDWARDS: Okay. Maybe a different kind of
22 case would be better for you.

23 THE COURT: That's not the legal standard, let's
24 establish that. So there's a few things that we have to do

1 as citizens, really a very few, easy for me to say. You have
2 to pay taxes, right. If you're a man between certain ages,
3 you have to register for selective service and you can be
4 drafted. And you have to serve as a juror. And that's a
5 part of our civic duty. That's why there are very narrow
6 exceptions to service.

7 So you can't just come in say, I excuse myself.
8 But I think as I watched your demeanor, your fearful now and
9 I don't mean to make you feel afraid. It seems that you're,
10 in addition to being afraid, perhaps worried about what we
11 might all think. But I think underneath it all, what I've
12 heard you say is, look, I had some rough brushes with the
13 system, my husband has been convicted, I don't think he was
14 treated fairly, and I don't really think I can be fair to the
15 State in this case. That's true, right?

16 A JUROR: Yes.

17 THE COURT: That's a challenge for cause.

18 MR. EDWARDS: There you have it.

19 THE COURT: Thank you very much for your time,
20 Ms. Martinez. I thank and excuse you. Please step in with
21 the jury commissioner downstairs.

22 A JUROR: Thank you, your Honor.

23 THE CLERK: Ashley Warren.

24 THE COURT: Good morning, Ms. Warren. Welcome to

1 you. Before you sit down, if you'd be kind enough to
2 introduce yourself.

3 A JUROR: I'm Ashley Warren. I'm a marketing
4 director for a start-up. I'm married. My husband is Andrew
5 Warren. He's a robotics engineer. No kids. And I've been
6 here since college, so about 14 years.

7 THE COURT: Any of those red flags or bookmarks go
8 up for you as a result of any questions I asked?

9 A JUROR: I don't believe so. I have had family
10 members who have been in the legal system for various reasons
11 and my step dad used to be a corrections officer, but I don't
12 believe it should cause me any bias.

13 THE COURT: Corrections officer in what
14 jurisdiction?

15 A JUROR: It was in California. It was at
16 San Quinton.

17 THE COURT: Any of those carry-overs I've asked
18 people, those things from your own experiences that you bring
19 into this room that cause you concern about being fair and
20 impartial to either side in this case?

21 A JUROR: I don't believe so.

22 THE COURT: Mr. Stege.

23 MR. STEGE: Thank you. I'm going to move on from
24 that prior subject, unless there's anyone who wants to bring

1 up, speaking with the prior three that have been excused, if
2 that brings up anything for someone, speak now or forever
3 hold your peace.

4 I'm going to go to people I just haven't heard a
5 whole lot from. Well, let's go first to Ms. Schutz. And I'm
6 sorry to -- I don't want to embarrass you, but have you been
7 able to follow what is -- in terms of the English use in
8 court? How have you been able to follow so far today?

9 A JUROR: What I understand?

10 MR. STEGE: Yes.

11 A JUROR: Sometimes I don't understand very well,
12 but sometime I understand the verb and I follow this one.

13 MR. STEGE: You said sometimes you just understand
14 the verb?

15 A JUROR: Yes, I understand.

16 MR. STEGE: Okay. Have you understood --

17 A JUROR: The basic word.

18 MR. STEGE: Now, how does that -- you said earlier
19 that you in your daily job you use English language.

20 A JUROR: Yeah, we use English, too, and Spanish,
21 too, but the patient who I have is like a total care, like a
22 disabled, total disabled.

23 MR. STEGE: Okay.

24 A JUROR: They can't move, can't talk.

1 MR. STEGE: Okay.

2 A JUROR: And you need to feed the people, you
3 need to give a shower, you need to bath, bed bath, and like
4 this, the patient we have.

5 MR. STEGE: There's not a lot -- this is
6 insensitive to say, but there's not a lot of sort of
7 communication with a lot of your patients?

8 A JUROR: No, the speech therapy the communication
9 more for talking. We communicate with the chart and in the
10 computer is. But the chart was, say, how much they eat, how
11 much you feed.

12 MR. STEGE: Okay.

13 A JUROR: She get a bath today. Medication and
14 talking with the family, it's the chart nurse.

15 MR. STEGE: Not you, it's another.

16 A JUROR: It's more the physical work.

17 MR. STEGE: Okay. How much interaction do you
18 have with, say, doctors?

19 A JUROR: Doctor is more communication with the
20 nurse. I assist the nurse. So I communication more with the
21 nurse, the basic, the physical, I guess, feeding, change.

22 MR. STEGE: And in talking to the nurse, is that
23 done in Spanish or English?

24 A JUROR: Talking with the nurse, I have in this

1 career about 16 years, 17 years.

2 MR. STEGE: Okay.

3 A JUROR: And I talk in the basic, like how much
4 feeding, because these patients is total care. They no
5 mobility, no ability to move.

6 MR. STEGE: Yes. And what percentage of what the
7 judge and the lawyers have said would you say you've been
8 able to follow this morning?

9 A JUROR: Follow as stay here? Well, I don't know
10 I feel case like a -- I am Christian. I go to the church.
11 In some case like people embarrassed talking about that.

12 MR. STEGE: Okay.

13 A JUROR: The person. Yeah, I feel I guess -- I
14 wouldn't choose this person and choose, I feel like it's part
15 of life. Uh-huh. I know they want guilty or not guilty, but
16 some need the respect inside.

17 MR. STEGE: Who needs respect?

18 A JUROR: So the person, if I had to choose the
19 person, I think so, I feel inside -- well, I talking with the
20 heart. I not talking with my brain.

21 MR. STEGE: That works. Heart talks, too.

22 A JUROR: I talk with my heart. I feel like, how
23 do they say, I feel embarrassed talking about my other life
24 with people dead or people sick or mental sick or dead

1 inside -- dead, like the father dead or the mother dead, you
2 know, or abuse.

3 MR. STEGE: How does affect --

4 A JUROR: I talk with my heart. I not talk with
5 my brain.

6 MR. STEGE: How does it that affect --

7 A JUROR: It affects me inside.

8 THE COURT: The question, though, is this:

9 Mr. Stege is trying to determine whether under the statute
10 you have the specific language is sufficient knowledge of the
11 English language. You clearly do. And he's just asking
12 about that.

13 MR. STEGE: Right. It sounds like, then, you went
14 into this issue about feeling for the defendant or feeling
15 for dead people. What's that about? What are you trying to
16 say with that talking about --

17 A JUROR: Where --

18 MR. STEGE: Speaking from the heart.

19 A JUROR: For the person, I think so, it's
20 inside -- sorry is somebody dead?

21 MR. STEGE: Someone is dead.

22 A JUROR: And it's personal, I think so, personal
23 talking about that case.

24 MR. STEGE: It is personal talking about that

1 case, for sure.

2 A JUROR: Uh-huh.

3 MR. STEGE: You think you might have an emotional
4 reaction?

5 A JUROR: Exactly. Like I said, I go to the
6 church and it's something inside, something inside the human
7 being, you know.

8 MR. STEGE: Do you think --

9 A JUROR: I don't know if you understand me.

10 MR. STEGE: I'm not exactly following you, but it
11 sounds like you're saying you might be afraid, you might have
12 an emotional reaction because there's a dead person?

13 A JUROR: Exactly.

14 MR. STEGE: You agree that most people will have
15 an emotional reaction to a dead person?

16 A JUROR: Yes. I know. Uh-huh. I have patients
17 dead in front of me.

18 MR. STEGE: How will that affect you on this jury,
19 do you think?

20 A JUROR: Well, I don't know. It's totally
21 different and it's really different, because it's working,
22 it's a job, you know.

23 MR. STEGE: This is a civic duty, which is
24 important, too, just like your job.

1 A JUROR: I understand.

2 MR. STEGE: Mr. Echard, we just haven't heard much
3 from you. How is your potential jury service going so far?

4 A JUROR: Good.

5 MR. STEGE: Good.

6 THE COURT: The chair is uncomfortable, the room
7 is too hot and it's past 12.

8 MR. STEGE: Let's try this a different way. You
9 took an oath this morning, along with everyone else. Can you
10 think of any areas in our life where we do take oaths?

11 A JUROR: Get married.

12 MR. STEGE: You get married. Are you married?
13 I've forgotten. An oath when you get married, maybe if you
14 are military or something like that. It might even be on
15 your taxes, I'm not sure. Would you, if you're on this jury,
16 follow your oath, which is to apply the law that the judge
17 gives you?

18 A JUROR: Yes.

19 MR. STEGE: Do you have any experience working
20 with -- any contact with anyone with the DA's office?

21 A JUROR: Yes.

22 MR. STEGE: Has that been a good, neutral or bad
23 experience?

24 A JUROR: Sounds like you already know. It wasn't

1 very good for my mother, no.

2 MR. STEGE: Okay. Are you comfortable telling us
3 about that?

4 A JUROR: Yes.

5 MR. STEGE: Please do.

6 A JUROR: She was arrested for solicitation to
7 commit murder. It was a big court thing here in town,
8 because they had a big company and she got hired for trying
9 to have my dad killed.

10 MR. STEGE: Okay.

11 A JUROR: I think she went to jail for a year. I
12 was young, so at the time I wasn't really big on the whole
13 legal system. But I was pretty young, right, when my mom
14 went away.

15 Now, I mean, I don't really have too much of an
16 opinion on it. They chose to stay married. He goes to sleep
17 every night next to her, so I kind of put that on him. I
18 visit them a couple of times a year. I love my mom. I don't
19 have anything against the legal system.

20 I didn't speak up, because I heard all of your
21 follow-up questions and, I mean, to me that was -- I don't
22 know how to say it without disrespecting my mom, but that was
23 kind of their deal. I probably resent her as much as I
24 resent the law enforcement now that I'm 42 if I'm being

1 honest. I figured it would probably come up being the
2 circumstances of the case.

3 THE COURT: You're doing a fine job.

4 A JUROR: That's why I didn't say nothing.

5 THE COURT: Nobody is in trouble.

6 MR. STEGE: It sounds like maybe because it was so
7 long ago, it didn't really have a big impact on your world
8 view.

9 A JUROR: I probably dislike circumstances with my
10 mom more than I dislike law enforcement.

11 MR. STEGE: Fair enough. Any other contact or
12 issues with law enforcement that you feel you --

13 A JUROR: I have a few of my own, but I was
14 younger. It was all just immature stuff.

15 MR. STEGE: And do you hold any grudges or biases
16 from your own experience?

17 A JUROR: No.

18 MR. STEGE: Should I be worried about you being on
19 this jury?

20 A JUROR: No. I pretty well brought all of that
21 on myself.

22 MR. STEGE: Okay. Anyone on this jury know each
23 other?

24 A JUROR: Yes.

1 MR. STEGE: Who do you know?

2 A JUROR: I know Jay. I know Mike.

3 MR. STEGE: How is this?

4 A JUROR: Mike was an inspector for us. Jay was
5 an employee.

6 MR. STEGE: Okay.

7 A JUROR: We were employees together.

8 MR. STEGE: Suppose you all three are on this
9 jury, how do you think that would affect deliberations or
10 your deliberation process?

11 A JUROR: Wouldn't affect it at all.

12 A JUROR: Wouldn't affect me.

13 MR. STEGE: Could you each disagree with each
14 other and still remain friends or acquaintances?

15 A JUROR: Mike and I have made a career out of
16 disagreeing.

17 MR. STEGE: Okay.

18 A JUROR: No, in all seriousness, I don't think it
19 would.

20 MR. STEGE: Very good. Gentlemen, I saw you
21 shaking heads, no issues?

22 A JUROR: None with myself, no.

23 MR. STEGE: Thank you. Anyone else know each
24 other? Mr. Sorenson.

1 A JUROR: I know Dr. Sundstrom. We attend the
2 same church.

3 MR. STEGE: Okay.

4 A JUROR: I just know him to say hi and recognize
5 him. I don't know anything about him or his family.

6 MR. STEGE: Same question, could you disagree, I
7 guess, and not affect your relationship?

8 A JUROR: No. We would leave it at church.

9 MR. STEGE: You wouldn't be inclined to form a
10 block with him and not want to disagree with him?

11 A JUROR: No. No.

12 MR. STEGE: Anyone know anyone in my office, the
13 District Attorney's Office of Washoe County?

14 Now is the difficult part, because I continue to
15 pick on people who haven't said anything. Ms. Wilson.

16 A JUROR: Yes.

17 MR. STEGE: We haven't heard much from you. In
18 fact, your questionnaire didn't have a ton on it. I think
19 you live in Incline Village is what I remember.

20 A JUROR: Yeah. I was in school for the majority
21 of that time in Texas, but my parents' place was listed as my
22 permanent address. And I've been traveling for the last
23 year, but I live here now.

24 MR. STEGE: Have you been traveling for fun or

1 business or something else?

2 A JUROR: Both. I have dual citizenship to the
3 UK. So I just wanted to live there for a while.

4 MR. STEGE: Where did you go to school?

5 A JUROR: Texas UT.

6 MR. STEGE: Where did you grow up?

7 A JUROR: California.

8 MR. STEGE: What part of California?

9 A JUROR: Santa Cruz.

10 MR. STEGE: How long ago did you leave Santa Cruz
11 to I guess travel the world and live in Nevada at the same
12 time?

13 A JUROR: It was six years ago.

14 MR. STEGE: Okay. Do you have any concerns or
15 anything we ought to know?

16 A JUROR: No.

17 MR. STEGE: Okay. Anyone else -- I'm sorry to
18 pick on the Golden State, but anyone else move here from
19 California by show of hands? Okay.

20 Has anyone been close to, either themselves, a
21 victim of a violent crime or someone close to them? This
22 would be friends or relatives having been a victim of serious
23 violence? Yes, ma'am, Ms. Batten.

24 A JUROR: My mom and my niece were walking in

1 Arizona on a walk and a woman was -- she was on various
2 drugs, very much impacted by the drugs and hit them while
3 they were pedestrians. And my niece was three at the time
4 and she was okay. My mom had some broken ribs. She ended up
5 being okay ultimately. They had, especially my mom, had a
6 lot of emotional trauma from that. And then they -- the
7 State did prosecute the woman and she did serve time, she got
8 out early and then died. That's kind of -- I don't know how
9 much detail you want me to go into.

10 MR. STEGE: That's a good start. Were you a
11 witness to that?

12 A JUROR: I was not. I believe I was in law
13 school at the time in Las Vegas and got a phone call from my
14 sister.

15 MR. STEGE: What has it been like? It sounds like
16 your mom had a difficult time, not just with the physical
17 part, but the emotional part. Were you sort of a witness to
18 that or part of that emotional consequence?

19 A JUROR: A little bit. We're from Poland, so my
20 mom and my dad are not first -- English is not their first
21 language. They would rely on me a lot to help them through
22 with -- there was the lawsuit they had with the insurance
23 company, there was restitution. And so my mom would often
24 come to me just for help because I was her daughter.

1 MR. STEGE: How do you think that might affect
2 your view coming into this case having sort of -- it's not --
3 you didn't witness it, but you have a pretty strong
4 understanding of how it affected your mom at least?

5 A JUROR: I honestly don't think it would affect
6 me as a juror. I don't really have an opinion as to -- I
7 feel just being a citizen and I know that there's lot of
8 people that are involved in car accidents, or in that case,
9 it was more than a car accident, many times they're not able
10 to be compensated. And I feel that in this particular case,
11 the woman did have adequate insurance and so my mom was
12 fortunate to have that. It worked out well for her, I
13 thought.

14 MR. STEGE: I asked earlier questions about maybe
15 the State starting behind. Do you think your experience
16 might make you lean more towards the defendant? Like you
17 might say, well, the defendant is going to start behind
18 because someone hurt my mom in this?

19 A JUROR: No, not at all.

20 MR. STEGE: Anyone else on the either close
21 themselves, victims of violent crime? Yes, sir.

22 A JUROR: My brother-in-law was shot and killed.
23 He was a deputy sheriff from Smith Valley.

24 MR. STEGE: I'm sorry for your loss. When was

1 that?

2 A JUROR: '81.

3 MR. STEGE: Did you both live in the area at the
4 time?

5 A JUROR: No. We were living in Winnemucca at the
6 time.

7 MR. STEGE: How do you think it would affect you
8 in this trial?

9 A JUROR: It won't. You asked the question.

10 MR. STEGE: It won't. Very good. Your Honor,
11 thank you. I'll pass this panel for cause.

12 THE COURT: Thank you very much, Mr. Stege.
13 Mr. Edwards.

14 MR. EDWARDS: Thank you. I'll be brief. You've
15 had enough of this for now, I think. If you were going to
16 give us some useful information, I think it would have been
17 imparted by now.

18 So if there's something that you really want us to
19 know about whether you're a good juror for this case, this is
20 the last chance to say it. So anybody feel something hasn't
21 been covered? All right.

22 Mr. Young, so you're a colleague of Mr. Stege in
23 the DA's office?

24 A JUROR: Was.

1 MR. EDWARDS: Was and what years was that?

2 A JUROR: 2015 through 2017.

3 MR. EDWARDS: You didn't know anything about this
4 case?

5 A JUROR: No.

6 MR. EDWARDS: Not at all?

7 A JUROR: No.

8 MR. EDWARDS: It was pending, or at least, you
9 know, as set forth in the information, it was July of 2016.

10 A JUROR: Let me say this, I don't remember
11 anything about this case, however, as Mr. Edwards, everyone
12 is familiar, when you're a deputy DA on the felony line, you
13 cover a bunch of different cases. I might have come across
14 it. I don't remember the case at all.

15 MR. EDWARDS: Did you work on Mr. Stege's team?

16 A JUROR: No.

17 MR. EDWARDS: How about these kind of cases, did
18 you prosecute a murder while you were in there?

19 A JUROR: No.

20 MR. EDWARDS: Okay. What kind of cases did you
21 prosecute?

22 A JUROR: So I was on a misdemeanor team for a
23 year, and that's, you know, DUIs, domestic batteries. I was
24 on a felony team for I think a year and a half where I did no

1 murder cases, no sexual assault cases, but everything really
2 below, a lot of burglaries, ADWs, BDWs, really anything DUI
3 third and above.

4 MR. EDWARDS: General felonies?

5 A JUROR: Correct.

6 MR. EDWARDS: How about this question for you: Am
7 I starting a step or two back because you were a prosecutor
8 that used to prosecute cases?

9 A JUROR: No. I mean, I completely understand my
10 role, obviously, being in your gentlemen's shoes at one time.
11 But I do want to be very transparent that I've worked on
12 cases with several of the deputy or the officers, Reno Police
13 Department, as far as have many relationships in the DA's
14 office, personal. And I don't -- I would say I don't have
15 the same on the criminal defense side to be very transparent
16 with my relationships. However, I do understand, you know,
17 where I'm supposed to be, fair and impartial, which I can be
18 in this case.

