

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

TROY WHITE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

S.C. CASE NO. 82798

Electronically Filed
Sep 02 2021 05:16 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPEAL FROM DENIAL OF PETITION FOR WRIT OF HABEAS
CORPUS (POST CONVICTION)
EIGHTH JUDICIAL DISTRICT COURT
THE HONORABLE JUDGE RONALD J. ISRAEL, PRESIDING

~~~~~  
APPELLANT'S APPENDIX TO THE OPENING BRIEF  
VOLUME I  
~~~~~

ATTORNEY FOR APPELLANT
CHRISTOPHER R. ORAM, ESQ.
Attorney at Law
Nevada Bar No. 004349
520 S. Fourth Street, 2nd Floor
Las Vegas, Nevada 89101
Telephone: (702) 384-5563

ATTORNEY FOR RESPONDENT
STEVE WOLFSON
District Attorney
Nevada Bar No. 001565
200 Lewis Avenue
Las Vegas, Nevada 89101

IN THE SUPREME COURT OF NEVADA

TROY WHITE,

Appellant,

vs.

THE STATE OF NEVADA

Respondent.

CASE NO. 82798

OPENING BRIEF APPENDIX

<u>VOLUME</u>	<u>PLEADING</u>	<u>PAGE NO</u>
1	AMENDED INFORMATION (FILED MARCH 24, 2015)	21-24
10	AMENDED JUDGMENT OF CONVICTION (FILED FEBRUARY 05, 2016)	1597-1599
10	DISTRICT COURT MINUTE ORDER JUNE 30, 2015	1566
10	DISTRICT COURT MINUTE ORDER JANUARY 17, 2016	1595
10	DISTRICT COURT MINUTE ORDER JANUARY 27, 2016	1596
11	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER (FILED APRIL 13, 2021)	1765-1809
1	INFORMATION (FILED DECEMBER 27, 2012)	1-5
10	INSTRUCTIONS TO THE JURY (FILED APRIL 17, 2015)	1511-1552
10	JUDGMENT OF CONVICTION (FILED JULY 24, 2015)	1588-1590
1	NOTICE OF APPEAL (FILED MARCH 27, 2013)	19-20
10	NOTICE OF APPEAL (FILED AUGUST 12, 2015)	1591-1594
11	NOTICE OF APPEAL (FILED APRIL 16, 2021)	1836-1837

1	11	NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER (FILED APRIL 15, 2021)	1810-1835
2			
3	11	PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION) (FILED APRIL 24, 2018)	1600-1607
4			
5	11	REPLY TO THE STATE'S RESPONSE TO DEFENDANT'S SUPPLEMENTAL BRIEF IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION) (FILED APRIL 24, 2019)	1666-1753
6			
7			
8	11	RECORDER'S TRANSCRIPT OF HEARING PETITION FOR WRIT OF HABEAS CORPUS SEPTEMBER 02, 2020 (FILED SEPTEMBER 17, 2020)	1754-1769
9			
10			
11	11	RECORDER'S TRANSCRIPT OF HEARING PETITION FOR WRIT OF HABEAS CORPUS MARCH 04, 2021 (FILED MARCH 26, 2021)	1770-1784
12			
13	10	RECORDER'S TRANSCRIPT OF PROCEEDINGS SENTENCING JULY 20, 2015 (FILED SEPTEMBER 18, 2015)	1567-1587
14			
15	10	RECORDER'S TRANSCRIPT OF PROCEEDINGS TELEPHONIC CONFERENCE: JUNE 23, 2015 (FILED SEPTEMBER 18, 2015)	1556-1565
16			
17	1	RECORDER'S TRANSCRIPT OF PROCEEDINGS TELEPHONIC CONFERENCE: TRIAL SETTING MARCH 27, 2015 (FILED SEPTEMBER 18, 2015)	25-28
18			
19			
20	2	SECOND AMENDED INFORMATION (FILED APRIL 06, 2015)	264-267
21			
22	11	SUPPLEMENTAL BRIEF IN SUPPORT OF DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS (POST-CONVICTION) (FILED DECEMBER 20, 2018)	1608-1639
23			
24	4	STATE'S BENCH BRIEF REGARDING THE ADMISSIBILITY OF EVIDENCE OF TRAITS OF CHARACTER OF THE VICTIMS (FILED APRIL 08, 2015)	498-506
25			
26			
27	11	STATE'S OPPOSITION TO DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS AND MOTION TO OBTAIN EXPERT AND PAYMENT FOR FEES (FILED MARCH 26, 2019)	1640-1665
28			

1	1	TRANSCRIPT OF PROCEEDINGS HEARING ON DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS MARCH 27, 2013 (FILED APRIL 03, 2013)	6-18
2			
3	1-2	TRANSCRIPT OF PROCEEDINGS JURY TRIAL-DAY 1 APRIL 06, 2015 (FILED OCTOBER 15, 2015)	29-263
4			
5	3	TRANSCRIPT OF PROCEEDINGS JURY TRIAL-DAY 2 APRIL 07, 2015 (FILED OCTOBER 15, 2015)	268-497
6			
7	4	TRANSCRIPT OF PROCEEDINGS JURY TRIAL-DAY 3 APRIL 08, 2015 (FILED OCTOBER 15, 2015)	507-684
8			
9	5-6	TRANSCRIPT OF PROCEEDINGS JURY TRIAL-DAY 4 APRIL 09, 2015 (FILED OCTOBER 15, 2015)	685-965
10			
11	7	TRANSCRIPT OF PROCEEDINGS JURY TRIAL-DAY 5 APRIL 13, 2015 (FILED OCTOBER 15, 2015)	966-1180
12			
13	8	TRANSCRIPT OF PROCEEDINGS JURY TRIAL-DAY 6 APRIL 14, 2015 (FILED OCTOBER 15, 2015)	1181-1379
14			
15	9	TRANSCRIPT OF PROCEEDINGS JURY TRIAL-DAY 7 APRIL 16, 2015 (FILED OCTOBER 15, 2015)	1380-1500
16			
17	10	TRANSCRIPT OF PROCEEDINGS JURY TRIAL-DAY 8 APRIL 17, 2015 (FILED OCTOBER 15, 2015)	1501-1510
18			
19	10	VERDICT (FILED APRIL 17, 2015)	1553-1555
20			
21			
22			
23			
24			
25			
26			
27			
28			

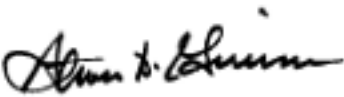
CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court 2nd day of September, 2021. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON FORD
Nevada Attorney General
DISTRICT ATTORNEY'S OFFICE
CHRISTOPHER R. ORAM, ESQ.

BY:

/s/ Nancy Medina
An Employee of Christopher R. Oram, Esq.


CLERK OF THE COURT

INFM
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
LIZ MERCER
Chief Deputy District Attorney
Nevada Bar #10681
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

LA. 01/02/2013
1:30 PM
PD

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

TROY RICHARD WHITE,
#1383512
Defendant.

CASE NO: C-12-286357-1

DEPT NO: IX

INFORMATION

STATE OF NEVADA }
COUNTY OF CLARK } ss.

STEVEN B. WOLFSON, Clark County District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That TROY RICHARD WHITE, the Defendant(s) above named, having committed the crimes of **BURGLARY WHILE IN POSSESSION OF A FIREARM (Category B Felony - NRS 205.060); MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165); ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165), CARRYING A CONCEALED FIREARM OR OTHER DEADLY WEAPON (Category C Felony - NRS 202.350(1)(d)(3)), and CHILD ABUSE, NEGLECT, OR ENDANGERMENT (Category B Felony - NRS 200.508(1))**, on or about the 27th day of

July, 2012, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

COUNT 1 - BURGLARY WHILE IN POSSESSION OF A FIREARM

did, then and there wilfully, unlawfully, and feloniously enter, while in possession of a firearm, with intent to commit a felony, to-wit: murder and/or battery and/or assault, that certain building occupied by ECHO LUCAS WHITE, located at 325 Altamira Road, Las Vegas, Clark County, Nevada, the Defendant did possess and/or gain possession of a deadly weapon consisting of a firearm during the commission of the crime and/or before leaving the structure.

COUNT 2 - MURDER WITH USE OF A DEADLY WEAPON

did, then and there willfully, feloniously, without authority of law, and with malice aforethought, kill ECHO LUCAS WHITE, a human being, by shooting at and into the body of the said ECHO LUCAS WHITE, with a deadly weapon, to-wit: a firearm, said killing having been willful, premeditated and deliberate and/or committed during the perpetration or the attempted perpetration of a burglary, to-wit: by the defendant entering 325 Altamira Road, Las Vegas, Clark County, Nevada with the intent to assault and/or batter and/or kill the said ECHO LUCAS WHITE and/or JOSEPH AVERMAN.

COUNT 3 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

did, then and there, without authority of law, and malice aforethought, willfully and feloniously attempt to kill JOSEPH AVERMAN, a human being, by shooting at and into the body of the said JOSEPH AVERMAN, with a deadly weapon, to-wit: a firearm.

COUNT 4 - CARRYING CONCEALED FIREARM OR OTHER DEADLY WEAPON

did, then and there, wilfully, intentionally, unlawfully and feloniously carry concealed upon his person, a firearm or other deadly weapon, to-wit: a Black Taurus PT 92C 9mm semi-automatic handgun bearing Ser. No. TOA33791.

COUNT 5- CHILD ABUSE, NEGLECT, OR ENDANGERMENT

did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-

1 wit: JODEY WHITE, being approximately 9 (nine) year(s) of age, to suffer unjustifiable
2 physical pain or mental suffering as a result of abuse or neglect, and/or cause the said
3 JODEY WHITE to be placed in a situation where he might have suffered unjustifiable
4 physical pain or mental suffering as a result of abuse or neglect, by discharging a firearm
5 inside the child's home within close proximity to the child and/or shooting the child's mother,
6 Echo White, failing to seek assistance for Echo White, and allowing her to die while the said
7 JODEY WHITE was coming in and out of the room and/or was in the near vicinity.

8 COUNT 6- CHILD ABUSE, NEGLECT, OR ENDANGERMENT

9 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
10 wit: JESSE WHITE, being approximately 5 (five) year(s) of age, to suffer unjustifiable
11 physical pain or mental suffering as a result of abuse or neglect, and/or cause the said JESSE
12 WHITE to be placed in a situation where he might have suffered unjustifiable physical pain
13 or mental suffering as a result of abuse or neglect, by discharging a firearm inside the child's
14 home within close proximity to the child and/or shooting the child's mother, Echo White,
15 failing to seek assistance for Echo White, and allowing her to die while the said JESSE
16 WHITE was coming in and out of the room and/or was in the near vicinity.

17 COUNT 7- CHILD ABUSE, NEGLECT, OR ENDANGERMENT

18 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
19 wit: JAYCE WHITE, being approximately 8 (eight) year(s) of age, to suffer unjustifiable
20 physical pain or mental suffering as a result of abuse or neglect, and/or cause the said JESSE
21 WHITE to be placed in a situation where he might have suffered unjustifiable physical pain
22 or mental suffering as a result of abuse or neglect, by discharging a firearm inside the child's
23 home within close proximity to the child and/or shooting the child's mother, Echo White,
24 failing to seek assistance for Echo White, and allowing her to die while the said JODEY
25 WHITE was coming in and out of the room and/or was in the near vicinity.

26 COUNT 8- CHILD ABUSE, NEGLECT, OR ENDANGERMENT

27 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
28 wit: JAZZY WHITE, being approximately 6 months year(s) of age, to suffer unjustifiable

1 physical pain or mental suffering as a result of abuse or neglect, and/or cause the said
2 JAZZY WHITE to be placed in a situation where he might have suffered unjustifiable
3 physical pain or mental suffering as a result of abuse or neglect, by discharging a firearm
4 inside the child's home within close proximity to the child and/or shooting the child's mother,
5 Echo White, failing to seek assistance for Echo White, and allowing her to die while the said
6 JODEY WHITE was coming in and out of the room and/or was in the near vicinity.

7 COUNT 9- CHILD ABUSE, NEGLECT, OR ENDANGERMENT

8 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
9 wit: JETT WHITE, being approximately 2 (two) year(s) of age, to suffer unjustifiable
10 physical pain or mental suffering as a result of abuse or neglect, and/or cause the said JETT
11 WHITE to be placed in a situation where he might have suffered unjustifiable physical pain
12 or mental suffering as a result of abuse or neglect, by discharging a firearm inside the child's
13 home within close proximity to the child and/or shooting the child's mother, Echo White,
14 failing to seek assistance for Echo White, and allowing her to die while the said JODEY
15 WHITE was coming in and out of the room and/or was in the near vicinity.

16
17
18 STEVEN B. WOLFSON
19 Clark County District Attorney
20 Nevada Bar #001565

21 BY /s/ LIZ MERCER
22 LIZ MERCER
23 Chief Deputy District Attorney
24 Nevada Bar #10681
25
26

27 DA#12F12500X/da
28 LVMPD EV#1207271826
(TK4)

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

<u>NAME</u>	<u>ADDRESS</u>
AVERMAN, JOSEPH	1678 SHERWIN LN LV NV
CUSTODIAN OF RECORDS	CCDC
CUSTODIAN OF RECORDS	LVMPD COMMUNICATIONS
CUSTODIAN OF RECORDS	LVMPD RECORDS
CUSTODIAN OF RECORDS	GUN REGISTRATION
GAINES, AMBER	3601 E. WYOMING AVE #504 LV NV
KNEPP, ELAINE/OR DESIGNEE	D.A. INVESTIGATOR
LUCAS, DONALD	5129 MEADOW ROCK AVE LV NV
SANBORN, TATE	LVMPD #5450

ORIGINAL

Alison D. Shuman
CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

TROY RICHARD WHITE,

Defendant.

CASE NO. C286357

DEPT. XI

Transcript of Proceedings

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

HEARING ON DEFENDANT'S PETITION FOR WRIT OF HABEAS CORPUS

WEDNESDAY, MARCH 27, 2013

APPEARANCES:

For the State:

ELIZABETH A. MERCER, ESQ.
Deputy District Attorney

For the Defendant:

SCOTT L. COFFEE, ESQ.
DAVID LOPEZ-NEGRETE, ESQ.
Deputy Public Defenders

RECORDED BY: JILL HAWKINS, COURT RECORDER

CLERK OF THE COURT

APR 03 2013

RECEIVED

33

1 LAS VEGAS, NEVADA, WEDNESDAY, MARCH 27, 2013, 10:34 A.M.

2 (Court was called to order)

3 THE COURT: All right. Anybody else before I go to Mr.
4 Coffee's case, which is page 13? I felt like I was in business
5 court when I was thinking about this. It's a very interesting
6 legal issue as to whether you can burgle your own house.

7 MR. COFFEE: Scott Coffee for the Clark County Public
8 Defender's office on behalf of Mr. White, along with my co-counsel,
9 David Negrete.

10 MS. MERCER: And Liz Mercer for the State, Your Honor.

11 THE COURT: Okay. And I've been hyping your case all
12 day. I was hoping people would stay for CLE credit on this very
13 interesting legal issue that both of you have briefed very well.
14 It's your motion.

15 MR. COFFEE: I agree with the Court that it's a very
16 interesting legal issue. I think it's important to note at the
17 onset that there's no Nevada case on point. I know the State cites
18 to Chappell. I'll get to that in a moment as to why it's not
19 directly on point.

20 I'm going to start with the common law, which we don't
21 hear about that much anymore because we've litigated so many things
22 in the past and we have so many directions from the Nevada Supreme
23 Court, but at common law you couldn't be guilty of burglarizing
24 your own house. And it was very simple just because it is a
25 property right. A person has an absolute right to their own

1 property. You can't be guilty of burglarizing your own house under
2 the common law, for the same reason that you can buy a new pair of
3 jeans and cut holes in them, for the same reason that you can rent
4 a frontend loader and tear down a structure on your property if you
5 have the appropriate permits. It is your property, you can do with
6 it as you see fit. And this is really a property right situation.
7 This is not -- and the State mentions some cases like Adams and
8 Hernandez that talk about consent and license. It's not a consent
9 or license situation. In fact, those cases I think argue in our
10 favor.

11 If you look at Hernandez, if you look at Adams, in these
12 cases they are situations where somebody enters into a public
13 structure with some kind of limited license. I go into Walmart,
14 Walmart allows me, they give me permission to enter into Walmart,
15 but that permission is somewhat limited. They don't allow me to
16 enter Walmart to steal things. We've seen several people charged
17 this morning with exactly that, stealing things from Walmart.
18 That's not part of the permission. I've stepped outside the
19 permission, outside the consent, and the rationale makes sense. If
20 I go beyond the consent to enter, I may have been guilty of
21 burglary, if I entered with the intent initially, at least, to do
22 some kind of illegal activity. The idea is people don't allow me
23 to enter to steal. That's not part of this license.

24 But it's different when we're talking about our own
25 property. Again, you have an absolute right to do as you see fit

1 with your own property.

2 You take a look at cases, and I think the seminal case on
3 this is a case called Gauze of out California that goes through
4 this very methodical -- and California statute, by the way, we've
5 put it in our moving papers, but California statute mirrors
6 Nevada's. Nevada has recognized that California's statute mirrors
7 Nevada's. And the Gauze court comes to the conclusion that you
8 can't be guilty of burglarizing your own property. Now, we'll say
9 that Gauze, and we don't mention this in the moving papers because
10 I don't know that it's applicable here, has been limited in certain
11 circumstances. The circumstance where Gauze has been limited have
12 been situations where, for example, a person is guilty of a battery
13 domestic violence and there's a court order that says, do not go
14 back into that house. . So they might be under a court order, or
15 there is evidence that they have completely vacated the premises,
16 they have given up their possessions, they don't hold things there,
17 they don't have a key to the premises.

18 Which brings me to Chappell that I mentioned at the top of
19 our discussion. The State points to Chappell and they say
20 Chappell's a situation, and I'm quoting directly from the State,
21 "upheld a burglary conviction where defendant claimed," and this is
22 the important part, "claimed" always sets off those little hairs on
23 the back of my neck, because I know there's something else going
24 on, "claimed that he lived at the house of his murdered ex-
25 girlfriend which he entered to murder." When you read Chappell,

1 Chappell's very interesting, because Chappell gets on the -- on the
2 witness stand and it says that, Chappell says some other things.
3 Chappell, I don't have a key to the home. Chappell admits to
4 entering the home through a window. It's clear that we don't --
5 there's no evidence in the Chappell case anyplace that I can see
6 that we have a situation like what we've got here where Chappell is
7 the owner of the trailer in question. Chappell simply says, I felt
8 like it was my home, if you read the case.

9 Now, it's interesting that he felt like it was his home.
10 It's clear that the jury disregarded what Mr. Chappell had to say
11 from the stand, because Chappell also said, once I entered what I
12 felt like was my home I had consensual sex with my ex-girlfriend
13 inside. The jury convicted Chappell of sexual assault. So they
14 weren't buying much what Mr. Chappell had to say. But there were
15 parts left out of Chappell, and there was something factually that
16 concerned me about Chappell. Luckily, I know Howard Brooks, who is
17 the defense attorney who tried the Chappell case, and I called Mr.
18 Brooks this morning. And I asked him, I said, what was really
19 going on with Chappell, because there's something factually missing
20 in Chappell that I don't see. And we talked about the facts of it,
21 and he came up with something that was very fascinating. Mr.
22 Chappell had been out of the residence for months, doing time on a
23 battery domestic violence. It doesn't show up in the printed facts
24 of the Nevada Supreme Court, but Mr. Chappell had been out of
25 custody for three months, four months, doing time on a domestic

1 violence when he showed up at the home without a key. There had
2 been contact back and forth with this woman, there had been threats
3 made from the detention center, it was pretty clear he wasn't
4 walking around the house, and that's when he went into the window.
5 There had not been contact in between those times. So you've got a
6 situation that's factually very different than what we've got here.

7 Mr. White owns this home; the title is in Mr. White's
8 name. Mr. White has never vacated the premises of this home. He
9 has items there, as best we can tell. He stays there on weekends.
10 Interestingly, in fact, the day that this happens is a Friday, and
11 it's a day that Mr. White would normally show up to stay with his
12 children on the weekend at what is his home legally by virtue of
13 title and by virtue of the fact that he has not vacated the
14 premises.

