

IN THE SUPRME COURT OF THE STATE OF NEVADA

DARWYN ROSS YOWELL,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

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NO. 83577
Feb 01 2022 02:25 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

JOINT APPENDIX TO APPELLANT'S OPENING BRIEF VOL II

MATTHEW PENNELL
Elko County Public Defender
569 Court Street (Physical Address)
571 Idaho Street (Mailing Address)
Elko, NV 89801
NV Bar Number 13298

Attorney for Appellant

AARON FORD
Nevada Attorney General
100 North Carson Street
Carson City, NV 89701
NV Bar Number 7704

TYLER J. INGRAM
Elko County District Attorney
540 Court Street
Second Floor
Elko, NV 89801
NV Bar Number 11819

CHAD THOMPSON
Chief Deputy District Attorney
Elko County District Attorney
540 Court Street
Second Floor
Elko, NV 89801
NV Bar Number 10248

Attorneys for Respondent

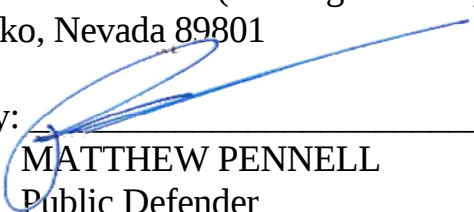
Elko County
Public Defender

1 The Appellant, DARWYN ROSS YOWELL, by his attorney,
2 MATTHEW PENNELL, of the Elko County Public Defender's Office, and
3
4 Respondent, THE STATE OF NEVADA, by its attorney, CHAD B.
5 THOMPSON, appends herewith the following exhibits in support of the Joint
6
7 Appendix:

8	1. Criminal Complaint filed June 15, 2020.....	1-8
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	14. Transcript of Trial Volume 2 Filed November 18, 2021...	368-669
	15. Transcript of Trial Volume 3 Filed November 18, 2021...	670-857
	16. Transcript of Trial Volume 4 Filed Nov 18, 2021.....	858-966

1 RESPECTFULLY SUBMITTED this 31st day of January, 2022.

2
3
4 MATTHEW PENNELL
5 ELKO CO. PUBLIC DEFENDER
6 571 Idaho Street (Mailing Address)
7 Elko, Nevada 89801

8 By: 

9 MATTHEW PENNELL
10 Public Defender
11 Nevada Bar Number 13298
12 mpennell@elkocountynv.net

13 RESPECTFULLY SUBMITTED this 31st day of January, 2022.

14
15 TYLER J. INGRAM
16 ELKO CO. DISTRICT ATTORNEY
17 571 Idaho Street (Mailing Address)
18 Elko, Nevada 89801

19 By: 

20 CHAD B. THOMPSON
21 Chief Deputy District Attorney
22 Nevada Bar Number 10248
23 cthompson@elkocountynv.net

1 CERTIFICATE OF SERVICE BY ELECTRONIC FILING

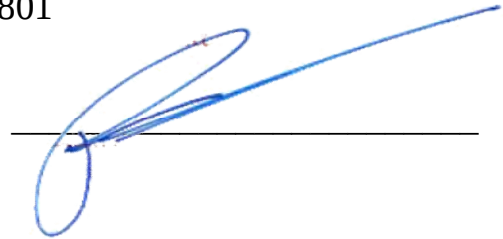
2 I hereby certify, pursuant to the provisions of NRAP 25, that I am an
3 employee of the Elko County Public Defender's Office, and that on the
4 _____ day of 31ST January 2022, I electronically filed a copy of the
5 foregoing, Appendix to Appellant's Fast Track Statement, and the following
6 parties have consented to receive electronic filings in this matter:

7 CLERK OF THE SUPREME COURT
8 Supreme Court Building
9 201 S Carson Street
10 Carson City, NV 89701-4702

11 OFFICE OF THE ATTORNEY GENERAL
12 100 N. Carson Street
13 Carson City, NV 89701-4717

14 CHAD THOMPSON
15 ELKO COUNTY DISTRICT ATTORNEY'S OFFICE
16 540 Court Street
17 Elko NV 89801

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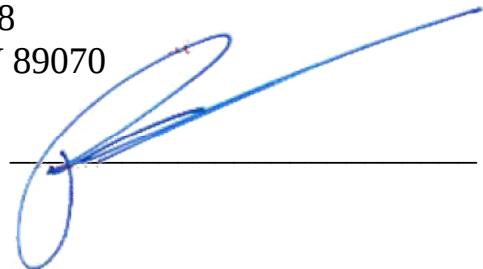


30 CERTIFICATE OF MAILING

31 I hereby certify, pursuant to the provisions of NRAP 25, that I am an
32 employee of the Elko County Public Defender's Office, and that on the 31ST
33 day of January, 2022, I mailed and postage prepaid, a copy of the foregoing
34 Appendix to Appellant's Fast Track Statement to the following:

35 DARWYN R. YOWELL #1249369
36 SDCC
37 P.O. Box 208
38 Indian Springs NV 89070

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FILED

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ELKO CO DISTRICT COURT

IN THE FOURTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF ELKO,
BEFORE THE HONORABLE MASON SIMONS, DISTRICT JUDGE

CLERK _____ DEPUTY mm

-oOo-

STATE OF NEVADA,

Plaintiff,

Case No. DC-CR-20-159

V.

Dept. No. 3

DARWYN ROSS YOWELL,

Defendant.

COPY

Transcript of Proceedings

Jury Trial

Volume I

June 14, 2021

Elko, Nevada

Transcribed By: Julie Rowan - (775) 745-2327

A P P E A R A N C E S

For the Plaintiff: Chad Thompson, Esq.
Elko County District Attorney's
Office
540 Court Street, 2nd Floor
Elko, NV 89801

For the Defendant: Matthew Pennell, Esq.
Elko County Public Defender's
Office
571 Idaho Street
Elko, NV 89801

-oOo-

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1 JUNE 14, 2021, ELKO, NEVADA

2 -oOo-

3 THE COURT: Okay, good morning. I'm District
4 Judge Mason Simons. I'm the District Judge in the
5 newly-created third department of the Fourth Judicial
6 District Court. Welcome to our substitute courtroom
7 here in the Elko County Commission Room.

8 Thank you for doing your civic duty and
9 appearing here today for jury service. We will do
10 everything we can to ensure that your experience with
11 jury service is positive and that we take care of your
12 needs while you're here.

13 The time is 9:13 a.m., and the date is
14 Monday, June 14th, 2021. We are now on the record in
15 Case No. DC-CR-20-159, State of Nevada versus Darwyn
16 Ross Yowell. This is a criminal jury trial. This trial
17 is scheduled to last for four days, today through
18 Thursday, June 17th, 2021. It is also possible that the
19 trial could end early and not go as long as anticipated,
20 but you should be prepared to go for four full days.

21 We have posted a list of witnesses that are
22 anticipated to be called to testify during this trial.
23 That's over here on the screen to your right. Please
24 take a look at that list and take note of anyone you
25 know on that list, and I'll be asking you about that

1 later on during the proceedings.

2 You have been called upon to serve as jurors
3 in this case. Our nation has traditionally placed great
4 faith in its citizens as jurors to reach fair and
5 objective decisions in matters of importance. We ask
6 you now to share in this tradition and look upon your
7 service as both a privilege and responsibility of
8 citizenship. We ask you to serve willingly so that all
9 persons who come before this Court will have the
10 advantage of your fair and unbiased judgment.

11 Trial by a jury of our peers is essential to
12 the function of our democratic system of Government.
13 John Adams, the second President of the United States
14 and one of our framers -- the framers of our
15 Constitution, is quoted as saying, representative
16 Government and trial by jury are the heart and lungs of
17 liberty. Thank you for giving breadth to our
18 constitutional system.

19 I introduced myself at the beginning of the
20 proceeding. I want to take a moment to introduce the
21 Defendant and his counsel and the attorney who will be
22 representing the State of Nevada in this case. So over
23 here to my left on the far side of this table here is
24 Mr. Darwyn Ross Yowell. He's the Defendant. Seated
25 over on the other side of the table is Matthew Pennell.

1 He is Mr. Yowell's counsel, and he'll be representing
2 Mr. Yowell during these proceedings.

3 We do have over here to my right Chief Deputy
4 District Attorney Chad Thompson. He's representing the
5 State of Nevada in this case.

6 Is Ms. Yell going to be with you today?

7 MR. THOMPSON: (No audible response)

8 THE COURT: Okay. We do have along with
9 Mr. Pennell as well, this is Jordan Ramirez. This is
10 another employee that works in Mr. Pennell's office, and
11 she'll be assisting Mr. Pennell during these
12 proceedings.

13 I also want to introduce the court staff
14 members who will be assisting during these proceedings
15 and with whom you may come into contact during this jury
16 trial. In the back of the room, you've probably already
17 met him, this is Luiz Carlos Nunes. He's the Court
18 bailiff, he's in the gray suit, and he'll be providing
19 security for our court proceedings. Over here to my
20 right seated on the dais here is AJ Hakimi. He's the
21 Court's law clerk. He does -- he performs legal
22 research and will be assisting me during the jury trial.

23 Over here to my left is Brandi McConnell.
24 She's the court clerk. She'll be swearing in the
25 witnesses, marking exhibits, keeping track of evidence,

1 preparing minutes or descriptions of the proceeding for
2 the official record. Over here to my left, this is
3 another employee from my office, Maritza Martinez, and
4 she's going to be assisting in the jury selection
5 process here this morning.

6 A hundred and ten prospective jurors were
7 summoned to appear for this jury trial. It looks like
8 56 have actually appeared. At this time, does either
9 counsel wish to present a challenge to the prospective
10 jury panel as a whole?

11 MR. THOMPSON: No.

12 MR. PENNELL: No, Your Honor.

13 THE COURT: Does counsel stipulate to proceed
14 in the absence of the prospective jurors who failed to
15 appear?

16 MR. THOMPSON: Yes.

17 MR. PENNELL: So stipulated.

18 THE COURT: Okay. If you'll please make sure
19 your microphones are on. I'm not sure if they're on or
20 not.

21 The Court will direct our deputy court clerk,
22 who is present with us here in the courtroom, to request
23 that the Elko County Jury Commissioner send letters to
24 all the prospective jurors who failed to appear today as
25 required.

1 I will now have Brandi McConnell, our deputy
2 court clerk, read the amended criminal information for
3 our prospective jurors. The criminal information is the
4 charging document that has been filed in this case so
5 please listen carefully. If you'll speak directly into
6 that microphone.

7 THE CLERK: Case No. DC-CR-20-159, Department
8 No. 3, in the Fourth Judicial District Court of the
9 State of Nevada, in and for the County of Elko, the
10 State of Nevada, Plaintiff, versus Darwyn Ross Yowell,
11 Defendant.

12 Comes now the State of Nevada, the Plaintiff
13 in the above-entitled cause, by and through its counsel
14 of record, the Elko County District Attorney's Office,
15 and informs the above-entitled court that the Defendant
16 above-named, on or about the 5th day of June, 2020, at
17 or near the location of the City of Elko, under/or
18 SR 227 and/or SR 288, within the County of Elko and the
19 State of Nevada, committed a crime or crimes described
20 as follows:

21 Count 1, kidnapping in the first degree, a
22 felony, that the Defendant did willfully and unlawfully
23 seize, confine, inveigle, entice, decoy, abduct,
24 conceal, kidnap, or carry away another person, to-wit
25 Jean Ortega, with the intent to hold or detain or held

1 or detained the victim for ransom or reward or for the
2 purpose of committing sexual assault, extortion, or
3 robbery upon or from the victim or for the purpose of
4 killing the victim or inflicting substantial bodily harm
5 upon the victim or to exact money or valuables from
6 others for the return or disposition of the victim by
7 the following manner:

8 By taking Ms. Ortega in her car and driving
9 her out to the South Fork and/or Lee area on SR 227
10 and/or SR 228 in order to kill her by stating he was
11 going to the reservation to get a shotgun to kill her
12 and/or while driving her out to that area, the Defendant
13 did hit or punch or strike the victim resulting in
14 substantial bodily harm, specifically a brain bleed
15 and/or concussion and/or prolonged physical pain due to
16 her injuries and/or disfigurement and/or some other
17 injury as yet unknown, which may qualify under NRS 0.060
18 and/or by robbing her of her possessions, to include,
19 but not limited to her keys and/or purse and/or driver's
20 license, which occurred after the battery and leaving
21 her at the area of SR 228, mile marker 16, and/or by
22 some other manner or means as yet unknown;

23 Or in the alternative to Count 1, Count 2,
24 kidnapping in the second degree, a category B felony,
25 that the Defendant did willfully and unlawfully seize,

1 inveigle, take, carry away or kidnap another person,
2 Jean Ortega, and the Defendant did so with the intent to
3 keep the said person secretly imprisoned within the
4 State of Nevada and/or for the purpose of conveying said
5 person out of the State of Nevada without lawful
6 authority and/or to hold said person in any manner to
7 service or to detain said person against their will.

8 The Defendant committed said offense in the
9 following manner: By taking Ms. Ortega against her will
10 in her car to the South Fork/Lee area of Elko County
11 and/or to the Lee Reservation and/or by some other
12 manner or means as yet unknown;

13 Or in the alternative to Counts 1 and 2,
14 Count 3, coercion, a category B felony, that the
15 Defendant, with the use of physical force or the
16 immediate threat of physical force did willfully and
17 unlawfully use violence or did inflict injury upon
18 Jean Ortega or did threaten to use violence or inflict
19 injury upon Jean Ortega or did deprive Jean Ortega of
20 any tool, implement, or clothing or hinder the person in
21 the use thereof or did attempt to intimidate Jean Ortega
22 by threats of force and that the Defendant did so with
23 the intent to compel Jean Ortega to do or abstain from
24 doing an act, which Jean Ortega had a right to do or
25 abstain from doing, to-wit:

1 By hitting or striking Ms. Ortega in the head
2 or body to compel her to go with him to the South Fork
3 or Lee area, via SR 227 and/or SR 228 and/or to allow
4 the Defendant to use her vehicle to go there and/or to
5 compel Ms. Ortega to allow him to take her keys and/or
6 car and/or purse and/or driver's license and/or when
7 Ms. Ortega told the Defendant she didn't want to go to
8 South Fork and/or Lee by not letting her out of the
9 vehicle when she tried to get out or attempt -- made
10 attempts to get out and/or by some other manner or means
11 as yet unknown.

12 In addition to Count 1 through 3, Count 4,
13 domestic battery resulting in substantial bodily harm, a
14 category B felony, that the Defendant willfully and
15 unlawfully used force or violence upon Jean Ortega in
16 the following manner: By hitting her or striking her
17 multiple times in the head or face.

18 Furthermore, the battery resulted in
19 substantial bodily harm to the victim described as
20 follows: A brain bleed and/or concussion and/or
21 prolonged physical pain due to her injuries and/or
22 disfigurement and/or some other injury as yet unknown,
23 which may qualify under NRS 0.060.

24 The Defendant's relationship to the victim
25 above-named is one of the following: A spouse, former

1 spouse, a relative by blood or marriage, a person with
2 whom the Defendant has had or is having a dating
3 relationship, a person with whom the Defendant has a
4 child in common and/or the minor child of any of the
5 above-indicated victims of the Defendant's minor child;

6 Or in the alternative to Count 4, Count 5,
7 battery resulting in substantial bodily harm, a category
8 C felony, that the Defendant willfully and unlawfully
9 used force or violence upon the person of Jean Ortega in
10 the following manner: By the same manner or means in
11 Count 3. Further, the force or violence resulted in the
12 affliction of substantial bodily harm within the meaning
13 of NRS 0.060 described as follows:

14 A brain bleed and/or concussion and/or
15 prolonged physical pain due to her injuries and/or
16 disfigurement and/or some other injury as yet unknown,
17 which may qualify under NRS 0.060.

18 All of which is contrary to the form of the
19 statute in such cases made and provided and against the
20 peace and dignity of the State of Nevada.

21 Dated August 14th, 2020, signed Justin
22 Barainca.

23 Comes now the State of Nevada by -- through
24 its counsel and record of the Elko County District
25 Attorney's Office and specifically by the Deputy

1 District Attorney assigned the above-entitled matter,
2 who, by his signature hereunder, would declare to the
3 above-entitled court that it is the State's counsel's
4 estimate that four days, including jury selection,
5 should be set aside for the jury trial of this matter to
6 which the Defendant has previous pled not guilty.

7 THE COURT: I want to remind everyone that
8 the criminal information that was just read to you,
9 that's what we call the charging document in this case,
10 is not evidence of anything. It is simply an allegation
11 for purposes of bringing the Defendant into court to
12 answer the charges here today.

13 A defendant in a criminal case is presumed to
14 be innocent of the charges until his guilt is proven
15 beyond a reasonable doubt by the State of Nevada, and in
16 case of a reasonable doubt, whether the Defendant -- the
17 Defendant's guilt is satisfactorily shown, the Defendant
18 is entitled to be acquitted.

19 In other words, the State of Nevada has the
20 burden of proving beyond a reasonable doubt that the
21 Defendant is, in fact, guilty of the charged offenses.
22 A reasonable doubt is one based on reason. It is not
23 mere possible doubt, but is such a doubt as would govern
24 or control a person in the more weighty affairs of life.
25 If the minds of the jurors, after the entire comparison

1 and consideration of all of the evidence are in such a
2 condition that they can say they feel an abiding
3 conviction of the truth of the charge, there is not a
4 reasonable doubt. Doubt to be reasonable must be
5 actual, not mere possibility or speculation.

6 The purpose of this trial is to determine
7 whether the Defendant is guilty or not guilty of each
8 charge. It is the jury's job to make that
9 determination. To make that determination, the jury has
10 the duty to determine the facts from the evidence
11 presented at trial.

12 In our system of trial by jury, the jurors
13 are the factfinders. At the same time, it is the
14 Court's duty to determine the law that applies to the
15 case. As Judge, I will accept the jury's findings of
16 fact. At the same time, the jury must accept and apply
17 my instructions as to what the law is in this case.

18 A jury trial is a truth-seeking process that
19 starts with jury selection. I will briefly outline the
20 format that this jury trial will take from start to
21 finish. The first step of the process is jury
22 selection, also known as voir dire, which is a Latin
23 term that means to speak the truth.

24 During jury selection, prospective jurors
25 will answer a series of questions by the Court and by

1 the attorneys that are designed to determine if you will
2 be able to be fair and impartial in this case. This
3 will result in the selection of 12 jurors and 2
4 alternates for our case.

5 Once a jury has been selected, the case will
6 begin with opening statements from the Prosecution and
7 the Defense. The Defense can also elect to reserve
8 their opening statement until after the State has
9 concluded their case-in-chief.

10 The State will then proceed with their
11 case-in-chief where they will present the testimony and
12 evidence in support of their case. The Defense goes
13 next and presents their case-in-chief. Keep in mind,
14 the Defense does not have the burden of proof and is not
15 required to present any evidence.

16 The State then gets a chance to present
17 rebuttal evidence, and finally the Defense gets a chance
18 to present what is known as surrebuttal. That closes
19 the evidentiary portion of the case.

20 The Court will then read a series of jury
21 instructions to the jury, which is the law that governs
22 this case. The State will then give their closing
23 statement, which is a summation of the evidence in
24 argument about what they believe the outcome of the case
25 should be. The Defense will then present their closing

1 arguments. The State, as they have the burden of proof,
2 will then give their final rebuttal arguments to the
3 jury.

4 The case will then be submitted to the jury
5 and deliberations will begin. Once a jury reaches a
6 verdict, that verdict will be returned to the Court, and
7 that will conclude your jury service.

8 I want to speak now about the goals of the
9 jury selection process. The goal of the jury selection
10 process is to find 12 people to sit in judgment of the
11 facts. It is critical that these individuals be able to
12 consider the evidence fairly and impartially to both the
13 State of Nevada and the Defendant, Mr. Yowell.

14 We are about to begin the voir dire process
15 where prospective jurors will be asked a series of
16 questions under oath, which is designed to find suitable
17 jurors for this case. If all of the prospective jurors
18 will please stand and raise your right hand as the court
19 clerk administers the oath to the prospective jurors.

20 THE CLERK: Do you and each of you solemnly
21 swear or affirm under the pains and penalties of perjury
22 that you will well and truly answer all questions put to
23 you touching upon your qualifications to serve as jurors
24 in the case now pending before this Court, so help you
25 God?

1 THE PROSPECTIVE JURORS: (Affirmative)

2 THE COURT: Thank you, please be seated.

3 The process will begin with a selection of
4 the names of 32 jurors at random to have a seat in the
5 32 numbered seats that the Court will refer to,
6 generally, as the box. These are the seats over here to
7 my right.

8 Once we start with the questioning, these
9 questions will be answered directly by the prospective
10 jurors that are seated in the 32 chairs referred to as
11 the box. However, the other prospective jurors that are
12 seated in the room should still be paying close
13 attention to all of these questions.

14 If and when we need to bring additional
15 prospective jurors into the box, we will ask you whether
16 or not you would have answered in the affirmative to any
17 of the prior questions that had been asked. So please
18 pay close attention to the questions that are being
19 asked even if you are not one of the seated jurors in
20 the box area.

21 If it becomes necessary to take a break
22 during the jury selection process, please make note of
23 the person sitting to your left and to your right and
24 make sure you return to the exact same seat that you
25 were previously seated in.

1 I want to speak just briefly about the duties
2 of the attorneys in this case. The attorneys are
3 advocates for their respective clients, Mr. Yowell and
4 the State of Nevada. They are members of the State Bar
5 of Nevada and are officers of the court. These
6 attorneys are obligated to follow mandatory ethical
7 standards and guidelines.

8 Even if you know one or both of the attorneys
9 or have had contact with them at some point, you will
10 find that they will be a bit standoffish, possibly to
11 the point of being rude. That is exactly what the
12 attorneys are supposed to do. They have an ethical duty
13 not to curry favor with jurors or prospective jurors.
14 So if they avoid contact and conversation with you,
15 don't hold it against him. They are simply doing their
16 jobs and following the orders of the Court.

17 The attorneys' obligation to stay away from
18 you also extends to their assistants and other court
19 personnel here in the courtroom. If you have a question
20 or concern that needs immediate attention, your point of
21 contact is the court bailiff -- that's Mr. Nunes in the
22 gray suit at the back of the room -- and he will note
23 your question or concern and pass it on to me, and we
24 will get it addressed.

25 Just briefly, let me touch on jury fees and

1 travel expenses. The amount of money you receive as
2 compensation for serving on a jury is determined by the
3 Nevada Legislature. The Court has no involvement in the
4 setting of these amounts. If you are selected to serve
5 on the jury as an alternate, you will be paid \$40 per
6 day. These will be paid to you after the conclusion of
7 the case at end of the week.

8 You can accept those fees, or if you would
9 like, the fees can be donated, and those monies will go
10 to a fund for abused and neglected children here in Elko
11 County. If you traveled more than 30 miles to get here
12 today, you are entitled to be paid for your mileage. If
13 your home is more than 65 miles away and you are
14 selected to serve on the jury, you are entitled to be
15 paid an allowance for lodging as well. Lodging is paid
16 at the rate of \$70 per day.

17 We are about to begin the jury selection
18 process, which is called voir dire. If you are selected
19 to have a seat in the box, you will be asked to answer a
20 series of questions by the Court or counsel for the
21 parties. These questions are not intended to embarrass
22 you or to reveal any confidential information to the
23 public. If you would prefer to answer any of the
24 questions privately, just raise your hand and let us
25 know, and we'd be happy to allow you to approach the

1 dais up here and answer the questions privately outside
2 of earshot of the other prospective jurors.

3 When you're asked questions, please answer
4 the question posed to you openly, honestly, and
5 completely. This is the only way that we will get a
6 panel of jurors that will be completely fair and
7 impartial.

8 At this point, what I'm going to do is we
9 have about eight jurors that are seated over here in the
10 box area. I'm going to have you stand up. I'm going to
11 have you come over here along the wall here, and we're
12 going to begin calling numbers at random and filling in
13 the box area. You are welcome, as soon as there's open
14 seats in this main portion of the seating area, to have
15 a seat in one of those available seats.

16 JURY SELECTION

17 THE COURT: Okay, 39, that is Cody Kirby.
18 You're going to have a seat in seat number 1. Juror No.
19 20, Mary Borden, you'll have a seat in seat number 2.
20 Juror No. 34, David Gubler, you're in seat number 3.
21 Juror No. 6, Erica Thompson, you'll be in seat number 4.
22 Juror No. 17, Jennifer Bondelie, you're in seat number
23 5. Juror No. 31, David Goodrich, you'll be in seat
24 number 6. Juror No. 27, Cynthia Arnett, you're in seat
25 number 7. Juror No. 46, Shanna Stevenson, you're in

1 seat number 8. Juror No. 1, Julius Stieger, you're in
2 seat number 9. Juror No. 45, Jennifer Huddleston,
3 you'll be in seat 10. Juror No. 4, William Wilkinson,
4 you'll be in seat number 11. Juror No. 2, Tricia Evans,
5 you'll be in seat number 12. Juror No. 36, Rebecca
6 Hansen, you'll be in seat 13. 35, Mary Seal, you're in
7 seat 14. Juror No. 19, Cassy Meade, you're in seat 15.
8 Juror No. 54, Theresa Nutting, you are seat 16. Juror
9 No. 25, Jared Moffitt, you're in seat 17. Juror No. 9,
10 Steven Gress, you're in seat 18. Juror No. 38, Rhonda
11 Powrie, you're in seat 19. Juror No. 11, Hiliana
12 Gonzales, you're in seat 20. Juror No. 26, Rye McKay,
13 you're in seat 21. Juror No. 8, Melinda Lonergan,
14 you're in seat 22. Juror No. 15, Anna Taylor, you're in
15 seat 23. Juror 42, Raechelle Bogdon, have a seat in
16 seat 24. Juror No. 3, Pamela Case-Borda, you're in seat
17 number 25. 23, James Kennedy, you're in seat 26. 37,
18 Kenneth Griswold, seat 27. Juror No. 44, Toril Tapia,
19 you're in seat 28. 51, Anthony Bauer, you're in seat
20 29. Juror No. 13, John Nelson, you're in seat 30. 53,
21 Robert Byram, you're in seat 31. Juror No. 12, William
22 Hylton, you're in seat 32.

23 Okay. So the first part of this process is
24 -- and, hopefully, everyone can see. I know it's kind
25 of hard to see from across the room with the small type

1 on the screen, but if you look on the left-hand side of
2 the screen, there are a series of six questions that are
3 on the left-hand side of the screen.

4 Mr. Thompson.

5 MR. THOMPSON: Can I have a quick sidebar?

6 THE COURT: Yes.

7 (Whereupon, sidebar off the record)

8 THE COURT: Mr. Nunes, I think there was one
9 of the jurors that on their questionnaire had noted that
10 they were hearing impaired. So if -- can we track down
11 one of those hearing devices to provide -- I think it's
12 Ms. Nutting.

13 Where are you Ms. Nutting?

14 Are you having any difficulty hearing us?

15 MS. NUTTING: (No audible response)

16 THE COURT: No, okay. We're going to track
17 down one of those little hearing devices. If you need
18 it at any point, just let us know and we'll give it to
19 you.

20 What's going to happen is we're going to
21 start with Juror No. 1 -- in seat number 1, excuse me,
22 back in the corner, and you're going to stand and you're
23 going to answer these questions. When you get to the
24 question about occupation, if you're retired, please
25 tell us what you're retired from, what you did before

1 you retired, or if you're unemployed, what was the last
2 job that you had before you came unemployed.

3 So I'm going to just give you an example of
4 how to answer these questions here. So my name is Mason
5 Simons. I am a Judge. My wife serves on the Elko City
6 Council, and she's a homemaker. I have four children.
7 My oldest is 15. I have a 13-year-old, a 10-year-old,
8 and a 5-year-old, and I live -- I've lived in Elko
9 County for over 15 years, and I live in the City limits
10 of Elko.

11 Okay. So what we're going to do -- it's
12 important that you speak directly into the microphone.
13 So what will happen is Bailiff Nunes is going to pass
14 you the microphone. Please stand up and speak loudly
15 and clearly into the microphone and answer the six
16 questions.

17 MR. KIRBY: Thank you. My name is Cody
18 Kirby. I'm a park ranger technician. My fiance is a
19 geologist with Nevada Gold. No children. I've lived in
20 Elko County a little under two years up near Wild Horse
21 Reservoir.

22 THE COURT: Okay. Thank you very much,
23 Mr. Kirby. Let's move on to the juror in seat number 2,
24 Ms. Borden.

25 MS. BORDEN: My name is Mary Melinda Borden.

1 I am retired from the Elko County Sheriff's Office. My
2 husband works at Newmont Gold as a security guard. I
3 have three adult children. I live in Elko, and I've
4 lived here for 40 years.

5 THE COURT: Thank you, Ms. Borden. Let's
6 move over to seat number 3, Mr. Gubler.

7 MR. GUBLER: My name is Dave Gubler. I'm an
8 accountant. My spouse is a homemaker. I have two
9 children. I've lived in Elko a little over 21 years,
10 and I live in Elko.

11 THE COURT: And who are you an accountant
12 for?

13 MR. GUBLER: Newmont.

14 THE COURT: Okay, thank you. Ms. Thompson in
15 seat number 4.

16 MS. THOMPSON: Hi, I'm Erica Thompson. I'm a
17 GSL at Pilot Flying J Corporation in Carlin. I'm
18 widowed. I don't have any children. I've lived in Elko
19 County for 42 years, and I live in Carlin.

20 THE COURT: What's a GSL?

21 MS. THOMPSON: It's a manager.

22 THE COURT: Oh, okay.

23 MS. THOMPSON: Yeah.

24 THE COURT: Perfect, thank you. And if
25 you're wearing a mask, when you answer the questions,

1 you're welcome to pull down your mask just so we can
2 hear you easier.

3 The juror in seat number 5, Jennifer
4 Bondelie.

5 MS. BONDELIE: Yes. My name is Jennifer
6 Bondelie. I'm office manager at Aspen Veterinary
7 Clinic. My husband works for Nevada Gold Mines. He
8 drives a truck. I have one 13-year-old son. I've lived
9 in Elko County for 20 years, and I live in Spring Creek.

10 THE COURT: Thank you, Ms. Bondelie. Let's
11 move on to the juror in seat number 6, Mr. Goodrich.

12 MR. GOODRICH: My name is Dave Goodrich. I
13 work for Ames Construction as a field service oiler. My
14 spouse is retired, manager of an RV park. I have four
15 grown children. I've lived in this county 20 years, 21
16 years in the City of Carlin.