19 MR. EDWARDS: You never heard about Ms. Fletcher
20 in your time?

21 A JUROR: Again, not that I remember. The name, I
22 don't recognize. I haven't heard anything about the case,
23 but I don't remember the name. But in all candor, as we do
24 there, now, I was never on Mr. Stege's team, however, I

1 covered case in this court under -- when a different judge
2 was here in this department. And I covered case all
3 throughout, you know, 1 through 15, minus the family courts.
4 So I might have come across it at a crim calendar or
5 something like that, but I don't remember.

6 MR. EDWARDS: It wasn't your case for sure?

7 A JUROR: Never.

8 MR. EDWARDS: Okay. And you feel that you can be
9 fair and impartial?

10 A JUROR: Yes. Yes. I understand my role as a
11 juror.

12 MR. EDWARDS: Okay. And you understand the burden
13 of proof, obviously?

14 A JUROR: Correct. Yes.

15 MR. EDWARDS: And you're not going to be required
16 to forget everything you know when you get into that jury
17 room.

18 A JUROR: Well, again, I completely understand.
19 We're going to go through the evidence, testimony, what it
20 is. You start, you know at the same finish line, the same
21 start line, we'll get the evidence, we won't talk about it
22 until the end. I understand the process.

23 MR. EDWARDS: If I leave you on there, you would
24 probably become the foremen?

1 A JUROR: Not my choice.

2 MR. EDWARDS: Thank you for your candor,
3 Mr. Young.

4 A JUROR: Thank you, Mr. Edwards.

5 MR. EDWARDS: Dr. Sundstrom, do you recognize the
6 names Laura Knight, Melissa Piasecki or Steven Zuchowski?

7 A JUROR: Sounds familiar, but I don't know them
8 personally. It's only by name recognition.

9 MR. EDWARDS: What area of expertise do you have
10 in the medical?

11 A JUROR: I'm a general internist.

12 MR. EDWARDS: You're a general internist?

13 A JUROR: Right. Correct.

14 MR. EDWARDS: Not emergency medicine or anything
15 like that?

16 A JUROR: No.

17 MR. EDWARDS: Psychiatry?

18 A JUROR: No.

19 MR. EDWARDS: Anybody here going to have a problem
20 paying attention? This is very important for my client and
21 the State. Anybody have any problems with the attention
22 span, paying attention to the evidence? No. Okay. I'll
23 pass the panel, your Honor.

24 THE COURT: Thank you, gentlemen. Ladies and

1 gentlemen, the good news is we're very close now to picking
2 the jury and the alternates. The attorneys and I are going
3 to go into recess together with the parties. We're going to
4 engage in the process that's called peremptory challenges.
5 That will result in the selection of 12 jurors and two
6 alternates.

7 After that, I can release the balance of the panel
8 and then offer some instructions. I'll ask, ladies and
9 gentlemen, that you stay in this room, subject, of course, to
10 the deputy's ability to let you take a break as necessary for
11 human needs. But the attorneys and I are going to be pretty
12 quick. I would imagine 20 minutes or so. I'll invite you,
13 please, remain here while we meet outside your presence.

14 (A short break was taken.)

15 THE COURT: So we are on the record in CR17-0690.
16 Gentlemen, I'll leave the A off. I think on the amended
17 information we agreed to read it with the A off. But it's
18 State of Nevada versus Katherine Dee Fletcher. We're meeting
19 outside the presence of the jury in chambers. Ms. Fletcher
20 is present with her attorney. Mr. Stege is here. This is
21 the time and date set for the exercise of peremptory
22 challenges. I would expect that each side has available
23 eight and we'll select two alternates in the remaining four.
24 Mr. Stege, I turn to you for your first peremptory challenge.

1 MR. STEGE: Lynette Kenney.

2 THE COURT: That's juror number four.

3 Mr. Edwards, the defendant's first.

4 MR. EDWARDS: That would be juror number one.

5 THE COURT: Mr. Young. Mr. Stege, the State's
6 second peremptory challenge.

7 MR. STEGE: Demers.

8 THE COURT: Juror number ten. Mr. Edwards, the
9 defendant's second peremptory challenge.

10 MR. EDWARDS: Juror number 13, Amber Hague.

11 THE COURT: Mr. Stege, the State's third
12 peremptory challenge.

13 MR. STEGE: Amber Ortiz.

14 THE COURT: Mr. Edwards, the defendant's third
15 peremptory challenge.

16 MR. EDWARDS: Jeffrey Hills.

17 THE COURT: Number 20. Mr. Stege, the State's
18 fourth peremptory challenge.

19 MR. STEGE: Number 24.

20 Number 24.

21 MR. EDWARDS: That was the fourth.

22 THE COURT: Yes. The defendant's fourth
23 peremptory challenge.

24 MR. EDWARDS: Douglas Davidson, number 19.

1 THE COURT: Mr. Stege, the State's fifth
2 peremptory challenge.

3 MR. STEGE: Echard, 29.

4 THE COURT: I'm sorry. That would be normally one
5 of the pool of the alternates. So, typically, I would choose
6 the alternates from the remaining four.

7 MR. STEGE: Okay. I'll save that for later.

8 THE COURT: You want to withdraw?

9 MR. STEGE: Yes. Jaynes, 16.

10 THE COURT: Stephen Jaynes, that's the State's
11 fifth. The defense's fifth peremptory challenge.

12 MR. EDWARDS: Mike Hillyer, number seven.

13 THE COURT: The State's sixth peremptory
14 challenge.

15 MR. STEGE: We got to get rid of Ms. Batten.

16 THE COURT: The Deputy Attorney General. The
17 defense's sixth peremptory challenge.

18 MR. EDWARDS: Daniel McKinnon, number three.

19 THE COURT: The State's seventh peremptory
20 challenge.

21 MR. STEGE: Schutz.

22 THE COURT: The defense's seventh.

23 MR. EDWARDS: What number was that?

24 MR. STEGE: 21. English as a second language and

1 other issues.

2 MR. EDWARDS: Mary Graham, juror number two.

3 THE COURT: State's eighth and final peremptory
4 challenge. By my count, we're to Mr. Yarborough. That can't
5 be right. That must be to Ms. Simeroth, because there are
6 two challenges left. We're at Ms. Simeroth as well. Eighth
7 peremptory challenge.

8 MR. STEGE: Ms. Wilson.

9 THE CLERK: 17.

10 THE COURT: The defense's eighth and final
11 peremptory challenge?

12 THE DEFENDANT: The person who was talking to me,
13 starting to talk to me.

14 MR. EDWARDS: That's Richard Echard.

15 THE COURT: Mr. Echard is not gone yet.

16 MR. EDWARDS: Richard Echard, number 29.

17 THE COURT: Hang on. That wouldn't be the eighth.
18 That's the pool of the alternates.

19 MR. EDWARDS: All right.

20 THE COURT: Right now, we're at Yarborough for the
21 12, correct?

22 THE CLERK: You have one for the eighth and you'll
23 have one for the --

24 THE COURT: If you challenge, it would be

1 Vasenden, Sundstrom, McKay, LightFoot, Lafferty, Chalk,
2 Mittelstadt, Thrasher, Johnson, Warren, Simeroth, Yarborough.
3 If you exercise, the 12th juror is Sorensen, unless it is
4 Sorensen you challenge.

5 MR. EDWARDS: I will challenge Sorensen, 28.

6 THE COURT: Let's go through that and make sure
7 we're on the same sheet of music. By my count, juror number
8 one will be Ms. Vasenden, juror number two will be
9 Mr. Sundstrom, juror number three will be Ms. McKay, juror
10 number four will be Ms. Lightfoot, juror number five will be
11 Mr. Lafferty, juror number six will be Ms. Chalk, juror
12 number seven will be Mr. Mittelstadt, juror number eight will
13 be Mr. Thrasher, juror number nine will be Hiram Johnson,
14 juror number ten will be Ashley Warren, juror number 11 will
15 be Diana Simeroth and juror number 12 will be Steven
16 Yarborough.

17 To select the alternates, you'll each have a
18 strike, the remaining two of the last four will be the
19 alternates. So, for example, if you struck Mr. Echard and
20 Mr. Savage, the alternates would be Hart and Larson. If you
21 waive, it will be the first in order. Mr. Stege.

22 MR. STEGE: Echard, 29.

23 Mr. Edwards.

24 MR. EDWARDS: Ms. Simeroth.

1 THE COURT: The alternates will be Amber Hart and
2 Dillon Larson.

3 Anything you'd like to place on to the record
4 related to jury selection or peremptory challenges,
5 Mr. Stege?

6 MR. STEGE: No.

7 THE COURT: Anything you'd like to place into the
8 record on behalf of the defense, Mr. Edwards?

9 MR. EDWARDS: No, your Honor.

10 THE COURT: Thank you, for you're hard work. I'll
11 go back, identify the 12 and alternates, give them their
12 general admonitions, release them for lunch. I imagine we'll
13 release them at about 1:30. We'll come back at 3:00 and away
14 we go.

15 THE DEFENDANT: Lunch is an hour and a half?
16 I'm going to give the jurors an hour and a half.

17 (A short break was taken.)

18 THE COURT: Ms. Clerk, let's go ahead and identify
19 the jurors and the alternates, please.

20 THE CLERK: Victoria Vasenden. Steven Sundstrom.
21 Deanna Marie McKay. Alyssa Lightfoot. Cameron Lafferty.
22 Camille Chalk. John Mittelstadt. Ken Thrasher. Hiram
23 Johnson. Ashley Warren. Diana Simeroth. Steven Yarborough.
24 Amber Hart. Dylan Larson.

1 THE COURT: So welcome to you in the jury box,
2 ladies and gentlemen. You are the jurors and the alternates
3 selected in this case.

4 To the rest of the courtroom, I offer these
5 comments: First, thank you for your time for going out of
6 your way this morning and your patience during the
7 examination this morning. I now release the balance of you
8 from your service. Please check in with the jury
9 commissioner downstairs.

10 Please know that your service this morning and
11 into this afternoon has been of critical importance. Without
12 you, we couldn't have selected what we call the petite jury
13 or the little jury, as it were, as opposed to the Grand Jury.
14 I thank you very much for your time and attention in this
15 case. I release you from your service.

16 Ms. Clerk, would you please administer the oath to
17 the alternates and the jurors?

18 (All jurors sworn.)

19 THE COURT: Please be seated. I promise you,
20 ladies and gentlemen, I'm going to release for lunch here in
21 just a few minutes. Before I do that, I've got some
22 information to offer you and some instructions to give to you
23 that are critically important.

24 First, as you know, you are now the jurors and

1 alternates in this cases. I look forward to trying this case
2 with all of you, let me say. No juror may declare to any
3 fellow juror any fact relating to this case as of the juror's
4 own knowledge. You are not witnesses in this case. So
5 nothing that anyone says or does to you outside of this room
6 or attempts to show you or say to you about this case, and
7 I'll talk more about that in a moment, is evidence in this
8 case.

9 The only evidence in this case will come from the
10 witness stand right next to me or be in the form of physical
11 documents, photographs or other physical items that I admit
12 into evidence.

13 If any juror discovers during the trial after the
14 jury has retired that he or she or any other juror has
15 personal knowledge of any fact in controversy in this case,
16 the juror shall disclose such situation to the judge out of
17 the presence of the other jurors. Contact one of the
18 deputies if you become aware of such a circumstance.

19 We're all going to pretend we don't know each
20 other outside of this room. You all and I and the attorneys
21 and their clients will all use the same hallways around the
22 Courthouse. We'll all walk the same paths. If I see you
23 outside of the court, please take no offense. At most you'll
24 get is kind of a side grin from me and then I'll just turn my

1 head away and I'm not trying to be rude or unnecessarily
2 abrupt with you, but I don't want to be seen having a
3 conversation with you outside of this room and you are not to
4 be seen having any conversation with me. That applies as
5 well to the attorneys and the witnesses in the case.

6 In fact, no one should approach you to discuss
7 this case outside of this room. We'll ask that you wear
8 distinctive juror badges to identify who you are while you're
9 around the court campus.

10 You're not to visit the scene of the alleged crime
11 in this case. You're not to engage in Internet research or
12 research of any kind outside of this room. The only evidence
13 you are to consider is the evidence you'll receive in this
14 room. You are not to consider anything that you see or hear
15 outside the room.

16 Judge Hardy has the courtroom right next to me.
17 His chambers entrance is the door right outside these double
18 doors. His jury room is one of the doors you walk past as
19 you come in the courtroom. There's other trials going on
20 around the court. There will be criminal cases, civil cases,
21 all sorts of cases going on around the court.

22 You could walk out of this room and hear somebody
23 say, I can't believe what that witness just said. They could
24 just as easily be talking about another room or another case

1 as this case. And what anyone says about what another
2 witness says, you cannot listen to, participate in or take
3 any effect of, if that makes any sense.

4 Chief Justice Roberts of the United States Supreme
5 Court describes my role, the role of a trial judge is that of
6 an umpire. I may find it necessary to sustain or overrule
7 the objection of one of the attorneys or admonish one of the
8 attorneys during this trial. I doubt that very much. These
9 are very good attorneys and I haven't had to admonish an
10 attorney in this room in a trial yet. I don't think they're
11 going to break my record.

12 But if you think I'm admonishing an attorney or by
13 my demeanor it seems like I'm coming down against one
14 attorney or another, you should not feel prejudice towards
15 that lawyer or, more importantly, their client because of it.
16 It's their job to make objections and it's my job to rule on
17 those objections.

18 No statement, ruling, remark, gesture or facial
19 expression I may make during the trial is intended to
20 indicate my opinion about what any facts may be. I do not
21 determine the facts. You determine the facts. You alone
22 must decide the believability of the evidence, it's weight
23 and its value, if any. You may give the testimony of any
24 witness the weight and value you believe the witness is

1 entitled to receive.

2 In considering the testimony of a witness, you may
3 take into consideration the behavior of the witness, the
4 interest of the witness in the outcome of the trial, the
5 relationship of the witness to any party to the trial, the
6 inclination of the witness' statements and all other facts
7 and circumstances in evidence.

8 Until this case is submitted to you, you are not
9 allowed to talk to one another about the case or with anyone
10 else about the case. You may not talk to your family and
11 friends about the case. You can tell them that you're
12 serving on a criminal case in the Second Judicial District
13 Court. That's it.

14 Don't let anybody talk to you about the case. No
15 one should approach you and say, hey, I see you're a juror
16 here in the courthouse, can you tell me a little bit about
17 what's going on? In fact, if anyone does that, please let
18 one of the deputies know immediately and they and I will
19 handle it accordingly. If someone should try to approach
20 you, as I say, please report that conduct immediately to the
21 deputies.

22 Don't read, watch or listen to any news stories
23 about this case. Don't listen to any reports about this case
24 from any other person. Don't listen to any radio, television

1 reporting about this case. I don't know if there's going to
2 be any, but don't listen to any, really, of any kind is the
3 safest thing for you all to do.

4 Don't do any independent investigation. I always
5 tell the story, because it -- I was struck that it ever
6 happened. But I was sitting where Mr. Stege was sitting in
7 Carson City prosecuting a man who was accused of arson in the
8 jail. Literally, one of the inmates was accused of lighting
9 his mattress on fire. How he got cigarettes or matches in
10 the jail is anyone's guess, but nonetheless, that was the
11 accusation.

12 Two of the jurors in the case thought it would be
13 a good idea to go outside of court at the end of recess one
14 day and see if they could light a mattress on fire. Please
15 don't do that. You're not investigators. It's not your job
16 to see if mattresses light on fire. There aren't going to be
17 any lit mattresses in this case. You aren't investigators.
18 You are passive recipients of the evidence that comes out in
19 this room.

20 You may not use any electronic device. Don't
21 access social media. Don't go to Facebook, Twitter, My
22 Space, YouTube, Linkedin or any other place to blog, tweet or
23 do research about this case.

24 When you retire to deliberate, the bailiffs will

1 actually collect your phones from you, because you can't have
2 those in the jury deliberation room.

3 You've already heard me if cell phone rings, it's
4 mine. I'm pretty loose about that. I always tell the story
5 about myself when I was sitting where Mr. Stege and
6 Mr. Edwards are sitting when cell phones were about the size
7 of a brick, my rang and Judge Steinheimer took it from me.

8 You'll be provided with materials to take notes.
9 At the end of this trial, you'll have to make your decision
10 based on what you recall of the evidence. You'll not have
11 written transcripts to consult. It's difficult and time
12 consuming for the court reporter to make it.

13 What she's doing is very specialized. It's a
14 digital shorthand. That digital shorthand has to be
15 transcribed and reinterpreted into English for us all to
16 understand it and that takes quite a bit of time. So I'm not
17 going to give you transcript of the case.

18 As a consequence, you'll need to use your own
19 memory and recollection and I invite you to take notes that
20 will cue your memory to appropriate circumstances in this
21 case.

22 The general schedule, today is an anomaly, but the
23 general schedule will be this: Tomorrow we'll meet at 9:30
24 or 10:00, depending on what I have going on related to other

1 cases. We'll go from 9:30 to about 10:30 or so, take a
2 break, go until noon, go from 1:30 until about 3:00, take a
3 break, and go until 5:00. I may invade your time a little
4 bit if we're in the middle of a witness or if by taking an
5 extra 10 minutes one day, we can save coming back another.
6 But that will be the general schedule.

7 I want to reassure you, the attorneys are working
8 very hard in this case, have been now for weeks to prepare
9 for this case, as am I, and if we're not in the courtroom
10 with you, let me promise you, it's not because one of us is
11 out playing golf. There are many things we need to do
12 related to process in this case that have no business in
13 front of you and we will undertake those tasks.

14 I've given you an idea about the general schedule.
15 I think I already misquote when we'll meet. But we're going
16 to take the lunch recess now. I'm going to give you a full
17 hour and a half. We'll be in recess until 2:45.

18 The deputy will give you some information once you
19 meet in the jury room about contact information. She's got a
20 list of local restaurants that are within walking distance.
21 She'll give you some instructions about your conduct around
22 the court.

23 During this recess, it's your duty not to converse
24 among yourselves or with anyone else on any subject connected

1 with this trial or to read, watch or listen to any report of
2 or commentary on the trial by any person connected with the
3 trial or by any medium of information, including, without
4 limitation, newspaper, television, radio, Internet or smart
5 phones. You're not to form or express an opinion on any
6 subject connected to this case until it is finally submitted
7 to you after the presentation of evidence and arguments of
8 counsel are concluded.

