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JORGE MENDOZA,

VS.

Respondent.

Electronically Filed
Jul 25 2021 03:26 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

**Appeal from the Postconviction Denial of Relief for Writ of Habeas
Corpus - Eighth Judicial District Court, Clark County
The Honorable Judge Bitá Yeager 8th Judicial District Court Judge
Department 1, Presiding, Findings of Fact, Conclusions of Law and
Order Issued April 2, 2021, District Court Case No. A-19-804157-W**

APPELLANT'S APPENDIX VOLUME I

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Dated July 25, 2021
BY /s/ DIANE C. LOWE
DIANE C. LOWE, ESQ
Nevada Bar #14573

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

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THE STATE OF NEVADA,

Plaintiff,

-VS-

JORGE MENDOZA #2586625,

Defendant.

JUSTICE COURT
LAS VEGAS NEVADA
BY SG
CASE NO: 14F14997X
DEPT NO: 12

CRIMINAL COMPLAINT

The Defendant above named having committed the crimes of MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165 - NOC 50001) and BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony - NRS 205.060 - NOC 50426), in the manner following, to-wit: That the said Defendant, on or about the 21st day of September, 2014, at and within the County of Clark, State of Nevada,

COUNT 1 - MURDER WITH USE OF A DEADLY WEAPON

did then and there wilfully, unlawfully, feloniously, with premeditation and deliberation, and with malice aforethought, kill MONTY GIBSON, a human being, by shooting at and into the body of the said MONTY GIBSON, with a deadly weapon, to-wit: a firearm.

COUNT 2 - BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

did then and there wilfully, unlawfully, and feloniously enter, with intent to commit murder, that certain residence occupied by MONTY GIBSON, located at 1661 Broadmere Street, Las Vegas, Clark County, Nevada, said Defendant did possess and/or gain possession of, a firearm, a deadly weapon, during the commission of the crime and/or before leaving the structure.

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1 All of which is contrary to the form, force and effect of Statutes in such cases made and
2 provided and against the peace and dignity of the State of Nevada. Said Complainant makes
3 this declaration subject to the penalty of perjury.
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5 Clyde Campbell
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JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

JORGE MENDOZA,
#2586625
ROBERT FIGUEROA,
#1995563,
SUMMER LARSEN, aka, Summer Rice,
#1854665

Defendants.

CASE NO: 14F14997A-C

DEPT NO: 12

SECOND AMENDED
CRIMINAL COMPLAINT

The Defendant(s) above named having committed the crimes of CONSPIRACY TO COMMIT ROBBERY (Category B Felony – NRS 199.480, 200.380 – NOC 50147); BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony - NRS 205.060 - NOC 50426); HOME INVASION WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony – NRS 205.067 – NOC 50437); ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony – NRS 193.330, 200.380, 193.165 – NOC 50145); MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165 - NOC 50001) and ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony – NRS 200.010, 200.030, 193.330, 193.165 – NOC 50031), in the manner following, to-wit: That the said Defendants, on or about the 21st day of September, 2014, at and within the County of Clark, State of Nevada,
COUNT 1 – CONSPIRACY TO COMMIT ROBBERY

did wilfully, unlawfully, and feloniously conspire with each other and/or an unknown individual to commit a robbery.

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1 COUNT 2 – BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

2 did then and there wilfully, unlawfully, and feloniously enter, with intent to commit
3 murder, that certain residence occupied by MONTY GIBSON, located at 1661 Broadmere
4 Street, Las Vegas, Clark County, Nevada, said Defendants did possess and/or gain possession
5 of a deadly weapon, to wit: a 9mm rifle and/or a hand gun and/or pellet gun, during the
6 commission of the crime and/or before leaving the structure; the Defendants being responsible
7 under one or more theories of criminal liability, to wit: 1) by directly or indirectly committing
8 the acts constituting the offense and/or 2) by aiding and abetting in the commission of the
9 crime by SUMMER LARSEN meeting with unidentified co-conspirators to plan the robbery
10 of JOSEPH LARSEN and/or MONTY GIBSON, and JORGE MENDOZA and/or ROBERT
11 FIGUEROA going to the residence with weapons to rob JOSEPH LARSEN and/or MONTY
12 GIBSON, thereafter, JOSEPH LARSEN shooting at the JORGE MENDOZA and ROBERT
13 FIGUEROA to prevent the taking of the property, JORGE MENDOZA and ROBERT
14 FIGUEROA returning fire, striking and killing MONTY GIBSON, the defendants acting in
15 concert throughout and/or 3) a conspiracy to commit this crime.

16 COUNT 3 – HOME INVASION WHILE IN POSSESSION OF A DEADLY WEAPON

17 did then and there wilfully, unlawfully and feloniously forcibly enter an inhabited
18 dwelling, to-wit: 1661 Broadmere Street, Las Vegas, Clark County Nevada, without
19 permission of the owner, resident, or lawful occupant, to-wit: JOSEPH LARSEN and/or
20 MONTY GIBSON, the said Defendant did possess and/or gain possession of a deadly weapon
21 consisting of a 9mm Firearm and/or a hand gun and/or pellet gun, during the commission of
22 the crime and/or before leaving the structure; the Defendants being responsible under one or
23 more theories of criminal liability, to wit: 1) by directly or indirectly committing the acts
24 constituting the offense and/or 2) by aiding and abetting in the commission of the crime by
25 SUMMER LARSEN meeting with unidentified co-conspirators to plan the robbery of
26 JOSEPH LARSEN and/or MONTY GIBSON, and JORGE MENDOZA and/or ROBERT
27 FIGUEROA going to the residence with weapons to rob JOSEPH LARSEN and/or MONTY
28 GIBSON, thereafter, JOSEPH LARSEN shooting at JORGE MENDOZA and ROBERT

FIGUEROA to prevent the taking of the property, JORGE MENDOZA and ROBERT FIGUEROA returning fire, striking and killing MONTY GIBSON, the defendants acting in concert throughout and/or 3) a conspiracy to commit this crime.

COUNT 4 – ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON

did then and there wilfully, unlawfully, and feloniously attempt to take personal property, to-wit: lawful money of the United States and/or marijuana, from the person of JOSEPH LARSEN, or in his presence, by means of force or violence, or fear of injury to, and without the consent and against the will of JOSEPH LARSEN, by entering his home with a weapon to take the property by force, thereafter JOSEPH LARSEN shooting at the defendants to prevent the taking of the property, with use of a deadly weapon, to-wit: a 9mm Firearm and/or a hand gun and/or pellet gun; the Defendants being responsible under one or more theories of criminal liability, to wit: 1) by directly or indirectly committing the acts constituting the offense and/or 2) by aiding and abetting in the commission of the crime by SUMMER LARSEN meeting with unidentified co-conspirators to plan the robbery of JOSEPH LARSEN and/or MONTY GIBSON, and JORGE MENDOZA and/or ROBERT FIGUEROA going to the residence with weapons to rob JOSEPH LARSEN and/or MONTY GIBSON, thereafter, JOSEPH LARSEN shooting at JORGE MENDOZA and ROBERT FIGUEROA, to prevent the taking of the property, JORGE MENDOZA and ROBERT FIGUEROA returning fire, striking and killing MONTY GIBSON, the defendants acting in concert throughout and/or 3) a conspiracy to commit this crime.

COUNT 5 – ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON

did then and there wilfully, unlawfully, and feloniously attempt to take personal property, to-wit: lawful money of the United States and/or marijuana, from the person of MONTY GIBSON, or in his presence, by means of force or violence, or fear of injury to, and without the consent and against the will of MONTY GIBSON, by entering his home with a weapon to take the property by force, thereafter JOSEPH LARSEN shooting at the defendants to prevent the taking of the property, with use of a deadly weapon, to-wit: a 9mm Firearm and/or a hand gun and/or pellet gun; the Defendants being responsible under one or more

1 theories of criminal liability, to wit: 1) by directly or indirectly committing the acts
2 constituting the offense and/or 2) by aiding and abetting in the commission of the crime by
3 SUMMER LARSEN meeting with unidentified co-conspirators to plan the robbery of
4 JOSEPH LARSEN and/or MONTY GIBSON, and JORGE MENDOZA and/or ROBERT
5 FIGUEROA going to the residence with weapons to rob JOSEPH LARSEN and/or MONTY
6 GIBSON, thereafter, JOSEPH LARSEN shooting at JORGE MENDOZA and ROBERT
7 FIGUEROA to prevent the taking of the property, JORGE MENDOZA and ROBERT
8 FIGUEROA returning fire, striking and killing MONTY GIBSON, the defendants acting in
9 concert throughout and/or 3) a conspiracy to commit this crime.

10 COUNT 6 – MURDER WITH USE OF A DEADLY WEAPON

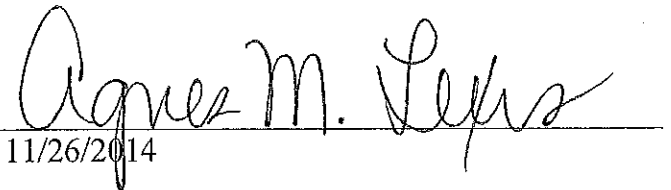
11 did then and there wilfully, unlawfully, feloniously, with premeditation and
12 deliberation, and with malice aforethought, kill MONTY GIBSON, a human being, by
13 shooting at and into the body of the said MONTY GIBSON, with a deadly weapon, to-wit: a
14 firearm, the defendants being responsible under one or more theories of criminal liability,
15 to-wit: 1) by directly or indirectly committing the acts constituting the offense and/or 2) by
16 aiding and abetting in the commission of the crime by SUMMER LARSEN meeting with
17 unidentified co-conspirators to plan the robbery of JOSEPH LARSEN and/or MONTY
18 GIBSON, and JORGE MENDOZA and/or ROBERT FIGUEROA going to the residence with
19 weapons to rob JOSEPH LARSEN and/or MONTY GIBSON, thereafter, JOSEPH LARSEN
20 shooting at JORGE MENDOZA and ROBERT FIGUEROA to prevent the taking of the
21 property, JORGE MENDOZA and ROBERT FIGUEROA returning fire, striking and killing
22 MONTY GIBSON, the defendants acting in concert throughout and/or 3) a conspiracy to
23 commit this crime, the defendants being responsible under one or more of the following
24 principles of criminal liability, to-wit: 1) by having premeditation and deliberation and/or
25 during the perpetration or attempted perpetration of a robbery and/or burglary and/or Home
26 Invasion.

27 COUNT 7 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

28 did then and there wilfully, unlawfully, feloniously and with malice aforethought

1 attempt to kill JOSEPH LARSEN, a human being, by shooting at JOSEPH LARSEN, with
2 use of a deadly weapon, to-wit: a 9mm Firearm and/or a hand gun and/or pellet gun, the
3 defendants being responsible under one or more theories of criminal liability, to-wit: 1) by
4 directly or indirectly committing the acts constituting the offense and/or 2) by aiding and
5 abetting in the commission of the crime SUMMER LARSEN meeting with unidentified co-
6 conspirators to plan the robbery of JOSEPH LARSEN and/or MONTY GIBSON, and JORGE
7 MENDOZA and/or ROBERT FIGUEROA going to the residence with weapons to rob
8 JOSEPH LARSEN and/or MONTY GIBSON, thereafter, JOSEPH LARSEN shooting at
9 JORGE MENDOZA and ROBERT FIGUEROA to prevent the taking of the property, JORGE
10 MENDOZA and ROBERT FIGUEROA returning fire at JOSEPH LARSEN, the defendants
11 acting in concert throughout.

12 All of which is contrary to the form, force and effect of Statutes in such cases made and
13 provided and against the peace and dignity of the State of Nevada. Said Complainant makes
14 this declaration subject to the penalty of perjury.

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28 LVMPD EV# 1409213020
(TK12)

1 JUSTICE COURT, LAS VEGAS TOWNSHIP
2 CLARK COUNTY, NEVADA

3 THE STATE OF NEVADA,

4 Plaintiff,

5 -vs-

6 JORGE MENDOZA,
#2586625
7 ROBERT FIGUEROA,
#1995563,
8 SUMMER LARSEN, aka, Summer Rice,
#1854665
9

10 Defendants.

CASE NO: 14F14997A-C

DEPT NO: 12

THIRD AMENDED
CRIMINAL COMPLAINT

11 The Defendant(s) above named having committed the crimes of CONSPIRACY TO
12 COMMIT ROBBERY (Category B Felony – NRS 199.480, 200.380 – NOC 50147);
13 BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony -
14 NRS 205.060 - NOC 50426); HOME INVASION WHILE IN POSSESSION OF A DEADLY
15 WEAPON (Category B Felony – NRS 205.067 – NOC 50437); ATTEMPT ROBBERY
16 WITH USE OF A DEADLY WEAPON (Category B Felony – NRS 193.330, 200.380,
17 193.165 – NOC 50145); MURDER WITH USE OF A DEADLY WEAPON (Category A
18 Felony - NRS 200.010, 200.030, 193.165 - NOC 50001) and ATTEMPT MURDER WITH
19 USE OF A DEADLY WEAPON (Category B Felony – NRS 200.010, 200.030, 193.330,
20 193.165 – NOC 50031), in the manner following, to-wit: That the said Defendants, on or
21 about the 21st day of September, 2014, at and within the County of Clark, State of Nevada,

22 COUNT 1 – CONSPIRACY TO COMMIT ROBBERY

23 did wilfully, unlawfully, and feloniously conspire with each other and/or an unknown
24 individual to commit a robbery.

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1 COUNT 2 – BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

2 did then and there wilfully, unlawfully, and feloniously enter, with intent to commit
3 murder, that certain residence occupied by MONTY GIBSON, located at 1661 Broadmere
4 Street, Las Vegas, Clark County, Nevada, said Defendants did possess and/or gain possession
5 of a deadly weapon, to wit: a 9mm rifle and/or a hand gun and/or pellet gun, during the
6 commission of the crime and/or before leaving the structure; the Defendants being responsible
7 under one or more theories of criminal liability, to wit: 1) by directly or indirectly committing
8 the acts constituting the offense and/or 2) by aiding and abetting in the commission of the
9 crime by SUMMER LARSEN meeting with unidentified co-conspirators to plan the robbery
10 of JOSEPH LARSEN and/or MONTY GIBSON, and JORGE MENDOZA and/or ROBERT
11 FIGUEROA going to the residence with weapons to rob JOSEPH LARSEN and/or MONTY
12 GIBSON, thereafter, JOSEPH LARSEN shooting at the JORGE MENDOZA and ROBERT
13 FIGUEROA to prevent the taking of the property, JORGE MENDOZA and ROBERT
14 FIGUEROA returning fire, striking and killing MONTY GIBSON, the defendants acting in
15 concert throughout and/or 3) a conspiracy to commit this crime.

16 COUNT 3 – HOME INVASION WHILE IN POSSESSION OF A DEADLY WEAPON

17 did then and there wilfully, unlawfully and feloniously forcibly enter an inhabited
18 dwelling, to-wit: 1661 Broadmere Street, Las Vegas, Clark County Nevada, without
19 permission of the owner, resident, or lawful occupant, to-wit: JOSEPH LARSEN and/or
20 MONTY GIBSON, the said Defendant did possess and/or gain possession of a deadly weapon
21 consisting of a 9mm Firearm and/or a hand gun and/or pellet gun, during the commission of
22 the crime and/or before leaving the structure; the Defendants being responsible under one or
23 more theories of criminal liability, to wit: 1) by directly or indirectly committing the acts
24 constituting the offense and/or 2) by aiding and abetting in the commission of the crime by
25 SUMMER LARSEN meeting with unidentified co-conspirators to plan the robbery of
26 JOSEPH LARSEN and/or MONTY GIBSON, and JORGE MENDOZA and/or ROBERT
27 FIGUEROA going to the residence with weapons to rob JOSEPH LARSEN and/or MONTY
28 GIBSON, thereafter, JOSEPH LARSEN shooting at JORGE MENDOZA and ROBERT

1 FIGUEROA to prevent the taking of the property, JORGE MENDOZA and ROBERT
2 FIGUEROA returning fire, striking and killing MONTY GIBSON, the defendants acting in
3 concert throughout and/or 3) a conspiracy to commit this crime.

4 COUNT 4 – ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON

5 did then and there wilfully, unlawfully, and feloniously attempt to take personal
6 property, to-wit: lawful money of the United States and/or marijuana, from the person of
7 JOSEPH LARSEN, or in his presence, by means of force or violence, or fear of injury to, and
8 without the consent and against the will of JOSEPH LARSEN, by entering his home with a
9 weapon to take the property by force, thereafter JOSEPH LARSEN shooting at the defendants
10 to prevent the taking of the property, with use of a deadly weapon, to-wit: a 9mm Firearm
11 and/or a hand gun and/or pellet gun; the Defendants being responsible under one or more
12 theories of criminal liability, to wit: 1) by directly or indirectly committing the acts
13 constituting the offense and/or 2) by aiding and abetting in the commission of the crime by
14 SUMMER LARSEN meeting with unidentified co-conspirators to plan the robbery of
15 JOSEPH LARSEN and/or MONTY GIBSON, and JORGE MENDOZA and/or ROBERT
16 FIGUEROA going to the residence with weapons to rob JOSEPH LARSEN and/or MONTY
17 GIBSON, thereafter, JOSEPH LARSEN shooting at JORGE MENDOZA and ROBERT
18 FIGUEROA, to prevent the taking of the property, JORGE MENDOZA and ROBERT
19 FIGUEROA returning fire, striking and killing MONTY GIBSON, the defendants acting in
20 concert throughout and/or 3) a conspiracy to commit this crime.

21 COUNT 5 – ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON

22 did then and there wilfully, unlawfully, and feloniously attempt to take personal
23 property, to-wit: lawful money of the United States and/or marijuana, from the person of
24 MONTY GIBSON, or in his presence, by means of force or violence, or fear of injury to, and
25 without the consent and against the will of MONTY GIBSON, by entering his home with a
26 weapon to take the property by force, thereafter JOSEPH LARSEN shooting at the defendants
27 to prevent the taking of the property, with use of a deadly weapon, to-wit: a 9mm Firearm
28 and/or a hand gun and/or pellet gun; the Defendants being responsible under one or more

1 theories of criminal liability, to wit: 1) by directly or indirectly committing the acts
2 constituting the offense and/or 2) by aiding and abetting in the commission of the crime by
3 SUMMER LARSEN meeting with unidentified co-conspirators to plan the robbery of
4 JOSEPH LARSEN and/or MONTY GIBSON, and JORGE MENDOZA and/or ROBERT
5 FIGUEROA going to the residence with weapons to rob JOSEPH LARSEN and/or MONTY
6 GIBSON, thereafter, JOSEPH LARSEN shooting at JORGE MENDOZA and ROBERT
7 FIGUEROA to prevent the taking of the property, JORGE MENDOZA and ROBERT
8 FIGUEROA returning fire, striking and killing MONTY GIBSON, the defendants acting in
9 concert throughout and/or 3) a conspiracy to commit this crime.

10 COUNT 6 – MURDER WITH USE OF A DEADLY WEAPON

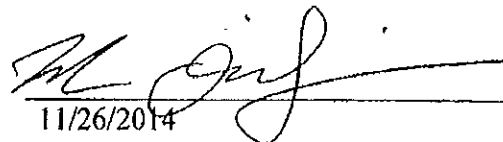
11 did then and there wilfully, unlawfully, feloniously, with premeditation and
12 deliberation, and with malice aforethought, kill MONTY GIBSON, a human being, by
13 shooting at and into the body of the said MONTY GIBSON, with a deadly weapon, to-wit: a
14 firearm, the defendants being responsible under one or more theories of criminal liability,
15 to-wit: 1) by directly or indirectly committing the acts constituting the offense and/or 2) by
16 aiding and abetting in the commission of the crime by SUMMER LARSEN meeting with
17 unidentified co-conspirators to plan the robbery of JOSEPH LARSEN and/or MONTY
18 GIBSON, and JORGE MENDOZA and/or ROBERT FIGUEROA going to the residence with
19 weapons to rob JOSEPH LARSEN and/or MONTY GIBSON, thereafter, JOSEPH LARSEN
20 shooting at JORGE MENDOZA and ROBERT FIGUEROA to prevent the taking of the
21 property, JORGE MENDOZA and ROBERT FIGUEROA returning fire, striking and killing
22 MONTY GIBSON, the defendants acting in concert throughout and/or 3) a conspiracy to
23 commit this crime, the defendants being responsible under one or more of the following
24 principles of criminal liability, to-wit: 1) by having premeditation and deliberation and/or
25 during the perpetration or attempted perpetration of a robbery and/or burglary and/or Home
26 Invasion.

27 COUNT 7 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

28 did then and there wilfully, unlawfully, feloniously and with malice aforethought

1 attempt to kill JOSEPH LARSEN, a human being, by shooting at JOSEPH LARSEN, with
2 use of a deadly weapon, to-wit: a 9mm Firearm and/or a hand gun and/or pellet gun, the
3 defendants being responsible under one or more theories of criminal liability, to-wit: 1) by
4 directly or indirectly committing the acts constituting the offense and/or 2) by aiding and
5 abetting in the commission of the crime SUMMER LARSEN meeting with unidentified co-
6 conspirators to plan the robbery of JOSEPH LARSEN and/or MONTY GIBSON, and JORGE
7 MENDOZA and/or ROBERT FIGUEROA going to the residence with weapons to rob
8 JOSEPH LARSEN and/or MONTY GIBSON, thereafter, JOSEPH LARSEN shooting at
9 JORGE MENDOZA and ROBERT FIGUEROA to prevent the taking of the property, JORGE
10 MENDOZA and ROBERT FIGUEROA returning fire at JOSEPH LARSEN, the defendants
11 acting in concert throughout.

12 All of which is contrary to the form, force and effect of Statutes in such cases made and
13 provided and against the peace and dignity of the State of Nevada. Said Complainant makes
14 this declaration subject to the penalty of perjury.

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27 14F14997A-B/saj/L-1
28 LVMPD EV# 1409213020
(TK12)

COPY

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

FILED IN OPEN COURT

DATE: DEC 17 2014

CLERK: STEPHANIE WESTBAY

THE STATE OF NEVADA,

Plaintiff,

-VS-

CASE NO: 14F14997A-D

DEPT NO: 12

FOURTH AMENDED

CRIMINAL COMPLAINT

JORGE MENDOZA,
#2586625
ROBERT FIGUEROA,
#1995563,
SUMMER LARSEN, aka, Summer Rice,
#1854665
DAVID MURPHY, aka,
David Mark Murphy #0859628,

Defendants.

The Defendant(s) above named having committed the crimes of CONSPIRACY TO COMMIT ROBBERY (Category B Felony -- NRS 199.480, 200.380 -- NOC 50147); BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony - NRS 205.060 - NOC 50426); HOME INVASION WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony - NRS 205.067 - NOC 50437); ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 193.330, 200.380, 193.165 - NOC 50145); MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165 - NOC 50001) and ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165 - NOC 50031), in the manner following, to-wit: That the said Defendants, on or about the 21st day of September, 2014, at and within the County of Clark, State of Nevada,

COUNT 1 - CONSPIRACY TO COMMIT ROBBERY

did wilfully, unlawfully, and feloniously conspire with each other and/or an unknown individual to commit a robbery.

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1 COUNT 2 – BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

2 did then and there wilfully, unlawfully, and feloniously enter, with intent to commit
3 larceny and/or robbery and/or murder, that certain residence occupied by JOSEPH LARSEN
4 and/or MONTY GIBSON, located at 1661 Broadmere Street, Las Vegas, Clark County,
5 Nevada, said Defendants did possess and/or gain possession of a deadly weapon, to wit: a
6 9mm rifle and/or a hand gun and/or pellet gun, during the commission of the crime and/or
7 before leaving the structure; the Defendant being responsible under one or more theories of
8 criminal liability, to wit: 1) by directly or indirectly committing the acts constituting the
9 offense and/or 2) by aiding and abetting in the commission of the crime by Defendant DAVID
10 MURPHY, aka, David Mark Murphy driving co-conspirators to scene and/or acting as a
11 lookout and/or by acting as the "get away" driver, SUMMER LARSEN identifying JOSEPH
12 LARSEN's home as a target and/or meeting with the co-defendants and/or unidentified co-
13 conspirators to plan the robbery of JOSEPH LARSEN and/or MONTY GIBSON, and JORGE
14 MENDOZA and/or ROBERT FIGUEROA and/or an unidentified co-conspirator going to the
15 residence with weapons to rob JOSEPH LARSEN and/or MONTY GIBSON, thereafter,
16 JOSEPH LARSEN shooting at the JORGE MENDOZA and ROBERT FIGUEROA and/or an
17 unidentified co-conspirator to prevent the taking of the property, JORGE MENDOZA and/or
18 other conspirators returning fire, striking and killing MONTY GIBSON, the co-conspirators
19 acting in concert throughout and/or 3) a conspiracy to commit this crime.

20 COUNT 3 – HOME INVASION WHILE IN POSSESSION OF A DEADLY WEAPON

21 did then and there wilfully, unlawfully and feloniously forcibly enter an inhabited
22 dwelling, to-wit: 1661 Broadmere Street, Las Vegas, Clark County Nevada, without
23 permission of the owner, resident, or lawful occupant, to-wit: JOSEPH LARSEN and/or
24 MONTY GIBSON, the said Defendant did possess and/or gain possession of a deadly weapon
25 consisting of a 9mm Firearm and/or a hand gun and/or pellet gun, during the commission of
26 the crime and/or before leaving the structure; the Defendants being responsible under one or
27 more theories of criminal liability, to wit: 1) by directly or indirectly committing the acts
28 constituting the offense and/or 2) by aiding and abetting in the commission of the crime by

7
1 Defendant DAVID MURPHY, aka, David Mark Murphy driving co-conspirators to scene
2 and/or acting as a lookout and/or by acting as the "get away" driver, SUMMER LARSEN
3 identifying JOSEPH LARSEN's home as a target and/or meeting with the co-defendants
4 and/or unidentified co-conspirators to plan the robbery of JOSEPH LARSEN and/or MONTY
5 GIBSON, and JORGE MENDOZA and/or ROBERT FIGUEROA and/or an unidentified co-
6 conspirator going to the residence with weapons to rob JOSEPH LARSEN and/or MONTY
7 GIBSON, one of the conspirators breaking open the front door to the residence, thereafter,
8 JOSEPH LARSEN shooting at the JORGE MENDOZA and ROBERT FIGUEROA and/or an
9 unidentified co-conspirator to prevent the taking of the property, JORGE MENDOZA and/or
10 other conspirators returning fire, striking and killing MONTY GIBSON, the co-conspirators
11 acting in concert throughout and/or 3) a conspiracy to commit this crime.

12 COUNT 4 - ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON

13 did then and there wilfully, unlawfully, and feloniously attempt to take personal
14 property, to-wit: lawful money of the United States and/or marijuana, from the person of
15 JOSEPH LARSEN, or in his presence, by means of force or violence, or fear of injury to, and
16 without the consent and against the will of JOSEPH LARSEN, by entering his home with a
17 weapon to take the property by force, thereafter JOSEPH LARSEN shooting at the defendants
18 to prevent the taking of the property, with use of a deadly weapon, to-wit: a 9mm Firearm
19 and/or a hand gun and/or pellet gun; the Defendants being responsible under one or more
20 theories of criminal liability, to wit: 1) by directly or indirectly committing the acts
21 constituting the offense and/or 2) by aiding and abetting in the commission of the crime by
22 Defendant DAVID MURPHY, aka, David Mark Murphy driving co-conspirators to scene
23 and/or acting as a lookout and/or by acting as the "get away" driver, SUMMER LARSEN
24 identifying JOSEPH LARSEN's home as a target and/or meeting with the co-defendants
25 and/or unidentified co-conspirators to plan the robbery of JOSEPH LARSEN and/or MONTY
26 GIBSON, and JORGE MENDOZA and/or ROBERT FIGUEROA and/or an unidentified co-
27 conspirator going to the residence with weapons to rob JOSEPH LARSEN and/or MONTY
28 GIBSON, one of the conspirators breaking open the front door to the residence, thereafter,

1 JOSEPH LARSEN shooting at the JORGE MENDOZA and ROBERT FIGUEROA and/or an
2 unidentified co-conspirator to prevent the taking of the property, JORGE MENDOZA and/or
3 other conspirators returning fire at JOSEPH LARSEN, the co-conspirators acting in concert
4 throughout and/or 3) a conspiracy to commit this crime.

5 COUNT 5 – ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON

6 did then and there wilfully, unlawfully, and feloniously attempt to take personal
7 property, to-wit: lawful money of the United States and/or marijuana, from the person of
8 MONTY GIBSON, or in his presence, by means of force or violence, or fear of injury to, and
9 without the consent and against the will of MONTY GIBSON, by entering his home with a
10 weapon to take the property by force, thereafter JOSEPH LARSEN shooting at the defendants
11 to prevent the taking of the property, with use of a deadly weapon, to-wit: a 9mm Firearm
12 and/or a hand gun and/or pellet gun; the Defendants being responsible under one or more
13 theories of criminal liability, to wit: 1) by directly or indirectly committing the acts
14 constituting the offense and/or 2) by aiding and abetting in the commission of the crime by
15 Defendant DAVID MURPHY, aka, David Mark Murphy driving co-conspirators to scene
16 and/or acting as a lookout and/or by acting as the "get away" driver, SUMMER LARSEN
17 identifying JOSEPH LARSEN's home as a target and/or meeting with the co-defendants
18 and/or unidentified co-conspirators to plan the robbery of JOSEPH LARSEN and/or MONTY
19 GIBSON, and JORGE MENDOZA and/or ROBERT FIGUEROA and/or an unidentified co-
20 conspirator going to the residence with weapons to rob JOSEPH LARSEN and/or MONTY
21 GIBSON, one of the conspirators breaking open the front door to the residence, thereafter,
22 JOSEPH LARSEN shooting at the JORGE MENDOZA and ROBERT FIGUEROA and/or an
23 unidentified co-conspirator to prevent the taking of the property, JORGE MENDOZA and/or
24 other conspirators returning fire, striking and killing MONTY GIBSON, the co-conspirators
25 acting in concert throughout and/or 3) a conspiracy to commit this crime.

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1 COUNT 6 - MURDER WITH USE OF A DEADLY WEAPON

2 did then and there wilfully, unlawfully, feloniously, with premeditation and
3 deliberation, and with malice aforethought, kill MONTY GIBSON, a human being, by
4 shooting at and into the body of the said MONTY GIBSON, with a deadly weapon, to-wit: a
5 firearm, the defendants being responsible under one or more theories of criminal liability,
6 to-wit: 1) by directly or indirectly committing the acts constituting the offense and/or 2) by
7 aiding and abetting in the commission of the crime by Defendant DAVID MURPHY, aka,
8 David Mark Murphy driving co-conspirators to scene and/or acting as a lookout and/or by
9 acting as the "get away" driver, SUMMER LARSEN identifying JOSEPH LARSEN's home
10 as a target and/or meeting with the co-defendants and/or unidentified co-conspirators to plan
11 the robbery of JOSEPH LARSEN and/or MONTY GIBSON, and JORGE MENDOZA and/or
12 ROBERT FIGUEROA and/or an unidentified co-conspirator going to the residence with
13 weapons to rob JOSEPH LARSEN and/or MONTY GIBSON, one of the conspirators
14 breaking open the front door to the residence, thereafter, JOSEPH LARSEN shooting at the
15 JORGE MENDOZA and ROBERT FIGUEROA and/or an unidentified co-conspirator to
16 prevent the taking of the property, JORGE MENDOZA and/or other conspirators returning
17 fire, striking and killing MONTY GIBSON, the co-conspirators acting in concert throughout
18 and/or 3) a conspiracy to commit this crime; the defendants being responsible under one or
19 more of the following principles of criminal liability, to-wit: 1) by having premeditation and
20 deliberation and/or 2) during the perpetration or attempted perpetration of a robbery and/or
21 burglary and/or Home Invasion.

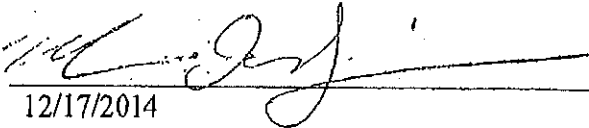
22 COUNT 7 - ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

23 did then and there wilfully, unlawfully, feloniously and with malice aforethought
24 attempt to kill JOSEPH LARSEN, a human being, by shooting at JOSEPH LARSEN, with
25 use of a deadly weapon, to-wit: a 9mm Firearm and/or a hand gun and/or pellet gun, the
26 defendants being responsible under one or more theories of criminal liability, to-wit: 1) by
27 directly or indirectly committing the acts constituting the offense and/or 2) by aiding and
28 abetting in the commission of the crime by Defendant DAVID MURPHY, aka, David Mark

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1 Murphy driving co-conspirators to scene and/or acting as a lookout and/or by acting as the
2 "get away" driver, SUMMER LARSEN identifying JOSEPH LARSEN's home as a target
3 and/or meeting with the co-defendants and/or unidentified co-conspirators to plan the robbery
4 of JOSEPH LARSEN and/or MONTY GIBSON, and JORGE MENDOZA and/or ROBERT
5 FIGUEROA and/or an unidentified co-conspirator going to the residence with weapons to rob
6 JOSEPH LARSEN and/or MONTY GIBSON, one of the conspirators breaking open the front
7 door to the residence, thereafter, JOSEPH LARSEN shooting at the JORGE MENDOZA and
8 ROBERT FIGUEROA and/or an unidentified co-conspirator to prevent the taking of the
9 property, JORGE MENDOZA and/or other conspirators returning fire at JOSEPH LARSEN,
10 the co-conspirators acting in concert throughout and/or 3) a conspiracy to commit this crime.

11 All of which is contrary to the form, force and effect of Statutes in such cases made and
12 provided and against the peace and dignity of the State of Nevada. Said Complainant makes
13 this declaration subject to the penalty of perjury.

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27 14F14997A-D/erg/L-1
28 LVMPD EV# 1409213020
(TK12)

REGISTER OF ACTIONS

CASE No. C-15-303991-1

State of Nevada vs Jorge Mendoza

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§
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§
§
§
§
§
§

Case Type: **Felony/Gross Misdemeanor**
Date Filed: **01/30/2015**
Location: **Department 5**
Cross-Reference Case Number: **C303991**
Defendant's Scope ID #: **2586625**
Grand Jury Case Number: **14BGJ019**
ITAG Case ID: **1664755**
Supreme Court No.: **72056**

RELATED CASE INFORMATION

Related Cases

C-15-303991-2 (Multi-Defendant Case)
C-15-303991-3 (Multi-Defendant Case)
C-15-303991-4 (Multi-Defendant Case)
C-15-303991-5 (Multi-Defendant Case)

PARTY INFORMATION

Defendant **Mendoza, Jorge**

Lead Attorneys
William L. Wolfbrandt, ESQ
Retained
702-388-0545(W)

Plaintiff **State of Nevada**

Steven B Wolfson
702-671-2700(W)

CHARGE INFORMATION

Charges: Mendoza, Jorge	Statute	Level	Date
1. CONSPIRACY TO COMMIT ROBBERY	200.380	Felony	09/21/2014
2. BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON	205.060.4	Felony	09/21/2014
3. HOME INVASION, WHILE IN POSSESSION OF A DEADLY WEAPON	205.067.4	Felony	09/21/2014
4. ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON	200.380	Felony	09/21/2014
5. ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON	200.380	Felony	09/21/2014
6. MURDER WITH USE OF A DEADLY WEAPON	200.010	Felony	09/21/2014
7. ATTEMPT MURDER WITH USE OF A DEADLY WEAPON	200.010	Felony	09/21/2014

EVENTS & ORDERS OF THE COURT

02/23/2015 **Arraignment Continued (9:00 AM)** (Judicial Officer Ellsworth, Carolyn)

Minutes

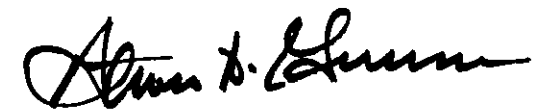
02/23/2015 9:00 AM

- AS TO DEFT. MENDOZA: DEFT. MENDOZA ARRAIGNED, PLED NOT GUILTY. Mr. Wolfbrandt stated he was prepared to waive 60 Day Rule and advised he is contemplating filing writ. Court INVOKED 60-DAY RULE and ORDERED, matter SET for trial. AS TO DEFT. LARSEN: DEFT. LARSEN ARRAIGNED, PLEAD NOT GUILTY, and INVOKED the 60-DAY RULE. COURT ORDERED, matter SET for trial. Mr. Coyer requested 21 days from the filing of the grand jury transcript to file writ. AS TO DEFT. MURPHY: Per Court Service Officer, Deft. refused to be transported today. Mr. Landis stated he believed Deft. would refuse transport today, ENTERED NOT GUILTY PLEA on Deft's behalf, advised he was intending on invoking today but will be filing writ. COURT ORDERED, matter SET for trial. FURTHER ORDERED, All Defts' have 21 days from the filing of the grand jury transcript to file writ. CUSTODY (ALL) 4/20/15 9:00 AM CALENDAR CALL (ALL) 4/27/15 1:30 PM JURY TRIAL (ALL)

[Parties Present](#)

[Return to Register of Actions](#)

AA000019



CLERK OF THE COURT

1 **IND**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MARC DIGIACOMO
6 Chief Deputy District Attorney
7 Nevada Bar #6955
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,

CASE NO: C-15-303991-1

11 -vs-

DEPT NO: V

12 **JORGE MENDOZA, #2586625**
13 **ROBERT FIGUEROA, #1995563,**
14 **SUMMER LARSEN, aka,**
15 **Summer Rice, #1854665**
16 **DAVID MURPHY, aka,**
17 **David Mark Murphy #0859628,**

18 Defendant(s).

INDICTMENT

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

19 The Defendant(s) above named, JORGE MENDOZA, ROBERT FIGUEROA,
20 SUMMER LARSEN, aka, Summer Rice and DAVID MURPHY, aka, David Mark Murphy,
21 accused by the Clark County Grand Jury of the crime(s) of CONSPIRACY TO COMMIT
22 ROBBERY (Category B Felony - NRS 199.480, 200.380 - NOC 50147); BURGLARY
23 WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony - NRS 205.060 -
24 NOC 50426); HOME INVASION WHILE IN POSSESSION OF A DEADLY WEAPON
25 (Category B Felony - NRS 205.067 - NOC 50437); ATTEMPT ROBBERY WITH USE OF
26 A DEADLY WEAPON (Category B Felony - NRS 193.330, 200.380, 193.165 - NOC 50145);
27 MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010,
28 200.030, 193.165 - NOC 50001) and ATTEMPT MURDER WITH USE OF A DEADLY

1 WEAPON (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165 - NOC 50031),
2 committed at and within the County of Clark, State of Nevada, on or about the 21st day of
3 September, 2014, as follows:

4 COUNT 1 – CONSPIRACY TO COMMIT ROBBERY

5 did wilfully, unlawfully, and feloniously conspire with each other and/or an unknown
6 individual to commit a robbery.

7 COUNT 2 – BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

8 did then and there wilfully, unlawfully, and feloniously enter, with intent to commit
9 larceny and/or robbery and/or murder, that certain residence occupied by JOSEPH LARSEN
10 and/or MONTY GIBSON, located at 1661 Broadmere Street, Las Vegas, Clark County,
11 Nevada, said Defendants did possess and/or gain possession of a deadly weapon, to wit: a 9mm
12 rifle and/or a hand gun and/or pellet gun, during the commission of the crime and/or before
13 leaving the structure; the Defendant being responsible under one or more theories of criminal
14 liability, to wit: 1) by directly or indirectly committing the acts constituting the offense and/or
15 2) by aiding and abetting in the commission of the crime by Defendant DAVID MURPHY,
16 aka, David Mark Murphy driving co-conspirators to scene and/or acting as a lookout and/or
17 by acting as the “get away” driver, SUMMER LARSEN identifying JOSEPH LARSEN’s
18 home as a target and/or meeting with the co-defendants and/or unidentified co-conspirators to
19 plan the robbery of JOSEPH LARSEN and/or MONTY GIBSON, and JORGE MENDOZA
20 and/or ROBERT FIGUEROA and/or an unidentified co-conspirator going to the residence
21 with weapons to rob JOSEPH LARSEN and/or MONTY GIBSON, thereafter, JOSEPH
22 LARSEN shooting at the JORGE MENDOZA and ROBERT FIGUEROA and/or an
23 unidentified co-conspirator to prevent the taking of the property, JORGE MENDOZA and/or
24 other conspirators returning fire, striking and killing MONTY GIBSON, the co-conspirators
25 acting in concert throughout and/or 3) a conspiracy to commit this crime.

26 COUNT 3 – HOME INVASION WHILE IN POSSESSION OF A DEADLY WEAPON

27 did then and there wilfully, unlawfully and feloniously forcibly enter an inhabited
28 dwelling, to-wit: 1661 Broadmere Street, Las Vegas, Clark County Nevada, without

1 permission of the owner, resident, or lawful occupant, to-wit: JOSEPH LARSEN and/or
2 MONTY GIBSON, the said Defendant did possess and/or gain possession of a deadly weapon
3 consisting of a 9mm Firearm and/or a hand gun and/or pellet gun, during the commission of
4 the crime and/or before leaving the structure; the Defendants being responsible under one or
5 more theories of criminal liability, to wit: 1) by directly or indirectly committing the acts
6 constituting the offense and/or 2) by aiding and abetting in the commission of the crime by
7 Defendant DAVID MURPHY, aka, David Mark Murphy driving co-conspirators to scene
8 and/or acting as a lookout and/or by acting as the "get away" driver, SUMMER LARSEN
9 identifying JOSEPH LARSEN's home as a target and/or meeting with the co-defendants
10 and/or unidentified co-conspirators to plan the robbery of JOSEPH LARSEN and/or MONTY
11 GIBSON, and JORGE MENDOZA and/or ROBERT FIGUEROA and/or an unidentified co-
12 conspirator going to the residence with weapons to rob JOSEPH LARSEN and/or MONTY
13 GIBSON, one of the conspirators breaking open the front door to the residence, thereafter,
14 JOSEPH LARSEN shooting at the JORGE MENDOZA and ROBERT FIGUEROA and/or an
15 unidentified co-conspirator to prevent the taking of the property, JORGE MENDOZA and/or
16 other conspirators returning fire, striking and killing MONTY GIBSON, the co-conspirators
17 acting in concert throughout and/or 3) a conspiracy to commit this crime.