17 THE COURT: Thank you, Mr. Goodrich. Lets
18 move on to the juror in seat number 7, Ms. Arnett.

19 MS. ARNETT: My name is Cynthia Arnett. I'm
20 a mental health counselor at NYTC. My spouse is a
21 commercial truck driver for Capurro Trucking. I have
22 zero -- well, I have two grown stepchildren, zero
23 children, and I've lived in Elko County for about a year
24 and seven months, and I live in Elko.

25 THE COURT: Thank you, Ms. Arnett. Let's

1 move over to Ms. Stevenson in seat number 8.

2 MS. STEVENSON: My name is Shanna Stevenson.
3 I'm a stay-at-home mom. My partner is in construction.
4 I have an 11-year-old and a four-year-old. I lived in
5 Elko for 37 years, and I live in the City limits.

6 THE COURT: Thank you. Let's move over to
7 seat number 9, Mr. Stieger.

8 MR. STIEGER: My name is Julius Stieger. I'm
9 the general manager for Long Canyon Mine, Nevada Gold
10 Mine's Long Canyon mine. My spouse is an instructor at
11 Great Basin College. We have no children. Lived in
12 Elko County for 24 years, and I live in the Elko City
13 limits.

14 THE COURT: Thank you, Mr. Stieger. Let's
15 move over to seat number 10, Ms. Huddleston.

16 MS. HUDDLESTON: My name is Jennifer
17 Huddleston. I'm a former aircraft mechanic for El Aero
18 Services. My husband's a Sheriff's deputy for Elko
19 County. I have two children, a 13-year-old daughter and
20 a 12-year-old son, and I've lived here for eight years
21 in City limits.

22 THE COURT: Thank you, Ms. Huddleston. Let's
23 move over to seat number 11, Mr. Wilkinson.

24 MR. WILKINSON: Hi, my name is William
25 Wilkinson. My occupation is security officer for Nevada

1 Gold. I am single. I have two adult children; one
2 daughter and one son. I've lived in the County for 12
3 years, and I live in the City of Elko.

4 THE COURT: Thank you, Mr. Wilkinson. Let's
5 move over to seat number 12, Ms. Evans.

6 MS. EVANS: My name is Tricia Evans. I'm a
7 mineral resource manager for Nevada Gold Mines. I am
8 single. I have two teenage children. I've lived in
9 Elko County for five years, and I'm in City limits.

10 THE COURT: Thank you, Ms. Evans. Let's move
11 over to Ms. Hansen in seat 13.

12 MS. HANSEN: My name is Rebecca Hansen, go by
13 Becky. I am the landfill scale attendant for the City
14 of Elko. My husband works at Nevada Gold Mines. He's a
15 tool room attendant, former mechanic. I have two
16 children and have lived in Elko County for 24 years. I
17 live in Ryndon.

18 THE COURT: Thank you, Ms. Hansen. Let's
19 move over to seat 14, Ms. Seal.

20 MS. SEAL: My name is Mary Seal. I'm a
21 supervisor at the Welfare office. My spouse is a
22 salesman for Breakthru Beverage. We have two grown
23 children. I've lived in Elko County for 59 years, and I
24 live in Elko.

25 THE COURT: Thank you, Ms. Seal. Let's move

1 over to seat 15, Ms. Meade.

2 MS. MEADE: My name is Cassy Meade. I am an
3 open pit dispatcher for Nevada Gold Mines. My husband
4 is the IT manager for Elko Federal Credit Union. We
5 have one 15-year-old daughter. I have lived in Elko for
6 35 years and currently live in Spring Creek.

7 THE COURT: Thank you, Ms. Meade. Let's move
8 over to seat 16, Ms. Nutting.

9 MS. NUTTING: My name is Theresa Nutting. I
10 am a teacher for the Elko County School District. My
11 husband is a mechanic/welder at Nevada Gold Mine --
12 Nevada Gold Mines. I have two grown children. I've
13 lived in Elko County for 50 years, and I live in Elko.

14 THE COURT: Thank you, Ms. Nutting. Let's
15 move over to seat 17, Mr. Moffitt.

16 MR. MOFFITT: The name is Jared Moffitt. I'm
17 a supervisor for Spring Creek Association. My wife
18 stays at home. I have zero children. I've lived in
19 Elko County approximately 16 years, and I live in Spring
20 Creek.

21 THE COURT: Thank you, Mr. Moffitt. Let's
22 move over to seat number 18, Mr. Gress.

23 MR. GRESS: My name is Steven Gress. I'm a
24 school bus driver, and my wife, she's -- cleans houses.
25 And I have one child, and I've lived in Elko -- I've

1 been here about 23 years, and I live within the City
2 limits.

3 THE COURT: Thank you, Mr. Gress. Let's move
4 over to seat number 19, Ms. Powrie. I'm not sure I
5 pronounced that right or not.

6 MS. POWRIE: Yes. My name is Rhonda Powrie.
7 I'm recently retired from -- I was a lead cashier at
8 Maverick in Spring Creek. My husband is retired. I
9 have one grown child. I've lived in Elko County for
10 about 51 years, and I live out in Pleasant Valley.

11 THE COURT: Thank you, Ms. Powrie. Let's
12 move on to seat number 20, Ms. Gonzales.

13 MS. GONZALES: My name is Hiliana Gonzales.
14 I work in the gift shop in Cactus Petes. I'm single, no
15 kids. I've lived in Elko 30 years, and I live in
16 Jackpot.

17 THE COURT: Thank you, Ms. Gonzales. Let's
18 move over to seat number 21, Mr. McKay.

19 MR. MCKAY: My name is Ryan McKay . I'm a
20 rancher. My wife is a school teacher. We have two
21 children, 16 and 18. I've lived in Elko County 25 years
22 in Clover Valley.

23 THE COURT: Thank you, Mr. McKay. Let's move
24 over to seat 22, Melinda Lonergan.

25 MS. LONERGAN: Yes. My name is Melinda

1 Lonergan. I'm a GM at Flying J in Wells. I'm single.
2 I have two grown children. I've lived in Elko County
3 for 13 years, and I live in Wells.

4 THE COURT: Okay, thank you. Ms. Taylor in
5 seat number 23.

6 MS. TAYLOR: My name is Anna Taylor. I'm a
7 dental assistant for Marina Hills Dental. I'm single.
8 I have no children. I've lived in Spring Creek for four
9 years.

10 THE COURT: Thank you, Ms. Taylor. Let's
11 move over to seat 24, Ms. Bogdon.

12 MS. BOGDON: My name is Raechelle Bogdon.
13 I'm a site CFO for Nevada Gold Mines. My husband is a
14 barber. I have two adult children. I've lived in Elko
15 County for years and in Spring Creek.

16 THE COURT: Where is your husband a barber
17 at?

18 MS. BOGDON: Downtown Barber Shop.

19 THE COURT: Okay, thank you. Okay, let's
20 move over to seat 25, Ms. Borda.

21 MS. BORDA: My name is Pam Case-Borda. I am
22 recently retired from Elko County as the economic
23 development director for the five northeastern mining
24 counties. I am now a full-time caretaker for my elderly
25 mother. My husband works for Great Basin Water, and I

1 have one adult child who is diseased. And I've been in
2 Elko County for 18 years and live in Western Hills.

3 THE COURT: Thank you, Ms. Borda. Let's move
4 over to seat 26, Mr. Kennedy.

5 MR. KENNEDY: My name is Jim Kennedy. I'm a
6 sales manager for Rocky Mountain Machine Shop. I'm
7 single. No children. I've lived in Elko County for 35
8 years. I live in Spring Creek.

9 THE COURT: Thank you, sir. Let's move over
10 to seat number 27, Mr. Griswold.

11 MR. GRISWOLD: Hi, my name is Ken Griswold.
12 I'm retired from the School District. I was a building
13 superintendant. I'm married, and me and my wife have
14 three kids. And I've lived in Elko for 64 years, and I
15 live in Elko.

16 THE COURT: What does your wife do for a
17 living?

18 MR. GRISWOLD: Oh, she's a homemaker.

19 THE COURT: A homemaker, okay.

20 MR. GRISWOLD: (Indiscernible), I guess.

21 THE COURT: Okay, thank you. Let's move over
22 to seat 28, Toril Tapia.

23 MS. TAPIA: Yeah, my name is Toril Tapia. I
24 am a general manager for UEC Theaters. I'm a bookkeeper
25 for Stanfill Consulting and a substitute teacher for the

1 Elko County School District. My husband is a senior
2 pharmaceutical technician for Golden Health pharmacy. I
3 don't have any children, and I live -- have lived in
4 Elko County for 26 years, and I live in the City limits.

5 THE COURT: Thank you. Let's move over to
6 seat 29, Mr. Bauer.

7 MR. BAUER: Yeah, my name is Anthony Bauer.
8 I'm a plant manager for Ormat Technologies. My wife
9 works for Boart Longyear in contract development. I
10 have two children. Lived here for 22 years out in
11 Spring Creek.

12 THE COURT: Thank you. Let's move over to
13 seat 30, Mr. Nelson.

14 MR. NELSON: My name's John Nelson. I'm an
15 operator for Nevada Gold for 29 years. My wife works
16 for a local dry cleaning. I have three children, 25 to
17 35. I've been in Elko for 30 years, Elko County for 30
18 years.

19 THE COURT: Thank you, Mr. Nelson. Let's
20 move over to seat 31, Mr. Byram.

21 MR. BYRAM: My name is Robert Byram. I do
22 evaluation services for Mueller Reports. My wife does
23 legal customer service from home. We have three
24 children; six, four, and one. I've lived in Elko County
25 for 24 years, and I live in the City limits.

1 THE COURT: Thank you. Mr. Hylton, seat 32.

2 MR. HYLTON: Yeah, I'm William Hylton. I
3 work for the Elko County Road Department, lead
4 man/supervisor. I'm single, two kids. I've lived in
5 Elko for 45 years in Wells, Nevada.

6 THE COURT: Thank you. Now, we know it's a
7 hardship for anyone to serve on a jury. As we noted,
8 it's scheduled to last for approximately four days.
9 It's a hardship for even those of us who are -- work for
10 the Court to be here. We have other things, obviously,
11 to do as well.

12 But the question I'm about to pose to you is
13 whether or not any of you believe that serving on this
14 jury would pose a severe business or personal hardship
15 if you were required to serve for that period of time.
16 If so, if you're seated in the box, please raise your
17 hand if you would answer the affirmative.

18 Okay. We'll move over to seat number 25,
19 Ms. Borda. Please stand if you would.

20 MS. BORDA: As caretaker for my --

21 THE COURT: Is the microphone on, Carlos?

22 MS. BORDA: As a caretaker for my 86-year-old
23 mother, she has two doctors' appointments this week, and
24 she is totally dependent on me to be fed, to be given
25 her medication, to get her to the doctors. And so while

1 I would like to serve, I think it's my duty to do that,
2 it would pose a hardship for my mother. I would have to
3 cancel some doctors' appointments. And this morning,
4 she already refused to do some medication because I was
5 leaving too early for her to have it.

6 THE COURT: Okay. Is there anyone else who
7 could fill in for you while you're away, or you're the
8 only person who's able to do it?

9 MS. BORDA: I wish there were. My husband
10 works for Great Basin Water, and he is on-call 24/7. So
11 beyond him, that's it.

12 THE COURT: Okay. Okay, Mr. Thompson,
13 anything for the Court?

14 MR. THOMPSON: I have no objection to her
15 being released, Judge.

16 THE COURT: Mr. Pennell.

17 MR. PENNELL: Yeah, I'd stipulate to that,
18 Your Honor.

19 THE COURT: We'll thank and excuse Ms. Borda.
20 Thank you very much. So what's going to happen now is
21 Mr. Bauer, who's in seat 29, you're going to move over
22 and take her seat if you would. Go over and have a seat
23 in seat 25. And then I'm going to have Mr. Nelson,
24 Mr. Byram, and Mr. Hylton all move over one seat.

25 Juror 56, Yannett Daines, you are in seat 32.

1 And we'll start with you answering those six questions
2 on the screen there.

3 MS. DAINES: My name is Yannett Daines. I
4 work for Elko Federal Credit Union as a head teller out
5 in Spring Creek. My husband works for Nevada Gold Mine
6 in the warehouse. I have three children, the youngest
7 one being 17. I've lived in Elko County for 21 years,
8 and I live in Elko City.

9 THE COURT: Thank you. Okay, was there
10 anybody else who had raised their hand about a severe
11 business or personal hardship if you are required to
12 serve on this jury for four days?

13 Okay. Have any of you heard or read anything
14 about this case by any medium of information or from any
15 other person? If so, if you're seated in the box and
16 you would answer in the affirmative, please raise your
17 hand.

18 Okay. It looks like that's seat number 10,
19 Ms. Huddleston.

20 MS. HUDDLESTON: With my husband working for
21 the Sheriff's Department, I've heard about this case
22 from the beginning.

23 THE COURT: Okay. So you have fairly
24 extensive knowledge of the case or just a little bit of
25 information?

1 MS. HUDDLESTON: I know most the people on
2 that list so I've talked to a lot of them, heard them
3 over talking about it.

4 THE COURT: Okay. So the question I guess
5 for you is whether or not you could set aside any
6 knowledge that you have about the case and only consider
7 the information that comes into this case during the
8 presentation of evidence and strictly follow the law as
9 presented to you by the Court.

10 Would you be able to put aside your knowledge
11 and only consider the information that comes into the
12 case, or do you think you would have a tendency to
13 revert back to things you may have heard about the case?

14 MS. HUDDLESTON: Oh, I definitely think I'd
15 have a tendency to revert back to what I've heard.

16 THE COURT: Okay. Mr. Thompson or
17 Mr. Pennell?

18 MR. THOMPSON: It seems like we ought to let
19 her go.

20 THE COURT: Mr. Pennell.

21 MR. PENNELL: I'll stipulate to that, Your
22 Honor.

23 THE COURT: Okay. We will thank and excuse
24 Ms. Huddleston at this time. Thank you, Ms. Huddleston.

25 So what's going to happen, Mr. Nelson, who's

1 in seat 29, you're going to move over to seat 10 -- or,
2 excuse me, Mr. Nelson -- who's Mr. Nelson? Go ahead and
3 move to seat 10 if you would. And then Mr. Byram,
4 Mr. Hylton, and Ms. Daines will all move over one seat.

5 Jury No. 10, Ronnie Barruetabena, we'll start
6 with having you answer the questions on the screen there
7 for us.

8 MR. BARRUETABENA: My name is Ron
9 Barruetabena. I am a process maintenance planner for
10 Nevada Gold Mines. My wife is retired. I have no
11 children. I've lived in Elko County for 30 years, and I
12 live in Spring Creek.

13 THE COURT: Thank you. Would you have
14 answered in the affirmative to any of the questions
15 we've asked so far?

16 MR. BARRUETABENA: (No audible response)

17 THE COURT: Okay. Did anyone else have any
18 personal knowledge of any of the facts of this case or
19 read about anything of the facts associated with this
20 case anywhere?

21 Have any of you formed or expressed an
22 opinion as to the innocence or guilt of the Defendant,
23 Mr. Yowell? If so, please raise your hand. I see no
24 hands raised.

25 Do any of you have personal knowledge of the

1 facts of this case? If so, please raise your hand if
2 you're seated in the box. I see no hands raised.

3 Are any of you related to or personally
4 acquainted with the Defendant, Mr. Yowell? If so,
5 please raise your hand. I see no hands raised.

6 Are any of you related to or personally
7 acquainted with the alleged victim? Mr. Thompson, can
8 you refresh the memory of the potential jurors about who
9 the victim is in this case.

10 MR. THOMPSON: Jean Ortega.

11 THE COURT: Anyone related to or personally
12 acquainted with Jean Ortega? If so, please raise your
13 hand.

14 MR. PENNELL: If we could have a sidebar with
15 the Prosecution.

16 THE COURT: Sure.

17 (Whereupon, sidebar off the record)

18 THE COURT: Okay. I'm not seeing any other
19 hands raised about any acquaintance with the victim.
20 Oh, we do have one. And this is in seat number 25,
21 Mr. Bauer.

22 MR. BAUER: Yeah, I believe her father worked
23 for me out at Ormat. He was the EINC.

24 THE COURT: Okay. So you know of this
25 person. You're acquainted with members of her family?

1 MR. BAUER: Yeah.

2 THE COURT: The question is this --

3 MR. BAUER: I don't know her personally
4 though.

5 THE COURT: Oh, okay. Given that association
6 with, I guess, members of her extended family, do you
7 still feel like you could be fair and impartial in your
8 consideration of this case?

9 MR. BAUER: That's undetermined. I don't
10 know. I haven't seen anything yet, so.

11 THE COURT: Well, do you think the fact that
12 you know members of her family would cause you to
13 perhaps be more likely to side in favor of the victim in
14 this case before you've seen any of the evidence?

15 MR. BAUER: Yeah, I mean, it could. It just
16 depends on what I see, so.

17 THE COURT: Okay. So you think there is a
18 possibility you might be more inclined to believe the
19 victim than say the Defendant in the case?

20 MR. BAUER: It could end up that way, yes.

21 THE COURT: Any questions, Mr. Thompson for
22 the witness -- or for the juror?

23 MR. THOMPSON: So have you ever met
24 Ms. Ortega?

25 MR. BAUER: I haven't, no. Just her dad

1 worked for me.

2 MR. THOMPSON: Okay. So do you know Melva
3 Jackson?

4 MR. BAUER: No.

5 MR. THOMPSON: Because that would be her
6 mother.

7 MR. BAUER: Oh, then it might be someone
8 different then, so.

9 MR. THOMPSON: Okay. Who is --

10 MR. BAUER: The Ortega name isn't very
11 prominent in this area, so.

12 MR. THOMPSON: Okay. Who is the fellow that
13 you know at work?

14 MR. BAUER: Michael Ortega.

15 MR. THOMPSON: Okay. I don't know that he
16 has any relation to this.

17 MR. BAUER: Okay, sounds good.

18 MR. THOMPSON: But you don't know Melva
19 Jackson or Jean Ortega?

20 MR. BAUER: I don't. Well, I guess not, no.

21 MR. THOMPSON: Okay. Do you know anybody who
22 lives out on the Lee Reservation?

23 MR. BAUER: No.

24 MR. THOMPSON: No, okay.

25 THE COURT: Do you want to ask any questions,

1 Mr. Pennell?

2 MR. PENNELL: No, I think that cleared it up,
3 Your Honor.

4 THE COURT: Okay, thank you.

5 MR. PENNELL: Just one clarifying thing. If
6 we could have a sidebar, though.

7 THE COURT: Sure.

8 (Whereupon, sidebar off the record)

9 THE COURT: It has been brought to my
10 attention that sometimes the victim is also known by the
11 name Angel Jim. Does anyone have any knowledge of --
12 any acquaintance with a person named Angel Jim or
13 related to someone named Angel Jim? Okay, I see no
14 hands raised.

15 Now, you heard us read the content or the
16 clerk read the content of the criminal information,
17 which is the charging document in this case. After
18 having heard that information, is there anything about
19 the charges in this case that you think would cause you
20 to be unable to be fair and impartial in your
21 consideration of this particular matter? If you think
22 you would have difficulty serving as a juror in this
23 case for some reason, please raise your hand.

24 We have one in the back row in seat number 4.
25 Let's start with the one in seat number 4. That's

1 Ms. Thompson.

2 MS. THOMPSON: Yeah, about 20 years ago, my
3 sister went through something similar, and I don't know
4 if I could be impartial.

5 THE COURT: Okay. So something related to
6 domestic violence or something like that?

7 MS. THOMPSON: Yes.

8 THE COURT: Okay. So you think just the
9 nature of this particular case --

10 MS. THOMPSON: I tend to --

11 THE COURT: You would have a hard time being
12 a juror on this case. Would it be a traumatic
13 experience for you to have to be a juror in this kind of
14 a case?

15 MS. THOMPSON: Yes.

16 THE COURT: Okay. Mr. Thompson, any
17 questions?

18 MR. THOMPSON: No.

19 THE COURT: Mr. Pennell.

20 MR. PENNELL: I do not, Your Honor.

21 THE COURT: We'll thank and excuse the juror
22 in seat number 4, Ms. Thompson. Mr. Byram in seat
23 number 29, you're going to move over to seat number 4 if
24 you would. And then Juror Hylton, Daines, and
25 Barruetabena, you'll move over one seat each.

1 Juror No. 5, Gonzalez Valdezcirilo, come up
2 and have a seat in seat number 32.

3 THE BAILIFF: Your Honor, just so you know,
4 the gentleman approached me prior to court. English is
5 his second language. It's hard for him to understand or
6 speak it.

7 THE COURT: Okay. How much are you
8 understanding up to this point, sir?

9 MR. VALDEZCIRILO: Just a little bit.

10 THE COURT: Just a little bit.

11 MR. VALDEZCIRILO: My English is not very,
12 very well, but --

13 THE COURT: Okay.

14 MR. VALDEZCIRILO: -- it's hard to --

15 THE COURT: Okay. So you speak a little bit
16 of English but not very much? Okay. So you've had a
17 hard time understanding up until this point?

18 MR. VALDEZCIRILO: I don't understand but --
19 nothing but this kind of -- you know. I don't know.

20 THE COURT: Okay. Mr. Thompson.

21 MR. THOMPSON: We're not opposed to him being
22 excused, Judge.

23 THE COURT: Mr. Pennell.

24 MR. PENNELL: I'll stipulate to that, Your
25 Honor.

1 THE COURT: Okay. We will thank and excuse
2 this gentleman then at this time. Juror No. 48, Amanda
3 Johnson, come up and have a seat in seat number 32. If
4 you can answer those questions for us.

5 MS. JOHNSON: My name is Amanda Johnson. I'm
6 an admin tech for Nevada Gold Mines. My spouse is a
7 homemaker. We have no children. I've lived in Elko for
8 over 30 years.

9 THE COURT: Would you have answered in the
10 affirmative to any of the questions we've already gone
11 over?

12 MS. JOHNSON: Have I heard anything about it,
13 no. Could I be impartial, yes.

14 THE COURT: Okay. And are you related to the
15 Defendant or the victim or know them personally?

16 MS. JOHNSON: No.

17 THE COURT: You don't have any personal
18 knowledge of the facts of the case?

19 MS. JOHNSON: No.

20 THE COURT: Okay. Thank you, ma'am.

21 Okay, I believe we were asking about people
22 who had concerns about the nature of the charges. So it
23 looks like we have the juror in seat -- is this
24 Ms. Tapia?

25 MS. TAPIA: Yeah, Tapia.

1 THE COURT: Okay.

2 MS. TAPIA: A few weeks back, a close friend
3 of mine reached an altercation with her husband, which
4 resulted in his arrest.

5 THE COURT: Okay. Do you think that would
6 affect your ability to serve as a juror in this case?

7 MS. TAPIA: Potentially, yes.

8 THE COURT: Okay. You have strong feelings
9 about issues related to domestic violence?

10 MS. TAPIA: Yes.

11 THE COURT: Okay. And you think that you
12 would be affected in some way by serving on this
13 particular jury?

14 MS. TAPIA: I would think so, yes.

15 THE COURT: You would have a hard time being
16 fair and impartial towards Mr. Yowell?

17 MS. TAPIA: Yes.

18 THE COURT: Okay. Mr. Thompson, anything for
19 the Court?

20 MR. THOMPSON: Just -- I mean, we're,
21 obviously, not looking for people who think this kind of
22 stuff is okay.

23 MS. TAPIA: Right.

24 MR. THOMPSON: What we're looking for is can
25 you look at the facts and not either put yourself in the

1 position of the victim --

2 MS. TAPIA: Right.

3 MR. THOMPSON: -- or put the person that you
4 know in the place of the Defendant. Does that make
5 sense? We don't want that memory being superimposed
6 upon our trial. Do you think you're going to have a
7 hard time doing that?

8 MS. TAPIA: I don't think I would have an
9 issue with her situation. I mean, it's hard to tell
10 without knowing the details of the case. I would like
11 to think that I wouldn't, but it was within these last
12 couple weeks.

13 MR. THOMPSON: Okay. But you think that if
14 you watch the evidence in this one, it's going to make
15 you think of the other one, and then you're going to
16 judge it with that baggage?

17 MS. TAPIA: I think the -- the potential of I
18 have strong feelings to take the case of the victim, to
19 take the side of the victim, just with her situation.

20 MR. THOMPSON: Because your friend's
21 situation?

22 MS. TAPIA: Uh-huh.

23 MR. THOMPSON: Because at this point you
24 don't know anything about this case.

25 MS. TAPIA: Yeah, no, I don't.

1 MR. THOMPSON: So you couldn't know whether
2 or not to take her side or not in this case, correct?

3 MS. TAPIA: No, no.

4 MR. THOMPSON: You don't think that you could
5 wait and judge the evidence and make up your mind then,
6 or have you already made up your mind?

7 MS. TAPIA: Are we allowed to do that?

8 MR. THOMPSON: You wait until you hear the
9 evidence, and that's when we ask you to make a decision.
10 We want you to come in here with a totally open mind.

11 MS. TAPIA: Okay.

12 MR. THOMPSON: Can you do that?

13 MS. TAPIA: Yeah, I think I can do that.

14 MR. THOMPSON: Okay. And you can set aside
15 whatever happened with your friend's case?

16 MS. TAPIA: Yes.

17 MR. THOMPSON: And you recognize that's not
18 this case at all?

19 MS. TAPIA: Yes.

20 MR. THOMPSON: Okay. I don't have anything
21 else, Judge. I think she --

22 THE COURT: Mr. Pennell, any questions?

23 MR. PENNELL: Yes, I do, Your Honor.

24 So, ma'am, thank you for your honesty
25 regarding that. I just wanted to do some follow up.

1 Mr. Thompson talked about you couldn't sort of keep the
2 baggage or the emotional baggage that you had from your
3 friend's recent experience, and thank you for sharing
4 that with us. I know that was probably hard for you.
5 Did you actually witness anything that happened?

6 MS. TAPIA: No, I didn't. I knew the couple
7 before it happened, and it was a complete surprise when
8 it happened.

9 MR. PENNELL: Okay.

10 MS. TAPIA: A few of -- four of the other --
11 of my other close friends were a witness to the
12 situation.

13 MR. PENNELL: Okay. And I think you raised
14 your hand, obviously, because you had some concerns,
15 right?

16 MS. TAPIA: Yeah.

17 MR. PENNELL: Okay. So I think all of us
18 really want to think of ourselves as being objective --

19 MS. TAPIA: Right.

20 MR. PENNELL: -- and we're not going to be
21 biased right away.

22 MS. TAPIA: Right, I just wanted to be honest
23 about the situation.

24 MR. PENNELL: Right. So I think that what
25 I'm getting at is I know in your mind you're saying,

1 yes, I can be impartial. I can let that go, but really,
2 if you looked, you know, into your heart of hearts, do
3 you think that your friend's situation is going to have
4 an emotional impact or any kind of impact on how you
5 view the evidence?

6 MS. TAPIA: I don't think it will have an
7 emotional impact on me. I do think that there would be
8 a potential for a little bit of bias.

9 MR. PENNELL: Okay. And a little bit of bias
10 in favor of the Prosecution or the alleged victim?

11 MS. TAPIA: The alleged victim.

12 MR. PENNELL: Okay. And so you're already
13 there with -- that bias is already kind of weighted on
14 the scales if we're -- so to speak; is that right?

15 MS. TAPIA: Presently, yes.

16 MR. PENNELL: Okay. So the scales aren't
17 really even right now? They're kind of weighted in the
18 Prosecution's favor?

19 MS. TAPIA: Yeah, I wouldn't say drastically.

20 MR. PENNELL: Okay.

21 MS. TAPIA: I would just say that there --

22 MR. PENNELL: But there is some?

23 MS. TAPIA: -- is an inclination.

24 MR. PENNELL: It's already weighted in that
25 direction, though, a little bit?

1 MS. TAPIA: Uh-huh.

2 MR. PENNELL: Okay. I don't have any further
3 questions, Your Honor. Thank you for your answer and
4 your honesty with that.

5 THE COURT: Okay. You can have a seat,
6 ma'am, thank you.

7 MS. TAPIA: Thank you.

8 THE COURT: Anybody who would have also
9 answered in the affirmative to this question about a
10 concern about the nature of the charges in this case?
11 I'm not seeing any other hands raised.

12 Do any of you have a personal interest in the
13 outcome of the case? If so, please raise your hand. I
14 see no hands raised.

15 Does any juror have any bias or prejudice for
16 or against the Defendant, Mr. Yowell? If so, please
17 raise your hand. I'm not seeing any hands raised.

18 Does any juror have any bias or prejudice for
19 or against the State of Nevada? If so, please raise
20 your hand. Okay, it looks like we have a hand raised
21 back in the corner in seat number 1, Mr. Kirby.

22 MR. KIRBY: Bias in favor of the State of
23 Nevada just in that I'm a State employee.

24 THE COURT: Okay.

25 MR. KIRBY: Yeah.

1 THE COURT: So you -- we want to see the
2 State of Nevada do well? Is that what you're telling
3 me?

4 MR. KIRBY: I guess. I just wanted to be as
5 transparent as possible.

6 THE COURT: Okay. So you are employed by the
7 State of Nevada. So perhaps it could be inferred that
8 you have a bias in favor of the State of Nevada?

9 MR. KIRBY: Correct. Correct.

10 THE COURT: Okay. Do you think, though, that
11 coming into this case, that you would be able to fairly
12 and impartially consider the evidence, both the evidence
13 in favor of Mr. Yowell and the evidence in favor of the
14 State of Nevada in the case?

15 MR. KIRBY: Yes. I was just trying to be as
16 transparent as possible.

17 THE COURT: Okay. Thank you, sir. I
18 appreciate it.

19 Anyone else? Back in the back row in seat
20 number 7, Ms. Arnett.

21 MS. ARNETT: Well, to also be transparent, in
22 working for NYTC, I am also a State employee, but I
23 would have no bias in this case.

24 THE COURT: Okay. You could be fair and
25 impartial to both sides?

1 MS. ARNETT: Yes.

2 THE COURT: Thank you very much.

3 Anyone else? Okay.

4 Are any of you related to or personally
5 acquainted with the Defendant's attorney, Mr. Pennell?

6 Okay, it looks like we have someone raising
7 their hand. Seat number 9, Mr. Stieger.

8 MR. STIEGER: Yes, I just know Matt from many
9 years ago. We practiced martial arts together.

10 THE COURT: Okay. So do you think that your
11 prior association with Mr. Pennell would cause you
12 perhaps to be more likely to side in favor of the
13 Defense in this case after you've heard the evidence?

