

IN THE SUPREME COURT OF THE STATE OF NEVADA

JASON JEROME BOLEN, A/K/A
JASON J. BOLDEN,
Appellant(s),

vs.

THE STATE OF NEVADA,
Respondent(s),

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Case No: C-18-334635-1
Related Case A-21-842092-W
Docket No: 84293

RECORD ON APPEAL VOLUME 2

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1 about some of the peremptories. How would you like us to exercise those
2 peremptories?

3 THE COURT: Just quietly sitting there at your tables while the
4 jurors are still in the room. They'll be a form just goes back and forth.

5 MR. SCARBOROUGH: Oh.

6 THE COURT: You fill it all out, make sure it's okay. Make sure
7 no, you know, challenges to the process or to the final panel.

8 MR. SCARBOROUGH: Perfect.

9 MR. NADIG: And it's the last one for the alternate, Your Honor?
10 I always forget.

11 THE COURT: Yeah, the alternate's always in the last seat, so.
12 Oh, one other thing. You guys agree that -- you guys agree that the, you
13 know, you get four peremptory challenges plus one for the alternate. I
14 generally allow everybody just do five however they want, rather than just
15 using the four for the panel and the one for the potential alternate.

16 The rules strictly require --

17 MR. NADIG: Uh-huh.

18 THE COURT: -- that you're extra peremptory challenge has to
19 be issued against the person that would be the alternate or become the
20 alternate.

21 MR. NADIG: Yeah.

22 THE COURT: I usually weigh that with the agreement of the
23 parties.

24 MR. NADIG: Oh, yeah.

25 THE COURT: And you can use your five however you want.

1 MR. NADIG: I'm fine with that.

2 THE COURT: I think that's --

3 MR. SCARBOROUGH: That's fine with me, too, Your Honor.

4 THE COURT: Perfect.

5 MR. SCARBOROUGH: Yeah.

6 THE COURT: Just have to put it on the record.

7 MR. SCARBOROUGH: Sure.

8 THE COURT: All right. Where are the exhibits?

9 MR. SCARBOROUGH: We are working on our exhibits now,

10 Your Honor. I informed the Clerk we should have them by the afternoon

11 hopefully.

12 THE COURT: Perfect.

13 MR. SCARBOROUGH: Before we get all them, so.

14 THE COURT: Perfect. I'm good with that.

15 MR. SCARBOROUGH: Yeah.

16 THE COURT: All right.

17 THE CLERK: Can we use the microphone in here before the

18 jurors, so when we ask them questions, make sure they have the

19 microphone?

20 MR. SCARBOROUGH: Okay.

21 THE CLERK: [Indiscernible.]

22 MR. SCARBOROUGH: Does -- do you require us to stand by

23 the mic or anything like that?

24 THE COURT: Stand wherever you want. I don't care.

25 MR. SCARBOROUGH: Okay. Do you have a lapel mic you

1 want to wear?

2 THE CLERK: I do have a lapel mic, but I can't use both of
3 these at the same time.

4 MR. SCARBOROUGH: Okay.

5 MR. NADIG: You're loud enough, too.

6 MR. SCARBOROUGH: Yeah, if you need me to wear one, just
7 let me know.

8 THE CLERK: Okay.

9 THE COURT: Any motion in limine orders I need to know
10 about?

11 MR. SCARBOROUGH: Not that I can recall, Your Honor. We
12 have made a motion that was ruled on by Judge Adair to admit the prior
13 preliminary hearing transcripts for Bryson Martinez.

14 THE COURT: All right.

15 MR. SCARBOROUGH: We haven't filed any other motion in
16 limine so to speak, any other issues. We just argue as they come up.
17 And we haven't filed any peremptory motion in limines.

18 THE COURT: All right, you can ask to approach. We'll do it
19 outside the hearing of the jurors.

20 MR. SCARBOROUGH: Fair, thank you.

21 THE COURT: All right.

22 THE CLERK: Mr. Nadig, if you decide you need the ELMO, just
23 let me know.

24 MR. NADIG: That won't happen.

25 THE CLERK: Okay.

1 MR. NADIG: I'm technologically --
2 THE CLERK: Challenged.
3 MR. SCARBOROUGH: I got to help you out when we present
4 stuff, too.
5 THE COURT: Yeah.
6 MR. SCARBOROUGH: It's not tough.
7 THE CLERK: It's not at all.
8 MR. NADIG: Oh, yeah, you know what? I haven't used
9 Powerpoint since they switched over this, because I'm afraid.
10 THE CLERK: You -- the attorneys actually control it.
11 MR. SCARBOROUGH: I'll really happy that they have the old
12 school John Madden like drawing screen.
13 MR. NADIG: Oh, Telestrator?
14 MR. SCARBOROUGH: I miss those. In the other courtrooms,
15 it's the mouse now and I don't --
16 THE CLERK: Yeah.
17 MR. SCARBOROUGH: Witnesses always kind of mess it up,
18 you know.
19 THE COURT: Right.
20 THE CLERK: If you need to clear the screen, Mr. Nadig, it's the
21 bottom to the left or the right side.
22 THE COURT: So when you say done by Thursday, that
23 means --
24 MR. NADIG: To the jury. I'm hoping --
25 THE COURT: Jury done deliberating or might they need to

1 deliberate Friday?

2 MR. NADIG: I am hoping that they -- it will be to the jury before
3 lunch on Thursday.

4 MR. SCARBOROUGH: I would say that's pretty fair.

5 THE COURT: All right.

6 MR. SCARBOROUGH: That's a good estimate.

7 THE COURT: They'll want to have it done by the end of the
8 day.

9 We're all set, Marshal.

10 THE MARSHAL: Okay.

11 [Counsel confers with the Defendant]

12 THE COURT: You both have your juror list?

13 MR. NADIG: Yes, Your Honor.

14 MR. SCARBOROUGH: We do, Your Honor, thank you.

15 [Pause]

16 THE MARSHAL: All rise for the jury.

17 [In the presence of the prospective jurors]

18 THE COURT: You can be seated.

19 [The Marshal guides the prospective jurors to their seats]

20 THE MARSHAL: Okay, Judge, all jurors are present.

21 THE COURT: All right, please be seated, everybody. All right,
22 welcome, everybody. My name is Judge Richard Scotti. I'll be presiding
23 over this matter. You are in Department 2 of the 8th Judicial District Court
24 of the State of Nevada.

25 You've been summoned here today to serve as possible jurors

1 in a criminal lawsuit. There are various charges that have been alleged to
2 which the Defendant denies.

3 In a few minutes, I'll give you a chance to talk about your ability
4 to serve as a juror in this case. Please note, however, this is going to be
5 a quick trial. We'll be done -- well, hopefully, my expectation is we'll be
6 done by the end of Thursday. All right, so just a few days. So I'm sure
7 most of you will be able to serve and very few of you will have a hardship,
8 but I'll talk to you about that momentarily.

9 All right, let me introduce my staff here. First, let me tell you the
10 folks in the front, you're not -- you're not in the hot seat or something. We
11 just ran out of some room, but you will be here right below me, all right?

12 This is an easy process, everybody. I'll walk you through it.
13 And if you get chosen as a juror, you'll appreciate the very important
14 responsibility that you serve for our community.

15 All right, so to my left is my law clerk Taylor Martinez [phonetic].
16 She assists in various legal matters.

17 And to my right is Mikala Tapia. She is the Deputy Court Clerk.
18 She administers the oaths to the witnesses. She marks exhibits. She
19 keeps track of the evidence and she prepares the official record of the
20 proceeding.

21 Then to her right is Dalayne Easley. She's the Official Court
22 Recorder and she records everything that is said during trial.

23 And then, there's my Marshal. My Marshal is Wes Moore. He
24 maintains security and he'll be the person to escort you to and from the
25 courtroom. Also, if you need to contact the Court for any reason when

1 you're not sitting in Court, you should do so through the Marshal. And
2 then, during deliberations, if you're chosen, he'll look after you and
3 maintain your privacy.

4 All right, if any of you has a cell phone, now's the time to make
5 sure it's turned off. When Court is in session, you're not allowed to use
6 your phone for any reason. That includes any other electronic device that
7 is capable of making or accepting calls or sending or receiving any
8 information.

9 During these proceedings, if you need to use the restroom,
10 please raise your hand. I try to be very accommodating to everybody.
11 We will have or try to take a break about every 90 minutes.

12 All right, then the Court Clerk is now going to make a roll call.
13 When you hear your name, please answer here or yes. And you don't
14 need to stand.

15 All right, Madam Clerk, please proceed.

16 THE CLERK: Ronald Shallcross.

17 PROSPECTIVE JUROR NO. 1: Here.

18 THE CLERK: Allen Alvarez?

19 PROSPECTIVE JUROR NO. 6: Here.

20 THE CLERK: Kaina Sihabouth?

21 PROSPECTIVE JUROR NO. 11: Here.

22 THE CLERK: Miguel Galvin-Sanchez?

23 PROSPECTIVE JUROR NO. 13: Here.

24 THE CLERK: Cynthia De?

25 PROSPECTIVE JUROR NO. 23: Here.

1 THE CLERK: Peter Hsia?
2 PROSPECTIVE JUROR NO. 27: Here.
3 THE CLERK: Patricia Pfeifer?
4 PROSPECTIVE JUROR NO. 30: Here.
5 THE CLERK: Joseph Durso?
6 PROSPECTIVE JUROR NO. 31: Here.
7 THE CLERK: Donald Desroches?
8 PROSPECTIVE JUROR NO. 32: Here.
9 THE CLERK: Herbert Tucker?
10 PROSPECTIVE JUROR NO. 34: Here.
11 THE CLERK: Kiana Tangonan?
12 PROSPECTIVE JUROR NO. 42: Here.
13 THE CLERK: Cindy Lopez?
14 PROSPECTIVE JUROR NO. 43: Here.
15 THE CLERK: Allison Jarrell?
16 PROSPECTIVE JUROR NO. 45: Here.
17 THE CLERK: Robin Odach?
18 PROSPECTIVE JUROR NO. 46: Here.
19 THE CLERK: Jacob San Nicholas?
20 PROSPECTIVE JUROR NO. 49: Here.
21 THE CLERK: Miguel Ortiz?
22 PROSPECTIVE JUROR NO. 50: Here.
23 THE CLERK: Hsiu Yosai?
24 PROSPECTIVE JUROR NO. 54: Here.
25 THE CLERK: Thomas Dugan?

1 PROSPECTIVE JUROR NO. 55: Here.
2 THE CLERK: Rachel Hoiles?
3 PROSPECTIVE JUROR NO. 58: Here.
4 THE CLERK: Shaina Harris?
5 PROSPECTIVE JUROR NO. 69: Here.
6 THE CLERK: Erika Gonzalez?
7 PROSPECTIVE JUROR NO. 71: Here.
8 THE CLERK: Milnam Yi?
9 PROSPECTIVE JUROR NO. 72: Here.
10 THE CLERK: Joel Randolph?
11 PROSPECTIVE JUROR NO. 73: Here.
12 THE CLERK: Elaine Anderson?
13 PROSPECTIVE JUROR NO. 78: Here.
14 THE CLERK: Lloyddean Arlint?
15 PROSPECTIVE JUROR NO. 82: Here.
16 THE CLERK: Timothy Egan?
17 PROSPECTIVE JUROR NO. 84: Here.
18 THE CLERK: Denise Valdez-Chardon?
19 PROSPECTIVE JUROR NO. 88: Here.
20 THE CLERK: Anna Kharitonova?
21 PROSPECTIVE JUROR NO. 89: Here.
22 THE CLERK: Vincent Velivis?
23 PROSPECTIVE JUROR NO. 93: Here.
24 THE CLERK: Thomas Divis?
25 PROSPECTIVE JUROR NO. 95: Here.

1 THE CLERK: Jeanette Tupasi?
2 PROSPECTIVE JUROR NO. 97: Here.
3 THE CLERK: Patricia Oakes?
4 PROSPECTIVE JUROR NO. 102: Right here.
5 THE CLERK: Justin Woolard?
6 PROSPECTIVE JUROR NO. 104: Here.
7 THE CLERK: Sam Leak?
8 PROSPECTIVE JUROR NO. 105: Here.
9 THE CLERK: Khanh Loan Le?
10 PROSPECTIVE JUROR NO. 107: Here.
11 THE COURT: Chandler Clements?
12 PROSPECTIVE JUROR NO. 111: Here.
13 THE CLERK: Diana Caballes?
14 PROSPECTIVE JUROR NO. 113: Here.
15 THE CLERK: Stephanie Hunsaker?
16 PROSPECTIVE JUROR NO. 115: Here.
17 THE CLERK: Roberta Jones?
18 PROSPECTIVE JUROR NO. 116: Here.
19 THE CLERK: Anthony Sarnblad?
20 PROSPECTIVE JUROR NO. 121: Here.
21 THE CLERK: Caroline Clark?
22 PROSPECTIVE JUROR NO. 125: Here.
23 THE CLERK: Ahmad Saab?
24 PROSPECTIVE JUROR NO. 127: Here.
25 THE CLERK: Rodolfo Storino?

1 PROSPECTIVE JUROR NO. 129: Excuse me, no much
2 English.

3 THE COURT: All right, no much English, one moment.

4 THE CLERK: Rodolfo Storino?

5 PROSPECTIVE JUROR NO.: Yes.

6 THE COURT: Hold -- let's call the roll. Sit down. I'll get back to
7 you. Thank you.

8 THE CLERK: Kimberly Riley?

9 PROSPECTIVE JUROR NO. 131: Here.

10 THE CLERK: Lorna Marucut?

11 PROSPECTIVE JUROR NO. 132: Here.

12 THE COURT: All right, is there anybody present whose name
13 was not called? No.

14 All right, Mr. Storino, you may now stand. How much English
15 do you understand?

16 PROSPECTIVE JUROR NO. 129: A little, a little.

17 THE COURT: Just a little?

18 PROSPECTIVE JUROR NO. 129: Yeah.

19 THE COURT: All right, do you have a job in town? A job?

20 PROSPECTIVE JUROR NO. 129: Yeah?

21 THE COURT: Job?

22 PROSPECTIVE JUROR NO. 129: Yes.

23 THE COURT: What is your job?

24 PROSPECTIVE JUROR NO. 129: Laundry attendant.

25 THE COURT: Laundry attendant?

1 PROSPECTIVE JUROR NO. 129: Yeah.

2 THE COURT: Do you --

3 UNIDENTIFIED SPEAKER: The mic.

4 THE COURT: Do you speak any -- a little English?

5 PROSPECTIVE JUROR NO. 129: A little bit.

6 THE COURT: A little English.

7 PROSPECTIVE JUROR NO. 129: Yeah.

8 THE COURT: All right. All right, have a seat for now. Have a
9 seat and I'll get back to you.

10 PROSPECTIVE JUROR NO. 129: Thank you.

11 THE COURT: Thank you.

12 All right, at this time, I am going to allow the attorneys to make
13 brief remarks to the potential jurors. They may introduce themselves, and
14 their client, and then very brief statement of the nature of the case and
15 their potential witnesses.

16 Listen carefully, because I need to know if you know any of the
17 witnesses. This is not the opening statement. This is just a little bit of
18 information to help you in understanding this case as we go through the
19 selection process.

20 Counsel for the State, you may address the potential jurors.

21 MR. SCARBOROUGH: Good morning, everybody, my name is
22 Deputy District Attorney Jory Scarborough. With me is my colleague
23 Deputy District Attorney Chad Lexus.

24 Okay, this is a criminal matter and this is the State of Nevada
25 versus Jason Bolden. And in this case, it is alleged that on July 1st, 2018,

1 that the Defendant Jason Bolden went over to an address at 2883
2 Wheelwright Drive here in Clark County, Nevada. And when he went over
3 there, he pulled out a firearm and attempted to take the life of four
4 individuals.

5 Those individuals are Brandi Coleman, Sanyleh Bolen,
6 Shakiesha Geter, sorry five individuals. Bryson Martinez and Brenton
7 Martinez.

8 As a result of those events, he's charged with Attempted Murder
9 with Use of a Deadly Weapon and Discharging a Firearm at or into an
10 Occupied Structure.

11 Now during the case, the State will call witnesses to the stand
12 and I'm about to read a list of witnesses. If you recognize any of those
13 witnesses, please let me know.

14 Brief indulgence, I'm just looking for the notice of witnesses.
15 Pardon the delay, sorry.

16 THE COURT: No problem, counsel.

17 MR. SCARBOROUGH: Huh?

18 THE COURT: No problem.

19 MR. SCARBOROUGH: Okay.

20 THE COURT: Take your time.

21 [Counsel confer]

22 MR. SCARBOROUGH: Thank you. Sorry about that.
23 Detective Karen -- Kevin Carey from Metropolitan Police, Noreen
24 Charlton, a CSA for Metro, Brandi Coleman, Officer Jermaine Jackson,
25 Joshua Knowlton, Detective Kenneth Krmpotich, Brenton Martinez,

1 Bryson Martinez, Kevin Schakford, Shakiesha Geter, an investigator from
2 the District Attorney's office Keith Gross [phonetic], an investigator from
3 the District Attorney's office Toby Enseldo [phonetic]. And if you
4 recognize any of those names, let the Court know. Thank you.

5 THE COURT: All right, the Defendant now may present his
6 opening remarks.

7 MR. NADIG: Thank you, Your Honor.

8 My name is Ben Nadig. I represent Jason Bolden, who is
9 present with me. The State is alleging that Jason shot individuals. The
10 individuals who were shot were standing in front of Jason allegedly
11 according to the State.

12 Those individuals did not identify Mr. Bolden as the shooter.
13 Nobody, in fact, will identify Mr. Bolden as the shooter other than -- and
14 these are people who are standing within feet of him. So that is our
15 description of the case. And Mr. Bolden potentially will testify. Thank you.

16 THE COURT: All right, very good.

17 Mr. Storino, again, how much did you understand?

18 PROSPECTIVE JUROR NO. 129: Nothing.

19 THE COURT: Nothing, okay. All right, then tiene permissio
20 para salir.

21 PROSPECTIVE JUROR NO. 129: Thank you.

22 THE COURT: Gracias. All right.

23 PROSPECTIVE JUROR NO. 71: I speak [indiscernible].

24 THE COURT: You don't speak English?

25 PROSPECTIVE JUROR NO. 71: No.

1 THE COURT: What is your number? Que nombre?
2 PROSPECTIVE JUROR NO. 71: Erika Gonzalez.
3 THE COURT: One moment. Do you have a job? What is your
4 job?
5 PROSPECTIVE JUROR NO. 71: I clean.
6 THE COURT: Clean.
7 PROSPECTIVE JUROR NO. 71: For the clinic.
8 THE COURT: Do you speak English? Just a little? All right, all
9 right. Tambien, you may tienes permission para salir.
10 PROSPECTIVE JUROR NO. 71: Thank you.
11 THE COURT: Gracias.
12 Madam Clerk, will you please call the next person in order to
13 take that seat number 21?
14 THE CLERK: Juror number 078, Elaine Anderson.
15 THE COURT: Ms. Anderson, please come forward. Mr. Peter
16 Hsia?
17 PROSPECTIVE JUROR NO. 27: Yeah.
18 THE COURT: All right, what is your national -- what language
19 do you speak?
20 PROSPECTIVE JUROR NO. 27: I'm from Taiwan.
21 THE COURT: Taiwan?
22 PROSPECTIVE JUROR NO. 27: Yeah.
23 THE COURT: All right, how much English do you speak?
24 PROSPECTIVE JUROR NO. 27: He talk to me about the -- I
25 don't understand what you say.

1 THE COURT: You didn't understand?
2 PROSPECTIVE JUROR NO. 27: Didn't understand, yeah.
3 THE COURT: No, okay. All right. I'll go ahead. What's your
4 job?
5 PROSPECTIVE JUROR NO. 27: Retired.
6 THE COURT: You're retired. All right, I'll go ahead and let you
7 leave also. You may leave. Thank you.
8 All right, so that is Mr. Peter Hsia. Badge Number 27 is
9 excused. What is the next person in order to take that seat?
10 THE CLERK: Badge number 082, Lloyd Dean Arlinton.
11 THE COURT: Mr. Galvan-Sanchez?
12 PROSPECTIVE JUROR NO. 13: Yes.
13 THE COURT: Please stand. Yes, sir?
14 PROSPECTIVE JUROR NO. 13: I understand a little bit about
15 what you say. My problem is I can't write English and I speak a little bit.
16 THE COURT: What percentage of everything you heard do you
17 understand?
18 PROSPECTIVE JUROR NO. 13: I think not too much, like
19 maybe half.
20 THE COURT: How long have you lived in Clark County?
21 PROSPECTIVE JUROR NO. 13: Almost 11 years.
22 THE COURT: 11. And what is your job?
23 PROSPECTIVE JUROR NO. 13: I work at Wynn Casino,
24 pastries.
25 THE COURT: Pastries?

1 PROSPECTIVE JUROR NO. 13: Yeah.

2 THE COURT: All right, do you speak English there a little bit?

3 PROSPECTIVE JUROR NO. 13: I little bit.

4 THE COURT: All right, do you -- sounds like you can

5 understand me a little bit, right?

6 PROSPECTIVE JUROR NO. 13: Yeah.

7 THE COURT: So what do you think would be your greatest

8 difficulty? I understand you can't write, but as a juror you only need to

9 listen.

10 PROSPECTIVE JUROR NO. 13: That's up --

11 THE COURT: And read. What do you think about that?

12 PROSPECTIVE JUROR NO. 13: To seem a little bit to read

13 just a little bit, too.

14 THE COURT: All right, how much is a little bit?

15 PROSPECTIVE JUROR NO. 13: Maybe 30 percent.

16 THE COURT: All right. Unfortunately, that's not enough. You

17 probably want to serve, but I'm going to have to excuse you, but thank

18 you. You are excused, sir.

19 PROSPECTIVE JUROR NO. 13: All right, thank you.

20 THE COURT: Have a nice day.

21 PROSPECTIVE JUROR NO. 13: Thank you.

22 THE COURT: All right, that's Number 13 excused.

23 Madam Clerk, please call the next in order?

24 THE CLERK: Juror number 084, Timothy Egan?

25 THE COURT: All right, does everybody else believe they speak

1 enough English to understand?

2 UNIDENTIFIED SPEAKER: Yeah.

3 THE COURT: All right, very good. Thank you. Thank you
4 folks. All right, we are now going to commence the examination of
5 potential jurors in this case.

6 During this process, you will be asked questions bearing on
7 your ability to sit as fair and impartial jurors.

8 The Court, the lawyers and all persons involved in this case are
9 interested in having this matter tried by a jury composed of 12 open-
10 minded people who are completely neutral and who have no bias or
11 prejudice towards either side.

12 In this trial, we will also need one alternate juror to listen to all of
13 the proceedings and be prepared to take over as a juror in the event a
14 sitting juror is excused.

15 In order to accomplish this, it is necessary for me to ask some
16 questions. The attorneys will then be given an opportunity to ask
17 questions.

18 Although some of the questions may seem personal, our only
19 objective is to determine whether there is any reason why any of you
20 cannot sit as fair and impartial jurors in this case.

21 If a question does seem too personal, raise your hand and then
22 we can talk to you privately because understand what we would have to
23 do is allow everybody to leave except for the court personnel and your
24 answers still have to be on the record.

25 It is very important that you give truthful and full and complete

1 answers to all of the questions we are going to ask you. I caution you not
2 to try to hide or withhold anything, which might indicate bias or prejudice
3 of any sort of by any of you.