18 COUNT 4 – ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON

19 did then and there wilfully, unlawfully, and feloniously attempt to take personal
20 property, to-wit: lawful money of the United States and/or marijuana, from the person of
21 JOSEPH LARSEN, or in his presence, by means of force or violence, or fear of injury to, and
22 without the consent and against the will of JOSEPH LARSEN, by entering his home with a
23 weapon to take the property by force, thereafter JOSEPH LARSEN shooting at the defendants
24 to prevent the taking of the property, with use of a deadly weapon, to-wit: a 9mm Firearm
25 and/or a hand gun and/or pellet gun; the Defendants being responsible under one or more
26 theories of criminal liability, to wit: 1) by directly or indirectly committing the acts
27 constituting the offense and/or 2) by aiding and abetting in the commission of the crime by
28 Defendant DAVID MURPHY, aka, David Mark Murphy driving co-conspirators to scene

1 and/or acting as a lookout and/or by acting as the "get away" driver, SUMMER LARSEN
2 identifying JOSEPH LARSEN's home as a target and/or meeting with the co-defendants
3 and/or unidentified co-conspirators to plan the robbery of JOSEPH LARSEN and/or MONTY
4 GIBSON, and JORGE MENDOZA and/or ROBERT FIGUEROA and/or an unidentified co-
5 conspirator going to the residence with weapons to rob JOSEPH LARSEN and/or MONTY
6 GIBSON, one of the conspirators breaking open the front door to the residence, thereafter,
7 JOSEPH LARSEN shooting at the JORGE MENDOZA and ROBERT FIGUEROA and/or an
8 unidentified co-conspirator to prevent the taking of the property, JORGE MENDOZA and/or
9 other conspirators returning fire at JOSEPH LARSEN, the co-conspirators acting in concert
10 throughout and/or 3) a conspiracy to commit this crime.

11 COUNT 5 – ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON

12 did then and there wilfully, unlawfully, and feloniously attempt to take personal
13 property, to-wit: lawful money of the United States and/or marijuana, from the person of
14 MONTY GIBSON, or in his presence, by means of force or violence, or fear of injury to, and
15 without the consent and against the will of MONTY GIBSON, by entering his home with a
16 weapon to take the property by force, thereafter JOSEPH LARSEN shooting at the defendants
17 to prevent the taking of the property, with use of a deadly weapon, to-wit: a 9mm Firearm
18 and/or a hand gun and/or pellet gun; the Defendants being responsible under one or more
19 theories of criminal liability, to wit: 1) by directly or indirectly committing the acts
20 constituting the offense and/or 2) by aiding and abetting in the commission of the crime by
21 Defendant DAVID MURPHY, aka, David Mark Murphy driving co-conspirators to scene
22 and/or acting as a lookout and/or by acting as the "get away" driver, SUMMER LARSEN
23 identifying JOSEPH LARSEN's home as a target and/or meeting with the co-defendants
24 and/or unidentified co-conspirators to plan the robbery of JOSEPH LARSEN and/or MONTY
25 GIBSON, and JORGE MENDOZA and/or ROBERT FIGUEROA and/or an unidentified co-
26 conspirator going to the residence with weapons to rob JOSEPH LARSEN and/or MONTY
27 GIBSON, one of the conspirators breaking open the front door to the residence, thereafter,
28 JOSEPH LARSEN shooting at the JORGE MENDOZA and ROBERT FIGUEROA and/or an

1 unidentified co-conspirator to prevent the taking of the property, JORGE MENDOZA and/or
2 other conspirators returning fire, striking and killing MONTY GIBSON, the co-conspirators
3 acting in concert throughout and/or 3) a conspiracy to commit this crime.

4 COUNT 6 – MURDER WITH USE OF A DEADLY WEAPON

5 did then and there wilfully, unlawfully, feloniously, with premeditation and
6 deliberation, and with malice aforethought, kill MONTY GIBSON, a human being, by
7 shooting at and into the body of the said MONTY GIBSON, with a deadly weapon, to-wit: a
8 firearm, the defendants being responsible under one or more theories of criminal liability,
9 to-wit: 1) by directly or indirectly committing the acts constituting the offense and/or 2) by
10 aiding and abetting in the commission of the crime by Defendant DAVID MURPHY, aka,
11 David Mark Murphy driving co-conspirators to scene and/or acting as a lookout and/or by
12 acting as the “get away” driver, SUMMER LARSEN identifying JOSEPH LARSEN’s home
13 as a target and/or meeting with the co-defendants and/or unidentified co-conspirators to plan
14 the robbery of JOSEPH LARSEN and/or MONTY GIBSON, and JORGE MENDOZA and/or
15 ROBERT FIGUEROA and/or an unidentified co-conspirator going to the residence with
16 weapons to rob JOSEPH LARSEN and/or MONTY GIBSON, one of the conspirators breaking
17 open the front door to the residence, thereafter, JOSEPH LARSEN shooting at the JORGE
18 MENDOZA and ROBERT FIGUEROA and/or an unidentified co-conspirator to prevent the
19 taking of the property, JORGE MENDOZA and/or other conspirators returning fire, striking
20 and killing MONTY GIBSON, the co-conspirators acting in concert throughout and/or 3) a
21 conspiracy to commit this crime; the defendants being responsible under one or more of the
22 following principles of criminal liability, to-wit: 1) by having premeditation and deliberation
23 and/or 2) during the perpetration or attempted perpetration of a robbery and/or burglary and/or
24 Home Invasion.

25 COUNT 7 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

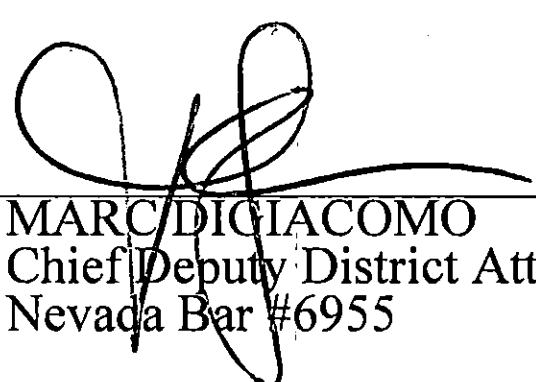
26 did then and there wilfully, unlawfully, feloniously and with malice aforethought
27 attempt to kill JOSEPH LARSEN, a human being, by shooting at JOSEPH LARSEN, with use
28 of a deadly weapon, to-wit: a 9mm Firearm and/or a hand gun and/or pellet gun, the defendants

1 being responsible under one or more theories of criminal liability, to-wit: 1) by directly or
2 indirectly committing the acts constituting the offense and/or 2) by aiding and abetting in the
3 commission of the crime by Defendant DAVID MURPHY, aka, David Mark Murphy driving
4 co-conspirators to scene and/or acting as a lookout and/or by acting as the "get away" driver,
5 SUMMER LARSEN identifying JOSEPH LARSEN's home as a target and/or meeting with
6 the co-defendants and/or unidentified co-conspirators to plan the robbery of JOSEPH
7 LARSEN and/or MONTY GIBSON, and JORGE MENDOZA and/or ROBERT FIGUEROA
8 and/or an unidentified co-conspirator going to the residence with weapons to rob JOSEPH
9 LARSEN and/or MONTY GIBSON, one of the conspirators breaking open the front door to
10 the residence, thereafter, JOSEPH LARSEN shooting at the JORGE MENDOZA and
11 ROBERT FIGUEROA and/or an unidentified co-conspirator to prevent the taking of the
12 property, JORGE MENDOZA and/or other conspirators returning fire at JOSEPH LARSEN,
13 the co-conspirators acting in concert throughout and/or 3) a conspiracy to commit this crime.

14 DATED this 29th day of January, 2015.

15 STEVEN B. WOLFSON
16 Clark County District Attorney
17 Nevada Bar #001565

18 BY

19 
20 MARC DIGIACOMO
21 Chief Deputy District Attorney
22 Nevada Bar #6955

23 ENDORSEMENT: A True Bill

24 
25 Foreperson, Clark County Grand Jury
26
27
28

Names of witnesses testifying before the Grand Jury:

HALL, ASHLEY, 6401 BAMBOO PL., LVN

LARSEN, JOSEPH, c/o CCDA/VWAC, 200 LEWIS AVE., LVN

DAY, ROGER, c/o CCDA/VWAC, 200 LEWIS AVE., LVN

DUTRA, DR. TIMOTHY, CCME, 1704 PINTO LN., LVN

FIGUEROA, ROBERT, UNKNOWN ADDRESS

JENSEN, BARRY, LVMPD P#3662

LARSEN, STEVEN, c/o CCDA/VWAC, 200 LEWIS AVE., LVN

Additional witnesses known to the District Attorney at time of filing the Indictment:

SALGADO, RENEE, c/o CCDA/VWAC, 200 LEWIS AVE., LVN

WALKER, GENE, c/o CCDA/VWAC, 200 LEWIS AVE., LVN

MENDOZA, AMANDA, 1219 WESTLUND DR., LVN

ESTAVILLO, MICHELLE, 1219 WESTLUND DR., LVN

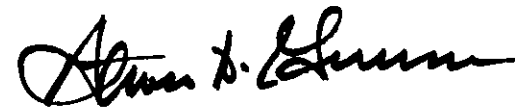
ROWE, TRACY, c/o CCDA/VWAC, 200 LEWIS AVE., LVN

GIBSON, LATONYA, c/o CCDA/VWAC, 200 LEWIS AVE., LVN

14BGJ019ABCD/14F14997ABCD/dd-GJ

LVMPD EV# 140921-3020

(TK12)



CLERK OF THE COURT

1 **IND**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MARC DIGIACOMO
6 Chief Deputy District Attorney
7 Nevada Bar #6955
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,

CASE NO: C-15-303991-1

11 -vs-

DEPT NO: V

12 **JORGE MENDOZA, #2586625**
13 SUMMER LARSEN, aka,
14 Summer Rice, #1854665
15 DAVID MURPHY, aka,
16 David Mark Murphy #0859628
17 JOSEPH LAGUNA, aka,
18 Joey Laguna #1203205,

19 Defendant(s).

SUPERSEDING
INDICTMENT

18 STATE OF NEVADA)
19 COUNTY OF CLARK) ss.

20 The Defendant(s) above named, JORGE MENDOZA, SUMMER LARSEN, aka,
21 Summer Rice, DAVID MURPHY, aka, David Mark Murphy, JOSEPH LAGUNA, aka, Joey
22 Laguna accused by the Clark County Grand Jury of the crime(s) of CONSPIRACY TO
23 COMMIT ROBBERY (Category B Felony - NRS 199.480, 200.380 - NOC 50147);
24 BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony -
25 NRS 205.060 - NOC 50426); HOME INVASION WHILE IN POSSESSION OF A DEADLY
26 WEAPON (Category B Felony - NRS 205.067 - NOC 50437); ATTEMPT ROBBERY WITH
27 USE OF A DEADLY WEAPON (Category B Felony - NRS 193.330, 200.380, 193.165 - NOC
28 50145); MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS

200.010, 200.030, 193.165 - NOC 50001) and ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165 - NOC 50031), committed at and within the County of Clark, State of Nevada, on or about the 21st day of September, 2014, as follows:

COUNT 1 – CONSPIRACY TO COMMIT ROBBERY

did wilfully, unlawfully, and feloniously conspire with each other and/or ROBERT FIGUEROA to commit a robbery.

COUNT 2 – BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

did then and there wilfully, unlawfully, and feloniously enter, with intent to commit larceny and/or robbery and/or murder, that certain residence occupied by JOSEPH LARSEN and/or MONTY GIBSON, located at 1661 Broadmere Street, Las Vegas, Clark County, Nevada, said Defendants did possess and/or gain possession of a deadly weapon, to wit: a 9mm rifle and/or a hand gun and/or pellet gun, during the commission of the crime and/or before leaving the structure; the Defendant being responsible under one or more theories of criminal liability, to wit: 1) by directly or indirectly committing the acts constituting the offense and/or 2) by aiding and abetting in the commission of the crime by Defendant DAVID MURPHY, aka, David Mark Murphy driving co-conspirators to scene and/or acting as a lookout and/or by acting as the “get away” driver, SUMMER LARSEN identifying JOSEPH LARSEN’s home as a target and/or meeting with the co-defendants and/or unidentified co-conspirators to plan the robbery of JOSEPH LARSEN and/or MONTY GIBSON, and JORGE MENDOZA and/or ROBERT FIGUEROA and/or JOSEPH LAGUNA going to the residence with weapons to rob JOSEPH LARSEN and/or MONTY GIBSON, thereafter, JOSEPH LARSEN shooting at the JORGE MENDOZA and ROBERT FIGUEROA and/or JOSEPH LAGUNA to prevent the taking of the property, JORGE MENDOZA and/or other conspirators returning fire, striking and killing MONTY GIBSON, the co-conspirators acting in concert throughout and/or 3) a conspiracy to commit this crime.

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1 COUNT 3 – HOME INVASION WHILE IN POSSESSION OF A DEADLY WEAPON

2 did then and there wilfully, unlawfully and feloniously forcibly enter an inhabited
3 dwelling, to-wit: 1661 Broadmere Street, Las Vegas, Clark County Nevada, without
4 permission of the owner, resident, or lawful occupant, to-wit: JOSEPH LARSEN and/or
5 MONTY GIBSON, the said Defendant did possess and/or gain possession of a deadly weapon
6 consisting of a 9mm Firearm and/or a hand gun and/or pellet gun, during the commission of
7 the crime and/or before leaving the structure; the Defendants being responsible under one or
8 more theories of criminal liability, to wit: 1) by directly or indirectly committing the acts
9 constituting the offense and/or 2) by aiding and abetting in the commission of the crime by
10 Defendant DAVID MURPHY, aka, David Mark Murphy driving co-conspirators to scene
11 and/or acting as a lookout and/or by acting as the “get away” driver, SUMMER LARSEN
12 identifying JOSEPH LARSEN’s home as a target and/or meeting with the co-defendants to
13 plan the robbery of JOSEPH LARSEN and/or MONTY GIBSON, and JORGE MENDOZA
14 and/or ROBERT FIGUEROA and/or JOSEPH LAGUNA going to the residence with weapons
15 to rob JOSEPH LARSEN and/or MONTY GIBSON, one of the conspirators breaking open
16 the front door to the residence, thereafter, JOSEPH LARSEN shooting at the JORGE
17 MENDOZA and ROBERT FIGUEROA and/or JOSEPH LAGUNA to prevent the taking of
18 the property, JORGE MENDOZA and/or JOSEPH LAGUNA returning fire, striking and
19 killing MONTY GIBSON, the co-conspirators acting in concert throughout and/or 3) a
20 conspiracy to commit this crime.

21 COUNT 4 – ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON

22 did then and there wilfully, unlawfully, and feloniously attempt to take personal
23 property, to-wit: lawful money of the United States and/or marijuana, from the person of
24 JOSEPH LARSEN, or in his presence, by means of force or violence, or fear of injury to, and
25 without the consent and against the will of JOSEPH LARSEN, by entering his home with a
26 weapon to take the property by force, thereafter JOSEPH LARSEN shooting at the defendants
27 to prevent the taking of the property, with use of a deadly weapon, to-wit: a 9mm Firearm
28 and/or a hand gun and/or pellet gun; the Defendants being responsible under one or more

1 theories of criminal liability, to wit: 1) by directly or indirectly committing the acts
2 constituting the offense and/or 2) by aiding and abetting in the commission of the crime by
3 Defendant DAVID MURPHY, aka, David Mark Murphy driving co-conspirators to scene
4 and/or acting as a lookout and/or by acting as the "get away" driver, SUMMER LARSEN
5 identifying JOSEPH LARSEN's home as a target and/or meeting with the co-defendants
6 and/or unidentified co-conspirators to plan the robbery of JOSEPH LARSEN and/or MONTY
7 GIBSON, and JORGE MENDOZA and/or ROBERT FIGUEROA and/or JOSEPH LAGUNA
8 going to the residence with weapons to rob JOSEPH LARSEN and/or MONTY GIBSON, one
9 of the conspirators breaking open the front door to the residence, thereafter, JOSEPH LARSEN
10 shooting at the JORGE MENDOZA and ROBERT FIGUEROA and/or JOSEPH LAGUNA
11 to prevent the taking of the property, JORGE MENDOZA and/or other conspirators returning
12 fire at JOSEPH LARSEN, the co-conspirators acting in concert throughout and/or 3) a
13 conspiracy to commit this crime.

14 COUNT 5 – ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON

15 did then and there wilfully, unlawfully, and feloniously attempt to take personal
16 property, to-wit: lawful money of the United States and/or marijuana, from the person of
17 MONTY GIBSON, or in his presence, by means of force or violence, or fear of injury to, and
18 without the consent and against the will of MONTY GIBSON, by entering his home with a
19 weapon to take the property by force, thereafter JOSEPH LARSEN shooting at the defendants
20 to prevent the taking of the property, with use of a deadly weapon, to-wit: a 9mm Firearm
21 and/or a hand gun and/or pellet gun; the Defendants being responsible under one or more
22 theories of criminal liability, to wit: 1) by directly or indirectly committing the acts
23 constituting the offense and/or 2) by aiding and abetting in the commission of the crime by
24 Defendant DAVID MURPHY, aka, David Mark Murphy driving co-conspirators to scene
25 and/or acting as a lookout and/or by acting as the "get away" driver, SUMMER LARSEN
26 identifying JOSEPH LARSEN's home as a target and/or meeting with the co-defendants
27 and/or unidentified co-conspirators to plan the robbery of JOSEPH LARSEN and/or MONTY
28 GIBSON, and JORGE MENDOZA and/or ROBERT FIGUEROA and/or JOSEPH LAGUNA

1 going to the residence with weapons to rob JOSEPH LARSEN and/or MONTY GIBSON, one
2 of the conspirators breaking open the front door to the residence, thereafter, JOSEPH LARSEN
3 shooting at the JORGE MENDOZA and ROBERT FIGUEROA and/or JOSEPH LAGUNA
4 to prevent the taking of the property, JORGE MENDOZA and/or other conspirators returning
5 fire, striking and killing MONTY GIBSON, the co-conspirators acting in concert throughout
6 and/or 3) a conspiracy to commit this crime.

7 COUNT 6 – MURDER WITH USE OF A DEADLY WEAPON

8 did then and there wilfully, unlawfully, feloniously, with premeditation and
9 deliberation, and with malice aforethought, kill MONTY GIBSON, a human being, by
10 shooting at and into the body of the said MONTY GIBSON, with a deadly weapon, to-wit: a
11 firearm, the defendants being responsible under one or more theories of criminal liability,
12 to-wit: 1) by directly or indirectly committing the acts constituting the offense and/or 2) by
13 aiding and abetting in the commission of the crime by Defendant DAVID MURPHY, aka,
14 David Mark Murphy driving co-conspirators to scene and/or acting as a lookout and/or by
15 acting as the “get away” driver, SUMMER LARSEN identifying JOSEPH LARSEN’s home
16 as a target and/or meeting with the co-defendants and/or unidentified co-conspirators to plan
17 the robbery of JOSEPH LARSEN and/or MONTY GIBSON, and JORGE MENDOZA and/or
18 ROBERT FIGUEROA and/or JOSEPH LAGUNA going to the residence with weapons to rob
19 JOSEPH LARSEN and/or MONTY GIBSON, one of the conspirators breaking open the front
20 door to the residence, thereafter, JOSEPH LARSEN shooting at the JORGE MENDOZA and
21 ROBERT FIGUEROA and/or JOSEPH LAGUNA to prevent the taking of the property,
22 JORGE MENDOZA and/or other conspirators returning fire, striking and killing MONTY
23 GIBSON, the co-conspirators acting in concert throughout and/or 3) a conspiracy to commit
24 this crime; the defendants being responsible under one or more of the following principles of
25 criminal liability, to-wit: 1) by having premeditation and deliberation and/or 2) during the
26 perpetration or attempted perpetration of a robbery and/or burglary and/or Home Invasion.

27 //

28 //


1 COUNT 7 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

2 did then and there wilfully, unlawfully, feloniously and with malice aforethought
3 attempt to kill JOSEPH LARSEN, a human being, by shooting at JOSEPH LARSEN, with use
4 of a deadly weapon, to-wit: a 9mm Firearm and/or a hand gun and/or pellet gun, the defendants
5 being responsible under one or more theories of criminal liability, to-wit: 1) by directly or
6 indirectly committing the acts constituting the offense and/or 2) by aiding and abetting in the
7 commission of the crime by Defendant DAVID MURPHY, aka, David Mark Murphy driving
8 co-conspirators to scene and/or acting as a lookout and/or by acting as the “get away” driver,
9 SUMMER LARSEN identifying JOSEPH LARSEN’s home as a target and/or meeting with
10 the co-defendants and/or unidentified co-conspirators to plan the robbery of JOSEPH
11 LARSEN and/or MONTY GIBSON, and JORGE MENDOZA and/or ROBERT FIGUEROA
12 and/or JOSEPH LAGUNA going to the residence with weapons to rob JOSEPH LARSEN
13 and/or MONTY GIBSON, one of the conspirators breaking open the front door to the
14 residence, thereafter, JOSEPH LARSEN shooting at the JORGE MENDOZA and ROBERT
15 FIGUEROA and/or JOSEPH LAGUNA to prevent the taking of the property, JORGE
16 MENDOZA and/or other conspirators returning fire at JOSEPH LARSEN, the co-conspirators
17 acting in concert throughout and/or (3) a conspiracy to commit this crime.

18 DATED this 26th day of February, 2015.

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

21
22 BY


23 MARCO DIGIACOMO
24 Chief Deputy District Attorney
Nevada Bar #6955

25 ENDORSEMENT: A True Bill

26 
27 Foreperson, Clark County Grand Jury
28

Names of witnesses testifying before the Grand Jury:

DAY, ROGER, c/o CCDA/VWAC, 200 LEWIS AVE., LVN

DUTRA, DR. TIMOTHY, CCME, 1704 PINTO LN., LVN

FIGUEROA, ROBERT, UNKNOWN ADDRESS

HALL, ASHLEY, 6401 BAMBOO PL., LVN

JENSEN, BARRY, LVMPD P#3662

LARSEN, JOSEPH, c/o CCDA/VWAC, 200 LEWIS AVE., LVN

LARSEN, STEVEN, c/o CCDA/VWAC, 200 LEWIS AVE., LVN

WILLIAMS, TOD, LVMPD

Additional witnesses known to the District Attorney at time of filing the Indictment:

ESTAVILLO, MICHELLE, 1219 WESTLUND DR., LVN

GIBSON, LATONYA, c/o CCDA/VWAC, 200 LEWIS AVE., LVN

MENDOZA, AMANDA, 1219 WESTLUND DR., LVN

ROWE, TRACY, c/o CCDA/VWAC, 200 LEWIS AVE., LVN

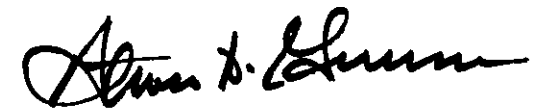
SALGADO, RENEE, c/o CCDA/VWAC, 200 LEWIS AVE., LVN

WALKER, GENE, c/o CCDA/VWAC, 200 LEWIS AVE., LVN

14BGJ019ACDE/14F14997ACDE/dd-GJ

LVMPD EV# 140921-3020

(TK12)



CLERK OF THE COURT

IND
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
MARC DIGIACOMO
Chief Deputy District Attorney
Nevada Bar #6955
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

CASE NO: C-15-303991-1

-vs-

DEPT NO: V

JORGE MENDOZA, #2586625
SUMMER LARSEN, aka,
Summer Rice, #1854665
DAVID MURPHY, aka,
David Mark Murphy #0859628
JOSEPH LAGUNA, aka,
Joey Laguna #1203205,

**SECOND SUPERSEDING
INDICTMENT**

Defendant(s).

STATE OF NEVADA)
COUNTY OF CLARK) ss.

The Defendant(s) above named, JORGE MENDOZA, SUMMER LARSEN, aka, Summer Rice, DAVID MURPHY, aka, David Mark Murphy, JOSEPH LAGUNA, aka, Joey Laguna accused by the Clark County Grand Jury of the crime(s) of CONSPIRACY TO COMMIT ROBBERY (Category B Felony - NRS 199.480, 200.380 - NOC 50147); BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony - NRS 205.060 - NOC 50426); HOME INVASION WHILE IN POSSESSION OF A DEADLY WEAPON (Category B Felony - NRS 205.067 - NOC 50437); ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 193.330, 200.380, 193.165 - NOC 50145); MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS

200.010, 200.030, 193.165 - NOC 50001) and ATTEMPT MURDER WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.010, 200.030, 193.330, 193.165 - NOC 50031), committed at and within the County of Clark, State of Nevada, on or about the 21st day of September, 2014, as follows:

COUNT 1 – CONSPIRACY TO COMMIT ROBBERY

did wilfully, unlawfully, and feloniously conspire with each other and/or ROBERT FIGUEROA to commit a robbery.

COUNT 2 – BURGLARY WHILE IN POSSESSION OF A DEADLY WEAPON

did then and there wilfully, unlawfully, and feloniously enter, with intent to commit larceny and/or robbery and/or murder, that certain residence occupied by JOSEPH LARSEN and/or MONTY GIBSON, located at 1661 Broadmere Street, Las Vegas, Clark County, Nevada, said Defendants did possess and/or gain possession of a deadly weapon, to wit: a 9mm rifle and/or a hand gun and/or pellet gun, during the commission of the crime and/or before leaving the structure; the Defendant being responsible under one or more theories of criminal liability, to wit: 1) by directly or indirectly committing the acts constituting the offense and/or 2) by aiding and abetting in the commission of the crime by Defendant DAVID MURPHY, aka, David Mark Murphy driving co-conspirators to scene and/or acting as a lookout and/or by acting as the “get away” driver, SUMMER LARSEN identifying JOSEPH LARSEN’s home as a target and/or meeting with the co-defendants and/or unidentified co-conspirators to plan the robbery of JOSEPH LARSEN and/or MONTY GIBSON, and JORGE MENDOZA and/or ROBERT FIGUEROA and/or JOSEPH LAGUNA going to the residence with weapons to rob JOSEPH LARSEN and/or MONTY GIBSON, thereafter, JOSEPH LARSEN shooting at the JORGE MENDOZA and ROBERT FIGUEROA and/or JOSEPH LAGUNA to prevent the taking of the property, JORGE MENDOZA and/or other conspirators returning fire, striking and killing MONTY GIBSON, the co-conspirators acting in concert throughout and/or 3) a conspiracy to commit this crime.

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1 COUNT 3 – HOME INVASION WHILE IN POSSESSION OF A DEADLY WEAPON

2 did then and there wilfully, unlawfully and feloniously forcibly enter an inhabited
3 dwelling, to-wit: 1661 Broadmere Street, Las Vegas, Clark County Nevada, without
4 permission of the owner, resident, or lawful occupant, to-wit: JOSEPH LARSEN and/or
5 MONTY GIBSON, the said Defendant did possess and/or gain possession of a deadly weapon
6 consisting of a 9mm Firearm and/or a hand gun and/or pellet gun, during the commission of
7 the crime and/or before leaving the structure; the Defendants being responsible under one or
8 more theories of criminal liability, to wit: 1) by directly or indirectly committing the acts
9 constituting the offense and/or 2) by aiding and abetting in the commission of the crime by
10 Defendant DAVID MURPHY, aka, David Mark Murphy driving co-conspirators to scene
11 and/or acting as a lookout and/or by acting as the “get away” driver, SUMMER LARSEN
12 identifying JOSEPH LARSEN’s home as a target and/or meeting with the co-defendants to
13 plan the robbery of JOSEPH LARSEN and/or MONTY GIBSON, and JORGE MENDOZA
14 and/or ROBERT FIGUEROA and/or JOSEPH LAGUNA going to the residence with weapons
15 to rob JOSEPH LARSEN and/or MONTY GIBSON, one of the conspirators breaking open
16 the front door to the residence, thereafter, JOSEPH LARSEN shooting at the JORGE
17 MENDOZA and ROBERT FIGUEROA and/or JOSEPH LAGUNA to prevent the taking of
18 the property, JORGE MENDOZA and/or JOSEPH LAGUNA returning fire, striking and
19 killing MONTY GIBSON, the co-conspirators acting in concert throughout and/or 3) a
20 conspiracy to commit this crime.

21 COUNT 4 – ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON

22 did then and there wilfully, unlawfully, and feloniously attempt to take personal
23 property, to-wit: lawful money of the United States and/or marijuana, from the person of
24 JOSEPH LARSEN, or in his presence, by means of force or violence, or fear of injury to, and
25 without the consent and against the will of JOSEPH LARSEN, by entering his home with a
26 weapon to take the property by force, thereafter JOSEPH LARSEN shooting at the defendants
27 to prevent the taking of the property, with use of a deadly weapon, to-wit: a 9mm Firearm
28 and/or a hand gun and/or pellet gun; the Defendants being responsible under one or more

1 theories of criminal liability, to wit: 1) by directly or indirectly committing the acts
2 constituting the offense and/or 2) by aiding and abetting in the commission of the crime by
3 Defendant DAVID MURPHY, aka, David Mark Murphy driving co-conspirators to scene
4 and/or acting as a lookout and/or by acting as the "get away" driver, SUMMER LARSEN
5 identifying JOSEPH LARSEN's home as a target and/or meeting with the co-defendants
6 and/or unidentified co-conspirators to plan the robbery of JOSEPH LARSEN and/or MONTY
7 GIBSON, and JORGE MENDOZA and/or ROBERT FIGUEROA and/or JOSEPH LAGUNA
8 going to the residence with weapons to rob JOSEPH LARSEN and/or MONTY GIBSON, one
9 of the conspirators breaking open the front door to the residence, thereafter, JOSEPH LARSEN
10 shooting at the JORGE MENDOZA and ROBERT FIGUEROA and/or JOSEPH LAGUNA
11 to prevent the taking of the property, JORGE MENDOZA and/or other conspirators returning
12 fire at JOSEPH LARSEN, the co-conspirators acting in concert throughout and/or 3) a
13 conspiracy to commit this crime.

14 COUNT 5 – ATTEMPT ROBBERY WITH USE OF A DEADLY WEAPON

15 did then and there wilfully, unlawfully, and feloniously attempt to take personal
16 property, to-wit: lawful money of the United States and/or marijuana, from the person of
17 MONTY GIBSON, or in his presence, by means of force or violence, or fear of injury to, and
18 without the consent and against the will of MONTY GIBSON, by entering his home with a
19 weapon to take the property by force, thereafter JOSEPH LARSEN shooting at the defendants
20 to prevent the taking of the property, with use of a deadly weapon, to-wit: a 9mm Firearm
21 and/or a hand gun and/or pellet gun; the Defendants being responsible under one or more
22 theories of criminal liability, to wit: 1) by directly or indirectly committing the acts
23 constituting the offense and/or 2) by aiding and abetting in the commission of the crime by
24 Defendant DAVID MURPHY, aka, David Mark Murphy driving co-conspirators to scene
25 and/or acting as a lookout and/or by acting as the "get away" driver, SUMMER LARSEN
26 identifying JOSEPH LARSEN's home as a target and/or meeting with the co-defendants
27 and/or unidentified co-conspirators to plan the robbery of JOSEPH LARSEN and/or MONTY
28 GIBSON, and JORGE MENDOZA and/or ROBERT FIGUEROA and/or JOSEPH LAGUNA

1 going to the residence with weapons to rob JOSEPH LARSEN and/or MONTY GIBSON, one
2 of the conspirators breaking open the front door to the residence, thereafter, JOSEPH LARSEN
3 shooting at the JORGE MENDOZA and ROBERT FIGUEROA and/or JOSEPH LAGUNA
4 to prevent the taking of the property, JORGE MENDOZA and/or other conspirators returning
5 fire, striking and killing MONTY GIBSON, the co-conspirators acting in concert throughout
6 and/or 3) a conspiracy to commit this crime.

7 COUNT 6 – MURDER WITH USE OF A DEADLY WEAPON

8 did then and there wilfully, unlawfully, feloniously, with premeditation and
9 deliberation, and with malice aforethought, kill MONTY GIBSON, a human being, by
10 shooting at and into the body of the said MONTY GIBSON, with a deadly weapon, to-wit: a
11 firearm, the defendants being responsible under one or more theories of criminal liability,
12 to-wit: 1) by directly or indirectly committing the acts constituting the offense and/or 2) by
13 aiding and abetting in the commission of the crime by Defendant DAVID MURPHY, aka,
14 David Mark Murphy driving co-conspirators to scene and/or acting as a lookout and/or by
15 acting as the “get away” driver, SUMMER LARSEN identifying JOSEPH LARSEN’s home
16 as a target and/or meeting with the co-defendants and/or unidentified co-conspirators to plan
17 the robbery of JOSEPH LARSEN and/or MONTY GIBSON, and JORGE MENDOZA and/or
18 ROBERT FIGUEROA and/or JOSEPH LAGUNA going to the residence with weapons to rob
19 JOSEPH LARSEN and/or MONTY GIBSON, one of the conspirators breaking open the front
20 door to the residence, thereafter, JOSEPH LARSEN shooting at the JORGE MENDOZA and
21 ROBERT FIGUEROA and/or JOSEPH LAGUNA to prevent the taking of the property,
22 JORGE MENDOZA and/or other conspirators returning fire, striking and killing MONTY
23 GIBSON, the co-conspirators acting in concert throughout and/or 3) a conspiracy to commit
24 this crime; the defendants being responsible under one or more of the following principles of
25 criminal liability, to-wit: 1) by having premeditation and deliberation and/or 2) during the
26 perpetration or attempted perpetration of a robbery and/or burglary and/or Home Invasion.

27 //

28 //

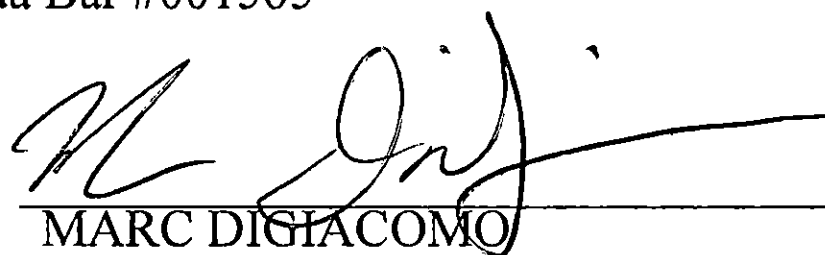
1 COUNT 7 – ATTEMPT MURDER WITH USE OF A DEADLY WEAPON

2 did then and there wilfully, unlawfully, feloniously and with malice aforethought
3 attempt to kill JOSEPH LARSEN, a human being, by shooting at JOSEPH LARSEN, with use
4 of a deadly weapon, to-wit: a 9mm Firearm and/or a hand gun and/or pellet gun, the defendants
5 being responsible under one or more theories of criminal liability, to-wit: 1) by directly or
6 indirectly committing the acts constituting the offense and/or 2) by aiding and abetting in the
7 commission of the crime by Defendant DAVID MURPHY, aka, David Mark Murphy driving
8 co-conspirators to scene and/or acting as a lookout and/or by acting as the “get away” driver,
9 SUMMER LARSEN identifying JOSEPH LARSEN’s home as a target and/or meeting with
10 the co-defendants and/or unidentified co-conspirators to plan the robbery of JOSEPH
11 LARSEN and/or MONTY GIBSON, and JORGE MENDOZA and/or ROBERT FIGUEROA
12 and/or JOSEPH LAGUNA going to the residence with weapons to rob JOSEPH LARSEN
13 and/or MONTY GIBSON, one of the conspirators breaking open the front door to the
14 residence, thereafter, JOSEPH LARSEN shooting at the JORGE MENDOZA and ROBERT
15 FIGUEROA and/or JOSEPH LAGUNA to prevent the taking of the property, JORGE
16 MENDOZA and/or other conspirators returning fire at JOSEPH LARSEN, the co-conspirators
17 acting in concert throughout and/or (3) a conspiracy to commit this crime.

18 DATED this 28th day of May, 2015.

19 STEVEN B. WOLFSON
20 Clark County District Attorney
21 Nevada Bar #001565

22 BY


23 MARC DIGIACOMO
24 Chief Deputy District Attorney
Nevada Bar #6955

25 ENDORSEMENT: A True Bill

26 
27 _____
28 Foreperson, Clark County Grand Jury

Names of witnesses testifying before the Grand Jury:

BRENING, JUSTIN, UNKNOWN ADDRESS

DAY, ROGER, c/o CCDA/VWAC, 200 LEWIS AVE., LVN

DUTRA, DR. TIMOTHY, CCME, 1704 PINTO LN., LVN

FIGUEROA, ROBERT, UNKNOWN ADDRESS

HALL, ASHLEY, 6401 BAMBOO PL., LVN

JENSEN, BARRY, LVMPD P#3662

LARSEN, JOSEPH, c/o CCDA/VWAC, 200 LEWIS AVE., LVN

LARSEN, STEVEN, c/o CCDA/VWAC, 200 LEWIS AVE., LVN

WILLIAMS, TOD, LVMPD

Additional witnesses known to the District Attorney at time of filing the Indictment:

ESTAVILLO, MICHELLE, 1219 WESTLUND DR., LVN

GIBSON, LATONYA, c/o CCDA/VWAC, 200 LEWIS AVE., LVN

MENDOZA, AMANDA, 1219 WESTLUND DR., LVN

ROWE, TRACY, c/o CCDA/VWAC, 200 LEWIS AVE., LVN

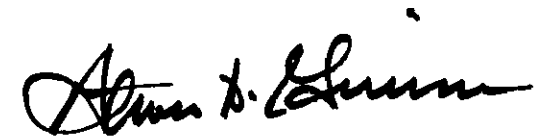
SALGADO, RENEE, c/o CCDA/VWAC, 200 LEWIS AVE., LVN

WALKER, GENE, c/o CCDA/VWAC, 200 LEWIS AVE., LVN

14BGJ019ACDE/14F14997ACDE/dd-GJ

LVMPD EV# 140921-3020

(TK12)



CLERK OF THE COURT

RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

VS.

JOSEPH LAGUNA,

Defendant.

CASE NO. C-15-303991-5

DEPT. V

BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

WEDNESDAY, SEPTEMBER 7, 2016

ROUGH DRAFT TRANSCRIPT OF PROCEEDINGS RE:

DEFENDANT'S MOTION IN LIMINE TO CONCEAL DEFENDANT'S TATTOOS

APPEARANCES:

For the State:

MARC DiGIACOMO, ESQ.,
AGNES M. LEXIS, ESQ.,
Chief Deputy District Attorneys

For the Defendant, Mendoza:

WILLIAM L. WOLFBRANDT, ESQ.,

For the Defendant, Murphy:

CASEY A. LANDIS, ESQ.,

For the Defendant, Laguna:

MONIQUE A. McNEILL, ESQ.,

RECORDED BY: LARA CORCORAN, COURT RECORDER

1 **LAS VEGAS, NEVADA; WEDNESDAY, SEPTEMBER 7, 2016**

2 [Proceeding commenced at 9:27 a.m.]

3
4 THE COURT: Case number C303991, State of Nevada versus Jorge
5 Mendoza, David Murphy and Joseph Laguna -- Laguna. Just state your
6 appearances for the record.

7 MR. DiGIACOMO: Marc DiGiacomo and Agnes Lexis for the State.

8 MR. LANDIS: Casey Landis for Mr. Murphy.

9 MS. McNEILL: Monique McNeill for Mr. Laguna.

10 MR. WOLFBRANDT: Good morning. Lou Wolfrandt for Mr. Mendoza.

11 THE COURT: All right. And so this is on two things, calendar call and
12 there's a motion in limine by Mr. Laguna to conceal his tattoos. All right. So
13 shall we take the latter first?

14 MR. DiGIACOMO: There's two motions for Mr. Laguna that were set by
15 OST.

16 MS. McNEILL: Just one. Was it the -- the motion in limine is still on for
17 the first day of trial. I didn't move it up 'cause I didn't think it really affected
18 our prep.

19 MR. DiGIACOMO: Okay. All right.

20 MS. McNEILL: We can probably --

21 MR. DiGIACOMO: All right. Well, Ms. McNeill and I worked out the other
22 motion anyways so we can make the representations for the record as to what
23 we're going to do with that.

24 THE COURT: Okay. Let's do that. So -- oh, what about this one, tattoo
25 motion 'cause I don't have an opposition? I know it was filed on an order

1 shortening time.

2 MR. DiGIACOMO: It was and as I discussed --

3 THE COURT: What's the State's position?

4 MR. DiGIACOMO: -- with Ms. McNeill, I mean, I don't see this is an
5 evidentiary issue as -- as it relates -- and I don't see it as anything that I'm
6 presenting as evidence. And so I don't know, you know, the position that take
7 has nothing to do with the actual case. It's more with the Court controlling
8 your calendar in a time period it would take and the amount of delay that's
9 associated with it.

10 I looked at Mr. Laguna today and I don't see anything there that
11 would -- it's not like he had a Swastika on him or a tear drop or something
12 that's going to cause some sort of issue. But I would note in the one case that
13 that happened, it was during jury selection when they couldn't get a fair and
14 impartial jury that the decision was made by the Court to do that. I'm not sure
15 what authority there is to require it.

16 THE COURT: I did have my law clerk research the authorities since there
17 really none cited in the motion itself. And there -- all of the law and other
18 jurisdictions on this basically deals with either situations where identification
19 potentially is involved or -- but -- but you're right. This is not an evidentiary
20 matter. You're not presenting it. It just happen -- happens to be how he looks
21 so I liken it to well, okay, what if there are people that don't like redheads. Are
22 we going to have him dye his hair? I mean, he looks what he looks like.

23 And so I don't -- most of his tattoos can be concealed by way of a
24 long shirt and tie. I mean, which you're going to put him in any way.

25 MS. McNEILL: Yes, Your Honor.

1 THE COURT: So the only thing -- and I can't see his -- what is on his
2 face? Because you didn't describe the tattoos in your motion, so I had no idea.

3 DEFENDANT, LAGUNA: It's a teardrop and three dots. And on the side
4 is letters.

5 THE COURT: Okay.

6 MS. McNEILL: And, Your Honor, just for the record, he has a Federal
7 Public Defender and this is something that they do routinely in the Feds and the
8 Prosecutors don't oppose it. It's just a matter -- it's sort of a matter of course
9 because I mean it's different than just somebody not liking a hair color. I think
10 that jurors tend to associate face tattoos with gang membership. And I think
11 that makes it a little more prejudicial especially since it's not an element of the
12 case of whether or not he's in a gang. And I think it just makes the jurors tend
13 to come in with more a prejudice than they would have when he comes into the
14 courtroom.

15 I don't think it's that lengthy of a process. His facial tattoos are not
16 as [indiscernible] --

17 THE COURT: How is it you're proposing 'cause you don't say anything
18 about that as to how this will be done? You know, are you going to pay for it?

19 MS. McNEILL: Well, Your Honor, I talked to -- Mr. Figler had this come
20 up in a case where the -- I think it was in front of Judge Scotti where they
21 granted it and he had a makeup artist who comes in the jail. Apparently prefers
22 that it'd be done here instead of over in the jail because then they have to
23 facilitate getting that person inside the module. There's a makeup artist who
24 comes in and just puts cover up on. I don't think it's -- would be a lengthy
25 procedure. She can come in and do it in the courtroom the morning of -- you

1 know , every morning she can come in and do that. I don't think -- I mean, it
2 wouldn't take that long to cover it.