15 So the question is simple. Can you burglarize your own
16 home? If you look at the burglary statute, it is listed as a crime
17 against property. In the NRS that is the chapter that it is under,
18 because you cannot commit a crime against your own property, just
19 like you cannot trespass into your own home. I do not think that
20 it is appropriate to charge Mr. White with burglary. And,
21 interestingly, there's not a Nevada case directly on point. And
22 these statutes have been in place for over 50 years. In essence,
23 the Nevada statute has been in place for over 50 years. Why is
24 there not a case on point that says simply -- I mean, if that's
25 what the Supreme Court wants to say, you can't burglarize your own

1 home, why don't we have a case that says you can't burglarize your
2 own home? They've never wanted to address the issue. There's no
3 public -- published opinions that come to that conclusion. And I
4 think it's because of these property rights. I think most of the
5 time the State doesn't choose to charge these sorts of things;
6 because if they'd been charged, you would think we'd have a
7 decision at this point. I think the State has stretched the
8 definition of burglary beyond what it was intended to cover. And
9 for that reason I don't think that the burglary charge is well
10 taken. I think the burglary charge should be dismissed.

11 THE COURT: Thank you.

12 MS. MERCER: Your Honor, while I can certainly understand
13 Mr. Coffee's argument, the fact of the matter is he hasn't cited
14 this Court to any binding authority that would allow the Court to
15 dismiss the burglary count. He cited to a bunch of persuasive
16 authority out of California, but our Supreme Court has repeatedly
17 noted how expansive our burglary statute is.

18 THE COURT: So how can you burglarize your own house?
19 How can I steal money from myself?

20 MS. MERCER: Because burglary - well, you can't, it's
21 your money. But that's different.

22 THE COURT: But it's my house.

23 MS. MERCER: I understand, but you're not stealing --
24 like, if it's your money, you are not committing a crime. Here he
25 burglarized the house by entering with a firearm. A backpack was

1 found in the driveway with a --

2 THE COURT: He can go in his house with a firearm; right?

3 MS. MERCER: I'm just pointing to the evidence that he
4 entered the house with the intent to commit assault and/or battery
5 and/or murder. He left a backpack in the driveway with an empty
6 gun holster in it. He concealed that firearm on his person when he
7 entered the home. The children let him into the home, and then he
8 immediately confronts her and shoots her and her then boyfriend.
9 He was not residing in the home. They were separated; they had
10 been separated for two months. He only lived at the house on the
11 weekends, and he exercised his visitation after he got off work.
12 On this particular day he showed up three to four hours early. It
13 was not his time for visitation, and preceding that he'd showed up
14 at the house at approximately 2:00 in the morning, banging on the
15 windows, demanding to be let inside. So it's clear that his intent
16 when he went into the house was to murder her.

17 Furthermore, the Barrett case that I cited to in my brief
18 appears to be directly on point. In that case there was evidence
19 that the defendant had resided in the apartment, that he paid rent,
20 money toward the bills, and the court said, no, it doesn't matter,
21 he still committed a crime, he still committed burglary.

22 And I disagree with Mr. Coffee in his assessment that
23 Chappell is distinguishable from this case, because, as I pointed
24 out, the defendant had not resided in that house for at least two
25 months. And when he did stay there it was only on the weekends to

1 take care of the children, because there were five kids and it was
2 too difficult to shuffle them back and forth. This was again a day
3 and time that he was not supposed to be there exercising
4 visitation.

5 In addition, if the legislature had meant to limit the
6 application of the burglary statute, they certainly could have done
7 so, as they did with the home invasion statute, which specifically
8 prohibits somebody from being charged with home invasion for
9 kicking down their own front door. They chose not to limit it.
10 Therefore, it's proper to charge burglary.

11 In addition, Mr. Coffee said, well the State doesn't
12 charge burglary in these cases. That's absolutely incorrect. I
13 mean if you look at all the cases that I cited, there were
14 burglaries charged, there were burglaries as aggravators. I'm on
15 the Domestic Violence Unit; I've been there for over three years.
16 We've consistently charged burglary when it's their own home and
17 they go in with the intent to batter, such as in cases where
18 there's a heated argument, the defendant leaves, victim doesn't
19 want to open the door because she knows that it's going to
20 escalate, he comes in and batters her.

21 THE COURT: But here --

22 MS. MERCER: It's a burglary.

23 THE COURT: Let me make sure I understand the facts
24 correct. Because I looked through the transcript, and I just want
25 to make sure I understand. There is no legal restriction to his

1 access to the home. There's no TPO, there's no Family Court order,
2 there's no property settlement agreement that restricts his access
3 to the home. There's no legal impediment.

4 MS. MERCER: There's not, Your Honor.

5 THE COURT: Okay.

6 MS. MERCER: But that's not a requirement for burglary.
7 I mean, consent, permission, et cetera, those are not defenses to
8 burglary.

9 THE COURT: Okay. Anything else you want to tell me?

10 MS. MERCER: No.

11 THE COURT: All right. The writ is granted. The Court
12 does not understand how you can burgle your own house. At common
13 law you couldn't burgle your own house. While I certainly
14 understand the definition by the legislature in the current version
15 of the statute may seem to indicate you can burgle your own house,
16 I don't know how legally you can burgle your own house where there
17 is no legal impediment such as a TPO, a restraining order of some
18 sort, a court order from Family Court, a property settlement
19 agreement, a child visitation agreement, that would otherwise limit
20 the ability of an owner to access their own property.

21 MS. MERCER: And, Your Honor, if I could just ask for
22 clarification.

23 THE COURT: Count 1, only.

24 MR. COFFEE: Understood.

25 MS. MERCER: Which case was it -- or statute cited by the

1 defense upon which the Court is ruling? Because access is not --
2 legal access isn't a defense to burglary, so I'm -- I just need
3 to --

4 THE COURT: It's called the common law.

5 MS. MERCER: Okay. So you're basing it on the common
6 law. And, Your Honor, can we get a two-week status check, please,
7 because we may intend to take this up?

8 THE COURT: No, I think you might.

9 MS. MERCER: Okay.

10 THE COURT: It's an important issue. That's why I've
11 been hyping this case so everybody would stay for CLE credit.

12 The statute says, "A person who by day or night enters
13 any house," and then I'll skip ahead, --

14 MS. MERCER: Any house.

15 THE COURT: -- skip ahead for a long time, "with the
16 intent to commit grand or petit larceny, assault, battery on any
17 person or to obtain money or property for false pretenses is guilty
18 of burglary." That's the statute.

19 And, yeah, it can't be your own house. though, because
20 you can enter your own house anytime you want without restricting
21 that property right unless there's some other legal impediment. I
22 certainly understand that the State may want to challenge that
23 issue, I think it's an important one to address; but remember,
24 you've got three other counts with very serious charges in this
25 case.

1 MS. MERCER: Well, I understand that, Your Honor. I'd
2 just like time to speak with the appellate unit, if we can get a
3 status check in two weeks.

4 THE COURT: I understand. Two weeks? Okay. Why do you
5 need a status check?

6 MS. MERCER: So that I -- because I have to first come in
7 here and ask you for a stay if we're going to take it up.

8 THE COURT: So if you're going to do that, file a motion.

9 MS. MERCER: Okay.

10 THE COURT: Right?

11 MS. MERCER: If that's how the Court wishes to proceed,
12 that's fine.

13 MR. COFFEE: Understood. Or even if she just orally
14 asked for a stay --

15 THE COURT: I don't care.

16 MR. COFFEE: -- at this point, your record's protected
17 and they will take a look at it.

18 THE COURT: Do you want a stay? I'll grant you a stay
19 any day of the week.

20 MS. MERCER: Okay.

21 THE COURT: All you've got to do is ask me.

22 MS. MERCER: Okay.

23 THE COURT: I'm really good at appellate procedure.

24 MS. MERCER: I'll file a motion, then --

25 THE COURT: Okay.

1 MS. MERCER: -- once I speak to them. Thank you, Your
2 Honor.

3 THE COURT: And I want to compliment both of you. You
4 guys both did a great job on the briefing.

5 MS. MERCER: Thank you very much, Your Honor.

6 MR. COFFEE: Thank you.

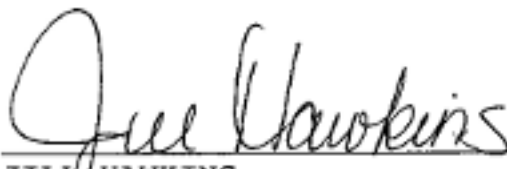
7 THE COURT: It's not often I get to say that on my
8 criminal day.

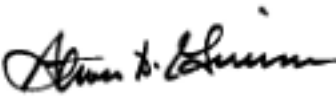
9 MR. COFFEE: Thank you.

10 THE COURT: Have a nice day.

11 THE PROCEEDINGS CONCLUDED AT 10:48 A.M.
12
13
14
15
16
17
18
19

20 ATTEST: I do hereby certify that I have truly and correctly
21 transcribed the audio/video proceedings in the above-entitled case
22 to the best of my ability.

23 
24 JILI HAWKINS
25 Court Recorder/Transcriber


CLERK OF THE COURT

1 **NOAS**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 STEVEN S. OWENS
6 Chief Deputy District Attorney
7 Nevada Bar #004352
8 200 Lewis Street
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 v.

12 TROY RICHARD WHITE,
13 Defendant(s).

Case No. 12-C286357-1
Dept. No. XI

NOTICE OF APPEAL

14 TO: TROY RICHARD WHITE, Defendant; and

15 TO: SCOTT L. COFFEE, Deputy Public Defender for Defendant and


16 TO: ELIZABETH GONZALEZ, District Judge, Eighth Judicial District Court,
17 Dept. No. XI

18 NOTICE IS HEREBY GIVEN THAT THE STATE OF NEVADA, Plaintiff in the
19 above entitled matter, appeals to the Supreme Court of Nevada, pursuant to NRS
20 177.015(1)(b) from the district court's dismissal of a Count of Burglary on March 27, 2013.

21 Dated this 27th day of March, 2013.

22 STEVEN B. WOLFSON,
23 Clark County District Attorney

24 BY


25 STEVEN S. OWENS
26 Chief Deputy District Attorney
27 Nevada Bar #004352
28

1 CERTIFICATE OF MAILING

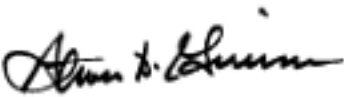
2 I hereby certify that service of the above and foregoing NOTICE OF APPEAL was
3 made this 27th day of March, 2013, by depositing a copy in the U.S. Mail, postage pre-paid,
4 addressed to:

5
6 SCOTT L. COFFEE
Deputy Public Defender
309 South Third Street, Ste. 226
7 Las Vegas, Nevada 89155

8
9 ELIZABETH GONZALEZ
Eighth Judicial District Court, Dept. XI
10 Regional Justice Center
200 Lewis Avenue
11 Las Vegas, Nevada 89101

12
13
14 BY Eileen Davis
15 Employee, District Attorney's Office

16
17
18
19
20
21
22
23
24
25
26
27 SSOled
28


CLERK OF THE COURT

AINF
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
LIZ MERCER
Chief Deputy District Attorney
Nevada Bar #010681
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

TROY RICHARD WHITE,
#1383512

Defendant.

CASE NO: C-12-286357-1

DEPT NO: IX

**A M E N D E D
I N F O R M A T I O N**

STATE OF NEVADA }
COUNTY OF CLARK } ss.

STEVEN B. WOLFSON, Clark County District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That TROY RICHARD WHITE, the Defendant above named, having committed the crimes of **MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165); ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165), CARRYING A CONCEALED FIREARM OR OTHER DEADLY WEAPON (Category C Felony - NRS 202.350(1)(d)(3)), and CHILD ABUSE, NEGLECT, OR ENDANGERMENT (Category B Felony - NRS 200.508(1))**, on or about the 27th day of July, 2012, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

1 COUNT 1 - MURDER WITH USE OF A DEADLY WEAPON

2 did then and there willfully, feloniously, without authority of law, and with malice
3 aforethought, kill ECHO LUCAS WHITE, a human being, by shooting at and into the body
4 of the said ECHO LUCAS WHITE, with a deadly weapon, to-wit: a firearm, said killing
5 having been willful, premeditated and deliberate.

6 COUNT 2 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

7 did then and there, without authority of law, and malice aforethought, willfully and
8 feloniously attempt to kill JOSEPH AVERMAN, a human being, by shooting at and into the
9 body of the said JOSEPH AVERMAN, with a deadly weapon, to-wit: a firearm.

10 COUNT 3 - CARRYING CONCEALED FIREARM OR OTHER DEADLY WEAPON

11 did then and there, wilfully, intentionally, unlawfully and feloniously carry concealed
12 upon his person, a firearm or other deadly weapon, to-wit: a Black Taurus PT 92C 9mm semi-
13 automatic handgun bearing Serial No. TOA33791.

14 COUNT 4 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

15 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
16 wit: JODEY WHITE, being approximately nine (9) years of age, to suffer unjustifiable
17 physical pain or mental suffering as a result of abuse or neglect, and/or cause the said JODEY
18 WHITE to be placed in a situation where he might have suffered unjustifiable physical pain
19 or mental suffering as a result of abuse or neglect, by discharging a firearm inside the child's
20 home within close proximity to the child and/or shooting the child's mother, Echo White,
21 failing to seek assistance for Echo White, and allowing her to die while the said JODEY
22 WHITE was coming in and out of the room and/or was in the near vicinity.

23 COUNT 5 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

24 did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-
25 wit: JESSE WHITE, being approximately five (5) years of age, to suffer unjustifiable physical
26 pain or mental suffering as a result of abuse or neglect, and/or cause the said JESSE WHITE
27 to be placed in a situation where he might have suffered unjustifiable physical pain or mental
28

suffering as a result of abuse or neglect, by discharging a firearm inside the child's home within close proximity to the child and/or shooting the child's mother, Echo White, failing to seek assistance for Echo White, and allowing her to die while the said JESSE WHITE was coming in and out of the room and/or was in the near vicinity.

COUNT 6 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-wit: JAYCE WHITE, being approximately eight (8) years of age, to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect, and/or cause the said JAYCE WHITE to be placed in a situation where he might have suffered unjustifiable physical pain or mental suffering as a result of abuse or neglect, by discharging a firearm inside the child's home within close proximity to the child and/or shooting the child's mother, Echo White, failing to seek assistance for Echo White, and allowing her to die while the said JAYCE WHITE was coming in and out of the room and/or was in the near vicinity.

COUNT 7 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-wit: JAZZY WHITE, being approximately six (6) months of age, to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect, and/or cause the said JAZZY WHITE to be placed in a situation where he might have suffered unjustifiable physical pain or mental suffering as a result of abuse or neglect, by discharging a firearm inside the child's home within close proximity to the child and/or shooting the child's mother, Echo White, failing to seek assistance for Echo White, and allowing her to die while the said JAZZY WHITE was coming in and out of the room and/or was in the near vicinity.

COUNT 8 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

did wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-wit: JETT WHITE, being approximately two (2) years of age, to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect, and/or cause the said JETT WHITE to be placed in a situation where he might have suffered unjustifiable physical pain or mental

1 suffering as a result of abuse or neglect, by discharging a firearm inside the child's home within
2 close proximity to the child and/or shooting the child's mother, Echo White, failing to seek
3 assistance for Echo White, and allowing her to die while the said JETT WHITE was coming
4 in and out of the room and/or was in the near vicinity.

5
6 STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
7

8 BY /s/ LIZ MERCER
9 LIZ MERCER
Chief Deputy District Attorney
Nevada Bar #10681
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

26 DA#12F12500X/mmw/GCU
27 LVMPD EV#1207271826
28 (TK4)


CLERK OF THE COURT

1 RTRAN

2
3
4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,

9 Plaintiff,

10 vs.

11 TROY RICHARD WHITE,

12 Defendant.

CASE#: C286357-1

DEPT. XI

13
14
15 BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

16 FRIDAY, MARCH 27, 2015

17 **RECORDER'S TRANSCRIPT OF PROCEEDINGS**
TELEPHONIC CONFERENCE: TRIAL SETTING

18 APPEARANCES:

19 For the State:

ELIZABETH A. MERCER, ESQ.
Deputy District Attorney

20 For the Defendant:

21 SCOTT L. COFFEE, ESQ.
Deputy Public Defender

22
23
24
25 RECORDED BY: JILL HAWKINS, COURT RECORDER

1 FRIDAY, MARCH 27, 2015 AT 9:00 A.M.

2
3 [All counsel appearing telephonically]

4 THE COURT: Good morning.

5 MS. MERCER: Good morning.

6 THE COURT: Do you have Mr. Coffee on the phone?

7 MS. MERCER: He was the one doing the conference call so I think so.
8 Scott? He might have gotten disconnected.

9 THE COURT: That's not good.

10 MS. MERCER: No.

11 THE COURT: Mr. Coffee, are you back on the phone call?

12 MS. MERCER: Let me see if I can conference him then real quick.

13 THE COURT: All right. Because I got no idea how to do that.

14 [Pause in proceedings]

15 MS. MERCER: Okay. I think -- do we have everybody now?

16 THE COURT: Yes, I think so. Good morning. Mr. White is here with me.

17 MR. COFFEE: Oh, okay. I didn't know they were going to transport him but,
18 great.

19 THE COURT: They did. So, when -- are we able to go on the 6th?

20 MS. MERCER: Yes, we are. I think we don't -- we don't have any problems
21 with our witnesses so far.

22 THE COURT: Great.

23 MS. MERCER: The only problem I have is that I realized when I got back to
24 my office and checked my schedule that I'm actually supposed to be out of town on
25 the Friday of that week.

1 THE COURT: The 10th?
2 MS. MERCER: Yes.
3 THE COURT: Okay.
4 MS. MERCER: I don't -- I mean, I don't want to inconvenience the Court or --
5 MR. COFFEE: We don't have any objection to taking the Friday off. I'm
6 pretty sure we can get it done in two weeks even taking the Friday off.
7 THE COURT: And I have to go up to Carson City on the 15th. But I think we'll
8 be able to get it done in the two weeks. As you know, I'm a harsh taskmaster.
9 All right. Then we'll plan to start on the 6th. Is there anything else we
10 need to do in preparation?
11 MS. MERCER: No. But do you have any idea of the Court's schedule for
12 those two weeks just so that we can try to line up witnesses?
13 THE COURT: Monday and Wednesday we'll start at 10; Tuesday, Thursday
14 we'll start at nine; Friday I try and start at nine too.
15 MS. MERCER: Okay. Perfect.
16 MR. COFFEE: Yeah.
17 THE COURT: We break from 12 to 1:15.
18 MS. MERCER: Twelve to 1:15 is lunch?
19 THE COURT: Yep. And then we break at five.
20 MR. COFFEE: Okay. Yeah, I think we can get it knocked out in the eight
21 days pretty easy.
22 THE COURT: Yeah, I didn't have any doubt at all. I know that my trial day is
23 more than other people's trial day.
24 MS. MERCER: Yeah.
25 MR. COFFEE: Yeah.

1 THE COURT: I need the State's jury instructions on the morning of trial. If
2 you can email them to us in Word format then I can start working on them and Mr.
3 Coffee we'll get yours as the case goes on.

4 MS. MERCER: Okay.

5 MR. COFFEE: Okay. Very good.

6 THE COURT: Anything else?

7 MR. COFFEE: No; and I'll talk to Liz here in a minute about jury instructions
8 and stuff because a lot of them will just be -- she'll have some specials but a lot of
9 them will just be things that they need to include in their pack.

10 THE COURT: Yes. It's not going to be that complicated.

11 MR. COFFEE: Yeah.

12 MS. MERCER: Great.

13 THE COURT: All right. For any reason, are you guys going to need a jury
14 questionnaire from the commissioner?

15 MR. COFFEE: No, I don't think so.

16 MS. MERCER: I don't think so either.

17 THE COURT: All right. Well then I will see you at 10 o'clock on the 6th.

18 MR. COFFEE: Thank you.

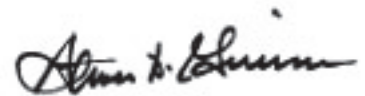
19 MS. MERCER: Thank you very much.

20 THE COURT: Have a nice day.

21 [Proceedings concluded at 9:03 a.m.]