4 Should you fail to answer any question truthfully, or if you hide
5 or withhold anything that bears upon your qualifications, that fact would
6 tend to contaminate the verdict. And that would subject you to further
7 inquiry even after you're discharged as jurors.

8 Ultimately, if you are chosen as a juror in this case, your
9 decision should be based upon all of the evidence presented during trial
10 and not based upon any preconceived bias or prejudice.

11 During this process, the attorneys for both sides will have the
12 right to request that a particular person not serve as a juror. These are
13 called challenges. Please don't be offended if you are excused by a
14 challenge. This is simply part of the process designed to protect the rights
15 of the parties.

16 The questioning of the potential jurors, and this will also be the
17 questioning of you about your ability to serve, this is done under oath. So
18 counsel, may I have my Clerk administer the oath en masse to all of the
19 potential jurors?

20 MR. NADIG: Please do, Your Honor.

21 MR. SCARBOROUGH: Yes, Your Honor.

22 THE COURT: All right, ladies and gentlemen, I will ask you to
23 all stand, please. You're now going to take an oath to testify and provide
24 answers truthfully. Raise your right hand. The Court Clerk will administer
25 your oath.

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[The prospective jury was sworn in by the Clerk]

THE COURT: You do? All right, please be seated. Everybody answered in the affirmative. Thank you.

So ladies and gentlemen, now I have some general questions to help us in selecting the jury in this case.

If I ask a question to the entire group, and the question applies to you, just raise your hand. So is anybody here acquainted or know any of the court personnel, basically anybody on this side of the bench? Anybody know us? I don't see any hands.

How about the attorneys in this case? Do any of you know these attorneys? All right, and how about the Defendant in this case? And the Defendant in this case is Jason Bolden. Anybody know Mr. Bolden? Nope, all right.

So how about the witnesses? You heard several witnesses that have been named by counsel. Do any of you know those witnesses? All right, very good. So that's the first part.

Do any of you know anything about this case or have you heard or read anything about this case? I doubt that you have, but I need to ask the question. All right, very good.

Is there anybody here who as difficulty hearing in which we have a hearing device we can give you. Difficulty hearing? No, all right, difficulty seeing anybody have difficulty seeing? No, all right.

Is there anybody that has strong opinions regarding race, religion, age, or national origin, or gender that would make them not be able to be open minded, and fair, and impartial? Anybody here have any

1 concerns about those matters, race, or national origin, or you know, sex,
2 or gender, or race, anybody? All right, very good.

3 So we're just going to be here a couple days. I really need most
4 of you to try to serve if you can. After I excuse some of you, then the
5 attorneys will ask some questions, again, to make sure you're the right
6 type of juror to sit on this panel.

7 So there are very limited reasons why I might be able to excuse
8 you. And I'm limited in the number of people that I can excuse. But is
9 there anyone over here on the left side that think that might have some
10 problem, like a big surgery coming up, or you're the sole caretaker of an
11 elderly person, or if you're a single parent and have two young kids and
12 no baby sitter, that would be a good reason.

13 Anybody over here, if you like to talk to me, don't be shy. Raise
14 your hand and be glad to hear what your potential excuse is. The Marshal
15 has to give you the microphone.

16 Thank you, sir. What is your name and badge number?

17 PROSPECTIVE JUROR NO. 50: Only reason is I just started a
18 new job and I'm competing for a full time position.

19 THE COURT: What is your name and badge numbers?

20 PROSPECTIVE JUROR NO. 50: Miguel Ortiz, Number 50.

21 THE COURT: 50. Mr. Ortiz, yes, sir, you're a recent -- okay,
22 recent.

23 PROSPECTIVE JUROR NO. 50: This is my fifth day.

24 THE COURT: Your fifth day?

25 PROSPECTIVE JUROR NO. 50: And I'm competing against six

1 guys for a full time position and I --

2 THE COURT: All right, you're working part time right now?

3 PROSPECTIVE JUROR NO. 50: Yeah, I'm part -- as a part
4 time employee at a lower scale, but once I go full time, then I get bumped
5 up quite a bit.

6 THE COURT: All right, did you talk to your supervisor or
7 manager about being here today?

8 PROSPECTIVE JUROR NO. 50: I just saw them today. I have
9 no numbers to contact. I went this morning at 4 in the morning to contact
10 the supervisors.

11 THE COURT: All right, does he know you're here?

12 PROSPECTIVE JUROR NO. 50: Yeah, he knows I'm here,
13 yeah.

14 THE COURT: How does he feel about that?

15 PROSPECTIVE JUROR NO. 50: He said hopefully you don't
16 get picked.

17 THE COURT: Okay.

18 PROSPECTIVE JUROR NO. 50: To be honest.

19 THE COURT: Well, I don't want you to lose your job. You're
20 five days into it.

21 PROSPECTIVE JUROR NO. 50: Yeah, this was going into my
22 fifth day.

23 THE COURT: Yeah. Given that, you know, that you're only
24 less than a week in or a week into your job --

25 PROSPECTIVE JUROR NO. 50: Yeah.

1 THE COURT: -- I'm going to go ahead and excuse you.
2 PROSPECTIVE JUROR NO. 50: All right.
3 THE COURT: I would hate for you to lose your job over --
4 PROSPECTIVE JUROR NO. 50: Thank you.
5 THE COURT: Employers required to be understanding.
6 PROSPECTIVE JUROR NO. 50: Yeah, no, I'm cool about
7 coming here. I try to get some hours just.
8 THE COURT: But since you're competing --
9 PROSPECTIVE JUROR NO. 50: Yeah.
10 THE COURT: -- with people for a full time job, that sounds like
11 a valid hardship.
12 PROSPECTIVE JUROR NO. 50: Yeah.
13 THE COURT: That affects your livelihood. So I'll go ahead and
14 excuse Miguel Ortiz, Badge Number 50. You may go ahead and hand
15 the -- bring the microphone to the Marshal and you are excused.
16 And Madam Clerk, will you please call the next person in order
17 to come take that seat?
18 THE CLERK: Badge number 88, Denise Valdez-Chardon.
19 THE COURT: Ms. Valdez, welcome.
20 PROSPECTIVE JUROR NO. 88: How are you?
21 THE COURT: I'm doing fine.
22 All right, anybody else that would like to talk to me about some
23 kind of serious hardship? 1, 2, 3, 4, 5. Seat number 5, all right, let's find
24 you on the list. Are you Cynthia De?
25 PROSPECTIVE JUROR NO. 23: Yes.

1 THE COURT: Yes, ma'am, what is your potential hardship
2 ma'am?

3 PROSPECTIVE JUROR NO. 23: I'm leaving the country on 3
4 o'clock Saturday morning. So I'm not sure --

5 THE COURT: It's important to let us know that, thank you. All
6 right, well, we're going to be done by then. If for some reason, very
7 unexpected reason we're not done, then we're not going to interfere with
8 your trip and that's one of the reasons why we have an alternate juror.

9 So -- but thank you for telling us. It's something we need to
10 know to make sure we don't interfere with your overseas trip.

11 PROSPECTIVE JUROR NO. 23: Thank you.

12 THE COURT: All right, anybody else have a good excuse?
13 Yes, sir, what's your badge number?

14 PROSPECTIVE JUROR NO. 72: 72.

15 THE COURT: Let me try to find you. Yes, sir, Mr. Yi?

16 PROSPECTIVE JUROR NO. 72: Yes.

17 THE COURT: What's up?

18 PROSPECTIVE JUROR NO. 72: Closing house on Thursday,
19 10 o'clock.

20 THE COURT: Closing your house?

21 PROSPECTIVE JUROR NO. 72: Yes, sir.

22 THE COURT: Got a house purchase?

23 PROSPECTIVE JUROR NO. 72: Selling.

24 THE COURT: Selling, oh, you're selling. All right, so
25 unfortunately, that's not a valid excuse to leave. We'll see if we can get

1 done. Probably won't get done that early. You need to call up the title
2 company and have that moved to the end of the day or Friday, okay?

3 PROSPECTIVE JUROR NO. 72: Okay.

4 THE COURT: Because I know they do that, but thank you, we
5 needed to know that, too. So we'll -- if you're picked on the jury, you
6 know, I probably wouldn't call the title company now. You might not be
7 picked.

8 If you are picked, make a phone call and if that doesn't work, I
9 can write a letter for you, okay?

10 PROSPECTIVE JUROR NO. 72: Thank you.

11 THE COURT: Thank you sir. Yes, sir. But don't forget to
12 remind me to write the letter for you.

13 PROSPECTIVE JUROR NO. 72: Okay.

14 THE COURT: If you're picked on the jury.

15 PROSPECTIVE JUROR NO. 72: Thank you.

16 THE COURT: All right, I saw another hand over here. What is
17 your badge number?

18 PROSPECTIVE JUROR NO. 42: Oh 42.

19 THE COURT: One moment. Kiana Tangonan, yes, ma'am?

20 PROSPECTIVE JUROR NO. 42: Yes. I have work tomorrow
21 night and I haven't really told my managers or my co-workers that I'm
22 here. So it might -- it is a possibility I could get a cover, but it's also not a
23 possibility as well.

24 THE COURT: What are your -- what's your shift?

25 PROSPECTIVE JUROR NO. 42: I'm a server at the Boiling

1 Crab.

2 THE COURT: All right, what's your hours?

3 PROSPECTIVE JUROR NO. 42: It's from 5 to 11.

4 THE COURT: All right.

5 PROSPECTIVE JUROR NO. 42: Yeah.

6 THE COURT: And what -- where did you say?

7 PROSPECTIVE JUROR NO. 42: The Boiling Crab, a server.

8 THE COURT: Okay, how far is that from here?

9 PROSPECTIVE JUROR NO. 42: It's on -- oh sorry, Flamingo
10 and Decatur.

11 THE COURT: Okay. All right, so it's right near the end of the
12 day and not too far away. And everybody -- most people have to take off
13 work to be here. So that's not a valid excuse, but tell you what? If you're
14 picked, as a juror, I can write you a letter as well and direct your employer
15 to, you know, excuse you for the first 45 minutes, probably take you half
16 an hour to get there, but I want a little bit of extra time so you don't get in
17 trouble for that.

18 PROSPECTIVE JUROR NO. 42: No problem.

19 THE COURT: Okay, no, no problem. Thank you. Thank you
20 for letting me know. And if you're picked on the jury, remind us about that.
21 All right, thank you.

22 Anybody else on the left side? No?

23 All right, how about people in the back, is there anybody in the
24 back that has a hardship? I see two hands. All right, maybe three hands.
25 All right, let's start with the second row, Marshal.

1 PROSPECTIVE JUROR NO. 102: My name is Patricia Oakes
2 and I'm over 70 years old. I have arthritis. And I take cancer drugs and --

3 THE COURT: Okay, well, let me stop you right there. The
4 statute -- the law says that anybody over 70 years old has the right to be
5 excused if they want that -- if they want the exercise that right.

6 So I -- by law, I'm required to let you out if you feel that's what
7 you want to do.

8 PROSPECTIVE JUROR NO. 102: Yes, sir.

9 THE COURT: All right, then I will excuse you. What was your
10 badge number again?

11 PROSPECTIVE JUROR NO. 0102: 0102, 102.

12 THE COURT: 102?

13 PROSPECTIVE JUROR NO. 102: Yes.

14 THE COURT: All right Ms. Oakes, all right, you are excused.
15 Thank you.

16 PROSPECTIVE JUROR NO. 102: Thank you, sir.

17 THE COURT: All right, I saw another hand back there Marshal.

18 THE MARSHAL: Pass the mic.

19 PROSPECTIVE JUROR NO. 127: Hi, I'm Ahmad Saab, 67
20 years old. I'm a family physician.

21 THE COURT: I need your badge number?

22 PROSPECTIVE JUROR NO. 127: Sorry, 127.

23 THE COURT: 27?

24 PROSPECTIVE JUROR NO. 127: 127. I'm a family physician.
25 I work at the Culinary Health Center. I take care of patients that are high

1 risk.

2 Most of my patients need to make an appointment, some of
3 them four weeks in advance. And it'll be a major inconvenience if I'm
4 chosen on the jury for a long period of time because they have
5 reschedule.

6 We have very few physicians on staff. And it would be difficult
7 for them to reschedule. And some of them have very major critical
8 illnesses that we need to take care of.

9 THE COURT: Did you say Culinary Health Center? Is that like
10 the Union Health Center?

11 PROSPECTIVE JUROR NO. 127: Exactly, yes.

12 THE COURT: All right, so they probably have several
13 physicians. How many do you -- how many physicians are there and how
14 many patients do you see?

15 PROSPECTIVE JUROR NO. 127: Basically, we have three
16 different types of physicians. We have four pediatricians, four internists,
17 four family physicians.

18 I work on the internal medicine side. Although I'm a family
19 physician. We take care of 40,000 employees and their dependents,
20 about 150,000.

21 We're not the only providers. Patients can see providers in the
22 community as well, but the majority like to see our physicians in our center
23 because they don't have a co-pay. They come see us and they get their
24 generics free of charge. So, basically, we take care of a big chunk of
25 those patients.

1 THE COURT: How many patients do you personally see on
2 average per week?

3 PROSPECTIVE JUROR NO. 127: On a daily basis, we see
4 about 70 patients.

5 THE COURT: No, I didn't see we, I said you.

6 PROSPECTIVE JUROR NO. 127: Oh, yeah, myself, yeah. I
7 see about 16 to 17 patients a day. So, yeah, we get about --

8 THE COURT: All right, what did you for today's patients?

9 PROSPECTIVE JUROR NO. 127: I informed them beforehand
10 that I had the jury duty. So they had to like, you know, block me for today.

11 THE COURT: All right.

12 PROSPECTIVE JUROR NO. 127: But as soon as I heard that
13 I'm -- I need to serve on jury duty, I informed them --

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NO. 127: -- so that they can block my
16 schedule.

17 THE COURT: So you're -- this is a marginal situation whether
18 or not I can excuse or not. Generally, I take into consideration whether
19 others not here will be inconvenienced and how much they'll be
20 inconvenienced.

21 PROSPECTIVE JUROR NO. 127: Yeah, no --

22 THE COURT: Why don't you stick around a little bit longer
23 today?

24 PROSPECTIVE JUROR NO. 127: Yeah.

25 THE COURT: We'll see if we can get by without picking you.

1 You're kind of near the end so --

2 PROSPECTIVE JUROR NO. 127: Sure.

3 THE COURT: Probably we won't need you, but you need to
4 stay here a little bit longer, okay?

5 PROSPECTIVE JUROR NO. 127: Sure. Another thing is also I
6 have a minor hearing problem. I do wear hearing aids, but I'm fine with
7 them.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR NO. 127: And sometimes I don't even
10 use them, but --

11 THE COURT: Do you want that hearing aid now? We have --

12 PROSPECTIVE JUROR NO. 127: I'm okay, no, I'm okay. I'm
13 good now.

14 THE COURT: Okay, very good.

15 PROSPECTIVE JUROR NO. 127: Yeah.

16 THE COURT: A little bit longer. Maybe we can release you at
17 lunch. We'll see. It depends on how things go.

18 PROSPECTIVE JUROR NO. 127: Sure, thank you.

19 THE COURT: All right. All right, I saw another hand back
20 there?

21 PROSPECTIVE JUROR NO. 131: Hi, my name's Kimberly
22 Riley and my number's 131.

23 THE COURT: Yes, Ms. Riley, how can I help you?

24 PROSPECTIVE JUROR NO. 131: Actually, I'm a single mom
25 and I had dropped my son off before I came here this morning. And he

1 actually has the flu. So I've been up all night.

2 THE COURT: Oh, how old is your --

3 PROSPECTIVE JUROR NO. 131: He's --

4 THE COURT: -- son or --

5 PROSPECTIVE JUROR NO. 131: He's 8.

6 THE COURT: He's 8?

7 PROSPECTIVE JUROR NO. 131: Uh-huh.

8 THE COURT: All right, and even though he has the flu, he's at

9 school now?

10 PROSPECTIVE JUROR NO. 131: No, he's not in school.

11 THE COURT: You had to drop him off?

12 PROSPECTIVE JUROR NO. 131: Yeah, I dropped him off at

13 the babysitters.

14 THE COURT: Oh, babysitters.

15 PROSPECTIVE JUROR NO. 131: Yeah.

16 THE COURT: So can you use the same babysitter

17 here -- the -- for the next two days?

18 PROSPECTIVE JUROR NO. 131: Probably, I don't know. I

19 would have to ask.

20 THE COURT: All right.

21 PROSPECTIVE JUROR NO. 131: Uh-huh. I don't know.

22 She's all right upset with me for dropping them off any ways, but --

23 THE COURT: Oh.

24 PROSPECTIVE JUROR NO. 131: -- he has been puking all

25 night.

1 THE COURT: Is that a friend or?
2 PROSPECTIVE JUROR NO. 131: Yeah, it's a friend.
3 THE COURT: Friend or relative?
4 PROSPECTIVE JUROR NO. 131: Yeah, it's a friend.
5 THE COURT: All right, is it somebody that lives close to your
6 house or your residence?
7 PROSPECTIVE JUROR NO. 131: Probably like 10, 15 minutes
8 yeah.
9 THE COURT: All right. Well, let me just get through this
10 process --
11 PROSPECTIVE JUROR NO. 131: That's fine.
12 THE COURT: -- and think about it. You're probably closer to
13 being excused than Mr. Saab, but you both have high probability of being
14 excused.
15 PROSPECTIVE JUROR NO. 131: Okay.
16 THE COURT: Okay, all right.
17 All right, who else is back there? I can't see everything. Yes,
18 sir, what's your badge number?
19 PROSPECTIVE JUROR NO. 111: Yes, my badge number is
20 19-0111.
21 THE COURT: 111, one moment.
22 PROSPECTIVE JUROR NO. 111: Yes and --
23 THE COURT: Hold on.
24 PROSPECTIVE JUROR NO. 111: Okay.
25 THE COURT: Mr. Clements, yes, sir.

1 PROSPECTIVE JUROR NO. 111: Yes, my issue is I have
2 shared custody.

3 THE COURT: I'm sorry, I couldn't hear you?

4 PROSPECTIVE JUROR NO. 111: Yes, I have shared custody
5 with my daughter and I have to get her today at 4. And I have her from
6 Wednesday -- I have her from -- not Wednesday, what's today, Tuesday?
7 From today all the way to Friday. And her mom is out of town in
8 California. She's going out of town after she drops her off and I'm going to
9 have her the whole rest of the week.

10 THE COURT: And how old -- how old is your daughter?

11 PROSPECTIVE JUROR NO. 111: She's 2.

12 THE COURT: Oh.

13 PROSPECTIVE JUROR NO. 111: Well, she's going to be 2.

14 THE COURT: 2 years old? So what do you do when you need
15 a babysitter? It must come up, because --

16 PROSPECTIVE JUROR NO. 111: Yeah, I usually --

17 THE COURT: Sounds like you and --

18 PROSPECTIVE JUROR NO. 111: It's the holiday week and all
19 my family, they're all out of town, too. So I usually give him to my sister,
20 but my sister, she's gone for right now.

21 So when I'm working usually, she has her, but I'm off this week.
22 So I have her this whole week.

23 THE COURT: All right, we're going to keep you around as
24 a -- for a little while to see how things go and see how much of an
25 emergency this is to -- I mean, how urgent it might be to keep you.

1 So you're to stay here for now. And we'll let you go as soon as
2 we can, all right?

3 PROSPECTIVE JUROR NO. 111: Okay.

4 THE COURT: All right, I need to get a better idea on how many
5 of these folks on the left are going to be able to serve and whether we
6 need any people from the overflow gallery. I'll try to get you out of here as
7 soon as I can, sir. All right, thank you.

8 All right, all right. Is there anybody else who might have been
9 skipped over or who, you know, had an afterthought about, you know,
10 maybe they need to be excused? Anybody else who has an emergency
11 or some important hardship?

12 All right, all right, very good. All right, so like I said, this case is
13 expected to last through Thursday. I need you to know under our system
14 of justice, certain basic principles apply.

15 One of them is that the Defendant is presumed innocent. And
16 the next is the State had the proving beyond a reasonable doubt that the
17 Defendant is guilty.

18 Does anybody not believe in these basic principles of the
19 American justice system? Does everybody believe in the American
20 justice system? All right, very good.

21 Is everybody willing to apply the law as I instruct it to you at the
22 end of the case? Or is there anybody that believes based upon some
23 strong religious conviction that they're unable to follow the law? All right, I
24 don't see any hands there either.

25 Marshal, will you please hand out that form that we normally

1 have to the potential jurors?

2 I just -- some brief information I need from everybody. Just
3 restate -- we're just going to go in a row here, starting from the back left
4 and it's really easy information. Your name, your badge number, how
5 long you've lived in Clark County, what's your level of education, where
6 you're employed, if you have a -- pardon me, I have one, yeah, go ahead
7 and get that.

8 Here okay, if you're married or have a partner, if you have
9 children. And then I need to their ages. And, finally, if you ever served on
10 a jury before.

11 So pretty simple information. So we're going to start all the way
12 in the back left. I think you're waiting for the form, sir, but let me go ahead
13 and have your name and badge number?

14 PROSPECTIVE JUROR NO. 1: Ronald Shallcross, Badge
15 Number 1.

16 THE COURT: Great, Mr. Marucut. I'm sorry, that was Mr.
17 Shallcross. How many years have you lived in Clark County?

18 PROSPECTIVE JUROR NO. 1: About 35.

19 THE COURT: 35? And what level of education have you
20 completed?

21 PROSPECTIVE JUROR NO. 1: I have two years of college.

22 THE COURT: What is your job?

23 PROSPECTIVE JUROR NO. 1: I'm a licensed plumber.

24 THE COURT: All right, and what is your marital status?

25 PROSPECTIVE JUROR NO. 1: I am married.

1 THE COURT: Okay, very good. And do you have children?
2 PROSPECTIVE JUROR NO. 1: Two, ages 30 and 27.
3 THE COURT: Great, have you ever served on a jury, sir?
4 PROSPECTIVE JUROR NO. 1: I have.
5 THE COURT: All right, what type of case was it, criminal or
6 civil?
7 PROSPECTIVE JUROR NO. 1: It was civil.
8 THE COURT: And how long ago?
9 PROSPECTIVE JUROR NO. 1: About four years, three and a
10 half years.
11 THE COURT: Four years? Was that here in Clark County?
12 PROSPECTIVE JUROR NO. 1: Yes.
13 THE COURT: All right, is there anything about that experience
14 that you think we should know about and no?
15 PROSPECTIVE JUROR NO. 1: No, nothing.
16 THE COURT: All right, very good.
17 We'll go to Mr. Alvarez. Hello, Mr. Alvarez.
18 PROSPECTIVE JUROR NO. 6: Hello, there.
19 THE COURT: All right, how about you? You're Alvarez, Badge
20 Number 6. How long have you lived here in Clark County?
21 PROSPECTIVE JUROR NO. 6: 26 years.
22 THE COURT: Six years? What's your education level?
23 PROSPECTIVE JUROR NO. 6: Some college, a couple years
24 of college.
25 THE COURT: And your employment?