14 MR. STIEGER: No, I'll be very impartial.

15 THE COURT: You could be fair and impartial
16 to both Mr. Yowell and to the State of Nevada?

17 MR. STIEGER: Yes.

18 THE COURT: And that prior association with
19 Mr. Pennell wouldn't cloud your judgment in any way?

20 MR. STIEGER: No, it would not.

21 THE COURT: Okay, thank you, sir. I'm also
22 going to have Mr. Pennell note for the record the
23 various attorneys that he works with in his office, and
24 I want to ask the same question about whether or not
25 anyone has any prior association with any attorneys in

1 his office or might be related to anyone in his office.

2 Go ahead, Mr. Pennell.

3 MR. PENNELL: Georgia Smithee, Megan Ortiz,
4 Steffanie Foster, Roger Stewart, Kelsey Angeley, Dakota
5 Steele, Tom Gunter.

6 THE COURT: Anybody know any of those
7 individuals personally, or are they some sort of
8 familial relation to you? If so, please raise your
9 hand. Okay, I'm not seeing any hands raised.

10 Are any of you related to or personally
11 acquainted with the Chief Deputy District Attorney
12 Mr. Thompson or one of the other attorneys in the
13 District Attorney's Office? And I'll have Mr. Thompson
14 note who those attorneys are for the record.

15 MR. THOMPSON: It's Brea Mitchell, Mark
16 Mills, Justin Barainca, Ryan McCormick, and our elected
17 official is Tyler Ingram, Ty Morley, Mercedes Martinez,
18 Jeff Slade, Rand Greenburg, and Walter Fick.

19 THE COURT: Anybody personally acquainted
20 with or related to any of those names that were just
21 mentioned or to Mr. Thompson himself? We have one hand
22 raised. I believe this is Mr. McKay in seat 21.

23 MR. MCKAY: I know Mr. Thompson.

24 THE COURT: Okay. How do you know
25 Mr. Thompson?

1 MR. MCKAY: Just through the community.

2 THE COURT: Okay. Is this -- is he a close,
3 personal friend, just sort of a casual acquaintance?

4 MR. MCKAY: Just an acquaintance.

5 THE COURT: Okay. Do you think that your
6 association with Mr. Thompson would affect in any way
7 your ability to be fair and impartial to the State of
8 Nevada and to the Defendant, Mr. Yowell, in this case?

9 MR. MCKAY: No.

10 THE COURT: Okay. Thank you very much.

11 Anyone else know any of the attorneys in the
12 District Attorney's Office or related to any of those
13 individuals? Okay.

14 Has either of these attorneys ever rendered
15 any legal services for you? If so, please raise your
16 hand. I'm not seeing any hands raised.

17 Has either attorney ever represented a third
18 party against you? If so, please raise your hand.

19 So here's an interesting question. So is
20 there any one of you who would not like to be tried by a
21 jury composed of people having the same frame of mind
22 that you now have? So are there any of you who think,
23 man, I really wouldn't want a jury that was thinking the
24 way I'm thinking? Anyone who needs to make a disclosure
25 as to that question? If so, raise your hand.

1 Do any of you have any health problems that
2 would prevent you from serving as a fair and impartial
3 juror in this case? If so, please raise your hand.

4 Okay. Now, if you could look over here on
5 the screen across from you, on the right-hand side of
6 the screen, the names of the prospective witnesses for
7 this trial are written on the list that's posted there.
8 Are any of you related to or a personal friend of any of
9 the witnesses who are named on the screen? If so,
10 please raise your hand.

11 Okay. Let's start with the juror in seat
12 number 1, Mr. Kirby again. Oh, I'm sorry, seat number
13 2, Ms. Borden.

14 MS. BORDEN: I know who Melva Jackson is, and
15 I worked with Andrew Neff and Nick Stake.

16 THE COURT: Okay. You previously worked in
17 law enforcement so you know some of those individuals.

18 MS. BORDEN: Yes.

19 THE COURT: And then you also know -- who was
20 the other name you mentioned?

21 MS. BORDEN: Melva Jackson.

22 THE COURT: How do you know Ms. Jackson?

23 MS. BORDEN: Just through previous years of
24 dealing with her.

25 THE COURT: In the community?

1 MS. BORDEN: Yes.

2 THE COURT: Okay. And the question is this,
3 whether or not you believe that your prior association
4 with any of these individuals would prevent you from
5 being able to be fair and impartial in consideration of
6 this case?

7 MS. BORDEN: No.

8 THE COURT: You think that you could set
9 aside whatever prior association you had and only
10 consider the evidence that comes in during the trial?

11 MS. BORDEN: Yes.

12 THE COURT: Okay. Thank you, ma'am.

13 MS. BORDEN: Uh-huh.

14 THE COURT: Who else had their hand raised?
15 Did you want to -- Mr. Pennell, did you have something?

16 MR. PENNELL: If we could do some follow-up
17 questions?

18 THE COURT: Sure, go ahead, sure.

19 MR. PENNELL: I don't know if Mr. Thompson
20 wanted to go first on that.

21 MR. THOMPSON: I don't have any questions.

22 THE COURT: Go ahead, Mr. Pennell, follow-up
23 question for the juror in seat number 2.

24 MR. PENNELL: Yeah, thank you, ma'am. I --
25 you said it was Detective Stake, and who was the other

1 person?

2 MS. BORDEN: Andrew Neff.

3 MR. PENNELL: Andrew Neff, okay.

4 MS. BORDEN: Uh-huh.

5 MR. PENNELL: And so you're familiar with
6 them through your former employment?

7 MS. BORDEN: Yes.

8 MR. PENNELL: And how long did you work with
9 each of them?

10 MS. BORDEN: I worked for the Sheriff's
11 Office for 32 years.

12 MR. PENNELL: Okay.

13 MS. BORDEN: So Nick Stake I like to believe
14 that I raised him through law enforcement, and Andrew
15 Neff, I knew him since he was a kid.

16 MR. PENNELL: Could you tell me a little bit
17 more about what you meant by raised him through law
18 enforcement?

19 MS. BORDEN: He was -- he started as a cadet,
20 and I was a cadet leader and worked him through the
21 programs and up into being a deputy and now passed --

22 MR. PENNELL: So would it be fair to say that
23 you have a pretty good relationship with Nick Stake?

24 MS. BORDEN: Yes.

25 MR. PENNELL: And that you respect him?

1 MS. BORDEN: Yes.

2 MR. PENNELL: And that you trust him?

3 MS. BORDEN: Yes.

4 MR. PENNELL: So would it be fair to say that
5 there's a part of you maybe that already is thinking
6 when Nick Stake gets on the stand, I'm going to believe
7 anything that he says about this case?

8 MS. BORDEN: I could not say that I wouldn't
9 feel that way.

10 MR. PENNELL: Sure. We're all human. So you
11 couldn't say you do feel that way. Does that mean that
12 you think that there is maybe a little bit of weight on
13 the scales in favor of that -- Nick Stake's testimony
14 before you've even heard what he has to say?

15 MS. BORDEN: Well, I would think I would look
16 at the whole picture.

17 MR. PENNELL: Okay. But there is -- if you
18 would look at the whole picture, is there -- I know that
19 Nick Stake is only going to paint some of the strokes of
20 that picture. Whatever he does, are you going to maybe
21 give it credit simply because of the relationship you
22 had with him?

23 MS. BORDEN: Possibly.

24 MR. PENNELL: Okay. All right, thank you for
25 your honesty.

1 MS. BORDEN: Uh-huh.

2 THE COURT: Any other questions,
3 Mr. Thompson?

4 MR. THOMPSON: I don't have any questions of
5 her.

6 THE COURT: Okay. Thank you, ma'am, you can
7 pass the microphone back to Mr. Nunes.

8 Who else had their hand raised about knowing
9 any of these folks here? Go ahead and stand up, sir.
10 This is the juror in seat number 18, Mr. Gress.

11 MR. GRESS: If there's a Melva from the Lee
12 Reservation, and I think one of our jurors knows Melva.
13 So it -- I'm not sure. I think I know her, but I didn't
14 know the last name.

15 THE COURT: Okay. So you're fairly certain
16 you're acquainted with that person but not positive it's
17 the same person you're thinking of?

18 MR. GRESS: If she's from the Lee
19 Reservation, retired now for a couple years, that would
20 be the Melva I'm sure I know, and she worked like for
21 the School District.

22 THE COURT: Okay. So how did you know this
23 person? You knew her from the School District?

24 MR. GRESS: Worked with trans -- in
25 transportation with her, uh-huh.

1 THE COURT: Okay. And how long has it been
2 since you had any contact with that person?

3 MR. GRESS: I'd say two or three years since
4 she retired.

5 THE COURT: Okay. And do you believe that
6 your prior association with Ms. Jackson when she was in
7 that employment would prevent you from being fair and
8 impartial in considering the facts and circumstances of
9 this case?

10 MR. GRESS: I don't think it would prevent me
11 from being fair and impartial, but I -- what I know of
12 her, I have a high respect for her and would tend to
13 give a lot of credit to what she would say.

14 THE COURT: Okay. So kind of along the lines
15 of what Mr. Pennell was inquiring about before. There
16 would already be kind of a bit of a finger on the scale.
17 You would feel some tendency to give -- want to give
18 more credit to her testimony because you have a high
19 regard for her?

20 MR. GRESS: I think she's a believable
21 person. I'm not saying it's impossible. You know, if
22 she's in -- without mistake or anything, but I think
23 she's very -- an honest person.

24 THE COURT: Would you be able to put that
25 aside and wait, though, until all the evidence has come

1 into the case before you draw conclusions about the
2 credibility of the various witnesses?

3 MR. GRESS: I would, yeah.

4 THE COURT: Okay. Mr. Thompson, did you want
5 to follow up with the juror?

6 MR. THOMPSON: No.

7 THE COURT: Mr. Pennell.

8 MR. PENNELL: No, Your Honor.

9 THE COURT: Okay. Thank you, sir, you can
10 have a seat.

11 Anybody else need to make a disclosure about
12 knowing any of these folks on the screen? Okay, over
13 here in seat number 16, Ms. Nutting.

14 MS. NUTTING: So from what he just said is --

15 THE COURT: Is the microphone on there? Make
16 sure you're speaking right into it.

17 MS. NUTTING: From --

18 THE COURT: There you go.

19 MS. NUTTING: -- what he was just talking
20 about, Melva, did she used to be Melva Tybo (phonetic)?
21 Is that right? No.

22 THE COURT: You probably are getting where I
23 don't have any knowledge of that. Mr. Pennell or
24 Mr. Thompson, do you know if that was her prior name?

25 MR. THOMPSON: I have no idea.

1 MR. PENNELL: Your Honor, the Defendant told
2 me she's also known as Melva Garcia previously.

3 THE COURT: Melva Garcia was a previous name.

4 MS. NUTTING: Yes, she -- if it's her -- it
5 is her, she used to be in charge of substitute teaching,
6 and she worked with the teachers that way.

7 THE COURT: Okay.

8 MS. NUTTING: So I worked with her --

9 THE COURT: So you do know her?

10 MS. NUTTING: -- and talked to her -- yeah,
11 and I know her.

12 THE COURT: Okay. How long has it been since
13 you've had any contact with her?

14 MS. NUTTING: I'd say ten years.

15 THE COURT: Okay.

16 MS. NUTTING: Ten years, yeah.

17 THE COURT: Would there be any difficulty in
18 you being fair and impartial in this case if you ended
19 up on the jury? If she was one of the witnesses, would
20 that pose any difficulties for you?

21 MS. NUTTING: No. She's also friends with my
22 husband. He knows her through school.

23 THE COURT: Okay.

24 MS. NUTTING: So I kind of know her that way.

25 THE COURT: But same question, would that

1 association --

2 MS. NUTTING: No.

3 THE COURT: -- limit your ability to be fair
4 and impartial in the case?

5 MS. NUTTING: No.

6 THE COURT: Okay. Any follow-up questions
7 from either of the attorneys?

8 MR. THOMPSON: Not for me, no.

9 MR. PENNELL: Your Honor, based on what the
10 Defendant's told me, he believes that Ms. Nutting might
11 be referring to a different person altogether.

12 MS. NUTTING: Okay.

13 MR. PENNELL: So I don't know if this is the
14 actual witness we're talking about.

15 MS. NUTTING: Okay, fine.

16 MR. PENNELL: I mean, when we're dealing with
17 these kinds of common names like Garcia, it's hard to
18 get around sometimes.

19 MS. NUTTING: I think her name -- her last
20 name was Garcia at one point, yeah.

21 MR. PENNELL: Okay.

22 THE COURT: Okay.

23 MS. NUTTING: She was a Tybo before. I don't
24 know if it's the same one but yeah.

25 THE COURT: Okay. But you don't believe that

1 would affect your ability?

2 MS. NUTTING: No.

3 THE COURT: Okay. Thank you very much.

4 Anyone else know any of the witnesses? If
5 so, please raise your hand. Okay, I'm not seeing any
6 hands raised.

7 The next question is about whether or not any
8 of you have served previously on a jury. If you have
9 previously served on a jury, please raise your hand.

10 Okay, let's start in the back row there. I
11 think this is the juror in seat 5. Is this
12 Ms. Bondelie?

13 MS. BONDELIE: (No audible response)

14 THE COURT: Okay. So a couple -- two or
15 three questions for you. First of all, was it a civil
16 or a criminal case?

17 MS. BONDELIE: Honestly, I don't remember.

18 THE COURT: How long ago was it?

19 MS. BONDELIE: About 18 years ago.

20 THE COURT: It's been a long time. Was it
21 here in Elko County?

22 MS. BONDELIE: It was.

23 THE COURT: Okay.

24 MS. BONDELIE: It was a drug possession case.

25 THE COURT: Okay. So it would likely be a

1 criminal case. Do you know whether or not the jury
2 reached a verdict in the case?

3 MS. BONDELIE: Yes, I believe we did.

4 THE COURT: Okay. I don't necessarily want
5 to know what the verdict is. Were you happen -- did you
6 happen to serve as the foreperson of the jury?

7 MS. BONDELIE: Is that like the head juror?

8 THE COURT: Yeah, the head juror at the end.

9 MS. BONDELIE: Okay. No, that was not me.

10 THE COURT: Okay. And was it a positive
11 experience for you overall?

12 MS. BONDELIE: Yeah. There was nothing --

13 THE COURT: Okay. Anything about that
14 experience that would prevent you from being able to be
15 fair and impartial in this case?

16 MS. BONDELIE: No.

17 THE COURT: Okay. Thank you very much.

18 Who else had their hand raised. Right ahead
19 of you -- I think this is Ms. Seal.

20 MS. SEAL: Yes.

21 THE COURT: Seat number 14.

22 MS. SEAL: It was a cheating at 21 case.

23 THE COURT: It was a gambling criminal case.

24 MS. SEAL: Yeah.

25 THE COURT: And you served on the jury. And

1 were you the foreperson of the jury?

2 MS. SEAL: No, and it was like in 1981.

3 THE COURT: A long time ago, okay. And you
4 said you were not the foreperson of the jury. And the
5 jury did reach a verdict?

6 THE BAILIFF: When you push the bottom,
7 you're turning it off every time you push it.

8 MS. SEAL: Okay, sorry.

9 THE COURT: Yeah.

10 MS. SEAL: Yes, we did.

11 THE COURT: Okay, perfect. And was it a
12 positive experience for you?

13 MS. SEAL: Yes.

14 THE COURT: Anything about that experience
15 that you think would prevent you from being able to be
16 fair and impartial in this case?

17 MS. SEAL: Absolutely not.

18 THE COURT: Okay, thank you. Who else had
19 their hand raised? The Juror in seat 15, Ms. Meade.

20 MS. MEADE: I have served twice in the last
21 ten years. Both were criminal cases. A verdict was met
22 both times, and I can be fair and impartial no -- with
23 no problem.

24 THE COURT: Were you the foreperson in either
25 one of those cases?

1 MS. MEADE: Both times.

2 THE COURT: Both times you were the
3 foreperson, okay. And those were cases here in Elko
4 County?

5 MS. MEADE: Yes.

6 THE COURT: Okay. Thank you very much. Who
7 else had their hand raised? Up in the second row, I
8 believe this is Ms. Powrie.

9 MS. POWRIE: Yes.

10 THE COURT: Go ahead.

11 MS. POWRIE: I served on a jury, and it was a
12 drug charge about 20 years ago.

13 THE COURT: Here in Elko County?

14 MS. POWRIE: Yes.

15 THE COURT: And did the jury reach a verdict?

16 MS. POWRIE: Yes.

17 THE COURT: Were you the foreperson?

18 MS. POWRIE: No.

19 THE COURT: Was it a positive experience for
20 you?

21 MS. POWRIE: Yeah.

22 THE COURT: And anything about that
23 experience that would prevent you from being fair and
24 impartial in this case?

25 MS. POWRIE: No.

1 THE COURT: Okay. Thank you very much,
2 ma'am. Who else had their hand raised? Okay, this is
3 Mr. Kennedy or Mr. Griswold?

4 MR. GRISWOLD: Griswold.

5 THE COURT: Mr. Griswold in seat 27.

6 MR. GRISWOLD: I've been on two juries. One
7 was a drug charge, and that was maybe 18 years ago, and
8 a grand jury once. It was a violation of the Lacey Act,
9 and it was settled before we reached, you know, a
10 verdict or anything.

11 THE COURT: Okay. And those were positive
12 experiences?

13 MR. GRISWOLD: Yeah, on the whole, yeah.

14 THE COURT: Okay. And were you foreperson on
15 that one jury?

16 MR. GRISWOLD: No.

17 THE COURT: Okay, very well. Thank you, sir,
18 appreciate it.

19 Anyone else have their hand raised?

20 (Sneeze)

21 THE COURT: Bless you. Up in the second row,
22 I think this is Mr. Nelson.

23 MR. NELSON: I need a sidebar.

24 THE COURT: Okay, come on up.

25 (Whereupon, sidebar off the record)

1 THE COURT: Okay. We're going to thank and
2 excuse Mr. Nelson, who's in seat number 10. And before
3 we get to selecting the next juror and doing musical
4 chairs, we're going to go ahead and take a break. It's
5 been more than 90 minutes. We're going to try to take a
6 break every 90 minutes or so. I know everyone gets
7 tired of sitting in those hard chairs and probably gets
8 bored of sitting here for such a long time.

9 So I do need to admonish you before I release
10 you as follows. And you're going to hear this
11 admonishment several times. It's really important,
12 however. So please pay close attention to this
13 admonishment.

14 Please do not converse amongst yourselves or
15 with anyone else on any subject connected with the
16 trial. So while we're on this break, don't go out in
17 the hallway and start discussing things about this case
18 with any of the jurors.

19 Do not read, watch, or listen to any report
20 of or commentary on the trial or any person connected
21 with the trial by any medium of information, including,
22 without limitation, newspapers, television, radio, and
23 the Internet. Do not form or express any opinion on any
24 subject connected with the trial until the cause is
25 finally submitted to you.

1 You may not use any electronic device or
2 media such as the telephone, a cell phone, smartphone,
3 iPhone, BlackBerry or computer, the Internet, any
4 Internet service, any texts or instant messaging
5 service, any Internet chat room, blog or website, such
6 as Facebook, Myspace, LinkedIn, YouTube, or Twitter to
7 communicate to anyone any information about this case
8 until I accept your verdict.

9 In other words, you cannot talk to anyone on
10 the phone, corresponded with anyone, or electronically
11 communicate with anyone about this case.

12 All rise. We'll go ahead and take a
13 15-minutes break. Just come back to your -- the same
14 exact seats in 15 minutes.

15 Thank you.

16 (Whereupon, court recessed)

17 THE COURT: We're back on the record. The
18 time is 10:57 a.m., Monday, June 14th, 2021. This is
19 Case DC-CR-20-159. This is the State of Nevada versus
20 Darwyn Ross Yowell. The Defendant is present, along
21 with his counsel, Mr. Pennell. Mr. Thompson is here
22 from the District Attorney's Office.

23 Do the parties stipulate to the presence of
24 the jury panel?

25 MR. THOMPSON: Yes.

1 MR. PENNELL: Yes, Your Honor.

2 THE COURT: Okay. So we had just excused the
3 juror in seat number 10. So what we're going to do is
4 Mr. Hylton, juror in seat 29, you're going to move to
5 seat 10, and then the jurors in seat 30, 31, and 32 are
6 going to move over one seat.

7 Juror No. 30, Daniel Kough.

8 MR. KOUGH: Kough.

9 THE COURT: Kough, Daniel Kough.

10 We'll start by having you answer those six
11 questions on the left-hand side of the screen.

12 MR. KOUGH: Daniel Kough. Occupation, I'm a
13 senior geotech engineer for Nevada Gold Mines. My wife
14 is a flight attendant. I have one kid. I have lived in
15 Elko County for two years, and I live out in Spring
16 Creek.

17 THE COURT: So you were just present as we
18 went over all those various questions with all the
19 jurors. Were there any of those questions that you
20 would have answered in the affirmative?

21 MR. KOUGH: Nope.

22 THE COURT: Do you need me to review any of
23 the questions again with you?

24 MR. KOUGH: No, sir.

25 THE COURT: Okay, thank you.

1 MR. KOUGH: Thank you.

2 THE COURT: Okay, are any of you now or have
3 you ever been employed in law enforcement-related work?
4 If so, please raise your hand. Let's start with the
5 juror in seat number 1, Mr. Kirby.

6 MR. KIRBY: Received training in law
7 enforcement. I've never been commissioned myself. I do
8 have some kind of compliance type roles in my current
9 job, but I do work adjacent to law enforcement. My
10 direct supervisor is a commissioned park ranger.

11 THE COURT: Okay. So in this particular
12 case, there's going to be possibly several different
13 witnesses that will provide testimony who are law
14 enforcement officers. Would you -- would you think that
15 given your background, that you would have any tendency
16 to give perhaps more weight to the testimony of those
17 witnesses that might be called than some other witness
18 in the case?

19 MR. KIRBY: Generally, no.

20 THE COURT: Do you think you could be fair
21 and impartial to both sides of the case?

22 MR. KIRBY: Yes.

23 THE COURT: Okay, regardless of whether or
24 not the person was in law enforcement or had some other
25 job?

1 MR. KIRBY: Yes.

2 THE COURT: Okay. Thank you very much.

3 Okay, who else had their hand raised? Let's
4 move over to the next seat right next to you, seat
5 number 2, Ms. Borden.

6 MS. BORDEN: Thirty-two years law
7 enforcement. Started as a dog catcher. Went to
8 dispatch. Then retired as a sergeant with the Elko
9 County Sheriff's Office.

10 THE COURT: Okay. So you have as much
11 experience as a person can have in the law enforcement
12 world. So same question for you. Obviously, you --
13 you've already talked before about the fact that you
14 know some of the people on this list. Is that going to
15 affect your ability to be fair and impartial and
16 consider only the testimony and evidence that comes in
17 during this case?

18 MS. BORDEN: No.

19 THE COURT: You think you could be fair
20 regardless of who the various witnesses are that might
21 be testifying?

22 MS. BORDEN: Yes.

23 THE COURT: Okay. Thank you very much,
24 ma'am.

25 Who else had their hand raised? Over here in

1 seat number 7, Ms. Arnett.

2 MS. ARNETT: So I guess related. I have
3 worked as a mental health counselor on a jail diversion
4 team for an agency in Colorado Springs that contracted
5 with El Paso County Jail, and so in the wards, I
6 actually did counsel inmates. And that was for about a
7 year two years ago, and now I'm with NYTC working with
8 youth felons.

9 I've also counseled many populations. I've
10 counseled DV offenders and DV victims, and I've been
11 questioning myself all day here, and I do feel I can be
12 objective in this case. I think I can give an unbiased
13 opinion here. So I can keep them pretty separate.

14 THE COURT: And given your prior association
15 with people in the law enforcement world, do you think
16 you would have any tendency to want to give more weight
17 to the testimony of say a law enforcement witness over
18 some other lay witness in a case?

19 MS. ARNETT: I feel I can be impartial.

20 THE COURT: Okay.

21 MS. ARNETT: I've worked around this
22 environment enough that I feel I can be impartial.

23 THE COURT: Okay. Thank you very much.

24 Who else had their hand raised? Anybody?

25 Okay.

1 THE BAILIFF: Your Honor --

2 THE COURT: Yes.

3 THE BAILIFF: -- the juror in seat 10 would
4 like a sidebar.

5 THE COURT: Okay. Come on up if you would,
6 Mr. Hylton.

7 (Whereupon, sidebar off the record)

8 THE COURT: Okay. We're going to thank and
9 excuse Mr. Hylton at this time. That's the juror in
10 seat number 10. Ms. Daines, you're going to move to
11 seat number 10, and then the jurors in seat 30, 31, and
12 32 will move over one seat.

13 47, that is Juror Riley, Wyatt Riley. Come
14 on up to seat 32.

15 MR. RILEY: My name is Wyatt Riley. I'm an
16 equipment operator for Degerstrom. I'm single. I have
17 two kids, 7 and 6. Lived in Elko County for 26 years,
18 and I live in Spring Creek.

19 THE COURT: Thank you. Now, Mr. Riley, you
20 heard me go through all these questions we've been going
21 through. Is there any of those questions that you would
22 have answered in the affirmative up to this point?

23 MR. RILEY: Yes, Your Honor.

24 THE COURT: Okay.

25 MR. RILEY: I'd be privately --

1 THE COURT: Okay. Why don't you come on up
2 then, please.

3 (Whereupon, sidebar off the record)

4 THE COURT: We're going to thank and excuse
5 the juror in seat number 32 at this time, Mr. Riley.
6 We'll draw another number.

7 32, Lupe Sanchez, come on up to seat 32.

8 MS. SANCHEZ: My name is Lupe Sanchez. I am
9 a secretary. My husband works for Nevada Gold Mines as
10 a haul truck driver. I have two children, one 7, one 3,
11 and I have lived in Elko for 30 years, and I live in
12 Elko.

13 THE COURT: You're a secretary for whom?

14 MR. SANCHEZ: The St. Joseph's Church.

15 THE COURT: Okay. And you heard me go over
16 the various questions with you. Would you have answered
17 in the affirmative to any of those questions?

18 MR. SANCHEZ: Yes. Can I speak in private?

19 THE COURT: Yes, come on up.

20 (Whereupon, sidebar off the record)

21 THE COURT: We're going to thank and excuse
22 Ms. Sanchez at this time. We will draw another number.
23 Jani Kelly, Juror No. 43. If you can answer those
24 questions for us on the left-hand side of the screen.

25 MS. KELLY: My name is Jani Kelly. I'm a

1 teacher with the Elko County School District. My
2 husband is an engineer with the School District. I have
3 two teenage sons. I've lived in Elko County for 25-plus
4 years, and I live in Spring Creek.

5 THE COURT: Would you have answered in the
6 affirmative to any of the prior questions?

7 MS. KELLY: Unfortunately, yes. So tomorrow
8 we have an appointment out of town that's been scheduled
9 for a while for my teenage son.

10 THE COURT: A medical type appointment?

11 MS. KELLY: Yes.

12 THE COURT: Okay. And I would assume it
13 would be -- is it difficult to get that rescheduled?

14 MS. KELLY: Yes.

15 THE COURT: Okay. Mr. Thompson, did you wish
16 to be heard?

17 MR. THOMPSON: No. We have no objection to
18 her being excused.

19 THE COURT: Mr. Pennell.

20 MR. PENNELL: I have no objection, Your
21 Honor.

22 THE COURT: Okay. We'll thank and excuse the
23 juror in seat 32, Ms. Kelly, thank you. The juror in
24 seat -- or Juror No. 21, that's Jonathon Peterson.

25 MR. PETERSON: My name's John Peterson. I am

1 a claims adjustor for Progressive Insurance. My spouse
2 is a homemaker or mom. I've got three children. I have
3 lived in Elko County for about five years, and I live
4 out in Spring Creek.

5 THE COURT: Would you have answered in the
6 affirmative to any of the questions I've posed already?

7 MR. PETERSON: I've had some dealings with
8 Mr. Thompson.

9 THE COURT: Okay.

10 MR. PETERSON: Brief though. I don't think
11 that they would come into --

12 THE COURT: Okay. Can you tell us what sort
13 of dealings you're talking about?

14 MR. PETERSON: Sure. I guess complimentary
15 callings at church and --

16 THE COURT: Oh, okay, so you know him from
17 your church congregation.

18 MR. PETERSON: Yeah, and that's about it, not
19 -- not from the congregation. It was just a brief
20 meeting.

21 THE COURT: Oh, okay.

22 MR. PETERSON: It was an audit is what it
23 was.

24 THE COURT: Oh, okay, very well. And would
25 you have any tendency to, because you know Mr. Thompson,

1 to want to favor the State of Nevada in this case over
2 the Defendant?

3 MR. PETERSON: I don't know him that well.

4 THE COURT: You don't know him that well. He
5 was the auditor, okay.

6 MR. PETERSON: Right. It was about a
7 one-hour meeting.

8 THE COURT: Okay. So yes or no, do you think
9 you would have a tendency to want to favor the State of
10 Nevada, or maybe if you don't like the audit, maybe you
11 will tend to favor the Defendant.

12 MR. PETERSON: I don't think it would weight
13 me.

14 THE COURT: You wouldn't be affected by it in
15 any way?

16 MR. PETERSON: (No audible response)

17 THE COURT: Okay. Anyone want to have any
18 follow-up questions about that?

19 MR. THOMPSON: Not for me.

20 THE COURT: Mr. Pennell.

21 MR. PENNELL: No, Your Honor.

22 THE COURT: Okay, thank you. Have a seat.

23 Okay, we were in -- I think answering
24 questions about law enforcement work. Did everybody
25 have a chance to answer that question, whether or not

1 you had ever worked in law enforcement?

2 Are any of you related to or a close personal
3 friend of someone who works in law enforcement? If so,
4 raise your hand. I'll start on the front row here with
5 Mr. Barruetabena. I'll just say Mr. B in seat number
6 29.

7 MR. BARRUETABENA: Yeah, I got a
8 brother-in-law that's in law enforcement.

9 THE COURT: Here in the area or outside the
10 area?

11 MR. BARRUETABENA: Elko.

12 THE COURT: And what's his name?

13 MR. BARRUETABENA: Dennis Williams.

14 THE COURT: Okay. And given your familial
15 association with Mr. Williams, do you think you would
16 have a tendency to favor law enforcement witnesses or to
17 favor the State of Nevada in this case over the Defense
18 case?