22 ATTEST: I do hereby certify that I have truly and correctly transcribed the
23 audio/video proceedings in the above-entitled case to the best of my ability.

24 
25 PATRICIA SLATTERY
Court Transcriber



CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA

Plaintiff

vs.

TROY RICHARD WHITE

Defendant
* * * * *

CASE NO. C-286357

DEPT. NO. XI

**Transcript of
Proceedings**

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

JURY TRIAL - DAY 1

MONDAY, APRIL 6, 2015

APPEARANCES:

FOR THE STATE:

ELIZABETH MERCER
JEFFREY S. ROGAN
Deputy District Attorneys

FOR THE DEFENDANTS:

SCOTT L. COFFEE
DAVID LOPEZ-NEGLETE
Deputy Public Defenders

COURT RECORDER:

DEBRA WINN
District Court

TRANSCRIPTION BY:

FLORENCE HOYT
Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

1 LAS VEGAS, NEVADA, MONDAY, APRIL 6, 2015, 11:02 A.M.
2 (Court was called to order)
3 (Prospective jurors not present)
4 THE COURT: So -- going to have two alternates, so
5 that means I'm going to have 24 people in that box area. You
6 guys four preempts in this case?
7 MR. COFFEE: Eight.
8 THE COURT: Eight. Well, that screws it up. Hold
9 on a second. Let me do math.
10 MR. COFFEE: Unless they would agree to not seek
11 life without. Then we could agree to four.
12 THE COURT: So that means I need 28 people in the
13 box. We're good. Okay. So we're going to have 28 people or
14 so in the box area.
15 I usually have my alternates be blind. We draw the
16 number ahead of time of which of the 14 seats will be
17 alternates, and you'll know and the defendant will know which
18 those are, but we won't tell them till after closings. The
19 way that I do it, it is whoever is left in that number after
20 the execution of the challenges. So who your alternates are
21 you won't know till the last peremptory challenge is executed,
22 because Seat 3 may move if somebody executes a peremptory
23 challenge on Seat 2, because that'll then change what Seat 3
24 is. Seat 3 will be Seat 2.
25 Do you understand? You're looking at me funky, Mr.

1 Coffee. Did you understand it, or do I need to say it a
2 different way?

3 MR. COFFEE: No. I'm sorry. Okay. We're filling
4 in chairs from the audience.

5 THE COURT: Yes. With anybody excused either on
6 hardship or cause.

7 MR. COFFEE: All right. And when we're going to
8 flip the ball or do whatever to do pick the alternates --

9 THE COURT: We do that before anybody hits here.
10 We're going to do that as soon as I have the defendant. Dulce
11 has a cool little coffee can that's going to have 14 poker
12 chips in it.

13 MR. COFFEE: Okay. And it's going to be that chair
14 that's excluded, not the person that's excused?

15 MS. MERCER: That's the alternate.

16 MR. ROGAN: It's the alternate.

17 THE COURT: That will be the alternate.

18 MR. COFFEE: Okay. That's what I mean, not excused.

19 THE COURT: It won't be the chair. It won't be the
20 chair, it will be the order on the sheet of the Arizona
21 method. When we execute the challenges --

22 MR. COFFEE: Okay.

23 THE COURT: -- you will excuse based upon that.

24 MR. COFFEE: Okay.

25 THE COURT: And if the first three people are

1 excused on that list, Number 1 will be the first juror who
2 wasn't excused, Number 2 will be the second. So you won't
3 know who they are till you execute all your peremptory
4 challenges.

5 MR. COFFEE: Okay.

6 THE COURT: Not making sense still.

7 MR. COFFEE: That's okay.

8 THE COURT: It's not the chair.

9 MR. COFFEE: I'll figure it out.

10 THE COURT: It's an order.

11 MR. COFFEE: Okay.

12 THE COURT: It's who in order.

13 MR. COFFEE: Okay.

14 THE COURT: So the fourth person -- if, for
15 instance, the defendant draws --

16 MR. COFFEE: I got you.

17 THE COURT: -- Poker Chip Number 4 out --

18 MR. COFFEE: I got you.

19 THE COURT: -- it will be the fourth person left on
20 the list after the execution of all the peremptory challenge.
21 Did I say it a better way?

22 MR. COFFEE: I've got it. I've got it.

23 THE COURT: Okay.

24 MR. COFFEE: Work from the list, not the chair, but
25 say like --

1 THE COURT: Well, chairs are how I've got to sit
2 them.

3 MR. COFFEE: I get it.

4 THE COURT: And when you start on the list they will
5 be in the order they are sitting in the chairs.

6 MR. COFFEE: Right. But that'll go away very
7 quickly.

8 THE COURT: It will change very quickly.

9 MR. COFFEE: Okay.

10 THE COURT: I have the technology to record bench
11 conferences. It is not perfect technology. So I will tell
12 you that every time you have a bench conference, if you want
13 to make sure that your record is pristine, it is better to at
14 our next break to make a better record. I will try and
15 remember on issues that I think are important to remind you to
16 make that record, and then we can state whatever we need to.
17 But I will tell you I don't always think the same things are
18 important that you do. So if you think something is
19 important, it's incumbent upon you to make an additional
20 record. But we do have the capability to record at the bench,
21 but it's not perfectly understandable and transcribable.

22 Okay. What else?

23 MR. COFFEE: Just so the Court's aware, I have got a
24 cold and have taken some cold medicine to get things, so my
25 hearing isn't perfect today.

1 THE COURT: Do you need coffee, hot tea? I've got
2 allergies, and the wind has really knocked me out. I'm
3 actually surprised I've made it this far today.

4 MR. COFFEE: And it may be allergies. I thought it
5 was a cold. I hope it was a cold because of the back of my
6 throat, but it may be allergies. I'm okay for the time being,
7 but I just -- if I seem a little confused at times, it's -- or
8 more than normally confused, it's because of the medication,
9 probably. I feel fine to go forward, though. I mean, I'm not
10 trying to make that sort of record.

11 THE COURT: No. That's fine. But you're just
12 saying that we may have to repeat things because your ears are
13 clogged up, too.

14 MR. COFFEE: Yeah.

15 THE COURT: All right. Before I start asking
16 questions of jurors I will have each of you -- the State will
17 read their list of witnesses and make a brief factual
18 statement.

19 I will ask the defendant if you have any additional
20 witnesses. Do you want to make a factual statement?

21 MR. COFFEE: Yes.

22 THE COURT: Okay. Then I will give you that
23 opportunity, as well.

24 And then if I run out of all these people and I've
25 got to bring the second group up, we'll have to start that

1 process over, because the new people won't have been exposed
2 to us. And given my CityCenter accommodations, I can't very
3 many people in the audience.

4 MR. COFFEE: Very good. We appreciate the
5 opportunity for you asking that, Judge. Because it's the
6 first time I've ever been asked if I want to make a factual
7 statement. Usually we just have to get up and do it.

8 THE COURT: Well, I've had a couple of defendants
9 who didn't want to, and I'd rather have you tell me you don't
10 want to so I don't ask in front of everybody and have all of
11 us be embarrassed.

12 Anything else you want to tell me? Anybody planning
13 on using a PowerPoint as their opening?

14 MS. MERCER: Yes, Your Honor. The State does intend
15 to use PowerPoint.

16 THE COURT: You will need to give me either a copy
17 on an electronic storage device or a print copy. Have you
18 shown it to Mr. Coffee?

19 MS. MERCER: No, I haven't, Your Honor.

20 THE COURT: Will you show it to him. You don't have
21 to show it to him yet, but before you make it I need you to
22 show it to him.

23 MS. MERCER: Okay.

24 THE COURT: Just in case there's an issue.
25 Are you going to use technology?

1 MR. COFFEE: Probably. We haven't put it together
2 yet.
3 THE COURT: If you're going to use a PowerPoint as
4 any part of the presentation, I need an electronic storage
5 device.
6 MR. COFFEE: Sure.
7 THE COURT: Because I mark them as a Court's
8 exhibit, because there's no good way for me to make a record
9 of what's being shown on the PowerPoint without it.
10 MR. COFFEE: Sure.
11 MR. LOPEZ-NEGRETTE: Your Honor, do you prefer it on
12 a flash drive, or should we email it to your clerk? Does it
13 matter?
14 THE COURT: I don't want you to email it, because I
15 can't put the email in a vault.
16 MR. LOPEZ-NEGRETTE: All right.
17 THE COURT: I can put a thumb drive in a vault, and
18 I can put print in a vault. And I can also put those really
19 cool T drives in a vault. Which is why CityCenter fits in the
20 vault.
21 What else?
22 MR. COFFEE: That's it.
23 MS. MERCER: I think that's it.
24 MR. ROGAN: Nothing until the defendant arrives.
25 THE COURT: Try not to make speaking objections. I

1 know sometimes it's hard as lawyers not to. But try to avoid
2 it. If there's something you need to talk to me about that's
3 a little beyond, I'd rather you come on up to the bench and do
4 it.

5 What else? Any issues about me, concerns? I'm
6 going to tell the jury we'll be off Friday and then next
7 Wednesday, and we'll be done by a week from Friday. This
8 coming Friday they will not be in session.

9 Right? You had a conflict.

10 MS. MERCER: I do, Your Honor.

11 THE COURT: And then I have a conflict next
12 Wednesday.

13 Anything else you want to tell me? Got your
14 exhibits marked? Got any questions for me?

15 MR. ROGAN: We have additional exhibits that we'd
16 like to present to the clerk, but I just need to --

17 THE COURT: How mean are you, Judge? Come on. Are
18 the rumors I've heard about you true, Judge?

19 MR. COFFEE: I do have a question. And it has to do
20 with the introductions. Because we're going to lose I would
21 imagine because of the length of the trial several people, the
22 hardship and whatever else. When we fill the room back up do
23 we do the introductions a second time or how does that work?

24 THE COURT: Yes, we do.

25 MR. COFFEE: Okay.

1 THE COURT: I start just like they hadn't been here.

2 MR. COFFEE: Okay. So we try to clear out -- we're
3 not bringing them in one at a time where we have to do it like
4 20 times?

5 THE COURT: No.

6 MR. COFFEE: That sounds like a silly question,
7 but --

8 THE COURT: Well, because I've had to do a lot of
9 this with my most recent seven-week jury selection, I've got
10 the hang of it. I send those people somewhere else, and I
11 fill up this room with the new people. I do it once, and then
12 I send them to the hallway, bring the old people back in, and
13 then we start filling it in.

14 MR. COFFEE: Perfect.

15 THE COURT: I had the advantage when I did the
16 seven-week jury selection of using either this courtroom or
17 that courtroom the entire time. I don't know that I'm going
18 to have that today. That was just dumb luck last time.

19 What else do you want to ask me? Okay. Then do
20 your exhibit stuff.

21 I didn't get your jury instructions yet.

22 MR. ROGAN: That's because we do have a motion to
23 amend the information, and so it just depends on that, our
24 last final jury instructions.

25 THE COURT: Yeah. Right. Let me know when you're

1 ready for me.

2 (Court recessed at 11:11 a.m., until 11:28 a.m.)

3 (Prospective jurors not present)

4 MR. COFFEE: Now that I've got my thoughts together
5 a little better, is the Court going to inquire as to whether
6 or not anybody's seen news coverage concerning this? This did
7 hit the papers at some point.

8 THE COURT: I will. I will add that to my list
9 right here. Do you want me to -- this is what I've done in
10 the past. If they raise their hands if they have yes, then I
11 usually examine them separately.

12 MR. ROGAN: Sure.

13 MS. MERCER: That's fine.

14 MR. COFFEE: That makes sense.

15 THE COURT: It takes way longer, but you avoid the
16 contamination. I'm going to wait till they're in the box,
17 though, to ask the question.

18 MR. COFFEE: Sure. And the other thing, Judge, is
19 the relationship of the two folks involved here, three folks
20 involved all centers around the Potter's House Church.

21 THE COURT: Who's?

22 MR. COFFEE: Potter's House --

23 THE COURT: Potter's House Church?

24 MR. COFFEE: -- Church. We should probably ask a
25 generic question as to whether anybody's a member of Potter's

1 House, because I guarantee there was scuttlebutt around the
2 church after it happened.

3 THE COURT: Okay.

4 MR. COFFEE: Even -- not just do they know --

5 THE COURT: I'm writing it down.

6 MR. COFFEE: Yeah.

7 THE COURT: Anyone attend, how's that --

8 MR. COFFEE: That'll be fine.

9 THE COURT: -- Potter House Church. Is it Potter's
10 House?

11 MR. ROGAN: Attend or have attended.

12 MR. COFFEE: Yeah.

13 THE COURT: Attend or, yeah, attended Potter's House.

14 MR. COFFEE: Very good.

15 THE COURT: Usually I ask the generic question,
16 anybody know anything about this case other than what you've
17 heard here in court as a wrap, too. So --

18 (Pause in the proceedings)

19 THE COURT: Good morning, sir. How are you doing
20 today?

21 THE DEFENDANT: Good morning, Your Honor.

22 THE COURT: Dulce, have you got your 14 poker chips?

23 THE CLERK: Yes, Judge.

24 THE COURT: Once Mr. Coffee gets his tie on, have
25 him pull one number out.

1 MR. LOPEZ-NEGRETE: One number, Judge?

2 THE COURT: One first. When he gets his tie on,
3 have him pull a number out. And then Mr. Rogan gets to pull
4 the other one.

5 (Pause in the proceedings)

6 THE COURT: Which exhibits are stipulated to?

7 MR. ROGAN: Your Honor, if I could approach your
8 clerk just to verify before we make that record.

9 THE COURT: Sure. I'm just looking for your
10 numbers. We're on the record.

11 Okay. Which exhibits are stipulated to?

12 MR. ROGAN: Your Honor, it's going to be State's
13 Exhibits 1 through 82.

14 THE COURT: Is that correct, Mr. Coffee?

15 MR. ROGAN: And then --

16 MR. COFFEE: If he says so.

17 MR. ROGAN: Yes, it is. And then 84 and 85.

18 THE COURT: So 1 through 82 and 84 through 85 will
19 be admitted.

20 (State's Exhibits 1 through 82 and 84 and 85 admitted)

21 THE COURT: What's the poker chip the defendant
22 pulled for the first alternate?

23 THE MARSHAL: It's Number 9, Judge.

24 THE COURT: So the person remaining as the ninth
25 person on the list after the execution of all peremptory

1 challenges will be your first alternate.

2 Mr. Rogan if you could pull Alternate Number 2.

3 THE MARSHAL: 14.

4 THE COURT: Number 14 will be -- the person
5 remaining in the fourteenth position after the execution of
6 all peremptory challenges will be your second alternate.

7 All right. Is there anything else outside the
8 presence? I know there were some issues about an amended
9 information, as well as some document related to the offers
10 that you wanted to make before we proceeded.

11 MR. ROGAN: Thank you, Your Honor. Before we do
12 that, there's some further stipulations of the parties that we
13 entered into during the preparation of trial. The first is
14 with regard to chain of custody of the decedent, Echo White,
15 that her body bag was sealed and transported to the autopsy
16 without that seal being broken. Secondly was chain of custody
17 of all the DNA swabs that were taken in this particular case,
18 as well as the chain of custody of the bullet that was removed
19 from the decedent, Echo White.

20 THE COURT: Those correct, Mr. Coffee?

21 MR. COFFEE: Those are correct, Judge.

22 MR. ROGAN: The offer that was conveyed in this
23 particular case was for the defendant to plead guilty to two
24 different counts, the first count being first degree murder
25 with use of a deadly weapon. The State would stipulate on

1 that count to 28 years to life. That's including the
2 enhancement for use of a deadly weapon.

3 Additionally, he'd plead guilty to attempt murder
4 with use of a deadly weapon, and both parties would retain the
5 right to argue with regard to the penalty for the attempt
6 murder.

7 That offer was rejected by the defendant.

8 THE COURT: Sir, and you've had an opportunity to
9 discuss those offers with your counsel?

10 THE DEFENDANT: Yes.

11 THE COURT: And you've made the determination that
12 it's in your best interests to go ahead and proceed to trial?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: All right. Anything else?

15 MR. COFFEE: Just briefly, Judge. We also agreed to
16 stipulate to authenticity on some records. There's a Facebook
17 custodian that we're not going to require the State to bring
18 in. I think both parties are going to stipulate to the
19 authenticity of the Facebook records that were obtained by the
20 State.

21 Similarly, there was a phone that was examined. And
22 if there's anything concerning bringing in a custodian from
23 Sprint or something like that, we're going to stipulate that
24 the text messages were kept in the ordinary course of
25 business, the aware found on the phone that was retained from

1 Echo Lucas, that it was her phone. And again those are going
2 to be stipulated. We're not going to debate authenticity on
3 that.

4 MR. ROGAN: That's correct. Thank you, Mr. Coffee.

5 THE COURT: And do those have exhibit numbers?

6 MR. ROGAN: Currently they do.

7 THE COURT: The Facebook or the phone?

8 MR. ROGAN: We have several different exhibits
9 [inaudible] if I can approach your clerk.

10 THE COURT: 86 through 91?

11 MR. ROGAN: Yes, State's Exhibit 86 through 91,
12 which are currently marked as proposed. Those are the
13 Facebook status updates and Facebook messages.

14 State's Exhibit 84 and 85 relate to the cell phone
15 that Mr. Coffee was referring to, and those are admitted by
16 stipulation.

17 THE COURT: So are you going to offer the Facebook
18 now, or do you want to wait till later to deal with it?

19 MR. ROGAN: I believe Mr. Coffee just needs to
20 review the Facebook messages on his own before he's going to
21 decide whether to stipulate or to challenge them during the
22 course of the trial.

23 THE COURT: Okay. They're stipulated to
24 authenticity. I've written that note. And if we get to an
25 issue about relevance or other admissibility, Mr. Coffee will

1 address that.

2 MR. COFFEE: That'd be fine. And I believe the
3 State's stipulating, also, that the document that they
4 provided is authentic.

5 MR. ROGAN: That's correct.

6 THE COURT: Okay. Anything else?

7 MR. ROGAN: Finally, Your Honor, the State does have
8 a second amended information that we're asking leave of Court
9 to file. In preparing the jury instructions for this case the
10 State came across a recent decision from July of 2013, which
11 was after this case --

12 THE COURT: That's not really very recent.

13 MR. ROGAN: No, it's not. However, it is in between
14 the time of the filing of this case and of course today's
15 trial. And based upon our reading of Clay v. State we feel
16 out of an abundance of caution that we should amend the
17 information to include the theory of child abuse that we're
18 proceeding on. By way of brief background, under the child
19 abuse statute, which is NRS 200.508(1), there's five different
20 presumable methods of abuse. And after reading Clay v. State
21 we just want to put on notice in the amended -- second amended
22 information that we're proceeding on a theory of negligent
23 treatment or maltreatment. So we're narrowing it down from
24 five possible theories that we could have argued at trial to
25 one. And I don't think there was any dispute about that,

1 because the remaining were not implicated by the facts of this
2 case. There's nothing about actual physical abuse, there's
3 nothing about sexual exploitation or sexual abuse. It was
4 always under a theory of negligent treatment or maltreatment.
5 And so that's what our second information -- amended
6 information would do, is just put that specifically --

7 THE COURT: That's the only change?

8 MR. ROGAN: It is the only change.

9 THE COURT: Mr. Coffee.

10 MR. COFFEE: I have reviewed the change. I think
11 that is the only change. I think they're tightening up the
12 language on the information. Obviously it's concerning when
13 we get an information the morning that trial's going to start
14 or Friday afternoon, and it's a change that could have been
15 made beforehand. I would submit that if it was not legally
16 pled beforehand in the previous information, if it wasn't
17 sufficient to support a charge, then they shouldn't be allowed
18 to amend at this point. But we'll submit to the Court's
19 discretion. I don't have any further -- I think it's in good
20 faith, too. I don't think there was any gamesmanship here.

21 THE COURT: I'm going to allow the amendment,
22 because it merely fits the charge to the facts of the case..

23 MR. ROGAN: Thank you. May I approach your clerk,
24 Your Honor?

25 THE COURT: You may.

1 MR. ROGAN: And that's all the matters the State has
2 outside the presence, Your Honor.

3 THE COURT: Now, Mr. Coffee, since you had the
4 opportunity to review this most recent amended information,
5 are there any portions of the amended information you do not
6 wish the clerk to read when she reads the information to the
7 jury? I ask this for a reason.