1 PROSPECTIVE JUROR NO. 6: I own a business.
2 THE COURT: Your marital status?
3 PROSPECTIVE JUROR NO. 6: Yes, I'm married.
4 THE COURT: Anyone children?
5 PROSPECTIVE JUROR NO. 6: We have 10.
6 THE COURT: 10 children?
7 PROSPECTIVE JUROR NO. 6: Yes.
8 THE COURT: All right, let's just go with this. Any under 14
9 years old?
10 PROSPECTIVE JUROR NO. 6: Under 14?
11 THE COURT: Under 14?
12 PROSPECTIVE JUROR NO. 6: Yes.
13 THE COURT: Why don't you tell us -- just tell us how many
14 under 14?
15 PROSPECTIVE JUROR NO. 6: I'm sorry, seven.
16 THE COURT: Roughly. I won't hold you to it.
17 PROSPECTIVE JUROR NO. 6: Seven.
18 THE COURT: All right, I just -- this is just some basic
19 information I try to get to help the attorneys going forward.
20 PROSPECTIVE JUROR NO. 6: Okay.
21 THE COURT: All right, very good. Ever serve on a jury?
22 PROSPECTIVE JUROR NO. 6: No, sir.
23 THE COURT: All right, very good. You can pass it down to Ms.
24 Sihabouth. Mr. Shahabouth. What is -- he's Badge Number 11.
25 PROSPECTIVE JUROR NO. 11: Yes, Badge Number 11.

1 THE COURT: How long have you lived in Clark County?
2 PROSPECTIVE JUROR NO. 11: I've lived here 22 years.
3 THE COURT: 22? And your employment?
4 PROSPECTIVE JUROR NO. 11: Yes, I'm employed at
5 Goodwill.
6 THE COURT: Goodwill, very good. And are you married?
7 PROSPECTIVE JUROR NO. 11: Yes, I am married with three
8 children.
9 THE COURT: How old?
10 PROSPECTIVE JUROR NO. 11: Oldest is 9, 6, and 4.
11 THE COURT: Very good. Ever serve on a jury?
12 PROSPECTIVE JUROR NO. 11: I have not.
13 THE COURT: Very good. You can pass it to
14 Mr. -- what -- what's your badge number?
15 PROSPECTIVE JUROR NO. 84: Mr. Egan and I'm 84.
16 THE COURT: Oh, because we filled you in. All right, that
17 makes sense. All right, Mr. Egan, how about you? What is your -- how
18 long have you lived here in Clark County?
19 PROSPECTIVE JUROR NO. 84: I've been here 11 years.
20 THE COURT: All right, what's your education level?
21 PROSPECTIVE JUROR NO. 84: Some college.
22 THE COURT: What's your job?
23 PROSPECTIVE JUROR NO. 84: I'm the chief engineer at a
24 hotel.
25 THE COURT: All right, are you married?

1 PROSPECTIVE JUROR NO. 84: I am.
2 THE COURT: How many children?
3 PROSPECTIVE JUROR NO. 84: I have two, but they're grown.
4 THE COURT: Two grown children. Ever served on a jury?
5 PROSPECTIVE JUROR NO. 84: I have.
6 THE COURT: How long ago?
7 PROSPECTIVE JUROR NO. 84: About three years ago.
8 THE COURT: What type of case, criminal or civil?
9 PROSPECTIVE JUROR NO. 84: It was civil.
10 THE COURT: All right, anything about that experience that we
11 should know in this case?
12 PROSPECTIVE JUROR NO. 84: It seemed very long, so -- but
13 you know, I made it through and it was kind of -- it was long, yeah.
14 THE COURT: All right, well, we'll get you out of here soon if
15 you're chosen.
16 PROSPECTIVE JUROR NO. 84: All right.
17 THE COURT: All right, very good.
18 So who's next? That would be Cindy what's your name?
19 PROSPECTIVE JUROR NO. 23: Cynthia De Jesus.
20 THE COURT: Cindy De [sic]. 23 yes, ma'am, how long have
21 you lived in Clark County?
22 PROSPECTIVE JUROR NO. 23: 19 years.
23 THE COURT: All right, very good. What's your level of
24 education?
25 PROSPECTIVE JUROR NO. 23: College graduate.

1 THE COURT: And what's your job?

2 PROSPECTIVE JUROR NO. 23: In a brokerage field.

3 THE COURT: Brokerage, okay. And you have -- are you
4 married?

5 PROSPECTIVE JUROR NO. 23: Married with three grown
6 children.

7 THE COURT: Three grown, very good. Ever serve on a jury?

8 PROSPECTIVE JUROR NO. 23: No.

9 THE COURT: All right, very good. You can pass the
10 microphone.

11 All right, sir?

12 PROSPECTIVE JUROR NO. 82:

13 THE COURT: Yes?

14 PROSPECTIVE JUROR NO. 82: Lloyd. Married, two grown
15 kids, education is high school. I work as a diesel mechanic for a
16 construction company.

17 THE COURT: Ever serve on a jury?

18 PROSPECTIVE JUROR NO. 82: No.

19 THE COURT: All right, very good, you can pass the
20 microphone.

21 PROSPECTIVE JUROR NO. 30: Hi, my name's Patricia
22 Pfeifer. My badge number is 30. I've lived in Clark County for 10 years. I
23 work at Smith's Food and Drug in the service deli. I'm married, I have four
24 grown children and a three year old grandson that lives with me. I have
25 never served on a jury.

1 THE COURT: Very good. Why don't you pass the microphone
2 in front of you and we'll slide it all the way down to Mr. Durso.

3 Hi, sir.

4 PROSPECTIVE JUROR NO. 31: Hi, my name is Joseph
5 Durso, Badge Number is 31. I lived in Clark County for five, maybe six
6 years, something around there. Some college I -- my job is I program
7 audio-visual control, entertainment automation systems in casinos.

8 I'm single, no children. I have not served on a jury.

9 THE COURT: All right, very good. Can you pass the
10 microphone to Mr. Desroches?

11 PROSPECTIVE JUROR NO. 32: Desroches.

12 THE COURT: Desroaches?

13 PROSPECTIVE JUROR NO. 32: Desroches Badge 32, sir.

14 THE COURT: All right. Very good.

15 PROSPECTIVE JUROR NO. 32: Lived in Clark County for 28
16 years, retired -- two for associates degree. Job position, retired twice and
17 not married. One child, 35, and never served.

18 THE COURT: What was your main employment when you
19 weren't retired?

20 PROSPECTIVE JUROR NO. 32: I did 20 in the military and I
21 did 19 in custody for North Las Vegas.

22 THE COURT: Very good, sir, thank you.

23 All right, Mr. Tucker?

24 PROSPECTIVE JUROR NO. 34: Herbert Tucker and my
25 Badge --

1 THE COURT: Badge --

2 PROSPECTIVE JUROR NO. 34: -- Number is 34. I've lived in
3 Clark County about a year and a half. 12th grade education. I'm semi
4 retired. I'm in the process of getting retired. I'm married. I have a child
5 14. And I've never served on a jury.

6 THE COURT: All right, thank you. Pass it to Ms. Tangonan.
7 Hi.

8 PROSPECTIVE JUROR NO. 42: Kiana Tangonan, Number 42.
9 I lived in Clark County for 13 years. I'm currently enrolling into my senior
10 year of college by this upcoming fall. I'm a server. Single, no kids. Ever
11 served -- and this is my first time serving on a jury.

12 THE COURT: All right, one moment. You might be the
13 youngest person on the panel. I'll keep that in mind in deciding if we can
14 excuse you going forward. Thank you, ma'am.

15 All right, Ms. Lopez?

16 PROSPECTIVE JUROR NO. 43: My name is Cindy Lopez and
17 I am Badge Number is 43. I lived in Vegas for six years. I have some
18 high school education. Job position is housekeeping at Ladara [phonetic].
19 I'm not married. I have a two year old. I never served jury.

20 THE COURT: All right, very good, thank you.

21 PROSPECTIVE JUROR NO. 44: Allison Jarrell, Badge Number
22 45. I've lived Clark County 46 years. Some college. I manage a
23 accounting consulting firm. I'm married. Two grown children and I have
24 never served on a jury.

25 THE COURT: Very good, thank you. All right, are you Allison

1 Jarrell?

2 PROSPECTIVE JUROR NO. 44: No, that's me.

3 THE COURT: Oh, that was -- I'm sorry. Rodin Odach?

4 PROSPECTIVE JUROR NO. 46: Robin Odach.

5 THE COURT: Robin Odach keeping track there.

6 PROSPECTIVE JUROR NO. 46: Badge number --

7 THE COURT: You're badge number 46?

8 PROSPECTIVE JUROR NO. 46: Yeah.

9 THE COURT: All right.

10 PROSPECTIVE JUROR NO. 46: I've lived in Clark County for
11 five years. I have a Masters degree. I'm a social worker. I'm a widow.
12 One son, 46. Never served on a jury.

13 THE COURT: What's your Masters degree in?

14 PROSPECTIVE JUROR NO. 46: Social work.

15 THE COURT: What -- I'm sorry, what you put -- what type of
16 entity do you work for and what type of social work?

17 PROSPECTIVE JUROR NO. 46: I work for Aging and
18 Disabilities Elder Protection, soon to become adult protection.

19 THE COURT: All right, great. Thank you. You can pass the
20 microphone.

21 You must be Mr. Nicolas?

22 PROSPECTIVE JUROR NO. 49: San Nicolas, Jacob San
23 Nicolas.

24 THE COURT: Jacob San Nicolas, thank you, sir. Badge
25 Number 49.

1 PROSPECTIVE JUROR NO. 46: I've lived in Clark County for
2 13 years. I have a high school diploma. I work at the front desk at
3 Southern Station. Not married. No kids. And never served on a jury.

4 THE COURT: All right, thank you, sir. All right, let me -- go
5 ahead, badge number and last name?

6 PROSPECTIVE JUROR NO. 88: Sure. Denise Valdez
7 Chardon, Badge Number 88. I have lived in Clark County for 13 years. I
8 have a Bachelors degree. My position is news anchor at KLAS TV. I am
9 married. We have no children and I have served on a jury previously. It
10 was a civil case with Judge Herndon.

11 THE COURT: Okay, so tell me about that? How long ago did
12 you say that was?

13 PROSPECTIVE JUROR NO. 88: I'm going to say maybe it was
14 three years ago.

15 THE COURT: Okay, an anchor for what channel?

16 PROSPECTIVE JUROR NO. 88: Channel 8.

17 THE COURT: Channel 8. All right, how often are you on the
18 news?

19 PROSPECTIVE JUROR NO. 88: Five days a week.

20 THE COURT: Five days a week. How will this impact the
21 news?

22 PROSPECTIVE JUROR NO. 88: Well, there's other people
23 there that can cover for me while I'm gone.

24 THE COURT: All right, how would you feel about serving on
25 this case?

1 PROSPECTIVE JUROR NO. 88: I think it's interesting`. I don't
2 have a conflict. I have a feeling you probably covered this incident before.

3 THE COURT: I might have covered it?

4 PROSPECTIVE JUROR NO. 88: No.

5 THE COURT: All right.

6 PROSPECTIVE JUROR NO. 88: That we might have covered
7 the incident, the shooting that happened.

8 THE COURT: This incident that we're here for?

9 PROSPECTIVE JUROR NO. 88: Chances are high, but
10 it's -- happened quite a bit.

11 THE COURT: Counsel, what do you think?

12 MR. SCARBOROUGH: There was no media attention from
13 what I can recall from the State's perspective Your Honor.

14 MR. NADIG: I don't recall any.

15 MR. SCARBOROUGH: Fair enough to say that.

16 THE COURT: All right, if something comes to mind as you hear
17 more about this case, please be sure.

18 PROSPECTIVE JUROR NO. 88: Sure.

19 THE COURT: Even if you start to have greater suspicion that it
20 was, let us know, okay?

21 PROSPECTIVE JUROR NO. 88: Okay, sure.

22 THE COURT: So how is -- are you -- given your line of work,
23 are you going to be to not talk to anybody about what's going on here for
24 the next couple days?

25 PROSPECTIVE JUROR NO. 88: Sure. Sure.

1 THE COURT: All right.

2 PROSPECTIVE JUROR NO. 88: So it's only two days. So that
3 should be -- stay off social media might be a little tricky, but I'll -- I've taken
4 the oath not to talk about it.

5 THE COURT: All right, so all right, make sure it doesn't
6 become too tricky that you end up saying something.

7 PROSPECTIVE JUROR NO. 88: Sure, understood.

8 THE COURT: All right, very good. How would you feel
9 serving?

10 PROSPECTIVE JUROR NO. 88: I think it's a privilege.

11 THE COURT: All right, very good. Thank you. You can pass
12 the microphone.

13

14 All right, hi.

15 PROSPECTIVE JUROR NO. 54: Hi.

16 THE COURT: Badge number, ma'am?

17 PROSPECTIVE JUROR NO. 54: My name is Hsiu Yosai.
18 Badge Number 54.

19 THE COURT: Yes, ma'am, hi. What is your education and how
20 many years have you lived here in Clark County?

21 PROSPECTIVE JUROR NO. 54: I have some college and I
22 lived here for 31 years.

23 THE COURT: And your employment?

24 PROSPECTIVE JUROR NO. 54: I'm a casino supervisor. I'm
25 married and have a 12 year old. I never served.

1 THE COURT: All right, anything we need to know further about
2 you as we go forward?

3 PROSPECTIVE JUROR NO. 54: No.

4 THE COURT: Okay, very good. Why don't you pass the
5 microphone to -- you are Mr. Dugan?

6 PROSPECTIVE JUROR NO. 55: Yes, I am.

7 THE COURT: All right, very good sir, you're Badge Number
8 55?

9 PROSPECTIVE JUROR NO. 55: Yes.

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

11 PROSPECTIVE JUROR NO. 55: I've lived in Clark County for
12 13 years. I have a Masters degree in science education. I'm a teacher at
13 the Clark County School District. Not married, no children, and I served
14 as an alternate on a jury well over 20 years ago in the Eastern District of
15 New York.

16 THE COURT: Okay, I don't need to know more about that.
17 Your degree in science engineering?

18 PROSPECTIVE JUROR NO. 55: Education.

19 THE COURT: Science education. That doesn't have anything
20 to do with forensic analysis or --

21 PROSPECTIVE JUROR NO. 55: No.

22 THE COURT: -- crime analysis. Okay, very good. Thank you.
23 Why don't you go ahead and pass the microphone?

24 All right, Rachel Hoiles?

25 PROSPECTIVE JUROR NO. 58: Yeah.

1 THE COURT: Hi.

2 PROSPECTIVE JUROR NO. 58: Badge number 58. I've lived
3 in Clark County 27 years. College graduate. I'm the Nevada
4 representative for Captel Caption cell phones. Married, three children, 14,
5 16, and 19. And I served about three years on a civil trial.

6 THE COURT: All right, tell me -- and I should have asked this
7 to the others, but were you foreperson on that?

8 PROSPECTIVE JUROR NO. 58: Pardon?

9 THE COURT: Were you a foreperson on that civil jury?

10 PROSPECTIVE JUROR NO. 58: No.

11 THE COURT: Okay. How do you feel about that experience in
12 is there anything about that experience that might affect your deliberative
13 process here?

14 PROSPECTIVE JUROR NO. 58: No. No. That's fine.

15 THE COURT: Very good. You can go ahead and pass the
16 microphone. Shaina Harris?

17 PROSPECTIVE JUROR NO. 69: I am Shaina Harris.

18 THE COURT: Shaina.

19 PROSPECTIVE JUROR NO. 69: Badge number 69. I've lived
20 in Clark County almost two years. I have an Associates degree in
21 business. I am self-employed, married, three children, 13, 11, and 5, and
22 I've never served on a jury.

23 THE COURT: All right, very good. Pass the microphone. Ms.
24 Erika Gonzalez?

25 PROSPECTIVE JUROR NO. 78: No.

1 THE COURT: Oh.

2 PROSPECTIVE JUROR NO. 78: I came from over there.

3 THE COURT: I'm sorry.

4 PROSPECTIVE JUROR NO. 78: Elaine Anderson, Badge
5 Number 78.

6 THE COURT: Yeah, very good, thank you. Sorry.

7 PROSPECTIVE JUROR NO. 78: Okay, I've been in Clark
8 County for three years, although I did live here before many years ago.

9 I have a Bachelors degree. I'm an assistant news editor at the
10 Las Vegas Review Journal newspaper. I'm not married and --

11 THE COURT: Assistant news editor?

12 PROSPECTIVE JUROR NO. 78: Yes.

13 THE COURT: What does an assistant news editor do?

14 PROSPECTIVE JUROR NO. 78: Well, I read all the stories. I
15 write headlines. I, you know, critically read the stories to make sure they
16 make sense and that they're accurate. And I check other people's work. I
17 look at the completed page before it's sent to the press each night.

18 THE COURT: All right. Do you agree not to discuss this case
19 with anybody during the next two days?

20 PROSPECTIVE JUROR NO. 78: Yes.

21 THE COURT: All right, anything else we need to know about
22 you?

23 PROSPECTIVE JUROR NO. 78: Let's see. I'm not married.
24 No children. I served as an alternate juror here in Clark County about 30
25 years ago.

1 THE COURT: All right.

2 PROSPECTIVE JUROR NO. 78: On a criminal case.

3 THE COURT: All right. About 30 years ago?

4 PROSPECTIVE JUROR NO. 78: Yes.

5 THE COURT: Okay, very good.

6 Marshal, will you pass the microphone up here to these two

7 gentlemen?

8 THE MARSHAL: Yes.

9 THE COURT: Let's go here first, because that's seat number

10 22. Yes, badge number?

11 PROSPECTIVE JUROR NO. 72: 72.

12 THE COURT: All right. It's seat 22 is badge 72. Sir, why don't

13 you tell us about yourself?

14 PROSPECTIVE JUROR NO. 72: Okay, my name is Milnam Yi.

15 I live here seven years. Two weeks of college, retired, married, two

16 children, and never served in -- served on jury.

17 THE COURT: All right, why don't you tell us what your primary

18 employment was before you retired?

19 PROSPECTIVE JUROR NO. 72: Delta Airline as a flight --

20 THE COURT: As a flight?

21 PROSPECTIVE JUROR NO. 72: Flight attendant, uh-huh.

22 THE COURT: Okay, very good. All right, very good. You can

23 pass the microphone to Mr. Randolph.

24 PROSPECTIVE JUROR NO. 73: Yes, sir.

25 THE COURT: All right, tell us about yourself? You're badge

1 number 73.

2 PROSPECTIVE JUROR NO. 73: I've lived in Clark County for
3 11 and a half years. I have an Associates degree. I'm a jet engine
4 mechanic. I'm married with three children, 23, 26, and 27. I never served
5 on a jury.

6 THE COURT: Very good. So for those of you over here that
7 told me you've served on a jury before, and I forgot for ask you anybody
8 have an experience that might affect their ability to be a fair and impartial
9 jury here or juror here? Anybody? No, okay, very good. Thank you.

10 So some more questions here. Have any of you been the
11 victim of a crime within let's say the last 10 years? Any of you been a
12 victim of crime within the last 10 years?

13 Just, folks in the back, I'm just going to direct my remaining
14 questions to the folks that are here on my left side in the jury box area.
15 Okay, anybody over here been the victim of crime within the last 10
16 years?

17 Yes, sir, I see a few hands. Yeah, let's go first -- go ahead and
18 tell us your badge number and last name?

19 PROSPECTIVE JUROR NO. 34: Badge number 34. My last
20 name's Tucker. And I've been the victim of theft.

21 THE COURT: All right, what type of theft?

22 PROSPECTIVE JUROR NO. 34: They broke into my truck
23 stole a bunch of personal items, and also some other pieces off my truck.

24 THE COURT: All right, and what was the result? Did you make
25 a claim? Did you file a police report?

1 PROSPECTIVE JUROR NO. 34: I sucked it up.

2 THE COURT: All right. All right, very good. Is that going to
3 affect your ability for be fair and impartial to both sides here?

4 PROSPECTIVE JUROR NO. 34: No, sir.

5 THE COURT: All right, very good.

6 All right, who else had a hand? Anybody in that middle row?
7 Anybody in the back row? I think there was a couple people in the front
8 row. Let's go ahead and pass the microphone down, Marshal.

9 Hello, remind of your badge number, please?

10 PROSPECTIVE JUROR NO. 58: Number 58.

11 THE COURT: Yes, ma'am?

12 PROSPECTIVE JUROR NO. 58: Theft.

13 THE COURT: How long ago.

14 PROSPECTIVE JUROR NO. 58: It was probably about seven
15 years ago.

16 THE COURT: Why don't you tell me about that?

17 PROSPECTIVE JUROR NO. 58: It was six, seven years. A
18 truck got stolen and destroyed.

19 THE COURT: Okay, and what was the result of any police
20 report if there was a police report?

21 PROSPECTIVE JUROR NO. 58: It was recovered, but
22 destroyed and replaced.

23 THE COURT: All right. That unfortunate situation, is that going
24 to affect your ability to fair and impartial to both sides here?

25 PROSPECTIVE JUROR NO. 58: No.

1 THE COURT: Okay, very good. Who else? Yes, ma'am?

2 PROSPECTIVE JUROR NO. 69: Harris, Number 69.

3 THE COURT: Shaina Harris, 69. Yes, ma'am?

4 PROSPECTIVE JUROR NO. 69: Same thing, car got broken
5 into, stuff got stolen two times in one year. The call to police station, they
6 said pretty much they couldn't do anything so sucked it up. And, no, it will
7 not affect my judgment.

8 THE COURT: Okay, thank you. Appreciate that. Anybody else
9 who didn't have a chance to say raise who raised their hand or I missed
10 it? All right, very good.

11 Have any of you served as a witness in any proceeding in the
12 past where you've had to raise your hand and tell an oath, other than let's
13 say other than a family law proceeding such as a divorce or a custody
14 matter. Any of you?

15 Yes, sir?

16 PROSPECTIVE JUROR NO. 55: Thomas Dugan, Badge
17 Number 55.

18 THE COURT: Why don't you remind me of your badge
19 number?

20 PROSPECTIVE JUROR NO. 55: 55.

21 THE COURT: All right, 55. Yes, sir?

22 PROSPECTIVE JUROR NO. 55: About 30 years ago, I was the
23 victim of an armed robbery and I had to testify.

24 THE COURT: Okay, do you know what was the result of that
25 case?

1 PROSPECTIVE JUROR NO. 55: The person was convicted.

2 THE COURT: Okay, can you still tell us unequivocally that
3 you're going to be fair and impartial in this case?

4 PROSPECTIVE JUROR NO. 55: That's so far in the past, I
5 hardly remember it.

6 THE COURT: Okay, very good. Appreciate it. So you can be
7 fair and impartial?

8 PROSPECTIVE JUROR NO. 55: Yes.

9 THE COURT: All right. Anybody else on the left side? Yeah,
10 why don't you pass it?

11 PROSPECTIVE JUROR NO. 34: In California about 15 year.

12 THE COURT: Why don't you tell us your badge number?

13 PROSPECTIVE JUROR NO. 34: 34? My last name's Tucker.

14 THE COURT: You said 34?

15 PROSPECTIVE JUROR NO. 34: Yeah.

16 THE COURT: Double check. Yes, 34. Here you are.
17 California?

18 PROSPECTIVE JUROR NO. 34: Yeah, in California about 15
19 years ago, I was a witness of a shooting. And I testified in court about
20 who the actual shooter was.

21 THE COURT: What happened in that case? What was the
22 ultimate conclusion in that case?

23 PROSPECTIVE JUROR NO. 34: He was convicted.

24 THE COURT: All right. All right, can you commit unequivocally
25 to be fair and impartial to both sides here, sir?

1 PROSPECTIVE JUROR NO. 34: Yes, sir.

2 THE COURT: All right, very good. I appreciate that.

3 You can take the microphone for now, Marshal.

4 Have any of you been involved in a lawsuit involving a crime?

5 That would be either plaintiff or defendant or a witness or potential

6 witness? Any of you been involved in a lawsuit involving a crime? No?