9 We'll be in recess until 2:45. Please make it
10 back a few minutes in advance, because we can't begin until
11 you're all here. If you'll follow the directions of the
12 deputies, I'll see you after the break.

13 (The following proceedings were had outside the
14 presence of the jury.)

15 THE COURT: We remain on the record outside the
16 presence of the jury. Counsel, stylistically, you probably
17 already noticed it, I'll be standing when the jury enters or
18 leave and I'll ask you in doing the same. I'll try and put a
19 finger in the wind with you right before the conclusion of
20 any break to see if there's anything we need to take up
21 outside the presence of the jury. Is there anything we want
22 to discuss at this time, Mr. Stege?

23 MR. STEGE: Not right now, but I'll clue the Court
24 into I may have an issue requiring I would estimate 15 to

1 20 minutes this afternoon.

2 THE COURT: Related to a witness?

3 MR. STEGE: Related to a witness. I'll tell you
4 what it is. Mr. Hensley, probably to no surprise of anyone,
5 is lacking in cooperation and appearance, did not show up
6 this morning. I will either ask the Court one of two things,
7 material witness warrant and/or, two, that his prior
8 testimony -- he would be declared unavailable and his prior
9 testimony be read into the record.

10 THE COURT: All right. Thank you for that heads
11 up. I appreciate it. Mr. Edwards.

12 MR. EDWARDS: I don't have anything like that,
13 your Honor.

14 THE COURT: We'll take that up sort of -- I assume
15 he's not going to be your first witness?

16 MR. STEGE: No. I'd like to update the Court on
17 efforts of my staff to --

18 THE COURT: Locate him.

19 MR. STEGE: Right.

20 THE COURT: Thank you, gentlemen. I'll see you at
21 2:45.

22 (A lunch break was taken.)

23 THE COURT: This is case number CR17-0690, the
24 State of Nevada versus Katherine Dee Fletcher. Ms. Fletcher

1 is present together with her attorney. I show the appearance
2 of Ms. Stege on behalf of the State. I show the appearance
3 of the jurors and the alternates. Mr. Stege, I'm going to
4 ask the clerk to read the information to the jury and then
5 I'll offer you an opportunity to make an opening statement.

6 (Information read at this time.)

7 THE COURT: Mr. Stege.

8 MR. STEGE: The evidence in the case will show
9 three things: First, she, Katherine Fletcher, shot him in
10 the back, shot Robert Trask in the back at Oxbow Park on
11 July 28th of 2016 shortly before 7:41 p.m..

12 The shooting was witnessed by one Eric Preciado,
13 who was a gentleman who had taken his kids to the park to
14 play on the river, was a hot July day. After playing in the
15 river, he goes to the parking lot of Oxbow Park. Kids are in
16 the car. He's at the back of his vehicle changing his shoes
17 when he hears, boom, a single gunshot. This causes him to
18 look to the source of the gunshot, whereupon he sees
19 Katherine Fletcher fleeing away from the scene.

20 Now, Oxbow Park is a wooded park, sort of an open
21 space right along the river. Built along the river is a
22 series of platforms or little patios docks. I think we'll
23 struggle to decide what they are. But this killing occurred
24 on one of those platforms.

1 He looks up, sees Katherine Fletcher fleeing,
2 flees to her car. Mr. Preciado, rather shocked, pleads with
3 her, hey, we can't leave him. You got to call 911. Fletcher
4 flees. Preciado calls 911 and does what he can to render aid
5 to Robert Trask.

6 Police respond rather quickly, one of which is
7 Officer Scott Smith. Scott Smith gets there and then
8 administers CPR on the man. The ambulance comes and takes
9 Mr. Trask to the hospital. He's dead, shot through the back.
10 And one thing the evidence will show is Officer Smith is
11 struggling to figure out what was going with the guy, because
12 the man had stumbled away, Mr. Trask, fallen down and laid on
13 his back. The gunshot was in his back.

14 Now, when Officer Smith lifts the shirt of
15 Mr. Trask, he sees right here a bullet, the tip of the bullet
16 protruding. That bullet was later recovered at autopsy and
17 it was a rather unique nine-millimeter round. It's a hollow
18 point containing -- it's manufactured by Hornady. It's
19 called Critical Defense. It has within the hollow point a
20 little plastic tip, a piece of plastic designed to be more
21 ballistically efficient in a self-defense situation.

22 No one else was around. Officer Smith locks down
23 the scene, makes sure it's only police coming in. But on
24 that platform is later located a single shell casing, Hornady

1 brand, nine-millimeter caliber and a plus P load, which is a
2 way of saying it has extra firepower. We'll hear expert
3 testimony in this case describing what the plus P round
4 means.

5 Officer Nelson goes to the hospital, learns that
6 Mr. Trask is in fact deceased. He remains with the body
7 until the arrival of the detectives and the morgue or coroner
8 staff.

9 In the meantime, Ms. Fletcher had fled to the home
10 of her parents on War Paint Circle in Golden Valley. The
11 evidence will show, in fact, that her flight there was
12 delayed, that is, she made stops along the way.

13 Now, police go to Fletcher's house and begin
14 surveillance. Officer Ryan Gott serving in an undercover
15 capacity parks across the street from Ms. Fletcher's parents
16 and begins surveilling Ms. Fletcher.

17 Now, they had learned that on the way to the park
18 before meeting at the park, Ms. Fletcher went to Little
19 Caesar's Pizza on West Fourth Street and we have surveillance
20 video from that indicating for purposes of this trial at
21 least one thing, what was she wearing and what did she have
22 with her? Ms. Fletcher was wearing a two-piece bikini that
23 is pink and blue with polka dots. Also over her shoulder, a
24 white purse and on her head a ball cap style hat.

1 Surveilling Ms. Fletcher through the window of her
2 parents' house, Ryan Gott sees Ms. Fletcher interacting with
3 her parents or with her mom. She's gone for a while, goes
4 out into the yard, comes back.

5 Now, 11:30, shortly -- shortly before 7:40 was the
6 shooting. There's one call to 911 and that's Eric Preciado.
7 By 11:30, off drives Katherine Fletcher from her house.
8 Police pull her over and the first thing she says to another
9 undercover officer, I was just on any way to call you.

10 We'll hear from Ms. Jorgensen, who is Katherine
11 Fletcher's mother, and it may be the case that she is
12 naturally allied with her daughter. She tells police that in
13 that entire time that she was with her daughter, no calls
14 were made to the police, because, well, you'll hear the
15 reasons. But that in fact Ms. Jorgensen tried to call
16 Katherine Fletcher's phone, right. There was this issue of
17 Ms. Fletcher can't find her phone. No calls to 911.

18 The second thing this case is about, which is,
19 what's hidden? So hidden in this case is Ms. Fletcher's
20 phone, right. Lost her phone during the shooting, lost her
21 white purse that she was wearing during the shooting and lost
22 her gun.

23 In that time frame between leaving the scene of
24 the shooting and getting to her parents' house or someplace

1 else are missing those three things.

2 Now, after pulling over and taking Ms. Fletcher to
3 the police station, officers do a search warrant and search
4 the house, locate, among other things, the bathing suit of
5 Ms. Fletcher, still damp.

6 The other thing missing, you might say, or
7 unexplained or hidden is during the course of the interview,
8 police interview at the police station, hidden or missing or
9 unexplained is what happened.

10 Now, in the meantime, it ends up being late in the
11 night, as you can imagine, Ms. Jorgensen gives her statement,
12 other statements. Now, they plead with her and this brings
13 us to the third thing. They plead with Katherine Fletcher.
14 During the interview, she says she can't remember, she
15 doesn't know, she has what I will call, probably using the
16 wrong words, traumatic reactions to. In the course of the
17 police interview, when they're easy-ish questions, she can
18 remember what happened before, she can remember what happened
19 after, but she cannot remember during the time of the
20 shooting.

21 But when the interview questions get just say more
22 pointed or getting to the point of the interview, she tends
23 to have, let's say, outbursts. She while her elderly mother
24 is awake being interviewed is falling asleep in the interview

1 room or pretending to fall asleep.

2 Now, part of the back story of this, the motive,
3 if you will, is Fletcher and Trask were involved in a
4 protracted custody dispute. They had never been married, but
5 they had a child in common, eight-year-old Max Trask. You'll
6 hear testimony that over the course of time and within the
7 court system, custody slipped away from the defendant and she
8 did not like it. It slipped away to the point that at the
9 time of this killing, Ms. Fletcher had one hour visitation a
10 week and that one hour was supervised visitation. This is
11 the thing she did not like. There was in that history of
12 accusations.

13 But it turns out in addition to the one hour a
14 week of supervised visitation, Mr. Trask for the benefit of
15 their child, Max, would give -- kind of a common way of
16 saying it, but would give her visitation on the side, doing
17 things like meeting at the river.

18 Which brings us to the third thing. During that
19 interview, they plead with her, hey, if you don't remember or
20 don't tell us what happened, you know who is going to have to
21 tell us. Young Max, the evidence will show, because while
22 Fletcher could not remember, would not remember, remember
23 before and after, young Max was in the interview room being
24 interviewed about what happened. The detective said, if you

1 don't talk, he's going to have to.

2 Well, he did and he will in this trial. Young
3 Max, now 12, will testify that they were at the park, had
4 pizza, were on the platform and had earlier run into
5 Mr. Preciado, the gentleman who called 911. They ran into
6 him sort of talking, you know, idle talk.

7 But after that, they were on this platform where
8 this happened and they were leaning over the railing, his dad
9 to his left and Max in the middle and Fletcher off to the
10 right. And him and his dad were lamenting about some of the
11 thrown trash in the river over the railing when all of a
12 sudden, boom, his dad was shot, shot in the back, staggers
13 away, falls down and is dead.

14 Ms. Fletcher drags him away, the boy is crying,
15 right, don't leave my dad. Makes a couple of stops on the
16 way to grandma's house. The evidence will show on that --
17 there were three people on that platform, a shell casing. As
18 if someone were to stand right behind someone and shoot them,
19 the shell casing off and to the right, a single
20 nine-millimeter casing.

21 Now, one thing the evidence will show is that
22 although in her interview she can't remember anything,
23 doesn't want to remember anything, she tells Max Trask, hey,
24 did you see the guy in the bushes? The only person she ever

1 says that to, right, because she gets to the house, doesn't
2 say that to her mom.

3 In fact, her mom will say they didn't talk
4 anything about it, because they didn't want to talk about it
5 in front of Max. They really needed to get Max to sleep.
6 And Fletcher couldn't call the police, because Max needed to
7 get to sleep, Max who had no -- she had no custody of. Lost
8 her phone, lost her gun, lost her purse.

9 Never tells that to anyone but the boy, not only
10 taking away his father, breaking his heart, but making him
11 think that it was someone else. But the evidence in fact
12 will show Katherine Fletcher is guilty of first degree
13 murder. That's what these three things will show. Thank
14 you.

15 THE COURT: Mr. Edwards.

16 MR. EDWARDS: Thank you, your Honor. You'll find
17 that in the course of this trial that there are only a few
18 things that are in dispute. A lot of the facts are the
19 facts. They'll jump right off the page to you.

20 This happened at Oxbow Park on July 27th of 2016,
21 and it's taken this long to finally come to the point where
22 we can at least hopefully have you make a resolution about
23 what -- a determination about what happened.

24 It was a while there before Mr. Stege mentioned

1 Max. It almost sounded like Katherine Fletcher had -- is
2 accused of killing some stranger in a park. That's not the
3 case at all. As you eventually heard, Katherine Fletcher was
4 in a relationship with Robert Trask. It produced two
5 children, Max you heard about and another child later on.

6 And as often happens, that relationship didn't
7 work and it resulted in a custody issue here, right here in
8 this courthouse. And on the day that Mr. Trask lost his
9 life, they were scheduled to meet right here, right next
10 door, Family Peace Center, they call it. It's a place to go
11 to keep everything under control when there are situations
12 that are volatile like theirs was.

13 Mr. Trask out of his goodness of his heart or
14 whatever reason decided that the visitation wouldn't have to
15 take place here, they could go out and enjoy a sunny day in
16 the water on the Truckee River. And that's what they did.

17 They went to the river here and then after they
18 had their fill of that, they went to get something to eat.
19 Katherine Fletcher bought the pizza you heard about, Little
20 Caesar's on Fourth Street right there. Oxbow Park is pretty
21 much just around the corner from Little Caesar's. It's a lot
22 more secluded than Wingfield Park here, but it's a nice area.

23 When they arrive there, you'll hear, and Max is
24 going to be, bless his heart, at the center of this

1 determination that you're going to have to make. He's at the
2 park with his mother and his father. They had been enjoying
3 the day. What led up to this? We'll have to hear from Max.
4 Did Max see a gun? Were they arguing? What could be the
5 motivation for such an accusation? What happened leading up
6 to this? You're going to have to figure that out on what
7 you're given here.

8 Mr. Stege has insinuated and I believe it to be
9 his theory of the case that because Katherine Fletcher was on
10 the losing end of this custody situation, she was enjoying it
11 that day, certainly, that she would commit premeditated
12 murder in broad daylight in public over this. We'll see.

13 A lot of the evidence we'll agree on, and Max, you
14 know, he's the tragedy no matter what you find, no matter
15 what you determine about this, he's lost both his parents.
16 Unfortunately, now he's going to have to get on the witness
17 stand in front of everybody right here and recount probably
18 the most painful event of his life. Let us see what he has
19 to say.

20 The State's pointing the finger of responsibility
21 at Ms. Fletcher exclusively and that's their right. They can
22 do that. They're allowed to have their theory of how this
23 came about, but a theory has to be supported with evidence
24 and you'll find that the State's case is quite

1 circumstantial.

2 You're not going to see the killing on video, even
3 though that is a -- it's ubiquitous these days in our
4 society, at least in these urban areas. Most everything is
5 captured on video. This is not.

6 You'll see photographs of the scene. You'll see
7 video from kind of tangential places, but you're not going to
8 see how it occurred. There's only Max to tell us, because he
9 was there, and this witness, Mr. Preciado, that has been
10 mentioned by Mr. Stege. Mr. Preciado was at Oxbow Park with
11 his children that day and they had a minimal amount of
12 interaction, but interaction nonetheless with Ms. Fletcher,
13 Max and Mr. Trask.

14 And from what we know from Mr. Preciado, he didn't
15 sense any conflict. He's not going to come forward and say
16 they were screaming at each other, they were fighting, they
17 were threatening, they were not having a good time. So what
18 happened? How does it get from there within a matter of
19 minutes to Mr. Trask dying right there, broad daylight,
20 middle of the road, middle of the pathway, excuse me, in the
21 park. You're going to have to decide that.

22 You're not going to be presented with a
23 confession. You'll hear the interrogation of Ms. Fletcher
24 and get what you can out of it to make your determination.

1 You're not going to be presented with the murder
2 weapon. We know there was a -- there had to be a gun, but as
3 Mr. Stege said, it's missing. We have a bullet. There's a
4 bullet that is recovered from Mr. Trask's body, but you don't
5 have the gun.

6 You don't have any further eyewitnesses. Mr.
7 Preciado didn't see the shooting itself. Now,
8 circumstantially, he heard a gunshot, ran and found Mr. Trask
9 on the ground. That's not the biggest stretch of the
10 imagination to see that a shooting took place, but it's not
11 an explanation for what actually occurred.

12 So listen and take the State's evidence as you
13 find it and you'll have to decide whether they have
14 established to you beyond any reasonable doubt that Katherine
15 Fletcher pulled the trigger of a gun and shot Robert Trask
16 while on family visitation on a sunny day in July.

17 If you get there, and that's not a given, that's a
18 big if, if you get there, I submit to you that you will
19 struggle mightily with your next task. You're going to have
20 to divine what was going through her head when she committed
21 this alleged offense. They call it -- excuse me -- the
22 State, Mr. Stege calls it premeditated murder and eventually
23 you'll be given the definitions of what those are. But in a
24 sense, it's you have thought about this, you intended this,

1 there's a reason for it, a motive for it. He puts it off to
2 a child custody battle, but that doesn't seem to match with
3 what was going on that day.

4 It was the peace center. They left the peace
5 center for even more peaceful areas. They were breaking
6 bread together, having pizza, not a conflict. I submit that
7 you're going to struggle very hard with this case. The facts
8 that we agree on, you'll notice right off the bat, but those
9 that have not been established, you'll be aware of, too.

10 At the end of the case, I'll come back and tell
11 you they haven't proven it, because they haven't. Thank you
12 for your service.

13 THE COURT: Thank you, Mr. Edwards. Mr. Stege,
14 your first witness, please.

15 MR. STEGE: Scott Smith, please.

16 (One witness sworn at this time.)

17 THE COURT: Once you're comfortably seated there,
18 officer, pull the microphone in front of your face and give
19 your attention to Mr. Stege.

20 SCOTT SMITH

21 called as a witness and being duly sworn did testify as

22 follows:

23 DIRECT EXAMINATION

24 BY MR. STEGE:

1 Q. Hello. Please state and spell your name.

2 A. My name is Scott Smith, S-c-o-t-t, S-m-i-t-h.

3 Q. How are you employed?

4 A. I work for the City of Reno Police Department.

5 Q. How long have you been a police officer?

6 A. Almost 15 years now.

7 Q. Is there a particular part of the police
8 department you work in?

9 A. Currently, I'm in the patrol decision.

10 Q. Directing your attention back to July 28th of
11 2016, what part of the police department were you working in?

12 A. I was working patrol downtown.

13 Q. Did you receive a call about 7:41 p.m. that day?

14 A. Yes, I did.

15 Q. What did you do when you got that call?

16 A. Responded code three. It was a call about a
17 possible subject that had been shot, so responded with other
18 officers, code three, which is lights and sirens to the park.

19 Q. And as you sit here today, do you recall where you
20 were when you responded?

21 A. I was downtown, I know that, but it's a short
22 distance from where we were at.

23 Q. And as a technical matter, is the place you
24 responded within the County of Washoe, great State of Nevada?

1 A. Yes, it is.

2 Q. Where did you respond?

3 A. To Oxbow Park.

4 Q. Where is that?

5 A. It's at the end of Dickerson Road. I don't know
6 the exact address.

7 Q. The very end of Dickerson Road?

8 A. Very end, yeah. Second Street turns into
9 Dickerson and it goes all the way down.

10 Q. And what happened when you got there?

11 A. When we arrived, there were actually two units on
12 the scene coming into the park at the same time. One of the
13 officers, as you come in, it branches out either right or
14 left depending on where you want to park with kind of a
15 gazebo set up in the middle. As I came in, the officer went
16 to the right, I went to the left and saw some guy flagging us
17 down, a male gentleman.