8 MR. COFFEE: Yes. And that's --

9 THE COURT: Because, remember, I'm a paranoid judge.
10 So you want to come up and look at it real quick and see if
11 there's any part that we need to redact from reading.

12 MR. COFFEE: Can I have 20 seconds with my client?

13 THE COURT: You may.

14 (Pause in the proceedings)

15 MR. COFFEE: We're okay with reading it as is.

16 THE COURT: All right. Anything else outside the
17 presence?

18 MR. ROGAN: Not from the State, Your Honor.

19 THE COURT: Kevin, if you would bring the jurors in
20 in their numerical order.

21 It is my practice to stand when they enter and leave
22 the courtroom. Please remember when we get to the cause
23 portion I have those made out loud unless you believe it is a
24 sensitive issue that needs to be made outside the presence of
25 the other jurors.

1 (Prospective jurors are present)

2 THE COURT: Good morning, ladies and gentlemen.
3 First I want to apologize for the delay in getting you.

4 Counsel, you may be seated.

5 I had an emergency matter on one of my civil cases
6 that showed up unexpectedly this morning, and for some reason
7 those lawyers couldn't say what they should in 10 minutes. It
8 took them about an hour. So that has thrown me off this
9 morning, and I apologize for being delayed in getting to you.

10 This is the time set for trial of Case Number
11 C-286357, State of Nevada, plaintiff, versus Troy Richard
12 White, the defendant. The record will reflect the presence of
13 the defendant, his counsel, counsel for the State, all
14 officers of the court.

15 Parties ready to proceed?

16 MS. MERCER: Yes, Your Honor.

17 MR. COFFEE: Yes, Judge.

18 THE COURT: Ladies and gentlemen, you are in
19 Department 11 of the Eighth Judicial District Court. My name
20 is Elizabeth Gonzalez. I am the presiding judge in this
21 department. I want to apologize to all of you for the
22 condition of my courtroom. We were able to take it apart so I
23 could try the CityCenter case in this, but, unfortunately, I
24 can't get anybody to put my courtroom back together. So for
25 those of you who are sitting in the folding chairs, I

1 apologize. We will try and get through the preliminaries and
2 break for lunch fairly quickly.

3 Let me take this opportunity to introduce the court
4 staff with whom you may be coming into contact. Jill Hawkins,
5 on my far left, is the court recorder. She is the individual
6 who makes a digital audio-video recording of everything that
7 happens in the courtroom. For that reason if you need to
8 answer any of the questions as we go through the process, it
9 is important that you give me the last three digits of your
10 badge number, as well as your name. That way if she ever has
11 to make a record about anything that occurred during the
12 proceedings, she will be able to properly identify who was
13 speaking. Since most normal human beings don't identify
14 themselves with a number, if you forget, we will try and
15 remind you.

16 To my immediate left I have Dulce Romea. She is the
17 court clerk. She swears the witnesses, marks the exhibits,
18 and keeps track of evidence and prepares the official record
19 of the court.

20 Kevin Eckhart, who you've already met, is the
21 marshal. He's the individual with whom you will have the most
22 contact during the proceedings. You may also see my law clerk
23 and my judicial executive assistant in the courtroom or
24 assisting us at some points in time.

25 On behalf of the State would you please like to

1 introduce yourself, your co-counsel, and make a brief
2 statement of the nature of the case and state the names of any
3 of the witnesses you may call in this case.

4 MS. MERCER: Thank you, Your Honor.

5 Good morning, ladies and gentlemen. My name is
6 Chief Deputy District Attorney Liz Mercer. I have with me my
7 co-counsel, Chief Deputy District Attorney Jeff Rogan. We are
8 prosecuting the case of State of Nevada versus Troy White.

9 The specific allegations in this case are that on
10 July 27th of 2012 at 325 Altimira, which is in the vicinity of
11 Alta between Buffalo and Rainbow. For those of you not
12 familiar with that area of town I apologize, but that's the
13 best description I can give you. That's the residence where
14 the defendant was residing with his wife and five children
15 prior to their separation.

16 The allegations are that on that date the defendant
17 entered the home and shot and killed Echo White, resulting in
18 a charge of murder with use of a deadly weapon, and that he
19 shot Joseph Averman, resulting in a charge of attempt murder
20 with use of a deadly weapon, and that all of those crimes were
21 committed in the presence of the five children, resulting in
22 five counts of child abuse, neglect, or endangerment.

23 In addition there is an allegation of carrying a
24 concealed weapon, because at the time he entered the home that
25 weapon was concealed. Thank you.

1 The State's witnesses -- and just -- I'm going to
2 list several witnesses. Many of these may not be called, but
3 please listen carefully. It's Joseph Averman; Jayce White;
4 Jodey White; Robert Wilson; Wanda Wilson; Amber Gaines; Mike
5 Gaines; Fernando Diaz; Shayna Break [phonetic], who is a
6 Yavapai County Sheriff's Office deputy, that's in Prescott,
7 Arizona; James Jaeger, who is also with the Yavapai County
8 Sheriff's Office; Herman Allen; Michael Montalto; Bradley
9 Marshall; Clyde Bentley, who is a retired member of the
10 Yavapai County Sheriff's Office; Lieutenant Bolt, also with
11 that office; and then local law enforcement witnesses include
12 potentially Detective Travis Ivey with the Homicide Unit;
13 Officer David Herwitz, he's a patrol officer; Darren Martine,
14 who is also a patrol officer; Matthew O'Brien, who is also a
15 patrol officer; Michael Tortuously, who is also a patrol
16 officer; Sergeant John Scott; Chris O'Brien, who was a
17 detective on the Homicide Unit on the date of this offense but
18 is now a sergeant; Matthew Gillis, who is also a Homicide
19 detective; and Tate Sanborn, who is also a Homicide detective.

20 In addition, you may hear from several crime scene
21 analysts with the Las Vegas Metropolitan Police Department.
22 Those witnesses include Terry Martine or Martin; Louise
23 Renhart; Jeffrey Scott; Danielle -- and I can't pronounce her
24 last name, so I'll spell it for you, it's
25 C-A-R-V-O-U-N-I-A-R-I-S; Tracy Kruze, formerly Tracy Brownly;

1 Jennifer Riner; Moretta McIntire. And then you may hear from
2 some people who are employed with the Forensics Lab at the Las
3 Vegas Metropolitan Police Department, as well. Those
4 witnesses include Julie Marchiner, who is a DNA analyst; Ana
5 Lester, formerly Ana Sago, who is a firearms and ballistics
6 examiner; Marnie Carter, who examines fingerprints and does
7 analysis; and Brad Burghius, who is now an officer at the
8 airport, but at the time he was a forensic examiner, meaning
9 computer equipment and electronics, things of that nature.

10 In addition, you will hear from Dr. Lisa Gavin.
11 She's a medical examiner with the Clark County Coroner's
12 Office.

13 THE COURT: Thank you.

14 Mr. Coffee, would you like to introduce yourself,
15 your client, your co-counsel, make a brief factual statement,
16 and identify any additional anticipated witnesses the defense
17 intends to call.

18 MR. LOPEZ-NEGRETE: Thank you, Your Honor.

19 Good morning, ladies and gentlemen. My name is
20 David Lopez-Negrete. My co-counsel is Mr. Scott Coffee. And
21 this is Mr. Troy White. He's our -- we're representing him,
22 and through the course of this trial you'll get to meet him,
23 and you'll see that he was a family man, happily married for
24 eight years with Echo White and their five children, and at
25 one point one of his closest friends, Joseph Averman, betrayed

1 him, had an affair with his wife. Mr. White was desperate to
2 keep his family together and to save it. And on that fateful
3 day, July 27th, 2012, emotion got the better of him. But he
4 is not a murderer.

5 Mr. Coffee will now read to you the witnesses that
6 we intend to call.

7 MR. COFFEE: The State has listed a number of
8 witnesses for you. If for some reason they decide that they
9 do not want to call one of those witnesses, we might. Also,
10 additionally, the witnesses that they're going to call we're
11 going to ask questions of if we feel it's important.

12 In addition to those witnesses we have some other
13 witnesses we may be calling. They are as follows. Sam Bakke,
14 Rachel Brooks, Dena Cabral, Ruben Garcia, Pete Gullo, Tim
15 Henderson, Roger Hosford, Dorothy Long, Cory Robinson, Misty
16 Todd, and Terry Todd. Thank you.

17 THE COURT: Thank you.

18 Ms. Clerk, if you would please call the roll of
19 panel of prospective jurors.

20 Ladies and gentlemen, when your name is called
21 please answer "present" or "here."

22 (Prospective jury roll called)

23 THE COURT: Is there anyone in my group of
24 prospective jurors whose name was not called?

25 Could you all please stand and raise your right hand

1 to be sworn, please.

2 (Prospective jurors sworn)

3 THE COURT: You may be seated.

4 Ladies and gentlemen, we are about to commence the
5 jury selection process. During this process you will be asked
6 questions bearing upon your ability to sit as fair and
7 impartial jurors in this particular case. To accomplish this
8 questions will be asked of you both by myself and counsel for
9 the parties. On occasion some of the questions may seem
10 somewhat personal. I will tell you they're not intended to
11 embarrass you. They are simply intended for us to be able to
12 make an informed decision about whether you could serve as a
13 fair and impartial juror. If you feel for any reason that an
14 answer to a question needs to be given in private, please let
15 us know. We will try and accommodate that request.

16 It important you know the significance of full,
17 complete, and honest answers to all the questions we are about
18 to ask you. Please do not try to hide or withhold anything
19 which might indicate bias or prejudice of any sort. Should
20 you fail to answer truthfully or if you hide or withhold
21 anything touching upon your qualifications, that fact may tend
22 to contaminate your verdict.

23 I'm going to conduct a general examination of all of
24 you. After those general questions I will then ask some
25 followup questions of those individuals seated in the box

1 area.

2 At some point during the process of selecting a jury
3 the attorneys will have the right to ask that a particular
4 person not serve as a juror. These requests are called
5 challenges. Please do not be offended should you be excused
6 by one of the challenge procedures. They are simply one of
7 the mechanisms under our criminal justice system to insure
8 that everyone is confident that the jury who actually hears
9 the case is one who is fair and impartial.

10 If you wish to respond to a question, please
11 remember I need the last three digits of your badge number and
12 then your name so I can make an adequately record.

13 First, have any of my potential jurors been
14 convicted of a felony?

15 Seeing no hands, I have a universally negative
16 response.

17 Are any of my potential jurors not United States
18 citizens?

19 Seeing no hands, I have a universally negative
20 response.

21 Is there anyone who has such a sympathy, prejudice,
22 or bias relating to age, religion, race, gender, sexual
23 orientation, or national origin that you feel would affect
24 your ability to be an open-minded, fair and impartial juror?

25 Seeing no hands, I have a universally negative

1 response.

2 Are any of you acquainted with the defendant or his
3 attorneys?

4 Seeing no hands, I have a universally negative
5 response.

6 Are any of you acquainted with either of the Deputy
7 District Attorneys?

8 Seeing no hands, I have a universally negative
9 response.

10 Are any of you acquainted with any of the witnesses
11 whose names were previously mentioned by the attorneys?

12 Seeing no hands -- yes, ma'am.

13 PROSPECTIVE JUROR NUMBER 102: I work for the Las
14 Vegas Metropolitan --

15 THE COURT: I need your badge number.

16 PROSPECTIVE JUROR NUMBER 102: Barbara Ruckle.

17 THE COURT: Thank you, Ms. Ruckles.

18 PROSPECTIVE JUROR NUMBER 102: I'm familiar with
19 some of the names of the LVMPD people, because I work for the
20 Department as a civilian.

21 THE COURT: And what do you do as a civilian Metro
22 employee?

23 PROSPECTIVE JUROR NUMBER 102: I'm a supply
24 specialist. I handle the copiers and forms.

25 THE COURT: Thank you.

1 PROSPECTIVE JUROR NUMBER 102: You're welcome.

2 THE COURT: Anybody else think you recognize the
3 names of any of the witnesses who were read by either parties?

4 This case is expected to last eight days. We have
5 two days that we will be off during that period of time, and
6 we will finish next Friday, April 17th. Does serving that
7 time act as an undue hardship upon any of you?

8 If you could go to the box area, stop at the top
9 row.

10 PROSPECTIVE JUROR NUMBER 062: Mark Marinelli. I
11 just have a transportation problem. My wife's the only one
12 that works, and I'm trying to seek employment right now.

13 THE COURT: So are you telling me you wouldn't be
14 able to make it to court?

15 PROSPECTIVE JUROR NUMBER 062: It would be really
16 hard.

17 THE COURT: Okay. Why?

18 PROSPECTIVE JUROR NUMBER 062: I only got the truck
19 today and that's it. And then she's the only -- we only have
20 one vehicle.

21 THE COURT: Okay. Thank you, sir.

22 PROSPECTIVE JUROR NUMBER 066: I'm the only person
23 that work in my household, and I have to pay all my bills by
24 myself. I just started a job at Walmart six months ago, and I
25 don't have no transportation. I have to take the bus.

1 THE COURT: All right. So Walmart pays you while
2 you're on jury service, though; right?

3 PROSPECTIVE JUROR NUMBER 066: Yeah. They said they
4 would.

5 THE COURT: Okay. So you're concerned you wouldn't
6 be able to make it to court?

7 PROSPECTIVE JUROR NUMBER 066: It would be hard
8 every day, because I have to take two buses.

9 THE COURT: So you have to take two buses to get
10 here?

11 PROSPECTIVE JUROR NUMBER 066: To get here.

12 THE COURT: All right. Thank you. If you'd pass
13 the mike.

14 PROSPECTIVE JUROR NUMBER 067: Jonathan Leavelle,
15 067. My wife works three days a week graveyard, and she
16 doesn't get home until 7:00 a.m., and my children are home
17 schooled, so I assist in that. But I don't know what time
18 that the case starts in the morning, so I don't know what time
19 I would have to be here.

20 THE COURT: We go from 10:00 to 5:00 with a break
21 about an hour and 15 minutes at lunch. Would that work out
22 with your schedule?

23 PROSPECTIVE JUROR NUMBER 067: Yes, ma'am.

24 THE COURT: All right. Thank you, sir.

25 PROSPECTIVE JUROR NUMBER 069: Brian K. Robinson,

1 069. I am a project manager and general manager of a company
2 called On Stage, and I pretty much run the whole company.
3 Tomorrow morning we're doing a load-in at the Aria. We have
4 people from out of town. And for me to be here for those many
5 days -- I'll still get paid, but my job won't be done.

6 THE COURT: Okay. And what kind of load-in are you
7 doing at the Aria?

8 PROSPECTIVE JUROR NUMBER 069: Oh. I'm sorry. We
9 do A-V so we load in everything, all the gear and put on the
10 show for the Winnebago Company.

11 THE COURT: All right. Thank you, sir.

12 PROSPECTIVE JUROR NUMBER 070: Hi. I'm Vania
13 Ramirez, 070, and I have to watch my nieces this entire week.
14 I'm the only one at the house.

15 THE COURT: And how old are your nieces?

16 PROSPECTIVE JUROR NUMBER 070: Six and nine months.

17 THE COURT: And does the six-year-old go to school?

18 PROSPECTIVE JUROR NUMBER 070: Yes. And I have to
19 pick her up from school.

20 THE COURT: Okay. Thank you.

21 PROSPECTIVE JUROR NUMBER 071: My name is Odalys,
22 and I am 071. I'm the only one working in my home right now,
23 and I'm paying the bills for my mom. And I work at a kiosk,
24 and they don't pay me if I'm not working.

25 THE COURT: Okay. Thank you.

1 PROSPECTIVE JUROR NUMBER 073: 073, Susan Haase. I
2 would be out a flight -- the cost of a flight. I'm scheduled
3 to go to Milwaukee. So I would be out of that.

4 I also have a house closing on the 17th.

5 THE COURT: And when are you travelling to
6 Milwaukee?

7 PROSPECTIVE JUROR NUMBER 073: On the 16th.

8 THE COURT: All right. Thank you.

9 PROSPECTIVE JUROR NUMBER 083: Hi. My name's Joerg
10 Kleutgens, 083. I had surgery two weeks ago, and I have three
11 post-op doctor's appointments this week and physical therapy.
12 I had another injury last week, work related, which I'm going
13 to see a doctor about, too, within the next week.

14 THE COURT: Okay. And when are your medical
15 appointments this week that you have?

16 PROSPECTIVE JUROR NUMBER 083: The first one is
17 tomorrow at 9:00, the second one, the day after, at 10:00.
18 And then I'm supposed to get a call from the third doctor for
19 this week.

20 THE COURT: And what time are your physical therapy
21 appointment scheduled for?

22 PROSPECTIVE JUROR NUMBER 083: They will be
23 scheduled by the doctor tomorrow.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NUMBER 083: They're usually in

1 between 10:00 and 12:00 in the morning.

2 THE COURT: Thank you.

3 PROSPECTIVE JUROR NUMBER 077: Hi. Shirley Hampton,
4 077. Savage-Hampton. I have to care for a mentally disabled
5 brother. And I'm the only one caring for him.

6 THE COURT: Okay. Thank you.

7 PROSPECTIVE JUROR NUMBER 075: Hi. 075, Rizza
8 Tawatao. I have a mandatory class that I'm required to take
9 on Friday, the 17th, to keep my job at the hospital I work
10 for.

11 THE COURT: Which hospital do you work for?

12 PROSPECTIVE JUROR NUMBER 075: Summerlin Hospital
13 and Southern Hills Hospital.

14 THE COURT: Okay. Thank you.

15 PROSPECTIVE JUROR NUMBER 074: 074. My name is Lynn
16 White. I am the organizing director for California Tribal
17 Gaming, and I work primarily out of town. I have a couple of
18 campaigns that are going on right now that are about to go
19 public.

20 THE COURT: Okay. So what does that mean about your
21 travel schedule or your work schedule?

22 PROSPECTIVE JUROR NUMBER 074: My travel schedule,
23 I'm scheduled to leave again tomorrow morning to Sacramento,
24 California. I have postponed it because I was under the
25 impression that I thought the -- it would be three to five

1 days, so I thought possibly just for the week. But next week
2 I have some public campaigns going on in Ontario, so I won't
3 be able to be here.

4 THE COURT: So Ontario, California?

5 PROSPECTIVE JUROR NUMBER 074: Ontario next week,
6 yes.

7 THE COURT: Thank you.

8 PROSPECTIVE JUROR NUMBER 090: 090, Ramiro
9 Rodriguez-Alvarez. I'm -- I work graveyard the whole week.
10 I'm paying all my bills -- like I pay all the bills on my
11 house, so I'm not sure if the company will pay, because like I
12 get like a salary. I'm a technician.

13 THE COURT: Where do you work, sir?

14 PROSPECTIVE JUROR NUMBER 090: Carmax. And I also
15 like have -- it would be hard for me. Like have to come like
16 after work, after working all night and then after that come
17 to the court. So --

18 THE COURT: And do you feel that you would have to
19 work at your job even though we were in trial and so you
20 wouldn't be able to pay attention when you got here?

21 PROSPECTIVE JUROR NUMBER 090: Yeah. Because I
22 actually get off like at 6:00 a.m., and then it would be --
23 I'll be really tired and also have trouble sleeping.

24 THE COURT: Okay. Thank you, sir.

25 PROSPECTIVE JUROR NUMBER 091: Clara Hernandez-

1 Gonzalez. I have a six-month-old baby with whom I am breast
2 feeding right now, and I have a three-year-old son who goes to
3 school. I would have big problems having somebody to take
4 care of them.

5 THE COURT: And do you work outside the home, ma'am?

6 PROSPECTIVE JUROR NUMBER 091: No, I do not. My
7 husband just started working, so --

8 THE COURT: All right. Thank you, ma'am.

9 PROSPECTIVE JUROR NUMBER 091: -- I have them with
10 me today.

11 THE COURT: There was somebody else in that row,
12 Kevin.

13 PROSPECTIVE JUROR NUMBER 094: Hi, Your Honor. I'm
14 Roxann Green, 094. I teach nursing at Nevada State College,
15 and I have two clinicals this week on Wednesdays and Fridays
16 that there is not anybody to take place. If you can, that
17 would be great. I'd love to be here. But it's just not
18 possible.