7 All right.

8 Have you any of ever been convicted of a felony? I would need
9 to know that. Nobody? All right. Very good. Thank you.

10 So Defendant is sitting over here on the right. As I indicated,
11 under the American system of justice, he's presumed innocent. You all
12 understand that, correct?

13 Is there anybody that might have the view, and I want you to be
14 completely honest with me, is there anybody that might have the view that
15 simply because we're having a trial, that the Defendant did something
16 wrong without having heard any evidence?

17 I need to know if you any of you are leaning -- already leaning
18 towards he must have done something wrong since we're here. Anybody
19 feel that way?

20 Yes, ma'am, what's your badge number?

21 PROSPECTIVE JUROR NO. 30: 30.

22 THE COURT: Badge number 30?

23 PROSPECTIVE JUROR NO. 30: Yes.

24 THE COURT: Have you ever been involved in the court system
25 before?

1 PROSPECTIVE JUROR NO. 30: No.

2 THE COURT: All right. I don't want to get in a [indiscernible].
3 don't tell me anything yet.

4 PROSPECTIVE JUROR NO. 30: Okay.

5 THE COURT: Okay, that's the primary responsibility of the
6 attorneys if they want to get into it or if they want to approach me.

7 PROSPECTIVE JUROR NO. 30: Okay.

8 THE COURT: Talk about it later, but let me ask you this. You
9 know, we're not computers. We all might come to Court with some kind of
10 feelings.

11 But what I need to know, if you can, can you set aside those
12 feelings and just make a decision in this case based upon the evidence
13 and the law in this case? Or are you going to have some trouble doing
14 that?

15 PROSPECTIVE JUROR NO. 30: I'm pretty sure I'm going to be
16 having trouble, because I have been in a domestic violence relationship
17 and that's what this reminds of.

18 I've been sitting here this whole time trying to think, okay, this is
19 different. This is not you. This is not your life. Don't -- but I'm not sure.
20 Honestly, I'm not sure.

21 THE COURT: Is there any more information that if you
22 obtained in this case that would be able to dissuade you from that view?

23 PROSPECTIVE JUROR NO. 30: Sure, I mean, if I listened to
24 all of it and, yeah, I mean, it could change my mind, but if I look at him
25 right now, I think he's guilty.

1 THE COURT: Well, we got to start off with you being
2 completely fair with a complete blank slate, a complete blank slate. And
3 that's what our system of justice requires.

4 Just tell me yes or no, is there anything that we can do to
5 convince you to be completely fair in this case? You have --

6 PROSPECTIVE JUROR NO. 30: I'll do my best, but I mean,
7 there's nothing anybody can do to change what happened to me in my
8 life, so.

9 THE COURT: How long ago was that?

10 MR. SCARBOROUGH: Your Honor, can we approach? Your
11 Honor, can we approach?

12 THE COURT: Yes, of course.

13 [Bench conference]

14 MR. SCARBOROUGH: Thank you.

15 THE COURT: Want to leave it up to you guys?

16 MR. NADIG: No, she's gone.

17 MR. SCARBOROUGH: No, she's gone. We can get her out.

18 THE COURT: You got it.

19 MR. SCARBOROUGH: Yeah.

20 [End bench conference]

21 THE COURT: All right, I'm going to go ahead and excuse you.
22 So we need --

23 PROSPECTIVE JUROR NO. 30: Sorry.

24 THE COURT: No, that's okay. I need to make sure that
25 everybody here is going to treat everybody completely fairly and have no

1 negative --

2 PROSPECTIVE JUROR NO. 30: I agree, because if he's
3 innocent, I hope he --

4 THE COURT: That's okay. So you are excused. Tell the Court
5 Clerk your badge number again?

6 PROSPECTIVE JUROR NO. 30: 30.

7 THE COURT: All right, very good. So will you call the next
8 person in order take seat number 30?

9 THE CLERK: All right, Badge Number 089, Anna Kharitonova?

10 THE COURT: You're Kharitonova, will you please come
11 forward? If you can, if you could take that seat?

12 PROSPECTIVE JUROR NO. 89: Sure.

13 THE COURT: All right, so I need you to provide us the
14 information that -- that's on the form.

15 PROSPECTIVE JUROR NO. 89: Sure.

16 THE COURT: As soon as you get situated there.

17 PROSPECTIVE JUROR NO. 89: I don't have the form in front
18 of me.

19 THE COURT: Oh, Marshal, I think he's getting one.

20 PROSPECTIVE JUROR NO. 89: So full name Anna
21 Kharitonova. My badge number is 0089. I have lived in Clark County for
22 over 20 years. I have a doctorate degree. I am a -- I work for Penn
23 National Gaming as a marketing manager. I am married. One child, five
24 years old. And I have served on a jury before.

25 THE COURT: All right, what type of case and how long ago?

1 PROSPECTIVE JUROR NO. 89: It was about seven years ago
2 and it was a civil case.

3 THE COURT: All right, were you a foreperson?

4 PROSPECTIVE JUROR NO. 89: No.

5 THE COURT: Is there anything about that experience that
6 might make it difficult for you to be fair and impartial here?

7 PROSPECTIVE JUROR NO. 89: No.

8 THE COURT: Can you be completely fair and impartial?

9 PROSPECTIVE JUROR NO. 89: Yes.

10 THE COURT: Have you ever been a witness in any criminal
11 case?

12 PROSPECTIVE JUROR NO. 89: No.

13 THE COURT: All right, have you within the last 10 years been
14 a victim of any crime?

15 PROSPECTIVE JUROR NO. 89: No.

16 THE COURT: All right, anything else that we should know
17 about yourself, about your ability to serve?

18 PROSPECTIVE JUROR NO. 89: Nothing.

19 THE COURT: All right. And let me just check again, you're
20 able to be completely fair and impartial and follow the law in this case.

21 PROSPECTIVE JUROR NO. 89: Of course.

22 THE COURT: And do you start with any preconceived bias or
23 prejudice towards either side in this case?

24 PROSPECTIVE JUROR NO. 89: I do not.

25 THE COURT: All right. Very good. Thank you. All right.

1 Is there -- where are we, Marshal? I think we got through all
2 that.

3 Is there anybody else that think they -- that has something really
4 important about their mind that they need to tell me about right now?
5 You'll have other chances to speak as we go forward.

6 No, I think we've been going over an hour and a half. Can we
7 take a 15 minute break, counsel?

8 MR. SCARBOROUGH: Yes, Your Honor.

9 MR. NADIG: Please.

10 MR. SCARBOROUGH: Please.

11 THE COURT: All right, so during this recess, everybody, I need
12 to read you the standard admonishment.

13 Every time we take a break, I'll be reading the same thing. This
14 applies to the folks in the back.

15 We're going to talk over the break and see if there's anybody ha
16 that we can excuse back there. And when you come back, you can sit
17 wherever you want. You don't need to sit in the seats that you're in now,
18 but just feel free sit wherever you want.

19 All right, ladies and gentlemen, during this recess, 15 minutes,
20 do not communicate among yourselves or with anybody else about this
21 trial or the subject matter of this trial. Do not communicate at all with any
22 of the parties, attorneys, or witnesses involved in this trial.

23 Do not seek or obtain any information or comments about the
24 case from any source, including newspapers, television, radio, Internet,
25 email, cell phones, or any other electronic device.

1 Do not read, watch, or listen to any report or commentary about
2 the case. Do not perform any research or investigation and do not form or
3 express any opinion on any subject connected to this trial until the case is
4 finally submitted to you for your deliberations.

5 When you're ready to come back in, at 11:05, please line up
6 with the same order that you were in before you came here and the
7 Marshal will assist you. Thank you, you're excused.

8 THE MARSHAL: All rise for the jury.

9 [Outside the presence of the jury]

10 THE COURT: All right, we're outside the presence. Please be
11 seated for a moment. What about the doctor, guys, what do you think?
12 Should we keep him on for now?

13 MR. NADIG: Keep him on.

14 MR. SCARBOROUGH: Please.

15 THE COURT: All right. What about the other lady who has
16 the -- was that Marucut, the other lady that was right next to him?

17 MR. NADIG: I believe that was Ms. Riley, Badge Number 131.

18 THE COURT: Riley, okay, Riley, correct.

19 MR. NADIG: Yeah, that was the one with the kid with the flu. I
20 must --

21 THE COURT: The eight year old with the flu.

22 MR. NADIG: I'm much more sympathetic to her than I am to the
23 doctor.

24 MR. SCARBOROUGH: I'll submit.

25 THE COURT: All right, yeah, if he didn't have the flu and was

1 older, I would -- I would keep her on, but I'll go ahead and excuse her.
2 Keep the doctor a little bit longer, all right.

3 MR. NADIG: I'm sure he'll think of an excuse over the break.

4 THE COURT: All right, a couple others that I wanted to talk
5 about. The gentleman who's closing his house, he can move that, right?
6 You guys okay with that?

7 MR. NADIG: Yeah.

8 MR. SCARBOROUGH: He can move it.

9 MR. NADIG: I've never seen that be an issue before.

10 MR. SCARBOROUGH: Yeah.

11 THE COURT: Now what about the 21 year old in the back
12 there in the middle?

13 MR. NADIG: I have no problem with her.

14 MR. SCARBOROUGH: I think it's fine to keep her, Your Honor.

15 THE COURT: Keep her, too?

16 MR. SCARBOROUGH: I don't think age is.

17 THE COURT: All right, very good. Was there anybody else we
18 didn't talk need to about? Thank you envoy your short recess.

19 MR. NADIG: Okay.

20 MR. SCARBOROUGH: Thank you, Your Honor. I have the
21 amended information to file the correct one. I'm going to file the original
22 and give you a copy. May approach?

23 THE COURT: Very good. Yeah, you may. .

24 [Trial in recess taken at 10:53 a.m.]

25 [Trial resumes at 11:11 a.m.]

1 [Outside the presence of the prospective jurors]
2 THE MARSHAL: Okay, remain seated. Department 2 come to
3 order.
4 [Counsel confer]
5 [The Judge confers with the Clerk]
6 THE COURT: Go ahead, Marshal.
7 THE MARSHAL: Are we ready? Okay, Judge.
8 THE COURT: Oh, and I'm excusing --
9 THE CLERK: Number 131.
10 THE COURT: 31.
11 THE MARSHAL: All rise for the jury.
12 Okay, all jurors present.
13 [In the presence of the prospective jurors]
14 THE COURT: All right, please be seated, everybody. So I
15 have one juror I can, you know, excuse at this point in time. There will be
16 others as we go through the process. We probably presume we'll excuse
17 some others.
18 Right now, I can only excuse one and we need to move forward
19 with some of the questions and then we'll decide what to do.
20 All right, at this point, in time, Kimberly Riley, Badge Number
21 131, we can excuse you. And thank you very much for your time so far
22 and best wishes for your son.
23 JUROR NO. 131: Thank you.
24 THE COURT: All right.
25 JUROR NO. 131: Thank you so much for letting me go.

1 THE COURT: All right, at this point in time, it's the next phase
2 of the selection process, the attorneys get to ask you some questions. So
3 I'm going to allow the attorneys to proceed.

4 And first the State and then the Defense. All right.

5 MR. SCARBOROUGH: Thank you, Your Honor.

6 Okay, so right now, what I'm doing is I'm going to ask some
7 questions, just to gather your perspective on issues that I think are
8 important, okay? It's not to put you on the spot.

9 We do ask that you be as candid as you can be and just be
10 honest. I'm not trying to embarrass any of you. It's just to get kind of in
11 our mind, okay?

12 So we'll start off with something a little more light hearted. Who
13 watches "CSI"? Who watched those shows? Okay, can we go to the
14 back, please? Identify your badge number or your badge number and
15 your name, please?

16 PROSPECTIVE JUROR NO. 82: 82. My name's Lloyd,
17 Lloyd Dean.

18 MR. SCARBOROUGH: Okay, Mr. Dean, so about those "CSI"
19 shows, do you think that really life is a lot like those "CSI" shows? Let me
20 give you an example. Like by the end of the episode, the State has DNA
21 and surveillance and facial recognition on everything. Do you think that's
22 kind of how it's like?

23 PROSPECTIVE JUROR NO. 82: No.

24 MR. SCARBOROUGH: So if you don't think that's what it's like,
25 is that something that you're going to hold against the State say if the

1 State doesn't have DNA, fingerprints, facial recognition, and everything
2 under the sun on a case?

3 PROSPECTIVE JUROR NO. 82: No, I don't think so. I mean --

4 MR. SCARBOROUGH: What do you mean you don't think so?

5 PROSPECTIVE JUROR NO. 82: Well, I don't think it happens
6 near as fast as what they show it on TV, but I mean, to a certain degree, I
7 think you need to have some of that for your evidence and proof.

8 MR. SCARBOROUGH: Okay, that's fair. Can you think of
9 cases where, you know, think about like a domestic violence situation
10 where the two people are in a home. It's just a husband and a wife by
11 themselves. And it's alleged that the husband hits the wife. Would that
12 be an incident where there's no fingerprint, DNA, and facial recognition?
13 Would you agree?

14 PROSPECTIVE JUROR NO. 82: Right, yes.

15 MR. SCARBOROUGH: So would you agree that there are
16 other cases, too, as well that sometimes those things don't exist in terms
17 of pieces of evidence?

18 PROSPECTIVE JUROR NO. 82: Yes.

19 MR. SCARBOROUGH: What about a robbery? Do you think a
20 robbery, that could be the same type of thing where it's just two people on
21 the street, a guy holds a gun up to somebody and just takes his stuff?

22 PROSPECTIVE JUROR NO. 82: Yes.

23 MR. SCARBOROUGH: Okay. Now on a robbery related, so if
24 you think that's possible, what if only one person testified in that robbery
25 case? Would you be able to convict the person just on that one person's

1 testimony alone?

2 PROSPECTIVE JUROR NO. 82: Well, I think I would need a
3 little more evidence to kind of verify that that would be the case.

4 MR. SCARBOROUGH: Well, given the scenario I said, like
5 what other evidence would you expect?

6 PROSPECTIVE JUROR NO. 82: Well, hopefully, that
7 somebody else would have sought it or -- I mean.

8 MR. SCARBOROUGH: Okay.

9 PROSPECTIVE JUROR NO. 82: To it.

10 MR. SCARBOROUGH: So just to get a clear answer, so if no
11 one else saw it, does that mean it didn't happen?

12 PROSPECTIVE JUROR NO. 82: No.

13 MR. SCARBOROUGH: Okay. All right, so you'd agree that
14 there are some times where someone doesn't see a crime, right, and --

15 PROSPECTIVE JUROR NO. 82: Yes.

16 MR. SCARBOROUGH: -- it still happens?

17 PROSPECTIVE JUROR NO. 82: Yes.

18 MR. SCARBOROUGH: Anyone else who raised their hand?
19 Please raise your hand again for the "CSI" question. Can you pass the
20 mic down to the left? And I'll get to you as well. Identify your badge
21 number and name, please?

22 PROSPECTIVE JUROR NO. 84: My name's Tim Egan and I'm
23 badge number 84.

24 MR. SCARBOROUGH: What do you think about what he said?
25 Do you agree or do you disagree?

1 PROSPECTIVE JUROR NO. 84: Well, I agree to a point.
2 There has to be some kind of evidence. I mean, that's --

3 MR. SCARBOROUGH: Why does there have to be?

4 PROSPECTIVE JUROR NO. 84: Well, how can you make a
5 conviction or how can you judge somebody without evidence or some,
6 you know, instead of hearsay, you know, hearsay is -- that's where I
7 stand. There has to be some kind of evidence.

8 MR. SCARBOROUGH: Okay, well, that's fair. And if the judge
9 will stop me, I understand, but hearsay, what you're talking about, that's
10 like a rule of evidence and that'll be explained probably later.

11 But I think what you're trying to refer to, and correct me if I'm
12 wrong, is just one person's testimony, one witness comes up here and
13 says that person pointed a gun at me. No one else saw it. There's no
14 video cameras anywhere around. Are you saying, and there's no right or
15 wrong answer, but if only one person's up there saying that, are you not
16 sure that you can convict if the evidence is there, if you believe that
17 person?

18 PROSPECTIVE JUROR NO. 84: I would believe them, yes, if
19 the evidence was there, yes.

20 MR. SCARBOROUGH: Okay, so walking back kind of to what
21 you said before, there must be some type of evidence, is that kind of a
22 scenario where you can imagine, hey, you know what? There's really not
23 other evidence and this person's word is what I need to rely upon. Is that
24 something that you're comfortable doing?

25 PROSPECTIVE JUROR NO. 84: I think I could do it,

1 depending on how convincing they are.

2 MR. SCARBOROUGH: Okay. Let's go into that just briefly.
3 What do you mean by convincing like credibility, their demeanor on the
4 stand? Is --

5 PROSPECTIVE JUROR NO. 84: I would say their demeanor
6 on the stand.

7 MR. SCARBOROUGH: Okay. What -- do you have a certain
8 demeanor that you would expect someone to exude if they were a victim
9 of a crime?

10 PROSPECTIVE JUROR NO. 84: Yes, I do.

11 MR. SCARBOROUGH: Like what?

12 PROSPECTIVE JUROR NO. 84: Upset, you know, maybe
13 some kind of anger.

14 MR. SCARBOROUGH: Some kind of anger?

15 PROSPECTIVE JUROR NO. 84: Yeah.

16 MR. SCARBOROUGH: Now, would you agree with me or at
17 least be able to recognize that some people don't get on the stand and cry
18 about what happens or everything like that? Sometimes their affect is
19 really calm and just matter of fact. Is that something that you would hold
20 against that person?

21 PROSPECTIVE JUROR NO. 84: No, I can agree with you on
22 that. There's some people that are that way, yes.

23 MR. SCARBOROUGH: Okay, so you can use different types of
24 demeanors just to evaluate I guess in terms of credibility, is that what
25 you're saying?

1 PROSPECTIVE JUROR NO. 84: Yes.

2 MR. SCARBOROUGH: Okay. Thank you.

3 Can I go down to -- who else raised their hand for the "CSI"
4 question? Can you pass the mic down here, please? Oh, actually,
5 let's -- let's go up there. Can you go past, please?

6 PROSPECTIVE JUROR NO. 6: [Indiscernible].

7 MR. SCARBOROUGH: No, it's all good. Badge number and
8 your name, please?

9 PROSPECTIVE JUROR NO. 6: Number 6, Allen Alvarez.

10 MR. SCARBOROUGH: What do you think about what was
11 said? Do you agree or kind of disagree? What kind of points would you
12 like to voice your opinion on?

13 PROSPECTIVE JUROR NO. 6: I don't know that I'd be able to
14 rightfully convict somebody if there were -- was no further evidence based
15 just on one person's account of the situation even if it was the first person.
16 It'd be very difficult for me.

17 MR. SCARBOROUGH: Why?

18 PROSPECTIVE JUROR NO. 6: Because the person is
19 presumed innocent until proven guilty.

20 MR. SCARBOROUGH: And that's actually a fair point. Unlike
21 one of the other jurors that we excused right away, that's very true, okay.
22 The person is -- the Defendant is presumed innocent until proven guilty. I
23 think we all agree with that, right? Should be a collective nod. Yes.
24 Okay.

25 So we agree with that, but that means, correct me if I'm wrong

1 again, that only one witness is up here, that means your presumption or
2 your proclivity is towards innocence. And then, we have the burden to
3 overcome that; is that correct?

4 PROSPECTIVE JUROR NO. 6: Yes, and that's -- it seems to
5 be instructive. It seems to be we went over that --

6 MR. SCARBOROUGH: You're going to right to where I was
7 going. So that's good. Now getting into I can't quantify this. I can't define
8 specifically what it is, but the State had the burden of beyond a
9 reasonable doubt.

10 That's my job. That's what I do for a living. I wear it. I love it.
11 This is why I do what I do.

12 But in order to prove that, I think there are times where the
13 State only has one witness. Would you be able to agree with that? There
14 is only one witness sometimes?

15 PROSPECTIVE JUROR NO. 6: Yes.

16 MR. SCARBOROUGH: Okay.

17 MR. NADIG: And Your Honor, can we approach?

18 THE COURT: Yes.

19 MR. NADIG: Please.

20 [Bench conference]

21 THE COURT: I was waiting for you to do --

22 MR. SCARBOROUGH: Yeah.

23 THE COURT: You're asking how the -- you're getting involved
24 in their deliberative process.

25 MR. SCARBOROUGH: Well --

1 THE COURT: Asking them how they might rule based upon,
2 you know, without having all the evidence. I believe that's goes beyond
3 what the statute allows, but go ahead.

4 MR. NADIG: Additionally, Your Honor, this is a case where the
5 testimony of one witness based on the elements of the crime would not be
6 satisfied. There would have to be additional evidence. For an attempt
7 murder, you would also need a wound and things of that nature.

8 Just the testimony alone in this matter --

9 THE COURT: So in this case, testimony is not going to be
10 enough.

11 MR. NADIG: Correct, it would have --

12 THE COURT: I think that's kind of where you're going, though?

13 MR. SCARBOROUGH: Yeah, I was just trying to vet out
14 whether or not if a person only hears like the testimony of one witness.

15 THE COURT: Well, if you're speaking hypothetically, that would
16 be fine as long as you're not saying this case.

17 MR. SCARBOROUGH: Oh, no, no.

18 MR. NADIG: Okay, then it's --

19 THE COURT: Go ahead.

20 MR. SCARBOROUGH: I understand.

21 THE COURT: I think -- it seemed like you were going just a
22 little --

23 MR. SCARBOROUGH: That's fair. I understand.

24 THE COURT: Okay, let's go ahead.

25 MR. SCARBOROUGH: Thank you.

1 [End bench conference]

2 MR. SCARBOROUGH: Okay, so in terms of -- let me walk you
3 back to forensic evidence. So the "CSI" question. How do you feel about
4 that? You didn't raise your hand earlier, but you kind of raised your hand
5 after that. Any comments on that?

6 PROSPECTIVE JUROR NO. 6: Physical evidence?

7 MR. SCARBOROUGH: Yeah, physical evidence, forensic
8 evidence, what's your opinion on that? Does the State have to have that
9 in every single crime?

10 PROSPECTIVE JUROR NO. 6: I would say that I would scale
11 it. So if the State only has the witness of one person and no physical
12 evidence, that'd be very difficult for me to decide on the State's behalf.

13 If a person had two witnesses and some physical evidence or a
14 bunch of physical evidence and no witnesses, it sort of teeters the way
15 that I perceive the account.

16 MR. SCARBOROUGH: That's fair, okay, thank you.

17 I know I said I'd get to you three, but can you pass the mic to
18 Mr. Tucker, please right in front? Thank you, badge number and last
19 name?

20 UNKNOWN PROSPECTIVE JUROR: I'm not Tucker.

21 PROSPECTIVE JUROR NO. 34: I'm Tucker.

22 UNKNOWN PROSPECTIVE JUROR: Okay.

23 PROSPECTIVE JUROR NO. 34: Do you want me?

24 MR. SCARBOROUGH: Yes, sir, I'm sorry, I thought I had the
25 seating chart right here.

1 THE COURT: Your Mr. -- aren't you Mr. Tucker?

2 PROSPECTIVE JUROR NO. 34: I'm Tucker.

3 MR. SCARBOROUGH: Yeah.

4 THE COURT: Okay, and who did you want to talk to?

5 MR. SCARBOROUGH: You, the one with the mic.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NO. 34: Tucker, Badge Number 34.