19 MR. BARRUETABENA: No, I wouldn't.

20 THE COURT: You could be fair and impartial
21 to both sides regardless of that association?

22 MR. BARRUETABENA: Yes, I could.

23 THE COURT: Okay, thank you, sir.

24 Who else had their hand raised? Let's start
25 over here on the end with Ms. Bogdon in seat 24.

1 MS. BOGDON: My son is a City of Elko police
2 officer.

3 THE COURT: Officer Bogdon?

4 MS. BOGDON: Yes.

5 THE COURT: Okay. And the same question for
6 you. Given that association, do you think you could be
7 -- still be fair and impartial? There's going to be
8 various law enforcement witnesses called in this case.

9 MS. BOGDON: I can.

10 THE COURT: You wouldn't be -- have a
11 tendency to give more weight to their testimony or to
12 favor the State in some fashion?

13 MS. BOGDON: I follow the science.

14 THE COURT: Okay. You'd follow the science.
15 Would you follow the --

16 MS. BOGDON: So to speak.

17 THE COURT: -- the evidence that comes in in
18 the case and the law as given to you by the Court?

19 MS. BOGDON: Yes.

20 THE COURT: Okay. Thank you very much. Who
21 else had their hand raised? Next to her in seat 23,
22 Ms. Taylor.

23 MS. TAYLOR: My stepdad is the retired
24 Sheriff of Lemhi County in Idaho.

25 THE COURT: Okay. So you have a family

1 member who served in a prominent law enforcement
2 position in another state. Do you think that would
3 affect your ability to be fair and impartial in this
4 particular case?

5 MS. TAYLOR: No.

6 THE COURT: Any tendency to want to give more
7 weight to a law enforcement officer's testimony because
8 you have people in your family who have served in law
9 enforcement?

10 MS. TAYLOR: No.

11 THE COURT: You wouldn't have any tendency to
12 want to favor the State over the Defendant in this case?

13 MS. TAYLOR: No.

14 THE COURT: Okay. Thank you, ma'am.

15 Who else had their hand raised? Over there
16 in seat 19, I believe it is, Ms. Powrie.

17 MS. POWRIE: Yeah, I've been an EMT and
18 firefighter here for approximately 40 years so I'm
19 running on the ambulance. I'm good friends with Sheriff
20 Narvaiza and also Carlos here.

21 THE COURT: Okay. So you have an ongoing
22 association with people who are in the law enforcement
23 world. Okay, do you know any of the people on the
24 screen there?

25 MS. POWRIE: I do not.

1 THE COURT: Okay.

2 MS. POWRIE: It's been a long time since I've
3 been on an ambulance so I'm not familiar with a lot of
4 the deputies.

5 THE COURT: Newer people.

6 MS. POWRIE: Yeah.

7 THE COURT: Okay. So the same question for
8 you. Would you have a tendency because of your prior
9 association with some of those individuals to want to
10 give more weight to the testimony of some of those law
11 enforcement witnesses?

12 MS. POWRIE: No.

13 THE COURT: You could be fair and impartial
14 to both sides of the case?

15 MS. POWRIE: Yes, sir.

16 THE COURT: You wouldn't have a tendency to
17 favor say the State's side of the case over the
18 Defendant?

19 MS. POWRIE: No.

20 THE COURT: Okay. Thank you, ma'am.

21 Okay. Who else had their hand raised?
22 Anybody else?

23 I've sort of already asked this question, but
24 I'll ask it again. If any law enforcement officer were
25 to testify in this case, would any of you tend to give

1 any more or less weight to his or her testimony simply
2 because he or she is a law enforcement officer? If so,
3 please raise your hand.

4 Have any of you or any close family member of
5 any of you ever been a victim of a serious crime? If
6 so, please raise your hand.

7 Now, you've heard all the different people
8 who are in the box introduce themselves. I now want to
9 know whether or not any of you know other people who are
10 in the box with you. So if you know other individuals
11 who are in the box with you, please raise your hand.

12 Let's start on the front row over here with
13 seat number 26, Mr. Kennedy. Can you tell us who you
14 know that's in the box with you.

15 MR. KENNEDY: I know Rhonda, and I know Ron.

16 THE COURT: How do you know those two people?

17 MR. KENNEDY: I've worked with Ron for quite
18 a few years, and I've just known Rhonda and her husband
19 just as friends. I used to work with her husband.

20 THE COURT: Okay. Now, the one that you
21 currently work with, is that person your supervisor?

22 MR. KENNEDY: No.

23 THE COURT: No, okay. Are you that person's
24 supervisor?

25 MR. KENNEDY: No.

1 THE COURT: Okay. So if you were to end up
2 on a jury with one or both of those individuals, do you
3 think you would feel any kind of compulsion to side in
4 the same way as that person might want to vote in the
5 case?

6 MR. KENNEDY: No.

7 THE COURT: Could you disagree with those
8 folks without damaging your relationship with those
9 individuals in some way?

10 MR. KENNEDY: I think so.

11 THE COURT: Okay. You think so or you know
12 so?

13 MR. KENNEDY: I know so.

14 THE COURT: Okay. Okay, thank you, sir.
15 Have a seat.

16 MR. KENNEDY: Thank you.

17 THE COURT: Who else had their hand raised.
18 Let's start with Juror No. 10 here. This is the juror
19 in seat number 29, Ron B. Go ahead.

20 MR. BARRUETABENA: I know Jim Kennedy. I've
21 worked with him.

22 THE COURT: Okay. Is he your supervisor?

23 MR. BARRUETABENA: No, he is not.

24 THE COURT: Are you his supervisor?

25 MR. BARRUETABENA: No, I'm not.

1 THE COURT: Okay. Would you have any
2 problems if you ended up on the jury with him?

3 MR. BARRUETABENA: No, I wouldn't.

4 THE COURT: You could exercise your
5 independent judgment and wouldn't feel like you had to
6 go along with what he thought about the case?

7 MR. BARRUETABENA: Yes, I could.

8 THE COURT: Okay. Thank you, sir. Have a
9 seat. Who else had their hand raised? Okay, let's go
10 to the next seat down, Ms. Johnson in seat 30.

11 MS. JOHNSON: I know Ms. Evans, and I know
12 Ms. Meade from work.

13 THE COURT: Okay. You work together with
14 them?

15 MS. JOHNSON: Uh-huh.

16 THE COURT: Are any of those individuals your
17 supervisor?

18 MS. JOHNSON: No.

19 THE COURT: Are you their supervisor?

20 MS. JOHNSON: No.

21 THE COURT: Okay. If you ended up on a jury
22 with one or both of those individuals, would you feel
23 some compulsion to go along with what they thought about
24 the case?

25 MS. JOHNSON: No.

1 THE COURT: You could disagree with them?

2 MS. JOHNSON: Yes.

3 THE COURT: It wouldn't cause any problem
4 with your relationship with them?

5 MS. JOHNSON: No.

6 THE COURT: Okay. Thank you, ma'am. Who
7 else had their hand raised? Let's move over here to the
8 end of this row, Ms. Bogdon, in seat 24.

9 MS. BOGDON: I know Julius Stieger and Tricia
10 Evans and by very peripherally Dave Gubler.

11 THE COURT: Okay. How do you know those
12 three individuals?

13 MS. BOGDON: Two I work with, so Julius and
14 Tricia both work at Nevada Gold Mines, and then just
15 through the joint venture with Dave Gubler.

16 THE COURT: Okay. If you were to end up on a
17 jury with one, two, or three of those individuals, would
18 you feel any compulsion to go along with what they might
19 think about the case because you know them?

20 MS. BOGDON: No.

21 THE COURT: You could disagree with them?

22 MS. BOGDON: Yes.

23 THE COURT: That wouldn't affect your
24 relationship with them in any way?

25 MS. BOGDON: No.

1 THE COURT: Okay. Thank you very much,
2 ma'am. Who else had their hand raised? Next to you,
3 Ms. Lonergan in seat 22. Is that your name?

4 MR. THOMPSON: No.

5 MS. TAYLOR: No.

6 THE COURT: Oh, you're Ms. Taylor, I'm sorry.
7 Ms. Taylor in seat 23.

8 MS. TAYLOR: I've met Jim briefly, number 23,
9 I think.

10 THE COURT: Okay. Mr. Jim Kennedy?

11 MS. TAYLOR: Uh-huh.

12 THE COURT: You do know him? And how do you
13 know him?

14 MS. TAYLOR: I met him at the Snowshoe in
15 Salt Lake a couple years ago.

16 THE COURT: Okay. So if you ended up on the
17 jury with Mr. Kennedy, would that affect your ability to
18 be fair in the case?

19 MS. TAYLOR: No.

20 THE COURT: You could disagree with him, or
21 would you feel some tendency to want to go along with
22 what he thought about the case?

23 MS. TAYLOR: I could disagree.

24 THE COURT: Okay. And that wouldn't affect
25 your relationship with him in any way?

1 MS. TAYLOR: (No audible response)

2 THE COURT: Okay, thank you, ma'am. Who else
3 had their hand raised? Let's go to the back row -- the
4 next row back, Ms. Nutting, in seat 16. Who do you
5 know?

6 MS. NUTTING: So I know Rhonda and Mary Seal.

7 THE COURT: Okay. So if you were to end up
8 on the jury with Rhonda or Ms. Seal, do you think you
9 would feel some desire to want to go along with what
10 they thought about the case?

11 MS. NUTTING: No.

12 THE COURT: You could disagree with them?

13 MS. NUTTING: Yes.

14 THE COURT: And it wouldn't affect your
15 relationship that you might have with those individuals?

16 MS. NUTTING: No.

17 THE COURT: Okay. Thank you, Ms. Nutting.

18 Who else had their hand raised there?

19 Ms. Meade in seat 15.

20 MS. MEADE: Again, I know Amanda, Julius, and
21 Rhonda.

22 THE COURT: Okay. How do you know them?

23 MS. MEADE: Work, all the way around.

24 THE COURT: Are any of them your supervisor?

25 MS. MEADE: Not anymore.

1 THE COURT: Not anymore. One of them was at
2 one time?

3 MS. MEADE: Yes.

4 THE COURT: And who was that?

5 MS. MEADE: Julius.

6 THE COURT: Okay. So if -- same question for
7 you. If you ended up on the jury with these folks or
8 one or more of them, would you feel some necessity to go
9 along with what they might think about the case?

10 MS. MEADE: No, sir.

11 THE COURT: You could disagree with them?

12 MS. MEADE: Yes.

13 THE COURT: And you could remain friends
14 afterwards?

15 MS. MEADE: Yes.

16 THE COURT: Okay. Thank you very much.
17 Okay, next seat over, Ms. Seal, in seat 14.

18 MS. SEAL: I know Theresa and Rhonda.

19 THE COURT: Okay. Same questions for you.
20 Would you have a differing response?

21 MS. SEAL: No.

22 THE COURT: You could disagree with those
23 folks without any problem?

24 MS. SEAL: Yes.

25 THE COURT: Okay, thank you, Ms. Seal. Okay,

1 let's move over here. Is this Ms. Evans?

2 MS. EVANS: Yes.

3 THE COURT: Okay. Seat 12, Ms. Evans.

4 MS. EVANS: I know Amanda, Raechelle, and
5 Julius from work.

6 THE COURT: Okay. The same question that
7 I've asked several times.

8 MS. EVANS: Yep.

9 THE COURT: Would that pose a problem if you
10 were to end up on the jury with them?

11 MS. EVANS: Nope.

12 THE COURT: Would you feel some need to go
13 along with what they thought about the case?

14 MS. EVANS: Nope.

15 THE COURT: You could disagree with them?

16 MS. EVANS: Yep.

17 THE COURT: Okay, thank you very much. Okay,
18 over here in the far seat in that same row, Ms. Stieger
19 -- or Mr. Stieger, excuse me.

20 MR. STIEGER: Yes, I know Tricia, Cassy,
21 Raechelle, and I know of Theresa's husband, Chief, all
22 through work.

23 THE COURT: Okay. If you were to end up on
24 the jury with one or more of those individuals, would
25 you feel some need to go along with what they might

1 think about the case?

2 MR. STIEGER: Nope, we can argue.

3 THE COURT: You could disagree with them?

4 MR. STIEGER: Yes, sir.

5 THE COURT: That wouldn't affect your
6 relationship in any way with them?

7 MR. STIEGER: Nope.

8 THE COURT: Okay. Thank you, Mr. Stieger.

9 Who else had their hand raised? The back row
10 there in seat 3, Mr. Gubler.

11 MR. GUBLER: I know Raechelle through Nevada
12 Gold Mines joint venture.

13 THE COURT: Okay. Are you her supervisor?

14 MR. GUBLER: No.

15 THE COURT: Okay. Is she your supervisor?

16 MR. GUBLER: No.

17 THE COURT: Okay. Same questions for you.
18 How would you answer those questions?

19 MR. GUBLER: No, no issues.

20 THE COURT: You wouldn't have any problem
21 serving on the jury with that individual?

22 MR. GUBLER: No.

23 THE COURT: You could be fair?

24 MR. GUBLER: Yes.

25 THE COURT: Okay. Thank you very much. Who

1 else? Okay, this is Ms. Powrie?

2 MS. POWRIE: Yes.

3 THE COURT: In seat 19, go ahead.

4 MS. POWRIE: I know Jim. He worked with my
5 husband --

6 THE COURT: Uh-huh.

7 MS. POWRIE: -- and I know Mary and Theresa.
8 I used to work with these guys.

9 THE COURT: Okay. Same question for you. If
10 you ended up on the jury with one or more of those
11 individuals, do you think you would have any tendency to
12 want to go along with what they thought about the case?

13 MS. POWRIE: No.

14 THE COURT: You could disagree with them --

15 MS. POWRIE: Yes.

16 THE COURT: -- if that was your, in fact,
17 your heartfelt conviction?

18 MS. POWRIE: (No audible response)

19 THE COURT: Is that yes?

20 MS. POWRIE: Yes.

21 THE COURT: And you wouldn't -- it wouldn't
22 affect your relationship in any way if you were to
23 disagree with them in some fashion?

24 MS. POWRIE: Nope.

25 THE COURT: Okay. Thank you very much. Who

1 else? Okay.

2 I have instructed you on the presumption of
3 innocence. Will any of you have difficulty following
4 the Court's instruction that the Defendant is presumed
5 innocent until and is entitled to acquittal unless he is
6 proven guilty beyond a reasonable doubt? If you have a
7 problem with that, raise your hand.

8 UNIDENTIFIED SPEAKER: Could you repeat the
9 question, please?

10 THE COURT: Sure. I have instructed you on
11 the presumption of innocence. Will any of you have
12 difficulty following the Court's instruction that the
13 Defendant is presumed innocent until and is entitled to
14 acquittal unless he is proven guilty beyond a reasonable
15 doubt? Anybody have any difficulty following that
16 instruction?

17 Okay. I have also instructed you on the
18 definition of reasonable doubt. Will any of you have
19 any difficulty following that instruction?

20 At the conclusion of the evidence, I will
21 instruct you on the law that applies to this case. I
22 will instruct you that it is your duty to apply the law
23 to the facts that you find. Would any juror be
24 reluctant to apply the law as instructed by the Court
25 even if you personally disagreed with it? Would anybody

1 have some problem following the law?

2 Keep in mind it's, you know, generally the --
3 our elected representatives who make the law. If we
4 don't like the law and what it says, we take that to the
5 Legislature and try to get them to change it.

6 Let me ask each of you to assume that after
7 hearing all the evidence, it was your judgment that the
8 State had proven the Defendant guilty beyond a
9 reasonable doubt. Is there anyone whom you would have
10 difficulty facing if you announced your verdict of
11 guilty? If so, please raise your hand.

12 Let me ask each of you to assume that after
13 hearing all of the evidence, it was your judgment that
14 the State had not proven the Defendant guilty beyond a
15 reasonable doubt. Is there anyone whom you would have
16 difficulty facing if you announced your verdict of not
17 guilty?

18 Now, here's the catch-all question. Is there
19 any of you in the box who know of some reason why you
20 could not be fair and impartial and I just haven't asked
21 you about it, but you think like you maybe should tell
22 me something that is important for the Court to know
23 about? If so, please raise your hand.

24 Okay. That concludes the Court's questioning
25 of the various folks in the box, and so we'll now pass

1 the questioning over to Mr. Thompson from the State of
2 Nevada.

3 MR. THOMPSON: Thank you, Judge.

4 So it's now our opportunity to ask maybe some
5 more specific questions or just follow up on some of the
6 same questions that the Judge asked about, and, again, I
7 want to remind you all that you've seen how it works
8 with the sidebar. You don't have to bring it up in
9 front of everybody even if it's something that's not
10 that serious possibly. You just don't feel comfortable
11 talking about anything in front of a large group.
12 You're just scared of public speaking. We can do that
13 up here, and that's perfectly fine. You're not going to
14 get in trouble for that. So I'd like to remind you of
15 that.

16 Right at the end of the break, we were doing
17 everybody who had been a prior juror. I lost track
18 there a little bit. Did everybody who was a prior
19 juror, did you get to tell us about your prior jury
20 service? We have a new one here. Hang on, we need to
21 get you a microphone.

22 UNIDENTIFIED JUROR: Yeah, I was on a prior
23 jury. It was -- it was in Washoe County back in
24 2002/2003 somewhere.

25 MR. THOMPSON: Okay. Do you know if it was a

1 civil case or a criminal case?

2 UNIDENTIFIED JUROR: It was a criminal case.

3 MR. THOMPSON: Okay. And were you guys able
4 to reach a verdict?

5 UNIDENTIFIED JUROR: Yes.

6 MR. THOMPSON: Were you the foreperson?

7 UNIDENTIFIED JUROR: I was.

8 MR. THOMPSON: Anything about that experience
9 that would make you somewhat hesitant to be on yet
10 another jury again?

11 UNIDENTIFIED JUROR: It was a good
12 experience.

13 MR. THOMPSON: Okay. All right, thank you.
14 Anybody else?

15 UNIDENTIFIED JUROR: (Indiscernible)

16 THE COURT: Yes, come on up.

17 (Whereupon, sidebar off the record)

18 THE COURT: Okay. Go ahead, Mr. Thompson.

19 MR. THOMPSON: Okay. I was asking about jury
20 service. Was there anybody else? No, okay.

21 One of the questions that the Judge asked you
22 about was whether or not one of the attorneys had ever
23 represented a third party against you, which is a really
24 complex way of saying, at least from our point of view,
25 have you or any of your friends or family members been

1 prosecuted by our office?

2 And, again, we can talk about that at a
3 sidebar. I recognize that that may be a difficult topic
4 to discuss, but I want to broaden that just -- not you
5 but friends, close personal friends, or family members
6 that may have been prosecuted by our office. We would
7 be representing the State against this other entity.
8 Anybody? Okay, no hands.

9 And then I wanted to talk to Ms. Borden
10 again. Just in your discussions with Mr. Pennell
11 regarding -- I guess he's Detective Stake now. Could
12 you disagree with Detective Stake now, or have you
13 disagreed with him over time?

14 MS. BORDEN: Oh, yes.

15 MR. THOMPSON: Okay. So you would have no
16 problem -- like if you watched his testimony and
17 discredit -- and felt that something's wrong here, you
18 would have no problem being able to make that finding as
19 well against his testimony?

20 MS. BORDEN: No problem at all.

21 MR. THOMPSON: Okay. So you could be fair
22 and impartial to both sides, the State and the Defense?

23 MS. BORDEN: Yes.

24 MR. THOMPSON: In evaluating just Detective
25 Stake?

1 MS. BORDEN: Yes.

2 MR. THOMPSON: Okay, or any of the law
3 enforcement officers.

4 MS. BORDEN: (Indiscernible)

5 MR. THOMPSON: All right. Thank you, that's
6 all. I just wanted to clarify with you.

7 MS. BORDEN: No, I might mention that many
8 years ago I had a nephew that got a DUI and was
9 prosecuted here, and I had another nephew that stole a
10 car in Idaho and was prosecuted here, and I think it was
11 like -- I don't know, 25 years ago.

12 MR. THOMPSON: Okay. So you have had some
13 family members or acquaintances that have gone through
14 the system.

15 MS. BORDEN: Yes.

16 MR. THOMPSON: In those scenarios, have you
17 felt that they've been treated fairly?

18 MS. BORDEN: Yes.

19 MR. THOMPSON: Nothing against the State as
20 far as you felt like they got railroaded or the
21 Prosecutor or their office did anything unethical or
22 anything like that?

23 MS. BORDEN: (No audible response)

24 MR. THOMPSON: All right. Thank you for
25 bringing that up. I know it's not fun to talk about.

1 MS. BORDEN: It popped in my head.

2 MR. THOMPSON: All right, thank you.

3 MS. BORDEN: Uh-huh.

4 MR. THOMPSON: Anybody else have anything pop
5 into their head? This is happening quite often it seems
6 like right now, and that's okay. That's okay. That's
7 kind of what this process is about.

8 All right. So clearly, what we're looking
9 for is people who can come to this proceeding and be
10 fair and impartial to both sides, and so that's --
11 you've heard it over and over and over again, and so as
12 I go through some of my questions and the specific areas
13 that I'll be talking about, that's what we're looking
14 for. So you need to ask yourself, can I be fair and
15 impartial with regards to my views regarding X or
16 whatever I'll be asking about, okay.

17 So the presumption of innocence that the
18 Judge talked about, very simply, it's just that if we
19 gave you all verdict forms right now, everybody would be
20 voting not guilty because you don't have any evidence in
21 front of you. Does anybody have an issue with that or
22 think that, well, I might be kind of inclined to vote
23 guilty right now even without any evidence? Anybody
24 have an issue with that, that you start out right now it
25 is not guilty, and it's not until we put on the

1 evidence, and that's what you have to decide?

2 All right, that's the simple concept of
3 presumption of innocence. That's where everything
4 starts right now. Anybody have an issue with the
5 presumption of innocence? Okay, no hands.

6 And, again, I want to reiterate that we're
7 asking you to judge the facts. That's your role. The
8 Judge gives you the law, and even though you might
9 disagree with it, you have to follow it. Do you all
10 understand that that's your role here is just to judge
11 the facts not to judge the law whether you disagree with
12 it or you go, that's a dumb law? We're not asking for
13 your verdict on the law but on the facts of the case,
14 whether something did or did not happen using the law
15 that the Judge instructs you. Is everybody willing to
16 do that?

17 That means that if there's something you
18 disagree with in the law, you would call John Ellison or
19 some other Legislature, and that's who you talk to about
20 that, but your verdict is not a way to make that
21 statement. Okay, any issue with that?

22 So along those lines in following the law,
23 jurors are asked to look at a moment in time and asked
24 to find out whether or not these facts occurred, okay.
25 And in every case, everybody who's ever sat in the

1 Defendant's chair is somebody's son, somebody's brother
2 or sister, or their spouse, or father or mother. We
3 just don't live on the earth, you know, all by
4 ourselves.

5 And so it's one of those things that the laws
6 going to tell you we need you -- we need you to focus on
7 the facts and not consider the periphery. Would any of
8 you be tempted to know -- well, I don't know, how is
9 this going to affect his family or how is this going to
10 affect his friends or things like that? We don't want
11 you to focus on that. Does anybody feel like they might
12 have a tendency to do that? Okay, no hands.

13 So along those lines, you're not to consider
14 yourself one bit about the punishment in this case.
15 That's the Judge's job at a later date if he's found
16 guilty, not your job. So what the punishment is is not
17 something you'll learn about, and it's not something
18 that's supposed to enter into your deliberations.
19 You're not supposed to speculate about it. Anybody have
20 an issue with that? Okay.

21 So then we also have the collateral
22 consequences that, well, if somebody's convicted and
23 it's a felony, they might lose their voting rights, or
24 they might lose their gun rights. Again, these are
25 collateral consequences or punishments possibly. You

1 are not to concern yourself with that. Anybody have a
2 problem with setting that aside, those collateral
3 consequences? Okay, no hands.

4 We've had a very interesting year last year
5 with all the protests with regards to police officers.
6 Is there anybody who's starting to feel like maybe our
7 system is broken, that we've got a problem and that we
8 can't trust the system? We ought not to be going
9 forward with this, or we need to revamp things, change
10 up the way that police officers do their work. Is
11 anybody starting to feel that way?

12 Number 48, Ms. Johnson, if we could -- could
13 you tell me a little bit about your views that way.

14 MS. JOHNSON: What specifically do you want?

15 MR. THOMPSON: Well, I think -- I can't hear
16 you very well.

17 MS. JOHNSON: What specifically do you want?

18 MR. THOMPSON: Okay. So is your view towards
19 the system, or is it towards the police officers?

20 MS. JOHNSON: A little bit of everything.

21 MR. THOMPSON: A little bit of everything,
22 okay. And is this based on personal experiences you've
23 had?

24 MS. JOHNSON: No.

25 MR. THOMPSON: Is it what you've watched on

1 TV?

2 MS. JOHNSON: Through media, yes.

3 MR. THOMPSON: Okay. So, for example, which
4 parts of the media have you observed?

5 MS. JOHNSON: The news.

6 MR. THOMPSON: Okay. So some of the stuff
7 that happened in Minnesota and things like that.

8 MS. JOHNSON: Uh-huh.

9 MR. THOMPSON: Would that be --

10 MS. JOHNSON: Yes.

11 MR. THOMPSON: Yes, okay. Can you recognize
12 that that's Minnesota and that's that police officer
13 over there, or are you going look at my police officers
14 here and say I think they're all the same?

15 MS. JOHNSON: No.

16 MR. THOMPSON: Okay.

17 MS. JOHNSON: I won't think they're all the
18 same.

19 MR. THOMPSON: Okay. Do you think police
20 officers make mistakes?

21 MS. JOHNSON: Yes, everyone does.

22 MR. THOMPSON: They're human, aren't they?
23 Everyone does. Okay, so could you sit and judge a
24 police officer fairly just like any other witness, or is
25 he starting a bit lower because of what's happened in

1 Minnesota?

2 MS. JOHNSON: Low is over there, so. But I
3 could do it fairly, I guess, yeah.

4 MR. THOMPSON: Okay. What about the way that
5 the legal system works where we hold these jury trials,
6 and we go through this process of a trial, do you have
7 any issues with that?

8 MS. JOHNSON: No.

9 MR. THOMPSON: Okay. Are there things that
10 you'd like to see changed?

11 MS. JOHNSON: Doesn't everyone?

12 MR. THOMPSON: Okay. What kind of changes
13 would you like to see?

14 MS. JOHNSON: I don't really think that's
15 what the issue is here. I don't think that's like
16 appropriate for this place, is it?

17 MR. THOMPSON: Okay.

18 MS. JOHNSON: I just wanted to be transparent
19 in the fact that the system could be changed, but for
20 this particular case, it's not like I'm going to go in
21 like automatically thinking the officers aren't worth
22 trusting or anything like that.

23 MR. THOMPSON: Okay. So let me get you to
24 transparency a little bit there. So when we have like
25 our little sidebars and we talk to people, do you have

1 any issue with that?

2 MS. JOHNSON: No.

3 MR. THOMPSON: Okay. There's going to be
4 times during the trial where we will probably have
5 sidebars with the Judge talking about things that the
6 jury won't know about.

7 MS. JOHNSON: Right.

8 MR. THOMPSON: Do you think that that's fair
9 and that's okay?

10 MS. JOHNSON: Yes.

11 MR. THOMPSON: Okay, all right. And there
12 may be things in our files that you're not going to
13 learn about because they're not admissible for whatever
14 reason under the code of evidence.

15 MS. JOHNSON: Right.

16 MR. THOMPSON: Okay. We don't want you
17 speculating about those things, just focus on that which
18 is before you. Can you do that?

19 MS. JOHNSON: Yes.

20 MR. THOMPSON: Okay. All right, thank you.
21 I appreciate you sharing with us. That kind of gets me
22 to another point is -- Mr. Peterson, I'm going to pick
23 on you. Could you get him a...

24 Have you ever heard the term hearsay before?

25 MR. PETERSON: I have.

1 MR. THOMPSON: Okay. Something that's said
2 by somebody else outside -- kind of a rumor type thing.

3 MR. PEDERSON: Right, without real direct
4 knowledge.

5 MR. THOMPSON: Okay. Well, in the law what
6 we call that is an out-of-court statement. So we like
7 people to -- we like -- not like. We demand that juries
8 listen to witnesses and make their decision based on the
9 evidence that's presented to them, not I heard that so
10 and so's guilty or I heard that such and such a thing
11 happened. We want people who have direct evidence of
12 that.

13 So there may be things that we have that are
14 hearsay. Like police officer reports are typically
15 hearsay. So jurors aren't going to see those. It's an
16 out-of-court statement. He wrote it down, and then he
17 -- and then he sent it in, but he'll have to come in and
18 testify about that stuff. That's what we make him do so
19 he can be cross-examined.

20 Any issue with the idea that you don't get to
21 see that report, that it's hearsay, and it's something
22 that we aren't typically admitting?

23 MR. PETERSON: No issue with that.

24 MR. THOMPSON: Okay. You want to hear from
25 the officer instead of have the hearsay?

1 MR. PETERSON: Yeah.

2 MR. THOMPSON: Okay.

3 MR. PETERSON: Yeah, I think -- and to have
4 the opportunity for both sides to ask fair questions.

5 MR. THOMPSON: Very good, thank you.

6 Now, when we -- the Judge read to you the
7 beyond a reasonable doubt standard that we have, and
8 what you didn't hear in there is any sort of a recipe,
9 meaning the State has to produce two eyewitnesses, one
10 expert, and three items of physical evidence in order to
11 prove someone guilty beyond a reasonable doubt. That's
12 not the way it works.

13 So what that means is, is there's any number
14 of ways that we could prove a case, and I'll give you
15 two extreme examples here, okay. One would be we could
16 call just one witness, just one witness, and if that
17 witness came in and testified and you found that witness
18 credible and you believed that witness beyond a
19 reasonable doubt, that they saw what they saw, and it
20 met all of the elements of the crime, you could convict
21 somebody.

22 You could find them guilty of a crime beyond
23 a reasonable doubt based solely on one witness. No
24 items of physical evidence, no nothing. It just could
25 be that you believe that witness beyond a reasonable

1 doubt. Does anybody have an issue with that, that
2 that's a possibility under the law? No hands.

3 On the flip side, let's say we had a crime
4 committed in this particular room with all of us here
5 present. You could have 60 or 70 witnesses, but let's
6 say I just called one or two or three of them instead.
7 Again, under the law, I don't have to call everybody
8 because there's no -- under the beyond a reasonable
9 doubt definition, there's no recipe for it. So I could
10 just call one or two or three of those people that were
11 present. I don't have to call all 60 of them. Anybody
12 have an issue with that? No hands.

