

IN THE SUPREME COURT OF THE STATE OF NEVADA

No. 82886

Electronically Filed
Sep 20 2021 04:09 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

JOSHUA BACHARACH

Appellant,

v.

THE STATE OF NEVADA

Respondent.

Appeal from a Denial of Petition for Writ of Habeas Corpus (Post-Conviction)
Eighth Judicial District Court, Clark County
The Honorable Cristina D. Silva, District Court Judge
District Court Case No. C-14-299425-1

**APPELLANT'S APPENDIX
VOLUME I**

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By /s/ Jan Ellison
An Employee of Oronoz & Ericsson, LLC

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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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CLERK OF THE COURT

BEFORE THE GRAND JURY IMPANELED BY THE AFORESAID
DISTRICT COURT

THE STATE OF NEVADA,)
)
Plaintiff,)
)
vs.)
JOSHUA W. BACHARACH, aka Joshua)
William Bacharach,)
)
Defendant.)
_____)

GJ No. 14AGJ025X
DC No. C299425

Taken at Las Vegas, Nevada
Tuesday, July 15, 2014
2:23 p.m.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Reported by: Danette L. Antonacci, C.C.R. No. 222

1 GRAND JURORS PRESENT ON JULY 15, 2014

2

3 CHRIS DATZER, Foreperson

4 PATRICIA HESS, Secretary

5 JEFFREY BARGERHUFF

6 GARLAND BASSFORD

7 JAMES DOBEY

8 DEBORAH FREDERICKSON

9 TYLER GUTIERREZ

10 ROBERT HOLLAND

11 CYNTHIA LEIGH

12 LEAH MARIE OHANIAN

13 TARRY SAWYERS

14 GARRY SELBY

15 ROBERT SMITH

16 GLEN STEVENS

17 CATHLEN ZARKO

18

19 Also present at the request of the Grand Jury:

20

21 Megan Thomson,
22 Chief Deputy District Attorney

23

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1 LAS VEGAS, NEVADA, JULY 15, 2014

2 * * * * *

3
4 DANETTE L. ANTONACCI,

5 having been first duly sworn to faithfully
6 and accurately transcribe the following
7 proceedings to the best of her ability.
8

9 MS. THOMSON: The next witness is Eufrazia
10 Nazaroff.

11 And for the record we're on Bacharach.

12 THE FOREPERSON: Would you please raise
13 your right hand.

14 You do solemnly swear the testimony you are
15 about to give upon the investigation now pending before
16 this Grand Jury shall be the truth, the whole truth, and
17 nothing but the truth, so help you God?

18 THE WITNESS: Yes.

19 THE FOREPERSON: You can have a seat.

20 You are advised that you are here today to
21 give testimony in the investigation pertaining to the
22 offenses of attempt murder with use of a deadly weapon,
23 discharge of a firearm from or within a structure or
24 vehicle, assault with a deadly weapon, stop required on
25 signal of police officer, resisting public officer with

1 use of a firearm, possession of a firearm with altered
2 or obliterated serial number, possession of a firearm by
3 ex-felon, involving Mr. Joshua Bacharach.

4 Do you understand this advisement?

5 THE WITNESS: Yes.

6 THE FOREPERSON: Please state your first
7 and last name and spell both for the record.

8 THE WITNESS: Eufrasia Nazaroff.

9 E-U-F-R-A-S-I-A, N-A-Z-A-R-O-F-F.

10 THE FOREPERSON: Thank you, ma'am.

11 EUFRASIA NAZAROFF,

12 having been first duly sworn by the Foreperson of the
13 Grand Jury to testify to the truth, the whole truth,
14 and nothing but the truth, testified as follows:

15

16 EXAMINATION

17

18 BY MS. THOMSON:

19 Q. Good afternoon, ma'am. You know an
20 individual by the name of Joshua Bacharach; correct?

21 A. Yeah.

22 Q. And he is the father of one or more of your
23 children; is that correct?

24 A. Yes.

25 Q. On June 26th did you own or do you now own

1 a Dodge Intrepid?

2 A. Yes.

3 Q. Is it maroon?

4 A. Yes.

5 Q. On June 26th were there any damages to that
6 vehicle?

7 A. No.

8 Q. Do you own any guns?

9 A. No.

10 Q. And you don't have any guns in the house
11 with the kiddos?

12 A. No.

13 Q. Do you recall on June 26th giving the keys
14 to your Dodge Intrepid to Joshua to use the car?

15 A. Yes.

16 Q. And you have not gotten that vehicle back
17 since then; is that correct?

18 A. No.

19 Q. And would it be fair to say that it was
20 about 8:30 at night that you gave him the keys?

21 A. Yeah. I think it was before.

22 Q. Showing you what has been marked as Grand
23 Jury Exhibit Number 2. Is this the person that you know
24 as Joshua?

25 A. Yes.

1 Q. Okay. Do you recall what he was wearing
2 when you gave him the keys?

3 A. I don't remember. I think it was a yellow
4 shirt. I don't remember.

5 Q. That's fair.

6 I have no further questions of this
7 witness. Do any members of the Grand Jury have any
8 questions?

9 THE FOREPERSON: By law, these proceedings
10 are secret and you are prohibited from disclosing to
11 anyone anything that has transpired before us, including
12 evidence and statements presented to the Grand Jury, any
13 event occurring or statement made in the presence of the
14 Grand Jury, and information obtained by the Grand Jury.

15 Failure to comply with this admonition is a
16 gross misdemeanor punishable by a year in the Clark
17 County Detention Center and a \$2,000 fine. In addition,
18 you may be held in contempt of court punishable by an
19 additional \$500 fine and 25 days in the Clark County
20 Detention Center.

21 Do you understand this admonition?

22 THE WITNESS: Yes.

23 THE FOREPERSON: Thank you. You are
24 excused.

25 THE WITNESS: Do we know when I'm getting

1 my car back? No? Okay. Just wanted to know.

2 MS. THOMSON: The next witness is Ricardo
3 Quesada.

4 THE FOREPERSON: Would you please raise
5 your right hand.

6 You do solemnly swear the testimony you are
7 about to give upon the investigation now pending before
8 this Grand Jury shall be the truth, the whole truth, and
9 nothing but the truth, so help you God?

10 THE WITNESS: Yes.

11 THE FOREPERSON: You can have a seat.

12 You are advised that you are here today to
13 give testimony in the investigation pertaining to the
14 offenses of attempt murder with use of a deadly weapon,
15 discharge of a firearm from or within a structure or
16 vehicle, assault with a deadly weapon, stop required on
17 signal of police officer, resisting public officer with
18 use of a firearm, possession of a firearm with altered
19 or obliterated serial number, possession of a firearm by
20 ex-felon, involving Mr. Joshua Bacharach.

21 Do you understand this advisement?

22 THE WITNESS: Yes, I do.

23 THE FOREPERSON: Please state your first
24 and last name and spell both of them for the record.

25 THE WITNESS: My name is Ricardo Quesada.

1 R-I-C-A-R-D-O, Q-U-E-S-A-D-A.

2 THE FOREPERSON: Thank you.

3 RICARDO QUESADA,

4 having been first duly sworn by the Foreperson of the
5 Grand Jury to testify to the truth, the whole truth,
6 and nothing but the truth, testified as follows:

7

8 EXAMINATION

9

10 BY MS. THOMSON:

11 Q. Good afternoon. Is it okay if I call you
12 Ricardo?

13 A. Yes, it is.

14 Q. And how old are you, Ricardo?

15 A. I'm 12 years old.

16 Q. You understand the difference between the
17 truth and a lie?

18 A. Yes, I do.

19 Q. And you understand the importance of
20 telling the truth, right?

21 A. Yes.

22 Q. And that's basically what this gentleman
23 has just told you, you have to tell the truth while
24 you're here.

25 A. Okay.

1 Q. Any problem with that?

2 A. No.

3 Q. Okay. Directing your attention back to
4 June 26th. So just little, about a month ago. Were you
5 at home with your family on that date at about 9:00 or
6 10:00 p.m. sitting eating cereal?

7 A. Yes, I was.

8 Q. And at that time did you live in a home on
9 El Tovar?

10 A. Yes, I did.

11 Q. And while you were eating cereal did you
12 hear something that caught your attention?

13 A. Yes. I heard three specific gunshots that
14 I possibly thought they could be fireworks but they
15 sound so much different from a firework, they sound like
16 a gunshot.

17 Q. And when you heard those what did you do?

18 A. I went to my kitchen window and saw outside
19 and I saw this man wearing pure white running towards
20 opposite street that my house was in.

21 Q. And while he was running could you see if
22 he had anything in his hands?

23 A. No, but I did see on his pocket this case
24 for a gun.

25 Q. And when he was running, did he keep

1 running or did he stop at some point?

2 A. He kept running. And then that's when my,
3 I told my sister to get down and we ran to my dad's room
4 and I told him I think someone might be shooting outside
5 and he got up and we looked out his window and we saw
6 the man going in front of a truck and pointing a gun
7 back.

8 Q. When you say we saw, are you, did your dad
9 tell you what he saw or did you actually see it too?

10 A. I saw it.

11 Q. Okay. And the truck that you saw the man
12 in front of, did you recognize that truck?

13 A. Yes, it was my neighbor's truck. He
14 usually parks it there.

15 Q. Do you recall what color truck that was?

16 A. It was a white truck.

17 Q. Okay. Showing you Grand Jury Exhibit
18 Number 3. Down in the very corner, can you tell if
19 that's the truck?

20 A. Yes, it is.

21 Q. Okay. So you said you saw the man in front
22 of the truck. Is that near the hood of the truck?

23 A. Yes, it is.

24 Q. Is that where the truck was parked when you
25 saw the man?

1 A. Yes, it was.

2 Q. And this photo was taken during daytime.

3 Was it nighttime when you saw it though?

4 A. Yes.

5 Q. Was there enough light from streetlights
6 that you could see what was going on outside?

7 A. Yes. And in fact he was wearing pure white
8 so it was really easy to see him.

9 Q. When he was in front of the truck could you
10 see what he was doing?

11 A. He was pointing a gun like this.

12 Q. And you've described holding it with a
13 right hand and sort of bracing underneath?

14 A. Yes.

15 Q. With his arms stretched out?

16 A. Yes.

17 Q. And what direction, to the left or to the
18 right, was he pointing the gun?

19 A. To the right.

20 Q. Okay. And we're talking about of the
21 photo, right?

22 A. Yes.

23 Q. So that would have been back towards the
24 intersection there?

25 A. Yes.

1 Q. Okay. Now could you see anyone else other
2 than that man when he was pointing the gun backwards?

3 A. No, I could not.

4 Q. What did you see him do next if anything?

5 A. When he pointed back, I think he was
6 looking back to the police or seeing if anyone was back,
7 and when he didn't see nobody he started running
8 forwards again, the direction he was going to.

9 Q. After he started running forwards again did
10 you see anyone else?

11 A. No, I did not. That's when my parents, my
12 dad told me to get down.

13 Q. What made you think that he was looking
14 back at police?

15 A. I didn't know at the beginning but then
16 when I heard the police sirens going by.

17 Q. Did you see police arrive sometime later?

18 A. Yes.

19 Q. And when they came later was the truck
20 still there?

21 A. Yes, it was.

22 Q. Had you seen where the man ran to?

23 A. Technically where, exactly he was going
24 straight but he was running at the beginning and when,
25 that's when he told, my dad told us to get down.

1 Q. You indicated the man was wearing white.

2 Do you remember if he was in pants or shorts?

3 A. Pants.

4 Q. And do you remember if he was carrying
5 anything?

6 A. I'm not a hundred percent sure but I think
7 I had a bag that was white.

8 Q. Was there anything about the way he looked
9 that was notable to you?

10 A. His hair.

11 Q. What about his hair was notable?

12 A. It was pretty big, kind of like a girl's
13 hair but blond, yeah.

14 Q. You said his hair was blond?

15 A. Yes.

16 Q. And like a girl's hair, does that mean it
17 was curly or does it mean it was long?

18 A. Straight, yes.

19 Q. How long was it about?

20 A. Like a little bit bigger than to the end of
21 your neck.

22 Q. So just a little bit past the shoulder
23 maybe?

24 A. Yes.

25 Q. Did you see anyone -- well, let me rephrase

1 that. I'm sorry.

2 After your dad told you to get down, at
3 some point you got up off the floor, right?

4 A. Yes.

5 Q. After you got up, did you ever see anyone
6 that night who you thought was the same person?

7 A. Uhm, at the end yes when a police came up
8 to me and he told me if I had seen anything. I told him
9 what I saw. And then he said if it was a man in yellow
10 that we just caught. So I wasn't a hundred percent
11 sure, but he had a sweater on, so I didn't know what he
12 had under. And he pointed back to a person, the person
13 that he caught, and he had the exact same hair as the
14 person that I saw.

15 Q. Okay. So the person who had the sweater
16 on, is that the man that you saw in front of the truck
17 or was that a detective or the officer?

18 A. In front of the truck.

19 Q. And so you were saying you didn't know what
20 he might have had underneath the sweater?

21 A. Yes.

22 Q. And the person that you saw when the
23 officer pointed at him, you recognized the hair?

24 A. Yes.

25 Q. Is it fair to say you weren't able to see

1 his face or --

2 A. No, he was turned back because he was
3 cuffed and he, I saw his exact same hair. My dad
4 pointed back it was that guy.

5 Q. And when you saw the person with the same
6 hair, he was in a different shirt than you had seen
7 last; is that right?

8 A. Yes.

9 MS. THOMSON: I don't have any further
10 questions of this witness. Do members of the Grand Jury
11 have any questions?

12 BY A JUROR:

13 Q. Yeah, I've got one. Would you, Ricardo,
14 would you mind pointing out which house you lived on in
15 that photograph? And you can stand up.

16 A. I live in this house right here and the
17 house he was on was here in front of the truck.

18 Q. Okay. Thank you.

19 THE FOREPERSON: Any other questions?

20 By law, these proceedings are secret and
21 you are prohibited from disclosing to anyone anything
22 that has transpired before us, including evidence and
23 statements presented to the Grand Jury, any event
24 occurring or statement made in the presence of the Grand
25 Jury, and information obtained by the Grand Jury.

1 Failure to comply with this admonition is a
2 gross misdemeanor punishable by a year in the Clark
3 County Detention Center and a \$2,000 fine. In addition,
4 you may be held in contempt of court punishable by an
5 additional \$500 fine and 25 days in the Clark County
6 Detention Center.

7 Do you understand this admonition?

8 THE WITNESS: Yes, I understand.

9 THE FOREPERSON: Thank you. You are
10 excused.

11 MS. THOMSON: You can go out in the hall.

12 You just heard testimony from this last
13 witness about statements that his father made. You are
14 not to consider those statements as they would be
15 hearsay and not reliable without having the opportunity
16 to hear them from the speaker himself. So consider only
17 in your deliberations when you do what he indicated that
18 he saw himself. Any questions about that?

19 Okay. Next witness is Ryan McNabb.

20 Change of plans. Next witness is Karl
21 Huysentruyt.

22 THE FOREPERSON: Officer, will you please
23 raise your right hand.

24 You do solemnly swear the testimony you are
25 about to give upon the investigation now pending before

1 this Grand Jury shall be the truth, the whole truth, and
2 nothing but the truth, so help you God?

3 THE WITNESS: I do, yes.

4 THE FOREPERSON: You may have a seat.

5 You are advised that you are here today to
6 give testimony in the investigation pertaining to the
7 offenses of attempt murder with use of a deadly weapon,
8 discharge of a firearm from or within a structure or
9 vehicle, assault with a deadly weapon, stop required on
10 signal of police officer, resisting public officer with
11 use of a firearm, possession of firearm with altered or
12 obliterated serial number, possession of a firearm by an
13 ex-felon, involving Mr. Joshua Bacharach.

14 Do you understand this advisement?

15 THE WITNESS: Yes, I do.

16 THE FOREPERSON: Please state your first
17 and last name and spell both for the record.

18 THE WITNESS: First name is Karl, last name
19 is Huysentruyt. First name is K-A-R-L, last name is
20 H-U-Y-S-E-N-T-R-U-Y-T.

21 THE FOREPERSON: Thank you very much.

22 KARL HUYSENTRUYT,
23 having been first duly sworn by the Foreperson of the
24 Grand Jury to testify to the truth, the whole truth,
25

EXAMINATION

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BY MS. THOMSON:

Q. Good afternoon. I'm going to direct your attention back to June 26th of 2014. On that date were you employed with Metro?

A. Yes, I was.

Q. And how long have you been with Metro?

A. It will be 16 years on the 27th of July.

Q. On June 26th what shift were you working?

A. Swing shift.

Q. Were you in a uniform as you are today?

A. Yes, I was.

Q. And in a marked patrol unit?

A. Yes.

Q. On that date did you hear a call come from Officer McNabb regarding shots fired?

A. Yes.

Q. Where were you when you initially heard the call come out?

A. I was at the Subway located at Lake Mead and Hollywood.

Q. And when you heard that call come out what did you do?

A. I immediately ran to my car, got in it and

1 started driving towards where I last heard Ryan's
2 location.

3 Q. Why did you sort of leave the call you were
4 on to go to a new call?

5 A. Ryan got on the air and you could hear his
6 voice was elevated, stressed, excited, and he said that
7 he was trying to stop a car and the car was shooting out
8 the window.

9 Q. And so you were, it's more important to
10 provide back up to your fellow officers than deal with a
11 cold call?

12 A. Yes.

13 Q. And cold call means it's not in the process
14 of --

15 A. Right. Everybody was safe at the Subway,
16 it was good. They weren't going to make me a sandwich
17 so I was good.

18 Q. Okay. When you jumped in your car where
19 did you go initially?

20 A. Initially I started traveling westbound on
21 Lake Mead from Hollywood. I got to Mount Hood which is
22 the next major street west of Hollywood and I didn't
23 hear any radio traffic from Ryan so I slowed down. I
24 was thinking the last I heard he was at Carey and Walnut
25 and Carey was the next major street north of where I

1 was. So I kind of just stayed like 45, 50 on Lake Mead
2 and I was thinking they're going to jump out in front of
3 me or, you know, I'll be closer as long as I slow down
4 and I'm trying to wait to hear Ryan give updates as to
5 where he's at.

6 Q. And at some point did you hear Ryan give an
7 update?

8 A. Yes, I did.

9 Q. And where did he indicate that he was?

10 A. He explained, or he got on the air, said he
11 was at Dolly and El Tovar, he said that shots had been
12 fired at him and that he had returned fire at the
13 suspect and the suspect was last seen westbound on El
14 Tovar from Dolly.

15 Q. And as a result of that did you then go
16 directly to El Tovar?

17 A. I did, yes.

18 Q. And while you were driving were you using
19 lights and sirens?

20 A. I wasn't. I was close by that time so.

21 Q. When you arrived at El Tovar were there any
22 other officers already present?

23 A. Yes. There was K-9 Officer Ernie Morgan
24 was there and he was parked on El Tovar.

25 Q. Was he the only other officer other than

1 potentially Officer McNabb present?

2 A. That's it. That's all I saw was McNabb and
3 Morgan.

4 Q. When you arrived what did you do?

5 A. I got out of the car and Officer Morgan was
6 saying I need somebody with me, he's in the backyard of
7 this residence on El Tovar.

8 Q. And did you have any knowledge as to why
9 Officer Morgan had that belief?

10 A. Yes. There was a family sitting, they were
11 like in a window, like in a larger window, it was a
12 Hispanic family, and they were kind of leaning out the
13 window and they were pointing and saying he went that
14 way, he went that way. And then the people that
15 actually lived in the residence where the suspect was
16 located had come out to the front yard and said hey,
17 there's a guy in our backyard.

18 Q. So as a result of having received the
19 information from these two different families, what did
20 you and Officer Morgan do?

21 A. We entered the residence where he was
22 hiding behind, I forget the numbers, it was like the
23 second street, I'm sorry, the second residence on the
24 north side. I'll point it out on the map.

25 Q. Showing you what is marked as Grand Jury

1 Exhibit Number 3. Do you see the house on this map?

2 A. I do, it's right here.

3 Q. And you referred to the second one in on
4 it. Is this El Tovar?

5 A. This is El Tovar, yeah.

6 Q. He was in the backyard of that house?

7 A. He was, yes.

8 Q. The whitish one? I guess green yellow?

9 A. Yes.

10 Q. How did you and Officer Morgan and I assume
11 his dog get into the backyard?

12 A. The owner of the house let us in, let us
13 through the front door, and then there was like a side
14 door which would be on the west side of the house and
15 there was like a security gate and he opened that gate
16 and let us in.

17 Q. And when you got into the backyard, what
18 were you doing, what was Officer Morgan doing?

19 A. Officer Morgan was trying to keep his dog
20 next to him. The dog was really excited, going crazy
21 and Ernie kept, we kept relaying back and forth that we
22 were with each other and I told him I'm with you, I'm
23 with you, and I put my his hand on his shoulder to let
24 him know I was there and we started to go through the
25 backyard.

1 Q. When you were going into the backyard, was
2 it daylight or was it nighttime?

3 A. It was nighttime.

4 Q. Was it well lit or lit at all?

5 A. No, it was dark.

6 Q. And so that's why you're letting each other
7 know where you are so there's no accident between you?

8 A. Well that and we thought that this guy was
9 still going to be shooting at us.

10 Q. So as you got into the backyard did you at
11 some point locate a suspect?

12 A. We did, yes.

13 Q. Okay. And where did you locate that
14 individual?

15 A. He was on the backside -- can I get up and
16 point?

17 Q. Absolutely. Just talk loud enough for us
18 to hear you.

19 A. All right. Sorry.

20 Q. No, no, you were fine.

21 A. Right back in this area is where he was.
22 He was laying down. There was like a cement like patio
23 there uncovered, plain cement. He was laying facing
24 away from us. So when I came -- I'll do it on the TV.
25 You can still hear me?

1 Q. Uh-huh.

2 A. We came out here, myself and Ernie and the
3 dog, it's like an L shape, we came out here, started
4 working our way up. As soon as we got to the corner of
5 the house here, we look right and we could see the
6 suspect, well, we could see a male laying on the ground.
7 I could see the bottoms of his feet. He had on black
8 socks, he had on like cargo shorts and he had a neon
9 green like shirt and he was facing away from us. When
10 we came around the corner Officer Morgan started yelling
11 at him, show us your hands, you know, show us, Metro
12 Police, and I remember the guy kind of looked back at us
13 over his shoulder and then just put his head down. We
14 couldn't see his hands. He was a heavysset fellow and we
15 couldn't see anything. Officer Morgan gave him one more
16 command. Officer Morgan said he was going to let the
17 dog go. The suspect failed to comply with any of the
18 verbal commands that were given and then Ernie let his
19 dog go.

20 Q. After the dog was released were you able to
21 get the individual under control and into custody?

22 A. Yes.

23 Q. And obviously his failure to comply with
24 your commands was concerning given the nature of the
25 original call; is that correct?

1 A. Yes.

2 Q. After he was taken into custody, did you
3 have any physical contact with him?

4 A. I actually placed the handcuffs on him.

5 Q. When you did so were you able to tell if he
6 seemed to have engaged in any athletic activity?

7 A. Yes, he was sweating profusely and he was
8 breathing pretty hard.

9 Q. When you made contact with the individual
10 were you able to see his face?

11 A. Yes.

12 Q. Okay. Showing you what has been marked as
13 Grand Jury Exhibit Number 2. Do you recognize the
14 individual depicted in this photograph?

15 A. I do, yes.

16 Q. And is this the individual that you came
17 into contact with in that backyard?

18 A. Yes.

19 Q. Okay. And do you now know him as Joshua
20 Bacharach?

21 A. Yes.

22 Q. As you took him into custody did he
23 indicate to you that he had heard gunshots and gotten
24 scared and run away?

25 A. Yes.

1 Q. Did he also tell you that he did not do
2 anything?

3 A. Yes.

4 Q. Now when you made contact with him in the
5 backyard, was there anything about his appearance that
6 suggested to you that perhaps you didn't have the right
7 individual compared to what Officer McNabb had
8 described?

9 A. Yes.

10 Q. And what was that?

11 A. Ryan had called out he was wearing a white
12 shirt and when we took him into custody he had like a
13 real bright, like neon highlighter green shirt.

14 Q. Without telling me specifically what you
15 did, did you and fellow officers do anything after that
16 to confirm that you hadn't just arrested somebody who
17 was legitimately just scared of having heard gunshots?

18 A. I had called out on the radio that we had a
19 guy that was similar and I gave the description as to
20 what we had back there. I asked him just kind of what's
21 up, I said what's up dude, and then that's when he told
22 me, you know, hey, I'm on probation, you know, I ran.
23 And then, so we were still thinking at that time we
24 didn't have the right guy and I thought the guy that was
25 shooting at us was in the backyard around us. So I was

1 like man we need to get out of here, cause I can't watch
2 him because his legs were all cut up, that dog bit him
3 up pretty good and he had open wounds and was bleeding.
4 Medical wasn't going to come in the backyard with a guy
5 roaming around with a gun trying to shoot the cops and I
6 knew that this guy needed medical attention. I said hey
7 dude, you need to get up and we need to get out of here,
8 it's not safe to be here. So I picked him up, helped
9 him up, and then we walked back through the house. By
10 the time I got onto El Tovar walking eastbound, Officer
11 Briggs that I work for said that's the guy, that's the
12 guy, and I said okay, and then I said well, we're going
13 to take him out of here, he needs medical attention. I
14 walked him up Dolly to Carey and put him in the back of
15 a patrol car there and FD arrived shortly after to treat
16 him for his injuries.

17 Q. As far as you know Ryan McNabb was riding
18 alone that day; is that correct?

19 A. Yes, he was.

20 Q. And he was the first one on scene, would
21 that be fair?

22 A. Yes.

23 Q. Everything that you've described so far, or
24 everything you've described, did that all occur here in
25 Las Vegas, Clark County, Nevada?

1 A. Yes, it did.

2 MS. THOMSON: Okay. I have no further
3 questions of this witness. Do any members of the Grand
4 Jury have any questions?

5 BY A JUROR:

6 Q. At any time did you see or locate a gun in
7 the backyard?

8 A. Not in the backyard, no.

9 Q. Okay.

10 BY MS. THOMSON:

11 Q. Were you involved in the location of any
12 firearms in this case?

13 A. I was not, no. I know that they did find
14 one.

15 Q. Did you see it where it was found?

16 A. Yes, I did.

17 Q. Did you see anything else with it where it
18 was found?

19 A. I did, yes.

20 Q. And was that nearby the house?

21 A. It was, yes.

22 Q. What did you see?

23 A. I saw a bullet proof vest that had a white
24 color and I saw a semi-automatic handgun on top of the
25 vest.

1 Q. Where did you see that?

2 A. It was underneath the engine area of a Ford
3 F-150 truck.

4 Q. Showing you what has been marked as Grand
5 Jury Exhibit Number 4. Is that the Ford F-150 truck
6 that you just described?

7 A. Yes, that's it. It's a Nissan. Sorry.

8 Q. So the truck that you saw was a Nissan and
9 you just remembered it incorrectly?

10 A. Right.

11 Q. So this is the truck?

12 A. That is the truck.

13 Q. Fabulous. Grand Jury Exhibit Number 4.

14 And showing you a picture from the front,
15 Grand Jury Exhibit Number 5, is that the same truck?

16 A. Yes, it is.

17 Q. And can we see in this photograph what you
18 were describing?

19 A. Yes.

20 Q. Okay. Grand Jury Exhibit Number 5, where
21 do we see what you've described as the white vest and
22 the firearm?

23 A. Directly underneath the truck.

24 Q. Okay.

25 A. On the ground.

1 Q. And so Grand Jury Exhibit Number 6 is a
2 better shot of that; is that correct?

3 A. Yes, it is.

4 Q. Okay. And finally Grand Jury Exhibit
5 Number 7. Is that a photograph with the truck probably
6 moved back just a little bit?

7 A. Yes.

8 Q. Okay. And are these in the same condition
9 as when you observed them?

10 A. Yes, they are.

11 Q. Okay. And were they left in position until
12 CSAs arrived to document and then collect?

13 A. Yes.

14 Q. Was there anyone on scene from the time
15 that you arrived with Officer Morgan already present --
16 let me rephrase the question. It wasn't going well.

17 You indicated that you arrived, Officer
18 McNabb and Officer Morgan were present, and that was the
19 totality of your law enforcement people?

20 A. Yes.

21 Q. Was there anyone else just out roaming the
22 streets?

23 A. Yes. There was probably a whole northeast
24 area command swing shift and graveyard was out --

25 Q. Still a bad question.

1 A. I'm sorry.

2 Q. Okay. On El Tovar.

3 A. Yes.

4 Q. You, Officer McNabb and Officer Morgan were
5 present. Were there any citizens out on El Tovar when
6 you arrived other than the families you've described?

7 A. I did not see anybody else, no.

8 Q. Based upon what you observed, was there
9 anyone out who had items similar to or consistent with
10 what was found underneath the truck?

11 A. No.

12 Q. Okay. I'm sorry for asking you bad
13 questions.

14 A. That's all right.

15 MS. THOMSON: Now do any members of the
16 Grand Jury have any questions?

17 THE FOREPERSON: By law, these proceedings
18 are secret and you are prohibited from disclosing to
19 anyone anything that has transpired before us, including
20 evidence and statements presented to the Grand Jury, any
21 event occurring or statement made in the presence of the
22 Grand Jury, and information obtained by the Grand Jury.

23 Failure to comply with this admonition is a
24 gross misdemeanor punishable by a year in the Clark
25 County Detention Center and a \$2,000 fine. In addition,

1 you may be held in contempt of court punishable by an
2 additional \$500 fine and 25 days in the Clark County
3 Detention Center.

4 Do you understand this admonition?

5 THE WITNESS: I do, yes.

6 THE FOREPERSON: Thank you, Officer. You
7 are excused.

8 THE WITNESS: Thank you.

9 MS. THOMSON: Okay. From that witness you
10 heard testimony regarding probation. You are not to
11 consider that at all in your deliberations. You do have
12 marked as Grand Jury Exhibit, two copies of, or one copy
13 each of a certified Judgment of Conviction with regard
14 to Mr. Bacharach, one for being in possession of stolen
15 vehicle, a felony, and one for attempt theft, a felony.
16 Those you are to consider only with regard to the
17 ex-felon in possession of firearm counts and are not to
18 consider any possible criminal history that he has as
19 reflected in those Judgments of Conviction or the
20 statements by this last witness when deliberating with
21 regard to the rest of the counts. With regard to the
22 probation, do not consider it at all as to any of the
23 counts.

24 Also, with regard to statements potentially
25 made by Sergeant Briggs, he is not a witness, do not

1 consider anything that he may have said to either this
2 witness or anyone else on scene.

3 Does anyone have any questions about that?

4 Okay. I've been talking a lot. Do any of
5 you need a break? I see a yes. So let's do ten
6 minutes.

7 So by the way, we're on State of Nevada
8 versus Joshua Bacharach. This is Megan Thomson, deputy
9 district attorney. Case Number 14AGJ025X. The
10 Judgments of Conviction that I just referenced are Grand
11 Jury Exhibit Number 22, that is from Case Number
12 C256298, and Grand Jury Exhibit Number 23, which is from
13 Case Number C293845.

14 Okay. Now let's take a ten minute break.

15 (Recess.)

16 MS. THOMSON: Our next witness is Officer
17 McNabb.

18 THE FOREPERSON: Officer, will you please
19 raise your right hand.

20 You do solemnly swear the testimony you are
21 about to give upon the investigation now pending before
22 this Grand Jury shall be the truth, the whole truth, and
23 nothing but the truth, so help you God?

24 THE WITNESS: Yes.

25 THE FOREPERSON: You may have a seat.

1 You are also advised that you are here
2 today to give testimony in the investigation pertaining
3 to the following offenses: Attempt murder with use of a
4 deadly weapon, discharge of a firearm from or within a
5 structure or vehicle, assault with a deadly weapon, stop
6 required on signal of police officer, resisting public
7 officer with use of a firearm, possession of a firearm
8 with altered or obliterated serial number, possession of
9 a firearm by an ex-felon, involving Mr. Joshua
10 Bacharach.

11 Do you understand this advisement?

12 THE WITNESS: Yes.

13 THE FOREPERSON: Please state your first
14 and last name and spell both for the record.

15 THE WITNESS: It's Ryan, R-Y-A-N, McNabb,
16 M-C-N-A-B-B.

17 THE FOREPERSON: Thank you, sir.

18 RYAN MCNABB,
19 having been first duly sworn by the Foreperson of the
20 Grand Jury to testify to the truth, the whole truth,
21 and nothing but the truth, testified as follows:

22 EXAMINATION

23
24 BY MS. THOMSON:

25 Q. Good afternoon, Officer. How are you

1 employed?

2 A. As a police officer with the LVMPD.

3 Q. For how long have you been with Metro?

4 A. It will be ten years next month.

5 Q. Directing your attention back to June 26th
6 of 2014. What shift were you working at that time?

7 A. Swing shift.

8 Q. And were you wearing a uniform in a marked
9 patrol unit on that evening?

10 A. Yes.

11 Q. And the marked patrol unit, is that what we
12 think of as sort of a typical cruiser?

13 A. Yes.

14 Q. Does it have lights and siren?

15 A. It does. It's black and white, lights and
16 sirens.

17 Q. When you have the lights flashing, does it
18 flash a red light?

19 A. Yes, red and blue.

20 Q. Now on June 26, 2014, on that evening while
21 you were stopped sort of checking out a suspicious
22 vehicle, did you see another vehicle that caught your
23 attention?

24 A. Yes, I did.

25 Q. And where were you when the vehicle, the

1 second vehicle caught your attention?

