

IN THE SUPREME COURT OF THE STATE OF NEVADA

NARCUS WESLEY,

Appellant,

Vs.

THE STATE OF NEVADA,

Respondent

Case No.: 82690

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APPELLANT'S APPENDIX VOL. 3

(Appeal from Judgment of Conviction)

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APPENDIX VOL. 3

2008-04-10 Jury Trial Transcript Day 2.....	000501-000589
2008-04-10 Second Amended Information.....	000590-000599
2020-04-11 Jury Trial Transcript Day 3.....	000600-000750

DATED this 24th day of September, 2021.

/s/ BRET O. WHIPPLE, ESQ.
Bar No. 6168

Q. Any obligations you have going on personally that would distract you for service to the end of this week and to the beginning of next?

A. No, no, otherwise -- I happen to be in a job that I love right now, you know, I have always wanted to be on a jury when I was working retail, you know. That would be nice but, you know.

Q. Just set me free here.

A. Yeah.

Q. You are clear? You won't have any problems with being here a few days?

A. No.

MS. KOLLINS: Pass for cause.

THE COURT: Mr. Landis?

MR. LANDIS: Thank you, Judge.

VOIR DIRE EXAMINATION OF JUROR GREGG

BY MR. LANDIS:

Q. I am sensing a little regret in that decision you guys or your husband made to plead guilty?

A. It was a hard decision.

Q. Is there some regret?

A. Regret in that there didn't seem to be a better choice.

Q. There is always one of these.

A. One of these what?

Q. Trials.

A. That's true.

But I -- it would have been harmful to my husband to go through that again.

Q. What do you mean harmful to your husband?

A. Harmful to his health. Too much stress.

Q. Okay.

A. But he is a real fighter, and if he at if he didn't think that he was being understood and having an opportunity to be heard, it would really upset him.

Q. And you guys, and I think you mentioned this, you had a lot of discussions with an attorney that you had in the case?

A. Yes.

Q. Regarding that decision?

A. Yes.

Q. Are you saying there is a risk associated with deciding to go to trial?

A. I think so. Based on this, yeah, you make a decision as to what is going to be best for a person.

Q. And kind of sometimes cutting your losses or reducing your risks, is that something that motivated his and your decision?

A. I think it -- no, it -- he never had a doubt about his innocence but it was more focused on

his health.

Q. Okay.

If he would have been in better health, do you think the decision might have been different?

A. Yes.

Q. What part of the system do you think was the greatest cause for that in being put in a position where pleading guilty seemed to be in his best interests?

A. I think it was the politics of the time, the timing of it, and he didn't even work there that long.

He didn't make any of those big bucks, you know, harming innocent people. It's in our past, and, you know, and we are going along.

Q. Does -- is your view of the system different now as a result of what happened then?

Do you have any less faith in the system than you did before that?

A. I don't have any less faith. I have a little more insight.

Q. Do you think there might just be some wrinkles where it doesn't work quite fairly if you wouldn't have one of those wrinkles?

A. Yes.

MR. LANDIS: Thank you.

Pass for cause, Judge.

THE COURT: All right. Approach the bench.

(Whereupon, a brief, informal discussion was had at the bench between the Court and counsel.)

THE COURT: Okay.

We are going to ask the following two jurors to go ahead and step down, and report back to the third floor Jury Commissioner's office. That would be Becky Hansen and Robert Franklin.

(Juror Hansen and Juror Franklin excused at this time.)

THE COURT: We will replace Becky Hansen with Aminne Menghisteab, how do you say it, Menghisteab?

JUROR MENGHISTEAB: Yes.

THE COURT: And we will replace Robert Franklin with Barbara Wagner.

And then as soon as we get all situated here, we are going to take a break.

We are getting very close.

Ms. Menghisteab, in the middle seat in the back row, and Barbara Wagner, okay.

We are going to take a 10 minute break.

Everybody will get a chance during this 10 minute break to go to the bathroom.

Within the next 10 minutes, just relax.

In the next 10 minutes, we have got to go through

this.

During the next 10 minutes, you are admonished that you can't talk or discuss not with anyone, or amongst yourselves anything having to do with this trial.

You are not to watch, listen to, or read any reports or commentaries on any aspect of this trial through the medium of information including radio, newspapers, television, internet, or form any opinion until such time as this case is being submitted to you.

You have got 10 minutes, and you will meet Joe outside.

(Whereupon, a brief recess was had.

After recess, all parties present, the following proceedings were had in open court in the presence of the jury pool:)

THE COURT: Bring them in? Is everybody all right?

All right. Okay. Have a seat there. Be seated. Anyone in the empty seats? We have one here. Great, all right.

All right. Now we have got all of the blank spots filled in?

Okay. Do the parties want to stipulate to the

presence of the jury pool?

MS. LUZAICH: Sure.

MR. BANKS: Yes, sir.

THE COURT: Let's see, I believe it's -- okay.

VOIR DIRE EXAMINATION OF JUROR MENGHISTEAB

BY THE COURT:

Q. It's Aminne -- and help me out here. It's Menghisteab?

A. Menghisteab.

Q. Menghisteab. Tell us about herself. How long have you been here in Las Vegas?

A. 14 years.

Q. What do you do for a living?

A. I am a taxi driver.

Q. Okay. And where are you from?

A. Originally from the jungle.

Q. From the jungle where?

A. A country called Atrios (phonetically).

It's in Africa.

Q. Okay. And how long have you been away from there?

A. Most of my life, 35 years.

Q. 35 years. What do you do for a living?

A. Taxi driver.

Q. Taxi driver is what you said? That's

what you have done all the time that you have been here?

A. In Las Vegas.

Q. Okay. Are you married?

A. Yes.

Q. And does your wife work?

A. Yes.

Q. What does she do?

A. Housekeeping at the Riviera.

Q. At the Riviera. Who do you drive for?

A. Whittlesea Cab.

Q. Whittlesea Cab? Okay. Do you have any grown children that are employed?

A. Yeah, I have a 10 year old boy.

Q. A 10 year old. Okay, and that's the only child you guys have?

A. Yes.

Q. Okay. Have you ever been trained in any type of law enforcement?

A. Old family was.

Q. Did you give you any special training?

A. What?

Q. Did they give you any special kind of training?

A. 30 hours of training.

Q. 30 hours of training?

A. Yes.

Q. Security, law enforcement type training?

A. No, just the Spanish on the roads, if you have a problem to work with it.

Q. Okay. How many years ago was this?

A. It was 1977.

Q. So almost 30 years ago?

A. Yes.

Q. Okay. Anybody close to you, relatives or close friends that are employed in law enforcement?

A. No.

Q. Okay.

Have you, or anyone close to you, ever been the victim of or accused of any kind of sexual related offense?

A. 1982, my brother was killed in Europe.

Q. He was killed, was murdered?

A. Yes.

Q. Okay. Did that result in some prosecution?

A. No.

Q. No one was ever caught or prosecuted for that?

A. No.

Q. And that was just -- was it just a random, how did -- what were the circumstances?

A. He was working for Rateece (phonetically)

at that time, and he was assaulted at that time, and the Spanish, he was killed in New York when he was trying to escape, and they never find any body, and that was the end of it.

Q. That was the end of it. You just never heard anything else about it.

A. As far as leave Europe for the rest of my life.

Q. Do you think that you would harbor some animosity towards police or the prosecution because of the fact that no one was ever caught or prosecuted for that?

A. Not killed? Whatever it would be.

Q. It is a completely different case, nothing to do with this.

A. Yes.

Q. So the fact that that happened 26 years ago in where, New York you said?

A. Yes.

Q. You would not hold that against the Henderson Police Department or the District Attorney's office because no one was caught or prosecuted?

A. Not yet, but I have recently heard some reports of Henderson police. .

Q. You have been recently hearing bad things

about the Henderson police?

A. Yeah, but as to molesting some kids with the Henderson police. Help with the families, and they learn a lesson.

Q. Are you by any chance referring to the --

MS. LUZAICH: The inquest that's going on upstairs?

THE COURT: Yes.

Q. There is an inquest going on upstairs right now in regards to a --

A. Yes, I know.

Q. Is that one of the things you were referring to?

A. Yes.

Q. Do you understand that that doesn't involve any of the police officers in this case.

A. I don't know any of the police officers that were involved. I don't know.

Q. Okay. Well, I am just making a statement that none of the police officers in this case are involved in that particular incident that is going on right now at the inquest.

Would that cause you some kind of problem about sitting on a jury?

A. No.

Q. In a criminal case and seeing a police

officer from the Henderson Police Department testifying?

A. No.

Q. Would you hold anything against a police officer from the Henderson Police Department from the things that you may have heard?

A. No.

Q. Can you be fair and impartial to both the State and the Defense?

A. Yes.

Q. And set aside anything that you may have heard about some particular officer?

A. Yes.

Q. Okay. Any other incidents where anybody close to you has been the victim of a crime of any sort?

A. No.

Q. Okay. Have you ever been on a jury before?

A. I was called, but I was excused.

Q. Okay. So you were in a jury pool, but you never actually sat on the jury?

A. No.

Q. Okay. Can you think of any reason that I haven't touched upon that may bear upon your ability to sit as a juror in this case, and be fair and impartial to both sides?

A. Yeah, I have some problems in California,

and some of these from my ability listen to the medical issue.

Q. You said medical?

A. Yeah.

Q. What kind of medical issue are you referring to?

A. Well, my prostate, I'm having it corrected, and I have neck and back injuries from the car accident.

Q. Can you sit for like an hour, an hour and 15, 20 minutes?

A. I can sit, but it is very painful unless I take some pain pills.

Q. I haven't really explained this, but any time that you are sitting there, and you start to get stiff or sore, if you need to stand up and stretch, or whatever, that's certainly permissible. You don't have to sit there. You can stand up and stretch, and if you need to go to the restroom, or if you need to actually have a break, you can raise your hand, you let the bailiff know, and then we will take a break.

Would that help you out?

A. Yeah, definitely.

Q. Would you be able to sit as a juror under those circumstances?

A. I can do but my second thing, after an hour

or two, my ability to listen and to grasp the material in discussing because I cannot understand everything.

Q. You lose your ability to focus after an hour or two?

A. Yeah.

Q. Me, too.

A. That's why I was excused from the last jury pool.

Q. Well, I mean, I am serious. If you really have difficulty focusing, and being able to pay attention for a period of time, I mean, you really need to be able to focus on something for more than an hour.

If you really aren't able to do that, if you have a problem, either a medical problem or some other kind of an issue that prohibits you from being able to do that, I don't mean to make fun of it, I am not making fun of it. I am serious.

If you have a problem doing this, that's why I am asking you these questions because you should be able to do that even if we try to make arrangements so that you can stand up and take breaks, and we try to take breaks every hour, 15, 20, 30 minutes. I haven't been very good about it. But, I mean, if you have a problem, now is the time to say so.

A. Well, primarily for me, it is not with me,

and I don't discuss things I don't get in discussions if I miss several points, I cannot tell you or discuss.

Q. Well, once again, you will have the ability. You are going to have notepads, and you can take notes during the course of the trial if you want to make little notes on something, you will have a chance to do that?

A. Okay.

Q. And I will give you all kinds of instructions on that. Would that help you out?

A. Maybe.

Q. Okay. Would you be comfortable if you were the Defendant or the prosecution with somebody in your state of mind sitting on the jury? Would you be comfortable with that?

A. Yes.

THE COURT: Okay. Good enough

VOIR DIRE EXAMINATION OF JUROR MENGHISTEAB

BY MS. LUZAICH:

Q. Sir, when you talked about your brother, it appeared that you were getting a tad upset.

Is that something that you are going to relive through the course of the trial?

A. That doesn't have any relationship with the trial, just my watching it on tape.

Q. Okay?

A. That is a special person for me.

Q. Of course, of course.

A. It was my brother. With my family. But I have nothing to do with trial.

Q. Well, of course, that has nothing to do with the trial, but like the gentleman this morning, his mother was murdered. You know, that's a very traumatic event.

It's a traumatic event for you as well.

So is -- are you sure that you would be able to sit through the trial with that in the back of your mind?

A. Yes.

Q. Okay. You talked about not being able to focus and grasp things. What do you mean by that?

A. Well, the law, and I don't know if I can understand this.

Q. Okay. I mean, we are going to have 20 some witnesses come in here and tell you about events that happened one weekend in February?

A. Yes, that is what I was telling you.

I don't know about this. Perhaps I don't understand the terms and make a decision. From my viewpoint it would not be fair, and I want to be fair.

MS. LUZAICH: I would challenge.

MR. LANDIS: The Court's indulgence.

MR. LANDIS: We will submit it, Judge.

THE COURT: All right. I think under the circumstances, Aminne, we are going to go ahead and have you step down and go down to the third floor.

There are some other matters that are going on here that probably wouldn't be quite as taxing as this. So why don't you go down to the third floor. You go back to the Jury Commissioner's office, and they will work with you and reassign you, okay?

JUROR MENGHISTEAB: Thank you.

THE COURT: I appreciate it. Thank you very much.

(Juror Menghisteab excused at this time.)

THE COURT: We are going to replace Aminne Menghisteab with --

THE CLERK: Robbie Holley, badge 281.

THE COURT: Robbie Holley.

THE CLERK: R-o-b-b-i-e.

VOIR DIRE EXAMINATION OF JUROR HOLLEY

BY THE COURT:

Q. Mr. Holley?

A. Yes, sir.

Q. How long have you been here in Las Vegas?

A. 36 years.

Q. What do you do for a living?

A. I am a county dispatcher. I was with Whittlesea, and now I work with with Sierra Health.

Q. Do you know him?

A. Yes, sir.

Q. Really?

A. Yes.

Q. Not too long ago we had a wife and then five minutes later, we called her husband on the same jury panel. Okay. That didn't last long. How long have you worked for Whittlesea?

A. Whittlesea, I have worked for eight years.

Q. Okay.

A. And I have been with Sierra now for going on 10 years.

Q. That's fine. Are you married?

A. Yes, sir.

Q. And does your wife work?

A. Yes, sir.

Q. What does she do?

A. She works for Bank of America, something to do with computers.

Q. Okay. Do you have children?

A. Yes, sir, two.

Q. Grown?

A. Yes, they are both grown. One is assistant manager at Wal-Mart. The other one is in real estate, and he also rents his office for taes for Hewitt Jackson, is that right, Hewitt?

Q. Right, good. Have you ever had any training in law enforcement?

A. No, sir.

Q. Has anybody, any close family or relatives, or friends, been employed or trained in law enforcement?

A. Well, I have two uncles in New York City, that retired, police officers.

Q. New York police?

A. Yes.

Q. Are you close to them?

A. Well, they are my uncles, yeah. Not really, real close. I don't talk to them maybe once a year when I go back and visit my mother.

Q. Okay. You don't discuss their work as police officers?

A. Not really.

Q. Anything about that relationship that would affect your ability to be on a criminal jury in a case like this, and be fair and impartial to both sides?

A. No.

Q. That or anything else you can think of in

your background that would cause you to give the testimony of a police officer any different weight, any greater or lesser weight than any other non police officer witness?

A. No.

Q. Have you, or anybody close to you, ever been accused of or the victim of any kind of a sexual related offense?

A. No.

Q. Have you, or anyone close to you, ever been the victim or accused of any other kind of criminal activity?

A. No.

Q. Okay. Have you ever been on a jury?

A. 18 months ago.

Q. Really?

A. Yes, sir, five day trial, criminal trial.

Q. Five day criminal trial?

A. Yes, and I was the alternate on the jury.

Q. And you were an alternate on the jury?

A. Yes, right.

Q. Okay. So I take it then that as a juror, they deliberated, and they held you in reserve?

A. Yes, exactly right.

Q. Did you -- you didn't actually participate then in the actual deliberation, or did you?

A. No, I didn't.

Q. Okay. You weren't called upon as the alternate to go, to help deliberate, okay.

Did you come in when the jury came back in? Did you come --

A. No, they called my.

Q. And they told you that the jury had reached a verdict?

A. Yes.

Q. Okay. And that wasn't very long ago either.

A. Five days was it.

Q. No, I mean, it was only a year and a half ago?

A. Yeah. For some reason, every 18 months I get called for jury duty. You know, for some reason, I don't know what it is, but, you know, I have been questioning this, because I work with 250 people, and two of us get called every 18 months for jury duty, and the others never get called so, I mean, I don't understand how that system works.

Q. Actually, I don't know enough even to give you an answer. I would love to but I don't know. I don't even know how it comes to pass.

So you actually have been called to jury duty on more than one occasion?

A. Oh yes, definitely, sir.

Q. But you only got in the box to hear a trial just the one time and then it was as an alternate.

Okay. Well, is there anything about that experience of being on that jury, or any of the vast experiences of being in the jury pool that would make it difficult for you to be on this jury, and sit as a juror in this case, and be fair and impartial to both sides?

A. No.

Q. Okay. Because it is important that whatever went on, even as a juror, as an alternate juror, you heard all the instructions. You heard everything.

So it's important that you set aside anything that you have in your mind about that experience, and any of those instructions. I don't know what kind of a case it was, and a lot of it may not apply here so you need to set aside all of that information, leave it outside. Don't think about it. Don't consider it and pay attention to just the evidence that you hear in this case, and the instruction that I give you about this case.

Can you do that?

A. Yes, Your Honor.

Q. Okay, that's all I wanted to know.

So can you think of anything else that I haven't touched upon that might bear upon your ability to be fair and impartial to both sides of this case?

A. No, but there is one thing you didn't mention that I wanted to.

Q. Go ahead.

A. I am an honorable discharged veteran, and I am very proud of that.

Q. You are an Army --

A. No, honorable.

Q. You are an honorable --

A. Discharged veteran.

Q. Discharged veteran?

A. Right.

Q. Okay.

A. Of the United States Air Force.

(Applause.)

Q. Congratulations. Good for you.

A. Thank you.

Q. Okay.

So, now listen, do you think that it you have -- well two things.

First of all, can you withhold forming any opinion about anything having to do with this case until all of the evidence has been presented, and I instruct you on the law.

Can you do that?

A. Yes.

Q. That is real important.

A. Yes, sir.

Q. Okay. If you were the Defendant or the prosecution in this case, would you be happy, satisfied with a juror sitting on the jury that has the frame of mind you have?

A. Yes, sir, I would.

THE COURT: Okay. Go ahead.

VOIR DIRE EXAMINATION OF JUROR HOLLEY

BY MS. LUZAICH:

Q. Mr. Holley, how long did you serve in the Air Force?

A. Four years.

Q. And in your time, well, what did you do with the Air Force?

A. I was a crew chief, which was basically I supervised work done on the jet aircraft.

Q. Okay. And in all your time with the service, did you ever have occasion to participate in a court martial, Article 15,, or anything like that?

A. No.

Q. Not as a witness even?

A. No.

Q. You know, it's funny, once you serve, you are not supposed to get called for two more years. So you should complain to someone about that. But with all your

experience, you are getting better at this than I am.

When you sat as an alternate in the criminal jury, did that frustrate you, having to listen to sit there and listen for five days and not deliberate?

A. No.

Q. Are you worried that that might happen again now?

A. No.

Q. Okay. What were the nature of the charges in the case that you heard. Do you remember?

A. Yes, do you want me to tell you what the charges were?

Q. The charges. What was the person charged with?

A. Attempted murder, two counts.

Q. With a weapon?

A. Yes.

Q. Okay.

So you would have in that case heard a lot of evidence about, you know, weapons, and what not, and probably some medical evidence.

You know, you are going to be asked to listen to the witnesses, and the expert testimony, if there is any in this case, and kind of forget about what you learned in that case. Is that possible?

A. Yes.

Q. Okay.

There was no sexual assault, no sexual allegations, or anything like that, so no sexual assault instructions, or anything?

A. No.

Q. Okay. Additionally, the law in the State of Nevada -- well, the law everywhere, but especially in the State of Nevada is very fluid. It's ever changing. So it is possible that instructions that you received then may not be good law now, do you know what I mean?

A. Yes, I do.

Q. So when you hear the instructions from the Judge at the end of this trial, can you only rely on those instructions and not go back there, and say, well, you know, in the last trial I was in, they said, this and this instead?

A. Yes, I can. That's the backbone of the whole system.

Q. Absolutely.

A. In the instructions.

Q. Absolutely.

So when the Judge just read to you the instructions, if there are any instructions that you don't agree with, what are you going to do? .

A. Well, whether I agree with them or not doesn't matter. That's the law.

Q. And you will follow it?

A. Always.

Q. Whether or not you agree?

A. Yes.

Q. Write to the legislature if you have to?

A. Well, I mean, this -- we got the best system in the world in my opinion so --

Q. Okay.

As a dispatcher for like 18 years, you have dealt with many --

A. I did it a lot longer than that.

Q. In your experience of any of the cabbies that have worked for and with you, been victims of robbery?

A. Oh yes.

Q. And did you in any way participate in any of those investigations?

A. No.

Q. Any of them investigated, as far as you know, by the Henderson Police Department?

A. No.

Q. You mention that your wife does something with computers at Bank of America?

A. Yes.

Q. She is a computer person?

A. Right.

Q. Has she always worked with computers?

A. Yes.

Q. Okay.

If you served as a juror in this case, and you go back in the deliberation room, something you didn't get to do before, if 11 of your fellow jurors feel one way, and you feel the other way, what are you going to do?

A. Well, I will give my point, and you want me to elaborate and tell you why?

Q. Sure, sure.

A. Okay. One thing I do, I'm a devout Christian, and I believe that we all are going to be held accountable to a higher power one day, so whatever -- what I do is, I will -- I take things right down the middle because if I think that you guys proved your case, then that's the way it is going to go.

If I think you didn't prove your case, then it's going to go to the Defendant, and, you know, I am going to try to take myself out of it because I know one day someone is going to ask me, you know, why did you put yourself into this, and put your own personal opinion into it.

Do you understand what I am trying to say here?

In other words, I know the law is the law so we have to follow it. Otherwise the whole thing falls apart.

Q. Okay.

So if you feel differently, you are going to argue to them why you believe what you believe?

A. Right.

Q. Try to persuade them of your point of view?

A. Right.

Q. Now, if they are able to point out to you something that maybe you missed or misheard, is it possible that you could change your mind?

A. Yes, that's what it is all about, right?

Q. Uh-huh, well, yeah. But if you are sure about your position, you will stick to your guns?

A. Oh yes.

Q. Okay. Do you have any problem sitting in judgment of someone?

A. No, not because that is our system and, you know, it works.

Q. Okay.

So, if at the end of the trial, after you hear all the testimony and see the evidence, if you are convinced beyond a reasonable doubt the Defendant is guilty of the crimes he is charged with, would you be able to say, guilty?

A. Yes.

MS. LUZAICH: Thank you.

Pass for cause, Judge.

THE COURT: Who is next?

VOIR DIRE EXAMINATION OF JUROR HOLLEY

BY MR. BANKS:

Q. Hi, Mr. Holley.

A. Hi.

Q. Is it the Air Force that brought you to Las Vegas?

A. Yes.

Q. Okay.

What was your gut feeling when you heard this was a sex assault case?

A. Basically, when I hear sexual assault, a rape case, you know, but I didn't form an opinion guilty or not guilty, you know, of this.

Q. Okay.

A. It is what it is.

Q. Okay.

Do you think that whole presumption of innocence thing is maybe a little harder to implement than, say, you know, a case where somebody steals a candy bar, or something like that, in a case like this?

A. Well, yeah. It is just like earlier I heard you guys talking about the life experiences, and, you know,

the things that each and everyone of us have been through. You know we form certain opinions on different things, but you know the whole point of this is to set off on the other side.

Q. Okay.

A. And listen to just the evidence and go to that.

Q. Okay. I mean, it's a pretty explosive charge, I mean, you hear it, and it's like, you know, it hits you?

A. Yes.

Q. Is it harder in a case like this to do what you just said chair, which is set all of that stuff aside. It almost kind of defies common sense?

A. Yes.

Q. I mean, for part of our, I guess if in the end, we are just -- we are all made up of our experiences, and that's partially how we arrive at how we perceive things, isn't it hard to set that stuff aside?

A. Well, me, we are talking about me.

Like I said, I put my faith on a higher power, and my higher power says, do things the right way. Just do the right thing, and if you do the right thing, you won't have any problem.

See, this way I won't -- I take myself out of

it as much as possible.

Q. Okay.

A. And just go with the evidence --

Q. Okay. And --

A. -- or lack of evidence, or whatever.

Q. Okay.

And for you the right thing is whatever comes from the witness stand, look at the evidence, and that's what we've got to base it on?

A. Exactly.

Q. Okay.

Do you think that an accuser in a sex assault case needs to act a certain way?

A. Well, just like I heard someone say earlier, everyone is different.

Q. Okay.

A. And no, I don't think they have to act a certain way.

Q. Okay. So no preconceived notions about something like that?

A. No.

MR. BANKS: Okay. I think that's all I have. Thank you for your answers, sir.

JUROR HOLLEY: Sure.

MR. BANKS: Pass for cause, Your Honor.

VOIR DIRE EXAMINATION OF JUROR WAGNER

BY THE COURT:

Q. And then we have Barbara Wagner?

A. Correct.

Q. Barbara, how long have you been in Las Vegas?

A. Since I was two months old.

Q. Okay, good for you. What do you do for a living?

A. I am a high school registrar.

Q. At which high school?

A. Centennial. Way out on the north side.

Q. Is Janice Roland the principal?

A. No. She is at Cimarron.

Q. Cimmaron, right. Carolyn Leavitt was the first principal.

Q. Okay, I know who that is. And how long have you worked there?

A. At Centennial, since the fall of 2000.

Q. Okay. How long have you been with the school?

A. 13 years.

Q. Excellent. Are you married?

A. Yes.

Q. And your husband does what?

A. We have an embroidery store, and he does custom embroidery on businesses, you know, their shirts, the left chest.

Q. Logos, and that kind of stuff?

A. Yes.

Q. Does he have one of those big computerized machines that does all that?

A. He has three.

Q. He has three?

A. Yes.

Q. He doesn't sit at a sewing machine doing that?

A. No.

Q. Okay. That's how I do it. And you have any grown children.

A. I have four boys grown.

Q. What do they do? Start with the oldest one down.

A. The oldest is 25, and he works in the store with my husband.

My second oldest is married and lives in Frado, Texas and is attending school there and working full-time.