3 THE COURT: Well, I don't -- I mean, I don't see that there's -- if his -- if
4 his tattoo was a Swastika, yeah. I can see that because white supremacist-
5 type things, that's going to be extremely difficult to pick a jury. But I don't
6 think there's a showing. And I think it's a bad precedent frankly to say that
7 we're going to start covering up tattoos every time that we have a criminal trial.
8 And so I mean, I don't see that it's necessary. Most of it -- like I say, most of
9 his tattoos can be covered up with clothing and so I haven't found any case law
10 that says that it's a requirement and there's been no showing that the -- that
11 there's prejudice at this point as far as picking a jury.

12 If we -- if that becomes an issue, then we'll look at that, but -- and
13 get a -- get a new panel. But I'm not going to do that because I think it's going
14 to delay the trial and I don't really see the point. So that motion's denied.

15 And what's the other representation about?

16 MR. DiGIACOMO: The other motion was Mr. Figueroa which is the Co-
17 defendant and Mr. Laguna. How they met was in custody --

18 THE COURT: Okay.

19 MR. DiGIACOMO: They were cell mates.

20 THE COURT: Right.

21 MR. DiGIACOMO: I talked to Ms. McNeill about her motion to not
22 mention that fact and my idea was to have Mr. Figueroa indicate I know Mr.
23 Laguna, I've known him for this long and for a period of time I was his
24 roommate. And we'll leave it at that and we won't go anywhere near his
25 custody status unless through cross examination something comes up that

1 would open the door. But certainly we could address that outside the presence
2 with the Court.

3 THE COURT: That would have been what I expected you to resolve
4 because obviously it would be prejudicial for him to mention that otherwise.

5 All right. So -- so may we accelerate that motion --

6 MS. McNEILL: Yes.

7 THE COURT: -- today and get --

8 MS. McNEILL: Yes, Your Honor, please.

9 THE COURT: -- have it solved? Okay. So go ahead and prepare the
10 order --

11 MS. McNEILL: I will.

12 THE COURT: -- for that that you've agreed to that. And obviously
13 probably before Mr. Figueroa testifies, I'll admonish him outside the presence
14 just to remind him. I know you'll have done that, but I always like to.

15 MR. DiGIACOMO: Yes.

16 DEFENDANT, LAGUNA: Your Honor, what the detective too because he
17 says the same thing in his statement in the grand jury he stated that me and
18 Figueroa were cellies --

19 MS. McNEILL: And, Your Honor --

20 DEFENDANT, LAGUNA: -- I'm assuming he's going to say the same thing
21 here.

22 THE COURT: You have a lawyer for this.

23 MS. McNEILL: Your Honor, I have every assurance that Mr. DiGiacomo
24 will not elicit that from the detective either.

25 MR. DiGIACOMO: Right. I think that fact is excluded --

1 THE COURT: Right. I mean, it's --

2 MR. DiGIACOMO: -- from evidence.

3 THE COURT: -- all-encompassing --

4 MR. DiGIACOMO: No witness is going to testify --

5 THE COURT: Right.

6 MR. DiGIACOMO: -- to it.

7 THE COURT: All-encompassing motion in limine in that regard, okay. So
8 that's granted.

9 And calendar call; you ready to go?

10 MR. DiGIACOMO: We are.

11 MR. LANDIS: From my --

12 MS. McNEILL: [indiscernible]

13 MR. LANDIS: I'm sorry. From my position, we have every intent to be
14 ready. Did the Court preside over the hearing yesterday were summarized after
15 the negotiation to testify?

16 THE COURT: Yes.

17 MR. LANDIS: Based on that and based on the timing of it, I intend to
18 bring forth a motion to exclude her. Obviously, it's not in writing today
19 because I was notified at roughly 4 p.m. yesterday that that went down. Both
20 for investigation reasons, for fairness reasons, for statutory notice reasons, she
21 hasn't been properly noticed and I think exclusion is the proper remedy.

22 How this Court wants to address that, I'm not sure because as I
23 said, I didn't have time to put it in writing, but I think it is something righteous
24 for this Court to rule on before we start trial.

25 THE COURT: Right. And what's the State's position? Had she -- she

1 had not been noticed as a witness before, but she was --

2 MR. DiGIACOMO: She was a Co-defendant --

3 THE COURT: -- a Co-defendant.

4 MR. DiGIACOMO: -- she's a Co-defendant. They were on notice of her.
5 They've been given her discovery and immediately upon exiting this courtroom
6 yesterday they were provided the guilty plea agreement. As the Court is aware
7 what Exhibit number 2 is; that is notice of the intent of the State to call the
8 witness. We couldn't give it before her Fifth Amendment privileges were
9 waived. And so immediately upon waiving her Fifth Amendment privilege, we
10 provided them notice.

11 THE COURT: So --

12 MR. LANDIS: I don't --

13 THE COURT: -- so, the issue, of course, is you're certainly aware that
14 she was part of the case and what the allegations against are because you got
15 the whole discovery and you've been on the case for two years. So how are
16 you prejudiced by --

17 MR. LANDIS: Knowing she's a Co-defendant certainly different than
18 knowing she is a testifying witness. Even though they did notice it yesterday,
19 that does not comply with the five-day notice requirement of statute. Further,
20 they could have still noticed a year ago if they wanted to even though she had
21 a Fifth Amendment right and that she might not testify. There's no rule that
22 says you can't notify -- notice witnesses who end up not testifying.

23 How are we prejudiced? In a lot of ways. It's impossible for me to
24 do the investigation necessary between now and trial for her. Step one is
25 phone calls. Jail phone calls especially for a first time offender like her are

1 going to be riddle with exculpatory evidence. I base that on every single case
2 I've ever had whether there's testifying Co-defendant who's been in jail for that
3 amount of time. I've used telephone calls during cross because they always
4 make statements because they just have too much idle time; that's one.

5 Number two, her plea isn't anything that our -- my client's charged
6 with. Her plea is to a separate crime, a completely separate crime that's an
7 uncharged bad act as we stand here today. I don't know a lot about it. I don't
8 know if there's police reports about it. Furthermore, they haven't moved to
9 admit this uncharged bad act which I got to presume they intend to have her
10 testify to. And just to make sure it's clear, there's the charged home invasion
11 robbery that turns into a murder that -- that is this case.

12 Her plea is to conspiring and attempting to rob a completely
13 different house I believe earlier in the day and I'm assuming that 'cause I don't
14 know exactly what she's going to say. Based on that, I don't have any
15 discovery. Furthermore, cellphone data is very important in this case. I now
16 want to look at the cellphone data to see when she's saying this attempt
17 robbery went down and I need to know the details about what she's going to
18 say so I can look at the cellphone data for all of these Defendants and see if
19 they jive with her story. That's impossible to do even today because I don't
20 know any details about her -- her intended story except for what's in the guilty
21 plea which is -- it was an attempt robbery involving all of these Defendants and
22 it occurred to Joseph Larsen's drug dealers house. That's all that's in there.

23 They haven't provided any statement of any proffer. I have to
24 assume they chose not to record that proffer so we wouldn't know exactly
25 what she's saying. So as of today, I don't know those details which makes it

1 impossible to do that investigation. And these aren't fishing expeditions.
2 These aren't thoughts. I mean, these are concrete things that I think is
3 important for us to look into.

4 THE COURT: All right. So if there is -- is there any discovery that would
5 be in connections?

6 MR. DiGIACOMO: No.

7 THE COURT: So there's no --

8 MR. DiGIACOMO: And so that the record --

9 THE COURT: -- recorded statements?

10 MR. DiGIACOMO: -- is absolutely clear, these Defendants were all
11 charged with engaging in a conspiracy to commit robbery on a particular day.
12 During the grand jury testimony there was testimony that the initial house they
13 were going to hit was Joey Larsen's drug supplier when they saw that the drug
14 supplier was not or at least it's in Robert Figueroa's statement when they saw
15 that the drug house that they were going to go to had too many people, they
16 called it off and decided to go back to Joey Larsen's house later that evening.

17 It's all part --

18 THE COURT: Right. That's what I remember.

19 MR. DiGIACOMO: -- and parcel of the conspiracy that's charged in Count
20 1. She pled to that conspiracy. The factual attempt robbery that she pled to
21 was to Joey Larsen's drug supplier based upon what I believe her liability is and
22 the testimony she's going to give. I did request that a transcript be provided,
23 but other than -- of the plea hearing, but she was only asked about that which
24 is what was contained in the indictment that they now have. And other than
25 that, there is no other discovery to give them.

1 Moreover, they have the phone records. They could have done any
2 investigation they wanted to do about Joey Larsen's drug supplier's home at
3 some time previous. This is nothing like if I were three days into trial, I could
4 plead any one of the Defendants and put them on the stand. If they're going to
5 adjoin trial, you have to assume that one of the Co-defendants may decide to
6 testify on their own behalf and particularly one who has no criminal history.

7 Ms. Larsen would likely have testified at trial had she not entered a
8 negotiation. And there wouldn't be any claim that suddenly now I haven't done
9 the investigation I was supposed to do. They don't have any legitimate basis to
10 suggest that one, there's more investigation they can do or two, there's some
11 sort of investigation they should have done before that they didn't do.

12 And so with that I don't see a basis why it is when it's a Co-
13 defendant entering a plea that there should ever be a continuance of the case
14 because they have to assume that person's going to testify in prepping their
15 case already.

16 MR. LANDIS: So notice requirements don't apply because the defense
17 should have an assumption that people are going to testify. There's no basis
18 for that in any statute or case law that I'm aware of.

19 And for them to say that Figueroa testified that they were going to
20 rob Joey Larsen's drug house, it's not in his grand jury testimony. It's not in
21 his proffer. They said he -- they were --

22 THE COURT: Yes, it is. I --

23 MR. LANDIS: -- they said they were going to --

24 THE COURT: -- read the transcript.

25 MR. LANDIS: -- they said they were going to rob a drug house -- a drug

1 house. Point being, you know what that was before yesterday an uncharged
2 bad act that they weren't going to get into 'cause they haven't filed a motion.

3 Now, they're going to bootstrap it in and say they can get it in
4 because Summer Larsen pled to it. To say they're charged with committing a
5 conspiracy to commit robbery of a different house than the Larsen house in this
6 information that our clients are charged with that is a first. It's not true. It's
7 not what they're charged with. They're charged with conspiring to rob Joseph
8 Larsen's house. So to say they're already charged with committing a separate
9 robbery, a separate conspiracy, that's insane.

10 THE COURT: Well okay. My recollection of the grand jury testimony
11 'cause I did read the transcript was that Figueroa said that yes, they were
12 planning on robbing this other house that they, you know, had this information
13 from Summer Larsen. Well, from David Murphy -- the woman that David
14 Murphy was sleeping with; right? Girlfriend, whatever. And that they went
15 over to the house. They planned this to -- to do this robbery, burglary, what
16 have you, they drove up and there were all these people out front and -- and
17 they called it off and went back and hatched the next plan --

18 MR. LANDIS: Certainly.

19 THE COURT: -- which then was partially executed; right? So --

20 MR. LANDIS: I concur with all of that. Here's the huge difference
21 though; what Figueroa couldn't say was whose house it was or where the
22 house was. I have to assume based on the State's theory, Summer Larsen
23 knows where that house is since she told them to go there according to them
24 and because it was her husband's drug supplier.

25 That enables me to do location data search with the cellphone.

1 Something I was unable to do before because Figueroa never said the location
2 or really an accurate time for that matter. But I was with -- but even before we
3 get to that. Understand that wasn't coming in because they didn't file a motion
4 to -- to admit those bad acts. Those are uncharged bad acts. It's a separate
5 robbery. They can say we had a legitimate argument to get it in; that's fine.
6 But as we stand here, they didn't file a motion and that time's passed too.

7 So to overlook that and say hey, since the Co-defendant who's
8 testifying, we don't have to comply with the bad act statute; that doesn't seem
9 to make any sense whatsoever. In effect, they're getting a benefit for being
10 late and the defense is getting penalized. And I don't how that is a proper fair
11 remedy for this Court to impose.

12 MR. DiGIACOMO: All due respect to Mr. Landis, this isn't a bad act. I'm
13 not trying to establish that underlying crime as a separate crime to establish one
14 of the 48.045 Subsection 2. This is the conspiracy. It began that morning and
15 continued through that evening. He's arguing like it's two separate
16 conspiracies. It is one conspiracy and thus, you know, I even want to say it's
17 res gestae 'cause it's not res gestae. That would be a reason to admit another
18 act. This isn't another act. This is the crime that they're charged with; that's
19 it. It's just evidence of the crime.

20 THE COURT: I'm looking at the amended indictment. Is that the last?

21 MR. LANDIS: There's a second superseding.

22 MR. DiGIACOMO: There's a second superseding.

23 THE COURT: The conspiracy charge just says that did willfully,
24 unlawfully and feloniously conspire with each other and/or Robert Figueroa to
25 commit a robbery. It doesn't say as set forth in Count whatever below.

1 MR. LANDIS: But it does say a robbery, not --

2 THE COURT: A robbery; that's right. It does. And I have not ever seen
3 any motion to give adequate notice.

4 MR. LANDIS: It does give adequate notice that they're charged with
5 committing a robbery of Joseph Larsen's house.

6 THE COURT: Well, it doesn't specify that robbery -- I'm sorry. I'm not
7 speaking to the microphone. I'm being chastised.

8 MR. LANDIS: I would argue -- I'm sorry.

9 THE COURT: All right. So it sounds like you need to file a motion and so
10 let's get that on file order shortening time. I'll give you permission to file that
11 without assigned order. So you need to get that filed and we'll set it for
12 hearing on trial. I can keep this trial here. We'll set it for day one. And you
13 need to have it filed. Today's Wednesday already. You need to have it filed by
14 tomorrow.

15 MR. LANDIS: I can expedite things to try to alleviate everybody's
16 weekend. If there's a way we can here it Friday. I'll get it filed by 8 a.m.
17 tomorrow.

18 THE COURT: We gave our courtroom to a short trial 'cause we didn't
19 think we had anything on Friday. But we -- if we can do that, that'd be fine.
20 We could start -- if we can -- Judge -- use Judge Herndon's courtroom. Or
21 we'll find a courtroom. There's lots of courtrooms usually available on Friday.

22 MS. McNEILL: And, Your Honor, can I be heard on behalf of Mr. Laguna?

23 THE COURT: Of course.

24 MS. McNEILL: Thank you. I would concur with Mr. Landis, but one of
25 my issues with Ms. Larsen's testimony and I guess it kind of brings a procedural

1 issue with the trial is, I filed a writ. I don't believe that they can connect my
2 client to the crime independent of Mr. Figueroa. To get to Mr. Figueroa's
3 testimony, the Court disagreed with me, but I think they still have to cross that
4 barrier in front of the jury.

5 I would think that -- and that raises an issue with Ms. Rice's
6 testimony as well. Can they independently connect my client to the crime
7 outside of Ms. Rice's testimony? I would have filed a motion to strike her
8 testimony had I been, you know, known before yesterday that she was
9 absolutely testifying. I don't believe based on my conversations with Mr.
10 DiGiacomo she necessarily has much to say about my client specifically. But
11 again, until she gets on the stand I don't -- I don't know what's going to come
12 out of her mouth.

13 Again, I think procedurally I would ask that they have to present
14 evidence to connect my client to the crime before they even put Mr. Figueroa or
15 Ms. Larsen on the stand. I think that's what the Supreme Court requires. My
16 contention has always been the phone records aren't going to show what they
17 have said that they were going to show. And until that is done, we can't even
18 get to their testimony because they're accomplices.

19 THE COURT: Well, we already --

20 MR. DIGIACOMO: I don't know what's an order of witness rule as it
21 relates to the accomplice testimony. The end of the day if the jury does not
22 believe that the accomplice was corroborated, but I don't have to present the
23 corroborating evidence first. There's no rule of evidence that says that. I think
24 that the witness is on in the order I choose.

25 THE COURT: We -- yeah. It's just got to be there and then the jury, you

1 know , gets instructed about corroboration as well. But we -- you know , we
2 already discussed this in your writ and because you didn't -- the motion was
3 that sufficient evidence wasn't submitted that purpose to -- the purpose of the
4 probable cause finding by the grand jury in the true bill and I disagreed with you
5 as you remember.

6 So, I think since we've gotten passed that that doesn't change the
7 fact that they got to actually put the evidence on and the jury will be instructed
8 and then, of course, if truly there was insufficient evidence to prove that there
9 was no evidence to prove the charge against your client, you file a motion after
10 trial within seven days of the verdict if he was found guilty. You know , that's
11 assuming that the jury found him guilty.

12 So, I think, you know , you can file any motion you'd like. Join in
13 Mr. Landis' motion, but I don't have any real motion in front of me now and I
14 think we've already addressed the issue you're raising previously. And so I
15 don't think we take witnesses out of order all the time, but at the end of the
16 day it's got -- they've got to meet their burden and they've got to comply with
17 the accomplice testimony.

18 MS. McNEILL: And I guess my record is just that I don't think Mr.
19 Figueroa potentially Ms. Larsen's testimony is even admissible until they cross
20 they cross the barrier or have they corroborated independently of their
21 testimony that my client was connected to the crime. I think it -- it's
22 inadmissible testimony until they do that.

23 THE COURT: Well that's -- the case law isn't -- that's not the case law.
24 The case law is you can't -- can't be convicted. It doesn't say it's not
25 admissible. It's not an evidentiary rule. So to the extent this is an oral motion,

1 it's denied.

2 [Colloquy between the Court and the Clerk]

3 MR. DiGIACOMO: I know Judge Herndon doesn't start until 10:30 on
4 Friday 'cause I have a slight of motions in there. Perhaps he would allow you
5 to use his courtroom at 9 a.m.

6 THE COURT: Okay. We're going to go check.

7 MR. DiGIACOMO: One last issue. On Thursday I think it was, late
8 Thursday, Ms. McNeill filed a notice of alibi on behalf of Mr. Laguna. I drafted a
9 brief motion to strike and then I had a conversation with Ms. McNeill. It's my
10 belief that she's not intending to necessarily call the witness, but for the record
11 I wanted to file my motion to strike in case things change in trial. And if they
12 want to raise this, we haven't gotten the type of notice that's required by the
13 statute. I want to be able to preserve that record to make that argument.

14 And so if I could, I'd like to file it in open court. I provided a copy
15 to Ms. McNeill this morning.

16 MS. McNEILL: Your Honor, I did receive that. As Mr. DiGiacomo
17 indicated, I had told him I was withdrawing my notice of alibi witnesses and
18 don't intend to present that witness. I can't foresee a scenario that would --
19 well, I guess you never know what might happen. I don't want to say that. At
20 this point I can't foresee something happening where I would put that witness
21 on.

22 I understand these arguments. I provided a specific as I could base
23 on the information I was provided from the witness. I think based on the
24 statute the Court can still allow it. It's a decision Your Honor can make. But at
25 this point I'm withdrawing that notice.

1 THE COURT: All right. If she is on the record withdrawing the notice,
2 then the Court will order that stricken since she's withdrawing it. Do you want
3 it stricken?

4 MS. McNEILL: That's fine, Your Honor.

5 THE COURT: Okay. So we'll strike her notice because she's --

6 MR. DIGIACOMO: Then this is moot.

7 THE COURT: -- and that makes your opposition moot. Exactly.

8 Just trying to find a courtroom for you so you know where to go
9 and won't be in search. So we won't hold you up anymore, we'll just email
10 you to let you know where we'll be on Friday.

11 MS. McNEILL: Thank you, Your Honor.

12 MR. DIGIACOMO: Thank you, Judge.

13 MR. WOLFBRANDT: Thank you.

14 MS. McNEILL: Otherwise, we are set to start Monday?

15 THE COURT: We are. So you have priority and -- 'cause there's only one
16 other case that's older and it's overflow eligible so I was going to keep this one
17 because my understanding is two weeks; do you think that's a good estimate of
18 how long given our half day except on Fridays?

19 MS. McNEILL: Yes, Your Honor.

20 MR. WOLFBRANDT: Monday we'll be --

21 MR. DIGIACOMO: So would it be 1:30 on Monday?

22 THE COURT: Yes because we have calendar on Monday, so 1:30
23 Monday.

24 What are you -- are you going to style your motion?

25 MR. LANDIS: Motion to exclude.

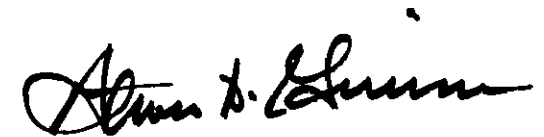
1 THE COURT: Motion to exclude witness.
2 MR. LANDIS: Summer Rice, Summer Larsen aka Rice.
3 THE COURT: So we'll put that on for Friday at 9 and then we'll let you
4 know what courtroom.
5 THE CLERK: Is that L-A-R-S-E-N?
6 MR. LANDIS: Yes.
7 THE CLERK: And that will be Friday, September 9th at 9 a.m.
8 MR. LANDIS: Thank you, Judge.
9 MS. McNEILL: Thank you, Your Honor.
10 THE COURT: Thank you.
11 MR. DiGIACOMO: Thank you.

12 [Proceeding concluded at 9:56 a.m.]
13
14

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

17 ATTEST: Pursuant to Rule 3C(d) of the Nevada Rules of Appellate Procedure, I
18 acknowledge that this is a rough draft transcript, expeditiously prepared, not
19 proofread, corrected or certified to be an accurate transcript.

20 
21 Michelle Ramsey
22 Transcriber
23
24
25



CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,

Plaintiff,

vs.

JORGE MENDOZA,
DAVID MURPHY, a/k/a
DAVID MARK MURPHY,
JOSEPH LAGUNA, a/k/a
JOEY LAGUNA,

Defendants.

.

CASE NO. C-15-303991-1
CASE NO. C-15-303991-4
CASE NO. C-15-303991-5

DEPT. V

**TRANSCRIPT OF
PROCEEDINGS**

BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

JURY TRIAL - DAY 1

MONDAY, SEPTEMBER 12, 2016

APPEARANCES:

FOR THE STATE:

MARC P. DIGIACOMO, ESQ.
AGNES M. LEXIS, ESQ.

FOR DEFENDANT MENDOZA:

WILLIAM L. WOLFBRANDT, ESQ.

FOR DEFENDANT MURPHY:

CASEY A. LANDIS, ESQ.

FOR DEFENDANT LAGUNA

MONIQUE A. McNEILL, ESQ.

COURT RECORDER:

LARA CORCORAN
District Court

TRANSCRIPTION BY:

VERBATIM DIGITAL REPORTING, LLC
Englewood, CO 80110
(303) 798-0890

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

1 LAS VEGAS, NEVADA, MONDAY, SEPTEMBER 12, 2016, 1:29 P.M.

2 (Outside the presence of the prospective jurors)

3 THE COURT: All right. Case No. C-303991. State of
4 Nevada versus Jorge Mendoza, Joey Laguna and David Murphy.
5 And, good afternoon. The record will reflect the presence of
6 all three of the defendants, with their respective counsel.
7 If you'll just state your appearances for the record for the
8 first time.

9 MS. McNEILL: Yes, Your Honor. Monique McNeill on
10 behalf of Mr. Laguna.

11 MR. WOLFBRANDT: And Lou Wolfbrandt for Mr. Mendoza.

12 MR. LANDIS: Casey Landis for David Murphy.

13 THE COURT: Thank you.

14 MR. DiGIACOMO: Marc DiGiacomo and Agnes Lexis on
15 behalf of the State.

16 THE COURT: I'm going to send the Marshal --
17 actually, I already sent him, to go retrieve the jury venire,
18 and we've got 50. Are there any matters outside the presence
19 before we get rolling here?

20 MR. LANDIS: Not from me.

21 MS. McNEILL: No.

22 MR. DiGIACOMO: No.

23 THE COURT: All right. So we'll just be at ease
24 while the Marshal gets the venire.

25 (Off the record at 1:30 p.m. until 1:49 p.m.)

1 (In the presence of the prospective jurors)

2 THE MARSHAL: All members of the venire are present
3 and accounted for, Your Honor.

4 THE COURT: Thank you. Please be seated. And this
5 is Case No. C-303991, State of Nevada versus Jorge Mendoza,
6 David Murphy and Joey Laguna. And the record will reflect the
7 presence of the defendants with their counsel, the Deputies
8 District Attorney prosecuting the case and all officers of the
9 court. Will counsel so stipulate?

10 MS. McNEILL: Yes, Your Honor.

11 MR. LANDIS: Yes.

12 MR. WOLFBRANDT: Yes.

13 MR. DiGIACOMO: Yes, Your Honor.

14 THE COURT: Thank you. Ladies and gentlemen,
15 welcome to Department 5 of the District Court. You've been
16 summonsed here today so you can assist in our choosing a jury
17 panel for this trial. And so, welcome. I know you've been
18 waiting. You got here in the afternoon, I hope, and you
19 haven't been waiting too long. And, of course, Monday it's
20 always better to come in the afternoon than in the morning
21 when all the other jurors are getting here.

22 So ladies and gentlemen, we're going to go through a
23 process that is known as voir dire. And what that means is we
24 ask questions of you all in order to determine whether you are
25 suitable to be serving as fair and impartial jurors in this

1 case. That process is done under oath, so I'd ask you all to
2 please stand and we'll swear in the jury -- or venire.

3 (THE CLERK SWEARS THE PROSPECTIVE JURORS)

4 THE CLERK: Thank you, please be seated.

5 THE COURT: All right. So the first thing I need to
6 find out is if there is anyone who's having difficulty
7 hearing? All right. So we have some headphones. Marshal,
8 did you see who raised their hands?

9 THE MARSHAL: No, ma'am. Yes, sir.

10 THE COURT: Hearing, we've got two.

11 THE MARSHAL: Got two? Okay.

12 THE COURT: All right. Testing, testing. Do I have
13 -- can you hear me loud and clear? No. We've got one.
14 Ma'am, can you hear? No. Okay. Let's try it again.

15 Testing. Marshal, can you hear? Are they on? Are they dead?

16 THE MARSHAL: We just had to turn them up.

17 THE COURT: Okay. Testing, one, two, three, four.

18 UNIDENTIFIED PROSPECTIVE JUROR: Yeah.

19 THE MARSHAL: They're good.

20 THE COURT: Sir, how are you hearing me now?

21 PROSPECTIVE JUROR NO. 636: Good.

22 PROSPECTIVE JUROR NO. 333: They're loud.

23 THE COURT: Five by five?

24 PROSPECTIVE JUROR NO. 333: I'll have to take my
25 hearing aids off.

1 THE COURT: Okay. All right. All right. So ladies
2 and gentlemen, some years ago, our legislature decided that
3 everybody should serve on juries. Before that time, there
4 were lots of excuses. People could get automatic exemptions
5 from service. So if you were a lawyer, you were a doctor, you
6 were a teacher, and there were things that you just kind of
7 automatically got excused from, and that really wasn't a very
8 fair way of doing things.

9 And so the legislature got rid of virtually all, and
10 leaving only two exemptions from jury service. But there --
11 only citizens can serve as jurors. And is there anyone
12 present who is not a citizen of the United States? Please
13 raise your hand. And the record will reflect a negative
14 response.

15 You'll notice that in the courtroom there are these
16 what you might not recognize as microphones, but they are.
17 And the way we keep the record here in court is by a
18 recording. There is an audio/visual recording system. And
19 during the trial, the microphones on the witness box activate
20 the camera there and at counsel table, activate the camera
21 there.

22 The camera never focuses on the jury box so there is
23 a no camera coverage there. And that's intentional. There
24 are a couple of microphones on that front rail there, but
25 that's basically to capture the voices of the attorneys when

1 they address the jury in closing arguments or opening
2 statements.

3 And so, we use a handheld microphone if we need to
4 ask you a specific question and hear your answer, and we use a
5 handheld microphone for that purpose, which the Marshal will
6 get ready for your use. If you're called upon to speak into
7 that microphone, I need you to, every time, state your full
8 name and the last three digits of your badge number that's on
9 your badge you've got there. And that's the way we keep the
10 record.

11 Now, this handheld microphone that you'll see when
12 the Marshal gets it, it's very important that you speak into
13 the microphone. And if you have a tendency to gesture as you
14 speak, that you do that, not with the microphone hand.
15 Gesture with the other hand. Okay? All right? Because if
16 you're doing this, then we can't get it. All right.

17 And so is there anyone who is -- has been convicted
18 of a felony, but not had their civil rights restored so that
19 they're not eligible to serve on a jury? And again, the
20 record will reflect a negative response.

21 So there's those two exemptions I told you about.
22 The first one is this; if you are 70 years of age or older and
23 you do not wish to serve on a jury, you may avail yourself of
24 that exemption. That does not necessarily mean that we don't
25 want you to serve. Of course, if you are qualified to make

1 use of that exemption, but you want to serve, then you don't
2 have to. If you're availing yourself of that exemption --
3 calm down. We have anxious people in the back. That I need
4 you to get your ID out because as I peruse the room, we have a
5 very youthful looking jury panel. Okay. Go ahead. We have
6 one person in the back who's now standing. And give him the
7 microphone.

8 PROSPECTIVE JUROR NO. 439: Name is Paul Edwards.
9 Last three are 439.

10 THE COURT: All right. And you're 70?

11 PROSPECTIVE JUROR NO. 439: Way over 70.

12 THE COURT: Over? You're over --

13 PROSPECTIVE JUROR NO. 439: Over 70.

14 THE COURT: Oh, I wouldn't have been --

15 PROSPECTIVE JUROR NO. 439: Thank you.

16 THE COURT: -- able to tell. So now you've outed
17 yourself as being over 70 when you didn't even need to because
18 you look so young.

19 PROSPECTIVE JUROR NO. 439: Thank you.

20 THE COURT: All right. So you don't want to serve,
21 and now, if you -- you don't necessarily have to do this, but
22 if you don't wish to be called in the future, let the Jury
23 Commissioner know downstairs.

24 PROSPECTIVE JUROR NO. 439: Okay.

25 THE COURT: And you need to check out down there, I

1 think. But also, just let -- because they'll drop you from
2 the rolls, all right?

3 PROSPECTIVE JUROR NO. 439: Okay, Your Honor. Thank
4 you.

5 THE COURT: All right. Thank you. You're excused.
6 We have another gentleman standing in the back.

7 PROSPECTIVE JUROR NO. 333: John Frederick
8 Christensen, 333.

9 THE COURT: Thank you, sir. And you as well are
10 over 70 or --

11 PROSPECTIVE JUROR NO. 333: Yes.

12 THE COURT: -- older?

13 PROSPECTIVE JUROR NO. 333: Yes, ma'am.

14 THE COURT: And you don't wish to serve?

15 PROSPECTIVE JUROR NO. 333: I would like to serve,
16 but my hearing's not that great.

17 THE COURT: All right. And so if you want to be
18 excused permanently from jury service, you need to let the
19 Jury Commissioner know downstairs.

20 PROSPECTIVE JUROR NO. 333: Yes, ma'am.

21 THE COURT: All right. And you'll be excused as
22 well.

23 PROSPECTIVE JUROR NO. 333: Thank you, Your Honor.

24 THE COURT: Thank you. Thank you. Was there anyone
25 else? All right. And the record will reflect a negative

1 response.

2 All right, so the other exemption is this, if you
3 are 65 years of age or older and you live at least 65 miles
4 one way from the courthouse, then you can avail yourself of
5 that. That means you would need to live in either -- you need
6 to be 65 or older and you need to live in either Mesquite or
7 Laughlin. Is there anyone that meets that criteria that wants
8 to take advantage of that? And the record will reflect a
9 negative response.

10 All right. The first thing I'm going to go over
11 with you is the trial schedule because this will come into
12 play later, not immediately. But this trial is expected to
13 last three weeks, and the schedule we keep is one that is not
14 quite the normal schedule, and it's because I also have the
15 Drug Court docket. So I'm in court every morning all morning,
16 not only on my criminal calendar, but on my Drug Court docket,
17 and so I'm doing something else in the mornings except Friday
18 mornings. So the schedule is a more leisurely paced than you
19 might otherwise expect.

20 And that is, we would be starting probably at 1:30
21 every day except Friday, and on Fridays we'd start at 9:00 or
22 possibly 8:30. And we will go until 5:00 every evening and
23 then recess.

24 Now, if we're in the middle of a witness and we're
25 almost done or we're close to finishing something, then we may

1 stay past 5:00. But we stay long past 5:00, because when I
2 finish with the trial, then I have to go back to my office and
3 prepare for several hours for the next morning's calendar. So
4 we can't stay too long. And also staff, you know, is working
5 hard every day and they're with me in the mornings as well,
6 and they need to have their rest.

7 So for those reasons, we're -- we try to adhere to
8 that schedule as best we can. If we get a little behind, we
9 may be flexible slightly within those time parameters that
10 I've described. So the dates that this covers is September
11 12th through September 30th. All right. And that's today
12 through the 30th. All right.

13 So ladies and gentlemen, what I'm going to do is I'm
14 going to have the District Attorney representative who's
15 trying the case, one of them -- I'm not sure who it's going to
16 be. Is it going to be Mr. DiGiacomo who's --

17 MR. DiGIACOMO: Ms. Lexis.

18 THE COURT: Ms. Lexis. Ms. Lexis is going to give
19 you a very brief synopsis of the case, basically, what the
20 charges are and she's going to read to you a list of
21 witnesses. I need you to pay close attention to those list of
22 witness names because you're going to be asked if you know any
23 of those. And this is not argument. This is just basically
24 to -- because you're also going to be asked if you know
25 anything about this case before you came to court today. And

1 so it's important that you have some idea what it is, and
2 that's the purpose of this. Ms. Lexis?

3 MS. LEXIS: Thank you, Your Honor. Good afternoon,
4 everyone. My name is Agnes Lexis. I'm a Chief Deputy
5 District Attorney. This is my co-counsel, Marc DiGiacomo,
6 he's also a Chief Deputy District Attorney. We are the
7 prosecutors who have been assigned to this case.

8 Brief synopsis of the case; on September 21st, 2014,
9 at approximately 8:00 p.m., four men attempted to commit a
10 robbery, burglary, home invasion on a home located at 1661
11 Broadmere. That's in Pecccole Ranch right off of Charleston
12 and Hualapai. Two people were home at the time, Joey Larsen
13 and an individual by the name of Monty Gibson. A gun fight
14 ensued, and Monty Gibson was killed.

15 During our case-in-chief, the State intends to call
16 or anticipates calling in one of the following witnesses: Las
17 Vegas Metropolitan police officer D. Abraham, R. Agin, N.
18 Alexander, C. Alfonso, C. Allen, C. Arnold, A. Baca, A.
19 Bauman, S. Beck, K. Bell, T. Bernard, a lay witness by the
20 name of Elizabeth Bird and also Jeffrey Bonne.

21 A Metro Officer C. Bunn, Metro Officer B. Burns, a
22 crime scene analyst with the last name Charleston -- M.
23 Charlton, a coroner's investigator Aleen Chinn, an officer by
24 the name of B. Choat, D. Chudoba, lay witness Cindy Cruz,
25 several custodians of records from the Clark County Detention

1 Center, a place called EZ Pawn.

2 From Las Vegas Metropolitan Police Department,
3 police officers by the name of D. Darragh, J. David, Roger Day
4 -- or excuse me, Roger Day is a lay witness. An Officer
5 Christopher Donohue, Officer D. Eason, Officer M. Eshe, lay
6 witness Michelle Estavillo, Officer E. Fields, Robert
7 Figueroa, Officer D. Fletcher, Officer J. Giannone, a lay
8 witness by the name of Latonya Gibson, Officer S. Giles, a lay
9 witness by the name of Ashley Hall, Officer A. Hardman,
10 Officer F. Harrison, Officer R. Hart, Officer J. Haynes, FBI
11 special agent S. Hendricks, Officer K. Holloway, a canine
12 handler at Metro, Officer Horn, who handles a canine by the
13 name of Paco.

14 Officer C. Howell, Officer S. Hurley, Officer M
15 Ibarra, Detective Barry Jensen, Officer B. Jones, Officer A.
16 Kazee, Officer M. Kennoy, Officer M. Kovacich, Officer J.
17 Langenhan, Officer M. Lardomita, a witness by the name of Joey
18 Larsen, Steve Larsen, Summer Larsen, Officer C. Lavole,
19 Officer B. Lee, Officer E. Lindberg, Officer C. Loucks,
20 Officer A. Macias, Officer B. Martines, Officer J. McCarthy,
21 Detective McCarthy, an individual by the name of Dan
22 Michalski, Officer C. Mikalonis, Officer J. Miller, Officer J.
23 Milligan, Officer C. Necas, another canine Officer D. Newton,
24 handler to Wilco.

25 Officer M. Nitzel, Officer F. Pacchiega, Officer

1 Page, first initial K. Officer A. Pennucci, Officer R.
2 Peterson, Officer C. Pittit, Officer M. Pluck, Officer K.
3 Prior, a witness by the name of Chandelea Pruse, an AMR
4 employee by the name of N. Reale, Officer C. Reich, Officer H.
5 Rivers, Officer B. Roberts, Officer K. Romane, a witness by
6 the name of Tracy Rowe, and also Renee Salgado.

7 Officer R. Scavone, Officer B. Sette, S-e-t-t-e,
8 Officer W. Smith an AMR employee by the name of A. Snyder,
9 another witness by the name of Gabriel Sotelo, Officer R.
10 Steiber. Actually, Lt. Steiver. Officer R. Theobald, Officer
11 M. Thiele, Officer Gregory Thielen, Officer C. Travis, Officer
12 S. Yarphe, an individual by the name of Gene Walker,
13 Detective Marty Wildemann, Detective Tod Williams, Detective
14 B. Woolard.

15 And, we've got a of witnesses. One of our
16 investigators that works with Mr. DiGiacomo and myself either
17 Ed Dougherty or Ron Acuna. And let's see, a detective by the
18 name of Gino Basilotta, Noreen Charlton, who's a crime scene
19 analyst, custodians of records from several phone companies,
20 AT&T, Cricket, Metro PCS, Neustar, T-Mobile, Verizon Wireless.

21 A medical examiner, Dr. Timothy Dutra, a crime scene
22 analyst by the name of Adam Felabom, another detective Chris
23 Gandy, crime scene analyst Daniel Holstein, firearms examiner
24 James Krylo, firearms examiner Anya Lester, crime scene
25 analyst Kristen Meckler, crime scene analyst Amy Nemcik, crime

1 scene analyst Shelly Shrum, crime scene analyst Joseph
2 Szukiewicz, DNA forensic analyst Jennifer Thomas. Her last
3 name is now Brown. Crime scene analyst Kristina Thomas. And
4 those are all of our anticipated witnesses.

5 THE COURT: And what are the charges that are
6 alleged?

7 MS. LEXIS: Yes, Your Honor. Court's brief
8 indulgence so I make sure I get this right. Your Honor, the
9 charges, according to the Second Superseding Indictment are
10 conspiracy to commit robbery, burglary while in possession of
11 a deadly weapon, home invasion while in possession of a deadly
12 weapon, attempt robbery with use of a deadly weapon and murder
13 with use of a deadly weapon and lastly, attempt murder with
14 use of a deadly weapon.

15 THE COURT: Thank you. And ladies and gentlemen,
16 there are a lot -- it took her a long time to read all those
17 names. And she reads every possible witness who could
18 testify. That doesn't mean that all of those people are going
19 to testify. If they were, I would have told you that the
20 trial was going to take several months, all right.

21 So but we need to let you know all the names so that
22 you can let us know whether you know any of those names.

23 Now the next thing we're going to do is I'm going to
24 have each of the defense lawyers introduce themselves, their
25 clients, and if they have any law partners, to let us know

1 about that so because you're going to be asked if you know any
2 of these lawyers. Mr. Landis, would you like to begin?

3 MR. LANDIS: Thank you. Good afternoon, folks. My
4 name is Casey Landis. Usually when you see a group of
5 attorneys sitting at a table, they're on the same team. Not
6 the case in this trial. Each of us has our own client. We're
7 not on the same team. So the person directly behind me is my
8 client, David Murphy.

9 Beyond those witnesses that the State listed, we
10 intend to call Larry Smith, who's a local forensic expert, and
11 Rick Frankie, who's also an investigator here in town. Thank
12 you.

13 THE COURT: Thank you, Mr. Landis. Mr. Wolfbrandt?

14 MR. WOLFBRANDT: Hi, everyone. Excuse me. My name
15 is Lou Wolfbrandt. I represent Jorge Mendoza. I've had my
16 own private practice for about 25 years now. I have no
17 partners or whatnot, and other than Jorge, I don't anticipate
18 calling any other witnesses.

19 THE COURT: Thank you. Ms. McNeill.

20 MS. MCNEILL: Thank you, Your Honor. My name is
21 Monique McNeill. I represent Mr. Joey Laguna. My potential
22 witnesses are my investigator Craig Retke and Mr. Laguna's
23 wife, Darcy Laguna.

24 THE COURT: Thank you very much. All right. And so
25 the first question I'm going to be asking all -- these next

1 set of questions to everybody, everybody that's already seated
2 in the jury box and then everybody out in the gallery, and
3 what I'm looking for is a show of hands, and I'll follow up
4 with you as necessary, remembering if you are called upon to
5 give a answer, speak into the microphone. First give your
6 full name as well as the last three digits of your badge
7 number.

8 So first question, are any of you acquainted with
9 any of the defendants whose names were read out to you, so
10 Jorge Mendoza, Joey Laguna or David Murphy? Any of those?
11 And the record will reflect a negative response.

12 Are there any of you who are acquainted with any of
13 the defense lawyers in the case? And we have one in the back.
14 We have two, actually.

15 PROSPECTIVE JUROR NO. 416: Good afternoon, Your
16 Honor. Lou Schneider. My badge number is 416.

17 THE COURT: And Mr. Schneider, which of the defense
18 attorneys are you acquainted with?

19 PROSPECTIVE JUROR NO. 416: All of them.

20 THE COURT: All right. And do you think that that
21 will impair your ability to be a fair and impartial juror in
22 this case?