2 A. I was parked at Walnut and Lake Mead. I
3 was facing southbound on the northwest part of that
4 intersection. I was parked behind that suspicious
5 vehicle that was unoccupied when I observed the other
6 vehicle facing northbound on Walnut at Lake Mead.

7 Q. And what about the second vehicle caught
8 your attention?

9 A. It had its high beams on. So I saw the
10 regular headlights and I saw the brighter lights and
11 knew that that was a minor traffic violation, failing to
12 dim your headlights or your high beams within 500 feet
13 so I thought it would be an easy car stop.

14 Q. So at some point did that red light that it
15 was stopped at turn green and it proceeded through the
16 intersection?

17 A. Yes, it did, just a few moments later.

18 Q. Was there another vehicle behind it or was
19 it traveling alone?

20 A. There was another vehicle behind it.

21 Q. What did you do after it had passed by you?

22 A. I did a U-turn, so now I'm facing
23 northbound, and as we traveled north I flipped on my red
24 lights, no siren, I just flipped on my lights to get
25 that middle car to pull over, which it did, and then I

1 called out over the radio, I gave my call sign which is
2 3 Frank 3 and said I was going to do a 467 which is a
3 vehicle stop. As I pulled up, I accelerated to give out
4 the license plate, then you give out the plate and
5 location, as I'm focusing on the plate, I have my radio
6 by my mouth, before I can give out the plate the driver
7 reached out of the driver's window and fired a shot with
8 a handgun up in the air. I saw the muzzle flash go up
9 and then the driver took off and accelerated northbound
10 on Walnut. Do you want me to just keep going?

11 Q. The shot that you saw the muzzle, it was
12 directly up in the air?

13 A. Yes.

14 Q. And being with Metro for ten years you've
15 obviously had at least ten years of experience with a
16 firearm?

17 A. Yes.

18 Q. So you were able to determine the direction
19 of, not perfect direction of trajectory but basic
20 direction of trajectory based upon the direction of fire
21 from the gun; correct?

22 A. Yes.

23 Q. So you indicated that one shot was fired up
24 and then the vehicle took off; is that correct?

25 A. That's right.

1 Q. All right. What happened next?

2 A. I already had my radio over in front of my
3 mouth so I, I was shocked by the shot but I was able to
4 say the driver just fired a shot in the air and we're
5 northbound Walnut from Lake Mead. I don't think that
6 actually transmitted over the air when I listened to the
7 radio traffic later. But I pursued, I followed after
8 the vehicle. It turned right, it blew the stop sign
9 there on northbound Walnut and it turned right or
10 eastbound on Carey. It didn't stop at the stop sign. I
11 followed, I did the same thing. As soon as I had turned
12 right onto Carey, I'm now facing eastbound, as soon as
13 my vehicle straightened out, there were two more shots
14 in rapid succession that he fired at me and I heard one
15 of them whiz right by my left ear, my window was down,
16 just this zing sound, and I thought it had hit my
17 vehicle or hit the street right outside of my door. And
18 then I called out again over the air that he's firing
19 again and we're eastbound Carey from Walnut. Then --

20 Q. Oh, I'm sorry.

21 A. Then he accelerated from there and it was
22 approximately 80 miles an hour that he got up to and
23 then we approached Lamb and there was a stale red light
24 at Lamb, he blew right through it, I saw no taillights,
25 he just accelerated through it. I had to slow down, I'm

1 required to clear my lanes, I can't just go through a
2 light, a red light, even if I have lights and sirens
3 going, so I had to slow down. I could see there was no
4 one coming north on Lamb but there was a car coming
5 south that stopped for me. And as I'm able to
6 accelerate through Lamb eastbound on Carey I heard two
7 more shots from a distance, because he had gotten some
8 distance on me, and I couldn't tell where those were
9 fired, if they were at me or in the air but off in the
10 distance I heard two more shots fired. As I continued,
11 I accelerated east on Carey to try to catch up and I saw
12 the vehicle, it crashed somehow, I'm not sure what it
13 hit, there's a curb on the right and then there's also
14 another, it's kind of a strange median, it hit
15 something, I saw it go up and it ended facing southbound
16 on Dolly. And as I arrived I saw the driver exit the
17 driver's side door and go north around the rear of his
18 vehicle which is now facing south. He had a black
19 handgun in his right hand. He rounded the rear of his
20 vehicle and then came west towards me, and I was about
21 35 or 40 yards, my vehicle still going, I'm trying to
22 get it stopped when he's walking towards me, and he
23 raised the gun up like this and I, for a second I
24 thought is he going to fire in the air because it's
25 towards me but he's kind of pointing up, and then he

1 fires and I realized that he fired at me gangster style
2 with his wrist bent because the muzzle flash came right
3 at me as opposed to up in the air like the very first
4 shot he fired way back on Walnut.

5 Q. For the record you're holding your right
6 hand up so it's just slightly above the top of your head
7 but pointed in the direction straight ahead of you?

8 A. That's correct. So I realized he just
9 fired another shot at me. Then he started walking to my
10 right, across the intersection to the southwest corner
11 under a streetlight, and as he's walking I see he's
12 manipulating the gun. I couldn't tell, you know, with
13 two hands he's manipulating. I can't tell if he's
14 trying to reload or clear a malfunction, but I'm trying
15 to get my car stopped and in park as he's walking to my
16 right under the streetlight and as I'm trying to get it
17 in park I see him point the gun at me again, punch out
18 his arms like this and point it at me again as I'm
19 exiting my car and coming up to a standing position at
20 my open door and I'm afraid he's going to fire at me
21 again, try to kill me once again, so I reach across my,
22 I aim at him as quickly as I can and I fired four to six
23 shots from about 35 yards as he's at that corner under
24 the streetlight. That caused him to, I don't, I didn't
25 see another muzzle flash so I don't think he was able to

1 fire at me again, he immediately ran south on Dolly.
2 There's a chain link fence that comes into a cinder
3 block fence so I saw him disappear behind the cinder
4 block fence. I immediately ran around my door, I called
5 out over the radio that I had fired shots and that he
6 was running southbound on Dolly. I went forward which
7 is east to the crosswalk and I peeked around down Dolly
8 down the sidewalk where he had run and I saw his
9 silhouette and I couldn't tell if he was facing me or
10 behind me and I fired two to three more rounds at him as
11 he turned, he appeared to turn right onto El Tovar into
12 a residential neighborhood. I felt like I had expended
13 a lot of rounds so I did a speed reload meaning I took
14 out my magazine and put in a fresh one as I pursued
15 down, and it got very dark at the corner of Dolly and El
16 Tovar, so I was more cautious as I approached because it
17 was very dark, I didn't know where he was hiding. When
18 I got towards the corner is when I heard the sound of
19 sirens coming, that very relieved sound, I was relieved
20 to hear that sound of back up coming to help me. And
21 then I did my quick peeks around, down El Tovar down the
22 sidewalk. They teach us you don't run blindly around a
23 corner when you're in a gun fight. So I carefully did
24 quick peeks around and then there was a line of cars and
25 I went down both sides of those cars, I didn't see him.

1 I saw a shadow from a distance. It looked like it went
2 over north into a yard but I didn't see how far down it
3 was. And then that's when a K-9 officer and other
4 officer arrived and I think there were some civilians
5 that were pointing that said he ran over that way into
6 the yard where they ultimately found him. They had me
7 stay back because I had discharged my firearm and I
8 didn't need to be involved in the rest of it but I had
9 heard they took him into custody in the backyard with
10 the K-9.

11 Q. The location the neighbors were pointing
12 to, was that consistent with where you believed you had
13 seen the silhouette go?

14 A. Yes, it was in that same general area.

15 Q. Okay. Now the vehicle that you attempted
16 to stop, was that a Dodge Intrepid?

17 A. Yes, it was a four door sedan. I think it
18 was maroon.

19 Q. Okay. And did you ever see any more than
20 one person in that vehicle?

21 A. No, only one.

22 Q. I think you sort of alluded to this through
23 some of your testimony. But how did you feel when he
24 was pointing the gun at you and when he was shooting it?

25 A. I felted really scared that my life was in

1 danger, this person is actively trying to kill me by
2 shooting a gun at me.

3 Q. Going back just a little bit to when you
4 talked about his going through the old red on Lamb.
5 What is an old red?

6 A. I call it a stale red --

7 Q. Oh.

8 A. -- where it's been red for quite awhile,
9 meaning the cross traffic has green -- it means the
10 opposite of it just turned yellow and red and he went
11 through it, it was red, solid red. I never saw a green
12 light so it had been red for sometime when he blew
13 through it.

14 Q. And you indicated that you saw no brake
15 lights as he did that; is that correct?

16 A. Correct.

17 Q. And there was a vehicle that actually had
18 to stop to let you through the intersection there?

19 A. Yes.

20 Q. This was relatively late at night, but was
21 there still traffic on the roads that night?

22 A. There was.

23 Q. When you were approaching the intersection
24 of Lamb where he ran through that red light, as you were
25 approaching, were your sirens on do you recall?

1 A. I thought that they were. I'm not positive
2 whether I had my sirens on at that -- I know when I
3 cleared the intersection they were on. When that car
4 that you say, that you mentioned that yes I had to,
5 there was a car there, I know my sirens were on at that
6 point but I don't know when I activated them.

7 Q. That wasn't your first concern as he's
8 shooting at you?

9 A. Right.

10 Q. And you were already very clear that he not
11 only saw you but recognized your significance at that
12 point when you had already had the lights going to have
13 the car behind him pull over?

14 A. Yes.

15 Q. Going through, and this might be easier if
16 you want to stand up next to the television and point,
17 it would make things probably a little bit easier for
18 everyone to follow along.

19 Showing you what is marked as Grand Jury
20 Exhibit Number 3. Do you recognize this area?

21 A. Yes. This is Carey right here and this is
22 Dolly and then this is El Tovar.

23 Q. And there's a police car here with a door
24 open, it's pretty small but it's there. Is that your
25 vehicle?

1 A. Yes, it is.

2 Q. And the vehicle here, is that the Dodge
3 Intrepid that you were chasing?

4 A. Yes.

5 Q. Now over here, do you recall what street
6 that is? You just told us that was El Tovar, didn't
7 you?

8 A. El Tovar.

9 Q. Sorry. You indicated that there is a chain
10 link fence along here; is that correct?

11 A. I was talking about right here. There's
12 chain link fence at this corner, this is the
13 streetlight, and then it turns into a cinder block wall.

14 Q. So was it under that streetlight that he
15 was standing when you first fired shots?

16 A. That's right. He came around the rear of
17 his vehicle and fired on foot somewhere right here in
18 the street at me and then he walked to that corner as he
19 was manipulating and he was just on this side of that
20 streetlight.

21 Q. So when you fired shots, his back drop,
22 meaning anything that would miss him, was going into a
23 desert area, it didn't put anyone else in danger;
24 correct?

25 A. That's correct.

1 Q. You indicated that somewhere further along
2 you again were able to discharge rounds at him?

3 A. Yes. After my first volley of shots he was
4 here, then he ran south on Dolly, I ran around this way,
5 somewhere right in here at this crosswalk, and that's
6 when I looked down here and saw his silhouette and fired
7 two to three more rounds south on Dolly.

8 Q. Okay. And before you did that you
9 confirmed that there was no one else in the street and
10 that it was safe to do so?

11 A. Right. I just saw an open street, no cars,
12 no pedestrians.

13 Q. Okay. Now showing you what has been marked
14 as Grand Jury Exhibit Number 10. Obviously 3 is taken
15 the day because it's pretty easy to see. Exhibit
16 Number 10, is that taken actually at night?

17 A. Yes.

18 Q. And is that consistent with basically the
19 time of night that this occurred in terms of the level
20 of darkness?

21 A. Yes.

22 Q. Showing you what has been marked as Grand
23 Jury Exhibit Number 11. Is this a little bit closer up,
24 probably from near the front of your patrol car?

25 A. Yes.

1 Q. And the post with the 25 on it, is that the
2 light that we talked about?

3 A. Yes. He was just on the other side of that
4 pole when he started to point out again at me after
5 already firing and that's when I fired shots, my first
6 volley of shots.

7 Q. And the vehicle there, is that the Intrepid
8 that we talked about?

9 A. Yes, it is.

10 Q. Showing you what is marked as Exhibit
11 Number 21. Can you tell if this is that same vehicle?

12 A. Yes, it is.

13 Q. And that's the vehicle that you followed
14 through?

15 A. Yes.

16 Q. After Officer Morgan and Officer
17 Huysentruyt arrived, you were not involved any longer in
18 the shall we say investigation of the case; is that
19 fair?

20 A. Right. I did go a little further and kind
21 of looked in the front yard but then a minute later or
22 less someone had me come back and they put someone with
23 me to stay with.

24 Q. Showing you what's been marked as Grand
25 Jury Exhibit Number 2. Do you recognize this

1 individual?

2 A. Yes.

3 Q. And how do you recognize him?

4 A. That's the man who fired at me on foot from
5 the vehicle and he was the driver of the vehicle.

6 Q. Do you recall what he was wearing as he ran
7 from you on foot?

8 A. I remember seeing a white or a light
9 T-shirt. I just remember a Hispanic male with a white
10 T-shirt, 30 to 35 and he's heavyset.

11 Q. You indicated that after he crashed the car
12 he got out. Is it fair to say that after the car
13 crashed the remaining shots that he fired were from
14 outside of the vehicle?

15 A. Yes.

16 Q. And everything that you testified to today,
17 did that all occur here in Las Vegas, Clark County,
18 Nevada?

19 A. Yes, it did.

20 MS. THOMSON: Okay. I have no further
21 questions of this witness. Do any members of the Grand
22 Jury have any questions?

23 THE FOREPERSON: No?

24 By law, these proceedings are secret and
25 you are prohibited from disclosing to anyone anything

1 that has transpired before us, including evidence and
2 statements presented to the Grand Jury, any event
3 occurring or statement made in the presence of the Grand
4 Jury, and information obtained by the Grand Jury.

5 Failure to comply with this admonition is a
6 gross misdemeanor punishable by a year in the Clark
7 County Detention Center and a \$2,000 fine. In addition,
8 you may be held in contempt of court punishable by an
9 additional \$500 fine and 25 days in the Clark County
10 Detention Center.

11 Do you understand this admonition?

12 THE WITNESS: Yes, I do.

13 THE FOREPERSON: Thank you, Officer. You
14 are excused.

15 THE WITNESS: Thank you.

16 MS. THOMSON: Okay. The next witness is
17 Detective Jaeger.

18 THE FOREPERSON: Officer, will you please
19 raise your right hand.

20 You do solemnly swear the testimony you are
21 about to give upon the investigation now pending before
22 this Grand Jury shall be the truth, the whole truth, and
23 nothing but the truth, so help you God?

24 THE WITNESS: I do.

25 THE FOREPERSON: You may have a seat.

1 You are advised that you are here today to
2 give testimony in the investigation pertaining to the
3 offenses of attempt murder with use of a deadly weapon,
4 discharge of firearm from or within a structure or
5 vehicle, assault with a deadly weapon, stop required on
6 signal of police officer, resisting public officer with
7 use of a firearm, possession of a firearm with altered
8 or obliterated serial number, possession of a firearm by
9 an ex-felon, involving Mr. Joshua Bacharach.

10 Do you understand this advisement?

11 THE WITNESS: I do.

12 THE FOREPERSON: Please state your first
13 and last name and spell both for the record.

14 THE WITNESS: My first name is Ryan,
15 R-Y-A-N, last name is Jaeger, J-A-E-G-E-R.

16 THE FOREPERSON: Thank you.

17 RYAN JAEGER,
18 having been first duly sworn by the Foreperson of the
19 Grand Jury to testify to the truth, the whole truth,
20 and nothing but the truth, testified as follows:

21

22 EXAMINATION

23

24 BY MS. THOMSON:

25 Q. Good afternoon, sir. How are you employed?

1 A. Currently I'm employed with the Las Vegas
2 Metropolitan Police Department.

3 Q. And are you part of a specific team?

4 A. I am. I'm a detective with the Force
5 Investigations Team.

6 Q. And for how long have you been with Metro?

7 A. I've been with Metro a little over 15
8 years.

9 Q. The Force Investigations Team, what
10 specifically do you all respond to?

11 A. We handle all major uses of force, any
12 vehicle rammings, any shootings, and we also handle
13 in-custody deaths at the jail.

14 Q. When you say major uses of force, that's
15 not going to include when somebody needs to be escorted
16 to the ground a little more forcefully than usual?

17 A. That's correct. Any force resulting in
18 serious injury.

19 Q. Were you involved in an investigation on
20 June 26th of this year?

21 A. Yes, I was.

22 Q. And did that involve force used against
23 Officer McNabb?

24 A. Yes, it did.

25 Q. How did you initially become involved in

1 that call?

2 A. There is a pager system that we have, any
3 time there's an officer involved shooting there is an
4 automatic notification that goes out. So we just get a
5 page and on that page, it's a text message to our phone
6 that tells us the event number and the address we need
7 to respond to.

8 Q. So did you in fact do that?

9 A. Yes, I did.

10 Q. Did you have a partner when you did so or
11 do you come out alone?

12 A. We respond as a team. The partner that I
13 responded with, I met him at scene, was Detective
14 Gillis.

15 Q. And when you arrive, generally what did you
16 observe?

17 A. The first thing that happens when we arrive
18 is we have a briefing. We meet with the violent crimes
19 detectives who are normally the first people on the
20 scene and they let us know general details of what is
21 happening and they give us a real brief description of
22 any crimes scenes that we may have.

23 Q. And when you had that briefing, did you
24 discover that you sort of had several scenes in this
25 case?

1 A. Yes, we did.

2 Q. And so your major scene or your sort of
3 initial scene that you responded to is where a suspect
4 was taken into custody; is that fair?

5 A. That's correct.

6 Q. And that was in a neighborhood?

7 A. Yes, it was.

8 Q. And then did you work your way backwards
9 based upon the information provided from Officer McNabb?

10 A. Yes, we did.

11 Q. And that's where you discovered your other
12 subsequent scenes?

13 A. Yes.

14 Q. Okay. So starting with Grand Jury Exhibit
15 Number 3. It's an overhead map of that sort of final or
16 initial scene that you respond to. Is that correct?

17 A. That's correct.

18 Q. I'm going to put it up so that we can see.

19 Now speaking of the neighborhood that you
20 initially respond to, was this the area where the
21 suspect was taken into custody?

22 A. That's correct.

23 Q. And that's on El Tovar?

24 A. That's correct.

25 Q. And then was that the suspect vehicle, the

1 red vehicle sort of in the middle of the page?

2 A. That's correct.

3 Q. And was that Officer McNabb's vehicle?

4 A. Yes, that's correct.

5 Q. Do you recall what street that is?

6 A. The officer's vehicle is on Carey, the
7 east/west running street is Carey. The north/south
8 running street above the dirt lot is Dolly. And then El
9 Tovar is where the white pickup is parked.

10 Q. So as you start your investigation. Are
11 you directed to that white vehicle displayed in Grand
12 Jury Exhibit Number 4?

13 A. That's correct.

14 Q. And was that because of items found
15 underneath it?

16 A. That's correct.

17 Q. Okay. And those are seen in Exhibit 5 and
18 then more closely in Exhibits 6 and 7; is that correct?

19 A. Yes.

20 Q. What were the significance of these two
21 items?

22 A. The items is a bullet proof vest, it's an
23 American Body Armor, it's a threat level 2A as in Adam.
24 It's the same type of bullet proof vest that any
25 uniformed officer would wear on the streets. On top of

1 that vest is a 1911 style Colt .45 handgun.

2 Q. Okay. And that Colt .45 handgun, is that
3 depicted in Grand Jury Exhibit Number 8?

4 A. Yes, that's correct.

5 Q. And then the other side of it in Grand Jury
6 Exhibit Number 9?

7 A. Yes.

8 Q. And the serial number of a firearm is shown
9 on the firearm generally; correct?

10 A. That's correct.

11 Q. In fact you are not permitted to possess a
12 firearm with an altered or obliterated serial number; is
13 that correct?

14 A. That's correct.

15 Q. So looking at Grand Jury Exhibit Number 8,
16 can you see the serial number of this firearm?

17 A. Yes. It's going to be Charlie Paul 33432.

18 Q. Okay. Sorry.

19 A. That's fine I, just wanted to make sure I
20 got it.

21 Q. Okay. So starting at that location, did
22 you then work your way out to the vehicle that Officer
23 McNabb had been attempting to stop?

24 A. Yes, that's correct.

25 Q. Showing you what has been marked as Grand

1 Jury Exhibit Number 12. Is that a photograph of the
2 back of that vehicle?

3 A. That's correct.

4 Q. And did you find that that vehicle was
5 registered to the mother of Joshua Bacharach's children?

6 A. That's correct.

7 Q. Were you able to conduct a search of the
8 records of Metro to determine whether or not this
9 vehicle had at any time been reported stolen?

10 A. Yes, we did.

11 Q. And was it?

12 A. It was not.

13 Q. And so that we're clear, when I say any
14 time, I mean within the close proximity to the 26th.

15 A. Yes, that's correct.

16 Q. Showing you what's been marked as Grand
17 Jury Exhibit Number 11. Is that the same vehicle sort
18 of from a distance?

19 A. That's correct. That's actually an
20 overview. That photo is the view that Officer McNabb
21 would have had from his patrol car.

22 Q. Okay. And so Grand Jury Exhibit Number 10
23 is so you can see both the patrol car and the vehicle;
24 correct?

25 A. That's correct.

1 Q. Now when you went to that intersection,
2 were you, in addition to looking for the vehicles, also
3 looking for evidence to indicate whether or not any
4 firearms had been expelled?

5 A. Yes.

6 Q. Okay. And did you find two live rounds
7 near the defendant's vehicle?

8 A. Yes, we did.

9 Q. And let me actually clean that up. It
10 wasn't the defendant's vehicle, it was the vehicle
11 registered to his children's mother; correct?

12 A. That's correct.

13 Q. Okay. Now the first of those live rounds,
14 was it just outside the driver's door?

15 A. That's correct.

16 Q. And the second, was it just to the rear of
17 the driver's side?

18 A. Back behind the trunk basically, yes.

19 Q. And were both of those live rounds
20 .45 caliber?

21 A. That's correct.

22 Q. And both of the Speer brand?

23 A. That's correct.

24 Q. Now when we talk about the rest of the
25 casings and rounds found throughout your investigation,

1 with regard to the .45 caliber varieties, were they all
2 of the same brand?

3 A. They were. The head stamp or the label on
4 the top of the cartridge were Speer.

5 Q. Okay. Did you also find a .45 caliber
6 round that was also live on the sidewalk on Dolly?

7 A. We did. Right in the area, if you see the
8 light pole and you go south from that light pole, up
9 against the wall is where we found.

10 Q. I'm trying to find a good example for that
11 one.

12 Can you show us generally speaking where it
13 was?

14 A. There's still a cone there.

15 It's the -- do you see where the fence and,
16 the chain link fence turns into a cinder block wall.
17 Right in that area is where we found the live.

18 Q. And that was Grand Jury Exhibit Number 3.

19 Did you also, did you observe that red
20 Intrepid more closely on scene?

21 A. Yes, I did.

22 Q. And when you did so did you observe any
23 damage to it?

24 A. We did. It had a flat back passenger side
25 tire and there was damage on the driver's side rear

1 door.

2 Q. Showing you what has been marked as Grand
3 Jury Exhibit Number 13. Does this photograph depict the
4 damage you described to the rear door?

5 A. Yes, it does.

6 Q. And that's the white area just past the
7 window and then a little bit on the back quarter panel;
8 correct?

9 A. And right above the SE in the black portion
10 of the door.

11 Q. Showing you what is marked as 14. Is this
12 a closer up more easily seen photograph of that damage?

13 A. That's correct.

14 Q. And was that damage consistent to you with
15 a bullet passing nearby or just over the vehicle's skin?

16 A. Yes, it was.

17 Q. Now after you observed the vehicle, did you
18 then sort of trace back the locations that Officer
19 McNabb had told you that they had passed through?

20 A. Yes, we did.

21 Q. And specifically when you were going back
22 over Carey, did you find a .45 spent casing on in the
23 westbound lane of Carey?

24 A. We did.

25 Q. And a little bit further on, just past, or

1 just before Walnut on Carey, did you find another
2 .45 caliber spent casing?

3 A. Yes, we did.

4 Q. And then a little bit further on in the
5 northbound lane of Walnut, sort of looking at yourself
6 not -- I guess northbound is northbound always, never
7 mind.

8 A. Just north of Lake Mead and Walnut.

9 Q. Okay. Thank you. Was there another .45
10 caliber spent casing?

11 A. Yes, there was.

12 Q. Now talking about that first sort of area
13 that is shown on that map. Did you also have an
14 opportunity to view Officer McNabb's patrol vehicle more
15 closely?

16 A. Yes, I did.

17 Q. And when you did so did you find two spent
18 9-millimeter casings underneath or on his windshield?

19 A. Yes, I did.

20 Q. And was that consistent, were those
21 consistent with the rounds of ammunition that he had in
22 his firearm?

23 A. Yes, they were.

24 Q. And in fact somewhere along that path did
25 you also find an expelled cartridge?

1 A. In the crosswalk area is where we found
2 McNabb's magazine.

3 Q. Magazine, that was the word I was looking
4 for, not cartridge. And that was missing some rounds;
5 is that correct?

6 A. That's correct.

7 Q. The rounds that remained in it were more
8 consistent with the empty casings on his patrol vehicle?

9 A. Yes, they had the same head stamp.

10 Q. Did you also find a spent casing between
11 his driver's door and the driver's seat?

12 A. Inside the car, yes.

13 Q. And that was also 9-millimeter?

14 A. That's correct.

15 Q. And in addition to that, did you find two
16 more just outside his vehicle, around his vehicle, that
17 were his spent casings?

18 A. Yes, we did.

19 Q. Thereafter did you seek, you being Metro,
20 seek a warrant and ultimately receive a warrant to
21 search the inside of the Dodge Intrepid?

22 A. Yes, we did.

23 Q. And that was a 2001 maroon Dodge Intrepid
24 bearing Nevada plate 731LNX; correct?

25 A. That's correct.

1 Q. Inside the vehicle did you find any
2 additional firearms?

3 A. Yes, we did.

4 Q. Was one of those firearms an SKS rifle?

5 A. Yes, a Ewbanks I think was the
6 manufacturer.

7 Q. And that rifle, did it have a magazine and
8 rounds in it?

9 A. There was no magazine in the rifle but a
10 magazine for it was found in the front passenger side
11 floorboard of the vehicle.

12 Q. Was the rifle in the back seat?

13 A. Yes, the rifle was in the back seat.

14 Q. Did the magazine have rounds in it?

15 A. Yes, it was a full 30 rounds, the magazine,
16 was capable of holding 30 rounds and it had 30 rounds in
17 it.

18 Q. The serial number for that rifle, was it
19 S -- or no. Was it 1983S-AS4608?

20 A. Yes.

21 Q. Okay. In addition to the rifle, did you
22 find a silver Colt .25 caliber handgun?

23 A. We did.

24 Q. Did that also have a magazine that went to
25 it?

1 A. That had a magazine, yes.

2 Q. Were there rounds in the magazine?

3 A. Yes, there was .25 caliber rounds in that
4 magazine.

5 Q. The silver Colt .25 caliber firearm, were
6 you able to determine the serial number for that
7 firearm?

8 A. The serial number had been ground off and
9 was obliterated on it so we could not determine a serial
10 number on that.

11 Q. And it was, the grinding off occurs after
12 factory production, they can not sell it that way;
13 correct?

14 A. That's correct.

15 Q. In addition to those firearms within the
16 vehicle, did you also find two .45 caliber cartridges on
17 the driver's side floorboard?

18 A. Yes, we did.

19 Q. And those were of the same brand as the
20 expelled and live rounds that you found throughout --

21 A. Yes, they had the same Speer head stamp.

22 Q. Within the vehicle did you also find
23 paperwork that would indicate to you possession of that
24 vehicle?

25 A. Yes, we did.

1 Q. Before I go there, move on there, I just
2 realized why I have these photos. Exhibit Number 15, is
3 that the rifle?

4 A. Yes, that is the rifle that was found in
5 the back seat.

6 Q. Number 16, is that the serial number?

7 A. Yes, that is the serial number.

8 Q. What's 17?

9 Oh, I know what 17 is.

10 Do you see a bag that ultimately was found
11 to contain a weapon in it --

12 A. Yes.

13 Q. -- in 17? And that's the bag sort of here
14 that's hard to see because everything's so dark?

15 A. Yes. It's kind of a velvet or a felt type
16 make-up bag I guess.

17 Q. And then showing you what's been marked as
18 18. That's a closer up of the bag so we can see what's
19 inside; correct?

20 A. That's correct.

21 Q. Showing you what's been marked as Exhibit
22 Number 20, that's the Colt handgun; correct?

23 A. That's correct.

24 Q. Okay.

25 A. That's the .25 that was found in the

1 vehicle.

2 Q. Now the paperwork in the vehicle that would
3 indicate ownership, with regard to Grand Jury Exhibit
4 Number 21, is this a photograph of a piece of mail that
5 you found within that vehicle?

6 A. Yes, it is.

7 Q. And the name Joshua Bacharach was
8 significant because that was the individual that was
9 taken into custody?

10 A. That's correct.

11 Q. Looking at Grand Jury Exhibit Number 24.
12 We have several pages. This is, the first photograph is
13 an overview of a couple of other pieces of paper found
14 within the car; is that correct?

15 A. That's correct.

16 Q. Okay. So page number 2, is that a
17 photograph of the bottom item in that first paragraph?

18 A. Yes, it is.

19 Q. Photograph. And the name Jordan Nazaroff
20 Bacharach, did that have any significance to you?

21 A. It's the same last name as our suspect.

22 Q. Do you know if he has a son by the name of
23 Jordan?

24 A. Yes, he does.

25 Q. And UMC paperwork with Jordan's name again

1 is significant because it's still his child?

2 A. It's still his son, yes.

3 Q. And finally the form showing visitation
4 between Joshua and Eufrasia, was that within the
5 vehicle?

6 A. That's correct.

7 Q. Okay. And within that form it indicates
8 that Eufrasia is the mother of his children; correct?

9 A. Yes. She labeled on the form baby mama was
10 the relationship.

11 Q. Okay. Did you at any time have any contact
12 with the suspect in this case?

13 A. I did not.

14 Q. Okay. Now when you received a description
15 of what had occurred, did it include that Officer McNabb
16 had expelled some rounds at the corner of Carey and
17 Dolly?

18 A. Yes, it did.

19 Q. Did you find the same number of casings as
20 he believed he had shot at that corner?

21 A. A count down was done of the rounds that he
22 had left on his person and it was consistent with the
23 number of rounds that we found. I don't think he
24 counted each time he shot so he wouldn't have had an
25 accurate idea of how many. It was close, I mean he

1 guesstimated and it was close.

2 Q. He also indicated, or is it correct that
3 you had information that the suspect had fired at him
4 from that same corner?

5 A. That's correct.

6 Q. Did you find casings consistent with each
7 of the rounds that he recalled being fired at him?

8 A. We did not find any spent casings at that
9 intersection.

10 Q. Now can you estimate when you arrived
11 approximately how many patrol cars had arrived to the
12 basic area of Tovar and Carey? I mean, not Carey, Tovar
13 and Dolly?

14 A. I'm going to say a bunch but when -- more
15 than 20.

16 Q. Okay.

17 A. The majority of the vehicles that responded
18 drove through that intersection to get to assist Officer
19 McNabb, along with medical personnel, the fire
20 department, K-9, everyone, that was the entrance route
21 into the crime scene.

22 Q. So the entrance route into the crime scene,
23 are you talking about Carey and Dolly or Dolly and
24 Tovar?

25 A. Well --

1 Q. Or both?

2 A. You'd have to come through Carey and Dolly
3 to get to Tovar.

4 Q. So there's not a separate entrance off the
5 map?

6 A. You can get there from Judson but the
7 majority of the responding people came, because Carey is
8 the major, the closest major roadway to it, so everyone
9 came off of Carey to get there.

10 Q. Now while you all are concerned with and
11 diligent about preserving the crime scene, that can't be
12 done until you actually arrive; is that fair?

13 A. That's correct.

14 Q. And in a situation like this, finding the
15 individual who has not only been identified as being
16 armed but willing to use that weapon would trump making
17 sure that there are no casings that get for example
18 driven over, would you agree?

19 A. That's correct.

20 Q. So the fact that you did not find spent
21 casings at that corner where approximately 20 vehicles
22 came in was not surprising to you, would you agree?

23 A. Not at all.

24 MS. THOMSON: I have no further questions
25 of this witness. Do any members of the Grand Jury have

1 any questions?

2 THE FOREPERSON: No?

3 By law, these proceedings are secret and
4 you are prohibited from disclosing to anyone anything
5 that has transpired before us, including evidence and
6 statements presented to the Grand Jury, any event
7 occurring or statement made in the presence of the Grand
8 Jury, and information obtained by the Grand Jury.

9 Failure to comply with this admonition is a
10 gross misdemeanor punishable by a year in the Clark
11 County Detention Center and a \$2,000 fine. In addition,
12 you may be held in contempt of court punishable by an
13 additional \$500 fine and 25 days in the Clark County
14 Detention Center.

15 Do you understand this admonition?

16 THE WITNESS: Yes, I do.

17 THE FOREPERSON: Thank you, Officer. You
18 are excused.

19 MS. THOMSON: Within the exhibits that we
20 just went through was documentation showing a visitation
21 record. Consider that only as it pertains to the
22 relationship between the parties and the defendant's
23 relationship to the vehicle within that, which that
24 paperwork was found within. Do not consider any other
25 implications of that paperwork.