And my third son, who is -- well, my second son is 24, the third son is 23, and he is at UNLV. He

works -- he goes to school full-time, and he works for Wright Engineering, and my youngest son is 21, and he attends UNLV, and he works part-time for Sierra there.

Q. Excellent. Have you ever been trained in any kind of law enforcement?

A. No.

Q. Have you, your close relatives, anybody close to you, employed in law enforcement?

A. My brother works, now he works for LAPD. He is a documents examiner. He retired from Metro here.

Q. He retired from Metro here after how many years?

A. 29.

Q. What's his name?

A. William Lieber (phonetically).

Q. Okay.

And then he moved into the L. A. area and works as a document examiner?

A. He did the same thing here as he does there.

Q. Oh, okay. Anything about that -- your brother, you are close to him, I believe?

A. Yes.

Q. Anything about that that your brother has been a police officer for Metro that would cause

you any difficulty with being on the jury and listening to a police officer's testimony?

A. No, I don't believe so..

Q. As a documents examiner, your brother probably spent a lot of time going to court?

A. Yes, he does.

Q. I take it you would be able to treat the testimony of a police officer witness the same as any other witness?

A. Sure, yes.

Q. Would you give their testimony any greater weight than anybody else?

A. No.

Q. Now, have you, or anyone close to you, ever been the victim of or accused of a sexual related offense?

A. I have a cousin, a cousin that's not very close to me, who was raped by an employer when she was about 16, but I didn't even know about it until probably 20 years after it happened 10 years ago. I'm not -- I haven't talked to her for 10 years.

Q. Is there anything about that incident involving your cousin that would cause you any difficulty in being a juror on a case like this?

A. I don't believe so, you know, I wasn't

involved and --

Q. You weren't involved with it at all at the time because you didn't know about it until 10 years after it happened?

A. Right.

Q. And can you set that all aside?

A. Yes.

Q. And just in a case like this, base it strictly on the evidence that you hear?

A. Yes.

Q. Okay. Have you ever been on a jury before?

A. No.

Q. Have you, or anybody close to you, ever been the victim of or accused of any other kind of a crime?

A. One of my sons was arrested for possession of drug paraphernalia.

Q. A misdemeanor?

A. Yes.

Q. I assume that he was young or was he over --

A. He was young. He wasn't super young. He was 18.

Q. So he was treated as an adult?

A. Yeah.

Q. Okay. Did you follow along what happened to him as a result of that?

A. You mean as far as letting him sit in jail before I bailed him out?

Q. Well --

A. Yes.

Q. I didn't think anybody did that.

Well, in the actual prosecution of the case, did you follow along?

A. You know, we had an attorney that went in there, you know, and he --

Q. And made a deal?

A. Yes.

Q. Okay.

Was there anything about the way the case was handled that gave you a problem?

A. No, I don't think so.

Q. Do you think everybody was treated fairly?

A. Yes, I believe so.

Q. Did you see anything about the way the system works that you thought was out of line?

A. No.

Q. You wouldn't hold against the Police Department, or the prosecution, the fact that your son was charged with, and I presume you made some kind of an arrangement?

A. Yes.

Q. Or negotiated?

A. Yes, we did.

Q. As a resolution?

A. Yes, we did.

Q. Anything about any of that that would cause you to hold any animosity towards the Police Department or the District Attorney's office?

A. No.

Q. Okay. Did I ask you already if you have been on a jury?

A. Yes, you did ask, and no, I have not.

Q. I have asked that a couple of times.

Is there any reason why you would be unable to withhold forming an opinion until after you have heard all of the evidence and been instructed on the law?

A. No.

Q. Do you think that you have a healthy, neutral frame of mind approach to your job as a prospective juror in this case?

A. Yes, having the boys that close, you again try to listen to both stories.

Q. You listen to disputes amongst your boys?

A. Yes.

Q. And you pay attention, and you listen to everybody, and then figure out who is telling the truth

and who is not?

A. Right..

Q. Good for you. Are you pretty good at it?

A. Well, you can't always be absolute with your children because, you know, they fib, and things like that, but, you know, you try to do your best to --

Q. Sort it out?

A. Reason it out so that you can sort it out.

Q. All right. If you were the Defendant or the prosecution in this case, would you be comfortable with a juror being on the jury that has your frame of mind?

A. I believe so.

THE COURT: Okay.

MS. KOLLINS: Thank you, Judge.

VOIR DIRE EXAMINATION OF JUROR WAGNER

BY MS. KOLLINS:

Q. Good afternoon. How are you?

A. Good.

Q. Ready to get out of here?

A. I am sure everybody is.

Q. Let's cut right to the chase. You are -- you know Brian Murray?

A. I -- he worked at Western High School when I worked there.

Q. Were you a registrar?

A. I was a secretary, curriculum secretary.

Q. So what kind of interaction do you have with Mr. Murray?

A. Not very much interaction with him other than, you know, the students always want to know what their schedule is going to be ahead of time, you know, and who the instructor is going to be, if it is going to work better for them, or, you know, that kind of stuff, but generally, I get a lot of that with them.

Q. Did you socialize with him outside of school, unrelated school related?

A. No, I did not.

Q. If Mr. Murray comes in here and testifies, are you going to accept his testimony as you would would any other witness or hold him in a higher regard just because you know him professionally?

A. No, he would be the same as anyone else.

Q. So you weren't the kind of associates where you got to have coffee or lunch?

A. No.

Q. Or anything like that?

A. No.

Q. You just know him?

A. Yes.

MS. KOLLINS: Okay, thank you. Pass for cause, Judge.

VOIR DIRE EXAMINATION OF JUROR WAGNER

BY MR. LANDIS:

Q. I want to talk just briefly about your son's arrest. I am guessing, and correct me if I'm wrong, you found out about it when he called from jail?

A. Correct.

Q. What did he say?

A. I don't like it here. Can you bail me out?

Q. Was the first thing he said, mom, I got arrested? Well, I assume from the --

A. Probably something to that effect.

Q. Probably from the recording, you knew where he was phoning from?

A. Yes, right.

Q. He said something like, mom, I got arrested. Was your first thought, how dare they arrest my son, or what did you do?

A. My first question to him was what were you arrested for?

Q. And his answer was drug paraphernalia?

A. Yes.

Q. What was the next question?

A. What did you do?

Q. And did he admit to it?

A. Yes.

Q. How long did you make him sit in jail?

A. Well, it was overnight night.

Q. You talked a little bit about settling a little bit about settling disputes amongst the kids and how sometimes kids like to fib?

A. Correct.

Q. What do you think motivates them to do that, at least with some of the reasons that kids use today?

A. Well, my two oldest are very competitive, and sometimes it's just their competitiveness.

The second oldest was bigger and older by my definition, so, I mean, you know, they are boys and like for many, many times earlier, boys will be boys, you should have little girls, and yeah, I know the difference, I mean, all of my boys are very different, and they different things, they express themselves differently, and, you know, you have to take that into account when they are trying to make their way through the mud.

MR. LANDIS: That's right. Thank you.

I will pass for cause.

THE COURT: All right. Folks, come on up.

(Whereupon, a brief, informal discussion was

had at the bench between the Court and counsel.)

THE COURT: All right.

We are going to ask the following two jurors to go ahead and step down, please, and that would be Susan Gregg and Mark Snelling.

We will replace them Susan Gregg with Stephanie Abernathy, and we will replace Mr. Mark Snelling with Bonnie Brunson.

(Juror Gregg and Snelling were excused at this time.)

THE COURT: And Stephanie, you will the chair in the back row to the left, and Bonnie, you will be taking the chair on the lower right.

VOIR DIRE EXAMINATION OF JUROR ABERNATHY

BY THE COURT:

Q. Okay. So it is Stephanie Abernathy, right?

A. Yes.

Q. Stephanie, and he, how long have you been in Las Vegas?

A. 22 years.

Q. Is that how old you are?

A. Yeah, but I wasn't born here.

Q. Okay. Where were you born?

A. In New Jersey.

Q. Okay. Do you work or do you go to school right now?

A. I am a free lance makeup artist. I work for myself, and I do showgirls, I do makeup, and I also work for a couple of real estate companies, but not right now because it's so bad.

Q. Okay. Real estate is pretty bad. All right, and are you married?

A. No.

Q. No children?

A. No.

Q. Okay. Have you ever been trained in law enforcement?

A. No.

Q. Have you, or anybody close to you employed in law enforcement?

A. No.

Q. Have you ever had any kind of experience with law enforcement that would have some effect upon your sitting as a juror in this kind of a case?

A. I have had experience with law enforcement, but not that way but not in that way as far as compared to judgment.

Q. Nothing that would make you give the testimony of a police officer any greater or lesser weight than non

police officer would have?

A. If you asked me a year ago, I would have said yes, but I was young and stupid, and I wouldn't choose them over anyone else.

Q. Okay. Have you ever been called for jury duty before?

A. No.

Q. Have you, or anybody close to you, ever been the victim of, or accused of any type of sexual related offense?

A. No.

Q. Okay. Have you, or anybody close to you, ever been the victim of or accused of any kind of a -- any other kind of criminal offense?

A. I was actually arrested in 2006, in Henderson, but it wasn't anything particularly formal arrest connected with that.

Q. Did anything happen as a result of the arrest?

A. I had to go to court, but it was amended to a lower -- a lesser charge.

Q. What was the charge?

A. It was assault and battery, but it got amended to a gross misdemeanor because it was with a roommate, from a relationship.

Q. Okay. You and a roommate got into a beef?

A. Yes.

Q. Okay. And were you the only one who got arrested?

A. Yes, I was, and I was also the one who called the police.

Q. You were the one who called the police, and you were the one that was arrested? Did that cause you any problems?

A. That is not funny. There is a reason. It is serious.

Q. No, I am sure of that. Did that cause you a problem?

A. No, it's always been good after, it was a year ago. I used to have the whole outlook about police not really doing their job, but I think I can now admit that I was drunk, and I did give up something, and I did what I had to do.

Q. But it wasn't like domestic violence?

A. Yes, it was. It wasn't an assault and battery. It was domestic violence.

Q. Okay. That's what it would normally be if they showed up in the room that you were having a -- but you pled guilty to disorderly conduct?

A. Actually, I was really distraught over

it, but then my attorney just gave me -- just told me to to take the deal, but I didn't like that.

Q. But you didn't plead guilty to domestic violence?

A. No.

Q. You only pled guilty to disorderly conduct? It was disorderly?

A. Disorderly, yes.

Q. Okay.

Anything about that entire scenario of events that is going to cause you any kind of difficulty sitting on the jury in a case like this?

A. No, this is a totally different situation.

Q. Well, it is totally different, but, again, it's going to be the Henderson Police Department who came out and arrested you, you know what I mean?

A. I would have arrested me, too, the way I was acting. So I don't hold it against them, the cops.

Q. Okay. You haven't been on a jury? I asked you already?

A. No, I haven't.

Q. Can you think of any other reason that would possibly cause you difficulty in being fair and impartial to both sides in a case like this that I haven't specifically asked you?

A. I'm sorry, what was the question?

Q. Well, I mean, is there anything else that I haven't specifically touched upon, anything that might affect your ability to be a juror in a case like that?

A. Yeah, I believe that I am pretty fair, and I am pretty open-minded.

That's why I don't hold the police responsible for what happened to me.

It was my fault.

Q. You wouldn't be a -- you won't go to the deliberation room --

A. I'm not biased at all.

Q. You won't go to the deliberation room and remember all of the things that were going through your mind when you got arrested, and let that interfere with your ability to just be a juror on this case and not bring in anything else from that other instance?

A. Not at all. I was just embarrassed for myself. So I am over that.

Q. You realize that there is going to be quite a few witnesses in this case that are going to be around your age?

A. What's the question?

Q. Is that going to cause you any problem?

A. No, not at all.

Q. You will still be able to listen to them and weigh their testimony, and weigh the credibility even if you weren't somebody that looks just like you, same age, and everything?

A. I don't think that age will have --

Q. It isn't going to have any effect on you?

A. No.

Q. All right. Can you withhold forming an opinion about this case -- this is pretty important -- until you have heard all of the evidence, and I have instructed you on the law?

Can you do that?

A. Absolutely.

Q. Do you think you would be comfortable if you were the prosecutor in this case or if you were the Defendant in this case if somebody that was sitting on the jury would have your frame of mind?

A. Yes, I would be.

THE COURT: Who is next?

MS. KOLLINS: Thank you, Judge.

VOIR DIRE EXAMINATION OF JUROR ABERNATHY

BY MS. KOLLINS:

Q. Good afternoon, Ms. Abernathy. How are you?

A. Good. How are you?

Q. Good. Who do you do freelance makeup work for, for like salons or --

A. Um, actually, showgirls, I have done a lot of showgirls, and stuff.

Q. Okay. So you go to each party, and you do their makeup?

A. Whatever calls me, once again, whatever it is.

Q. How long have you been doing this?

A. I have been doing makeup since I was 19 years old, and I have been working for myself for the last couple of years.

Q. Judge went through with you a lot of the stuff about the Henderson police, and I don't want to go on a drill on it, but I just want to ask you:

There is going to be some cops in this case, okay? Are you good with that?

A. Yeah, I don't have any problem with cops. Not all cops are the same. It doesn't matter. I don't feel there is anything about that.

Q. That situation, what happened happened, we will leave it alone?

A. Yeah.

Q. For our purposes here?

A. Yeah.

Q. The Judge is going to instruct you that the State's burden is prove our case beyond a reasonable doubt.

If you believe the victim and believe that we have proved our case beyond a reasonable doubt, according to the law, but you don't like the cops, you just don't like them on a personal level, can you still come back with a guilty?

A. Yes, I would, but I wouldn't hold that against the Henderson cops, or anybody. I can be fair to everyone, you know.

Q. I mean, and the victims just happened to be victimied in Henderson, and we didn't have any control over what happened, right, you know, whatever law enforcement, it was just --

A. (Interposing) As long as the evidence is there, there is no problem with finding him guilty.

Q. Where did you go to school?

A. El Dorado.

Q. And did you go to graduate school?

A. Yes.

Q. Any plans for further education?

A. Yes, I actually do have. I want to be a nurse so much.

MS. KOLLINS: Thank you. Pass for cause.

THE COURT: All right, Defense?

MR. BANKS: Yes, sir, thank you.

VOIR DIRE EXAMINATION OF JUROR ABERNATHY

BY MR. BANKS:

Q. Hi, Ms. Abernathy.

That situation in Henderson, now that you have had that experience, we will get back on it. Would you have done anything differently?

A. Well, because of my situation, would I do anything if I had not called the cops?

I would have just said it was my fault. I don't think that there is anything that I would have done different. If I had not done what I had done, I would have been in my car and out of there.

Q. Okay. So your emotions were running high?

A. Yes.

Q. Okay.

A. It was the most traumatic thing that ever happened to me, that would be it.

Q. Okay.

Looking back on it, and your emotions were running high, and you said that maybe if you had it to do all over again, you would tried not to act so erratic?

A. I would have tried nicely, but I was in a bad situation, and I just kind of freaked out, and my emotions came out. But if I had to do it again, I'm not

sure that it would have gone any different.

Q. Okay. A stressful situation. It's not like you had a training for that situation?

A. Exactly.

Q. Okay. You did the best you could with what you had?

A. Yes.

MR. BANKS: I think that's all I have, thank you.

Pass for cause, Your Honor.

VOIR DIRE EXAMINATION OF JUROR BRUNSON

BY THE COURT:

Q. We have Bonnie Brunson. Bonnie?

A. Yes.

Q. How long have you been in Las Vegas?

A. I was born and raised here.

Q. Wonderful. All right. What do you do for a living?

A. Pardon?

Q. What do you do for a living?

A. I am a realtor, and thank God, I have an event planning business, too.

Q. Not much going on with the real estate business right now these days.

A. Oh, it's doing godd. It's picking up.

Q. It's getting back. We will be fine.

Are you married?

A. No, not for quite a few years.

Q. Do you have adult children?

A. I do have adult children.

Q. Where do they live?

A. My son is 38, and he has his own business, he has got his own grader, and he is close to the name of this other company, but they changed it. He has got a service retention business from the builders, and my daughter works for another group. They are architects?

Q. Okay.

A. Is that right? All right.

Q. So nobody -- nobody close to you is involved in or employed in law enforcement?

A. No.

Q. Okay. And you have never been trained in law enforce?

A. No, absolutely not.

Q. Have you, or anybody close to you, ever been accused of or the victim of any sexual related offenses?

A. No.

Q. Have you, or anybody close to you, ever been charged with or the victim of any other types of criminal offenses?

A. No.

The only thing I can relate back to at all was my brother, who was a bit wild, and he was shot, he was with some friends in California,, and they had marijuana on them.

Q. That was how long ago?

A. Oh my gosh, I've got my years. That was a long time ago, and I think he was about, well, I guess he was about 17 or 18. I'm three years older than him.

Q. So there was nothing about that incident that would affect your ability to be a juror in this case?

A. No, it was a misdemeanor, and my mother made him pay the price, but other than that.

Q. Have you ever been called to jury duty?

A. I have, many times.

Q. And have you served?

A. Yes, I have.

Q. The last time, have you served on more than one jury?

A. Yes, I have.

Q. When was the last one? Let's start with that. How long ago did you serve?

A. The last one was probably 12, 14 years ago, and it was so nondescript. I think it was a civil case.

Q. It was a civil case?

A. No, it was criminal cases.

Q. Both of them were criminal cases?

A. Yes.

Q. The one, you didn't actually deliberate?

A. No, we didn't really get that far.

Q. They made some kind of resolution before they had you deliberate?

A. Yes.

Q. What about the trial before that, previously?

A. That one, my kids were small. That was a long time ago.

Q. Was it also a criminal trial?

A. It was a criminal trial.

Q. And do you remember if you deliberated?

A. Oh, yes, quite a while. It was frustrating.

Q. Okay. Now, we have something to talk about.

Were you the foreman?

A. I was.

Q. You were?

A. Yes, sir.

Q. Okay. So you were not only on the jury, and you deliberated, but you were in charge of deliberation?

A. Yes.

Q. Without telling us what happened, did the jury reach a verdict?

A. Yes.

Q. Okay. ,

So you said that a couple of times. It sounds like you deliberated a long time.

A. Yes, we did, and we didn't seem to hear the same things, and we called the reporter back in, and have things reread from the transcript.

Q. Okay. Do you remember how long it was that you deliberated/?

A. It was between five and six days.

Q. Between five and six days?

A. Yes.

Q. Okay. Now, and this was a long time ago?

A. This was a long time ago. My kids were -- my son was probably four -- well, I was still married so it was really a long time ago. He was under 16, and that was about it.

Q. So can you take that experience and keep it from interfering with your jury service here in this case?

A. Absolutely.

Q. Can you -- I know it was a long time ago so probably you are not letting any of the instructions on the law, or anything interfere with this case, just they tell you you remember?

A. Yes.

Q. Okay. But what we will ask you to do is to forget about anything that you might remember in regards to that jury service, and forget about it, and pay attention in this case, just to the evidence that you hear in this case, and the instructions that I give you on the law in this case and render a verdict on that, and nothing else.

Can you do that?

A. Of course.

Q. Okay, all right.

Can you think of anything that I haven't specifically touched upon, or asked you about, that might cause you difficulty in being a juror in a case like this?

A. No.

Q. Can you withhold forming an opinion about any aspect of this case until you have heard all of the evidence?

A. That's what we are supposed to do, and I would do that myself.

Q. I will tell you about 500 times before we get done. Can you follow that instruction?

A. Absolutely.

Q. Okay. If you were the Defendant or the prosecution in this case, would you be comfortable with somebody that had your frame of mind being on the jury?

A. Absolutely.

THE COURT: Ms. Luzaich, it is your turn.

VOIR DIRE EXAMINATION OF JUROR BRUNSON

BY MS. LUZAICH:

Q. Can you be fair to both sides?

A. Absolutely.

Q. Keep an open mind until all of the evidence is in?

A. That's what it has to be.

Q. And not scare the jurors into thinking they are going to have to stay four or five days to deliberate?

A. Well, if it needs to be done, it needs to be done, you know.

Q. That's very rare these days?

A. Yes.

Q. Is there any reason you can't sit as a juror?

A. No.

Q. Sit as a juror in this particular case?

A. No.

Q. Knowing what you know about yourself, you don't have a problem of sitting -- bless you -- in judgment of someone?

A. No.

Q. So if you aren't convinced beyond a reasonable doubt that the Defendant committed this crime as charged,

would you be able to say, guilty?

A. Yes.

Q. Okay. And just so say again, back when you served as a juror two times before, the law has changed a lot since then, so any instructions that you would have heard back then, you would forget and only follow the instructions that this Court reads to you?

A. Yes.

MS. LUZAICH: Okay, thank you.

Pass for cause, Judge.

VOIR DIRE EXAMINATION OF JUROR BRUNSON

BY MR. LANDIS:

Q. Yes, she's right, that's the second long deliberation we've heard of today, and I think people are getting lazy because you never hear of deliberations that long anymore.

Did the Defendant testify in either of those trials, do you remember?

A. One.

Q. And one, they did it?

A. In one, they did not.

Q. They didn't get far enough for him or her to have an opportunity?

A. Right.

Q. Were you expecting the Defendant to testify

in the case where they did?

A. It doesn't matter.

Q. It doesn't matter?

A. Well, it didn't matter in that case, I suppose. Do you want to know why?

Q. No, again, I am going to get in trouble. I am going to stop you.

Do you want that in this case?

A. What?

Q. The Defendant to testify?

A. I think that's up to the Defendant.

Q. Okay. Let me ask you this:

What has been your favorite question you've heard from one of the four of us so far?

A. My favorite one is the one you asked.

MR. LANDIS: Pass for cause, Judge.

THE COURT: All right. Counsel, approach the bench, please.

(Whereupon, a brief, informal discussion was had at the bench between the Court and counsel.)

THE COURT: Okay.

We are going to ask the following jurors to go ahead and step down and report to the third floor, Jury Commissioner's office, call the office tomorrow.

Bonnie Huerta, and we will replace Bonnie Huerta

with Joann Czerwinski.

Thank you again very much for your service.

(Juror Huerta excused at this time.)

THE COURT: And, Joann, you will be in that second chair in the back row.

VOIR DIRE EXAMINATION OF JUROR CZERWINSKI

BY THE COURT:

Q. By this time, Joann, I suspect that there aren't too many surprises.

A. No.

Q. How long have you been in Las Vegas?

A. I have been in Las Vegas for 12 years.

Q. Okay. What do you do for a living?

A. I am an auditor with the Internal Revenue Service.

Q. Oh, my.

A. Still friends?

Q. Are you guys real busy right before the 15th, or it probably wouldn't have any effect on you guys?

A. I am not actually because I'm the auditor when we do those years like three years back, and so we are not dealing with the current year.

Q. How long have you worked for the IRS?

A. 31 years.

Q. So you worked for them way before you came

to Las Vegas?

A. Yes.

Q. Okay. And is it true that the actual number of IRS auditors in Las Vegas is about three times the number for income tax in the United States?

A. I used to work in Baltimore, and I think that there was a fair number each -- either place.

Q. So that's just a -- that's just an old wife's tail?

A. Yeah, it is a misconception.

Q. Okay. So what -- are you married?

A. I was. My husband died.

Q. Okay. And what did your husband do?

A. He was an auto mechanic.

Q. Okay. Do you have grown children?

A. No children. One dog.

Q. One dog? The dog is not employed?

A. No.

Q. All right. So have you ever been trained, being an auditor is not considered with the IRS, it is not considered in any fashion or form of law enforcement?

A. No.

Q. Have you ever had any training in law enforcement?

A. No.

Q. Has anybody, have you any other family members or persons close to you employed or trained in law enforcement?

A. No.

Q. Have you, or anybody close to you been the victim of, or accused of any type of sexually related offense?

A. No.

Q. Have you, or anybody close to you ever been accused of or the victim of any other type of criminal offense?

A. My house was burglarized back in 2001.

Q. Here, obviously, in Las Vegas?

A. Yes.

Q. Was anybody -- was a police report made?

A. Yes.

Q. To your knowledge, was anybody ever arrested or prosecuted?

A. Yes.

Q. And were they prosecuted for it?

A. I am thinking that they did.

What happened is they got to Oregon, and the police up there found the car with our belongings in it, and some got returned back to Las Vegas through the detectives, and we recovered most of our belongings.

Q. So it was an auto theft?

A. No, it was actually a -- these two guys were terrorizing the neighborhood. One of them was a neighbor, and they were watching peoples' houses, and they were stealing cars, or they were stealing stuff right in the people's houses and robbing them.

Q. So they did prosecute as far as you know?

A. As far as I know, but we were apprised of the date, but I don't know what happened. I never did find anything out.

Q. Is there anything about that incident that would cause you difficulty in dealing and being a juror on a case like this?

A. Not at all.

Q. Could you set that aside and not let it interfere with your jury duty?

A. Yes.

Q. You wouldn't hold that against the Police Department, or the other prosecution?

A. No.

Q. Or even the Defendant because of anything that happened with respect to that other criminal activity?

A. Not at all.

Q. Okay. You can sit as a juror in this case and render a verdict based strictly upon the evidence you

hear and the instructions on the law, and that's it, nothing else?

A. Yes.

Q. Okay. Have you ever been on jury duty before?

A. No.

Q. Can you think of any reason that I haven't specifically asked you about that would bear upon your ability to be a juror in this case?

A. No.

Q. Can you withhold forming an opinion about anything having to do with this case until you have heard all the evidence and my instructions on the law?

A. Yes.

Q. Do you think that you have a neutral, healthy, mental state of mind in regards to your jury duties in a case like this?

A. Yes.

Q. Would you be comfortable if you were the Defendant or the prosecution with a juror that has your frame of mind?

A. Yes.

THE COURT: I don't know, I can't think of anything else.

MS. KOLLINS: I'm sorry.

THE COURT: I'm done. I can't go any faster.

MS. KOLLINS: I will try to as well.

VOIR DIRE EXAMINATION OF JUROR CZERWINSKI

BY MS. KOLLINS:

Q. Ms. Czerwinski, is that how you pronounce your name?

A. Yes.

Q. Do you have brothers and sisters?

A. I have one brother and one sister.

Q. Do they have kids?

A. My brother has his dog.

Q. Any other relatives?

A. Well, they mostly live on the East Coast so I don't really see them that much. I have to see them before they see me. They don't come to the West Coast too much.