13 Under the law, they deem circumstantial
14 evidence the same as direct evidence. Just a simple
15 example for that, direct evidence would be walking
16 outside and watching it rain and fall from the sky.
17 That's my witness. They come in and they say I saw the
18 rain falling straight out of that cloud, and it was
19 everywhere, and I saw it raining. That's direct
20 evidence .

21 Circumstantial evidence would be somebody who
22 went outside after it had rained and observed all the
23 results of it, water everywhere, worms everywhere, the
24 smell in the air, and they came in and they testified
25 about it. Under the law, those are both admissible, and

1 you could find that it rained under both witnesses.

2 Anybody have an issue with that, using
3 circumstantial evidence the same as direct evidence?

4 Okay, no hands.

5 I just want to speak briefly about the CSI
6 effect of things. I assume that many of you have
7 watched crime scene shows on TV or things like that. I
8 just want to make sure that you understand that's TV,
9 and this is the real world. And so whatever happens
10 here, is anybody going to have a hard time setting aside
11 what you've seen on TV and not making me meet that
12 standard? Okay, anybody have an issue with setting
13 aside what you've seen on TV and focus on what we do
14 here, the facts here and the law from the Judge? Any
15 issues with that? No hands.

16 The Judge asked you if you were to come back
17 with a verdict one way or the other and if you would
18 have any trouble seeing anybody in the community
19 afterwards. Would any of you feel like your religious
20 values or your personal beliefs would prevent you from
21 coming to a decision about the guilt or innocence of a
22 person? That you just can't, you know, but for the
23 grace of God go I just can't sit in judgment of somebody
24 else? Is there anybody that feels that way? Okay, no
25 hands.

1 We just don't want you to get back there to
2 the point where it's time to make a decision, and you
3 just think I can't do this. I just can't do this. I'm
4 not supposed to judge other people, and that would be a
5 bad time to feel that way so I want you to think about
6 that a little bit. Anybody? No hands.

7 Part of the nature of the charges that we
8 read to you, what we're asking about is -- and you heard
9 this a little bit with some people is we don't want you
10 to take whatever experiences you have and put yourself
11 in the place of the Defendant or put yourself in the
12 place of the victim. We want you to be an objective
13 outside observer, okay. We call it the Golden Rule in
14 what we do.

15 So we can't have you, well, if I were the
16 victim, I would have done X, Y, Z, or if I were the
17 Defendant, I would have done X, Y, Z. That's -- we
18 don't want you doing that. It may seem tempting to
19 think that way, but what we want you to do is step back
20 and observe and listen to the evidence and make your
21 decision that way.

22 Is anybody going to be tempted to put
23 yourself in their positions? Everybody okay with
24 following that rule, that you don't put yourself in
25 either of the party's positions? Okay, no hands.

1 The Judge asked about whether or not you've
2 been jurors. Has anybody ever testified as a witness in
3 a case before or a proceeding? Anybody had that
4 experience? Ms. Borden, I can assume so through your
5 law enforcement. That's okay, I'll just ask you a
6 general type question. We have another one over here,
7 Ms. -- is it Powrie?

8 MS. POWRIE: Yes.

9 MR. THOMPSON: Okay. You've testified. Was
10 it a civil or a criminal proceeding?

11 MS. POWRIE: I don't really remember. There
12 was a young boy killed in a car wreck, and I was on the
13 ambulance, and they wanted my statement of what I saw at
14 the scene and that --

15 MR. THOMPSON: Okay.

16 MS. POWRIE: -- that was it.

17 MR. THOMPSON: All right. So you got
18 questioned by both sides of attorneys?

19 MS. POWRIE: Yes.

20 MR. THOMPSON: Anything about that experience
21 that would make you feel uncomfortable about the system
22 or anything like that?

23 MS. POWRIE: No.

24 MR. THOMPSON: Did you feel like you got
25 treated fairly?

1 MS. POWRIE: Yes.

2 MR. THOMPSON: All right, thank you. Those
3 of you who have testified -- well, let's go ahead and go
4 back to Mr. Stieger back here.

5 THE BAILIFF: Okay. I wasn't sure if you had
6 saw him.

7 MR. THOMPSON: I did.

8 MR. STIEGER: It was the last week or the
9 week before I had to give a deposition on a case.

10 MR. THOMPSON: Okay. So you were questioned
11 by attorneys from both sides?

12 MR. STIEGER: Yeah, the one side.

13 MR. THOMPSON: I'm sorry?

14 MR. STIEGER: The one side.

15 MR. THOMPSON: Just the one side they did it.
16 The other side didn't ask you any questions?

17 MR. STIEGER: No.

18 MR. THOMPSON: Okay. Good experience, bad
19 experience?

20 MR. STIEGER: It was interesting.

21 MR. THOMPSON: Interesting, that's a fair way
22 to say that.

23 MR. STIEGER: It was good.

24 MR. THOMPSON: All right. Anything about
25 that experience that makes you go, oh, I don't like

1 these lawyers? I don't want to -- I'm going to distrust
2 what's going on here?

3 MR. STIEGER: No, it went -- it went all
4 right.

5 MR. THOMPSON: All right, thank you for
6 sharing that.

7 And then just again, we sit for fairly long
8 periods of time. Is there anybody that's got any health
9 issues or language issues or hearing issues that we need
10 to know about beforehand? And again, we can talk about
11 this at a sidebar if you need to.

12 Number 31 --

13 THE BAILIFF: He said he wanted a sidebar.

14 MR. THOMPSON: -- Mr. Goodrich, come on up.

15 (Whereupon, sidebar off the record)

16 THE COURT: Thank you. We're going to go
17 ahead and thank and excuse the juror in seat number 6,
18 Mr. David Goodrich. So Ron B, you're going to move to
19 seat number 6, and then the jurors in seat 30, 31, and
20 32 will move over one seat. And we'll draw another
21 number here.

22 Twenty what? 24, Cornelius Brooke, come on
23 up. Can you answer those six questions there for us,
24 please.

25 MR. BROOKE: Cornelius Brooke. Engineer at

1 Ames Construction. My spouse is a stay-at-home mom.
2 Four kids. Lived in Elko since 2014 in the City.

3 THE COURT: Now, you heard us go through a
4 whole bunch of questions. Were there any of those
5 questions that you would have answered in the
6 affirmative to?

7 MR. BROOKE: No, Your Honor.

8 THE COURT: Okay. Do you need me to repeat
9 any of the questions for you?

10 MR. BROOKE: (No audible response)

11 THE COURT: Okay. Thank you, have a seat.
12 Okay, Mr. Thompson, do you have any other
13 questions?

14 MR. THOMPSON: I'm just about through. So
15 everything, Mr. Brooke, you're good on all the questions
16 that we've been through? He's nodding his head, all
17 right.

18 And just so you understand, what we're
19 looking for when we're bringing up health or things like
20 that, we just don't want -- and it could even be if --
21 that first question the Judge asked, if you have the
22 time to give us. A lot of people are going to be
23 worried about their work or something like that, and we
24 need you to pay attention to the evidence.

25 And if you're concerned about my foot hurts

1 or whatever health concern you have or if you're worried
2 about work or you're worried about family concerns, then
3 you may not be paying attention, and we need to know
4 that, if there's something weighing on your mind. I
5 think that's part of the Judge's question about thinking
6 about your mindset right now, would you feel
7 comfortable, you know, being on a jury with that
8 mindset.

9 So anybody's got anything plaguing them right
10 now of any sort? Think you'd all give their attention
11 everywhere -- or not everywhere but to all the evidence
12 that we'll be adducing? All right, no hands.

13 All right, that's all the questions I have,
14 Judge.

15 THE COURT: Does the State pass the panel for
16 cause?

17 MR. THOMPSON: I'll wait until Mr. --

18 THE COURT: Okay.

19 MR. THOMPSON: -- Pennell is through.

20 THE COURT: I think it might be an
21 appropriate moment right here, Mr. Pennell, rather than
22 getting underway with your questions, to take a break
23 for lunch. We're just a few minutes before noon. So I
24 think we'll go ahead and break now for lunch. I do need
25 to admonish the parties as follows before we break:

1 Please do not converse amongst yourselves or
2 with anyone else on any subject connected with the
3 trial. Do not read, watch, or listen to any report of
4 or commentary on the trial or any person connected with
5 the trial by any medium of information, including,
6 without limitation, newspapers, television, radio and
7 the Internet. Do not form or express any opinion on any
8 subject connected with the trial until the cause is
9 finally submitted to you.

10 You may not use any electronic device or
11 media such as the telephone, a cell phone, smartphone,
12 iPhone, BlackBerry or computer, the Internet, any
13 Internet service, any texts or instant messaging
14 service, any Internet chat room, blog, or website, such
15 as Facebook, Myspace, LinkedIn, YouTube, or Twitter to
16 communicate to anyone any information about this case
17 until I accept your verdict.

18 In other words, you cannot talk to anyone on
19 the phone, correspond with anyone, or electronically
20 communicate with anyone about this case.

21 So we'll go ahead and release you now for
22 lunch. Please return back to your exact same seat and
23 be in that seat by 1:00 o'clock. You're now excused.

24 Thank you.

25 (Whereupon, court recessed)

1 THE COURT: Okay. We're going to get back
2 underway then. The time is 1:02 p.m., the date Monday,
3 June 14th, 2021. We're back on the record in Case
4 DC-CR-20-159. This is State of Nevada versus Darwyn
5 Ross Yowell. Mr. Yowell is present, along with his
6 counsel, Mr. Pennell. We do have Mr. Thompson present
7 from the District Attorney's Office.

8 Do the parties stipulate to the presence of
9 the jury panel?

10 MR. THOMPSON: Yes.

11 MR. PENNELL: Yes, Your Honor.

12 THE COURT: Okay. So I believe we had just
13 finished up with questioning by the State of Nevada. So
14 we'll now move on to questioning by the Defense. So go
15 ahead, Mr. Pennell.

16 MR. PENNELL: Thank you, Your Honor, counsel.

17 So what we've all asked you to do is to be
18 honest with us, and so I'm going to take this
19 opportunity to be honest with all of you. And my honest
20 concern, and I'm scared to death, is that you sat there
21 and you heard the list of charges, and you listened to
22 what their -- the State is accusing Darwyn of doing, and
23 you've already come to some conclusions, or you've
24 already decided that the scales are weighed in one
25 direction or the other.

1 And so that's my honest concern, and what I'm
2 asking you is just to be honest with me, the
3 Prosecution, and the Judge to make sure that we have the
4 appropriate jury for this kind of case. Now, Judge
5 Simons did talk about how it is our civic duty to sit on
6 a jury, and it's one of the foundations of our
7 democracy. And that we have a duty to do that if it's
8 an appropriate case.

9 But for some cases, you may need to step off
10 of that case, and that would also be your duty because
11 if you cannot be unbiased, if you cannot judge the facts
12 or the parties fairly, then this might not be the case
13 for you, and that's okay. There will always be more
14 cases, more -- some of you have served on multiple
15 juries.

16 And so what I'm really just asking is, is an
17 honest conviction in your heart or something that you
18 feel? Is there anyone that believes that they should be
19 stepping off this case?

20 Yes.

21 MR. KOUGH: I don't necessarily feel like I
22 should be stepping off the case, but on -- there was a
23 question before about whether you could take the -- I
24 guess, a witness of a police officer not be a little bit
25 biased on that, and I probably would be.

1 I mean, my upbringing, respect authority, and
2 I definitely have a lot of strong feelings of -- good
3 feelings towards police officers and the work they do.
4 So I would like to think I could be unbiased, but at the
5 some point, I mean, for me, that's kind of like how I
6 was raised, to respect authority. So it might be a
7 little bit difficult for me to be unbiased, so.

8 MR. PENNELL: I appreciate your honesty about
9 that. I'll just follow up a little more. So you're
10 saying that based on your upbringing and respecting
11 authority, is it fair to say that there's already a
12 thumb on the scale in terms of officers' testimony, that
13 you're going to already believe it, or you're going to
14 already have some kind of weight in favor of the State
15 based on that?

16 MR. KOUGH: Yeah, that's what I'm -- that's
17 what I'm kind of worried about.

18 MR. PENNELL: Okay.

19 MR. KOUGH: I know people aren't perfect, but
20 at the same point, like --

21 MR. PENNELL: Sure.

22 MR. KOUGH: Yeah, it's their duty . It's
23 your job. Like I -- they're being held at a higher, you
24 know, accountability than anyone else. So in my mind, I
25 would -- I might more likely believe them, so.

1 MR. PENNELL: Even before you've heard any
2 testimony, that's kind of already where you're sitting
3 here in the jury panel?

4 MR. KOUGH: Yeah, and like I said, I was just
5 thinking about that question. I didn't raise my hand
6 before, but I was just -- I mean, that's how I was
7 raised, respect authority --

8 MR. PENNELL: Sure.

9 MR. KOUGH: -- and people in positions of
10 authority. And so I just wanted to voice that, so.

11 MR. PENNELL: Right. So do you think that
12 you -- this is not the appropriate case for you to be on
13 maybe based on what you've heard so far and your
14 upbringing, that this is maybe a case that you should
15 step off of?

16 MR. KOUGH: I mean, I would like to think I
17 could be unbiased, but, yeah, and I don't think it has
18 anything specifically to do with this case. You know,
19 it's just -- it's always going to be there. I think
20 most people in America probably have that as well, I
21 mean, respecting authority, and that's just your
22 upbringing, right, so.

23 MR. PENNELL: Sure. Would -- based on what
24 we've already talked about, is there anything you've
25 heard that brings that to mind and why you decided to

1 stand up and be honest with us about this?

2 MR. KOUGH: No, I mean, as soon as you -- the
3 Judge asked the question, I was just kind of thinking
4 about it. You know, I didn't raise my hand and --

5 MR. PENNELL: Sure.

6 MR. KOUGH: -- in my mind, it's like I
7 wouldn't -- I wouldn't think I'm the only one in here
8 that might weight something a little heavily --
9 heavilier coming from a police officer. I mean, that's
10 just, I don't know, it's -- it's their job, right. Like
11 a lot of other people, a lot of witnesses, like they're
12 not sworn in, you know, as public servants, and so,
13 yeah. Just -- I was just thinking about that since he
14 asked the question, so.

15 MR. PENNELL: Sure. So if I could just maybe
16 have you take that just a little bit further. Do you
17 feel as if there's already a thumb on the scales in
18 terms of officer testimony when you -- you're already
19 prepared to believe it based on the fact that you feel
20 this way and you have these kind of values, and, you
21 know, you were raised this way. So is there already
22 some weight in favor of that side of the story?

23 MR. KOUGH: I think there's some weight. I
24 think I would definitely listen to all sides and try to
25 take into accountability, you know, what I believe is

1 the truth, but I -- to say there's no weight, I think
2 would not be correct. I mean, it is what it is, I
3 mean...

4 MR. PENNELL: Sure. I appreciate your
5 answer. Thank you for being honest with me.

6 MR. KOUGH: Yeah.

7 MR. PENNELL: So is there anybody that agrees
8 or has a similar kind of belief of what -- is it
9 Mr. Kough?

10 MR. KOUGH: Kough.

11 MR. PENNELL: Sorry, that has the same kind
12 of believe that he does or has that same impression? Is
13 there anybody else?

14 Yeah. I'm sorry, ma'am, what is your name,
15 Juror 36? If you want to stand up.

16 JUROR NO. 36: I'm of the same mind, and I
17 didn't bring it up earlier, but I do have a cousin who
18 retired from the police down in Florida. I don't feel
19 that will sway my decision in any way, but, again, my --
20 you know, I would tend to believe a police officer a
21 little more just because of the upbringing and -- but
22 definitely, I am prepared to listen to both sides, and I
23 don't think it will affect my decision in any way.

24 MR. PENNELL: Thanks for sharing that. I did
25 want to follow up if I could.

1 JUROR NO. 36: Okay.

2 MR. PENNELL: Does that mean that -- and you
3 said that automatically you're going to credit law
4 enforcement with their testimony, the believability of
5 it, the likelihood, that you think it's true or
6 accurate? You feel that way right now?

7 JUROR NO. 36: It would sway it some, but no,
8 I'd be willing to listen to everything.

9 MR. PENNELL: Sure.

10 JUROR NO. 36: Yeah, everybody makes
11 mistakes.

12 MR. PENNELL: Of course. So we have --
13 obviously, we haven't heard any of the evidence. None
14 of us have gotten to that point. So you're saying that
15 once you hear the evidence, you'll be fair, but right
16 now, it sounds like you might have some trouble being
17 fair because you've already decided that law enforcement
18 is going to be believed or at least you weigh in that
19 favor simply because of who they are.

20 Is that accurate to say?

21 JUROR NO. 36: Yeah, but --

22 MR. PENNELL: Okay.

23 JUROR NO. 36: Yeah, they wouldn't hold --
24 slightly more credibility but --

25 MR. PENNELL: Okay.

1 JUROR NO. 36: -- it wouldn't sway my
2 decisions.

3 MR. PENNELL: Okay. But basically right now,
4 you're saying it's slight, but there's credibility
5 already there?

6 JUROR NO. 36: Yeah.

7 MR. PENNELL: Okay. All right, I believe I
8 saw some other people. Thank you for answering that
9 question. I think there was some other hands up. Yeah,
10 let's go to you, sir, number 9.

11 JUROR NO. 9: I too believe that it's good to
12 respect authority. I think that's commendable, and at
13 the same time, I think it's becoming more published that
14 there's mistakes being made. So I think it's important
15 to keep an open mind. That's what I would hope I could
16 do in the situation here but maybe some areas -- even
17 larger areas have a bigger problem. That's kind of the
18 way I feel. Smaller town areas, a lot like Elko, is
19 kind of a melting pot. But it's not past any -- any --
20 you know anybody. Any area can make a mistake or
21 whatnot, so. But I haven't seen any problems in our
22 area that seems severe.

23 MR. PENNELL: Okay. So if I could just
24 follow up with you, sir, a little bit. You said -- it
25 kind of sounds like you're saying you understand that

1 police officers are human. They can make mistakes. Is
2 that kind of what you're getting at?

3 JUROR NO. 9: I think that's pretty much what
4 we've seen. You mentioned, you know, nationwide. It
5 could be all around the world to hear of corruption and
6 different realms, but still you've got to have law and
7 order, you know, and you've got to have authority and
8 that type of thing. So you should respect what that is.
9 But in a case of, you know, innocence or guilt, yeah, I
10 think it's important to keep an open mind on things.

11 MR. PENNELL: Okay. And I think Mr. Thompson
12 asked some questions kind of related to what you were
13 just saying. I mean, how do you feel about the sort of
14 situation at large in terms of law enforcement and
15 protests? I mean, I'm interested to know how you feel
16 about that. You've kind of alluded to you think there's
17 a problem kind of somewhere else.

18 JUROR NO. 9: Well --

19 MR. PENNELL: But I'd like to know how you
20 feel about it.

21 JUROR NO. 9: Well, I don't think Elko has
22 seen what we -- you know, the demonstrations or
23 anything. It's kind of interesting, some of these
24 bigger areas it's hard to imagine riots and looting and
25 all that type of thing. So, you know, violence and

1 looting and all that is a pretty obvious wrong, and yet,
2 some of the protests, people think it's good to voice
3 what they think.

4 So maybe there's -- there is a place for
5 change or improvement in some of the things going on,
6 but, yeah, I think, you know, Elko is a small enough
7 area or such a -- you know, we have to appreciate what
8 we see going on here, but still, you have to keep an
9 open mind on judging cases and all that.

10 MR. PENNELL: Sure. Just wanted to follow up
11 a little bit more on something you said. I appreciate
12 that answer. You said the violence and the looting,
13 what in your mind -- obviously, most people are going to
14 feel the same way. What makes that wrong?

15 JUROR NO. 9: Well, stealing is wrong.
16 That's all looting. Some people try to justify it one
17 way or the other but --

18 MR. PENNELL: Sure.

19 JUROR NO. 9: And then violence, well, yeah,
20 that would be -- that's probably another deal, but I --
21 violence would be something to keep an open mind to
22 because if it's -- if it's proven, you know, somebody's
23 brutalizing somebody else or bullying them is a big
24 problem too. We see that in the school systems
25 nowadays. You think that's a thing of the past, but it

1 really isn't.

2 And you even hear of it on the, you know,
3 Internet and cyberbullying and all that type of thing
4 and people committing suicide because they get their
5 feelings hurt and all -- it's pretty serious stuff, I
6 guess. So -- so you'd like to see that type of thing
7 nipped in the bud before, you know, people get injured
8 and hurt and all that type of thing, so.

9 MR. PENNELL: I think I understood most of
10 what you said. Could I maybe ask a follow-up? You said
11 if someone's being picked on or attacked, does that mean
12 you feel that someone should be able to defend
13 themselves?

14 JUROR NO. 9: And it's commendable when
15 people stand up to help each other that are getting
16 victimized. So, you know, that's what the -- again, the
17 authority tries to do is to keep a -- you know, to keep
18 that element away from people that are trying to live a
19 peaceful, productive life. So I think it's commendable
20 to respect authority for that reason.

21 MR. PENNELL: Sure. If we're not talking
22 specifically about law enforcement, what is your
23 position and your belief on a person's right to defend
24 themself?

25 JUROR NO. 9: Yeah, well, if you're in danger

1 of being injured, you know, you should be able to do
2 what you can to remove yourself from that dangerous
3 situation. Of course, probably report it. Report it so
4 that other people don't fall in the same environment.

5 MR. PENNELL: What if -- just to follow up.
6 You said that they should leave. Do you think, based on
7 what you believe, that if someone is defending
8 themselves, they first have to leave the area or try and
9 retreat?

10 JUROR NO. 9: Well, you might have to -- you
11 might have to try to explain yourself, I suppose, or,
12 you know, you don't want people to think you're what, a
13 coward or something, but if -- if you're -- if the
14 situation's going to be like say in a protest sense
15 getting violent or something of the sort, you'd be
16 better off to find a different way to try to correct
17 injustices.

18 MR. PENNELL: I appreciate your answers to
19 all those questions. I think I've kind of picked on you
20 enough for now.

21 JUROR NO. 9: Okay.

22 MR. PENNELL: So I'll probably move on.

23 Is there someone else who has a similar idea
24 or a similar belief about a person's right to defend
25 themselves? I'm interested to know what all of you

1 think about that if someone's willing to tell us about
2 that and be honest about it.

3 Yes, sir.

4 JUROR NO. 10: My thoughts on that, if you're
5 going to be attacked -- if you're going to be attacked,
6 you're going to be attacked. I believe you have the
7 right to defend yourself, try to de-escalate it the best
8 you can, but you should be able to protect yourself.

9 MR. PENNELL: So you believe that if
10 someone's trying to de-escalate that and nothing's
11 working, that at that point is when you feel someone has
12 a right to defend themselves?

13 JUROR NO. 10: Yes, I do.

14 MR. PENNELL: Okay. Could you tell me more
15 about that. Why do you believe that?

16 JUROR NO. 10: If -- I think it's just your
17 right to defend yourself.

18 MR. PENNELL: I appreciate your honesty about
19 that. So I know there was -- I asked for people to
20 raise their hand, and you did. So thank you.

21 Is there anybody else who maybe agrees with
22 Juror No. 10 or maybe disagrees? Yeah, Juror 17. And
23 I'm sorry, ma'am, what was your name?

24 MS. BONDELIE: I'm Jennifer Bondelie.

25 MR. PENNELL: Okay. Ms. Bondelie --

1 Bondelie?

2 MS. BONDELIE: Bondelie, like Bondelie.

3 MR. PENNELL: Okay. Go ahead, thank you.

4 MS. BONDELIE: I agree with Juror No. 10. I
5 don't have TV so I don't know all the details of
6 everything that you guys do, but I was always raised if
7 I was put in danger, don't be a victim. Just like he
8 had mentioned, de-escalate the situation, get yourself
9 safe, your loved one's safe, and kind of be proactive.
10 Do what you can to not be the victim.

11 MR. PENNELL: Okay. So kind of do everything
12 that you could possibly do in that situation to try and
13 defuse it or --

14 MS. BONDELIE: Right.

15 MR. PENNELL: -- you know, not cause the
16 problem, but at a certain point, there's just nothing
17 left to do --

18 MS. BONDELIE: You've got to make that
19 decision right, that you can't get your life back so --

20 MR. PENNELL: Sure.

21 MS. BONDELIE: -- if it were to come to
22 violence like that, I would protect myself.

23 MR. PENNELL: Okay. Well, I appreciate your
24 honesty about that. I believe, sir, you were raising
25 your hand as well, Juror 23.

1 JUROR NO. 23: I agree with number 10 as
2 well. I think it's everybody's right to defend
3 themselves, their family, and all their -- all their
4 home values and everything. And if somebody's trying to
5 take my life or my family's life, I'm going to be there
6 and give it all I got. I'm not going to stand for
7 somebody to come in and invade my privacy or my family,
8 to take things away from me that I've worked hard for.

9 MR. PENNELL: Sure. It sounds like you're
10 kind of talking about your home. Does it change
11 anything --

12 JUROR NO. 23: My home --

13 MR. PENNELL: -- what you believe if you're
14 not in your home and you're trying to --

15 JUROR NO. 23: My home, myself, my family,
16 things that belong to me.

17 MR. PENNELL: Okay. And if you're in a
18 situation where a person may think -- you know, they'd
19 be a reasonable mind might think I have nothing left to
20 do. That's okay to defend yourself at that point?

21 JUROR NO. 23: I believe so as long as I'm
22 not taking anything away from somebody else or trying to
23 bother them. They don't need to be bothering me.

24 MR. PENNELL: Okay. I appreciate that, sir,
25 thank you. Does anybody else have a strong opinion or

1 feelings about anything that these jurors have talked
2 about with self-defense?

3 Is there anybody here that would maybe
4 consider themselves a pacifist, that even if you are
5 attacked, that under no circumstances should you use
6 violence back?

7 Yes, sir, in the corner there, 39.

8 MR. KIRBY: So I would say -- oh, and Cody
9 Kirby. I would say that I generally agree with a lot of
10 what the other folks said, that, ultimately, there's a
11 right to self-defense, but I'm more of the camp of
12 trying to remove myself from the situation if able to do
13 so. So basically, if you have a way to leave that area
14 -- you know, you can try and de-escalate, but, yeah,
15 that you do have a bit of an ethical obligation to try
16 and remove yourself from the situation before escalating
17 with force.

18 MR. PENNELL: Okay. So remove yourself from
19 the situation. Could you go into more detail about what
20 you kind of mean by that?

21 MR. KIRBY: So if somebody's like coming
22 after you, trying to pick a fight or something like
23 that, that you should just try to leave. So,
24 essentially, attempt to flee the situation unless if you
25 have no other option, and then I would say it would be

1 reasonable to use force to defend yourself.

2 MR. PENNELL: So it's kind of -- I think what
3 you're kind of saying is if someone is just hurting your
4 pride, but you have a chance to get out of there, you
5 have a duty to do that?

6 MR. KIRBY: Right. Right, that you should
7 try to avoid escalating violence.

8 MR. PENNELL: But you agree -- or disagree,
9 if I'm wrong, that at some point, under certain
10 circumstances, there's just nothing left for a person to
11 do?

12 MR. KIRBY: Correct --

13 MR. PENNELL: Is that accurate?

14 MR. KIRBY: -- kind of if you're backed into
15 a corner and, you know, you or someone else is at risk
16 of bodily harm, then right to self-defense.

17 MR. PENNELL: Okay. All right, I appreciate
18 your answer, thank you. Is there -- I saw some people
19 nodding their heads, but they're not in the panel right
20 now for questioning. Is there anybody else who maybe
21 leans towards that passivist side of things where under
22 basically no circumstances should you ever engage in
23 violence? Anybody else who feels that way?

24 Ms. Bogdon, there's something interesting
25 that I heard you say, and I'll wait for him to get to

1 you, but I think it was in response to something the
2 State said to you and your response was follow the
3 science.

4 MS. BOGDON: Yeah.

5 MR. PENNELL: Can you kind of elaborate --
6 and I was pretty intrigued --

7 MS. BOGDON: I meant the evidence.

8 MR. PENNELL: -- by what you meant by that.

9 MS. BOGDON: I meant the evidence.

10 MR. PENNELL: What's that?

11 MS. BOGDON: I meant to follow the evidence
12 --

13 MR. PENNELL: Okay.

14 MS. BOGDON: -- not the science.

15 MR. PENNELL: Okay. Does that -- are you an
16 engineer or have a scientific background? Is that why
17 you said that?

18 MS. BOGDON: No, it's just been on TV a lot.

19 MR. PENNELL: Oh, okay. All right, it's kind
20 of that CSI effect you were -- we were talking about.

21 MS. BOGDON: Yeah, no.

22 MR. PENNELL: Okay. All right, thank you.

23 I want to talk about people's experiences
24 dealing with family members or friends or maybe even in
25 their job with dealing with people with mental health

1 issues. Is there anybody that has had that affect their
2 lives or is in some way a big part of their lives?

3 Yes, Juror 27.

4 JUROR NO. 27: Well, again, it's my
5 profession to be a mental health counselor. Sure, I
6 come from a lot of disfunction. That's kind of what
7 spurred me to become a counselor, so. I don't know what
8 else you want to know but definitely mental health
9 issues, some minor DV. I'm from the 60's. We got the
10 belt, you know, that kind of thing when we were bad.
11 But anyway, definitely dealing with different mental
12 health issues in my family.

13 MR. PENNELL: And did any of that experience
14 -- and I know this is a sensitive question so I
15 appreciate your honesty about it. Did any of that ever
16 involve violence or anything related to where those two
17 things were kind of converging?

18 JUROR NO. 27: Someone that I am related to
19 was involved with a domestic violence situation.

20 MR. PENNELL: Okay. And did that have to do
21 with mental health issues as well, or was that something
22 separate?

23 JUROR NO. 27: Being a mental health
24 counselor, I'm going to say yes, it does deal with
25 mental health issues.

1 MR. PENNELL: Okay. And you're familiar with
2 the term secondary trauma?

3 JUROR NO. 27: Uh-huh.

4 MR. PENNELL: So that kind of means, if I'm
5 right -- well, you're the expert. Why don't you tell me
6 what it means to you, and then I can kind of work from
7 there.

8 JUROR NO. 27: Well, that phrase can mean
9 different things to different people. So sometimes,
10 it's that you witness something that causes trauma for
11 yourself, or it -- sometimes people get it confused with
12 complex trauma. So maybe they've had multiple traumatic
13 situations and consider secondary presentations as part
14 of a primary trauma.

15 MR. PENNELL: Okay. What I was kind of
16 talking about is another person can kind of take on
17 stress or trauma. Is that accurate --

18 JUROR NO. 27: Yes, that's accurate.

19 MR. PENNELL: -- or am I using the wrong the
20 term?

21 JUROR NO. 27: Uh-huh.

22 MR. PENNELL: Okay. Have you seen that
23 affect people in your life, in your profession, and can
24 you give me more information about that?