23 PROSPECTIVE JUROR NO. 416: No. Your Honor.

24 THE COURT: Okay. Thank you. Someone in the back.
25

1 PROSPECTIVE JUROR NO. 330: Hello, my name is
2 Preston Miklich, 0330. I know Mr. Wolfbrandt's son. I went
3 to school with him so --

4 THE COURT: All right.

5 PROSPECTIVE JUROR NO. 330: Faith Lutheran.

6 THE COURT: Do you know Mr. Wolfbrandt himself?

7 PROSPECTIVE JUROR NO. 330: Not his -- I wasn't
8 sure. I just wanted to --

9 THE COURT: All right.

10 PROSPECTIVE JUROR NO. 330: Sorry.

11 THE COURT: So do you think that this would impair
12 your ability to be a fair and impartial juror in this case?

13 PROSPECTIVE JUROR NO. 330: I don't think so.

14 THE COURT: You'll be able to set aside your
15 personal relationship with --

16 PROSPECTIVE JUROR NO. 330: Yeah.

17 THE COURT: -- his son?

18 PROSPECTIVE JUROR NO. 330: Yeah.

19 THE COURT: Is that right?

20 PROSPECTIVE JUROR NO. 330: Yes.

21 MR. WOLFBRANDT: What was his name again?

22 THE COURT: Thank you. I'm sorry?

23 MR. WOLFBRANDT: What was his name again?

24 THE COURT: Could you state your name for the
25 record?

1 MR. WOLFBRANDT: Preston Miklich, okay.

2 PROSPECTIVE JUROR NO. 330: Yeah.

3 MR. WOLFBRANDT: I got it.

4 PROSPECTIVE JUROR NO. 330: Preston Miklich.

5 THE COURT: Mr. English?

6 PROSPECTIVE JUROR NO. 330: Miklich.

7 THE COURT: Miklich. Okay.

8 PROSPECTIVE JUROR NO. 330: Yes.

9 THE COURT: Okay, thank you.

10 PROSPECTIVE JUROR NO. 330: Thank you.

11 THE COURT: And there was no one else? All right.

12 The record will reflect no further responses. Are there any
13 of you who are acquainted with either of the Deputies District
14 Attorney prosecuting the case, Mr. DiGiacomo or Ms. Lexis?

15 PROSPECTIVE JUROR NO. 416: Again, Your Honor, Louis
16 Schneider, Badge No. 416. I know both of these Chief Deputy
17 District Attorneys. That would not keep me from being fair
18 and impartial.

19 THE COURT: Okay. As for your relationship with all
20 the attorneys, do you have any personal social relationships
21 with any of them?

22 PROSPECTIVE JUROR NO. 416: No. Your Honor.

23 THE COURT: These are all professional relationships
24 because you're a lawyer?

25 PROSPECTIVE JUROR NO. 416: That's correct, Your

1 Honor.

2 THE COURT: All right. Thank you very much.

3 PROSPECTIVE JUROR NO. 416: Thank you, Your Honor.

4 THE COURT: All right. Okay. Are there any of you
5 who believe you may be acquainted with any of the witnesses?
6 And I know there were a lot, but as you were hearing them and
7 many of them you only heard the last name, but is there anyone
8 who believes that they may know one of the witnesses? We
9 have --

10 PROSPECTIVE JUROR NO. 416: Again, Your Honor, I
11 know some of the detectives. I know the -- oh, sorry, Louis
12 Schneider, 416. I know some of the detectives. I know some
13 of the -- he know both of the investigators for the District
14 Attorneys Office, and no, it would not keep me from rendering
15 a fair and impartial verdict, Your Honor.

16 THE COURT: Thank you.

17 PROSPECTIVE JUROR NO. 416: Thank you, Your Honor.

18 THE COURT: And we have a gentleman in the back on
19 this side.

20 PROSPECTIVE JUROR NO. 326: Mark Petrasich, 326. I
21 know Horn, Hart and Pennucci from Metro PD. I also -- well, I
22 served on the 137th MP Unit so I worked with a lot of them
23 hand-in-hand.

24 THE COURT: All right. Do you think that you could
25 be a fair and impartial juror in this case?

1 PROSPECTIVE JUROR NO. 326: I do.

2 THE COURT: All right. So you can set aside the
3 fact that you know them and --

4 PROSPECTIVE JUROR NO. 326: Yes, ma'am.

5 THE COURT: -- judge their testimony in the same way
6 you would any other witness --

7 PROSPECTIVE JUROR NO. 326: Yes, ma'am.

8 THE COURT: -- if they testify?

9 PROSPECTIVE JUROR NO. 326: Yes, ma'am.

10 THE COURT: Thank you. All right. Okay. All
11 right, so the next question I'm going to ask you, I've got a
12 -- a kind of lengthy introduction to this first. And the
13 question -- don't raise your hand yet, but it's going to be
14 whether you have any reason that you can't serve for the time
15 period on the schedule that I've outlined for you, that being
16 September 12th through the 30th on that schedule, which is
17 basically afternoons on Monday through Thursday and all day on
18 Fridays.

19 Before you answer that, I know that obviously,
20 that's a long time, that there are sometimes trials that take
21 less time. There are trials that take longer. We have trials
22 that go to trial in this courthouse that take several weeks,
23 you know, more than a couple of months. We've had -- we had
24 one trial that was scheduled to last a year.

25 So the fact that just that you work and that your

1 boss will miss you, that doesn't really cut it. If you have
2 some financial hardship, you're going to need to articulate
3 what that is. There is a lot of employers in Las Vegas do pay
4 their employees for jury service. I'm talking about large
5 employers like the school district, the state, the county,
6 most of the large gaming employers, the phone company, the
7 power company.

8 So these types of employers pay their -- because
9 they're good corporate citizens, they pay their employees for
10 jury service. So don't -- if you haven't inquired, I mean,
11 you should have inquired of your employer when you got your
12 summons about that issue. So if you haven't, let me know
13 whether you have or haven't, if you're going to make a
14 hardship argument.

15 So some of the things that I absolutely want to know
16 about is, if you are expected to have a baby in the next three
17 weeks, then I need to know about that. If you are scheduled
18 to have surgery during the next three weeks, then I need to
19 know about that. If you're scheduled to have surgery on the
20 fourth week, but you need to go in and have your work-up to
21 make sure that you can withstand the surgery, you know, the
22 routine cardio, et cetera, for surgery, then, you know, I need
23 to know about that. Or if you have some type of medical
24 appointment with a specialist that you scheduled and you've
25 been trying to get into and have been waiting. I'm not

1 talking about routine physicals, but you can reschedule those,
2 but those.

3 The other thing would be if you have a fabulous
4 prepaid vacation that you have tickets for, reservations for.
5 Of course, all of us who will be in court working hard will be
6 jealous, but we understand, and we want to know about that.
7 Those are just some examples of things that, you know, we will
8 consider if you're asking to be excused.

9 It's not an all-inclusive list because I don't know
10 what your individual circumstances are. I would just say
11 this, it is very important to all of the participants in this
12 trial that we get a fair and impartial jury. Our system of
13 justice could not work without people who are willing to serve
14 as fair and impartial jurors in these types of cases and all
15 of the cases where we need juries in this courthouse.

16 And so it's one of the ways that you can serve your
17 country short of military service is by serving on a jury, and
18 it's one of the things that people who are citizens look at as
19 a right. A right to be able to serve on a jury. So I would
20 encourage your participation if you can possibly do so.

21 Now, this is how we approach that. When I ask the
22 question, you'll raise your hand. We'll start with taking the
23 folks in the box starting at the -- we take it in order of how
24 you're seated, and so we go through that way and you'll tell
25 me what your excuse is. I will take notes and then I will go

1 to the next person until we get to the end.

2 And then depending on how many people it is, we will
3 probably either take a break or I will confer with counsel at
4 the bench. We will as a group decide who will be excused and
5 who will not, but I don't make the decision at the time. So I
6 have to hear it from everybody first.

7 All right. So that long introduction being done,
8 now I pose the question, is there anyone who feels that they
9 could not possibly serve for the next three weeks on the
10 schedule that I've outlined? Please raise your hands.

11 THE MARSHAL: Name and badge number, everybody.

12 PROSPECTIVE JUROR NO. 240: Dallas Duncan, 240. I
13 just recently got employed to a new job, and I live by myself
14 so I pay my rent, and I'm not too sure if the payment will
15 subside my rent. So I have to actually check in with my
16 employers as well.

17 THE COURT: Who is your employer?

18 PROSPECTIVE JUROR NO. 240: Frias Company, the
19 transportation.

20 THE COURT: And you haven't checked with them? You
21 don't know whether they --

22 PROSPECTIVE JUROR NO. 240: No, I haven't. I'm
23 sorry.

24 THE COURT: Okay. So you're going to need to do
25 that when we go ahead and break. And how long have you been

1 employed with them?

2 PROSPECTIVE JUROR NO. 240: About a week now.

3 THE COURT: And you live alone, you say? You're
4 your sole support?

5 PROSPECTIVE JUROR NO. 240: Yes.

6 THE COURT: Thank you. Next.

7 PROSPECTIVE JUROR NO. 242: David Bishop, 242. I
8 have a medical procedure scheduled. I'm also over 70. Am I
9 clear to just do that?

10 THE COURT: All right. So do you just want to take
11 advantage of the fact that you're over 70 for today?

12 PROSPECTIVE JUROR NO. 242: That might be the
13 easiest way to do it.

14 THE COURT: All right. So you're excused.
15 Although, as I say, you don't look over 70, but I'll take your
16 word for it.

17 PROSPECTIVE JUROR NO. 242: Do you want to see my
18 license?

19 THE COURT: Well, you're under oath so if we find
20 otherwise, you'll be in big trouble. All right. You're
21 excused. Thank you, sir.

22 PROSPECTIVE JUROR NO. 246: Gerry Steward, 580
23 (sic). My employer will not pay me to be out for three weeks,
24 and I live by myself, and there's no way I'll be able to
25 afford to pay my bills.

1 THE COURT: Who's your employer?

2 PROSPECTIVE JUROR NO. 246: My employer is Motech.

3 THE COURT: What is it?

4 PROSPECTIVE JUROR NO. 246: It's called Motech.

5 THE COURT: Motech? How do you spell that?

6 PROSPECTIVE JUROR NO. 246: M-o-t-e-c-h.

7 THE COURT: Okay. What do you do for them?

8 PROSPECTIVE JUROR NO. 246: I am an auto mechanic.

9 THE COURT: And you've already checked with your
10 employer and they don't you when you're in --

11 PROSPECTIVE JUROR NO. 246: He will not pay me for
12 days off, no, he will not.

13 THE COURT: Okay. Even when it's jury service?

14 PROSPECTIVE JUROR NO. 246: Um-h'm.

15 THE COURT: Is that correct?

16 PROSPECTIVE JUROR NO. 246: That is correct.

17 THE COURT: Thank you. And do you live alone?

18 PROSPECTIVE JUROR NO. 246: Yes, I do.

19 THE COURT: Thank you. Next.

20 PROSPECTIVE JUROR NO. 252: Erik Wirtner, Badge 252.
21 I have a business trip planned from the 21st through the 23rd
22 of this month that requires me to leave.

23 THE COURT: Where do you work?

24 PROSPECTIVE JUROR NO. 252: I work here locally.

25 THE COURT: Okay. Where? For who?

1 PROSPECTIVE JUROR NO. 252: Oh, I work for Chase
2 Bank down at Howard Hughes.

3 THE COURT: All right. So you have a business trip,
4 and what do you do for Chase Bank?

5 PROSPECTIVE JUROR NO. 252: I'm a manager.

6 THE COURT: What's the nature of this business trip?

7 PROSPECTIVE JUROR NO. 252: I believe, it's a
8 manager's meeting. They usually give us the agenda when we
9 get there. Meaning, just go over directives and things like
10 that. I don't have the actual agenda, but --

11 THE COURT: Okay. So you --

12 PROSPECTIVE JUROR NO. 252: People in my similar
13 position from all over the company come in to -- we're going
14 into Phoenix for three days.

15 THE COURT: Okay. So you could be briefed on that?

16 PROSPECTIVE JUROR NO. 252: I could, Your Honor.

17 THE COURT: Okay.

18 PROSPECTIVE JUROR NO. 252: If it would please the
19 Court, I could ask for an excusal.

20 THE COURT: Okay. Okay. All right, thank you.

21 PROSPECTIVE JUROR NO. 259: Name is James Pirih, 809
22 (sic), and I can't do it. I have --

23 THE COURT: What's your badge number?

24 PROSPECTIVE JUROR NO. 259: 809.

25 THE COURT: Nope.

1 MR. WOLFBRANDT: 259.

2 THE COURT: We don't --

3 PROSPECTIVE JUROR NO. 259: Oh, wait a minute. Oh,
4 wait, 259. 259.

5 THE COURT: 259, all right. Thank you. Go ahead.

6 PROSPECTIVE JUROR NO. 259: I got a passage booked
7 on the Queen Mary next week from London to New York.

8 THE COURT: Is there a new Queen Mary that's
9 sailing?

10 PROSPECTIVE JUROR NO. 259: Queen Mary 2.

11 THE COURT: Oh, okay.

12 PROSPECTIVE JUROR NO. 259: Yeah. And it's already
13 been paid and booked and everything's set up.

14 THE COURT: Pleasure trip, I take it?

15 PROSPECTIVE JUROR NO. 259: Yes.

16 THE COURT: Thank you.

17 THE MARSHAL: Anyone else? Raise your hand, please.

18 PROSPECTIVE JUROR NO. 287: Josh Hoepfner, 287.

19 THE COURT: All right. Yes, sir?

20 PROSPECTIVE JUROR NO. 287: I run my own business.

21 I will be -- I have coverage right now, but I have -- well, my
22 other coverage is actually leaving in two weeks for a business
23 trip. And I also have three kids that I take care of. Me and
24 my wife, we -- our schedules we have differently to take care
25 of the children. I have a five-year-old, a one-year-old and a

1 four-month-old.

2 THE COURT: Okay. So the business, that's your
3 employment?

4 PROSPECTIVE JUROR NO. 287: Yes.

5 THE COURT: Your sole employment is your own
6 business. And what kind of business is it?

7 PROSPECTIVE JUROR NO. 287: I run a custom shop,
8 wheel and tire shop.

9 THE COURT: Did you say it's a custom tire shop?

10 PROSPECTIVE JUROR NO. 287: Yeah. Like, a custom
11 shop. Wheels and tires and like custom fabrications, stuff
12 like that.

13 THE COURT: Oh, do you -- I didn't know that you
14 could get custom tires. Really? I thought it was like tires
15 were manufactured by big manufacturers.

16 PROSPECTIVE JUROR NO. 287: Yeah, I import them.

17 THE COURT: Oh, okay. So you're not manufacturing
18 them? You just order them for special things; is that right?

19 PROSPECTIVE JUROR NO. 287: Yes.

20 THE COURT: Oh, okay. And you don't have employees
21 that can cover for you?

22 PROSPECTIVE JUROR NO. 287: Not for my position, no.

23 THE COURT: What -- and what do you do? Do you
24 run --

25 PROSPECTIVE JUROR NO. 287: I'm the general manager.

1 I do all the sales, basically.

2 THE COURT: Does your wife work in the business?

3 PROSPECTIVE JUROR NO. 287: No, she does not.

4 THE COURT: Does she work at all?

5 PROSPECTIVE JUROR NO. 287: Yes. She works full
6 time.

7 THE COURT: Okay. Where does she work?

8 PROSPECTIVE JUROR NO. 287: At a tool store.

9 THE COURT: And could she support your family on
10 just her salary?

11 PROSPECTIVE JUROR NO. 287: Yes.

12 THE COURT: Thank you. And who's next?

13 PROSPECTIVE JUROR NO. 302: Tecleab Toumizghi. My
14 badge number is 302. The main problem is English is like my
15 fourth language. I can't catch up what people says. I think
16 I'm not qualified to be a jury.

17 THE COURT: Okay.

18 PROSPECTIVE JUROR NO. 302: I don't understand well
19 English.

20 THE COURT: What is your first language?

21 PROSPECTIVE JUROR NO. 302: Tigragna.

22 THE COURT: Could you spell this for us. The court
23 recorder doesn't -- your language.

24 PROSPECTIVE JUROR NO. 302: T-i-g-r-a-g-n-a (sic).

25 THE COURT: Okay. How long have you lived here in

1 Las Vegas?

2 PROSPECTIVE JUROR NO. 302: About five years.

3 THE COURT: Okay. And how about in the country?

4 PROSPECTIVE JUROR NO. 302: Until 23.

5 THE COURT: Twenty-three years?

6 PROSPECTIVE JUROR NO. 302: Yeah.

7 THE COURT: And you're a citizen?

8 PROSPECTIVE JUROR NO. 302: Yeah, I'm a citizen.

9 THE COURT: Okay. And what do you do for a living?

10 PROSPECTIVE JUROR NO. 302: I'm driving a taxi.

11 THE COURT: Okay. Who do you drive for?

12 PROSPECTIVE JUROR NO. 302: Frias Company.

13 THE COURT: I'm sorry, what was it?

14 PROSPECTIVE JUROR NO. 302: Frias Company.

15 THE COURT: Okay. And are you married?

16 PROSPECTIVE JUROR NO. 302: Yeah, I'm married.

17 THE COURT: How many children -- what does your wife
18 do for a living?

19 PROSPECTIVE JUROR NO. 302: Well, my wife, she will
20 be come after a week from Africa.

21 THE COURT: She'll become after a week what?

22 PROSPECTIVE JUROR NO. 302: She's coming after a
23 week.

24 THE COURT: Oh, she's coming, okay. And do you have
25 any children?

1 PROSPECTIVE JUROR NO. 302: Not yet.

2 THE COURT: Okay. So do you speak with your
3 customers in the cab?

4 PROSPECTIVE JUROR NO. 302: Yes, I do.

5 THE COURT: Have you been having any trouble
6 understanding what's being said up to this point?

7 PROSPECTIVE JUROR NO. 302: Well, if people are
8 talking fastly, I can't catch up. Of course, I get a little
9 trouble.

10 THE COURT: All right. All right, so we'll keep
11 track of this, and so far you seem to be doing pretty well,
12 but we'll take this into account. Did you have any other
13 reason besides your language that you could not attend?

14 PROSPECTIVE JUROR NO. 302: No. Just the language
15 and my wife, she will come, too, after a week. That's it.

16 THE COURT: Okay. Where is she coming from?

17 PROSPECTIVE JUROR NO. 302: From Ethiopia.

18 THE COURT: Okay. Thank you. Next.

19 PROSPECTIVE JUROR NO. 311: Hi. My name is Kevin
20 Guersey, Badge No. 311. Ma'am, my fiancé is pregnant, and
21 she's due October 1st, and she's already showing signs of
22 giving birth so I'm just asking if it's possible to be
23 excused.

24 THE COURT: All right. So fiancé?

25 PROSPECTIVE JUROR NO. 311: Yes, ma'am.

1 THE COURT: Not wife.

2 PROSPECTIVE JUROR NO. 311: Yes, ma'am.

3 THE COURT: Okay. And October 1st, did you say?

4 PROSPECTIVE JUROR NO. 311: Yes.

5 THE COURT: And you're expected to be there?

6 PROSPECTIVE JUROR NO. 311: What is that?

7 THE COURT: The delivery, she wants you --

8 PROSPECTIVE JUROR NO. 311: Yeah.

9 THE COURT: -- to be there?

10 PROSPECTIVE JUROR NO. 311: She would like me to be
11 there, yeah. And just in case for emergency so I could drive
12 her --

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NO. 311: -- from home.

15 THE COURT: All right. So you live with her and
16 you're the one that's going to take her to the hospital?

17 PROSPECTIVE JUROR NO. 311: Yes, ma'am.

18 THE COURT: Okay. Thank you. Next.

19 PROSPECTIVE JUROR NO. 330: My name is Preston
20 Miklich, 330. I'm a full-time college student and I also just
21 recently was hired at Apple. And the next few weeks was
22 supposed to be my training period. They were supposed to --
23 my background check just went through so they were supposed to
24 give me a call or they're going to give me a call within the
25 week so I can't really have my phone off.

1 THE COURT: So full-time student where?

2 PROSPECTIVE JUROR NO. 330: CSN.

3 THE COURT: How many units are you carrying?

4 PROSPECTIVE JUROR NO. 330: Fifteen.

5 THE COURT: And what days do you have class?

6 PROSPECTIVE JUROR NO. 330: Monday and Wednesday.

7 And then I have two online classes.

8 THE COURT: All right. Who's next?

9 PROSPECTIVE JUROR NO. 332: Justin Volpone, 332. I
10 have a business trip scheduled for this week, actually. I'm
11 scheduled to leave on a plane tonight at 7:00 o'clock and
12 return on Thursday evening. Scheduled by my company.

13 THE COURT: Who do you work for?

14 PROSPECTIVE JUROR NO. 332: I work for ADT Security,
15 home alarm company.

16 THE COURT: And where is the business trip to and
17 what's the purpose of the --

18 PROSPECTIVE JUROR NO. 332: So I'm a sales manager
19 for Nevada, so I have to go and visit my second office in Reno
20 once a month. So I'll be going to Reno.

21 THE COURT: All right. But you could reschedule
22 that?

23 PROSPECTIVE JUROR NO. 332: Well, the flights are
24 unrefundable, and I would have to pay for the flight out of my
25 own pocket, and the whole trip's about a thousand dollars. I

1 could reschedule it, yes, but we would be out a thousand
2 dollars. I don't want to pay for that myself.

3 THE COURT: But your employer pays for you to go on
4 this, right?

5 PROSPECTIVE JUROR NO. 332: Correct, but if we
6 cancel something or we lose a receipt or whatever, we are
7 responsible for it ourselves. The company won't pay for it
8 because we made the mistake or whatever the case might have
9 been.

10 THE COURT: Well, but if you were ordered by the
11 Court to be here, that's a little different than you just
12 saying --

13 PROSPECTIVE JUROR NO. 332: Yeah.

14 THE COURT: -- oh, I don't want to go.

15 PROSPECTIVE JUROR NO. 332: True, yeah.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NO. 332: I'm just trying to be
18 cautionary though. I have a thousand dollars to pay for it.

19 THE COURT: Why is it a thousand dollars?

20 PROSPECTIVE JUROR NO. 332: Airfare, hotel and
21 rental car.

22 THE COURT: Are you -- what kind of --

23 PROSPECTIVE JUROR NO. 332: It's four days.

24 THE COURT: -- plane are you taking?

25 PROSPECTIVE JUROR NO. \$332,380 just to get to Reno

1 plus the hotel, airfare -- or the airfare and the rental car.

2 THE COURT: When is this trip?

3 PROSPECTIVE JUROR NO. 332: I'm scheduled to leave
4 tonight at 7:10, and then I return Thursday evening at 8:30.

5 THE COURT: And when did you schedule this trip?

6 PROSPECTIVE JUROR NO. 332: I believe, it was about
7 two to three weeks ago.

8 THE COURT: And when did you get your Jury Summons?

9 PROSPECTIVE JUROR NO. 332: I believe, it was after
10 that or before -- yeah, before that, sorry. So I had the jury
11 beforehand, yes.

12 THE COURT: So you scheduled a trip --

13 PROSPECTIVE JUROR NO. 332: Put the dates together
14 until after it was scheduled.

15 THE COURT: You scheduled a trip when you had jury
16 service?

17 PROSPECTIVE JUROR NO. 332: Forgot about it, yeah.

18 THE COURT: Okay. Who's next?

19 THE MARSHAL: Anyone in the front row? Back here?

20 PROSPECTIVE JUROR NO. 416: Your Honor, I hate to do
21 this but may I -- Lou Schneider, 416. May I approach the
22 bench, please?

23 THE COURT: All right.

24 PROSPECTIVE JUROR NO. 416: Thank you.

25 (Off-record bench conference)

1 THE COURT: Step back. Okay. Who else?

2 PROSPECTIVE JUROR NO. 440: Michael Speer, 440.

3 THE COURT: Okay. Go ahead.

4 PROSPECTIVE JUROR NO. 440: Transportation mostly.

5 As of today, I've had somebody take me here and somebody
6 picking me up, afterwards a different person. I'm retired now
7 and I don't have a vehicle.

8 THE COURT: Okay. What part of town do you live in?

9 PROSPECTIVE JUROR NO. 440: Southwest.

10 THE COURT: So how do you get around to do, you
11 know, all the wonderful things we all plan to in retirement?

12 PROSPECTIVE JUROR NO. 440: Well, I live -- I live
13 kind of in an area that has -- has decent stores. Plus, I
14 live in a senior center so they have a lot of things where
15 they take buses and go different places if I have to do that.
16 Or I have friends there as far as an if I needed something
17 like for a doctor appointment or something like that.

18 THE COURT: And do you ever take the bus?

19 PROSPECTIVE JUROR NO. 440: Pardon me?

20 THE COURT: You ever take the bus?

21 PROSPECTIVE JUROR NO. 440: No. Just the buses that
22 are at the senior centers.

23 THE COURT: Okay. So you haven't looked into what
24 taking the bus would entail?

25 PROSPECTIVE JUROR NO. 440: I have not.

1 THE COURT: All right. Anybody else? All right.
2 So we're going to take a ten-minute recess, and during which
3 we'll discuss who will be excused and who will not.

4 Now, every time you take a recess, I need to read to
5 you this admonishment. So, ladies and gentlemen, we're going
6 to take a ten-minute recess. During this recess, it is your
7 duty not to converse among yourselves or with anyone else on
8 any subject connected with the trial or to read, watch or
9 listen to any report on the trial or commentary on the trial
10 by any person connected with the trial or by any medium of
11 information, including without limitation, newspaper,
12 television, radio or Internet. And you're not to form or
13 express any opinion on any subject connected with this case
14 until it's finally submit today you.

15 We'll be in recess for ten minutes. We're going by
16 the clock on the wall. So we'll be in recess until 10 minutes
17 to 3:00.

18 THE MARSHAL: Rise for the venire panel.

19 (Prospective jurors recessed at 2:40 p.m.)

20 THE COURT: All right. The record will reflect the
21 venire has departed the courtroom. Do you want to have this
22 discussion on record or off the record?

23 MR. DiGIACOMO: Court's pleasure.

24 MS. McNEILL: Yeah, the Court's pleasure. I don't
25 know that it needs to be on the record.

1 THE COURT: Okay. So we'll go off the record.

2 (Off the record at 2:41 p.m. until 2:55 p.m.)

3 (In the presence of the prospective jurors)

4 THE MARSHAL: All members of the venire panel are
5 present and accounted for, ma'am.

6 THE COURT: Thank you. Please be seated. And the
7 record will reflect that we have been rejoined by the venire
8 panel. The record will also reflect presence of all three
9 defendants, their counsel, the Deputies District Attorney
10 prosecuting the case, all officers of the court.

11 And so, ladies and gentlemen, now, this is how we're
12 going to do this. I'm going to read out your badge number and
13 your name, if you've been excused, and if you hear your name,
14 just get up and leave the courtroom. And so that's how it
15 will be. If you don't hear your name, it means you have not
16 been excused. So Badge No. --

17 (Court/Clerk conferring)

18 THE COURT: Okay. So Badge No. 240, Dallas Duncan,
19 Badge No. 246, Gerry Steward, Badge No. 259, James Pirih,
20 Badge No. 287, Joshua Hoepfner, Badge No. 302, Tecleab
21 Toumizhi, Badge No. 311, Kevin Guersey, Badge No. 330, Preston
22 Miklich, Badge No. 332, Justin Volpone, Badge No. 416, Louie
23 Schneider, and Badge No. 440, Michael Speer. And thank you
24 very much.

25 So ladies and gentlemen, I just want to commend the

1 rest of you because this is a long projected trial and that
2 you haven't tried to get out of jury duty makes -- it warms my
3 heart with the warm cockles of my heart to see that today
4 because I've had trials before where we've had a three-day
5 trial and half the panel wants to get off serving for three
6 days, so thank you very much.

7 And so what we're going to do next is we're going to
8 fill in order that you're seated, we'll call the next to fill
9 the empty seats in the order in the jury box. And so the next
10 will be --

11 THE CLERK: Next in line --

12 THE COURT: -- Seat No. 2.

13 THE CLERK: -- will be Jasmine White, Badge No. 276.

14 THE COURT: And that will be in Seat No. 2 up there
15 on the top row.

16 THE CLERK: Next will be Theresa Mason, Badge No.
17 277.

18 THE COURT: That's for the --

19 THE CLERK: Next will be Wendy Stitt, Badge No. 282.
20 Next will be Alma Martinez, Badge No. 284.

21 THE COURT: All right. So ladies and gentlemen, the
22 next questions that I'm going to pose again, show of hands,
23 but this time instead of the whole gallery and the box, just
24 the box answers these questions. All right.

25 So is there anyone who's seated in the jury box at

1 the present time who has ever served as a juror before?

2 Please raise your hand. We got one.

3 PROSPECTIVE JUROR NO. 018: Theodore Compehos. I'm
4 Badge 018.

5 THE COURT: You've been a juror before?

6 PROSPECTIVE JUROR NO. 018: No.

7 THE COURT: Oh, you misunderstood the question?

8 PROSPECTIVE JUROR NO. 018: Yeah. That's why I was
9 double checking.

10 THE COURT: Okay. So no one -- the record will
11 reflect that no one answered affirmatively to the question.

12 Next question then, is there anyone who has ever
13 been either currently or in the past in law enforcement? Any
14 capacity. And again, the record will reflect a negative
15 response.

16 Is there anyone seated in the box who's ever been
17 the victim of a crime? Okay, so anyone that, like, if you've
18 ever had your car stolen, your wallet picked, your house
19 burglarized, anything like that? Your car burglarized, things
20 stolen out of your car. Okay. And so starting with Seat No.
21 3.

22 PROSPECTIVE JUROR NO. 277: Theresa Mason.

23 THE COURT: Thank you.

24 PROSPECTIVE JUROR NO. 277: 227 (sic).

25 THE COURT: What crimes have you been the victim of?

1 PROSPECTIVE JUROR NO. 277: I've had my car
2 burglarized, I've had my home burglarized.

3 THE COURT: Is that it? You sounded like you were
4 going to go on so --

5 PROSPECTIVE JUROR NO. 277: I'm trying to think if
6 there's anything else. Personally, I think that's it for me.

7 THE COURT: All right. So -- wait, wait. So
8 additional question. So was that here in Clark County?

9 PROSPECTIVE JUROR NO. 277: No.

10 THE COURT: Where did that occur?

11 PROSPECTIVE JUROR NO. 277: The car was in Chicago
12 and my home was in Indiana.

13 THE COURT: And how long ago was your car burglary?

14 PROSPECTIVE JUROR NO. 277: 1978.

15 THE COURT: Okay, so quite a long time ago.

16 PROSPECTIVE JUROR NO. 277: Yes.

17 THE COURT: And what about your home burglary?

18 PROSPECTIVE JUROR NO. 277: I want to say 1998.

19 THE COURT: So did you report those crimes to the
20 police?

21 PROSPECTIVE JUROR NO. 277: The home burglary, yes.

22 THE COURT: You did not --

23 PROSPECTIVE JUROR NO. 277: I think.

24 THE COURT: -- report the car burglary to the
25 police?

1 PROSPECTIVE JUROR NO. 277: No.

2 THE COURT: Why did you not do that?

3 PROSPECTIVE JUROR NO. 277: Because we were on our
4 honeymoon and we just wanted to get the heck out of there.

5 THE COURT: Okay. So you were just visiting in
6 Chicago --

7 PROSPECTIVE JUROR NO. 277: Yes.

8 THE COURT: -- and the car -- was it forcibly broken
9 into or --

10 PROSPECTIVE JUROR NO. 277: Yes.

11 THE COURT: Okay. All right. And so now, with the
12 home burglary in Indiana, you said you did report that to the
13 police. Was anyone ever apprehended for that crime?

14 PROSPECTIVE JUROR NO. 277: I don't believe so.

15 THE COURT: So you were never --

16 PROSPECTIVE JUROR NO. 277: No.

17 THE COURT: When you say you don't believe so, were
18 you ever called to testify in any kind of trial?

19 PROSPECTIVE JUROR NO. 277: No.

20 THE COURT: Were you ever contacted or notified by
21 the police department or the prosecutors that, in fact,
22 someone had been caught?

23 PROSPECTIVE JUROR NO. 277: No.

24 THE COURT: Did police respond out to your home when
25 you made that report?

1 PROSPECTIVE JUROR NO. 277: I honestly, don't
2 remember.

3 THE COURT: It was a while ago. All right. Will
4 you be able to set that aside, that as well as the incident in
5 Chicago, and base your decision on what you hear as is the
6 evidence in this case and nothing else?

7 PROSPECTIVE JUROR NO. 277: I don't know.

8 THE COURT: All right. So tell me why you say that.

9 PROSPECTIVE JUROR NO. 277: Because it's upsetting
10 when you have your home and, you know, and your burglar -- I
11 mean, somebody breaks into your home. It's just -- actually,
12 I've had it happen twice, now that I think about it. So my
13 home broken into.

14 THE COURT: Both times in Indiana?

15 PROSPECTIVE JUROR NO. 277: No, one was in Iowa back
16 in the early '80s.

17 THE COURT: Okay. So the Midwest is not the panacea
18 that we thought it was. Is that what we're saying?

19 PROSPECTIVE JUROR NO. 277: Not necessarily, no.

20 THE COURT: All right. So but --

21 PROSPECTIVE JUROR NO. 277: It can happen anywhere.

22 THE COURT: -- in each case you understand that
23 those were separate things that occurred and --

24 PROSPECTIVE JUROR NO. 277: Yeah.

25 THE COURT: -- you wouldn't be able to listen to the

1 evidence in this case and make a decision based upon the
2 evidence you hear in this case as opposed to trying to -- you
3 think you would be biased against the defendants in this case
4 because you were the victim of a crime more than --

5 PROSPECTIVE JUROR NO. 277: Yes, I do.

6 THE COURT: -- 20 years ago.

7 PROSPECTIVE JUROR NO. 277: Personally, yes, I do.

8 THE COURT: All right. Well, if you can't be fair
9 and impartial, then we can't have you on this jury so you're
10 excused. Thank you.

11 PROSPECTIVE JUROR NO. 277: I'm sorry, Your Honor.

12 THE COURT: Call the next in order.

13 THE CLERK: Next will be Jennifer Quiros, Badge No.
14 291.

15 THE COURT: All right. Ms. Quiros, hello.

16 PROSPECTIVE JUROR NO. 291: Hi.

17 THE COURT: Welcome. And have you ever been a juror
18 before?

19 PROSPECTIVE JUROR NO. 291: I have.

20 THE COURT: When was that?

21 PROSPECTIVE JUROR NO. 291: At least 15 years ago.

22 THE COURT: Was that here in Clark County?

23 PROSPECTIVE JUROR NO. 291: Yes, it was.

24 THE COURT: And do you recall whether it was a
25 criminal or a civil case?

1 PROSPECTIVE JUROR NO. 291: It was a criminal.

2 THE COURT: Without telling us what the verdict was,
3 did the jury reach a verdict?

4 PROSPECTIVE JUROR NO. 291: No.

5 THE COURT: And did the jury deliberate?

6 PROSPECTIVE JUROR NO. 291: We did.

7 THE COURT: Okay. But you were unable to reach a
8 verdict?

9 PROSPECTIVE JUROR NO. 291: Right.

10 THE COURT: All right, thank you. And were you the
11 foreperson of that jury?

12 PROSPECTIVE JUROR NO. 291: No, I was -- I was not.

13 THE COURT: All right. Anything about that
14 experience that makes you think you could not be a fair and
15 impartial juror in this case?

16 PROSPECTIVE JUROR NO. 291: No.

17 THE COURT: And have you ever been in law
18 enforcement?

19 PROSPECTIVE JUROR NO. 291: I have not.

20 THE COURT: Have you ever been the victim of a
21 crime?

22 PROSPECTIVE JUROR NO. 291: No.

23 THE COURT: All right. So the next person who
24 raised their hand affirmatively was right next to you. If you
25 could hand the microphone over.

1 PROSPECTIVE JUROR NO. 282: Okay. My name is Wendy
2 Stitt, and my number is 948. I too was burglarized in
3 Indiana.

4 THE COURT: I didn't know Indiana was a hot bed of
5 crime.

6 PROSPECTIVE JUROR NO. 282: Hammond, Indiana right
7 outside of Chicago.

8 THE COURT: All right. How long ago was that?

9 PROSPECTIVE JUROR NO. 282: It was probably a good
10 45 years ago.

11 THE COURT: Oh, a very long time ago?

12 PROSPECTIVE JUROR NO. 282: Yes.

13 THE COURT: All right. And so did you call the
14 police?

15 PROSPECTIVE JUROR NO. 282: Yes, I did.

16 THE COURT: And did they come to your house?

17 PROSPECTIVE JUROR NO. 282: Yes.

18 THE COURT: Did you feel that they did an adequate
19 job of doing what they could when they came?

20 PROSPECTIVE JUROR NO. 282: I would say so.

21 THE COURT: Was the person or persons that committed
22 the burglary ever apprehended?

23 PROSPECTIVE JUROR NO. 282: No, they were not.

24 THE COURT: And so therefore, you didn't ever
25 testify in a court or anything. And do you think that you

1 could -- is there anything about that burglary that happened
2 45 years ago makes you think that you could not be fair and
3 impartial in this case.

4 PROSPECTIVE JUROR NO. 282: I just felt really
5 violated, and I just never really got over it. I got
6 paranoid.

7 THE COURT: Forty-five years later?

8 PROSPECTIVE JUROR NO. 282: To this day I -- I still
9 lock my doors real careful.

10 THE COURT: All right. Well, that's good.
11 Everybody should do that, but you understand that what
12 happened to you 45 years ago could not possibly have been
13 committed by any of the defendants in this case since they're
14 not that old, right?

15 PROSPECTIVE JUROR NO. 282: No, they couldn't.

16 THE COURT: Okay. So will you be able to listen to
17 the evidence in this case and decide based upon the evidence
18 as you find it in this case?

19 PROSPECTIVE JUROR NO. 282: I'd still be pretty
20 freaked out. I don't think so.

21 THE COURT: So you're saying that you've already
22 made up your mind? You're not -- you can't be fair and
23 impartial?

24 PROSPECTIVE JUROR NO. 282: No, I don't think so
25 because if it's a break-in, it's still a break-in.

1 THE COURT: All right. Well, let me just say this,
2 the defendants are presumed to be innocent unless and until
3 the State proves otherwise. And so it's very important for
4 everybody in the courtroom that's a prospective juror to
5 understand that you must and should presume the defendants to
6 be innocent. Until you hear evidence from the State,
7 otherwise, and that you are satisfied beyond a reasonable
8 doubt that they're guilty, then they are innocent.

9 And just because they're sitting here in court as
10 defendants does not mean anything. They're presumed to be
11 innocent. All right. Is there anyone who does not understand
12 that? Please raise your hand. All right, the record will
13 reflect a negative response.

14 And so you understand that as well; is that correct,
15 ma'am?

16 PROSPECTIVE JUROR NO. 282: Yes.

17 THE COURT: Okay. But nonetheless, you can't be
18 fair, right?

19 PROSPECTIVE JUROR NO. 282: No, I --

20 THE COURT: All right, you're excused. Call the
21 next in order.

22 THE CLERK: Yes, Your Honor. That will be Michael
23 Goehring, Badge No. 312.

24 THE COURT: Mr. Goehring, how are you?

25 PROSPECTIVE JUROR NO. 312: The best ever.

1 THE COURT: Oh, good. Have you ever been a juror
2 before?

3 PROSPECTIVE JUROR NO. 312: Yes, I have.

4 THE COURT: Was that here in Clark County?

5 PROSPECTIVE JUROR NO. 312: No, California.

6 THE COURT: How long ago?

7 PROSPECTIVE JUROR NO. 312: Probably in the '90s.

8 THE COURT: And do you recall if that was a civil
9 case or a criminal case?

10 PROSPECTIVE JUROR NO. 312: Civil.

11 THE COURT: Without telling us what the verdict was,
12 did the jury reach a verdict?

13 PROSPECTIVE JUROR NO. 312: Yes.

14 THE COURT: Were you the foreperson?

15 PROSPECTIVE JUROR NO. 312: No.

16 THE COURT: Okay. Now, you understand that the
17 burden of proof in a civil case is not the same as in a
18 criminal case, so the rules concerning the burden of proof are
19 different?

20 PROSPECTIVE JUROR NO. 312: Yes.

21 THE COURT: Okay. Also, some of the rules of
22 procedure in evidence in California are different than in
23 Nevada. So I'd ask you to put aside what you might remember
24 from that trial that you had there in California. Will you be
25 able to do that and just listen to the law as I instruct you

1 in this case?

2 PROSPECTIVE JUROR NO. 312: Yes.

3 THE COURT: All right, thank you. Have you ever
4 been in law enforcement?

5 PROSPECTIVE JUROR NO. 312: No.

6 THE COURT: Have you ever been the victim of a
7 crime?

8 PROSPECTIVE JUROR NO. 312: No.

9 THE COURT: And, thank you. Who was the next person
10 -- wait, we already passed you. All right.

11 PROSPECTIVE JUROR 018: (Inaudible).

12 THE COURT: So who was the next person who said that
13 they were the victim of a crime? All right, no, we passed you
14 already. We'll come back to you, perhaps.

15 PROSPECTIVE JUROR 018: Okay.

16 THE COURT: All right. Was there anyone in the
17 front row?

18 THE MARSHAL: No, ma'am.

19 THE COURT: All right. So in Seat No. 1, give the
20 microphone back to him. Badge number and name.

21 PROSPECTIVE JUROR NO. 018: 018, Theodore Compehos.

22 THE COURT: Mr. Compehos, what is it you're needing
23 to tell me?

24 PROSPECTIVE JUROR NO. 018: Victim of a crime, I
25 guess, you know. I had --

1 THE COURT: Did you not understand the question
2 before?

3 PROSPECTIVE JUROR NO. 018: No, I didn't -- I didn't
4 -- no.

5 THE COURT: All right. What crime are you the
6 victim of?

7 PROSPECTIVE JUROR NO. 018: Well, I just got some
8 cars stolen in 2006. I live in Greene Valley and I --

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 018: -- got my truck stolen,
11 and two of my cars in Hawaii. And I'm in the music business,
12 and places that I played at there were three shootings. I
13 think two of them died. And ever since I got my car stolen
14 and all that, pretty much for a while, I just was, you know,
15 whenever I see somebody and --

16 THE COURT: Okay, you're under oath, right? You
17 understand that?

18 PROSPECTIVE JUROR NO. 018: Yeah.

19 THE COURT: Okay. So you didn't -- when I asked the
20 question before, you did not answer. You said you had not
21 been the victim of a crime.

22 PROSPECTIVE JUROR NO. 018: No, I thought you said
23 that if I was a juror before.

24 THE COURT: Okay. And then I asked -- after I
25 finished with that question, I asked about law enforcement and

1 then I asked if you were the victim of a crime.

2 PROSPECTIVE JUROR NO. 018: I already passed the mic
3 on.

4 THE COURT: No, you did not raise your hand. Okay.
5 So go ahead and tell me about these car thefts. When did they
6 happen?

7 PROSPECTIVE JUROR NO. 018: I think it's 2006 in
8 Greene Valley. It was reported, a police report and
9 everything.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR NO. 018: It was recovered. It
12 was -- they burned the -- they burned my whole car. It was
13 maybe two months old.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NO. 018: Brand new.