Q. What did you think when you got your jury summons?

A. I was pretty excited.

Q. And why?

A. I just want to do it.

Q. Not like you're an auditor?

A. It's a different field.

Q. The Judge is going to give you some instructions.

Do you think that you can follow those instructions even if you disagree with them?

A. Yes.

Q. Hold the State to our burden?

A. Yes.

Q. Give a fair trial to the victims?

A. Yes.

Q. And can you be fair to the Defendant?

A. Yes.

MS. KOLLINS: Thank you, pass for cause.

THE COURT: Counsel?

VOIR DIRE EXAMINATION OF JUROR CZERWINSKI

BY MR. BANKS:

Q. Is it Czerwinski? That's the --

A. You are correct.

Q. All right. In your years as an auditor, do you find a lot of honest mistakes?

A. Yes.

Q. Okay. Some are a lot softer.

Q. Okay.

A. A lot of times people are their own preparers, and they are not knowledgeable of tax law.

Q. Okay.

A. And as an auditor, I have to be aware of tax law. So I have to kind of educate them as to tell them where

the error was made, and to try to keep them more aware of what -- they should be more aware of the law.

Q. Okay. So you don't have repeat the same --

A. Yeah.

Q. So they don't repeat the same mistakes?

A. Yeah, yes, we try to stop it.

Q. Okay. I imagine some issues you see, and it's like oh, this again, and you kind of know what's going on?

A. Oh yeah, I have been doing it for 22 years now.

Q. Okay.

And I imagine some of the things you see are a lot more technical?

A. Yes.

Q. Is that fair?

A. Yes.

Q. Okay. Are you still learning new things everyday as the Tax Code code changes?

A. Oh yes.

Q. Okay.

A. The Code changes.

Q. Okay. I mean, you have got a lot of training in that area?

A. Yes.

Q. Okay. It could be daunting for somebody else who maybe not -- doesn't know what's going on?

A. Sure.

Q. Okay.

How did you feel about the charge when you heard what it was, the charges?

A. I didn't feel one way or the other. It's -- I am just wondering what precipitated what happened.

Q. Okay. It didn't scare you?

A. No.

Q. Or turn you off?

A. No.

Q. Or anything like that?

A. No.

Q. Make you sick?

A. No.

Q. Nothing like that?

A. No.

Q. Okay. How do you feel about this whole presumption of innocence thing? Is that something that you are comfortable with?

A. Yes, I am.

Q. Okay. Do you want to serve?

A. Very much.

MR. BANKS: Okay. Thank you so much for your

answers.

Pass for cause, Your Honor.

THE COURT: All right. Will you approach the bench? We are real close.

(Whereupon, a brief, informal discussion was had at the bench between the Court and counsel.)

THE COURT: Okay. We are going to ask Stephanie Abernathy to step down, please, and she will be replaced by Juaneta Gibson.

Stephanie, we thank you very much for your participation, and Juaneta, you will be in the last chair in the back row.

We are almost done here.

(Juror Abernathy excused.)

VOIR DIRE EXAMINATION OF JUROR GIBSON

BY THE COURT:

Q. Juaneta?

A. Yes.

Q. Can I start asking you questions while you are still moving?

A. Yes, you can.

Q. All right. We will start at the top.
How long have you been in Las Vegas?

A. I was born here. I am a native.

Q. Good for you. Do you live in Henderson?

A. No, I was born in Henderson actually, but then I came to Las Vegas.

Q. Okay. What do you do for a living?

A. I'm a homemaker.

Q. Okay. Have you ever worked outside the home?

A. Yes, I have been in retail for a time after high school, and part-time, but mostly I have been a homemaker for most of the time.

Q. Okay. Your husband?

A. He's a contractor, a commercial contractor.

Q. His own company?

A. Yes.

Q. What's the name of his company?

A. Gibson Construction.

Q. Okay. Do you have grown children?

A. Yes, I have one of three children, one of three children, two are adults, one a child. Both adults are working. My son, my only child is 27. He is an accountant..

Q. Okay. And what did you say the oldest one does?

A. Well, he is an accountant.

Q. Okay, all right. Anybody involved in law enforcement?

A. No.

Q. Have you ever been trained in law enforcement?

A. No.

Q. No close friends or relatives in law enforcement?

A. Not close. My husband has a cousin who is with Metro, we haven't seen him in years, so we see him very rarely, like every few years, very rare.

Q. Okay. Nothing about that relationship that would cause you difficulty in being a juror in a case like this?

A. No.

Q. It was Metro, not in Henderson?

A. No, it was Metro.

Q. Okay.

Have you, or anyone close to you, ever been the victim of, or accused of, any type of sexual related offense?

A. No.

Q. Have you, or anyone close to you, ever been the victim of, or accused of of any criminal offense?

A. No.

Q. Have you ever been on a jury?

A. I have never served on a jury. I have been called before, but usually was turned away.

Q. You never made it to --

A. I never made it this far.

Q. Okay, okay. Can you think of any reason that I haven't specifically touched broadly upon that may bear upon your ability to sit as a juror in a criminal case like this?

A. No.

Q. Do you understand the importance of not forming any type of an opinion?

A. Yes.

Q. About any aspect of the case until you have heard all the evidence, and I instruct you on the law. Do you understand how important that is?

A. Yes, I understand.

Q. And can you do that?

A. Yes, I can do that.

Q. Okay. Do you believe that you have a neutral, frame of mind in terms of your jury service today, and your duty as a juror?

A. Yes.

Q. As you approach this kind of a case, if you would be a juror in a case like this, you understand how important it is that you don't come with any leaning toward the prosecution or the defense?

A. Right..

Q. You have to keep a down the middle --

A. Open mind.

Q. Down the middle, neutral frame of mind,
and listen to the evidence before you start making --
forming any opinions. Do you understand?

A. Yes, Your Honor.

Q. Can you do that?

A. Yes.

Q. If you were the Defendant or the prosecution
in this case, would you be comfortable with somebody on
the jury that has your frame of mind?

A. Yes, I would.

MS. LUZAICH: Pass for cause.

MR. LANDIS: The Court's indulgence. We will
pass.

THE COURT: Okay. Then approach the bench here.

(Whereupon, a brief, informal discussion was had
at the bench between the Court and counsel.)

THE COURT: Okay.

All right. We are going to ask Justin -- is it
Gries?

JUROR GRIES: Gries.

THE COURT: Justin Gries, we are going to ask
you to step down, and thank you very much for your
participation.

(Juror Gries excused at this time.)

THE COURT: We are going to replace Justin with Brenda Medeiros. Brenda?

Thank you, Justin.

And Brenda, you are going to take the only open chair there.

VOIR DIRE EXAMINATION OF JUROR MEDEIROS

BY THE COURT:

Q. Now, Brenda, let me ask you something before you get even going you too from. You are from Sandy Valley, right?

A. Yes.

Q. How far is that?

A. From here to my work is 24 miles, and I work on the Strip, at Planet Hollywood, so probably another 10 miles maybe probably 10 miles maybe from where I live from here.

Q. All right. Here is how this works. There is a distance, and I am not positive what it is, if it's 50 miles or 60 miles, but I am pretty sure that it is one or the other, and you are going to be right on that borderline, and the borderline is this:

We pay to have you spend the night here if you want to stay in town.

But you might be five miles under the limit for

all I know. All I can tell you is, is this going to be a big problem commuting, and being here on time, and stuff?

A. No.

Q. Are you, if you had any the option, would you like to spend the night in town instead of going back and forth. You don't get to spend the weekend.

A. If I had to stay the night. Otherwise I would prefer just to go back home.

Q. Okay, and they pay -- I think they pay the mileage. They have a different arrangement, it's either spend the night or pay the mileage, something like that. But that wouldn't be a problem?

A. No.

Q. Okay. All right. So how long have you been in Las Vegas or in Sandy Valley? Have you always lived in Sandy Valley?

A. No, I just moved there a year ago.

Q. Okay and where did you live before then right here?

A. Vegas, for 17 years.

Q. Okay. And you work at --

A. Planet Hollywood.

Q. Planet Hollywood, doing what?

A. Waitress.

Q. Okay. Are you married?

A. I'm divorced.

Q. Do you have children?

A. I have two. My daughter is 18 and my son is 12.

Q. Does your 18 year old work?

A. No, she doesn't. They live in Florida with their father.

Q. Oh, okay.

A. Yeah, she is going to school. She graduates in May.

Q. And you you said in May? Okay. Have you ever been in law enforcement or trained in law enforcement?

A. No.

Q. Anybody close to you been trained or engaged in law enforcement?

A. My two cousins,, they live in Massachusetts. They are police officers, but I don't really talk to them too much.

Q. You don't talk to them too much?

A. No.

Q. Is there anything about the fact that you have got cousins that are police officers that would affect your ability to be a juror in a case like this?

A. No.

Q. Have you ever, you, or anyone close to you, ever been the victim of, or accused of any type of sexually related crimes?

A. My brother told me one time that an aunt, when he was a kid, did something to him, but he just mentioned it, and we never really talked about it.

Q. There was no criminal case?

A. No.

Q. As a result, or anything like that?

A. No.

Q. Anything -- well, how long ago was that?

A. Maybe 35 years ago.

Q. Okay. Is there anything about that incident that was involving your brother that would have any effect or bearing upon your jury duty here in this case?

A. No.

Q. You can set that all aside, and pay attention to this case, and render a verdict based upon this case?

A. Yes.

Q. The evidence and my instructions, is that right?

A. Yes.

Q. Okay. Can you think of anything that -- did I say -- did I ask you if you have been on a jury before?

A. No, you didn't.

Q. Have you?

A. And I haven't, no.

Q. Okay. Is there anything that you can think of that I haven't touched upon in a broad perspective here that would affect your ability to sit as a juror in a criminal case of this type?

A. No.

Q. Okay. Nothing that you can think of in your background that would cause you to give the testimony of a police officer any greater or lesser weight/?

A. No.

Q. Than any other witness?

A. No.

Q. You would treat them all the same?

A. Treat them all the same.

Q. Okay.

Do you understand the importance and the necessity of not forming any kind of an opinion about anything that has to do with this case until you have heard all of the evidence?

A. Yes.

Q. Can you do that?

A. Yes.

Q. Okay. Do you think that you have a healthy

mindset, a healthy, neutral mindset so that if you were one of the litigants, you would be comfortable with somebody that has your mindset being on the jury?

A. Yes, I do.

THE COURT: Okay, Ms. Kollins?

MS. LUZAICH: Pass for cause, Your Honor.

THE COURT: Okay.

THE COURT: Fellows?

MR. LANDIS: We will pass, Judge, thank you.

THE COURT: Okay.

Now, we have a jury, and I am going to discharge the rest of you so here is how this works. Be real careful.

I want to thank you very much for your jury service. As you can see, we started off with 80 people, we went through over two-thirds of them so we needed way more than the number of people that we end up with, and so just because you didn't get picked, I really and truly appreciated your participation because we couldn't do this if you guys weren't here.

So thank you all very much.

And I think it's too late to go to the third floor, check in. You can just check in tomorrow. Give them a call and let them know that you were discharged, and that you weren't picked.

Hopefully, that will be the end.

Okay? And thank you all very much for your participation.

All right. While they are going down to the Jury Commissioner's office, I am going to tell you guys, I have a bunch of instructions for you, but I am not going to do them until tomorrow. We are going to do that the first thing in the morning.

Tomorrow, we are proposing to start at nine. I told you all we wouldn't start until 10. Is there anybody that can't be here at nine?

Can everybody be here at nine?

We want to get as full a day in tomorrow as we can. We will probably bring them in, and we want to get as full a day in as we possibly can.

I have some instructions to read to you about generally what you do as a juror and what to expect.

The first thing that is going to happen -- where did Joe go?

THE CLERK: Take the jury outside.

THE COURT: Oh, okay.

The first thing that is going to happen, Joe is going to give you actual juror badges instead of the badges that came from the Jury Commissioner's office, okay?

It is real important that you keep those juror badges on any time that you are close to the Courthouse,

I mean, and there is a reason for it because it identifies you as a juror in a case that is sitting in trial.

That's different than a prospective juror. It is from being in a jury pool.

It tends -- it is supposed to isolate you and keep you apart from everybody else.

Don't talk to anybody around here because you never know who you are talking to about anything having to do with this case, in fact, just don't talk to anybody about anything to do with this case period, which includes with each other.

From now on, you won't be going in and out that front door. From now on, you are going to go with Joe out the back door, and it's the jury deliberation room right back here, and if something happens, we have a conflict with the courtroom next door, we will find another spot. But for now, this is going to be your room.

So when you guys meet, you will meet outside the double doors over here, on the side. You will go in and out those doors so stay away from the front out here, because that's where all the witnesses are going to be, and that's where the people are going to be that we don't want you to be around, okay?

So you go running out those middle doors here.

When I tell you to congregate at a certain time,

you will as a group congregate over there, and meet with Joe, until he brings you back to the deliberation room. You will have a place to leave your purses, and stuff, they will be safe there. You shouldn't have to worry about anything.

At night, you leave your notebooks such over here in the jury deliberation room.

And next time we are going to do it right now, you need to give them their badges through Joe.

THE BAILIFF: Okay.

THE COURT: This is different than the jury pool. Being the real jury, there is a different oath that you have to take so the very next thing thing we do is everybody stand, and raise your right hand. We need to swear you all in.

(Jury and alternates duly sworn.)

THE CLERK: Okay. You may be seated.

THE COURT: Okay.

Overnight, here is what is going to happen in the morning.

You are going to meet at five till nine outside of the double doors, okay?

Make sure you keep your jury badges on, have them on at lunch, have them on in the evening, have them on when you are anywhere close to the Courthouse. Keep your juror

badges out and keep them visible.

During this next however many hours until we meet again, I am going to admonish all of you:

Do not talk or discuss this case with anyone, including each other.

Do not watch, listen or listen to any reports or commentaries about anything having to do with this case or any person having to do with this case until such time as the case has been finally submitted to you.

Don't watch, listen or read any reports or commentaries from newspapers, radios, internet.

Don't look anything up. For those of you who have computers, which should be just about every single one of you, don't get curious and start looking stuff up on the internet to see if you can find something out.

Don't do anything that would constitute some kind of an investigation on your own about anything having to do with this trial.

Everything that you should consider when you retire as a juror on this case should come right from this witness stand or the evidence that has been admitted into this case and no place else.

Okay?

When you converse with your family, your husband, your wives, or whatever, that I am on a jury, it's a criminal

trial, that's it.

Say, I have been instructed by the Judge not to discuss anything else about this trial until it is over with, okay?

You guys are in recess. See you tomorrow morning at nine o'clock. We will have all day long.

(Jury and alternates excused at this time. Thereafter, the following proceedings were had outside their presence:)

THE COURT: Would you make sure that door closes when you go out? Thank you very much.

Back on the record.

All right. We need to be on the record for just a second.

All right. Counsel, you wish to make a Batson challenge to the State's striking, challenging juror number five by the name of Stephanie Abernathy.

MR. BANKS: Yes, Judge, Stephanie Abernathy, badge number 284.

Defense's position is that Ms. Abernathy was part of a protected class that being that she was African American, coincidentally, the same protective class as my client.

Based on the answers that she gave in response to the Court's questions as well as answers from the prosecution as well as the Defense, my perception is that

she say anything out of the ordinary in fact, when pressed without any prior incidents with the Henderson police, she indicated that she was out of place where she was over that, that she completely set it aside, it wouldn't affect how she approaches this case at all.

And not only that, I believe she indicated that she was a freelance makeup artist, and that she does makeup for strippers, something like that. I don't know what a -- how the Court or how the State feels about that.

I know that I have clients prosecuted where strippers are accusers, and the State in those cases put a lot of stock in what strippers say.

So I don't think the fact that she does makeup for strippers is really a reason that, you know, what I am saying, Judge, is I don't see any reason besides the fact that she is African American, and I believe once we make that claim that the State is now in a position where they have to put forth a race neutral reason for this -- for the challenge.

MS. LUZAICH: Well, first of all, I wasn't convinced that she was actually African American when she sat down.

I thought is she Mexican or black? But she is 22, and as he said, she works with strippers. It only has to be a race neutral reason.

She talked about an arrest for domestic violence. That alone is enough. She talked bout how she doesn't, or

at least at one point didn't like the Henderson Police Department.

That alone is also enough.

The fact that she has said that she has gotten over that. So what, you know, I call bullshit on that.

But those are just a series of race neutral reasons, and that's why we kicked her.

THE COURT: I think that the State has identified a sufficient race neutral reason, and that I think that they have and responded appropriately to the Baston challenge, and identified they have designated a race neutral reason.

So you have made your record, she's gone, we've got our jury.

MR. BANKS: Thank you.

THE COURT: And gentlemen, see you at nine o'clock.

MR. BANKS: Thank you.

THE COURT: And I will read through the jury instructions.

We can go off the record, Lee.

(Discussioni off the record.)

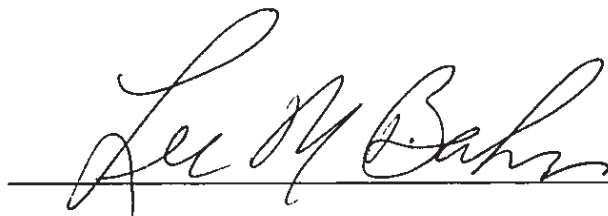
(End of proceedings.)

CERTIFICATE

STATE OF NEVADA)
) ss.
CLARK COUNTY)

I, LEE M. BAHR, CP, CCR 173, do hereby certify
that I reported the foregoing proceedings; that the same
is true and correct as reflected by my original machine
shorthand notes taken at said time and place before the
Hon. James M. Bixler, District Judge, presiding.

Dated at Las Vegas, Nevada, this
5th of December, 2008.

A handwritten signature in cursive script, reading "Lee M. Bahr", is written over a horizontal line.

LEE M. BAHR, CP, CCR 173

ORIGINAL

1 **INFO**

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FILED IN OPEN COURT

APR 10 2008 20

CHARLES J. SHORT
CLERK OF THE COURT

BY

Theresa Alee
DEPUTY

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,)

11 Plaintiff,)

12 -vs-)

13 NARCUS S. WESLEY, aka)
14 Narcus Samone Wesley #1757866,)

15 Defendant.)

Case No: C232494
Dept No: XXIV

SECOND AMENDED
INFORMATION

17 STATE OF NEVADA }
18 COUNTY OF CLARK } ss.

19 DAVID ROGER, District Attorney within and for the County of Clark, State of
20 Nevada, in the name and by the authority of the State of Nevada, informs the Court:

21 That NARCUS S. WESLEY, aka, Narcus Samone Wesley, the Defendant above
22 named, having committed the crimes of CONSPIRACY TO COMMIT BURGLARY
23 (Gross Misdemeanor - NRS 199.480, 205.060); CONSPIRACY TO COMMIT
24 ROBBERY (Felony - NRS 199.480, 200.380); BURGLARY WHILE IN POSSESSION
25 OF A DEADLY WEAPON (Felony - NRS 205.060); ROBBERY WITH USE OF A
26 DEADLY WEAPON (Felony - NRS 200.380, 193.165); ASSAULT WITH USE OF A
27 DEADLY WEAPON (Felony - NRS 200.471, 193.165); FIRST DEGREE
28 KIDNAPPING WITH USE OF A DEADLY WEAPON (Felony - NRS 200.310,

1 200.320, 193.165); SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON
2 (Felony - NRS 200.364, 200.366, 193.165); COERCION WITH USE OF A DEADLY
3 WEAPON (Felony - NRS 207.190, 193.165) and OPEN OR GROSS LEWDNESS
4 WITH USE OF A DEADLY WEAPON (Gross Misdemeanor - NRS 201.210, 193.165),
5 on or about the 18th day of February, 2007, within the County of Clark, State of Nevada,
6 contrary to the form, force and effect of statutes in such cases made and provided, and
7 against the peace and dignity of the State of Nevada,

8 COUNT 1 - CONSPIRACY TO COMMIT BURGLARY

9 Defendant and DELARIAN KAMERON WILSON did then and there meet with each
10 other and between themselves, and each of them with the other, wilfully and unlawfully
11 conspire and agree to commit a crime, to-wit: Burglary, and in furtherance of said
12 conspiracy, Defendant and DELARIAN KAMERON WILSON did commit the acts as set
13 forth in Counts 3 & 11, said acts being incorporated by this reference as though fully set
14 forth herein.

15 COUNT 2 - CONSPIRACY TO COMMIT ROBBERY

16 Defendant and DELARIAN KAMERON WILSON did then and there meet with each
17 other and between themselves, and each of them with the other, wilfully, unlawfully, and
18 feloniously conspire and agree to commit a crime, to-wit: Robbery, and in furtherance of
19 said conspiracy, Defendant and DELARIAN KAMERON WILSON did commit the acts as
20 set forth in Counts 4, 6, 7, & 9, said acts being incorporated by this reference as though fully
21 set forth herein.

22 COUNT 3 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

23 Defendant and DELARIAN KAMERON WILSON did then and there wilfully,
24 unlawfully, and feloniously enter, while in possession of a deadly weapon, to-wit: a hand
25 gun, with intent to commit larceny and/or a felony, to-wit: Robbery, the house at 690 Great
26 Dane Court, Henderson, Clark County, Nevada, the Defendant being criminally liable under
27 one or more of the following principles of criminal liability, to-wit: (1) by directly
28 committing this crime; and/or (2) by Defendant and DELARIAN KAMERON WILSON

1 aiding or abetting one another in the commission of this crime by assisting one another and
2 by providing counsel and encouragement each carrying out specific acts with the intent that
3 this crime be committed; and/or (3) pursuant to a conspiracy to commit this crime.

4 COUNT 4 - ROBBERY WITH USE OF A DEADLY WEAPON

5 Defendant and DELARIAN KAMERON WILSON did then and there wilfully,
6 unlawfully, and feloniously take personal property, to-wit: condoms, from the person of
7 JUSTIN RICHARDSON, or in his presence, by means of force or violence or fear of injury
8 to, and without the consent and against the will of the said JUSTIN RICHARDSON, said
9 Defendant and DELARIAN KAMERON WILSON using a deadly weapon, to-wit: a hand
10 gun, during the commission of said crime, the Defendants being criminally liable under one
11 or more of the following principles of criminal liability, to-wit: (1) by directly committing
12 this crime; and/or (2) by Defendant and DELARIAN KAMERON WILSON aiding or
13 abetting one another in the commission of this crime by assisting one another and by
14 providing counsel and encouragement each carrying out specific acts with the intent that this
15 crime be committed; and/or (3) pursuant to a conspiracy to commit this crime.

16 COUNT 5 - ASSAULT WITH USE OF A DEADLY WEAPON

17 Defendant and DELARIAN KAMERON WILSON did wilfully, unlawfully, and
18 feloniously place another person in reasonable apprehension of immediate bodily harm, to-
19 wit: AITOR ESKANDON, by pointing a hand gun at and forcing the said AITOR
20 ESKANDON to lay on the ground while personal property was taken from others in his
21 presence, said Defendant and DELARIAN KAMERON WILSON using a deadly weapon,
22 to-wit: a hand gun, during the commission of said crime, the Defendant being criminally
23 liable under one or more of the following principles of criminal liability, to-wit: (1) by
24 directly committing this crime; and/or (2) by Defendant and DELARIAN KAMERON
25 WILSON aiding or abetting one another in the commission of this crime by assisting one
26 another and by providing counsel and encouragement each carrying out specific acts with the
27 intent that this crime be committed; and/or (3) pursuant to a conspiracy to commit this crime.

28 //

1 COUNT 6 - ROBBERY WITH USE OF A DEADLY WEAPON

2 Defendant and DELARIAN KAMERON WILSON did then and there wilfully,
3 unlawfully, and feloniously take personal property, to-wit: money, from the person of
4 JUSTIN FOUCAULT, or in his presence, by means of force or violence or fear of injury to,
5 and without the consent and against the will of the said JUSTIN FOUCAULT, said
6 Defendant and DELARIAN KAMERON WILSON using a deadly weapon, to-wit: a hand
7 gun, during the commission of said crime, the Defendant being criminally liable under one
8 or more of the following principles of criminal liability, to-wit: (1) by directly committing
9 this crime; and/or (2) by Defendant and DELARIAN KAMERON WILSON aiding or
10 abetting one another in the commission of this crime by assisting one another and by
11 providing counsel and encouragement each carrying out specific acts with the intent that this
12 crime be committed; and/or (3) pursuant to a conspiracy to commit this crime.

13 COUNT 7 - ROBBERY WITH USE OF A DEADLY WEAPON

14 Defendant and DELARIAN KAMERON WILSON did then and there wilfully,
15 unlawfully, and feloniously take personal property, to-wit: money, from the person of
16 RYAN TOGNOTTI, or in his presence, by means of force or violence or fear of injury to,
17 and without the consent and against the will of the said RYAN TOGNOTTI, said Defendant
18 and DELARIAN KAMERON WILSON using a deadly weapon, to-wit: a hand gun, during
19 the commission of said crime, the Defendant being criminally liable under one or more of
20 the following principles of criminal liability, to-wit: (1) by directly committing this crime;
21 and/or (2) by Defendant and DELARIAN KAMERON WILSON aiding or abetting one
22 another in the commission of this crime by assisting one another and by providing counsel
23 and encouragement each carrying out specific acts with the intent that this crime be
24 committed; and/or (3) pursuant to a conspiracy to commit this crime.

25 COUNT 8 - ASSAULT WITH USE OF A DEADLY WEAPON

26 Defendant and DELARIAN KAMERON WILSON did wilfully, unlawfully, and
27 feloniously place another person in reasonable apprehension of immediate bodily harm, to-
28 wit: CLINTON TOGNOTTI, by pointing a hand gun at and forcing the said CLINTON

1 TOGNOTTI to lay on the ground while personal property was taken from others in his
2 presence, said Defendant and DELARIAN KAMERON WILSON using a deadly weapon,
3 to-wit: a hand gun, during the commission of said crime, the Defendant being criminally
4 liable under one or more of the following principles of criminal liability, to-wit: (1) by
5 directly committing this crime; and/or (2) by Defendant and DELARIAN KAMERON
6 WILSON aiding or abetting one another in the commission of this crime by assisting one
7 another and by providing counsel and encouragement each carrying out specific acts with the
8 intent that this crime be committed; and/or (3) pursuant to a conspiracy to commit this crime.