25 JUROR NO. 27: I'll -- first and foremost

1 myself. I witnessed things that shaped my life and what
2 direction I would go.

3 MR. PENNELL: Okay. I asked you a lot of
4 personal questions, thank you.

5 Now, some of you have worked in law
6 enforcement -- well, actually, I should probably go back
7 to Juror 20. I don't think I ever gave you the
8 opportunity to answer the question from earlier. You
9 had your hand up.

10 JUROR NO. 20: I lost my train of thought so
11 it's okay.

12 MR. PENNELL: Oh, okay, I'll move on.

13 I know there's a lot of people who have
14 family in law enforcement or, you know, personal
15 experience in law enforcement. What we're asking you to
16 do, as Mr. Thompson said, is that there is a presumption
17 of innocence where right now as you're sitting,
18 Mr. Yowell is innocent, and there's not a shred of
19 evidence against him.

20 But if someone -- when you read that -- when
21 you had that charging document, that criminal indictment
22 -- or, excuse me, criminal information read to you, you
23 know, that can be jarring. Was there anybody that
24 inside of your own mind or how it made you feel, that
25 you began to think that this document, what I'm being

1 read, is evidence of guilt? Is there anybody that
2 started to kind of have those thoughts come into their
3 mind?

4 Is there anybody that thinks that if someone
5 is arrested for something, that that means that that is
6 evidence when they get to trial that they are guilty? I
7 see you shaking your head, no, ma'am. Could you
8 elaborate on that for me, please.

9 MS. SEAL: I think everybody has the
10 opportunity. They're innocent until something shows
11 that they are guilty at that time --

12 THE COURT: And this is juror number -- in
13 seat 14, Mary Seal?

14 MS. SEAL: Yes.

15 THE COURT: Okay, thank you.

16 MS. SEAL: -- that they are proven guilty,
17 but everybody's innocent in my opinion.

18 THE COURT: Okay.

19 MS. SEAL: Because I've known people that
20 have been -- or I've seen their name, have been arrested
21 for something, and then it really wasn't true, and then
22 it doesn't come out that they weren't convicted of the
23 charges or whatever but...

24 MR. PENNELL: Right. Is that someone that
25 was close to you or just someone you know?

1 MS. SEAL: No. No.

2 MR. PENNELL: Okay. How often do you think
3 that kind of thing might happen?

4 MS. SEAL: I have no idea because I don't
5 ever know people that, you know --

6 MR. PENNELL: Sure.

7 MS. SEAL: -- that it happens to. I mean, I
8 had heard one person, and they -- they'd been arrested
9 for a DUI, and then they got off of it so they didn't
10 have -- but you don't ever see that part. You only saw
11 their name in the paper for it.

12 MR. PENNELL: Sure. Okay, thank you for your
13 answer. Now, just to follow up on that, not only
14 someone being arrested, but what if someone is put in
15 handcuffs when they're arrested, does that in your mind
16 kind of ratchet up the potential proof that someone is
17 guilty because they've been arrested, they're in
18 handcuffs? Does that -- anybody have that kind of
19 reaction?

20 What about if someone is not only arrested
21 and put in handcuffs but is put into jail? At that
22 point, if a person is put into jail, is that some
23 indication that this person's guilty at that point for
24 you? Is there anybody that feels that way?

25 We talked about people who have family who

1 are law enforcement. I think a lot of people may not
2 realize that prosecutors are considered part of that.
3 Is there anybody who's worked in a prosecutor's office
4 or has a family member or close friend who's a
5 prosecutor? Is there nobody? Okay.

6 Is there anybody who has worked in something
7 like a domestic violence shelter or -- obviously, we
8 know that you've worked with that in your profession.
9 Is there anybody else that's had any close connection to
10 that as part of their work?

11 Is it Mr. Brooke or Brooke, or do I got it
12 totally wrong here?

13 MR. BROOKE: Either/or. Brooke is fine, but
14 --

15 MR. PENNELL: All right, Cornelius, I think
16 you've been paying attention. You were one of the last
17 people that we called on. I'm interested in knowing
18 more about what you felt about any of the questions that
19 I have asked or the Prosecutor's asked, maybe one that
20 had the strongest impression on you.

21 MR. BROOKE: Everybody's innocent until
22 proven guilty. It's a court of law. We're all here to
23 be objective. Full disclosure, I used to be Navy law
24 enforcement, which isn't really applicable because we
25 did physical security.

1 MR. PENNELL: I didn't catch that last one,
2 I'm sorry.

3 MR. BROOKE: We did physical security rather
4 than law enforcement.

5 MR. PENNELL: Okay. Is there anything as far
6 as your background on that that would maybe have you
7 start leaning in a different direction or in favor of
8 the Prosecution or even the Defense?

9 MR. BROOKE: No.

10 MR. PENNELL: Okay. And so, I guess, you
11 said it was protection?

12 MR. BROOKE: Physical security.

13 MR. PENNELL: Okay. So could you give me an
14 idea of what the difference is?

15 MR. BROOKE: Not law enforcement, guarding
16 assets.

17 MR. PENNELL: Okay. Oh, okay, all right. Is
18 there anything else that you've heard that really jumped
19 into your mind when you were asked a question, but you
20 didn't raise your hand?

21 MR. BROOKE: No.

22 MR. PENNELL: Okay. All right. I think on
23 your questionnaire, Mr. Griswold, you also were in the
24 Navy?

25 MR. GRISWOLD: Yes.

1 MR. PENNELL: Were you in law enforcement?

2 MR. GRISWOLD: No, I was a crewman on
3 helicopters and a jet mechanic.

4 MR. PENNELL: Okay. What about you,
5 Mr. Griswold, is there anything about any of the
6 questions you were asked that something really popped
7 into your mind, but you just didn't raise your hand or
8 didn't talk about it at the time?

9 MR. GRISWOLD: Well, kind of maybe that
10 self-defense one. You know, I think everybody has an
11 opinion on that one. You know, maybe some people more
12 than others, but --

13 MR. PENNELL: Right.

14 MR. GRISWOLD: -- you know, I think, you
15 know, that's one to think about, you know. I --

16 MR. PENNELL: What about your opinion on
17 that? I'm interested to know that.

18 MR. GRISWOLD: I think everybody should be
19 able to protect themselves if they're in a situation to
20 where there's no other recourse to, you know, fight or
21 flight, you know. You know, if you can get out of the
22 situation, fine. If not, you know, I think you -- your
23 responsibility is to protect yourself and your family or
24 friends if you have the opportunity to do that, you
25 know.

1 MR. PENNELL: Well, I appreciate your honesty
2 about that, thank you. If I could actually -- I
3 actually wanted to follow up just with one more.

4 MR. GRISWOLD: Sure.

5 MR. PENNELL: Does it have any affect on you
6 about whether or not it's a man or a woman attacking or
7 defending? Does that change your mind about what you
8 think about self-defense?

9 MR. GRISWOLD: No. I mean, if you're
10 threatened, it doesn't matter who's threatening you, you
11 know. I mean, the potential is there either way. I
12 mean, you know --

13 MR. PENNELL: Okay.

14 MR. GRISWOLD: -- male or female, I mean.

15 MR. PENNELL: Well, I appreciate --

16 MR. GRISWOLD: A female can dish out violence
17 sometimes better than some men, you know. I mean,
18 that's just the nature of the beast sometimes.

19 MR. PENNELL: Sure. I appreciate that. I
20 won't pretend to get you down and then bring you back
21 up.

22 MR. GRISWOLD: All right.

23 MR. PENNELL: So, thank you. Is there
24 anybody that feels the same way about that question I
25 just asked as Mr. Griswold or maybe that they feel

1 differently, that that changes the dynamic of whether or
2 not someone has a right to defend themselves? Is there
3 anybody that feels differently about that?

4 Let me see, Mr. Bauer --

5 MR. BAUER: Yes, sir.

6 MR. PENNELL: -- Juror 51. Is there anything
7 in your mind, based on things that you've heard so far,
8 that's kind of boiled up in your mind about something
9 you immediately thought of or believed in or you felt
10 strongly about that maybe you didn't raise your hand and
11 answer earlier?

12 MR. BAUER: The question you just asked him
13 about male or female --

14 MR. PENNELL: Sure.

15 MR. BAUER: -- I don't know, my personal
16 opinion is if a lady or my wife or whoever was coming
17 after me, that I pretty much feel I can remove myself
18 from the situation to where I didn't -- don't have to
19 inflict harm, you know, to resolve the situation. I'm
20 pretty sure I can get away from just about any woman in
21 here if needed, depending on the situation.

22 MR. PENNELL: Okay. Could you imagine -- or
23 I just -- your belief, if you could imagine a situation
24 where that just wasn't possible, would that change your
25 answer?

1 MR. BAUER: About the only way I would even
2 think that way would be, I mean, if there was a gun
3 pointed at me or something that I couldn't get away, so.

4 MR. PENNELL: Okay. What if you knew about
5 this person's violent history, would that change how you
6 might feel about whether or not you need to get out of
7 there first or you need to do one thing or the other?

8 MR. BAUER: Yeah, I would have to know the
9 situation before I would know whether I could flee or
10 not, so.

11 MR. PENNELL: Okay. So it just depends on
12 all the facts, every situation's different kind of
13 thing, right?

14 MR. BAUER: Yeah, me just --

15 MR. PENNELL: Okay.

16 MR. BAUER: Me personally, that's the way I
17 feel.

18 MR. PENNELL: Okay. I appreciate it, thank
19 you. Let's see, all right, so I'm going to start
20 calling on some more people. Juror 53, I was interested
21 to know what you thought about some of these questions
22 we've been asking you.

23 JUROR NO. 53: I think it's maybe important
24 to remember that there can easily be a gender bias when
25 it comes to, like you mentioned, domestic violence, you

1 know. I anecdotally dated a girl back in the day who
2 was a marriage and family therapist for a reservation up
3 in Washington, and most of what she dealt with was
4 domestic violence, and it was -- sometimes it was female
5 toward male, sometimes it was male toward female. And,
6 you know, she dealt with a lot of issues, you know,
7 mental health, drugs, a lot of things, you know, are
8 hand-in-hand.

9 So in her mind, you know, and in my mind as
10 well, every situation is different, every household is
11 different, every environment is different, and there is
12 really no benefit to carrying any -- you know, maybe
13 besides your common sense and your ability to listen,
14 but I don't really feel there's a reason to carry a bias
15 from maybe your own, you know, limited life experience
16 into something like this.

17 MR. PENNELL: Okay. So every situation
18 speaks for itself kind of --

19 JUROR NO. 53: Right.

20 MR. PENNELL: -- the facts have to be judged
21 based on each person --

22 JUROR NO. 53: Correct.

23 MR. PENNELL: -- each group of people, each
24 circumstance?

25 JUROR NO. 53: Correct, every human being,

1 you know, is completely unique. Every upbringing is
2 unique. Every environment is unique. Every trauma is
3 unique, you know. So --

4 MR. PENNELL: So -- go ahead, I didn't mean
5 to interrupt you.

6 JUROR NO. 53: Oh, so I just feel like, you
7 know, there's not a big benefit for me to -- to make any
8 assumptions, you know, about anything. You know, I've
9 known amazing and not so amazing law enforcement, and
10 that's gone with any walk of life. You know, I've -- so
11 I just feel as if -- you know, in my experience, I've
12 seen people from any background in any situation. There
13 are no two people, there are no two situations that are
14 alike, and that's -- I don't know if that's helpful
15 but...

16 MR. PENNELL: Yeah, it was. I appreciate
17 your answer. If I could just be more specific.

18 JUROR NO. 53: Sure.

19 MR. PENNELL: Could you tell me more about
20 what you mean by gender bias in that situation? I think
21 you were referring to self-defense if I'm not mistaken?

22 JUROR NO. 53: Sure, you know, I mean, you
23 know, I have a twin brother who's married to a
24 Venezuelan girl who got him into Jujitsu, you know,
25 because he was tired of getting arm-barred, you know.

1 And so a lot of times life experience, you know, there's
2 just so much you don't know. The tiniest person can
3 have the, you know, the most incredible background. The
4 largest person can be the, you know, the softest teddy
5 bear. So I don't know if that further clarifies, but,
6 again, for me it's the same as --

7 My mom, I think, was a Judge doing like
8 corporate law or whatever, you know, and I was always
9 raised to study -- study. Don't make assumptions.
10 Don't make judgments until the absolute last moment, but
11 just gather information and just keep eye awareness, you
12 know, and treat every situation and every person
13 uniquely.

14 MR. PENNELL: All right. I appreciate that,
15 thank you. Based on what he said, is there anybody that
16 has the same general kind of opinion or maybe has a
17 different opinion about that?

18 Juror 46, I think when he was speaking, I
19 noticed that you were looking down and it looked like
20 you were concentrating really hard. I kind of wanted to
21 be -- I was interested in what maybe was going through
22 your mind when he was speaking.

23 JUROR NO. 46: I just have a headache. I was
24 --

25 MR. PENNELL: Oh, okay. So it's our fault

1 basically.

2 JUROR NO. 46: Well, I don't know.

3 MR. PENNELL: Okay. Well, you're already
4 standing up. You have the microphone. Is there
5 anything that you've heard so far as far as questions or
6 answers that just immediately bring something to mind
7 that you feel like, you know, we should maybe know about
8 or that is an opinion you have about anything related to
9 what we've talked about? .

10 JUROR NO. 46: Not really. I mean, I agree
11 with some of the -- you have the right to defend
12 yourself if somebody's attacking you. I think there is
13 a bias, like men with domestic abuse, people look at
14 them differently but...

15 MR. PENNELL: What do you mean by that, look
16 at them differently?

17 JUROR NO. 46: I feel like some people see it
18 as men can't be abused by women.

19 MR. PENNELL: Do you believe that?

20 JUROR NO. 46: No.

21 MR. PENNELL: Could you tell me more about
22 that.

23 JUROR NO. 46: I don't know what else to say.
24 I just think that's a thing.

25 MR. PENNELL: Okay.

1 JUROR NO. 46: Yeah.

2 MR. PENNELL: All right, well, thank you for
3 your honesty about that. Let me see, Juror 34, Mr. --
4 is it Gubler? So I -- I'm guessing in your profession,
5 you don't see a lot of that sort of thing, but I'm still
6 interested in knowing if you've developed any strong
7 opinions associated with people -- what people have
8 said. Maybe you believe something similar or maybe you
9 had a different opinion altogether. I'm interested to
10 know maybe what may have come to mind.

11 MR. GUBLER: No, I agree with some of the
12 other comments here, that you have your right to defend
13 yourself if you're being attacked. I mean, I think, as
14 others said, try to diffuse the situation, but, yeah, if
15 you're being attacked, I think you have a right to
16 defend yourself, so.

17 MR. PENNELL: And would it matter whether or
18 not you know that person whether or not you would change
19 your mind about that belief, that position you just gave
20 us?

21 MR. GUBLER: I don't think so. Yeah, I mean,
22 if you're being attacked it's...

23 MR. PENNELL: Okay. If you do know that
24 person that's attacking you, do you think it's fair to
25 use your knowledge and past history with that person to

1 make a decision about defending yourself?

2 MR. GUBLER: Yeah, depending on the
3 situation.

4 MR. PENNELL: Okay. All right, well, I
5 appreciate your answer, thank you. We're getting pretty
6 close.

7 Juror 4, William Wilkinson, so I've noticed
8 you've been kind of quiet. I am interested to know what
9 you may have wanted to say but maybe haven't had the
10 chance to say it in terms of the questions you've been
11 answered -- or asked today.

12 MR. WILKINSON: I believe in self-defense,
13 but you have to de-escalate the problem. Other than
14 that, I'm just listening and learning on the way.

15 MR. PENNELL: Sure.

16 MR. WILKINSON: I really don't have no strong
17 opinion left or right, so.

18 MR. PENNELL: Sure. You talked about
19 de-escalation. I think we've kind of got a couple
20 different opinions that are similar but maybe a little
21 different too. What is a person's obligation in terms
22 of de-escalating as far as in your mind how you're
23 describing that to me right now?

24 MR. WILKINSON: All right. How I was raised,
25 you never hit a woman or a girl. So if somebody's -- if

1 it's a woman coming to you, you try to grab her or
2 whatever and try to calm her down, but you never --
3 that's just how I was raised. You never hit a woman.

4 MR. PENNELL: Okay. So your first reaction
5 is to --

6 MR. WILKINSON: De-escalate it, but, I mean,
7 if it gets to that point to -- the main thing, just grab
8 her or whatever and try to calm her down. Yeah, you can
9 let her hit you and that, but in my belief and how I was
10 raised, you never hit a woman.

11 MR. PENNELL: Okay. So you talked about
12 de-escalating. Does that -- part of that mean like you
13 should try and grab someone if they're -- try and stop
14 them?

15 MR. WILKINSON: You try to, like this
16 gentleman over here said, you try to walk away and get
17 out of the room or whatever, but if you can't do that,
18 you just got to, I guess, grin and bear it, and there
19 you go.

20 MR. PENNELL: So do you think that there's
21 basically no circumstance, based on what your upbringing
22 is, where you can hit back?

23 MR. WILKINSON: Well, no, there is -- there
24 would be a circumstance. I mean, if she has a knife or
25 -- I mean, if a person has a knife or a gun, yeah,

1 that's totally different.

2 MR. PENNELL: What if they don't have a knife
3 or a gun?

4 MR. WILKINSON: It depends on the situation.
5 I mean, I don't know. That situation you would have to
6 be there and determine what you would do.

7 MR. PENNELL: Okay.

8 MR. WILKINSON: That's where -- yeah.

9 MR. PENNELL: All right. Well, I appreciate
10 your answers, thank you. So I couldn't help -- sir, I
11 can't see your badge or --

12 UNIDENTIFIED JUROR: (Indiscernible)

13 MR. PENNELL: Yeah, I kind of saw you
14 following along with some of these questions. I'd like
15 to know your opinion about that?

16 UNIDENTIFIED JUROR: Yeah, I think it's, you
17 know, just specific to what's happening.

18 MR. PENNELL: Yeah.

19 UNIDENTIFIED JUROR: So I think if it's an
20 intimidating figure -- I was raised the same way. You
21 don't strike a woman. I was raised with five sisters.
22 You know, you have a right to defend yourself, and if
23 you got yourself in a pickle and somebody's coming to
24 get you, then, you've got to fight your way out of it.

25 MR. PENNELL: So you said get yourself in a

1 pickle.

2 UNIDENTIFIED JUROR: Something -- you know,
3 if you're in a situation, a pickle or a situation --

4 MR. PENNELL: Right.

5 UNIDENTIFIED JUROR: -- where, you know,
6 you're there whether it's -- you've -- you know, you've
7 created it or you're in the wrong place at the wrong
8 time, yeah, you've got to fight or flee, you know, so --
9 in most situations.

10 MR. PENNELL: So you said you had a somewhat
11 similar upbringing. Could you just go into more detail
12 about that. I'm interested in --

13 UNIDENTIFIED JUROR: You know, I was -- I had
14 five sisters and two older brothers so we -- you know, I
15 was instructed that you don't -- you don't hit a lady,
16 and so in my instances through life, there's been
17 situations where, you know, it's not been perfect. So
18 you have to remove yourself from the situation.

19 MR. PENNELL: Okay. So you and your brothers
20 and your sisters weren't supposed to hit each other,
21 right? Is that --

22 UNIDENTIFIED JUROR: That's correct.

23 MR. PENNELL: Sometimes you probably would,
24 though?

25 UNIDENTIFIED JUROR: Yeah, we maybe got a

1 little bit rowdy but...

2 MR. PENNELL: Okay. So is there a situation
3 based on that upbringing where you can see maybe you had
4 a right to defend yourself, or is it just out of the
5 question?

6 UNIDENTIFIED JUROR: Oh, you know, exactly.
7 So, you know, it's -- you know, when it comes to a lady,
8 it's -- unless it's -- you know, my general instinct is
9 to remove myself from the situation.

10 MR. PENNELL: Okay. Well, I appreciate your
11 honesty with us about that. I appreciate your taking
12 the time to answer my questions.

13 UNIDENTIFIED JUROR: All right, thanks.

14 MR. PENNELL: And Juror 56, I don't think
15 I've -- have you said anything yet? I don't think so.

16 JUROR NO. 56: No.

17 MR. PENNELL: I'd like to know what you
18 think.

19 JUROR NO. 56: I was kind of raised the same
20 way, but I was also raised that the way you act is the
21 way you should be treated too, so.

22 MR. PENNELL: Okay. Can you elaborate more
23 on that?

24 JUROR NO. 56: Well, if you're kind to
25 people, people will be kind back to you, but if you're

1 going to be mean, they're either going to be mean back
2 or just walk away, so.

3 MR. PENNELL: Okay. Well, what about
4 something more direct like they were talking about, the
5 issue of self-defense?

6 JUROR NO. 56: You've got to defend yourself.
7 You can't let somebody just sit there and beat up on
8 you. You've got to either take it or walk away, and
9 it's better just to walk away because then there's other
10 problems behind it.

11 MR. PENNELL: So do you think that someone
12 has a duty to walk away before they defend themselves, a
13 duty to retreat?

14 JUROR NO. 56: You can try to defend yourself
15 as much as possible, but there's always that way that
16 the person that's coming in on you hard, they're going
17 to -- sometimes there's no way to get through to them --

18 MR. PENNELL: Okay.

19 JUROR NO. 56: -- except to walk away from
20 it.

21 MR. PENNELL: Okay. We heard some talk about
22 this sort of gender bias in these roles. What is your
23 kind of belief, or how do you feel about that?

24 JUROR NO. 56: There is. I've seen people
25 that think that men can't be beat up by women, but they

1 do.

2 MR. PENNELL: I assume you think differently
3 than those people?

4 JUROR NO. 56: Yeah.

5 MR. PENNELL: Could you --

6 JUROR NO. 56: Everybody gets picked on.

7 Everybody gets beat up.

8 MR. PENNELL: Okay.

9 JUROR NO. 56: It just all depends on who you
10 are.

11 MR. PENNELL: Okay. Well, I appreciate your
12 answers and thanks for letting me call you out on that,
13 so.

14 And Ms. Evans, Juror 2.

15 MS. EVANS: Hi.

16 MR. PENNELL: So if you haven't figured out
17 so far, if I haven't talked to you yet, I might call on
18 you. So you might just want to raise your hand.

19 MS. EVANS: I know. I thought I was going to
20 be quietly sitting here hiding behind this line of
21 people.

22 MR. PENNELL: So go ahead.

23 MS. EVANS: So I don't think violence is
24 gender specific. I have four older brothers, four
25 younger sisters. Each gender gave it as good as they

1 got it. So I know my brothers are just as terrified as
2 me as they are the rest of my sisters, and so I don't --
3 I don't think that we can say there's a specific gender
4 that's more violent than the other.

5 MR. PENNELL: Okay. We had a couple of the
6 jurors who maybe expressed, if I'm not wrong, maybe a
7 slightly different opinion about --

8 MS. EVANS: Uh-huh.

9 MR. PENNELL: -- you know, just if it's a
10 brother and a sister or if it's a man and a woman,
11 there's just about no circumstance where it's okay to
12 use any violence even if you think it's justified. What
13 do you feel about that?

14 MS. EVANS: There was nine of us so there was
15 violence. There's no way to get out of that. So there
16 were times, yeah, I mean, my brothers would beat up on
17 me. The only way out of it is to beat them back to get
18 an equal standing on them, so. Yeah, I think there are
19 situations where you have to fight yourself back.

20 MR. PENNELL: Okay, thank you.

21 MS. EVANS: Yep.

22 MR. PENNELL: Is there anybody else that had
23 maybe the same opinion as Juror No. 2 about that? I
24 know, Juror 15, you said you work in the dental field?

25 JUROR NO. 15: Yes.

1 MR. PENNELL: Okay. Maybe I'm wrong, but I
2 believe you would have -- if you saw signs of abuse, you
3 have like a legal requirement to report that to
4 authorities, is that right or is that not right?

5 JUROR NO. 15: Honestly, I'm not sure.

6 MR. PENNELL: Okay. Well, if that's not the
7 case, what is your opinion about some of the issues
8 we've been talking about so far?

9 JUROR NO. 15: I'm really trying to keep like
10 an open mind and listen to what everybody is saying. I
11 do agree that you should defend yourself. I don't
12 necessarily think there is a gender bias. I believe
13 women can hit men as much as men would hit women, but
14 it's just not brought to light.

15 MR. PENNELL: Okay. Could you tell me more
16 about that in terms of your opinion about that.

17 JUROR NO. 15: I think there is almost a
18 stigma where men feel that they weren't -- they
19 shouldn't have got into that situation, or they're like
20 weak because a female had beat them up or --

21 MR. PENNELL: So the stigma is it's almost --
22 it's their -- it's the man's fault just by getting
23 himself in that situation? Is that what you mean, or is
24 that wrong? Or at least that's what some people
25 believe, maybe not you, but --

1 JUROR NO. 15: Yes.

2 MR. PENNELL: -- is that what you were
3 getting at?

4 JUROR NO. 15: Uh-huh.

5 MR. PENNELL: Okay. So what is your position
6 on that?

7 JUROR NO. 15: I guess that it's a terrible
8 stigma. I believe you should come forward if you're in
9 that situation, man or woman.

10 MR. PENNELL: Okay. Thank you for sharing
11 that with us.

12 Juror 8, Melinda -- is it Lonergan?

13 MS. LONERGAN: Lonergan.

14 MR. PENNELL: So I -- I'm interested in
15 hearing what you have to say. I think you were kind of
16 like Juror 2. You were kind of hiding a little bit
17 there, but I still want to know.

18 MS. LONERGAN: I don't think violence is ever
19 justified for a man or a woman. My opinion kind of is
20 to get out of the situation as best you can. I mean, if
21 there's -- if you have to, if there's just nothing else
22 to do and you have to fight back, then, yeah, but try to
23 do the best you can not to cause violence and just kind
24 of remove yourself from the situation.

25 MR. PENNELL: Okay. So we've heard of

1 people -- a couple of people, I think, talk about fight
2 or flight so is that kind of what you're getting at, you
3 know, get yourself out of the situation?

4 MS. LONERGAN: Not really fight or flight.
5 Like to me, if I was in a situation like that, I would
6 do everything I could just to leave, to get out, you
7 know, rather than, you know, fight back. If I was in
8 the situation where I couldn't leave, then, yeah, I
9 probably would fight as much as I can to not get hurt or
10 to get out of the situation but...

11 MR. PENNELL: Okay.

12 MS. LONERGAN: Never -- there should never be
13 violence, man or a woman.

14 MR. PENNELL: Okay. Even -- so never be
15 violence meaning you shouldn't even be able to defend
16 yourself?

17 MS. LONERGAN: I mean, if you have to defend
18 yourself, yes, but --

19 MR. PENNELL: Okay.

20 MS. LONERGAN: -- as far as if somebody's
21 trying to harm you, you know, that person should
22 probably just leave the situation rather than to try to
23 harm you.

24 MR. PENNELL: Okay. Do you think, based on
25 what we've all talked about, if someone is in that kind

1 of situation where they may, in their own mind, think I
2 may need to defend myself, there's a point where they
3 reach where they come to that decision, do you think
4 that that -- in that situation someone's likely to just
5 react to what's happening, or do you think they're going
6 to deliberate and think about it? What is your
7 impression about that?

8 MS. LONERGAN: Oh, I think they would
9 probably just try to react to it, just mainly survival
10 mode, you know, just try to get out without being hurt
11 --

12 MR. PENNELL: Okay.

13 MS. LONERGAN: -- as best that you can.

14 MR. PENNELL: All right. Thank you for
15 answering my questions. So I -- Juror 11, I believe --
16 did you say you worked at a casino, Cactus Petes?

17 JUROR NO. 11: Yeah, I work down in Jackpot.

18 MR. PENNELL: Okay. What -- what is it that
19 you do for them?

20 JUROR NO. 11: I work at the gift shop.

21 MR. PENNELL: Okay. Well, have you ever had
22 experiences where you were a witness or -- to violence
23 or anything through your job?

24 JUROR NO. 11: No, just the typical drunks
25 there.

1 MR. PENNELL: What do you mean the typical
2 drunks?

3 JUROR NO. 11: Guests that drink too much and
4 are escorted out.

5 MR. PENNELL: Okay. Is there anything that
6 anybody said that kind of brought something immediately
7 to mind for you in terms of this case?

8 JUROR NO. 11: Not really.

9 MR. PENNELL: Okay. Is there any strong
10 opinions you have that are similar to what someone may
11 have said or maybe different than what they had --
12 someone said?

13 JUROR NO. 11: The gender bias because, yeah,
14 like everybody says men don't want to seem weak or they
15 don't want to hit a girl when the girl might be
16 deserving of that right now put in the situation. Like
17 they said, if they had a weapon and they were coming
18 towards them, then I see the man putting themselves in
19 line and...

20 MR. PENNELL: So what is it you believe that
21 someone should -- a man should be able to do in that
22 situation --

23 JUROR NO. 11: If -- defend themselves.

24 MR. PENNELL: -- that you're kind of
25 referring to. Okay, all right, thank you for sharing

1 all of that with me.

2 Let's see, Juror 19, is it Cassy -- is it
3 Meade?

4 MS. MEADE: Cassy, yes.

5 MR. PENNELL: Oh, Cassy, I'm sorry. So
6 you've been the foreperson on two juries?

7 MS. MEADE: Yes, that's correct.

8 MR. PENNELL: Forgive me if I'm wrong, but I
9 would assume that means you probably have a forceful
10 personality or kind of a leadership personality?

11 MS. MEADE: I do.

12 MR. PENNELL: Okay. So does that mean you
13 have strong opinions about certain things sometimes?

14 MS. MEADE: Yes.

15 MR. PENNELL: Is there anything about what we
16 talked about that you have a really strong opinion of so
17 far, some of the answers, some of the questions?

18 MS. MEADE: No.

19 MR. PENNELL: What's that? I'm sorry.

20 MS. MEADE: I do not have a strong opinion on
21 anything that has been said thus far.

22 MR. PENNELL: Okay. What about the idea of
23 this gender bias, do you have a strong opinion about
24 that that we've talked about?

25 MS. MEADE: For me personally, no.

1 MR. PENNELL: I just want to know your
2 opinion about it.

3 MS. MEADE: Men and women can do wrong on
4 either side. Men can be beat up by women. Women can be
5 beat up by men. It doesn't matter. It just depends on
6 the situation.