16 THE COURT: All right. And that was the only time
17 your car was stolen in Greene Valley?

18 PROSPECTIVE JUROR NO. 018: Yeah. And then I had
19 couple times up in Hawaii.

20 THE COURT: Okay. How long was that?

21 PROSPECTIVE JUROR NO. 018: I really don't know.
22 Maybe '96.

23 THE COURT: Okay. And did you report those to the
24 police?

25 PROSPECTIVE JUROR NO. 018: Yeah. Report one of --

1 two of them.

2 THE COURT: Okay. Were your cars --

3 PROSPECTIVE JUROR NO. 018: Truck and a sports car.

4 THE COURT: Were they recovered?

5 PROSPECTIVE JUROR NO. 018: Yeah. It was totaled.

6 It was -- they stripped everything. It was a sports car.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR NO. 018: The truck they did the
9 same thing.

10 THE COURT: And those were both in Hawaii?

11 PROSPECTIVE JUROR NO. 018: Yeah.

12 THE COURT: All right. Did they ever catch who did
13 it?

14 PROSPECTIVE JUROR NO. 018: No.

15 THE COURT: Okay. And do you -- are you suffering
16 trauma as a result of those car thefts?

17 PROSPECTIVE JUROR NO. 018: Well, sometimes I just
18 get upset and, you know, because pretty much keep to myself.
19 I don't bother anybody. I'm pretty, I guess you call a good
20 guy. And for the things happen to me, sometimes I get upset
21 like why, you know? Sometimes when I -- I used to look at the
22 -- look at some guys and thinking, oh, maybe those guys stole
23 my car or something, you know, for a long time, but I'm over
24 that now.

25 THE COURT: All right. So how long ago was it that

1 your car was stolen in Greene Valley? How long --

2 PROSPECTIVE JUROR NO. 018: 2006, I think, yeah.

3 THE COURT: Okay. So ten years ago?

4 PROSPECTIVE JUROR NO. 018: Yeah.

5 THE COURT: So are you over it?

6 PROSPECTIVE JUROR NO. 018: Yeah, I got a new car.

7 THE COURT: All right. Thank you.

8 PROSPECTIVE JUROR NO. 018: Okay.

9 THE COURT: All right. Next question, is there
10 anyone seated in the jury box who -- you know, who has either
11 had anyone in their family or closely associated with them
12 that's been the victim of a serious violent type of crime?

13 PROSPECTIVE JUROR NO. 255: How are you doing? My
14 name is Gregory Anderson. My number is 255, and I was going
15 to say this at this first, but I kind of -- I didn't want to
16 say it because it brings back bad memories for me. My son was
17 killed in a drug robbery so --

18 THE COURT: I'm very sorry.

19 PROSPECTIVE JUROR NO. 255: -- I don't know if I
20 really want to be in here.

21 THE COURT: All right. How long ago was that?

22 PROSPECTIVE JUROR NO. 255: It's been five years
23 now.

24 THE COURT: All right. So a loss of any child is a
25 terrible loss, and --

1 PROSPECTIVE JUROR NO. 255: Right.

2 THE COURT: -- five years is not very long for that
3 kind of loss. And you feel that you would not be as a result
4 of that --

5 PROSPECTIVE JUROR NO. 255: Oh, no.

6 THE COURT: -- to be fair and impartial?

7 PROSPECTIVE JUROR NO. 255: They wouldn't want me up
8 here.

9 THE COURT: Thank you very much. You're excused.
10 Call the next in order.

11 THE CLERK: Yes, Your Honor. It would be Kimberly
12 Key, Badge No. 314.

13 THE COURT: Ms. Key, do you have the microphone?

14 PROSPECTIVE JUROR NO. 314: Yes, I do.

15 THE COURT: All right. And so have you ever served
16 as a juror before?

17 PROSPECTIVE JUROR NO. 314: I have not.

18 THE COURT: Have you ever been in law enforcement?

19 PROSPECTIVE JUROR NO. 314: I have not.

20 THE COURT: Ever been the victim of a crime?

21 PROSPECTIVE JUROR NO. 314: No, I have not.

22 THE COURT: Anyone in your family or closely
23 associated with you been the victim of a serious crime?

24 PROSPECTIVE JUROR NO. 314: No.

25 THE COURT: All right. Question to the entire

1 panel. Is there any one of you who has family member or close
2 friend in law enforcement? Okay, one on the top.

3 PROSPECTIVE JUROR NO. 252: Erik Wirtner, 252. My
4 girlfriend is actually a Corrections Officer.

5 THE COURT: All right. Is that here in Clark
6 County?

7 PROSPECTIVE JUROR NO. 252: Here. Right here.

8 THE COURT: Okay. And so the question here is
9 whether you can assess the testimony of corrections -- not a
10 Corrections Officer, but any law enforcement officer, in the
11 same manner that you would another witness, which means by
12 observing their demeanor on the stand, listening to what they
13 have to say and making a determination whether it makes sense,
14 whether it appears to be credible testimony in light of other
15 testimony that you've heard and you believe, whether or not
16 that witness said something or wrote something that
17 contradicts their testimony today. You know, if they wrote
18 something or said something prior to their testimony in court
19 that contradicts them. Would you be able to evaluate the
20 testimony of a law enforcement officer in the same -- that
21 same way as you would other witnesses or would you just say
22 well, it's a law enforcement officer so I don't care what they
23 say, I'm going with that?

24 PROSPECTIVE JUROR NO. 252: I would probably have a
25 tendency to side with the law enforcement officer having known

1 them, not that particular law enforcement officer.

2 THE COURT: If you knew the law enforcement
3 officer --

4 PROSPECTIVE JUROR NO. 252: No, no, no. I'm saying
5 I would tend to side more with the law enforcement officer in
6 a situation like that understanding that they are a law
7 enforcement officer.

8 THE COURT: Regardless of what they say? So if they
9 took the stand and said that the sky is purple with yellow
10 polka dots, you'd say oh, yeah, opposed to somebody else that
11 said it was blue they weren't law enforcement?

12 PROSPECTIVE JUROR NO. 252: Well, that would
13 probably not settle with me, no. I would probably question
14 something of that drastic nature, yes.

15 THE COURT: All right. So that's what I'm talking
16 about. Will be able to evaluate what the witness says and
17 take that as a whole?

18 PROSPECTIVE JUROR NO. 252: I'm sorry, I
19 misunderstood the question. I thought you said in weighing it
20 against what somebody else says, meaning --

21 THE COURT: No, that --

22 PROSPECTIVE JUROR NO. 252: -- if -- if another
23 witness is in the same exact situation as a law enforcement
24 officer, whose -- who would I give credence to. I
25 misunderstood you.

1 THE COURT: No, I'm not asking you to prejudge any
2 witness. I'm just saying would you listen to what a law
3 enforcement says and use your same analytical tools to
4 determine whether you think that person is being truthful or
5 giving you credible testimony by listening to what they have
6 to say? All the examples I gave to you, would you do that?

7 PROSPECTIVE JUROR NO. 252: Yeah, I -- I would
8 listen to them and consider their testimony credible.

9 THE COURT: All right. But would you analyze it?
10 In other words, before they take the stand, are you saying
11 you're going to say no matter what they say I'm going -- I'm
12 starting out with what they must say is credible and then work
13 back from that or are you going to wait and listen to what
14 they have to say first and make your decision?

15 PROSPECTIVE JUROR NO. 252: Well, I would imagine
16 that I would probably sit and listen to what they had to say
17 first. I don't know.

18 THE COURT: Okay. I don't know how else you'd do
19 it, but you're the person answering the question so I don't --
20 if that's your answer, that's good. I mean, that's fine.
21 There's no right or wrong answer to these questions. We're
22 just trying to figure out what your thought process is, all
23 right? Thank you, I appreciate that. Okay.

24 Let's see, and there was no one else that has any
25 close friends or relatives that are in law enforcement? And

1 the record will so reflect. All right.

2 Okay. Let's see. All right. Now, is there anyone
3 sitting in the box who believes that they would not be able to
4 follow the law as I instruct you? There are some people who
5 just feel that they cannot -- if they don't agree with the
6 law, then they can't follow it. Here I'm telling you that it
7 is your duty as jurors, if you're on the jury, to follow the
8 law as I instruct you. Is there anyone who feels they
9 couldn't do that? And the record will reflect a negative
10 response.

11 Okay. Now, I think I've already told you that a
12 person that's accused of a crime is presumed to be innocent
13 unless and until the State proves beyond a reasonable doubt
14 that they are guilty, and that is an important premise in our
15 system of justice. Is there anyone who disagrees with that?
16 Please raise your hand. The record will reflect a negative
17 response.

18 All right, so everybody usually answers that
19 question in that way, and because intellectually you
20 understand that. You took your Civic lessons and you
21 understand that, but some people still have a feeling that
22 well, okay, I understand that they're presumed to be innocent,
23 but I still feel that they should have to prove that they're
24 innocent and they should offer some evidence or some -- take
25 the stand, something like that.

1 Is there anyone who feels that way? Even though
2 they understand the legal premise of presumption of innocence,
3 they still feel the need for a defendant to prove their
4 innocence. Is there anyone who feels that way? The record
5 will reflect a negative response.

6 Is there anyone who does not understand that the
7 defense doesn't have to present any evidence? The State does
8 all the proving. And if they fail to prove the case to you
9 beyond a reasonable doubt, you're the deciders of the facts.
10 If they fail to prove it, then they failed in their burden.
11 Is there anyone who disagrees with that? And the record will
12 reflect a negative response.

13 All right. Is there anyone who has a personal moral
14 or religious belief that makes it impossible for them to sit
15 and do the job of a juror which is to determine the facts and
16 then to apply the law as I instruct you and come up with a
17 verdict? And the record again will reflect a negative
18 response.

19 All right. Is there anybody seated in the jury box
20 who has ever been accused of or convicted of a crime? And the
21 record will reflect a negative response. Is there anyone
22 seated in the jury box who has a family member or a close
23 friend, associate, who's been convicted of a crime? And the
24 record again will reflect a negative response.

25 Is there anyone seated in the box who feels for

1 whatever reason they could not be a fair and impartial juror
2 in this case? And the record will reflect a negative
3 response.

4 All right. Now, what we're going to do next is
5 we're going to have -- taking each juror separately starting
6 with Seat No. 1 on the top row, and I'm going to be asking you
7 this question, tell me about yourself. What I want to know
8 when I ask you that question is I want to know how long have
9 you lived in Clark County, what do you do for a living, are
10 you married, single, divorced, significant other, partner, et
11 cetera? If you have such a person in your life, then I want
12 to know what that person does for a living.

13 Oh, if you are retired or your spouse, anything
14 other, partner, et cetera is retired, I want to know what you
15 or that person did before retirement. I want to know if you
16 have any children, their ages. And if they're adult children,
17 I want to know what they do for a living. And finally, I want
18 to know what your education is. Your background and your
19 education.

20 So that may sound like a lot, and don't worry about
21 it, I mean, actually, you'll probably -- everybody will fall
22 into knowing how to respond to the question, but worry about
23 it, if you miss something, I'll follow up. After I finish
24 having you answer that question, any follow-up questions I
25 have, then the lawyers will have the opportunity to ask you

1 questions as well. All right?

2 Okay. Have the microphone, sir. All right. Tell
3 me about yourself.

4 PROSPECTIVE JUROR NO. 018: I'm a musician. Started
5 playing -- I started playing music in the '60s, and I have a
6 son that's 45 and two grandkids. Married, a beautiful lady.
7 She works over at the -- oh, I don't know -- Mandalay, I
8 guess.

9 THE COURT: Okay. What does she do there?

10 PROSPECTIVE JUROR NO. 018: As a banquet. She works
11 with the banquets.

12 THE COURT: How long have you lived in Clark County?

13 PROSPECTIVE JUROR NO. 018: We moved over in '97.

14 THE COURT: And you say you're a musician. Do you
15 have a regular full-time job or do you --

16 PROSPECTIVE JUROR NO. 018: Well, I played almost
17 every casino and I played in some shows and concerts and stuff
18 as a drummer. But now I'm a solo musician and I go on tour
19 every summer, and I just got back Thursday.

20 THE COURT: What instrument do you play?

21 PROSPECTIVE JUROR NO. 018: Now, I'm guitar and I
22 play percussion and sing at the same time and play my guitar.

23 THE COURT: And your adult son, you said, what does
24 he do?

25 PROSPECTIVE JUROR NO. 018: He owns a coffee

1 plantation over at the Big Island of Hawaii.

2 THE COURT: All right. And -- okay. All right.
3 And is there any reason you feel that you could not be a fair
4 and impartial juror in this case?

5 PROSPECTIVE JUROR NO. 018: No.

6 THE COURT: Thank you. Would the State like to
7 inquire further?

8 MS. LEXIS: Yes, Your Honor. Hello, sir.
9 Mr. Compehos, what island are you from in Hawaii?

10 PROSPECTIVE JUROR NO. 018: Oahu, island of Oahu.

11 MS. LEXIS: Okay. But your son owns a coffee
12 plantation --

13 PROSPECTIVE JUROR NO. 018: On the Big Island.

14 MS. LEXIS: -- on the Big Island?

15 PROSPECTIVE JUROR NO. 018: Pahala.

16 MS. LEXIS: Okay. Okay. (Indiscernible). Where do
17 you play? I know you're a musician. Where do you play in Las
18 Vegas?

19 PROSPECTIVE JUROR NO. 018: Well, I just got back so
20 I'm not really -- I just got back Thursday from Alaska so I'm
21 not really working right now.

22 MS. LEXIS: Okay. You indicated earlier that --
23 sorry. You indicated earlier that there were some shootings
24 at your prior work?

25 PROSPECTIVE JUROR NO. 018: Yeah, over in Seattle, I

1 kind of forgot what year was that, but a guy got shot right on
2 the dance floor.

3 MS. LEXIS: And were you present --

4 PROSPECTIVE JUROR NO. 018: Yeah, I was --

5 MS. LEXIS: -- when that happened?

6 PROSPECTIVE JUROR NO. 018: -- I was the drummer
7 back then and I kind of seen everything. And also in Hawaii,
8 as a drummer I saw one of my -- the manager, he was the nicest
9 guy, I mean, I was talking to him, and ten minutes later, and
10 I actually saw the guy, you know, stick his gun out and I
11 heard the shot and everything, you know. And I was pretty
12 upset because he's such a nice guy. And -- and as far as I
13 know, nobody got convicted, you know. And I was kind of, it's
14 like, well --

15 MS. LEXIS: Okay. Let's talk about it one at a
16 time. So the one in Seattle, what year was that?

17 PROSPECTIVE JUROR NO. 018: I think it's in the
18 '80s.

19 MS. LEXIS: In the '80s? Okay.

20 PROSPECTIVE JUROR NO. 018: Yeah.

21 MS. LEXIS: And that happened right in front of you?
22 You were playing and --

23 PROSPECTIVE JUROR NO. 018: Yeah, about --

24 MS. LEXIS: -- the guy -- someone got killed on the
25 dance floor?

1 PROSPECTIVE JUROR NO. 018: -- 40 feet away or so.
2 Yeah. Well, I don't know if he got killed, but he got -- he
3 got shot and I was looking over. I could see all the blood
4 and he have gone coming out, and I think eventually he died.

5 MS. LEXIS: Okay. Were you ever called as a
6 witness?

7 PROSPECTIVE JUROR NO. 018: No.

8 MS. LEXIS: Did you fill out like a statement or
9 talk to the police?

10 PROSPECTIVE JUROR NO. 018: No. Just had a whole
11 club full of people so --

12 MS. LEXIS: Okay. Did you follow that case? You
13 indicated you didn't know if someone was convicted, but did
14 you follow that case?

15 PROSPECTIVE JUROR NO. 018: No. I asked somebody
16 down the road if he -- they knew what happened to the guy, and
17 I -- I think they said he was in like a vegetable or something
18 for -- I'm not too sure.

19 MS. LEXIS: Okay.

20 PROSPECTIVE JUROR NO. 018: But he didn't really die
21 right -- right then.

22 MS. LEXIS: Right then. Okay. And how about the
23 time in Hawaii?

24 PROSPECTIVE JUROR NO. 018: In Hawaii, I'm not too
25 sure what -- I think it was in the '70s.

1 MS. LEXIS: Okay.

2 PROSPECTIVE JUROR NO. 018: And --

3 MS. LEXIS: You witnessed that as well?

4 PROSPECTIVE JUROR NO. 018: I didn't -- I didn't go
5 to court, but -- or anything, but I -- I saw it, but --

6 MS. LEXIS: Okay.

7 PROSPECTIVE JUROR NO. 018: -- one of the guys in
8 the band, his father was a Captain, Captain Bradbury
9 (phonetic), and he testified, I guess, but I didn't really
10 follow up.

11 MS. LEXIS: Okay. And did you say -- was someone
12 prosecuted for the one in Hawaii?

13 PROSPECTIVE JUROR NO. 018: Far as I know, I don't
14 think so. I think they got away, which --

15 MS. LEXIS: Okay.

16 PROSPECTIVE JUROR NO. 018: -- I was kind of upset,
17 like, how can they get away, you know?

18 MS. LEXIS: Okay. Did you talk to police and
19 provide a statement at that time?

20 PROSPECTIVE JUROR NO. 018: No.

21 MS. LEXIS: Okay. But you followed it enough to
22 know that, perhaps, someone got away with it?

23 PROSPECTIVE JUROR NO. 018: Yeah.

24 MS. LEXIS: Okay. Now, you understand from the
25 limited information that we gave you concerning the case, this

1 case involves a shooting?

2 PROSPECTIVE JUROR NO. 018: Yeah.

3 MS. LEXIS: You remember that part?

4 PROSPECTIVE JUROR NO. 018: Yeah.

5 MS. LEXIS: Okay. So does the fact that you
6 personally witnessed or observed two shootings -- I know it
7 was in the '70s and in the '80s -- do you think that would
8 cause you to not be fair or impartial in this case?

9 PROSPECTIVE JUROR NO. 018: I'm not too sure. I
10 guess.

11 MS. LEXIS: Okay. Let me ask you this, are you the
12 type of person who can wait -- I mean, understanding that
13 Mr. DiGiacomo and I have, we have the burden of proof in this
14 case, right? You understand that?

15 PROSPECTIVE JUROR NO. 018: Yeah.

16 MS. LEXIS: Okay. Are you the type of person what
17 can wait until we've presented all of the evidence, put
18 witnesses on, showed all of the evidence before you can make
19 up your mind?

20 PROSPECTIVE JUROR NO. 018: Yeah, I guess so. Yeah.

21 MS. LEXIS: Okay. Are you the type of person who
22 can talk to the other jurors if you're selected openly about
23 the case?

24 PROSPECTIVE JUROR NO. 018: Yeah.

25 MS. LEXIS: Okay. So you're not going to take your

1 experiences from, you know, witnessing those two other
2 shootings -- that's not going to make you overly sympathetic
3 to, say, the victims in this case, would it?

4 PROSPECTIVE JUROR NO. 018: I don't think so.

5 MS. LEXIS: Okay, okay. And you're certainly -- you
6 said you were upset that someone may have gotten away with the
7 Hawaii shooting. You're not going to take that out on the
8 defendants who are sitting here because you know they had
9 nothing to do with that?

10 PROSPECTIVE JUROR NO. 018: Yeah.

11 MS. LEXIS: Okay. How long have you been in Las
12 Vegas?

13 PROSPECTIVE JUROR NO. 018: '97.

14 MS. LEXIS: Okay. And do you live here most of the
15 year except for when you're --

16 PROSPECTIVE JUROR NO. 018: Yeah.

17 MS. LEXIS: -- traveling?

18 PROSPECTIVE JUROR NO. 018: Yeah.

19 MS. LEXIS: Okay. Like, where do you travel?

20 PROSPECTIVE JUROR NO. 018: To Valdez, Alaska.

21 MS. LEXIS: Okay. Is that the only other state that
22 you --

23 PROSPECTIVE JUROR NO. 018: Yeah, that's the only --

24 MS. LEXIS: -- go to?

25 PROSPECTIVE JUROR NO. 018: -- other place I go.

1 MS. LEXIS: Okay. And you play a lot of different
2 instruments, huh?

3 PROSPECTIVE JUROR NO. 018: Try to.

4 MS. LEXIS: Okay. One-man show? Sir, have you ever
5 had any negative or positive contact with law enforcement here
6 in Las Vegas?

7 PROSPECTIVE JUROR NO. 018: No, no, but in Hawaii,
8 yeah.

9 MS. LEXIS: In Hawaii? Okay. How long ago?

10 PROSPECTIVE JUROR NO. 018: I was in my early 20s,
11 and a police officer said I ran the light, a red light, and I
12 -- I was kind of laugh because I said, hey, I saw you, you
13 know. And I said, why should I run the light? And I got --
14 you know, they let me -- they let me go.

15 MS. LEXIS: They let you go?

16 PROSPECTIVE JUROR NO. 018: Yeah, because I -- you
17 know, I said, you know, I said, I have nothing to hide.

18 MS. LEXIS: Right.

19 PROSPECTIVE JUROR NO. 018: I didn't -- I saw you
20 right there, you know. So I was kind of mad at the cops for a
21 little bit.

22 MS. LEXIS: You were mad for a little bit?

23 PROSPECTIVE JUROR NO. 018: Yeah.

24 MS. LEXIS: Are you the type of person who stays mad
25 kind of for a while before you let something go?

1 PROSPECTIVE JUROR NO. 018: Sometimes. Especially
2 when I see stuff's on the Internet now, you know. I see how,
3 you know, people, they don't really -- they get stopped for a
4 traffic violation and they get shot, you know. It's like, I
5 get kind of ticked off, you know.

6 MS. LEXIS: Okay.

7 PROSPECTIVE JUROR NO. 018: It's like, wow, you
8 know.

9 MS. LEXIS: So do you watch the news often?

10 PROSPECTIVE JUROR NO. 018: Fox News.

11 MS. LEXIS: Fox news? Okay. And you're aware of,
12 you know, what's going on in our nation?

13 PROSPECTIVE JUROR NO. 018: Yeah.

14 MS. LEXIS: Okay. A lot of those officer-involved
15 shootings, you know, racially heated events, you understand
16 that those are not -- that's not happening -- or that's at
17 least not the subject at issue here in this particular --

18 PROSPECTIVE JUROR NO. 018: Yeah.

19 MS. LEXIS: -- trial? Okay. Yes?

20 PROSPECTIVE JUROR NO. 018: Yes.

21 MS. LEXIS: Okay. And you understand that -- would
22 you agree with me that there are in every profession good
23 cops, bad cops, good lawyers, bad lawyers, good musicians, bad
24 musicians?

25 PROSPECTIVE JUROR NO. 018: I just was going to say

1 that, yeah.

2 MS. LEXIS: Yes? Okay. So do you think the
3 negative portrayal of law enforcement on the news that you've
4 been watching, do you think that will shade how you view
5 police officer witnesses in this case?

6 PROSPECTIVE JUROR NO. 018: I'm not too sure.

7 MS. LEXIS: Okay. Because you heard me read off a
8 bunch of officer names, right?

9 PROSPECTIVE JUROR NO. 018: Sometimes they cover
10 each other, you know. I don't know.

11 MS. LEXIS: Okay. Okay. Do you see that kind of
12 stuff on Fox News, too?

13 PROSPECTIVE JUROR NO. 018: Yeah.

14 MS. LEXIS: What other TV shows do you watch?

15 PROSPECTIVE JUROR NO. 018: In Alaska, I hardly
16 didn't watch any TV there.

17 MS. LEXIS: You hardly watch any TV?

18 PROSPECTIVE JUROR NO. 018: But now over here I just
19 kind of like I'm a news freak.

20 MS. LEXIS: Okay.

21 PROSPECTIVE JUROR NO. 018: I always watch -- watch
22 the news.

23 MS. LEXIS: Because you're not working right now?

24 PROSPECTIVE JUROR NO. 018: Well, I -- I play tennis
25 and go fishing on my boat and stuff.

1 MS. LEXIS: Okay.

2 PROSPECTIVE JUROR NO. 018: Then I just work during
3 the summer.

4 MS. LEXIS: Okay. Do you watch like the First 48?
5 Other news shows, First 48, Dateline, things -- other shows
6 like that?

7 PROSPECTIVE JUROR NO. 018: Yeah, sometimes. Yeah.

8 MS. LEXIS: Okay. And what do you think of how
9 police officers are portrayed on those shows?

10 PROSPECTIVE JUROR NO. 018: Right offhand I -- I
11 seen so much I cannot really -- can't really say.

12 MS. LEXIS: Okay. What do you mean by you've seen
13 so much?

14 PROSPECTIVE JUROR NO. 018: Well, you know, I -- I
15 watch a lot of the Dateline stuff and sometimes I get amazed
16 of how they find out how to -- how to get the -- what do you
17 call? How to go about in catching a guy.

18 MS. LEXIS: Solving.

19 PROSPECTIVE JUROR NO. 018: Yeah, solving the --

20 MS. LEXIS: Solving the crime?

21 PROSPECTIVE JUROR NO. 018: Yeah.

22 MS. LEXIS: Okay.

23 PROSPECTIVE JUROR NO. 018: I get amazed sometimes,
24 you know.

25 MS. LEXIS: Okay. And we'll talk about that in a

1 minute. But I guess, what I want to know, I mean, just to get
2 to the point is you mentioned seeing some negative stuff about
3 just police officers in general all over the country. I
4 guess, you'd be blind or, you know, deaf not to hear that
5 stuff nowadays.

6 But do you think -- you said something like, you
7 know, you think police officers cover each other up and things
8 like that. Do you think that negative view of law enforcement
9 would cause you to take the testimony of a police officer to
10 be less credible? Like, are you automatically suspicious of
11 police officers because of that?

12 PROSPECTIVE JUROR NO. 018: Sometimes I feel like
13 that, you know. I just -- you know, you just being honest,
14 you know.

15 MS. LEXIS: Yeah. I mean, that's all we're asking,
16 right?

17 PROSPECTIVE JUROR NO. 018: Yeah.

18 MS. LEXIS: This is -- we're canning for the truth
19 because, you know what, the defendants, the State, we want a
20 fair and impartial jury. We want someone who can decide this
21 based on the facts and evidence, and we understand that people
22 are going to walk in here with different experiences,
23 different biases, different prejudices, but we appreciate you
24 telling the truth so that we can each kind of evaluate --

25 PROSPECTIVE JUROR NO. 018: Yeah. I don't hate

1 cops, but --

2 MS. LEXIS: Okay.

3 PROSPECTIVE JUROR NO. 018: -- I still behind the
4 cop -- police officers and all that, but --

5 MS. LEXIS: Right.

6 PROSPECTIVE JUROR NO. 018: Yeah.

7 MS. LEXIS: Okay. But do you think that all the
8 negative, you know, publicity, we'll call it, or the negative
9 news reports that you've seen about police officers, do you
10 think that would cause you to view their testimony here in
11 this case as less credible than other witnesses?

12 PROSPECTIVE JUROR NO. 018: I don't know.

13 MS. LEXIS: Okay. Let me ask you this, do you want
14 to be a juror?

15 PROSPECTIVE JUROR NO. 018: Not really.

16 MS. LEXIS: Okay. Why? Besides the fact that you
17 get to spend three weeks in court.

18 PROSPECTIVE JUROR NO. 018: Sometimes I -- like, I'm
19 kind of quick sometimes judging people sometimes, you know,
20 because things that happened in the past, you know.

21 MS. LEXIS: Like what sort of things?

22 PROSPECTIVE JUROR NO. 018: I don't know, sometimes
23 I just -- like, okay, this one guy up in Alaska, you know, I
24 said hey, how are you doing, you know? I'm on stage. He
25 doesn't smile or anything, and right off I said man, what a

1 boom, boom, you know. And then he turns around and he buys
2 one of my CDs, and I said oh, wow, you know? It just threw me
3 off, you know, to kind of judged him because he didn't smile,
4 he didn't answer me and -- and he came up, he gave me a tip
5 plus he bought my CD, you know. I said oh, geez, I didn't
6 expect that, you know.

7 MS. LEXIS: Okay. Are you the type of person who
8 rushes to judgment, kind of like with that experience?

9 PROSPECTIVE JUROR NO. 018: Sometimes.

10 MS. LEXIS: Okay. Okay. But in this particular
11 case, if you were selected as a juror, we would ask you to
12 hold off reserving -- reserve forming an opinion until you've
13 heard all of the evidence and until you've had an opportunity
14 to deliberate with the other jurors. Do you think you could
15 do that?

16 PROSPECTIVE JUROR NO. 018: Probably, yeah.

17 MS. LEXIS: Okay. Being that you watch the news a
18 lot, have you heard anything about this case previously?

19 PROSPECTIVE JUROR NO. 018: I just heard about, you
20 know, some shootings and some home invasions, but I don't know
21 if this is the one.

22 MS. LEXIS: Okay.

23 PROSPECTIVE JUROR NO. 018: I'm not too sure.

24 MS. LEXIS: Okay. Do you own any guns?

25 PROSPECTIVE JUROR NO. 018: Just a hunting rifle.

1 MS. LEXIS: Okay. Do you have any opinions about
2 gun ownership one way or the other?

3 PROSPECTIVE JUROR NO. 018: Oh, no.

4 MS. LEXIS: No?

5 PROSPECTIVE JUROR NO. 018: No.

6 MS. LEXIS: Okay. I know Judge Ellsworth asked
7 this, but are you the type of person who can follow the law
8 even if you disagree? And let me give you an example, okay?
9 In Las Vegas, medical marijuana is being passed, right? And
10 so long as you meet certain requirements, you can apply for
11 and receive a medical marijuana card and have a certain amount
12 of marijuana in your possession, okay.

13 But the law still says absent that kind of
14 exception, it is illegal to possess a certain amount of
15 marijuana. Okay? So say you're a juror in a marijuana case
16 and you're asked to decide the guilt or innocence or the guilt
17 of the defendant who has marijuana in his possession, but you
18 believe marijuana should be legal for everybody. Do you think
19 you could set that opinion aside and decide the case based on
20 the facts and the evidence that was presented in court and
21 then the instructions that the Court would give you, or are
22 you the type of person who would say well, forget that, I
23 think it should be legal so I'm going to go this way?

24 PROSPECTIVE JUROR NO. 018: I think I could go with
25 the Court, I guess.

1 MS. LEXIS: You could follow the law?

2 PROSPECTIVE JUROR NO. 018: Yeah.

3 MS. LEXIS: Okay. You kind of -- you kind of
4 hesitated for a little bit, were you just thinking about it?

5 PROSPECTIVE JUROR NO. 018: Yeah.

6 MS. LEXIS: Okay. Okay. Court's brief indulgence.

7 As all of you have heard, when Judge Ellsworth asked
8 me to talk about the charges in this particular case, one of
9 the charges is murder with use of a deadly weapon. And if
10 there is a conviction for first degree murder, there's going
11 to be another phase to this trial. It's called the penalty
12 phase.

13 So the first part's going to be called the guilt
14 phase. It's where the jurors were selected, decide on the
15 guilty or innocence of the defendants. If there is -- if and
16 only if there is a first degree murder conviction, we're going
17 to go into a second phase, which is called the penalty phase.
18 The penalty phase is when the jurors get to decide the
19 punishment for the defendants that were convicted.

20 Okay? And the different punishment choices are a
21 definite term of years, 20 to 50 years in the Nevada
22 Department of Corrections, or life with the possibility of
23 parole after 20 years, and the third is life without the
24 possibility of parole. Those are the different choices, okay?

25 So Mr. Compehos, I have to ask you, if you are

1 selected as a juror and if and only if the jury decides you
2 unanimously on a first degree murder conviction, would you be
3 able to consider all types of punishment? All the three
4 different types of punishment during the penalty phase?

5 PROSPECTIVE JUROR NO. 018: Yes.

6 MS. LEXIS: Court's brief indulgence. I have no
7 more questions for this juror. Thank you.

8 THE COURT: Thank you. Mr. Landis.

9 MR. LANDIS: Good afternoon, sir. I know you've
10 been asked a lot of questions so I'm going to try to be quick.
11 Some of the answers you've been giving are the things lawyers
12 are scared to hear. And what I mean by that is when you're
13 unsure if you can keep an open mind or if you can be fair.
14 Things like that scare lawyers, and it doesn't mean it's a
15 wrong answer. And none of us are trying to trick any of you
16 guys and get you to say things you don't want to say. We're
17 just trying to get you to disclose truly what you believe.

18 And when I say that, what I mean is, if we should
19 have concerns that as this trial goes on you might not be able
20 to be fair because something that happened in the past, we
21 want to know that because it's a lot easier to deal with it
22 now versus three weeks from now. And that's all it is.
23 That's all it is.

24 Our concern when you say things like probably -- and
25 I'm not trying to say your answers are wrong because I want

1 you to be honest, but we don't want a case where you've heard
2 three officers testify and at that point, you say, you know,
3 I'm not judging these guys fair because of my past experiences
4 with police officers or with things I've seen on TV about
5 police officers. So, that's all we want.

6 As I sit at my table as a defense attorney and I'm
7 trying to get a fair juror for my client, should I be
8 comfortable with you? Let me just ask you that.

9 PROSPECTIVE JUROR NO. 018: Say that again?

10 MR. LANDIS: Sure. As the defense attorney sitting
11 at that table doing my job of trying to get fair jurors, should
12 I be comfortable with you? You can use an answer I hate even
13 though -- you can say I don't know. It's okay if that's the
14 truth.

15 PROSPECTIVE JUROR NO. 018: Yeah, I don't know.

16 MR. LANDIS: When a police officer walks through
17 those doors to testify and you see they're wearing their
18 outfit and they're going to get on that witness stand, you
19 don't know that person, you've never heard them talk. When
20 you see the police outfit, are you going to have a
21 preconceived notion that they're less than honest or more
22 honest than the average Joe?

23 PROSPECTIVE JUROR NO. 018: No, I'm not going to
24 judge them like that.

25 MR. LANDIS: And as it applies to everybody, every

1 witness no matter what their jobs are, no matter what they
2 look like?

3 PROSPECTIVE JUROR NO. 018: I hope.

4 MR. LANDIS: And don't get me wrong, we want you to
5 make decisions based on what you see in that witness box when
6 they're testifying. We just don't want you to draw an things
7 outside of this trial to make those decisions and that's all.

8 Let me phrase the question this way. Are you at
9 least confident that you can be fair to both the prosecution
10 and to the defense? When we get to the end of this trial and
11 you guys have to make a decision, are you confident you'll be
12 a fair juror? And if you're unsure, please say so, and that's
13 okay.

14 PROSPECTIVE JUROR NO. 018: Unsure.

15 MR. LANDIS: And I'll leave it at that. And I
16 appreciate you being honest.

17 THE COURT: I'm going to follow up with the question
18 of why do you think -- why are you unsure?

19 PROSPECTIVE JUROR NO. 018: Because, you know, like
20 when I said, you know, I mean, I have nothing against cops,
21 but I seen it a lot of times where they cover each other. And
22 even in Hawaii, I knew some cops and they kind of -- they quit
23 the force because they said -- they gave me the reasons why.
24 They were -- they're supposed to give so many tickets or
25 whatever, and they didn't like the idea so they left -- they

1 left the profession, you know, so -- am I making sense? I
2 don't know.

3 THE COURT: All right. So here's what I need, do
4 you understand the word "unequivocal"? All right. So that
5 means that you can say for certain one way or the other. So I
6 need an answer. Can you be fair in this case or not?

7 PROSPECTIVE JUROR NO. 018: I don't think I would be
8 that fair.

9 THE COURT: Then you're excused. Thank you. Call
10 the next in order.

11 THE CLERK: Next would be Luis Munoz, Badge No. 319.

12 THE COURT: All right, so folks, this is not a
13 forced march here so does anybody need a break? Use the
14 restroom or anything? Show of hands. Don't be shy. I'm
15 sorry?

16 PROSPECTIVE JUROR NO. 343: I just need to check on
17 my kids.

18 THE COURT: All right.

19 MS. LEXIS: She needs to check on her kids.

20 THE COURT: She just wants a break. She's just
21 holding up her hands.

22 MS. McNEILL: She wanted to check on her kids.

23 THE COURT: I know. I don't care why if -- I just
24 want to know if anybody needs a break and that's fine. We'll
25 take ten minutes. This will be our final break for the day so

1 use it wisely, all right?

2 So ladies and gentlemen, during this recess, it is
3 your duty not to converse among yourselves or with anyone else
4 on any subject connected with the trial or to read, watch or
5 listen to any report of or commentary on the trial by any
6 person connected with the trial or by any medium of
7 information, including without limitation, newspaper,
8 television, radio or Internet, and you are not to form or
9 express an opinion on any subject connected with this case
10 until it's finally submitted to you. We'll be in recess for
11 ten minutes.

12 THE MARSHAL: Rise for the venire panel.

13 (Prospective jurors recessed at 3:53 p.m.)

14 THE COURT: And the record will reflect the venire
15 has departed the courtroom. Any matters outside the presence?

16 MR. DiGIACOMO: No, Your Honor.

17 MS. McNEILL: No, Your Honor.

18 THE COURT: We're in recess.

19 (Court recessed at 3:54 p.m. until 4:11 p.m.)

20 (In the presence of the prospective jurors)

21 THE MARSHAL: All members of the venire panel are
22 present, Your Honor.

23 THE COURT: All right. Thank you. Please be
24 seated. And the record will reflect that we're back within
25 the presence of the venire. All three defendants are present

1 with their respective counsel, the Chief Deputy District
2 Attorneys are present, as are all officers of the court.

3 We have replaced Seat No. 1 with Mr. Munoz; is that
4 right?

5 PROSPECTIVE JUROR NO. 319: Yes.

6 THE COURT: And do you have the microphone,
7 Mr. Munoz? No. All right.

8 PROSPECTIVE JUROR NO. 319: 0319, Luis Munoz.

9 THE COURT: Mr. Munoz, have you ever been a juror
10 before?

11 PROSPECTIVE JUROR NO. 319: No.

12 THE COURT: Have you ever been in law enforcement?

13 PROSPECTIVE JUROR NO. 319: No.

14 THE COURT: Do you have anyone in your family or any
15 close friends that are in law enforcement?

16 PROSPECTIVE JUROR NO. 319: No.

17 THE COURT: Have you ever been the victim of a
18 crime?

19 PROSPECTIVE JUROR NO. 319: No.

20 THE COURT: Has anyone in your family or closely
21 associated with you ever been the victim of a violent crime?

22 PROSPECTIVE JUROR NO. 319: No.

23 THE COURT: Have you ever been accused of a crime?

24 PROSPECTIVE JUROR NO. 319: No.

25 THE COURT: Or convicted of a crime?

1 PROSPECTIVE JUROR NO. 319: No.

2 THE COURT: Has anyone in your family or someone
3 closely associated with you been convicted of a crime?

4 PROSPECTIVE JUROR NO. 319: No.

5 THE COURT: Do you believe that you could be a fair
6 and impartial juror in this case?

7 PROSPECTIVE JUROR NO. 319: I never done -- always
8 the first time.

9 THE COURT: So the question still remains, this is
10 the first time?

11 PROSPECTIVE JUROR NO. 319: Yes.

12 THE COURT: Will you be able to be a fair and
13 impartial juror in this case?

14 PROSPECTIVE JUROR NO. 319: I believe so.

15 THE COURT: Okay. Do you agree and understand the
16 presumption of innocence?

17 PROSPECTIVE JUROR NO. 319: Yes.

18 THE COURT: Will you be able to follow the law as I
19 have -- as I will instruct you at the end of the case? Will
20 you be able to follow the law?

21 PROSPECTIVE JUROR NO. 319: Yes, ma'am.

22 THE COURT: Now, the prosecutor mentioned, if you
23 were paying attention when she was questioning the last person
24 who sat in that seat that if, and only if the jury reaches a
25 guilty verdict, then the jury would be required to determine

1 the sentence for the murder charge, if the jury found the
2 defendants or any one of them guilty of that crime, right?

3 And there are three potential punishments. Do you
4 remember what those were? I'm not going to quiz you? I'm
5 just asking you do you remember?

6 PROSPECTIVE JUROR NO. 319: I do, yes.

7 THE COURT: Okay. Would you be able to consider all
8 three punishments?

9 PROSPECTIVE JUROR NO. 319: Yes.

10 THE COURT: Thank you. All right. Would the State
11 like to inquire further?

12 MS. LEXIS: Yes, Your Honor. Good afternoon,
13 Mr. Munoz.

14 PROSPECTIVE JUROR NO. 319: Good afternoon.

15 MS. LEXIS: Sir, do you want to be on this jury?

16 PROSPECTIVE JUROR NO. 319: If I have to so --

17 MS. LEXIS: Okay. How long have you lived in Las
18 Vegas?

19 PROSPECTIVE JUROR NO. 319: Thirty-one years.

20 MS. LEXIS: Okay. And where did you move from?

21 PROSPECTIVE JUROR NO. 319: New York.

22 MS. LEXIS: Okay. And never been a juror before?

23 PROSPECTIVE JUROR NO. 319: No.

24 MS. LEXIS: Okay. Are you the type of person who
25 can wait before you hear all of the evidence, the testimony

1 that the State presents because we have the burden of proof;
2 you understand that?

3 PROSPECTIVE JUROR NO. 319: Right.

4 MS. LEXIS: Okay. Are you the type of person who
5 can wait until all of that evidence and testimony comes in
6 before forming an opinion?

7 PROSPECTIVE JUROR NO. 319: Yes.

8 MS. LEXIS: Okay. Do you own any guns, sir?

9 PROSPECTIVE JUROR NO. 319: Yes, I have.

10 MS. LEXIS: Okay. What type of gun?

11 PROSPECTIVE JUROR NO. 319: .45.

12 MS. LEXIS: Okay. And what do you have the gun for?
13 Not that you have to have a reason.

14 PROSPECTIVE JUROR NO. 319: I own a business.

15 MS. LEXIS: Okay.

16 PROSPECTIVE JUROR NO. 319: To defend myself and the
17 business, yeah.

18 MS. LEXIS: Okay. Do you have any opinions about
19 gun ownership, gun use?

20 PROSPECTIVE JUROR NO. 319: Because here, myself,
21 you know, like anybody who owns a business they should have a
22 gun to defend themselves.

23 MS. LEXIS: Okay. Do you think you would be a good
24 juror?

25 PROSPECTIVE JUROR NO. 319: I never been, but I'll

1 give it a try.

2 MS. LEXIS: Okay. What kind of qualities do you
3 have that would make you a good juror?

4 PROSPECTIVE JUROR NO. 319: That's a good question.
5 I'll be judging the person. It's hard, you know, it's the
6 first time so it will be hard for me.

7 MS. LEXIS: Okay. I mean, understanding -- I mean,
8 do you have anything that would prevent you from being able to
9 sit in judgment?