1 We had marked, or I had marked Grand Jury
2 Exhibit, proposed Exhibit Number 19. That has not been
3 published and it is going to be withdrawn so you will
4 not have a 19 as you deliberate.

5 With that, does anyone have any questions
6 before you deliberate? Yes.

7 A JUROR: Okay. One of the counts is that
8 he was, he had a prior record of -- where is it. An
9 ex-felon.

10 MS. THOMSON: Correct.

11 A JUROR: Do we have proof of that, that he
12 was an ex-felon?

13 MS. THOMSON: I'm sorry, what was the last
14 part of that question?

15 A JUROR: The proof that he was an
16 ex-felon.

17 MS. THOMSON: That will be for your
18 consideration. I would direct you to the exhibits that
19 have been lodged with you all, specifically 22 and 23.
20 I cannot tell you if I have proven it but I would direct
21 you to the exhibits.

22 A JUROR: Okay. Thank you.

23 MS. THOMSON: Any other questions?

24 Okay. With that I would ask you to
25 deliberate please.

1 (At this time, all persons, other than
2 members of the Grand Jury, exit the room at 3:51 p.m.
3 and return at 4:00 p.m.)

4 THE FOREPERSON: Madame District Attorney,
5 by a vote of 12 or more grand jurors a true bill has
6 been returned against defendant Joshua Bacharach
7 charging the following crimes: Attempted murder with
8 use of a deadly weapon, one count; five counts discharge
9 of firearm from or within a structure or vehicle; five
10 counts assault with a deadly weapon; one count stop
11 required on signal of police officer; one count
12 resisting public officer with use of a firearm; one
13 count possession of a firearm with altered or
14 obliterated serial number; three counts possession of
15 firearm by an ex-felon. We instruct you to prepare an
16 Indictment in conformance with the proposed Indictment
17 previously submitted to us.

18 MS. THOMSON: Thank you very much.

19 (Proceedings concluded.)

20 --oo0oo--

21

22

23

24

25

STATE OF NEVADA)
 :
COUNTY OF CLARK) Ss

Dated at Las Vegas, Nevada,
July 29, 2014

Danette L. Antonacci, C.C.R. 222

1 AFFIRMATION

2 Pursuant to NRS 239B.030

3
4 The undersigned does hereby affirm that the
5 preceding TRANSCRIPT filed in GRAND JURY CASE NUMBER
6 14AGJ025X:
78 X Does not contain the social security number of any
9 person,

10 -OR-

11 ____ Contains the social security number of a person as
12 required by:13 A. A specific state or federal law, to-
14 wit: NRS 656.250.

15 -OR-

16 B. For the administration of a public program
17 or for an application for a federal or
18 state grant.

19 /s/ Danette L. Antonacci

20 Signature

21 7-29-14
22 Date23 Danette L. Antonacci
24 Print Name25 Official Court Reporter
Title

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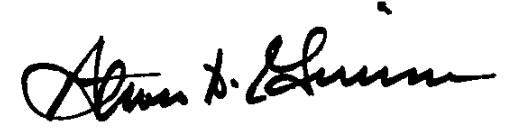
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CLERK OF THE COURT

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DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 JOSHUA W. BACHARACH, aka,
13 Joshua William Bacharach, #1900105

14 Defendant.

CASE NO: C-14-299425-1

DEPT NO: VIII

INDICTMENT

15 STATE OF NEVADA }
16 COUNTY OF CLARK } ss.

17 The Defendant above named, JOSHUA W. BACHARACH, aka, Joshua William
18 Bacharach, accused by the Clark County Grand Jury of the crime(s) of ATTEMPT MURDER
19 WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.010, 200.030,
20 193.330, 193.165 - NOC 50031); DISCHARGE OF FIREARM FROM OR WITHIN A
21 STRUCTURE OR VEHICLE (Category B Felony - NRS 202.287 - NOC 51445); ASSAULT
22 WITH A DEADLY WEAPON (Category B Felony - NRS 200.471 - NOC 50201); STOP
23 REQUIRED ON SIGNAL OF POLICE OFFICER (Category B Felony - NRS 484B.550.3b -
24 NOC 53833); RESISTING PUBLIC OFFICER WITH USE OF A FIREARM (Category C
25 Felony - NRS 199.280 - NOC 55104); POSSESSION OF FIREARM WITH ALTERED OR
26 OBLITERATED SERIAL NUMBER (Category D Felony - NRS 202.277 - NOC 51438) and
27 POSSESSION OF FIREARM BY EX-FELON (Category B Felony - NRS 202.360 - NOC
28 51460), committed at and within the County of Clark, State of Nevada, on or about the 26th

1 day of June, 2014, as follows:

2 COUNT 1 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

3 did then and there wilfully, unlawfully, feloniously and with malice aforethought
4 attempt to kill Officer R. MCNABB, a human being, by repeatedly shooting at the said Officer
5 R. MCNABB, with use of a deadly weapon, to-wit: a firearm.

6 COUNT 2 - DISCHARGE OF FIREARM FROM OR WITHIN A STRUCTURE OR
7 VEHICLE

8 did then and there wilfully, unlawfully, maliciously and feloniously, while in, on or
9 under a vehicle, located near East Carey Avenue and East Lake Mead Boulevard, Las Vegas,
10 Clark County, Nevada, discharge a firearm within or from the vehicle; said vehicle being
11 within an area designated by a City or County Ordinance as a populated area for the purpose
12 of prohibiting the discharge of weapons.

13 COUNT 3 - ASSAULT WITH A DEADLY WEAPON

14 did then and there wilfully, unlawfully, feloniously and intentionally place another
15 person in reasonable apprehension of immediate bodily harm and/or did willfully and
16 unlawfully attempt to use physical force against another person, to-wit: Officer R. MCNABB,
17 with use of a deadly weapon, to-wit: by shooting a firearm at Officer R. MCNABB.

18 COUNT 4 - DISCHARGE OF FIREARM FROM OR WITHIN A STRUCTURE OR
19 VEHICLE

20 did then and there wilfully, unlawfully, maliciously and feloniously, while in, on or
21 under a vehicle, located near East Carey Avenue and North Gateway Road, Las Vegas, Clark
22 County, Nevada, discharge a firearm within or from the vehicle; said vehicle being within an
23 area designated by a City or County Ordinance as a populated area for the purpose of
24 prohibiting the discharge of weapons.

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1 COUNT 5 - ASSAULT WITH A DEADLY WEAPON

2 did then and there wilfully, unlawfully, feloniously and intentionally place another
3 person in reasonable apprehension of immediate bodily harm and/or did willfully and
4 unlawfully attempt to use physical force against another person, to-wit: Officer R. MCNABB,
5 with use of a deadly weapon, to-wit: by shooting a firearm at Officer R. MCNABB.

6 COUNT 6 - DISCHARGE OF FIREARM FROM OR WITHIN A STRUCTURE OR
7 VEHICLE

8 did then and there wilfully, unlawfully, maliciously and feloniously, while in, on or
9 under a vehicle, located near East Carey Avenue and North Gateway Road, Las Vegas, Clark
10 County, Nevada, discharge a firearm within or from the vehicle; said vehicle being within an
11 area designated by a City or County Ordinance as a populated area for the purpose of
12 prohibiting the discharge of weapons.

13 COUNT 7 - ASSAULT WITH A DEADLY WEAPON

14 did then and there wilfully, unlawfully, feloniously and intentionally place another
15 person in reasonable apprehension of immediate bodily harm and/or did willfully and
16 unlawfully attempt to use physical force against another person, to-wit: Officer R. MCNABB,
17 with use of a deadly weapon, to-wit: by shooting a firearm at Officer R. MCNABB.

18 COUNT 8 - DISCHARGE OF FIREARM FROM OR WITHIN A STRUCTURE OR
19 VEHICLE

20 did then and there wilfully, unlawfully, maliciously and feloniously, while in, on or
21 under a vehicle, located near East Carey Avenue and North Lamb Boulevard, Las Vegas, Clark
22 County, Nevada, discharge a firearm within or from the vehicle; said vehicle being within an
23 area designated by a City or County Ordinance as a populated area for the purpose of
24 prohibiting the discharge of weapons.

25 COUNT 9 - ASSAULT WITH A DEADLY WEAPON

26 did then and there wilfully, unlawfully, feloniously and intentionally place another
27 person in reasonable apprehension of immediate bodily harm and/or did willfully and
28 unlawfully attempt to use physical force against another person, to-wit: Officer R. MCNABB,
with use of a deadly weapon, to-wit: by shooting a firearm at Officer R. MCNABB.

1 COUNT 10 - DISCHARGE OF FIREARM FROM OR WITHIN A STRUCTURE OR
2 VEHICLE

3 did then and there wilfully, unlawfully, maliciously and feloniously, while in, on or
4 under a vehicle, located near East Carey Avenue and North Lamb Boulevard, Las Vegas, Clark
5 County, Nevada, discharge a firearm within or from the vehicle; said vehicle being within an
6 area designated by a City or County Ordinance as a populated area for the purpose of
7 prohibiting the discharge of weapons.

8 COUNT 11 - ASSAULT WITH A DEADLY WEAPON

9 did then and there wilfully, unlawfully, feloniously and intentionally place another
10 person in reasonable apprehension of immediate bodily harm and/or did wilfully and
11 unlawfully attempt to use physical force against another person, to-wit: Officer R. MCNABB,
12 with use of a deadly weapon, to-wit: by shooting a firearm at Officer R. MCNABB.

13 COUNT 12 - STOP REQUIRED ON SIGNAL OF POLICE OFFICER

14 did while driving a motor vehicle at East Carey Avenue and Dolly Lane, Las Vegas,
15 Clark County, Nevada, wilfully, unlawfully, and feloniously fail or refuse to bring said vehicle
16 to a stop, or otherwise flee or attempt to elude a peace officer in a readily identifiable vehicle
17 of any police department or regulatory agency, to-wit: Officer R. MCNABB, after being given
18 a signal to bring the vehicle to a stop, and did operate said motor vehicle in a manner which
19 endangered, or was likely to endanger any person other than himself or the property of any
20 person other than himself.

21 COUNT 13 - RESISTING PUBLIC OFFICER WITH USE OF A FIREARM

22 did wilfully, unlawfully, and feloniously resist, delay, or obstruct Officer R. MCNABB,
23 a public officer in discharging or attempting to discharge any legal duty, to-wit: by shooting
24 at and/or pointing a firearm at the said officer while fleeing from the officer on foot, as the
25 officer attempted to lawfully detain Defendant, Defendant using a firearm in the course of such
26 resistance, obstruction or delay.

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1 COUNT 14 – POSSESSION OF FIREARM WITH ALTERED OR OBLITERATED SERIAL
2 NUMBER

3 did then and there wilfully, knowingly, unlawfully and feloniously possess a firearm on
4 which a serial number has been intentionally changed, altered, removed, or obliterated, to-wit:
5 a Colt .25 caliber semi-automatic firearm.

6 COUNT 15 - POSSESSION OF FIREARM BY EX-FELON

7 did then and there wilfully, unlawfully, and feloniously own or have in his possession,
8 or under his control, a weapon, to-wit: a .25 caliber Colt handgun, the said Defendant being
9 an ex-felon, having in 2009, been convicted of Possession of Stolen Vehicle, in Case No.
10 C256298, and having in 2014, been convicted of Attempt Theft, in Case No. C293845, both
11 in the Eighth Judicial District Court, Clark County, felonies under the laws of the State of
12 Nevada.

13 COUNT 16 - POSSESSION OF FIREARM BY EX-FELON

14 did then and there wilfully, unlawfully, and feloniously own or have in his possession,
15 or under his control, a weapon, to-wit: a 7.62 Ewbank rifle serial number 1983S-AS4608, the
16 said Defendant being an ex-felon, having in 2009, been convicted of Possession of Stolen
17 Vehicle, in Case No. C256298, and having in 2014, been convicted of Attempt Theft, in Case
18 No. C293845, both in the Eighth Judicial District Court, Clark County, felonies under the laws
19 of the State of Nevada.

20 COUNT 17 - POSSESSION OF FIREARM BY EX-FELON

21 did then and there wilfully, unlawfully, and feloniously own or have in his possession,
22 or under his control, a weapon, to-wit: a .45 caliber Colt handgun serial number CP33432, the
23 said Defendant being an ex-felon, having in 2009, been convicted of Possession of Stolen

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1 Vehicle, in Case No. C256298, and having in 2014, been convicted of Attempt Theft, in Case
2 No. C293845, both in the Eighth Judicial District Court, Clark County, felonies under the laws
3 of the State of Nevada.

4 DATED this 15th day of July, 2014.

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

8 BY


9 MEGAN THOMSON
10 Chief/Deputy District Attorney
11 Nevada Bar #011002

12
13
14 ENDORSEMENT: A True Bill

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16 _____
17 Foreperson, Clark County Grand Jury
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1 Names of Witnesses and testifying before the Grand Jury:

2 HUYSENTRUYT, KARL, LVMPD# 6034

3 JAEGER, RYAN, LVMPD# 5587

4 MCNABB, RYAN, LVMPD# 8399

5 NAZAROFF, EUFRASIA, c/o CCDA, 200 Lewis Avenue, LV, NV 89101

6 QUESADA, RICARDO, c/o CCDA, 200 Lewis Avenue, LV, NV 89101

7
8 Additional Witnesses known to the District Attorney at time of filing the Indictment:

9 CUSTODIAN OF RECORDS, CCDC

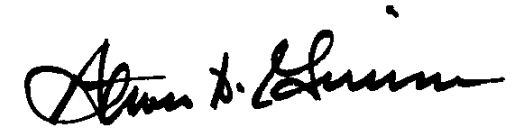
10 CUSTODIAN OF RECORDS, LVMPD COMMUNICATIONS

11 CUSTODIAN OF RECORDS, LVMPD RECORDS

12 PARENT OF RICARDO QUESDADA

13 TARANGO, MARISALA, c/o CCDA, 200 Lewis Avenue, LV, NV 89101

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28 LVMPD EV# 1406264091
(TK11)



CLERK OF THE COURT

RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

JOSHUA W. BACHARACH
JOSHUA WILLIAM BACHARACH,

Defendant.

CASE NO. C299425

DEPT. VIII

BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE
MONDAY, JULY 28, 2014

**TRANSCRIPT OF PROCEEDINGS
INITIAL ARRAIGNMENT
INDICTMENT WARRANT RETURN**

APPEARANCES:

For the State:

NELL E. CHRISTENSEN, ESQ.
Chief Deputy District Attorney

For the Defendant:

NADIA HOJJAT, ESQ.
Deputy Public Defender

MATTHEW LAY, ESQ.

RECORDED BY: SANDRA PRUCHNIC, COURT TRANSCRIBER

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MONDAY, JULY 28, 2014 AT 8:07 A.M.

THE COURT: C299425, Joshua Bacharach.

THE DEFENDANT: Yes, sir.

MS. CHRISTENSEN: Your Honor, Nell Christensen, for the State. We indicted this case.

THE COURT: Okay.

MS. CHRISTENSEN: And through our research and preparing for that, we found that the Public Defender has actually represented two of our witnesses, both of which were subpoenaed for the grand jury. So we believe that you probably have to appoint a track attorney on this case.

THE COURT: Okay.

Mr. Bacharach, you --

Have you given him a copy of the Indictment?

MS. CHRISTENSEN: Yes.

THE DEFENDANT: No, ma'am -- or no, sir.

THE COURT: You've been given a copy of an Indictment charging you with Count 1, attempt murder with use of deadly weapon, a felony. Counts 2, 4, 6, 8, and 10, discharging firearm from or within a structure or vehicle. Counts 3, 5, 7, 9, and 11, assault with a deadly weapon. Count 12, stop required on signal of a police officer. Count 13, resisting a public officer with use of a firearm. And Counts 15 through 17, possession of a firearm by an ex-felon. All felonies.

How do you plead?

THE DEFENDANT: Guilty.

MS. HOJJAT: Not --

1 THE DEFENDANT: Or not guilty, my bad. My bad.

2 THE COURT: You have the right to an attorney. Can you afford a lawyer?

3 THE DEFENDANT: No.

4 THE COURT: We'll have a lawyer for you here on Wednesday.

5 Call Drew.

6 THE CLERK: Call Drew.

7 THE COURT: Tannery is out for three weeks because of surgery. He had a

8 burst appendix.

9 THE CLERK: Yes. So what case is that on?

10 THE COURT: Ask Drew if we can have Spencer Judd appointed on the case.

11 THE CLERK: Okay. What case is that, Judge?

12 THE COURT: Pardon?

13 THE CLERK: What case is that on?

14 THE COURT: 1B.

15 MS. CHRISTENSEN: Your Honor, this is actually, we don't have a life tail on

16 any of the counts. So I think you have to appoint one of the attorneys that tracks in

17 through you.

18 THE COURT: Well, I only have two.

19 MS. CHRISTENSEN: Oh, is it Spencer Judd? Oh, okay.

20 THE COURT: And so I'm -- Judd does things for Tannery. Tannery is out for

21 three weeks because of surgery.

22 MS. CHRISTENSEN: Oh.

23 THE COURT: And Judd is covering for him in other departments. So.

24 THE CLERK: Okay, that sounds good to me.

25 MS. HOJATT: And, Your Honor --

1 THE COURT: And you guys can't represent him because --

2 MS. HOJATT: No, Your Honor. I apologize, just acting as a friend of the
3 Court, I don't think Mr. Tannery is a track attorney on this track anymore. I believe
4 right now it's Ms. Nguyen, Mr. Claus, and Mr. --

5 THE CLERK: Nelson.

6 MS. HOJJAT: -- Nelson.

7 THE COURT: Oh. Okay. Get Roy Nelson in here or who's up next? I
8 thought it was Tannery, sorry.

9 THE CLERK: Probably Rochelle or --

10 MS. CHRISTENSEN: It probably was before.

11 THE COURT: And we have to go outside. Do you think we have to go
12 outside of the --

13 MS. CHRISTENSEN: No, it should be --

14 THE COURT: Okay.

15 MS. CHRISTENSEN: -- one of those three.

16 THE COURT: I thought Tannery was.

17 THE CLERK: Ms. Nguyen?

18 THE COURT: Okay, put Ms. Nguyen. Ms. Nguyen will be here on
19 Wednesday to meet you.

20 Does she have anything today? All right. Just hold on.

21 THE CLERK: Yes, she does.

22 MS. CHRISTENSEN: Okay, we'll wait.

23 THE COURT: Okay.

24 MS. CHRISTENSEN: Thank you.

25 MS. HOJJAT: And, just for the record --

1 THE COURT: Holler.

2 MS. HOJJAT: -- the PD is not going to be on this case.

3 THE COURT: No.

4 MS. HOJJAT: Thank you.

5 [Proceeding trailed at 8:10 a.m.]

6 [Proceeding recalled at 9:07 a.m.]

7 THE COURT: C299425, Joshua Bacharach.

8 Mr. Bacharach, Ms. Nguyen is not here. This is an attorney appearing
9 on her behalf. Mr. Bacharach had previously pled not guilty. Yes?

10 THE DEFENDANT: Yeah.

11 THE COURT: And did you invoke your right to a speedy trial or do you waive
12 it?

13 THE DEFENDANT: I think we went over that, yeah, but I was informed by
14 somebody else that --

15 THE COURT: Let's -- let's do this. Before you do that, let's have you
16 talk -- I'll, the Court will invoke it for you, but you talk with Ms. Nguyen when she
17 comes to talk to you and if she wants to waive it, we'll bring you back to waive it.

18 THE DEFENDANT: All right.

19 THE COURT: All right?

20 THE DEFENDANT: Is there any specific date when I'll be able to talk to
21 them? I still haven't talked to a person about it.

22 THE COURT: She'll be, when she can, she didn't know this was on --

23 THE DEFENDANT: All right.

24 THE COURT: -- today. So we'll set it within 60 days, but with the
25 understanding it may get.

1 If you'll get in touch with Ms. Nguyen as well.

2 MS. CHRISTENSEN: We will, Your Honor.

3 THE COURT: Okay.

4 THE DEFENDANT: But I'm already sentenced on another case and I'm going
5 to be going to prison within, like, next, like two, three weeks.

6 THE COURT: All right. Okay. So you'll probably being transported?

7 THE DEFENDANT: Yeah, within like --

8 THE COURT: Okay.

9 THE DEFENDANT: -- the next 30 days.

10 THE COURT: All right. We'll -- we'll keep track of that.

11 THE CLERK: So we're -- are we going to set a trial date on this?

12 THE COURT: Yes, trial date in 60 days.

13 THE CLERK: Calendar call would be August 27th at 8 a.m. Trial,
14 September 2nd, at 9:30.

15 THE COURT: Do we have another Ms. Nguyen case?

16 MR. LAY: That's correct, Your Honor.

17 THE CLERK: And, Counsel, what is your name?

18 MR. LAY: Last name is Lay, L-A-Y.

19 THE CLERK: Okay.


20 MR. LAY: Bar number is 12249.

21 THE CLERK: Thank you.

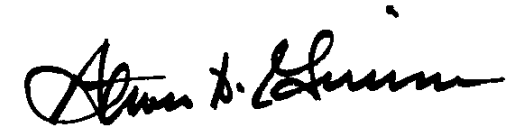
22 [Proceeding concluded at 9:08 a.m.]

23 ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual
24 recording in the above-entitled case.

25



Jill Jacoby
Court Recorder



CLERK OF THE COURT

RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

JOSHUA W. BACHARACH
AKA JOSHUA WILLIAM BACHARACH,

Defendant.

CASE NO. C299425

DEPT. VIII

BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE
WEDNESDAY, APRIL 8, 2015

**TRANSCRIPT OF PROCEEDINGS
CALENDAR CALL**

APPEARANCES:

For the State:

JOHN FATTIG, ESQ.
Chief Deputy District Attorney

For the Defendant:

LANCE A. MANINGO, ESQ.

RECORDED BY: JILL JACOBY, COURT RECORDER

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WEDNESDAY, APRIL 8, 2015 AT 8:19 A.M.

THE COURT: C299425, Joshua Bacharach.

MR. MANINGO: Good morning, Your Honor. Lance Maningo appearing for Rochelle Nguyen.

THE COURT: It's number one on my list to go to trial.

MR. MANINGO: Your Honor, I believe it's our request for a continuance. And we've asked for one week for a status check. We've received some new discovery and --

Is there anything else, Tim?

MR. FATTIG: That's correct. We -- the State is not opposed to the defense request --

THE COURT: All right.

MR. FATTIG: -- to continue. I believe Ms. Nguyen wanted to be here when we reset the date. We're already here on another matter next Wednesday so if we could have that Wednesday for --

THE COURT: To reset it.

MR. FATTIG: -- setting it.

THE CLERK: April 15th.

THE COURT: Thank you.

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THE CLERK: 8 a.m.

MR. FATTIG: Thank you.

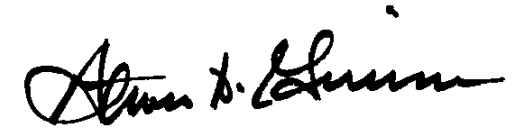
MR. MANINGO: Thank you, Your Honor.

[Proceeding concluded at 8:19 a.m.]

ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual recording in the above-entitled case.



Jill Jacoby
Court Recorder



CLERK OF THE COURT

RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA,

Plaintiff,

vs.

JOSHUA W. BACHARACH
JOSHUA WILLIAM BACHARACH,

Defendant.

CASE NO. C299425

DEPT. VIII

BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE
WEDNESDAY, OCTOBER 28, 2015

**TRANSCRIPT OF PROCEEDINGS
CALENDAR CALL**

APPEARANCES:

For the State:

JOHN FATTIG, ESQ.
MEGAN S. THOMSON
Chief Deputy District Attorneys

For the Defendant:

ROCHELLE T. NGUYEN, ESQ.

RECORDED BY: JILL JACOBY, COURT RECORDER

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WEDNESDAY, OCTOBER 28, 2015 AT 9:11 A.M.

THE COURT: C299425, Joshua Bacharach.

MS. NGUYEN: May we approach?

THE COURT: Yeah.

[Bench Conference Begins]

MS. NGUYEN: You've got a busy morning.

THE COURT: I've had a lovely morning.

MS. NGUYEN: He's at High Desert and so I've just had a heck of time visiting him because I get Tuesdays --

THE COURT: He's right here.

MS. NGUYEN: I know he is. I just -- we've been going back and forth because I've been up there the last couple of weeks a lot. But I just got the Guilty Plea Agreement. He's -- this is stipulated 12 to 30 years. He just would like to review it.

THE COURT: Twelve to 30 years or 30 months?

MS. THOMSON: Years.

MS. NGUYEN: Years.

MR. FATTIG: Years.

THE COURT: Oh. You're fast on the gun.

MS. NGUYEN: These two, they don't even -- they don't even budge.

THE COURT: Okay. So.

MS. NGUYEN: I just need -- it's set, this is calendar so it's set for trial on Monday.

THE COURT: So what is today?

1 MR. FATTIG: We're ready.

2 MS. NGUYEN: It's Wednesday. They're ready.

3 THE COURT: Put it on Friday morning at 9 o'clock.

4 MS. NGUYEN: It's a holiday.

5 MS. THOMSON: Friday's a holiday.

6 THE COURT: Oh, is it?

7 MS. NGUYEN: It's Nevada Day so I'm hoping for --

8 THE COURT: How about tomorrow?

9 MS. NGUYEN: That's what I'm hoping.

10 THE COURT: And I'll order him to stay here.

11 MS. NGUYEN: That's what I'm hoping.

12 THE COURT: Okay.

13 MS. NGUYEN: Okay.

14 MR. FATTIG: But our concern I guess would be if you set another trial in here

15 next week.

16 THE COURT: I don't have any --

17 MS. NGUYEN: There's no -- we're the only one.

18 THE COURT: We don't have anything

19 MR. FATTIG: Okay.

20 MS. THOMSON: Okay.

21 MR. FATTIG: So we'll keep this.

22 THE COURT: Uh-huh.

23 MR. FATTIG: Okay. Good. We have about 20 witnesses. It'll be all week,

24 but it'll be done.

25 THE COURT: It won't be a week-long trial.

1 MR. FATTIG: We'll get it done.

2 THE COURT: I try them fast.

3 MS. NGUYEN: What do you need 20 witnesses for? There's one cop.

4 THE COURT: All right.

5 MS. THOMSON: Yeah, except that he shoots for over like a mile at the cop.

6 THE COURT: We're going -- we're going --

7 [Bench Conference Concludes]

8 THE COURT: This will be the trial for next week except she wants to talk to

9 you about a possible negotiation. I'm going to order that he'd be booked in the Clark

10 County Detention Center and then the attorney can come over and talk to him. It'll

11 be on tomorrow morning at 9 o'clock. And that'll give the State -- or the defense

12 attorney an opportunity to go over the Guilty Plea Agreement.

13 MS. THOMSON: And for the record, if he does not sign it tomorrow --

14 THE COURT: Then we go to trial Monday.

15 MS. THOMSON: -- there will be no more offers.

16 THE COURT: Then we go to trial Monday at 9:30.

17 MR. FATTIG: And then all offers will be revoked if he doesn't sign it

18 tomorrow.

19 THE COURT: All right. Deal.

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MS. THOMSON: Thank, Your Honor.

MR. FATTIG: Thank you.

THE COURT: Thanks.

[Proceeding concluded at 9:13 a.m.]

ATTEST: I hereby certify that I have truly and correctly transcribed the audio/visual recording in the above-entitled case.



Jill Jacoby
Court Recorder

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

NOV - 2 2015

BY: TENA JOLLEY, DEPUTY

1 IND
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MEGAN THOMSON
6 Chief Deputy District Attorney
7 Nevada Bar #011002
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 JOSHUA W. BACHARACH,
13 aka Joshua William Bacharach, #1900105

14 Defendant.

CASE NO: C-14-299425-1

DEPT NO: VIII

AMENDED
INDICTMENT

15 STATE OF NEVADA }
16 COUNTY OF CLARK } ss.

17 The Defendant above named, JOSHUA W. BACHARACH, aka Joshua William
18 Bacharach, accused by the Clark County Grand Jury of the crime(s) of **ATTEMPT MURDER**
19 **WITH USE OF A DEADLY WEAPON** (Category B Felony - NRS 200.010, 200.030,
20 193.330, 193.165 - NOC 50031); **DISCHARGE OF FIREARM FROM OR WITHIN A**
21 **STRUCTURE OR VEHICLE** (Category B Felony - NRS 202.287 - NOC 51445);
22 **ASSAULT WITH A DEADLY WEAPON** (Category B Felony - NRS 200.471 - NOC
23 50201); **STOP REQUIRED ON SIGNAL OF POLICE OFFICER** (Category B Felony -
24 NRS 484B.550.3b - NOC 53833); **RESISTING PUBLIC OFFICER WITH USE OF A**
25 **FIREARM** (Category C Felony - NRS 199.280 - NOC 55104); **POSSESSION OF**
26 **FIREARM WITH ALTERED OR OBLITERATED SERIAL NUMBER** (Category D
27 **Felony** - NRS 202.277 - NOC 51438) and **POSSESSION OF FIREARM BY EX-FELON**
28 (Category B Felony - NRS 202.360 - NOC 51460), committed at and within the County of

Clark, State of Nevada, on or about the 26th day of June, 2014, as follows:

COUNT 1 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

did then and there wilfully, unlawfully, feloniously and with malice aforethought attempt to kill Officer R. MCNABB, a human being, by repeatedly shooting at the said Officer R. MCNABB, with use of a deadly weapon, to-wit: a firearm.

COUNT 2 - DISCHARGE OF FIREARM FROM OR WITHIN A STRUCTURE OR VEHICLE

did then and there wilfully, unlawfully, maliciously and feloniously, while in, on or under a vehicle, located near East Carey Avenue and East Lake Mead Boulevard, Las Vegas, Clark County, Nevada, discharge a firearm within or from the vehicle; said vehicle being within an area designated by a City or County Ordinance as a populated area for the purpose of prohibiting the discharge of weapons.

COUNT 3 - ASSAULT WITH A DEADLY WEAPON

did then and there wilfully, unlawfully, feloniously and intentionally place another person in reasonable apprehension of immediate bodily harm and/or did wilfully and unlawfully attempt to use physical force against another person, to-wit: Officer R. MCNABB, with use of a deadly weapon, to-wit: by shooting a firearm at Officer R. MCNABB.

COUNT 4 - DISCHARGE OF FIREARM FROM OR WITHIN A STRUCTURE OR VEHICLE

did then and there wilfully, unlawfully, maliciously and feloniously, while in, on or under a vehicle, located near East Carey Avenue and North Gateway Road, Las Vegas, Clark County, Nevada, discharge a firearm within or from the vehicle; said vehicle being within an area designated by a City or County Ordinance as a populated area for the purpose of prohibiting the discharge of weapons.

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1 COUNT 5 - ASSAULT WITH A DEADLY WEAPON

2 did then and there wilfully, unlawfully, feloniously and intentionally place another
3 person in reasonable apprehension of immediate bodily harm and/or did willfully and
4 unlawfully attempt to use physical force against another person, to-wit: Officer R. MCNABB,
5 with use of a deadly weapon, to-wit: by shooting a firearm at Officer R. MCNABB.

6 COUNT 6 - DISCHARGE OF FIREARM FROM OR WITHIN A STRUCTURE OR
7 VEHICLE

8 did then and there wilfully, unlawfully, maliciously and feloniously, while in, on or
9 under a vehicle, located near East Carey Avenue and North Gateway Road, Las Vegas, Clark
10 County, Nevada, discharge a firearm within or from the vehicle; said vehicle being within an
11 area designated by a City or County Ordinance as a populated area for the purpose of
12 prohibiting the discharge of weapons.

13 COUNT 7 - ASSAULT WITH A DEADLY WEAPON

14 did then and there wilfully, unlawfully, feloniously and intentionally place another
15 person in reasonable apprehension of immediate bodily harm and/or did willfully and
16 unlawfully attempt to use physical force against another person, to-wit: Officer R. MCNABB,
17 with use of a deadly weapon, to-wit: by shooting a firearm at Officer R. MCNABB.

18 COUNT 8 - DISCHARGE OF FIREARM FROM OR WITHIN A STRUCTURE OR
19 VEHICLE

20 did then and there wilfully, unlawfully, maliciously and feloniously, while in, on or
21 under a vehicle, located near East Carey Avenue and North Lamb Boulevard, Las Vegas, Clark
22 County, Nevada, discharge a firearm within or from the vehicle; said vehicle being within an
23 area designated by a City or County Ordinance as a populated area for the purpose of
24 prohibiting the discharge of weapons.

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1 COUNT 9 - ASSAULT WITH A DEADLY WEAPON

2 did then and there wilfully, unlawfully, feloniously and intentionally place another
3 person in reasonable apprehension of immediate bodily harm and/or did wilfully and
4 unlawfully attempt to use physical force against another person, to-wit: Officer R. MCNABB,
5 with use of a deadly weapon, to-wit: by shooting a firearm at Officer R. MCNABB.

6 COUNT 10 - DISCHARGE OF FIREARM FROM OR WITHIN A STRUCTURE OR
7 VEHICLE

8 did then and there wilfully, unlawfully, maliciously and feloniously, while in, on or
9 under a vehicle, located near East Carey Avenue and North Lamb Boulevard, Las Vegas, Clark
10 County, Nevada, discharge a firearm within or from the vehicle; said vehicle being within an
11 area designated by a City or County Ordinance as a populated area for the purpose of
12 prohibiting the discharge of weapons.