18 Q. Who was that guy?

19 A. It ended up being Eric Preciado.

20 Q. He flagged you down, what does that mean?

21 A. He was waving his arms at us or at me since I was
22 the first on the scene and I got out to talk to him and he
23 kind of pointed towards the river down the path there.

24 Q. Do you go down that path?

1 A. Yes, I did.

2 Q. What did you see?

3 A. There was one male victim in the case. He was on
4 his back laying down, head to the north and feet kind of
5 towards the river right by the pathway there.

6 Q. Let's take a step back here. I want, if you
7 would, ask you to review. If I can approach the witness,
8 your Honor?

9 THE COURT: You may. Please approach freely now
10 that you've offered the courtesy of asking.

11 MR. STEGE: Thank you.

12 BY MR. STEGE:

13 Q. Exhibit 1 which contains six pages, if you'll
14 review that and I'll ask you some questions. Do you
15 recognize what's depicted in that proposed exhibit?

16 A. I do.

17 Q. Is it a fair and accurate indication or
18 representation of the area we've been talking about?

19 A. It's multiple images, satellite images overhead of
20 that entire area, yes.

21 Q. Are they authentic being a fair and accurate
22 representation of that area?

23 A. I would say so, yes.

24 MR. STEGE: Move to introduce Exhibit 1 pages 1

1 through 6.

2 THE COURT: Any objection?

3 MR. EDWARDS: No objection, your Honor.

4 THE COURT: Exhibit 1, 1 through 6 are admitted.

5 MR. STEGE: May I publish the exhibits?

6 THE COURT: You may.

7 BY MR. STEGE:

8 Q. Let's go through these exhibits. What are we
9 seeing here in page one?

10 A. This is a diagram. Again, it's an overhead. As
11 you can see in the upper right corner is Dickerson Road.
12 That's the main road that ends at Oxbow Park. The little red
13 outlined area is that gazebo area I was talking about.

14 As you work your way down the page, you can see a
15 pathway, if you will, and then the river, the Truckee River
16 is indicated by the blue arrows on the bottom.

17 THE COURT: If you need to, Officer Smith, you
18 actually can draw on the screen.

19 THE WITNESS: Can I draw? Oh, okay.

20 BY MR. STEGE:

21 Q. We have touch screens now. Let's move to page
22 two, just describing this.

23 A. Okay. And this looks like a satellite overhead
24 with that first overlay on that still depicting the entrance

1 here on Dickerson and then the pathway down to the river.

2 Q. And do you see on this exhibit or the prior one,
3 this page, where it was you encountered this gentleman, the
4 man who was down there?

5 A. I'll circle it the best I can here. He was in
6 this area -- that didn't turn out that too well. He was in
7 that area.

8 Q. Do you know how you undue what you've just drawn?

9 A. I have no idea.

10 Q. Top right is undue, bottom left is clear.

11 A. Okay. So I will try again.

12 THE COURT: If you use your fingernail, it works
13 the best.

14 THE WITNESS: There we go.

15 BY MR. STEGE:

16 Q. So is that where you encountered Preciado or the
17 man who was down?

18 A. Roughly the area where I contacted the witness,
19 Preciado.

20 Q. And where was it that the man was down?

21 A. If I could, I'll clear this screen real quick, and
22 it was in this area here where the male was laying down.

23 Q. Tell us about what happened when you got up to the
24 man.

1 A. He was unresponsive. Called out to him, shook him
2 a little bit. Like I said, he was laying on his back, he had
3 some scrapes on his knees, nothing that would indicate that
4 he was alive. There was a pool of blood near his body and he
5 was unresponsive to what we were trying to get him to wake
6 up, if you will.

7 Q. Okay. And what did you do next?

8 A. Pulled open his shirt. I took his shirt up to see
9 if there was any rising, if there was any shallow rising or
10 falling of his chest to see if he was breathing.

11 Q. What you're looking for here is what?

12 A. I'm just looking to see if he's breathing.
13 There's been times we've come across people that are very
14 shallow breathers that you wouldn't see that unless you saw
15 the rise and fall of the chest. At that point, I realized he
16 was not breathing. I also saw some indication of an injury
17 on his chest.

18 Q. And what indication was that?

19 A. It was a small -- it's hard to kind of explain,
20 but a small laceration, kind of like a skin tearing apart.

21 Q. Okay.

22 A. But around it was a circular bruise and it looked
23 like a protrusion of something that was coming out of the
24 chest.

1 Q. What did you do next?

2 A. Because he wasn't breathing, because there was no
3 signs of life, I began chest compressions on him.

4 Q. How long did that last?

5 A. It felt like forever. That lasted up until REMSA
6 arrived. I don't know how soon or how late they were there
7 at the party, I guess, but it was a couple of minutes, three
8 or four minutes, maybe.

9 Q. In the meantime, either you or another officer
10 called for an ambulance?

11 A. Correct.

12 Q. And what happened when the ambulance gets there?

13 A. When they get there, I believe, and I could be
14 mistaken, but I believe they cut the shirt off and I helped
15 the REMSA crew actually get him on the gurney. As we rolled
16 him over to get the board underneath him, there was a small
17 single hole in the back, mid back.

18 Q. Have you ever seen a hole that looks like that in
19 your time as a patrolman?

20 A. I have.

21 Q. What did that hole look like?

22 A. A bullet hole.

23 Q. Sir, if you would please review proposed Exhibit 2
24 containing 12 pages. Do you recognize proposed Exhibit

1 Number 2?

2 A. I do.

3 Q. How is it that you recognize it?

4 A. The first five pages are of the, I call them the
5 life saving techniques that were going on that were taken by
6 officers on the scene, and then the following seven pages of
7 Exhibit 12 would be crime scene photos.

8 Q. Are those a fair and accurate depiction of those
9 two things?

10 A. Yes, they are.

11 MR. STEGE: Move to introduce 2.

12 THE COURT: Any objection to Exhibit 2?

13 MR. EDWARDS: No objection, your Honor. That
14 would be pages 1 through 12 of that?

15 THE WITNESS: That's correct.

16 THE COURT: Exhibit 2, pages 1 through 12 are
17 admitted.

18 MR. STEGE: May I publish?

19 THE COURT: You may. Please, publish freely.
20 Once admitted, you're welcome to publish as you see fit,
21 Mr. Stege.

22 MR. STEGE: Thank you.

23 BY MR. STEGE:

24 Q. Let's talk about 2. What are we seeing here at

1 page one?

2 A. That is the male victim I found at the end of the
3 walkway, the pathway leading out to the dock. That is my
4 sergeant looking over me while I'm doing chest compressions
5 on the male.

6 Q. If you reference the map we saw earlier, where is
7 the photograph taken from?

8 A. This is taken from the parking lot area or maybe a
9 little south, but it is from that north spot where I was able
10 to contact the witness there, Preciado.

11 Q. What about page two?

12 A. That is me doing chest compressions on the male
13 victim.

14 Q. Page three?

15 A. The same.

16 Q. And do you recall who's taking these photographs?

17 A. I don't recall. That wasn't my priority at the
18 time. But it had to be another officer on scene.

19 Q. And four?

20 A. Male victim.

21 Q. And that hat, was that hat there as you --

22 A. It was.

23 Q. -- came upon it?

24 A. Yes.

1 Q. Page five.

2 A. This is the injury that I was talking about when
3 we pulled the thing up. I mentioned it was kind of like a
4 laceration. It looks like it kind of split the skin, I
5 think, length wise or width wise, I guess, and then the
6 bruising around that.

7 Q. And for the record, you're -- it's dead center of
8 the chest?

9 A. It is right there, yeah.

10 Q. And five?

11 A. Let me undue these real quick. That is after the
12 body was removed, you can see where the hat was, and then the
13 blood stain from his injuries.

14 Q. Let's talk about seven here. What is this, the
15 remaining pages from this exhibit, what are we going to see?

16 A. As you look down the path, again, this is looking,
17 if you will, from the area where we contacted the witness,
18 this is closer to the river. Just beyond these fence line is
19 the river. It's kind of an over lookout. You do have the
20 blood and the hat. And as you look around, you can see some
21 markers that are posted through. Each of these are items of
22 evidentiary value that somebody may have found during the
23 initial scan of the area.

24 Q. And so tell us about this initial scan. What is

1 that initial scan?

2 A. As we arrive, it is a crime scene and we're going
3 to try to secure the crime scene as best as we can. And the
4 initial scan through there would be walking through and see
5 items that probably would not have been there prior to, or if
6 it's something that could be of evidentiary value to the
7 case, if it was a shooting, if there was a gun, if there was
8 a casing, if there was blood spots that kind of show, which I
9 know they're coming, so that's why I said it, where the
10 person may have been walking from or where the initial act
11 happened.

12 Q. But are there also crime scene investigator people
13 who end up showing up later?

14 A. Yes. We have detectives that did get called out,
15 and then also FIS or forensic crew would come out there and
16 take pictures themselves, too.

17 Q. So once control of the scene is had, these were
18 sort of the initial identification of potential evidence?

19 A. That's correct.

20 Q. And in this case, the police had the control of
21 the scene?

22 A. Yes.

23 Q. That bottom left corner, what's that? What do you
24 see there?

1 A. This is -- I'll undue these again. I'm sorry.
2 We're looking at the hat.

3 Q. Below the hat?

4 A. Below the hat is gloves.

5 Q. Where are those gloves from?

6 A. They might be from my hands. I don't remember if
7 I had an opportunity to put gloves prior to doing chest
8 compressions. If I saw the previous slides, I could probably
9 tell you better. Yeah, those would be my gloves, then.

10 Q. You took the gloves off?

11 A. I took them off and left them on scene, yes.

12 Q. Let's move to page eight. You mentioned blood
13 spots. Is this --

14 A. These are, again, things on the initial scan that
15 we would see that -- excuse me -- that we would mark or take
16 photos of for the investigation.

17 Q. And you mentioned FIS. Does FIS later take their
18 own photographs?

19 A. Yes, they do.

20 Q. These are taken by the responding officers?

21 A. These are taken by the responding officers,
22 correct.

23 Q. Nine, what do we see?

24 A. Just a cigarette that had been lit but not been

1 finished.

2 Q. And ten, this is sort of --

3 A. If you can see it, there's a single casing from a
4 gun that is laying on the dock there.

5 Q. As you sit here today, do you remember what part
6 of the dock that was on?

7 A. It was more towards the south, so kind of closest
8 to the river.

9 Q. Okay. 11?

10 A. That's a close-up of that casing.

11 Q. And 12?

12 A. As you look from where that casing kind of the
13 area near the river, you can see all the items that they're
14 probably marked. There were a couple of officers on scene, a
15 couple of sergeants, and you can obviously see in the
16 background here, this car is the witness' vehicle.

17 Q. Tell us about that. How did you get to -- after
18 the ambulance takes him, how does the case proceed? What do
19 you do?

20 A. At that point, we want to kind of secure any
21 witnesses we have. Since he was the only one that we saw as
22 we come into the park, plus he was the one that called 911,
23 we kind of verified who he is and asked him if he would mind
24 staying on scene until, I guess, the chaoticness of the

1 initial call calmed down a little bit.

2 Q. Okay.

3 A. So I spoke to him a little about what he saw, then
4 that way I could pass that information on to my sergeants
5 when they arrived and the detectives.

6 Q. And what else? Did you have a look around the
7 parking lot?

8 A. Yes. As I went back to my vehicle, there was the
9 witness Suburban that he had and then there was another
10 vehicle on scene that was unoccupied.

11 Q. And while you're in the park, is there anyone else
12 around besides this Preciado and officers that you noticed?

13 A. No. There was nobody that I noticed.

14 Q. And vehicles besides Preciado's and this other
15 one, did you notice any other vehicles?

16 A. No.

17 Q. Tell us about this other vehicle.

18 A. I believe it was a Nissan. It was a four-door
19 Nissan, had some paper work inside. I forgot to mention also
20 that the male victim had his keys kind of like I do during
21 the summertime if I don't have pockets, kind of in between
22 his waistband on the left hand side.

23 So as I'm doing chest compressions, I can see that
24 the keys are there. And one of the keys that were on there

1 was a Nissan key. So we ran the plate on the vehicle, came
2 back to a male and so we did some workup from there to try to
3 figure out if this was the same gentleman or not.

4 Q. What did you learn about whether it was the same
5 gentleman?

6 A. Well, the registered owner of the vehicle had been
7 a subject or a victim or he was listed in our reporting
8 system multiple times through multiple cases.

9 Q. What was his name?

10 A. I honestly don't remember.

11 Q. Robert Trask. Does Robert Trask sound familiar?

12 A. Yes.

13 Q. But did you end up looking in the car for evidence
14 that in fact it was his?

15 A. There was items of indicia that would confirm that
16 was who it was.

17 Q. His car?

18 A. His vehicle, correct.

19 Q. And did you do any -- what did you do with this
20 information in records in terms of looking for a possible
21 suspect?

22 A. So our vehicle computers have access to all of our
23 cases, all of the information that if you were listed as a
24 subject in a report, we can pull up your information as far

1 as where you live, your address, your phone number, any
2 indication of who you could be. I did that and called --

3 Q. What name did you come up with?

4 A. With Robert Trask.

5 Q. What about a possible suspect? Did you come up
6 with a possible suspect?

7 A. From there, the only thing we can't access is the
8 cases themselves. So at that point, once we identified who
9 that was, I called our records division, our department at
10 the Reno Police Department and talked to one of the employees
11 there and asked them to read me a little bit of information
12 on two specific cases.

13 Q. And that gave the name Katherine Fletcher?

14 A. It did and the son's name, also, Max.

15 Q. Did that give you an address, if you recall?

16 A. It did. It gave me a couple of addresses. We
17 were able to look her up again. That name was in our system.
18 There was an address down in Carson City that we tried
19 contacting and then there was another address that was listed
20 on I believe it was her driver's license.

21 Q. Did you pass this information on so that officers
22 might attempt to look for Ms. Fletcher?

23 A. Yes, I did.

24 Q. Any other sort of major duties there at the park

1 after looking and speaking with Preciado and looking in the
2 car of Mr. Trask?

3 A. Besides taping off with the crime scene tape, kind
4 of stood by until the detectives showed up until we were
5 relieved by the graveyard units.

6 Q. What you're doing there is doing what?

7 A. Scene security.

8 Q. Making sure what?

9 A. Making sure nobody came into the scene and making
10 sure nothing is removed or added to the crime scene.

11 MR. STEGE: I'll pass the witness.

12 THE COURT: Cross examination.

13 CROSS EXAMINATION

14 BY MR. EDWARDS:

15 Q. Officer, were you the first officer on the scene,
16 the first law enforcement?

17 A. I was the first or the second. I can't remember
18 if Officer Bellinger, who was there with me, went right and I
19 went left, or if I went left and she went right. But, yeah,
20 the first on scene to contact the witness and also to contact
21 the male victim.

22 Q. When you approached the male victim, was he face
23 down or face down?

24 A. He was on his back, so face up.

1 Q. Who was your sergeant that you mentioned with you?

2 A. Sergeant John Mandagerin, retired.

3 Q. Did Mr. Trask say anything to you before he lost
4 consciousness?

5 A. No. As I previously testified, he was lifeless
6 when we contacted him.

7 Q. And what did you speak to Mr. Preciado about?

8 A. Asked him, again, what he saw. He gave me some
9 information that I kind of added to the sergeant to pass that
10 on, as far as a female and a child, roughly 8 to 10 years
11 old, walking away from that area, getting in a car that he
12 believed was a Neon and leaving the area.

13 Q. Did you have anything to do with the vehicle that
14 you found to belong to Mr. Trask?

15 A. What do you mean?

16 Q. Did you touch it?

17 A. No.

18 Q. Go inside of it?

19 A. No, I did not.

20 Q. Did you ever get his ID? Did he have ID on him?

21 A. I don't believe I ever grabbed his ID, no.

22 Q. Other than the chest compressions, did you touch
23 him in any other way?

24 A. No, I did not.

1 Q. You didn't take the pictures that we've seen here,
2 right. Obviously, you're in them?

3 A. Obviously not.

4 Q. They're not selfies?

5 A. No. I did not take any of those pictures.

6 Q. Do you know who did?

7 A. I do not. I can only assume since Officer
8 Bellinger was with me and she's not in the picture, I would
9 assume she took them, but that's an assumption only.

10 Q. Did you lay down the placards that we saw?

11 A. I did not.

12 Q. Did you find the shell casing?

13 A. I did not.

14 Q. How about the blood spots that we saw?

15 A. I saw them, but I did not mark those, no.

16 Q. And you saw cigarette as well, is that right?

17 A. Yeah. All of those evidentiary items that were
18 marked, I eventually saw, but I did not mark those.

19 MR. EDWARDS: Thank you. That's all I have,
20 Officer Smith.

21 THE COURT: Redirect.

22 MR. STEGE: No, thank you.

23 THE COURT: May this witness be excused?

24 MR. STEGE: Please.

1 THE COURT: Officer, thank you for your time.

2 Good day to you, sir.

3 THE WITNESS: Thank you.

4 THE COURT: Please, your next witness.

5 MR. STEGE: Scott Nelson.

6 (One witness sworn at this time.)

7 THE COURT: Good afternoon. Once you're
8 comfortably seated there, pull the microphone in front of you
9 and give your attention to Mr. Stege.

10 SCOTT NELSON

11 called as a witness and being duly sworn did testify as

12 follows:

13 DIRECT EXAMINATION

14 BY MR. STEGE:

15 Q. Please state and spell your name.

16 A. It's Scott Nelson, N-e-l-s-o-n, for the last,
17 S-c-o-t-t for the first.

18 Q. You're dressed as a police officer.

19 A. I missed that. I'm sorry?

20 Q. You're dressed as a police officer today. Are you
21 a police officer?

22 A. Yes, sir.

23 Q. How long have you been a police officer?

24 A. Approximately 13 years.

1 Q. What part of Reno Police Department do you work
2 in?

3 A. Currently with the traffic division.

4 Q. In the July of 2018, what part of the police
5 department did you work in?

6 A. Still the traffic division.

7 Q. Did you have any involvement in this case
8 occurring on July 28th of 2016.

9 A. Yes, I did.

10 Q. Can you please tell us about that?

11 A. Yes. I heard the call come out that there was a
12 potential shooting at Oxbow Park and officers were responding
13 to that location. Once they arrived on scene, probably
14 about, I think it was 10, 15 minutes or so later, one of the
15 officers on scene or supervisor requested a unit to respond
16 to the hospital to meet with the individual that was struck
17 to provide updates of their condition and kind of get more
18 details, if they can get some statements or whatnot.