19 THE COURT: And what time are your clinical
20 sessions?

21 PROSPECTIVE JUROR NUMBER 094: 7:00 to 7:00. 7:00
22 a.m. to 7:00 p.m.

23 THE COURT: So they're full days?

24 PROSPECTIVE JUROR NUMBER 094: Yes.

25 THE COURT: Thank you.

1 PROSPECTIVE JUROR NUMBER 094: Thank you.

2 PROSPECTIVE JUROR NUMBER 095: Hello. I'm 095, Mark
3 Dilisio. I just will have a conflict on Wednesdays to
4 Fridays, because I work graveyard and my wife works day shift,
5 12:00 to 8:00, and I've got two children. And my daughter's
6 out on track break, so I have nobody to watch them.

7 THE COURT: So you have childcare obligations for
8 one of your children?

9 PROSPECTIVE JUROR NUMBER 095: Yeah. Actually both.

10 THE COURT: And how old --

11 PROSPECTIVE JUROR NUMBER 095: My son's at school.
12 He gets home at like 3:30.

13 THE COURT: And your daughter who's on track break,
14 how old?

15 PROSPECTIVE JUROR NUMBER 095: She's seven.

16 THE COURT: All right. Thank you, sir.

17 PROSPECTIVE JUROR NUMBER 096: Hello. My name is
18 Nancy. I'm 096. I won't be able to do the jury just because
19 I'm leaving to Colorado this Thursday 4:00 p.m.

20 THE COURT: So you're moving away?

21 PROSPECTIVE JUROR NUMBER 096: No. I'm just going
22 for four days.

23 THE COURT: Okay. So what time do you leave on
24 Thursday?

25 PROSPECTIVE JUROR NUMBER 096: 4:00 p.m.

1 THE COURT: Thank you.

2 PROSPECTIVE JUROR NUMBER 096: You're welcome.

3 PROSPECTIVE JUROR NUMBER 098: My name is Elizabeth

4 Krein. I'm 098. I have two special needs children that I

5 adopted from the State, and one of them is not doing well

6 right now. It's an option of hospitalizing him or doing

7 weekly doctor visits. So it depends on what day you're going

8 to be off. He has an appointment this Wednesday.

9 THE COURT: We were going to be off this Friday, the

10 10th, and next Wednesday, the 15th.

11 PROSPECTIVE JUROR NUMBER 098: Okay.

12 THE COURT: So if you have an appointment this

13 Wednesday, what time is it?

14 PROSPECTIVE JUROR NUMBER 098: It's at 2:00, so --

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

16 PROSPECTIVE JUROR NUMBER 100: Hi. I'm Cathlyn

17 Dettrey, Number 100. I home school my 11-year-old son and my

18 10-year-old daughter, and there's really no one to take my

19 place if I'm not there.

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

21 PROSPECTIVE JUROR NUMBER 101: I'm Abriella Stone,

22 101, and I'm a clinical research coordinator, and I have

23 patients for the next few days. And if I'm not there, there's

24 no one else to see them.

25 THE COURT: And who's your employer, ma'am?

1 PROSPECTIVE JUROR NUMBER 101: Jerry Whitson
2 Dermatology & Associates.

3 THE COURT: Okay. Thank you.

4 PROSPECTIVE JUROR NUMBER 103: I'm Badge 103, Al
5 Kopatschek. And basically I drive a truck, and I get paid by
6 the mile. So I can probably stay here for a week and maybe
7 collect a vacation pay, but that's about all. I sure wasn't
8 expecting to be here for two weeks.

9 THE COURT: So you don't get paid unless you drive a
10 truck?

11 PROSPECTIVE JUROR NUMBER 103: Yeah. Right.
12 Exactly.

13 THE COURT: You drive locally, or over the road?

14 PROSPECTIVE JUROR NUMBER 103: Over the road.

15 THE COURT: Thank you, sir.

16 PROSPECTIVE JUROR NUMBER 104: 104, Dana Espiritu.
17 I watch a friend's baby who is five months old, and she
18 wouldn't have anyone to watch him.

19 THE COURT: And what hours do you watch the baby?

20 PROSPECTIVE JUROR NUMBER 104: 7:30 to 4:00.

21 THE COURT: Thank you, ma'am.

22 PROSPECTIVE JUROR NUMBER 106: 106, Peter Thompson.
23 I drive for Whittlesea Taxi, and I wouldn't get paid if I'm --

24 THE COURT: Thank you, sir.

25 PROSPECTIVE JUROR NUMBER 108: Malka Yogel, 108. My

1 husband just had open heart surgery. He was 13 days in
2 intensive care. He's not driving now. Now he's all by
3 himself because I'm here. I have to take him to a lot of
4 test. In the end of the month he's having another two
5 surgeries, and there is a lot of test before it. I have all
6 the documents here.

7 THE COURT: Okay. If you would hand those to the
8 marshal, please.

9 PROSPECTIVE JUROR NUMBER 110: 110, Steve Oliai. I
10 work for a software development company, and this would put a
11 few projects in jeopardy for us.

12 THE COURT: And what do you do for them?

13 PROSPECTIVE JUROR NUMBER 110: I'm the senior
14 director of our data services group, so I manage teams of
15 architects and database engineers.

16 THE COURT: And what's the name of the company you
17 work for?

18 PROSPECTIVE JUROR NUMBER 110: EBIX, E-B-I-X,
19 Incorporated.

20 THE COURT: Thank you, sir.

21 PROSPECTIVE JUROR NUMBER 112: Hi. My badge number
22 is 112. Kevin Lieu. I actually run a neurology clinic for a
23 doctor. I'm the office manager, but I also do all the
24 diagnostic testing in the office, so I'm not sure if he -- we
25 would be able to reschedule all of our patients for the next

1 two weeks. I actually had to reschedule everybody for today,
2 so --

3 THE COURT: You rescheduled everybody even though
4 you were here and the doctor is there?

5 PROSPECTIVE JUROR NUMBER 112: We had to reschedule
6 everybody today because I'm not there to do the testing. I do
7 nerve tests, so -- I do nerve conduction studies.

8 THE COURT: Okay. Thank you. So like EMG testing?

9 PROSPECTIVE JUROR NUMBER 112: Yes.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR NUMBER 113: Holly Harris, 113. I
12 just started my job on Thursday. I work full time from 9:00
13 to -- from 9:00 to 5:00, and my schedule varies. They're
14 going to -- I just finished training, so they want to start me
15 tomorrow from -- I guess from 12:00 to close -- or 2:00 to
16 close. And I have a two-month-old newborn that I'm breast
17 feeding now, so I'm away from her enough as it is.

18 THE COURT: Who do you work for, ma'am?

19 PROSPECTIVE JUROR NUMBER 113: DiGucci Development.

20 THE COURT: And what do you do?

21 PROSPECTIVE JUROR NUMBER 113: I'm a sales
22 associate.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR NUMBER 114: Hi. Badge 114.
25 Angelita Fairbanks. I'm one of the CEOs of Action Coach

1 Business Coaching, a multi-international company, which we're
2 running a business excellence forum in Portugal from the 11th
3 to the 27th, so I'll be travelling to Portugal.

4 THE COURT: All right. Thank you, ma'am.

5 Is there anyone who believes for any other reason
6 than what I've heard so far that you couldn't serve on this
7 jury for through next Friday?

8 Yes, ma'am.

9 PROSPECTIVE JUROR NUMBER 073: 073, Susan Haase. I
10 don't feel I could honestly do this. I've been through a
11 situation where I left my first husband after being beaten,
12 and I would not be impartial.

13 THE COURT: All right, ma'am.

14 PROSPECTIVE JUROR NUMBER 069: Yes. This is B.K.
15 Robinson, 069. I have to be honest. From hearing what the
16 case was about and I probably would have a bias based on -- do
17 I have to say it?

18 THE COURT: Well, you've got to tell me why, sir.

19 PROSPECTIVE JUROR NUMBER 069: Well, because I kind
20 of -- I guess I can say I empathize or sympathize with the
21 defendant.

22 THE COURT: All right. We may ask you some more
23 questions in a little bit without the other jurors, okay.

24 PROSPECTIVE JUROR NUMBER 069: Thank you.

25 THE COURT: Anybody else want to tell me something

1 that you feel like I need to know before I get to the next --

2 Yes, ma'am. Ms. Diaz.

3 PROSPECTIVE JUROR NUMBER 096: 096. I wouldn't be
4 able to stay here just 'cause I'm very emotional to hear this.

5 THE COURT: Okay. My job as a judge in a case --

6 Yes, ma'am. Ms. Ruckles.

7 PROSPECTIVE JUROR NUMBER 102: 102, Barbara Ruckle.
8 Working with the police department and coming from -- my
9 father was also an investigator, I don't think I could be
10 impartial. When we get to this point I think the damage is
11 done. That's just my opinion.

12 THE COURT: Thank you, ma'am.

13 PROSPECTIVE JUROR NUMBER 101: 101, Abriella Stone.

14 And I feel as though I couldn't -- I couldn't be impartial
15 about it because I've kind of already made my decision without
16 even hearing anything, which is not so good. And I don't know
17 if I would change that.

18 THE COURT: Okay. Thank you.

19 PROSPECTIVE JUROR NUMBER 106: Peter Thompson. I
20 was involved in a domestic situation. I don't think I'd be
21 impartial.

22 THE COURT: Thank you, sir.

23 All right. My job as the judge in any case is to
24 give you the instructions on the law as it applies to a
25 particular case. If you're chosen as a juror is there anyone

1 who believes you would not be able to follow the law as I give
2 it to you in the jury instructions?

3 Seeing no hands, I have a universally negative
4 response.

5 Your job as a juror if you're selected is to make
6 determinations about the facts. That means you listen to the
7 witnesses who sit in the witness stand and testify, look at
8 the exhibits that are admitted, and then along with the other
9 jurors who are chosen make a determination about what actually
10 happened. Does anyone have a problem acting as a fact finder?

11 PROSPECTIVE JUROR NUMBER 087: 087, Joseph
12 Rodriguez. I just -- I go off what I hear. I don't really
13 look at the facts that well. I'm just -- yeah.

14 THE COURT: Okay. Thank you, sir.

15 Anybody else think they might have problems acting
16 as a fact finder, listening to the evidence and making a
17 decision with the other jurors?

18 Under our system certain principles of law apply in
19 every criminal trial. There are that the information filed in
20 the case is a mere accusation and is not evidence of guilt,
21 that the defendant is presumed innocent, and the State must
22 prove the defendant guilty beyond a reasonable doubt.

23 Does anyone not believe in those basic precepts of
24 our justice system?

25 Seeing no hands, I have a universally negative

1 response.

2 Can you wait in forming your opinion as to the guilt
3 or innocence of the defendant until all of the evidence has
4 been heard and after you receive instructions from me?
5 Anybody have a problem with that?

6 Seeing no hands, I have a universally positive
7 response.

8 Does anyone know anything about this case other than
9 what's been stated in the courtroom? And if you raise your
10 hand, I'm just going to get your number for now. Anybody know
11 anything about this case?

12 I've got Seat Number 62, Mr. Marinelli.

13 PROSPECTIVE JUROR NUMBER 062: Yes, 062.

14 THE COURT: All right. Hold on, sir. We're not
15 going to ask any questions yet. I'm just going to write a
16 note.

17 Anybody else think they know anything about this
18 case?

19 All right. Counsel, can I see you at the bench,
20 please.

21 Ladies and gentlemen, you're going to hear some
22 white noise. The reason you hear this white noise is I can do
23 some work with counsel without sending you out and then
24 bringing you back in, which will take a half hour.

25 (Bench Conference)

1 THE COURT: Okay. Usually in a case that is like
2 this I will excuse those people who have a financial hardship,
3 as well as childcare and school issues. Does anyone have a
4 problem with that?

5 MR. ROGAN: No.

6 THE COURT: Okay. Let me go through the ones I
7 think that -- and then we also have some transportation issues
8 that I'm concerned about.

9 MR. COFFEE: I'm concerned about one who'd possibly
10 show up.

11 THE COURT: Badge Number 70 is a childcare. Badge
12 Number 73 is a travel. 74 is a travel. Badge Number 77 is a
13 child care. Badge Number 83 is a health issue. Badge Number
14 91 was a childcare. 95 is a childcare. 94 is a school issue.
15 96 is a travel issue. 98 is a childcare issue. 100 is a
16 childcare issue. 104 is a childcare issue. 108 is a medical
17 issue for the husband. If anybody wants to look at the
18 documents, she brought it, but I believe her. And 114 was a
19 travel issue. Those are all of mine without going into the
20 pay missed. Does anybody have a concern with any of those
21 being excused?

22 MR. COFFEE: No.

23 MR. ROGAN: No.

24 THE COURT: Okay. Let me go to the ones who think
25 they aren't -- I have two who say they can't get here because

1 they've got transportation problems. That's 62 and 66.

2 MR. COFFEE: First time it's ever happened to me, by
3 the way.

4 THE COURT: What?

5 MR. COFFEE: That they said I've got a bus issue.

6 THE COURT: Oh, I've had a lot. I actually had a
7 marshal one day who would get the guy to and from the bus
8 because he -- we were concerned. It was when he had to go to
9 the [inaudible].

10 Any concern with those two who have transportation
11 issues being excused? They're the only two who've mentioned
12 it, which meant that apparently nobody else is smart enough to
13 pick up on that as a reason.

14 Badge Number 71 is a financial hardship. If we go
15 down that path, I'm going to excuse all the people with
16 financial hardships. But I've got another 45. Remember, I've
17 got a total of 90.

18 MR. ROGAN: How many financial hardships do we think
19 we have?

20 THE COURT: I think I have four.

21 MR. COFFEE: I'm okay with letting them go.

22 MR. ROGAN: So that's Badge Numbers 69, 71.

23 THE COURT: And then I've got 103 is a financial.

24 MR. ROGAN: All right. And then on the last one

25 106.

1 THE COURT: And we have a taxi driver who's 106
2 who's financial.

3 MR. COFFEE: Who's the fourth financial?

4 THE COURT: We only have three.

5 MR. COFFEE: Oh. Great. Okay.

6 THE COURT: Any problem excusing those folks I just
7 discussed?

8 MR. ROGAN: No.

9 MR. COFFEE: No.

10 THE COURT: All right. Were there -- let me give
11 you those numbers, and then you can tell me if there's any
12 others you just want to get rid of and you both agree.

13 The total -- and this is all of them we're excusing
14 on hardship or financial, transportation, childcare, things
15 like that. Badge 62, Mr. Marinelli; 66, Ms. Maddox; 70, Ms.
16 Ramirez; 71, Ms. Castillo; 73, Ms. Haase; 74; Ms. White; 77,
17 Ms. Savage; 83, Mr. Kleutgens; 91, Ms. Hernandez; 94, Ms.
18 Green; 95, Mr. Diliso; 96, Ms. Diaz; 98, Ms. Krein; 100, Ms.
19 Dettry; 103, Mr. Kopatschek; 104, Ms. Espiritu; 106, Mr.
20 Thompson; 108, Ms. Yogel; 114, Ms. Fairbanks.

21 MR. ROGAN: We just want to inquire further of those
22 people that they some special bias.

23 THE COURT: Well, are there any others that both of
24 you want to get rid of, like the lady from Metro, either of
25 the people who've already said they have a bias?

1 MR. ROGAN: I think we need to question them
2 further.

3 MR. COFFEE: Yeah. That's fine. I guess somebody's
4 got three doctor's appointment this week, 83.

5 THE COURT: I'm letting him go.

6 MR. ROGAN: Yeah.

7 MR. COFFEE: Oh. I'm sorry.

8 THE COURT: He's not -- he's [inaudible].

9 MR. ROGAN: Okay. There's one that's not up here
10 yet. It's on Stephen Stubbs, the attorney. It's Badge Number
11 171.

12 THE COURT: I think we should make him suffer
13 through sitting in the back row for three days with his bow
14 tie on.

15 MR. ROGAN: As much as I would like to do that --
16 it's up to the Court. We don't care.

17 THE COURT: Do you think he's ready to go?

18 MR. COFFEE: I dealt with him at the legislature
19 last Friday, and I'm fine with him going.

20 MR. ROGAN: Our office prosecuted him last week,
21 so --

22 THE COURT: No. Wasn't it longer than that? Was it
23 just last week.

24 MR. ROGAN: He was exonerated. That's correct. He
25 may hold some hard feelings.

1 THE COURT: But they don't have him coming -- which
2 number is he?

3 MR. ROGAN: 171.

4 THE COURT: He's not coming back till 2:00. They
5 gave them lunch.

6 MR. ROGAN: Okay.

7 THE COURT: But when they see him they'll let him
8 know he's excused.

9 Any others that you want to talk about excusing, Mr.
10 Coffee, based on their responses?

11 MR. COFFEE: I'm just running down my notes one more
12 time.

13 THE COURT: For those people who said they're
14 biased, if you want me to ask them questions individually, or
15 just have them as a group, the people who've said they're
16 biased, I'm happy to keep them together. I can excuse
17 everybody but those.

18 MR. ROGAN: Yeah, that's a good idea.

19 THE COURT: Because they've figured out how to get
20 out of jury duty. They're just very good at it yet. Okay?

21 MR. ROGAN: Thank you, Your Honor.

22 THE COURT: Kevin, may I see you.

23 (End of bench conference)

24 THE COURT: All right. Ladies and gentlemen, I'm
25 going to excuse the following jurors on hardship. What that

1 means is you're being excused today, but you're going to be
2 subject to recall sooner than those jurors who stay with me
3 for the rest of the process. So when I read your name and
4 number wait till I've finished, and then go down to the third
5 floor, tell them you've been excused on hardship, and they'll
6 put you back in the system to get recalled.

7 So the following individuals are excused on
8 hardship. Badge Number 62, Mark Marinelli; Badge Number 66,
9 Rita Maddox; Badge Number 70, Vania Ramirez; Badge Number 71,
10 Odalys Castillo; Badge Number 73, Susan Haase; Badge Number
11 74, Lynn White; Badge Number 77, Shirley Savage-Hampton; Badge
12 Number 83, Joerg Kleutgens; Badge Number 91, Clara Hernandez-
13 Gonzalez; Badge Number 94, Roxann Green; Badge Number 95, Mark
14 Dilisio; Badge Number 96, Nancy Diaz; Badge Number 98,
15 Elizabeth Krein; Badge Number 100, Cathlyn Dettry; Badge
16 Number 103, Alberto Kopatschek; Badge 104, Dana Espiritu;
17 Badge Number 106, Peter Thompson; Badge Number 108, Malka
18 Yogel; and Badge Number 114, Angelita Fairbanks.

19 If you would all go down to the third floor and tell
20 them you have been excused on hardship.

21 MR. ROGAN: Your Honor, may we approach briefly?

22 THE COURT: Yes.

23 (Bench conference)

24 THE COURT: Yes?

25 MR. ROGAN: Also agreeing on Badge 113, Holly

1 Harris. She's the woman that started a new job and is breast
2 feeding her newborn.

3 THE COURT: Okay.

4 (End of bench conference)

5 THE COURT: And I missed one. Ms. Harris, Badge
6 Number 113. You go down to the third floor and process out.

7 Now, ladies and gentlemen, I'm going to read
8 something I wouldn't usually read you until further along.
9 But since I'm a little behind schedule, I'm going to read this
10 to you now, and then I'm going to have you leave and come back
11 at 1:30.

12 During the course of this trial the attorneys for
13 both sides, the parties, the witnesses, and court personnel,
14 other than the marshal, are not permitted to converse with
15 members of the jury. These individuals are not being
16 antisocial; they are bound by ethics and the law not to talk
17 to you. To do so might contaminate your verdict.

18 You are admonished additionally that you are not to
19 visit the scene of any of the acts or occurrences made mention
20 of during this trial unless specifically directed to do so by
21 the Court. Please don't investigate this case or anyone who
22 has anything to do with this case on your own, which includes
23 Internet research. Do not undertake any legal or factual
24 research of any sort or tweet or blog or text about this case
25 during our break.

1 During this recess you're admonished not to talk or
2 converse among yourselves or with anyone else on any subject
3 connected with this trial, or read, watch, or listen to any
4 report of or commentary on the trial or any person connected
5 with this trial by any medium of information, including,
6 without limitation, social media, texts, newspapers,
7 television, the Internet, and radio, or form or express any
8 opinion on any subject connected with the trial until the case
9 is finally submitted to you.