13 COUNT 11 - ASSAULT WITH A DEADLY WEAPON

14 did then and there wilfully, unlawfully, feloniously and intentionally place another
15 person in reasonable apprehension of immediate bodily harm and/or did wilfully and
16 unlawfully attempt to use physical force against another person, to-wit: Officer R. MCNABB,
17 with use of a deadly weapon, to-wit: by shooting a firearm at Officer R. MCNABB.

18 COUNT 12 - STOP REQUIRED ON SIGNAL OF POLICE OFFICER

19 did while driving a motor vehicle between the areas of Walnut and Carey and Carey
20 and Dolly Lane, Las Vegas, Clark County, Nevada, wilfully, unlawfully, and feloniously fail
21 or refuse to bring said vehicle to a stop, or otherwise flee or attempt to elude a peace officer in
22 a readily identifiable vehicle of any police department or regulatory agency, to-wit: Officer
23 R. MCNABB, after being given a signal to bring the vehicle to a stop, and did operate said
24 motor vehicle in a manner which endangered, or was likely to endanger any person other than
25 himself or the property of any person other than himself.

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1 COUNT 13 - RESISTING PUBLIC OFFICER WITH USE OF A FIREARM

2 did wilfully, unlawfully, and feloniously resist, delay, or obstruct Officer R. MCNABB,
3 a public officer in discharging or attempting to discharge any legal duty, to-wit: by shooting
4 at and/or pointing a firearm at the said officer while fleeing from the officer on foot, as the
5 officer attempted to lawfully detain Defendant, Defendant using a firearm in the course of such
6 resistance, obstruction or delay.

7 COUNT 14 - POSSESSION OF FIREARM WITH ALTERED OR OBLITERATED SERIAL
8 NUMBER

9 did then and there wilfully, knowingly, unlawfully and feloniously possess a firearm on
10 which a serial number has been intentionally changed, altered, removed, or obliterated, to-wit:
11 a Colt .25 caliber semi-automatic firearm.

12 COUNT 15 - POSSESSION OF FIREARM BY EX-FELON

13 did then and there wilfully, unlawfully, and feloniously own or have in his possession,
14 or under his control, a weapon, to-wit: a .25 caliber Colt handgun, the said Defendant being
15 an ex-felon, having in 2009, been convicted of Possession of Stolen Vehicle, in Case No.
16 C256298, and having in 2014, been convicted of Attempt Theft, in Case No. C293845, both
17 in the Eighth Judicial District Court, Clark County, felonies under the laws of the State of
18 Nevada.

19 COUNT 16 - POSSESSION OF FIREARM BY EX-FELON

20 did then and there wilfully, unlawfully, and feloniously own or have in his possession,
21 or under his control, a weapon, to-wit: a 7.62 Ewbank rifle serial number 1983S-AS4608, the
22 said Defendant being an ex-felon, having in 2009, been convicted of Possession of Stolen
23 Vehicle, in Case No. C256298, and having in 2014, been convicted of Attempt Theft, in Case
24 No. C293845, both in the Eighth Judicial District Court, Clark County, felonies under the laws
25 of the State of Nevada.

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1 COUNT 17 - POSSESSION OF FIREARM BY EX-FELON

2 did then and there wilfully, unlawfully, and feloniously own or have in his possession,
3 or under his control, a weapon, to-wit: a .45 caliber Colt handgun serial number CP33432, the
4 said Defendant being an ex-felon, having in 2009, been convicted of Possession of Stolen
5 Vehicle, in Case No. C256298, and having in 2014, been convicted of Attempt Theft, in Case
6 No. C293845, both in the Eighth Judicial District Court, Clark County, felonies under the laws
7 of the State of Nevada.

8 DATED this 2nd day of November, 2015.

9 STEVEN B. WOLFSON
10 Clark County District Attorney
Nevada Bar #001565

11
12 BY /s//MEGAN THOMSON
13 MEGAN THOMSON
14 Chief Deputy District Attorney
Nevada Bar #011002

1 Names of Witnesses and testifying before the Grand Jury:

2 HUYSENTRUYT, KARL, LVMPD# 6034

3 JAEGER, RYAN, LVMPD# 5587

4 MCNABB, RYAN, LVMPD# 8399

5 NAZAROFF, EUFRASIA, c/o CCDA, 200 Lewis Avenue, LV, NV 89101

6 QUESADA, RICARDO, c/o CCDA, 200 Lewis Avenue, LV, NV 89101

7
8 Additional Witnesses known to the District Attorney at time of filing the Indictment:

9 CUSTODIAN OF RECORDS, CCDC

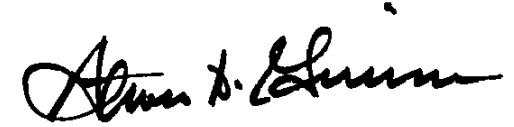
10 CUSTODIAN OF RECORDS, LVMPD COMMUNICATIONS

11 CUSTODIAN OF RECORDS, LVMPD RECORDS

12 PARENT OF RICARDO QUESDADA

13 TARANGO, MARISALA, c/o CCDA, 200 Lewis Avenue, LV, NV 89101

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27 14AGJ025X/14F10180X/mmw/GCU
28 LVMPD EV# 1406264091
(TK11)



CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

VS.

JOSHUA W. BACHARACH,

Defendant.

CASE NO. C299425

DEPT. VIII

BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE

MONDAY, NOVEMBER 2, 2015
TRANSCRIPT OF PROCEEDINGS
JURY TRIAL - DAY 1
VOLUME I

APPEARANCES:

For the State:

JOHN FATTIG, ESQ.
MEGAN S. THOMSON, ESQ.
Chief Deputy District Attorneys

For the Defendant:

ROCHELLE T. NGUYEN, ESQ.

RECORDED BY: JILL JACOBY, COURT RECORDER

TRANSCRIBED BY: BRITTANY MANGELSON, INDEPENDENT TRANSCRIBER

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MONDAY, NOVEMBER 2, 2015 AT 9:44 A.M.

[Outside the presence of the prospective jury]

THE COURT: Okay. Bring them in, Tom.

THE MARSHAL: Bring them in.

THE COURT: Put 14 in the box.

[In the presence of the prospective jury]

THE MARSHAL: All rise, please.

THE COURT: Put 14 in the box.

THE MARSHAL: And be seated.

THE COURT: Good morning, ladies and gentlemen. This is Case Number C299425, State of Nevada versus Joshua Bacharach. Mr. Bacharach is the Defendant. The record will reflect the presence of the State's attorneys and the Defendants -- the Defendant and his attorney. Also present are the officers of the Court. Parties have announced ready to proceed. You're in Department VII of the Eighth Judicial Court, State of Nevada. My name is Judge Smith and I am the presiding judge. You've been summonsed today to serves as jurors in this criminal case.

Let me introduce my staff. This is Tena Jolley. She's my court clerk. She will keep track of what's going on in court, keep the court minutes, generally keep managed what goes on in court. Court recorder is Jill Jacoby. She's recording everything, so uh-huh and uh-uh doesn't get recorded. So if you'll yes and no, please. And Tom Lemke is the marshal. You'll see -- my law clerk is Alan Miller. Anybody know any of my staff or myself?

I have to read this because somebody took my other one and I'm just

1 not sure -- they borrowed it.

2 Counsel for the State will introduce themselves and tell a little bit about
3 the case -- oh, before we get started, I need to swear in the venire. If you'll all
4 stand. Swear or avow.

5 [The Clerk swears in the prospective jury]

6 THE COURT: Thanks. If you'll be seated.

7 All right. Now the State will introduce themselves, tell you a little bit
8 about the case. They tell me that it will be done by Wednesday. I try to get you out
9 of here early. Today may be a little bit later. It'll be closer to 5:00. So if the State
10 will introduce themselves.

11 MR. THOMSON: Thank you, Your Honor.

12 THE COURT: And they're going to read a list of witnesses that may or
13 may -- likely most of them won't be called, but if you'll listen. If you recognize the
14 name, I will ask you to identify that.

15 MR. THOMSON: I think it would be safer to assume Friday and then aim for
16 Wednesday.

17 My name is Megan Thomson; I'm here with Timothy Fattig. We
18 represent the State of Nevada in this case; State of Nevada versus Joshua
19 Bacharach. In this case the Defendant is charged with several crimes, to include
20 attempt murder with use of a deadly weapon, discharging a firearm from or within a
21 structure or vehicle, assault with deadly weapon, stop required on signal of a police
22 officer, resisting a police officer with a firearm, and possession of a firearm with
23 altered or obliterated serial number, for an incident that occurred on June 26th of
24 2014.

25 It begin as an attempt for a car stop at the corner of Walnut and -- I'm

1 sorry, Lake Mead. At that time, the Defendant is charged with having evaded the
2 attempt for a stop, shooting at the police officer, and ultimately hiding in a backyard.
3 The evidence will show that there were weapons found, associated to this. Thank
4 you.

5 Oh, oh. We have witnesses. The State will call some of, but not all of
6 the following witnesses. Officer -- and all the officers who are listed work for Metro:
7 Paul Ake, CSA Joel Albert, Officer Atwood, Officer Basner, Officer Bien, Officer
8 Briggs, who is a Sergeant. Officer -- or Detective Chris Bunting, Officer Bybee,
9 Marnie Carter, who is a latent print examiner for the Metropolitan Forensic Lab --
10 Metropolitan Police Department Forensic Lab.

11 Officer Cortes-Monroy, Officer Delatorrf, Detective Dosch, Bill Falkner
12 who was an investigator for the District Attorney's office. Officer Fasulo, Officer
13 Peter Ferranti, Officer Ferguson, Officer Garbutt, Detective Matt Gillis, Officer
14 Goltart, Norayma Gonzalez, Gloria Guillen, Thomas -- or Officer Thomas Hemsey,
15 Off -- or Detective Brett Hodson, Jamie Honaker, who is also an investigator for the
16 District Attorney's office.

17 Officer Jonathan Houghton, Officer Patrick Hughes, Officer Karl
18 Huysentruyt, Detective Jaeger, Officer Jesus Jimenez, Shayla Joseph, who is a
19 CSA with the Metro Police Department. Officer John Kelly, Officer Eric Kerns,
20 Officer Jemme -- Jesse Kommel-Bernstein. Anya Sanko Lester, who does work for
21 Metro as a firearms examiner and tool mark examiner.

22 Officer Mangione, Officer McGinnis, Officer McGuire, Officer McIntyre,
23 Officer Ryan McNabb, Officer Milewski, Officer Milton Miramontes, Officer Morgan,
24 Officer Nava, Eufasia Nazaroff, Officer Cjean Nelson, Officer John Nelson, Officer
25 Sean Odonell, Maurine Palmer, Jose Quesada-Robles, who is the father of Ricardo

1 Quesada-Robles. Officer Patton, Officer Pazos, Officer Perez, that's Aaron Perez.
2 Officer Alan Peterson, Daniel Pond -- Officer Daniel Pond. Officer Harrison Porter,
3 Ricardo Quesada-Robles, Officer -- I'm sorry, not officer. Jose Quezada, Jerome
4 Revels, who is an investigator for the District Attorney's Office.

5 Jose Rodriguez. Officer Frank Rummery, Officer Curt Schelin, Officer
6 Nathaniel Schuler, Officer Shatraw, Officer Ryan Smith, Officer Eric Stafford, Officer
7 Joshua Sterns, Officer Adria Stout, Maria Tanango, Manuel Tarango, Marisala
8 Tarango, CSA Stephanie Thi, Detective Jeff Toschi, Detective Luis Turcaz, CSA
9 Brenda Vaandering, who is also with Metro, Officer Jeremy Vance, Beata Vida, who
10 is a DNA analyst for Metropolitan Police Department.

11 David Wagner, Marcia Wagner, Officer Scott Wildermuth, Amanda
12 Wright, who is a CSA with Metro, Officer -- excuse me, Wyche, and Officer Carlos
13 Zamora. Thank you.

14 THE COURT: Did you introduce Mr. Fattig?

15 MR. FATTIG: She did.

16 MR. THOMSON: I did.

17 MR. FATTIG: She did.

18 THE COURT: Sorry. All right. Is there anyone that knew any of those
19 names? Or believe they know any of those names? Okay. No one. No hands
20 shown. Okay.

21 Let me just say this. Under our system of government, the Defendant
22 has -- doesn't have to do anything, doesn't have to submit any evidence. In fact, the
23 Defendant's attorney and the Defendant could sit there and do nothing and if the
24 State doesn't prove beyond a reasonable doubt, you must find him not guilty, do you
25 understand -- doesn't anybody have a problem with that? Okay. Seeing no hands.

1 Also, there's going to be a lot of police officers testifying, it sounds like
2 to me. Does anyone here believe a person that's wearing a uniform always tells the
3 truth? Or will you listen to the evidence and look at the evidence, evaluate the
4 evidence with the other evidence to make a determination? Does everybody
5 understand that? That just because they're a cop doesn't mean necessarily they're
6 going to tell the truth. Does anybody have a problem with that? I mean, we expect
7 that they'll tell the truth, but they're human like everyone else. Is everybody okay
8 with that?

9 All right. Let's have Ms. Nguyen identify herself, introduce her client,
10 and any witnesses you may have.

11 MS. NGUYEN: Good morning everyone. My name is Rochelle Nguyen. I'm
12 proud her to stand her and represent Joshua Bacharach and thank you for your
13 service.

14 THE DEFENDANT: Thank you.

15 THE COURT: Does anybody know the Defendant or the attorney? Okay. No
16 hands.

17 We are about to commence the examination of prospective jurors in the
18 case. This is called voir dire. It's French for speak the truth. There isn't a right or
19 wrong answer. Just answer if it's -- if you're excused, you're excused. Please don't
20 take anything by that. We -- what we want are 14 -- and you'll -- well there's 14 but
21 there's two alternates. There's 12. And under our system of government -- which I
22 believe it's the best system in the world. It's not perfect, but it's the best we have. A
23 unanimous decision has to be made. Does anybody have a problem with that?
24 Seeing no hands.

25 The Court, the lawyers, and all persons involved in this case are equally

1 interested in having this matter tried by a jury composed of 14 open-minded people
2 who are completely neutral and have no bias or prejudice towards or against either
3 side. In order to accomplish this, it's necessary for me to ask some questions.
4 Maybe the attorneys will ask questions. We don't need to dwell into your personal
5 lives, but we may need to ask some questions that may seem personal and it's just
6 because we're trying to get an unbiased jury. That's all we're looking for.

7 So you're not biased towards the State or the Defendant. Because as
8 he sits there he's innocent. And if we retired right now and sent you all back to
9 decide you would have to go with not guilty because you haven't heard any
10 evidence. Even if they had read the indictment to you, the indictment is just the
11 pleading document, it is not evidence. What the attorneys say to you in the
12 questioning is not evidence because they were not there. They're the spokesperson
13 for each side. Does anybody have a problem with that? Seeing no hands.

14 Although some of the questioning, again, may at times seem quite
15 personal, our objective is to determine whether there is any reason why or -- why
16 any of you cannot sit as a fair and impartial juror in the case. It's important that you
17 know the significance of full, complete, and honest answers to all questions we're
18 about to ask you. Caution you not to try to hide or withhold anything which might
19 indicate a bias or prejudice of any sort, by any of you.

20 Should you fail to answer truthfully or if you hide or withhold something
21 touching upon your qualifications that fact may tend to contaminate your verdict and
22 subject you to further inquiry, even after you're discharged as jurors. Your decision
23 should be based upon all of the evidence presented during the trial and not based
24 upon preconceived prejudice or bias.

25 I'm going to conduct the general examination of all of you. And so it will

1 take a little bit of time. If you answer, raise your hand, you'll state your name, and
2 the last three numbers of your badge, please. Attorneys may ask you some
3 questions, but I hope I cover all of them.

4 There are two types of challenges. Challenges for cause, which may
5 indicate that you're biased and the attorneys want a new person sitting up there. Or
6 peremptory challenges, which means they don't have to give a reason, they just
7 may not like your shirt, they may not like the book you came in with, something
8 along those lines.

9 Okay. Now we're going to get into the personal questions. Is there
10 anyone here that's not a citizen of the United States? If you're not a citizen, you
11 cannot sit as a juror. Raise your hand, please, if you're not. All right.

12 If anyone here has been convicted of a felony and have not had your
13 civil rights restored, you cannot sit as a juror. Is there anyone that fits into that
14 category? See, that's kind of personal. All right. Seeing no hands.

15 Does anyone here know anything about the case, other than what has
16 been stated here in the court today? Now, one of the things that I'll read to you if
17 you're picked as a juror is don't do any research on your own. Don't call anybody.
18 You may think you know someone who is an expert in an area that happens to
19 appear in court. Don't call them and say hey, what really has transpired here. I
20 heard this in court, tell me what you think.

21 Please don't do that. That's a violation -- we want to keep this in these
22 four walls; what you see and hear in this courtroom. You'll come here with your
23 everyday common sense and experience, and that's okay. But we don't want a
24 biased jury. Let me read this. I was going to read it to you later. This is a new jury
25 instruction that I was going to ask later if I can find it. And it goes to bias. Now this

1 is the first time I've read this to a jury.

2 Do not decide the case based on implicit bias. As we are going to
3 discuss in jury selection, everyone has feelings, assumptions, perceptions, fears,
4 and stereotypes that is implied -- implicit bias that we may not be aware of. These
5 hidden thoughts can impact what we see and hear, how we remember what we see
6 and hear, and how we make important decisions. Because you're making a very
7 important decision in this case, I strongly encourage you to evaluate the evidence
8 carefully and to resist jumping to conclusions based upon personal likes or dislikes,
9 generalizations, gut feelings, prejudices, sympathy, stereotypes, or biases.

10 The law demands that you return a just verdict based solely on the
11 evidence, your individual evaluation of that evidence, your reasons and common
12 sense, and these instructions. Our system of justice is counting on you to render a
13 fair decision based on evidence, not on biases. Anybody have a problem with that?
14 Seeing no hands

15 You will be getting a written -- once you're seated in the jury box, you
16 will get a written set of instructions that I will read to you at the end of the trial and
17 you will have -- and the reason I'm talking to everybody, because everybody may be
18 up here at some point. That you'll have those jury instructions with you and you can
19 follow them as I'm reading them and you can make notes on them.

20 The case is -- I think will last probably until Wednesday. The State says
21 maybe until Friday. Is there anybody here that has a plane ticket that they're leaving
22 this week? Something that would take you out of here?

23 UNKNOWN PROSPECTIVE JUROR: My job.

24 THE COURT: We're going to get to that. I -- you get mad at me I'm Judge
25 Bixler. I don't -- we'll talk about jobs. Generally I don't take that into much

1 consideration. I've had doctors say oh, I'm very important I have a doctor with all of
2 these patients. Sorry. This is our system of government and that is this is your only
3 opportunity to participate in the judicial process. I believe in our system and I
4 believe that you have a right to participate. And you're going to listen to the
5 evidence, see you -- as a jury, you're the Triers of facts. You determine what facts
6 the State proves or don't prove.

7 You see, you may not hear from the Defendant. That's their choice
8 based upon advice from Counsel. And that's okay. That's what our system is built
9 on. But the jury makes that decision. I tell you what the law is. It'd be a violation of
10 your oath to base a verdict based on anything other than what you hear from me
11 and I instruct you. Is there anybody with a problem with that that won't follow my
12 directions?

13 Is there anyone here that believes they could not sit on a fair and
14 impartial jury in this case? Raise your hand. Okay.

15 PROSPECTIVE JUROR NUMBER 191: I'm a tad hormonal.

16 THE COURT: Pardon?

17 PROSPECTIVE JUROR NUMBER 191: I'm a tad hormonal I will admit. I'm
18 seven months pregnant.

19 THE COURT: Tell me your name.

20 PROSPECTIVE JUROR NUMBER 191: Robin Lloyd, 191.

21 THE COURT: Okay. And then tell me what you feel you're unable to serve
22 as.

23 PROSPECTIVE JUROR NUMBER 191: I just -- I'm a tad hormonal. I might
24 burst into tears or have him hung simply because he's a man. And I have to pee a
25 lot.

1 THE COURT: We'll take breaks.

2 PROSPECTIVE JUROR NUMBER 191: So I don't know --

3 THE COURT: We take breaks.

4 PROSPECTIVE JUROR NUMBER 191: Okay. And --

5 THE COURT: And I'll work around that.

6 PROSPECTIVE JUROR NUMBER 191: I was able to find a sitter for my two
7 kids today, but I don't have a sitter for one of my kids for tomorrow or the rest of the
8 week really. So.

9 THE COURT: Who normally watches your children?

10 PROSPECTIVE JUROR NUMBER 191: My mom's watching my children
11 today but she has to work the rest of the week. And then I could have my grandma
12 watch my three-year old, but she won't be able to handle my eight-year old. He has
13 behavioral problems and she's quite old.

14 THE COURT: Does either party want to take a position on this?

15 MR. FATTIG: I would submit it to the Court, Your Honor.

16 MS. NGUYEN: I would submit it, Your Honor.

17 THE COURT: All right. Go check with the Jury Commissioner. She might be
18 able to put you in a one-day trial.

19 PROSPECTIVE JUROR NUMBER 191: Okay. That would be fine.

20 THE COURT: Thanks.

21 PROSPECTIVE JUROR NUMBER 191: Thank you.

22 THE COURT: Go down to the third floor and talk to her.

23 PROSPECTIVE JUROR NUMBER 191: Thank you, sir.

24 THE COURT: Hand raised in the back?

25 PROSPECTIVE JUROR NUMBER 176: I got autism. I can't really read or

1 write. And like autism, I can't really focus. And I might not even know what's going
2 on like, like the cases. Like I might not even know what's going on. I got autism,
3 mental retardation.

4 THE COURT: You don't have to speak anymore. I'm going to release him.

5 Okay. You're released. And you don't even have to check in, just go
6 home.

7 MR. THOMSON: Can we have name and badge number, please.

8 THE COURT: Name and badge number?

9 PROSPECTIVE JUROR NUMBER 176: Cory Langdon, 176.

10 THE COURT: Okay. Thank you.

11 Anybody else have any input? Statement?

12 In any -- I must tell you that in any criminal trial, the members of the jury
13 sitting collectively are the judges of the case -- questions of fact. As presiding judge,
14 I am the judge of the law. It's my responsibility to be sure that I give the instructions
15 on the law that apply in a particular case. Again, it would be a violation of your duty
16 as jurors to render a verdict based upon what they believe -- what you believe that
17 the law ought to be, even if you didn't believe the law should be there.

18 All right. Let me ask -- before I start asking you individual questions; is
19 there anyone here that has been the victim of a crime? Okay. Just keep your
20 hands --

21 Okay. Your name and badge number?

22 PROSPECTIVE JUROR NUMBER 136: John Lowenstein, 136.

23 THE COURT: Okay. What crime were you the victim of?

24 PROSPECTIVE JUROR NUMBER 136: I've actually been burglarized. Also
25 I've been robbed at gun point.

1 THE COURT: When? About?

2 PROSPECTIVE JUROR NUMBER 136: That was about in 1987.

3 THE COURT: Here in Vegas?

4 PROSPECTIVE JUROR NUMBER 136: No.

5 THE COURT: Was there anything about that incident --

6 PROSPECTIVE JUROR NUMBER 136: And actually I've been attacked at

7 one of my jobs where I had a person come up and just assault me.

8 THE COURT: Where is that?

9 PROSPECTIVE JUROR NUMBER 136: That was actually at Papa John's at

10 Trop and Decatur.

11 THE COURT: Is there anything about those incidents that would prejudice

12 you against the Defendant or the State?

13 PROSPECTIVE JUROR NUMBER 136: Probably.

14 THE COURT: Okay. Against whom? Which one? The Defendant?

15 PROSPECTIVE JUROR NUMBER 136: I -- according to -- whatever the facts

16 of the case are will probably determine that. It might -- it could be against either side

17 depending on what the facts are.

18 THE COURT: Well yeah. I mean you haven't heard any of the facts yet. You

19 may not like the facts, but we haven't heard any yet. We're not asking you to like

20 facts, we're asking if you have any built-in biases. Is there anything about that --

21 well the incident at Papa John's, was that reported to the police?

22 PROSPECTIVE JUROR NUMBER 136: Yes.

23 THE COURT: Did the police come out?

24 PROSPECTIVE JUROR NUMBER 136: Yes.

25 THE COURT: Did they investigate?

1 PROSPECTIVE JUROR NUMBER 136: I don't believe so because the
2 individual like just basically assaulted me and ran away. The paramedics came out,
3 there was undercover policeman.

4 THE COURT: Was it an undercover policeman that attacked you or came
5 out?

6 PROSPECTIVE JUROR NUMBER 136: No, the undercover policeman just
7 happened to be in the parking lot and --

8 THE COURT: And did they --

9 PROSPECTIVE JUROR NUMBER 136: -- witnessed the guy running away
10 and came over -- a marked car came over, a couple paramedics came over.

11 THE COURT: Do you feel the police acted in a professional manner?

12 PROSPECTIVE JUROR NUMBER 136: I don't think there was any follow-up
13 with the case, if that's what you mean.

14 THE COURT: That wasn't answering my question. Listen to my question.
15 Did they act in a professional manner, do you believe?

16 PROSPECTIVE JUROR NUMBER 136: If handing somebody a piece of
17 paper with a number on it with no explicit instructions is professional, I'd have to say
18 professional, otherwise not.

19 THE COURT: Okay. So is there something about that that would
20 prejudice --because there are going to be cops that testify here -- prejudice you
21 against the police officers that testify in this courtroom? Are you going to be
22 prejudiced?

23 PROSPECTIVE JUROR NUMBER 136: I don't know. It's -- I shouldn't be,
24 but I might be. That's --

25 THE COURT: Okay. Well we got to be assured that you're not. So.

1 Do you have any questions you want to ask him?

2 MR. FATTIG: Sir, good morning to you. Mr. Lowenstein, right?

3 THE COURT: Just about this issue.

4 MR. FATTIG: Sure. About this issue.

5 It sounds like that you're -- you believe you may believe in bias, in favor
6 of the Defendant because of this -- you believe there was a lack of follow-up by the
7 Metropolitan Police Department in this incident, for you, the victim.

8 PROSPECTIVE JUROR NUMBER 136: If any of these officers indicate they
9 did something similar to my case, then I'd have to say yes.

10 MR. FATTIG: You believe that the police department should have done more
11 to investigate who attacked you?

12 PROSPECTIVE JUROR NUMBER 136: Absolutely.

13 MR. FATTIG: Did you give the police the description of who attacked you?

14 PROSPECTIVE JUROR NUMBER 136: Yes.

15 MR. FATTIG: Did you know that person at all before?

16 PROSPECTIVE JUROR NUMBER 136: I had seen him as a homeless
17 person. I've actually seen him stopped by the police as a homeless person before.
18 They indicated that they kind of knew who he was. Not exactly. And I had no idea if
19 there was any follow-up at all. They kept my contact information.

20 MR. FATTIG: That was my next question. You don't actually know what or
21 what they did not do, it sound like. But you know that there was never an arrest
22 because no one ever contacted you?

23 PROSPECTIVE JUROR NUMBER 136: Correct. I mean, I had seen this
24 individual over the next months probably on a constant basis, hanging around the
25 area.

1 MR. FATTIG: Did --

2 PROSPECTIVE JUROR NUMBER 136: I've seen him viciously attack cars
3 and yell at cars.

4 MR. FATTIG: Did you contact the police on those other occasions when you
5 saw this same man?

6 PROSPECTIVE JUROR NUMBER 136: I had no contact number for them
7 and no I didn't just for seeing him.

8 MR. FATTIG: How many years ago was this incident?

9 PROSPECTIVE JUROR NUMBER 136: A little over about two.

10 MR. FATTIG: The other incidents that you indicated you were a victim of, was
11 there anything about those that gives you problem with the police? Or is it just the
12 Papa John's, when you were attacked while working at Papa John's?

13 PROSPECTIVE JUROR NUMBER 136: As far as the police are concerned, I
14 think they did their job, A, B, C, D, but I think they -- I think -- definitely think they
15 could have done more in each case, if that's what you're asking.

16 MR. FATTIG: Sure. They could have done more on each of the times you
17 were victimized, you thought.

18 PROSPECTIVE JUROR NUMBER 136: Yes.

19 MR. FATTIG: Okay. Ultimately, if you're chosen as a juror, you're going to
20 have to assure the Court and both parties that you're going to be able to judge this
21 particular case on these facts, which unlikely will involve any of the officers you were
22 in contact with a couple years, but it could, in theory, because I'm guessing you
23 don't remember the names of the officers that you were talking to, correct?

24 PROSPECTIVE JUROR NUMBER 136: I didn't write that down.

25 MR. FATTIG: Okay. But ultimately if you're chosen a jury, you're going to

1 have to assure the Court that you can sit in judgment based upon what happens in
2 this case, not something that happened to you two years ago or back in 1987. Do
3 you think you'll be able to do that?

4 PROSPECTIVE JUROR NUMBER 136: Well everything we do in life
5 judges -- basically sits in the back of our mind. I mean, I would try. I mean, but --
6 whether it doesn't appear in the top of my mind and stuff I think about according to
7 what I hear, I can't guarantee that.

8 MR. FATTIG: As you sit here, it doesn't sound like you're able to assure the
9 Court that you would be able to judge this case only on the facts in this case and not
10 something that happened to you before.

11 PROSPECTIVE JUROR NUMBER 136: That's probably accurate.

12 THE COURT: I'm going to release him. Do you have any questions you want
13 to ask him?

14 MS. NGUYEN: No, I don't.

15 THE COURT: I'm going to release you and have you go down and be on a
16 civil jury. It may be six months. So. You're going to go down and be on a jury. Call
17 him down.

18 Fill that spot, please.

19 THE CLERK: Badge 0152, Martha Quirarte.

20 THE COURT: All right. Is there anyone here -- anybody else that's been
21 accused of a crime? I mean, a victim of a crime. I'm sorry. Now you know my next
22 question. Victim? Okay. I'm sorry.

23 PROSPECTIVE JUROR NUMBER 135: My name --

24 THE COURT: Tell me your name and the last three numbers of your badge.

25 PROSPECTIVE JUROR NUMBER 135: My name is Deborah Armstrong and

1 it's 135. October 4th, I think it was either the 3rd or the 4th, I was in the process of
2 opening a business and the business was burglarized at about 12:00. I received a
3 call from the police about 3:00 in the morning. There was damage to the property.
4 Some of the equipment was removed from the premise. The case is still open. I
5 have not heard back about the case.

6 THE COURT: You did call the police?

7 PROSPECTIVE JUROR NUMBER 135: Yes, the police came out.

8 THE COURT: And they responded?

9 PROSPECTIVE JUROR NUMBER 135: Yes. Police was out, CSI was out.
10 There were four suites within the building and all four were broken into.

11 THE COURT: Is there anything about that that would prejudice you against
12 the Defendant or the State of Nevada?

13 PROSPECTIVE JUROR NUMBER 135: I have to say no.

14 THE COURT: Thank you.

15 Your name? Do you need the microphone or --

16 THE MARSHAL: Yeah, he's getting it.

17 THE COURT: Too bad your roller skates didn't work anymore.

18 THE MARSHAL: They need oil.

19 PROSPECTIVE JUROR NUMBER 165: Yeah. Mike Hansen, Badge 165.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR NUMBER 165: Earlier this year, and I can't give you
22 a date, somebody attempted to steal our -- one of our cars out of our driveway.
23 Metro responded, they had a CSI and a -- I'm not sure technically what it was. I
24 don't think they were normal patrol officers. They came out, dusted the car for
25 prints, lifted a couple, stuff like that. And, you know, they said then that unless the

1 print happened to come back, there probably wasn't anything they'd find, which
2 seemed reasonable.

3 Also, over Labor Day my stepdaughter's business in what was fairly
4 clearly an attempt to put her out of business. There was a very substantial police
5 response to that and again, it's under investigation but I don't have any details
6 beyond that.

7 THE COURT: Is there anything -- and police were called?

8 PROSPECTIVE JUROR NUMBER 165: Yes, sir. They came out in some
9 force actually.

10 THE COURT: Is there anything about that would prejudice you against the
11 Defendant or the State?

12 PROSPECTIVE JUROR NUMBER 165: No, sir.

13 THE COURT: You can be fair and impartial?

14 PROSPECTIVE JUROR NUMBER 165: Yes, sir.

15 THE COURT: Let me just say this. If you think maybe I should tell the Judge,
16 maybe not. Maybe that fits, maybe it doesn't. That's when you tell me. If it's -- if
17 there's a maybe there. I might tell you doesn't fit, but that's okay. This is just to
18 speak the truth, not --

19 PROSPECTIVE JUROR NUMBER 157: Okay. Name's -- name is Andrew
20 West, Badge Number 157. When I was a teenager my home was burglarized. It
21 was handled fairly well by the police, but of course the invasion of the property, but I
22 don't feel that would bias me, but I just wanted to let you know.

23 THE COURT: Thank you.

24 PROSPECTIVE JUROR NUMBER 166: Your Honor --

25 THE COURT: Name and last three.

1 PROSPECTIVE JUROR NUMBER 166: My name is Rhonda Holy Bear. My
2 badge number is 166 and I have been the victim of family crime, murder, involving
3 both my sister and my mother. And police interrogation of a four-year old that took
4 several, several hours.

5 THE COURT: When was that?

6 PROSPECTIVE JUROR NUMBER 166: About 20 years ago.

7 THE COURT: Where at?

8 PROSPECTIVE JUROR NUMBER 166: Chicago.

9 THE COURT: Is there anything about that incident that would prejudice you
10 against the Defendant or the State of Nevada, or police officers?

11 PROSPECTIVE JUROR NUMBER 166: I think I would have a hard time
12 remaining clear. Having clear thinking throughout the process.