8 MR. SCARBOROUGH: Thank you. Okay, so I noticed that
9 when you were asked about being a victim of the crime, you used the
10 phrase, and it was actually copied by you down here, sucked it up. What
11 does that mean?

12 PROSPECTIVE JUROR NO. 34: No police report, no -- I just
13 took the loss. I took the loss of my personal items and what was stolen
14 from me.

15 MR. SCARBOROUGH: Okay, what made you inclined not to
16 like file a police report and get the police involved?

17 PROSPECTIVE JUROR NO. 34: No witnesses, no -- I mean, I
18 walked out and my truck's in shambles. I mean, so I call the insurance
19 company. They tell me -- they tell me deductible. Well, I mean, so like
20 most people, I just save my deductible and sucked up my cost, sucked up
21 my loss.

22 MR. SCARBOROUGH: Okay, would that kind of reflect a
23 negative attitude towards law enforcement? Do you think that they're not
24 going to be helpful in that instance or?

25 PROSPECTIVE JUROR NO. 34: In the Marine Corps, I was an

1 MP. So I have a little bit of a love for law enforcement. So no, it's not
2 that. It's just that why waste their time and money?

3 MR. SCARBOROUGH: Okay, to go to -- you said you have a
4 little bit of love for law enforcement.

5 PROSPECTIVE JUROR NO. 34: Uh-huh.

6 MR. SCARBOROUGH: Now we have to be fair to the
7 Defendant, correct?

8 PROSPECTIVE JUROR NO. 34: Uh-huh.

9 MR. SCARBOROUGH: So that love for law enforcement, say
10 we have a law enforcement witness and a lay witness, meaning just a
11 regular citizen.

12 PROSPECTIVE JUROR NO. 34: Uh-huh.

13 MR. SCARBOROUGH: Okay, and you have both of those
14 testifying on the stand?

15 PROSPECTIVE JUROR NO. 34: Uh-huh.

16 MR. SCARBOROUGH: Now are you going to believe the law
17 enforcement witness above the lay witness because he's in law -- he or
18 she is in law enforcement or?

19 PROSPECTIVE JUROR NO. 34: No.

20 MR. SCARBOROUGH: No, you can kind of weigh both of
21 those two the same?

22 PROSPECTIVE JUROR NO. 34: They both have eyeballs,
23 yeah.

24 MR. SCARBOROUGH: They both have what?

25 PROSPECTIVE JUROR NO. 34: Eyeballs, they have their

1 own.

2 MR. SCARBOROUGH: Okay, now the lay witness. What if the
3 lay witness isn't, you know, a church choir angel? What if they have like a
4 crime committed? What if they have felonies? What if they do drugs?
5 What if they're --

6 PROSPECTIVE JUROR NO. 34: They're a witness.

7 MR. SCARBOROUGH: -- not an upstanding citizen, what do
8 you think?

9 PROSPECTIVE JUROR NO. 34: They're a witness.

10 MR. SCARBOROUGH: So if you have someone who maybe
11 has a convicted felony and a law enforcement officer, you can weigh both
12 those the same?

13 PROSPECTIVE JUROR NO. 34: I believe I could.

14 THE COURT: And, counsel, let's keep this to hypothetical
15 questions whether what might or might or not happen in this case.

16 MR. NADIG: Your Honor, can we approach?

17 THE COURT: Yes.

18 [Bench conference]

19 MR. SCARBOROUGH: I mean, I think those are pretty general
20 questions.

21 MR. NADIG: Yeah, I was going to add, I have no objection in
22 that case specifically because --

23 THE COURT: Well --

24 MR. NADIG: -- that is going to be --

25 MR. SCARBOROUGH: Yeah.

1 MR. NADIG: And I understand it's a hypothetical and he's not
2 saying hypothetical, but --

3 THE COURT: Let's ask what you mean hypothetically.

4 MR. SCARBOROUGH: Well, just, yeah, yeah.

5 MR. NADIG: Just emphasize --

6 MR. SCARBOROUGH: Do you want me to use the word
7 hypothetical?

8 THE COURT: No, no, that's okay. If that's what you that's
9 okay. All right.

10 MR. SCARBOROUGH: All right. Thank you.

11 [End bench conference]

12 THE COURT: All right, we can keep going.

13 MR. SCARBOROUGH: Thank you. Can you please pass the
14 mic up to Juror -- Badge Number 69, Ms. Harris?

15 JUROR NO. 69: Yes.

16 MR. SCARBOROUGH: Hi.

17 JUROR NO. 69: Hi.

18 MR. SCARBOROUGH: You also used that phrase sucked it
19 up?

20 JUROR NO. 69: Yes, because we had contacted the police just
21 to see if there was anything we could do. My husband had lost some
22 sentimental items from when he had been deployed. They had been
23 stolen from our vehicle.

24 And they essentially told us that there is nothing broken.
25 Nothing of value missing, that there wasn't much that they could do.

1 And so, again, not wasting their time, we found out that one of
2 the kids had actually unlocked the FOB on my car. So my car was
3 unlocked in the driveway when it got broken into.

4 MR. SCARBOROUGH: Okay.

5 JUROR NO. 69: So.

6 MR. SCARBOROUGH: So in terms of the interaction with law
7 enforcement, were you satisfied with that interaction?

8 JUROR NO. 69: It wasn't negative. They just told us if your car
9 was unlocked, that they can't really say that it was breaking and entering
10 because it was unlocked. So there was no breaking involved.

11 They did take items that they weren't supposed to, but again, it
12 was like a jacket from when my husband was in the Army and an iPod.

13 MR. SCARBOROUGH: Okay.

14 JUROR NO. 69: That was really it.

15 MR. SCARBOROUGH: Okay, so when you -- let's shift gears to
16 that "CSI" question, you raised your hand on that. What's your opinion on
17 the "CSI" question about evidence and stuff like that, physical evidence?

18 JUROR NO. 69: I think that there is almost always evidence. I
19 think that there is a time frame in which it is realistic to get that evidence.
20 Like --

21 MR. SCARBOROUGH: What do you mean? I don't mean to
22 cut you off. I apologize. What do you mean by time frame?

23 JUROR NO. 69: Well, you're not going to go and get DNA in
24 the same day. Like if you did take DNA evidence from somebody, you're
25 not going to get results like that.

1 MR. SCARBOROUGH: Okay.

2 JUROR NO. 69: If there's a time frame for each item as it's
3 processed and reviewed.

4 MR. SCARBOROUGH: Okay, so not focusing as much as on
5 the time frame. It's more of the reasonableness and likelihood of getting
6 DNA or something along those lines, are you -- would you agree that
7 there are situations where that's just not the case?

8 JUROR NO. 69: Uh-huh.

9 MR. SCARBOROUGH: Yes?

10 JUROR NO. 69: Yeah.

11 MR. SCARBOROUGH: Okay. And are you comfortable
12 listening to testimony and coming to a judgment based on evidence that
13 may have a lack of forensic, you know, effect or anything like that? Is that
14 something you're comfortable doing?

15 JUROR NO. 69: I don't see why not. I feel that if the testimony
16 given is -- it hits on the same points. And if there is multiple people
17 testifying and they all, you know, say essentially like the same rundown of
18 what happened, then you're going to believe that it's more likely what
19 happened versus every person giving a different scenario --

20 MR. SCARBOROUGH: Okay, so --

21 JUROR NO. 69: -- in that situation.

22 MR. SCARBOROUGH: Fair. So you're talking about just
23 relying on the witnesses and their accounting of the evidence, yes?

24 JUROR NO. 69: With minimal evidence, yes.

25 MR. SCARBOROUGH: Okay. In terms of like the credibility of

1 a witness, the question that I asked about law enforcement versus
2 someone who maybe has a couple felonies and is not like a church choir
3 angel, what do you think about that question that I asked?

4 JUROR NO. 69: I mean, everybody's human. Law
5 enforcement officers make mistakes. People change. You know, that
6 could be in the past, or I mean, it could even be current.

7 And it's not relevant to the situation at hand. If they -- if
8 somebody was there and something happened and they saw it, then I
9 would take it into account.

10 If their encounter, or you know, recovery -- or going over it is
11 completely different, then obviously, they're not going to be as reliable of a
12 witness. And you would have questions in your own head, like why is that
13 different?

14 But if we're trying to be completely unbiased, you take the
15 witnesses, you take them at face value, and you listen to what they have
16 to say, and you process it.

17 MR. SCARBOROUGH: Thank you.

18 JUROR NO. 69: Uh-huh.

19 MR. SCARBOROUGH: Can you please pass the mic to the
20 left?

21 I saw you raise your hand oh, badge number and name,
22 please?

23 PROSPECTIVE JUROR NO. 58: 58, Rachel Hoiles.

24 MR. SCARBOROUGH: You raised your hand for the "CSI"
25 question?

1 PROSPECTIVE JUROR NO. 58: Yeah.

2 MR. SCARBOROUGH: What do you think?

3 PROSPECTIVE JUROR NO. 58: It's a TV show.

4 MR. SCARBOROUGH: What do you mean by that?

5 PROSPECTIVE JUROR NO. 58: It's a TV show. There's a lot

6 of fact in it, but it's also not realistic to have everything in a bow tie in an

7 hour.

8 MR. SCARBOROUGH: Bow tie, okay. No, that's fair.

9 Any other questions that I asked the other members of the

10 panel, do you have any specific opinion on?

11 PROSPECTIVE JUROR NO. 58: No, I think that you have to

12 go in open minded, and it's -- take people at face value, and review each

13 situation case by case.

14 MR. SCARBOROUGH: Okay, thank you. Can you please pass

15 the mic to the left?

16 Badge Number 8?

17 PROSPECTIVE JUROR NO. 55: Number 55.

18 MR. SCARBOROUGH: Thank you. Just won't --

19 PROSPECTIVE JUROR NO. 55: Television is television.

20 MR. SCARBOROUGH: Okay.

21 PROSPECTIVE JUROR NO. 55: They make things up to do

22 what they need to do to entertain people.

23 MR. SCARBOROUGH: Okay, any opinion that you would like

24 to particularly express of the other questions that I asked the panel

25 members?

1 PROSPECTIVE JUROR NO. 55: Every case has different
2 types of evidence and amounts of evidence. Sometimes it's just people.
3 Sometimes it's scientific. It's got to be weighed for what it is as it's
4 presented.

5 MR. SCARBOROUGH: Okay, thank you very much.

6 Can we go all the way to the back, Juror Number 1, Mr.
7 Shallcross? Did I pronounce that correctly, sir?

8 PROSPECTIVE JUROR NO. 1: Yes, thank you.

9 MR. SCARBOROUGH: You were a juror before, yes?

10 PROSPECTIVE JUROR NO. 1: I was.

11 MR. SCARBOROUGH: How did you feel about that process?

12 PROSPECTIVE JUROR NO. 1: As far as?

13 MR. SCARBOROUGH: Everything, negative, positive, what did
14 you think?

15 PROSPECTIVE JUROR NO. 1: I guess it turned out --

16 MR. NADIG: Court's indulgence, Your Honor, before he
17 answers that question.

18 THE COURT: Yes.

19 MR. NADIG: Can we approach?

20 THE COURT: Yes, of course.

21 [Bench conference]

22 THE COURT: Actually, you caught me when I was writing
23 notes, so.

24 MR. NADIG: I apologize. The only thing I want before he
25 answers is I want him to stress we don't want to know what the outcome

1 of the case was, because that was one thing we didn't discuss at all.

2 MR. SCARBOROUGH: That's fair.

3 THE COURT: Yeah.

4 MR. SCARBOROUGH: I was just going to go into the fact if he
5 was comfortable deliberating with strangers.

6 MR. NADIG: No, [indiscernible] question --

7 THE COURT: Perfect, no, that's good.

8 MR. NADIG: -- it's just we need to make sure that he does --

9 MR. SCARBOROUGH: I'll say it. I do.

10 [End bench conference]

11 MR. SCARBOROUGH: And just to be sure, we don't want to
12 get into like a verdict or anything like that. So was it a positive or a
13 negative experience being a juror before?

14 PROSPECTIVE JUROR NO. 1: I think it ended up positive in
15 the end. Probably started out a little negative, because I really didn't want
16 to be there.

17 MR. SCARBOROUGH: Safe to say no one jumped for joy
18 when they got the jury?

19 PROSPECTIVE JUROR NO. 1: Nobody's getting in line.

20 MR. SCARBOROUGH: Fair enough. Okay, so that
21 experience, is that something that will impact you negatively during the
22 deliberation process if you make the jury?

23 PROSPECTIVE JUROR NO. 1: No, I don't believe so.

24 MR. SCARBOROUGH: Okay, are you comfortable based on
25 that engaging in some sort of discourse or disagreement with arguably a

1 bunch of strangers? Is that --

2 PROSPECTIVE JUROR NO. 1: I'm sure there will be
3 disagreements, yeah.

4 MR. SCARBOROUGH: Okay. And that's something that you're
5 comfortable doing?

6 PROSPECTIVE JUROR NO. 1: Yes.

7 MR. SCARBOROUGH: Is anyone else uncomfortable
8 expressing their opinion to other people? Like they're afraid to voice their
9 opinion if they feel strongly? There will be no hands in the panel. Okay.

10 Has anyone had -- I want to flush this one out. Has anyone had
11 any negative contacts with law enforcement that stick out? Any horrible
12 contacts with law enforcement? No.

13 Any positive contacts with law enforcement? No either.
14 Court's indulgence?

15 THE COURT: Yes, sir.

16 MR. SCARBOROUGH: I'll pass.

17 THE COURT: All right pass for cause?

18 MR. SCARBOROUGH: Yes.

19 THE COURT: Okay, very good.

20 Mr. Nadig?

21 MR. NADIG: Thank you, Your Honor.

22 All right, ladies and gentlemen, the first thing I like to do is I like
23 to play lie detector, okay? Because all we care about when all is said in a
24 criminal trial is we want you guys to be honest. Literally, that's all we want
25 from you. We want -- the State wants a fair shake. We want a fair shake.

1 And so, this is our only process to get to know you. Like in the
2 future when we see you, we have to look away, look at our phones,
3 something like that. We can't talk to you.

4 So this is where we determine, you know, if we're going to get a
5 fair shake from you. So I like to start with this question. Raise your hand
6 if you wanted to be here today?

7 Mr. Scarborough doesn't count, but all right, that's what I
8 figured. And additionally, a question. Ms. Pfeifer, who's not here
9 anymore, bless her heart, she answered, but one of the things I always
10 talk about is the first person I would kick off any jury is my wife.

11 And the reason I would kick my wife off any jury is I love her to
12 death. Best thing that ever happened to me, but she is of the belief that
13 somebody's guilty until proven innocent, okay? And that I as a defense
14 attorney need to do something to show you that my client is in fact
15 innocent of the charges.

16 Does anybody believe that I or my client has to do anything
17 during this process? Like we have to give a version of events or we have
18 to prove as innocent? Does anybody believe we need to do that?

19 Okay, seeing no response, can we pass the mic back to Badge
20 Number 6, Allen Alvarez?

21 PROSPECTIVE JUROR NO. 6: Yes, sir.

22 MR. NADIG: And Allen?

23 PROSPECTIVE JUROR NO. 6: Yes, sir.

24 MR. NADIG: Very eloquent, so I figure I'd start with you. You
25 also are something who loves pain because you have 10 children. And

1 one of the things that Mr. Scarborough brought up is this idea of one
2 witness and this idea of assessing credibility.

3 You have 10 kids. You assess credibility on a daily basis,
4 okay? When a child gets in trouble, typically they come to you and you
5 didn't see it. You know, and you have to decide how do I decide who's
6 telling the truth? What is your process for doing that?

7 PROSPECTIVE JUROR NO. 6: Geez. Really, it's keeping
8 quiet and allowing them to kind of talk themselves in or out of the corner.
9 I just kind of hold quiet. I'll ask a couple questions and then I'll let the
10 sentences just kind of rattle on, the stories rattle on. And then eventually
11 between whoever it is, you kind of get the gist of what happened.

12 MR. NADIG: Oh.

13 PROSPECTIVE JUROR NO. 6: The first story's never the right
14 one. You got to usually go two, or three, four rounds before really all the
15 details are out and you can kind of levy what happened.

16 MR. NADIG: And some of the things that also factor in is, you
17 know, the child's past history, things of that nature, is that fair?

18 PROSPECTIVE JUROR NO. 6: Yes, if one my children are
19 known to be the type of person to have done the thing that they're
20 accused of doing, then I would probably, all other things being weighed,
21 more lean in the direction of the kid.

22 MR. NADIG: And so, that's -- a lot of it listening, right?

23 PROSPECTIVE JUROR NO. 6: Uh-huh.

24 MR. NADIG: And is that yes?

25 PROSPECTIVE JUROR NO. 6: Yes.

1 MR. NADIG: Okay, and a lot of it is also just not only listening,
2 but assessing the story, is that a fair statement?

3 PROSPECTIVE JUROR NO. 6: Yes.

4 MR. NADIG: Okay, and you have no problem doing that?

5 PROSPECTIVE JUROR NO. 6: No.

6 MR. NADIG: Okay, now one of the things that wasn't asked,
7 Mr. Scarborough kind of brought it up is the idea of law enforcement
8 having more weight or something like that.

9 One of the questions that wasn't asked is anybody related to
10 anybody in law enforcement? And if so, raise your hand? Anybody
11 related, you know, somebody you talk to on a daily basis you know, on
12 some level of basis.

13 So we'll go down to you even though you shook your head.
14 Can we pass the mic down to Ms. Hoiles, Badge Number 58?

15 Okay, now, who are you related to that's law enforcement?

16 PROSPECTIVE JUROR NO. 58: My -- let me see, a family
17 member, niece's husband is a police officer.

18 MR. NADIG: Okay, so you probably see him two or three times
19 a year?

20 PROSPECTIVE JUROR NO. 58: Yeah.

21 MR. NADIG: Yeah. Holidays, things like that?

22 PROSPECTIVE JUROR NO. 58: Yeah.

23 MR. NADIG: Okay, now being related to somebody in law
24 enforcement, is that going to color your judgment should you be a juror?

25 PROSPECTIVE JUROR NO. 58: No.

1 MR. NADIG: Okay, and the idea that, you know, say the State
2 presents all their evidence, you don't think that they have met their
3 burden, so in that situation, you would vote not guilty?

4 PROSPECTIVE JUROR NO. 58: Yeah.

5 THE COURT: Would you have any problem talking to your
6 niece's husband and saying, yeah, I was in a jury. I don't think the State
7 met their burden?

8 PROSPECTIVE JUROR NO. 58: No. no.

9 MR. NADIG: Okay.

10 PROSPECTIVE JUROR NO. 58: No.

11 MR. NADIG: Easy enough. Pass the mic to Ms. Harris, who's
12 right next to you.

13 And just for the record, you are badge number 69, 069?

14 PROSPECTIVE JUROR NO. 69: Right.

15 MR. NADIG: Who are you related to that's law enforcement?

16 PROSPECTIVE JUROR NO. 69: One of my cousins and an
17 uncle.

18 MR. NADIG: Okay, and your cousin and your uncle, you see
19 them fairly often?

20 PROSPECTIVE JUROR NO. 69: Maybe once every two years.

21 MR. NADIG: Okay. And in town, out of town?

22 PROSPECTIVE JUROR NO. 69: One's in California, one's in
23 Washington, just got there from D.C.

24 MR. NADIG: Okay, and the same question to you. If you don't
25 think the State's met their burden, do you have any problem voting not

1 guilty based on your family relations?

2 PROSPECTIVE JUROR NO. 69: No.

3 MR. NADIG: Okay. Can we pass the mic to Mr. Tucker? And
4 this is -- he's badge number 34.

5 Now one of the things you talked about, Mr. Tucker, is you
6 talked about this idea that you were a witness to a crime?

7 PROSPECTIVE JUROR NO. 34: Right.

8 MR. NADIG: Okay, and you were a witness to the time and you
9 said that you testified as to who the actual shooter was?

10 PROSPECTIVE JUROR NO. 34: Correct.

11 MR. NADIG: What did you mean by that?

12 PROSPECTIVE JUROR NO. 34: A few years -- oh, quite a few
13 years back, a business across the street, a gentleman was trying to
14 protect some property, shot through my house. I went outside.

15 The -- he had shot at somebody trying to steal some pallets.
16 And eventually, the cops showed up. And he had given the cops a bunch
17 of bad information, the actual defender.

18 And so, he had given them a weapon that wasn't a weapon that
19 he was shooting and such. And I was witness to that, because I was first
20 on the scene because he shot my house. And so, I testified to that.

21 MR. NADIG: Okay, and so, one of the things is when officers
22 come on the scene, they don't necessarily get all the information that --

23 PROSPECTIVE JUROR NO. 34: Correct.

24 MR. NADIG: And you understand that?

25 PROSPECTIVE JUROR NO. 34: Correct.

1 MR. NADIG: Okay, and that's one of the things when officers
2 testify, you like law enforcement, and I hope we all do on some level.

3 PROSPECTIVE JUROR NO. 34: Uh-huh.

4 MR. NADIG: But that's not going to color your testimony?

5 PROSPECTIVE JUROR NO. 34: No.

6 MR. NADIG: Okay, or color your opinion, sorry. And one of the
7 reasons is is we have situations where officers don't necessarily know
8 everything going in, correct?

9 PROSPECTIVE JUROR NO. 34: Correct.

10 MR. NADIG: Okay, and there was -- you felt it was your job to
11 testify as to what actually occurred?

12 PROSPECTIVE JUROR NO. 34: To make sure that it was told
13 correct.

14 MR. NADIG: Perfect.

15 Now one of the things they also talked about, and let's pass the
16 mic back to Lloyddean Arlint, Badge Number 28. He's in the back row
17 there.

18 Now, Mr. Arlint, you had a situation where you were having
19 trouble with the idea of this one witness, correct?

20 PROSPECTIVE JUROR NO. 28: Yes.

21 MR. NADIG: Okay, now in this case or in any other case,
22 sometimes one witness may be enough if it's something where somebody
23 witnessed an event, right?

24 PROSPECTIVE JUROR NO. 28: Yeah.

25 MR. NADIG: Okay, but in a situation like Mr. Tucker was talking

1 about, there you have a bullet hole, which would mean you have a
2 weapon, which would mean you would also presumably have either
3 casing or bullet, right? .

4 PROSPECTIVE JUROR NO. 28: Yes.

5 MR. NADIG: Okay, and so in a situation like that, you would
6 want that evidence if you could get it?

7 PROSPECTIVE JUROR NO. 28: Right.

8 MR. NADIG: Unless you were instructed otherwise?

9 PROSPECTIVE JUROR NO. 28: Well, no, that would -- yeah,
10 you would want that evidence, too.

11 MR. NADIG: Okay. Does anybody have a problem with that,
12 the idea that sometimes more evidence is needed than just testimony?
13 Okay, showing no hands.

14 Your Honor, at this time, I'm going to pass for cause.

15 THE COURT: All right, both sides pass for cause then?

16 MR. LEXUS: Yes.

17 MR. SCARBOROUGH: Yes, Judge.

18 THE COURT: All right, very good.

19 So ladies and gentlemen, we now begin the next phase of the
20 jury selection process. The Clerk has a document, which she passed
21 back and forth among the attorneys. The attorneys get to exercise what's
22 call the peremptory challenges.

23 Essentially, they get to deselect 10 people total, people that
24 they believe might be better suited for a different type of trial. And that
25 leaves -- we have 23 minus 10 would leave us with 13. That would

1 constitute the 12 plus one extra person. So a total of 13 people will
2 comprise our jury panel.