10 If you could come back at 1:30. Please remember
11 where you're sitting, and meet the marshal outside Courtroom
12 14A, which is the courtroom at the other end of the hallway.
13 We'll see you at 1:30.

14 I would like, please, to have Badge Numbers 69, 101,
15 and 102 please remain.

16 (Outside the presence of prospective jury panel)

17 THE COURT: Mr. Robinson, you indicated earlier --
18 and you're Badge Number 69 -- that you might have a bias or
19 sympathize with the defendant in this case. Can you tell us a
20 little bit more about that so we can make a decision about
21 what we should do on our side.

22 PROSPECTIVE JUROR NUMBER 069: Yes. First of all,
23 for the Court, I mean, I'm not trying to shirk [sic] my
24 responsibility, because I think it's something we all should
25 do. In this case I've been I want to say part of it, not

1 personally, but I've had family members that were on both
2 sides of a situation like this. And one of them was a pretty
3 close friend of mine, and he was in a situation pretty much of
4 what happened with our defendant here to where he was, you
5 know, married and a friend of his basically took his wife and
6 family. And I was one of the guys sitting with him trying to
7 talk him -- do I need to say the whole thing? It's okay?

8 THE COURT: Yeah. I think you told -- tell us as
9 much as you feel comfortable. We may have to ask you some
10 more questions, but I'm just trying to get the flavor of it
11 from you so we get an idea about what we should do on our
12 side.

13 PROSPECTIVE JUROR NUMBER 069: I just wanted to be
14 honest that I really did -- I felt for him, because I was the
15 guy sitting there crying with my friend, you know, while he
16 was telling me this and while I was telling him to not do what
17 he was saying he's going to do. And, of course, he didn't,
18 and his life spiraled to nothing. He's no longer with us
19 today basically from the residuals of that. And I kinda feel
20 I'm not responsible. I'm glad I told him what I told him, but
21 I was there. I kinda don't want to relive it. And I really
22 felt -- I felt that he should have done something, but I'm
23 glad he didn't. And I'm just being honest about it, that's
24 all.

25 THE COURT: So do you think you could set aside

1 those personal experiences that you had and listen to this
2 case without worrying about what happened with your friend?

3 PROSPECTIVE JUROR NUMBER 069: Okay. Yes, I know I
4 can. I thought about that, because I think every case is
5 different. And I'm a pretty fairly intelligent and, you know,
6 well-read guy, so I'm fair and honest. But for me personally
7 I kinda feel -- I feel that there's an injustice that was done
8 to the defendant, and I would have to be -- it'd have to be
9 proven to me that it wasn't. You know.

10 THE COURT: Well, and that's what the standard is.
11 You know, the State has that burden already.

12 PROSPECTIVE JUROR NUMBER 069: Right.

13 THE COURT: But I wanted to ask you these questions
14 outside the presence of the other jurors because you seemed a
15 little uncomfortable when I asked.

16 PROSPECTIVE JUROR NUMBER 069: Yeah. I didn't --

17 THE COURT: It's okay. I can accommodate it. It's
18 not easy but I can accommodate it. So we just wanted to ask
19 you those questions outside the presence of the other jurors.

20 Does the State want to inquire on any issues related
21 to this outside the presence of the other jurors?

22 MR. ROGAN: Yes, Your Honor.

23 THE COURT: Okay.

24 MR. ROGAN: Mr. Robinson, so you had a situation
25 where a close friend was essentially cheated on and that

1 caused his life to spiral into nothing.

2 PROSPECTIVE JUROR NUMBER 069: Actually more than
3 once.

4 MR. ROGAN: More than once.

5 PROSPECTIVE JUROR NUMBER 069: Yeah.

6 MR. ROGAN: The same guy?

7 PROSPECTIVE JUROR NUMBER 069: More than one -- no.
8 Separate.

9 MR. ROGAN: Okay. All right. So you've just
10 mentioned to the Court that you could put that aside and
11 evaluate the facts and circumstances of this case independent
12 of that person's experience.

13 PROSPECTIVE JUROR NUMBER 069: Yeah. And the
14 emotional ties I can [inaudible].

15 MR. ROGAN: Yet you felt you had a need to bring it
16 to the Court's attention.

17 PROSPECTIVE JUROR NUMBER 069: Yeah. Because when
18 -- once again, since we're being honest here, and I have to
19 be, when the attorney spoke of what he said in his opening,
20 which wasn't argument, of course, his statement, and then
21 right then I shook. I didn't plan on coming here and saying
22 that. And then once I heard him say what he said I was like,
23 you know, almost like yeah. I mean, honestly and nothing
24 against the person who this happened to, I don't think no one
25 should be killed, whatever, but I felt, yeah. Like yeah. I

1 couldn't say that I wouldn't do it.

2 MR. ROGAN: All right. Now, you understand that the
3 scales of justice are equal.

4 PROSPECTIVE JUROR NUMBER 069: Yes.

5 MR. ROGAN: Do you think based upon your experience
6 that the scales of justice are in favor of the defendant just
7 because of your past experience?

8 PROSPECTIVE JUROR NUMBER 069: No. The way I feel
9 about that is I feel the scales of justice they always tilt.
10 You know, I'm just looking at it honestly, they always
11 tipping. Sometime you can be guilty and be found not guilty
12 or not guilty and found guilty. And in this case who's to say
13 what the guilt is? I mean, I'm not a lawyer here, but I feel
14 if I'm a juror my opinion would matter. And I don't want to
15 be sitting here in the jury room with the rest of the jurors
16 having a bias, saying to myself, well, I think the guy did
17 right, and then I'm in here trying to convince these guys of
18 that. I don't think that would be right for me to do.

19 MR. ROGAN: Okay. So in your mind right now do you
20 have a bias in favor of the defendant like you said?

21 PROSPECTIVE JUROR NUMBER 069: Kind of.

22 MR. ROGAN: Kind of. And you can't put that aside?

23 PROSPECTIVE JUROR NUMBER 069: I don't think I can
24 honestly say that.

25 MR. ROGAN: Judge, I'd move for cause.

1 THE COURT: Did you want to ask any questions of Mr.
2 Robinson?

3 MR. COFFEE: If I might.

4 THE COURT: You may.

5 MR. COFFEE: Understand that we have to bring people
6 in with a variety of life experience. That's the idea of the
7 jury system. And we're going to have people who've been in
8 situations that may be similar. You understand that, also?

9 PROSPECTIVE JUROR NUMBER 069: Yeah.

10 MR. COFFEE: But you wanted to make sure everybody
11 was aware of it?

12 PROSPECTIVE JUROR NUMBER 069: Yeah, I wanted to.
13 And I didn't want to say it front of the other jurors just in
14 case you guys -- oh. I'm sorry. I didn't want to say it in
15 front of the other jurors just in case I got picked, you know.
16 I didn't want them to be looking at me, like, hey, this guy is
17 thinking this way.

18 MR. COFFEE: Understood. But let me ask you this.
19 You've heard that the State has charged Mr. White here with
20 first degree murder.

21 PROSPECTIVE JUROR NUMBER 069: Yes.

22 MR. COFFEE: They charged him by way of
23 deliberation, premeditation --

24 PROSPECTIVE JUROR NUMBER 069: Yes.

25 MR. COFFEE: -- malice aforethought.

1 PROSPECTIVE JUROR NUMBER 069: Yes.

2 MR. COFFEE: If they come in and prove that beyond a
3 reasonable doubt, to your satisfaction, would you convict him
4 of that?

5 PROSPECTIVE JUROR NUMBER 069: I don't think so.

6 MR. COFFEE: Okay.

7 PROSPECTIVE JUROR NUMBER 069: And I'm just -- once
8 again, please, I'm being honest.

9 THE COURT: That's what we want you to do. That's
10 why we're doing this.

11 PROSPECTIVE JUROR NUMBER 069: And I can answer why,
12 if you'd like me to.

13 MR. COFFEE: Yes, please.

14 PROSPECTIVE JUROR NUMBER 069: Because of being a
15 man, of having those emotions felt of the betrayal of it.
16 We're people, so we handle situations differently. And who's
17 to say that I wouldn't? And I couldn't see myself convicting
18 a man of something I might have done myself. And I'm a law-
19 abiding guy. I mean, I got kids, I got a family. I don't
20 know what I would do if that situation came upon me. So I
21 don't think I'm a fair guy to pass judgment on.

22 MR. COFFEE: You bring up an interesting question,
23 because emotional state does matter in these things. Or it
24 might matter. The Judge will tell us about that later. The
25 point being you're saying emotions may come into things and

1 that may cause you to think something different than first
2 degree murder?

3 PROSPECTIVE JUROR NUMBER 069: Exactly.

4 MR. COFFEE: But, again, let's assume the State
5 proves the case, that we don't have one of those reduced
6 emotional states. Follow me?

7 PROSPECTIVE JUROR NUMBER 069: Uh-huh.

8 MR. COFFEE: That we don't have heat of passion,
9 that we have just a case where he plans it and he does it.
10 Plans it. In that case you wouldn't convict on first degree
11 murder?

12 PROSPECTIVE JUROR NUMBER 069: No. Because -- yeah,
13 to me --

14 MR. COFFEE: No more questions. And thank you, sir.

15 THE COURT: Thank you, sir. We appreciate your
16 honesty. I know how hard it is to talk about it. The
17 challenge for cause is granted.

18 Sir, I'm going to excuse you and ask you to go to
19 the third floor. They may have another trial they need you
20 in, although I doubt it at this point in the day. But thank
21 you very much for your honesty. Have a nice day.

22 PROSPECTIVE JUROR NUMBER 069: Okay. I'm really --
23 I'm willing to come to another panel.

24 THE COURT: I know, sir.

25 PROSPECTIVE JUROR NUMBER 069: Totally willing.

1 THE COURT: I understand that. Thank you very much.

2 MR. COFFEE: Thank you, sir.

3 THE COURT: So if we could please now, Ms. Stone.
4 Stay where you are. We're going to hand you the microphone.

5 And, sir, you can go. Thank you very much.

6 PROSPECTIVE JUROR NUMBER 069: Thank you, ma'am.
7 I'm sorry for wasting the Court's time.

8 THE COURT: Oh, you weren't wasting my time. Thank
9 you for your honesty, sir.

10 Ma'am, you indicated that because of a personal
11 situation that you'd had you thought you might have a bias in
12 favor of one side or the other. Can you tell me a little bit
13 more about that.

14 PROSPECTIVE JUROR NUMBER 101: Sure. So I thought
15 it was kind of unfair that right off the bat of hearing the
16 case in my head I already made a decision. And because of my
17 background, I'm a medical student, soon to be a physician, and
18 I took the Hippocratic Oath saying that I believe in
19 prolonging life and I -- I mean, I don't believe in murder in
20 any sort of shape, way, or form. It's just not in my belief
21 system. So I don't think that I'm a fair juror. Just being
22 honest.

23 THE COURT: Okay. Does the State wish to inquire of
24 Ms. Stone?

25 MR. ROGAN: Yes. Thank you, Your Honor.

1 Ms. Stone, I think most people don't believe in
2 murder, whether you're a physician or a store clerk. Isn't
3 that fair to say? So what is your bias, then? I'm a little
4 bit unclear as to that.

5 PROSPECTIVE JUROR NUMBER 101: Well, I think my bias
6 is that I've just -- I've already made a decision without
7 hearing things, which is really unfair. Like if I was the
8 defendant, I would want someone who wasn't already decided
9 before even hearing my case. And I kind of already am.

10 MR. ROGAN: And you made your decision based upon
11 what?

12 PROSPECTIVE JUROR NUMBER 101: Just your partner who
13 spoke of the situation.

14 MR. ROGAN: All right. So is it fair to say that
15 you're biased in favor of the State of Nevada and against the
16 defendant?

17 PROSPECTIVE JUROR NUMBER 101: Yes.

18 MR. ROGAN: And you've already made up your mind
19 that he's guilty of first degree murder?

20 PROSPECTIVE JUROR NUMBER 101: Yes.

21 MR. ROGAN: You don't even -- you don't even know
22 what the elements of first degree murder are right now; right?

23 PROSPECTIVE JUROR NUMBER 101: Yeah. And it's
24 unfair. I'm -- I understand the point that you're getting at.
25 But yes.

1 MR. ROGAN: So is there any possibility that you
2 could wait until you hear all the evidence? I mean, there
3 might be something that comes in that sways your mind. Isn't
4 that fair to say?

5 PROSPECTIVE JUROR NUMBER 101: I think -- I think
6 you want me to say yes, but my answer is still kind of no.

7 MR. ROGAN: Okay. Nothing further, Your Honor.

8 THE COURT: Mr. Coffee?

9 MR. COFFEE: Judge, we would challenge for cause.

10 THE COURT: Challenge for cause granted.

11 Ma'am, thank you again for your honesty. Go down to
12 the third floor. They may have another trial they need you
13 on. Thank you very much.

14 Ms. Ruckle.

15 PROSPECTIVE JUROR NUMBER 102: Yes, ma'am.

16 THE COURT: Because of where you work I'm guessing
17 you think you might have a bias. Tell me a little bit about
18 that.

19 PROSPECTIVE JUROR NUMBER 102: I -- my father in the
20 CID for the Army, so I've heard a lot of stories from him
21 growing up. And then I went into law enforcement as a
22 civilian, and I talk at the officers. And basically in my
23 mind once you get to a certain point -- I know our officers do
24 a lot of hard work before they bring somebody in, so if you've
25 gotten this far, then case closed in my mind.

1 THE COURT: Even though you haven't heard any of the
2 evidence at all?

3 PROSPECTIVE JUROR NUMBER 102: I believe there's
4 murder of some sort. And whether it was, you know,
5 premeditated or anything like that I don't know. But
6 obviously there was a murder, and the police -- and to me it's
7 already closed my mind. It may be a different range of the
8 guiltiness, but there's guilt.

9 THE COURT: All right. Thank you.

10 Would the State like to inquire?

11 MR. ROGAN: That may be all that you're here to
12 decide, though. Do you understand that? You may not be here
13 to decide whether Mr. White did it. You may just be here to
14 decide whether this is a crime or whether it's first degree
15 murder or second degree murder, voluntary manslaughter or
16 involuntary manslaughter. Could you do that after listening
17 to all the evidence?

18 PROSPECTIVE JUROR NUMBER 102: Yeah, I could do
19 that.

20 MR. ROGAN: Okay. All right. But right now you
21 feel as though because the defendant was arrested that he must
22 have committed some crime.

23 PROSPECTIVE JUROR NUMBER 102: Correct.

24 MR. ROGAN: And there's no way to disabuse you of
25 that?

1 PROSPECTIVE JUROR NUMBER 102: Nope.

2 MR. ROGAN: So do you think that police sometimes

3 arrest people who turn out to be -- turn out to be innocent?

4 PROSPECTIVE JUROR NUMBER 102: Oh, yeah. Oh, yeah.

5 MR. ROGAN: Okay. And that could be the situation;

6 right?

7 PROSPECTIVE JUROR NUMBER 102: A 1 percent chance.

8 MR. ROGAN: Right. I mean, it's very few that that

9 actually happens; correct? So this could be that 1 percent

10 chance?

11 PROSPECTIVE JUROR NUMBER 102: It could be.

12 MR. ROGAN: And you have to wait and listen based

13 upon the evidence to determine whether in fact he is guilty or

14 innocent.

15 PROSPECTIVE JUROR NUMBER 102: That's correct.

16 MR. ROGAN: And you could do that?

17 PROSPECTIVE JUROR NUMBER 102: I could do that.

18 MR. ROGAN: All right. Nothing further.

19 THE COURT: Mr. Coffee.

20 MR. COFFEE: -- talk to you about one of the basic

21 precepts, innocent till proven guilty. You heard that.

22 PROSPECTIVE JUROR NUMBER 102: Yeah.

23 MR. COFFEE: We're playing a different game here,

24 though.

25 PROSPECTIVE JUROR NUMBER 102: Right. Right. I

1 know.

2 MR. COFFEE: The game you want to play is guilty
3 unless I can prove that he's innocent.

4 PROSPECTIVE JUROR NUMBER 102: Correct.

5 MR. COFFEE: So all things being out there, the
6 evidence comes to an end, it's kind of wishy-washy, we're not
7 sure, too bad, Mr. White, guilty. Is that kind of the
8 attitude that you've got?

9 PROSPECTIVE JUROR NUMBER 102: Well, with today's
10 technology, DNA and everything, it's kind of hard to -- I know
11 it's possible. Very remote. It's not like the '70s, you
12 know. But --

13 MR. COFFEE: You understand my point, though, which
14 is I'm going to have to prove that he's innocent to you, as
15 opposed to State having to prove it? It kind of shifts the
16 burden a little bit, doesn't it?

17 PROSPECTIVE JUROR NUMBER 102: It does.

18 MR. COFFEE: And if you were sitting in the spot
19 that Mr. White's sitting in, my guess is you probably wouldn't
20 want 12 jurors like yourself sitting on a panel judging you,
21 would you?

22 PROSPECTIVE JUROR NUMBER 102: Darn right. That's
23 why I'm letting you know.

24 MR. COFFEE: Judge, I can go further, if you'd like,
25 but we'd challenge for cause.

1 THE COURT: No. We appreciate your time.
2 Would you like to traverse?
3 MR. ROGAN: Can you be fair and impartial, ma'am?
4 PROSPECTIVE JUROR NUMBER 102: Yes, I can.
5 MR. ROGAN: And you heard Mr. Coffee talk about the
6 burden of proof.
7 PROSPECTIVE JUROR NUMBER 102: Yes.
8 MR. ROGAN: Do you know what that is right now?
9 PROSPECTIVE JUROR NUMBER 102: No, I understand what
10 it is. Right now -- the burden of proof right now is on you
11 guys to show that he did do it.
12 MR. ROGAN: And some people come in and they don't
13 know that, and they expect the defense to put up a case. And
14 that's not what the law says.
15 PROSPECTIVE JUROR NUMBER 102: Right.
16 MR. ROGAN: And you understand that?
17 PROSPECTIVE JUROR NUMBER 102: I understand.
18 MR. ROGAN: So if you're instructed that the burden
19 of proof is the State has to prove its case beyond a
20 reasonable doubt, will you do that?
21 PROSPECTIVE JUROR NUMBER 102: Yes.
22 THE COURT: Anything else?
23 MR. ROGAN: I'm sorry. One more thing, Judge.
24 And if you heard no evidence -- like right now
25 you've heard no evidence, what would your verdict be?

1 PROSPECTIVE JUROR NUMBER 102: With no evidence I
2 would say guilty.

3 MR. ROGAN: Why?

4 PROSPECTIVE JUROR NUMBER 102: Because I have a lot
5 of faith in the law enforcement community. It's not just one
6 person who made that decision to arrest him. Teams of people
7 made the decision to arrest him, and they have -- you know,
8 you don't just go arrest somebody on a whim. You have to have
9 evidence, you have to have information.

10 MR. ROGAN: And that leads to probable cause to
11 arrest; right?

12 PROSPECTIVE JUROR NUMBER 102: Yes.

13 MR. ROGAN: Okay. But right now we're determining
14 whether there's proof beyond a reasonable doubt that he
15 committed the offense. If you heard no evidence of that, what
16 would your verdict have to be now that you know what the
17 burden of proof is?

18 PROSPECTIVE JUROR NUMBER 102: Well, I'd have to say
19 not guilty.

20 MR. ROGAN: Thank you.

21 THE COURT: The challenge for cause I granted.

22 Thank you very much, ma'am, for your honesty. They
23 may have another jury that they need you to serve on.

24 MR. ROGAN: Thank you, Your Honor.

25 THE COURT: All right, guys. We're shooting for

1 1:30. My problem is I'm only going to fill seats back up to
2 12 until my jurors come back from lunch. And the Jury
3 Commissioner told them not to come back till 2:00, which
4 creates an issue for me, but I can start with the -- we can
5 start with the individual questioning. We have 12 spots in a
6 row that'll be -- wait. We have 14 spots in a row that will
7 have jurors sitting in them.