7 MR. PENNELL: Okay. Is someone justified in
8 that situation? I mean, we're speaking very broadly
9 here, but I'm just trying to get your opinion on it, so.

10 MS. MEADE: Only -- no. They -- you have the
11 right to protect yourself and rightly so.

12 MR. PENNELL: Okay. I appreciate it, thank
13 you.

14 MS. MEADE: Yeah.

15 MR. PENNELL: There's just a couple left,
16 right? Juror 54, Theresa, correct me if I'm wrong, but
17 I seem to recognize you. Were you in a jury selection
18 in a trial that I did previously?

19 MS. NUTTING: No.

20 MR. PENNELL: Okay. For some reason, you
21 remind me of someone that was in that pool, so. Anyway,
22 I want to know if there's any strong opinions or
23 anything that's come to mind, based on what you've
24 heard, the questions we've asked, the things people have
25 said.

1 MS. NUTTING: Well, I -- there are nine of us
2 also, brothers and -- or I have four bothers and four
3 sisters also. I think -- I've seen a family member who
4 is a girl provoke things, and I guess you could say push
5 things. That's her -- it depends on the personality,
6 and her personality is that way. So if -- if -- if a
7 woman is going to make trouble and, you know, get
8 physical with a man and tempers start flaring, I -- you
9 know, I can see that. Yeah, I mean, I think a man has a
10 right to hit a woman if she's hitting him first or
11 whatever --

12 MR. PENNELL: Sure.

13 MS. NUTTING: -- whatever it be, yeah.

14 MR. PENNELL: Kind of be based on the facts
15 of each situation is kind of what a lot of people have
16 been saying.

17 MS. NUTTING: Right.

18 MR. PENNELL: I assume that's kind of how --
19 what you're saying here as well?

20 MS. NUTTING: Right, uh-huh .

21 MR. PENNELL: What would be an example of a
22 situation where you wouldn't think that it would be
23 justifiable?

24 MS. NUTTING: Where it wouldn't be justified
25 for --

1 MR. PENNELL: Sure.

2 MS. NUTTING: Just to do it, I guess, for a
3 man just to hit a woman just because -- for no reason at
4 all or for --

5 MR. PENNELL: What do you mean, to be the
6 attacker rather than the defender --

7 MS. NUTTING: Right.

8 MR. PENNELL: -- is what you mean? Is that
9 what you were getting at?

10 MS. NUTTING: So say that again now, what?

11 MR. PENNELL: So you're saying if they were
12 the attacker rather than the defender, that would be a
13 situation?

14 MS. NUTTING: Right.

15 MR. PENNELL: What about if the man is
16 defending himself, is there a situation where you could
17 say, well, that's not justified?

18 MS. NUTTING: No, not really. I mean, if --

19 MR. PENNELL: Okay.

20 MS. NUTTING: -- yeah, if somebody's
21 defending themselves, it doesn't matter who or what.

22 MR. PENNELL: Okay.

23 MS. NUTTING: Yeah, I think that's fine,
24 yeah.

25 MR. PENNELL: Okay. Is there anything else

1 that you wanted to share with us?

2 MS. NUTTING: No.

3 MR. PENNELL: Okay. Well, I appreciate it,
4 thank you.

5 MS. NUTTING: Uh-huh.

6 MR. PENNELL: Juror 35, Ms. Seal -- I think I
7 already did speak to you, didn't I?

8 MS. SEAL: Yes, you did.

9 MR. PENNELL: Well --

10 MS. SEAL: Do you have anything else?

11 MR. PENNELL: -- we didn't cross your name
12 out so do you have an opinion that you want to give a
13 second time?

14 MS. SEAL: I really don't. I mean, I think
15 you have the right to defend yourself.

16 MR. PENNELL: Okay.

17 MS. SEAL: That's my --

18 MR. PENNELL: All right.

19 MS. SEAL: -- main thing, and it doesn't
20 matter who it is coming after you. I think you have
21 your right to defend yourself.

22 MR. PENNELL: Thank you. So Mr. Stiegler, I
23 was going to call on you now -- or, excuse me, I said
24 your name wrong, didn't I?

25 MR. STIEGER: Yes, you did. No worries.

1 MR. PENNELL: Okay. Do you have any strong
2 opinions, or have you developed any sort of ideas based
3 on the discussions we've had, the questions that you've
4 heard people answer?

5 MR. STIEGER: It's tough because I have my
6 own experiences growing up, you know, with being bullied
7 or whatever and regretting not doing anything and, you
8 know, made a decision not to be bullied anymore, right,
9 and that's why I got into martial arts so I can be more
10 assertive and do things. But I would never -- you know,
11 you always look at the situation in terms of how you're
12 going to respond, and there's always the obligation of
13 not putting yourself into the situation as best you can.

14 MR. PENNELL: So just to kind of build on
15 part of that answer, and thank you for sharing that with
16 us. It seemed like you said there was a point in your
17 life where you wish maybe you would have done more to
18 fight back or -- you're talking about maybe being
19 bullied?

20 MR. STIEGER: Well, when you get to a point
21 where you're -- you're -- where things aren't improving,
22 I mean, no one else is going to change it, right? You
23 can go to teachers all you want. You can do whatever,
24 and they're not going to do anything so sometimes you
25 have to take matters into your own hands, right?

1 MR. PENNELL: Okay. All right, thank you.

2 MR. STIEGER: Then, I guess, the other thing
3 is on the mental health.

4 MR. PENNELL: Oh, sure.

5 MR. STIEGER: I think that's another one that
6 struck me because --

7 MR. PENNELL: Why is that?

8 MR. STIEGER: I think it's, you know, just
9 being -- having a friend, you know, commit suicide and
10 stuff, you know, not getting the help and then, you
11 know, through teaching students and having them get
12 bullied at school and not being -- doing anything so
13 they're doing things to themselves, and I think that's a
14 pretty tough thing and really commend the people that
15 have to work around resolving those types of situations,
16 so.

17 MR. PENNELL: All right. Well, thank you for
18 sharing that. And could we just have Juror 26. Is it
19 Rye McKay? I just wanted to get your opinion on some of
20 the things we've been talking about, maybe something
21 that Julius talked about. Is there a strong reaction
22 you've had so far about some of these statements?

23 MR. MCKAY: No. I -- I -- personally, I just
24 try to get along as best I can, and I think if you're in
25 a situation where you -- you can't get along anymore,

1 then you try to get out of it. And if you can't get out
2 of a situation, then you do have the right -- a
3 God-given right to defend yourself or your family by
4 whatever means necessary, even -- even to death I would
5 say if it comes to that.

6 MR. PENNELL: And so you said if it comes to
7 that. Are you saying maybe there's a time where there
8 -- someone may have taken it too far? Is that kind of
9 what you're referring to, or am I understanding that
10 wrong?

11 MR. MCKAY: That I'm taking too far --

12 MR. PENNELL: As far as the defense.

13 MR. MCKAY: -- or somebody I know or...

14 MR. PENNELL: The person defending
15 themselves.

16 MR. MCKAY: A person has a right to defend
17 himself or herself even to the taking of someone's life.
18 If they're doing all they can and the person -- the
19 attacker or whoever is not backing down and it becomes
20 you or them, then you have that right to make it them
21 and not you.

22 MR. PENNELL: Okay. Thank you for sharing
23 all that with us. And 38, would be -- is it Rhonda? So
24 I'll just ask you some of the same questions. Is there
25 something that has immediately kind of sprang to your

1 mind or a strong feeling that came out based on some of
2 the questions or the answers that we've gotten so far?

3 MS. POWRIE: No. I pretty much agree with
4 everybody else. You have a right to defend yourself,
5 man or woman. There are men that are abused, that they
6 don't come forward, but you got to defend yourself. You
7 can't just sit there and take it. I've always been this
8 height. So in school I was picked on constantly, and my
9 oldest sister finally taught me how to fight, so.

10 MR. PENNELL: Okay.

11 MS. POWRIE: And that bullying came to a
12 stop.

13 MR. PENNELL: Thank you for sharing that with
14 us. I just have a few more questions for everybody
15 generally. Is there anybody that believes that perhaps
16 our system is too soft on criminals or people who are
17 accused of crimes or maybe that people who are accused
18 of crimes maybe have too many rights? Is there anybody
19 that feels that way? Am I seeing you say yes?

20 JUROR NO. 4: It depends on what territory
21 you're in, what's --

22 MR. PENNELL: Okay.

23 JUROR NO. 4: Like California.

24 MR. PENNELL: Hold on.

25 JUROR NO. 4: It depends on what state you're

1 in. Like California is real liberal. Minnesota, it
2 depends where you're at. Like here I think it's pretty
3 good, but in other states -- in the Midwest, it's
4 basically justice, but once you go to the big cities and
5 that, like defund cops and -- I don't want to seem
6 racist here, but every life matters. And with these
7 movements, I mean, we're going to have trouble going
8 forward with justice, and that's what I believe.

9 MR. PENNELL: So you said you think here. Do
10 you mean Nevada, like Nevada laws --

11 JUROR NO. 4: Nevada -- Nevada is -- oh,
12 sorry.

13 MR. PENNELL: Sure.

14 JUROR NO. 4: Nevada is -- I mean, it doesn't
15 seem -- at least here it doesn't seem like the
16 movement's catching on as much. I mean, yes, they did
17 have a -- try to have a parade and everything, but I
18 think if you mess up, you have to face the consequences.
19 You don't get off easy or -- and just, you know, lately
20 in the news, the media, with how California is going, I
21 mean, I'm sorry, from --

22 MR. PENNELL: You don't have to be sorry. I
23 appreciate your honesty.

24 JUROR NO. 4: From the last two months our
25 Government, our nation's going downhill. I mean, we

1 can't even protect our border, so. I mean, if you can't
2 protect your border, that's just an avalanche for more
3 bad to come.

4 MR. PENNELL: So, I guess, just to maybe be
5 more specific on one thing, you said, it's okay here.
6 Do you mean the State of Nevada, or do you mean just
7 Elko?

8 JUROR NO. 4: Where we live --

9 MR. PENNELL: Uh-huh.

10 JUROR NO. 4: -- there's upstanding people
11 here. We've got a good work ethic. I mean, yes,
12 there's bad everywhere, but I'm just saying be grateful
13 where you live, where the people have a good outlook and
14 they're positive that they live here.

15 MR. PENNELL: Okay. I didn't want to cut you
16 off. Were you --

17 JUROR NO. 4: I'm good.

18 MR. PENNELL: Okay. I don't want you to be
19 sorry either. That's what we're trying to get is people
20 to be honest, and I appreciate that.

21 JUROR NO. 4: Yeah, I didn't want to sound
22 racist or that, but every life matters here, not just
23 one race.

24 MR. PENNELL: Okay.

25 JUROR NO. 4: Because then --

1 MR. PENNELL: I appreciate it. Thank you for
2 your honesty. Is there anybody that has some strong
3 feelings about what Juror No. 4 just told us or maybe
4 they agree or disagree? I thought I saw you almost
5 raise your hand.

6 UNIDENTIFIED JUROR: (Indiscernible)

7 MR. PENNELL: Okay. I just had a couple more
8 questions. Is there anything in your own life that
9 reminds you of this case? Is there anybody that, you
10 know, there is a sort of personal element to this based
11 on what they've heard? Is there anybody?

12 Is there anything anyone's heard so far that
13 would make it impossible or difficult for them to judge
14 Darwyn as fairly as you would the Prosecution or the
15 police officers? Is there anything that would make that
16 difficult for you at this point in time? If you're
17 being honest with yourself and honest with us that maybe
18 this isn't the right case for you. Is there anybody
19 that feels that way?

20 And this will be my second to last question.
21 Is there anything that I have not asked you or that we
22 have not asked you, as the Prosecutor and the Judge,
23 that we probably should know about, about you or a
24 belief? Is there anyone who thinks that maybe there's
25 something we should know?

1 And my last question is: Is there anybody
2 who is sitting in this jury panel, if they were in the
3 Defendant's position, would they not feel comfortable
4 with themselves being a juror on this case? So,
5 essentially, would you not like to be a juror in your
6 own trial? Is there anybody that feels that way about
7 themselves based on what they've heard?

8 Okay, thank you for your honesty. Thank you
9 for taking my questions. And I think from here, we'll
10 be able to move forward.

11 THE COURT: Okay. Any further questions,
12 Mr. Pennell?

13 MR. PENNELL: If I could just speak to the
14 Defendant real quick, Your Honor.

15 THE COURT: Go ahead.

16 MR. PENNELL: I don't have anything further,
17 Your Honor, thank you.

18 THE COURT: Okay. Did the State have any
19 challenges for cause, Mr. Thompson?

20 MR. THOMPSON: I do not.

21 THE COURT: Does the State pass the panel for
22 cause?

23 MR. THOMPSON: I do.

24 THE COURT: Does the Defense have any
25 challenges for cause, Mr. Pennell?

1 MR. PENNELL: If we could take a quick break,
2 Your Honor, I'd like to be able to review any notes
3 before I go further with that.

4 THE COURT: Okay. We're going to go ahead
5 and take a brief recess. I need to admonish the parties
6 as follows before this recess:

7 Please do not converse amongst yourselves or
8 with anyone else on any subject connected with the
9 trial. Do not read, watch, or listen to any report of
10 or commentary on the trial or any person connected with
11 the trial by any medium of information, including,
12 without limitation, newspapers, television, radio, and
13 the Internet. Do not form or express any opinion on any
14 subject connected with the trial until the cause is
15 finally submitted to you.

16 You may not use any electronic device or
17 media such as the telephone, a cell phone, smartphone,
18 iPhone, BlackBerry or computer, the Internet, any
19 Internet service, any texts or instant messaging
20 service, any Internet chat room, blog, or website, such
21 as Facebook, Myspace, LinkedIn, YouTube, or Twitter to
22 communicate to anyone any information about this case
23 until I accept your verdict.

24 In other words, you cannot talk to anyone on
25 the phone, correspond with anyone, or electronically

1 communicate with anyone about this case.

2 All rise. We'll go ahead and take a
3 15-minute break.

4 (Whereupon, court recessed)

5 THE COURT: Okay. We're going to go back
6 on the record then. The time is 2:16 p.m., Monday,
7 June 14th, 2021. We're back on the record in Case
8 DC-CR-20-159, the State of Nevada versus Darwyn Ross
9 Yowell. Mr. Yowell present, along with his counsel,
10 Mr. Pennell. Mr. Thompson is here from the District
11 Attorney's Office.

12 We're convened outside the presence of the
13 jury. We had gotten to the point of addressing
14 potential challenges for cause. Mr. Pennell wanted to
15 address these outside the presence of the jury.

16 Mr. Pennell.

17 MR. PENNELL: Yes, Your Honor. I have one
18 juror that I am challenging for cause. That would be
19 number 20. I believe Mary Borden is her name.

20 THE COURT: What seat number is that? Okay,
21 she's in the back, okay.

22 MR. PENNELL: And just based on what I've
23 heard, I believe that the law would support my challenge
24 for cause. The case that's most important is the
25 Sayedazda case by the Nevada Court of Appeals, and it

1 basically just says that the -- a juror can be removed
2 for actual bias, implied bias, or inferable bias.

3 And the actual bias here is that -- if the
4 Court finds there's an actual bias, it admits to
5 partiality, or the juror's voir dire answers demonstrate
6 a bias. In terms of the inferable bias, it does not
7 require that the juror actually admit bias, but based on
8 the Judge's evaluation, there doesn't need to be an
9 existing independent assertion of impartiality. It's
10 just that the disqualification is implied based on all
11 the answers and circumstances.

12 So she did indicate that in her 30 years of
13 law enforcement, that she had essentially raised
14 Detective Stake as her, I guess -- I don't -- law
15 enforcement son, I guess, so to speak.

16 THE COURT: Prodigy of some sort.

17 MR. PENNELL: And so she, obviously, has a
18 very clear, strong relationship with him, and when I did
19 ask her some questions, that did, in fact, come out that
20 she would have sort of a thumb on the scales or credit
21 him before he's on the stand. And she did try and
22 qualify that as, well, maybe slightly, may a little bit,
23 but I think as people, we try and we don't want anybody
24 to think we're biased. We want to be objective.

25 So I think those qualifications are people's

1 attempts to kind of act as if they're not going to be
2 biased. But I believe, based on those answers, actual
3 bias has been shown or at least that we can infer based
4 on those circumstances that her crediting law
5 enforcement's testimony, especially Detective Stake, is
6 problematic for her objectivity in this case, and I'd
7 ask that she be removed for cause.

8 THE COURT: Mr. Thompson.

9 MR. THOMPSON: Well, that's why I asked her
10 the questions that I did is basically you could disagree
11 with him. You've seen law enforcement officers make
12 mistakes. You would judge this based on the facts and
13 evidence of this particular case and not based on her
14 previous knowledge of him, and she said she would. So I
15 think that she, after further discussions -- and we've
16 heard a lot from her -- I think she has indicated that
17 she can be fair and impartial.

18 THE COURT: Anything else, Mr. Pennell?

19 MR. PENNELL: Just, Your Honor, that the
20 rehabilitation the State's referring to, again, I think
21 that once someone -- it's demonstrated they have some
22 kind of impartial, they're uncomfortable with it, and so
23 in response to those kinds of questions, they usually
24 try and back themselves away from their bias or their
25 impartiality.

1 So I think that's what the questions --
2 really what they did is that, yes, she can be an
3 objective person generally, but when it comes to
4 Detective Stake, the relationship is too ingrained
5 between them for her to be impartial in this case, and I
6 believe that she's likely to credit his testimony before
7 he even gets on the stand.

8 THE COURT: Anything else, Mr. Thompson?

9 MR. THOMPSON: No.

10 THE COURT: The Court's going to grant the
11 motion to strike Ms. Borden for cause. Anyone else that
12 you needed to address?

13 MR. PENNELL: That would be it for now, Your
14 Honor, thank you.

15 THE COURT: Okay. So we'll need to bring
16 them back in and seat another juror, see if this new
17 juror would have answered any other questions, and then
18 we can get to the peremptory challenges.

19 Anything else we need to address outside the
20 presence of the jury before we bring them back in and go
21 through that next step?

22 MR. THOMPSON: Yeah, no, I'm fine.

23 THE COURT: You're okay? Okay. Then we'll
24 start bringing them back in if they're ready.

25 (Whereupon, court recessed)

1 THE COURT: Okay. So I think everyone is
2 back. We're going to go ahead and get back underway.
3 The time is 2:26 p.m. It's Monday, June 14th, 2021.
4 We're back on the record in Case DC-CR-20-159, State of
5 Nevada versus Darwyn Ross Yowell. The Defendant is
6 present along with his counsel. Mr. Thompson is here
7 from the District Attorney's Office.

8 Do the parties stipulate to the presence of
9 the jury panel?

10 MR. THOMPSON: Yes.

11 MR. PENNELL: Yes, Your Honor.

12 THE COURT: Okay. Ms. Borden in seat
13 number 2, we're going to thank and excuse you at this
14 time. Thank you so much. Amanda Johnson in seat number
15 29, you're going to move over to seat number 2, and then
16 those in seats 30, 31, and 32 will each move over one
17 seat.

18 Juror No. 16, Samantha Cook. We're going to
19 start by having you answer those questions on the screen
20 there for us.

21 MS. COOK: My name is Samantha Cook. I am a
22 homemaker, I guess you'd call it. My spouse is an
23 electrician for a contracting company. I have four
24 children. I have lived in Elko County for 12 years, and
25 I live in Spring Creek.

1 THE COURT: So you heard us go over a big
2 long list of questions over the past few hours. Would
3 you have answered in the affirmative to any of those
4 questions?

5 MS. COOK: The very first question I would
6 like to talk to you guys back --

7 THE COURT: Okay. Come on up here to the
8 dais if you would.

9 (Whereupon, sidebar off the record)

10 THE COURT: Okay, we're going to thank and
11 excuse the juror in seat 32, Ms. Cook. We'll draw
12 another name here.

13 41, Nancy Blakeman, come on up.

14 MS. BLAKEMAN: Sorry, I'm slow.

15 THE COURT: Oh, you're fine, no problem.

16 MS. BLAKEMAN: My name is Nancy Blakeman.
17 I'm a domestic goddess is what I like to call myself.
18 My husband is an underground mechanic for Cortez -- not
19 Cortez or Leeville for SMD. We have three children
20 together, and we've lived in Elko County for 22 years.
21 We live in Carlin.

22 THE COURT: Okay. So you heard us go over
23 all these many questions we've asked over the past few
24 hours. Is there any of those questions that we've posed
25 that you feel the need to answer in the affirmative?

1 MS. BLAKEMAN: No.

2 THE COURT: Okay. Thank you, you can have a
3 seat. Did any of the parties want to question
4 Ms. Blakeman any further about anything?

5 MR. THOMPSON: No.

6 THE COURT: Mr. Thompson passes.

7 Mr. Pennell.

8 MR. PENNELL: Yeah, Ms. Blakeman, I called on
9 several people and just said is there an impression, a
10 really strong impression about any of the answers or
11 questions that you've heard so far. I'm interested in
12 knowing if there was something like that for you that
13 would be --

14 MS. BLAKEMAN: Nothing comes to mind right
15 now.

16 MR. PENNELL: Okay. So you didn't get a
17 strong impression about any of the questions or the
18 answers?

19 MS. BLAKEMAN: No.

20 MR. PENNELL: Okay. All right, that's all
21 the questions I have, Your Honor.

22 THE COURT: Okay. Does the State then pass
23 this newly-constituted panel for cause?

24 MR. THOMPSON: Yes.

25 THE COURT: Does the Defense pass the

1 newly-constituted panel for cause?

2 MR. PENNELL: If I could just take one
3 moment, Your Honor.

4 THE COURT: Sure, go ahead.

5 MR. PENNELL: Yes, we can pass for cause,
6 Your Honor.

7 THE COURT: Okay. So we've now arrived at a
8 new stage of the proceeding in which the parties are
9 going to be able to exercise something known as
10 peremptory challenges. Basically what that means is
11 that each side is allowed to excuse a certain number of
12 you that are in the box with no particular reason. They
13 just may decide that they don't want you on the jury for
14 some reason. We're going to do that outside of your
15 presence. It's going to take us maybe 20 or 30 minutes
16 to get this process wrapped up. So we're going to take
17 an extended break at this point in time.

18 When we come back, we will have constituted
19 the jury at that point in time and then everyone else
20 who is left will be excused at that particular time.
21 But at this point, we're going to go ahead and take a
22 recess, and we'll do this outside of your presence.

23 Please do not converse amongst yourselves or
24 with anyone else on any subject connected with the
25 trial. Do not read, watch, or listen to any report of

1 or commentary on the trial or any person connected with
2 the trial by any medium of information, including,
3 without limitation, newspapers, television, radio and
4 the Internet. Do not form or express any opinion on any
5 subject connected with the trial until the cause is
6 finally submitted to you.

7 You may not use any electronic device or
8 media such as the telephone, a cell phone, smartphone,
9 iPhone, BlackBerry or computer, the Internet, any
10 Internet service, any texts or instant messaging
11 service, any Internet chat room, blog, or website, such
12 as Facebook, Myspace, LinkedIn, YouTube, or Twitter to
13 communicate to anyone any information about this case
14 until I accept your verdict.

15 In other words, you cannot talk to anyone on
16 the phone, correspond with anyone, or electronically
17 communicate with anyone about this case.

18 All rise. We should have you back in the
19 room no later than 3:00 o'clock, thank you.

20 (Whereupon, court recessed)

21 THE COURT: Okay. We're going to go back on
22 the record then, 2:44 p.m., Monday, June 14th, 2021.
23 We're back on the record in Case DC-CR-20-159, the State
24 of Nevada versus Darwyn Ross Yowell. Mr. Yowell is
25 present, along with his counsel, Mr. Pennell.

1 Mr. Thompson is here from the District Attorney's
2 Office. We're convened outside the presence of the
3 jury.

4 Before we get to the peremptory challenges, I
5 just wanted to make a record on the record of the
6 various sidebar conferences and those that we excused as
7 a result of those and make a record of that. So we did
8 have Mr. John Nelson, Juror No. 13, approach the bench
9 about his nephew being Eduardo Estrada, and he expressed
10 various concerns about being on the jury, and he was
11 excused.

12 Juror No. 12, William Hylton, approached the
13 bench, expressed some concerns about some health issues
14 he was experiencing and specifically with allergies and
15 indicated he had a preference for being excused, and I
16 believe the parties stipulated to him being excused.

17 Wyatt Riley, Juror No. 47, approached the
18 dais, and he had indicated he was having some PTSD
19 issues, and the parties stipulated to excuse him as
20 well.

21 Juror No. 32, Lupe Sanchez, also approached
22 the dais and expressed privately some concerns that she
23 had been -- previously a domestic violence victim and
24 had some concerns about being on this case and was
25 excused.

1 Jury No. 27, Cynthia Arnett, also approached
2 the dais about her husband being involved in a DV
3 incident about 25 years ago with his child. She wasn't
4 sure if he'd actually been convicted or not, but he had
5 participated in some counseling, and she was not
6 excused.

7 David Goodrich, Juror No. 31, had a health
8 issue related to a recent hip replacement and was having
9 difficulty sitting, and he was excused.

10 And Samantha Cook, Juror No. 16, had a child
11 who had threatened or had a recent suicide attempt and
12 had a medical appointment she needed to go to at the
13 psychiatrist with her child, and she was excused.

14 Anything I left off about any of those
15 individuals that either party wanted to make a record
16 about?

17 MR. THOMPSON: Just that I believe that we
18 all stipulated -- those that were excused were all
19 stipulated to by both sides.

20 THE COURT: Is that correct, Mr. Pennell?

21 MR. PENNELL: Either there was a stipulation
22 or no opposition. I think functionally, it's the same.

23 PEREMPTORY CHALLENGES

24 THE COURT: Very well. Okay, we've now
25 arrived then at the time for exercising peremptory

1 challenges. Those jurors who remain seated in seats 1
2 through 28 are the potential members of our jury panel,
3 and then those in seats 29 through 32 are potential
4 alternates. So each side will have eight peremptory
5 challenges as to the main pool and one peremptory
6 challenge as to the alternates.

7 So we'll start with the State. As to the
8 main jury panel, who is the first peremptory challenge
9 by the State?

10 MR. THOMPSON: Number 53, who's in seat 4,
11 Robert Byram.

12 THE COURT: Robert Byram in seat number 4
13 will be the first peremptory challenge by the State of
14 Nevada. Mr. Pennell, first peremptory challenge by the
15 Defense.

16 MR. PENNELL: Your Honor, I think -- my
17 social worker Jordan and I are -- maybe have a different
18 opinion about this so I just want to clarify. Is there
19 four peremptories on each side or eight on each side?

20 THE COURT: Eight on each side because this
21 is a -- because of the potential penalties. There's a
22 larger pool so you each get eight. Normally it would be
23 four but because of the penalties.

24 MR. PENNELL: All right, thank you, Your
25 Honor. Number 8, Melinda Lonergan.

1 THE COURT: Okay. So that's the juror in
2 seat number 22 is the first peremptory challenge by the
3 Defense, Melinda Lonergan. The second peremptory
4 challenge by the State of Nevada, Mr. Thompson.

5 MR. THOMPSON: Seat number 20, Hiliana
6 Gonzalez. She's wearing Juror No. 11.

7 THE COURT: Okay. So we'll excuse Hiliana
8 Gonzalez. That's the State's second peremptory
9 challenge, and she's in seat 20. Second peremptory
10 challenge from the Defense, Mr. Pennell.

11 MR. PENNELL: Number 36, Rebecca Hansen.

12 THE COURT: That's in seat 13. Becky Hansen
13 is the second peremptory challenge from the Defense.
14 Third from the State.

15 MR. THOMPSON: Juror No. 48 in seat 2, Amanda
16 Johnson.

17 THE COURT: Okay. The third peremptory
18 challenge from the State of Nevada will be the juror in
19 seat number 2, Amanda Johnson. Third peremptory
20 challenge from the Defense, Mr. Pennell.

21 MR. PENNELL: Number 48, Raechelle Bogdon.

22 THE COURT: That's the seat number 24.
23 Ms. Raechelle Bogdon is the third peremptory challenge
24 from the Defense.

25 MR. PENNELL: Is it juror 42 or 24, Your

1 Honor? I wasn't --

2 THE COURT: Let me look.

3 MR. THOMPSON: Number 42 is her number.

4 THE COURT: 42 is her number, yes.

5 MR. THOMPSON: She's in seat 24.

6 THE COURT: She's in seat 24, yep. And I
7 think we were at the fourth peremptory challenge for the
8 State.

9 MR. THOMPSON: Seat number 9, Juror No. 1,
10 Julius Stieger or Stieger.

11 THE COURT: Okay. Julius Stieger is the
12 fourth peremptory challenge from the State of Nevada.
13 Mr. Pennell, fourth peremptory challenge from the
14 Defense.

15 MR. PENNELL: Number 51, Anthony Bauer.

16 THE COURT: Anthony Bauer, okay, he's in seat
17 25. So that would be the fourth Defense peremptory
18 challenge, Mr. Bauer. Fifth peremptory challenge from
19 the State of Nevada, Mr. Thompson.

20 MR. THOMPSON: Seat number 12, Juror No. 2,
21 Tricia Evans.

22 THE COURT: Okay. Tricia Evans, seat 12, is
23 the fifth peremptory challenge from the State of Nevada.
24 Fifth peremptory challenge from the Defense, Mr. Pennell
25 .

1 MR. PENNELL: Juror No. 44, Toril Tapia.

2 THE COURT: Toril Tapia, seat 28, is the
3 fifth peremptory challenge from the Defense. Sixth
4 peremptory challenge from the State, Mr. Thompson.

5 MR. THOMPSON: Seat number 23, Juror No. 15,
6 Anna Taylor.

7 THE COURT: Anna Taylor, seat 23, and that's
8 the sixth, I believe, from the State. Sixth peremptory
9 challenge from the Defense, Mr. Pennell.

10 MR. PENNELL: Number 4, William Wilkinson,
11 Your Honor.

12 THE COURT: William Wilkinson, he's in seat
13 11, is the sixth peremptory challenge from the Defense.
14 Seventh peremptory challenge from the State,
15 Mr. Thompson.

16 MR. THOMPSON: Seat 14, Juror No. 35, Mary
17 Seal.

18 THE COURT: Okay. Mary Seal is the seventh
19 peremptory challenge from the State, seat 14. Seventh
20 peremptory challenge from the Defense, Mr. Pennell.

21 MR. PENNELL: Juror 19, Cassy Meade.

22 THE COURT: Cassy Meade in seat 15 is the
23 seventh peremptory challenge from the Defense. Final
24 peremptory challenge from the State as to the main pool,
25 Mr. Thompson.