3 All right, Madam Clerk, would you please begin the process?
4 Do they have the form now?

5 MR. NADIG: We do Your Honor.

6 THE COURT: Very good, thank you.

7 [Pause]

8 THE COURT: Thank you. All right, it appears that the parties
9 have completed the exercise of their peremptory challenges. Before we
10 record these peremptory challenges, anything to put on the record
11 counsel, at this time?

12 MR. NADIG: No, Your Honor.

13 MR. SCARBOROUGH: No, Your Honor.

14 THE COURT: All right, very good.

15 [Pause]

16 THE COURT: All right, Madam Clerk, would you please record
17 the peremptory challenges and then we'll compare your records with
18 mine?

19 [Pause]

20 THE COURT: All right, the Clerk will now read the names of the
21 individuals who will comprise our jury panel. If your name is not called,
22 wait until all the names have been called, and then, I will excuse you.

23 All right, Madam Clerk, will you please read the names of the
24 individuals who will comprise our jury panel, including the alternates?

25 THE CLERK: Badge Number 011, Kaina Sihabouth; Badge

1 Number 084, Timothy Egan; Badge Number 082, Lloyddean Arlint; Badge
2 Number 089, Anna Kharitonova; Badge Number 042, Kiana Tangonan;
3 Badge Number 049, Jacob San Nicolas; Badge Number 088, Denise
4 Valdez-Chardon; Badge Number 055, Thomas Dugan; Badge Number
5 058, Rachel Hoiles; Badge Number 069, Shaina Harris; Badge Number
6 078, Elaine Anderson; Badge Number 072, Milnam Yi; and Badge
7 Number 073, Joel Randolph.

8 THE COURT: Attorneys, is this the composition of the jurors
9 and the alternate as you have anticipated?

10 MR. SCARBOROUGH: Yes, Your Honor.

11 MR. NADIG: Yes, Your Honor.

12 THE COURT: All right, very good.

13 Ladies and gentlemen, if your name was not called, the Court is
14 deeply appreciative of your time in this matter and the Court now excuses
15 you from your service.

16 Those in the back, you're also excused from your service.
17 Thank you for your patience. You are excused.

18 THE MARSHAL: All rise for the jury.

19 THE COURT: All right, please be seated, everybody. We're
20 outside the presence of jury. Ladies and gentlemen of the jury, in a
21 moment, I'll have the Court Clerk call roll again and we will administer
22 your oath.

23 Ms. Tangonan, it looks like you were called to serve. We
24 appreciate your service. And again, remind me to provide you a letter so
25 your employer will be completely understanding with your situation. All

1 right, thank you very much.

2 Madam Clerk, will you please call the role of the individuals that
3 comprise our jury panel and the alternate?

4 THE CLERK: Badge number 011, Kaina Sihabouth.

5 Badge Number 084, Timothy Egan.

6 JUROR NO. 84: Here.

7 THE CLERK: Badge Number 082, Lloyddean Arlint.

8 JUROR NO. 82: Here.

9 THE CLERK: Badge Number 089, Anna Kharitonova.

10 JUROR NO. 89: Here.

11 THE CLERK: Badge Number 042, Kiana Tangonan.

12 JUROR NO. 42: Here.

13 THE CLERK: Badge Number 049, Jacob San Nicolas.

14 JUROR NO. 49: Here.

15 THE CLERK: Badge Number 088, Denise Valdez-Chardon.

16 JUROR NO. 88: Here.

17 THE CLERK: Badge Number 055, Thomas Dugan.

18 JUROR NO. 55: Here.

19 THE CLERK: Badge Number 058, Rachel Hoiles.

20 JUROR NO. 58: Here.

21 THE CLERK: Badge Number 069, Shaina Harris.

22 JUROR NO. 69: Here.

23 THE CLERK: Badge Number 078, Elaine Anderson.

24 JUROR NO.78: Here.

25 THE CLERK: Badge Number 072, Milnam Yi.

1 JUROR NO. 72: Here.

2 THE CLERK: Badge Number 073, Joel Randolph.

3 JUROR NO. 73: Here.

4 THE COURT: Madam Clerk, will you please confirm that we
5 have 13 individuals present who will comprise the box?

6 THE CLERK: Yes, Judge.

7 THE COURT: All right, very good. At this time, the Court Clerk
8 will administer the oath to the jurors. Will you please stand? And please
9 raise your right hand.

10 [The jury was sworn in by the Clerk]

11 THE COURT: All right, you may be seated. Ladies and
12 gentlemen, we're now going to take our lunch recess. We'll be in recess
13 for one hour.

14 MR. SCARBOROUGH: Your Honor?

15 THE COURT: Yeah.

16 MR. SCARBOROUGH: Can we approach?

17 THE COURT: Yes, of course.

18 MR. SCARBOROUGH: Thank you.

19 [Bench conference]

20 MR. NADIG: Just a couple of logistical things we need to take
21 care of.

22 THE COURT: Before I excuse them for lunch?

23 MR. NADIG: No, no, no.

24 THE COURT: Oh.

25 MR. NADIG: We were going to ask to have them come back at

1 1:30 instead of 1 o'clock.

2 THE COURT: Okay, no. At 1:30?

3 MR. SCARBOROUGH: If we can, please. Thank you.

4 THE COURT: Yes, of course.

5 MR. SCARBOROUGH: Thank you.

6 MR. NADIG: Thank you.

7 [End bench conference]

8 THE COURT: All right, I'm actually going to have you come
9 back at 1:30. There's a couple things that I want to handle with the
10 attorneys, all right?

11 I'm going to read you the standard admonishment. When you
12 come back, I will give you some brief comments that help you to
13 understand the process as we go forward and then we'll proceed with
14 opening statements by the attorneys.

15 All right, very well. Ladies and gentlemen, during this recess,
16 you're admonished as follows.

17 Do not communicate among yourselves or with anybody else
18 about this trial or the subject matter of this trial. Do not communicate at all
19 with any of the parties, attorneys, or witnesses involved in this trial.

20 Do not seek or obtain any information or comments about this
21 case from any source, including newspapers, television, radio, Internet,
22 email, cell phones, or any other electronic device.

23 Do not read, watch, or listen to any report or commentary about
24 the case. Do not perform any research or investigation. Do not form or
25 express any opinion on any subject connected with this trial until the case

1 is finally submitted to you for your deliberations.

2 Please enjoy your lunch. We'll see back here at 1:30. Please
3 line up ready to go at 1:30.

4 THE MARSHAL: All rise for the jury.

5 [Outside the presence of the jury]

6 THE COURT: Outside the presence of the jury. So we'll be
7 back at 1. Counsel, do you want to give me a heads up of whether I need
8 to research anything during the lunch hour for your anticipated questions?

9 MR. SCARBOROUGH: No, we're going to just roll on opening
10 statements and then we'll going to call two witnesses. And that second
11 witness is just going to be somebody from our office to read the transcript
12 of the prelim.

13 THE COURT: All right, I think the parties wanted to discuss
14 something with me between 1 and 1:30?

15 MR. NADIG: No, no, no, we -- there's some logistical issues we
16 have in terms of preparation before people come on the stand.

17 THE COURT: Oh, right. You don't have questions for me, just -
18 -

19 MR. NADIG: No, no questions. Yeah.

20 MR. SCARBOROUGH: I got -- we had to coordinate about the
21 State's witnesses. So that's on our request.

22 THE COURT: Very good. Not a problem. All right, enjoy your
23 lunch. We'll be back here at 1:30 then.

24 MR. SCARBOROUGH: Thank you.

25 [Trial in recess at 12:02 p.m.]

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[Trial resumed at 1:37 p.m.]

[Outside the presence of the jury]

THE MARSHAL: Remain seated. Department 2 back on the record.

THE COURT: What's going on, counsel?

MR. NADIG: Good afternoon, Your Honor.

MR. SCARBOROUGH: Good afternoon, Your Honor.

THE COURT: Okay, are we all set?

MR. NADIG: Yeah, Your Honor. This is -- I've been doing this way too long, but this is the first time I've had to deal with the transcript.

THE COURT: Uh-huh.

MR. NADIG: And so, are --

THE COURT: Just get a witness on the stand to fill in for who's the witness in the -- oh, wait, this is a transcript of a preliminary hearing?

MR. NADIG: Correct.

THE COURT: Not a depo transcript?

MR. NADIG: Correct. So are we just putting --

THE COURT: All right, how do you want to do it?

MR. NADIG: Are we going to put a D.A., I mean, like --

MR. SCARBOROUGH: Well, I've arranged and I don't mean to interrupt.

MR. NADIG: Go ahead.

MR. SCARBOROUGH: I've arranged a colleague from my office to come down and read the transcripts. I have a copy for Your Honor if you'd like me to approach and give you a copy.

1 THE COURT: Yeah, please. How many individuals are
2 speaking in this transcript?

3 MR. NADIG: Three, myself, Mr. Scarborough, and the witness.

4 MR. SCARBOROUGH: Correct.

5 THE COURT: Oh, okay, good.

6 MR. SCARBOROUGH: And we were just talking about the
7 logistics of if I read the direct examination, does Mr. Nadig read the cross
8 questions?

9 THE COURT: Exactly. Yeah, that's exactly how it should go.

10 MR. NADIG: And there are I strike that. There are four. Does
11 Judge Sullivan not ask questions in this?

12 MR. SCARBOROUGH: Oh.

13 THE COURT: I don't mind filling in for that.

14 MR. NADIG: Okay.

15 THE COURT: Are there any objections that we need to make
16 sure we skip over in reading?

17 MR. SCARBOROUGH: If you want an opportunity to read it, I
18 think --

19 MR. NADIG: I have read it.

20 MR. SCARBOROUGH: Okay.

21 MR. NADIG: I read it prior to. I was intending for the entirety of
22 the document -- the entirety of the transcript.

23 THE COURT: Objections shouldn't be read.

24 MR. NADIG: Exactly. Oh, yes, yeah, I thought you meant any
25 objections to anything -- I mean correct.

1 THE COURT: No, I mean in the transcript.

2 MR. NADIG: Yeah, no objections should not be read and no
3 issue as to that.

4 THE COURT: All right.

5 MR. SCARBOROUGH: Okay, Your Honor. If I can approach if
6 you like?

7 THE COURT: Yeah, yeah.

8 MR. SCARBOROUGH: So just for the Court's edification, just
9 going to page 27 and then the second tab mark is where it ends. I know
10 the font is rather small. I apologize for that.

11 THE COURT: So we're going to start at?

12 MR. SCARBOROUGH: Where it says the Court introduces
13 Bryson or Bryson Martinez on that first tab.

14 MR. NADIG: It's actually the lower left.

15 THE COURT: Why don't you point again where we start and
16 where we end?

17 MR. SCARBOROUGH: Absolutely. So this top one right here,
18 this where it says direct examination.

19 THE COURT: Okay, that's where we start.

20 MR. SCARBOROUGH: Safe to say you're in CCDC. And then,
21 this last tab over here, it would end. This would be the -- it would be right
22 in this middle, correct?

23 THE COURT: Okay.

24 MR. SCARBOROUGH: Nothing further, right?

25 THE COURT: Just hold on.

1 MR. NADIG: This would end where are you talking about?
2 You're talking about on page -- the last three lines of page or the top three
3 lines of page 38 specifically?

4 MR. SCARBOROUGH: Yes, that's where I -- any questions
5 based upon my questions. So there are -- so the Court did ask questions
6 in that --

7 MR. NADIG: Yes.

8 MR. SCARBOROUGH: -- testimony.

9 MR. NADIG: Yes.

10 THE COURT: All right, you want to circle it, or highlight it, or
11 how -- you don't mind writing on yours?

12 MR. SCARBOROUGH: No, not at all.

13 THE COURT: You're --

14 MR. SCARBOROUGH: Well, this one was your copy.

15 THE COURT: Oh, okay.

16 MR. SCARBOROUGH: Yes.

17 THE COURT: The one I circled where I have to read
18 something?

19 MR. SCARBOROUGH: Sure.

20 THE COURT: All right, and this is the transcript of the
21 Defendant Mr. Bolden, is that what we're --

22 MR. NADIG: No, this is --

23 THE COURT: Is this the witness?

24 MR. SCARBOROUGH: One of the witnesses.

25 THE COURT: Okay.

1 MR. NADIG: Yeah.

2 MR. SCARBOROUGH: Bryson Martinez.

3 THE COURT: All right, I'll just let the jury know. Thank you.

4 MR. NADIG: And Your Honor, it's my understanding that the
5 State intends to call, after going through the initial jury stuff, the State
6 intends to call two witnesses today, one of which is this transcript. And
7 after that, they will be done with the rest of their witnesses coming
8 tomorrow.

9 THE COURT: If we finish early, maybe we can let Ms. -- the
10 young lady who needs to get to get to her job, Tangonan, if we finish
11 early, maybe she can get to her job on time.

12 MR. NADIG: I think that's tomorrow. I thought if I remember
13 correctly, that's for tomorrow, not today.

14 THE COURT: Okay, very good.

15 MR. NADIG: Yeah.

16 THE COURT: All right, where's the Marshal? I guess
17 he's -- we'll wait till his [indiscernible].

18 THE CLERK: Yes, sir.

19 THE COURT: Okay, very good. I'll let you know.

20 THE MARSHAL: Are we ready, Judge?

21 THE COURT: Come on in, Marshal.

22 THE MARSHAL: Okay.

23 [Pause]

24 All rise for the jury.

25 [In the presence of the jury]

1 THE COURT: All right, you may be seated, everybody. All
2 right, ladies and gentlemen, let me make some comments to you before
3 we begin.

4 And I have some -- a document to have read. You're now the
5 jury in this case. And I want to take a few minutes to tell you something
6 about your duties as jurors and to give you some preliminary information.

7 At the end of the trial, I would give you more detailed
8 information, those will be the instructions that will control your
9 deliberations.

10 When you deliberate, it will be your duty to weigh and to
11 evaluate all the evidence received in the case and in that process, to
12 decide the facts. To the facts as you find them, you will apply the law as I
13 give it to you whether you agree with the law or not.

14 You must decide the case solely on the evidence and the law
15 before you and you must not be influenced by any personal likes or
16 dislikes, opinions, prejudices, or sympathy.

17 Further, please do not take anything I may say or do during the
18 trial as indicating what I think of the evidence or what your verdict should
19 be. That is entirely up to you.

20 It is important that you keep an open mind and not decide any
21 issue in the case until the entire case has been submitted to you for
22 deliberation.

23 This is a criminal case brought by the State of Nevada. The
24 State charges the Defendant with alleged crimes. The charges against
25 the Defendant are contained in the amended information.

1 The document called amended information simply describes the
2 charges that the State brings against the Defendant.

3 The amended information is not evidence and does not prove
4 anything. The Clerk will now read the amended information.

5 THE CLERK: District Court, Clark County, Nevada, the State of
6 Nevada Plaintiff versus James Jason Bolden Defendant, case number
7 C18-334635-1, Department Number 2, amended information.

8 State of Nevada, County of Clark. Steven B. Wolfson, District
9 Attorney within and for the County of Clark, State of Nevada, in the name
10 and by the authority of state of Nevada informs the Court that Jason J.
11 Bolden, aka Jason Jerome Bolden, the Defendant's above named, having
12 committed the crimes of Attempt Murder with Use of a Deadly Weapon,
13 Discharging Firearm at or into Occupied Structure, Vehicle, Aircraft, or
14 Water Craft, and Battery With Use Of A Deadly Weapon on or about the
15 1st day of July, 2018 within the County of Clark, State of Nevada contrary
16 to the form, force, and effect of statutes in such cases made and provided
17 and against the peace and dignity of the State of Nevada.

18 Count 1, Attempt Murder with Use of a Deadly Weapon, did
19 willfully, unlawfully, feloniously and with malice of forethought attempt to
20 kill Brenton Martinez, a human being with use of a deadly weapon, to wit a
21 firearm by shooting at and into the body of the said Brenton Martinez.

22 Count 2, Attempt Murder with Use of a Deadly Weapon, did
23 willfully, unlawfully feloniously, and with malice and forethought attempt to
24 kill Bryson Martinez, a human being, with use of a deadly weapon, to wit a
25 firearm by shooting in the direction of the said Bryson Martinez.

1 Count 3, Attempt Murder with Use of a Deadly Weapon, did
2 willfully, unlawfully, feloniously, and with malice of forethought attempt to
3 kill Brandi Coleman, a human being, with use of a deadly weapon, to wit a
4 firearm by shooting in the direction of the said Brandi Coleman.

5 Count 4, Attempt Murder with Use of a Deadly Weapon, did
6 willfully, unlawfully, feloniously, and with malice of forethought attempt to
7 kill Sanyleh Bolen, a human being, with use of a deadly weapon to wit a
8 firearm by shooting in the direction of the said Sanyleh Bolen.

9 Count 5, Discharging Firearm at or into Occupied Structure,
10 Vehicle, Aircraft, or Water Craft, did then and there willfully, unlawfully,
11 maliciously, and feloniously discharge a firearm at or into a structure, said
12 structure not having been abandoned, located at 2883 Wheelwright Drive,
13 apartment number 6A, Las Vegas, Clark County, Nevada.

14 Count 6, Discharging Firearm at or into Occupied Structure,
15 Vehicle, Aircraft, or Water Craft, did then and there willfully, unlawfully,
16 maliciously, and feloniously discharge a firearm at or into a structure, said
17 structure not having been abandoned, located at 2883 Wheelwright Drive,
18 apartment number 6A, Las Vegas, Clark County, Nevada.

19 Count 7, Discharging Firearm at or into Occupied Structure,
20 Vehicle, Aircraft, or Water Craft, did then and there willfully, unlawfully,
21 maliciously, and feloniously discharge a firearm at or into a structure, said
22 structure not having been abandoned, located at 2883 Wheelwright Drive,
23 apartment number 6A, Las Vegas, Clark County, Nevada.

24 Count 8, Discharging Firearm at or into Occupied Structure,
25 Vehicle, Aircraft, or Water Craft, did then and there willfully, unlawfully,

1 maliciously, feloniously, discharge a firearm at or into a structure, said
2 structure not having been abandoned, located at 2883 Wheelwright Drive,
3 apartment number 6A, Las Vegas, Clark County, Nevada.

4 Count 9, Discharging Firearm at or into Occupied Structure,
5 Vehicle, Aircraft, or Water Craft , did then and there willfully, unlawfully,
6 maliciously, and feloniously discharge a firearm at or into a structure, said
7 structure not having been abandoned, located at 2883 Wheelwright Drive,
8 apartment number 6A, Las Vegas, Clark County, Nevada.

9 Count 10, Discharging Firearm at or into Occupied Structure,
10 Vehicle, Aircraft, or Water Craft, did then and there willfully, unlawfully,
11 maliciously, and feloniously discharge a firearm at or into a structure, said
12 structure not having been abandoned, located at 2883 Wheelwright Drive,
13 apartment number 6A, Las Vegas, Clark County, Nevada.

14 Count 11, Discharging Firearm at or into Occupied Structure,
15 Vehicle, Aircraft, or Water Craft, did then and there willfully, unlawfully,
16 maliciously, and feloniously discharge a firearm at or into a structure, said
17 structure not having been abandoned, located at 2883 Wheelwright Drive,
18 apartment number 6A, Las Vegas, Clark County, Nevada.

19 And Count 12, Battery with Use of a Deadly Weapon, did
20 willfully, unlawfully, and feloniously use force or violence upon the person
21 of another, to wit Brenton Martinez with use of a deadly weapon, to wit a
22 firearm by shooting into the body of the said Brenton Martinez, to which
23 the Defendant has entered a plea of not guilty.

24 THE COURT: Signed and dated?

25 THE CLERK: Steven B. Wolfson, Clark County District

1 Attorney.

2 THE COURT: Just need the date of the Information.

3 MR. LEXUS: That amendment was filed --

4 THE COURT: So May 28th, 2019?

5 MR. LEXUS: Yes. It was filed, Judge, thank you.

6 THE COURT: All right, thank you.

7 All right, ladies and gentlemen, the Defendant has pled not
8 guilty to the charges and is presumed innocent unless the State proves
9 the Defendant guilty beyond a reasonable doubt.

10 In addition, the Defendant has the right to remain silent and
11 never has to prove innocence or to present any evidence.

12 The rules of evidence that control what can be received in
13 evidence, when a lawyer asks a question or offers an exhibit in evidence,
14 and a lawyer on the other side thinks that it is not permitted by the rules of
15 evidence, that lawyer may object. If I overrule the objection, then the
16 question may be answered or the exhibit received. If I sustain the
17 objection, then the question cannot be answered or the exhibit cannot be
18 received.

19 Whenever I sustain an objection to a question, you must ignore
20 the question and you must not guess what the answer would have been.

21 At the end of the trial, you will have to make your decision
22 based on what recall of the evidence. You will not have a written
23 transcript of the trial. So I urge you to pay close attention to the testimony
24 as it is given.

25 If you wish, you may take notes to help you remember the

1 evidence. If you do take notes, please keep them to yourself until you and
2 your fellow jurors go to the jury room to decide the case.

3 Do not let note taking distract you from being attentive. When
4 you leave the Court for recesses, your notes should be left in the
5 courtroom. And I can assure you nobody will read your notes.

6 Whether or not you take notes, you should rely on your own
7 memory of the evidence. Notes are merely to assist your memory. You
8 should not be overly influenced by your notes or those of your fellow
9 jurors that you might share in the deliberation room.

10 You will be given the opportunity to ask written questions of any
11 of the witnesses called to testify in this case. You are not encouraged to
12 ask large number of questions because that is the primary responsibility of
13 counsel.

14 Questions may be asked, but only in the following manner.
15 After both lawyers have finished questioning the witness and only at this
16 time, if there are additional questions you would like to ask the witness,
17 you may then seek permission to ask that witness a written question.

18 Should you desire to ask a question, write your question down
19 with your name and jury number on a full sheet of clean paper and then
20 raise your hand.

21 All questions from jurors must be factual in nature and designed
22 to clarify information already presented. The Marshal will pick up your
23 questions and give them to me.

24 All questions must be directed to the witness and not to the
25 lawyers or to the judge. You write your questions as if you were the one

1 asking the witness the question.

2 After I consult with counsel, I will determine if your question is
3 legally proper. The jurors must not place any undue weight on the
4 responses to their questions.

5 If I determine that your question may properly be asked, I will
6 ask it. No adverse inference should be drawn if I decide not to ask a
7 particular question.

8 If you can't hear a witness, please raise your hand to let me
9 know. If you need to use the restroom, or if you feel ill, please raise your
10 hand to let me know.

11 Also, I have no objection to you bringing drinks into the
12 courtroom. Just be careful with them. And remember, always keep your
13 electronic devices turned off.

14 So the next phase of the trial will now begin. First, each side
15 may make an opening statement. An opening statement is not evidence.
16 It is simply an outline to help you understand what that party expects the
17 evidence will show.

18 Also, a party is not required to make an opening statement.
19 After opening statements, the State will then present evidence and
20 counsel for the Defendant may cross-examine.

21 Then, if the Defendant chooses to offer evidence, counsel for
22 the State may then cross-examine. After all of the evidence has been
23 presented, I will instruct you on the law that applies to the case and the
24 attorneys will then make closing arguments.

25 After that, you will go to the jury room to deliberate on your

1 verdict.

2 The State may now present its opening statement.

3 **OPENING STATEMENT BY STATE'S ATTORNEY**

4 MR. SCARBOROUGH: Ladies and gentlemen, on July 1st,
5 2018 around 8:55, officers were dispatched to a shooting call of a person
6 who had been shot.