10 PROSPECTIVE JUROR NO. 319: No.

11 MS. LEXIS: Okay. I understand that it would be
12 difficult to sit on a jury. Certainly, this is, you know, a
13 very serious trial, but do you think it's a role that you
14 would take seriously?

15 PROSPECTIVE JUROR NO. 319: Yes, I will, if I have
16 to.

17 MS. LEXIS: Okay. Okay. Court's brief indulgence.
18 Sir, how are you employed?

19 PROSPECTIVE JUROR NO. 319: I'm employ myself. I
20 own a business.

21 MS. LEXIS: Is that VIP Motors?

22 PROSPECTIVE JUROR NO. 319: Yes.

23 MS. LEXIS: Okay. And you're married?

24 PROSPECTIVE JUROR NO. 319: Yes.

25 MS. LEXIS: What does your wife do?

1 PROSPECTIVE JUROR NO. 319: She run a newspaper, but
2 she's semi-retired.

3 MS. LEXIS: Semi-retired?

4 PROSPECTIVE JUROR NO. 319: Yes.

5 MS. LEXIS: Okay. Which newspaper?

6 PROSPECTIVE JUROR NO. 319: Nevada Legal News.

7 MS. LEXIS: Okay. And so does she have training or
8 experience in legal aspects?

9 PROSPECTIVE JUROR NO. 319: Yes.

10 MS. LEXIS: Okay. Like what? What's her experience
11 in?

12 PROSPECTIVE JUROR NO. 319: That's a newspaper. We
13 run everything about the law, Nevada Legal News.

14 MS. LEXIS: Okay.

15 PROSPECTIVE JUROR NO. 319: Yeah, that's what she's
16 been working for 31 years.

17 MS. LEXIS: Okay. And so do you and your wife talk
18 about her publications or what's published in that news -- or
19 in that news?

20 PROSPECTIVE JUROR NO. 319: Yes, we do. Yes.

21 MS. LEXIS: Okay. Do you have friends that are
22 defense attorneys?

23 PROSPECTIVE JUROR NO. 319: What? Do I have what?

24 MS. LEXIS: Friends that are attorneys?

25 PROSPECTIVE JUROR NO. 319: Yes, a lot.

1 MS. LEXIS: Okay.

2 PROSPECTIVE JUROR NO. 319: A lot of attorneys, yes.

3 MS. LEXIS: Okay. Are they most -- are they civil
4 or criminal attorneys?

5 PROSPECTIVE JUROR NO. 319: Both, civil and
6 criminal.

7 MS. LEXIS: Okay.

8 PROSPECTIVE JUROR NO. 319: Yes.

9 MS. LEXIS: Are you familiar with prosecutors? Do
10 you know any prosecutors?

11 PROSPECTIVE JUROR NO. 319: No.

12 MS. LEXIS: Okay. How about criminal defense
13 attorneys?

14 PROSPECTIVE JUROR NO. 319: No.

15 MS. LEXIS: How about civil attorneys? Which ones
16 are you -- do you have a personal relationship with?

17 PROSPECTIVE JUROR NO. 319: No, no personal
18 relationship. Just, you know, because my wife deal with the
19 -- with -- she's the one who deal with the lawyers, you know,
20 but not friends, just in the business, you know.

21 MS. LEXIS: Okay.

22 PROSPECTIVE JUROR NO. 319: Part of the business.

23 MS. LEXIS: Okay. What's your opinion about our
24 criminal justice system?

25 PROSPECTIVE JUROR NO. 319: My opinion is everything

1 should be fair.

2 MS. LEXIS: Okay. Do you think it is fair?

3 PROSPECTIVE JUROR NO. 319: It is fair, yes.

4 MS. LEXIS: Okay. We try our best, right? Okay.
5 Do you have any children?

6 PROSPECTIVE JUROR NO. 319: No.

7 MS. LEXIS: I have no more questions for this
8 potential juror. Thank you, Mr. Munoz.

9 THE COURT: Mr. Landis.

10 MR. LANDIS: Good afternoon, sir. Before today, at
11 some point you got that Jury Summons in the mail that said,
12 hey, you've been summoned for jury service. You wake up today
13 knowing today's that magical day that had the date. What's
14 the first thought that crosses your mind?

15 PROSPECTIVE JUROR NO. 319: I'm going to learn
16 something today.

17 MR. LANDIS: Awesome. I like that. Based on
18 something that was said earlier, before you were up here,
19 before you were getting asked questions, a lot of things in
20 the news about police lately. Do you have strong views one
21 way or the other about current policing in the United States?

22 PROSPECTIVE JUROR NO. 319: I got to trust. If you
23 don't trust them, so I've been -- you know, we got to trust
24 them. I trust them.

25 MR. LANDIS: And I respect that wholly. Let me ask

1 you this, though -- and I talked about there a moment ago --
2 when witnesses come in to testify, the fact that they're a
3 police officer, that won't make you judge them a different
4 way, will it? In other words, you won't say, you know, I
5 wasn't sure, but since he's a police officer I'm going to
6 trust him? Will you say that in this court during this case?

7 PROSPECTIVE JUROR NO. 319: Eventually, I trust --
8 you know, I trust the police. That's my way of thinking.

9 MR. LANDIS: And let me rephrase it. Obviously,
10 there's what you do in your daily life on the streets and your
11 interactions with people and the police, then what you're here
12 to do in this court of law if you're a juror.

13 My question is simply this, a police officer's going
14 to testify and somebody who's not a police officer is going to
15 testify. Do you view one of them as more believable just
16 because they are or are not a police officer?

17 PROSPECTIVE JUROR NO. 319: Both, they would be
18 trusted for me. Both.

19 MR. LANDIS: Okay. So the fact that he's a police
20 officer getting on that stand doesn't give him the leg up --

21 PROSPECTIVE JUROR NO. 319: No.

22 MR. LANDIS: -- if I can put it that way?

23 PROSPECTIVE JUROR NO. 319: Both should be trusted,
24 both.

25 MR. LANDIS: When you walked into this courtroom

1 today, and eventually you learned it was a criminal trial as
2 opposed to a civil trial, did that make you have any thoughts,
3 make you think anything good or bad?

4 PROSPECTIVE JUROR NO. 319: Just walking in to learn
5 and to see what is going on, but, you know, it's --

6 MR. LANDIS: Let me ask you a question I asked
7 before as well. If you were me, would you be comfortable with
8 somebody like you on this jury?

9 PROSPECTIVE JUROR NO. 319: Yes.

10 MR. LANDIS: I have no further questions. Thank
11 you, sir.

12 THE COURT: Mr. Wolfbrandt.

13 MR. WOLFBRANDT: Thank you.

14 THE COURT RECORDER: Mr. Wolfbrandt, (inaudible).

15 MR. WOLFBRANDT: I was going to ask you, where do
16 you want me?

17 THE COURT RECORDER: (Inaudible).

18 MR. WOLFBRANDT: Is right here fine?

19 THE COURT RECORDER: Sure.

20 THE COURT: You can be there. Just -- we just need
21 you close to a microphone. It doesn't do any good to have a
22 microphone there and then have you stand in a dead zone over
23 there. That's --

1 MR. WOLFBRANDT: Right. If it's okay with you, just
2 so the microphone's right here, I can ask some questions from
3 right here.

4 THE COURT: Okay. That's perfect.

5 MR. WOLFBRANDT: Is that all right?

6 THE COURT: Yep.

7 MR. WOLFBRANDT: Yeah. Well, I'm asking you, is
8 that okay that I can stand all the way back here?

9 PROSPECTIVE JUROR NO. 319: Sure, no problem.

10 MR. WOLFBRANDT: Okay.

11 THE COURT: Okay, that's perfect.

12 MR. WOLFBRANDT: Is that all right?

13 THE COURT: Yep.

14 MR. WOLFBRANDT: Yeah. No, I'm asking you, is that
15 okay that I could stand all the way back here?

16 PROSPECTIVE JUROR NO. 319: Sure, no problem.

17 MR. WOLFBRANDT: Okay. In questioning from the
18 State, you mentioned that you -- do you currently own a .45
19 caliber handgun?

20 PROSPECTIVE JUROR NO. 319: Yes.

21 MR. WOLFBRANDT: Okay. Is that the own gun you own?

22 PROSPECTIVE JUROR NO. 319: Yes.

23 MR. WOLFBRANDT: Okay. And I believe, you said you
24 have it for -- because of your business.

25 PROSPECTIVE JUROR NO. 319: Yes, my business. Yes.

1 MR. WOLFBRANDT: Okay. Do you also carry that back
2 and forth to home?

3 PROSPECTIVE JUROR NO. 319: No. It's in my
4 business. It's only in my business.

5 MR. WOLFBRANDT: You just leave it there at the
6 office?

7 PROSPECTIVE JUROR NO. 319: Yes.

8 MR. WOLFBRANDT: So there's in firearms at home?

9 PROSPECTIVE JUROR NO. 319: No. Not at all.

10 MR. WOLFBRANDT: Okay. Have you -- do you have a
11 permit to carry that concealed?

12 PROSPECTIVE JUROR NO. 319: I do have a permit when
13 I bought it, yes.

14 MR. WOLFBRANDT: No, I'm talking about a separate
15 permit to carry it concealed --

16 PROSPECTIVE JUROR NO. 319: No, I do --

17 MR. WOLFBRANDT: -- where you have to take --

18 PROSPECTIVE JUROR NO. 319: -- not have.

19 MR. WOLFBRANDT: -- classes and --

20 PROSPECTIVE JUROR NO. 319: No, no, I do not have
21 it.

22 MR. WOLFBRANDT: And actually get trained in how to
23 shoot it?

24 PROSPECTIVE JUROR NO. 319: No, I don't. I don't --
25

1 MR. WOLFBRANDT: Okay.

2 PROSPECTIVE JUROR NO. 319: -- not have that.

3 MR. WOLFBRANDT: All right, thanks. That's all I
4 have.

5 PROSPECTIVE JUROR NO. 319: No problem.

6 THE COURT: Ms. McNeill.

7 MS. MCNEILL: Thank you, Your Honor. Mr. Munoz, the
8 District Attorney asked you if you could -- or I think,
9 actually, the judge did. If you could consider all the
10 punishments that the District Attorney indicated were possible
11 on -- if there was a conviction in the murder. Do you have
12 any strong feelings about any of those sentences?

13 PROSPECTIVE JUROR NO. 319: My feelings I'll be
14 fair.

15 MS. MCNEILL: Okay. But when we're talking about
16 when Ms. Lexis indicated that if there's a verdict of guilt on
17 the murder charge, you will be responsible for choosing
18 between a term of years of 20 to 50 years, a sentence of 20 to
19 life or a sentence of life without parole. Do you have strong
20 feelings about any of those sentencing ranges that you would
21 have to choose --

22 PROSPECTIVE JUROR NO. 319: Yes, I will -- I will
23 have a strong feelings because the difference of those years,
24 it will be very meaningful for that person.

25 MS. MCNEILL: Okay. And so where would those

1 feelings come from? Those feelings that you have?

2 PROSPECTIVE JUROR NO. 319: I don't know much -- you
3 know, I'm learning, but I don't know much about the case and
4 what is, you know, it's just a learning just for me today, you
5 know?

6 MS. McNEILL: Okay. So it sounds like you're saying
7 at this point you don't know because you haven't heard
8 anything, right?

9 PROSPECTIVE JUROR NO. 319: Right, yeah.

10 MS. McNEILL: Okay.

11 PROSPECTIVE JUROR NO. 319: Right.

12 MS. McNEILL: But as you sit here when you hear that
13 those are your options, you don't have a strong feeling one
14 way or the other about any of those sentencing ranges?

15 PROSPECTIVE JUROR NO. 319: Yes, I'll be having
16 strong feelings, and of course, yeah, we all human.

17 MS. McNEILL: Okay. So you'll have a strong
18 feeling, but it will come from once you hear the facts? Is
19 that what you're saying?

20 PROSPECTIVE JUROR NO. 319: Yes.

21 MS. McNEILL: Okay. All right. I have nothing
22 further, Your Honor.

23 THE COURT: Thank you. All right. If you'll pass
24 the microphone over to Ms. White, who is seated next to you.

25 PROSPECTIVE JUROR NO. 276: Hello. Good afternoon,

1 my name is Jasmine White, No. 276. I'm 28 years old of age,
2 born and raised in Las Vegas, Nevada. I'm a small business
3 owner of a nail salon in central Las Vegas. I've been a
4 business owner since April of 2012. I am not married. I'm
5 single with no children of my own, but my two dogs, Dolce and
6 Louie.

7 THE COURT: Thank you. And would the State like to
8 inquire further?

9 MR. DiGIACOMO: Good afternoon, ma'am. How are you?

10 PROSPECTIVE JUROR NO. 276: Good afternoon.

11 MR. DiGIACOMO: So let me tell you the good news.
12 The good news is that the first juror always takes the longest
13 and then as we move along, everybody hears all the questions
14 already and so we should be able to get through it fairly
15 quickly, okay?

16 PROSPECTIVE JUROR NO. 276: Okay.

17 MR. DiGIACOMO: Let me ask you just a couple of
18 general questions. What kind of dogs do you have?

19 PROSPECTIVE JUROR NO. 276: I have a shiatsu and an
20 apple head Chihuahua.

21 MR. DiGIACOMO: All right. So little dogs?

22 PROSPECTIVE JUROR NO. 276: Um-h'm.

23 MR. DiGIACOMO: And how long have you had dogs?

24 PROSPECTIVE JUROR NO. 276: I've had Dolce since
25 2012 -- I mean, since 2010, and I just got Louie in May.

1 MR. DiGIACOMO: And you said you've been a salon
2 owner since 2012?

3 PROSPECTIVE JUROR NO. 276: Correct.

4 MR. DiGIACOMO: Do you have employees as well?

5 PROSPECTIVE JUROR NO. 276: I have one commissioned
6 girl.

7 MR. DiGIACOMO: One commission girl? Do you also
8 have independent contractors that use the space or is it just
9 the two of you?

10 PROSPECTIVE JUROR NO. 276: I did, but I no longer
11 do.

12 MR. DiGIACOMO: You no longer do. Okay. Do you
13 also do work on the nails --

14 PROSPECTIVE JUROR NO. 276: Yes.

15 MR. DiGIACOMO: -- I guess, manicures, pedicures,
16 whatever.

17 PROSPECTIVE JUROR NO. 276: I'm the CEO and the
18 janitor.

19 MR. DiGIACOMO: Okay. So basically, you have a lot
20 of work --

21 PROSPECTIVE JUROR NO. 276: Yes.

22 MR. DiGIACOMO: -- to go on? Do you own a firearm?

23 PROSPECTIVE JUROR NO. 276: No, I do not.

24 MR. DiGIACOMO: So you don't keep one within the
25 nail shop like the juror before you?

1 PROSPECTIVE JUROR NO. 276: No, I do not.

2 MR. DiGIACOMO: Have you ever fired a firearm
3 before?

4 PROSPECTIVE JUROR NO. 276: No, I have not.

5 MR. DiGIACOMO: Let's talk a little bit about the
6 criminal justice system. The judge asked some questions about
7 victim of a crime, accused of a crime. I want to ask just a
8 more broad question. Have you ever had to come to the
9 courthouse for any reason prior to getting your Jury Summons
10 and coming down here for this case?

11 PROSPECTIVE JUROR NO. 276: Traffic tickets.

12 MR. DiGIACOMO: Traffic tickets? Okay.

13 PROSPECTIVE JUROR NO. 276: Um-h'm.

14 MR. DiGIACOMO: Have you ever had any sort of
15 contact with law enforcement you thought was negative or
16 positive since that's sort of been an issue that's discussed
17 with prior jurors?

18 PROSPECTIVE JUROR NO. 276: No, I have not.

19 MR. DiGIACOMO: Okay. Do you have an opinion about
20 what kind of what the news is talking about these days? I
21 mean, do you think when you see a police officer -- well, let
22 me ask it this -- open ended. When you see a police officer,
23 what thought goes through your mind?

24 PROSPECTIVE JUROR NO. 276: When I see a police
25 officer, basically they're just doing their job, basically.

1 They have to, you know, look at the reason and go about it how
2 they're supposed to with the law.

3 MR. DiGIACOMO: So ultimately, I mean, you'd agree
4 with me there's good cops, there's bad cops, right?

5 PROSPECTIVE JUROR NO. 276: Yes.

6 MR. DiGIACOMO: You're going to judge the cops from
7 the stand the same way you're going to judge the lay
8 witnesses?

9 PROSPECTIVE JUROR NO. 276: Correct.

10 MR. DiGIACOMO: Kind of like what the judge says if,
11 you know, the sky is -- if someone says the sky is purple and
12 that's just ridiculous, it doesn't matter, you know, what his
13 job is, you can decide that person's not a very credible
14 witness, right?

15 PROSPECTIVE JUROR NO. 276: Correct.

16 MR. DiGIACOMO: Do you think you're essentially a
17 fair person?

18 PROSPECTIVE JUROR NO. 276: Yes, I am.

19 MR. DiGIACOMO: Do you think you could wait until
20 you hear all of the evidence to make a decision as to whether
21 or not Ms. Lexis and I carried our burden in this case?

22 PROSPECTIVE JUROR NO. 276: Yes.

23 MR. DiGIACOMO: Now, we have to sort of talk about
24 this up-front because we don't get to talk about this again,
25 but assuming Ms. Lexis and I make it there, and one or more of

1 these defendants are convicted of first degree murder, then in
2 the State of Nevada, you know, there is a second phase. And
3 this is the only time the defense attorneys get to talk to you
4 and we get to talk to you so we got to kind of know now.

5 There are people in the world that say, hey, look, I
6 have no problem sitting down looking at what the evidence is,
7 applying it to what the judge says the law is and making a
8 decision, did the State prove this case beyond a reasonable
9 doubt or not? That's sort of what we call the first phase of
10 this trial, where that decision will be made. Then there's
11 sort of this second step, which is what should happen to the
12 individuals? And there are people in the world who say, I can
13 do step number one, but I don't feel comfortable sitting in
14 judgment in deciding what the punishment should be for those
15 people.

16 Are you somebody who's capable of making that type
17 of determination?

18 PROSPECTIVE JUROR NO. 276: Yes.

19 MR. DiGIACOMO: And I think Ms. Lexis mentioned that
20 there's three possible forms of punishment. And, you know,
21 the judge will give you much further instructions on what this
22 means, but, you know, there's the term of years, there's life
23 with the possibility or parole and there's life without the
24 possibility of parole. Some people say, look, if I convict
25 somebody of first degree murder, I am only imposing life

1 without the possibility of parole, I don't care what else I
2 know about it, they should get life.

3 And there's other people who will say, I just don't
4 believe in, you know, life without parole. There's no hope
5 involved with that type of situation. And so those type of
6 jurors are not jurors that the State of Nevada says should be
7 sitting on a jury. We want somebody who's open-minded.
8 Someone who can consider all three forms of punishment once
9 you hear kind of the other evidence that might be relevant
10 that you wouldn't hear in the first phase of the trial.

11 Do you think you're a person who's capable of doing
12 that?

13 PROSPECTIVE JUROR NO. 276: Yes, I am.

14 MR. DiGIACOMO: Do you think that you're a fair
15 person?

16 PROSPECTIVE JUROR NO. 276: Yes, I am.

17 MR. DiGIACOMO: If, you know, you were in the court
18 system for any reason and there was a juror that was going to
19 make a decision about, you know, something relevant to you,
20 whether it's somebody who's suing you over the nail salon,
21 something else like that, would you want somebody like
22 yourself, 12 of you, basically, sitting in the box, making a
23 decision as to first, what happened in this case and second,
24 what the proper punishment should be assuming we actually are
25 able to prove the case?

1 PROSPECTIVE JUROR NO. 276: 100 percent.

2 MR. DiGIACOMO: Thank you very much, ma'am. Judge,
3 we'd pass for cause.

4 THE COURT: Thank you. All right. And defense, are
5 we --

6 MR. WOLFBRANDT: I'll go first this time. Just
7 split it up.

8 THE COURT: Okay.

9 MR. WOLFBRANDT: Good afternoon, Ms. White.

10 PROSPECTIVE JUROR NO. 276: Good afternoon.

11 MR. WOLFBRANDT: So you grew up here in Las Vegas?

12 PROSPECTIVE JUROR NO. 276: Yes, born and raised.

13 MR. WOLFBRANDT: Right, go ahead. What high school
14 did you graduate from?

15 PROSPECTIVE JUROR NO. 276: Las Vegas, home of the
16 Wildcats.

17 MR. WOLFBRANDT: And your salon you said was kind in
18 the central --

19 PROSPECTIVE JUROR NO. 276: Yeah, central.
20 Charleston and Decatur.

21 MR. WOLFBRANDT: Okay. Let me just follow up on a
22 little bit of the topic about firearms. You said you've never
23 fired one, you haven't owned one. I take it you have no
24 desire to ever own one?

25 PROSPECTIVE JUROR NO. 276: I do.

1 MR. WOLFBRANDT: Do you?

2 PROSPECTIVE JUROR NO. 276: I do.

3 MR. WOLFBRANDT: Okay. What would be your reason
4 for having one?

5 PROSPECTIVE JUROR NO. 276: For protection. Solely
6 because I am a business owner, and Charleston can be a little
7 hectic at times at night because I'm open from 10:00 a.m. to
8 10:00 p.m., so I don't have any alarm systems or anything so I
9 would like to eventually own one. But I would like to follow
10 whatever the protocols it is to learn how to use one properly
11 and get the licensings and all that good stuff.

12 MR. WOLFBRANDT: Okay. So I take it you're in favor
13 of expanding background checks for gun ownership?

14 PROSPECTIVE JUROR NO. 276: Yes.

15 MR. WOLFBRANDT: Okay. And how soon are you looking
16 to -- besides just the shop, are you looking to also carry --
17 or keep it for protection for your home?

18 PROSPECTIVE JUROR NO. 276: Yes.

19 MR. WOLFBRANDT: Okay. All right, thank you.
20 That's all I have.

21 THE COURT: Ms. McNeill.

22 MS. MCNEILL: Thank you, Your Honor. Mr. DiGiacomo
23 asked you a question about could you wait for the State to
24 prove to you that they met their burden. Do you understand
25 what their burden -- what that means when he says it's his

1 burden?

2 PROSPECTIVE JUROR NO. 276: Yes.

3 MS. McNEILL: Okay. What does that mean to you?

4 PROSPECTIVE JUROR NO. 276: Are you -- are you
5 saying or referencing to like will I wait until everything is
6 said before I make a judgment on the defendants?

7 MS. McNEILL: Well, let me ask you this, do you
8 understand that the State has the burden of proof here? I
9 mean, that's kind of lawyer term meaning they have to prove
10 their case beyond a reasonable doubt. I don't have to prove
11 anything. Just like these gentlemen don't have to prove
12 anything. Do you understand that?

13 PROSPECTIVE JUROR NO. 276: Yes.

14 MS. McNEILL: Okay. And how do you feel about that?

15 PROSPECTIVE JUROR NO. 276: I'm open to it. I'm
16 fair.

17 MS. McNEILL: Okay. When you say you're open to it,
18 do you feel like it should be different? That we, the defense
19 should have to prove something?

20 PROSPECTIVE JUROR NO. 276: No.

21 MS. McNEILL: You don't? Okay. So you would wait
22 for them to prove the charges to you?

23 PROSPECTIVE JUROR NO. 276: Correct.

24 MS. McNEILL: Okay. And would you hold it against
25 any of these gentlemen if we didn't put on any witnesses?

1 PROSPECTIVE JUROR NO. 276: No.

2 MS. McNEILL: Okay. You indicated that at your nail
3 salon you have just one other employee?

4 PROSPECTIVE JUROR NO. 276: Yes.

5 MS. McNEILL: Okay. Do you ever have to handle
6 disputes maybe between your employee and customers?

7 PROSPECTIVE JUROR NO. 276: Yes.

8 MS. McNEILL: How do you handle those?

9 PROSPECTIVE JUROR NO. 276: Well, just depending on
10 what happens. Let's say, for instance, a lady comes in and my
11 commissioned girl does her nail, she doesn't like her nails,
12 normally what happens is they don't want to go back to that
13 person so I will have to -- either have to offer them a
14 service of maybe a discount, or I can take care of their nails
15 free of charge because I want to keep their business. I want
16 them to still come so --

17 MS. McNEILL: Okay. So you'll try to just smooth
18 the situation over?

19 PROSPECTIVE JUROR NO. 276: Correct.

20 MS. McNEILL: Okay. Do you kind of consider
21 yourself good at handling confrontation or disputes?

22 PROSPECTIVE JUROR NO. 276: Yes.

23 MS. McNEILL: Have you had any training in that or
24 it's just something you've picked up?

25 PROSPECTIVE JUROR NO. 276: I'm a very easy going

1 person. I've never been in a physical altercation. I've
2 never been really into arguments. I always like to view that
3 person what they have to say and they listen to me, and I
4 listen to them, and we can work something out.

5 MS. McNEILL: Okay. So it sounds like you're fairly
6 open-minded when people are talking to you in different
7 situations?

8 PROSPECTIVE JUROR NO. 276: Yes.

9 MS. McNEILL: Is that fair?

10 PROSPECTIVE JUROR NO. 276: Yes.

11 MS. McNEILL: Okay. Do you think you're a good
12 judge of character?

13 PROSPECTIVE JUROR NO. 276: Yes.

14 MS. McNEILL: And how do you -- what sort of tools
15 do you use to judge someone's character when you are talking
16 to them?

17 PROSPECTIVE JUROR NO. 276: Eye contact, body
18 language. The choice of words that they use.

19 MS. McNEILL: Okay. All right. So you factor all
20 those things in to what someone's telling you and not just
21 taking, maybe, what they're saying at face value?

22 PROSPECTIVE JUROR NO. 276: Yes.

23 MS. McNEILL: Okay. All right. I have nothing
24 further, Your Honor.

25 MR. LANDIS: And Ms. White, nothing personal, but

1 we'd pass for cause, no questions.

2 THE COURT: Thank you, Mr. Landis. And pass the
3 microphone over. We have Jennifer Quiros.

4 PROSPECTIVE JUROR NO. 291: Yes.

5 THE COURT: Tell us about yourself.

6 PROSPECTIVE JUROR NO. 291: Hi. My name's Jennifer
7 Quiros. I've lived in Clark County for about 30 years. Not
8 married, no kids. And I take care of my mom, who's retired.
9 And I have one sister, who works for Family Court.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR NO. 291: And on my spare time I
12 like to drink and gamble.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NO. 291: That's true.

15 THE COURT: All right. Well, I guess, you're in the
16 city for that.

17 PROSPECTIVE JUROR NO. 291: I work in retail, been
18 if retail for 22 years for Smith's.

19 THE COURT: Okay. And thank you. I was going to
20 ask you that. So you haven't always taken care of your
21 mother?

22 PROSPECTIVE JUROR NO. 291: No.

23 THE COURT: You say you're her caretaker. Does she
24 require --

25 PROSPECTIVE JUROR NO. 291: No, no.

1 THE COURT: -- care?

2 PROSPECTIVE JUROR NO. 291: She just -- my dad
3 passed away so I just -- she just retired from the airport --

4 THE COURT: Okay.

5 PROSPECTIVE JUROR NO. 291: -- a couple years ago,
6 but --

7 THE COURT: All right.

8 PROSPECTIVE JUROR NO. 291: -- I help her pay the
9 bills and the house.

10 THE COURT: Okay. So are you working?

11 PROSPECTIVE JUROR NO. 291: Yes, I work for
12 Smith's --

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NO. 291: -- Grocery Store.

15 THE COURT: All right. And what do you do for them?

16 PROSPECTIVE JUROR NO. 291: I'm a -- just a health
17 and beauty manager.

18 THE COURT: Okay. And so do you take care of the
19 ordering stock for that department or --

20 PROSPECTIVE JUROR NO. 291: Well, I'm basically, the
21 assistant. My manager does.

22 THE COURT: Oh.

23 PROSPECTIVE JUROR NO. 291: Yeah.

24 THE COURT: And what's your education background?

25 PROSPECTIVE JUROR NO. 291: I did not graduate.

1 THE COURT: You didn't graduate from high school
2 or --

3 PROSPECTIVE JUROR NO. 291: From high school, yes.

4 THE COURT: Oh, okay. And have you taken any
5 classes or had any on-the-job training?

6 PROSPECTIVE JUROR NO. 291: No.

7 THE COURT: Would the State like to inquire further?

8 MS. LEXIS: Yes, Your Honor.

9 PROSPECTIVE JUROR NO. 291: Okay. Not yet.

10 MS. LEXIS: Hello, Ms. Quiros.

11 PROSPECTIVE JUROR NO. 291: Hello. How are you?

12 MS. LEXIS: Good afternoon. I'm fine.

13 PROSPECTIVE JUROR NO. 291: Good afternoon.

14 MS. LEXIS: Thank you. Ms. Quiros, you were a prior
15 juror?

16 PROSPECTIVE JUROR NO. 291: Yes.

17 MS. LEXIS: For a civil case?

18 PROSPECTIVE JUROR NO. 291: I believe it was civil,
19 yeah.

20 MS. LEXIS: Okay. And was -- or no, I put down
21 criminal. Was it criminal? Do you remember?

22 PROSPECTIVE JUROR NO. 291: It was like 15 years ago
23 so --

24 MS. LEXIS: Fifteen years ago, okay.

25 PROSPECTIVE JUROR NO. 291: I think it was criminal,

1 yeah.

2 MS. LEXIS: Okay. Was that here in Las Vegas?

3 PROSPECTIVE JUROR NO. 291: Yes.

4 MS. LEXIS: Okay. In this courthouse?

5 PROSPECTIVE JUROR NO. 291: I believe so, yes.

6 MS. LEXIS: I believe, the old courthouse.

7 PROSPECTIVE JUROR NO. 291: I think it was the old
8 one.

9 MS. LEXIS: Okay.

10 PROSPECTIVE JUROR NO. 291: The old one, yeah.

11 MS. LEXIS: Okay. Did anything about that prior
12 jury service in a criminal trial leave you with any opinions
13 about how our criminal justice system works here in Las Vegas?

14 PROSPECTIVE JUROR NO. 291: No.

15 MS. LEXIS: Okay. Do you think -- well, do you have
16 any opinions in general about our criminal justice system?

17 PROSPECTIVE JUROR NO. 291: It was a mistrial so --

18 MS. LEXIS: Okay.

19 PROSPECTIVE JUROR NO. 291: Yeah.

20 MS. LEXIS: Okay. Were you sad that you didn't get
21 the opportunity to deliberate?

22 PROSPECTIVE JUROR NO. 291: Not really.

23 MS. LEXIS: Okay. Just meant getting out of jury
24 service early?

25 PROSPECTIVE JUROR NO. 291: Yeah.

1 MS. LEXIS: Okay. Do you want to be on this jury?

2 PROSPECTIVE JUROR NO. 291: Yeah, I would like to.

3 MS. LEXIS: Okay. Why?

4 PROSPECTIVE JUROR NO. 291: I think I can be fair.

5 MS. LEXIS: Okay. And you have the time?

6 PROSPECTIVE JUROR NO. 291: Yes.

7 MS. LEXIS: Okay.

8 PROSPECTIVE JUROR NO. 291: Yes.

9 MS. LEXIS: Have you had any positive or negative
10 contact with law enforcement?

11 PROSPECTIVE JUROR NO. 291: No.

12 MS. LEXIS: No traffic tickets that you, you know,
13 wanted to dispute?

14 PROSPECTIVE JUROR NO. 291: I've had some, but --

15 MS. LEXIS: Or anything like that?

16 PROSPECTIVE JUROR NO. 291: No, no.

17 MS. LEXIS: Okay.

18 PROSPECTIVE JUROR NO. 291: No.

19 MS. LEXIS: Never been treated unfairly? We did
20 talk a little bit about, you know the negative publicity or
21 the news reportings concerning police officers in our country.
22 Do you share any of those opinions that are being reported on?

23 PROSPECTIVE JUROR NO. 291: Not really.

24 MS. LEXIS: Okay.

25 PROSPECTIVE JUROR NO. 291: I don't watch the news

1 too much.

2 MS. LEXIS: Okay. Do you watch crime scene kind of
3 shows? CSI?

4 PROSPECTIVE JUROR NO. 291: Not really.

5 MS. LEXIS: First 48? Okay, just you don't watch TV
6 hardly?

7 PROSPECTIVE JUROR NO. 291: Not really.

8 MS. LEXIS: Okay.

9 PROSPECTIVE JUROR NO. 291: I don't.

10 MS. LEXIS: Okay. Can you consider the three
11 different forms of punishment that we discussed if there is a
12 conviction for first degree murder?

13 PROSPECTIVE JUROR NO. 291: Yes.

14 MS. LEXIS: Okay. And do any of the choices give
15 you pause or cause you to, you know, feel --

16 PROSPECTIVE JUROR NO. 291: No.

17 MS. LEXIS: -- uncomfortable?

18 PROSPECTIVE JUROR NO. 291: No.

19 MS. LEXIS: Okay. Do you own a gun?

20 PROSPECTIVE JUROR NO. 291: I do not.

21 MS. LEXIS: Would you like to?

22 PROSPECTIVE JUROR NO. 291: No.

23 MS. LEXIS: Do you have any opinions one way or the
24 other about people who own guns?

25 PROSPECTIVE JUROR NO. 291: Well, to each their own,

1 you know. Not really.

2 MS. LEXIS: All right. Do you think you could be a
3 fair juror?

4 PROSPECTIVE JUROR NO. 291: Yes, I can.

5 MS. LEXIS: What do you think qualifies you to be a
6 fair juror?

7 PROSPECTIVE JUROR NO. 291: Qualifies me?

8 MS. LEXIS: Yeah. Or why would you want -- would
9 you want a juror like yourself say as Mr. DiGiacomo asked Ms.
10 White, you know, if she needed jurors, if she was in -- if she
11 found herself either as a defendant or a plaintiff in a case
12 here, and she needed to select jurors, would she want someone
13 like herself or someone with her mindset sitting as a juror?

14 I'm going to pose the same question to you, would
15 you feel comfortable having someone like you on a jury?

16 PROSPECTIVE JUROR NO. 291: Yes.

17 MS. LEXIS: Court's brief indulgence. I have no
18 more questions for this juror.

19 THE COURT: Mr. Landis.

20 MR. LANDIS: Hi, ma'am. Let me start with a topic
21 that was brought up with Ms. White before. The rule for all
22 criminal trials in the United States, the defense has no
23 obligation to present any evidence at all. So in theory, we
24 could sit there and sleep the next three weeks. And if you
25 guys don't believe they've proven their case beyond a

1 reasonable doubt, the instructions are going to say it's your
2 job to find the defendants not guilty.

3 Some people struggle with that idea. Is it
4 something you're comfortable with?

5 PROSPECTIVE JUROR NO. 291: Yes.

6 MR. LANDIS: How about kind of a -- within that,
7 there's also a rule that defendants can't be compelled to
8 testify. I'm sure you've heard that. We've all heard it. In
9 other words, the defendant, with the assistance of their
10 attorney, so Mr. Murphy and I will talk about at the end of
11 this case, whether or not he should testify.

12 Oftentimes in criminal trials, the defendant doesn't
13 testify, and I'm not here to tell you what we're going to do,
14 but if my client or any of these defendants don't testify in
15 this trial, the instruction is you're not supposed to consider
16 that when you're making a decision. Is that something you're
17 going to struggle with?

18 PROSPECTIVE JUROR NO. 291: No.

19 MR. LANDIS: Do you think that's a fair rule?

20 PROSPECTIVE JUROR NO. 291: Yes.

21 MR. LANDIS: And when I say that, there's oftentimes
22 people (inaudible) will say, you know, if I was accused of
23 something, I'd want to get up there and say my peace about it.
24 And I can understand that viewpoint, but to be clear, that's
25 not something that you would agree with? In other words, if

1 somebody doesn't talk, you won't hold it against them?

2 PROSPECTIVE JUROR NO. 291: I won't, no.

3 MR. LANDIS: I'll pass for cause.

4 THE COURT: Thank you. Mr. Wolfbrandt.

5 MR. WOLFBRANDT: Thank you. You mentioned, was it a
6 sister-in-law that works in Family Court?

7 PROSPECTIVE JUROR NO. 291: No, she's my sister.

8 MR. WOLFBRANDT: So it is your sister?

9 PROSPECTIVE JUROR NO. 291: My little sister, yeah.

10 MR. WOLFBRANDT: Okay. Is that Susan?

11 PROSPECTIVE JUROR NO. 291: Susan, yes, it is.

12 MR. WOLFBRANDT: Do you ever associate with -- or do
13 you talk to her a lot, obviously?

14 PROSPECTIVE JUROR NO. 291: Not a lot. Here and
15 there, but not a lot.

16 MR. WOLFBRANDT: About her work at all?

17 PROSPECTIVE JUROR NO. 291: Not really.

18 MR. WOLFBRANDT: Okay. You ever socialize with her
19 -- or ever get invited to some of her office parties?

20 PROSPECTIVE JUROR NO. 291: No, no.

21 MR. WOLFBRANDT: I just want to follow up on another
22 one to make sure -- you have no desire to own a gun, but did
23 you have any opinion, good, bad or in different as to whether
24 other people should have guns?

25 PROSPECTIVE JUROR NO. 291: I think everybody should

1 have the right to own a gun for protection.

2 MR. WOLFBRANDT: Okay. Just like you would have the
3 right not to have one because you choose not to?

4 PROSPECTIVE JUROR NO. 291: Right.

5 MR. WOLFBRANDT: Okay. All right, thank you.
6 That's all I have.

7 PROSPECTIVE JUROR NO. 291: Thank you.

8 THE COURT: Ms. McNeill.

9 MS. McNEILL: Thank you, Your Honor. I heard drink
10 and gamble and I completely missed what you said you did for a
11 living so --

12 PROSPECTIVE JUROR NO. 291: Oh, I'm sorry.

13 MS. McNEILL: That's okay.

14 PROSPECTIVE JUROR NO. 291: I work in retail. I
15 work the Smith's grocery --

16 MS. McNEILL: Okay.

17 PROSPECTIVE JUROR NO. 291: -- store.

18 MS. McNEILL: Okay. Are you a cashier or --

19 PROSPECTIVE JUROR NO. 291: No, I'm a health and
20 beauty assistant manager.

21 MS. McNEILL: Oh, okay. So you work in the health
22 and beauty section?

23 PROSPECTIVE JUROR NO. 291: Yeah.

24 MS. McNEILL: Like ordering things?

25 PROSPECTIVE JUROR NO. 291: Ordering and stocking

1 and yeah.

2 MS. McNEILL: Okay.

3 PROSPECTIVE JUROR NO. 291: Yeah.

4 MS. McNEILL: And you said you like to drink and
5 gamble. What do you -- what's your gambling of choice? Your
6 game of choice?

7 PROSPECTIVE JUROR NO. 291: Keno.

8 MS. McNEILL: Keno, okay. All right. Fair enough.
9 You said your sister works in Family Court. Does she -- what
10 does she do down in family court?

11 PROSPECTIVE JUROR NO. 291: I'm not sure what she
12 does.

13 MS. McNEILL: Okay. So I guess, you're not that
14 close?

15 PROSPECTIVE JUROR NO. 291: That close.

16 MS. McNEILL: You don't really talk about her work?

17 PROSPECTIVE JUROR NO. 291: Right, yeah.

18 MS. McNEILL: Okay. All right. I want to just
19 briefly go back to Mr. Landis was talking about if a defendant
20 decides not to testify. And you said that that wouldn't
21 bother you. Can you think of some reasons why a defendant
22 might not want to testify?

23 PROSPECTIVE JUROR NO. 291: I think that's his
24 right.

25 MS. McNEILL: Okay, well, fair enough. Right, he

1 has the right not to.

2 PROSPECTIVE JUROR NO. 291: Right.

3 MS. McNEILL: Can you think of any other reasons why
4 someone might choose not to get up there? Do you think --
5 well, these seasoned attorneys get to question him. Do you
6 think that might be scary?

7 PROSPECTIVE JUROR NO. 291: No.

8 MS. McNEILL: No, that wouldn't be scary to be
9 questioned by Mr. DiGiacomo? I mean, he looks nice but -- any
10 other reasons you can think of that someone might say, you
11 know what, I just don't want to get up there and talk?

12 PROSPECTIVE JUROR NO. 291: No.

13 MS. McNEILL: No? Okay. You seem very easy going.
14 Is that just generally your personality?

15 PROSPECTIVE JUROR NO. 291: Yes.

16 MS. McNEILL: Yeah? Would you consider yourself
17 open-minded?

18 PROSPECTIVE JUROR NO. 291: Yes.

19 MS. McNEILL: Yeah? Okay. All right. I'll pass
20 for cause, Your Honor.

21 THE COURT: Thank you. If you'll hand the
22 microphone over.

23 PROSPECTIVE JUROR NO. 291: Thank you.

24 THE COURT: All right. And Michael Goehring, Badge
25 No. 312. Tell us about yourself.

1 PROSPECTIVE JUROR NO. 312: I got used to listening
2 to people mispronounce my name --

3 THE COURT: Oh.

4 PROSPECTIVE JUROR NO. 312: -- 30 years ago.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR NO. 312: No, no, no. It's -- you
7 know, it doesn't matter, but --

8 THE COURT: How do you pronounce it?

9 PROSPECTIVE JUROR NO. 312: -- the actual
10 pronunciation is Goehring, but --

11 THE COURT: Goehring.

12 PROSPECTIVE JUROR NO. 312: -- it's not the end of
13 the world --

14 THE COURT: Thank you.

15 PROSPECTIVE JUROR NO. 312: -- if you don't say it
16 right.

17 THE COURT: No, that's okay. I'd rather you correct
18 me.

19 PROSPECTIVE JUROR NO. 312: Retired. Early retired,
20 working full time just to get medical insurance until I can go
21 on Medicare, which won't be too long from now. So I work
22 retail at Walgreens on the Strip. Busiest store in the whole
23 United States.

24 I've worked part-time since '96. Living in
25 California, unless you make a lot of money, it's challenging

1 to pay all the bills so I actually had two jobs for 15 and a
2 half years until I moved away. Associate Arts Degree. Never
3 married. Significant other for 26 years. She works a couple
4 days a week at a small retail outlet in Chinatown. No
5 children. She has a son from her first marriage, but I've
6 never had the privilege of having children. Did I answer all
7 the questions?

8 THE COURT: Well, sort of. You said you're retired
9 and so until you get on Medicare you're working part time at
10 Walgreens, but what jobs did you have?

11 PROSPECTIVE JUROR NO. 312: My career was in
12 manufacturing. Office support for production lines. I did
13 that up until 2012.

14 THE COURT: All right. And those jobs were always
15 part time?

16 PROSPECTIVE JUROR NO. 312: The -- the manufacturing
17 office support was always the full-time job, and I had no
18 part-time job until '96, when I decided I needed more money to
19 be able to accomplish a house publish, et cetera.