1 MR. THOMPSON: Seat 7, Juror No. 27, Cynthia
2 Arnett.

3 THE COURT: Okay. Eighth peremptory
4 challenge from the State is Cynthia Arnett in seat 7.

5 MR. PENNELL: If we could have just a brief
6 moment, Your Honor.

7 THE COURT: Sure, no problem.

8 MR. PENNELL: I've come to a decision, Your
9 Honor. It would be Juror 39, Cody Kirby. I believe he
10 was in seat number 1.

11 THE COURT: Seat number 1. Cody Kirby is the
12 final Defense peremptory challenge. Okay, so that gives
13 us our main jury panel, which would be -- consist of
14 David Gubler in seat 3, Jennifer Bondelie in seat 5,
15 Ron B. in seat 6, Shanna Stevenson in seat 8, Yannett
16 Daines in seat 10, Theresa Nutting in seat 16, Jared
17 Moffitt in seat 17, Steven Gress in seat 18, Rhonda
18 Powrie in seat 19, Rye McKay in seat 21, James Kennedy
19 in seat 26, and Ken Griswold in seat 27.

20 Okay. So as to the alternates, which are --
21 the potential alternates are Daniel Kough in seat 29,
22 John Peterson in seat 30, Cornelius Brooke in seat 31,
23 and Nancy Blakeman in seat 32. Each side has one
24 peremptory challenge.

25 Mr. Thompson, who does the State wish to

1 strike?

2 MR. THOMPSON: Seat 31, number 24, Cornelius
3 Brooke.

4 THE COURT: Cornelius Brooke is the
5 peremptory challenge by the State. And Mr. Pennell, who
6 does the Defense wish to strike?

7 MR. PENNELL: Number 41, Nancy Blakeman.

8 THE COURT: Nancy Blakeman in seat 32 by the
9 Defense.

10 Okay. So that gives us our alternates. So,
11 again, just for the record, to be clear here, the jury
12 panel consists of David Gubler, Jennifer Bondelie, Ron
13 B., Shanna Stevenson, Yannett Daines, Theresa Nutting,
14 Jared Moffitt, Steven Gress, Rhonda Powrie, Rye McKay,
15 James Kennedy, Ken Griswold, with Daniel Kough and
16 John Peterson being the alternates.

17 Okay. So next, we can bring them back in,
18 excuse everyone who was not selected. I was going to do
19 some initial instructions and then we can take a break
20 and move up to the courtroom upstairs. And then we'll
21 do Instruction 1 and 2 and do opening statements. I
22 don't know if the parties want to get underway with any
23 testimony today, or would you prefer to start in the
24 morning?

25 MR. THOMPSON: Let's see where we're at.

1 THE COURT: Okay.

2 MR. THOMPSON: I have a couple here, but
3 we'll see where we're at.

4 THE COURT: Okay.

5 MR. PENNELL: I would prefer to do it in the
6 morning, but I understand the Court's trying to move
7 things along too with how backed up we are, but if it
8 doesn't -- I think we're going to be able to get through
9 with everything in four days even if we stop at opening
10 statements but --

11 THE COURT: Okay. Well, we'll see where
12 we're at that point in time and go from there. So let's
13 go ahead and bring everyone back in.

14 (Whereupon, court recessed)

15 THE COURT: Okay, we're back on the record.
16 The time is 2:59 p.m., Monday, June 14th, 2021. We're
17 back on the record in Case DC-CR-20-159, the State of
18 Nevada versus Darwyn Ross Yowell. The Defendant is
19 present, along with his counsel, Mr. Pennell.
20 Mr. Thompson is here from the District Attorney's
21 Office.

22 Do the parties stipulate to the presence of
23 the venire panel?

24 MR. THOMPSON: Yes.

25 MR. PENNELL: Yes, Your Honor.

1 THE COURT: Okay. So we did meet outside the
2 presence of the jury to do this peremptory challenge
3 process. Before we announce the various people who have
4 been selected as jurors and alternates, I just want to
5 state it's important that you remember that if you were
6 not selected, it doesn't mean you did anything wrong.
7 It's just part of the process. Each side gets to excuse
8 a certain number of the jurors from the panel. So
9 there's no suggestion here you did anything wrong at
10 all.

11 And I want to say before we announce the
12 various members of the panel here, I sincerely
13 appreciate everyone who has showed up today and gave us
14 your time and attention. This is a very valuable and
15 important process that we're underway here with today,
16 and it's so important that we have people that are
17 conscientious and willing to show up and give your
18 undivided attention to this process. So I sincerely
19 appreciate that you showed up today and participated in
20 this process, and I wanted to give you my personal
21 thanks for being here today.

22 So if you're name is called, that means that
23 you have been selected to be part of the jury or as one
24 of the alternates. If your name is not called after we
25 get done announcing the various names, I will go ahead

1 and excuse you at that time. And, again, I thank you so
2 much for your attendance today and your participation.

3 So if the clerk will please stand and
4 announce those who have been selected.

5 TRIAL JURORS SEATED

6 THE CLERK: David Gubler, Jennifer Bondelie,
7 Ronnie Barruetabena, Shanna Stevenson, Yannett Daines,
8 Theresa Nutting, Jared Moffitt, Steven Gress, Rhonda
9 Powrie, Rye McKay, James Kennedy, Kenneth Griswold,
10 Daniel Kough, and Jonathon Peterson.

11 THE COURT: Okay. Everyone else, if your
12 name was not called, we thank you for your attendance
13 today, and you're now excused. If everyone will please
14 stand, you can go ahead and exit at this time. Thank
15 you so much for your attendance today.

16 (Whereupon, the jurors not called to serve as
17 jurors left the courtroom)

18 THE COURT: Okay, thank you, please be
19 seated. Okay, we've now excused those who were not
20 selected. Now what I need to happen is if all those of
21 you who remain, if you will please stand, and the court
22 clerk is going to administer the jury oath. Please
23 stand and raise your right hand.

24 THE CLERK: Do you and each of you solemnly
25 swear that you will well and truly try the case now

1 pending before this Court and a true verdict render
2 according to the evidence given so help you God?

3 THE JURY: (Affirmative)

4 THE COURT: Are we missing somebody?

5 MR. THOMPSON: Yeah, we called James
6 Kennedy's name.

7 THE COURT: Whose name?

8 MR. THOMPSON: James Kennedy. Where did he
9 go?

10 THE COURT: Did we lose Kennedy?

11 UNIDENTIFIED SPEAKER: (Indiscernible)

12 THE COURT: Go ahead and see if can you track
13 him down. We might have to call him. Do you have a --
14 is there a phone number for him on his questionnaire?

15 MR. PENNELL: Yeah, we do have that, Your
16 Honor.

17 THE COURT: What's that?

18 MR. PENNELL: We do have that number.

19 THE COURT: Okay. We'll have Carlos try to
20 call him here in a second when he comes back.

21 You can go ahead and have a seat back down
22 while we wait. Go ahead and have a seat. We do have a
23 phone number, Carlos. Can you try calling his phone
24 number that's on his questionnaire and see if he
25 answers. Right here.

1 THE BAILIFF: It went right to voicemail.

2 THE COURT: There's another gentleman I just
3 saw walking in. I don't know if that's him.

4 UNIDENTIFIED SPEAKER: Found him.

5 THE COURT: Oh, okay. Okay.

6 MR. KENNEDY: I thought I was supposed to be
7 upstairs.

8 THE COURT: Oh, okay. I apologize for the
9 confusion. You're okay. So the record will reflect
10 that Mr. Kennedy has now joined us. So we have all of
11 the members of the jury panel and alternates present.

12 If all of you will please stand and raise
13 your right hand to be -- and the clerk will administer
14 the jury oath.

15 THE CLERK: Do you and each of you solemnly
16 swear that you will well and truly try to the case now
17 pending before this Court and a true verdict render
18 according to the evidence given, so help you God?

19 THE JURY: (Affirmative)

20 THE COURT: Thank you, please be seated.

21 No juror may declare to any fellow jurors any
22 fact relating to the case as of the juror's own
23 knowledge, and if any juror discovers during the trial
24 or after the jury has retired that he or she or any
25 other juror has personal knowledge of any fact in

1 controversy in the case, the juror shall disclose such
2 situation to the Judge out of the presence of the other
3 jurors. If that comes to your attention, find Carlos
4 and let him know, and he'll pass that information on to
5 the Court.

6 It's very important during this case that we
7 not engage in any personal investigations of the case.
8 So I'll just give you a couple examples. Maybe there
9 will be a location mentioned during this case, and maybe
10 after-hours you -- the idea occurs to you I'm going to
11 go out to this location. Do not go to any locations
12 mentioned in the case.

13 Do not research any topics on-line or
14 anything that might come up during this proceeding.
15 It's very important that you not engage in any type of
16 personal investigations. You only need to consider
17 what's brought into evidence here in the courtroom.

18 Obviously, I would assume most of you, if not
19 all of you, have cell phones. We've talked about on
20 these breaks about being careful with your use of your
21 electronic devices. It's fine to use those devices to
22 call or text about things other than the trial. We just
23 don't want you communicating any information about the
24 trial itself to anybody else.

25 Please do not use your cell phones to record

1 the proceedings. If there are questions about something
2 that may have been testified to during the proceedings,
3 there's ways for us to provide that information to you.
4 So do not record any of the trial.

5 Please do not go onto social media and post
6 any information about this case while this case is
7 pending. So once we're done and a verdict has been
8 returned, if you want to talk about the case to other
9 people or post stuff on social media about it, have at
10 it, but do not do that during the course of the trial
11 while it's pending, okay.

12 You're, obviously, going to go home and your
13 family and friends might have questions about what
14 you've been doing all day. It's perfectly fine to tell
15 them that you are serving on a jury but leave it at
16 that. If you want to discuss the facts of the case,
17 wait until the case is over with, and then you're
18 welcome to discuss any of the facts that you want with
19 anybody else.

20 It's important that you abide by these
21 things. They may seem insignificant, but they're, in
22 fact, very important. If there's any violation of any
23 of these rules, it could potentially mean that there
24 will be a mistrial. You've obviously seen how much
25 effort we've gone to just to get to this point. So it

1 could be, obviously, a great inconvenience to everybody
2 involved and a great expense to the parties. So please
3 abide by these directions that we've given to you.

4 Just a couple housekeeping matters. You're
5 going to be provided notebooks upstairs when you get up
6 to the courtroom, and you are allowed to use those
7 notebooks to take notes. There's no requirement that
8 you take any notes, but we will provide them for you so
9 that you have the ability to write down things that
10 might be important to you during this process.

11 We will try to take recesses periodically.
12 We'll try to do that every 90 minutes or so. Sometimes
13 I might forget and go a little bit too long. If you
14 really desperately need a recess, I don't have a
15 problem. If you want to let Carlos know that you need a
16 recess, he'll pass that information on to me, and I'm
17 more than happy to take a recess at any time if you just
18 desperately need to go use the restroom or walk around
19 or something like that, that's not a problem. Just let
20 us know.

21 Each morning we're going to start up at
22 9:00 o'clock. You're going to meet in the jury room
23 that's up on the top floor of the courthouse around
24 8:45. We'll have snacks and food in that room for you,
25 some coffee, that sort of thing. So if -- you know,

1 come hungry and have some food there in the room when
2 you arrive. We'll take breaks for lunch just like we
3 did today. We'll always break around noon for you to go
4 to lunch and try to -- we always get you out of here by
5 5:00 o'clock. You don't have to worry about that. So
6 whenever you come back from a break, just go and hang
7 out in the jury room until we're ready to start.

8 We take your time very seriously. We're
9 trying to make valuable use of your time. Every once in
10 a while there's an issue that has to be addressed
11 outside of your presence. So if there's kind of some
12 unexpected delay of some kind, keep in mind that there's
13 probably some issue that we're addressing outside of
14 your presence, and that's the reason for the delay. And
15 we apologize for that, but some of those things are just
16 things that we're required to do outside of your
17 presence.

18 We're going to give you different badges that
19 reflect that you've now been selected as a juror in the
20 case. The purpose of these badges is to identify you to
21 other people that you're a juror. As we talked about
22 during this process, we don't want people interacting
23 with you, and we want people to sort of avoid contact
24 with you. So the badges will assist us in doing that
25 and making sure that people aren't having any contact

1 with you.

2 We want you to be comfortable while you're
3 here. So if there's anything that you need in the jury
4 room that we haven't provided for you, just let us know.
5 We'd be happy to get some additional items there for
6 you. We'll have some candy in there, some fruit, some
7 donuts, you know, other -- sodas and coffee, that sort
8 of thing, but if there's something we don't have that
9 you really want, let us know and we'll do our best to
10 get that for you. And just let Carlos know if there's
11 some particular need, and we will try to take care of
12 that for you.

13 So before we continue on with the rest of the
14 process, what we're going to do is we're going to move
15 up to the jury -- or excuse me, the courtroom up on the
16 top floor of the courthouse. When you get to the top of
17 the stairs, it's the courtroom on the left-hand side.
18 Right before the door that goes into the courtroom,
19 there's another door on the right-hand side, which is
20 where the jury room is.

21 And so that's where you guys will hang out
22 during breaks. If you're waiting to go back in the
23 courtroom, just wait in that room, and that's where
24 we'll have the various snacks and that sort of thing for
25 you.

1 So we're going to take a break right now for
2 about 15 minutes or so so we can get all of our stuff
3 moved up to the courtroom so we can get started. I do
4 need to admonish you as follows before the break:

5 Please do not converse amongst yourselves or
6 with anyone else on any subject connected with the
7 trial. Do not read, watch, or listen to any report of
8 or commentary on the trial or any person connected with
9 the trial by any medium of information, including,
10 without limitation, newspapers, television, radio, and
11 the Internet. Do not form or express any opinion on any
12 subject connected with the trial until the cause is
13 finally submitted to you.

14 You may not use any electronic device or
15 media such as the telephone, a cell phone, smartphone,
16 iPhone, BlackBerry or computer, the Internet, any
17 Internet service, any texts or instant messaging
18 service, any Internet chat room, blog, or website, such
19 as Facebook, Myspace, LinkedIn, YouTube, or Twitter to
20 communicate to anyone any information about this case
21 until I accept your verdict.

22 In other words, you cannot talk to anyone on
23 the phone, correspond with anyone, or electronically
24 communicate with anyone about this case.

25 So if you'll please just assemble in the jury

1 room on the top floor of the courthouse at 3:30, and
2 we'll get started promptly around 3:30.

3 Okay, thank you. If you'll please rise.
4 You're free to take a break, and we'll see you upstairs
5 in a few minutes.

6 (Whereupon, court recessed)

7 THE COURT: We're now on the record, the time
8 3:40 p.m., June 14th, 2021. We're back on the record in
9 Case DC-CR-20-159, the State of Nevada, Plaintiff,
10 versus Darwyn Ross Yowell. The Defendant is present,
11 along with his counsel, Mr. Pennell. We do have
12 Mr. Thompson here from the District Attorney's Office.

13 We're convened outside the presence of the
14 jury. There was a correction we needed to make to the
15 charging document. And actually, now that I mention
16 it, I see the criminal information that was filed
17 August 21st, 2020, Judge Porter noted the change of
18 category A felony already on that document. She
19 corrected it by interlineation back on October 5th,
20 2020. So I guess, technically, that correction was
21 already made to the document.

22 The only other issue was when -- it looks
23 like someone has written in -- Brandi also pointed that
24 the case number was messed up at the top of the
25 document, but it looks like someone has written in the

1 correct -- it was missing the year, but that has been
2 written in on this document as well.

3 And I think that the State wanted to correct
4 SR 288 to be 228; is that correct?

5 MR. THOMPSON: That is correct.

6 THE COURT: Any objection to correcting that
7 by interlineation, Mr. Pennell?

8 MR. PENNELL: This is the one we already
9 discussed earlier, I believe?

10 THE COURT: Yes.

11 MR. PENNELL: No objection, Your Honor.

12 THE COURT: So on page 1 of the criminal
13 information, on line 17, where it says 288 will be
14 corrected to 228.

15 Anything else we need to address before we
16 bring in the members of the jury?

17 MR. THOMPSON: No.

18 THE COURT: Is there anything else,
19 Mr. Pennell?

20 MR. PENNELL: I'm sorry, Your Honor, I didn't
21 hear you.

22 THE COURT: I said anything else before I
23 bring in the members of the jury?

24 MR. PENNELL: Oh, no, Your Honor.

25 THE COURT: Okay. If everyone will please

1 rise then at this time.

2 (Whereupon, the jury entered the courtroom)

3 THE COURT: Court is back in session, please
4 be seated.

5 The time is 3:44 p.m. It's June 14th, 2021.
6 We're back on the record in Case DC-CR-20-159, the State
7 of Nevada versus Darwyn Ross Yowell. Mr. Yowell is
8 present, along with his counsel, Mr. Pennell.
9 Mr. Thompson is here from the District Attorney's
10 Office. Do the parties stipulate to the presence of the
11 jurors and the alternates?

12 MR. THOMPSON: Yes.

13 MR. PENNELL: Yes, Your Honor.

14 THE COURT: Okay. So next up we're going to
15 have the clerk read the criminal information as amended.

16 THE CLERK: Case No. DC-CR-20-159, Department
17 No. 3, in the Fourth Judicial District Court of the
18 State of Nevada, in and for the County of Elko. The
19 State of Nevada, Plaintiff, versus Darwyn Ross Yowell,
20 Defendant.

21 Comes now, the State of Nevada, the Plaintiff
22 in the above-entitled cause, by and through its counsel
23 of record, the Elko County District Attorney's Office,
24 and informs the above-entitled court that the Defendant
25 above-named, on or about the 5th day of June, 2020, at

1 or near the location of the City of Elko and/or SR 227
2 and/or SR 228, within the County of Elko and the State
3 of Nevada, committed a crime or crimes described as
4 follows:

5 Count 1, kidnapping in the first degree, a
6 category A felony; or in the alternative to the Count 1,
7 Count 2, kidnapping in the second degree, a category B
8 felony; or in the alternative to Counts 1 and 2,
9 Count 3, coercion, a category B felony. In addition to
10 Counts 1 through 3, Count 4, domestic battery resulting
11 in substantial bodily harm, a category B felony; or in
12 the alternative to Count 4, Count 5, battery resulting
13 in substantial bodily harm, a category C felony.

14 All of which is contrary to the form of the
15 statute in such cases made and provided and against
16 the peace and dignity of the State of Nevada, dated
17 August 14th, 2020, signed Justin Barainca, to which the
18 Defendant previously pled not guilty.

19 THE COURT: Thank you. I'm next going to
20 read two jury instructions to the jury. The --
21 Instruction No. 1 is sort of a roadmap of the trial,
22 and Instruction No. 2 governs the submission of written
23 questions by the jury following testimony of various
24 witnesses. So I do need to read these instructions to
25 you at this time.

1 Instruction No. 1: Ladies and gentlemen,
2 this instruction is intended to serve as an introduction
3 to the trial of this case. It is not a substitute for
4 the detailed instructions on the law and the evidence
5 that I will give you at the close of the case and before
6 you retire to consider your verdicts.

7 This is a criminal case commenced by the
8 State of Nevada, which I may sometimes refer to as the
9 State against Darwyn Ross Yowell. The case is based on
10 a criminal information, which has been read to you. You
11 should distinctly understand that the criminal
12 information simply contains charges. It is not in any
13 sense evidence of the allegations it contains, nor is it
14 a substitute for the instructions containing the
15 elements of the crimes charged that I will give you at
16 the close of this case.

17 The Defendant has plead not guilty to the
18 crimes charged in the criminal information. Therefore,
19 the State has the burden of proving every element of the
20 crimes charged beyond a reasonable doubt. The purpose
21 of the trial is to determine whether the State can meet
22 this burden.

23 The trial will proceed in the following
24 order: First, the parties have the opportunity to make
25 opening statements. The State may make an opening

1 statement at the beginning of the trial. The Defendant
2 may make an opening statement following the opening
3 statement for the State or may defer the making of an
4 opening statement until the close of the State's case.
5 Neither party is obliged to make an opening statement.
6 What is said in the opening statements is not evidence.
7 The statement simply serves the purpose of discussing
8 the evidence that the party making the statement expects
9 to be admitted.

10 Second, the State will introduce evidence in
11 support of the charges in the criminal information.

12 Third, after the State has presented its
13 evidence, the Defendant may present evidence; however,
14 he is not obliged to do so. The burden is always on the
15 State to prove every element of the crimes charged
16 beyond a reasonable doubt. The law never imposes on the
17 Defendant in a criminal case the burden of calling any
18 witnesses or introducing any evidence.

19 Fourth, I will instruct you on the applicable
20 law. Your verdicts must be unanimous.

21 Fifth, after the reading of the instructions,
22 each party has the opportunity to present oral argument
23 in support of their respective cases. What is said in
24 closing argument is not evidence, just as what is said
25 in the opening statements is not evidence. The

1 arguments are designed to present to you the contentions
2 of the parties as to what the evidence has shown and
3 what inferences may be drawn from the evidence. The
4 State has the right to open and close the argument.

5 Your purpose as jurors is to find and
6 determine the facts. Under our system of criminal
7 procedure, you are the sole judges of the facts. If at
8 any time I should make any comment regarding the facts,
9 you are admonished to disregard it. It is especially
10 important that you perform your duty of determining the
11 facts diligently and conscientiously, for ordinarily
12 there is no means of correcting an erroneous
13 determination of the facts by a jury.

14 On the other hand, and with equal emphasis, I
15 instruct you that the law, as given by the Court,
16 constitutes the only law for your guidance. It is your
17 duty to accept and follow it. It is your duty to follow
18 the law as I give it to you, even though you may
19 disagree with the law. You are to determine the facts
20 in the case solely from the evidence produced at trial,
21 which consists of the testimony of witnesses and
22 exhibits received in evidence. Questions asked by the
23 lawyers are not evidence, for the evidence consists of
24 answers given by witnesses to questions posed by the
25 lawyers.

1 Again, statements and arguments of counsel
2 are not evidence. Counsel, however, may enter into
3 agreements or stipulations to facts, which are not in
4 dispute. When they do so, you are to accept the facts
5 as stipulated by counsel. On occasion, I may tell you
6 that I am making -- or I am taking judicial notice of
7 certain facts. You then may accept those facts as true
8 but are not required to. It is up to you to decide what
9 inferences are to be drawn from the evidence and what
10 facts are established by the evidence.

11 The parties may sometimes present objections
12 to some of the testimony or other evidence. It is the
13 duty of a lawyer to object to evidence that he or she
14 believes may not properly be offered, and you should not
15 be prejudiced in any way against a lawyer who makes
16 objections or against the party he or she represents.
17 At times I may sustain objections or direct that you
18 disregard certain testimony or exhibits. You must not
19 consider any evidence to which an objection has been
20 sustained or that I have instructed you to disregard.

21 In considering the weight and value of the
22 testimony of any witness, you may take into
23 consideration the appearance, attitude, and behavior of
24 the witness, the extent of his or her opportunity and
25 ability to see or hear or otherwise become aware and to

1 remember and communicate the interests of the witness in
2 the outcome of the case, if any, the existence or
3 nonexistence of a bias or other motive, the inclination
4 of the witness to speak truthfully or not, the
5 probability or improbability of the statements of the
6 witness, a statement previously made by him or her that
7 is inconsistent with his or her testimony, evidence of
8 the existence or nonexistence of any fact testified to
9 by him or her, and all other facts and circumstances in
10 evidence.

11 No statement, ruling, remark, or comment that
12 I may make during the course of the trial is intended to
13 indicate my opinion as to how you should decide the case
14 or to influence you in any way in your determination of
15 the facts. At times I may ask questions of witnesses.
16 If I do so, it is for the purpose of bringing out
17 matters that I feel should be brought out, and not in
18 any way to indicate my opinion about the evidence or to
19 indicate the weight I feel you should give the testimony
20 of the witnesses. I may also find it necessary to
21 admonish the lawyers. If I do, you should not show
22 prejudice toward a lawyer or his client because I have
23 found it necessary to admonish him or her.

24 It is the duty of an attorney to present to
25 you his client's case in the most favorable light

1 consistent with the truth and the law. During the
2 trial, I ask you not to communicate with the attorneys,
3 even on matters having no connection whatsoever with
4 this case. The attorneys are officers of the Court, and
5 they are aware of their responsibilities as such.

6 Even if you are acquainted with the attorney,
7 you will observe that he or she will avoid any contact
8 with you during the trial, and you should not be
9 offended by that. The lawyer will be attempting merely
10 to comply with the Rules of Professional Conduct in
11 avoiding any appearance of impropriety.

12 Not only must your conduct as jurors be above
13 reproach, but you must avoid the appearance of any
14 improper conduct. Do not talk to the parties,
15 attorneys, or witnesses during the trial, even upon
16 matters unconnected with the case. In the event that
17 anyone should attempt to improperly influence you in any
18 manner, you should promptly report the matter to me or
19 to the Bailiff. If you notice anything out of the
20 ordinary, you should promptly report the matter to me or
21 to the Bailiff.

22 You must not consider anything you may have
23 read or heard about the case outside the courtroom,
24 whether before or during the trial. Under our system of
25 criminal procedure, you are not to concern yourself in

1 any way with the sentence or sentences that the
2 Defendant might receive if you should find him guilty.

3 Your function is solely to decide whether he
4 is guilty or not guilty of the charges against him. If,
5 and only if, you find him guilty of a charge or charges
6 in this case, then it becomes the duty of the Court to
7 pronounce sentence.

8 Until this case is submitted to you, you must
9 not discuss it with anyone, even with your fellow
10 jurors. After it is submitted to you, you must discuss
11 it only in the jury room with your fellow jurors. It is
12 important that you keep an open mind and not decide any
13 issue in the case until the entire case has been
14 submitted to you under instructions of the Court.

15 Instruction No. 2: You will be given the
16 opportunity to ask written questions of any of the
17 witnesses called to testify in this case. However, I
18 caution that you are not to consider yourselves
19 advocates, and you are not encouraged to ask large
20 numbers of questions because it is the primary
21 responsibility of each lawyer to present his client's
22 case and evidence. You may ask a question, which you
23 need to have answered in order to obtain all of the
24 facts necessary for your deliberations.

25 Questions may be asked only in the following

1 manner. After the lawyers have finished questioning a
2 witness, I will ask the jury if it has any questions.
3 Your questions must be written with your juror number on
4 each question. In order to ask a question, simply raise
5 your hand, and the Bailiff will deliver your written
6 question to the Court. Questions must be directed to
7 the witness instead of the lawyers or the Judge.

8 After consulting with counsel at a sidebar
9 conference, the Court will determine if your written
10 question is legally proper. If it is, I will ask it.
11 Only questions permissible under the rules of evidence
12 will be asked. No adverse inference should be drawn if
13 the Court does not allow a particular question to be
14 asked. After the question has been answered, the Court
15 may ask follow-up questions and will permit the
16 attorneys to ask follow-up questions. The jury must not
17 place undue weight on the responses to its questions.

18 It is not necessary that you spell each word
19 in a given jury question correctly. Please try to be
20 specific with your questions and cover only one subject
21 with each question. Phonetic spelling is acceptable.
22 Do not concern yourselves with the form of the question
23 because I will reword it so that it is presented to the
24 witness in the proper manner.

25 Did either party wish to invoke the rule of

1 exclusion?

2 MR. PENNELL: Yes, the Defense would, Your
3 Honor.

4 THE COURT: The rule of exclusion has been
5 invoked. What that means is anyone that was named
6 previously as a potential witness will be required to
7 remain out in the hallway until they're specifically
8 called in to provide their testimony to the Court.

9 While they're seated out in the hallway, they
10 can have conversations amongst themselves or with other
11 folks that might be out in the hallway. However,
12 they're directed not to discuss anything specifically
13 related to this case.

14 If either of the attorneys needs to go out
15 into the hallway to discuss any of the -- any of the
16 testimony with one of the potential witnesses, the
17 witness is directed to have that conversation quietly so
18 that the conversation is not overheard by one of the
19 other witnesses.

20 And I will leave it to the various parties to
21 specifically admonish the various witnesses as to the
22 rule of exclusion as they're not currently present.

23 Okay, at this point in time, we've arrived at
24 the time for opening statements, however, we're very
25 late in the day, and we're all probably very worn out

1 because it's been a long day for everyone. At this
2 point, we're going to break for the day, and we're going
3 to start back up at 9:00 o'clock in the morning tomorrow
4 with opening statements, and then we'll get underway
5 with the presentation of evidence.

6 So please reconvene in the jury room. If
7 you'll be in the jury room about 8:45 or so. Like I
8 told you before, we'll have some food and snacks in
9 there for you, and we'll try to get underway right at
10 9:00 o'clock tomorrow.

11 I do need to admonition you as follows before
12 we break for the evening: Please do not converse
13 amongst yourselves or with anyone else on any subject
14 connected with the trial. Do not read, watch, or listen
15 to any report of or commentary on the trial or any
16 person connected with the trial by any medium of
17 information, including, without limitation, newspapers,
18 television, radio and the Internet. Do not form or
19 express any opinion on any subject connected with the
20 trial until the cause is finally submitted to you.

21 You may not use any electronic device or
22 media such as the telephone, a cell phone, smartphone,
23 iPhone, BlackBerry or computer, the Internet, any
24 Internet service, any texts or instant messaging
25 service, any Internet chat room, blog, or website, such

1 as Facebook, Myspace, LinkedIn, YouTube, or Twitter to
2 communicate to anyone any information about this case
3 until I accept your verdict.

4 In other words, you cannot talk to anyone on
5 the phone, correspond with anyone, or electronically
6 communicate with anyone about this case.

7 All rise. You can go ahead and break for the
8 evening. Leave your notebooks here, and they'll be
9 ready for you tomorrow. Have a good night.

10 - - - - -

11 WHEREUPON, the proceedings were adjourned to the
12 following day, TO WIT: June 15, 2021

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C E R T I F I C A T I O N

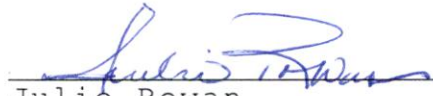
I, JULIE ROWAN, do hereby certify:

That on June 14, 2021, a jury trial was held in the within-entitled matter in the Fourth Judicial District Court, Department 3, within the State of Nevada, in and for the County of Elko;

That said hearing was recorded on a recording system, and said recording was delivered to me for transcription;

That the foregoing transcript, consisting of pages 1 through 221, is a full, true, and correct transcript of said recording performed to the best of my ability.

Dated this 16th day of November, 2021.


Julie Rowan

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