13 THE COURT: Then maybe you should be on a civil jury. Do you either of you
14 have a problem with that?

15 PROSPECTIVE JUROR NUMBER 166: I would submit it, Your Honor.

16 MS. NGUYEN: I'd submit.

17 THE COURT: All right. Why don't you go down, check with the Jury
18 Commissioner?

19 PROSPECTIVE JUROR NUMBER 166: Dustin Krause, Juror Number 172.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR NUMBER 166: Last November I was involved in a
22 hit and run. And it's a criminal case that I actually have a subpoena to testify
23 tomorrow. So.

24 THE COURT: Where at?

25 PROSPECTIVE JUROR NUMBER 166: Here.

1 THE COURT: In Justice Court.

2 PROSPECTIVE JUROR NUMBER 166: Uh-huh.

3 THE COURT: What time?

4 PROSPECTIVE JUROR NUMBER 166: 10:00 a.m. And I did receive a
5 phone call from somebody that I recognized in that list that she made, but I don't
6 know the individual. He works for the DA. Jerome Revels.

7 THE COURT: It may or may not go. What's the pleasure? Subpoena, he's
8 got to appear tomorrow.

9 MS. NGUYEN: For your office.

10 MR. FATTIG: I guess we -- at this point we don't know if it's proceeding. We
11 can certainly look into it.

12 THE COURT: We'll look into that for you.

13 PROSPECTIVE JUROR NUMBER 166: Sure.

14 THE COURT: Okay. And you know the attorney's name was what? Or --

15 MR. FATTIG: I think he knew the investigator.

16 THE COURT: The investigator.

17 MR. FATTIG: Which is the investigator --

18 THE COURT: Okay.

19 MR. FATTIG: -- for the DUI too.

20 THE COURT: You know his name so check it at the break.

21 All right. Name and last three numbers.

22 PROSPECTIVE JUROR NUMBER 210: Christopher Clay, 210. About 20
23 years ago I had my car broken into and a lot of stuff stolen. This was down in San
24 Diego. And I was also -- at a job I worked at, I was maced during an altercation that
25 I was not actually part of. I was nearby and there was an altercation in our lobby

1 and somebody brought out some mace and I got hit by it. But those are the only
2 things that have happened.

3 THE COURT: Being hit with it ain't pleasant, is it?

4 PROSPECTIVE JUROR NUMBER 210: No, it's not.

5 THE COURT: Is there anything about that -- those two incidents that would
6 prejudice you against the State or the Defendant?

7 PROSPECTIVE JUROR NUMBER 210: No, sir.

8 THE COURT: Okay. You'll be fair and impartial?

9 PROSPECTIVE JUROR NUMBER 210: Yes, sir.

10 PROSPECTIVE JUROR NUMBER 206: Hi, my name is Andrew Wolff, Juror
11 Number 206. About two years ago I was at a McDonald's on Washington and
12 Rancho and I was held up at gunpoint. I was able to drop the money and hit the
13 gas, and get away.

14 THE COURT: Did you -- were the police called?

15 PROSPECTIVE JUROR NUMBER 206: No, because he ran and I ran. I
16 didn't --

17 THE COURT: Is there anything about that that prejudice you against the
18 Defendant or --

19 PROSPECTIVE JUROR NUMBER 206: I also have a grandfather who's a
20 retired detective.

21 THE COURT: Where?

22 PROSPECTIVE JUROR NUMBER 206: In New Jersey. That more than the
23 crime -- being victim of a crime might bias me.

24 THE COURT: Do you believe that -- you would believe police officers
25 testimony just because they're police officers?

1 PROSPECTIVE JUROR NUMBER 206: I would. I was raised to believe what
2 the police say.

3 MS. NGUYEN: We'd make a motion.

4 THE COURT: All right. I -- any objection by the State? I'm going to release
5 him too but --

6 MR. FATTIG: That's fine. I'd submit it.

7 THE COURT: Yeah. Go down and do -- you can probably do a civil. That
8 would probably be better. Just tell you when you get down there I said put you on a
9 civil jury.

10 PROSPECTIVE JUROR NUMBER 206: Civil jury.

11 THE COURT: Pass that mic down.

12 PROSPECTIVE JUROR NUMBER 201: Deanna Bishop, 201. 2006 I was hit
13 by a drunk driver here in Vegas, but --

14 THE COURT: [Indiscernible].

15 PROSPECTIVE JUROR NUMBER 201: I'm not biased or anything on it.

16 THE COURT: Were the police called?

17 PROSPECTIVE JUROR NUMBER 201: Oh yeah.

18 THE COURT: And did you end up testifying?

19 PROSPECTIVE JUROR NUMBER 201: I did.

20 THE COURT: Is there anything about that that would prejudice you?

21 PROSPECTIVE JUROR NUMBER 201: No. No, he's still locked up, so.

22 THE COURT: You'll be fair and impartial in this case?

23 PROSPECTIVE JUROR NUMBER 201: Yes.

24 PROSPECTIVE JUROR NUMBER 198: James White, Badge Number 198.
25 My home was burglarized June 3rd -- June 4th of '03 in Los Angeles, California.

1 THE COURT: Police called?

2 PROSPECTIVE JUROR NUMBER 198: Oh yes.

3 THE COURT: And they appeared and -- is there anything -- problem with --
4 did you testify in court?

5 PROSPECTIVE JUROR NUMBER 198: It never went to court. They never
6 found who did it.

7 THE COURT: Is there anything about that that would prejudice you against
8 the State or the Defendant?

9 PROSPECTIVE JUROR NUMBER 198: No.

10 THE COURT: Thank you.

11 All right. I have to ask. Is there anybody accused of a crime? Accused
12 or victim?

13 PROSPECTIVE JUROR NUMBER 146: Daniel Stango, Juror Number 146. I
14 have to be very honest. My cousin was a police commissioner north of New Jersey,
15 my uncle's are police officers, my cousins are police officers in New Jersey. I grew
16 up in a kind of cops and robbers neighborhood where you're either a police officer or
17 you were a mobster. So I was restaurant --

18 THE COURT: You didn't join the police department?

19 PROSPECTIVE JUROR NUMBER 146: No. I came out here. I've been out
20 here for 35 years. California and Nevada as a general manger, district director of a
21 restaurant chain for 20 years. I was stabbed on Halloween in 1988 in a robbery
22 attempt by a person dressed as a ninja. They finally caught him three weeks later.
23 He had killed three different people. It didn't kill me. My bartender saved my life.
24 I'm sorry. I just got over the flu. I've been in bed for six days. I'm a little -- yeah.
25 Yes, sir. I am.

1 But I just have to let the Court know that my grandmother was
2 murdered in 1980 in an old age development in North New Jersey also by a
3 maintenance workers that were hired by the city. So all that being said I just need to
4 let you know that.

5 THE COURT: That's wonderful. Could you set that -- will you listen to the
6 evidence and look at the exhibits that they present and make a decision --

7 PROSPECTIVE JUROR NUMBER 146: Absolutely.

8 THE COURT: Okay. And that's all we're asking to be fair and impartial.

9 PROSPECTIVE JUROR NUMBER 146: I know. But, you know, you don't
10 want to have a verdict ---

11 THE COURT: I don't want to hide anything.

12 PROSPECTIVE JUROR NUMBER 146: Right. You don't want to have a
13 verdict and then find out that my cousin --

14 THE COURT: Right.

15 PROSPECTIVE JUROR NUMBER 146: -- was a police commissioner.

16 THE COURT: You can't call any of your cousins or any other of the neighbors
17 and ask them anything about this case. You can tell people well, I've been selected
18 to be on a criminal jury. That's all you can tell them until I release you and then at
19 that point you can talk.

20 PROSPECTIVE JUROR NUMBER 146: I'm going home and going to sleep
21 after this. I don't talk to anybody.

22 THE COURT: Thank you.

23 MS. NGUYEN: Your Honor, could I just follow-up a question regarding --

24 THE COURT: Yes.

25 MS. NGUYEN: Mr. Stango, you indicated that you're kind of recovering or --

1 from the flu.

2 PROSPECTIVE JUROR NUMBER 146: Yes.

3 MS. NGUYEN: Are you taking any kind of medication that might cloud your
4 ability to --

5 PROSPECTIVE JUROR NUMBER 146: Actually --

6 MS. NGUYEN: -- concentrate or pay attention here today?

7 PROSPECTIVE JUROR NUMBER 146: Actually I'm very uncomfortable right
8 now because I stopped taking the medication because I have a rash over my entire
9 body. So I am not taking the medication anymore. I -- you know.

10 THE COURT: Motion?

11 MS. NGUYEN: I'd make a motion. I don't know if it's a motion or --

12 THE COURT: [Indiscernible].

13 MR. FATTIG: I would submit it, Your Honor.

14 THE COURT: All right. Why don't you go ahead and go home. Don't even
15 go down to the third floor.

16 PROSPECTIVE JUROR NUMBER 146: Are you sure about that?

17 THE COURT: Go. If anybody says anything, remember Judge Bixler.

18 THE CLERK: Juror 0153, Pamela Malloy. Seat Number 11.

19 THE COURT: Why don't you just stay right there? You'll sit there when you
20 come back in. We're going to take a short recess. At 10:30 I usually take a recess.
21 I've been doing this since 7:30 this morning.

22 So, let's take five minutes. Use the restroom. There's restrooms out in
23 the hall. Don't discuss anything with anybody about the case. Thank you.

24 Everybody needs to go.

25 [Outside the presence of the prospective jury]

1 THE COURT: All right. Let me read this to you while you -- we're taking this
2 break. Mr. Bacharach --

3 THE DEFENDANT: Yes, sir?

4 THE COURT: -- under the Constitution of the United States and under the
5 Constitution of the State of Nevada, you cannot be compelled to testify in this case,
6 do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: You may, at your own request, give up that right and take the
9 stand and testify. If you do, you will be subject to cross-examination by the Deputy
10 District Attorneys and anything you may say, be it on direct or cross-examination will
11 be the subject of fair comment when the Deputy District Attorneys speak to the jury
12 in their final argument, do you understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: If you choose not to testify, the Court will not permit the Deputy
15 District Attorneys to make any comments to the jury because you have not testified,
16 do you understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: If you elect not to testify and if your attorney specifically
19 requests, the Court will give a jury instruction encompassing the following, quote: A
20 law does not compel a Defendant in a criminal case to take the stand and testify.
21 And no presumption may be raised and no inference of any kind may be drawn from
22 the failure of a Defendant to testify, end quote.

23 Do you have any questions about your rights?

24 THE DEFENDANT: No, sir.

25 THE COURT: You are further advised that if you have a felony conviction and

1 more than ten years have not elapsed from the date you have been convicted or
2 discharged from prison, parole, or probation, whichever is the latter, and Defense
3 has not sought to preclude that from coming before the jury and you elect to take the
4 stand and testify, the Deputy District Attorneys in the presence of the jury are
5 permitted to ask you the following: Have you been convicted of a felony, what was
6 the felony ,and when did it happen? However, no details may be gone into and you
7 should be discussing this with your attorney during the breaks and any other time.
8 Thanks.

9 THE DEFENDANT: Okay. Thank you.

10 THE COURT: And at a later time I will ask you what your decision is.

11 [Recess taken at 10:31 a.m.]

12 [Trial resumed at 10:36 a.m.]

13 [In the presence of the prospective jury]

14 THE MARSHAL: All rise, please.

15 And be seated.

16 THE COURT: All right. Guess we're still on victims. Anybody else a victim of
17 a crime? Accused of a crime?

18 Your name and your last three numbers of your badge.

19 PROSPECTIVE JUROR NUMBER 153: Pamela Malloy, Juror 153.

20 THE COURT: What you were accused of?

21 PROSPECTIVE JUROR NUMBER 153: Leaving the scene of an accident.

22 THE COURT: The police show up?

23 PROSPECTIVE JUROR NUMBER 153: I was actually --

24 THE COURT: You got arrested?

25 PROSPECTIVE JUROR NUMBER 153: I was arrested and it went to court

1 and I served two years' probation for it.

2 THE COURT: Is there anything about that that would prejudice you against
3 the State or the Defendant?

4 PROSPECTIVE JUROR NUMBER 153: Not at all.

5 THE COURT: Now were you convicted of a felony?

6 PROSPECTIVE JUROR NUMBER 153: I was arrested on a felony of hit and
7 run. It was reduced to leaving the scene of an accident, which is what my record
8 shows.

9 THE COURT: Where at?

10 PROSPECTIVE JUROR NUMBER 153: Here in Las Vegas.

11 THE COURT: How long ago was it?

12 PROSPECTIVE JUROR NUMBER 153: 2007.

13 THE COURT: You'll be fair and impartial in this case?

14 PROSPECTIVE JUROR NUMBER 153: Absolutely.

15 THE COURT: Listen to the evidence, look at the exhibits?

16 PROSPECTIVE JUROR NUMBER 153: Yes, sir.

17 THE COURT: Anyone else accused of a crime? Seeing no hands. Is there
18 anyone here who has close friends or family members who are defense attorneys
19 here in Nevada?

20 PROSPECTIVE JUROR NUMBER 165: Mike Hansen, 165.

21 THE COURT: Who is that?

22 PROSPECTIVE JUROR NUMBER 165: I have a son-in-law that practices
23 some criminal defense law, I have a son -- stepson that's a lawyer, my wife's a
24 paralegal, is -- was a narc -- undercover narcotics officer years ago, my dad was an
25 FBI agent, and I have a daughter-in-law who is an active police officer in another

1 jurisdiction.

2 THE COURT: What about in Nevada?

3 PROSPECTIVE JUROR NUMBER 165: She is in Nevada, my wife's in
4 Nevada, my dad's buried in Nevada, my son and son-in-law are in Nevada.

5 THE COURT: What about the first one that you said your --was it your son-in-
6 law?

7 PROSPECTIVE JUROR NUMBER 165: Yes, sir, he practices.

8 THE COURT: Where?

9 PROSPECTIVE JUROR NUMBER 165: He is here in Nevada. He does
10 some criminal law.

11 THE COURT: What's his name?

12 PROSPECTIVE JUROR NUMBER 165: Blaine Beckstead.

13 THE COURT: And you have one in New Mexico.

14 PROSPECTIVE JUROR NUMBER 165: There is another Beckstead. His
15 brother's in New Mexico, yes, sir.

16 THE COURT: His brother went to Mexico. He's a DA.

17 PROSPECTIVE JUROR NUMBER 165: Is he really? I don't know. The son-
18 in-law that's -- is the one that's here --

19 THE COURT: He used to be my law clerk.

20 PROSPECTIVE JUROR NUMBER 165: I know his brother's in New Mexico.

21 THE COURT: he used to be my law clerk. That's why I know him.

22 PROSPECTIVE JUROR NUMBER 165: Ah. Yes, sir.

23 THE COURT: You know you can call them for help.

24 PROSPECTIVE JUROR NUMBER 165: Yes, sir.

25 THE COURT: You couldn't call anybody for -- are you prejudice because of

1 that association?

2 PROSPECTIVE JUROR NUMBER 165: No, sir. Just, you know, full
3 disclosure.

4 THE COURT: Appreciate that. Thank you.

5 How about that are district attorneys besides -- oh there's somebody
6 else over here. Sorry.

7 PROSPECTIVE JUROR NUMBER 199: Taylor Vold, Badge Number 199. I
8 am a law clerk for Benson Lee. He's a defense attorney here in town. Actually I
9 think I met have met you Judge Smith one time before.

10 THE COURT: I know Benson.

11 PROSPECTIVE JUROR NUMBER 199: Yeah. I couldn't see you with this
12 that was in front of me.

13 THE COURT: You can't ask him for help in this case.

14 PROSPECTIVE JUROR NUMBER 199: Sure.

15 THE COURT: Benson doesn't do criminal work, I don't think. Well, maybe he
16 does.

17 PROSPECTIVE JUROR NUMBER 199: It's -- yeah criminal and immigration
18 mostly.

19 THE COURT: If you have any question, you won't ask him. I know Benson.
20 Just all you can tell him is you're picked for a -- if you were selected -- if we get
21 down that far. We have to go through all these other people. But if you do, all you
22 can tell him is you were picked for a jury trial and it's criminal. You understand?

23 PROSPECTIVE JUROR NUMBER 199: Yes, Your Honor.

24 THE MARSHAL: Anyone else on this side?

25 THE COURT: All right. Did I ask about prosecutors or DA's? Anybody

1 associated with them? Besides Mr. Beckstead. Seeing no hands.

2 Is there anybody here that has a familiarity -- if I can pronounce it
3 correctly -- with hand guns? A familiarity. Do you use them? Do you shoot them?
4 Is there -- okay. We need to ask some questions about that or turn it over to the
5 State and Defense.

6 Is there anyone that's prejudice because a gun was used in this case?
7 Just because a gun was used? Seeing no hands. Oops, seeing two hands.

8 PROSPECTIVE JUROR NUMBER 135: Deborah Armstrong, 135. I happen
9 to live in a neighborhood that we have a lot of break-ins. It's off of one of the oldest
10 golf courses here and we average between seven and fourteen every month. Some
11 of them are --

12 THE COURT: A month?

13 PROSPECTIVE JUROR NUMBER 135: Yep, every month because of where
14 it's located. So it's a constant awareness that any one of my neighbors, even, you
15 know, I could be shot. There was one robbery maybe about six months where the
16 whole neighborhood was shut down. The police SWAT, along with dogs were in my
17 backyard searching for the individual. So I don't like guns and unfortunately in my
18 neighborhood, it's just a part of it. They just make assumptions because of where it
19 is that there will be a lot of things to be taken.

20 THE COURT: Questions by the State?

21 MR. THOMSON: Thank you, Your Honor.

22 THE COURT: Just about the gun issue.

23 MR. THOMSON: Yes.

24 Not liking guns and forming an opinion before you are -- the case is
25 submitted for deliberation, kind of a different thing. Will you be able to put aside

1 personal dislike of firearms and listen to the evidence and judge it based on just
2 what occurs in the courtroom?

3 PROSPECTIVE JUROR NUMBER 135: That's hard for me to say because
4 one of my neighbors definitely was broken into, held at gun point. There was
5 trauma with one of the kids in the house. There's also a judge that lives in the
6 neighborhood. His house is broken into constantly. And it's usually, you know, at
7 gunpoint unfortunately that they seem to have gravitated to the neighborhood that I
8 happen to be in.

9 MR. THOMSON: Okay. Am I correct in understanding that at any mention of
10 a firearm you'd be more inclined to find the Defendant guilty?

11 PROSPECTIVE JUROR NUMBER 135: Yeah, because I don't think they're
12 needed. No.

13 MR. THOMSON: Even if we don't prove that he was even there at the scene,
14 you'd be more likely to find him guilty because a gun was mentioned.

15 PROSPECTIVE JUROR NUMBER 135: Just because of where I live and it's
16 a constant in my neighborhood for some reason --

17 MR. THOMSON: You understand that nothing in this case happened -- just
18 based on the fact that you've said it's in a golf case, I can tell you nothing in this
19 case happened anywhere near your neighborhood.

20 PROSPECTIVE JUROR NUMBER 135: That's fine. But just the fact that on
21 a regular basis is something that I have to deal with, and usually it's guns that is a
22 result of -- because we have, not a neighborhood watch, but as soon as there's a
23 break-in the whole neighborhood gets a blast to make sure you're aware. The
24 police know my neighborhood very well. They're constantly there. We know them
25 by sight. They know us by sight. If someone comes into the neighborhood that

1 does not belong there a blast goes out. So it's just one of those things.

2 MR. THOMSON: You're going to hold the State to a lower burden if there's
3 mention of a firearm, is that fair? Is that what you're saying?

4 PROSPECTIVE JUROR NUMBER 135: If I know that there is definitely a
5 firearm used, I don't know what I will -- I don't know what I will think. I just know that
6 I don't like them and they're just used way to frequently where I live. So I have an
7 aversion for them, I have an aversion for people who choose to do that, I have an
8 aversion for people who choose to break in to someone else's house, or take
9 someone's property.

10 MR. THOMSON: If in the evidence you heard that there was a firearm used
11 by both the suspect and the officer, would that affect your ability to deliberate?

12 PROSPECTIVE JUROR NUMBER 135: I don't know. I don't know.

13 MR. THOMSON: I'll make a motion.

14 MS. NGUYEN: I'll submit.

15 THE COURT: That was -- that's an honest answer, but we need you to make
16 certain and so I'm going to excuse you. I appreciate your time and I want to know
17 what neighborhood so I stay out of it. Thank you so much. Just tell them if they
18 need you, put you on something, if not, thank you.

19 THE CLERK: Juror Number 154, Roy Steward. Take Seat Number 2,
20 please.

21 THE COURT: Okay. Your name and your last three numbers.

22 PROSPECTIVE JUROR NUMBER 152: Martha Quirarte, 152.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR NUMBER 152: I just don't like guns. I wouldn't have
25 it. I wouldn't buy it or have it at my house.

1 THE COURT: So are you biased towards people that use guns?
2 PROSPECTIVE JUROR NUMBER 152: Yes.
3 THE COURT: What if the State can't prove that he used a gun, would you
4 acquit him?
5 PROSPECTIVE JUROR NUMBER 152: I really don't know.
6 THE COURT: Would you listen to the evidence at least and make a decision
7 from what you heard on the stand?
8 PROSPECTIVE JUROR NUMBER 152: I don't know.
9 THE COURT: Oh you need to be on a --
10 PROSPECTIVE JUROR NUMBER 152: Yeah, I don't know, sir.
11 THE COURT: -- civil jury. Either have a -- you want to ask some questions.
12 MR. FATTIG: I'll submit.
13 MS. NGUYEN: I'll submit.
14 THE COURT: All right. Go down and get it -- Tom will call down make sure
15 you're on a civil jury, not on a criminal jury.
16 THE CLERK: Juror Number 155, Dana Pfannkuchen.
17 PROSPECTIVE JUROR NUMBER 155: Pfannkuchen.
18 THE CLERK: Pfannkuchen?
19 PROSPECTIVE JUROR NUMBER 155: Yeah.
20 THE CLERK: You'll take Seat Number 3, please.
21 THE COURT: All right. There were a number of people that held their hands
22 up that they've used guns. Well that's kind of an odd thing to say. That raised their
23 hands. Is there anyone here -- else here that would either convict someone just
24 because it's alleged that they had a gun or acquit them because of the evidence?
25 I'm -- well let me ask -- that was a dumb question.

1 Is there anyone here that would automatically convict someone
2 because a gun was alleged used? You -- especially those that have guns? Seeing
3 no hands. Will you all listen to the evidence and weigh the evidence that you hear
4 from the stand or see the exhibits before you make a decision? Anybody that would
5 not do that, raise your hand? It is alleged that guns were used in this on our streets.

6 One of the things that I need to ask and then we'll go back to the gun
7 issue. The State is burdened with the responsibility of proving each element of the
8 crime against the Defendant beyond a reasonable doubt before he's convicted. Is
9 there anybody that is opposed to that? Is there anyone that couldn't -- could not find
10 him guilty if the State proved beyond a reasonable doubt all elements of the crimes?

11 Likewise, if the State cannot meet the burden and does not prove
12 beyond a reasonable doubt the elements, is there anyone who cannot acquit the
13 Defendant of the charges? Does everybody understand that question? That he's
14 innocent and if they don't meet the burden, he stays innocent? Is everybody okay
15 with that? Seeing no hands. Any questions about that? Of issue of guns?

16 MR. FATTIG: No.

17 THE COURT: Defense?

18 MS. NGUYEN: No.

19 THE COURT: Okay.

20 MR. FATTIG: I believe that there were some hands that were raised that -- I
21 believe the original question was that if --

22 THE COURT: That were familiar with guns.

23 MR. FATTIG: -- anyone owns guns, uses guns.

24 THE COURT: Yeah.

25 MR. FATTIG: So I don't if you were going to follow-up on that.

1 THE COURT: No, but you can later.

2 MR. FATTIG: Okay.

3 THE COURT: Does anyone have strong feelings for or against the use of
4 force by officers in the line of duty? This young lady up front.

5 PROSPECTIVE JUROR NUMBER 143: Thank you. Linda Andrews, I
6 believe it's 143. Your question, Your Honor, was does anyone have a discrepancy
7 with the use of officers using excessive force?

8 THE COURT: have strong feelings associated with it --

9 PROSPECTIVE JUROR NUMBER 143: Well in lieu --

10 THE COURT: -- either for or against -- in lieu of the his -- that's why I asked it
11 that way.

12 PROSPECTIVE JUROR NUMBER 143: Exactly. In lieu of what has
13 happened over the past few years with Black Lives Matter slogan and all of the
14 young men that have been killed or -- at the hands of police officers. My mother
15 was a deputy sheriff in Los Angeles County for 15 years and head of internal affairs
16 for the Department of Welfare Fraud Public Social Service. And so it does bother
17 me, you know, from what I see in the news and what you hear and the entire Black
18 Lives Matter slogan, all lives matter, but it just seems that here in the past eight to
19 ten years or so there's been, you know, Mike Brown's and so forth and -- so I mean
20 we can go back to Emmitt Till.

21 THE COURT: Ferguson.

22 PROSPECTIVE JUROR NUMBER 143: But yeah, I'm biased with excessive
23 force.

24 THE COURT: That's why I read that jury instruction I told you I hadn't read on
25 implicit bias.

1 PROSPECTIVE JUROR NUMBER 143: Exactly.

2 THE COURT: It's something that I feel strongly about and that we -- a lot of
3 people have implicit bias that they don't disclose. And I just want to make sure what
4 you as jurors do is listen to the evidence, make a decision from what you see and
5 hear here. Can you do that?

6 PROSPECTIVE JUROR NUMBER 143: I can.

7 THE COURT: Questions by the State for -- just on that?

8 MR. THOMSON: Briefly. Thank you.

9 When you say you have a bias against excessive force, I think we can
10 all agree that police officers have no -- well, they have certain duties that are
11 different than an average citizen but they don't have extra rights. Do you have any
12 bias against a use of force that you found to be an appropriate use of force by a
13 police officer?

14 PROSPECTIVE JUROR NUMBER 143: No.

15 MR. THOMSON: Okay. So you would --

16 PROSPECTIVE JUROR NUMBER 143: If it's appropriate --

17 MR. THOMSON: -- that they have the same rights in terms of self-defense
18 and defense of others?

19 PROSPECTIVE JUROR NUMBER 143: Oh, definitely so.

20 MR. THOMSON: And perhaps more responsibility?

21 PROSPECTIVE JUROR NUMBER 143: Exactly.

22 MR. THOMSON: Okay. Thank you.

23 PROSPECTIVE JUROR NUMBER 143: It's the crossing of the line that I
24 don't condone.

25 MR. THOMSON: Thank you.

1 PROSPECTIVE JUROR NUMBER 143: You're welcome.
2 THE COURT: Defense.
3 MS. NGUYEN: No follow-up.
4 THE COURT: All right. I'll go on. Tell me your name.
5 PROSPECTIVE JUROR NUMBER 134: Carol Burgeson, 134.
6 THE COURT: Do you work?
7 PROSPECTIVE JUROR NUMBER 134: Yes.
8 THE COURT: What do you do?
9 PROSPECTIVE JUROR NUMBER 134: Clark County Assessor's Office.
10 THE COURT: Are you married?
11 PROSPECTIVE JUROR NUMBER 134: Yes, 22 years.
12 THE COURT: Spouse work?
13 PROSPECTIVE JUROR NUMBER 134: Yes.
14 THE COURT: What's your spouse do?
15 PROSPECTIVE JUROR NUMBER 134: Clark County Assessor's Office. We
16 met there.
17 THE COURT: Have you any children?
18 PROSPECTIVE JUROR NUMBER 134: One daughter.
19 THE COURT: how old?
20 PROSPECTIVE JUROR NUMBER 134: 32.
21 THE COURT: She's in law or law enforcement?
22 PROSPECTIVE JUROR NUMBER 134: She -- no, she's not in law
23 enforcement.
24 THE COURT: Do you have a background in law enforcement?
25 PROSPECTIVE JUROR NUMBER 134: I do not.

1 THE COURT: Ever sat as a juror before?

2 PROSPECTIVE JUROR NUMBER 134: On the Grand Jury for federal.

3 THE COURT: It's a little different than what's here. All 12 of you have to
4 make the decision. Do you have a problem with that?

5 PROSPECTIVE JUROR NUMBER 134: I do not.

6 THE COURT: You'll be fair and impartial to both parties in this case?

7 PROSPECTIVE JUROR NUMBER 134: I will.

8 THE COURT: Do you have any further questions, State?

9 MR. FATTIG: Briefly, Your Honor.

10 Ma'am, at this point in the case you do not have the instruction but at
11 the end of the case, if you're chosen as a juror, Judge Smith will give you a set of
12 jury instruction which tells you what the law is regarding this case here in Nevada.
13 Do you have any problem following those instruction?

14 PROSPECTIVE JUROR NUMBER 134: I do not. I haven't seen them, but
15 I --

16 MR. FATTIG: Sure. Hypothetically, if you saw something in those instruction
17 that you disagreed with, what would you do at that point? Would you follow the law
18 as Judge Smith gives it to you or would you go your own way?

19 PROSPECTIVE JUROR NUMBER 134: Well I would assume that I would
20 follow the law as instructed.

21 MR. FATTIG: And you will ultimately take an oath to do that and you have no
22 problem following the law?

23 PROSPECTIVE JUROR NUMBER 134: I do not.

24 MR. FATTIG: If we prove our case beyond a reasonable doubt, will you be
25 able to find the Defendant guilty?

1 PROSPECTIVE JUROR NUMBER 134: If I -- throughout -- any reasonable
2 doubt. I have to listen to the evidence.

3 MR. FATTIG: Of course. And as part of the instruction, the Judge will tell you
4 what beyond a reasonable doubt means. But assuming we are able to prove our
5 case, is there anything that might prevent you from sitting in judgment of someone
6 and finding a verdict of guilty?

7 PROSPECTIVE JUROR NUMBER 134: No.

8 MR. FATTIG: Okay. Thank you. We will pass for cause, Your Honor.

9 MS. NGUYEN: I'd pass.

10 THE COURT: Pass for cause?

11 MS. NGUYEN: Yes.

12 THE COURT: All right. Pass that over. Tell me your name. Your name?

13 PROSPECTIVE JUROR NUMBER 154: Roy Steward, 154.

14 THE COURT: Do you work?

15 PROSPECTIVE JUROR NUMBER 154: Steward.

16 THE COURT: Do you work?

17 PROSPECTIVE JUROR NUMBER 154: Oh. I got a problem hearing big
18 time, but no, sir, I'm retired.

19 THE COURT: We have headsets if you need one.

20 PROSPECTIVE JUROR NUMBER 154: Yeah that might help.

21 THE COURT: Are you married?

22 PROSPECTIVE JUROR NUMBER 154: I am.

23 THE COURT: Does your spouse work?

24 PROSPECTIVE JUROR NUMBER 154: No, she's retired also.

25 THE COURT: What did she retire from?

1 PROSPECTIVE JUROR NUMBER 154: Hospital administration in Colorado.
2 THE COURT: What did you retire from? What did you do?
3 PROSPECTIVE JUROR NUMBER 154: I'm a construction and plumber. I
4 was a union plumber for 30 years.
5 THE COURT: Can you hear me now? You cannot?
6 MR. THOMSON: Judge, I think you have to be by a microphone.
7 THE COURT: Excuse me. I will go by one. Can you hear me now?
8 PROSPECTIVE JUROR NUMBER 154: I can hear you.
9 THE COURT: Okay. It's a good thing because she'd come after you if you
10 didn't. Do you have children?
11 PROSPECTIVE JUROR NUMBER 154: Yes, I have a son and one daughter.
12 THE COURT: Ages?
13 PROSPECTIVE JUROR NUMBER 154: 44, daughter and 29, son.
14 THE COURT: Either of them in law or law enforcement?
15 PROSPECTIVE JUROR NUMBER 154: No.
16 THE COURT: Do you have a background in law or law enforcement?
17 PROSPECTIVE JUROR NUMBER 154: No, I don't.
18 THE COURT: have you ever sat as a juror before?
19 PROSPECTIVE JUROR NUMBER 154: No.
20 THE COURT: Can you be fair and impartial to both parties in this case?
21 PROSPECTIVE JUROR NUMBER 154: No.
22 THE COURT: Why?
23 PROSPECTIVE JUROR NUMBER 154: Well what -- I --
24 THE COURT: Can you be fair in this case?
25 PROSPECTIVE JUROR NUMBER 154: Oh. Oh, yeah. Absolutely. Yeah.

1 THE COURT: Okay. You missed --

2 PROSPECTIVE JUROR NUMBER 154: They're working though.

3 THE COURT: All right. Questions by the State.

4 MR. THOMSON: Thank you, Your Honor.

5 Were you one of the individuals who raised their hand saying that you
6 have a firearm?

7 PROSPECTIVE JUROR NUMBER 154: No, I wasn't.

8 MR. THOMSON: If you get the instruction on the law in this case and you
9 disagreed with one of them, would you be able to follow the law or would you follow
10 what you believed it should be?

11 PROSPECTIVE JUROR NUMBER 154: I'd follow the law.

12 MR. THOMSON: And if we prove the case beyond a reasonable doubt using
13 only one witness, but you believe everything that that witness says and that witness
14 meets each of the elements of the crime, would you be able to find the Defendant
15 guilty?

16 PROSPECTIVE JUROR NUMBER 154: Yes.

17 MR. THOMSON: Pass for cause.

18 MS. NGUYEN: Mr. Steward, maybe it's true, do you have any social media
19 accounts?

20 PROSPECTIVE JUROR NUMBER 154: *Facebook* or you mean like --

21 MS. NGUYEN: Okay. Would it be a problem for you not to go on *Facebook*
22 and post anything during the trial if you were selected to be on the jury?