19 Q. In police jargon, what does a unit mean?

20 A. Sorry. A police officer, under the unit, anybody
21 that is available at that point.

22 Q. And when this call came out for assistance to the
23 hospital, do you remember where you were?

24 A. I was at the station, the RPD main station located

1 downtown off of Second Street.

2 Q. Did you assign yourself to that call or go on that
3 call?

4 A. That was dispatch, basically, to be on that call
5 and that was the task I was given.

6 Q. What did you do?

7 A. As I was leaving the motor pool, a lot of times in
8 cases where we need units to go to the hospital, I meet with
9 people that are being transported. Units on scene will give
10 the REMSA unit number so we know which unit to look for,
11 because sometimes we might get there before they do that, or
12 they'll get there and we'll wait for them.

13 Q. What is a motor pool?

14 A. My apologies. The motor pool is where we park all
15 of our police vehicles at the station.

16 Q. You pull into the parking lot and what happens?

17 A. I see the REMSA unit traveling eastbound on Second
18 Street past the main station with its lights and siren
19 activated. That was the same unit that was leaving the Oxbow
20 Park and had the individual being transported. I also went
21 with lights and sirens following REMSA to Renown hospital, so
22 we got there at the same time.

23 Q. What happened at the hospital?

24 A. At the hospital, I obviously parked my vehicle,

1 REMSA parked their vehicle. They took the individual into
2 the trauma bay to receive further treatment or medical
3 attention. I went in there as well and pretty much kind of
4 hung in the background while medical attention was provided
5 for the individual.

6 Q. And you witnessed the medical attention that was
7 given?

8 A. I mean, I was in the room with them. What they
9 were actually doing, I'm not very familiar with a lot of the
10 stuff, but I was in there while they were providing medical
11 attention to him.

12 Q. At some point, did that medical attention end?

13 A. It did, yes.

14 Q. How did it end?

15 A. Typically, in those types of cases, the -- I guess
16 the surgeon or the emergency room doctor had exhausted all
17 efforts to revive or resuscitate or provide treatment, they
18 have what's called, they'll call it, it's called the time of
19 death and they will say an individual is pronounced at a
20 specific time. I believe in this case it was 22:02 hours, so
21 8:02 p.m..

22 Q. What happened after that?

23 A. While they were -- before that happened, I was
24 trying to ask REMSA, since I wasn't in the ambulances with

1 them, if they were able to provide any kind of identification
2 or if the individual made any statements about maybe what
3 occurred and what had happened. I was informed that the
4 individual was unresponsive the entire time on the way to the
5 hospital.

6 Q. And was that gentleman later identified as Robert
7 Trask?

8 A. Yes, sir.

9 Q. And then what?

10 A. After I was trying to get the information, because
11 we like to log and provide information on when the individual
12 was pronounced deceased, the doctor that actually pronounced
13 him told me that they did everything they could, but chances
14 are even prior to being transported he wasn't probably viable
15 but they made every effort.

16 So I remained in scene in the trauma room as a lot
17 of the medical staff cleared out. And then while there was
18 still a couple of individuals, Renown employees and medical
19 staff, I took photos of the individual while he was still --
20 had a lot of the patches and I think they're like EKG
21 stickers in basically the state that he was in when he got
22 there to the hospital.

23 Q. Please continue.

24 A. And then once I finished taking those photos, the

1 individual was transported or wheeled out of the trauma room
2 across the hall to like -- I'd say an isolated room where I
3 remained with them until the coroner, as well as one of our
4 detectives, arrived on scene to take over the investigation.

5 Q. You stayed there in the room with Mr. Trask's
6 body?

7 A. Yes, sir.

8 Q. And do you remember what time detectives and
9 coroner staff showed up?

10 A. I believe the coroner arrived at about 9:35, so
11 21:35 hours in the evening, and then shortly thereafter, I
12 don't recall if it was a couple of minutes, maybe 15, 20,
13 Detective Blasel arrived on scene, because he was with the
14 robbery/homicide unit and he was the detective assigned
15 basically to take over where I was at.

16 Q. From there, the body goes to the medical
17 examiner's office?

18 A. Yes, they'll call an on-call mortuary to transport
19 the individual from the hospital to the coroner's office.

20 Q. I guess another way of saying that is the coroner
21 or the medical examiner takes custody of the body?

22 A. That would be correct, yes.

23 Q. And when the medical examiner personnel showed up,
24 were additional photographs taken?

1 A. Yes, sir.

2 Q. Including a tag is placed on the body?

3 A. Yes, sir.

4 Q. Did you witness that in this case?

5 A. I was in the room with them. I don't recall if I
6 was still taking photos, but there was a tag placed on the
7 individual, yes.

8 Q. Okay. Sir, would you please review proposed
9 Exhibit 14, which contains six pages? Do you recognize what
10 that proposed exhibit is?

11 A. Yes, I do.

12 Q. How do you recognize it?

13 A. I recognize them by the injuries I remember from
14 the evening of the incident, as well as the tattoos that were
15 prevalent on the individual as well.

16 Q. And are those a fair and accurate depiction of the
17 state of the body of Mr. Trask?

18 A. Yes, sir.

19 MR. STEGE: I move in the exhibit.

20 THE COURT: Any objection to 14?

21 MR. EDWARDS: No, your Honor.

22 THE COURT: 14 is admitted.

23 BY MR. STEGE:

24 Q. Let's look at 14, please describe what we're

1 seeing on page one.

2 A. This was the individual on the gurney. This would
3 have been after they had called the time of death. It shows
4 kind of what they call labilities, so kind of like a pooling
5 of blood on the back. That's that darker colored area, which
6 is pretty consistent since the blood will pool down since the
7 heart is not pumping. It shows the EKG patches on the left
8 side of his chest.

9 Q. I'm sorry to interrupt. We have touch screen
10 monitors in here. If it aids your testimony, please use
11 that.

12 A. Okay. So the lability I was talking about is kind
13 of portrayed right there, that dark colored area. That's
14 something we're taught in the academy to look for. That's
15 usually like I said, the blood will pool down. The tattoo,
16 that was indicative, I remember that, and also the name Max
17 on his left chest, which is right up here, and then the other
18 tattoo referred to was the dagger right there.

19 Then I believe they're EKG patches for the heart,
20 but there's a lot of stickers. Those were all him. That was
21 all used for medical personnel for, I assume, potential
22 resuscitation beyond my scope.

23 Q. Let's talk about page two, the bottom left corner,
24 if you press the bottom left screen. There you go. Please

1 describe what we're seeing here.

2 A. So this is the, I guess, the lower half, the
3 waistline of the deceased. One thing of note was on his
4 knee, in addition to the other injuries already described,
5 was an abrasion or some sort of like laceration to his left
6 knee.

7 There's still more of the medical, either EKG or
8 patches on his legs. And I believe the tube right here was
9 another almost like an IV, but I'm not certain about that.

10 Q. Can you talk about the hands?

11 A. I'm sorry?

12 Q. Hands, this gentleman's hands?

13 A. I don't see on this photo.

14 Q. You don't see -- aren't those hands covered in the
15 plastic bag?

16 A. The paper bag, yes. His hands are covered in a
17 paper bag.

18 THE COURT: Can you circle that?

19 THE WITNESS: I will circle right there.

20 BY MR. STEGE:

21 Q. What do you know about the process of the paper
22 bags on the hands?

23 A. In my experience, a lot of times they'll place
24 bags over the hands of individuals to try to preserve any

1 kind of potential maybe gunshot residue or kind of DNA or
2 anything they may have come in contact with when they're
3 touched.

4 Q. Evidence preservation?

5 A. Yes, sir.

6 Q. Page three.

7 A. This is obviously his chest. You see the same
8 individual is identified by the tattoo up there. The other
9 thing of note would be the area of his middle chest right
10 here, there was a redness and what looked like some sort of,
11 I don't know if you want to call it like an indentation or
12 something protruding right there, that really dark color.

13 Q. And did you get a closer look at that or was this
14 sufficient for your purposes?

15 A. For me and for the photos, that was sufficient
16 enough. But it's obviously discolored with darker color and
17 could potentially identify some intrusion or some object
18 entering the body.

19 Q. Four. Page four.

20 A. This is the -- I believe it was left knee that was
21 circled earlier. Those are those abrasions that appear to be
22 fresh in color. They didn't appear to be scabbed over at
23 all. So looking at based on what we had, in my opinion, they
24 looked to be somewhat fresh and not from days prior.

1 Q. Five.

2 A. These here were the shorts the individual was
3 wearing. The one thing that I noted and was able to see is
4 up over here, it looks like a light discoloration compared to
5 the rest of the shorts. I'm not sure if that was -- what was
6 caused from, but it's obviously something of note that it
7 stands out from the rest of the shorts.

8 Q. And six.

9 A. This was the individual's foot, and then as
10 referred to earlier, that was the tag that was placed on the
11 individual by the coroner.

12 Q. And once the body is given over to custody of the
13 medical examiner, do you have any further role?

14 A. Typically, no. A lot of times, depending on the
15 circumstances, we'll wait with them until they're completely
16 done. Depending on the circumstances, sometimes we may help
17 either place the body bag underneath or help assist with
18 getting the individual, the deceased actually in the bag.
19 But, typically, that's the mortuary and the coroner's role.

20 MR. STEGE: Thank you. I'll pass the witness.

21 THE COURT: Cross examination.

22 CROSS EXAMINATION

23 BY MR. EDWARDS:

24 Q. Officer Nelson, you said that you observed

1 abrasions on the knees?

2 A. Yes, sir.

3 Q. Is that right? You said they looked fresh?

4 A. Yes, sir.

5 Q. You weren't able to determine how they got there?

6 A. I was not, no.

7 MR. EDWARDS: Thank you. That's all I have, your
8 Honor.

9 THE COURT: Redirect.

10 REDIRECT EXAMINATION

11 BY MR. STEGE:

12 Q. Have you ever seen abrasions like that in a
13 shooting?

14 A. Any abrasion like that in a shooting?

15 Q. Yes.

16 A. Like as a result of being like being shot or as a
17 result of something else?

18 Q. As a result of being shot.

19 A. Not to my knowledge, no, not looking like that.

20 Q. What about falling down after being shot, have you
21 ever seen anything like that?

22 A. Just in general falling down, I would say those
23 would be fairly consistent.

24 MR. STEGE: Very good.

1 MR. EDWARDS: Raises nothing for me, your Honor.

2 THE COURT: May this witness be excused?

3 MR. STEGE: Yes.

4 THE COURT: Thank you, sir. You're excused,
5 officer. Mr. Stege, your next witness.

6 MR. STEGE: Eric Preciado.

7 (One witness sworn at this time.)

8 THE COURT: Please be seated, Mr. Preciado. Once
9 you're comfortably in that chair, pull the microphone in
10 front of your face, give your attention to Mr. Stege.

11 ERIC PRECIADO

12 called as a witness and being duly sworn did testify as

13 follows:

14 DIRECT EXAMINATION

15 BY MR. STEGE:

16 Q. Could you please tell us your name?

17 A. Eric Preciado.

18 Q. How do you spell Preciado?

19 A. It's P-r-e-c-i-a-d-o.

20 Q. How long have you lived here in Washoe County?

21 A. All of my life.

22 Q. Do you have any kids?

23 A. Two.

24 Q. What are their ages?

1 A. I have Elizabeth, she's ten, and Andre, he's 13.

2 Q. Are you familiar with Oxbow Park?

3 A. Yes. Very familiar with that park. We liked that
4 park for many years.

5 Q. Before this case, had you been there?

6 A. Many times.

7 Q. And what sort of things would you do there?

8 A. All kinds of stuff. We'd walk. They have a nice
9 little trail you go pretty far back in there. The river had
10 a deep spot for fishing, plus playing around. You could get
11 in there pretty deep past your waist. All kinds of stuffs.

12 Q. On the 28th of July of 2016, did you go to Oxbow
13 Park with your children?

14 A. I did.

15 Q. Tell us about that day. What did you guys do at
16 the park?

17 A. Well, we got there, just like any other day,
18 normal day, and good mood because we're going to the river.
19 So now you want me to tell all of it?

20 Q. Not quite yet. I'm kind of leading up to that. I
21 want to know, what were the types of things you and your kids
22 did at the park?

23 A. That day?

24 Q. That day.

1 A. Playing in the river.

2 Q. Swimming?

3 A. Swimming.

4 Q. Do you know how long it was, roughly, that you
5 stayed there with your kids?

6 A. About two, two and a half hours.

7 Q. And did you run into or see anyone else before all
8 the crazy stuff happened?

9 A. Before all the crazy stuff happened. So there was
10 a group of kids on a boat, but not really.

11 Q. Is that your experience with that park, that
12 there's not usually very many people there?

13 A. Yeah.

14 Q. And same that day?

15 A. Yes.

16 Q. Did you run into a man, woman and a small boy?

17 A. Yes.

18 Q. How did that happen?

19 A. Just walking to our spot. We were walking to get
20 where we wanted to be in that park.

21 Q. Okay. And tell us about these people you saw?

22 A. Well, they just seemed normal, seemed average,
23 nothing too out of the ordinary.

24 Q. Can you describe what the man was like, what he

1 looked like, if you remember?

2 A. He had curly hair, wavy hair, kind of dark dirty
3 blond, shorter, a little heavy.

4 Q. What about the boy?

5 A. Yeah, wavy dirty blond hair and small.

6 Q. Did you have an idea of the boy's age?

7 A. Oh, I would say around 8 or 9, something like
8 that.

9 Q. And there was a woman with them?

10 A. Yes.

11 Q. Did you have any interaction? Like, did you guys
12 talk?

13 A. Not really directly to her, but, yeah, to the
14 group.

15 Q. Why don't you tell us who talked. Sort of tell us
16 the story of who talked.

17 A. So I spoke up first and said, how are you guys
18 doing? Beautiful day. Like I normally do. Surprisingly, he
19 talked back, he started talking back, was equally as joyful
20 for the day which was unusual to me and she was pretty much
21 the opposite. She didn't seem very happy.

22 Q. Okay. Do you remember if the kids talked or if
23 you talked about anything that might be of interest to kids?

24 A. Yeah, the kids were talking about the game Pokemon

1 Go and the characters that they like. I really didn't catch
2 too much, because they were talking about the same time I was
3 talking to the gentleman and the lady was talking about the
4 same time that they were talking about their characters.

5 Q. And you said the woman kind of had the opposite
6 mood or demeanor as the man?

7 A. Yeah. She just was like -- she mentioned people
8 die when they play this game, people die. She said it, I
9 remember twice, more than once, she said people die playing
10 this game and that was kind of like the end of the
11 conversation. I was kind of like, well, you guys continue
12 having a good day.

13 Q. Where was it you went from there?

14 A. We went about maybe 200 yards up from where that
15 dock was, 200 yards up. So we could probably, if I tried, I
16 could look and still see where they were from where we were,
17 because of how the bend was.

18 Q. All right. Would you like to try to do that?

19 A. Sure.

20 Q. We previously admitted a series of maps and aerial
21 views of the park. I wonder, I might hand these to you and
22 have you tell me which one you think you would like to use to
23 describe what we're talking about.

24 A. I like this one the best, Exhibit 14P. It shows

1 pretty much everything we need to talk about.

2 Q. Very good. I'm going to put it up. It will be in
3 the screen in front of you. In this courtroom, if you touch
4 the screen, you can circle what you're talking about. I
5 might demonstrate. For example, you just draw on the map,
6 you can do that.

7 THE COURT: Which page is that for the record?

8 MR. STEGE: This is page four.

9 THE COURT: Thank you. So Exhibit 1, page four.

10 THE WITNESS: Can you scoot it up? So down here,
11 down here, we would have been a little more this -- well --
12 BY MR. STEGE:

13 Q. You may need to press a little bit harder.

14 A. I didn't mean to do that. I was thinking I could
15 move the screen. So they were sitting here and we were more
16 up the river about 200 yards.

17 Q. Up the river, that would be heading west?

18 A. I guess that one really didn't show it.

19 Q. Let's move to the next point and maybe we'll come
20 back. You go play with your kids in the river. At some
21 point, you come back to your car?

22 A. Uh-huh. We were getting ready to leave. We were
23 done for the day. So she said she was hungry, so we were
24 getting ready to leave.

1 Q. That's your daughter?

2 A. My daughter was saying she was hungry.

3 Q. I notice in your answer, you said uh-huh. If
4 you'd say yes or no, because it's very difficult to
5 transcribe?

6 A. Okay.

7 Q. And so you get back to your car?

8 A. Uh-huh. Yes.

9 Q. And what kind of car is it or was it?

10 A. It was like a teal Yukon.

11 Q. And what happens at the car?

12 A. I was putting on my shoes and I heard a pop, kind
13 of thought it sounded like a firecracker. So I looked over
14 my shoulder, because I was facing -- I was facing that
15 direction, more like this direction here.

16 Q. Okay.

17 A. And so I had to kind of look over my shoulder.

18 Q. And what did you see when you looked over your
19 shoulder?

20 A. I saw them kind of stumbling, walking kind of
21 funny, trying to talk and reaching his arm in a weird way
22 kind of behind him like that.

23 Q. So you're demonstrating he's reaching towards the
24 top part of his back?

1 A. Yeah.

2 Q. Maybe if could you stand up and demonstrate for
3 us.

4 A. He was like this and the other hand was like this.

5 THE COURT: So his right hand was in the middle of
6 his back behind and his left hand was in the middle --

7 THE WITNESS: Like he was trying to touch
8 something.

9 THE COURT: Okay.

10 BY MR. STEGE:

11 Q. And then what?

12 A. And then he hit the ground pretty hard. And I
13 said, oh, this dude needs some serious help right now. I
14 reached in and grabbed my shoes and headed towards him.

15 Q. How soon do you think it was between hearing this
16 pop and turning to see what happened?

17 A. A second. Because it was loud. I mean, it was so
18 loud.

19 Q. And where was it from where you were?

20 A. Like behind me. So it came like from this area.

21 Q. Okay.

22 A. I was right here facing this direction.

23 Q. Let's maybe switch over to page 1 of Exhibit 1.

24 If this area here is the parking lot, can you indicate where

1 it was where you were?

2 A. Right here.

3 Q. Okay. And where was it when you turned you saw
4 the man stumbling?

5 A. He was down here.

6 Q. Did you see anyone else?

7 A. Yes.

8 Q. Who?

9 A. I saw the little boy and the lady.

10 Q. Was it the same little boy and lady you saw
11 before?

12 A. Yes.

13 Q. Was it the same man you saw before?

14 A. Yes.

15 Q. Now, at that time, was there anyone else around in
16 the park?

17 A. No.

18 Q. What was the woman doing?

19 A. She was slowly trying to get away and then she
20 kind of sped up and then back to being slow.

21 Q. Where was it that she was going?

22 A. Well, it seemed she was trying to leave. My first
23 impression was she was trying to leave. And then I noticed
24 that's not what she was trying to do.