9 COUNT 9 - ROBBERY WITH USE OF A DEADLY WEAPON

10 Defendant and DELARIAN KAMERON WILSON did then and there wilfully,
11 unlawfully, and feloniously take personal property, to-wit: cell phone, from the person of
12 DANIELLE BROWNING, or in her presence, by means of force or violence or fear of
13 injury to, and without the consent and against the will of the said DANIELLE BROWNING,
14 said Defendant and DELARIAN KAMERON WILSON using a deadly weapon, to-wit: a
15 hand gun, during the commission of said crime, the Defendant being criminally liable under
16 one or more of the following principles of criminal liability, to-wit: (1) by directly
17 committing this crime; and/or (2) by Defendant and DELARIAN KAMERON WILSON
18 aiding or abetting one another in the commission of this crime by assisting one another and
19 by providing counsel and encouragement each carrying out specific acts with the intent that
20 this crime be committed; and/or (3) pursuant to a conspiracy to commit this crime.

21 COUNT 10 - FIRST DEGREE KIDNAPPING WITH USE OF A DEADLY WEAPON

22 Defendant and DELARIAN KAMERON WILSON did wilfully, unlawfully,
23 feloniously, and without authority of law, seize, confine, inveigle, entice, decoy, abduct,
24 conceal, kidnap, or carry away RYAN TOGNOTTI, a human being, with the intent to hold
25 or detain the said RYAN TOGNOTTI against his will, and without his consent, for the
26 purpose of committing Robbery, said Defendant and DELARIAN KAMERON WILSON
27 using a deadly weapon, to-wit: a hand gun, during the commission of said crime, the
28 Defendant being criminally liable under one or more of the following principles of criminal

liability, to-wit: (1) by directly committing this crime; and/or (2) by Defendant and DELARIAN KAMERON WILSON aiding or abetting one another in the commission of this crime by assisting one another and by providing counsel and encouragement each carrying out specific acts with the intent that this crime be committed; and/or (3) pursuant to a conspiracy to commit this crime.

COUNT 11 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

Defendant and DELARIAN KAMERON WILSON did then and there wilfully, unlawfully, and feloniously enter, while in possession of a deadly weapon, to-wit: hand gun, with intent to commit larceny and/or a felony, to-wit: Robbery, the Honda Civic belonging to RYAN TOGNOTTI, the Defendant being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by Defendant and DELARIAN KAMERON WILSON aiding or abetting one another in the commission of this crime by assisting one another and by providing counsel and encouragement each carrying out specific acts with the intent that this crime be committed; and/or (3) pursuant to a conspiracy to commit this crime.

COUNT 12 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

Defendant and DELARIAN KAMERON WILSON did then and there wilfully, unlawfully, and feloniously sexually assault with use of a deadly weapon, to-wit: a hand gun, and subject DANIELLE BROWNING, a female person, to sexual penetration, to-wit: by forcing DANIELLE BROWNING to perform fellatio on JUSTIN RICHARDSON while threatening to kill her or others if she didn't perform said sexual act, against her will, the Defendant being criminally liable under one or more of the following principles of criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by Defendant and DELARIAN KAMERON WILSON aiding or abetting one another in the commission of this crime by assisting one another and by providing counsel and encouragement each carrying out specific acts with the intent that this crime be committed; and/or (3) pursuant to a conspiracy to commit this crime.

//

1 COUNT 13 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

2 Defendant and DELARIAN KAMERON WILSON did then and there wilfully,
3 unlawfully, and feloniously sexually assault with use of a deadly weapon, to-wit: a hand gun,
4 and subject DANIELLE BROWNING, a female person, to sexual penetration, to-wit: by
5 forcing DANIELLE BROWNING to be subjected to cunnilingus performed by JUSTIN
6 RICHARDSON while threatening to kill her or others if she didn't engage in said acts said
7 sexual act, against her will, the Defendant being criminally liable under one or more of the
8 following principles of criminal liability, to-wit: (1) by directly committing this crime;
9 and/or (2) by Defendant and DELARIAN KAMERON WILSON aiding or abetting one
10 another in the commission of this crime by assisting one another and by providing counsel
11 and encouragement each carrying out specific acts with the intent that this crime be
12 committed; and/or (3) pursuant to a conspiracy to commit this crime.

13 COUNT 14 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

14 Defendant and DELARIAN KAMERON WILSON did then and there wilfully,
15 unlawfully, and feloniously sexually assault with use of a deadly weapon, to-wit: a hand gun,
16 and subject JUSTIN RICHARDSON, a male person, to sexual penetration, to-wit: by
17 forcing JUSTIN RICHARDSON to receive fellatio from DANIELLE BROWNING while
18 threatening to kill him and/or others if he did not engage in said sexual conduct, against his
19 will, the Defendant being criminally liable under one or more of the following principles of
20 criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by Defendant and
21 DELARIAN KAMERON WILSON aiding or abetting one another in the commission of this
22 crime by assisting one another and by providing counsel and encouragement each carrying
23 out specific acts with the intent that this crime be committed; and/or (3) pursuant to a
24 conspiracy to commit this crime.

25 COUNT 15 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

26 Defendant and DELARIAN KAMERON WILSON did then and there wilfully,
27 unlawfully, and feloniously sexually assault with use of a deadly weapon, to-wit: a hand gun,
28 and subject JUSTIN RICHARDSON, a male person, to sexual penetration, to-wit: by

1 forcing JUSTIN RICHARDSON to perform cunnilingus on DANIELLE BROWNING while
2 threatening to kill him and/or others if he did not engage in said sexual conduct, against his
3 will, the Defendant being criminally liable under one or more of the following principles of
4 criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by Defendant and
5 DELARIAN KAMERON WILSON aiding or abetting one another in the commission of this
6 crime by assisting one another and by providing counsel and encouragement each carrying
7 out specific acts with the intent that this crime be committed; and/or (3) pursuant to a
8 conspiracy to commit this crime.

9 COUNT 16 - COERCION WITH USE OF A DEADLY WEAPON

10 Defendant and DELARIAN KAMERON WILSON did then and there wilfully,
11 unlawfully, and feloniously use physical force, or the immediate threat of such force, against
12 RYAN TOGNOTTI, with intent to compel him to do, or abstain from doing, an act which he
13 had a right to do, or abstain from doing, by using a deadly weapon, to-wit: a hand gun, and
14 forcing RYAN TOGNOTTI to masturbate his penis, said acts being sexually motivated, the
15 Defendant being criminally liable under one or more of the following principles of criminal
16 liability, to-wit: (1) by directly committing this crime; and/or (2) by Defendant and
17 DELARIAN KAMERON WILSON aiding or abetting one another in the commission of this
18 crime by assisting one another and by providing counsel and encouragement each carrying
19 out specific acts with the intent that this crime be committed; and/or (3) pursuant to a
20 conspiracy to commit this crime.

21 COUNT 17 - SEXUAL ASSAULT WITH USE OF A DEADLY WEAPON

22 Defendant and DELARIAN KAMERON WILSON did then and there wilfully,
23 unlawfully, and feloniously sexually assault with use of a deadly weapon, to-wit: a hand gun,
24 and subject DANIELLE BROWNING, a female person, to sexual penetration, to-wit:
25 digital penetration, Defendant NARCUS WESLEY penetrating DANIELLE BROWNING's
26 vagina, however slight with his hand and/or one or more fingers, against her will, the
27 Defendant being criminally liable under one or more of the following principles of criminal
28 liability, to-wit: (1) by directly committing this crime; and/or (2) by Defendant and

1 DELARIAN KAMERON WILSON aiding or abetting one another in the commission of this
2 crime by assisting one another and by providing counsel and encouragement each carrying
3 out specific acts with the intent that this crime be committed; and/or (3) pursuant to a
4 conspiracy to commit this crime.

5 COUNT 18 – OPEN OR GROSS LEWDNESS WITH USE OF A DEADLY WEAPON

6 Defendant and DELARIAN KAMERON WILSON did then and there wilfully and
7 unlawfully commit an act of open or gross lewdness by touching and/or rubbing the chest
8 and/or buttocks of DANIELLE BROWNING, with use of a deadly weapon, to-wit: a hand
9 gun, the Defendant being criminally liable under one or more of the following principles of
10 criminal liability, to-wit: (1) by directly committing this crime; and/or (2) by Defendant and
11 DELARIAN KAMERON WILSON aiding or abetting one another in the commission of this
12 crime by assisting one another and by providing counsel and encouragement each carrying
13 out specific acts with the intent that this crime be committed; and/or (3) pursuant to a
14 conspiracy to commit this crime.

15 DAVID ROGER
16 DISTRICT ATTORNEY
Nevada Bar #002781

17
18 BY


19 LISA LUZAICH
20 Chief Deputy District Attorney
21 Nevada Bar #005056
22
23
24
25
26
27
28

Names of witnesses known to the District Attorney's Office at the time of filing this
Information are as follows:

NAME

ADDRESS

BROWNING, DANIELLE – HC 60 BOX 53007, ROAD MTN., NV 89045

CASTRO, JUNE – HPD P#825

DUNAWAY, BRIAN – HPD P#659

ESKANDON, AITOR – 2101 W. WARM SPRGS RD., #4322, HND, NV 89014

FOUCAULT, JUSTIN – 690 GREAT DANE CT., HND, NV 89052

HARTSHORN, BRYAN – HPD P#1146

HENN, ITZHAK – HPD P#1202

JOHNSTON, MICHAEL – HPD P#634

NISWONGER, ANTHONY – HPD P#1003

PENA, RODRIGO – HPD P#857

RICHARDSON, JUSTIN – 690 GREAT DANE CT., HND, NV 89052

SLATTERY, KYLE – HPD P#1306

TOGNOTTI, RYAN – 690 GREAT DANE CT., HND, NV 89052

TOGNOTTI, CLINTON – 2101 W. WARM SPRGS RD., #4322, HND, NV 89014

DA#07FH0317A/B/mmw/SVU
HPD EV#0703748
(TK1)

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ORIGINAL

FILED

DEC 5 11 15 AM '08

E. L. Bahr
CLERK OF THE

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF CLARK

HON. JAMES M. BIXLER, DISTRICT COURT JUDGE, PRESIDING

THE STATE OF NEVADA,
Plaintiff,

v.
NARCUS S. WESLEY,
Defendant.

Case No. 07-C-232494-C

Dept. 24

Volume II

TRANSCRIPT OF PROCEEDINGS

Jury Trial

COURTHOUSE

April 9, 10 and 11, 2008

Las Vegas, Nevada

Reported by:

Lee M. Bahr, CP, CCR 173

CLERK OF THE COURT

DEC 05 2008

RECEIVED

1 APPEARANCES:

2
3 For the State:

LISA LUZAICH, ESQ.
Deputy D. A.
200 Lewis Ave.
Las Vegas, NV. 89155
and
STACY KOLLINS, ESQ.
Deputy D. A.
200 Lewis Ave.
Las Vegas, NV. 89155

8
9 Defendant present in court out of custody.

10 For the Defendant:

CASEY LANDIS, ESQ.
Deputy Public Defender
309 South Third Street
Suite 226
Las Vegas, NV. 89101
and
JEFFREY BANKS, ESQ.
Deputy Public Defender
309 South Third Street .
Suite 226
Las Vegas, NV> 89101

17
18 No other appearances..
1920 *****
21
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23
24
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TRANSCRIPT OF PROCEEDINGS

(Whereupon, on April 10, 2008, all parties present, the following proceedings were had outside the presence of the jury panel:)

THE BAILIFF: You may be seated. Court is back in session.

THE COURT: We are back on the record in the State of Nevada v. Narcus Wesley.

Is there anything that we need to address before we bring in the jury pool?

MR. LANDIS: Not from us, Judge.

THE COURT: Okay.

MS. LUZAICH: Nothing.

THE COURT: Okay, that's fine.

THE BAILIFF: I am going to bring him in first so we can --

THE COURT: That's fine.

THE BAILIFF: So he can --

THE COURT: Kind of show him that he can kind of wheel in there after they have all gotten in.

(Whereuupon, all parties present, the following proceedings were had we are in the presence of the jury panel:)

1 THE BAILIFF: You are going to be right here.

2 JUROR KENIEUTUBBE: Oh, okay.

3 THE COURT: Howard, you might want to come and
4 stay out until they all get in, and then you can just,
5 you know --

6 JUROR KENIEUTUBBE: Oh, all right then.

7 THE COURT: Just wheel in there, okay?

8 THE BAILIFF: Do you want to give me the jury
9 list?

10 THE COURT: All right. Just have a seat.
11 We know the right order, if you are out of order, it is
12 not going to kill us, we will just figure it out.

13 THE BAILIFF: Please be seated.

14 THE COURT: This is a little confusing, coming
15 from that courtroom into this courtroom.

16 So if you are not exactly in the right order,
17 it won't make much difference because we actually work
18 off of the list that was provided to us from the Jury
19 Commissioner's office that is in the correct order.

20 So, as we -- as we move people in and out, we
21 will be moving them off of this list. So don't worry
22 about it if you are not exactly in the right order. It
23 is just kind of nice for you to know who is coming up
24 next.

25 We are still in the process of jury selection,

1 and the next person --

2 THE CLERK: We need to do a roll call.

3 THE COURT: Oh yeah, we need to do a roll call
4 first, and being as this was overnight, and we have changed
5 the composition of the jury panel, we are going to have a
6 roll call to make sure that we are still on the right list
7 so answer present, or here, as you hear your name called.

8 Go ahead.

9 THE CLERK: Molly Magura.

10 JUROR MAGURA: Present.

11 THE CLERK: Howard Kenieutubbe.

12 JUROR KENIEUTUBBE: Here.

13 THE CLERK: Debbie C. Deschaine.

14 JUROR DESCHAINED: Here.

15 THE CLERK: Gary Orta.

16 JUROR ORTA: Here.

17 THE CLERK: Maryjo Loretto.

18 JUROR LORETTO: Here.

19 THE CLERK: Eve Crossman-Keenan.

20 JUROR CROSSMAN-KEENAN: Here.

21 THE CLERK: Betty Fisher.

22 JUROR FISHER: Here.

23 THE CLERK: Nichole Dunmore.

24 JUROR DUNMORE: Here.

25 THE CLERK: Robert Franklin.

1 JUROR FRANKLIN: Here.
2 THE CLERK: Christine Foresta.
3 JUROR FORESTA: Here.
4 THE CLERK: John Oberweis.
5 JUROR OBERWEIS: Here.
6 THE CLERK: Melida Wright.
7 JUROR WRIGHT: Here.
8 THE CLERK: John Eshelman.
9 MS. LUZAICH: He was excused yesterday.
10 THE CLERK: He was excused yesterday, right.
11 Wayne Daley.
12 JUROR DALEY: Here.
13 THE CLERK: Donna Bella.
14 JUROR BELLA: Present.
15 THE CLERK: Justin Gries.
16 JUROR GRIES: Here.
17 THE CLERK: Mark Snelling.
18 JUROR SNELLING: Here.
19 THE CLERK: Michael Baird.
20 JUROR BAIRD: Here.
21 THE CLERK: Denise Andalon.
22 JUROR ANDALON: Here.
23 THE CLERK: Everett Carney.
24 JUROR CARNEY: Here.
25 THE CLERK: John Little.

1 JUROR LITTLE: Present.
2 THE CLERK: Elizabeth Martin.
3 JUROR MARTIN: Here.
4 THE CLERK: Kelly Russo-Winn.
5 JUROR RUSSO-WINN: Here.
6 THE CLERK: Bonnie Huerta.
7 JUROR HUERTA: Here.
8 THE CLERK: Becky Hansen.
9 JUROR HANSEN: Here.
10 THE CLERK: Susan Gregg.
11 JUROR GREGG: Here.
12 THE CLERK: Aminne Menghisteab.
13 JUROR MENGHISTEAB: Here.
14 THE CLERK: Barbara Wagner.
15 JUROR WAGNER: Here.
16 THE CLERK: Robbie Holley.
17 JUROR HOLLEY: Here.
18 THE CLERK: Stephanie Abernathy.
19 JUROR ABERNATHY: Present.
20 THE CLERK: Bonnie Brunson.
21 JUROR BRUNSON: Here.
22 THE CLERK: Joann Czerwinski.
23 JUROR CZERWINSKI: Here.
24 THE CLERK: Juaneta Gibson.
25 JUROR GIBSON: Here.

1 THE CLERK: Brenda Medeiros.
2 JUROR MEDEIROS: Here.
3 THE CLERK: Kelly Bethel.
4 JUROR BETHEL: Here.
5 THE CLERK: Kay McCary.
6 JUROR MC CARY: Here.
7 THE CLERK: Paula Socha.
8 JUROR SOCHA: Here.
9 THE CLERK: Greg Middleton.
10 JUROR MIDDLETON: Here.
11 THE CLERK: James Vaughn.
12 JUROR VAUGHN: Here.
13 THE CLERK: Madlyn Shook.
14 JUROR SHOOK: Here.
15 THE CLERK: Barbara anderson.
16 JUROR ANDERSON: Here.
17 THE CLERK: Richard Rehm.
18 JUROR REHM: Here.
19 THE CLERK: Nicholis Morales.
20 JUROR MORALES: Here.
21 THE CLERK: Salvatore Falcone,.
22 JUROR FALCONE: Here.
23 THE CLERK: Patrick Mitchell.
24 JUROR MITCHELL: Here.
25 THE CLERK: Bruce Leal.

1 JUROR LEAL: Present.
2 THE CLERK: Mario Barela.
3 JUROR BARELA: Here.
4 THE CLERK: Roy Fish, Jr.
5 JUROR FISH: Here.
6 THE CLERK: Catherine Beta.
7 JUROR BETA: Here.
8 THE CLERK: Emie Trie.
9 JUROR TRIE: Here.
10 THE CLERK: David Zeamer.
11 JUROR ZEAMER: Here.
12 THE CLERK: Doc Wiener.
13 JUROR WIENER: Here.
14 THE CLERK: Gary Morris.
15 JUROR MORRIS: Here.
16 THE CLERK: Andrea Adams.
17 JUROR ADAMS: Here.
18 THE CLERK: Lawrence Kinsler.
19 JUROR KINSLER: Here.
20 THE CLERK: Maryann Russo.
21 JUROR RUSSO: Here.
22 THE CLERK: Robert Skinner, Sr.
23 JUROR SKINNER: Here.
24 THE CLERK: Robert Golechen.
25 JUROR GOLECHEN: Here.

1 THE CLERK: Melissa Celeste.

2 JUROR CELESTE: Here.

3 THE CLERK: Ellen Mackey.

4 JUROR MACKEY: Here.

5 THE COURT: Okay. I will just remind all of
6 the members of the jury pool that you were sworn in
7 yesterday, and that still applies, you are still all
8 under oath as we go through this voir dire process.

9 And I do believe that we left off yesterday,
10 and our next juror to converse with is Even -- is it
11 Kennan-Crossman.

12 JUROR CROSSMAN-KEENAN: Crossman-Keenan.

13 THE COURT: Crossman-Keenan.

14 VOIR DIRE EXAMINATION OF JUROR CROSSMAN-KEENAN
15 BY THE COURT:

16 Q. Eve, how long have you been here in Las
17 Vegas?

18 A. 32 years.

19 Q. Where are you? There you are.

20 32 years? You have been here just about your
21 whole life?

22 A. My whole life.

23 Q. Are you -- what do you do for a living?

24 A. I am a hairdresser.

25 Q. Where do you work?

1 A. Madeline Salon.

2 Q. Are you married?

3 A. Yes.

4 Q. What does your husband do?

5 A. He is unemployed.

6 Q. When he is not employed, what does he do?

7 A. Food and beverage manager.

8 Q. Do you guys have children?

9 A. We have one daughter.

10 Q. How old?

11 A. Three years.

12 Q. Okay. Have you -- we will start, I guess,
13 with the important stuff.

14 Have you or anyone close to you ever been the
15 victim of or accused of a sexually related offense?

16 A. No.

17 Q. Have you or anybody close to you ever been
18 the victim of or charged with just any crime?

19 A. No.

20 Q. Have you ever had any training in law
21 enforcement?

22 A. No.

23 Q. Have you or anybody close to you ever been
24 employed in law enforcement?

25 A. My brother-in-law works for Metro, and my

1 brother is in the academy right now.

2 Q. Okay. Your brother-in-law, who is on the
3 Metropolitan Police Department, how long has he been on
4 the Police Department?

5 A. About a year.

6 Q. Okay. And do you ever discuss his work
7 with him?

8 A. No.

9 Q. Not really. Do you realize that any police
10 witnesses in this case are going to come from the Henderson
11 Police Department, not the Metropolitan Police Department?

12 A. Yes.

13 Q. Do you see any problem with having a
14 brother-in-law that's a police officer right now, and
15 you sitting on the jury listening to police officer's
16 testimony?

17 A. No problem.

18 Q. Anything about that relationship that would
19 cause you to give the testimony of a police officer any
20 greater or lesser weight than any other non police officer
21 witness?

22 A. No.

23 Q. Have you ever been on a jury before?

24 A. No.

25 Q. Can you think of anything that I haven't

1 asked you about that would cause you difficulty in sitting
2 on a case like this as a juror, being fair and impartial
3 to both sides in this case?

4 A. No.

5 Q. Can you withhold forming an opinion about
6 anything having to do with this case until such time as
7 you have heard all the evidence, and I have instructed
8 you on the law?

9 A. Yes.

10 Q. Do you believe that you have a neutral
11 frame of mind such that if you were one of the litigants
12 in this case, you would be comfortable with somebody being
13 on the jury that has the frame of mind that you have?

14 A. Yes.

15 THE COURT: Okay, good enough.

16 Ms. Kollins?

17 VOIR DIRE EXAMINATION OF JUROR CROSSMAN-KEENAN

18 BY MS. KOLLINS:

19 Q. Good morning, Ms. Crossman.

20 Do you think it's embarrassing for a young person
21 to take the stand and talk about the details of a sexual
22 assault?

23 A. It could be.

24 Q. In what circumstances do you think it would
25 not be?

1 A. Not embarrassing?

2 Q. Well, just because you said you said it
3 could be so I'm not trying to --

4 A. (Interposing) I guess that depends on the
5 individual.

6 Q. Do you have any expectations of how a victim
7 should act?

8 A. No.

9 Q. Have you ever known anyone who has been the
10 victim of sexual abuse, sexual assault, friends, family
11 friends, anyone?

12 A. I found out many years later that my cousin
13 was molested when she was a child. I found out after she
14 was an adult.

15 Q. So was it disclosed when she was a child?

16 A. No.

17 Q. Was law enforcement ever involved in it?

18 A. I don't know. I don't think so.

19 Q. Okay. When you found out, did you find out
20 from her?

21 A. Yes.

22 Q. Was it difficult for her to speak to you
23 about that even though so many years had transpired??

24 A. Yes.

25 Q. Anything that we should know about you,

1 anything else that the Judge hasn't asked you?

2 A. No.

3 Q. Anything distracting you from your service
4 over the next few days?

5 A. No.

6 MS. KOLLINS: Okay, thank you.

7 Pass for cause, Judge.

8 THE COURT: Mr. Landis?

9 MR. LANDIS: Thank you, Judge.

10 VOIR DIRE EXAMINATION OF JUROR CROSSMAN-KEENAN

11 BY MR. LANDIS:

12 Q. Good morning.

13 What do you think about the burden of proof that
14 we have here in America, of beyond a reasonable doubt?

15 A. I believe in it.

16 Q. Do you think it's a fair burden? It
17 doesn't give the State too much work? It doesn't give
18 too big an advantage to the Defense?

19 A. I believe in the jury system.

20 Q. As I think we all do, and I definitely
21 do. Sometimes it doesn't work though, would you agree
22 with that?

23 A. Yes.

24 Q. Sometimes people are wrongly convicted?

25 A. Sometimes.

1 Q. And do you think that sometimes people who
2 are guilty get off the hook?

3 A. Sometimes.

4 Q. Do you have any reason to think that happens
5 in cases?

6 A. From lack of evidence.

7 Q. What do you think you would do in a case
8 if in your gut you feel that the person probably did it
9 but you don't think that the State met their burden?

10 A. Can you explain that just a little more?

11 Q. Sure, I mean, let's say you hear the case,
12 and you hear the witnesses, and through that evidence
13 something in your heart or in your gut, whatever you want
14 to call it, makes you feel that the person probably did
15 whatever it is they are accused of.

16 But at the same time, you don't think the State
17 has met their burden of proving it beyond a reasonable
18 doubt. There are some holes in their case, whatever it
19 may be. Some of their witnesses aren't strong. What do
20 you think you do in that situation?

21 A. Um, I guess --

22 Q. And I know it's a hard question.

23 A. It would depend on the evidence --

24 Q. Okay.

25 A. -- given.

1 Q. Do you think it matters what kind of crime
2 it is? Let me give you an example.

3 Do you think it would matter if it's, let's say,
4 a forgery case versus a murder case?

5 A. I guess it would be each individual situation.
6 You would still go with the evidence and the proof.

7 Q. Do you think you would walk out of a courtroom
8 after a jury trial feeling comfortable if that was what you
9 felt, that the State didn't prove their case, but this person
10 probably did it, and your jury ended up acquitting a person.
11 Do you think you could walk out of the courtroom from those
12 facts?

13 A. I would definitely express myself and my
14 feelings.

15 Q. Do you think you would sleep that night?

16 A. Um --

17 Q. Do you feel -- let me ask you this:

18 Do you feel like you would have done your job
19 as a juror in that situation?

20 A. I don't really know how to answer, but I
21 guess if I have that gut feeling, I would make it known
22 as, well, I mean, I would express myself and if I didn't
23 agree with the rest of the jury, I would let it be known.

24 Q. Do you think you could be convinced otherwise
25 by other members of the jury panel in the deliberation

1 room?

2 A. I have a fairly strong personality, and I
3 would --

4 Q. Would it take a lot of doing?

5 A. Yeah.

6 MR. LANDIS: Thank you. Pass for cause, Judge.

7 VOIR DIRE EXAMINATION OF JUROR FISHER

8 BY THE COURT:

9 Q. Betty Fisher?

10 A. Here.

11 Q. All right. Tell us a little about yourself.

12 How long have you been here?

13 A. Four years.

14 Q. And where did you come from?

15 A. California.

16 Q. Southern California?

17 A. Ranch Crest, in the Mohave Desert.

18 Q. Oh, okay. Well, do you work?

19 A. No, I am retired.

20 Q. What did you do before you retired?

21 A. I was an administrative assistant for the
22 Mohave Desert Resource Conservation and Development, and
23 the Family Resource Conservation District.