23 PROSPECTIVE JUROR NUMBER 154: No. No problem.

24 MS. NGUYEN: Nothing further.

25 THE COURT: And that will be an instruction. Yeah, you don't get on

1 Facebook, Twitter, Instagram, any of those things while we're in trial. Does anybody
2 have a problem with that? All right.

3 MS. NGUYEN: Oh.

4 MR. THOMSON: Wait, Judge --

5 THE COURT: You can get on --

6 MS. NGUYEN: We have a hand up.

7 MR. THOMSON: Judge.

8 MS. NGUYEN: We have a hand up.

9 THE COURT: You can get on it, you just can't get on it with -- about this stuff,
10 is that all right?

11 PROSPECTIVE JUROR NUMBER 137: I use it for work and that's why --

12 THE COURT: No, no. You can get on it, but you can't get on it about this
13 saying hey, I got this and this is what the evidence says and talk about it.

14 PROSPECTIVE JUROR NUMBER 137: Yeah. Obviously. Of course.

15 THE COURT: That's the only thing I ask. Is that all right?

16 PROSPECTIVE JUROR NUMBER 154: Yes.

17 THE COURT: All right. There's another -- oh, another question. Just keep
18 that mic for a second. You might want to answer this. Does anybody have a
19 problem with this statement: A Defendant, in a criminal trial, should not be required
20 to prove his innocence?

21 Does anybody have a problem with that? Because as he sits there
22 right now, he's innocent. No one has a problem with that? How about this
23 statement: A Defendant in a criminal trial should not be required to testify or tell a
24 story or present any evidence at all.

25 Does anybody have a problem with that? I know I asked you those two

1 questions before, but I just want to make sure. Okay.

2 If you'll pass that to that young lady.

3 PROSPECTIVE JUROR NUMBER 155: Dana Pfannkuchen, Juror 155.

4 THE COURT: And do you work?

5 PROSPECTIVE JUROR NUMBER 155: I do.

6 THE COURT: What do you do?

7 PROSPECTIVE JUROR NUMBER 155: I have my own day care out of my
8 house.

9 THE COURT: Who's working there now?

10 PROSPECTIVE JUROR NUMBER 155: Nobody.

11 THE COURT: They're alone?

12 PROSPECTIVE JUROR NUMBER 155: No. I told the parents that I had jury
13 duty, so, yeah.

14 THE COURT: Are you married?

15 PROSPECTIVE JUROR NUMBER 155: Yes.

16 THE COURT: Does your spouse work?

17 PROSPECTIVE JUROR NUMBER 155: Yes.

18 THE COURT: What does your spouse do?

19 PROSPECTIVE JUROR NUMBER 155: He works at the school district.

20 THE COURT: What does he do?

21 PROSPECTIVE JUROR NUMBER 155: He is a buyer. He works in the
22 mailing, graphics. Yeah.

23 THE COURT: Do you have children?

24 PROSPECTIVE JUROR NUMBER 155: No.

25 THE COURT: Can you be fair and impartial to both parties in this case?

1 PROSPECTIVE JUROR NUMBER 155: I believe I can, yes.

2 THE COURT: State.

3 MR. FATTIG: Good morning, ma'am. Are you willing to follow the law, even if
4 you personally disagreed with something?

5 PROSPECTIVE JUROR NUMBER 155: Yes.

6 MR. FATTIG: If we prove our case beyond a reasonable doubt, will you be
7 able to find the Defendant guilty?

8 PROSPECTIVE JUROR NUMBER 155: If you were able to prove, then yes.

9 MR. FATTIG: Are you a gun owner or --

10 PROSPECTIVE JUROR NUMBER 155: Yes.

11 MR. FATTIG: -- your husband?

12 PROSPECTIVE JUROR NUMBER 155: We do own a shot gun, yes.

13 MR. FATTIG: Is there anything about your ownership of guns that gives you
14 pause of sitting in this particular -- on a trial like this?

15 PROSPECTIVE JUROR NUMBER 155: I have mixed feelings about guns, to
16 be honest. Like I agree with them like if you're protecting yourself, but if you're just
17 going to go out there and shoot people, then I don't agree with that.

18 MR. FATTIG: No one agrees with that, right?

19 MS. NGUYEN: No.

20 MR. FATTIG: But for self-defense?

21 PROSPECTIVE JUROR NUMBER 155: Yes.

22 MR. FATTIG: Okay. Thank you.

23 We would pass for cause, Your Honor.

24 THE COURT: Defense, questions?

25 MS. NGUYEN: No.

1 PROSPECTIVE JUROR NUMBER 137: Alex White. Sorry. Alex White, 137.
2 THE COURT: Do you work?
3 PROSPECTIVE JUROR NUMBER 137: Yes.
4 THE COURT: What do you do?
5 PROSPECTIVE JUROR NUMBER 137: I'm self-employed.
6 THE COURT: Doing what?
7 PROSPECTIVE JUROR NUMBER 137: I'm a cameraman, film and TV.
8 THE COURT: What?
9 PROSPECTIVE JUROR NUMBER 137: I'm a cameraman. Camera
10 operator.
11 THE COURT: Oh are you?
12 PROSPECTIVE JUROR NUMBER 137: Yes, sir.
13 THE COURT: Which TV station?
14 PROSPECTIVE JUROR NUMBER 137: I freelance actually. I do more
15 commercial and feature film work.
16 THE COURT: Are you married?
17 PROSPECTIVE JUROR NUMBER 137: No, sir.
18 THE COURT: Can you be fair and impartial in this case?
19 PROSPECTIVE JUROR NUMBER 137: Yes.
20 THE COURT: You ever -- do you have a background in law or law
21 enforcement?
22 PROSPECTIVE JUROR NUMBER 137: Nope.
23 THE COURT: Military?
24 PROSPECTIVE JUROR NUMBER 137: Nope.
25 THE COURT: Do you own guns?

1 PROSPECTIVE JUROR NUMBER 137: Yes.

2 THE COURT: Is there anything about that that would prejudice you against
3 the State or the Defendant about guns?

4 PROSPECTIVE JUROR NUMBER 137: Until I hear the case I couldn't say
5 for sure.

6 THE COURT: I mean, you'll listen to all of the evidence --

7 PROSPECTIVE JUROR NUMBER 137: Of course. I'll listen impartially but
8 my beliefs and the right to gun ownership definitely extend to --

9 THE COURT: Right to defend.

10 PROSPECTIVE JUROR NUMBER 137: Yeah.

11 THE COURT: You believe in the Second Amendment.

12 PROSPECTIVE JUROR NUMBER 137: Of course.

13 THE COURT: Okay. Ever sat as a juror before?

14 PROSPECTIVE JUROR NUMBER 137: No.

15 THE COURT: And you'll be fair and impartial?

16 PROSPECTIVE JUROR NUMBER 137: Yes.

17 THE COURT: State.

18 MS. THOMSON: Thank you, Your Honor.

19 The firearms that you own, are they handguns or a variety?

20 PROSPECTIVE JUROR NUMBER 137: It's a variety.

21 MS. THOMSON: Do you go to the range with those firearms?

22 PROSPECTIVE JUROR NUMBER 137: Not frequently.

23 MS. THOMSON: Okay. Have you been to the range?

24 PROSPECTIVE JUROR NUMBER 137: Yes.

25 MS. THOMSON: If you are picked as a juror and there's instruction you

1 disagree with, will you be able to follow it?

2 PROSPECTIVE JUROR NUMBER 137: Just in regard to the law?

3 MS. THOMSON: Yes.

4 PROSPECTIVE JUROR NUMBER 137: I believe in my juror's rights. If
5 there's a law that I don't agree with jury nullification would be something I'd consider
6 depending on what -- the law that we're talking about.

7 MS. THOMSON: Okay. So despite the fact that you will have taken an oath
8 to follow the law, you would consider not doing so?

9 PROSPECTIVE JUROR NUMBER 137: If the law is something I don't agree
10 with, of course.

11 MS. THOMSON: I'll make a motion.

12 THE COURT: Do you have any --

13 MS. NGUYEN: Court's indulgence for a moment.

14 Can I just ask him a couple questions?

15 THE COURT: Yeah.

16 MS. NGUYEN: Mr. White, you had indicated that you work as a freelance like
17 cameraman, is that correct?

18 PROSPECTIVE JUROR NUMBER 137: Yes, ma'am.

19 MS. NGUYEN: And you had also indicated that you use social media in the
20 course of your business.

21 PROSPECTIVE JUROR NUMBER 137: Yes.

22 MS. NGUYEN: Can you explain that further?

23 PROSPECTIVE JUROR NUMBER 137: I post a lot of my work as a
24 photographer and a video man and that helps me get clients. And as a freelancer I
25 depend on clients for repeat business. Vegas is a very transitional town, so I have a

1 lot of once or twice a year clients and if I'm not able to keep up with them and
2 maintain contact with them, I lose that -- I lose work. And as a freelancer, losing
3 work is not how I am able to stay day-to-day living.

4 MS. NGUYEN: You had -- do -- is your business mostly in entertainment,
5 news? Is there any --

6 PROSPECTIVE JUROR NUMBER 137: It spans --

7 MS. NGUYEN: -- particular genre?

8 PROSPECTIVE JUROR NUMBER 137: -- every aspect of video production
9 from live shows to music videos, to films, to TV work, to news work. It's -- anything
10 with a camera, I'm involved with.

11 MS. NGUYEN: So you had indicated that you perhaps would not be able to
12 the follow the law. There are circumstances that you have in mind that you would
13 not be able to follow the law?

14 PROSPECTIVE JUROR NUMBER 137: There are circumstances, sure. I
15 just want to have the ability to maintain as a jury of rights to disagree with a law that
16 we don't believe in. That can be straining to gun laws, potentially. I don't know of
17 course, the case has to have -- be presented. But there are social rights issues, of
18 course, that I firmly believe in that laws are --

19 MS. NGUYEN: Okay. Did you say you have social rights -- did you say social
20 rights or social justice rights?

21 PROSPECTIVE JUROR NUMBER 137: Social rights. You know, just the
22 social aspects of our society that we are dealing with them quite often in the law
23 area.

24 MS. NGUYEN: Okay. Can you tell me of an example of what you mean by
25 that?

1 PROSPECTIVE JUROR NUMBER 137: I -- most recently I'd say marriage
2 equality, marijuana activism, as well -- as in the gun laws as well that we definitely
3 have an issue in this country with a lot of these things, social issues.

4 MS. NGUYEN: So without having been instructed on the law, you don't know
5 whether or not you would be able to -- you would enforce it or you would maintain
6 your own social principles?

7 PROSPECTIVE JUROR NUMBER 137: No, of course. I would need to see
8 and hear the laws in regards to the case in order to determine that.

9 MS. NGUYEN: Your Honor, can I follow up with the jury panel as well. I saw
10 a couple of people nodding. Is that --

11 I saw a couple people kind of nodding when he was talking about social
12 justice or certain laws that he might not -- disagree with. In light of this juror's
13 answer, does anyone have any opinions about that or have any similar opinions
14 regarding the law?

15 UNKNOWN PROSPECTIVE JUROR: I just have a question.

16 MS. NGUYEN: Okay.

17 THE COURT: Wait, wait.

18 UNKNOWN PROSPECTIVE JUROR: But I can wait until --

19 THE COURT: Let's -- we're going to do it in order.

20 UNKNOWN PROSPECTIVE JUROR: Yeah.

21 THE COURT: Let's go to this young lady again.

22 PROSPECTIVE JUROR NUMBER 143: Thank you, Your Honor. I don't
23 have -- I don't need the mic. I don't particularly -- I'm pretty loud. I'm the boss at my
24 job and home. Yeah sorry that -- we got to know each other on our five minute
25 break.

1 I believe that the law is the law. For example, this county clerk that
2 made a decision -- I heard what you just said about marijuana, about same-sex
3 marriage, and other issues -- social issues. It's really an oxymoron because it is a
4 social issue, but it's the law. It's a religious issue but it's the law. And ultimately, at
5 the end of the day, the law is going to prevail. And so just like this clerk that made
6 the decision not to go forward with giving this couple their license, at the end of the
7 day, despite the Pope coming and everybody else that couple was married.

8 So the law says that they have the right to union. So regardless -- my
9 son is an Army veteran, as is my husband. And the VA says that my son can smoke
10 marijuana, cannabis, as a stimulant to offset his PTSD. I don't condone it, but given
11 the fact that Colorado has put it into law, the government has stated that my son has
12 the right to smoke, via a, you know, medical marijuana card. So the issue, I think, is
13 can we make a partial or impartial decision based on the facts that's given by the
14 State in this Defendant's case?

15 Can you -- regardless of what your personal get your --

16 PROSPECTIVE JUROR NUMBER 137: I'm not sure why you're --

17 THE COURT: No wait, we don't need attacks.

18 PROSPECTIVE JUROR NUMBER 137: I'm not going to --

19 PROSPECTIVE JUROR NUMBER 143: Well I'm saying -- I'm generalizing.

20 THE COURT: Just generalize.

21 PROSPECTIVE JUROR NUMBER 143: I'm generalizing.

22 THE COURT: What's your belief? Do you believe -- can you follow the order
23 of the Court? When the Court says this is the law, will you follow it?

24 PROSPECTIVE JUROR NUMBER 143: Absolutely.

25 THE COURT: Again, if I tell you this is the law, can you follow it, sir?

1 PROSPECTIVE JUROR NUMBER 137: I can follow it.

2 THE COURT: No matter what you think the law ought to be, it would be a
3 violation of your oath to base a verdict on anything but what I tell you. Do you have
4 a problem with that in the sense that you won't follow it?

5 PROSPECTIVE JUROR NUMBER 137: No, I don't have a problem with that.
6 But I --

7 THE COURT: That's the question.

8 PROSPECTIVE JUROR NUMBER 137: That's a good question, but I do
9 believe in my rights to know that I might disagree with something.

10 THE COURT: you can disagree, but --

11 PROSPECTIVE JUROR NUMBER 137: Sure.

12 THE COURT: -- when I tell you the law is X, Y, and Z, you got to follow the
13 law X, Y, and Z. You can't say yeah, but I think --

14 PROSPECTIVE JUROR NUMBER 137: But does not -- do I not have an
15 option as a juror in the jury to have a --

16 THE COURT: You have the option to say they didn't meet their burden --

17 PROSPECTIVE JUROR NUMBER 137: Right.

18 THE COURT: -- on -- based on the law, X, Y, Z. They didn't prove X, they
19 didn't prove Y.

20 PROSPECTIVE JUROR NUMBER 137: I understand that. I'm just answering
21 the questions I was asked. So.

22 THE COURT: I know. I'm just trying to gather some information about that.
23 Do you have any more questions of this gentleman?

24 MS. NGUYEN: No, I think you clarified it actually.

25 THE COURT: Do you have children?

1 PROSPECTIVE JUROR NUMBER 137: No.

2 THE COURT: Can you be fair and impartial and follow the law that I tell you

3 what it is?

4 PROSPECTIVE JUROR NUMBER 137: To the best of my abilities.

5 THE COURT: I'm going to leave him.

6 All right. Pass that over. Tell me your name.

7 PROSPECTIVE JUROR NUMBER 138: Rebecca Troxell, 138.

8 THE COURT: Do you work?

9 PROSPECTIVE JUROR NUMBER 138: Yes.

10 THE COURT: What do you do?

11 PROSPECTIVE JUROR NUMBER 138: I work at a tour company.

12 THE COURT: What do you do over there?

13 PROSPECTIVE JUROR NUMBER 138: I'm a groups manager. We make

14 reservations for airplane and helicopters.

15 THE COURT: Are you married?

16 PROSPECTIVE JUROR NUMBER 138: Yes.

17 THE COURT: Spouse work?

18 PROSPECTIVE JUROR NUMBER 138: Yes.

19 THE COURT: What does your spouse do?

20 PROSPECTIVE JUROR NUMBER 138: He's a driver for the RTC.

21 THE COURT: You have children?

22 PROSPECTIVE JUROR NUMBER 138: Yes.

23 THE COURT: Ages?

24 PROSPECTIVE JUROR NUMBER 138: 23, 13, 12, 4, and 9.

25 THE COURT: 23 year old in law or law enforcement?

1 PROSPECTIVE JUROR NUMBER 138: No.

2

3 THE COURT: Do have a background in law or law enforcement?

4 PROSPECTIVE JUROR NUMBER 138: No.

5 THE COURT: Have you ever sat as a juror before?

6 PROSPECTIVE JUROR NUMBER 138: Yes.

7 THE COURT: Where?

8 PROSPECTIVE JUROR NUMBER 138: It was civil. It was here.

9 THE COURT: When? About?

10 PROSPECTIVE JUROR NUMBER 138: A few years ago.

11 THE COURT: Were you the jury foreperson?

12 PROSPECTIVE JUROR NUMBER 138: No.

13 THE COURT: Were you able to reach a verdict? Don't tell us what the

14 verdict was.

15 PROSPECTIVE JUROR NUMBER 138: Yes.

16 THE COURT: You understand the difference is, there's probably eight jurors

17 there, only six had to decide it. And once six got to decide it that ended the case.

18 But here it's unanimous, do you understand that?

19 PROSPECTIVE JUROR NUMBER 138: Yes.

20 THE COURT: In a criminal case, that's the difference.

21 PROSPECTIVE JUROR NUMBER 138: Yes.

22 THE COURT: Do you have a problem with that?

23 PROSPECTIVE JUROR NUMBER 138: No.

24 THE COURT: State.

25 MR. FATTIG: Morning, ma'am. Are you or your husband gun owners?

1 PROSPECTIVE JUROR NUMBER 138: No.

2 MR. FATTIG: If -- at the end of the case the Judge is going to give you a set
3 of instructions that tells you what the law is. Hypothetically, if you saw an instruction
4 that you disagreed with, what would you do in that situation?

5 PROSPECTIVE JUROR NUMBER 138: I'd still follow it. It's the law.

6 MR. FATTIG: And you'll be taking an oath to do that, and you have no
7 problem with that?

8 PROSPECTIVE JUROR NUMBER 138: No.

9 MR. FATTIG: If the State proves its case beyond a reasonable doubt, will you
10 be able to sit in judgment of the Defendant and find him guilty?

11 PROSPECTIVE JUROR NUMBER 138: Yes.

12 MR. FATTIG: Thank you.

13 I would submit, Your Honor.

14 THE COURT: Questions.

15 MS. NGUYEN: Did you say you had five children?

16 PROSPECTIVE JUROR NUMBER 138: One stepchild, yeah.

17 MS. NGUYEN: Okay. During the course of parenting, have you ever had to, I
18 guess, mediate disputes between your children?

19 PROSPECTIVE JUROR NUMBER 138: Oh yeah.

20 MS. NGUYEN: And are there certain things that you look at to determine
21 what child is maybe telling the truth and which one is maybe fibbing?

22 PROSPECTIVE JUROR NUMBER 138: Well I've got one that you can tell
23 when he's lying. So.

24 MS. NGUYEN: Okay. And what kind of things do you look at in determining
25 whether or not --

1 PROSPECTIVE JUROR NUMBER 138: He laughs.

2 MS. NGUYEN: Okay. Do you do that in the course of any of your

3 employment? Do you have to judge people's, I guess, credibility or believability in

4 the course of your job at all?

5 PROSPECTIVE JUROR NUMBER 138: No.

6 MS. NGUYEN: Okay. Mostly left at home?

7 PROSPECTIVE JUROR NUMBER 138: Yeah.

8 MS. NGUYEN: Nothing further.

9 THE COURT: Pass for cause?

10 MS. NGUYEN: Yes.

11 THE COURT: Pass that mic over. Tell me your name.

12 PROSPECTIVE JUROR NUMBER 139: Marie Lasko, 139.

13 THE COURT: Do you work?

14 PROSPECTIVE JUROR NUMBER 139: Yes.

15 THE COURT: What do you do?

16 PROSPECTIVE JUROR NUMBER 139: Banquet server.

17 THE COURT: Where?

18 PROSPECTIVE JUROR NUMBER 139: Mandalay Bay.

19 THE COURT: Are you married?

20 PROSPECTIVE JUROR NUMBER 139: I lost my husband three months ago.

21 THE COURT: I'm sorry.

22 PROSPECTIVE JUROR NUMBER 139: Sorry.

23 THE COURT: Do you have children?

24 PROSPECTIVE JUROR NUMBER 139: I had two. I lost my son six years

25 ago.

1 THE COURT: Sorry.

2 PROSPECTIVE JUROR NUMBER 139: I have a daughter who's 24.

3 THE COURT: Is she in law or law enforcement?

4 PROSPECTIVE JUROR NUMBER 139: No.

5 THE COURT: Do you have a background in law or law enforcement?

6 PROSPECTIVE JUROR NUMBER 139: No.

7 THE COURT: Have you ever sat as a juror before?

8 PROSPECTIVE JUROR NUMBER 139: No.

9 THE COURT: Get her some water Tom.

10 PROSPECTIVE JUROR NUMBER 139: Sorry.

11 THE COURT: You'll listen to the evidence to make a decision?

12 PROSPECTIVE JUROR NUMBER 139: Yes.

13 THE COURT: State.

14 MS. THOMSON: Thank you, Your Honor.

15 Were you one of our jurors who indicated that you have firearms?

16 PROSPECTIVE JUROR NUMBER 139: No.

17 MS. THOMSON: If you were picked as a juror and the Judge instructs on law

18 and it's -- there's something you don't agree with, will you be able to follow the law

19 and not what you're opinion of the law should be?

20 PROSPECTIVE JUROR NUMBER 139: Yes.

21 MS. THOMSON: And if we prove the case beyond a reasonable doubt using

22 only one witness and that witness testifies to every element of the offenses and you

23 believe the witness completely, would you be able to find the defendant guilty?

24 PROSPECTIVE JUROR NUMBER 139: Yes.

25 MS. THOMSON: I'll pass for cause. Thank you.

1 THE COURT: Likewise, if they can't prove it beyond a reasonable doubt,
2 could you find him innocent?

3 PROSPECTIVE JUROR NUMBER 139: Yes.

4 THE COURT: Questions?

5 MS. NGUYEN: Ms. Lasko, do you watch any television?

6 PROSPECTIVE JUROR NUMBER 139: Netflix.

7 MS. NGUYEN: Okay. Do you watch any of these crime scene shows or Las
8 and Order type shows?

9 PROSPECTIVE JUROR NUMBER 139: I watch all Law and Orders.

10 MS. NGUYEN: You watch all the Law and Orders?

11 PROSPECTIVE JUROR NUMBER 139: Yes.

12 MS. NGUYEN: Are you familiar with some of these shows and how they do
13 like forensic testing and things like that?

14 PROSPECTIVE JUROR NUMBER 139: Yes.

15 MS. NGUYEN: Okay. And do you believe that those are capabilities that our
16 police officers have the ability to conduct in these kind of cases?

17 PROSPECTIVE JUROR NUMBER 139: Yes.

18 MS. NGUYEN: Like in real cases?

19 PROSPECTIVE JUROR NUMBER 139: Yes.

20 MS. NGUYEN: Okay. And you understand that if there's like a circumstance
21 where they're sucking all the air out of a room to get like -- isolate particles that
22 perhaps that isn't a science that we're able to do here in real life, is that correct?

23 PROSPECTIVE JUROR NUMBER 139: Yes.

24 MS. NGUYEN: Okay. But you're familiar with terms like DNA?

25 PROSPECTIVE JUROR NUMBER 139: Uh-huh.

1 MS. NGUYEN: Or fingerprints?

2 PROSPECTIVE JUROR NUMBER 139: Yes.

3 MS. NGUYEN: Okay. And can I just ask a question of everyone?

4 Is there anyone else that watches any of these crime shows? Okay.

5 THE COURT: Okay. Can I just add something?

6 MS. NGUYEN: Yeah. Go ahead.

7 THE COURT: Crime cannot be solved in 20 minutes without commercials.

8 Okay.

9 MS. NGUYEN: I'm sorry. Can I get hands again? Raise them up high man.

10 Does anyone watch those shows and expect those same types of

11 investigations to be conducted here in our justice system?

12 THE COURT: No hands.

13 MS. NGUYEN: This isn't a reality for anyone out here? I ask believe it was

14 once.

15 THE COURT: Okay. That's all right.

16 MS. NGUYEN: Nothing further then.

17 THE COURT: All right. Pass for cause? Ms. Nguyen, pass for cause?

18 MS. NGUYEN: Yes.

19 THE COURT: Okay. Tell me your name.

20 PROSPECTIVE JUROR NUMBER 142: Yanisley Elias, 142.

21 THE COURT: Do you work?

22 PROSPECTIVE JUROR NUMBER 142: Yes.

23 THE COURT: What do you do?

24 PROSPECTIVE JUROR NUMBER 142: I'm on table games at the Bellagio

25 casino.

1 THE COURT: Are you married?
2 PROSPECTIVE JUROR NUMBER 142: Yes.
3 THE COURT: Does your spouse work?
4 PROSPECTIVE JUROR NUMBER 142: Yes.
5 THE COURT: What does your spouse do?
6 PROSPECTIVE JUROR NUMBER 142: He's a floor supervisor on the table
7 games.
8 THE COURT: Do you have children?
9 PROSPECTIVE JUROR NUMBER 142: Yes.
10 THE COURT: Ages?
11 PROSPECTIVE JUROR NUMBER 142: Eight months old.
12 THE COURT: I'm sorry.
13 PROSPECTIVE JUROR NUMBER 142: Yeah.
14 THE COURT: Not sorry that he's eight months, but --
15 Do you have a background in law or law enforcement?
16 PROSPECTIVE JUROR NUMBER 142: No.
17 THE COURT: Have you ever sat as a juror before?
18 PROSPECTIVE JUROR NUMBER 142: No.
19 THE COURT: Could you be fair to both parties in this case?
20 PROSPECTIVE JUROR NUMBER 142: Yes.
21 THE COURT: State.
22 MR. FATTIG: Ma'am, do you or your husband own any firearms?
23 PROSPECTIVE JUROR NUMBER 142: Yeah. My husband does own a lot
24 of arms.
25 MR. FATTIG: A lot of firearms. Okay. You certainly believe -- join in his

1 belief in terms of the Second Amendment?

2 PROSPECTIVE JUROR NUMBER 142: Yes.

3 MR. FATTIG: IS there anything about that, the ownership of firearms, the fact
4 that firearms will be involved in this case that gives you any pause on certing [sic] --
5 sitting as a juror?

6 PROSPECTIVE JUROR NUMBER 142: Well I believe that guns are for
7 protection. But I also believe when a criminal has a gun and enters to a property or
8 something is to use it. So.

9 MR. FATTIG: So you're able to follow the law?

10 PROSPECTIVE JUROR NUMBER 142: Yeah.

11 MR. FATTIG: If we prove our case beyond a reasonable doubt, will you be
12 able to sit in judgment of the Defendant and find him guilty?

13 PROSPECTIVE JUROR NUMBER 142: Yes.

14 MR. FATTIG: Thank you.

15 I pass for cause.

16 THE COURT: Likewise, if they can't prove the case, you'd find him innocent?

17 PROSPECTIVE JUROR NUMBER 142: Yes.

18 THE COURT: All right. Defendant?

19 MS. NGUYEN: Did you say you work in the Bellagio?

20 PROSPECTIVE JUROR NUMBER 142: Uh-huh.

21 MS. NGUYEN: Okay. Have you ever -- has there ever been any type of
22 crime or investigation that took place in the casino while you were working there?

23 PROSPECTIVE JUROR NUMBER 142: No. I'm always off when that
24 happens.

25 MS. NGUYEN: Okay.

1 PROSPECTIVE JUROR NUMBER 142: I miss all the action.
2 MS. NGUYEN: And you said you have an eight-month old?
3 PROSPECTIVE JUROR NUMBER 142: Yes.
4 MS. NGUYEN: Does he or she sleep?
5 PROSPECTIVE JUROR NUMBER 142: No. No. He's been teething with
6 fever and it's not a good time.
7 MS. NGUYEN: Do you think the lack of parental sleep would cause you any
8 problems in concentrating here today?
9 PROSPECTIVE JUROR NUMBER 142: Some days I'm pretty jacked up,
10 yeah.
11 MS. NGUYEN: Nothing further.
12 THE COURT: Pass for cause?
13 MS. NGUYEN: Yes.
14 THE COURT: All right. Tell me your name again.
15 PROSPECTIVE JUROR NUMBER 143: Okay. It's Linda Andrews, 143.
16 THE COURT: Do you work?
17 PROSPECTIVE JUROR NUMBER 143: Yes I do.
18 THE COURT: What do you do?
19 PROSPECTIVE JUROR NUMBER 143: I'm the director of a home health
20 company here in Vegas.
21 THE COURT: Are you married?
22 PROSPECTIVE JUROR NUMBER 143: Yes.
23 THE COURT: Does your spouse work?
24 PROSPECTIVE JUROR NUMBER 143: No.
25 THE COURT: Did your spouse work?

1 PROSPECTIVE JUROR NUMBER 143: He did.
2 THE COURT: He's retired.
3 PROSPECTIVE JUROR NUMBER 143: He's retired.
4 THE COURT: From what?
5 PROSPECTIVE JUROR NUMBER 143: From Saint Rose Hospital I.T.
6 director and military.
7 THE COURT: Have you any background in law or law enforcement?
8 PROSPECTIVE JUROR NUMBER 143: No.
9 THE COURT: Children?
10 PROSPECTIVE JUROR NUMBER 143: Yes.
11 THE COURT: Ages?
12 PROSPECTIVE JUROR NUMBER 143: 25 and 30.
13 THE COURT: Are either of them in law or law enforcement?
14 PROSPECTIVE JUROR NUMBER 143: No.
15 THE COURT: Have you ever sat as a juror before?
16 PROSPECTIVE JUROR NUMBER 143: No.
17 THE COURT: Could you be fair and impartial to both parties in this case?
18 PROSPECTIVE JUROR NUMBER 143: Yes.
19 THE COURT: State.
20 MS. THOMSON: Thank you, Your Honor.
21 Ms. Andrews, you have a strong personality.
22 PROSPECTIVE JUROR NUMBER 143: I do.
23 MS. THOMSON: If you're picked as a juror in this case and in deliberations
24 there is a split of opinion as to guilt or innocence or what a fact -- how it came out in
25 the evidence, would you be able to listen to the other side's position and evaluate

1 the stance you'd taken based on what they said?

2 PROSPECTIVE JUROR NUMBER 143: Yes.

3 MS. THOMSON: Okay. And would you be willing to change your opinion if
4 what they said made sense to you and it refreshed your recollection and changed
5 your mind?

6 PROSPECTIVE JUROR NUMBER 143: As long as the evidence proved
7 such.

8 MS. THOMSON: Okay. And if what the other side didn't make sense to you,
9 didn't conform with your recollection of the evidence, all that kind of stuff, would you
10 be willing to stand by your position?

11 PROSPECTIVE JUROR NUMBER 143: Maybe.

12 MS. THOMSON: Okay. Can you elaborate?

13 PROSPECTIVE JUROR NUMBER 143: It all depends on the evidence. The
14 evidence proves all things. And so I am fair and I would partial to the evidence.

15 MS. THOMSON: Okay. If say a fact comes out and everyone agrees that the
16 fact came out one way, but you think that that fact shows X and everyone else
17 thinks that that fact shows Y, will you be willing to stand by your position as to X,
18 even if you're the only person who thinks it shows X, even though everyone agrees
19 that that fact is what it is?

20 PROSPECTIVE JUROR NUMBER 143: Yes, I would.

21 MS. THOMSON: Okay. And you'd be willing to listen to their reasons for why
22 they think it's Y?

23 PROSPECTIVE JUROR NUMBER 143: I would listen, but I would still stand.

24 MS. THOMSON: Okay. And were you one of our gun owners? You can't get
25 rid of that that easily.

1 PROSPECTIVE JUROR NUMBER 143: Oh. Yes. We have lots of guns.
2 MS. THOMSON: Okay. Do you ever go to the range?
3 PROSPECTIVE JUROR NUMBER 143: I do. And I'm pretty good.
4 MS. THOMSON: Have you had to use any of those firearms outside the
5 range?
6 PROSPECTIVE JUROR NUMBER 143: No.
7 MS. THOMSON: And if we prove the case with only one witness and that
8 witness testifies to every element of the offenses and you believe that witness
9 beyond a reasonable doubt, would you be able to find the Defendant guilty?
10 PROSPECTIVE JUROR NUMBER 143: Yes.
11 MS. THOMSON: And if we don't prove the case, you'll find him not guilty?
12 PROSPECTIVE JUROR NUMBER 143: Yes.
13 MS. THOMSON: If there's -- actually, you know what we already covered that
14 with you. We're good. Pass for cause.
15 THE COURT: Thanks. Questions for the Defense?
16 MS. NGUYEN: No.
17 THE COURT: Pass for cause?
18 MS. NGUYEN: Yes, pass for cause.
19 THE COURT: Tell me your name.
20 PROSPECTIVE JUROR NUMBER 144: Yvette Steward.
21 THE COURT: Do you work?
22 PROSPECTIVE JUROR NUMBER 144: Yes.
23 THE COURT: What do you do?
24 PROSPECTIVE JUROR NUMBER 144: Consultant.
25 THE COURT: For what?