1 Q. What was she trying to do?

2 A. Well, she was just doing something in her car.

3 Q. Okay.

4 A. I don't know what she was, I just -- you know, I
5 was messing around with the guy. And then it dawned on me,
6 oh, what happened? How did this guy get shot? Where is my
7 kids? And then I go back to the truck and that's when I was
8 like, okay, she's still here and that's when I went --

9 Q. Okay.

10 A. So then I went there to talk to her and I actually
11 opened her door and said, what's going on? What did you see?
12 What did you see? She just was so like -- she looked scared
13 and shocked and didn't have anything to say.

14 Q. Didn't you previously describe when you were up at
15 the car that she was sort of stammering?

16 A. Yeah. She made like a sound like ah, ah, ah and
17 that's it.

18 Q. That's sort of unpack this, because there's a lot
19 going on here. When you turn, you see the man. Where is the
20 woman and child in relation to the man?

21 A. When I heard the pop?

22 Q. You hear the pop, turn around, see the man, where
23 was the child?

24 A. She's directly behind him. So I couldn't actually

1 see her, because she was behind him. Until he fell, I was
2 still focused on him, and so when he was standing there, I
3 couldn't really see her. When he fell, I was still focused
4 on him and that's when I kind of noticed she was messing
5 around with something and then he grabbed on to him and left.

6 Q. What do you mean messing around?

7 A. Well, it didn't seem like, you know, if she was
8 trying to get out of there as fast as, you know -- if she was
9 trying to get out of there, she would have been much further
10 ahead.

11 Q. Okay.

12 A. So that's why I was like, he fell and then she
13 started running.

14 Q. With the boy?

15 A. With the boy.

16 Q. What was the boy doing?

17 A. He was trying to figure out what was going on
18 himself. He was like trying to say, my dad, my dad, like,
19 what's going on?

20 Q. Do you remember what the woman was wearing?

21 A. She had a white shirt with a bathing suit
22 underneath it, an orange bathing suit.

23 Q. Okay. You look up and see that. When is it that
24 you go to the man, if you do, or what do you do next?

1 A. As soon as -- yeah, as soon as he hits the ground,
2 I put my shoes on and headed right to him. So there was a
3 second between the time that I put my shoes on and got to
4 him. And that's the time where I ran to the truck and we ran
5 right by each other.

6 Like, you know, we're on the same trail. So
7 between the time that he hit the ground and the time she got
8 out of there, was -- there was a gap in time.

9 Q. How big of a gap in time?

10 A. Seconds, you know, not very long, but long enough
11 that it was like --

12 Q. And what were you thinking that this woman is
13 going the other way and you're going to the man who was down?

14 A. I really was just like more concerned about help
15 this guy, like, what is going on with him at that point,
16 because, you know, I didn't think -- I thought he had like
17 firecrackers, because I did see smoke and I thought there was
18 like some sort of a firecrackers he was messing with and
19 that's why I was concerned to get to him.

20 Q. Where did you see smoke?

21 A. Behind him.

22 Q. So that smoke is behind him?

23 A. Uh-huh.

24 Q. Which is where you see the boy and the woman?

1 A. Uh-huh.

2 Q. You're doing that uh-huh thing.

3 A. Yes. Yes.

4 Q. Okay. What happens next? You're going down the
5 path?

6 A. Yes.

7 Q. You pass?

8 A. I passed her.

9 Q. And is she holding him or is the boy or holding
10 his hand?

11 A. Yes.

12 Q. Or is he walking independent?

13 A. She's got ahold of his hand and it kind of looked
14 like he was also trying to tug away, like he wanted his hand
15 out of her, he wanted to see his pops.

16 Q. And is that when you heard him say something about
17 his dad?

18 A. Yes. He was wondering what was going on.

19 Q. And do you remember what he said?

20 A. He was just kind of saying, my daddy, my daddy.
21 He didn't -- he didn't start saying, don't leave him, until I
22 said, don't leave him.

23 Q. Where was it that you said, don't leave him?

24 A. That's when I opened the car door.

1 Q. Let's go from you guy passed each other. Take us
2 to what happens next. Walk us through that.

3 A. So now I get to -- I get to him and, you know, I'm
4 just like looking around seeing what's going on with him. I
5 can totally tell that there's like no life in the guy. He's
6 just like -- it was the weirdest thing I've ever, like, oh,
7 my gosh, oh, my gosh.

8 So then I looked, I saw the hole and that's when I
9 was like, how did this guy get shot? This was during a time
10 when everyone is shooting out of their trunk. So I zipped to
11 my kids, looking around everywhere, like, is there someone in
12 this park? Is there someone in this park?

13 Q. Was there someone else in the park?

14 A. There was not anyone else in the park.

15 Q. Okay. So you go to your car to check on your
16 kids?

17 A. I checked on the kids and then they're screaming,
18 like, don't leave us, don't leave us. Let's just get out of
19 here. We need to leave. They wanted -- they were scared as
20 all could be. And I told them, it's fine. We'll -- it's --
21 the bullet will not be able to get to the door. I don't know
22 why I said that. I did say that. I said, just keep your
23 heads down, just keep your heads down.

24 That's when I noticed she was sitting in her car.

1 Then I closed our door and kind of walked slowly to her car.
2 For some reason, it was not like I was in a rush. So I get
3 to her car and I open the door and I say, what happened?
4 What happened? What did you see? What did you see? And
5 then I said -- she was only making those sounds and I said,
6 that man has been shot. You got to tell me what you saw.
7 You to got to tell me what you saw. And that's when she
8 grabbed the door and closed the door.

9 Q. And where was the boy when this happened?

10 A. He was in the back and he was crying loud, he was
11 crying franticly. He was saying, don't leave my daddy, don't
12 leave my daddy. And I said that too, don't leave him.

13 Q. So she shut the door and what did she do then?

14 A. Then still, you know, I just kind of backed up
15 from the car and walked behind the car. And, you know,
16 that's the last I thought of that. And still I didn't hear
17 like any frantic driving off or anything like that. So it
18 was very strange to me that she was not trying to leave.

19 Q. Or that she was trying to leave?

20 A. A little bit of both. Like she was trying to
21 leave, but she wasn't like trying to do it in a hurry. It
22 wasn't like I've seen something crazy, I'm trying to get out
23 of here or I'm leaving.

24 Q. Did you ever make any statements about helping the

1 guy, the guy who had been shot?

2 A. I'm not sure.

3 Q. For example, did you say, hey, you got to help him
4 or we got to help him?

5 A. I'm not 100 percent sure. I may have said
6 something like that.

7 Q. Was there any mention of calling 911?

8 A. No.

9 Q. Who called 911?

10 A. I did.

11 Q. When?

12 A. After I noticed I was not moving the guy, because
13 I was like, I wanted him to live, you know. So I was like,
14 okay, maybe if I can get this guy to the hospital, they can
15 get him going.

16 Q. Let's go from she's -- she drives off, right?

17 A. And I didn't even really notice that.

18 Q. Why not?

19 A. It was really quiet.

20 Q. What was it that you were doing?

21 A. I went back to the body. After she closed the
22 door, then I went straight back to him to try to get him.
23 Even then, I didn't notice her leaving at all. So I must
24 have already been back at the body when she left.

1 Q. So it could have been that she leave in a hurry,
2 but you were focused on trying to help the guy?

3 A. No. I could definitely tell that there was some
4 weird like -- I mean, if you're trying to get out of there,
5 you're trying to get out of there and that was not her --

6 Q. Okay. So is it then after she closed the car door
7 you go to the guy?

8 A. I go to the guy. I go back to the guy. And then
9 that's when I realized I wasn't going to move him, I needed
10 help. I'm like, I know how to get help.

11 Q. How?

12 A. Call 911.

13 Q. What was it that you actually did to try to help
14 him?

15 A. You know, I pushed on him a few times. I checked
16 his pulse. But there was -- I mean, it was like -- it was
17 weird, because he just was like, this is not what you're
18 supposed to be doing. You need some more training, equipment
19 for what this guy needs.

20 Q. You mentioned seeing a hole. Where was it that
21 you saw a hole in the guy?

22 A. I saw the hole on his back. I saw the hole on his
23 back.

24 Q. And how was that? How was he laying when saw him?

1 A. He was laying kind on his side. He was laying
2 kind of on his side. I'm not sure if I moved him or not.
3 Because when I seen him, I seen him fall flat on his face. I
4 don't know if like he fell and rolled. But I know that, you
5 know, I was not treating it like a crime scene. I was
6 treating it like I was trying to help this guy.

7 So I was definitely -- I don't know if I lifted up
8 his shirt, if I rolled him around. I know I was pushing on
9 him and stuff, but -- and I even tried to pick him up and he
10 flopped right out of my hands and hit the ground so crazy.

11 Q. Did you ever see any breath in his lung?

12 A. No. There was just the teeniest amount of blood
13 that came out of his back, too, that was not even two inches
14 long.

15 Q. Did he ever say anything?

16 A. No. He tried, but he didn't.

17 Q. So you call 911?

18 A. I called 911.

19 MR. STEGE: May I approach the witness?

20 THE COURT: Yes, you may.

21 BY MR. STEGE:

22 Q. This is proposed Exhibit 28. Do you recognize
23 this?

24 A. Yes.

1 Q. How do you recognize it?

2 A. We listened to this in John's office, and then
3 after that, I signed my initials on it.

4 Q. You signed your initials on it, because that's a
5 copy of you calling 911?

6 A. Yeah. It was kind of an embarrassing call. I was
7 like, is that what I sound like?

8 Q. We all have that. I move to introduce 28, please.

9 MR. EDWARDS: No objection.

10 THE COURT: 28 is admitted.

11 BY MR. STEGE:

12 Q. Before we play this, you want to talk about what
13 happens after the 911 call?

14 A. The whole calvary shows up.

15 Q. Did you recognize any of the officers who were
16 waiting in the hall?

17 A. I didn't know them.

18 Q. Fair enough. They show up and you end up speaking
19 to the officers?

20 A. Yes.

21 Q. If you saw this woman again in the park both
22 before and after the shooting, do you think you'd recognize
23 her?

24 A. Yes.

1 Q. Do you see that woman in this courtroom today?

2 A. Yes.

3 Q. Where is she? Where is she sitting?

4 A. She's sitting over there.

5 Q. What is she wearing today?

6 A. She's wearing a striped suit.

7 MR. STEGE: I ask that the record reflect the
8 identification of defendant Katherine Fletcher.

9 THE COURT: He has pointed to Ms. Fletcher and
10 identified her by an item of her clothing.

11 MR. STEGE: Thank you.

12 (911 call played at this time.)

13 BY MR. STEGE:

14 Q. This is the initial portion of it. It doesn't
15 sound like you're talking to the operator. Tell us what's
16 happening there?

17 A. I'm praying for the guy.

18 Q. Okay. I sense some, maybe panic in your voice.
19 Did you have any panic in your voice?

20 A. Yeah, no, I mean, of course. I feared for my
21 kids' safety at this point. I want to try to help this guy,
22 but at the same time, it's like, do I need to leave this
23 place or what?

24 Q. And plus this man is not alive as far as you can

1 tell?

2 A. As far as I can tell.

3 (911 call played at this time.)

4 Q. We started hearing maybe honking in the background
5 or something. Do you know what that was?

6 A. Yeah, that was my truck alarm.

7 Q. Do you know why it went off?

8 A. Maybe I was trying to get in and the kids locked
9 the door. That's probably why it would go off.

10 Q. You mentioned that she had a bag. You just said
11 that.

12 A. Yeah, it was a white bag. Short handle, short
13 handled, small bag.

14 Q. Okay. And where did she have it or was she
15 carrying it in her hand?

16 A. It was dangling from her arm.

17 Q. Like a purse?

18 A. Like a purse.

19 Q. Was it a purse?

20 A. It was a purse, yes.

21 Q. Okay. And white in color?

22 A. White purse, yes.

23 Q. Okay.

24 (911 call played at this time.)

1 Okay. We hear you say you're looking for your
2 keys. Where are you when you're looking for your keys?

3 A. It sounds like I'm outside of the truck.

4 Q. Okay. And then you just said, there's people
5 here. Tell us where these people come from?

6 A. They came from around that building. They must
7 have walked straight down, because I didn't see a car. So
8 they must have walked straight from Fourth Street into the
9 park.

10 Q. Sort of walked in the entrance?

11 A. The entrance.

12 Q. Were they in fact coming from the entrance?

13 A. They did seem like it, but they were pretty far
14 from the entrance, so it's hard to say. But there is only
15 one entrance, so I would say yes.

16 (911 call played at this time.)

17 Q. What's happening right now?

18 A. That was, you know, I saw somebody who I knew, but
19 I hadn't seen for a long time. And they were walking in the
20 park with a baby. And I, you know, said, this is what just
21 happened, that guy just got shot. I don't know if you guys
22 want to be there and they bee-lined it out of there.

23 Q. Okay.

24 (911 call played at this time.)

1 Having heard that now, does it refresh your
2 recollection or make you remember anything that we haven't
3 touched on this afternoon?

4 A. Well, I mean, there was so many things, you know,
5 that happened so fast and -- but I guess it would be up to
6 you, what type of stuff you guys --

7 Q. That's a good answer. You want me to ask you
8 questions.

9 THE COURT: Please.

10 BY MR. STEGE:

11 Q. Let's go to page 1 of Exhibit 2. So this is an
12 exhibit in evidence here showing an officer rendering aid to
13 the man. How does this view relate to where you were and
14 what you could see when you looked down towards that
15 platform?

16 A. That's pretty close. I was probably maybe just
17 50 feet more to the left right there from the direction we're
18 looking.

19 Q. Are you able to indicate where it was you saw the
20 defendant when you first -- you heard the pop when you first
21 looked over there, there was smoke?

22 A. She would have been standing a little bit closer
23 to that railing.

24 Q. Okay.

1 A. So about --

2 Q. I see a few railings. I wonder if you might mark
3 on the screen with your finger where it was?

4 A. Right. Her feet probably would have been around
5 there, maybe a little more this way. That's where she was
6 standing.

7 Q. Now, you hung out or waited there at the park and
8 then were eventually interviewed by a detective?

9 A. Yes.

10 Q. Let me ask you, while you were waiting, did you
11 hear or see the police officers sort of looking around in the
12 park?

13 A. Yes.

14 Q. And could you hear them when they were in the
15 park?

16 A. Very much. It was a very loud.

17 Q. And what do you mean by that?

18 A. Just their moving through it, you could hear them
19 crunching leaves and the sound of their legs brushing on the
20 brush and everything, it was very loud. I was able to look
21 around through there.

22 Q. So they were in the bushes and the brush, you
23 could hear them?

24 A. Clear as day, yeah, and it was a very silent day.

1 Reno is very windy and we're used to hearing the leaves and
2 it was not like that at all. It was very, very silent. I
3 mean, so you could probably even hear the river pretty clear.

4 Q. Did you hear anything like that around the time of
5 the shooting anyone in the bushes or the brush?

6 A. No.

7 Q. Would have heard that from where you were?

8 A. Definitely, because it was that loud. I mean,
9 even if the -- because I thought, you know, even if it was
10 all the way back here, it was very thick, I knew the park
11 very well, very thick and branches all back there.

12 Q. And that's a thing you would have heard if someone
13 was there?

14 A. I believe so.

15 Q. Now, in the confusion of this, it sounds like you
16 weren't sure what happened?

17 A. I was not sure what happened.

18 Q. You go from changing your shoes to suddenly
19 there's a gunshot?

20 A. Yeah.

21 Q. Afterwards, did you sort of reflect upon what you
22 had seen and draw an inference as to what happened?

23 A. I'm sorry. Yes. Yes. After I thought about it,
24 you know, you don't want to, you know, think of anybody like

1 that and I think you even said, forgive me if I'm wrong, but
2 I think that's what happened.

3 Q. What happened?

4 A. I think she did it, because --

5 MR. EDWARDS: Objection, your Honor, calls for
6 speculation.

7 THE COURT: Do you want to respond?

8 MR. STEGE: It is based on the rational perception
9 of the witness.

10 THE COURT: The way the question was answered and
11 the way he's formulating a response seems to incur some
12 speculation. Perhaps if you rephrase or refine the question.
13 BY MR. STEGE:

14 Q. Based on the evidence or based on what you saw
15 there at the scene, having interacted with the woman, having
16 been up to the man, knowing the park, knowing there's no one
17 around, did you form an impression as to what had happened?

18 A. Because of the -- how well I knew the park, I knew
19 that no bullet could have come from any other direction,
20 because it drops off, off of that balcony. It's higher on
21 this side. It would have been this way. So because of there
22 was no possible way for a bullet to come any other direction,
23 that's why I said -- I seen, you know, how -- you know, such
24 a steep angle, you know.

1 Q. And didn't you, being more direct, didn't you tell
2 a detective that you think she shot him?

3 A. I did. I did think that. I did think that.

4 Q. Do you think that?

5 A. I do. I do still think that's what happened.

6 MR. STEGE: Thank you. I'll pass the witness.

7 THE COURT: Cross examination.

8 MR. EDWARDS: Please.

9 CROSS EXAMINATION

10 BY MR. EDWARDS:

11 Q. Mr. Preciado, it sounds like you were a bit
12 panicked when you were talking to the 911 dispatcher. Is
13 that fair to say?

14 A. I would say yes.

15 Q. You said you searched the park, you did not see a
16 weapon, looks like the 22 that shot him, is that right?

17 A. Correct. I --

18 Q. Those are two different questions. So, first, it
19 looks like he had been shot by a 22 is one of your
20 statements, is that right?

21 A. Yes, that's what I believed.

22 Q. And you don't see a weapon?

23 A. No.

24 Q. And you did not see who shot him?

1 A. No.

2 Q. And you're afraid for your kids?

3 A. Yes and no.

4 Q. Did you say you were not sure there wasn't a
5 gunman still there?

6 A. Yes.

7 Q. And perhaps you could show us on here, I believe
8 you also said that you searched the park, right? What kind
9 of search did you do to determine that there was nobody else
10 in the park? Could you point us where you went and what you
11 did?

12 A. Well, like I said, we'd been in that park for many
13 years and so it's kind of like if you were, you know,
14 somewhere you normally are, you know kind of how people use
15 that park. You know they can't park here or park there or
16 walk in from this angle or walk from that from that angle.
17 Normally, when people are here, they come this way and they
18 leave this way. And there's a neighbor here. There's tracks
19 over this way.