24 Q. What did you do for them?

25 A. I had have a board of directors, and I

1 did everything.

2 Q. Are you married?

3 A. Yes.

4 Q. Does your husband still work?

5 A. Yes.

6 Q. What does he do?

7 A. He works for the U. S. Department of Labor
8 for the Mine Safety and Health Administration.

9 Q. And does he live here and do that from
10 here?

11 A. He inspects mines.

12 Q. Oh, okay.

13 A. Until December.

14 Q. Very good. Do you have grown children?

15 A. Yes.

16 Q. What do they do?

17 A. Well, my daughter works at a hardware
18 store, a feed store in Curren, California, (phonetically),
19 and my stepson and daughter-in-law work for the State
20 of Washington, for the state troopers.

21 Q. As a highway patrolman?

22 A. Well, he works in communications, and she
23 works as a liaison for the HEF, FBI.

24 Q. Okay.

25 A. All of those --

1 Q. Kind of a joint task force thing?

2 A. Year.

3 Q. Okay. And those are the two, and one was
4 an in-law, I mean, one was your --

5 A. One is my stepson and daughter.

6 Q. Oh, stepson, okay.

7 Have you ever been trained in any kind of law
8 enforcement?

9 A. No.

10 Q. Okay.

11 Anybody close to you employed or trained in
12 law enforcement besides -- well, those people that work
13 for the department in Washington, they are not really --
14 they are not badge? They are --

15 A. Yes, they are.

16 Q. They are. So they have a very specific
17 area of law enforcement that they are engaged in?

18 A. Right.

19 Q. A lot of which is communications?

20 A. Yes.

21 Q. Do they ever discuss their work with you?

22 A. The work industry.

23 Q. Have you ever discussed their work with
24 them much?

25 A. Well, sometimes, but not real often.

1 Q. Is there anything about the relationship
2 of having them working for the department like that that
3 would cause you difficulty being on a jury like this in
4 a criminal case like this, and listening to police personnel
5 on the witness stand?

6 A. No.

7 Q. Could you treat the testimony of a police
8 officer witness just exactly the same as any other non police
9 officer witness and not give their testimony any greater
10 or lesser weight than anybody else?

11 A. I could.

12 Q. Okay. Have you or anybody close to you
13 ever been accused of or the victim of any kind of a sexual
14 related offense?

15 A. Yes, my daughter was raped when she was
16 12.

17 Q. And how old is she now?

18 A. She will be 44 tomorrow.

19 Q. And was there a criminal proceeding? That
20 was a long time ago.

21 A. Yes.

22 Q. Were there criminal proceedings as a result
23 of all that?

24 A. Yes.

25 Q. Was there anything about that incident, I

1 assume being the mother, you were intimately involved in
2 everything --

3 A. Actually, they never allowed me in the
4 courtroom. I had to be out so other than being with my
5 daughter, I don't know.

6 Q. Okay. You actually weren't that involved
7 then --

8 A. Right.

9 Q. -- in what actually went on in the court
10 proceedings then?

11 A. Right.

12 Q. Okay. Well, still, that had to have been
13 a highly emotional experience?

14 A. Yes, it was.

15 Q. Even that many years ago, probably very
16 emotional, very traumatic?

17 A. Yes, it was.

18 Q. Probably very traumatic for your daughter?

19 A. Very.

20 Q. Is there anything about that whole experience,
21 that whole scenario, that would cause you difficulty and
22 difficulty to the point where it would almost be impossible
23 for you to be fair and impartial as a juror in this case?

24 A. No.

25 Q. You don't think -- can you leave all of that

1 outside?

2 A. I left that behind a long time ago.

3 Q. It is the kind of thing you just have to
4 leave behind?

5 A. You have to.

6 Q. Exactly. And do you think that you can do
7 that?

8 A. Yes.

9 Q. And you have pretty much already done it?

10 A. Oh yes.

11 Q. And put it behind you?

12 A. Put it behind me.

13 Q. And you don't think that you would get in
14 the jury deliberation room, and start bringing up things
15 about that incident that happened?

16 A. No.

17 Q. Okay. Because all we want you to do is
18 be fair and impartial to both sides, and render a verdict
19 based strictly upon the evidence that you hear in this
20 case and the instructions on the law that I give you.

21 Can you do that?

22 A. Oh, yes.

23 Q. Okay. Have you ever been on a jury before?

24 A. Yes.

25 Q. About how long ago?

1 A. In the '70's.

2 Q. In California?

3 A. In Los Angeles, yes.

4 Q. Okay. Was it a criminal or a civil case?

5 A. Civil.

6 Q. And you were on the actual jury? You were
7 on a civil case?

8 A. Yes.

9 Q. Did that jury deliberate?

10 A. Yes.

11 Q. Were you the foreman of that jury?

12 A. No.

13 Q. Without telling us what happened, did that
14 jury come back with a verdict?

15 A. Yes.

16 Q. Is there anything about your experience
17 of being on that jury that would cause you difficulty being
18 on this jury?

19 A. No.

20 Q. To be fair and impartial to both sides?

21 A. Nothing.

22 Q. In other words, it's real important that,
23 first of all, two different kinds of cases. That was a
24 civil case, and this is a criminal case.

25 A whole lot of the instruction that you would

1 receive will be different.

2 A. Yes.

3 Q. So what you need to do is just forget about,
4 besides that Judge may have been real smart, but then you
5 have got to forget whatever the instructions, whatever
6 happened in that case, leave that outside, and just render
7 a verdict based upon the instructions that I give you, and
8 what you hear in this case, that's all.

9 A. Okay.

10 Q. Can you do that?

11 A. Yes, sir.

12 Q. Okay.

13 Can you think of anything that I haven't asked
14 you about that would cause you difficulty in being fair
15 and impartial to both sides in a case like this?

16 A. No.

17 Q. Can you withhold forming an opinion about
18 any aspect of this case, or any person having to do with
19 this case until after you have heard all of the evidence?

20 A. Yes.

21 Q. And heard the instructions?

22 A. Yes.

23 Q. Can you do that?

24 A. Yes.

25 Q. Do you think that you have a healthy,

1 neutral perspective towards your jury duty in a case
2 like this?

3 A. Yes.

4 Q. So that, if you were one of the litigants,
5 you would be comfortable with somebody with your frame of
6 mind being on the jury?

7 A. Definitely.

8 THE COURT: Okay.

9 MS. LUZAICH: Thank you.

10 VOIR DIRE EXAMINATION OF JUROR FISHER

11 BY MS. LUZAICH:

12 Q. Ms. Fisher, and I'm so sorry, I am going
13 to ask you questions about your daughter just very briefly.

14 Was it a stranger or somebody she knew?

15 A. Someone she knew.

16 Q. A family member?

17 A. No.

18 Q. She, when you talked about being in court
19 and not being allowed in, she had to testify?

20 A. Yes.

21 Q. Two times, like in a probable cause hearing
22 and then again in a trial?

23 A. Yes.

24 Q. Do you feel that she was treated well by
25 the State, you know, the police, the D. A.'s, and what

1 not?

2 A. Definitely.

3 Q. Okay.

4 So you don't have any bad feelings towards police,
5 or the State, or anything like that?

6 A. No, I don't.

7 Q. Okay, thanks.

8 Would you consider yourself to be a fair and
9 open-minded individual?

10 A. Yes, I do.

11 Q. You have common sense?

12 A. Oh yes.

13 Q. You would bring it into the courtroom.
14 You would not leave it outside?

15 A. Right.

16 Q. Okay.

17 Mr. Landis had asked the last juror about if you
18 had a gut feeling that the Defendant did what he is charged
19 with, but the State had not met its burden, I mean, you
20 understand that that is possible. You can just have that
21 gut feeling, but maybe the State doesn't put on enough
22 evidence. That is possible, hopefully not, but it's possible?

23 A. Yes.

24 Q. You understand that if that happened, you
25 would have to find the Defendant not guilty?

1 A. Right.

2 Q. Because we have the burden of proof. We
3 have the only burden of proof.

4 A. That's right.

5 Q. But now, on the other hand, if the State
6 does meet the burden, as far as you are concerned, would
7 you be able to say, guilty?

8 A. Yes.

9 Q. Nothing about you that would prevent you
10 from being able to sit in judgment?

11 A. Nothing.

12 MS. LUZAICH: Thank you.

13 Pass for cause, Your Honor.

14 THE COURT: Mr. Banks?

15 VOIR DIRE EXAMINATION OF JUROR JUROR

16 BY MR. BANKS:

17 Q. Hi, Ms. Fisher.

18 A. Hi.

19 Q. Nice to meet you.

20 A. Nice to meet you.

21 Q. You had said that you felt that there was --
22 that your daughter, and I guess your family was treated
23 well through that horrible experience that --

24 A. Yes. .

25 Q. -- you all had to go through.

1 A. Yes.

2 Q. This case is different than that case in
3 a lot of ways, in just about every way?

4 A. All right.

5 Q. Okay. There may come a time in a case
6 like this, I mean, these are -- these are some pretty
7 serious accusations.

8 Let me ask you, how did you feel when you heard
9 sexual assault?

10 A. Well, my first thought was, was it a boy,
11 a girl, a woman, you know.

12 Q. Okay.

13 A. I had 15 questions.

14 Q. Okay.

15 A. That's all I thought.

16 Q. Okay. So I guess in your mind, when
17 you hear that, there is a lot of -- opens up a lot of
18 avenues?

19 A. Right.

20 Q. Or questions that may pop into your mind,
21 questions that may need to be asked, experiences, or
22 whatever.

23 A. Yes.

24 Q. In a case like this, there may be some
25 really tough questions that need to be asked of some of

1 these witnesses, and we heard a good portion yesterday,
2 and we heard a little bit today from, from these two
3 prosecutors about expectations of an accuser, and do
4 you expect them to act in a certain way, and this sort
5 of thing, and I don't think anybody realistically expects
6 a certain personnel.

7 A. Everybody is different.

8 Q. Right, okay. No black and white way to
9 react --

10 A. Right.

11 Q. -- to some kind of a situation where there
12 are some questions, shades of gray maybe.

13 A. Yes, everyone is different.

14 Q. Okay.

15 A. And everybody is an individual. So you
16 can't really put a box around that, I mean, someone is
17 going to ask.

18 Q. Okay.

19 A. I just have to listen to them.

20 Q. Okay. If I -- if Mr. Landis or I have to
21 ask some of those tough questions that are, you know, bottom
22 line, that are necessary in cases like this, are you going
23 to hold that against my, my client, Mr. Wesley here?

24 A. No.

25 Q. Okay. You understand that that's part of the

1 job?

2 A. Yes.

3 Q. At this table, to ask the tough questions?

4 A. Yes.

5 Q. Okay.

6 Sometimes the tough question gets a reaction out
7 of a witness, and sometimes it's a reaction that you don't
8 expect. Are you -- are you going to hold that against
9 either side?

10 A. No.

11 Q. Okay. It depends on the circumstances?

12 A. Yes.

13 Q. Would you agree that stressful and traumatic
14 situations might cause somebody to react maybe in a fashion
15 that if it wasn't so stressful or traumatic?

16 A. Yes.

17 Q. Okay. Everybody is different?

18 A. Yes.

19 Q. And I appreciate your answers today.

20 But there is one thing that I wouldn't be doing
21 my job if I didn't follow up on this a little bit because
22 that is up there, what happened in your family is up there
23 with, you know, one of the worst things that can happen,
24 and, and it's not to pry, or to anything like that, but
25 again, I wouldn't be doing my job if I didn't ask, because

1 the Judge asked if you would be able to set that aside,
2 and I appreciate your answer that you have set it aside
3 long ago and moved on.

4 But, and again, I have got to ask this because
5 sometimes -- sometimes folks in your situation may get the
6 impression that some of us here are looking for certain
7 answers, be it the Court, be it me or Landis, be it the
8 government table, and I just want to ask you again:

9 This is -- you are not -- you are not giving that
10 answer because you think that's what the Court or somebody
11 in this room might want to hear?

12 A. No, no, I would not.

13 Q. Okay.

14 A. I wouldn't think that.

15 Q. Okay.

16 A. I live myself with the guidance, you see --

17 Q. That's the answer. You are probably right
18 about that.

19 Thank you so much for your answers.

20 Judge, I will pass for cause.

21 THE COURT: Very good.

22 VOIR DIRE EXAMINATION OF JUROR DUNMORE

23 BY THE COURT:

24 Q. All right. It's Nichole Dunmore.

25 A. Yes.

1 Q. Nichole, how long have you been in Las
2 Vegas?

3 A. I'm a native.

4 Q. A native, perfect. What do you do for a
5 living?

6 A. Food service.

7 Q. I'm sorry?

8 A. Food service.

9 Q. Okay. And where do you work?

10 A. Bellagio.

11 Q. Bellagio. Are you married?

12 A. Yes.

13 Q. Do you have any children?

14 A. Yes.

15 Q. How old?

16 A. Two.

17 Q. Okay, too young to be working. Have you
18 ever been trained in law enforcement?

19 A. Yeah, Metro.

20 Q. In what capacity?

21 A. Well, I got to blue cap as a prison guard.

22 Q. And then you voluntarily decided that that
23 wasn't for you?

24 A. Right.

25 Q. How long ago was that?

1 A. Like two years ago.

2 Q. Two years ago. Anybody close to you in
3 law enforcement?

4 A. There were some people that have been there,
5 but not many.

6 Q. So there is nothing -- well, let me rephrase
7 that. Is there anything about your experience in training
8 that would cause you difficulty being on a jury and listening
9 to the testimony of police officer witnesses?

10 A. No.

11 Q. Would you be able to be treat their testimony
12 the same as any non police officer witness?

13 A. Yes.

14 Q. You wouldn't give their testimony any greater
15 or lesser weight than if a non police officer was a witness?

16 A. No.

17 Q. Okay. How long were you actually in the
18 program?

19 A. For almost six months.

20 Q. Six months?

21 A. Yeah. Well, with the training, and everything.

22 Q. All right, we got it.

23 Have you or anyone close to you ever been the
24 victim of or charged with any kind of a sexually related
25 offense?

1 A. No, not that I know of.

2 Q. Have you or anybody close to you --

3 A. Not that I know of.

4 Q. I'm sorry.

5 A. Not that I know of.

6 Q. Just nobody that you know of?

7 A. Right.

8 Q. All right. Have you or anybody close to
9 you ever been charged with or convicted of just any kind
10 of a crime?

11 A. I have had a family members who has committed
12 crimes or --

13 Q. Was charged with crimes?

14 A. Yes.

15 Q. Who, and what kind of crime?

16 A. My cousins.

17 Q. You have got cousins?

18 A. Yes.

19 Q. What type of crimes were they charged with?

20 A. Like getting into a business like that.

21 They did some things that, you know, you can't --

22 Q. So you really don't -- you didn't too close
23 of attention of what was going on?

24 A. Yes. I didn't pay any attention.

25 Q. So is there anything about the fact that

1 you have some cousins that were -- now, these people, are
2 you talking about more than one cousin or just one cousin?

3 A. A couple of them.

4 Q. A couple of cousins that were charged with
5 criminal conduct?

6 A. Yes.

7 Q. But you don't really know what --

8 A. They went to jail for it so --

9 Q. They did?

10 A. Yeah.

11 Q. Okay. Did you -- you weren't paying too
12 close attention to what was going on at the time?

13 A. No, I wasn't.

14 Q. Is there anything about the fact that you
15 have cousins that were charged with crimes that would cause
16 you difficulty in being on a jury in a criminal case like
17 this?

18 A. No.

19 Q. Do you still believe you can be on a jury
20 in a case like this and be fair and impartial to both the
21 State and the Defense?

22 A. Yes.

23 Q. Okay. Have you ever been on a jury before?

24 A. No. But I want to do it now. I am being
25 honest.

1 Q. I understand that. That is not an unusual
2 reaction. Okay. Can you withhold forming an opinion about
3 anybody, or anything, that has anything to do with this
4 trial until after you have heard all the evidence in this
5 case, and I have instructed you on the law. Can you do
6 that?

7 A. Yes.

8 Q. Do you think that you have a healthy, neutral
9 perspective, as you approach your jury service in such that
10 if you were one of the litigants in this case, would you be
11 comfortable, if you were the Defendant or the prosecution,
12 with somebody being on the jury that has your frame of mind?

13 A. Most definitely.

14 THE COURT: Okay, good.

15 MS. KOLLINS: Thank you, Judge.

16 THE COURT: Ms. Kollins.

17 VOIR DIRE EXAMINATION OF JUROR DUNMORE

18 BY MS. KOLLINS:

19 Q. Well, I would imagine the Bellagio is a
20 much prettier place to work than the Metro Academy?

21 A. Yeah, that's right.

22 Q. Yes. Where did you get in the academy,
23 like what were you doing when you finally decided to
24 leave?

25 A. Well, they were doing the polygraph thing,

1 and they were getting too personal, so that's why I decided
2 to quit.

3 Q. Okay. So that's when you made your decision
4 to leave?

5 A. Yes.

6 Q. How, other than the polygraph portion of
7 the academy, and that decision to leave, how did you feel
8 about the job other than that?

9 A. It was interesting. It was cool, I just --
10 I'm a personal person, and I don't like if they are too
11 nosy.

12 Q. Yeah, that whole law enforcement thing,
13 they are nosy, you know, they're nosy.

14 A. Yeah.

15 Q. Yeah, we are. Why don't you want to be
16 here?

17 A. I just don't feel comfortable doing it.

18 Q. Okay. What makes you uncomfortable about
19 it?

20 A. Well, just, you know, just the whole thing.
21 I don't what, you know, I don't know this man, and I don't
22 know, I wasn't there, and he did say something happened,
23 and you have witnesses that come to cry their way into
24 something, or something like that so I just don't feel
25 comfortable about the whole thing.

1 Q. What do you mean, a witness come to cry there
2 into doing this.

3 A. I am saying, when they were saying, something
4 about the rape, and all this other stuff, I just don't feel
5 comfortable with the whole thing.

6 Q. Okay.

7 A. I just don't.

8 Q. When you were trying to be a Metro officer,
9 you were training to determine, you know, take information
10 from somebody and make a decision. That's something that
11 they were going to call upon you to do, right?

12 A. Yes.

13 Q. If you were going to be a patrol officer,
14 a victim would be reporting an incident, and you would
15 have to take that information and assimilate it and make
16 a decision, right?

17 A. Right.

18 Q. Okay. So you weren't comfortable with it
19 then either?

20 A. No.

21 Q. Okay. Do you think that you can be fair in
22 this case?

23 A. Yeah, I'm a fair person. I am being honest.

24 Q. No, I mean --

25 A. I am a fair person, but this is just something,

1 you know, I don't like it.

2 Q. Okay. When your cousins got in trouble, were
3 they adults, or juveniles?

4 A. They were adults, I think they were around
5 18 years old.

6 Q. Did they go to jail or did anything to prison?

7 A. One went to prison.

8 Q. Did that happen here in Las Vegas?

9 A. Yes.

10 Q. Okay.

11 So that would have been here handled by this District
12 Attorney's office?

13 A. Yes.

14 Q. Anything -- you said you didn't know that
15 much about it, but just from what you do know about it,
16 anything about the way that that was handled, would it
17 cause you any angst against the prosecutor or police?

18 You told me you want to be honest so --

19 A. I am being honest, but I am trying to say
20 it, you know, in a rightful manner.

21 Q. Well, say it however you want. Just say
22 it.

23 A. Like one of my cousins, he was on the news,
24 his face was on the news.

25 Q. Okay.

1 A. For robbery.

2 Q. For Robin?

3 A. No, robbery.

4 Q. For robbery?

5 A. Yeah.

6 Q. Okay.

7 A. And that was the first time he had ever did
8 it in his entire life. Never, I mean, from the time he was
9 arrested, I just didn't agree with that part, and with the
10 idea. There were other cases and --

11 Q. Well, and then --

12 A. I am a fair person.

13 Q. Okay. Then again, I guess my question to
14 you is:

15 If you felt the resolution of him committing
16 robberies, and his coming into the system, and coming through
17 this District Attorney's office was less than fair, are
18 you going to hold that against the State?

19 A. No, no; I wouldn't do that. That was a
20 different situation.

21 Q. Okay. What about the other cousin?

22 A. He was, you know, involved with Metro police
23 cars.

24 I don't know too much about that.

25 MS. KOLLINS: Pass for cause, Judge.

1 THE COURT: Mr. Landis, are you up?

2 MR. LANDIS: That's what they tell me.

3 VOIR DIRE EXAMINATION OF JUROR DUNMORE

4 BY MR. LANDIS:

5 Q. Where exactly do you work in the Bellagio?

6 A. Cafe Bellagio.

7 Q. Do you ever go to that place that's in the
8 front, that piano bar?

9 A. No, I don't think so.

10 Q. Oh, maybe the best drink in the world. Maybe
11 you should try it sometime.

12 About your cousin, and I am not prying, and I
13 don't mean to pry, you say he was on the news, or his face
14 was on the news.

15 What stage in the proceedings was that?

16 Was it after he was sentenced?

17 Was it as soon as he was arrested?

18 Was it when they were looking for him, if you
19 know?

20 A. I guess it was when they were looking for
21 him, and he was arrested.

22 Q. Did you hear any reactions from people,
23 family members, anybody, when you saw his face on the
24 news?

25 A. I don't, I mean, not really, because I don't

1 know really, like I said, I'm a private person, I don't
2 really like to talk about stuff like that. They said things,
3 but I don't care to talk about that.

4 Q. How -- do you think people tend to have a
5 certain reaction when they view when so and so, and I'm not
6 thinking of anyone in particular is arrested, or so and so
7 is accused of this, or so and so is going to stand trial for
8 this, how do you think people tend to read that kind of stuff
9 when they see it in the news or read it in the newspaper?

10 A. When they read it in the newspaper, I mean
11 what do you --

12 Q. Which reaction do you think is more common?
13 He did it or how dare they accuse him of that?

14 A. Well, it would probably mean that he did it.
15 That's what they are attempting to say.

16 Q. Do you think they are that open-minded?

17 A. Yeah, some people are.

18 Q. Are you familiar with the phrase, threw the
19 book at him?

20 A. Yes.

21 Q. What does that mean to you?

22 A. I would guess it would be the whole thing.

23 Q. What do you think you would do in this
24 situation, where there is a case, a person is charged with
25 robbery, and the evidence says that they went into a store,

1 and they followed the customer in there, and then stole a
2 few candy bars.

3 MS. LUZAICH: You know, I'm sorry, Judge. These
4 are improper questions.

5 MR. LANDIS: Can we approach?

6 THE COURT: Yes, come here.

7 (Whereupon, a brief, informal discussion was had
8 at the bench between the Court and counsel.)

9 BY MR. LANDIS:

10 Q. You said, you don't want to be here, and
11 we have heard this phrase a few times over the past couple
12 days, and I am not asking you this question but we have
13 heard this question:

14 Do you feel comfortable standing in the judgment
15 of others or judging others?

16 A. No, I don't, I really don't.

17 Q. I think that's understandable, and I don't
18 know if I would either. But tha's kind of how we do
19 our business here in America. You would agree with that,
20 right?

21 A. I know that.

22 Q. Do you think that's a good way to do it?

23 A. Yeah, if that's what you want to do. I just
24 don't agree with the questioning. I went myself through
25 that, you know. I am doing it because you have to.

1 Q. Are you saying it's a good system but you're
2 just not the person to do it?

3 A. Right, it's fine, a little bit of --

4 Q. Oh, a lot -- excuse me, I'm sorry to
5 interrupt you. A lot of other countries do it where it's
6 just the judge. There is no jury involved. Do you think
7 that's a better system?

8 A. Like I said, I mean, if that's the way you
9 guys do it, that's the way you do it. I'm just not going
10 to do it.

11 MR. LANDIS: I understand. Thank you for your
12 honesty.

13 I will pass, Judge.

14 THE COURT: Okay.

15 VOIR DIRE EXAMINATION OF JUROR FRANKLIN

16 BY THE COURT:

17 Q. And then we have Robert Franklin, is that
18 correct?

19 A. Yes.

20 Q. Robert, how long have you been in Las Vegas?

21 A. Since 1978.

22 Q. Quite a while.

23 A. 30 years.

24 Q. What do you do for a living?

25 A. Public works inspector.

1 Q. For who?

2 A. For the City of Henderson.

3 Q. Do you know any of the policemen out there?

4 A. No, just, you know, sitting here today, where
5 we fill up our gas, and coming and going. I don't know any
6 of them.

7 Q. Any possibility of being on a jury where there
8 is going to be some police officers from Henderson testifying
9 that would cause you problems?

10 A. No.

11 Q. Okay. How long have you worked for the City
12 of Henderson?

13 A. Since 1988.

14 Q. Okay. And you do what kind of inspection
15 you say?

16 A. Public works inspector.

17 Q. Oh, okay, okay. Are you married?

18 A. Yes.

19 Q. Does your wife work?

20 A. Not now, sir. She is at home.

21 Q. What did she do?

22 A. She was in the dental business.

23 Q. Okay. Grown children?

24 A. Pardon?

25 Q. Do you have grown children?

1 A. Yes, three grown children.

2 Q. What do they do for a living?

3 A. My oldest is at home out of work with one
4 granddaughter, and the other two boys work here in town.

5 Q. In what capacity?

6 A. One is a server at Bellagio, and one works
7 at Whole Foods.

8 Q. Okay. Nobody involved in law enforcement?

9 A. No.

10 Q. Okay. Have you ever been, you, or anybody
11 close to you ever been trained in any kind of law enforcement
12 activities?

13 A. No.

14 Q. No one employed?

15 A. Pardon?

16 Q. Nobody that is close to you have been employed
17 in law enforcement?

18 A. The father of my granddaughter is a Metro
19 police officer.

20 Q. Okay. How long has he been on the department?

21 A. I am going to guess at maybe several years,
22 plus or minus. I'm not sure, to tell you the truth.

23 Q. So this is your --

24 A. The father of my granddaughter.

25 Q. Granddaughter, okay. Do you talk to him

1 much?