1 PROSPECTIVE JUROR NUMBER 144: Consult -- a global consulting firm.
2 THE COURT: What do you talk about?
3 PROSPECTIVE JUROR NUMBER 144: Currently health I.T.
4 THE COURT: Are you married?
5 PROSPECTIVE JUROR NUMBER 144: Divorced.
6 THE COURT: Sorry. Did your ex-husband work?
7 PROSPECTIVE JUROR NUMBER 144: Yes.
8 THE COURT: What did he do?
9 PROSPECTIVE JUROR NUMBER 144: Oh gosh. He owned his own
10 business, dog training.
11 THE COURT: Did you have children?
12 PROSPECTIVE JUROR NUMBER 144: I have a daughter.
13 THE COURT: Age?
14 PROSPECTIVE JUROR NUMBER 144: 29.
15 THE COURT: In law or law enforcement?
16 PROSPECTIVE JUROR NUMBER 144: No.
17 THE COURT: Do you have a background in law or law enforcement?
18 PROSPECTIVE JUROR NUMBER 144: I do. Paralegal.
19 THE COURT: Paralegal.
20 PROSPECTIVE JUROR NUMBER 144: Uh-huh.
21 THE COURT: Did you work in the paralegal industry?
22 PROSPECTIVE JUROR NUMBER 144: I was in -- yeah, for -- I worked for
23 attorneys in civil.
24 THE COURT: For whom?
25 PROSPECTIVE JUROR NUMBER 144: In California.

1 THE COURT: Only civil?

2 PROSPECTIVE JUROR NUMBER 144: Only civil.

3 THE COURT: Have you ever sat as a juror before?

4 PROSPECTIVE JUROR NUMBER 144: Yes.

5 THE COURT: Where?

6 PROSPECTIVE JUROR NUMBER 144: Ohio.

7 THE COURT: When?

8 PROSPECTIVE JUROR NUMBER 144: Oh, gosh. How old was my

9 daughter? Probably about 15, 20 years ago.

10 THE COURT: Civil or criminal case?

11 PROSPECTIVE JUROR NUMBER 144: Criminal.

12 THE COURT: Without telling us a verdict, were you able to reach a verdict?

13 PROSPECTIVE JUROR NUMBER 144: For one of the criminal -- it was two

14 criminal cases. One we reached a verdict. The second one we had a hung jury.

15 THE COURT: Were you the jury foreperson on either of them?

16 PROSPECTIVE JUROR NUMBER 144: The foreperson, yes.

17 THE COURT: What kind of cases were they?

18 PROSPECTIVE JUROR NUMBER 144: Aggravated murder. Aggravated

19 robbery.

20 THE COURT: Is there anything about those two cases that would impair your

21 ability to sit as a fair juror in this one?

22 PROSPECTIVE JUROR NUMBER 144: Not at all.

23 THE COURT: You'll be fair and impartial?

24 PROSPECTIVE JUROR NUMBER 144: Absolutely.

25 THE COURT: State.

1 MR. FATTIG: Good morning, ma'am.

2 PROSPECTIVE JUROR NUMBER 144: Good morning.

3 MR. FATTIG: Regarding your prior jury service, were they kind of close in
4 time, both in Ohio?

5 PROSPECTIVE JUROR NUMBER 144: Both in Ohio and it was a two-week
6 period. So one week was the first criminal, the aggravated murder. And the second
7 was aggravated robbery.

8 MR. FATTIG: Okay. So the -- so it was two different trials?

9 PROSPECTIVE JUROR NUMBER 144: Two different trials.

10 MR. FATTIG: Were they against two different Defendants?

11 PROSPECTIVE JUROR NUMBER 144: Yes.

12 MR. FATTIG: Okay.

13 PROSPECTIVE JUROR NUMBER 144: So I -- I just worked my full two
14 weeks I --

15 MR. FATTIG: Oh in Ohio they do it a little differently. They don't just --

16 PROSPECTIVE JUROR NUMBER 144: They must.

17 MR. FATTIG: -- kick you free after you do one?

18 PROSPECTIVE JUROR NUMBER 144: No, you go in -- back into the --

19 MR. FATTIG: You have to go for two weeks.

20 PROSPECTIVE JUROR NUMBER 144: -- rotation. Correct.

21 MR. FATTIG: Okay.

22 PROSPECTIVE JUROR NUMBER 144: Uh-huh.

23 MR. FATTIG: Was that generally a positive experience or negative, or in
24 between?

25 PROSPECTIVE JUROR NUMBER 144: I would say in between.

1 MR. FATTIG: Okay.

2 PROSPECTIVE JUROR NUMBER 144: It was in between.

3 MR. FATTIG: It sounded like you reached a verdict on one of the two cases
4 and --

5 PROSPECTIVE JUROR NUMBER 144: Yeah.

6 MR. FATTIG: -- you didn't on the other one.

7 PROSPECTIVE JUROR NUMBER 144: Yes.

8 MR. FATTIG: on the one that you didn't, was there a deliberation that
9 occurred and the 12 jurors just couldn't reach unanimity or what happened?

10 PROSPECTIVE JUROR NUMBER 144: That's correct.

11 MR. FATTIG: Okay.

12 PROSPECTIVE JUROR NUMBER 144: Couldn't.

13 MR. FATTIG: So some of the -- were you -- was there some frustration
14 regarding that process?

15 PROSPECTIVE JUROR NUMBER 144: Yes.

16 MR. FATTIG: Was that some of the negative feelings that you had regarding
17 your prior jury service? Did it stem out of that; the disagreement on that other
18 case -- on the second case?

19 PROSPECTIVE JUROR NUMBER 144: Yes.

20 MR. FATTIG: Okay.

21 PROSPECTIVE JUROR NUMBER 144: First one as well. Although we did
22 come to a -- you know, found a --

23 MR. FATTIG: What kind of frustrations or disappointments did you have
24 about the first one even though you reached a verdict?

25 PROSPECTIVE JUROR NUMBER 144: I guess it would be the differing

1 views. The way the -- each juror saw the evidence that was presented.

2 MR. FATTIG: Were you able to -- were you a foreperson in that particular jury
3 or both juries?

4 PROSPECTIVE JUROR NUMBER 144: Yes. I was the foreperson in that
5 particular jury where we came to a verdict.

6 MR. FATTIG: The one where you reached a verdict?

7 PROSPECTIVE JUROR NUMBER 144: Yes.

8 MR. FATTIG: So were you able to leave the discussion in terms of the
9 evidence and talk about different opinions; why people had different opinions?

10 PROSPECTIVE JUROR NUMBER 144: Yes. And where I also used a little
11 bit of strategy where it -- when we -- before we -- while we were working towards a
12 verdict everyone didn't agree, but it appeared that certain people would only listen to
13 a certain type in the room, so then that's where I would let go of my leadership and
14 let that other person who --

15 MR. FATTIG: Okay. They were more open-minded to other -- certain
16 individuals within the room.

17 PROSPECTIVE JUROR NUMBER 144: Yes.

18 MR. FATTIG: And so they seemed to be close-minded to other individuals, so
19 in order to --

20 PROSPECTIVE JUROR NUMBER 144: I --

21 MR. FATTIG: -- get them to be open-minded about the facts, other individuals
22 would attempt to convince them?

23 PROSPECTIVE JUROR NUMBER 144: Absolutely.

24 MR. FATTIG: Okay. Do you want to be a juror again?

25 PROSPECTIVE JUROR NUMBER 144: Not necessarily, but --

1 MR. FATTIG: Okay. But are you willing to?

2 PROSPECTIVE JUROR NUMBER 144: Yes. Uh-huh.

3 MR. FATTIG: Okay. Are you willing to follow the law here in Nevada --

4 PROSPECTIVE JUROR NUMBER 144: Yes.

5 MR. FATTIG: -- that may be a little different than it was in Ohio?

6 PROSPECTIVE JUROR NUMBER 144: Yes.

7 MR. FATTIG: Okay. Even if you personally disagreed, hypothetically, in

8 understanding, you don't know exactly what the law is at this point, but --

9 PROSPECTIVE JUROR NUMBER 144: I would follow it.

10 MR. FATTIG: You would follow it.

11 PROSPECTIVE JUROR NUMBER 144: Absolutely.

12 MR. FATTIG: If we prove our case beyond a reasonable doubt, is there

13 anything that might prevent you from finding the Defendant guilty?

14 PROSPECTIVE JUROR NUMBER 144: No.

15 MR. FATTIG: Okay. Do you own a gun?

16 PROSPECTIVE JUROR NUMBER 144: I do not own a gun.

17 MR. FATTIG: Thank you.

18 I would pass for cause, Your Honor.

19 THE COURT: Questions for Defense?

20 MS. NGUYEN: I pass for cause.

21 THE COURT: Okay. Tell me your -- pass that microphone over. Tell me

22 your name. No laughing.

23 PROSPECTIVE JUROR NUMBER 145: Elizabeth Ringer, 145.

24 THE COURT: Do you work?

25 PROSPECTIVE JUROR NUMBER 145: Yes.

1 THE COURT: What do you do?
2 PROSPECTIVE JUROR NUMBER 145: School teacher.
3 THE COURT: Where?
4 PROSPECTIVE JUROR NUMBER 145: Kindergarten, CCSD.
5 THE COURT: Have you -- are you married?
6 PROSPECTIVE JUROR NUMBER 145: No.
7 THE COURT: Do you have children?
8 PROSPECTIVE JUROR NUMBER 145: Yes.
9 THE COURT: Ages?
10 PROSPECTIVE JUROR NUMBER 145: 14.
11 THE COURT: Do you have a background in law or law enforcement?
12 PROSPECTIVE JUROR NUMBER 145: No.
13 THE COURT: Have you ever sat as a juror before?
14 PROSPECTIVE JUROR NUMBER 145: No.
15 THE COURT: You'll be fair to both parties in this case?
16 Don't hesitate. What's the hesitation?
17 PROSPECTIVE JUROR NUMBER 145: Yeah.
18 THE COURT: You'll listen to the --
19 PROSPECTIVE JUROR NUMBER 145: Yes, yes.
20 THE COURT: -- evidence?
21 PROSPECTIVE JUROR NUMBER 145: Yes.
22 THE COURT: Look at the exhibits and make a decision?
23 PROSPECTIVE JUROR NUMBER 145: Yes.
24 THE COURT: State.
25 MS. THOMSON: Thank you, Your Honor.

1 So can you tell us what you were thinking as you were hesitating?

2 PROSPECTIVE JUROR NUMBER 145: Well given -- I have to see the -- I
3 have to hear the circumstance. The -- see -- hear the circumstances, hear and see
4 the evidence. That's why I hesitated. Because I don't want to ever say I'm absolute
5 until I know exactly what's going on.

6 MS. THOMSON: Do you have any concerns about anything in your life,
7 causing you to not be able to judge the evidence fairly?

8 PROSPECTIVE JUROR NUMBER 145: Uh-uh. No.

9 MS. THOMSON: Do you own any firearms?

10 PROSPECTIVE JUROR NUMBER 145: In the past.

11 MS. THOMSON: Okay. When you owned those firearms, were they
12 handguns or rifles or --

13 PROSPECTIVE JUROR NUMBER 145: Handgun, rifle, assault weapons with
14 the -- yeah.

15 MS. THOMSON: When you owned them, did you take them to the range or
16 was it just ownership?

17 PROSPECTIVE JUROR NUMBER 145: My dad took us to the range.

18 MS. THOMSON: So you were younger? I mean, obviously --

19 PROSPECTIVE JUROR NUMBER 145: Yeah.

20 MS. THOMSON: -- you were younger because it's in the past. But like a
21 child?

22 PROSPECTIVE JUROR NUMBER 145: Ever since I was, yeah, very young.

23 MS. THOMSON: Part of your life sort of sounds like for most of it.

24 PROSPECTIVE JUROR NUMBER 145: Yeah. Absolutely.

25 MS. THOMSON: And anything about the gun ownership affect your ability to

1 sit as a juror here?

2 PROSPECTIVE JUROR NUMBER 145: No. I think I was -- I kind of
3 responded to something he said. I mean, the law is the law and sometimes I just
4 feel that we're a little uptight here in the U.S. about things. And I feel that we
5 wouldn't be in some -- have some of the problems that we had if we weren't as
6 uptight about ownership of weapons and things like that.

7 MS. THOMSON: Am I understanding what you're saying as we should be
8 more open to allowing more individuals own weapons?

9 PROSPECTIVE JUROR NUMBER 145: Well I think it should be tighter
10 security on it, but I don't think it should be -- I don't agree with the whole people
11 shouldn't own guns type of thing. I think it's our right to be able to protect ourselves.
12 I think people should know how to use one before they own one, absolutely.

13 MS. THOMSON: Okay. So you're agreeing with the Second Amendment --

14 PROSPECTIVE JUROR NUMBER 145: Yeah.

15 MS. THOMSON: -- but it's maybe have a little bit more oversight.

16 PROSPECTIVE JUROR NUMBER 145: Yeah, I think --

17 MS. THOMSON: Okay.

18 PROSPECTIVE JUROR NUMBER 145: Yeah. Because I kind of feel that
19 when you take -- it's like with kids, when you take things away from them they want
20 it more. So you take those rights -- some of those rights away or you have those
21 people out there fighting to take those rights away, then more people want to get
22 guns and more people get them where they shouldn't be getting them.

23 MS. THOMSON: If you are picked as a juror in this case and instructions
24 there's something you disagree with, don't think it should be that way, or you think
25 that it is different than you're being instructed that it is, will you be able to follow the

1 Judge's instruction?

2 PROSPECTIVE JUROR NUMBER 145: Just because I'm opinionated, I can
3 follow the directions.

4 MS. THOMSON: And if you describe yourself as opinionated, are you willing
5 to listen to other jurors' positions?

6 PROSPECTIVE JUROR NUMBER 145: Yeah, absolutely. That's what
7 makes me opinionated because I get all the information, so, yeah.

8 MS. THOMSON: And you'd be willing to change your opinion if you found
9 what they were telling you to be more reasonable than what you had initially stood
10 on?

11 PROSPECTIVE JUROR NUMBER 145: Yes.

12 MS. THOMSON: And willing to stand by your position if you don't find what
13 they --

14 PROSPECTIVE JUROR NUMBER 145: Absolutely.

15 MS. THOMSON: If we prove the case with only witness, that witness testified
16 to every element of the offenses and you believe that witness completely, would you
17 be able to find the Defendant guilty?

18 PROSPECTIVE JUROR NUMBER 145: If I believed him, yeah. Yes.

19 MS. THOMSON: Thank you.

20 I'll pass for cause.

21 MS. NGUYEN: You said you were a schoolteacher, is that correct?

22 PROSPECTIVE JUROR NUMBER 145: Yes.

23 MS. NGUYEN: Okay. Do you work for the Clark County School District?

24 PROSPECTIVE JUROR NUMBER 145: Yes, I do.

25 MS. NGUYEN: So these are your two in-service days you are missing?

1 PROSPECTIVE JUROR NUMBER 145: Yes.

2 MS. NGUYEN: Okay. If you were to go back into the jury deliberation room
3 and you had listened to the evidence that was presented by the State and you were
4 the only person that heard the evidence one way and the eleven others heard it
5 another way, would you be able to stand your ground?

6 PROSPECTIVE JUROR NUMBER 145: Absolutely.

7 MS. NGUYEN: Okay. Would you be able to stand up to people that were
8 perhaps -- tried to influence you other than just talking with you, but peer pressuring,
9 I guess?

10 PROSPECTIVE JUROR NUMBER 145: I don't get peer-pressured easily.

11 MS. NGUYEN: Nothing further then. Pass for cause.

12 THE COURT: Pass that mic. Tell me your name again.

13 PROSPECTIVE JUROR NUMBER 153: Pamela Malloy, 153.

14 THE COURT: Do you work?

15 PROSPECTIVE JUROR NUMBER 153: Yes.

16 THE COURT: What do you do?

17 PROSPECTIVE JUROR NUMBER 153: I'm the manager of training for a
18 domestic publishing company.

19 THE COURT: Are you married?

20 PROSPECTIVE JUROR NUMBER 153: Divorced 15 years ago.

21 THE COURT: DO you have children?

22 PROSPECTIVE JUROR NUMBER 153: Two sons.

23 THE COURT: Age?

24 PROSPECTIVE JUROR NUMBER 153: 25 and 21.

25 THE COURT: Either of them in law or law enforcement?

1 PROSPECTIVE JUROR NUMBER 153: No.
2 THE COURT: Do you have a background in law or law enforcement?
3 PROSPECTIVE JUROR NUMBER 153: No.
4 THE COURT: Have you ever sat as a juror before?
5 PROSPECTIVE JUROR NUMBER 153: No.
6 THE COURT: Can you be fair and impartial?
7 PROSPECTIVE JUROR NUMBER 153: Yes.
8 THE COURT: State.
9 MR. FATTIG: Ma'am, you had indicated that you were arrested about eight
10 years ago, correct? And you were prosecuted here in Clark County?
11 PROSPECTIVE JUROR NUMBER 153: Correct.
12 MR. FATTIG: Did you feel that you were treated fairly by the system in that
13 case?
14 PROSPECTIVE JUROR NUMBER 153: Yes.
15 MR. FATTIG: And it sounded like you were able to -- you were represented
16 by an attorney and you were able --
17 PROSPECTIVE JUROR NUMBER 153: Correct.
18 MR. FATTIG: -- to reach a negotiation with the State.
19 PROSPECTIVE JUROR NUMBER 153: Correct.
20 MR. FATTIG: And so you didn't have to go to trial, correct?
21 PROSPECTIVE JUROR NUMBER 153: Correct.
22 MR. FATTIG: And you were sentenced to probation.
23 PROSPECTIVE JUROR NUMBER 153: Correct.
24 MR. FATTIG: And you received a reduced result.
25 PROSPECTIVE JUROR NUMBER 153: Correct.

1 MR. FATTIG: So you have no particular ill will against either the police for
2 arresting you or the prosecution or the court system?

3 PROSPECTIVE JUROR NUMBER 153: That is correct.

4 MR. FATTIG: Are you a gun owner?

5 PROSPECTIVE JUROR NUMBER 153: No.

6 MR. FATTIG: If you -- upon getting the instructions in this case,
7 hypothetically, if you saw something you disagreed with, would you follow the law or
8 go your own way?

9 PROSPECTIVE JUROR NUMBER 153: Follow the law.

10 MR. FATTIG: IF we prove the case beyond a reasonable doubt, can you find
11 the Defendant guilty?

12 PROSPECTIVE JUROR NUMBER 153: Yes.

13 MR. FATTIG: Okay. Thank you.

14 I pass for cause.

15 THE COURT: Questions?

16 MS. NGUYEN: Court's indulgence, just for a moment.

17 May we approach, Your Honor?

18 THE COURT: Yes.

19 [Bench Conference Begins]

20 MS. NGUYEN: I just looked up her judgment of conviction. She has a felony.

21 MR. FATTIG: It didn't get reduced according to the paperwork there.

22 MS. NGUYEN: That's showing us nothing. Sorry.

23 Confession and judgment. Hold on one second. I know it's here.

24 MR. FATTIG: I just saw it.

25 THE COURT: Did you see it too?

1 MR. FATTIG: Yeah.

2 MS. THOMSON: Yeah.

3 MR. FATTIG: It didn't get reduced. It's a felony. I mean, we --

4 MS. THOMSON: We probably need to ask her if she's had her civil right

5 restored.

6 MR. FATTIG: Yeah.

7 THE COURT: I did.

8 MS. THOMSON: Well maybe outside the presence separately because it

9 sounded like maybe she thought it wasn't a felony.

10 MR. FATTIG: Yeah. She said it wasn't a felony. She said it was reduced.

11 MS. NGUYEN: She did. She had multiple --

12 MS. THOMSON: She did two years in probation.

13 MS. NGUYEN: -- [indiscernible] and had Mace Yampolsky as her attorney

14 but it started off as multiple felonies.

15 MR. FATTIG: Yeah. She's convicted of a felony.

16 THE COURT: [Indiscernible].

17 MR. FATTIG: Just kick her. Yeah.

18 THE COURT: Do it right now.

19 MS. NGUYEN: Okay.

20 MR. FATTIG: Okay.

21 MS. THOMSON: Thank you.

22 MR. FATTIG: That's fine.

23 [Bench Conference Concludes]

24 THE COURT: All right.

25 MS. NGUYEN: I'd make a motion.

1 THE COURT: Pass that mic.
2 PROSPECTIVE JUROR NUMBER 147: Elijah Teves, 147.
3 THE COURT: Do you work?
4 PROSPECTIVE JUROR NUMBER 147: Yes.
5 THE COURT: What do you do?
6 PROSPECTIVE JUROR NUMBER 147: I work at Bass Pro Shop.
7 THE COURT: What do you do there?
8 PROSPECTIVE JUROR NUMBER 147: I do special events and cashier.
9 THE COURT: They sell guns at Bass Pro Shop.
10 PROSPECTIVE JUROR NUMBER 147: Yeah.
11 THE COURT: You own guns?
12 PROSPECTIVE JUROR NUMBER 147: I don't own guns but I've used guns
13 all my life.
14 THE COURT: Do you have a problem with that?
15 PROSPECTIVE JUROR NUMBER 147: No.
16 THE COURT: If the State doesn't prove everything, can you find him
17 innocent?
18 PROSPECTIVE JUROR NUMBER 147: Yes.
19 THE COURT: If they prove all of the elements that they need to prove, can
20 you find him guilty?
21 PROSPECTIVE JUROR NUMBER 147: Yes.
22 THE COURT: Do you have a background in law or law enforcement?
23 PROSPECTIVE JUROR NUMBER 147: No.
24 THE COURT: Can you be fair and impartial to both parties in this case?
25 PROSPECTIVE JUROR NUMBER 147: Yes.

1 THE COURT: State.

2 MS. THOMSON: If we do that proving with just one witness, would you have
3 any hesitation in finding him guilty?

4 PROSPECTIVE JUROR NUMBER 147: No.

5 MS. THOMSON: And you said you've used guns all your life, was that like
6 target shooting?

7 PROSPECTIVE JUROR NUMBER 147: Yeah and hunting.

8 MS. THOMSON: Okay.

9 PROSPECTIVE JUROR NUMBER 147: Hunting and yeah. Yeah.

10 MS. THOMSON: Okay. If you're picked as a juror and the Judge instructs on
11 the law and there's something that you think is either incorrect or should not be the
12 way it's been instructed, will you be able to follow the law as instructed?

13 PROSPECTIVE JUROR NUMBER 147: Yes.

14 MS. THOMSON: And in your hunting and -- was it just hunting or was it
15 also --

16 PROSPECTIVE JUROR NUMBER 147: Range.

17 MS. THOMSON: -- like range?

18 PROSPECTIVE JUROR NUMBER 147: Also, yeah.

19 MS. THOMSON: Did you find that even when you were going to hit the
20 target, there were times that you just missed entirely?

21 PROSPECTIVE JUROR NUMBER 147: Yeah.

22 MS. THOMSON: I'll pass for cause. Thank you.

23 THE COURT: Okay. Questions?

24 MS. NGUYEN: No.

25 THE COURT: Pass for cause?

1 MS. NGUYEN: Yes.

2 THE COURT: All right. Tell me your name.

3 PROSPECTIVE JUROR NUMBER 150: Trevor Yanke and number is 150.

4 THE COURT: You have a question. I'm going to let you ask it in a minute,

5 but tell me do you work?

6 PROSPECTIVE JUROR NUMBER 150: Yes.

7 THE COURT: What do you do?

8 PROSPECTIVE JUROR NUMBER 150: Social media marketing.

9 THE COURT: Can you stay off of social media about this case?

10 PROSPECTIVE JUROR NUMBER 150: Oh yeah. I've got no reason to post

11 it.

12 THE COURT: Okay. Are you married?

13 PROSPECTIVE JUROR NUMBER 150: No.

14 THE COURT: Do you have a background in law or law enforcement?

15 PROSPECTIVE JUROR NUMBER 150: No.

16 THE COURT: Have you ever sat as a juror before?

17 PROSPECTIVE JUROR NUMBER 150: No.

18 THE COURT: You hesitated.

19 PROSPECTIVE JUROR NUMBER 150: I can explain. Have you ever heard

20 of trial by peers? It was a --

21 THE COURT: Yes.

22 PROSPECTIVE JUROR NUMBER 150: Yes. I was kind of an interim

23 member for about a year.

24 THE COURT: That was at schools.

25 PROSPECTIVE JUROR NUMBER 150: Yeah. So -- I mean, they said some

1 of the cases were real, some of the cases weren't and they wouldn't say which ones
2 were which, so I don't know if it was on a real case or not, but I have been on the
3 jury.

4 THE COURT: You had a question.

5 PROSPECTIVE JUROR NUMBER 150: It's no longer relevant.

6 THE COURT: Can you be fair and impartial to both parties in this case?

7 PROSPECTIVE JUROR NUMBER 150: Yes.

8 THE COURT: State.

9 MR. FATTIG: Sir, are you a gun owner?

10 PROSPECTIVE JUROR NUMBER 150: No. I do go to the shooting range
11 every once in a while.

12 MR. FATTIG: At the end of the case you're going to get a set of jury
13 instructions. Hypothetically, if you disagree with something, what would you do in
14 that situation?

15 PROSPECTIVE JUROR NUMBER 150: It would go to the law at that point.

16 MR. FATTIG: You'd follow the law?

17 PROSPECTIVE JUROR NUMBER 150: Yes.

18 MR. FATTIG: Follow your oath to do so?

19 PROSPECTIVE JUROR NUMBER 150: Yes.

20 MR. FATTIG: Okay. If we prove our case beyond a reasonable doubt, can
21 you find the Defendant guilty?

22 PROSPECTIVE JUROR NUMBER 150: Yes.

23 MR. FATTIG: Okay. Thank you.

24 We would pass for cause.

25 THE COURT: Pass?

1 MS. NGUYEN: I don't have anything.
2 THE COURT: Pass for cause?
3 MS. NGUYEN: Pass for cause.
4 THE COURT: All right. If you'll pass that mic over. Tell me your name.
5 PROSPECTIVE JUROR NUMBER 151: Malcolm Ahlo, 151.
6 THE COURT: Do you work?
7 PROSPECTIVE JUROR NUMBER 151: Yes.
8 THE COURT: What do you do?
9 PROSPECTIVE JUROR NUMBER 151: Southern Nevada Health District
10 health educator.
11 THE COURT: Are you married?
12 PROSPECTIVE JUROR NUMBER 151: No.
13 THE COURT: Do you have a background in law or law enforcement?
14 PROSPECTIVE JUROR NUMBER 151: No, I do not.
15 THE COURT: Have you ever sat as a juror before?
16 PROSPECTIVE JUROR NUMBER 151: No, I have not.
17 THE COURT: Could you be fair and impartial to both parties in this case?
18 PROSPECTIVE JUROR NUMBER 151: Yes.
19 THE COURT: Are you a gun owner?
20 PROSPECTIVE JUROR NUMBER 151: No.
21 THE COURT: State.
22 MS. THOMSON: Thank you, Your Honor.
23 If we prove the case beyond a reasonable doubt with just one witness
24 and you believe that witness entirely in any and all of the elements, would you be
25 able to find the Defendant guilty?

1 PROSPECTIVE JUROR NUMBER 151: Yes.

2 MS. THOMSON: Okay. And if instructions on the law were different than you
3 believe the law should be or is, would you be able to follow the instructions as
4 given?

5 PROSPECTIVE JUROR NUMBER 151: Yes.

6 MS. THOMSON: And you said you're not a gun owner.

7 Pass for cause. Thank you.

8 MS. NGUYEN: How long have you worked for the health district?

9 PROSPECTIVE JUROR NUMBER 151: Eleven years.

10 MS. NGUYEN: Okay. You said you're a health educator. What kind of --
11 what does that entail?

12 PROSPECTIVE JUROR NUMBER 151: Specifically tobacco control. So we
13 go into all the local high schools and help kids, prevent them from starting to smoke
14 cigarettes.

15 MS. NGUYEN: Okay.

16 PROSPECTIVE JUROR NUMBER 151: And electronic cigarettes.

17 MS. NGUYEN: How far did you go in school?

18 PROSPECTIVE JUROR NUMBER 151: Bachelor's.

19 MS. NGUYEN: Okay. Do you have a background in education or health?

20 PROSPECTIVE JUROR NUMBER 151: Education.

21 MS. NGUYEN: Okay.

22 PROSPECTIVE JUROR NUMBER 151: Yeah, health education.

23 MS. NGUYEN: Nothing further. I pass for cause.

24 THE COURT: All right. I'm going to read some of the instructions to you.
25 You will get a written set of instructions. If I can find my instructions here.

1 You are admonished that no juror may declare to a fellow juror any
2 facts relating to this case as their own knowledge and if any juror discovers, during
3 the trial or after the jury has retired, that they have --

4 THE COURT: Okay.

5 MS. THOMSON: Please.

6 THE COURT: I try not to do this because it impedes on the jury's time.

7 [Bench Conference Begins]

8 MS. THOMSON: Before we start perempting we think we should all -- we all
9 think we should Mallory and fill in, so we actually have a legitimate group of people
10 that we'd be picking from.

11 MR. FATTIG: Yeah.

12 MS. THOMSON: Please.

13 MR. FATTIG: Can we -- so we get 14 up there.

14 MS. NGUYEN: [Indiscernible].

15 THE COURT: [Indiscernible].

16 MR. FATTIG: I think you just release her.

17 MS. THOMSON: We can have Tom tell her it's a felony out in the hallway.

18 THE COURT: You're stipulating.

19 MS. NGUYEN: Yeah, that's fine. And then do we -- do you ask questions of
20 the like five that are out there?

21 THE COURT: No. We've passed the whole jury.

22 MS. NGUYEN: Okay. I just --

23 MR. FATTIG: Yeah.

24 THE COURT: [Indiscernible].

25 MR. FATTIG: So we'll fill them in.

1 THE COURT: We'll fill that spot and --
2 MS. NGUYEN: Okay. That's fine.
3 MR. FATTIG: And then you do your thing and then we'll do the strikes.
4 MS. NGUYEN: Okay.
5 MS. THOMSON: Okay. Thank you.
6 THE COURT: All right.
7 MR. FATTIG: Thank you.
8 [Bench Conference Concludes]
9 THE COURT: Ms. Malloy, we want to thank and excuse you. Thank you for
10 your time.
11 THE CLERK: Juror 156, Carson Riland. Seat 11.
12 THE COURT: Sir, do you work?
13 PROSPECTIVE JUROR NUMBER 156: I work for National Security
14 Technologies as a contractor for what was the Nevada Test Site.
15 THE COURT: Do you have a background in law or law enforcement?
16 PROSPECTIVE JUROR NUMBER 156: No, sir.
17 THE COURT: Are you married?
18 PROSPECTIVE JUROR NUMBER 156: Yes.
19 THE COURT: Does your spouse work?
20 PROSPECTIVE JUROR NUMBER 156: Yes. Clark County Public Works.
21 THE COURT: Did you -- have you ever sat as a juror before?
22 PROSPECTIVE JUROR NUMBER 156: Yes.
23 THE COURT: Where?
24 PROSPECTIVE JUROR NUMBER 156: Here.
25 THE COURT: When?

1 PROSPECTIVE JUROR NUMBER 156: About five or six years ago.
2 THE COURT: Civil or criminal?
3 PROSPECTIVE JUROR NUMBER 156: Criminal.
4 THE COURT: Without telling us a verdict, were you able to reach a verdict?
5 PROSPECTIVE JUROR NUMBER 156: There was a mistrial.
6 THE COURT: Is there any -- what kind of case was it?
7 PROSPECTIVE JUROR NUMBER 156: A spousal abuse case.
8 THE COURT: Is there anything about that that would impair your ability to be
9 fair and impartial both to the State and the Defendant?
10 PROSPECTIVE JUROR NUMBER 156: No.
11 THE COURT: State.
12 MR. FATTIG: Sir, good morning. Was the mistrial at a point in time when you
13 were in deliberation so you weren't --
14 PROSPECTIVE JUROR NUMBER 156: It's --
15 MR. FATTIG: -- able to reach a unanimous verdict?
16 PROSPECTIVE JUROR NUMBER 156: No, sir. It was during the initial
17 reading of charges. So I was on a juror for about ten minutes. Or jury.
18 MR. FATTIG: It was super quick.
19 PROSPECTIVE JUROR NUMBER 156: Yes.
20 MR. FATTIG: Okay. So you've been through this process, but not --
21 PROSPECTIVE JUROR NUMBER 156: Yes.
22 MR. FATTIG: -- much else.
23 Are you a gun owner?
24 PROSPECTIVE JUROR NUMBER 156: Yes.
25 MR. FATTIG: Anything about that gives you pause in terms of being fair in

1 this case to both sides?

2 PROSPECTIVE JUROR NUMBER 156: No, sir.

3 MR. FATTIG: If at the end of the case, hypothetically, if you saw an
4 instruction which is the law in Nevada and you disagree with that instruction, what
5 would you do? Would you follow the law or would you go your own way?

6 PROSPECTIVE JUROR NUMBER 156: I would follow the law.

7 MR. FATTIG: If we prove our case beyond a reasonable doubt, can you find
8 the Defendant guilty?

9 PROSPECTIVE JUROR NUMBER 156: Yes, sir.

10 MR. FATTIG: Thank you.

11 I would pass for cause.

12 THE COURT: All right.

13 MS. NGUYEN: Is there anything about that experience, during that ten
14 minutes that you were a juror, that gives you -- that you have problems with our
15 judicial system?

16 PROSPECTIVE JUROR NUMBER 156: No, ma'am.

17 MS. NGUYEN: Okay. And I'm sorry, I didn't get your employment.

18 PROSPECTIVE JUROR NUMBER 156: I work for National Security
19 Technologies. They're the contractor for what was the Nevada Test Site.