7 They arrived. They went to 2883 Wheelwright Drive. And you
8 will hear that that apartment belonged to one Brandi Coleman.

9 Brandi Coleman had a relationship with this man, sitting right
10 here, the Defendant. She's also the mother of his child, who was also
11 inside that apartment that day, along with Brandi, along with one of
12 Brandi's cousins.

13 MR. NADIG: Your Honor, can we approach?

14 THE COURT: Yes, of course.

15 [Bench conference]

16 THE COURT: Assumes --

17 MR. NADIG: At this point in time, I don't necessarily know if
18 they will be able to provide that in evidence, the relationship of Brandi
19 Coleman and/or the relationship of anything else. I have no --

20 THE COURT: Do you want make an offer of proof?

21 MR. LEXUS: I have a complete basis that our main victim,
22 though reluctant, at one time completely uncooperative and then still
23 reluctant and uncooperative is going to give us that.

24 THE COURT: Very well. If it turns out that there isn't sufficient
25 evidence to support the opening statement, you can move to strike.

1 MR. NADIG: Thank you.

2 THE COURT: Okay, thank you.

3 [End bench conference]

4 MR. SCARBOROUGH: As I was saying, folks, the evidence will
5 show that Brandi Coleman had a relationship with the Defendant, who is
6 the mother of his child. And both that child, a cousin of Brandi's, and
7 Brandi was inside that apartment on the day in question.

8 Also outside were two brothers. One of them Bryson Martinez.
9 Bryson Martinez also was having a relationship with Brandi. And his
10 brother was over there as well just there to visit. They were going in and
11 out of that apartment.

12 On this particular time of day, they both were outside talking
13 when the Defendant shows up. The Defendant had some heated words
14 and was angry with Bryson, the two "lovers on and off" with Brandi.

15 That argument soon turned into the Defendant pulling out a
16 firearm. And [indiscernible] the slide, the gun jammed. That gave some
17 time for both those brothers to try to make their way inside the apartment.
18 However, there wasn't enough time. He was able to clear the jam, caught
19 the firearm, and started shooting.

20 Where those shots hit Brenton in the lower side exiting his chest
21 area. He continued to shoot as the brothers went inside the apartment,
22 squeezing off numerous rounds and numerous rounds going inside that
23 apartment.

24 Officers showed up. And when they showed up, they
25 immediately interviewed the main players. Brandi, Brenton, Bryson. They

1 were immediately able to develop a suspect. That suspect is sitting right
2 there.

3 They then got a picture and showed Brenton that picture, asking
4 if this is the man who shot him, which he reluctantly said, yes, it was.

5 Now, folks, also in this case, you're going to hear it's a case of
6 uncooperativeness and reluctance all the way around. Brandi, after this
7 incident took place immediately became uncooperative.

8 MR. NADIG: Your Honor, can we approach?

9 THE COURT: Yes.

10 [Bench conference]

11 MR. NADIG: This is either argument or testimony on behalf of
12 the State and I would object to the idea that they're saying she's become
13 uncooperative.

14 MR. LEXUS: That's -- once again, that's what the evidence is
15 going to show. That's what I said the evidence is going to show.

16 MR. NADIG: How?

17 MR. SCARBOROUGH: We're going to have our investigator up
18 there saying when you're completely uncooperative with the District
19 Attorney's office, you don't want to show up to your subpoena, and you go
20 flee from our office, you're uncooperative.

21 THE COURT: I think that's a conclusion you can draw from the
22 evidence at the end of the case. Just stick to the evidence that will
23 support a later argument that she's uncooperative, okay?

24 MR. LEXUS: Okay, so you do you want me to phrase it?
25 Brandi -- the evidence will show that Brandi is not willing to testify, I'll say

1 that.

2 MR. SCARBOROUGH: We have a material witness.

3 MR. LEXUS: Yeah, we have a material witness going out for
4 her. So I mean, either way, I'm going to phrase it, it's going to be --

5 THE COURT: Could that be just burden shifting there by --

6 MR. LEXUS: No.

7 THE COURT: No? Okay, I'm just thinking because you're kind
8 of faulting the Defense for not putting on evidence?

9 MR. LEXUS: No.

10 THE COURT: I'm trying to understand. That's your witness.

11 MR. LEXUS: It's my witness. It's my witness. I'm not burden
12 shifting. I'm --

13 THE COURT: So there wouldn't be -- so she's not here to
14 provide any evidence that would be favorable to the Defense and she's
15 got some evidence favorable to you and because of that conflicting --

16 MR. LEXUS: If she testified truthfully, she absolutely had
17 evidence favorable to the State, which is in my report, she said initially.
18 So I'm not burden shifting. I'm just saying what the evidence is going to
19 show. I'm going to have the witness take the stand and our investigator's
20 saying--

21 THE COURT: Well, you can say --

22 MR. LEXUS: -- she's not here.

23 THE COURT: You can say the evidence.

24 MR. NADIG: Will show that while she was there on the day in
25 question, she has not been [indiscernible].

1 THE COURT: She's not going to testify. You can she's not
2 going to testify.

3 MR. SCARBOROUGH: She's not cooperative [indiscernible]
4 with the District Attorney.

5 MR. NADIG: See, I have a problem with the phrase
6 cooperative, because it's one time they give argument, she's not
7 testifying. It's that simple. She testified under --

8 MR. LEXUS: She testified --

9 THE COURT: Now --

10 MR. SCARBOROUGH: Well, we have a material witness one
11 out.

12 THE COURT: Now don't use the word cooperate. You can say
13 she's not going to show up. I mean, if there's other evidence that
14 evaluates that failure to show up, you think supports it's uncooperative,
15 you can use that in your closing argument.

16 MR. NADIG: And, Your Honor, just for the record --

17 THE COURT: Yes.

18 MR. NADIG: -- my whole point is that --

19 THE COURT: Is there going to be someone on the stand that
20 says she was uncooperative?

21 MR. LEXUS: That she's not willing to testify, absolutely.

22 THE COURT: That's unwilling to testify. You can say unwilling
23 to testify, but not uncooperative, okay, because that's a conclusion.
24 That's evaluating the evidence. That's forming an opinion.

25 MR. LEXUS: Okay, well, I'll say cooperative at the time. And

1 then not willing to --

2 THE COURT: Not willing to testify.

3 MR. LEXUS: No problem.

4 MR. NADIG: Okay.

5 MR. SCARBOROUGH: Okay.

6 THE COURT: That's backwards looking and not forwards
7 looking.

8 MR. LEXUS: Okay.

9 THE COURT: I'll do that.

10 MR. LEXUS: Will we have to make a record?

11 MR. NADIG: No, that's for these purposes, if there's another
12 objection, I'll raise it at that time.

13 THE COURT: Okay, thank you --

14 MR. SCARBOROUGH: Thank you.

15 [End bench conference]

16 MR. SCARBOROUGH: As I said, folks, Brandi was cooperative
17 at the time. And then now, not willing to testify.

18 Same thing with Bryson, cooperative at the time, then not willing
19 to testify. Brenton, the man who was shot immediately reluctant to identify
20 anybody. In fact at the additional hearing on this matter refused to identify
21 or say who shot him. And then an ongoing reluctance on his part as well.

22 MR. NADIG: Your Honor, can we approach?

23 THE COURT: Yeah.

24 [Bench conference]

25 MR. NADIG: That is, Judge, a direct misstatement of the

1 preliminary hearing testimony. He did not refuse to identify who shot him.
2 He stated he would not identify anybody in court. He said I don't see
3 anybody who shot him in court.

4 THE COURT: Since I don't have the evidence in front of me, I'd
5 have to accept counsel's representation that that's what the evidence is
6 going to show.

7 MR. LEXUS: [Indiscernible] said he's not going to refuse to
8 identify --

9 MR. SCARBOROUGH: He did refuse in Court. He didn't
10 identify the man who shot him.

11 MR. NADIG: He didn't identify him is not refusing. He said I did
12 not identify the person. Refusing means that that was person was
13 definitely in court and he did not identify. That's argument.

14 MR. SCARBOROUGH: In Court, we -- in the prelim, we had to
15 impeach him with the photo that he's talking about. He refused to identify
16 and had to be impeached on the stand.

17 THE COURT: How do you know his state of mind?

18 MR. SCARBOROUGH: About him refusing?

19 THE COURT: You said he refused. How do you know his state
20 of mind?

21 MR. LEXUS: What do you want me to phrase it as? Refuse to
22 what?

23 MR. NADIG: He declined to identify anybody. Like refusing is
24 different.

25 THE COURT: Refusing -- please stop using argument, okay?

1 You can state the facts. Save your argument to the end of the case,
2 okay? Thank you.

3 [End bench conference]

4 MR. LEXUS: Once again, folks, he declined to identify.
5 Ongoing reluctance. Okay, folks whether -- however you see it, the
6 evidence will show whether it's fear, loyalty, or all the above.

7 At the end of this case, you will see and the evidence will show
8 the man behind the gun was that man sitting right there.

9 Therefore, the State's going to ask you to find him guilty of four
10 counts of Attempt Murder with a Deadly Weapon, Brandi the child, his
11 child, and both brothers, seven counts of Discharging a Firearm at or into
12 an Occupied Structure and Battery with Use of a Deadly Weapon for one
13 of those bullets striking Brenton. Thank you.

14 THE COURT: Thank you, Mr. Lexus.

15 All right, the State may present its -- I'm sorry, the Defense may
16 now present its opening statement.

17 **OPENING STATEMENT BY DEFENDANT'S COUNSEL**

18 MR. NADIG: Thank you.

19 Ladies and gentlemen, can you guys clear that?

20 MR. SCARBOROUGH: Yes, we can clear it.

21 MR. NADIG: Ladies and gentlemen, this case is about a
22 shooting that occurred at an apartment complex. Two gentlemen were
23 sitting outside. Their names are Brenton and Bryson Martinez.

24 They have testified in an earlier hearing. At least one of them
25 will be testifying in this hearing. Another one, you'll hear his testimony

1 through the transcript.

2 Both of those individuals had been smoking and drinking all
3 morning for a number of hours. And by smoking, I don't mean smoking
4 cigarettes. They were smoking marijuana and they had been drinking.

5 The testimony they gave at the previous hearing was that they
6 were the only two outside. The testimony they gave was one, in fact,
7 went inside and was inside at the time of the shooting.

8 Both individuals declined to name Jason Bolden as the shooter.
9 Additionally, there's testimony that a gold Cadillac was involved. There's
10 no gold Cadillac registered to Jason Bolden.

11 Jason Bolden was not at the scene. Jason Bolden, I don't know
12 if there's any cell phone evidence that would tie Mr. Bolden to the scene. I
13 would think not, but the evidence, we will see.

14 But at the end of the day, we don't know who shot this
15 individual. At the end of the day, all we know is an individual was shot.
16 He was afforded the opportunity to identify somebody who shot who the
17 State believes shot him, and he declined to do so.

18 And for those reasons at the end of all of this, I'm confident that
19 you will find Mr. Bolden not guilty of these charges. Thank you.

20 THE COURT: All right, thank you, counsel. So it's my
21 understanding at this point in time the State, as its first witness, is going to
22 call?

23 MR. LEXUS: Officer Schakaford?

24 THE COURT: Pardon me?

25 MR. LEXUS: Officer Schakaford.

1 THE COURT: Officer Schakaford, very good, thank you.

2 Hello, officer.

3 MR. SCHAKFORD: Hello, sir. How are you, Judge?

4 THE COURT: I'm doing well. Why don't you please remain
5 standing and the Clerk will administer your oath?

6 THE WITNESS: Yes, sir.

7 THE COURT: All right.

8 THE CLERK: Raise your right hand.

9 KEVIN SCHAKAFORD

10 [having been called as a witness and being first duly sworn, testified as
11 follows:]

12 THE CLERK: Please be seated.

13 THE WITNESS: Okay.

14 THE CLERK: Will you please state and spell your first and last
15 name?

16 THE WITNESS: It is Kevin Schakaford, K-E-V-I-N and last
17 name Schakaford, S-C-H-A-K-A-F-O-R-D.

18 THE COURT: Thank you, Mr. Lexus, you may proceed.

19 **DIRECT EXAMINATION**

20 BY MR. LEXUS:

21 Q Where do you work, sir?

22 A Las Vegas Metropolitan Police Department.

23 Q And how long have you worked there?

24 A Three and a half years.

25 Q Can you talk about where you been since the academy?

1 A I have been Southeast Area Command, did a couple field
2 training in northeast and downtown.

3 Q Were you working on July 1st, 2018?

4 A Yes, sir.

5 Q Were you dispatched to 2883 Wheelwright, reference a
6 shooting around 8:55 in the morning?

7 A Yes, sir.

8 Q Is that here in Clark County, Nevada?

9 A Yes, sir.

10 Q Upon arrival, was the suspected shooter gone?

11 A Yes.

12 Q Did you come across a man who was shot?

13 A I did.

14 Q Describe the scene?

15 A As soon as I arrived, I heard screaming from a -- from the
16 apartment complex. I saw a female come out, stating I've been shot, I've
17 been shot, I need medical, please help me out.

18 Q Did you identify that man who had been shot as one Brenton
19 Martinez?

20 A Yes, sir.

21 Q Did you help secure the area?

22 A I did.

23 Q Also on scene was identified his brother, Bryson Martinez?

24 A Yes, sir.

25 Q As far as the main person you came in contact with, who was

1 that?

2 A It was Brenton Martinez.

3 Q Okay, were you trying to gather information on a suspect?

4 A I was.

5 Q Okay. What if anything was she doing physically?

6 A She was looking at her phone, trying to show me a picture.

7 Q Okay, did she eventually show you a picture?

8 A She did.

9 Q Okay, do you see the person in Court who she showed you the
10 picture of?

11 A I do.

12 Q Can you please point to him and identify for me the color shirt
13 he's wearing?

14 A He's --

15 MR. NADIG: Your Honor, can we approach?

16 THE COURT: Yes.

17 [Bench conference]

18 MR. NADIG: As they're showing a picture, I would object as to
19 foundation.

20 THE COURT: What's the -- you mean the authenticity of --

21 MR. NADIG: Well, you know, what did she do? She
22 approached with a photograph. That she would randomly come up and
23 approach with a photograph or what's the sequence of events that led to
24 that?

25 THE COURT: Well --

1 MR. SCARBOROUGH: I think he just laid that.

2 THE COURT: Okay.

3 MR. LEXUS: I just laid that, Judge. I asked what he
4 responded. He was trying to develop a suspect. Did you approach
5 anybody? Yes, my main personal and contact was Brandi. What did she
6 do? She flipped through her phone. Did she show you anything? Yes,
7 she did. You see the person in court?

8 THE COURT: I find that to be appropriate and laying
9 foundation. Overruled.

10 [End bench conference]

11 BY MR. LEXUS:

12 Q Do you see that person in Court?

13 A Yes, sir.

14 Q Can you please point to him and identify for me the color shirt
15 he's wearing?

16 A He's -- pointing right to him. He's sitting over there wearing a
17 black shirt.

18 MR. LEXUS: Your Honor, let the record reflect the officer's
19 identified the Defendant?

20 THE COURT: It does.

21 MR. LEXUS: May I approach, Judge?

22 THE COURT: [No audible response.]

23 BY MR. LEXUS:

24 Q Sir, I'm showing what's been marked as State's proposed 115.
25 Do you recognize that, sir?

1 A Yes, sir.

2 Q What is it?

3 A That's Brandi and that's the cell phone that she showed me the
4 picture.

5 Q Okay, is that a true and accurate representation of the
6 interaction that you were having with her on the day in question?

7 A Yes, sir.

8 Q And that's the phone you speak of?

9 A Yes, sir.

10 MR. LEXUS: Your Honor, I move to admit State's proposed
11 115?

12 MR. NADIG: No objection, Your Honor.

13 THE COURT: All right, so admitted.

14 [EXHIBIT 115 ADMITTED]

15 BY MR. LEXUS:

16 Q After you gathered this information about the suspect of the
17 shooting, did you then pass this on to the detective?

18 A I did.

19 Q Was your primary goal done at that point in time?

20 A It was.

21 Q So it was primarily to assist a victim who had been shot, secure
22 the scene, and then talk to Brandi?

23 A Yes, sir.

24 Q Did you then at that point in time, along with other officers who
25 first responded, turn the case over to the primary detective?

1 A We did.

2 MR. LEXUS: Nothing further, Your Honor.

3 THE COURT: Thank you, cross-examination?

4 MR. NADIG: Thank you, Your Honor.

5 **CROSS-EXAMINATION**

6 BY MR. NADIG:

7 Q Good afternoon, officer, how are you doing?

8 A Good, how are you, sir?

9 Q Good. So on that day in question, the first thing you do is
10 secure the scene, correct?

11 A Yes, sir.

12 Q Okay, and so, what you do is you go to the scene. You
13 determine that there's a threat there. Once you determine that there is not
14 a threat there, you secure the scene for evidentiary purposes, correct?

15 A Yes, sir.

16 Q Okay, and you do that with the intent of eventually figuring who
17 committed the crime?

18 A Correct.

19 Q Okay, now you were the initial officer on scene?

20 A Yes.

21 Q Okay, and officers arrived quickly after you?

22 A Yes.

23 Q Approximately how quickly?

24 A I would have to look at my body worn camera.

25 Q Give me an estimate?

1 A 10 seconds, 20 seconds.

2 Q Okay, so it was bam, bam, bam?

3 A Yes, sir.

4 Q And your key number would suggest that you're relatively newer
5 to the force, correct?

6 A Correct.

7 Q Okay, and that's not to say you're not competent at your job.
8 You're just newer at your job?

9 A Right. Correct.

10 Q And so, you didn't do things like take statement, written
11 statements, correct?

12 A I had Brenton take a written statement, correct.

13 Q But you were not the person who signed that statement, were
14 you?

15 A It was not, no.

16 Q Okay. In fact, that was Officer Tucker [phonetic], correct?

17 A I'm not too sure.

18 Q Okay, but it wasn't you?

19 A It was not me, no.

20 Q And so, but once you secured the information, you got that
21 photo, you immediately passed it on to your superiors?

22 A Correct.

23 Q Okay, and after that, you had no contact with the investigation
24 of this case?

25 A I did not, no.

1 Q Okay, and in fact, you saw that photo for approximately how
2 long?

3 A Briefly.

4 Q Okay, briefly seconds?

5 A Maybe 10 seconds.

6 Q Okay.

7 A 15 seconds.

8 Q Okay, so you looked at that photo 10, 15 seconds. Now did you
9 see that view, have met with the District Attorneys prior to today, correct?

10 A Correct.

11 Q Okay, and in that time, they reviewed that photo with you,
12 correct?

13 A Correct.

14 Q Okay, and approximately how much time did you spend looking
15 at that photo then?

16 A We didn't look at the photo.

17 Q You did not look at the photo?

18 A No, I told them about the body worn camera at the time.

19 Q Okay.

20 A That she had shown me the picture.

21 Q Okay. And so, but the only contact you had with that photo was
22 what you saw in that 10 to 15 seconds?

23 A By -- yes.

24 Q Okay, and you're confident that that this individual sitting at this
25 table is the individual you saw in those 10 to 15 seconds?

1 A Correct.

2 Q And that was approximately a year ago?

3 A Correct.

4 Q Nothing further.

5 THE COURT: Any redirect examination, Mr. Lexus?

6 **REDIRECT EXAMINATION**

7 BY MR. LEXUS:

8 Q You also had an exchange -- verbal exchange with Brandi as
9 well?

10 A I did.

11 Q Nothing further.

12 THE COURT: Any recross?

13 MR. NADIG: No, Your Honor.

14 THE COURT: All right, officer, you are excused. Thank you for
15 your time.

16 THE WITNESS: Thank you, Your Honor.

17 [Witness excused]

18 THE COURT: The State may call its next witness?

19 MR. SCARBOROUGH: The next witness will be the Bryson
20 Martinez transcript.

21 THE COURT: Very good.

22 Ladies and gentlemen, the State is going to call an individual
23 who provided prior testimony under oath. The way this works is the
24 testimony is introduced by way of a transcript.

25 The State will have a gentleman take the stand, who will read

1 the responses by this individual. The witness is Brenton Martinez. And
2 you will accept those comments and statements and testimony by the
3 individual who's going to take the stand as if they were spoken by this
4 individual himself here in Court.

5 Do you understand that part? All right, everyone's shaking their
6 head.

7 And this will proceed with the State presenting the direct
8 examination questions and -- that are on the transcript. And then, the
9 Defense will read the questions that were provided as the
10 cross-examination.

11 All right, you may go ahead and present the individual. Come
12 on forward, sir. All right, this is the reader, who's going to take the stand.
13 And he's going to be put under oath indicating that he will read the
14 transcript accurately.

15 So please remaining standing, sir.

16 [The reader is sworn by the Clerk]

17 THE COURT: You may be seated. And state your name for
18 the record and spell it, please?

19 MR. KEACH: I apologize, Judge. My name or the name of
20 the --

21 THE COURT: Your name?

22 MR. KEACH: My name is Eckley Keach, E-C-K-L-E-Y, last
23 name K-E-A-C-H.

24 THE COURT: Now this is the testimony of Brenton Martinez, B-
25 R-E-N-T-O-N.

1 MR. LEXUS: Bryson.

2 THE COURT: I'm sorry, Bryson?

3 MR. LEXUS: Correct.

4 THE COURT: Bryson Martinez, B-R-Y-S-T-O-N [sic] M-A-R-T-

5 I-N-E-Z presented through the words of the witness now on the stand in

6 front of us. All right or the individual now on the stand in front of us.

7 You may proceed.

8 MR. SCARBOROUGH: Okay.

9 [Reading of transcript]

10 **BRYSON MARTINEZ**

11 **DIRECT EXAMINATION**

12 BY MR. SCARBOROUGH:

13 Q Safe to say you are currently in custody at CCDC, correct?

14 A Yes, sir.

15 Q And you are in custody right now on unrelated charges to this

16 event, correct?

17 A Yes, sir.

18 Q I want to direct your attention to July 1st, 2018. Where were

19 you that day?

20 A At my ex-girlfriend's house.

21 Q And who is your ex-girlfriend?

22 A Brandi.

23 Q Brandi what?

24 A Coleman.

25 Q And on that day, were you with Brandi Coleman, was there

1 anyone else at the home?

2 A My brother, her daughter, I think her cousin. I don't know her
3 cousin's name.

4 Q So your brother. What's your brother's name?

5 A Brenton.

6 Q Brenton what?

7 A Martinez.

8 Q What is you mentioned her daughter, who's her?

9 A Sanyleh.

10 Q Sanyleh is the daughter?

11 A Yes.

12 Q Okay, and that would be whose daughter?

13 A Brandi's.

14 Q Okay, so on that day, did you eventually, did something happen
15 to bring you into Court today?

16 A My brother got shot.

17 Q And your brother being?

18 A Brenton.

19 Q How do you know your brother got shot?

20 A He walked in the house holding his stomach.

21 Q Can you describe the events leading up to that time?

22 A We were drinking, smoking, that's about it.

23 Q When you say we, who?

24 A Me and my brother, me and Brenton.

25 Q Now let's walk back the events that led up to it. So you're inside

1 or outside of the house at the time of the shooting?