2 A. Not really. Pick up the granddaughter, drop
3 off the granddaughter.

4 Q. Okay. So you don't see a problem because
5 of that relationship. It is really kind of like a non
6 relationship as far as you are concerned?

7 A. Yes, it is not a problem.

8 Q. Okay. Anything else that you can think
9 of as far as the law enforcement that would cause you
10 difficulty in being on a jury, and listening to the
11 testimony of police officers?

12 A. No, sir.

13 Q. Okay. Can you treat that testimony just
14 like any other witness?

15 A. Yes.

16 Q. You wouldn't give it any greater or lesser
17 weight than any other witness?

18 A. No.

19 Q. Okay. Have you or anyone close to you ever
20 been accused of any kind of a sexual assault?

21 A. No.

22 Q. How how about any other kind of a crime?

23 A. No.

24 Q. Nothing? Have you ever been on a jury?

25 A. No.

1 Q. Can you think of anything that I haven't
2 touched upon that would cause you difficulty in being on
3 a jury in a criminal case like this, and be fair and
4 impartial to both sides?

5 A. No, sir.

6 Q. Can you withhold forming an opinion about
7 any aspect of this case until you have heard all the
8 evidence, and I have instructed you on the law?

9 A. Yes.

10 Q. Can you -- do you think that you have a
11 healthy, neutral perspective mentally as you approach
12 service as a juror in a case like this so that if you
13 were one of the, either the Defendant or the prosecutor,
14 you would be satisfied and comfortable with somebody
15 on the jury the jury that has the frame of mind that
16 you have?

17 A. Yes, I would.

18 THE COURT: All right. Ms. Kollins, or Ms.
19 Luzaich?

20 VOIR DIRE EXAMINATION OF JUROR FRANKLIN

21 BY MS. LUZAICH:

22 Q. I'm sorry, Mr. Franklin, how are you doing?

23 A. Fine, how are you?

24 Q. Fine, thank you. You know, I think I must
25 have zoned out, or something. Are you married?

1 A. Yes.

2 Q. Does she work outside the home?

3 A. No, she is just at home right now.

4 Q. And has she ever worked outside the home?

5 A. Yes.

6 Q. What did she do when she did?

7 A. Run the back office in a dental business.

8 Q. Okay. So, obviously, nothing related
9 to law enforcement, and not a nurse, just office type
10 stuff?

11 A. Yes, she has been an assistant. She has
12 also worked in the front office.

13 Q. Okay. Your boys, how old are they? You
14 didn't know this was going to be a test.

15 A. 27 and 29, I think.

16 Q. And your daughter?

17 A. She is 35.

18 Q. Okay. So she is the oldest?

19 A. Yes.

20 Q. As your kids were growing up, did they get
21 in trouble?

22 A. Nonsense trouble, nothing --

23 Q. Typical kid stuff?

24 A. Yes.

25 Q. Police never brought your kids home?

1 A. No.

2 Q. About any curfew violations?

3 A. No.

4 Q. Things of that nature?

5 A. No.

6 Q. Okay.

7 Your daughter, who has a daughter, who would
8 be your granddaughter, were she and the Metro officer
9 married, or just involved?

10 A. Just involved. It didn't work out.

11 Q. And when they were still involved, did you
12 have contact with him at that point?

13 A. Very little, just pleasantries.

14 Q. A little here and there?

15 A. Yes.

16 Q. Did you like them?

17 A. He was a kid who grew up in the neighborhood,
18 and I liked him. I wished it would have worked out.

19 Q. So you have known him for a long time?

20 A. Yes, he was a young man, a young kid growing
21 up with the boys.

22 Q. Okay. When you -- you said your daughter is
23 not working now. Did she ever work?

24 A. Yes.

25 Q. What did she do when she worked?

- 1 A. I have been in the food business as a cook.
- 2 Q. And how old is your granddaughter?
- 3 A. She is eight.
- 4 Q. Ish?
- 5 A. Ish.
- 6 Q. Okay. Would you consider yourself to be
- 7 a fair and open-minded person?
- 8 A. Yes.
- 9 Q. Would you agree that if, you know, four
- 10 people watched a set of circumstances, you could get
- 11 four different descriptions, based on perceptions, and
- 12 background, and stuff like that?
- 13 A. I would say no.
- 14 Q. Would it surprise you?
- 15 A. No.
- 16 Q. Do you think that -- well, is there any
- 17 reason that you could not serve on a case like this?
- 18 A. No.
- 19 Q. Having heard everything that you have heard
- 20 for the last day and a half, is there anything that you
- 21 want to share with us?
- 22 A. No.
- 23 Q. No questions that you are dying to answer.
- 24 A. I don't have any questions, no.
- 25 Q. Knowing what you know about yourself, is

1 there anything that would prevent you from being able to
2 sit in judgment?

3 A. Just a bad back.

4 Q. The Judge will let you get up and wander
5 around periodically, if you get uncomfortable, right,
6 Judge?

7 THE COURT: Absolutely

8 BY MS. LUZAICH:

9 Q. If you are convinced, after listening to
10 all the evidence, if you are convinced beyond a reasonable
11 doubt the Defendant committed the crimes he is charged
12 with, would you be able to say guilty?

13 A. Yes.

14 MS. LUZAICH: Thank you, pass for cause.

15 THE COURT: Mr. -- who is it Mr. Banks? You
16 guys are keeping track. I won't be able to.

17 MR. BANKS: Come on, Judge.

18 VOIR DIRE EXAMINATION OF JUROR FRANKLIN

19 BY MR. BANKS:

20 Q. It's driving me crazy. Are you a baseball
21 fan?

22 A. Yes.

23 Q. Okay. I am getting a Mike Lowell. You look
24 like Mike Lowell to me, and I just been, ever since yesterday,
25 I see you, I saw him.

1 So if I am a little nervous, I feel like I'm in
2 the presence of him.

3 A. I will sign a ball afterwards.

4 Q. Okay. I want to ask you a couple of the
5 same questions that I asked Ms. Fisher as far as the tough
6 questions and expectations of, you know, demeanor, and this
7 sort of a thing.

8 Do you agree that there is really no one set
9 demeanor for somebody who has maybe been subjected to
10 something?

11 A. I would say so, yes..

12 Q. Okay. No black or white kind of reaction.
13 It would depend on the situation, shades of gray, and that
14 kind of thing?

15 A. Yes.

16 Q. Okay.

17 How do you decide when somebody is being completely
18 honest if you don't know them?

19 Because that's kind of what this is all about,
20 I mean, people that you don't know are going to come in,
21 and you guys really kind of have to decide who is telling
22 the truth and who is, you know --

23 A. Weighing the facts, look into your heart.

24 Q. Okay.

25 So it's kind of a big picture. Everything, you

1 have to really take everything into consideration, is that
2 fair?

3 A. Fair.

4 Q. What did you think when you heard the accusation
5 in this case, the sexual assault?

6 A. That it was a serious case.

7 Q. Okay.

8 A. No more than that.

9 Q. Okay.

10 This whole presumption of innocence thing. You
11 heard some people talking about that yesterday. Do you have
12 any thoughts on that? Good thing, bad thing?

13 A. Not really, no.

14 Q. Okay.

15 A. It's the first time for me so --

16 Q. Okay, okay.

17 Did you think maybe, oh, my God, they have got
18 another innocent man being accused of a crime sitting at
19 the table, something like that, did anything like that
20 pop into your mind?

21 A. No, not at all.

22 Q. Okay.

23 Do you think just because somebody has been
24 arrested that they necessarily have done something wrong?

25 A. No.

1 Q. Okay. Why not? Why do you feel that way?

2 A. Maybe the circumstances, he looked guilty
3 then, and he turned out to be innocent later.

4 Q. So maybe kind of, you scratch the surface
5 and start looking at maybe some of those other circumstances
6 that we have talked about?

7 A. Certainly.

8 MR. BANKS: Okay. I sure appreciate your answers
9 today.

10 JUROR FRANKLIN: Thank you.

11 MR. BANKS: I will pass for cause, Your Honor.

12 Thank you.

13 VOIR DIRE EXAMINATION OF JUROR FORESTA

14 BY THE COURT:

15 Q. Christine, is it Christine or Christina?

16 A. Christine.

17 Q. Christine Foresta.

18 A. Hi.

19 Q. How long have you been in Las Vegas?

20 A. 12 years.

21 Q. And what do you do for a living?

22 A. I am a property manager in Henderson.

23 Q. For -- who do you work for?

24 A. General Services Corporation.

25 Q. What kind of properties do you manage?

1 A. It's a 352 unit community, an apartment
2 community.

3 Q. Oh, okay. How long have you been doing
4 that?

5 A. Six years, three years Henderson, and then
6 three years in Vegas.

7 Q. Handle evictions, and all that kind of
8 stuff?

9 A. Yes.

10 Q. Are you married/?

11 A. Yes.

12 Q. What does your husband do?

13 A. Right now he is unemployed waiting to be
14 processed by Mandalay Bay.

15 Q. So he has got an application in --

16 A. Yes.

17 Q. What, what did he do when he was working?

18 A. He had his own home maintenance business.

19 Q. Okay. And what will he go into at Mandalay
20 Bay?

21 A. Bartender apprentice.

22 Q. Okay. 'Do' you guys have children?

23 A. Yes, I have a 20 year old daughter and a
24 seven year old son.

25 Q. Really. And does your 20 year old work?

1 A. She nannies.

2 Q. Okay.

3 A. She calls it work.

4 Q. Okay. Have you, or anyone close to you,
5 ever been convicted of or accused of any kind of sexually
6 related offense?

7 A. Yes, I had people close to me that have
8 been victims of sexual assault.

9 Q. How close is that, family or friends?

10 A. Family.

11 Q. Family, and what kind of relation, sister,
12 brother?

13 A. Sister-in-law.

14 Q. Sister-in-law?

15 A. Yes.

16 Q. Did something happen that resulted in
17 criminal prosecution?

18 A. No, she dropped the charges. CSI was involved,
19 and everything like that.

20 Q. Was that here or someplace else?

21 A. That was in Las Vegas.

22 Q. In Las Vegas?

23 A. Uh-huh.

24 Q. But did she voluntarily do that on her own
25 or was there some other reason why she did that?

A. Well, it was -- we both worked for the same company, and it was the property that I managed and that she lived on.

We, of course, evicted the resident, you know, they did arrest him for it. But, because of work issues, she decided to just let it be just the way it was.

So there was no retaliation, or anything from this.

Q. So there was -- now, was this in Henderson?

A. No, this was in Las Vegas.

Q. Okay. Was there anything about that that would cause you difficulty in sitting on a case like this, and being a juror, and being fair and impartial to both sides?

A. Well, no, because each set of circumstances could be completely different.

Q. Very true.

Is there anything about that experience, considering what happened to your sister-in-law that would prey upon your mind so that you would be unable to render a verdict in a case like this without thinking about what happened to her that would that be involved in your decision making process in a case like this?

A. Well, I think because of the different circumstances, the fact that I knew both of the people who

were involved in that situation, makes it a totally different thing.

My work does require me to sit and mediate situations between residents, and between employees.

So I think that I have got a pretty good grasp of being able to determine the situation based on, you know, the circumstances that surround that particular situation.

Q. Because nobody was prosecuted in that other instance.

A. Right.

Q. It has nothing to do with the Police Department not taking action or the District Attorney's office not taking action?

A. Yes.

Q. It was done on a voluntary basis by your sister-in-law?

A. Yes.

Q. That's why there was nothing done?

A. Yes?

Q. You aren't going to hold that against anybody in this case?

A. No.

Q. Okay. Have you or anybody else close to you ever been charged with or the victim of any other

kind of crimes?

A. No.

Q. Okay. Have you ever been on a jury before?

A. No.

Q. Can you think of anything that I haven't asked you about that would cause you to treat the testimony of a police officer as any differently than a non police officer witness?

A. The one thing I do want to say because this, I don't know if it is important, I mean, I know that myself, I would be able to listen to testimony, and like I said, each situation requires a different thought. So I have to say, and I am not happy about having to say it, but my office actually filed a complaint with the Internal Affairs Department at Henderson with the Henderson Police Department.

A. About some conduct of a Henderson police officer?

A. Yes.

Q. But nobody whose names were mentioned?

A. I couldn't even tell you what his name was because I wasn't necessarily the person who was -- I was just the manager of the place where two employees had seen this conduct.

Q. Okay. Is there anything about that fact

that your company filed a complaint to Internal Affairs about a police officer's conduct, is there anything about that experience that would make it difficult for you to be on the jury and sit and listen to the jury of a Henderson police officer and not think about that?

A. No, because I was just doing what my boss requested that I do.

Q. Okay. You didn't actually have any personal involvement?

A. No.

Q. In what happened, or the complaint, or anything like that?

A. No.

Q. There is nothing about that scenario that would cause you difficulty sitting on the jury in this case?

A. No, I mean, those employees are no longer there.

Q. They are no longer there?

A. No.

Q. All right. Can you withhold forming an opinion about this case, or anybody having to do with this case until you have heard all the evidence and heard the instructions, and you hear what I say what the law is?

A. Yes.

Q. Can you -- do you think that you have a neutral frame of mind so that you would be comfortable if you were one of the litigants in this case?

A. Yes.

THE COURT: All right. You're up.

MS. KOLLINS: Thank you, Judge.

VOIR DIRE EXAMINATION OF JUROR FORESTA

BY MS. KOLLINS:

Q. Good afternoon, Ms. Foresta, how are you. I guess it's, well, it's five to noon, pretty close.

A. Pretty close.

Q. You know the reason we ask all those questions, or at least I ask those question about what do you expect from a victim is because, you know, some people are under the notion that we are going to have some big thing here, and there is going to be this big Law and Order moment, and we are going to have the tears, and there is going to be Kleenex, and not everyone reacts the same, you know?

Do you understand that?

A. Yes.

Q. Your sister -- sister-in-law?

A. Yes.

Q. How hard was it for her to make a decision not to go forward with the case?

A. Well, it was -- it was hard for her because not only it was such a personal issue, but also because it involved business as well.

She was a little afraid of what the impressions would have been in that situation.

Q. From associates of the --

A. Yes.

Q. Of the perpetrator being?

A. Yes.

Q. Was this someone she knew previously and was friends with?

A. Yes.

Q. Okay. And to clean it up, phrasing it, was it kind of a date rape situation?

A. No, they were all hanging out in the same place, and she went to sleep and --

Q. But she made the initial report to law enforcement?

A. Yes.

Q. And Metro came out, and they investigated everything?

A. Yes.

Q. Did she have to go have a sexual assault examination?

A. Yes.

Q. Did you accompany her through any of that process?

A. I actually went to pick her up from wherever the Police Department took her. I can't remember exactly where, but I went to pick her up.

Q. And other than the fact that it had to do with work, was she somewhat tortured by the event?

A. Yes.

Q. And everything that transpired?

A. Yes, she still thinks about it.

Q. Still?

A. Yes.

Q. Does she still talk about it with you?

A. No.

Q. Was it easy for her to communicate about it with you?

A. Yeah, she called me before she called the police.

Q. Okay. Are you guys good friends?

A. Yes.

Q. The Internal Affairs issue, not to -- I don't want to pry substantially. You were not the person that initiated this Internal Affairs report?

A. No, there was two employees.

Q. Do you know the underlying circumstances

about what prompted that report?

A. Yes.

Q. Okay.

Well, if I don't ask you, they are going to ask you so here we go.

A. Well, actually, it was one of the employees at my property had a stalker, so at one point one day when they were leaving, the gentleman was outside. So they drove to the Police Department. They didn't get what they felt was the proper treatment from the Police Department.

Q. Okay.

A. So they went back, and I told my boss everything. We closed the office. We went down. They actually filed a complaint. I had to go on behalf of the company, I am the legal representative for the property.

Q. Okay. So this was a situation of them not being appropriately responsive to the plight of this person?

A. Right, yes.

Q. But nothing criminal?

A. No.

Q. No sexual harassment, nothing in that regard.

A. No.

Q. Just inappropriately doing their job?

A. Yes.

Q. Okay. Did you follow up on that?

A. Actually, I didn't because we found out that the stalker was really sort of a boyfriend kind of thing. Like I said, she is no longer working for our company.

Q. Okay.

A. But, um --

Q. So perhaps a little bit of hysteria on the part of the person that was making the report?

A. Yes.

Q. So whatever happens with Henderson, that has nothing to do with this case?

A. No, I still work with them. That is completely separate.

Q. I assume they help you with evictions occasionally?

A. No, trespassing issues, different things like that.

Q. Any other bad experiences with the Henderson Police Department that would impact your ability to listen to testimony, or detectives from that jurisdiction?

A. No.

MS. KOLLINS: Pass for cause, Judge.

THE COURT: Mr. Landis?

VOIR DIRE EXAMINATION OF JUROR FORESTA

BY MR. LANDIS:

Q. The State is right. This is not Law and Order. I sometimes wish it was, but sometimes victims do come in here, accusers come in here, and they cry.

What do you interpret if somebody is crying on the stand?

A. That they were hurt.

Q. Do you think that's the only time that people cry?

A. No.

Q. What are some other reasons?

A. Some other reasons could be to get a reaction that they are looking for, every scenario is different, I think, maybe it's because they are upset, because they are in fear of something.

Q. What impact, if any, do you think a person crying on the stand would have as to what they are saying when they are testifying?

A. Well, it would definitely tug at my heart strings if -- if the situation -- if I felt that they were being genuine.

Q. Okay. What would you look to as to the foundation?

A. I would just have to go based on the facts.

People ultimately, that's what is going to determine the situation. Go off of the fact, go off of the testimony, and they will talk about their experience, and I do understand that five people could be in the room and each person interpret things completely differently.

Q. I agree with that. You said you get involved in a lot of disputes as part of your job?

A. Yes.

Q. What kind of disputes?

A. Well, I have disputes between employees, disputes between residents.

I do have to go to court and maybe clarify things any evict, but sometimes it's, you know, two people living in an apartment arguing. So I have to work that out, or, you know, neighbor's situations.

Q. You probably see a lot of different stories between two people?

A. Oh, definitely.

Q. What do you look to in trying to determine the truth in those circumstances?

A. Well, I always encourage them to bring in a third party as far as, you know, before I call the police so that they can get some facts together, and then neighbors, you know, the situation, based on my past experiences with those people also is important.

Q. Let's say there is three people on one side and one person on the other side. I am sure you have come across stuff like that as part of your job.

A. Yes.

Q. Is that the be all and end all?

A. No.

Q. Okay. Do you think that it plays a big part in --

A. Well, I am trying to recall a particular experience where I actually had that happen, and that would be like, say, people like parents, you know, all three parents are living, and they have the child, it is his child that did the thing, but if I have other people who said that, no, that child wasn't involved in the other, I have to stand up and say, well, actually these are what the facts are, and this is what I do know, and I have to go from there.

Q. Good. What's the first thing that pops into your head when you hear that he is a criminal defense attorney or criminal defense counsel?

A. That you are defending someone who has been charged with a crime.

Q. Do you think some people sometimes think there is lying?

A. Yes.

Q. Why do you think they think that?

A. Well, because, being honest here.

Q. You won't hurt my feelings.

A. I am thinking because, ultimately, your goal is to have your -- what's the word? I'm sorry, I am looking for a word.

Q. That's okay.

A. Be found innocent of the charges at -- sometimes at a cost.

Q. Do you think that sometimes us doing that is a bad thing in certain cases?

A. Well, that's what -- that's what your job is. I think what your job is to help your person to be found innocent so that's what you've got to do. Everyone needs to have someone be able to stick up for them.

Q. Do you think that it is a good thing in all cases, no matter the result?

A. Do I think it's a good thing for someone to have an attorney put them first? Yes.

Q. How do you feel about O. J. Simpson trial?

A. They -- I mean, I didn't follow it because at one point I just got so sick of hearing it, I turned it off.

Q. You definitely know that he got off, right?

A. That he got off, yeah.

Q. You say he got off?

A. Yes.

Q. Why do you say that?

A. Because he is not in prison.

Q. Do you think they did a good job or do you think they may be one of those slimy defense lawyers?

A. They did what they had to do to get their job done.

MR. LANDIS: Thank you for your time.

I will pass, Judge.

THE COURT: Okay.

VOIR DIRE EXAMINATION OF JUROR OBERWEIS

BY THE COURT:

Q. Do you pronounce it Oberweis?

A. Oberweis.

Q. Oberweis.

A. Yes.

Q. Mr. Oberweis, how long have you been in Las Vegas?

A. 17 years.

Q. What do you do for a living?

A. I work for A M Concrete.

Q. All right. In what capacity? What do you do there?

A. Sales and bidding.

Q. Okay. Are you married?

A. Yes.

Q. Does your wife work?

A. Not at this time, but she is employed by Northwest Airlines.

Q. Okay. Is she in some temporary layoff, or something like that?

A. No, we just had a baby.

Q. Oh, okay, very good. Do you have any other children?

A. No.

Q. Have you ever been trained in any kind of law enforcement capacity?

A. I did ride along with Metro for a semester.

Q. Is that while you were in school?

A. Uh-huh, I was taking criminal justice classes.

Q. Okay. That was the extent of your training?

A. That's all.

Q. Okay. What did you think of that?

A. Interesting.

Q. Did you get a different perspective of law enforcement's activities than you had?

A. Yeah, if I could run a mile and a half under 10 minutes, I would have gone to the academy, but I can't.

Q. And has anybody close to you ever been employed

in law enforcement?

A. My father was.

Q. Where was he employed?

A. Where was he employed?

Q. Yes.

A. Aurora, Illinois.

Q. How long was a police officer?

A. Probably 15 years.

Q. Did he retire from the Police Department?

A. He did.

Q. Okay. Did you ever discuss his work as a police officer with him?

A. No, I was young.

Q. Okay. Anything about the fact that you had a police officer for a father that would cause you difficulty being on a jury where you will be listening to the testimony of some police officers?

A. I am pro police.

Q. You know a lot of people are pro police, and you would expect -- you do understand, and this is the question:

If a police officer is a witness, he is just like any other witness, do you understand that?

A. I understand.

Q. Do you have any problem with that?

A. No.

Q. Would you tend to give the testimony of a police officer greater or lesser weight, or the same amount of weight as any other witness?

A. Probably greater, just because of their position.

Q. I mean, just because they have a badge, you think they are entitled to more --

A. That's how I feel.

Q. Now, let me just make sure you understand this. You, as a juror, have to look at every single witness, and you have to make a determination to the extent of the credibility, the believability as you would with every single witness, and in this case, every single witness, and you are not to start them ahead of the credibility game with any other witness?

A. And I wouldn't..

Q. If I tell you that, I need to ask you:
Can you do that?

A. Yes.

Q. So if a witness gets on the stand who is a police officer with a badge, you have got to judge his testimony starting at zero, and you after you have heard it, you want to give him high marks of credibility because you believe from everything that you witnessed, that's

fine.

But at the same time, it could be a police officer that tells the story that you may have to say, I don't give him high marks for credibility.

A. I understand.

Q. That's also possible, do you understand that?

A. I do.

Q. And you have to like approach that job of determining the amount of credibility that you give a police officer witness and every other witness exactly the same?

A. And I would.

Q. Can you do that?

A. I will.

Q. Okay. Have you ever been on a jury before?

A. Never made it to the box, no.

Q. You have been in the pool but never made it to the box?

A. Yes.

Q. How many times have you done that?

A. It seems like every year.

Q. Anything about that that's frustrating that you have taken off time and all of a sudden you are not selected?

A. No.

Q. Okay. Nothing about any of those prior experiences that would cause you difficulty actually sitting on the jury in a case like this?

That was a question, that was a poor question.

Is there anything about the prior experiences of being in a jury pool --

A. No.

Q. That would cause you difficulty of being on a jury?

A. No.

Q. Okay.

Can you think of anything that I haven't asked you about that would bear upon your ability or inability to be a fair and impartial juror in this case?

A. You didn't ask me about the -- if I had been a victim.

Q. Oh, you are right. I don't even look at this stuff anymore.

Have you or anybody close to you ever been the victim of, or accused of any kind of a sexually related crime?

A. No.

Q. Have you, or anybody close to you, ever been charged or the victim of any kind of crime?

A. Yes.

Q. And who, and what kind of crime?

A. My mother was murdered in '93. It was a home invasion with a deadly weapon and robbery.

Q. And your mother was the victim of a murder?

A. She was murdered.

Q. Was anybody ever prosecuted as a result of that?

A. Yes.

Q. I suspect that you were intimately involved and followed those proceedings?

A. I did.

Q. Did that case go to a trial?

A. Yes, sir.

Q. Did you sit through and watch that trial?

A. Not all of it.

Q. But you sat through and watched a bunch of it?

A. Yes.

Q. That certainly is a tragedy, and that has to have created a lasting impression.

MR. BANKS: Judge, may we approach?

THE COURT: Sure.

(Whereupon, a brief, informal discussion was had at the bench between the Court and counsel.)

BY THE COURT:

Q. All right. You realize that we are going to go into this, and everybody is going to ask you some questions so it's kind of like within a few minutes, and we are just going to jump in.

What a horrible tragedy, first of all, that happened to you and your family.

How long did this whole process, between the time that the murder occurred, and the whole process, how long did that take?

A. It took the law enforcement a year to find the --

Q. To find the suspect?

A. Yes.

Q. And then after they found the suspect, they went through the whole prosecution process?

A. It was about another year.

Q. About another year?

A. Yes.

Q. So you are looking at something like about two years from the time it occurred until the time the case actually went to a trial. And how long did the actual trial take?

A. Three weeks.

Q. All right. And you say you didn't watch all

of it, but you watched part of it?

A. Yes.

Q. A good part of it?

A. Yes.

Q. And this was 15 years ago?

A. Uh-huh.

THE COURT REPORTER: Answer yes or no, please.

JUROR ROBERWEIS: Yes, I'm sorry.

BY THE COURT:

Q. All right. Now, John, here is what we want to know.

I can't think of too many things that have happened to somebody in their life that would cause them to have some issues in regards to being on a jury in a criminal case, having experienced what you have experienced, and here is what we are willing to do.

Are you going to be able to sit on a jury in a case like this, having experienced what you just told us happened, and not let that affect your process of listening to the evidence and deciding what you think the facts of the case are?

A. I don't think I would be a good juror. I didn't say anything yesterday because I thought about it last night, and I don't think that I would be impartial, maybe on a civil but not criminal.