8 MR. COFFEE: Okay.

9 MR. COFFEE: Judge, does the Court do panel method,
10 or do we do individual voir dire?

11 THE COURT: I use a mixed method --

12 MR. COFFEE: Okay.

13 THE COURT: -- which is I'm going to ask a bunch of
14 questions -- well, not a bunch, but I will ask several
15 questions to the group which include the Potter's House issue,
16 the media coverage. I tried to sort of hit the media coverage
17 without asking it directly. But then Kevin has a card he
18 passes to each juror individually to give us a little bit of
19 background information from them. And so they will then tell
20 us a little bit about their education, employment, their
21 spouse and what kind of other stuff they've done, if they've
22 ever served on a jury. And then we may ask some additional
23 followups. I'm going to ask about their involvement with
24 either law enforcement, victims of crime, and things like
25 that, as well.

1 MR. COFFEE: Okay. And then when you turn it over
2 to us we can address the panel and focus down, or --
3 THE COURT: However you feel appropriate.
4 MR. COFFEE: Perfect.
5 MR. ROGAN: This might be a stupid question, but are
6 we qualifying for penalty?
7 THE COURT: There are no stupid questions.
8 MR. ROGAN: Are we qualifying for penalty, or is the
9 Court going to handle that?
10 THE COURT: I think you should.
11 What else?
12 MR. COFFEE: Nothing. I was going to say I think we
13 should.
14 THE COURT: I think you should. I'm not going to do
15 it.
16 Anything else?
17 MR. COFFEE: Thank you, Judge.
18 THE COURT: See you about 1:30, which is a little
19 more than a half hour. Maybe if you're here at 1:40 we'll be
20 okay, but I know the jurors won't all be here on time, because
21 they never are.
22 (Court recessed at 12:50 p.m., until 1:33 p.m.)
23 (Prospective jurors not present)
24 THE COURT: Anything outside the presence while we
25 wait for one missing juror?

1 MR. COFFEE: Not from the defense.

2 MS. MERCER: I'm sorry. What was the question, Your
3 Honor?

4 THE COURT: Anything outside the presence?

5 MS. MERCER: No.

6 THE COURT: Okay.

7 MR. ROGAN: I do have something just for the record.
8 I did run into Mr. Stubbs on the elevator. He started
9 speaking with me. I told him he was a panelist on our jury
10 and it was agreed to pick him. And he -- we stopped talking
11 at that point. But I just wanted to make that record.

12 THE COURT: I was glad he stopped talking to you at
13 that point.

14 MR. ROGAN: Well --

15 THE COURT: Soon as we get him up here with the next
16 group we'll handle that issue.

17 MR. ROGAN: Thank you.

18 (Pause in the proceedings)

19 THE COURT: Kevin, do I have all my people that are
20 left?

21 THE MARSHAL: Yes, Judge.

22 THE COURT: Bring them in and ask them to sit in the
23 chairs they were in before.

24 THE MARSHAL: Yes, Judge.

25 THE COURT: Thank you.

1 (Prospective jurors reconvened at 1:39 p.m.)
2 THE COURT: Counsel, you may be seated.
3 Ladies and gentlemen, thank you for coming back. If
4 I could ask Guy Haney, Badge Number 99, to go sit in Chair
5 Number 1 on the top row, please.
6 And Sarah Ingmanson, Badge Number 105, if you could
7 sit in Chair Number 5 on the top row.
8 Mark Thompson, Badge Number 107, if you could sit in
9 Chair Number 8 on the top row.
10 Robert O'Grady, Badge Number 109, if you could go
11 sit in Seat Number 9 on the top row.
12 Steven Oliai, Badge Number 110, if you could sit
13 Seat Number 10, please.
14 Wilfredo Navarro, if you could sit in Seat Number
15 11, Badge Number 111.
16 And Kevin Lieu, if you could come sit in Seat Number
17 12, which is the end on the second row here.
18 Now, ladies and gentlemen, you will see there are a
19 number of gaps in between you. We are waiting for our next
20 group of jurors to get back from the lunch break the Jury
21 Commissioner sent them on. As soon as they're back I'm going
22 to send you on a break while I do the introductory things that
23 we did with you and then fill in the spaces.
24 In the meantime, Kevin, do you have your microphone?
25 THE MARSHAL: I do, Judge.

1 THE COURT: And do you have your handy card? If you
2 would please hand your card to Mr. Haney.

3 Mr. Haney, you have -- are the guinea pig. This is
4 the easiest way I've found to find out background information
5 from jurors. So you have the microphone. If you could tell
6 us a little bit about yourself using the items on that card as
7 a guide. And if you miss anything, I'll follow up with you.

8 PROSPECTIVE JUROR NUMBER 99: I've lived in Clark
9 County for one and a half years. Before this I lived in
10 Omaha, Nebraska. I have a nursing degree, 20 years of
11 college. I am employed at St. Rose DeLima Hospital. I'm an
12 RN. I'm single. I don't have any children. I've not served
13 as a juror before. And I don't know of any reason why I
14 couldn't be completely fair and impartial.

15 THE COURT: Thank you, sir. If you would pass the
16 microphone to Ms. Means.

17 PROSPECTIVE JUROR NUMBER 063: My name is Debra
18 Means, and I've lived in Clark County for going on eight
19 years. We moved here from West Virginia. I have a -- I'm
20 sorry. I have a degree in cosmetology. At this time I'm not
21 employed. I had -- for 15 years had a wedding video business
22 that I did with my cousin back home. I'm married. I have
23 three children, and two of them live out here with us, and a
24 grandson. And they're both self employed, the ones that live
25 out here. My daughter is a manager at a Kroger. I have not

1 served on a jury before, and I have no reason why I can't be
2 fair or impartial.

3 THE COURT: Ma'am, you said you were married.
4 Before you pass the mike, what does your husband do for a
5 living?

6 PROSPECTIVE JUROR NUMBER 063: At this time he's
7 working for an HOA, but until a couple months ago he was
8 working for Caesars Palace until they did away with their
9 concierge department.

10 THE COURT: Okay. And I'm sorry. You said two of
11 your kids live out here with you and they're self employed.
12 What kind of work do they do?

13 PROSPECTIVE JUROR NUMBER 063: My son does booking
14 for nightclubs and things like that. He had previously worked
15 for a bigger company out here. And my other son is in real
16 estate. And then, like I said, my daughter's a manager at a
17 Kroger's, like a Smith's.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NUMBER 063: But she's not living
20 out here. She's still in West Virginia.

21 THE COURT: And you said you had one grandchild.
22 Does that grandchild still go to school, or do they w?

23 PROSPECTIVE JUROR NUMBER 063: Oh, he's a baby.

24 THE COURT: All righty.

25 PROSPECTIVE JUROR NUMBER 063: Yeah. He just turned

1 one.

2 THE COURT: And you have never served on a jury
3 before?

4 PROSPECTIVE JUROR NUMBER 063: No, ma'am.

5 THE COURT: Thank you. If you would please pass the
6 mike to Mr. Martin.

7 PROSPECTIVE JUROR NUMBER 064: I've lived here 29
8 years. I've just finished high school. I worked at Caesars
9 Palace in Facilities. I am married. My wife watches people's
10 animals while they go on vacation. She's a petsitter. I have
11 three kids. Two of them are still with me. The other one's
12 in the Coast Guard. I have not been selected to be on a jury
13 before. And, no, I don't know any reason why I won't be fair.

14 THE COURT: And you said you had three kids. One
15 was in the Coast Guard. What do the other two do?

16 PROSPECTIVE JUROR NUMBER 064: One of them just goes
17 to school and works part time at a shoe place. And my other
18 daughter works at Supreme Lobster.

19 THE COURT: Okay. Thank you. If you'd pass the
20 mike to Ms. Albietz.

21 PROSPECTIVE JUROR NUMBER 065: I've lived in Clark
22 County for 25 years. I have undergraduate in nursing and a
23 Masters degree in hospital administration. I am the CEO of a
24 hospital here in town, Kindred Hospital. And my late husband
25 was a Metro police officer. And so I'm widowed and not

1 married. I have two adult children. One lives in Scottsdale,
2 going to school at ASU, and sells State Farm Insurance. My
3 other son is also a student. He lives with me at the moment
4 and also goes to ASU aerospace engineering. And, yes, I've
5 served as a juror before several times, and, yes, a verdict
6 was reached, and I was not the foreperson. But I have other
7 criminal legal experience due to a situation with my husband.

8 THE COURT: Okay. Let's set that aside for a minute
9 and let's talk about your prior jury service.

10 PROSPECTIVE JUROR NUMBER 065: Yes.

11 THE COURT: Did you serve on any civil juries?

12 PROSPECTIVE JUROR NUMBER 065: It was criminal.

13 THE COURT: So how many times did you serve on
14 criminal juries?

15 PROSPECTIVE JUROR NUMBER 065: Once.

16 THE COURT: Okay. And would you be able to follow
17 the instructions I give you in this case even though they may
18 be different than the instructions you received in that case?

19 PROSPECTIVE JUROR NUMBER 065: Yes, ma'am.

20 THE COURT: All right. Before you pass the mike
21 tell me a little bit about your exposure to the criminal
22 justice system because of your husband's work.

23 PROSPECTIVE JUROR NUMBER 065: My husband was
24 actually killed by a drunk driver, and it was a long criminal
25 proceedings, and he was convicted of that crime and sent to

1 jail. And I was a witness in that case several times.

2 THE COURT: And did the Clark County District
3 Attorney's Office prosecute that case?

4 PROSPECTIVE JUROR NUMBER 065: Yes, ma'am, they did.

5 THE COURT: And that case was prosecuted here in
6 the Eighth Judicial District Court?

7 PROSPECTIVE JUROR NUMBER 065: Yes, ma'am, it was.

8 THE COURT: All right. We may ask you some more
9 questions about that in a minute. If you'd please pass the
10 mike.

11 And Ms. Ingmanson.

12 PROSPECTIVE JUROR NUMBER 105: Yes. Hi. I've lived
13 in Clark County for nine years. My undergraduate degrees are
14 in quantitative economics and international relations, and my
15 graduate degrees are in business administration and
16 international affairs. I'm currently partially employed. I
17 am a group fitness instructor at LVAC and U.S. Fitness. I was
18 recently laid off from Morgan Stanley. I am divorced. I do
19 not have any adult children. I have two smaller children, so
20 they do not work. One is in high school, and one is 11 months
21 old. I have served as a juror before, but it was in San
22 Francisco, where I lived prior to this. And it was a civil
23 case, and a verdict was reached.

24 THE COURT: Okay. Do you understand -- hold on a
25 second. Do you understand that the burden of proof in a civil

1 case is different than that in a criminal case?

2 PROSPECTIVE JUROR NUMBER 105: I understand that.

3 THE COURT: Will you be able to follow the
4 instructions I give you in this case?

5 PROSPECTIVE JUROR NUMBER 105: Yes.

6 THE COURT: All right. Sorry for interpreting you.
7 If you could keep going.

8 PROSPECTIVE JUROR NUMBER 105: I think that's -- I
9 was not the foreperson. There's nothing in that experience
10 that would affect my ability to sit here as a fair and
11 impartial juror. And I cannot think of any other reason why I
12 couldn't be a completely fair and impartial juror if selected.

13 THE COURT: What'd you do at Morgan Stanley?

14 PROSPECTIVE JUROR NUMBER 105: I was an investment
15 banker specializing in Japan.

16 THE COURT: Okay. Thank you very much. If you
17 could please pass the microphone to Mr. Leavelle.

18 PROSPECTIVE JUROR NUMBER 067: I've lived in Clark
19 County 20-plus years. I was second year CSN for international
20 business. I'm employed with Cornerstone Protection Services.
21 It like a security specialist, personal security, martial
22 arts. I am married. My wife is a respiratory therapist. We
23 have five children. They're home schooled, so they're not
24 adults yet. I've never served as a juror. I don't think --
25 there's not any reason that I couldn't be a completely fair

1 and impartial juror if I was selected.

2 THE COURT: What's your class schedule at CSN?

3 PROSPECTIVE JUROR NUMBER 067: I'm no longer --

4 THE COURT: Okay.

5 PROSPECTIVE JUROR NUMBER 067: I'm no longer

6 enrolled. I went up to the second year.

7 THE COURT: So you've finished that part of your

8 schooling?

9 PROSPECTIVE JUROR NUMBER 067: No. I'm going to go

10 back.

11 THE COURT: Oh. You're going to go back.

12 PROSPECTIVE JUROR NUMBER 067: Yes, ma'am.

13 THE COURT: Okay. But you're not going this

14 semester?

15 PROSPECTIVE JUROR NUMBER 067: No, ma'am.

16 THE COURT: All right. Thank you very much, sir.

17 If you could pass the mike.

18 Ms. Luciano.

19 PROSPECTIVE JUROR NUMBER 068: Hi. My name's Diane

20 Luciano. I've lived here my entire life. I was born and

21 raised, live in Henderson. If you want to know how many

22 years, I can tell you, but it's over 40. I just have my high

23 school diploma. I work for the Clark County School District.

24 I'm a senior claims examiner in the property, crime, and

25 liability section. I am divorced with two daughters. One is

1 a sophomore at the University of Arizona in Tucson, the other
2 one is a junior in high school. I have not served as a juror
3 before, and I see no reason why I couldn't be a completely
4 fair and impartial juror.

5 THE COURT: Thank you very much, ma'am. If you
6 could please pass the mike.

7 And you're Mr. Thompson?

8 PROSPECTIVE JUROR NUMBER 107: Yes.

9 THE COURT: Thank you, sir.

10 PROSPECTIVE JUROR NUMBER 107: My name is Mark
11 Thompson. I'm born and raised here. Lived here 43 years.
12 I'm just a high school graduate. I work for Century Link.
13 I've been with them for 21 years. I install phone systems for
14 business, government, Internet. I'm not legally married.
15 I've been domestically partnered for five years in a 14-year
16 relationship. No children. Never served as a juror before. I
17 don't know of any reason why I wouldn't be impartial.

18 THE COURT: And what kind of work does your domestic
19 partner do?

20 PROSPECTIVE JUROR NUMBER 107: He also works at
21 Century Link.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR NUMBER 107: He's a warehouse
24 supervisor.

25 THE COURT: All right. Thank you very much, sir.

1 If you'd please pass the mike to Mr. O'Grady.

2 PROSPECTIVE JUROR NUMBER 109: Oh. Robert O'Grady.
3 I've lived here 20 years. I do have a high school degree, one
4 year of college. And, fortunately, I retired two weeks ago,
5 so I'm unemployed. And been married for 42 years, and my
6 other half, she's a sales manager at a furniture store here in
7 town. And I have two adult children. One's in Colorado.
8 That's my son. And then my daughter lives out here with her
9 husband and a grandson. And I've never been on a jury before.
10 And I see no reason to where -- I've got nothing to be
11 impartial about.

12 THE COURT: Sir, what did you do before you retired?

13 PROSPECTIVE JUROR NUMBER 109: I was in the concrete
14 construction field. I was a dispatcher here in the valley for
15 20 years. The last two and a half I've been in California as
16 a batch man and dispatcher. And finally was time to give it
17 up.

18 THE COURT: All right. And then you said you have
19 two adult children who live in town. What do they do?

20 PROSPECTIVE JUROR NUMBER 109: One lives in Denver,
21 Colorado.

22 THE COURT: Oh. Okay.

23 PROSPECTIVE JUROR NUMBER 109: That's the oldest.
24 And my daughter lives here, her and her husband. She works
25 for a tax accounting firm in Henderson, and I hate to say it,

1 he's Metro, and my grandson's just a pain in the butt.

2 THE COURT: And your son who lives in Denver, what
3 kind of work does he do?

4 PROSPECTIVE JUROR NUMBER 109: He's a computer tech,
5 computer geek is what we call him.

6 THE COURT: Okay. Thank you very much, sir. If you
7 could please pass the mike. Thank you, sir.

8 PROSPECTIVE JUROR NUMBER 110: Yeah. I've lived in
9 Clark County for six years. Before that various parts of Los
10 Angeles, Glendora, Pasadena area and the San Fernando Valley,
11 as well. Some college. Never got a degree. Dropped out
12 senior year. Working for a software development company.
13 Been there for 16 years. I'm married. My wife is a cage
14 cashier. No kids. I've never been a juror. And I don't see
15 any reason why I wouldn't be impartial.

16 THE COURT: Before you pass the mike let me ask a
17 couple questions. You mentioned earlier that you had some
18 projects that were being worked on.

19 PROSPECTIVE JUROR NUMBER 110: Right.

20 THE COURT: If you're chosen to sit on the jury how
21 would that impact the work obligations you have?

22 PROSPECTIVE JUROR NUMBER 110: I would be working at
23 night.

24 THE COURT: So you'd have to go in to work and --

25 PROSPECTIVE JUROR NUMBER 110: I work from home.

1 THE COURT: -- work at night even though you were
2 chosen?

3 PROSPECTIVE JUROR NUMBER 110: Yeah. My company is
4 based in Atlanta. My home office is based in Pasadena. And I
5 work from home. So I would be working from my home office at
6 night.

7 THE COURT: So you'd go home, work on the projects
8 that you're trying to get finished until you finish whatever
9 hour that is --

10 PROSPECTIVE JUROR NUMBER 110: Uh-huh.

11 THE COURT: -- get whatever sleep you can, and then
12 come back in to us?

13 PROSPECTIVE JUROR NUMBER 110: That's correct.

14 THE COURT: Okay. Thank you, sir. If you could
15 please pass the mike.

16 PROSPECTIVE JUROR NUMBER 111: I'm Alfredo Navarro,
17 Number 111. I live here for seven years already. But I live
18 in San Francisco for around 25 years. I finish my degree as a
19 engineer, mechanical engineer. I'm retired already. I work
20 for Sheraton Fishermans Wharf for 25 years. I'm married for
21 40 years. My wife is an RN. We got two adult children, and I
22 got two grandson. I serve as a juror twice already in San
23 Francisco. I don't see any reason why I should be unfair, and
24 I think that's it.

25 THE COURT: Let me go back and ask you about your

1 kids. Your two adult kids, what kind of work do they do?

2 PROSPECTIVE JUROR NUMBER 111: My eldest, he lives
3 in San Francisco, and he also is a mechanical engineer and
4 work for Holiday Inn as stationary engineer, like me.

5 THE COURT: Okay. And then your other child?

6 PROSPECTIVE JUROR NUMBER 111: Oh. My other child
7 is here, and he's employed also as a -- what they call this
8 one -- x-ray tech.

9 THE COURT: Okay. And then you sat on a jury in San
10 Francisco two times?

11 PROSPECTIVE JUROR NUMBER 111: Two times already.

12 THE COURT: Did you do any civil cases, or were they
13 all criminal?

14 PROSPECTIVE JUROR NUMBER 111: I think it was
15 criminal, also.

16 THE COURT: Okay. So did you sit on one of each?

17 PROSPECTIVE JUROR NUMBER 111: Yeah.

18 THE COURT: Okay. Will you be able to follow the
19 jury instructions that I give you in this case even if they're
20 different from the instructions you received in San Francisco?

21 PROSPECTIVE JUROR NUMBER 111: I believe I could.

22 THE COURT: Okay. Thank you very much, sir. If you
23 could hand the mike to the marshal.

24 PROSPECTIVE JUROR NUMBER 112: Hi. My name is Kevin
25 Lieu, Badge Number 112. I've lived in Clark County for a

1 little bit over nine years. And before living here I was
2 living in Pasadena, California. I have a degree in nursing.
3 I'm currently working for a neurologist as the nurse, the
4 office manager, the technician, et cetera. And I am not
5 legally married, but I do have a domestic partner for eight
6 years. Don't have any children. And I have never served as a
7 juror before. And I don't see any reason why I couldn't be
8 fair or impartial.

9 THE COURT: And what kind of work does your domestic
10 partner do?

11 PROSPECTIVE JUROR NUMBER 112: Nail technician.

12 THE COURT: Okay. Thank you, sir. If you could
13 possess the mike to Ms. Tawatao. Did I get it close?

14 PROSPECTIVE JUROR NUMBER 075: Yes.

15 THE COURT: All right.

16 PROSPECTIVE JUROR NUMBER 075: My name is Rizza
17 Tawatao. 075. I've lived in Clark County for 19 years. I
18 used to live in San Diego. I am -- I have my Associates
19 degree in nursing. I'm currently at Nevada State College to
20 get my Bachelors degree. I am employed as an RN. I am a NICU
21 nurse. I am married. My husband is also a nurse. I don't
22 have any adult children. I have three children. Two are in
23 school, and a three-year-old. Never served as a juror. And I
24 don't have any reason why I can't be fair or impartial.