20 THE COURT: And so when you then decided, okay, I'm
21 going to take on a second job to supplement my income, what
22 kind of jobs did you have then?

23 PROSPECTIVE JUROR NO. 312: The first up until the
24 time when I moved to Las Vegas, I worked as a drive-thru order
25 taker for a fast food chain.

1 THE COURT: What part of California did you live in?

2 PROSPECTIVE JUROR NO. 312: Southern. Ventura
3 County.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR NO. 312: Just above LA County.

6 THE COURT: So it's expensive, as you pointed out.

7 PROSPECTIVE JUROR NO. 312: In the city I lived in.

8 THE COURT: Okay. And so better here?

9 PROSPECTIVE JUROR NO. 312: Well, California's the
10 kind of place, you know, if you own your house, by the time
11 you're retired, you can probably stay there even though
12 property taxes are high. If you don't own your house, you
13 haven't got a prayer. It's time to get out.

14 THE COURT: Okay. All right. Would the State like
15 to inquire further?

16 MR. DiGIACOMO: Yes, Your Honor. How are you, sir?

17 PROSPECTIVE JUROR NO. 312: Good. How about
18 yourself?

19 MR. DiGIACOMO: Not bad. Ten minutes until 5:00.
20 Somewhat of a long day. Probably more for you than us. At
21 least we get to focus on ourselves or on the whole group and
22 you just have yourself to worry about here, but sort of with
23 the prior jurors I sort of understood day-to-day what they do
24 for a living. What exactly does it mean that you
25 manufacturing office supplies. What did you do to do that?

1 PROSPECTIVE JUROR NO. 312: Well, the -- most of the
2 companies -- most of the companies were aerospace related,
3 some were not. When -- my actual job title was production
4 planner. So basically, the job is to be sure that the buyers
5 get all the parts in when they're supposed to, and that the
6 internal people get the parts to the assembly area when
7 they're supposed to, and it doesn't end -- my job doesn't end
8 until the product actually ships.

9 I mean, the shipping department doesn't work for me,
10 but I have to be sure they do their job and I'm -- they come
11 back to me if it didn't go out on time. They don't go to the
12 shipping department.

13 MR. DiGIACOMO: Okay.

14 PROSPECTIVE JUROR NO. 312: So the planner basically
15 interfaces with everybody in the company. I've got people
16 from, you know, the salesmen saying my customer said I didn't
17 get the parts on time, what happened, why are you late?
18 Fairly responsible position. Quite interesting because you
19 get to deal with basically everyone in the company.

20 MR. DiGIACOMO: Did you run a department that did
21 that or were you in a supervisory role?

22 PROSPECTIVE JUROR NO. 312: No, I was -- was part of
23 -- there were a group of people, and everyone would have a
24 different product line that they were responsible for, and
25 you're given a -- a goal. You know, like the first of the

1 month is the beginning, and if you're given a million dollars
2 to ship and it doesn't all go out, you have to answer for
3 that.

4 MR. DiGIACOMO: Okay. I imagine at times that there
5 were situations that came up where you had to kind of sort of
6 figure out what happened. Like was it the production
7 department's problem? Was it the shipping department's
8 problem or something like that, right? You had to go
9 looking --

10 PROSPECTIVE JUROR NO. 312: Usually, you know what's
11 going on. I knew sometimes two weeks ahead that I wasn't
12 going to be in a good spot at the end of the month.

13 MR. DiGIACOMO: Okay. And were you able to resolve
14 those conflicts or how did you go about that?

15 PROSPECTIVE JUROR NO. 312: Different -- there's no
16 one, you know -- I've called vendors up and said, hey, could
17 you do me a favor, could you put mine ahead of somebody
18 else's? You do almost whatever it takes to get the result
19 that you need.

20 MR. DiGIACOMO: And I'm guessing you've been
21 retired, then, for like the -- since '96, I think you said?

22 PROSPECTIVE JUROR NO. 312: No, no, uh-uh. I worked
23 -- I worked up until 2010 in my field -- 2012 in my field.
24 Then when I moved to Las Vegas, not a whole lot of
25 manufacturing here so there was no chance for me to find a job

1 in my field. So I just got a job in some field that would
2 give me benefits and it was a field -- it was a field related
3 to something I've done before. Basically, what I'll call
4 customer service.

5 MR. DiGIACOMO: So what is it that you do now?

6 PROSPECTIVE JUROR NO. 312: Cashier.

7 MR. DiGIACOMO: So I'm getting in trouble for not
8 being close enough to a microphone here so. Let me ask you
9 just the general questions everybody's sort of been asked.
10 Have you ever had any positive or negative contact with law
11 enforcement before?

12 PROSPECTIVE JUROR NO. 312: Very few tickets in my
13 life, but even when I got one, I didn't consider them a
14 negative experience.

15 MR. DiGIACOMO: Okay. What about you said you were
16 a prior juror. Did you find that to be a rewarding
17 experience?

18 PROSPECTIVE JUROR NO. 312: I did. I think I have
19 -- I've never looked at this as something I want to try and
20 get out of. If I were to get picked, then I would say, you
21 know, I'm -- I'm doing what I feel is an obligation to
22 everyone in this country has.

23 MR. DiGIACOMO: Let me ask, before you -- well, the
24 first time you were a juror, did you have the same thought
25 about jury service?

1 PROSPECTIVE JUROR NO. 312: Yes. I wouldn't say
2 that I was saying oh, I hop I get picked, I hope I get picked,
3 but I was very satisfied with the fact that I ended up on a --
4 a case.

5 MR. DiGIACOMO: And we don't have a lot of prior
6 jurors here, but you hear that quite often is, you know,
7 everybody -- although, this group, almost nobody raises their
8 hand and says I don't want to be here, but by the end of the
9 experience, they're very happy with it.

10 So you would say that it was a positive experience
11 in your life to do this?

12 PROSPECTIVE JUROR NO. 312: Oh, absolutely. I
13 learned something that I didn't know.

14 MR. DiGIACOMO: Do you own a firearm?

15 PROSPECTIVE JUROR NO. 312: No. I have shot
16 firearms many times in my life, but I've never had a gun
17 registered in my name.

18 MR. DiGIACOMO: And what about the penalty
19 questions? Assuming we were to get there --

20 PROSPECTIVE JUROR NO. 312: I'm okay with that. I
21 -- the only -- the only kind of penalty I would have an issue
22 with would be death. I don't know if I could, you know, judge
23 a case that was going to have a -- but other than that, no
24 problem.

25 MR. DiGIACOMO: Sure. And I guess, we didn't say it

1 overtly, but this is not a capital case --

2 PROSPECTIVE JUROR NO. 312: Right.

3 MR. DiGIACOMO: -- there's no death penalty. That's
4 not an issue.

5 PROSPECTIVE JUROR NO. 312: I know. They usually
6 tell you right away.

7 MR. DiGIACOMO: Yeah. We usually jump up -- that
8 usually is the main focus of those cases. You think you're a
9 fair person?

10 PROSPECTIVE JUROR NO. 312: Absolutely.

11 MR. DiGIACOMO: Think you'd be a good juror?

12 PROSPECTIVE JUROR NO. 312: Absolutely.

13 MR. DiGIACOMO: Thank you very much, sir. Judge,
14 we'd pass for cause.

15 THE COURT: Mr. Landis.

16 MR. LANDIS: If you don't mind me asking, sir, how
17 did you know that they usually tell you that right away about
18 a death penalty?

19 PROSPECTIVE JUROR NO. 312: Oh, I constantly watch
20 the news. I -- I watch more news than probably many people.
21 I'm either -- when I'm on my cell phone or smartphone, I'm
22 usually looking at one news reporting agency or another.

23 MR. LANDIS: And do you watch kind of along those
24 lines the criminal justice system shows that are based on
25 reality such as --

1 PROSPECTIVE JUROR NO. 312: No.

2 MR. LANDIS: -- Making a Murder or --

3 PROSPECTIVE JUROR NO. 312: I don't have a lot of
4 time for TV. If I'm watching TV right now this year, CNN or
5 MSNBC about politics. But typically, I'm very interested in
6 what's going on in the world, and -- and yet, I do keep a
7 focus on what's happening in this country as well related to
8 all the different issues with police in many cities in this
9 country.

10 MR. LANDIS: Sure. And let me just put that aside
11 for a sec. Regarding the criminal justice system, do you
12 follow cases through the news as they progress because they've
13 caught your eye or --

14 PROSPECTIVE JUROR NO. 312: Well, especially, you
15 know, large cases that you can't help but not, you know --
16 but, yeah, anything, especially something that might be
17 happening in -- in the town that I live in, I would be -- you
18 know, if something's happening in -- in some town in Texas, I
19 might not be as captivated by it as I would a case that --
20 that might be happening in our town.

21 MR. LANDIS: If I could ask, I'm going to put you on
22 the spot, but does a case come to mind here in Las Vegas that
23 caught your eye in the recent past, based on those criteria?

24 PROSPECTIVE JUROR NO. 312: Not so much, no. I -- I
25 don't really -- I try and catch a little local news, but by

1 the time I get home it's over. So unless I'm, you know,
2 DVRing it, which I don't do, and sometimes in the morning
3 before I go to work I can catch something, some local news, if
4 it's before 9:00 o'clock but I don't always.

5 MR. LANDIS: Have you developed strong feelings,
6 positive, negative, about the American criminal justice
7 system?

8 PROSPECTIVE JUROR NO. 312: Well, I -- I'd like to
9 believe that it's as fair as it can be. You know, I don't
10 think that -- I understand, you know, I see things happening
11 with police in different cities. There are some police that
12 stray from, you know, what their directive is. I don't think
13 that's the majority. I'd like to think that, you know, the
14 people that are higher up in those organizations, police
15 chief, whatever, will do things to make sure that every one of
16 their officers go out there with the same message.

17 MR. LANDIS: You'd acknowledge that sometimes guilty
18 people are able to get away with crimes based on our American
19 criminal justice system, right?

20 PROSPECTIVE JUROR NO. 312: Of course.

21 MR. LANDIS: And the opposite's true, too? In other
22 words, innocent people get convicted, right? In your view,
23 and this is my favorite question to ask jurors, which one of
24 those is a worse outcome? It's a tough question, I know.

25 PROSPECTIVE JUROR NO. 312: Well, of course.

1 Perhaps -- perhaps the cases where -- I don't want to mention
2 any specific cases. Okay, let me generalize and say I've --
3 I've seen enough over the years to -- to -- to hear about
4 cases where because of the way the police collected the
5 information, the person gets off. Everybody knew he was
6 guilty, but because the evidence wasn't collected properly --

7 MR. LANDIS: Right.

8 PROSPECTIVE JUROR NO. 312: -- it -- it basically
9 discounted all of the -- those are cases that are difficult to
10 accept, but you've got to understand that the system works the
11 way it does.

12 MR. LANDIS: Sure.

13 PROSPECTIVE JUROR NO. 312: So if somebody wasn't
14 doing their job, maybe the police department, properly, it's
15 understandable why the result was what it was.

16 MR. LANDIS: Since it's close to 5:00, you guys
17 probably won't appreciate many more questions so I'll pass for
18 cause. Thanks for the time.

19 PROSPECTIVE JUROR NO. 312: Thank you.

20 THE COURT: Mr. Wolfbrandt.

21 MR. WOLFBRANDT: Mr. Goehring, I was kind of curious
22 as you said you shot firearms on a number of occasions. What
23 were the circumstances for that?

24 PROSPECTIVE JUROR NO. 312: Oh, when I was young in
25 California we used to go out in the desert every other

1 weekend. My father, when he was younger, rode motorcycles and
2 then later we just dune buggies and my first car was a dune
3 buggy. We used to go out to the desert, and we'd always take
4 guns. In those days, talking about the '60s, there wasn't as
5 much --

6 MR. WOLFBRANDT: Those days you could?

7 PROSPECTIVE JUROR NO. 312: -- focus on do you have
8 a registered gun or -- so we'd just take guns out and we'd
9 always stop and shoot cans out in the middle of nowhere.

10 MR. WOLFBRANDT: So is there any particular reason
11 why you don't own one now?

12 PROSPECTIVE JUROR NO. 312: No. I don't have an
13 opinion about them either way. My father had a bunch of guns.
14 Sadly, when he died, I didn't get any of them, but -- so no, I
15 actually do like to target practice. I found that very -- I
16 mean, not just shooting at cans, but to actually shoot at a
17 target.

18 MR. WOLFBRANDT: Right.

19 PROSPECTIVE JUROR NO. 312: I'm fascinated in, you
20 know, seeing how good or accurate I can be at a number of
21 things, but I don't really have a desire to go out and buy one
22 just to target practice. And I don't hunt, never been that
23 kind of a person, and I don't think about carrying one for
24 protection.

25 MR. WOLFBRANDT: Now, I believe you said you're --

1 currently, your job now is a cashier at the Walgreens on the
2 Strip?

3 PROSPECTIVE JUROR NO. 312: Um-h'm.

4 MR. WOLFBRANDT: Do you ever see any crimes happen
5 within the store?

6 PROSPECTIVE JUROR NO. 312: Yeah. How many days a
7 week can I tell you people run out of the store with a bottle
8 in their hand --

9 MR. WOLFBRANDT: Sure.

10 PROSPECTIVE JUROR NO. 312: -- that we sadly can't
11 do anything about. We can't even -- you almost can't even
12 touch them.

13 MR. WOLFBRANDT: That's the kind of Walgreens
14 policy.

15 PROSPECTIVE JUROR NO. 312: Of course, you can. I
16 mean, you touch them, they can sue the store.

17 MR. WOLFBRANDT: Sure. Sure.

18 PROSPECTIVE JUROR NO. 312: That's frustrating.

19 MR. WOLFBRANDT: I'm sure. How about just outside
20 the store, then, along the Strip?

21 PROSPECTIVE JUROR NO. 312: Well, I mean, maybe if I
22 clocked out and said, hey, I'm going to take care of some guy
23 that I just saw steal a bottle of whiskey, no, you can't do
24 that.

25 MR. WOLFBRANDT: Oh, no, no, no, that's not --

1 that's not what I meant.

2 PROSPECTIVE JUROR NO. 312: I can't really go
3 outside the store when I'm on the clock.

4 MR. WOLFBRANDT: Well, no, that's not what I meant.
5 I just meant if while you were working at the cashier, if at
6 the window you happen to observe, you know, crimes happen out
7 there?

8 PROSPECTIVE JUROR NO. 312: There are -- Venetian
9 and Palazzo have security. They're kind of around a lot so
10 usually, you know, there's enough of a presence where I don't
11 -- I don't see people getting assaulted out there or anything.

12 MR. WOLFBRANDT: Okay. All right, now you mentioned
13 you kind of like not sitting down necessarily watching all the
14 news, but you catch the news highlights on your phone a lot?

15 PROSPECTIVE JUROR NO. 312: Oh, I'm always looking
16 at news.

17 MR. WOLFBRANDT: Okay. If you were to find --
18 because I don't know how much I think this case got a little
19 bit of coverage two years ago. If you were to find that as
20 the case -- if you're on this jury and the case develops, you
21 remember things that you had seen on a news show about it,
22 would you be able to ignore what you saw on TV and keep your
23 focus on whatever you hear within the courtroom?

24 PROSPECTIVE JUROR NO. 312: I could almost guarantee
25 you I won't remember. Nothing will come to mind like oh,

1 yeah, I remember that store. Not going to happen.

2 MR. WOLFBRANDT: Okay. All right. Thank you. I'd
3 pass the --

4 PROSPECTIVE JUROR NO. 312:

5 THE COURT: Ms. McNeill.

6 MS. McNEILL: Thank you. As Mr. Landis indicated,
7 it is getting close to 5:00, so I'll try to be brief. When
8 you were talking with Mr. Landis, you were talking about cases
9 where the police officers maybe didn't collect evidence in a
10 way that was appropriate and led to guilty people sort of
11 going free. Do you think that the reverse of that ever
12 happens, that the police officers maybe collect evidence in a
13 way that puts an innocent person in jail?

14 PROSPECTIVE JUROR NO. 312: We can't say that it
15 doesn't happen.

16 MS. McNEILL: Okay. So you --

17 PROSPECTIVE JUROR NO. 312: We're -- we're not there
18 so how would we know?

19 MS. McNEILL: Right. Do you think there's something
20 about someone with a badge that makes them some sort of have
21 super powers or super ethics and they don't do anything wrong?

22 PROSPECTIVE JUROR NO. 312: Well, I don't, and I'd
23 like to think that people when they get a job, I don't care
24 what kind of job you've got, I'd like to think that people
25 perform the job to the expectations of the employer.

1 MS. McNEILL: Okay.

2 PROSPECTIVE JUROR NO. 312: I mean, I can't make
3 anybody, you know, no matter what profession, I can't make
4 them do their job right. But I would like to hope, you know,
5 I have this great hope that most people are honest,
6 forthright, all those things, that we're all supposed to be in
7 life.

8 MS. McNEILL: And you say you have a hope, but do
9 you think that -- do you think that's reality that everyone
10 abides by that same sort of hope that you have for all of us?

11 PROSPECTIVE JUROR NO. 312: Oh, I think so. I -- I
12 can't know. You can't know what's in a person's heart.

13 MS. McNEILL: Okay. Do you think that police
14 officers, would you agree with me, they're just people, right?

15 PROSPECTIVE JUROR NO. 312: Of course. And -- and
16 do some of them all of a sudden put the uniform on and become
17 somebody else? I don't know.

18 MS. McNEILL: Correct, okay. But they have all of
19 the -- they come into their job with all of the things that we
20 come into --

21 PROSPECTIVE JUROR NO. 312: Sure.

22 MS. McNEILL: -- every day with, right?

23 PROSPECTIVE JUROR NO. 312: Sure. I mean, I try not
24 to carry baggage to work with me, but sometimes like, you
25 know, the day that I lost my father and my sister six days

1 apart, it's hard not to show something about you isn't exactly
2 the same as a normal day so yeah, I'm sure that that happens.

3 MS. McNEILL: Okay. So you would agree sometimes
4 people are affected by outside things as much as we want them
5 to be?

6 PROSPECTIVE JUROR NO. 312: Of course.

7 MS. McNEILL: Okay.

8 PROSPECTIVE JUROR NO. 312: I know that I am, so why
9 wouldn't other people?

10 MS. McNEILL: Right. And so working at the
11 Walgreens on the Strip, would you say it's a good opportunity
12 to see sort of all different kinds of people?

13 PROSPECTIVE JUROR NO. 312: Yeah, from all over the
14 world.

15 MS. McNEILL: Okay. Do you enjoy sort of people
16 watching and observing people?

17 PROSPECTIVE JUROR NO. 312: I enjoy speaking to
18 people.

19 MS. McNEILL: Okay.

20 PROSPECTIVE JUROR NO. 312: I probably talk to 400
21 customers a day.

22 MS. McNEILL: And have you learned anything from all
23 that experience of talking to all of these people?

24 PROSPECTIVE JUROR NO. 312: Yes.

25 MS. McNEILL: Okay. What is that?

1 PROSPECTIVE JUROR NO. 312: I don't know, it depends
2 on -- it depends on whether you're talking to people from a
3 different country, like how many people are worried about
4 Mr. Trump becoming president. You know, there are a lot of
5 different things that you learn from a lot of different people
6 because you're talking to so many different kinds of people,
7 people from like the southeast of the United States or --

8 MS. McNEILL: Okay. So it sounds like you've
9 learned a lot sort of about human nature and all of that just
10 from your interactions with people?

11 PROSPECTIVE JUROR NO. 312: I try.

12 MS. McNEILL: Do you --

13 PROSPECTIVE JUROR NO. 312: I -- I don't just
14 cashier. You know, I try and give somebody an experience. I
15 want them to remember our store and maybe our city.

16 MS. McNEILL: Okay. All right. Fair enough. I'll
17 pass for cause, Your Honor.

18 THE COURT: Thank you. All right, ladies and
19 gentlemen, it's almost 10 minutes after 5:00 so we are going
20 to recess for the evening. Everyone has to come back tomorrow
21 at 1:30. I have a very large calendar tomorrow, almost 100
22 people on the calendar for Drug Court. So there are a couple
23 of things. I'm going to read to you the admonition, but as
24 well I want to tell you one more thing.

25 You know, we have this nice courthouse, and we have

1 the elevators in the hallways. A and you may from time to
2 time encounter one of the lawyers or maybe more than one of
3 the lawyers as you're passing in the hall or what have you.
4 And of course, as you're all courteous people, you would
5 probable yes be inclined to greet them since that's our normal
6 courteous behavior and since you've been seeing them in the
7 courtroom, but I would ask that you please don't do so.

8 And the reason for that is this, they will have to
9 ignore you, and then they're figure to feel really badly that
10 they -- that you're going to think that they're discourteous
11 and rude people, when actually, the reason is that they're not
12 allowed to have any interaction with the prospective jury
13 members because it could be thought that they're trying to
14 curry favor or influence you as prospective jurors.

15 So, of course, under normal circumstances, every one
16 of them are lovely people and they would, of course, greet you
17 in the normal circumstance, and if you had greeted them. But
18 under this circumstance, they can't. So please don't make
19 them feel bad by trying to engage them in conversation even if
20 you're on an elevator with them and you see that you're alone.
21 Just do what we all usually do is face the door and say
22 nothing. All right? So that you don't have any problems.

23 Because otherwise, what's going to happen if you say
24 to them oh, hi, how's it going, start wanting to chat about
25 the weather, and they're going to come in and we're going to

1 spend 20 minutes where they tell me about this, and we then
2 have to bring you in and ask you if it's going to change your
3 opinion and it's just going to delay things. So please don't
4 try and interact with any of the lawyers.

5 As I say, we'll be back tomorrow at 1:30. The
6 Marshal is going to tell you after you assemble outside, he's
7 going to tell you when he wants you here. So ladies and
8 gentlemen, we're taking an overnight recess.

9 During this recess, it is your duty not to converse
10 among yourselves or with anyone else on any subject connected
11 with the trial, or to read, watch or listen to any report of
12 or commentary on the trial by any person connected with the
13 trial or by any medium of information, including without
14 limitation, newspaper, television, radio or Internet. And of
15 course, that covers smartphones. And you are not to form or
16 express an opinion on any subject connected with this case
17 until it's finally submitted to you.

18 Additionally, you've heard a brief synopsis of where
19 the crime happened, general locations. You've heard the names
20 of witnesses and you now met, you know, through their
21 introduction to you the lawyers and court staff. So please do
22 not do any research on your own. You know, don't get on the
23 Internet and try and look into the backgrounds of anybody that
24 you've heard the names of, any of the lawyers, the judge,
25 nothing. Everything that you will need to know, if you are

1 selected as a juror in this case, you will hear while court is
2 in session, and from witnesses on the stand and information
3 and exhibits at that are admitted lawfully into evidence. So
4 please, no investigation on your own and stay away from any of
5 the potential areas that you've heard about thus far because,
6 as you know, this is Las Vegas, things change very quickly,
7 and if you try and make an unauthorized visit to some place
8 that you've heard about during the trial, you might get an
9 erroneous impression, and so we can't have that.

10 I will see you tomorrow at 1:30.

11 THE MARSHAL: All rise for the jury panel.

12 (Prospective jurors recessed at 5:11 p.m.)

13 THE COURT: And the record will reflect the venire
14 panel has left the courtroom. Are there any matters outside
15 the presence?

16 MR. DiGIACOMO: Not from the State.

17 THE COURT: Defense, anything outside the presence?

18 MS. McNEILL: No, Your Honor.

19 THE COURT: Mr. Wolfbrandt, Mr. Landis, anything
20 outside the presence?

21 MR. LANDIS: Just briefly, Judge. Talking to my
22 client, during jury selection when the jury or venire was
23 here, a Corrections Officer came over and removed a pen from
24 my client's hand and replaced it with this pencil. I
25 understand why he did that, but the issue I have with it is

1 this, I've had that happen before, and it's obviously not
2 something I want to have happen.

3 So today, when today started, I went to one of the
4 Corrections Officers who was here, and I said, is it okay if
5 my client has a pen because I'd rather have him have a pencil
6 than -- and they said, yes, let him have a pen. We'll get it
7 by the end of the day. Then that happens in front of the
8 venire, and I -- it's frustrating and I think it's
9 prejudicial, and I would just prefer that it not happen in the
10 future.

11 MR. WOLFBRANDT: I would say the same thing happened
12 with my client. And again, I'd ask permission ahead of time
13 and, you know --

14 CORRECTIONS OFFICER: Yeah, it was your Marshal that
15 took the pen.

16 THE MARSHAL: It wasn't none of us.

17 (Indiscernible cross-talking)

18 THE COURT: Whoa whoa, stop, stop. All right. So
19 is -- Officer, is there a policy, and if you'd state your name
20 for the record, so we have a --

21 CORRECTIONS OFFICER BEHNKE: Officer Behnke. It's
22 kind of a preference thing. Like, I don't have a problem with
23 them getting a pen. I just make sure that I see it go back to
24 the attorney afterwards. Some officers want them to have
25 pencils. That was your Marshal that took the pens from them.

1 It wasn't one of us.

2 THE COURT: Okay. I'm sorry, I did not see that so
3 I'll -- I mean, as far as I'm concerned, the Corrections
4 Officers have control of the inmates from the jail.

5 CORRECTIONS OFFICER BEHNKE: Yes. Yes. And --

6 THE COURT: It's your responsibility.

7 CORRECTIONS OFFICER BEHNKE: And I spoke to them,
8 and they said --

9 THE COURT: Okay.

10 CORRECTIONS OFFICER BEHNKE: -- and I gave them
11 permission.

12 THE COURT: Okay. And so I will make sure that my
13 Marshal understands that, that as far as the procedures for
14 inmates, you guys are in charge, and if he has any question
15 about that, then he needs to talk to you and then talk to me
16 about it, if there's a problem.

17 THE MARSHAL: Correct.

18 THE COURT: All right? Thank you very much.

19 MR. LANDIS: Thank you.

20 (Court recessed at 5:14 p.m. until Tuesday,
21 September 13, 2016, at 1:43 p.m.)

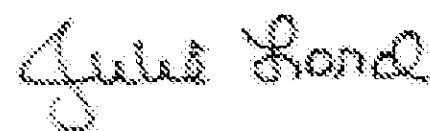
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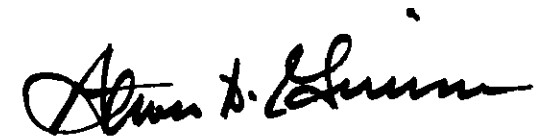
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1 ATTEST: I hereby certify that I have truly and correctly
2 transcribed the audio/visual proceedings in the above-entitled
3 case to the best of my ability.

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7 JULIE LORD, INDEPENDENT TRANSCRIBER



CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,	.	CASE NO. C-15-303991-1
	.	CASE NO. C-15-303991-4
Plaintiff,	.	CASE NO. C-15-303991-5
	.	
vs.	.	DEPT. V
	.	
JORGE MENDOZA,	.	TRANSCRIPT OF
DAVID MURPHY, a/k/a	.	PROCEEDINGS
DAVID MARK MURPHY,	.	
JOSEPH LAGUNA, a/k/a	.	
JOEY LAGUNA,	.	
Defendants.	.	
.	

BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

JURY TRIAL - DAY 2

TUESDAY, SEPTEMBER 13, 2016

APPEARANCES:

FOR THE STATE:	MARC P. DiGIACOMO, ESQ. AGNES M. LEXIS, ESQ.
FOR DEFENDANT MENDOZA:	WILLIAM L. WOLFBRANDT, ESQ.
FOR DEFENDANT MURPHY:	CASEY A. LANDIS, ESQ.
FOR DEFENDANT LAGUNA	MONIQUE A. McNEILL, ESQ.

COURT RECORDER:

LARA CORCORAN
District Court

TRANSCRIPTION BY:

VERBATIM DIGITAL REPORTING, LLC
Englewood, CO 80110
(303) 798-0890

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

1 LAS VEGAS, NEVADA, TUESDAY, SEPTEMBER 13, 2016, 1:43 P.M.

2 (Outside the presence of the prospective jurors)

3 THE COURT: Okay. All right, we're on the record,
4 Case No. C-303991, State of Nevada versus Jorge Mendoza,
5 Joseph Laguna and David Murphy. The record will reflect the
6 presence of the defendants, with their respective counsel,
7 Deputies District Attorney. We're outside the presence of the
8 venire panel. All the officers of the court are present. Are
9 we ready to bring them?

10 MR. DiGIACOMO: Just really briefly.

11 THE COURT: Sure.

12 MR. DiGIACOMO: On Friday, the defense had made some
13 arguments about Summer Larsen's jail calls as well as her
14 kites. On Friday, as I was able to get the jail calls, and I
15 had them about 9:00 o'clock on Saturday morning. And
16 Mr. Landis, I think, got them Saturday, and I think Ms.
17 McNeill got them on Sunday. And today I received the kites.
18 I briefly reviewed them. I forgot to bring them with me.
19 There is nothing in the kites that would be discoverable, but
20 to be safe, tomorrow or this evening when I get back to the
21 office, I'll provide the kites over to the defendants.

22 And then the last issue was that apparently, there
23 wasn't a CSA at the execution of the search warrant at
24 Mr. Mendoza's house. Those photographs were taken by the
25 police and then impounded as a CD into evidence. I had those

1 pulled. I've just downloaded them. I will forward them by
2 e-mail to the defense attorneys. There's four or five
3 photographs that they took during that search warrant that we
4 just didn't have previously.

5 MR. LANDIS: Nothing to hold up the Court. I was
6 just trying to clarify all those pictures. I did receive the
7 phone calls, as he said.

8 THE COURT: And were there many or?

9 MR. LANDIS: Yes, yes. I'll -- I don't have a
10 number. I'm working on getting a number to the Court, but
11 yes, there's a lot. And they're heavy for the first year or
12 so and then they really taper off.

13 THE COURT: Okay. And otherwise, we got -- okay,
14 we've got some fans.

15 (Off the record at 1:46 p.m. until 1:48 p.m.)

16 THE MARSHAL: All rise for the venire panel.

17 (Prospective jurors reconvene at 1:48 p.m.)

18 THE MARSHAL: With the exception of Ms. Powers, the
19 -- all members of the venire panel are present, Your Honor.

20 THE COURT: All right. Thank you. Please be
21 seated. Okay. And the record will reflect that we are now
22 within the presence of the venire panel, save Ms. Powers, who
23 would actually be next in order. She's Badge No. 324. Had a
24 breakdown on Interstate 15, and is awaiting rescue and we're
25 hoping that she'll be joining us later.

1 And ladies and gentlemen, I apologize in advance for
2 the heat. One of our major handlers went down in the
3 building, which is why it's so warm in here. I'm glad you all
4 dressed fairly reasonably. It's usually cold, and so instead
5 of being shivering, you're going to be warm, but I think the
6 Marshal alerted you to this, so you'll let me know if you need
7 a break.

8 And gentlemen, you all look very nice in your
9 jackets and ladies as well, but if you feel you need to take
10 them off, I understand, and you may have permission to do
11 that.

12 So we left off yesterday, and we were about to go to
13 Carisa Ramirez, and do you have the microphone yet? Oh, there
14 we go.

15 PROSPECTIVE JUROR NO. 251: Carisa Ramirez, Badge
16 No. 251.

17 THE COURT: Are you getting that? Okay, good. And
18 so, Ms. Ramirez, tell us about yourself.

19 PROSPECTIVE JUROR NO. 251: Sure. Again, my name is
20 Carisa Ramirez. My family and I migrated from the Philippines
21 to Las Vegas in 1984. I am married. My husband works as a
22 food server at the Rio Hotel and Casino. We have two
23 children, ages 9 and 4. I have a bachelor's degree in social
24 work with certification in grants management.

25 Professionally, I am working for Catholic Charities

1 as vice president of their immigration and migration division
2 and in that capacity also serves as our state's state refugee
3 coordinator that's recognized federally.

4 THE COURT: Okay. Thank you. And, I guess, you
5 covered everything. Oh, and your educational background? Do
6 you have a advanced degree beyond bachelor's?

7 PROSPECTIVE JUROR NO. 251: I have a bachelor's
8 degree in social work with certifications in grants
9 management.

10 THE COURT: All right. Thank you. Would the State
11 like to inquire further?

12 MS. LEXIS: Yes, Your Honor. Permission to approach
13 the podium.

14 THE COURT: Of course.

15 MS. LEXIS: Thank you.

16 THE COURT: Watch the cords, though.

17 MS. LEXIS: Good afternoon, Ms. Ramirez. Ms.
18 Ramirez, have you or anyone close to you ever been the victim
19 of a crime?

20 PROSPECTIVE JUROR NO. 251: No, not personally.

21 MS. LEXIS: Okay. When you say not personally,
22 who's the first person that comes to mind?

23 PROSPECTIVE JUROR NO. 251: I -- so we serve
24 refugees at my work so.

25 MS. LEXIS: Okay.

1 PROSPECTIVE JUROR NO. 251: -- certainly refugees
2 have history of being persecuted, but I associate that more on
3 a professional level as opposed to a personal level.

4 MS. LEXIS: Okay. And refugees from a certain
5 country or --

6 PROSPECTIVE JUROR NO. 251: They're resettled from
7 all over of the world, but here in Nevada our number one
8 populations are arriving from Cuba, Ethiopia, Iran, Iraq and
9 Somalia.

10 MS. LEXIS: Okay. And I didn't hear from the buzz
11 of the fan. I know that you are a vice president over at
12 Catholic Charities?

13 PROSPECTIVE JUROR NO. 251: Yes.

14 MS. LEXIS: Okay. So what is it that you do as vice
15 president there?

16 PROSPECTIVE JUROR NO. 251: Sure. So I oversee
17 their immigration and migration division, which -- which
18 consists of three different programs; the English language
19 program, the migration and refugee services and the
20 immigration services. And again, in that capacity, I also
21 assume the state refugee coordinator role in terms of
22 overseeing all refugee activities throughout the state.

23 MS. LEXIS: Okay. So when you responded that you
24 personally hadn't been the victim of a crime, you're certainly
25 in contact with individuals who are victims of big broad

1 crimes from these countries that they're immigrating from?

2 PROSPECTIVE JUROR NO. 251: That's correct.

3 MS. LEXIS: Okay. So do you have day-to-day contact
4 with the refugees that you kind of oversee?

5 PROSPECTIVE JUROR NO. 251: Sure. So I have a staff
6 of six managers and 38 other staff indirectly. So they have
7 more interaction with them as far as face-to-face interaction.
8 My interaction mainly is more on policies and procedures,
9 sanctioning, compliance, things like that, is when I would
10 have the opportunity to meet with them or special events.

11 MS. LEXIS: Okay. Can you tell me a little bit more
12 about what it is that Catholic Charities does? As a
13 prosecutor, I'm familiar of some of the programs that's run,
14 and I'm familiar with, you know, homeless outreach and things
15 like that, providing housing for the homeless, things like
16 that. Are you familiar with that?

17 PROSPECTIVE JUROR NO. 251: No, certainly. So I've
18 been Catholic Charities for 17-and-a-half years, right. As an
19 agency we're celebrating our 75 anniversary this year. We are
20 recognized as one of the bigger nonprofit agencies here in Las
21 Vegas. You've touched a lot of our core services.

22 In addition to that, we have a senior services
23 program, such as the Meals on Wheels program, senior
24 companion, things like that. We also have an adoption and WIC
25 program. We're known for our food services in terms of food

1 pantry and elite dining room.

2 MS. LEXIS: Okay. And aside from the refugee
3 program and the immigration division, do you have occasion to
4 kind of help out with the other parts of Catholic Charities
5 missions and duties and things like that?

6 PROSPECTIVE JUROR NO. 251: Yeah, so -- so there's
7 only a few vice presidents. I am part of the executive
8 leadership team. So right now I'm participating in the
9 strategic planning for the agency.

10 MS. LEXIS: Okay. While you were working, do you
11 work at the actual Catholic Charities location? That's here
12 in downtown, right?

13 PROSPECTIVE JUROR NO. 251: That is correct. I -- I
14 do work for the main campus, which is down the street on Las
15 Vegas Boulevard.

16 MS. LEXIS: Okay. As a DA, I know that there's --
17 it's kind of in a high crime area. Have you ever witnessed a
18 crime being perpetrated against someone staying with or
19 getting services from Catholic Charities?

20 PROSPECTIVE JUROR NO. 251: No, not necessarily.

21 MS. LEXIS: Okay. I know that they also -- your
22 organization also provides sometimes to ex-felons. There are
23 programs and things extended to ex-felons. Do you participate
24 in those programs?

25 PROSPECTIVE JUROR NO. 251: So in terms of those

1 services, there are ex-felons that gets released, and they
2 have no place of staying, so they do stay in our emergency
3 shelter program, which is at another division that -- that I
4 don't necessarily oversee directly.

5 MS. LEXIS: Okay, okay. Let's see. You also have a
6 bachelor's of science in social work?

7 PROSPECTIVE JUROR NO. 251: That's correct.

8 MS. LEXIS: What does that entail? I mean, is your
9 employment now based on the educational background that you
10 have?

11 PROSPECTIVE JUROR NO. 251: Yeah.

12 MS. LEXIS: Like you have a bachelor's of science in
13 social work. Do you have to have that to be vice president of
14 Catholic Charities?

15 PROSPECTIVE JUROR NO. 251: Not necessarily. So I
16 started my career there doing case management for the homeless
17 population, and again, I've been there for 17-and-a-half
18 years, which led to the promotion of the vice president
19 overall.

20 MS. LEXIS: Okay. Did you ever want to be a social
21 worker?

22 PROSPECTIVE JUROR NO. 251: I -- I started off as
23 that, again, doing case management. After serving a homeless
24 population, I then worked serving the senior population and
25 then the management opportunities started from that division.

1 MS. LEXIS: Okay. Why did you choose social work?

2 PROSPECTIVE JUROR NO. 251: You know, it's a pretty
3 wide range of field that you can go into so -- so that was
4 exciting. I knew that I would be able to find a job pretty
5 quickly after obtaining my bachelor's degree so -- so that was
6 the -- the huge factor to that.

7 MS. LEXIS: Okay. I don't have much experience in
8 social work and things like that, but I know that social
9 workers, I always associate them with individuals who want to
10 help other people. Is that why you were lured to this
11 particular profession?

12 PROSPECTIVE JUROR NO. 251: That is correct.

13 MS. LEXIS: Okay. Would you say that you're an
14 overly like sympathetic person just in general?

15 PROSPECTIVE JUROR NO. 251: You know, I -- again, in
16 the position or in the field that I've been in, certainly,
17 there's the populations that I've dealt with have been
18 unfortunate. So certainly, I -- I've had the -- the passion
19 for that or I am sympathetic.

20 I don't necessarily know if I would call it overly
21 sympathetic. I -- I don't know what the differentiation is on
22 levels in terms of that.

23 MS. LEXIS: Okay. Let me ask you this, there are
24 three types of punishment that we discussed with the other
25 potential jurors. The 20 to 50 year definite term, life with

1 the possibility of parole after 20 years, and life without the
2 possibility of parole.

3 If and only if we have to go to a penalty phase,
4 provided we get a first degree murder conviction, can you
5 consider each of those choices or each of those penalties?

6 PROSPECTIVE JUROR NO. 251: No, certainly, it's sort
7 of hard to make those decisions now not having enough
8 information about the case, but certainly, based on --

9 MS. LEXIS: You would consider them, of course?

10 PROSPECTIVE JUROR NO. 251: Of course.

11 MS. LEXIS: Okay. Do you have any religious or
12 moral beliefs that would prevent you from being a fair and
13 impartial juror?

14 PROSPECTIVE JUROR NO. 251: You know, I mean,
15 certainly, I'm -- I'm a Christian by religion. In my
16 profession, again, I've certainly been able to take a look at
17 all different situations, both sides of the stories prior to
18 making decisions. So I don't know how differently that would
19 be in this case.

20 MS. LEXIS: Okay. Just from our brief conversation,
21 it looks like -- or it appears to me, I get the impression
22 that you work with a lot of people who are trying to get
23 second chances, the homeless, every -- pretty much everything
24 that Catholic Charities stands for, refugees and things like
25 that, people who are victimized without any kind of choosing,

1 let's say.

2 Are you the type of person who believes that
3 everyone is entitled to a second chance regardless of what it
4 is that they've done in life?

5 PROSPECTIVE JUROR NO. 251: I certainly do believe
6 in second chances, right, but at the same token there's
7 federal regulations that I follow in the grants that I oversee
8 now, and there's certain boundaries that I need to follow.
9 And if -- and to ensure compliance with that, we do get
10 audited by the federal government on a regular basis, I'm
11 aware of what those limitations are and certainly oversees it
12 to make sure that we follow compliance.

13 MS. LEXIS: Okay. And so you're able to look at
14 other factors is -- seems like is what you're trying to tell
15 me.

16 PROSPECTIVE JUROR NO. 251: Of course.

17 MS. LEXIS: Right? You're going to do things within
18 the rules?

19 PROSPECTIVE JUROR NO. 251: Of course.

20 MS. LEXIS: Okay. You've heard me ask other jurors,
21 Mr. DiGiacomo as well, and Court to some degree, ask jurors
22 whether you're the type of person who could follow the law
23 even if you disagreed with it. If you, for instance, thought
24 it was too harsh, disagreed with the logic of it. Are you the
25 type of person who can follow whether or not you agree?

1 PROSPECTIVE JUROR NO. 251: You know, and certainly,
2 personally, I -- I think there's going to be some -- some
3 decisions that I'll have to make, right? But again, you know,
4 knowing what the rules and regulations are, I'd be able to see
5 the -- the both sides of it and rationally think what makes
6 best sense based on those things.

7 MS. LEXIS: Okay. Do you want to serve on this
8 jury?

9 PROSPECTIVE JUROR NO. 251. You know, I'm going to
10 be honest with you. I was pretty excited. This is the first
11 time I've ever been called for jury duty, right? Did I
12 necessarily expect a criminal case? Definitely not. It
13 sounds like a lot of responsibility, especially with grant
14 deadlines that are coming up. This is also the last month of
15 the fiscal year. But certainly do know that if selected that
16 this is my civil obligation and will make everything that I
17 can to fulfill that.

18 MS. LEXIS: Okay. Well, we certainly appreciate
19 that. I just have a few more questions.

20 PROSPECTIVE JUROR NO. 251: Sure.

21 MS. LEXIS: Do you own a gun?

22 PROSPECTIVE JUROR NO. 251: I don't.

23 MS. LEXIS: You don't?

24 PROSPECTIVE JUROR NO. 251: I don't.

25 MS. LEXIS: Okay. Anyone in your family own a gun?

1 PROSPECTIVE JUROR NO. 251: Pretty much my -- my
2 brothers are for the main part of my family, that is correct.

3 MS. LEXIS: Okay. Have you ever shot a gun?

4 PROSPECTIVE JUROR NO. 251: No, I haven't.

5 MS. LEXIS: Do you have any opinions about guns, gun
6 ownership, anything like that?

7 PROSPECTIVE JUROR NO. 251: I think it's a personal
8 choice, right? Me, personally, again, I have two children in
9 the home and don't want to expose them to that, and that's
10 part of the reason why. But certainly do also respect the
11 decisions that my brothers and dad make in terms of their gun
12 ownership.