Q. I don't think for a second that there is anybody who faults you for having those thoughts, and that's why we are going through this process because, you know, some things happen to people --

A. Right.

Q. -- if it is going to cause you too much of a problem, and I don't think that one person here would disagree with the idea the fact that you think that you would have difficulty setting that aside.

A. I don't think it would be fair to the Defense, Your Honor.

MS. LUZAICH: The State would stipulate, Your Honor.

THE COURT: Okay. So, that having been said, we are going to go ahead and let step back down and go to the third floor, to the Jury Commissioner's office, just let them know what happened, and they will reprocess you one more time in that pool, okay?

A. Yes.

THE COURT: All right.

(Juror Oberweis excused.)

THE COURT: And we are going to replace Mr. Oberweis with --

THE CLERK: Justin Gries, 204.

THE COURT: What was that name again, Justin Gries?

THE CLERK: Justin Gries, G-r-i-e-s.

JUROR GRIES: It's pronounced Gries.

THE CLERK: What is it, Gries?

JUROR GRIES: It is pronounced Gries.

THE CLERK: Is it Gries?

JUROR GRIES: Gries, okay.

THE COURT: And it's G-r-i-e-s?

THE CLERK: G-r-e-i-s.

JUROR GRIES: G-r-i-e-s.

THE COURT: G-r-i-e-s.

VOIR DIRE EXAMINATION OF JUROR GRIES

BY THE COURT:

Q. Mr. Gries, have you been following along here? Do you know how this works?

A. Yeah.

Q. All right. So what do you do for a living?

A. I'm a carpenter.

Q. How long have you been in Las Vegas?

A. 20 years.

Q. How old are you?

A. 20.

Q. All natives, that's great, that's great.

Are you married?

A. Yes.

Q. Do you have any children?

A. No.

Q. Okay. How long have you been a carpenter?

A. 16 weeks.

Q. Are you in some kind of an apprentice program, or something?

A. Yes.

Q. Okay. And have you ever any training in law enforcement?

A. No.

Q. Anybody close to you involved in law enforcement?

A. No.

Q. Have you ever been on a jury?

A. First time.

Q. First time.

Can you think of -- do you have any connections with anybody that is in law enforcement such that it would cause you difficulty in listening to the testimony of a police officer?

A. No.

Q. Could you treat the testimony of a police officer just like any other witness?

A. Yes.

Q. Have you, or anyone close to you, ever been the victim of or accused of any sexual related offense?

A. No.

Q. Have you, or anyone close to you, ever been the victim of or accused of any kind of criminal offense?

A. Yes.

Q. Who is that?

A. My cousin in California.

Q. What kind of -- was he accused of something, or the victim of something?

A. He was convicted of something.

Q. He was convicted of something?

A. Yes.

Q. What kind of offense was he convicted of?

A. It was a felony, I guess, he and some friends made a little Molotov cocktail and put in it front of someone's house. It didn't do any damage, but it was a threat so they prosecuted him for that.

Q. All right. And did you follow along with what happened to him during that whole process?

A. I didn't follow along, but my mom told me everything that was going on.

Q. This was your mother's brother's or sister's?

A. My mother's sister's son.

Q. Your mother's sister's son?

A. Yes.

Q. Did you ever discuss what was going on as

to your cousin and that charge?

A. She would talk to my aunt, and asked how she was doing, and my mom would tell me what was going on, and about the trial, and all of that stuff.

Q. Okay. Is that how you got most of your information, from your mom?

A. Yes.

Q. Is there anything about that, that whole incident, that would cause you difficulty with being on the jury in a criminal case like this?

A. Well, I guess they were trying to give him nine years. They got four felony offenses, and they were trying to give him nine years for each offense.

Q. Well, we won't go into that part.

A. Oh, well, at least, I thought that was --

Q. Did you think that he was treated fairly or do you think that he was treated a little harshly?

A. A little harshly.

Q. Do you understand that that's completely a different kind of scenario from what we are talking about here?

A. Oh, yes.

Q. Is there anything about that entire case, that scenario, that incident with your cousin's criminal case, that would make it difficult to the point that it

might make it impossible for you to be fair and impartial as a juror in a case like this?

A. No.

Q. Can you set that all aside, whatever -- whatever it you you were told, or the results that happened, will you set all that aside, and can you sit as a juror in a case like this, and render a verdict based strictly upon the evidence that you hear in this case, and what I tell you what the law is?

A. Yes.

Q. Did I ask you, have you been on a jury before?

A. Yes.

Q. You said no, right?

A. Right.

Q. All right. Can you withhold forming an opinion about any aspect of this case until you have heard all of the evidence, and I have instructed you on the law?

A. Yes.

Q. Do you think that you have -- as I have been describing -- do you think that you have a healthy, neutral, frame of mind as you approach your jury duty?

A. Yes.

Q. Do you think that you could be fair and

impartial such that if you were either a defendant in this case or the prosecution in this case, that you would be comfortable as a juror and have the frame of mind that you have?

A. Yes.

THE COURT: Okay. Ms. Luzaich, go ahead.

MS. LUZAICH: Thank you.

VOIR DIRE EXAMINATION OF JUROR GRIES

BY MS. LUZAICH:

Q. Now, not to beat a dead horse, or anything, but as far as your cousin's situation, the way you described it, it doesn't sound quite so tragic.

I assume that that's what you heard from your mother and, therefore, that's what she heard from her sister, right?

A. Yes.

Q. Do you think it's possible that you didn't get all of of the information?

A. Probably.

Q. Do you think it's possible that your mother also didn't get all of the information?

A. Probably.

Q. And do you think it's possible that her sister didn't get all of the information?

A. Possibly, yes.

Q. So possibly, your cousin kind of downplayed what he did and what was going on to his mother?

A. I'm not sure where she heard it, whether she heard it from my cousin, or if it was from the police report, or what.

Q. Okay. But notwithstanding, but do you think it's possible that when he was describing to his mother what occurred, he downplayed his own involvement to make himself look bad?

A. He might have.

Q. It's possible. I'm not saying, did he, just is it possible?

A. Yes.

Q. So it is possible that he, because he was charged with three felonies, that he did a whole lot more than you think he did?

A. I think so.

Q. So when you say that you think it's unfair that they wanted nine years for each count, it's possible that it's more fair, because there is more to it than you know?

A. It might be possible, yes.

Q. Okay.

And I am not judging anything. I know nothing about that, obviously. But do you think that you might

in some way, because your family believes that your cousin was treated unfairly in California, hold that against us on behalf of the State of Nevada?

A. No.

Q. Just unconsciously?

A. No.

Q. Okay.

Do you think that because you and your family believe that your cousin was treated unfairly in California, that you might unconsciously hold that against the police that testify here?

A. No.

Q. Because you know, of course, that the police that are going to testify here have nothing to do with your cousin's case?

A. Right.

Q. And you know that Ms. Kollins and myself also had nothing to do with your cousin's case?

A. Yes.

Q. Did he go to trial?

A. Yes, he did.

Q. I assume you did not attend the trial?

A. No.

Q. You mentioned that you are a carpenter for four months?

A. Yes.

Q. What did you do before that?

A. I worked on roofs, just repairing part-time at a mall, just a part-time job, and before that I was also a carpenter, but it was non union.

Q. It was non union before?

A. Yes.

Q. When you were part-time at the mall, was it because you were going to school?

A. I was inbetween jobs so I just needed something to do.

Q. To hold you over?

A. Yes.

Q. Okay. Did you go through any college or --

A. I went to CPS for like three months to do forms, and things like that, and I went to school to be a mason at CPS.

Q. Okay. How do you like being a carpenter?

A. So far it's better.

Q. Better?

A. Yeah, better pay.

Q. With the union, right?

A. Yes.

Q. Definitely much better pay?

A. Yes. .

Q. And I don't think the Judge asked, does your wife work?

A. Yes, she does.

Q. What does she do?

A. She works part-time at the mall.

Q. And is that all she has done?

A. Yes.

Q. Now, I have got to tell you, that's an interesting choice of clothing to wear to court.

A. I wasn't home last night so I just wore whatever I washed.

Q. Is it a bank, is that you call Infamous? Okay.

A. Infamous.

Q. Vader? Err.

A. Yeah.

Q. Okay.

Do you think that there is any reason that you could not sit on this kind of case?

A. No.

Q. Robbery, sexual assault, kidnapping, and things of that natuer?

A. No.

Q. And just to let you know, the victims in this case are not children, you know, they are teenage

20 year old type people. They are probably around your age.

Do you think that that may cause you any issues that, you know, other kids are going to come in here --

A. No.

Q. -- and talk to you about the terrible things that occurred to them are going to be about your age?

A. No.

Q. Do you think that different people see the same set of events not exactly the same?

A. Yes.

Q. So that wouldn't be surprising?

A. No.

Q. Okay. And different people explain things differently, would you agree with that?

A. Yes, I would.

Q. Do you think, as you sit here, having all of these questions shot at you, is it hard to answer questions like that?

A. No.

Q. No?

A. No.

Q. In front of people, strangers?

A. No.

Q. Is there anything about you that would

prevent you from being able to sit in judgment?

A. No.

Q. And if you were convinced beyond a reasonable doubt that the Defendant committed the crimes he is charged with, would you be able to say, guilty?

A. Yes.

MS. LUZAICH: Okay. Thank you.

Pass for cause, Your Honor.

THE COURT: Mr. Banks?

VOIR DIRE EXAMINATION OF JUROR GRIES

BY MR. BANKS:

Q. Hi, Mr. Gries.

A. How are you doing.

Q. Nice to meet you. You heard the charges yesterday?

A. Yes.

Q. Okay. And I imagine you probably sit around all day, everyday, thinking about that kind of stuff, right?

A. No.

Q. Okay. Have you ever even thought about it before?

A. No.

Q. Okay. What did you think when you heard that stuff?

A. Wow.

Q. What's the most stressful situation you have ever been in in your lifetime?

A. Getting married.

Q. Getting married?

A. Yeah.

Q. Was that a -- did you have like a big wedding, or something? What was going on?

A. Yeah, it was kind of big.

Q. Okay.

What about the situation did you find so stressful?

A. It's just --

Q. Was it the lifelong commitment part of it?

A. Yeah, for the rest of my life.

Q. Okay.

But I reckon you were, bottom line, pretty confident in that decision?

A. Yes.

Q. Okay. That, that is a stressful situation. I am married myself. But that's also fused with a lot of joy. Would you agree with that?

A. Yes.

Q. Okay. And I don't want to speak for you, but it was for me personally, it was a lot more joy than a lot more stress. Is that how you --

A. Yeah.

Q. Okay. Let's take the wedding scenario out of the picture. Let's talk about a little more of a scary, traumatic kind of a thing.

What's the scariest, most traumatic, stressful event that you've had in your lifetime?

A. My mom was diagnosed with breast cancer. That was scary.

Q. Okay. Do you still thinking about a lot of things?

A. Yeah.

Q. Maybe start thinking about things a little differently than perhaps you did in the weeks or months before you heard that news?

A. Yeah.

Q. You approach things differently when you are in stressful situations, don't you?

A. Yes.

A. I do, yes.

Q. For better or for worse, would you agree with that?

A. Yes.

Q. Okay. Sometimes, scary, traumatic situations force you to really kind of, kind of step back, and look at the situations.

Would you agree that maybe there is scary situations that you just kind of fall into that you have to make snap judgments?

A. Yes.

Q. Yes. Sometimes you do the best with what you got at the time, don't you?

A. Yes.

MR. BANKS: I think that's all I have. Thank you.
Pass for cause, Your Honor.

THE COURT: Okay.

VOIR DIRE EXAMINATION OF JUROR WRIGHT

BY THE COURT:

Q. Melinda Wright?

A. Yes.

Q. Melinda, how long have you lived in Las Vegas?

A. I moved here in 1980, a lot of years.

Q. A long time ago, that's for sure. What do you do for a living?

A. I am a registered nurse.

Q. Where do you work?

A. Spring Valley Hospital.

Q. And are you married?

A. Yes I am.

Q. What does your husband do?

A. He works in auto body, auto collision.

He is a writer.

Q. He does what?

A. He is a writer for an auto company, collision, for an auto body shop.

Q. Oh, an insurance company?

A. He works at an auto body shop.

Q. Oh, an auto body shop, I'm sorry.

Okay. Now, there is going to be some testimony from a nurse in this case?

Do you realize that as a nurse, you have to rely upon the evidence and the information that's presented to you on the witness stand, and not on the background that you have.

Is that going to cause you any problems?

A. No.

Q. If you hear testimony from a nurse on some technical aspects of evidence, you realize that you can't go back in the jury room and explain to everybody else what that meant because you have got to rely on what the witness testifies to and explains from the witness stand, and that applies to everybody else. That goes to any information outside of what comes in as evidence, you can't do that.

Do you understand that?

A. Yes.

Q. Okay. Any problems in doing that?

A. No, I understand.

Q. Okay. Now, have you or anyone -- have you ever been trained in any kind of law enforcement?

A. No.

Q. Anybody close to you ever been employed or engaged in any law enforcement activities?

A. No.

Q. Have you, or anyone close to you, ever been the victims of, or accused of a sexually related offense?

A. No.

Q. Have you, or anybody close to you, ever been the victim of or accused of any other kind of crime?

A. Yes, I have been the victim of a crime.

Q. You have been the victim of a crime?

A. It's -- you know, I'm assuming that a crime is like I had a bicycle stolen. I had a stereo stolen.

Q. Okay.

A. I have had my house burglarized once.

Q. That sounds like you have had a few incidents, some kind of minor, some a little bit more major?

A. Right.

Q. The times that your house was broken into, you were the victim of a burglary?

A. Uh-huh.

Q. Is that a yes?

A. Yes.

Q. Okay. Did those items get stolen from your home?

A. Yes.

Q. Nobody was home when that happened?

A. Nobody was home.

Q. Did you report it?

A. Yes, we did.

Q. Was anyone ever caught?

A. No.

Q. To your knowledge, nobody was ever prosecuted?

A. Correct.

Q. Okay. Did you ever get the return of any of your property?

A. No, I didn't.

Q. Would the fact that the Police Department never caught anybody for that offense, cause you to have -- harbor any kind of animosity or bad feelings towards the Police Department in Henderson?

A. No.

Q. That wouldn't affect you in the way you treat

the testimony of a police officer witness?

A. No, absolutely not.

Q. Okay.

You wouldn't, the fact that nobody got caught and prosecuted, that wouldn't cause you to harbor any hard feelings, or animosity towards the District Attorney's office because nobody ever got prosecuted, would it?

A. No, no.

Q. Okay. Have you -- was that the only -- was that the most serious incident, the home burglary?

A. Yes.

Q. Other than that, you had a bicycle stolen?

A. We had a car that was broken into at

UNLV.

Q. Was it ever --

A. It was recovered about two or three months later, we got it back.

Q. With damage to it?

A. Yes.

Q. Was anybody ever prosecuted for it?

A. No.

Q. Not to your knowledge?

A. No.

Q. That wouldn't cause you any problems?

A. No.

Q. That nobody ever got caught or prosecuted?

A. No.

Q. You wouldn't hold that against anybody in this case?

A. No.

Q. Okay. And have you ever been on a jury before?

A. No, I have not.

Q. Can you -- can you think of anything that I haven't touched upon that would bear upon your ability to be fair and impartial to both sides of this case?

A. No.

Q. Do you think you can withhold forming an opinion about anybody or anything having to do with this case until you heard all the evidence, and I instruct you on the law?

A. Yes.

Q. Do you think that you have a healthy, neutral frame of mind, as you approach jury duty, in such a fashion so that if you were the Defendant or the prosecution, and somebody was on the jury with your frame of mind that you would be comfortable?

A. Yes.

THE COURT: Okay. Ms. Kollins?

MS. KOLLINS: Thanks, Judge.

VOIR DIRE EXAMINATION OF JUROR WRIGHT

BY MS. KOLLINS:

Q. Ms. Wright, I don't know if the Judge asked you if you had children?

A. He did not.

THE COURT: Oops, sorry.

BY MS. KOLLINS:

Q. That's okay. Do you have any children?

A. I do have three. I have three and a stepson, so four.

Q. Okay. What are their ages?

A. My son is 25, and my daughter is 24 and my other son, 23, and my stepson is 20.

Q. Do they all live here in Las Vegas?

A. Three of them live here, and my stepson is in L. A.

Q. Quickly, where do they work?

A. My stepson, he works in L. A. My daughter, she is a civil engineer, and my son is snow instructor, slash used to be flight attendant. And my son is a forklift operator..

Q. You are an RN. In what capacity do you work at Spring Valley?

A. I work in the GI lab, gastrointestinal.

Q. You work ER?

A. No, I do not.

Q. To your knowledge, are sexual assault victims, or do you ever have occasion to see something like that?

A. I would assume so. I don't know. I work in GI. If it is not a GI case, I don't know about it.

Q. Okay. Did you recognize the name Linda Everett?

A. No, I didn't.

Q. Okay. Any reason why you can't be fair to both sides in this proceeding?

A. No, I think I can be fair.

MS. KOLLINS: Okay. Pass for cause.

THE COURT: Mr. Landis?

VOIR DIRE EXAMINATION OF JUROR WRIGHT

BY MR. LANDIS:

Q. Something tells me I'm the last barrier so I'll be short.

As a long time resident of this place do you think it's a good place for a criminal Defendant to stand trial? I don't know if that's a fair question.

A. I have no idea. I don't have any opinion on that.

Q. How about this? Do you think it's better or worse than, let's say, the national average?

A. As a Defendant? I have no idea? I don't

know.

Q. What kind of things do you think one would look for in making that determination? I don't know if that's a fair question.

A. I think you would have to know if he -- I really don't know what is going on in the law. I can't answer that at all.

Q. Do you think a diverse population, what effect do you think that would have?

A. What do you mean as to the Defendant?.

Q. Yes, his ability to have a fair trial?

A. I don't know, more fair.

Q. More fair?

A. Yes.

Q. What about age, young, old?

A. I don't know, I don't know.

Q. I haven't went into it today so I will leave you with my, my favorite question.

Which ones are worse, if you have an innocent person being convicted or the guilty going free?

A. I would have to say the innocent being convicted.

Q. Why?

A. I don't know where to begin on that one.

MR. LANDIS: Thank you. I have nothing further,

Judge.

THE COURT: Okay.

We are going to take a break for the next hour and 20 minutes. We are getting very quickly here, we are going to enter the last phase of this jury selection process, and those of you out here in the jury pool are going to quickly see why we have so many of you here.

So, we are going to expand out into the jury pool that's sitting out here in the audience very quickly when we come back.

And so it will take us until 20 till. Do you want me to stay two o'clock?

MS. LUZAICH: Thank you.

THE COURT: Okay. We are going to have a break for the next hour and 20 minutes.

Now, again, don't leave, let me finish.

When you come back, we will all have to congregate, note where you are. You are going to get the same seat.

When Joe brings you in, meet Joe outside of the double doors here at two o'clock.

During the next hour and 20 minutes, I am going to instruct you not to talk or converse amongst yourselves, or with anyone else on any subject having to do with this trial.

You are not to watch, listen or read any reports

or commentaries about anything having to do with this trial through any medium of information which includes radio, television, newspapers, internet.

Don't form or express any opinions on any subject or about any person having anything to do with the trial until this case has been finally submitted to you.

You are in recess. You've an hour and 20 minutes.

(Whereupon, after the jury panel was excused, the following proceedings were had outside the presence of the jury:)

THE COURT: Okay. We are outside the presence of the jury.

Mr. Landis, you have some matters you want to address, sir?

MS. LUZAICH: Before he starts, for the record, I had my secretary prepare the amended.

I am not going yet going to file it. I have given a copy to the Defense so that they could look at it before I file it. The amended, that would only include this Defendant and not the other.

THE COURT: Only include the Defendant's name and not the other Defendant.

MS. KOLLINS: Correct, this one Defendant.

MR. BANKS: Judge, I don't recall, this is a housekeeping matter, but I just spoke to Ms. Luzaich and Ms. Kollins, and I think it would be the Defense's preference, and I think the State agrees that we open the first thing in the morning, and here is why.

We just received audio of our client's statement yesterday, and we have yet to receive 400 photographs that we just found out about today. So I think --

THE COURT: Photographs of what?

MS. LUZAICH: Of crime scene evidence, that's all, and, I mean, I don't know that we are going to get that to them today. They are getting them today.

MR. BANKS: Well, getting them today, without, and Mr. Landis's opening, I think it would be irresponsible at the Defense table to do an opening statement without at least being able to look at that stuff, synthesize it, see where it fits and where it doesn't, and I don't think that that's an unreasonable request, and that's why I asked the State.

I don't think that they feel it's an unreasonable request either, but that is our request.

THE COURT: You know, I would be --

MS. LUZAICH: We didn't care one way or another.

THE COURT: All right. I would be throwing a fit. If I had something that was stacked up behind this

case, I would be throwing a fit.

You guys have to move this thing along for us, but as it turns out, i would rather be in trial than not be in trial, and I have nothing else going on.

So, you know, you've got plenty of time to screw around, whatever you want.

MS. LUZAICH: It should have been, in fact, I don't think we are going to get -- if we start at two, I don't think we are getting the jury before four o'clock anyway.

THE COURT: I know, but we will definitely have a jury this afternoon.

MS. LUZAICH: This afternoon, and you can instruct them this afternoon.

Read the -- because the information --

THE COURT: .Yes.

MS. LUZAICH: I mean, there is a lot of long counts.

THE COURT: There are, that's fine, and we will do that. We will do all of the instructions, I will read all of the information, I will do all of the instructions, and then we will break, and you guys can do your opening, and then we will get right into it. So we will do the opening, and then you --

MS. LUZAICH: And then we go right to witnesses.

THE COURT: Yes.

MS. LUZAICH: Yeah.

And then you said, oh, this doesn't have to be on the record, but you said you were going to quit slightly earlier tomorrow just so that we can line up our witnesses?

THE COURT: Yeah, yeah. We are off the record.

(Discussion off the record.)

(Whereupon, a brief recess was had.

After recess, all parties present, the following proceedings were had in open court in the absence of the jury panel:)

THE BAILIFF: Remain seated. The Court is back in session.

THE COURT: Is everybody ready?

MS. LUZAICH: Sure, are you?

THE COURT: All right, I'm ready.

All right. We are back on the record in the matter of the State of Nevada v. Narcus Wesley.

MS. LUZAICH: And for the record, we have provided Defense counsel with a disk of the photographs.

THE COURT: Okay.

MS. LUZAICH: Oh, and Teri.

THE CLERK: Oh yeah.

MS. LUZAICH: The amended is right here, if you would, Defense counsel has a copy.

All we did is take out the Codefendant, and then wherever it says Defendants plural, I changed it to Defendant, singular.

THE CLERK: All right. Do you guys want your copies now?

MS. LUZAICH: Yeah.

THE CLERK: The Judge needs one, I need one, the court reporter needs one, one more.

THE COURT: Okay, bring the jury in.

(Whereupon, the following proceedings were had in the presence of jury panel:)

THE BAILIFF: Please be seated.

THE COURT: Do we need to call roll call or do you want to stipulate to the presence of the jury pool?

MR. LANDIS: The Defense will stipulate, Judge.

MS. LUZAICH: We will stipulate.

THE COURT: Does anybody see any empty seats that weren't there an hour and a half ago?

A JUROR: Yeah, right here.

THE COURT: Are we missing somebody right there?

JUROR LEAL: Yeah.

THE COURT: What is your number?

JUROR LEAL: 390.

THE CLERK: Here he is.

THE COURT: Okay, here we go. Any other spots that weren't vacant an hour and half?

All right. Is everybody satisfied?

Stipulate to the presence of the full jury panel?

MS. LUZAICH: Yes, Judge.

MR. LANDIS: Yes, Judge.

THE COURT: All right.

We have completed the first segment of the jury selection process, and we will now commence the process of jury challenges.

So if counsel would approach the bench?

(Whereupon, a brief, informal discussion was had at the bench between the Court and counsel.)

THE COURT: Okay. Now, here is the way that this works.

We are going to ask the following jurors to step down and report back to the third floor, to the Jury Commissioner's office, Nichole Dunmore and Gary Orta.

I appreciate your participation.

Go ahead and report to the third floor Jury Commissioner's office, and they will put you back into a later pool, okay?

(Juror Dunmore and Juror Orta excused at this time.)

THE COURT: And we will replace Nichole with Mark Snelling.

THE CLERK: And your badge is 208?

JUROR SNELLING: Yes.

THE COURT: Mark, can you take that first seat right there?

And Michael Baird, you need to -- where is Michael?

THE CLERK: Michael Baird is badge 210.

THE COURT: Michael Baird, you need to take the last chair in the middle row.

VOIR DIRE EXAMINATION OF JUROR SNELLING

BY THE COURT:

Q. Okay.

Now, Mr. Mark Snelling.

A. Yes.

Q. Tell us a little about yourself. How long have you been in Las Vegas?

A. Since 1981.

Q. And what do you do for a living?

A. I work for the signature at the MGM, maintenance.

Q. Okay. How long have you done that?

A. I have been with the MGM going on 14 years.

Q. Are you married?

A. Yes.

Q. Does your wife work?

A. Yeah, from home. She sells cruises.

Q. Oh, okay. Does she work for a travel agency?

A. Yeah, out of California.

Q. Okay. Do you have grown children?

A. I have two daughters, twins.

Q. Are they married?

A. No, they are 15 and a half, still in school.

Q. All right. Have you ever been trained in any type of law enforcement activities?

A. No.

Q. Have you, or anyone close to you?

A. No.

Q. Nobody, nobody related to you, or close to you, employed in law enforcement?

A. No.

Q. Okay.

Any reason that you can think of, by reason of

something that has happened to you in your past that would cause you to give the testimony of a police officer any greater or lesser weight than any other non police officer witness?

A. No.

Q. Okay.

Have you, or anyone close to you, ever been the victim or charged with any sexual related offense?

A. No.

Q. Have you, or anyone close to you, ever been charged or the victim of any kind of a crime?

A. No.

Q. Have you ever been on a jury before?

A. No.

Q. Can you think of anything that I haven't just touched upon that you think would cause you difficulty in sitting as a juror in a criminal case like this and being fair and impartial to both sides?

A. I can't think of any.

Q. Can you withhold forming an opinion about any aspect of this case until you've heard all the evidence, and I have instructed you on the law?