25 THE COURT: Okay. Let me ask you a couple

1 questions. You said you're going to Nevada State College to
2 get your Bachelors in nursing?

3 PROSPECTIVE JUROR NUMBER 075: Yes, ma'am.

4 THE COURT: What is your class schedule?

5 PROSPECTIVE JUROR NUMBER 075: I'm currently online,
6 but I am in my last semester, so I do have community service
7 hours that I need to do.

8 THE COURT: So there's not a set time you have to
9 sign in to take the classes?

10 PROSPECTIVE JUROR NUMBER 075: No, ma'am.

11 THE COURT: All right. And the community services
12 hours, when do you have to have those completed?

13 PROSPECTIVE JUROR NUMBER 075: I have to have them
14 completed before I believe the 26th of this month.

15 THE COURT: Okay. And how many more hours do you
16 have to go?

17 PROSPECTIVE JUROR NUMBER 075: I have -- I believe I
18 have three more scheduled dates with the American Lung
19 Association.

20 THE COURT: So are those 8-hour scheduled dates?

21 PROSPECTIVE JUROR NUMBER 075: They're 4 to 6 hours.

22 THE COURT: Okay. So three more sessions --

23 PROSPECTIVE JUROR NUMBER 075: Yes.

24 THE COURT: -- of volunteer service to do. And you
25 mentioned earlier you have a class at your employer that you

1 need to take. What is that class?

2 PROSPECTIVE JUROR NUMBER 075: It's the neonatal
3 resuscitation. I was recently on leave for two months, and
4 when I came back to sign up for the class I found out that
5 they only offer the class once a month now, which happens to
6 fall on April 17th. My other employer doesn't offer it until
7 April 30th, but my primary employer is requiring me to have it
8 done by the 23rd.

9 THE COURT: Okay. And how many hours is that class?

10 PROSPECTIVE JUROR NUMBER 075: It is three hours.
11 It's a recertification for neonatal resuscitation.

12 THE COURT: And when during the day does that class
13 go?

14 PROSPECTIVE JUROR NUMBER 075: It's between -- it's
15 scheduled for 9:00 to 12:00.

16 THE COURT: And which hospital does your husband
17 work at?

18 PROSPECTIVE JUROR NUMBER 075: Valley Hospital.

19 THE COURT: All right. Thank you. If you could
20 please pass the microphone to Mr. Bosshardt.

21 PROSPECTIVE JUROR NUMBER 076: I'm a native Las
22 Vegas. I've lived here 63 years. I went to high school. No
23 college. I'm retired. I worked as an engineer at Caesars
24 Palace, and 20 years as a pipefitter. I am married. My wife
25 works for the School District. She works for the juvenile

1 court system.

2 THE COURT: So is she in the truancy program?

3 PROSPECTIVE JUROR NUMBER 076: Yes.

4 THE COURT: Thank you.

5 PROSPECTIVE JUROR NUMBER 076: I have one daughter.

6 She's a schoolteacher, [unintelligible] Downey. I've never
7 served as a juror before. And there's no reason why I would
8 be impartial [inaudible].

9 THE COURT: All right. Thank you very much, sir.

10 And you're Mr. Reid?

11 PROSPECTIVE JUROR NUMBER 081: Yes, sir, I am.

12 THE COURT: All right.

13 PROSPECTIVE JUROR NUMBER 081: I was born and raised
14 in Clark County. I only went through high school. Employed.
15 I'm a UPS driver. I am married. My wife is a homemaker. We
16 have three kids, two are in school, and one stays at home. I
17 have served as a juror one time. A criminal case. Yes, they
18 reached a verdict. I was not the foreperson. And I don't see
19 any reason I wouldn't be fair or impartial.

20 THE COURT: Okay. And is there anything about the
21 instructions that were given in that case that would cause you
22 to believe you couldn't follow the instructions I give you in
23 this case?

24 PROSPECTIVE JUROR NUMBER 081: No.

25 THE COURT: All right. Thank you, sir. If you

1 could please pass the mike to Mr. Hendricks.

2 PROSPECTIVE JUROR NUMBER 082: Yeah. Juror Number
3 82. And just with respect to the Court, I contacted my
4 employer while I was on break, and they don't pay while we
5 serve. I work for Preventative Pest Control.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NUMBER 082: I've lived in Clark
8 County for over 20 years. Undergrad was in accounting. Like
9 I said, I'm employed for a pest control company. I also do
10 marketing for a startup company. I am divorced. I do not
11 have any children. I've never served on a jury before. And
12 there's no reason why I would be -- not be impartial or not be
13 fair if I was selected in the case.

14 THE COURT: Thank you very much, sir.

15 PROSPECTIVE JUROR NUMBER 082: You're welcome.

16 THE COURT: And are you Ms. Bonilla?

17 PROSPECTIVE JUROR NUMBER 084: Yes.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NUMBER 084: Okay. Jury 0084.
20 I've lived here for approximately 10 years. I moved from
21 Vista, Georgia. I have three and a half years in college for
22 business administration. I go online, so I won't miss
23 anything. I am employed. I work for MGM Resorts as a
24 manager. I do have a domestic partner. I have two children
25 that are not in school, they're three and four. And I've

1 never been a juror. I don't see any reason that I won't be
2 fair or impartial.

3 THE COURT: What kind of work does your domestic
4 partner do?

5 PROSPECTIVE JUROR NUMBER 084: He's a bellman.

6 THE COURT: Okay. And what area do you manage for
7 MGM Resorts?

8 PROSPECTIVE JUROR NUMBER 084: I'm housekeeping.

9 THE COURT: Okay. Thank you, ma'am. Can you pass
10 the mike to Mr. Bosnic -- or, I'm sorry. Mr. Rodriguez.
11 Sorry.

12 PROSPECTIVE JUROR NUMBER 087: Juror Number 087.
13 I've lived in Clark County for nine years. Before moving here
14 I lived in California. I have some college under me, three
15 semesters. I am employed. I work at David Wilson's Las Vegas
16 Toyota. I asked them, as well. They don't pay my -- for me
17 being here. I'm not married. I do not have any children, I
18 hope. And I have never served as a juror before.

19 THE COURT: Any reason you couldn't be fair and
20 impartial, sir?

21 PROSPECTIVE JUROR NUMBER 087: No.

22 THE COURT: Okay. You mentioned earlier that it's
23 hard for you to look at evidence, but you listen to it, you
24 hear orally, but not visually.

25 PROSPECTIVE JUROR NUMBER 087: Yes.

1 THE COURT: Can you tell me a little bit about that.

2 PROSPECTIVE JUROR NUMBER 087: I kinda just -- when
3 I hear something I kind of [inaudible]. I'm easily persuaded
4 or indecisive about things, so [inaudible] beneficial to the
5 case or anything like that. [Inaudible].

6 THE COURT: So if we have a bunch of different
7 people come and testify from the witness stand are you going
8 to be able to listen to all of them?

9 PROSPECTIVE JUROR NUMBER 087: Probably not.

10 THE COURT: Okay. Why not?

11 PROSPECTIVE JUROR NUMBER 087: Like I said, I'm
12 really indecisive. I'll probably listen and then I'll this
13 kind of has a good point, this kind of has a good point, and
14 won't be able to like, oh, this is right, this is wrong.

15 THE COURT: Okay. Thank you very much, sir. If
16 you'd hand the microphone to the marshal, please, who will
17 then take it down to Mr. Bosnic.

18 PROSPECTIVE JUROR NUMBER 089: My name is Zoran
19 Bosnic, Badge Number 089. I live in Clark County for 21 year.
20 Before that formerly Yugoslavia, or exactly Bosnia
21 [unintelligible]. I got a college degree, three years over
22 there in Europe. I work now for Monte Carlo for 18 years as a
23 bellman. I'm married, no kids. She works at the Sam's Club
24 maintenance. Never served as a juror. And not any reason to
25 be unfair or impartial.

1 THE COURT: Thank you very much, sir. If you'd
2 please pass the microphone.

3 And Mr. Rodriguez.

4 PROSPECTIVE JUROR NUMBER 090: Yes. My badge number
5 is 090. I live in Clark County for about 13 years. Before
6 that I live in Mexico. I have an Associates degree in
7 automotive technology. I'm an automotive technician at
8 Carmax. There for like three years. I'm marry. And I have a
9 seven-months daughter. And I never serve as a juror before.
10 And I don't have any reason why I could be completely fair and
11 impartial juror if settled in this case.

12 THE COURT: And, sir, are you aware of whether
13 Carmax pays while you're on jury duty?

14 PROSPECTIVE JUROR NUMBER 090: I'm not sure about
15 it, but I'm pretty sure they don't pay for it.

16 THE COURT: Okay. We're going to take a break now,
17 because I have my next group of jurors up here. While we're
18 on our break could you please call your HR department, Mr.
19 Rodriguez, and find out if they pay.

20 PROSPECTIVE JUROR NUMBER 090: Yes, I'll call them.

21 THE COURT: All right. During this recess you're
22 admonished not to talk or converse among yourselves or with
23 anyone else on any subject connected with this trial, or read,
24 watch, or listen to any report of or commentary on the trial
25 or any person connected with this trial by any medium of

1 information, including, without limitation, social media,
2 texts, newspapers, television, the Internet, and radio, or
3 form or express any opinion on any subject connected with the
4 trial until the case is finally submitted to you.

5 John's going to switch with Kevin, so Kevin's going
6 to take you outside for a short break, a restroom break. If
7 you would like to go downstairs and get some coffee, the
8 cafeteria down there is open until 3:00 o'clock. Please come
9 right back up, because Kevin's going to have you sit in the
10 courtroom next door so that you're in a more comfortable
11 location than the hallway. So we'll see you in a little bit.

12 (Prospective jurors recessed at 2:12 p.m.)

13 (Pause in the proceedings)

14 THE COURT: Do you want me to let Mr. Stubbs know
15 he's excused as soon as we've taken roll?

16 MR. ROGAN: Yes, please.

17 THE COURT: All right.

18 (Pause in the proceedings)

19 (Second batch of prospective jurors is present)

20 THE COURT: Counsel, you can be seated.

21 We are waiting on one more, Kevin. So when they
22 come in just stick them at the end there.

23 Good afternoon, ladies and gentlemen. First I want
24 to apologize for the delay in getting to you. And for those
25 of you sitting in the really uncomfortable chairs I apologize

1 for the condition of my courtroom. I have been unable to get
2 it put back together after CityCenter. They were able to rip
3 it apart to try that case, but they can't get it back
4 together. So I apologize.

5 My name is Elizabeth Gonzalez, and I am the
6 presiding judge here in Department 11 of the Eighth Judicial
7 District Court.

8 This is the time set for the trial of Case Number
9 C-286357, State of Nevada versus Troy Richard White. The
10 record will reflect the presence of the defendant, his
11 counsel, counsel for the State, and all officers of the court.

12 Are the parties ready to proceed?

13 MS. MERCER: Yes, Your Honor.

14 MR. COFFEE: Court's indulgence.

15 THE COURT: Yes.

16 MR. COFFEE: Just a logistical accommodation.

17 THE COURT: It's okay.

18 (Pause in the proceedings)

19 MR. COFFEE: Ready to proceed, Judge.

20 THE COURT: Are the parties ready to proceed?

21 MR. COFFEE: Yes.

22 MS. MERCER: Yes, Your Honor.

23 THE COURT: Thank you.

24 Ladies and gentlemen, let me take this opportunity
25 to introduce the court staff with whom you may be coming into

1 contact. To my far left is Jill Hawkins. She is the court
2 recorder. She takes down everything that occurs on an audio-
3 video digital recording system. For that reason it is very
4 important that if you need to answer a question that you give
5 me the last three digits of your badge number, as well as your
6 name. That way if she ever has to make a transcription of
7 what actually happened in the courtroom she will be able to
8 properly identify the individual speaking.

9 To my near left is Dulce Romea. She is the court
10 clerk. She swears the witnesses, marks exhibits, keeps track
11 of the evidence, and prepares the official record of the
12 court.

13 Kevin Eckhardt is the marshal, and John is our
14 marshal from next door. They are the individuals with whom
15 you will be having the most contact during this trial.

16 On behalf of the State could you please introduce
17 yourself, your co-counsel, make a brief statement of the
18 nature of the case, and state the names of the witnesses you
19 anticipate will be called.

20 MS. MERCER: Yes. Thank you, Your Honor.

21 Good afternoon, ladies and gentlemen. My name is
22 Chief Deputy District Attorney Liz Mercer. My co-counsel is
23 Chief Deputy District Attorney Jeff Rogan. We represent the
24 State of Nevada in State of Nevada versus Troy White.

25 The crimes alleged in this case occurred at 325

1 Altimira. That is in a neighborhood off of Alta between
2 Buffalo and Rainbow.

3 The specific allegations in this case are that on
4 July 27th of 2012 the defendant, Troy White, went to the home
5 of -- well, it was the family home at some point. But he and
6 his wife were separated. The wife was in the home on the date
7 of the offense with the five children and her new boyfriend.

8 On July 27th, 2012, he's alleged to have gone to the
9 home and shot and killed Echo White. And for that he is
10 charged with murder with use of a deadly weapon.

11 In addition, he shot Joseph Averman, and for that
12 crime he's charged with attempt murder with use of a deadly
13 weapon.

14 Both of those crimes were committed in front of the
15 five children that were in the home at the time of the
16 offenses, and for those facts he is charged with child abuse
17 and neglect or endangerment as to each of the children.

18 In addition, he was in possession of a concealed
19 firearm just before this offense and when he entered the home.
20 For that he is charged with carrying a concealed weapon.

21 The witnesses that the State may call, you're not
22 likely to hear from all of these people, but please listen
23 closely to their names to see if you recognize any of them.
24 Joseph Averman; Jayce White; Jodey White; Robert Wilson; Wanda
25 Wilson; Amber Gaines; Mike Gaines; Fernando Diaz; Shayna

1 Break, she's with the Yavapai County Sheriff's Office in
2 Prescott, Arizona; James Jaeger, he's also with the Yavapai
3 County Sheriff's Office; Herman Allen; Michael Montalto;
4 Bradley Marshall; Clyde Bentley, also with the Yavapai County
5 Sheriff's Office; Lieutenant Bolt, also with that office.

6 The local law enforcement witnesses that you may
7 hear from are with the Las Vegas Metropolitan Police
8 Department and include Homicide Detective Travis Ivey; Patrol
9 Officer David Herwitz; Patrol Officer Darren Martine; Patrol
10 Officer Matthew O'Brien; Patrol Officer Michael Tortuously;
11 Sergeant John Scott, who at the time of this offense was on
12 the Homicide Unit, as well; Chris O'Brien, who was at the time
13 assigned to the Homicide Unit as detective, but is now a
14 sergeant; Detective Matthew Gillis; and Detective Tate
15 Sanborn. Both of them are with the Homicide Unit, as well.

16 In addition, you may hear from several crime scene
17 analysts employed by the Las Vegas Metropolitan Police
18 Department. Their names include Terry Martin, Louise Renhart,
19 Jeffrey Scott, Danielle -- and I'm going to spell her last
20 name, because I have a really difficult time pronouncing it,
21 and it's C-A-R-V-O-U-N-I-A-R-I-S, Tracy Kruze, formerly Tracy
22 Brown, Jennifer Riner, Moretta McIntire, and Jay Smith.

23 You may also hear from some people who are employed
24 with the Forensics Lab at Metro, and they include Julie
25 Marchiner, who is a DNA analyst; Ana Lester, formerly Ana

1 Sago, she is a firearms examiner; Marnie Carter, she is in
2 Latent Print Detail; and Brad Burghius, who was at the time a
3 computer forensics person, he analyzed cell phones, computers,
4 things of that nature. He's now assigned to the airport.

5 Last you will hear from Dr. Lisa Gavin. She is with
6 the Clark County Medical -- Clark County Coroner's Office, and
7 she's employed as a medical examiner.

8 THE COURT: Thank you.

9 On behalf of the defense please introduce yourself,
10 your co-counsel, your client, make a brief statement of the
11 case, and identify any additional witnesses you intend to
12 call.

13 MR. COFFEE: Thank you, Judge.

14 Good afternoon, ladies and gentlemen. This is Troy
15 White. My co-counsel is David Lopez-Negrete, and I am Scott
16 Coffee.

17 You've heard a bit about what the State expects to
18 present. We expect this is going to be a case where you're
19 going to see that Mr. White was a dedicated family man,
20 somebody willing to do anything he could to save his family,
21 that his wife had taken up with one of his best friends, and
22 eventually his emotions got the better of him. It's not a
23 case of murder. We're going to be arguing this is a case of
24 heat of passion.

25 We've got some witnesses we're going to call. Mr.

1 Negrete's going to read those in just a moment. The State
2 gave you a list of witnesses --

3 PROSPECTIVE JUROR NUMBER 122: Argue that it's a
4 case of what?

5 MR. COFFEE: The heat of passion.

6 PROSPECTIVE JUROR NUMBER 122: Oh.

7 MR. COFFEE: Heat of passion.

8 PROSPECTIVE JUROR NUMBER 122: Thank you.

9 MR. COFFEE: Yes.

10 Mr. Negrete's going to read those. In addition to
11 anything that he reads we might call some of the witnesses
12 that the State listed, and we're going to ask those witnesses
13 questions. I'm going to let Mr. Negrete read the additional
14 witnesses now.

15 MR. LOPEZ-NEGRETE: Thank you.

16 Sam Bakke, Rachel Brooks, Dena Cabral, John Dumas,
17 Pete Gullo, Melissa Henderson, Tim Henderson, Dorothy Long,
18 Joanna Rens, Cory Robinson, Misty Todd, and Terry Todd.

19 THE COURT: Thank you.

20 Ladies and gentlemen, the clerk is now going to call
21 the roll of the panel of prospective jurors. When your name
22 is called if you will please answer "present" or "here." And
23 I apologize in advance if we mispronounce your name. Please
24 feel free to correct us.

25 (Prospective juror roll called)

1 THE COURT: Any of my prospective jurors, did we not
2 call your name? And your name is, Miss?

3 PROSPECTIVE JUROR NUMBER 126: Jesenia Coomer.

4 THE COURT: And you're Badge Number 126?

5 PROSPECTIVE JUROR NUMBER 126: 126.

6 THE COURT: Thank you.

7 Would you all please rise and raise your right hand.

8 (Prospective jury panel sworn)

9 THE COURT: Thank you. You may be seated.

10 Ladies and gentlemen, we are about to commence the
11 jury selection process. During this process you will be asked
12 questions bearing upon your ability to sit as a fair and
13 impartial juror in this particular case. To accomplish this I
14 will ask you some questions and counsel for both parties will
15 have the opportunity to ask you questions. On occasion some
16 of the questions may seem somewhat personal. I will tell you
17 they're not intended to embarrass you. They are simply to
18 insure that the jury that's actually selected in this case is
19 one that can serve fairly and impartially. If for any reason
20 you believe that the answer to a particular question needs to
21 be given in private, please let me know, and we will try and
22 accommodate your request.

23 It important you know the significance of full,
24 complete, and honest answers to all the questions we are about
25 to ask you. Please do not try to hide or withhold anything

1 which might indicate bias or prejudice of any sort. If you
2 fail to answer truthfully or if you hide or withhold anything
3 touching upon your qualifications, that fact may tend to
4 contaminate your verdict.

5 I'm going to conduct a general examination of all of
6 you, and then I'm going to combine you with my group of jurors
7 who we've been talking to since this morning.

8 At some point during the process of selecting a jury
9 the attorneys will have the right to ask that a particular
10 person not serve as a juror. This process is called a
11 challenge. Please do not be upset if you are excused by one
12 of the challenge processes. It is simply part of our system
13 to insure that everyone is confident that the jury that is
14 actually seated in this case is one who can serve fairly and
15 impartially.

16 Remember, if you wish to respond to a question, it's
17 important you give me the last three digits of your badge
18 number. If you forget, I will try and remind you.

19 First, has anyone in my group of jurors been
20 convicted of a felony?

21 Seeing no hands, I have a universally negative
22 response.

23 Is anyone in my group of jurors not a United States
24 citizen?

25 Seeing no hands, I have a universally negative