20 And so if somebody else was going to be in that
21 park and trying to commit this crime, why wouldn't he have
22 done it where somebody wasn't going to catch him? You know,
23 he could have done this where nobody would have saw. That
24 park is huge.

1 Q. I'm sorry. Let me interrupt you. My question is
2 what search did you do in this area?

3 THE COURT: He wants to know where you went and
4 what you did.

5 THE WITNESS: The whole park. I was throughout
6 the entire -- I was, if you could show, we walked back there,
7 we would walked kind of along the trail. So from the time we
8 got there to the time it happened, I would say that would be
9 my search would be the answer to my question -- your
10 question.

11 BY MR. EDWARDS:

12 Q. Well, didn't you testify relatively early on your
13 direct examination that at one point in time you were
14 200 yards away from my client, her son and Mr. Trask?

15 A. I was, but not at the time when it happened.

16 Q. But both of you were in the park?

17 A. Yes.

18 Q. So there's at least 200 yards of park there?

19 A. There's more than that, yes.

20 Q. Okay. And your search consisted of what?

21 A. The time that I was there to the time that I left,
22 the people that were in and out of the park.

23 Q. So you're assuming that because you didn't see
24 anyone, other than these three individuals, right, in the

1 park -- well, you also said you saw somebody boating early?

2 A. And they left. I saw them get on the river. It's
3 not much of a -- you can't really stop a raft once you get
4 going. There's a lot of debris on the side. So that once
5 that boat left, like, it's gone. He might have been able to
6 stop on the other side of the river, but not anywhere once
7 they left.

8 Q. How many people were in that craft?

9 A. I would say five.

10 Q. Five people?

11 A. Five people.

12 Q. And you saw them all leave?

13 A. Saw them all leave. I saw them get probably, I'd
14 say 500 yards away from the scene within a couple of seconds.
15 That's how fast the river moves, especially where they got
16 on, so they were gone.

17 Q. Five football fields, five football fields away
18 you could see them?

19 A. Maybe not that much, sorry. Maybe 300 yards,
20 somewhere around there. Pretty far, because it bent down and
21 went down, so you can see pretty far with them going down and
22 it's a fast part of the river so they moved swiftly away.
23 And that was a good maybe 10, 15 minutes by that time where I
24 was in my truck changing my shoes.

1 Q. Let's talk about earlier, you say you spent about
2 two and a half hours at the park that day, is that right?

3 A. That's correct.

4 Q. You were in a good mood, your kids were having
5 fun?

6 A. Uh-huh.

7 Q. And then you see these group of people, five
8 people on the boat at one point. At what point in time did
9 you run into my client, her son and Mr. Trask?

10 A. When we first arrived and when we were leaving and
11 when all of this happened. We saw them a total of twice.

12 Q. What time was it when you first arrived, if you
13 recall?

14 A. I would just say somewhere like afternoon. It's
15 kind of how we do time, things like that. I'm not constantly
16 checking the clock, so I don't know exactly what time it was.
17 But I would say afternoon still, pretty warm, sun goes down
18 pretty late.

19 Q. Was Ms. Fletcher and her son Max and Mr. Trask
20 already at the park when you arrived?

21 A. Yes.

22 Q. So you came upon them in the park?

23 A. Yes.

24 Q. Okay. And you stayed for a period of two and a

1 half hours?

2 A. Yeah. We were there quite a while, uh-huh.

3 Q. And I'm not counting the time that whatever
4 happened when the police arrived on scene?

5 A. Right. Right.

6 Q. You were there for some more time after they got
7 there?

8 A. Right.

9 Q. They wanted to talk to you?

10 A. And I guess I could be, you know, it might not
11 have been that long, but when you're having fun, it seems
12 like a long time. I just know we got there sometime after
13 lunch and she was ready to go when she was hungry. So it was
14 around dinner time.

15 THE COURT: The she you're referring to is your
16 daughter?

17 A JUROR: Is my daughter, yes.

18 MR. EDWARDS: Thank you, your Honor.

19 BY MR. EDWARDS:

20 Q. So when you first came upon them, you gave a
21 description of everything was pretty much normal, is that
22 right?

23 A. They seemed like a normal family.

24 Q. Could you tell if they were arguing?

1 A. No arguing.

2 Q. No arguing. So no screaming?

3 A. No screaming.

4 Q. Did they look angry, anybody look angry to you?

5 A. No.

6 Q. How about anything physical between them? Did it
7 look like --

8 A. Almost looked like they were interacting how
9 lovers would, close, maybe touching, but I didn't see
10 kissing, but maybe closer to each other than just a friendly
11 relationship, it seemed like. But not like I was, you know,
12 I had a magnifying glass on them.

13 Q. Did your children interact with their child?

14 A. Yes. Yes. My son did.

15 Q. And was there anything unusual about that
16 activity?

17 A. Not at all. No. Just normal boys talking about
18 games.

19 Q. This game they were talking about, this Pokemon
20 game, do you know what that is?

21 A. I've heard of it, but I've never played it myself.

22 Q. Have you heard -- that's a terrible question. Are
23 you aware that in the course of that game, people playing
24 that game, some people have been injured?

1 A. I have heard that, yes.

2 Q. Okay.

3 A. I do that to be true.

4 Q. Because it involves some interaction with the
5 game --

6 A. And walking with their face down.

7 Q. And walking and not paying attention where you're
8 going probably?

9 A. Yes. I've heard that.

10 Q. Is that what you interpreted when you heard
11 Ms. Fletcher say some people have died?

12 A. Exactly. In fact, that is what -- I said, yes.
13 It's a weird statement, but I did agree. I said, you know, I
14 don't even really like my kids to have games where you got to
15 link your --

16 Q. GPS?

17 A. All that stuff to, yes. It's supposed to be a
18 game where they want to know where I'm at.

19 Q. But that was the conversation?

20 A. That was the conversation, uh-huh.

21 Q. Could you tell when you were talking with
22 Ms. Fletcher and Mr. Trask whether she was wearing a skirt or
23 just a bathing suit?

24 A. I would say just a big shirt, maybe some shorts

1 down there. She was sitting down so not -- you know, I can't
2 really describe her bottom half too well, no.

3 Q. Did you ever see them get in the water?

4 A. No.

5 Q. Did you see them eating a pizza?

6 A. I saw the pizza, but I didn't see them eating it.

7 Q. You saw a pizza box, maybe?

8 A. I saw a pizza box. It looked like it hadn't been
9 opened.

10 Q. It had not been opened?

11 A. It had not been opened.

12 Q. Okay. And so after your two and a half hours or
13 however long you're saying you were there, your daughter is
14 getting hungry, wants to go home?

15 A. Uh-huh.

16 Q. You're almost out of the park, right, when you
17 hear a gunshot?

18 A. I was in the parking space, parking lot. I was in
19 my truck, but it was in the parking lot, yes, getting ready
20 to head out.

21 Q. Were you actually inside your truck when you heard
22 it?

23 A. Yes.

24 Q. Or sitting on the tailgate?

1 A. It's -- yes. It's kind of both. The tailgate and
2 sitting inside the truck is kind of both. But you lift up
3 the big tailgate and you sit there, so you're fairly outside.

4 Q. All right. And your back is to where you heard
5 the shot come from?

6 A. Correct.

7 Q. Is that right?

8 A. Yes.

9 Q. And the car is actually between you and where you
10 heard the shot come from as well, is that right?

11 A. Yes.

12 Q. So did you get out of the car and look?

13 A. It was more like a motion like is this. I did
14 that, exactly like that. I kind of leaned over and looked
15 back like that. So as long as it took me to do that is as
16 long as it took me, because I heard it and I looked quick.
17 So a second after I heard the pop, I looked over and that's
18 what I saw.

19 THE COURT: And the witness is leaning to his left
20 craning his head backwards 180 degrees from facing you.

21 MR. EDWARDS: Thank you and the record thanks you,
22 your Honor.

23 BY MR. EDWARDS:

24 Q. So tell us very next what happens? You look, what

1 do you see exactly?

2 A. I see -- exactly what I see is I see him, you
3 know, fumbling for words, reaching.

4 Q. Fumbling, I beg your pardon?

5 A. Like trying to say something, it seemed like,
6 trying to reach for something. It looked like he had pain
7 and he was trying to touch it. And then I seen him fall
8 hard, like he didn't try to put his hands up or anything or
9 try to dodge his face or anything, he just --

10 Q. Did he fall on his face?

11 A. He fell on his face.

12 Q. And at that point, do you run up to him?

13 A. I had to finish putting my shoes on, because I
14 knew he was going to need some -- I needed to move fast and I
15 was going to need my shoes so I put my shoes on first.

16 Q. Did you recognize him to be the man that you saw
17 earlier in the park?

18 A. Yes.

19 Q. No question in your mind when you hear the shot
20 and you see him fall down --

21 A. Definitely.

22 Q. -- that that was the same man, right?

23 A. Without a doubt. Like I said, you're very
24 familiar with the park, there was not a lot of people, so it

1 was like that's the same guy.

2 Q. And you didn't see Ms. Fletcher, my client, when
3 you turned and looked around while putting your shoes on?

4 A. I did not. I did not. She was behind him at the
5 time and then when he -- when he fell -- and when he fell,
6 you know, I do recall she was like this as he fell. And so
7 she was, you know, she had her hand up and she was messing
8 with her bag and I did say that before.

9 Q. Messing with?

10 A. With her purse. She was messing with her purse.
11 She was doing something to her purse. And I said that
12 before. I know I seen that for sure.

13 Q. She was holding her purse?

14 A. She was doing something with her purse, not just
15 holding it. She was -- her hands were, you know, messing
16 with the purse. I would have to say it looked like she was
17 shoving something in her white purse.

18 Q. You didn't see her shove anything in there, did
19 you?

20 A. I seen that motion. I seen the motion.

21 Q. Did you see a gun?

22 A. I did not see a gun. You know, she was already
23 kind of, you know, but it was like that, you know, she was
24 finishing up on that.

1 Q. You said when you approached her in the car, her
2 car, that she was making sounds. What was she saying?

3 A. It just seemed like she wanted to say something,
4 but didn't want to say something. She was saying ah, ah, but
5 didn't really say I.

6 Q. Did you see her go away or not?

7 A. I did not.

8 Q. Did you hear a car screech out of the parking lot?

9 A. Definitely did not. Definitely did not. I would
10 have heard -- like I said, it was a very, very quiet day, I
11 would have even heard the tires if my back was to it and I
12 didn't even hear that. It's also a very, very loose road. I
13 barely touch my gas and you can peel out real easy. So it's
14 a loud road.

15 Q. So you would have heard it?

16 A. I would have definitely heard it.

17 Q. If she was in a hurry to get away?

18 A. Yes.

19 Q. Did you hear any words at all spoken by anybody?

20 A. Just the child saying, don't leave my daddy, don't
21 leave my daddy and calling for his daddy earlier. But, no,
22 no words from her, just from when she said people die that is
23 probably the only words I heard her say that day.

24 Q. And this is where we're referring to the Pokemon

1 game?

2 A. Referring to the Pokemon game.

3 Q. Did she say that in angry tones, look at you in a
4 weird way?

5 A. The tone she used was a little different, you
6 know. It wasn't like -- it wasn't like -- it wasn't a normal
7 tone like you and I are talking. Her tone was like, people
8 die, people die playing that game. She said it more than
9 once. It was kind of strange.

10 Q. And that's all you heard her say, really?

11 A. That's all I heard her say, really, yes.

12 Q. How about right before you heard the shot? Now,
13 you're how many yards away from where you found Mr. Trask?

14 A. So I would say -- I would say somewhere close to
15 100 yards, maybe 80 yards or less. My truck was parked
16 pretty close to him, pretty close to be --

17 Q. Would you consider the distance between the bottom
18 of this photograph and there?

19 A. About the same. From where this picture was
20 taken, if she just looked over to the left, that's where my
21 truck was parked.

22 MR. EDWARDS: So this is Exhibit 2, page one, for
23 the record, your Honor.

24 THE COURT: Thank you.

1 BY MR. EDWARDS:

2 Q. So right before the shot, did you hear anything,
3 screaming? Did you ever hear any screaming?

4 A. No, no screaming. Just the kid who, you know, he
5 wasn't really screaming at first either. He was kind of just
6 like getting pulled and trying to look and asking about his
7 daddy, you know, saying, my daddy, my daddy. I don't recall
8 exactly if he said, what happened to my daddy? I don't think
9 I heard something like that. But it was somewhere along toes
10 lines where he was concerned for his daddy, he was trying to
11 get to his dad.

12 Q. Did you touch him, Mr. Trask?

13 A. I did.

14 Q. Why did you touch him?

15 A. Like I said, I touched him a few times. I touched
16 him on the chest, I touched him on his arms, I touched him on
17 his wrists -- not his arm, his wrist, and maybe his back when
18 I was kind of trying to get him up. I know I actually pulled
19 on his hands and that's it, chest and hands.

20 Q. Is it fair to say that you probably rolled him
21 over?

22 A. I could -- yes. I would say that's fair.

23 Q. When you arrived, he was face down? You saw him
24 fall on his face?

1 A. Yes.

2 Q. Without bracing himself?

3 A. Without bracing himself, correct.

4 Q. And he fell down face forward?

5 A. Yes.

6 Q. Probably on his knees and face?

7 A. No knees. Straight to the face.

8 Q. Straight to the face?

9 A. Uh-huh. Yes.

10 Q. Did you see any other injuries on his person? I
11 know you were frantic, but did you?

12 A. No.

13 Q. Did he ever say anything to you?

14 A. Not besides what I spoke of, but no. From that
15 point, no, he did not say any words to me at that point, no.
16 The words he spoke were just at the end of the dock.

17 Q. And that was earlier in the day?

18 A. Earlier in the day, right. No words at this --

19 Q. Did you observe them between the time that you
20 first made contact and then I'm assuming you and your family
21 moved away from where they are? Is that right?

22 A. A little bit of both. Yeah, they moved a little
23 and we moved a little during that time, yes.

24 Q. Did you see them interact during that time period?

1 A. Not really, no. But, yeah, you could tell they
2 were still in the park just doing what people do. Nothing
3 seemed out of the ordinary. And as I'm playing with my kids,
4 I still noticed that they were there.

5 Q. And you said nothing out of the ordinary. I mean,
6 would shouting and screaming have been out of the ordinary?

7 A. Oh, yeah. I mean, well, some families.

8 MR. EDWARDS: Thank you, Mr. Preciado.

9 THE COURT: Redirect.

10 MR. STEGE: Yes, please.

11 REDIRECT EXAMINATION

12 BY MR. STEGE:

13 Q. Sir, the rafters, was that before, during or after
14 the shooting?

15 A. Before.

16 Q. And how soon before?

17 A. I would say 15 minutes at the shortest.

18 Q. So they're gone by the time the shooting happens?

19 A. Yeah. They couldn't have stopped their raft and
20 got back out at least not for another while.

21 Q. It would have been downtown?

22 A. They would have been pretty far. They could have
23 got off on the other side.

24 Q. At the car, why was it that she shut the door, do

1 you know?

2 A. Privacy.

3 Q. Did she seem to want to interact with you during
4 the --

5 MR. EDWARDS: Objection calls for speculation.

6 THE COURT: The way it's phrased, you're asking
7 him to take a trip in her head. Perhaps you could rephrase.
8 BY MR. STEGE:

9 Q. From her demeanor, was she acting like she wanted
10 to talk to you?

11 A. No.

12 Q. Did she talk to you?

13 A. No.

14 Q. When you talked to her, did she look at you and
15 engage you or do something else?

16 A. No.

17 Q. During your interview with Detective Johnson on
18 this subject of how they were interacting before the shooting
19 when you saw these three people together, do you remember
20 what you said about how sort of her demeanor towards the man
21 who got shot?

22 A. No. I don't really remember too much about her --

23 Q. My specific question is: Do you remember what you
24 told Detective Johnson about that interaction?

1 A. No.

2 Q. Do you remember or did you make the statement
3 that, quote, it seemed like she didn't want him there? Does
4 that sound familiar to you?

5 A. I don't remember that, no. Maybe just because of
6 the Pokemon thing, but I --

7 Q. And if you don't know, you don't remember, you
8 don't remember.

9 A. Okay. It's been a long time.

10 Q. It's been some time.

11 MR. STEGE: Nothing further, thank you, sir.

12 THE COURT: Recross.

13 MR. EDWARDS: No, thank you, your Honor.

14 THE COURT: Mr. Preciado, anyone who will stop to
15 render aid and offer words of kindness is someone I'm happy
16 to have in our community. Thank you, sir. You're released.

17 THE WITNESS: Thank you.

18 THE COURT: Ladies and gentlemen, we covered a lot
19 of ground today. You've been very attentive. I thank you
20 for the hard work that entails. We'll be in recess. We'll
21 recommence testimony morning at 9:30 a.m..

22 During this recess, it is your duty not to
23 converse among yourselves or with anyone else on any subject
24 connected with this trial or to read, watch or listen to any

1 report of or commentary on the trial by any person connected
2 with the trial or by any medium of information, including,
3 without limitation, newspaper, television, radio, Internet or
4 smart phones. You're not to form or express an opinion on
5 any subject connected with the trial until it is finally
6 submitted to you after the presentation of evidence and
7 arguments of counsel are concluded. We'll be in recess until
8 9:30 tomorrow morning.

9 (The following proceedings were had outside the
10 presence of the jury.)

11 THE COURT: We remain on the record outside the
12 presence of the jury. Gentlemen, thank you for your hard
13 work and diligence today. Is there anything you'd like to
14 discuss outside the presence of the jury as we prepare for
15 tomorrow.

16 MR. STEGE: This issue of Mr. Hensley. I am
17 prepared here to offer evidence in support of -- well, the
18 reason I think will become apparent, seeking a declaration
19 that the man is unavailable, but my backstop or backup
20 position is for material witness warrant.

21 THE COURT: Do you have any objection to taking
22 testimony, I assume, by your investigator related efforts to
23 contact Mr. Hensley?

24 MR. EDWARDS: No, your Honor.

1 THE COURT: Let's do that.

2 MR. STEGE: John Gurriere.

3 (One witness sworn at this time.)

4 THE COURT: Once you're comfortably seated there,
5 please give your attention to Mr. Stege.

6 JOHN GURRIERE

7 called as a witness and being duly sworn did testify as
8 follows:

9 DIRECT EXAMINATION

10 BY MR. STEGE:

11 Q. Sir, state and spell your name?

12 A. John Gurriere. Last name is G-u-r-r-i-e-r-e.

13 Q. You're an investigator with the Washoe County DA's
14 Office?

15 A. I am.

16 Q. And you're assigned to this case?

17 A. I am.

18 Q. As part of those duties, you have made efforts
19 throughout the various trial settings to serve one Jesse
20 Hensley?