A. Yes. .

Q. Do you think that you have a neutral, healthy approach, mentally, to your jury duty such that

if you were the Defendant or the prosecution in this case, you would be comfortable with somebody that has your frame of mind being on the jury?

A. Yes.

THE COURT: Okay.

Ms. Luzaich?

VOIR DIRE EXAMINATION OF JUROR SNELLING

BY MS. LUZAICH:

Q. Mr. Snelling, what about you would make you a good juror?

A. I have teenagers.

Q. Okay, me, too.

A. I have learned to deal with things under stress.

Q. Yes, deal with them, and teenage girls at that.

A. Teenage that fight over everything that's under the sun.

Q. Okay. Would you consider yourself to be a fair and open-minded person?

A. Yes.

Q. Are you somebody that waits until you hear everything before you make a decision?

A. Yes, I have to with the twins.

Q. Yes, that's true.

But also, in here, you have to wait until you hear absolutely everything --

A. Yes.

Q. -- before you make up your mind, do you understand that?

A. Hear all the facts, yes.

Q. Okay.

And if you sit as a juror in this case, after all of the evidence is presented to you before we argue, the Judge will read instructions, and that is what the law is.

You don't get to decide what the law is. He tells you what the law is.

What if there is an instruction that you don't agree with?

A. The law is the law.

Q. So you will follow it anyway?

A. Yes.

Q. Okay.

You would write to your legislature if you want, but you would follow it anyway?

A. Right.

Q. Fair enough. Do you have common sense?

A. Sure.

Q. Will you bring it into the courtroom?

A. Yes, I would.

Q. Having sat here for the last day and a half, or so, are there any questions that you feel a burning need to answer that you've heard already?

A. No.

Q. Is there any reason that you could not sit in this particular case?

A. Not that I can think of.

Q. Okay.

Knowing what you know about yourself, can you sit in judgment of someone?

A. Yes.

Q. And if you do sit as a juror in this case, and you listen to all the testimony and see all the evidence, if you are convinced beyond a reasonable doubt that the Defendant committed the crimes he is charged with, would you be able to say, guilty?

A. Pardon?

Q. Would you be able to say, guilty?

A. Yes.

MS. LUZAICH: Thank you, pass for cause.

THE COURT: Mr. Banks, is it your turn?

MR. BANKS: Yes, Your Honor.

VOIR DIRE EXAMINATION OF JUROR SNELLING

BY MR. BANKS:

Q. Mr. Snelling?

A. How are you?

Q. Good. How are you?

A. I'm good.

Q. I just want to ask you going to ask you the innocent man sitting at the table question, a couple of those.

Do you think that there are some areas where innocent people may be arrested?

A. Yes.

Q. Can you maybe describe one of those?

A. Offhand, about the only thing that I can think of is being in the wrong place at the right time.

Q. Okay.

You have heard about all of those, you know, exonerations, like years after the fact, DNA, and all that kind of stuff.

Are you the kind of guy that wants to see DNA evidence?

A. If it's facts for the case, I'd guess, yeah, yeah.

Q. Okay.

Some people want to consider it if it was available?

A. Yeah.

Q. Okay.

What did you think when you heard what the charges were in this case?

A. It was serioius.

Q. Anything beyond that?

A. No.

Q. All right. Nothing -- let me ask you what I asked Mr. Gries, and you have got children that are, you know, teenagers.

A. Yes.

Q. And probably some more life experiences than somebody who, you know, hasn't had children and raised them.

What -- what's the most horrifying, stressful situation you have ever had in your life?

A. I guess sitting in the hospital, watching my mom die.

Q. All right. Puts some things in perspective?

A. Oh yeah.

Q. Okay.

Probably not the kind of situation that you get used to or that you train for?

A. You can never get used to it.

Q. Okay. And some situations are just like that, would you agree, they are hard, stressful situations

every time out of the gate?

A. No control, it's tough.

Q. And I suppose there are situations that people are trained for it, like police officers going into some sort of kind of a scary situation, I mean, those kinds of folks receive training, but would you agree that there are life situations for just normal folks that there is no training for?

A. Right.

Q. You just play the hand you are dealt with at the time, and you do, you do what you can?

A. Right.

Q. All right, all right. Do you want to serve?

A. If I had my choice, I would rather not.

Q. Okay.

A lot of people probably agree with you, you know, and it's just one of those things.

A. Yes.

MR. BANKS: Thank you for your answers today.

Pass for cause, Your Honor.

THE COURT: Okay.

VOIR DIRE EXAMINATION OF JUROR BAIRD

BY THE COURT:

Q. Michael Baird.

A. Yes, sir.

Q. Again, tell us a little about yourself.

How long have you been here in Las Vegas?

A. I have been here 14 years.

I am married, I have got two children, a 12 year old son and a five year old daughter.

Q. What do you do for a living?

A. I am self-employed. I have an site service computer company.

Currently, I run it from my home. My wife assists me with that.

Q. Okay.

A. And she also has the duty of taking care of our five year old little girl, which I adore, wow.

Oh, I tried it maybe for a week when she was out of town. That was hell. A son I can handle.

Q. Have you ever been trained in any type of law enforcement activity?

A. No.

Q. Anybody close to you employed or trained in law enforcement?

A. No.

Q. Any police officer friends that you are close to or associated with?

A. I have a friend that was in the Explorer's

Program for about four years.

Q. That's kind of a precursor to going into the Academy?

A. Yeah, for someone that's going in. Yeah, he's in the Metro Explorer's Program. He was in it since he was 16, and I think he just got accepted in the academy, I'm not sure. But I haven't talked to him in about a year.

Q. Okay.

A. A year or two.

Q. Nothing about that relationship that would cause you difficulty listening to the testimony of a police officer?

A. No, not at all.

Q. Anything else that you can think of that would cause you difficulty in regards to observing, or listening to the testimony of a police officer, and treating it differently than any other witness?

A. No.

Q. You would treat the testimony of a police officer just the same as anybody else?

A. Yes.

Q. No roots in the person?

A. No.

Q. Have you, or anyone close to you, ever been the victim of or accused of any sexual related crime?

A. No.

Q. Have you, or anyone close to you, ever been the victim of or accused of any kind, any other kind of crime?

A. Accused, yeah, from association, but nothing ever happened. I got pulled over in a car when I was a teenager.

Q. You had what?

A. When I was a teenager, I had been pulled over 27 times in a one week period because my car resembled a car that was going around robbing gas stations but it got to a point where they saw, as soon as they pulled me over, they knew who I was by name. Yeah, I got accused, but there were guys.

Q. But you never actually got charged?

A. No, I never got charged.

Q. Okay. Is that the only thing you can think of?

A. Yeah, that's pretty much it.

Q. Okay. Have you ever been on jury duty?

A. No.

Q. Can you think of anything that we haven't touched upon directly that might bear upon your ability to be a fair and impartial juror in this case?

A. Not at all.

Q. Can you withhold forming an opinion about anything that has to do with this case until you have heard all of the evidence, and I have instructed you on the law?

A. Yes.

Q. All right. Do you think that you come to this jury service with a healthy, neutral kind of frame of mind?

A. Yes.

Q. Do you think that if you were one of the litigants, the Defendant or the prosecution in this case that you would be comfortable with somebody being on this jury that has your frame of mind?

A. Absolutely.

THE COURT: Ms. Kollins, you are up.

MS. KOLLINS: Thank you.

VOIR DIRE EXAMINATION OF JUROR BAIRD

BY MS. KOLLINS:

Q. Good afternoon, Mr. Baird. We will not get your wife a transcript of the babysitting being voluntary.

A. I don't believe that she knows.

Q. So we are doing you a slight favor by keeping you here all week?

A. Yes.

Q. And I didn't hear the Judge ask you.

Have you ever known anyone who has been a victim of a sexual assault or any kind of sexual abuse, or any kind of sexual abuse charge?

A. He did ask. No, I don't.

Q. Okay.

And just very briefly, I talked to a couple of people about their expectations from witnesses, and what they know.

Do you have any expectations how a sexual assault or a robbery victim should act while they testify?

A. Not how they should act, no.

Q. Okay.

A. Everybody reacts differently to different situations.

Q. Okay. Anything going on, home life, personal life, that would distract from your service over the next few days?

A. No.

Q. No? No big projects due, or anything like that?

A. No.

MS. KOLLINS: Okay, good.

Pass for cause, Judge.

THE COURT: Mr. Landis?

VOIR DIRE EXAMINATION OF JUROR BAIRD

BY MR. LANDIS:

Q. Good afternoon.

A. Good afternoon.

Q. When you woke up yesterday to your alarm clock, or to your daughter hitting you in the head with cups, you knew there were issues.

A. It was just a cat biting a chipmunk.

Q. Hands on. There was a jury summons sitting on your desk. Did you wake up with a smile or a frown?

A. Actually a smile. I find it intriguing.

Q. Yeah?

A. Yeah, it was kind of -- I would like to be a part of the judicial system. I would like to be a part of the jury.

I would like to -- I have always been a mediator styles type, everyone would come to me with their problems, and I was always the person that would listen to both sides of the story, and bring the two parties together, and they work it out.

Q. Sure.

A. Apparently, it that me and my family, that's how I was raised.

Q. Let's say you came to the Courthouse yesterday, and they gave you two doors, one was a criminal trial, and one was a civil trial.

Obviously, which one would you choose?

A. Machs nichts. It wouldn't make any difference to me, I would say, I wouldn't really care, I mean, I would be more interested in the criminal trial just because of evidence, and, you know, if it's gray, you know, all they do is fight about money so I don't really care that much about civil.

Q. Just like those criminal defense attorneys?

A. But I think the criminal side would be a little bit more interesting than civil.

Q. Let's say that the door choices were either a less serious criminal trial, or a very serious criminal trial? Which door would you choose?

A. Again, probably the more serious.

Q. Why?

A. I like using my brain. I like using my head. I like thinking about things. I like pondering, figuring things out.

I am a strict believer in you are innocent until proven guilty.

Being able to see both sides of the story.

Something less, like, you know, hit a kid with a baseball bat as opposed to a murder trial, you know, there is going to be a whole lot more in depth.

Q. More complicated?

A. I am a more detailed kind of person.

Q. Do you think your role as a juror changes, depending on which one of those doors you choose?

A. No.

Q. How do you feel about the rights of a Defendant not to testify or to remain silent?

A. Well, that's his right. That's why we have this country.

Q. And are you okay with not hearing from the Defendant in a case. Do you think that you would take offense?

A. No.

Q. Do you think that would bother you?

A. No, it wouldn't.

Q. Okay.

A. No, I mean, honestly, I would love to make sure that we are able to hear from him to make sure that it was a fair trial, but it's his right, and, you know, he can exercise his rights.

MR. LANDIS: Thank you, sir.

I will pass for cause, Judge.

THE COURT: Very good.

JUROR BAIRD: You didn't ask me your favorite question.

MR. LANDIS: Can you ask me a question?

JUROR BAIRD: You didn't ask me your question.

I got a pass.

MR. LANDIS: May I renew it?

THE COURT: All right. Go ahead.

BY MR. LANDIS:

Q. I haven't used this question in this trial yet, but it is my favorite.

A. Uh-huh.

Q. Which one is worse, an innocent person getting convicted or a guilty person getting off?

A. If an innocent person gets convicted.

Q. I am going to have to ask you why now, too?

A. Because if a person is guilty, you are going to get caught sooner or later.

MR. LANDIS: Thank you. I will repass for cause.

THE COURT: Okay. Approach the bench.

(Whereupon, a brief, informal discussion was had at the bench between the Court and counsel.)

THE COURT: All right. We are going to ask that Debbie Deschaine and Maryjo Loretto to please step down, and report back to the third floor Jury Commissioner's office, and I appreciate your participation very much.

(Juror Deschaine and Juror Loretto excused at this time.)

THE COURT: And we will replace Debbie Deschaine with Denise Andalon, and we will replace Maryjo Loretto with Everett with Everett Carney.

So, Denise, you will take the last chair on the back row, and Everett, you will take the second chair on the middle row.

VOIR DIRE EXAMINATION OF JUROR ANDALON

BY THE COURT:

Q. Okay. Is it pronounced Andalon?

A. Andalon.

Q. Andalon. Now, Denise, give us a little background. How long have you been in Las Vegas?

A. 14 years.

Q. 14 years?

A. Yes.

Q. And what do you do for a living?

A. Administrative assistant.

Q. To whom, for whom?

A. Tool and equipment, irrigation company.

Q. Okay. Who do you work for? What is the name of the company?

A. Turf Equipment Supply.

Q. Turf, okay, I know them. Are you married?

A. No.

Q. Do you have children?

A. No.

Q. And have you ever been trained in any type of law enforcement?

A. No.

Q. Is anyone close to you employed in law enforcement, any relatives, or close friends?

A. Ex-brother-in-law.

Q. Where is he employed?

A. He was kind of like at the Academy with Metro but after a while he dropped out.

Q. But he dropped out?

A. Yes.

Q. Okay. How long ago was that?

A. I would say less than a year.

Q. Oh, really, okay.

Did you ever discuss his training as a police officer?

A. No.

Q. And anything about the fact that your ex-brother-in-law was in the police academy that would affect your ability to be seated as a juror in a case like this?

A. No.

Q. Anything else that you could think of that would affect your ability to be a juror in the case, and listen to the testimony of a police officer, and treat him any differently than any other witness?

A. No.

Q. Can you listen to the testimony of a police officer and not give it any greater or lesser weight than any non police officer witness?

A. Yes.

Q. Have you, or anyone close to you, ever been the victim of a or accused of any type of sexual offense?

A. Yes.

Q. And who would that be?

A. Me.

Q. What? Tell me about that.

A. I was sexually molested by my stepdad.

Q. How old were you?

A. 12 or 13.

Q. And was it reported?

A. No.

Q. Have you ever told anybody?

A. Yes.

Q. Was there ever any criminal action taken as a result of this?

A. No.

Q. Did this result in any kind of a family dispute?

A. Yes.

Q. And was it the nature of any family breakup of any sort?

A. Yes.

Q. Did -- did it result in like a domestic dispute such that your stepdad and mom get divorced over it?

A. Do I have to say?

Q. No, I mean, we just wanted -- I just wanted to see what kind of an impact this all had, where this all went.

It didn't result in any kind of a criminal case?

A. No.

Q. But it resulted in other adverse consequences?

A. Nothing happened.

Q. Nothing really happened about it?

A. No.

Q. Did it cause any problems between you and your mom?

A. Yes.

Q. And have you been able to get past it?

A. Not really.

Q. So is it still something that it is a sore

spot for you to deal with?

A. Yes.

Q. Is it very emotionally stressful full for you?

A. It can get to that point, yes.

Q. Is that -- is this incident, what happened to you, is it something that would impact your ability to sit as a juror in a case where one of the charges is a sexual assault charge?

A. I don't know, but I think so.

MS. LUZAICH: I would stipulate, Your Honor.

THE COURT: Okay.

MR. BANKS: Stipulate.

THE COURT: Listen, I will tell you what.

There are lots of cases, lots of other litigation going on in this building that doesn't involve this, and why don't we just cut right to the chase. This is probably not the kind of case that you should sit on.

So why don't we go ahead and excuse you, and send you down to the third floor Jury Commissioner's office, and just tell them what happened, the nature of the case, and that you need to be reassigned to something else, okay?

A. Okay, thank you.

THE COURT: Thank you very much. I appreciate

your participation.

(Juror Andalon excused at this time.)

THE COURT: We are going to go ahead and replace Denise with --

THE CLERK: John Little, badge number 235.

THE COURT: John Little, if you will go ahead and take that end chair there in the back row.

VOIR DIRE EXAMINATION OF JUROR LITTLE

BY THE COURT:

Q. Mr. Little, why don't you fill us in a little bit about your background. How long have you been in Las Vegas?

A. Three and three-quarters years.

Q. Three and three-quarters years. Three years and nine months?

A. Yes.

Q. And where are you from originally?

A. Well, I spent a couple of decades in San Francisco.

Q. Would you call yourself a Californian, or a Nevadan?

A. That depends, I've been progressing in Nevada.

Q. Are you employed?

A. Yeah, I am a telemarketer.

Q. Are you somebody that calls my house at six o'clock?

A. Yes.

Q. What do you basically telemarket when you are doing your marketing?

A. What do I market? Home based businesses.

Q. Okay. How long have you been doing that?

A. Since November.

Q. Okay. Before that, have you always been in sales and marketing?

A. Just since I moved to Las Vegas I have.

Q. What did you do before that?

A. I was unemployed for about 10 years. I worked for 17 years at Pacific Medical.

Q. Okay. And what, in sales marketing or in some other type of other technical aspect?.

A. Well, no, it was handling the paper.

Q. Okay. Are you married?

A. No.

Q. Do you have children?

A. No.

Q. Okay. Have you ever been trained in any aspect of law enforcement?

A. No.

Q. You have to answer out loud because he

needs to put your answer down.

A. No.

Q. And do you, or anyone close to you, relatives, close friends, employed in the area of law enforcement?

A. No..

Q. Okay. Have you, or anyone close to you, ever been the victim of, or accused of any type of sexual related offense?

A. Accused or a victim?

Q. Right.

A. My cousin was molested by two different people.

Q. And how long ago was this?

A. It was either two years or three years ago. He was the same age when it happened.

Q. Were there ever any criminal charges brought as a result of what happened to him?

A. I don't think so.

Q. You said this was quite a while back. You guys were just little kids.

A. Right.

Q. To your knowledge, no criminal action was ever taken as a result, is that right?

A. I don't believe so. I'm not certain, but I don't believe so.

Q. Were you pretty close? Was this your cousin?

A. Yes, but we lived in different cities.

Q. Okay. You weren't aware of this at the time it happened?

A. No.

Q. Okay.

Anything about that incident or relationship that would cause you difficulty in sitting on a jury in a criminal case of this nature?

A. No.

Q. Okay. Whatever information, or knowledge, that you experienced as a result of that would not affect your ability to be a juror in this case, is that what you are saying?

A. Yes. No, it wouldn't.

Q. Okay. And were you or anyone close to you been the victim of, or accused of, any other kind of criminal activity?

A. I have been burglarized and mugged.

Q. You have been burglarized and mugged?
Does that mean that you were mugged, you mean robbed?

A. Yeah.

Q. Were these separate occurrences?

A. Yes.

Q. How long ago/?

A. In the '70's.

Q. In the '70's, so somewhere in excess of 20 years ago?

A. Yes.

Q. Anything more recent than that?

A. Nothing comes to mind.

Q. Okay.

Anything about the facts that you may have been the victim of a a mugging, or a robbery, and what else did you say?

A. I think that's all I said.

Q. A burglary? Did you say a burglary?

A. Oh yeah.

Q. Anything about your experience and being victimized in that respect that would cause you difficulty to sitting on the jury in a case like this?

A. I don't think so.

Q. Okay.

What we are looking for are people that can sit on the jury, leave all of that stuff outside. We don't want to leave your common sense outside, but we want to leave all of your past experiences outside so that you can just focus on the evidence that's presented to you in this case and reach a verdict based strictly upon what

you hear and see in this case and upon the instructions that I give you. Can you do that?

A. Well, I don't know if I can follow it. I have trouble focusing, understanding all of the actions.

Q. Is there a medical condition for that?

A. Well, I don't know. Well, my psychiatrist has said that I am manic depressive.

Q. Are you under the care of any psychiatrist?

A. No.

Q. Are you under the care of a doctor for any kind of a medical condition?

A. No.

Q. Do you take any kind of medications for any kind of condition?

A. No.

Q. You said that you have been diagnosed as manic depressive?

A. Yes.

Q. By -- who diagnosed you as manic depressive?

A. My psychiatrist for one day because I think he wants to get me declared for marketing.

Q. Did that work?

A. No. I don't even know. It costs a lot of money. I can't remember now.

Q. Do you have trouble in focusing your attention

on things?

A. Yes.

Q. Do you have trouble attending to matters where you have to recall, and focus, and then recall what you just heard or seen? Does that give you -- does that cause you problems?

A. I usually have to ask have them explained more than once before I understand them.

MS. LUZAICH: The Court's pleasure.

THE COURT: I think, under the circumstances, you probably are not appropriate for at least this kind of a trial.

I will go ahead and excuse you and have you go down to the third floor and report back to them, and just tell them that the Judge says you appeared that you may be unable to have the requisite amount of focus and attention to participate in the process. So just tell them, and if -- you really probably, if you don't want to serve on jury service, you might consider consulting with a physician that can better analyze your condition.

In that way, you can just avoid the whole process all together.

But go ahead, and go on down to the third floor, and you can explain it to them, and they will decide how they want to handle it, okay?

A. You mean, I should get a doctor's note?

Q. Well, you could get a doctor's note. That would be one way to look at it, yes. But I do appreciate your participation, and thank you very much. I know it has been a couple of days.

Thank you.

(Juror Little excused at this time.)

THE COURT: We will replace Mr. Little with --

THE CLERK: Elizabeth Martin, badge number 236.

THE COURT: Elizabeth, if you will take that last chair right there on the top row, I would certainly appreciate it.

VOIR DIRE EXAMINATION OF JUROR MARTIN

BY THE COURT:

Q. Elizabeth.

A. Yes.

Q. How long have you been in Las Vegas?

A. 21 years.

Q. How old are you?

A. 21.

Q. Another native. I don't think I have ever seen this many people from, actually from right here in Las Vegas. Where did you go to school?

A. I went to Truman Elementary.

Q. Where did you go to high school?

A. Las Vegas High School.

Q. That is the new Las Vegas High School?

A. Yes.

Q. Okay. Are you currently going to UNLV?

A. Yes.

Q. What year are you in?

A. First.

Q. Do you work also?

A. Yes.

Q. Where do you work?

A. I work at Clark County Government Center.

Q. The Clark County Government Center over here?

A. It's at 1500 Grand Canyon.

Q. Yeah, that's right over here. If you look out the window, you can see it.

And what do you do for them?

A. I am an office assistant, and I do various things for them.

Q. All right. So you are not married?

A. No.

Q. No children?

A. No.

Q. Okay. Have you ever had any training in law enforcement?

A. No.

Q. Have you any friends that are employed or have been trained law enforcement?

A. No.

Q. Have you or anyone close to you ever been the victim of, or accused of a sexually related crime?

A. No.

Q. Have you, or anybody close to you, ever been accused of any other kind of crime?

A. No.

Q. Have you ever been on a jury before?

A. No.

Q. Can you think of any reason that would impugn or attack your ability to be on a jury in a case like this?

A. No.

Q. And to be fair and impartial?

A. No.

Q. You are 21 years old, did you say?

A. Yes.

Q. There are going to be some people that are going to testify from the State that are about your age. Will that cause you any problems?

A. I don't think it will if it is a short one.

Q. Have you ever been in any kind of -- have you, or any of your friends, ever been in any kind of a spot like anything that you have in this case is going to involve?

A. Not really, no.

Q. Have you, or your friends, ever been in trouble?

A. Not really.

Q. Not really. Not that sort of trouble?

A. No.

Q. Do you understand what I have been explaining about the importance of being able to be a juror in a case like this, and base a verdict on strictly the evidence that you hear in this case, that you hear and see in this courtroom, and on nothing else, and the instructions on the law that I give you.

Do you think that you can do that?

A. Yes.

Q. What is your major at UNLV?

A. English.

Q. What are you going to do when you get out?

A. I don't know yet.

Q. Look for a job?

A. Yes.

Q. Do you think that -- you are pretty young. This might be a little stressful. Can you handle it?

A. I think I can.

Q. Okay. Can you withhold forming an opinion about anything having to do with this trial until you have heard all of the evidence and I instruct you on the law?

A. Yes.

Q. Do you think that you have a good, healthy, middle of the road, neutral frame of mind as you approach this jury duty service?

A. Yes.

Q. Do you think that you would be comfortable if you were the Defendant or the prosecutor in this case having somebody that was on the jury that has your frame of mind?

A. Yes.

THE COURT: Counsel?

VOIR DIRE EXAMINATION OF JUROR MARTIN

BY MS. LUZAICH:

Q. Ms. Martin, what do you think about you that would make you a good juror?

A. I don't know. I listen carefully. I'm pretty open-minded.

Q. Are you open-minded?

A. Yes. .

Q. Listen to both sides?

A. Yes.

Q. Okay. And the fact at 21 you are already three years into college, that's huge, right?

A. Yes.

Q. Are you going to finish next year?

A. Hopefully.

Q. Next time for you for something is when it is 50 years so I take my hat off to you.

You know, it sounds like the Judge was trying to talk you out of it, but you have a good head on your shoulders?

A. Yes. .

Q. You have common sense?

A. Yes.

Q. You are not going to not let anything sway you one way or another, you will just listen to the facts?

A. Yes.

Q. That's what we are looking for in jurors.

What happens if the Judge reads the law to you like he is going to, and you don't agree with some of the law? What are you going to do?

A. Follow the law.

Q. You said you will follow the law whether you agree with it or not?

A. Yes.

Q. Write to your legislature if you want to change it, but follow it anyway?

A. Yes.

Q. What are you studying in school?

A. Mostly college English.

Q. Did you ever take any criminal justice, or anything like that?

A. No.

Q. Not that interested in that?

A. Um, no.

Q. Political science at all?

A. No.

Q. I understand that. That's your opinion.

Is there anything about you that would prevent you from being able to sit in judgment of someone?

A. No.

Q. So if you sit as a juror in this case, and you listen to all the testimony, and see any evidence, if you are convinced beyond a reasonable doubt that the Defendant committed the crimes he is charged with, would you be able to say, guilty?

A. Yes.

MS. LUZAICH: Thank you. Pass for cause.

THE COURT: Mr. Banks, is it your turn?

MR. BANKS: I think it might be. Thank you,
Your Honor.

VOIR DIRE EXAMINATION OF JUROR MARTIN

BY MR. BANKS:

Q. Ms. Martin? Hi, nice to meet you.

Are you the kind of -- let me ask you. Do you
like to argue?

A. No.

Q. Not really?

A. No.

Q. Will you argue if you disagree with someone?

A. Yes.

Q. What if you disagree with 11 people. Let me
ask you:

What if 11 people think that the finding should
be not guilty, and you are the one person that thinks that
Narcus is guilty of what they accused him of?

A. I know that I would want to know that he
is guilty of that. I would want to be sure about it.

Q. Okay.

Are you the kind of person that will let other
people know what it is you feel real strong about?

A. Yes, I would.