13 MS. LEXIS: Okay. Have you or anyone in your
14 family, close friends, ever been accused of a crime or charged
15 with a crime, arrested with a crime --

16 PROSPECTIVE JUROR NO. 251: No.

17 MS. LEXIS: -- of a crime? What do you think would
18 make you a good juror?

19 PROSPECTIVE JUROR NO. 251: I think being able to
20 listen to both sides of the story makes a big difference out
21 of that is the key component.

22 MS. LEXIS: So you're the type of person who could
23 wait until you hear all of the evidence, hear all of the
24 testimony and before you could render a decision?

25 PROSPECTIVE JUROR NO. 251: Certainly.

1 MS. LEXIS: Okay. And would you hold Mr. DiGiacomo
2 and myself to our burden of proving guilt beyond a reasonable
3 doubt?

4 PROSPECTIVE JUROR NO. 251: Of course.

5 MS. LEXIS: You're okay with the presumption of
6 innocence? Defendants don't have to testify, those, you know,
7 key premises or key ideas?

8 PROSPECTIVE JUROR NO. 251: Yeah, you know, I have
9 to tell you prior to coming in here, right, certainly, I had a
10 little bit of an expectations in terms of what the defendants
11 have to show, but certainly, after receiving that information,
12 I do know what those expectations are.

13 MS. LEXIS: Okay. Court's brief indulgence. We
14 have no more questions for this witness. Thank you, Ms.
15 Ramirez.

16 PROSPECTIVE JUROR NO. 251: Thank you.

17 THE COURT: Mr. Landis.

18 MR. LANDIS: If the Court doesn't mind us switching
19 up the order.

20 THE COURT: I don't mind at all.

21 MS. McNEILL: Thank you, Your Honor.

22 THE COURT: Go ahead. Ms. McNeill.

23 MS. McNEILL: As Ramirez, I just want to follow up
24 with a couple topics that you discussed with Ms. Lexis. The
25 last topic that you discussed where she asked you some

1 questions about, you know, holding them to their burden and
2 you made a comment about you'll listen to both sides. And I
3 know sometimes it seems like we're all repeating ourselves,
4 but it's -- you can understand it's really important to those
5 three gentlemen that we kind of get up here and get jurors
6 that are going to be fair to both sides.

7 When you say you'll listen to both sides, you
8 understand there may not be anything from this side of the
9 room?

10 PROSPECTIVE JUROR NO. 251: That's understandable.

11 MS. McNEILL: Okay. And you're okay with that?

12 PROSPECTIVE JUROR NO. 251: Based on the information
13 that was shared yesterday, yes.

14 MS. McNEILL: Okay. So the only side that you might
15 hear might be from them, and you'll have to evaluate just that
16 version of events.

17 PROSPECTIVE JUROR NO. 251: That's correct.

18 MS. McNEILL: Okay. Do you think that you're -- the
19 skills that you have being a social worker and sort of dealing
20 with people from all walks of life will aid you in, sort of,
21 listening to what they have to say and evaluating that?

22 PROSPECTIVE JUROR NO. 251: Certainly, that will
23 play into the picture. You know, what I'm really looking
24 forward to receiving, from my understanding, is the Judge is
25 going to provide some additional directions pertaining to this

1 case. So that's the part that I'm looking forward to
2 receiving.

3 MS. McNEILL: So it sounds like from listening to
4 you talk, it sounds like you're the type of person who sort of
5 takes all of the information you have, but you also tend to be
6 sort of rule based. Is that -- did I pick up that correctly?

7 PROSPECTIVE JUROR NO. 251: For the most part, yes.

8 MS. McNEILL: Okay. So you like to have a set of
9 rules to operate under?

10 PROSPECTIVE JUROR NO. 251: Yes.

11 MS. McNEILL: Okay. So you will be able to follow
12 the instructions from the Judge, no problem?

13 PROSPECTIVE JUROR NO. 251: That's correct.

14 MS. McNEILL: You indicated that you do work with
15 ex-felons and people who are homeless. So I'm guessing you
16 have a wide variety of experience with people from all
17 different backgrounds.

18 PROSPECTIVE JUROR NO. 251: That is correct. Just
19 for clarification in terms of the ex-felons. While the agency
20 provides those services, I don't necessarily work directly --

21 MS. McNEILL: Okay so --

22 PROSPECTIVE JUROR NO. 251: -- in doing that work.

23 MS. McNEILL: -- your contact with them is limited?

24 PROSPECTIVE JUROR NO. 251: Correct.

25 MS. McNEILL: Okay. Do you have any contact with

1 ex-felons that come in to --

2 PROSPECTIVE JUROR NO. 251: Not necessarily. They
3 -- they access more of our emergency shelter services, which
4 is outside of my division.

5 MS. McNEILL: Okay. Have you through any other job
6 that you've had, had any contact with people who may have
7 criminal records?

8 PROSPECTIVE JUROR NO. 251: When I first started my
9 first career in Catholic Charities was conducting case
10 management to homeless clients and some of them had some
11 background relating to --

12 MS. McNEILL: Okay. Would you feel as if you would
13 judge someone based on the fact they may have a criminal
14 record?

15 PROSPECTIVE JUROR NO. 251: Not necessarily.

16 MS. McNEILL: Okay. So you may hear from some
17 witnesses who have criminal records. Are you going to hold
18 that against the person?

19 PROSPECTIVE JUROR NO. 251: Not necessarily.

20 MS. McNEILL: Do you think that you might believe
21 their testimony less than someone else's?

22 PROSPECTIVE JUROR NO. 251: No.

23 MS. McNEILL: Okay. Do you agree -- and I think Ms.
24 Lexis asked you a question about you see people a lot who are
25 trying to get second chances, right?

1 PROSPECTIVE JUROR NO. 251: That's correct.

2 MS. McNEILL: Do you agree that people aren't just
3 the worst things they've ever done?

4 PROSPECTIVE JUROR NO. 251: Of course.

5 MS. McNEILL: So you would sort of give every
6 witness the same deference in what they're saying to you?

7 PROSPECTIVE JUROR NO. 251: Yes.

8 MS. McNEILL: I'll pass for cause, Your Honor.

9 THE COURT: Thank you. Mr. Landis.

10 MR. LANDIS: Good afternoon. Did you obtain your
11 degree, your social work degree before starting at Catholic
12 Charities?

13 PROSPECTIVE JUROR NO. 251: I did.

14 MR. LANDIS: Was Catholic Charities -- you've been
15 there a long time, right? Obviously, it's a job you like.
16 Let me ask you, it was a dream job when you applied for it or
17 has it kind of become a close to dream job as you've worked
18 there?

19 PROSPECTIVE JUROR NO. 251: You know, I -- so as far
20 as after graduation, right, certainly, I was excited to get
21 any job --

22 MR. LANDIS: Right.

23 PROSPECTIVE JUROR NO. 251: -- right, working in
24 that field. I did an internship in United Way, which led to
25 that position. It's again, social work is something that I've

1 always wanted to get into and I was pretty excited to be able
2 to start right off after graduating.

3 MR. LANDIS: I assume you've fallen more in love
4 with the job over the past 18 or so years, right?

5 PROSPECTIVE JUROR NO. 251: It has its pros and
6 cons, I'm assuming, just like any other job.

7 MR. LANDIS: Sure. That's definitely true. Does it
8 seem to you like all of us attorneys are asking a lot of
9 questions about will you guys follow the instructions, do you
10 understand the defendant doesn't have to testify, those kinds
11 of things?

12 PROSPECTIVE JUROR NO. 251: Yeah, certainly.

13 MR. LANDIS: If I could, this happens all the time.
14 Do jury selection kind of like we're doing here, and I'll talk
15 to every potential juror about the defendant's right not to
16 testify and the fact that the Judge is going to tell you, you
17 can't hold that against them, go through every juror, we'll do
18 the whole trial. At the end of the trial, sometimes you get
19 the chance to talk to jurors. Obviously, they don't have to,
20 but if they want to.

21 You'll talk to jurors and let's say I lose, and I'm
22 saying hey, you know, what could we have done better, what was
23 it? And the jurors -- multiple jurors will sit there in a
24 circle and look at you and say, you know, we just really
25 needed to hear from your guy, and you're like come on, we just

1 talked about that at the begin of this trial for weeks.

2 PROSPECTIVE JUROR NO. 251: Right.

3 MR. LANDIS: So, you know, that's what I think
4 causes so many attorneys to do it. Does that make sense?

5 PROSPECTIVE JUROR NO. 251: Certainly.

6 MR. LANDIS: And when it comes to the Judge's
7 instructions, my fear is always that jurors think they're
8 advice as opposed to their duty to follow, if that makes
9 sense.

10 PROSPECTIVE JUROR NO. 251: Right.

11 MR. LANDIS: And based on just that and overall what
12 we've been saying, no qualms, that you'll be able to follow
13 the Judge's instructions no matter your personal feelings?

14 PROSPECTIVE JUROR NO. 251: Yes.

15 MR. LANDIS: I'll pass for cause, Judge.

16 THE COURT: Mr. Wolfbrandt.

17 MR. WOLFBRANDT: Judge, I'll pass for cause.

18 THE COURT: Thank you.

19 MR. WOLFBRANDT: Thank you.

20 THE COURT: If you'll hand the microphone to your
21 neighbor, Mr. Wirtner.

22 PROSPECTIVE JUROR NO. 252: Juror 252, Erik Wirtner.

23 THE COURT: Tell us about yourself.

24 PROSPECTIVE JUROR NO. 252: Well, Your Honor,
25 yesterday I had mentioned to you I had a business trip going

1 out on the 21st and 22nd, and I said I'm inquire with my
2 employer about it because the meeting was announced last
3 Thursday, and I didn't have the entire agenda and everything
4 presented to me yesterday to be able to present to you.

5 Unfortunately, they've asked me for -- to request an
6 excusal because I have to present materials that are specific
7 to my job description and my specific skill set for a morning
8 out of those two days, and these are presentations that I've
9 created and -- and trained to deliver.

10 THE COURT: Okay. And then they're in the morning?

11 PROSPECTIVE JUROR NO. 252: Yes.

12 THE COURT: And this is the --

13 PROSPECTIVE JUROR NO. 252: It's --

14 THE COURT: This is --

15 PROSPECTIVE JUROR NO. 252: Remember this is in
16 Phoenix, Arizona.

17 THE COURT: Right. At the bank -- at a bank -- one
18 of the bank facilities?

19 PROSPECTIVE JUROR NO. 252: Yes.

20 THE COURT: So they don't have Internet conferencing
21 capabilities?

22 PROSPECTIVE JUROR NO. 252: No conference me in? I
23 did not inquire.

24 THE COURT: Well, let's do that. Then you can do
25 that because every day we're not starting until afternoon.

1 PROSPECTIVE JUROR NO. 252: I think the only problem
2 with that is this is a room of about 100 people, not a small
3 group of five or six.

4 THE COURT: Yeah, well, I don't know, I guess, I've
5 seen that with big screens and why don't you find out about
6 that on our next break.

7 PROSPECTIVE JUROR NO. 252: Okay.

8 THE COURT: All right. So tell us about yourself in
9 the meantime.

10 PROSPECTIVE JUROR NO. 252: My name's Erik Wirtner.
11 I've lived in Vegas about 14 years. Actually, pardon me, 13
12 going on 14. I'm divorced, no kids. I have two cats.

13 THE COURT: Okay. Are you recently divorced, long
14 ago divorced?

15 PROSPECTIVE JUROR NO. 252: About five years ago.

16 THE COURT: Okay. And what did your wife, ex-wife
17 do before your divorce?

18 PROSPECTIVE JUROR NO. 252: I'm so sorry?

19 THE COURT: What did your ex-wife do for a living?

20 PROSPECTIVE JUROR NO. 252: For the cause of the --
21 or for a living? I'm so sorry.

22 THE COURT: I don't want to know what the cause of
23 the divorce was so --

24 PROSPECTIVE JUROR NO. 252: I was going to say I
25 don't think we have that kind of time today. The -- oh, what

1 did she do? She was in sales.

2 THE COURT: Okay. And have you always been in
3 banking?

4 PROSPECTIVE JUROR NO. 252: I have been in finance
5 since '95, yes.

6 THE COURT: What's your educational background?

7 PROSPECTIVE JUROR NO. 252: I've a bachelor's of
8 science degree in finance from the University of Pittsburgh.

9 THE COURT: Would the State like to inquire further?

10 MR. DiGIACOMO: Briefly. Good afternoon, sir. How
11 are you?

12 PROSPECTIVE JUROR NO. 252: I'm well. Thanks for
13 asking.

14 MR. DiGIACOMO: You mentioned, I think, yesterday
15 that your current relationship, she is a Corrections Officer
16 at the Clark County Detention Center?

17 PROSPECTIVE JUROR NO. 252: That is correct.

18 MR. DiGIACOMO: Okay. How long you been with her?

19 PROSPECTIVE JUROR NO. 252: Oh, a short time. Maybe
20 three months now.

21 MR. DiGIACOMO: And do you know what her assignment
22 at the corrections -- or at the detention center is?

23 PROSPECTIVE JUROR NO. 252: Oh, yes.

24 MR. DiGIACOMO: What is it?

25 PROSPECTIVE JUROR NO. 252: She works at intake.

1 She's a sergeant there.

2 MR. DiGIACOMO: She's a sergeant at intake?

3 PROSPECTIVE JUROR NO. 252: Um-h'm.

4 MR. DiGIACOMO: Okay. Does she talk to you at all
5 about the job?

6 PROSPECTIVE JUROR NO. 252: Oh, yes.

7 MR. DiGIACOMO: And I know the Judge sort of touched
8 on this, you know, particularly people who obviously, know --
9 do you know more than just her? Do you know her Corrections
10 Officers because of her?

11 PROSPECTIVE JUROR NO. 252: No, I -- I don't.

12 MR. DiGIACOMO: Okay. Other cops that are friends
13 with --

14 PROSPECTIVE JUROR NO. 252: I -- back home there's a
15 couple guys I went to high school with that are cops.

16 MR. DiGIACOMO: Yeah, and you would agree, I assume
17 that in any profession, I assume there's good bankers and bad
18 bankers and that there's good cops and bad cops, right?

19 PROSPECTIVE JUROR NO. 252: To a degree, yeah.

20 MR. DiGIACOMO: Would you -- let me ask you, would
21 you agree with the concept that every person should be judged
22 on who they are, not who the group their associated with is?

23 PROSPECTIVE JUROR NO. 252: I don't blanket that,
24 no. You know, I think there's certain -- I weight certain
25 professions higher than others. I mean, if you look at a

1 religious profession, I would certainly rank pastors and, you
2 know, priests and such on a higher moral and, I don't know,
3 responsibility level than, you know, someone not.

4 MR. DiGIACOMO: Right. I mean, but it's not because
5 the mere fact they're a priest. It's because if they're a
6 priest, that must mean that they have some sort of, you would
7 anyways, that they have a moral basis that is ingrained in
8 them that allowed them to choose that profession?

9 PROSPECTIVE JUROR NO. 252: Yes.

10 MR. DiGIACOMO: Okay. It's not the they're mere
11 fact -- I mean, I assume, you know, we've all seen news or
12 movies that there are some priests out there that have done
13 things that --

14 PROSPECTIVE JUROR NO. 252: Absolutely.

15 MR. DiGIACOMO: -- they shouldn't have, right?

16 PROSPECTIVE JUROR NO. 252: Yep.

17 MR. DiGIACOMO: You know, and you would have the
18 ability, I would hope, to distinguish between those that are
19 good and those that are bad based upon what they have to say
20 or the evidence that's either corroborates or disputes their
21 testimony?

22 PROSPECTIVE JUROR NO. 252: Yes.

23 MR. DiGIACOMO: Okay. You mentioned that you are in
24 banking and finance. You work for Chase. What is your
25 current title? I missed that.

1 PROSPECTIVE JUROR NO. 252: Vice President of
2 Lending Operations for Nevada and part of Arizona and southern
3 Utah.

4 MR. DiGIACOMO: And does that mean you have people
5 that work for you.

6 PROSPECTIVE JUROR NO. 252: Yes.

7 MR. DiGIACOMO: About how many people report to you?

8 PROSPECTIVE JUROR NO. 252: Currently, 16.

9 MR. DiGIACOMO: Okay. And you deal, I assume, at
10 times with employee disputes in some manner?

11 PROSPECTIVE JUROR NO. 252: Oh, yes.

12 MR. DiGIACOMO: And you're able to function and
13 figure out what you think to be the accurate truth is and make
14 a decision about what it is you're going to do?

15 PROSPECTIVE JUROR NO. 252: Yes.

16 MR. DiGIACOMO: Okay. Do you think essentially,
17 you'd be a fair juror if we set aside the idea that you have
18 this problem next week that you need to be in Phoenix?

19 PROSPECTIVE JUROR NO. 252: It depends what my
20 employer says.

21 MR. DiGIACOMO: Okay. Well, I'm saying set that
22 aside. Absent that fact, do you think that you'd be,
23 essentially, a fair juror?

24 PROSPECTIVE JUROR NO. 252: Yeah.

25 MR. DiGIACOMO: Okay. Do you think you're,

1 essentially, a fair person?

2 PROSPECTIVE JUROR NO. 252: I would -- I would say
3 so. I have my moments of irrationalability, but --

4 MR. DiGIACOMO: Who doesn't?

5 PROSPECTIVE JUROR NO. 252: Yeah.

6 MR. DiGIACOMO: So let me ask the penalty questions.
7 There's no -- you don't have any concerns in sitting in
8 judgment of what should happen to a person should we get to
9 that point in this case?

10 PROSPECTIVE JUROR NO. 252: No.

11 MR. DiGIACOMO: Okay. And you would be willing to
12 be open to all three forms of punishment?

13 PROSPECTIVE JUROR NO. 252: Yes.

14 MR. DiGIACOMO: So now let's just talk about the
15 trip. The Judge is going to decide on the hardship issue.
16 That's on the Court and --

17 PROSPECTIVE JUROR NO. 252: Um-h'm.

18 MR. DiGIACOMO: -- lawyers really don't have a lot
19 to say about that. So let me just go with what I would be
20 concerned with --

21 PROSPECTIVE JUROR NO. 252: Um-h'm.

22 MR. DiGIACOMO: -- and that is, you know, assuming
23 that the Court says you're here and there's nothing you can do
24 about it, are you capable of setting aside the -- what's
25 happening there and focus on what's happening here in the

1 courtroom, or are you going to be so distracted that you
2 you're incapable of understanding or listening to the
3 witnesses and absorbing the information that's being provided
4 to you?

5 PROSPECTIVE JUROR NO. 252: I would say, you know, I
6 can keep my attention on point when I need to. If that -- to
7 say wholeheartedly, that it's not going to be a distraction, I
8 wouldn't be truthful in saying that. There --

9 MR. DiGIACOMO: I don't think anybody would be.
10 But, I mean, there are some people who literally will say
11 look, if, you know -- there was a gentleman yesterday -- if
12 I'm not at the birth of my child, that's the only thing I'm
13 going to be thinking about, and I don't care what the evidence
14 is and I'm not going to pay attention.

15 From my point of view, I just want to know if the
16 Court decides you've got to stay, are you going to be someone
17 who's capable of focusing on what you would all agree is a
18 very important situation?

19 PROSPECTIVE JUROR NO. 252: I would agree it's very
20 important. Like I said, I -- I would absolutely do my best to
21 keep my focus on the task at hand.

22 MR. DiGIACOMO: Thank you very much, sir.

23 PROSPECTIVE JUROR NO. 252: Um-h'm.

24 MR. DiGIACOMO: Judge, we'd pass.

25 THE COURT: Thank you. Mr. Landis.

1 MR. LANDIS: And I certainly respect the intent to
2 do your very best. Knowing you better than I know you, how do
3 you predict it's going to play out, though? Do you think
4 you're going to succeed and be able to stay focused on the
5 matters in here?

6 PROSPECTIVE JUROR NO. 252: Well, I have to do that
7 pretty regularly at my job because I'm always juggling like 15
8 different balls in the air and one ball is usually the biggest
9 out of all of them, and I've got to make sure that I've catch
10 that one. So I've got to keep an eye on it.

11 MR. LANDIS: You're comfortable enough that you'll
12 be able to do it, then?

13 PROSPECTIVE JUROR NO. 252: I can split my brain,
14 yes.

15 MR. LANDIS: I assume you hear stories from your
16 girlfriend almost every time you see her about the previous
17 shift at work --

18 PROSPECTIVE JUROR NO. 252: Yes.

19 MR. LANDIS: -- right?

20 PROSPECTIVE JUROR NO. 252: Yes.

21 MR. LANDIS: Because she works at intake, meaning
22 people coming off the streets, right? Considered one of the
23 more wild, if I can use the term wild, sections of the jail?

24 PROSPECTIVE JUROR NO. 252: Um-h'm.

25 MR. LANDIS: Have those conversations with her

1 changed your viewpoint at all about the criminal justice
2 system?

3 PROSPECTIVE JUROR NO. 252: I don't know that
4 they've changed. I -- I've never really had a bad opinion
5 about the criminal justice system. So I -- good or bad it
6 hasn't moved the needle at all.

7 MR. LANDIS: Mr. DiGiacomo a moment ago was talking
8 to you about classes of people, or professions of people, I
9 don't know how we want to call it, but things like people in
10 the religious fields.

11 PROSPECTIVE JUROR NO. 252: Um-h'm.

12 MR. LANDIS: And correct me if I'm wrong, you agreed
13 with him with the basic idea that even people in these
14 professions that you might hide -- or hold higher, some of
15 them are bad apples and some of them do do things that are
16 wrong, right?

17 PROSPECTIVE JUROR NO. 252: Yes.

18 MR. LANDIS: Obviously, I could -- if the evidence
19 was there and a priest was accused of doing something, you
20 could find them guilty if it was proven beyond a reasonable
21 doubt?

22 PROSPECTIVE JUROR NO. 252: Yeah, yeah. The -- the
23 cloth is not blind me with that.

24 MR. LANDIS: And I'm not going to ask you your
25 opinion about the class of people known as lawyers, but

1 talking about law --

2 PROSPECTIVE JUROR NO. 252: I have two my family so.

3 MR. LANDIS: Talking about law enforcement, some
4 time yesterday you talked about how your views about law
5 enforcement have been shaped some by your current
6 relationship. Is that fair? I don't want to put words in
7 your mouth.

8 PROSPECTIVE JUROR NO. 252: A little. Again, I -- I
9 don't -- again, I don't see it moving the needle much. I
10 think maybe it's changed my opinion of what goes on in a jail
11 and some of the things that people are capable of doing in
12 this society and scratch my head as to why they do them.

13 MR. LANDIS: Certainly. Did I misremember? Didn't
14 you say at some point yesterday that you tend to believe an
15 officer because he's an officer? Not exclusively or pull a
16 cloth.

17 PROSPECTIVE JUROR NO. 252: Yeah, I do. I generally
18 will weigh on the side of the law.

19 MR. LANDIS: And similar to the conversation about
20 priests or religious figures, obviously, you could see a
21 situation where you believe a cop -- an officer is lying,
22 right, based on what they say and other evidence you hear?

23 PROSPECTIVE JUROR NO. 252: Based upon the evidence,
24 I mean, if it's in black, it's black, and then they say white
25 is white and I can see that it's black, yes, I believe it's

1 black.

2 MR. LANDIS: Their truthfulness isn't necessarily
3 bullet proof, then, in your view, if I can phrase it that way?

4 PROSPECTIVE JUROR NO. 252: Yeah. No, no, it's --

5 MR. LANDIS: But getting more specific, though,
6 here's my question, if we assume a witness gets on the stand
7 who's not an officer, has no profession, you don't know them,
8 obviously, they start at neutral in terms of believability,
9 right?

10 PROSPECTIVE JUROR NO. 252: Again, depending.

11 MR. LANDIS: On what?

12 PROSPECTIVE JUROR NO. 252: I don't know what their
13 history is.

14 MR. LANDIS: Say you don't know anything about them,
15 they haven't opened their mouth, you --

16 PROSPECTIVE JUROR NO. 252: Yeah, we'll see zero
17 then?

18 MR. LANDIS: You're neutral, right?

19 PROSPECTIVE JUROR NO. 252: Yep.

20 MR. LANDIS: What I want to determine, if you can
21 help me, does an officer start above that line for you just
22 because they walk in here with an officer's uniform?

23 PROSPECTIVE JUROR NO. 252: Honestly, yes, I do. I
24 -- I've been in situations where many officers have been much
25 more helpful to me than the average human on the street has.

1 And I -- again, it goes back to I think there's a moral
2 Constitution, there's a mindset and a type of person that goes
3 with taking a position like that or in clergy that yeah, they
4 would -- they would rank higher in believability until other
5 -- proven otherwise to me.

6 MR. LANDIS: Will it be hard for you to set that
7 belief aside, even if the Judge asks you to?

8 PROSPECTIVE JUROR NO. 252: I think more that's case
9 by case, honestly, what you're asking me to believe versus
10 not. You know, again, if it is absolutely black and white,
11 that's cut and dry. If we're in gray areas, that might be
12 tough.

13 MR. LANDIS: But before we even get to the words,
14 talking about them walking through the door, are you going to
15 be able to shake the fact that you put them above neutral just
16 based on their status, even if the Judge asks you to.

17 And understand my concerns, of course.

18 PROSPECTIVE JUROR NO. 252: I do.

19 MR. LANDIS: And that's all I'm asking you. Should
20 I be concerned about it?

21 PROSPECTIVE JUROR NO. 252: Again, I can do my best
22 to put that aside, man.

23 MR. LANDIS: Are you confident you can do so?

24 THE COURT: Approach here before this goes further.

25 (Off-record bench conference)

1 MR. LANDIS: Thank you for your time. I'd pass for
2 cause.

3 MR. WOLFBRANDT: And Judge, I would pass for cause.

4 MS. McNEILL: Your Honor, I would pass for cause as
5 well.

6 THE COURT: Thank you. And we'll go to Rosario
7 Garcia.

8 PROSPECTIVE JUROR NO. 253: Good afternoon. My name
9 is Rosario Garcia.

10 THE COURT: And your badge number is.

11 PROSPECTIVE JUROR NO. 253: 253.

12 THE COURT: All right. Tell us about yourself.

13 PROSPECTIVE JUROR NO. 253: I am married. I have
14 two sons. A 31-year-old and a 26 -- 27-year-old, actually.
15 Very proud of them, by the way. I am a dental assistant, and
16 I worked since 1984. I presently doing dental assistant and
17 front desk. And am I missing something?

18 THE COURT: Single, divorced, significant other,
19 married?

20 PROSPECTIVE JUROR NO. 253: I'm sorry?

21 THE COURT: Do you have a --

22 PROSPECTIVE JUROR NO. 253: I am married.

23 THE COURT: Married. And what does your husband do?

24 PROSPECTIVE JUROR NO. 253: He's a travel manager.
25 He works in China. He travels at least eight times a year or

1 more, if necessary.

2 THE COURT: And your adult children, what do they
3 do?

4 PROSPECTIVE JUROR NO. 253: My oldest, he's 31, and
5 he is a chef. Right now he's not working. He injure his hand
6 so he had to step out for a little bit. My 27-year-old, he
7 works at Switch Company, which is a very -- I don't know. I
8 don't ask. I just -- I don't suppose to ask what kind of
9 company that is. It's a very secretive one. And that's what
10 they do.

11 THE COURT: And what's your education?

12 PROSPECTIVE JUROR NO. 253: I went to RDA school,
13 registered dental assistant in 1984, and I wanted to continue
14 with my career as a dental hygienist, but I was married and
15 got pregnant and decided that I wanted to be a mom before
16 anything else so I quit, and I stay as a dental assistant.

17 THE COURT: And so what's the difference between a
18 dental assistant and a hygienist?

19 PROSPECTIVE JUROR NO. 253: Dental hygienist can
20 actually clean your teeth.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR NO. 253: Yes. And the registered
23 dental assistant has not so much on that field.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NO. 253: We do a lot, but not --

1 here in Vegas it's very different. I took my courses in
2 California.

3 THE COURT: So are you then in the room when the
4 dentist is there and you're assisting giving him --

5 PROSPECTIVE JUROR NO. 253: Yes, I am.

6 THE COURT: -- instruments or --

7 PROSPECTIVE JUROR NO. 253: That is correct.

8 THE COURT: -- taking notes?

9 PROSPECTIVE JUROR NO. 253: That is correct.

10 THE COURT: Okay. All right. Thank you very much.
11 Would the State like to inquire further?

12 MS. LEXIS: Yes, Your Honor. Hello.

13 PROSPECTIVE JUROR NO. 253: Hello.

14 MS. LEXIS: Ms. Garcia, how are you?

15 PROSPECTIVE JUROR NO. 253: I'm just fine. Thank
16 you. How are you?

17 MS. LEXIS: Do you want me to move this? I'm great.
18 Thank you very much for asking.

19 (Off-record colloquy)

20 MS. LEXIS: Ms. Garcia, have you or a close family
21 friend, anyone in your family ever been the victim of a crime?

22 PROSPECTIVE JUROR NO. 253: Yes.

23 MS. LEXIS: Okay. What crime?

24 PROSPECTIVE JUROR NO. 253: My close friend, my
25 neighbor, just recently was burglarized in her house, and it

1 was very devastating for all of us.

2 MS. LEXIS: Okay.

3 PROSPECTIVE JUROR NO. 253: Because it's a very
4 small practice, and we share everything.

5 MS. LEXIS: Okay. So this is a work office that
6 was --

7 PROSPECTIVE JUROR NO. 253: Her house. Her -- her
8 own residence.

9 MS. LEXIS: Oh, okay. And does she live --
10 obviously --

11 PROSPECTIVE JUROR NO. 253: Yes, yes.

12 MS. LEXIS: -- she lives here in Las Vegas?

13 PROSPECTIVE JUROR NO. 253: Yes.

14 MS. LEXIS: Okay. And you're friends because you
15 work -- your offices are close?

16 PROSPECTIVE JUROR NO. 253: No, we work in the same
17 office.

18 MS. LEXIS: Oh, okay.

19 PROSPECTIVE JUROR NO. 253: She's one of the dental
20 hygienists.

21 MS. LEXIS: Okay. And so her home was burglarized.
22 She was not home at the time?

23 PROSPECTIVE JUROR NO. 253: No.

24 MS. LEXIS: Okay.

25 PROSPECTIVE JUROR NO. 253: She barely -- she -- as

1 she was walking in, she heard something on the backyard of her
2 house, and he continue going in, and somebody had kind of
3 closed the sliding door in the backyard and then it shattered,
4 it broke. And that's when she realized, oh, my God. So she
5 run to the across the street neighbor --

6 MS. LEXIS: Okay.

7 PROSPECTIVE JUROR NO. 253: -- to ask for help.

8 MS. LEXIS: And this is a close --

9 PROSPECTIVE JUROR NO. 253: Yeah, yes.

10 MS. LEXIS: -- close girlfriend?

11 PROSPECTIVE JUROR NO. 253: Yes.

12 MS. LEXIS: Okay.

13 PROSPECTIVE JUROR NO. 253: We work together for 21
14 years.

15 MS. LEXIS: Oh, my goodness. And so did she -- how
16 did you find out about it?

17 PROSPECTIVE JUROR NO. 253: Oh, she didn't -- she
18 called me that night.

19 MS. LEXIS: Okay. And she was panicked, I imagine?

20 PROSPECTIVE JUROR NO. 253: She was panicking, and
21 she ask me to go ahead and cancel her patients for the
22 following day because of that.

23 MS. LEXIS: Okay.

24 PROSPECTIVE JUROR NO. 253: So I had to go early in
25 the morning and do that.

1 MS. LEXIS: And whether did this happen relatively?

2 PROSPECTIVE JUROR NO. 253: About four months ago.

3 MS. LEXIS: Okay. And do you know if anyone was
4 caught or prosecuted?

5 PROSPECTIVE JUROR NO. 253: No.

6 MS. LEXIS: Okay.

7 PROSPECTIVE JUROR NO. 253: No one.

8 MS. LEXIS: Did the police respond, do you know?

9 PROSPECTIVE JUROR NO. 253: Yes. Um-h'm, yes.

10 MS. LEXIS: Okay. And just based on -- I mean,
11 you've spoken to her about it further --

12 PROSPECTIVE JUROR NO. 253: Um-h'm.

13 MS. LEXIS: -- since the day it's happened --

14 PROSPECTIVE JUROR NO. 253: Yes.

15 MS. LEXIS: -- I imagine? Okay. Has she expressed
16 any kind of dissatisfaction with the police or --

17 PROSPECTIVE JUROR NO. 253: No.

18 MS. LEXIS: -- anyone? Okay.

19 PROSPECTIVE JUROR NO. 253: Not at all, no.

20 MS. LEXIS: Okay. But you said that it was
21 devastating for her and also for you.

22 PROSPECTIVE JUROR NO. 253: Freaking. It's -- it's
23 scary.

24 MS. LEXIS: Okay.

25 PROSPECTIVE JUROR NO. 253: You know, it scares

1 anyone.

2 MS. LEXIS: Right.

3 PROSPECTIVE JUROR NO. 253: I personally have an
4 alarm system at home and I have a big dog.

5 MS. LEXIS: Big dogs I think are the best. They
6 don't get enough credit --

7 PROSPECTIVE JUROR NO. 253: Unfortunately, no.

8 MS. LEXIS: -- right? Yeah.

9 PROSPECTIVE JUROR NO. 253: Not really. With me,
10 yes.

11 MS. LEXIS: So does the fact -- I mean, you heard
12 some of the charges that we read off in this case or that I
13 read off with the Court's permission. It does include a
14 burglary and also with the little bit of facts that we told
15 you in the very beginning, you can kind of tell that there's a
16 burglary element to this particular case.

17 Do you think, you know, kind of knowing the
18 experience that your close girlfriend went through just four
19 months ago and having the same kind of subject matter in this
20 case, do you think you could still be fair and impartial in
21 this case?

22 PROSPECTIVE JUROR NO. 253: It's very difficult to
23 say.

24 MS. LEXIS: Okay.

25 PROSPECTIVE JUROR NO. 253: You know, because --

1 MS. LEXIS: Why?

2 PROSPECTIVE JUROR NO. 253: -- it's very -- I'm a
3 very emotional person. I want to start by saying that.

4 MS. LEXIS: Okay.

5 PROSPECTIVE JUROR NO. 253: I just don't like to see
6 people hurt in any way.

7 MS. LEXIS: Right.

8 PROSPECTIVE JUROR NO. 253: And sometimes some
9 people make decisions, and I don't -- I don't understand why.

10 MS. LEXIS: Okay. So let me ask you this,
11 certainly, no one was caught or prosecuted for what happened
12 to your girlfriend, right?

13 PROSPECTIVE JUROR NO. 253: Um-h'm.

14 MS. LEXIS: Okay. So we don't know who committed
15 that burglary?

16 PROSPECTIVE JUROR NO. 253: No.

17 MS. LEXIS: All right. Certainly, you're not going
18 to think that because those people weren't caught, the
19 defendants, you're going to just automatically the defendants
20 here, you're going to automatically think they're guilty
21 without any kind of evidence just because they're charged with
22 the same kind of crime? Are you going to do that?

23 PROSPECTIVE JUROR NO. 253: I don't know if you have
24 the right person.

25 MS. LEXIS: Okay.

1 PROSPECTIVE JUROR NO. 253: I don't know if you --

2 MS. LEXIS: Okay.

3 PROSPECTIVE JUROR NO. 253: -- imprison the right
4 person. I don't know.

5 MS. LEXIS: Okay.

6 PROSPECTIVE JUROR NO. 253: I don't know.

7 MS. LEXIS: Okay. So at this early stage, though,
8 no evidence has been presented. As Mr. Landis kind of pointed
9 out with the previous juror, we're talking in generalities.
10 Would you agree with me?

11 PROSPECTIVE JUROR NO. 253: Yes.

12 MS. LEXIS: Okay. And you understand that
13 Mr. DiGiacomo and myself, we have the burden of proof?

14 PROSPECTIVE JUROR NO. 253: Yes.

15 MS. LEXIS: Beyond a reasonable doubt?

16 PROSPECTIVE JUROR NO. 253: Um-h'm.

17 MS. LEXIS: Right?

18 PROSPECTIVE JUROR NO. 253: Yes.

19 MS. LEXIS: Okay. So you just said something to the
20 effect of you're not sure if we have the right person, okay.
21 Are you the type of person who is already wondering that in
22 your mind, do we have the right people, or are you the type of
23 person who can wait until we present evidence and have people
24 testify as witnesses before you can make up your mind as to
25 one, whether we've got the right people, and two, what crimes

1 it is if, in fact, they committed any?

2 PROSPECTIVE JUROR NO. 253: I have been summoned
3 three times. I think four times. And every time I received
4 one of those papers, my heart pounds --

5 MS. LEXIS: Right.

6 PROSPECTIVE JUROR NO. 253: -- because I don't know
7 what -- what it is about.

8 MS. LEXIS: Okay.

9 PROSPECTIVE JUROR NO. 253: And I have never had to
10 be on this situation before. So I'm -- physically, it makes
11 me really ill. It makes me sick. And emotionally, it makes
12 me sick to be on this kind of situation.

13 MS. LEXIS: Okay.

14 PROSPECTIVE JUROR NO. 253: And I don't want to hurt
15 anybody.

16 MS. LEXIS: Okay. You don't want to hurt anybody
17 meaning who?

18 PROSPECTIVE JUROR NO. 253: I don't know what you're
19 going to talk about in the future. I don't know -- we briefly
20 know about the case, and as it is, when I heard it, it just --
21 I'm like I can't be here, but I'm here.

22 MS. LEXIS: Okay. Do you think that your reaction
23 and the anxiety and kind of these feelings that you're having,
24 do you think that they would prevent you from being a fair and
25 impartial juror?

1 PROSPECTIVE JUROR NO. 253: Possibly.

2 MS. LEXIS: Thank you, ma'am. I have no more
3 questions for you.

4 THE COURT: I would just want to follow up before
5 you go there. So --

6 MR. LANDIS: It may not be necessary.

7 THE COURT: -- the question is basically, when you
8 say possibly, the question is pretty straightforward. Do you
9 think, yes or no, that you can be fair and impartial in this
10 case to both sides?

11 PROSPECTIVE JUROR NO. 253: Yes.

12 THE COURT: You can? Why do you think that now when
13 you just said before --

14 PROSPECTIVE JUROR NO. 253: Well, from the get-go
15 they said, you know, we're not going to hear one side of the
16 story. We're only going to hear only one side of the story,
17 correct?

18 THE COURT: Okay. So we'll go over this again
19 because it's really important. The defendants do not have any
20 burden of proof. The State does all the proving and that's
21 because defendants in any criminal case are presumed to be
22 innocent. So they start -- presume to be innocent. The State
23 has to prove beyond a reasonable doubt, and you'll get a jury
24 instruction at the end on what that means, that they have to
25 prove that to your satisfaction beyond a reasonable doubt,

1 right?

2 And so what that means is the defense doesn't have
3 to prove anything. So -- because they're already presumed to
4 be innocent. It's the State has to do the proving. So when
5 the defense counsel say to you that they may not present any
6 evidence, that's true. They don't even have to cross-examine
7 witnesses.

8 PROSPECTIVE JUROR NO. 253: Um-h'm.

9 THE COURT: Will they? I believe they probably
10 will. But they don't have to put on any evidence. There has
11 been -- they beginning there was some suggestion to you that a
12 couple of defense witnesses might be called, but they don't
13 have to call anybody. And you may be called upon to decide
14 just based upon the testimony that -- and witnesses and
15 evidence, exhibits that the State puts on. But that's because
16 the defense starts from innocent. They don't have to prove
17 anything. They're already innocent. It's the State has to do
18 the proving. Are you clear on that? Okay.

19 So this whole idea of well, I need to hear the other
20 side of the story, you may not -- there's no requirement. The
21 State has to prove it. Now, if you believe what the State has
22 prove proven, and you believe that they proved it beyond a
23 reasonable doubt, then that's sufficient. But if you feel
24 they didn't prove it, then you have to deliver a verdict of
25 not guilty. Do you understand that?

1 PROSPECTIVE JUROR NO. 253: I understand that, Your
2 Honor.

3 THE COURT: All right. Now --

4 MR. LANDIS: Could we approach very briefly?

5 THE COURT: Sure.

6 (Off-record bench conference)

7 THE COURT: Counsel has agreed that you may be
8 dismissed because of your expressions of your extreme anxiety
9 in this case, and we don't want you having a panic attack.

10 PROSPECTIVE JUROR NO. 253: Thank you.

11 THE COURT: All right. You're excused. You need to
12 get instructions from the Marshal. And has our stranded
13 motorist, juror --

14 THE MARSHAL: I just checked outside, ma'am. She's
15 not here.

16 THE COURT: She's not here. All right. So we're
17 going to go to the next in order that's available.

18 THE CLERK: Mark Petra -- I can't --

19 THE COURT: Badge number?

20 THE CLERK: Badge number 326.

21 THE COURT: Mark Petrasich. Petrasich. All right,
22 sir, have you ever served as a juror before?

23 PROSPECTIVE JUROR NO. 326: No, ma'am.

24 THE COURT: And have you ever been in law
25 enforcement?

1 PROSPECTIVE JUROR NO. 326: Yes, ma'am.

2 THE COURT: What -- in what capacity?

3 PROSPECTIVE JUROR NO. 326: I was with the 137th
4 military police unit here in Henderson.

5 THE COURT: How long was that -- did you have that
6 assignment?

7 PROSPECTIVE JUROR NO. 326: Just over a year. It's
8 been probably -- well, it was 2010 when I got out, so about
9 six years ago.

10 THE COURT: Okay. Were you in the Air Force?

11 PROSPECTIVE JUROR NO. 326: No, ma'am, Army.

12 THE COURT: Army. Was that the Army reserve?

13 PROSPECTIVE JUROR NO. 326: National Guard.

14 THE COURT: National Guard, okay. So was that a --
15 were you full-time national guard time?

16 PROSPECTIVE JUROR NO. 326: No, ma'am.

17 THE COURT: Part-time?

18 PROSPECTIVE JUROR NO. 326: Correct.

19 THE COURT: So how much time did you actually serve
20 in that capacity per year?

21 PROSPECTIVE JUROR NO. 326: It was one weekend a
22 month, to weeks out of the year.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR NO. 326: So, you know, about 12
25 weeks -- 12 weekends, actually. Or -- yeah.