21 A. I have.

22 Q. Leading up to what we're about to talk about, what
23 has your interaction with Mr. Hensley been like? Is he
24 cooperative?

1 THE COURT: First, if it will help, I take
2 judicial notice of testimony Mr. Hensley gave in front of me
3 in this room last year. At the time, Mr. Hensley was in
4 custody. At the time of his testimony, Mr. Hensley was
5 clearly hostile in demeanor, altitude and conduct to the
6 District Attorney's Office.

7 In fact, the subject of cross examination by
8 Mr. Picker at that time was related to the effect that you
9 were then prosecuting Mr. Hensley for unrelated criminal
10 allegations. It was clear to me Mr. Hensley was very unhappy
11 with you.

12 BY MR. STEGE:

13 Q. Right. And was that hearing -- you were at that
14 hearing, right?

15 A. I was.

16 Q. And that was emblematic of his attitude towards
17 the prosecution or cooperation during this case?

18 A. Very consistent, yes.

19 Q. And since then, have you served him with a
20 subpoena for this trial date?

21 A. I did.

22 Q. And did you have to serve him in jail that
23 subpoena?

24 A. I did.

1 Q. Anything to relate about that interaction?

2 A. I don't really recall what he told me, but it was,
3 again, a very uncomfortable situation. He didn't really want
4 to take it. I can't really recall what comment he said, but
5 it was an uncomfortable situation for him and for me.

6 Q. Did it lead you to believe that he might not --
7 might have problems with him later appearing in court?

8 A. Every time that I've served Mr. Hensley, I did not
9 expect him to honor his subpoena.

10 Q. Mr. Hensley was released from jail in that case?

11 THE COURT: Can you give me a date?

12 THE WITNESS: I believe it was early November,
13 your Honor.

14 THE COURT: Of 2000?

15 THE WITNESS: '19.

16 THE COURT: Go ahead.

17 BY MR. STEGE:

18 Q. Since then, have you made efforts to keep track of
19 his whereabouts or know where he is?

20 A. I have been trying, yes.

21 Q. Let's talk about the last couple of weeks. What
22 sorts of efforts have you been -- what have you learned?

23 A. Do you want me to go into kind of what I've done
24 to try to find him?

1 Q. Yes, please.

2 A. It's been within the last two weeks, your Honor,
3 that we've been trying to step up our investigation into his
4 whereabouts. Mr. Hensley was evicted from his apartment in
5 October of 2019. I have checked numerous search engines that
6 we use at the District Attorney's Office, Tiburon, Clear,
7 Lexus Nexus. I have ran administrative subpoena on Nevada
8 Energy. He does not have a power account. I utilized the
9 United States Postal Inspector to see if he has changed or
10 had notified the post office of any forwarding address. He
11 has not.

12 When he got out of custody, he updated his Nevada
13 DMV. He kept his mailing address at the address he was
14 evicted, but he listed a new physical address in Carson City.
15 I went to that apartment complex and he is not known to them
16 and the apartment that the postal inspector said he may be
17 getting mail is vacant.

18 So I left my card, I left his picture, all the
19 information I had on him, what he might be driving and I've
20 never received a call from that apartment complex.

21 I have spoken to the mother of their child. They
22 have a son in common. She said that she would help in me
23 anyway she could. If I could say what she said?

24 Q. Please.

1 A. She said that the information she had gleaned is
2 that he is living in a, quote, box, a generic box van, not a
3 U-Haul. She does not know where he stores that van.

4 THE COURT: Did you get any contact from her or
5 any information from her about recent contact she's had with
6 him, meaning Christmas holidays, January of 2020?

7 THE WITNESS: She told me that she tries not to
8 have any contact with Mr. Hensley, but she does allow text
9 contact between Mr. Hensley and their son. I was able to
10 verify that the phone number that I had for Mr. Hensley was
11 the phone number that was being used between Mr. Hensley and
12 their son when they had text communications.

13 THE COURT: Have they had recent text
14 communications?

15 THE WITNESS: Yes.

16 BY MR. STEGE:

17 Q. Did you have any issues with the credibility of
18 this mother of their child?

19 A. No. She's actually -- for credibility purposes,
20 she's an employee for the medical examiners office.

21 Q. Okay. The box van piece, where did you go from
22 there?

23 A. So at that point, I have an individual that I have
24 no fixed address and he's possibly moving his residence every

1 night. I just -- and we're getting closer to trial. So I
2 just said, I got to let the cat out of the bag. So I texted
3 him, Jesse -- I've never been able to get Jesse on the phone
4 from my recollection of actually talking to him. It's been
5 through texts.

6 So I texted him on the phone number I confirmed
7 through her name is Monica Liebott, the mother of the child,
8 that this was a good number. I texted him, I would say, two
9 weeks ago. I said that the trial is a go and we anticipate
10 his testimony on Tuesday, January 28th at 9:00.

11 I gave instructions to come to the same place that
12 he has met us one time for a pretrial conference, which was
13 at the DA's Office. I didn't want him to get lost coming
14 over here, so I wanted him to go some place he's familiar
15 with.

16 And then the other information that I had to go on
17 was employment. So I -- Ms. Liebott had gotten me two
18 possible. Mr. Hensley is an electrician. I had one possible
19 employer from his booking records from his recent bookings
20 late last year, and then Ms. Lefgott gave me two other
21 possible electrical outfits he may be working for.

22 I checked, it was Truckee Meadows Electric and it
23 escapes me the other, and I also checked the International
24 Brotherhood of Electrical Workers Union also to see if he's

1 trying to get work at the union hall. The union hall was a
2 strike out. He is not getting work there. Your Honor, I
3 apologize, I have my no notes, but I can't remember the first
4 place that went to, but he's not known to them.

5 THE COURT: Does he have any active warrants?

6 THE WITNESS: He does not.

7 THE COURT: Can you spell this lady's name?

8 THE WITNESS: I believe it's L-i-e-b-o-t-t,
9 Monica.

10 THE COURT: Mr. Stege.

11 BY MR. STEGE:

12 Q. Did you check other electrical contractors?

13 A. I checked permits at the Washoe County -- at Ninth
14 and Wells to see if he has any permits outstanding. And then
15 I called Nick Leonard Industries. This is the outfit that he
16 listed that he was working.

17 The only thing I could get out of Nick Leonard
18 Industries is they have a website, they do not have a
19 physical business address. I believe this gentleman works
20 out of his home. He works as an electrician that way.

21 I contacted Mr. Leonard last week. I identified
22 myself. I said I'm trying to contact a witness, very
23 important case, I had information he was possibly working for
24 him or was and I gave the name. And he said -- I said, I'm

1 looking for Jesse Hensley. He goes, yeah, he's working for
2 me. I said, I need him to be at court. I texted him. He
3 has not responded. And I tried to go into what I needed, and
4 he said, you know what, I understand what's going on with
5 this case, I'll have him give you a call. Mr. Hensley is yet
6 to give me a call.

7 Q. To clarify, the subpoena lists today's date at
8 9:00, as the report date?

9 A. Right.

10 Q. And the Tuesday text, no response from him?

11 A. Correct. No response from the text, no response
12 from the message left with his employer who verified he was
13 working with him.

14 Q. This Leonard Industries, is there anything else
15 about them?

16 A. I've been trying my best to try to see where Nick
17 Leonard is working. I'm not trying to let the cat out of the
18 bag, because, technically, Jesse hasn't done anything that we
19 haven't asked him to do yet. I'm just anticipating that he's
20 not going to be here. The last time that we needed him, he
21 claimed that he had vehicle trouble.

22 So I had been working diligently, and even as of
23 today while jury selection was taking place, trying to get a
24 line on Nick Leonard Industries since that was the best

1 information I have confirmed by the employer he's working
2 with.

3 Q. You know there's two options here. One is a
4 material witness warrant and the second being declaring him
5 unavailable as a witness. Do you yourself have concerns
6 about that first option, material witness warrant?

7 A. I do.

8 Q. Why?

9 A. Your Honor, the arrest, the DUI arrest, the case
10 that was in Justice Court that we were prosecuting, the
11 details of that offense, loosely, was that he was pulled over
12 by the Washoe County Sheriff's Office. His son was in the
13 car. The sheriffs -- he was resisting deputies' commands to,
14 I believe, exit the car. And then once he finally did, he
15 refused their commands at taser point to get on his knees.
16 He told deputies, I only kneel for God. He eventually
17 complied with deputies' commands, was taken into custody and
18 they found a firearm in his vehicle.

19 According to Ms. Liebott, he's, again, speaking
20 loosely, in terms of isms, she said he is on the spectrum of
21 sovereign citizenship, antigovernment, huge chip on his
22 shoulder, which is consistent with my interaction.

23 Q. Which may cause an officer safety issue executing
24 a material witness warrant?

1 A. Very possible.

2 Q. And you would prepare, of course, for that?

3 A. I've already staffed my chief investigator about
4 the possibilities of having to possibly try to serve the
5 warrant.

6 Q. Do you believe further -- your further efforts --
7 what more can be done?

8 A. I have a possible line on where Nick Leonard
9 Industries are working as of today. I saw a work truck at a
10 business. The only other option I'm thinking of right now is
11 have an investigator set up on Mr. Leonard's residence early
12 in the morning and following him to a job site to see if we
13 can catch Mr. Hensley. I'm running out of options.

14 MR. STEGE: Thank you. Pass.

15 THE COURT: Do you have any questions?

16 MR. EDWARDS: Just a couple, your Honor.

17 CROSS EXAMINATION

18 BY MR. EDWARDS:

19 Q. Mr. Gurriere, you mentioned this firearm. Is
20 Mr. Hensley a prohibited person?

21 A. No, not to my knowledge.

22 Q. He has the right to bear arms?

23 A. He does.

24 Q. What is the status of his case that you say he was

1 released on in November?

2 A. It's my understanding that he was sentenced on
3 that case. He has a suspended sentence over his head. He
4 was not ordered DAS supervision. Judge Sullivan wanted him
5 to report directly to her. And it's my understanding his
6 next review hearing is not until April, approximately around
7 that time.

8 Q. Do you know if he's ever reported to the court?

9 A. Do I know? I didn't hear you.

10 Q. Do you know if he's done any of that reporting?

11 A. The last I know is he reported, after he got out
12 of custody, he had to show proof of traffic insurance,
13 registration. That's the last I understand he's reported to
14 the Court.

15 Q. Was that like last month probably?

16 A. My understanding that was last year. That was
17 after he was out of custody in November. I don't have any
18 knowledge that he's been to Reno Justice Court in the last
19 month.

20 Q. When did you serve him with the subpoena?

21 A. It was shortly after this trial was -- I would say
22 within days of this trial being reset, because I wanted to
23 make sure I could get him served. It was before he was
24 released. I don't have a copy of the subpoena. I apologize.

1 THE COURT: We'll need that at some point.

2 MR. STEGE: Yes.

3 BY MR. EDWARDS:

4 Q. You say you served him while he was in custody?

5 A. I did, yes.

6 Q. And the subpoena gave him this date?

7 A. Yes. All subpoenas gave the first day of trial,
8 yes.

9 MR. EDWARDS: That's all I have, your Honor.

10 THE COURT: Any other questions, Mr. Stege?

11 MR. STEGE: No.

12 THE COURT: You may step down, sir. What are you
13 asking for, please, Mr. Stege?

14 MR. STEGE: There's two options. I would like the
15 witness declared unavailable pursuant to 51.325 and the cases
16 interpreting that such as Hernandez versus State, Quillen,
17 that the witness is unavailable.

18 Now, I recognize there is this fall back, this
19 Tuesday, show up on Tuesday at 9:00 issue. So even though
20 the subpoena -- we don't know if the man ever -- we presume
21 he got it, but we don't know. He has not acknowledged that.
22 The subpoena said to be here this morning at 9:00.

23 THE COURT: Help he understand, I missed it, the
24 fall back Tuesday at 9:00, what are you referring to?

1 MR. STEGE: Just that even though the subpoena
2 ordered him to be here at 9:00, our communication to him if
3 we assume he got is --

4 THE COURT: Was through his boss.

5 MR. STEGE: We also texted him, according the
6 testimony, texted him, which he's never responded to the text
7 before. Perhaps he'll be here tomorrow at 9:00, but I think
8 given what we have so far, he won't. That would be my first
9 position, the man is unavailable given all the efforts that
10 we've mad made. Second position is a material warrant from
11 the Court.

12 THE COURT: Well, there are two concerns I have.
13 First, as to the material witness warrant, I cannot make a
14 finding that he is a risk of flight from process for
15 interrelated reasons to the second, I'm going to refer to,
16 which is he's received two communications in writing, be here
17 today at 9:00, text and oral presumably through his boss, be
18 here tomorrow at 9:00. So I can't say as a matter of fact
19 that he's not in compliance with the communication he
20 received.

21 So as to the material warrant, not only do I not
22 have a copy of the subpoena, but the time that he's been
23 given, if you will, has not passed.

24 And that is likewise the case for his

1 unavailability if we seek to use former testimony. 51.325 is
2 narrow exception for all of our benefit, I'll read again,
3 which says: Testimony given as a witness at another hearing
4 of same or different proceeding, so that was the prior motion
5 in limine hearings we had in this case, or in a deposition
6 taken in compliance with the law in the course of another
7 proceeding doesn't apply, if the declarant is unavailable as
8 witness, that would be Mr. Hensley here, and if the
9 proceeding was different, the party against whom the former
10 testimony is offered, that's the defendant in this case, was
11 a party or is in privity with one of the other parties, she
12 was a party to the other proceeding, she had an opportunity
13 through Mr. Picker to ask questions, that testimony may be
14 available.

15 Make me an offer of proof about why the testimony,
16 prior testimony, is necessary in this case.

17 MR. STEGE: Well, as we've -- I think the opening
18 given by the defense makes this issue ripe of the gun and the
19 gun jamming as that sort of prior act as I had alleged it.

20 Also, pursuant to this last Friday's order, the
21 State is in receipt of materials written by Fletcher to
22 Dr. Piasecki, essentially, a version of events, which a piece
23 of that indicates that she writes that she -- after the
24 shooting, she goes and puts purse with a gunshot hole through

1 it, gun and the gun accessories into the bed of a truck
2 belonging to Jesse Hensley. So that is a rather ripe issue
3 in this trial.

4 THE COURT: Well, the incident in reference to the
5 gun jamming was, this is in no way a comment on you, sir,
6 confusing at best from Mr. Hensley, because he was very, very
7 hostile and reluctant. So I suspect his testimony read by
8 another person, for example, your investigator, will be
9 choppy and difficult at best. That's just my perception and
10 I could be wrong.

11 MR. STEGE: Light-hearted, your Honor, when I read
12 it, it reads much better than the live testimony. I think
13 it's okay when read.

14 THE COURT: It's your case and not mine. And on
15 that alone, I was prepared to say I find it, as I think I've
16 said before, marginally relevant at best. But in light of
17 new representations to me about new evidence discovered, that
18 may in fact tie up. I'm going to have to see. One step at a
19 time.

20 Thank you for front loading this. Thank you for
21 trying to do what we could do this afternoon. I can't rule
22 yet. I'll have to come back to the ruling tomorrow morning
23 after the 9:00 hour has expired and see what, if any, contact
24 we have from Mr. Hensley. We'll revisit it then. But thank

1 you for trying to front load it now.

2 MR. STEGE: Thank you.

3 THE COURT: Anything else we need to raise outside
4 the presence of the jury, Mr. Stege?

5 MR. STEGE: No.

6 THE COURT: Mr. Edwards?

7 MR. EDWARDS: Your Honor, if I can ask, Mr. Stege
8 just said somehow I opened the door regarding this gun
9 jamming question.

10 THE COURT: No. I think, as I understand it, and
11 you can speak with him privately --

12 MR. EDWARDS: I will, I guess.

13 THE COURT: As I understand it, this has come to
14 the fore again for this reason: It would appear Mr. Stege
15 believes he has evidence, statements of your client made to
16 another person, he represented Dr. Piasecki, indicating a
17 version of what she has said was that after a shooting, there
18 was a hole in her purse and a gun and accessories for the gun
19 in her purse, which she then deposited in Mr. Hensley's
20 vehicle.

21 Mr. Hensley very reluctantly described an incident
22 where in his presence your client was in possession of a
23 firearm, a nine-millimeter firearm, which jammed and he
24 helped her problem solve, my words, not how he described it,

1 rectifying that, if you will.

2 And if it's true that there is admissible evidence
3 that your client has told someone that her purse with a
4 bullet hole and a gun used at the time of the killing of
5 Mr. Trask were deposited by her in Mr. Hensley's vehicle,
6 sounds like it's all coming in to me. Does that answer your
7 question?

8 MR. EDWARDS: At least you can ask Mr. Hensley
9 about it.

10 THE COURT: Correct.

11 MR. EDWARDS: But it's not in the record in the
12 pretrial motions.

13 THE COURT: I'm sorry, what's not?

14 MR. EDWARDS: This new evidence that we're
15 referring to.

16 THE COURT: You're right, because it wasn't until
17 last week that I ordered Dr. Piasecki to turn over her notes.
18 Presumably, through your client or you or your predecessors
19 would know about what she said to Dr. Piasecki. And so I --

20 MR. EDWARDS: I do.

21 THE COURT: Is there anything else you want to
22 place into the record?

23 MR. EDWARDS: No, your Honor. I was just confused
24 about the he used in my opening statement. I just --

1 THE COURT: Let's not --

2 MR. EDWARDS: I will take it up with him.

3 THE COURT: I don't view it as a door opened. I
4 view it instead as evidence relevant to the elements of the
5 offense charged, murder with a deadly weapon in this case.
6 I'll see you gentleman at 9:30.

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1 STATE OF NEVADA)
) ss.
2 County of Washoe)

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

6 That I was present in Department No. 7 of the
7 above-entitled Court on January 27, 2020, at the hour of 9:30
8 a.m., and took verbatim stenotype notes of the proceedings
9 had upon the trial in the matter of THE STATE OF NEVADA,
10 Plaintiff, vs. KATHERINE DEE FLETCHER, Defendant, Case
11 No. CR17-0690A, and thereafter, by means of computer-aided
12 transcription, transcribed them into typewriting as herein
13 appears;

14 That the foregoing transcript, consisting of pages 1
15 through 247, both inclusive, contains a full, true and
16 complete transcript of my said stenotype notes, and is a
17 full, true and correct record of the proceedings had at said
18 time and place.

19
20 DATED: At Reno, Nevada, this 13th day of January 2021.

21
22 S/s Stephanie Koetting
23 STEPHANIE KOETTING, CCR #207
24