20 MS. NGUYEN: Okay. And what type of -- what do you do as a course of your
21 employment?

22 PROSPECTIVE JUROR NUMBER 156: I'm currently a manager, but our
23 group does radiological emergency response.

24 MS. NGUYEN: How far did you go in school?

25 PROSPECTIVE JUROR NUMBER 156: PhD.

1 MS. NGUYEN: Okay. And what's your PhD in?

2 PROSPECTIVE JUROR NUMBER 156: Nuclear engineering.

3 MS. NGUYEN: Okay. And how long have you worked with this particular --
4 with the --

5 PROSPECTIVE JUROR NUMBER 156: 19 years.

6 MS. NGUYEN: Nothing further. I'd pass for cause.

7 THE COURT: All right. Thanks.

8 Okay. Now I'll read you the instructions. During the course of this trial,
9 if you were -- become acquainted with the facts of the case or witnesses and you
10 have not previously told me of that relationship, you must declare that fact to me.
11 You communicate to the Court through the marshal, Tom.

12 During the course of the trial the attorneys for both sides and the court
13 personnel other than the marshal are not permitted to converse with members of the
14 jury. These individuals are not being anti-social, they are bound by ethics and the
15 law not to talk to you. To do so might contaminate your verdict. You're admonished
16 additionally that you are not to visit the scene of any of the acts or occurrences
17 made mention of during the trial, unless specifically directed to do so by the Court.

18 If you talk to people out in the hallway or when you come, only talk to
19 people with blue badges because that would designate them as jurors. And if you
20 talk to the jury you won't mess up the verdict. If you talk to somebody else, it might.
21 We don't have a W that we spray on people as they walk through.

22 We would thank and excuse Ms. White -- or Mr. White. Sorry. Thank
23 you for your time. And Mr. Steward. Thank you for your time.

24 THE CLERK: Badge 157, Andrew West, Seat Number 2, please.

25 And Lisa Cronin-Leavitt, Badge 160, Seat Number 4.

1 THE COURT: Tell me your name again. Yeah.
2 PROSPECTIVE JUROR NUMBER 157: Andrew West.
3 THE COURT: Do you work?
4 PROSPECTIVE JUROR NUMBER 157: Yes.
5 THE COURT: What do you do?
6 PROSPECTIVE JUROR NUMBER 157: I'm a schoolteacher.
7 THE COURT: Where?
8 PROSPECTIVE JUROR NUMBER 157: Clark County School District.
9 THE COURT: What grade?
10 PROSPECTIVE JUROR NUMBER 157: Eighth grade science.
11 THE COURT: Are you married?
12 PROSPECTIVE JUROR NUMBER 157: Yes.
13 THE COURT: Spouse work?
14 PROSPECTIVE JUROR NUMBER 157: No, she's a stay-at-home mom.
15 THE COURT: Have you ever -- do you have a background in law or law
16 enforcement?
17 PROSPECTIVE JUROR NUMBER 157: I do not, but my father did work
18 many years ago for the Bureau of Narcotics Enforcement in California.
19 THE COURT: Is there anything about that that would prejudice you against
20 the State or the Defendant?
21 PROSPECTIVE JUROR NUMBER 157: No.
22 THE COURT: Have you ever sat as a juror before?
23 PROSPECTIVE JUROR NUMBER 157: No.
24 THE COURT: Can you be fair to both parties?
25 PROSPECTIVE JUROR NUMBER 157: Yes.

1 THE COURT: State.

2 MS. THOMSON: Thank you, Your Honor.

3 If we proved the case with only one witness, a question I've asked
4 everybody that I've talked to, would you be able to find the Defendant guilty?

5 PROSPECTIVE JUROR NUMBER 157: Does it include -- is it only the
6 witness testimony and no other additional evidence?

7 MS. THOMSON: Just that witness, but you believe everything that they say
8 completely and their testimony covers every element of the offenses.

9 PROSPECTIVE JUROR NUMBER 157: Yes.

10 MS. THOMSON: And if in the instructions, if you're picked as a juror, there's
11 something you disagree with, whether it's that you don't think that is actually the law
12 or that it should not be the law, would you follow what the instructions are?

13 PROSPECTIVE JUROR NUMBER 157: Yes. Law is law.

14 MS. THOMSON: And are you a firearm owner?

15 PROSPECTIVE JUROR NUMBER 157: No.

16 MS. THOMSON: Okay. Ever used them?

17 PROSPECTIVE JUROR NUMBER 157: I have used them, but I don't -- I
18 have never owned one.

19 MS. THOMSON: Okay. And was that like at the range?

20 PROSPECTIVE JUROR NUMBER 157: Yes. Also with a friend who owns
21 firearms.

22 MS. THOMSON: Okay. Anything about that affect your ability to be fair and
23 impartial in this case?

24 PROSPECTIVE JUROR NUMBER 157: No.

25 MS. THOMSON: Thank you. I'll pass for cause.

1 THE COURT: Thanks. Pass that down to --
2 MS. NGUYEN: Oh.
3 THE COURT: Oh, I'm sorry.
4 MS. NGUYEN: Can I say --
5 THE COURT: Sometimes I forget.
6 MS. NGUYEN: I know. I don't know -- I'm not very forgettable, but --
7 THE COURT: Stop me.
8 MS. NGUYEN: You said you're an eighth grade science teacher, is that
9 correct?
10 PROSPECTIVE JUROR NUMBER 157: Yes.
11 MS. NGUYEN: Okay. How long have you been teaching eighth grade?
12 PROSPECTIVE JUROR NUMBER 157: I'm in my third year.
13 MS. NGUYEN: Okay. And have you always taught science?
14 PROSPECTIVE JUROR NUMBER 157: During my tenure with Clark County?
15 MS. NGUYEN: Yes.
16 PROSPECTIVE JUROR NUMBER 157: Yes.
17 MS. NGUYEN: Okay. Did you ever teach anything else?
18 PROSPECTIVE JUROR NUMBER 157: Prior to that I worked for ten years in
19 Yosemite National Park as an educator.
20 MS. NGUYEN: Is your background in education then?
21 PROSPECTIVE JUROR NUMBER 157: Yes, more or less.
22 MS. NGUYEN: Okay. And why science?
23 PROSPECTIVE JUROR NUMBER 157: I really like it.
24 MS. NGUYEN: Why eighth grade?
25 PROSPECTIVE JUROR NUMBER 157: I must admit I will be a little stressed

1 if that -- my classes are not going to be tended to by me.

2 MS. NGUYEN: Okay. You work for the Clark County School District. Are

3 you also having in-service days the --

4 PROSPECTIVE JUROR NUMBER 157: Yes.

5 MS. NGUYEN: -- next two days.

6 Nothing further.

7 THE COURT: Pass for cause?

8 MS. NGUYEN: Yes.

9 THE COURT: Okay. Now pass it down. Tell me your name.

10 PROSPECTIVE JUROR NUMBER 160: Lisa Cronin-Leavitt.

11 THE COURT: Have you -- do you work?

12 PROSPECTIVE JUROR NUMBER 160: Yes.

13 THE COURT: What do you do?

14 PROSPECTIVE JUROR NUMBER 160: I'm a graphic designer for a website.

15 THE COURT: Can you stay off the web for this?

16 PROSPECTIVE JUROR NUMBER 160: Yes.

17 THE COURT: Okay. Are you married?

18 PROSPECTIVE JUROR NUMBER 160: Yes.

19 THE COURT: Spouse work?

20 PROSPECTIVE JUROR NUMBER 160: Yes.

21 THE COURT: What does your spouse do?

22 PROSPECTIVE JUROR NUMBER 160: He works at Costco and is a full-time

23 student.

24 THE COURT: Do you have a background in law or law enforcement?

25 PROSPECTIVE JUROR NUMBER 160: No.

1 THE COURT: Have you ever sat as a juror before?
2 PROSPECTIVE JUROR NUMBER 160: No.
3 THE COURT: You'll listen to all evidence and view the exhibits and make a
4 decision from this Commissioner?
5 PROSPECTIVE JUROR NUMBER 160: Yes.
6 THE COURT: Fair and impartial?
7 PROSPECTIVE JUROR NUMBER 160: Yes.
8 THE COURT: State.
9 MR. FATTIG: Good morning, ma'am. What is your husband studying?
10 PROSPECTIVE JUROR NUMBER 160: He is pre-nursing.
11 MR. FATTIG: Are you or your husband a gun owner?
12 PROSPECTIVE JUROR NUMBER 160: Yes.
13 MR. FATTIG: And does anything about that give you pause in terms of being
14 able to be fair and impartial in this type of case?
15 PROSPECTIVE JUROR NUMBER 160: No.
16 MR. FATTIG: Are you willing to follow the law?
17 PROSPECTIVE JUROR NUMBER 160: Yes.
18 MR. FATTIG: Even if you personally disagree with something?
19 PROSPECTIVE JUROR NUMBER 160: Yes. Law is law.
20 MR. FATTIG: Are you able to sit in judgment of the Defendant and if we
21 prove our case beyond a reasonable doubt, are you able to come back into this
22 room and tell him he's guilty?
23 PROSPECTIVE JUROR NUMBER 160: Yes.
24 MR. FATTIG: Thank you.
25 We would pass for cause, Your Honor.

1 MS. NGUYEN: I'm sorry, I didn't hear. Do you have children?
2 PROSPECTIVE JUROR NUMBER 160: I do.
3 MS. NGUYEN: How old?
4 PROSPECTIVE JUROR NUMBER 160: Two months.
5 MS. NGUYEN: Oh, whoa. Are you getting any sleep?
6 PROSPECTIVE JUROR NUMBER 160: No.
7 MS. NGUYEN: Do you work from home then?
8 PROSPECTIVE JUROR NUMBER 160: I don't.
9 MS. NGUYEN: Okay. Do you have any childcare issues?
10 PROSPECTIVE JUROR NUMBER 160: No.
11 MS. NGUYEN: Okay. You heard us probably talk earlier and ask some
12 questions. If you were to go back and you were the only person that either felt the
13 State proved their case beyond a reasonable doubt or didn't prove that, would you
14 be able to stand your ground?
15 PROSPECTIVE JUROR NUMBER 160: Yes.
16 MS. NGUYEN: Would you be able to also listen to other people as they try to
17 convince you?
18 PROSPECTIVE JUROR NUMBER 160: Yes.
19 MS. NGUYEN: Okay. And ultimately, at the end of the day, if you didn't
20 agree with them, would you still be able to stand up against eleven of your peers?
21 PROSPECTIVE JUROR NUMBER 160: Yes.
22 MS. NGUYEN: Okay. Nothing further. I pass for cause.
23 THE COURT: Okay. Remember if you get on the elevator and you see one
24 of us in the elevator, even -- don't say good morning. Don't say would you push
25 Floor 16. Well that would be the wrong --

1 Please don't go to Floor 16, go to Floor -- but just reach around the
2 person and push it or look -- they're not being rude, but they're following my orders
3 not to talk to you. So make sure you don't talk to anybody you see in the court -- in
4 the courtroom.

5 I'm going to give you written instructions, but I'm trying to give you a
6 little bit of law as you sit and listen to this case. A criminal case commenced by and
7 indictment to which the Defendant has pled not guilty. You should distinctly
8 understand that the pleading in this case, as I mentioned earlier, is not, in any sense
9 evidence of the allegations it contains. The State has the burden of proving each
10 elements of the charges beyond a reasonable doubt to convict someone. The
11 purpose of the trial is to determine whether the State will meet their burden.

12 And we would thank and excuse Ms. Lasko. Thank you for your time.
13 And Ahlo. Malcolm Ahlo, thank you for your time.

14 THE CLERK: Okay. Badge 162, Joseph Young, Seat Number 6.

15 And Badge 165, Michael Hansen, Seat 14.

16 THE COURT: Tell me your name again.

17 PROSPECTIVE JUROR NUMBER 162: Joseph Young.

18 THE COURT: Do you work?

19 PROSPECTIVE JUROR NUMBER 162: Yes.

20 THE COURT: What do you do?

21 PROSPECTIVE JUROR NUMBER 162: I'm self-employed. Swimming pool
22 maintenance and repair.

23 THE COURT: Are you married?

24 PROSPECTIVE JUROR NUMBER 162: Yes.

25 THE COURT: Spouse work?

1 PROSPECTIVE JUROR NUMBER 162: She's retired
2 THE COURT: From what?
3 PROSPECTIVE JUROR NUMBER 162: Manager at Credit Card International
4 for Visa.
5 THE COURT: Have you any background in law or law enforcement?
6 PROSPECTIVE JUROR NUMBER 162: no.
7 THE COURT: Children?
8 PROSPECTIVE JUROR NUMBER 162: Yes.
9 THE COURT: Age?
10 PROSPECTIVE JUROR NUMBER 162: 44 and 35.
11 THE COURT: Either of them in law enforcement?
12 PROSPECTIVE JUROR NUMBER 162: No.
13 THE COURT: Do you have a background in law enforcement?
14 PROSPECTIVE JUROR NUMBER 162: No.
15 THE COURT: Have you ever sat as a juror before?
16 PROSPECTIVE JUROR NUMBER 162: No.
17 THE COURT: Could you be fair to both parties in this case?
18 PROSPECTIVE JUROR NUMBER 162: Yes.
19 THE COURT: State.
20 MS. THOMSON: Thank you, Your Honor.
21 Is there any question that we asked any of the other jurors that you've
22 thought, oh, I should answer that?
23 PROSPECTIVE JUROR NUMBER 162: I don't understand the question.
24 MS. THOMSON: Okay. When -- have you been listening as you were sitting
25 back there?

1 PROSPECTIVE JUROR NUMBER 162: Yeah, I've been listening.

2 MS. THOMSON: Okay. And was there anything that I or Mr. Fattig or Ms.
3 Nguyen has asked any of the other jurors that --

4 THE COURT: Or the Judge.

5 MS. THOMSON: Or the Judge. I assume he would have piped up if it was
6 you, Judge.

7 That you feel like you would have had an answer to.

8 PROSPECTIVE JUROR NUMBER 162: Well I would have answers, but.

9 MS. THOMSON: Anything that we should know about?

10 PROSPECTIVE JUROR NUMBER 162: Anything -- no, nothing unusual. No.

11 MS. THOMSON: Okay. And if you're picked as a juror and the Judge
12 instructs on the law, anything that you disagreed with, whether you don't think that is
13 the law or it shouldn't be the law, would you still follow what the Judge instructs?

14 PROSPECTIVE JUROR NUMBER 162: I would still follow the law, yes.

15 MS. THOMSON: And if we proved the case beyond a reasonable doubt with
16 just one witness, would you be able to convict?

17 PROSPECTIVE JUROR NUMBER 162: Yes.

18 MS. THOMSON: Pass for cause. Thank you.

19 PROSPECTIVE JUROR NUMBER 162: Okay.

20 MS. NGUYEN: You had heard some of the other jurors answer some
21 questions. Did you have any reactions to those answers?

22 PROSPECTIVE JUROR NUMBER 162: Yes.

23 MS. NGUYEN: Is there one that like stands out --

24 PROSPECTIVE JUROR NUMBER 162: Well no it was just the fact --

25 MS. NGUYEN: -- to you in particular?

1 PROSPECTIVE JUROR NUMBER 162: -- that some answers seemed like
2 they just wanted to get off the jury. So.

3 MS. NGUYEN: Fair enough, fair enough.

4 PROSPECTIVE JUROR NUMBER 162: Yeah. I mean, I'm self-employed
5 and being here is difficult because people expect maintenance on their pools and I
6 could suffer loss of accounts, but I'm here to do whatever's necessary. So.

7 MS. NGUYEN: Okay. You heard some people talk about certain like possible
8 like social justice issues or like Black Rights, you know, Matter movement. Are
9 there any of those -- do you have any opinions about any of those statements made
10 by the other jurors?

11 PROSPECTIVE JUROR NUMBER 162: No, not really.

12 MS. NGUYEN: Okay. The Judge had asked some questions about the -- do
13 you watch the news?

14 PROSPECTIVE JUROR NUMBER 162: Not often.

15 MS. NGUYEN: Do you read the internet at all?

16 PROSPECTIVE JUROR NUMBER 162: mostly sports and --

17 MS. NGUYEN: Okay.

18 PROSPECTIVE JUROR NUMBER 162: -- things of that nature. Not really
19 news of the day.

20 MS. NGUYEN: Okay. Have you -- are you familiar or have you read anything
21 about any like excessive use of force by police officers?

22 PROSPECTIVE JUROR NUMBER 162: Yes, I've heard of it, yes.

23 MS. NGUYEN: Okay. Do you have any opinions about that?

24 PROSPECTIVE JUROR NUMBER 162: I believe it exists.

25 MS. NGUYEN: Okay.

1 No further questions. I pass for cause.

2 THE COURT: Thanks. Pass that down to this young man. Again, tell me

3 your name.

4 PROSPECTIVE JUROR NUMBER 165: Mike Hansen.

5 THE COURT: And do you work?

6 PROSPECTIVE JUROR NUMBER 165: Yes, sir.

7 THE COURT: What do you do?

8 PROSPECTIVE JUROR NUMBER 165: I'm a computer systems

9 administrator.

10 THE COURT: Are you married?

11 PROSPECTIVE JUROR NUMBER 165: yes, sir.

12 THE COURT: Does your spouse work?

13 PROSPECTIVE JUROR NUMBER 165: Yes, sir. She's a paralegal.

14 THE COURT: Where?

15 PROSPECTIVE JUROR NUMBER 165: Law offices of Patrick Driscoll at the

16 moment. But she's been a paralegal since probably after the second law was

17 passed.

18 THE COURT: You can't ask her for help, do you understand?

19 PROSPECTIVE JUROR NUMBER 165: Pardon me?

20 THE COURT: You could not ask her for help in this case if --

21 PROSPECTIVE JUROR NUMBER 165: Yes, sir.

22 THE COURT: You'll be fair and impartial?

23 PROSPECTIVE JUROR NUMBER 165: Yes, sir.

24 THE COURT: Have a background in law or law enforcement?

25 PROSPECTIVE JUROR NUMBER 165: I do not. I have family members

1 who --

2 THE COURT: Right.

3 PROSPECTIVE JUROR NUMBER 165: -- do and have.

4 THE COURT: We previously talked about. Have you ever sat as a juror
5 before?

6 PROSPECTIVE JUROR NUMBER 165: On a military court martial board.

7 THE COURT: When? About?

8 PROSPECTIVE JUROR NUMBER 165: Probably about 22, 23 years ago.

9 THE COURT: Do they have a jury foreperson done?

10 PROSPECTIVE JUROR NUMBER 165: The court martial board is the jury,
11 sir. The job -- the military judge is the referee but in the military system the -- in
12 some respects the court martial board sits where you are.

13 THE COURT: Were you able to reach a verdict?

14 PROSPECTIVE JUROR NUMBER 165: Yes, sir, we were.

15 THE COURT: Is there anything about that that would impair your ability to be
16 fair and impartial in this case?

17 PROSPECTIVE JUROR NUMBER 165: No, sir.

18 THE COURT: State.

19 MR. FATTIG: Sir, good morning. Your wife was a paralegal, correct? Or
20 has --

21 PROSPECTIVE JUROR NUMBER 165: She is one.

22 MR. FATTIG: -- been? She -- currently one.

23 PROSPECTIVE JUROR NUMBER 165: Yes, sir.

24 MR. FATTIG: Was that for attorneys in the civil realm only?

25 PROSPECTIVE JUROR NUMBER 165: Over the course of her career I

1 cannot tell you honestly. She may have worked for some criminal attorneys. She
2 either worked around Oscar Goldman or in his firm or something like that and he's
3 not a few non-civil people.

4 MR. FATTIG: Sure. If we prove our case beyond a reasonable doubt, can
5 you find the Defendant guilty?

6 PROSPECTIVE JUROR NUMBER 165: Yes, sir.

7 MR. FATTIG: Are you a gun owner?

8 PROSPECTIVE JUROR NUMBER 165: Yes, sir.

9 MR. FATTIG: Anything about that gives you pause in terms of being fair in
10 this particular case?

11 PROSPECTIVE JUROR NUMBER 165: No, sir.

12 MR. FATTIG: If you disagreed with something that the Judge said in the
13 instructions, would you follow the instructions?

14 PROSPECTIVE JUROR NUMBER 165: I might ask for clarification to make
15 sure what I was understanding correctly, but beyond that, if -- what he says, goes.

16 MR. FATTIG: Thank you. We would pass for cause, Your Honor.

17 MS. NGUYEN: You have a lot of people that work in and around the legal
18 field. Have you picked up any legal knowledge through that experience?

19 PROSPECTIVE JUROR NUMBER 165: I think it's unavoidable.

20 MS. NGUYEN: So you're familiar with legal speak?

21 PROSPECTIVE JUROR NUMBER 165: To some extent.

22 MS. NGUYEN: Okay. And you said mostly in the -- your experiences with
23 criminal -- or civil -- the civil world, through your family?

24 PROSPECTIVE JUROR NUMBER 165: The two attorneys -- my son, which
25 is -- or who my wife currently works for does civil work of various sorts. My son-in-

1 law has done some criminal. He's also done personal injury and things like that. I
2 honestly don't know to the extent he does -- actually personally does criminal work.

3 MS. NGUYEN: Is there ever any experience where he's talked to you about
4 any criminal work that he has done or that your wife has been a part of?

5 PROSPECTIVE JUROR NUMBER 165: Not that I can recall. I suspect
6 there's been, you know, dinner table talk about some generic case. But, you know,
7 no names or dates or anything I could ever tie it --

8 MS. NGUYEN: Okay.

9 PROSPECTIVE JUROR NUMBER 165: -- to somebody.

10 MS. NGUYEN: And then I'm going to ask you the same question I asked the
11 gentleman behind you. Did you have any reaction to any of the statements made by
12 other jurors regarding any social issues or I think someone mentioned something
13 about jury nullification or not following the law?

14 PROSPECTIVE JUROR NUMBER 165: I disagree with a lot of some of the
15 more editorial comments that were made.

16 MS. NGUYEN: Okay. And are you familiar with any -- do you watch the
17 news?

18 PROSPECTIVE JUROR NUMBER 165: Generally, yes.

19 MS. NGUYEN: Okay. Are you familiar with cases involving excessive or
20 unjustified police force?

21 PROSPECTIVE JUROR NUMBER 165: I know there's some that have --
22 there have been allegations, there have been a few proven.

23 MS. NGUYEN: Okay. And do you have any opinions about that?

24 PROSPECTIVE JUROR NUMBER 165: Some of the allegations are bogus,
25 some of them are real.

1 MS. NGUYEN: Okay. And do you get that information and form those
2 opinions through what you've watched or seen on the internet or on TV?

3 PROSPECTIVE JUROR NUMBER 165: Primarily, yes.

4 MS. NGUYEN: Nothing further. I pass for cause.

5 THE COURT: Okay. The trial will proceed in the following order. The parties
6 have the opportunity to make an opening statement. What is said in opening
7 statement is not evidence. The statements simply serve the purpose of an
8 introduction to the evidence, which the party making the statement intends to prove.
9 The State will introduce evidence in support of the State's information. This is called
10 a State's case in chief.

11 After the State presents evidence, the Defendant may, if they choose,
12 present evidence, but is not obligated to do so. This is the Defendant's case in
13 chief. If the Defendant presents evidence, the State may present rebuttal evidence.
14 If the State presents rebuttal, there may be surrebuttal evidence.

15 We would thank and excuse Michael Hansen. Thank you for your time.
16 If you'll check in with the Jury Commissioner.

17 THE CLERK: Badge 168, James Fu. You'll be in Seat 14.

18 THE COURT: Sir, do you work?

19 PROSPECTIVE JUROR NUMBER 168: Excuse me?

20 THE COURT: Do you work?

21 PROSPECTIVE JUROR NUMBER 168: No. I'm retired.

22 THE COURT: From what?

23 PROSPECTIVE JUROR NUMBER 168: From mechanical engineer.

24 THE COURT: Are you married?

25 PROSPECTIVE JUROR NUMBER 168: Yes.

1 THE COURT: Does your spouse work?
2 PROSPECTIVE JUROR NUMBER 168: No, she retired too.
3 THE COURT: What does she do?
4 PROSPECTIVE JUROR NUMBER 168: Well she was a food technologist.
5 THE COURT: Do you have children?
6 PROSPECTIVE JUROR NUMBER 168: Two.
7 THE COURT: Ages?
8 PROSPECTIVE JUROR NUMBER 168: 35 and 31.
9 THE COURT: Are either of them in law or law enforcement?
10 PROSPECTIVE JUROR NUMBER 168: No.
11 THE COURT: Do you have a background in law or law enforcement?
12 PROSPECTIVE JUROR NUMBER 168: No.
13 THE COURT: Have you ever sat as a juror before?
14 PROSPECTIVE JUROR NUMBER 168: No.
15 THE COURT: Could you be fair to both parties in this case?
16 PROSPECTIVE JUROR NUMBER 168: Can you repeat that question one
17 more time?
18 THE COURT: Yeah. Can you be fair?
19 PROSPECTIVE JUROR NUMBER 168: Oh, yeah, sure.
20 THE COURT: You'll listen to the evidence, look at the exhibits, make a
21 decision?
22 PROSPECTIVE JUROR NUMBER 168: Yeah.
23 THE COURT: Okay. State.
24 MS. THOMSON: Thank you, Your Honor.
25 What does a food technologist do?

1 PROSPECTIVE JUROR NUMBER 168: Well, they -- she worked for food
2 company creating new recipes so they can produce -- mass produce.

3 MS. THOMSON: Okay. Do you own any firearms?

4 PROSPECTIVE JUROR NUMBER 168: No.

5 MS. THOMSON: And if you were picked as a juror, when the Judge
6 instructed on the law, there was something you didn't agree with, would you follow
7 what the instruction was or would you go off on your belief of what it should be?

8 PROSPECTIVE JUROR NUMBER 168: Well I certainly would not incriminate
9 myself. I would follow the law, but I wouldn't like it, if that happened.

10 MS. THOMSON: Okay. And if we proved the case with only one witness, but
11 you believed everything that that witness said, would you be able to find the
12 Defendant guilty?

13 PROSPECTIVE JUROR NUMBER 168: Depends on what he says and what
14 the evidence is showing.

15 MS. THOMSON: Okay. But if that witness testified to every element and you
16 completely believed that witness, you'd be able to find him guilty?

17 PROSPECTIVE JUROR NUMBER 168: Well if that's the case, yes.

18 MS. THOMSON: Okay. Is there anything about yourself that would not make
19 you a good juror, either from the State's perspective or the Defense perspective?

20 PROSPECTIVE JUROR NUMBER 168: I don't know at this point.

21 MS. THOMSON: Anything we should know about you that we haven't asked?

22 PROSPECTIVE JUROR NUMBER 168: Well, I don't know. I'm Christian so
23 I'm going to follow the Christian's, you know, teaching.

24 MS. THOMSON: And would -- is that something that would make you not
25 able to sit in judgment of another?

1 PROSPECTIVE JUROR NUMBER 168: Depends.

2 MS. THOMSON: What --

3 PROSPECTIVE JUROR NUMBER 168: I wouldn't say that definitely. Well,
4 unless, as I mentioned earlier, unless you have a concrete evidence. Otherwise I
5 wouldn't judge anybody else. Okay.

6 MS. THOMSON: You will be instructed that it's the State's burden to prove
7 the case beyond a reasonable doubt. Will you be able to follow that instruction or
8 would you hold us to a higher burden?

9 PROSPECTIVE JUROR NUMBER 168: Well I would follow the law, but as I
10 said, I wouldn't like it, okay? But I wouldn't incriminate myself, but I wouldn't like it.

11 MS. THOMSON: When you say you wouldn't incriminate yourself, can you
12 explain to me what you mean by that?

13 PROSPECTIVE JUROR NUMBER 168: That means basically I have to follow
14 the law, right? If I -- if you told me that's the law says and that against my will, you
15 know, I still have to follow the law, okay?

16 MS. THOMSON: Given that you will be making a decision about whether
17 we've proven facts, if those facts are true or untrue, and not a decision on
18 punishment, does that affect your ability to sit as a juror?

19 PROSPECTIVE JUROR NUMBER 168: I don't think that the punishment will
20 be the determining factor. Again, you know, the evidence is guilty or not guilty.
21 That's what I would go by.

22 MS. THOMSON: Do you want to be on this jury?

23 PROSPECTIVE JUROR NUMBER 168: Well, as a citizen that's my duty,
24 okay? But a personal, nah, probably not.

25 MS. THOMSON: Court's indulgence.

1 I'll pass for cause. Thank you.

2 MS. NGUYEN: Mr. Fu, would you want someone like yourself sitting on a jury
3 if you were sitting in my client's position?

4 PROSPECTIVE JUROR NUMBER 168: Well, first of all, I don't know the
5 crime situation completely yet. That's a good question. I don't know. To be honest,
6 I don't know.

7 MS. NGUYEN: Okay. Fair enough. If you were to go back right now, only
8 having heard what the State just told you a little bit about themselves in the
9 introduction, how would you find my client? Guilty or not guilty?

10 PROSPECTIVE JUROR NUMBER 168: I don't know at this point because I
11 don't know. I haven't -- well first I don't know the crime he involved in or being
12 accused. And secondly, I haven't seen any evidence, he's guilty or not guilty, right?
13 So I cannot --

14 MS. NGUYEN: So if you were to go right back now to deliberate, you
15 wouldn't be able to make a decision?

16 PROSPECTIVE JUROR NUMBER 168: You mean right now?

17 MS. NGUYEN: Yes.

18 PROSPECTIVE JUROR NUMBER 168: No, I cannot.

19 MS. NGUYEN: Your Honor, I'd move -- make a motion.

20 MS. THOMSON: We'll submit it, Your Honor.

21 THE COURT: All right. We'll excuse you. Check in with the Jury
22 Commissioner. We thank you for your time.

23 THE CLERK: Badge Number 169, Tobey Martinez. Seat 14, please.

24 THE COURT: Okay. Tell me your name.

25 PROSPECTIVE JUROR NUMBER 169: Tobey Martinez.

1 THE COURT: Do you work?
2 PROSPECTIVE JUROR NUMBER 169: Yes.
3 THE COURT: What do you do?
4 PROSPECTIVE JUROR NUMBER 169: I work at the Desert Willows Golf
5 Course as a server and doing -- catering parties.
6 THE COURT: Are you married?
7 PROSPECTIVE JUROR NUMBER 169: Yes.
8 THE COURT: Does your spouse work?
9 PROSPECTIVE JUROR NUMBER 169: No, he's in jail right now, waiting
10 sentencing.
11 THE COURT: What for?
12 PROSPECTIVE JUROR NUMBER 169: Went to court 12 days ago.
13 Attempted murder, that was not guilty. Use of -- stolen weapon, guilty. And
14 substantial bodily harm, guilty.
15 THE COURT: Does either party have a problem with me releasing her?
16 MR. FATTIG: No.
17 MS. NGUYEN: I'm fine.
18 THE COURT: All right. Why don't you go ahead and check in. Maybe you
19 can be a civil -- tell her I suggested civil. Thank you.
20 THE CLERK: Badge 170, Karina Arriaga.
21 THE COURT: Karina, do you work?
22 PROSPECTIVE JUROR NUMBER 170: Yes.
23 THE COURT: What do you do?
24 PROSPECTIVE JUROR NUMBER 170: I'm a bank teller.
25 THE COURT: Where?

1 PROSPECTIVE JUROR NUMBER 170: At Wells Fargo.

2 THE COURT: Are you married?

3 PROSPECTIVE JUROR NUMBER 170: No.

4 THE COURT: Have you ever -- do you have a background in law or law
5 enforcement?

6 PROSPECTIVE JUROR NUMBER 170: No.

7 THE COURT: You -- Have you ever sat as a juror before?

8 PROSPECTIVE JUROR NUMBER 170: No.

9 THE COURT: Can you think of any reason you would not be fair and
10 impartial to both parties in this case?

11 PROSPECTIVE JUROR NUMBER 170: I think it would be one of the
12 questions that he had brought up previously about whether or not the Defendant
13 would testify on his behalf. I think I would need to know -- I would need for him to
14 testify on his behalf to see what actually went on. Because I wouldn't want to just
15 listen to your guys' side and then not listen to his side. So I think that's the only
16 trouble that I would have.

17 THE COURT: Do you have a problem with the well-established rule that he
18 doesn't have to prove anything?

19 PROSPECTIVE JUROR NUMBER 170: Yes.

20 MS. NGUYEN: I'd move.

21 THE COURT: All right. Why don't you go check in with the Jury
22 Commissioner. Maybe you can get on a civil jury. All criminal cases the Defendant
23 has that right.

24 THE CLERK: Badge 171, Lena Sankovich, Seat Number 14.

25 THE COURT: Ms. Sankovich, do you work?

1 PROSPECTIVE JUROR NUMBER 171: Yes.
2 THE COURT: What do you do?
3 PROSPECTIVE JUROR NUMBER 171: I'm self-employed.
4 THE COURT: Doing what?
5 PROSPECTIVE JUROR NUMBER 171: I'm a behavior analyst.
6 THE COURT: So much I want to ask you.
7 Are you married?
8 PROSPECTIVE JUROR NUMBER 171: Yes, I am.
9 THE COURT: Does your spouse work?
10 PROSPECTIVE JUROR NUMBER 171: No, he does not.
11 THE COURT: Did he work?
12 PROSPECTIVE JUROR NUMBER 171: He did.
13 THE COURT: What did he do?
14 PROSPECTIVE JUROR NUMBER 171: He was in the car business.
15 THE COURT: Children?
16 PROSPECTIVE JUROR NUMBER 171: No.
17 THE COURT: Have you ever sat as a juror before?
18 PROSPECTIVE JUROR NUMBER 171: No, I haven't.
19 THE COURT: Background in law or law enforcement?
20 PROSPECTIVE JUROR NUMBER 171: No.
21 THE COURT: Can you be fair to both parties in this case?
22 PROSPECTIVE JUROR NUMBER 171: Yes.
23 THE COURT: State.
24 MS. THOMSON: I was talking when you answered the question of what your
25 employment was, will you repeat that for me?