2 A I'm inside of the house.

3 Q You are inside of the house?

4 A Yes, I'm inside the house.

5 Q Out of all the people that you name, so describe where they
6 were at this time? Where was Brenton?

7 A He was outside.

8 Q Outside meaning in front of the house?

9 A I can't tell you exactly.

10 Q Was anyone else outside?

11 A I don't know who was with him.

12 Q So at any point, were you outside?

13 A Earlier before I walked in, yeah, we were drinking and smoking
14 out there.

15 Q Now did you come into contact with someone else who wasn't
16 originally there outside that day?

17 A No.

18 Q So no one else came up that day besides the four people that
19 you mentioned?

20 A I said I was in the house.

21 Q So you're saying that you never saw anybody?

22 A I didn't see nobody. I was in the house.

23 Q Now in terms of your brother being shot, do you remember if
24 there was only one shot?

25 A I can't count it. I couldn't count them.

1 Q You couldn't count them meaning is it -- was there more than
2 one shot?

3 A Probably two, three, if I'm not mistaken. Like I said, I was under
4 the influence.

5 Q So where were you then when you heard the multiple shots?

6 A Coming out of the restroom of the house.

7 Q I don't mean to interrupt. So when you were in the house, how
8 did you -- was it only hearing the shots?

9 A Yeah, only heard them.

10 Q Were the shots coming inside the house?

11 A Like I say, I'm not for sure. Probably, but I'm not for sure.

12 Q So when you were inside the house, you don't remember shots
13 coming inside the house?

14 A No, I remember getting on the floor.

15 Q Why did you get on the floor?

16 A Because I heard gunshots.

17 Q Who else was inside the house with you at that time?

18 A Just me, Brandi, her daughter, and her cousin.

19 Q Her daughter and her cousin? And you earlier said her
20 daughter is Sanyleh?

21 A Yes.

22 Q And you don't remember the cousin's name?

23 A No.

24 Q What happens when you hit the floor and the gunshots are
25 going off?

1 A I just laid on the floor. I grabbed the little girl. I laid on the floor.

2 Q Why did you grab the little girl?

3 A I don't know. I mean, I heard gunshots. I'm from Los Angeles.

4 You know, I here gunshots all the time. We hear it, we get on the floor.

5 Q What did you do when you grabbed the little girl?

6 A Just laid there.

7 Q Did you pull that little girl to the floor?

8 A Yeah, pretty much.

9 Q And you said Brandi was there near you, correct?

10 A She was in the house. She wasn't near me, but she was in the
11 house.

12 Q Do you remember or recall what she was doing at that time?

13 A No, sir.

14 Q You don't know the person that is the alleged suspects of these
15 shootings, correct?

16 A No, sir.

17 Q And you claim today that you never saw anyone discharge any
18 firearm or anything like that?

19 A I told you this last time when we was in the Court. When I came
20 last time, I don't.

21 Q Let's clear this record up. So when you're saying last time,
22 you're talking about actually talking to me last time and you're looking over
23 towards like the sally port when you were behind the box?

24 A Yeah.

25 Q Okay, now do you recall giving a taped or cramp -- or a

1 transcribed or taped statements to detectives in this incident?

2 A Yeah, I did, but I told you I told them anything to get to my
3 brother. They made me give a statement.

4 Q What do you mean by they made you give a statement?

5 A They would not let me leave to go see my brother unless I gave
6 some type of statement.

7 Q And so, now in that statement, do you recall giving descriptors
8 of the person that you believe was the shooter?

9 A What do you mean by that?

10 Q Do you recall giving the detective physical descriptors of the
11 person that you believe is the shooter?

12 A Yeah, something I made up at the time, yeah, I did.

13 Q You made up the description is your testimony?

14 A Yes, sir.

15 Q Did you ever tell detectives that at the time?

16 A No.

17 Q That you were making it up?

18 A No, just like I gave them a fake name at the time, too, because I
19 know I had warrants and I didn't feel like coming to jail, which I'm here
20 now any ways.

21 Q So do you recall giving a height description?

22 A No, not really.

23 Q Do you recall giving a description as in terms of hair style?

24 A Yeah.

25 Q You do?

1 A Yeah.

2 Q And what was that?

3 A Medium braids, like small braids. That can be anybody in the
4 world.

5 Q Okay, do you recall giving the description of the person's race?

6 A No.

7 Q What about clothing?

8 A Something I made up again.

9 Q And so, again, it's your testimony today that the description you
10 gave to detectives was entirely made up?

11 A Yes, sir.

12 Q And one more time, do you recall saying that at the time you
13 were giving a --

14 MR. NADIG: Hold on. Court's indulgence. Can we approach?

15 THE COURT: Uh-huh.

16 [Bench conference]

17 MR. NADIG: That question was withdrawn. So that's why --

18 MR. SCARBOROUGH: I apologize, Your Honor. I was reading
19 ahead. That's my fault.

20 THE COURT: Oh, it does say withdrawn. How do you want to
21 handle that, guys?

22 MR. SCARBOROUGH: We can just -- do you want have him
23 instruct like that's the end of the --

24 THE COURT: Just the last sentence is withdrawn.

25 MR. NADIG: Then the last sentence should be yes, sir. Line

1 24 on page 34.

2 THE COURT: Yeah, and I'll just tell them the next question we
3 heard and one more time, it said it is withdrawn.

4 MR. NADIG: Okay.

5 MR. SCARBOROUGH: And then, I'll just go with the
6 last -- pardon me.

7 THE COURT: So the objection and --

8 MR. NADIG: Yeah, and then brief indulgence, nothing further.

9 MR. SCARBOROUGH: And then, that's the last sentence.

10 MR. NADIG: Correct.

11 MR. SCARBOROUGH: Thank you.

12 THE COURT: All right.

13 [End bench conference]

14 THE COURT: So, ladies and gentlemen, the last question that
15 was starting to be asked that begins and one more time, you should
16 disregard that as if it was not asked, okay?

17 And so the last answer that you would have heard up to this
18 point in time is yes, sir.

19 Okay, you may proceed.

20 BY MR. SCARBOROUGH:

21 Q Brief indulgence, nothing further.

22 THE COURT: All right, cross-examination?

23 MR. NADIG: Thank you, Your Honor.

24 **CROSS-EXAMINATION**

25 BY MR. NADIG:

1 Q So Bryson, you had been drinking and smoking with your
2 brother that day?

3 A Yeah, since 6 o'clock in the morning.

4 Q Now -- and it was roughly 8 or 9 in the morning when this
5 happened?

6 A I believe so. I can't tell you exact time.

7 Q Now just to be more specific, when you say smoking, I'm going
8 to assume you meant smoking marijuana, is that a fair statement?

9 A Yes, sir.

10 Q So you were both drunk and high at that time?

11 A Yes, sir.

12 Q And it's your testimony that when your brother was shot, you
13 believe you were walking out of the bathroom?

14 A Yes.

15 Q And when you walked out of the bathroom, you didn't count the
16 shots, but you believe it was two or three, is that a fair statement? Okay,
17 so --

18 MR. NADIG: And, Your Honor, I don't know if there's a
19 transcription error just for the record, so I'm just going to continue.

20 BY MR. NADIG:

21 Q Okay, so more than one, less than five.

22 THE COURT: Well, okay, go ahead. I understand.

23 THE WITNESS: Yes.

24 BY MR. NADIG:

25 Q And the gentleman sitting next to me, have you ever seen him

1 before?

2 A No.

3 Q And the -- and when you -- when your brother was shot, you
4 gave the police a fake name?

5 A Yes, sir.

6 Q And the reason you gave them a fake name is because you are
7 had warrants?

8 A Yes, sir.

9 Q And the police said they wouldn't even let you see your brother
10 until you gave a statement?

11 A Yes, sir.

12 Q And it's your statement here today that you lied about your
13 name when you spoke with the officers?

14 A Yes, sir.

15 Q And it's your statement today that you lied to the officers in the
16 statement you gave them regarding the individual?

17 A Yes, sir.

18 Q And that was because you felt the only way you would see your
19 brother is if you did those two things?

20 A The only way they would let me leave the crime scene.

21 Q Nothing further, Your Honor.

22 THE COURT: I -- okay, I just want to clarify something because
23 I think I may have misunderstood your earlier testimony. When they were
24 asking you about you gave a fake name, so did you give a fake name for
25 yourself or for the person you think that was the shooter?

1 THE WITNESS: For me.

2 THE COURT: Okay, so every time somebody's asked you
3 about that giving the police a fake name, it was about you, because you
4 had warrants?

5 THE WITNESS: I had warrants, yes, ma'am.

6 THE COURT: Redirect?

7 MR. SCARBOROUGH: No, Your Honor, nothing further at this
8 point.

9 THE COURT: Any questions based upon my questions?

10 MR. NADIG: No, Your Honor.

11 THE COURT: Thank you very much, sir. Appreciate your time
12 today.

13 THE WITNESS: Thank you, Judge.

14 [End of reading of transcript]

15 THE COURT: That concludes the reading from --

16 MR. NADIG: Yeah.

17 THE COURT: -- the transcript.

18 MR. SCARBOROUGH: May we approach?

19 THE COURT: Yes, you may.

20 [Bench conference]

21 MR. SCARBOROUGH: That's it for us today.

22 MR. LEXUS: So that's it today. We're asking to start at 11
23 o'clock tomorrow given our witnesses.

24 MR. NADIG: You have what, five?

25 MR. LEXUS: Yeah. And so, we plan on putting up a couple.

1 THE COURT: I can do that for you.

2 MR. LEXUS: And then, start at 11, put on a couple, break for
3 an hour, and then start back up at 1 is when we told the rest of them to
4 show up.

5 THE COURT: And then, how long do you think we'll go
6 tomorrow?

7 MR. LEXUS: No, we're going to be done tomorrow. And so,
8 we're going to make sure we send Ben the jury instructions tonight.

9 MR. NADIG: Yeah, I'm going to have them tonight.

10 THE COURT: Anything --

11 MR. LEXUS: And we should be able to go over the jury
12 instructions with you tomorrow and possibly close tomorrow.

13 THE COURT: Perfect that's --

14 MR. NADIG: That might be a little optimistic.

15 THE COURT: -- anything we can get done for --

16 MR. NADIG: That's the closing I was going to say the closing
17 might optimistic tomorrow. We'll see.

18 THE COURT: Anything we can get done right after I excuse the
19 jurors today or?

20 MR. SCARBOROUGH: I'm going to admit that 911 call.

21 MR. NADIG: I got to review it first.

22 MR. SCARBOROUGH: Okay.

23 THE COURT: So we can't do it? What about jury instructions?
24 Can we get started on that?

25 MR. SCARBOROUGH: Sure.

1 MR. NADIG: Your Honor, that should just be pro forma.

2 THE COURT: Okay.

3 MR. NADIG: I mean, usually they'll send them to me and I just
4 approve.

5 MR. SCARBOROUGH: That's --

6 MR. NADIG: I don't intend to add anything.

7 THE COURT: I'm just going to let him go for --

8 MR. LEXUS: Yeah, especially on this is an ideal or nothing I
9 don't think I'm going to --

10 MR. NADIG: No.

11 MR. LEXUS: -- not much to do with that.

12 THE COURT: Okay, very good.

13 MR. SCARBOROUGH: Thank you.

14 [End bench conference]

15 THE COURT: Ladies and gentlemen of the jury, good news for
16 you. We're moving along faster than I thought. We will go most of the
17 day tomorrow, starting at 11. I'm going to excuse you for the day.

18 Today, you get to go home, but let me go ahead you the
19 admonishment and then I'm going to direct that you be lined up ready to
20 go tomorrow at 11 because we have some court business to take care of
21 in the morning. So probably go 11 to maybe close to 5. Maybe we can
22 start a little bit before or stop a little bit before 5 tomorrow.

23 All right, during this overnight recess, you're admonished as
24 follows. Do not communicate among yourselves or with anybody else
25 about this trial or the subject matter of this trial. Do not communicate at all

1 with any of the parties, attorneys, or witnesses involved in this trial.

2 Do not seek or obtain any information or comments about the
3 case from any source, including newspapers, television, radio, Internet,
4 email, cell phones, or any other electronic device.

5 Do not read, watch, or listen to any report or commentary about
6 the case. Do not perform any research or investigation. Do not form or
7 express any opinion on any subject connected with this trial until the case
8 is finally submitted to you for your deliberations.

9 Please leave your notepads here. The Marshal will collect them
10 and lock them up and bring them out tomorrow at 11 o'clock for you.

11 Your badges go to the Marshal, I believe. All right, Marshal,
12 please escort the jurors out.

13 And any further questions, you can ask the Marshal.

14 THE MARSHAL: Okay.

15 THE COURT: Thank you.

16 THE MARSHAL: All rise for the jury. Leave all notepads, guys.
17 Just the notepads.

18 [Outside the presence of the jury]

19 THE COURT: We're outside the presence. Thank you,
20 gentlemen, for explaining our plan for tomorrow. Anything that we need to
21 put on the record outside the presence of the jury at this time?

22 MR. SCARBOROUGH: As of right now, nothing from the State,
23 Your Honor.

24 MR. NADIG: No, Your Honor.

25 THE COURT: All right, see you all tomorrow at 11 o'clock,

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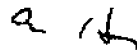
ATTORNEYS [IN UNISON]: Thank you.

THE COURT: All right, thank you.

[Trial Day 1 concluded at 2:26 p.m.]

* * * * *

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



Chris Hwang
Transcriber



1 **RTRAN**

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3
4
5 **DISTRICT COURT**
6 **CLARK COUNTY, NEVADA**

7
8 **THE STATE OF NEVADA,**
9 **Plaintiff,**

CASE#: C-18-334635-1
DEPT. II

10 **vs.**

11 **JASON BOLDEN, aka Jason**
12 **Jerome Bolen,**
13 **Defendant.**

14 **BEFORE THE HONORABLE RICHARD F. SCOTTI, DISTRICT COURT JUDGE**
15 **THURSDAY, MAY 30, 2019**

16 ***RECORDER'S TRANSCRIPT OF HEARING***
17 **JURY TRIAL - DAY 3**

18 **APPEARANCES:**

19 **For the Plaintiff:**

JORY SCARBOROUGH, ESQ.
CHAD LEXUS, ESQ.
Chief Deputy District Attorneys

21 **For the Defendant:**

BENJAMIN NADIG, ESQ.

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23
24 **RECORDED BY: DALYNE EASLEY, COURT RECORDER**
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1 Las Vegas, Nevada, Thursday, May 30, 2019

2
3 [Case called at 10:35 a.m.]

4 THE MARSHAL: We're ready, Judge. Okay, remain seated,
5 Department 2 is now in session, the Honorable Judge Richard Scotti
6 presiding.

7 MR. SCARBOROUGH: Good morning, Your Honor.

8 THE COURT: Good morning. All right, before he grabs the
9 jurors, let me take a look at the first set of jury instructions here.
10 Question, guys, at the beginning of the case, we read the Information.
11 That didn't include the possession count, right?

12 MR. NADIG: It did not.

13 MR. SCARBOROUGH: It did not.

14 THE COURT: Okay, just making sure we got that right. All
15 right, let's go ahead and bring the jurors in if there's nothing to discuss.
16 All right, we're good? All right.

17 THE MARSHAL: Go ahead?

18 THE COURT: Go ahead, Marshal.

19 THE MARSHAL: Okay.

20 THE COURT: Just real quickly, this set of jury instructions is
21 acceptable to all parties now?

22 MR. SCARBOROUGH: Yes.

23 MR. NADIG: Yes.

24 THE COURT: As well at the verdict form, right?

25 MR. NADIG: I read in the past. Yes, I'm just double checking

1 to make sure the proper instruction is in there, Your Honor.

2 THE COURT: All right.

3 MR. NADIG: And it's 22.

4 THE COURT: I see it.

5 [Counsel confer]

6 [The Judge confers with the Clerk]

7 MR. LEXUS: Once we're done, I'm going to make the
8 correction to the verdict form and I'll bring it back down to you, Judge.

9 THE COURT: Yes, sir.

10 THE MARSHAL: Okay, all rise for the jury. Okay, all jurors are
11 present.

12 [In the presence of the jury]

13 THE COURT: Okay, counsel may be seated. You all may be
14 seated.

15 MR. NADIG: Thank you, Your Honor.

16 THE COURT: All right, ladies and gentlemen of the jury, at this
17 point in time, I am going to read you the instructions. You will have a
18 complete set of these instructions back in the jury deliberation room. Let
19 me read.

20 [The Court read the instructions to the jury]

21 THE COURT: Counsel, any requests for correction of the
22 reading of the instructions?

23 MR. SCARBOROUGH: None, Your Honor.

24 MR. NADIG: None, Your Honor.

25 THE COURT: Very good. At this time, I invite the State to

1 present its closing argument to the jury.

2 CLOSING ARGUMENT BY STATE'S ATTORNEY

3 MR. SCARBOROUGH: Thank you, Your Honor.

4 Morning ladies and gentlemen. Thank you for your patience
5 over the past couple days.

6 So we're going to go over the charges. Okay, Jason Bolden is
7 charged in this case with 12 counts. Four counts of Attempt Murder with
8 Use of a Deadly Weapon for Brenton Martinez, Bryson Martinez, Brandi
9 Coleman, and Sanyleh Coleman. Okay?

10 He's also charged with discharging a firearm at or into an
11 occupied structure. That's the 2883 Wheelwright address, the apartment
12 6A. And he's also charged with Battery With Use of a Deadly Weapon for
13 shooting into the body of Brenton Martinez.

14 So going over the instructions, I'm going to highlight some of the
15 instructions and explain some of the law, okay? We're going to start with
16 discharging a firearm at or into an occupied structure.

17 So any person who willfully and maliciously discharges a
18 firearm at or into any house, room, apartment, et cetera, et cetera is guilty
19 of discharging a firearm.

20 So let's talk about the evidence of discharging a firearm. Well,
21 we have physical evidence of the shooting, right? All of the casings
22 outside that you heard Detective Krmpotich talk about were recovered. All
23 those numbers indicate some of the shell casings, as well as the unspent
24 casings that were recovered right outside the residence.

25 We have the bullet holes on the outside of the residence.

1 Remember, the pictures that I put up showing the bullet strikes into the
2 window and the lower stucco of that apartment 6A at 2883 Wheelwright,
3 okay. So there's even more physical evidence.

4 Bullet holes and fragments on the inside as well. You saw the
5 bullet strikes. The documentation of the trajectory and the different items
6 that the bullets hit while they were inside the house, coupled with bullet
7 fragments recovered from the inside.

8 Now you know it's occupied because you heard people say they
9 were inside the house. You heard testimony that they were inside the
10 house. You see the fixtures. People are living there.

11 So in terms of all the evidence for the physical evidence from
12 discharging out or into, you have the physical evidence. You also have
13 the testimony and that 911 call.

14 Joshua Knowlton, who came up here and said I heard loud
15 successive rapid shots. I saw a black male running from the area. And
16 you also had 911 call from Brandi, which we'll get more into a lot later.

17 So you have evidence of that discharging a firearm at or into an
18 occupied structure. So when you have all those counts, you can check
19 the boxes. You look at all the shell casings. You look at the house that's
20 riddled with all those bullets. You have those crimes. You can check
21 those boxes.

22 Now there's discharging a firearm. Well, now, you know there's
23 a deadly weapon. You have the evidence of the shooting. A deadly
24 weapon and pointing you to Subsection (1), any instrument which if used
25 in an ordinary manner contemplated by its design and construction will or

1 is likely to cause substantial bodily harm or death.

2 There's nothing better -- there's no better illustration of that than
3 a firearm, than a gun. You know a gun was used. You see all the shell
4 casings. You see the house where there were bullet holes.

5 So now, all of the charges that have the deadly weapon
6 attached to it, you can check that off, too, because you know the gun's
7 was used.

8 Now related to that is the Battery with a Deadly Weapon. Now
9 battery means any willful and unlawful use of force or violence upon the
10 person of another.

11 This charge is related to Brenton Martinez, who was on the
12 stand right here and talked to you about getting shot right in this eye. And
13 you have the pictures of that. You see the bullet entry wound and the
14 bullet exit wound. There is your Battery with use of a Deadly Weapon.
15 Now moving towards -- well, so you have a battery with use of a deadly
16 weapon and you could check that box as well, okay?

17 So now we move towards attempted murder. Okay, now
18 attempted murder is the performance of an act or acts which tend but fail
19 to kill a human being when such acts are done with express malice
20 namely with the deliberate intention to unlawfully kill.

21 Now it's not necessary for the State to prove the elements of
22 premeditation and deliberation in order for you to find that an attempted
23 murder took place.

24 Now let me explain to you what premeditation is. Okay,
25 premeditation doesn't have to be a week in advance. It doesn't have to be

1 a day in advance. It doesn't even have to be an hour in advance.

2 I think one of the best examples of premeditation is you wake
3 up late one day and you're on your way to work.

4 And when you're on your way to work, you realize that time's
5 running short and you need to get in on time. And you know that there's
6 one more light you need to catch to give yourself the best shot at getting
7 to work on time.

8 So as you approach that intersection, you look like everyone
9 else does that to that hand 4, 3, 2, 1. And as you're approaching that
10 intersection, you know that light's going to turn. And it turns. And then it
11 turns red. You, deciding not to move your foot to the brake pedal, is
12 running that light with premeditation and deliberation.

13 So I can show you that we as the State don't have to prove that
14 this person planned to attempt to take this person's life for weeks on end.
15 It's successive thoughts of the mind that can show that evidence.

16 Now when you look at that intent, it can be ascertained or
17 deduced from the facts and circumstances of the killing such as the
18 weapon calculated to produce death.

19 What's the weapon here? Keep going. Multiple, multiple bullets
20 fired from that gun. Okay, ejected into that house. The manner of its use.
21 How rapid did he fire that gun?

22 Where he aimed at that house and the intended circumstances
23 characterizing the act. Jason Bolden was angry when he walked up.
24 Brandi Coleman is seeing someone else.

25 So he pulled that gun out after fighting and disputing with

1 Brenton Martinez, took that gun out, and shot right at him. And he shot at
2 the people who ran in the house. You can look at the evidence and
3 circumstances to determine that intent.

4 Now the attempted murder charge for Brenton Martinez, there it
5 is right there. This is center mass. Look where that exit wound is.
6 There's no doubt that he attempted to take his life, that he shot into his
7 body. There's no doubt.

8 Pardon that, sorry. Now we have four other attempted murder
9 charges or three other pardon me, aside from Brenton. Well, we know the
10 intent here.

11 Look at how many shell casings are on the ground. He almost
12 unloaded a clip. Look where it's shot. He shot into that window. And if
13 you remember where that window's aligned, that's in that front door area,
14 right where everyone ran. And look at the level of the shots, the little
15 details center mass going lower just in case someone laid on the ground.

16 He knew all those people were in there. That's his girlfriend's
17 house. That's the mother of his child's house. He knew who was in there.
18 He knew Brandi was in the. He knew his daughter Sanyleh was in there.
19 And he knew Brenton and Bryson were in that house because they ran
20 back inside.

21 Because Brenton got on the stand and told you I was trying to
22 push my brother back into the house. I was trying to save my brother's
23 life.

24 And that front door was right behind that same pathway. And
25 where does Mr. Bolden shoot? Right through that area. He knew what he

1 was doing. He wanted to take the lives of whoever ran into that house.

2 Look at where those bullets ended up. Look at where they rock
3 through this structure. Look at the levels, the height levels.

4 Sanyleh is a three to four year old girl, roughly the height of a
5 three to four year old girl.

6 Now again, this was Bryson, you didn't see him. But we know
7 he was in the house. When we read the testimony into the record, he
8 testified he was in the house. The bullets were riddling through the
9 house. He had to pull Sanyleh down to the floor to save Sanyleh's life.

10 You know Brandi was in the house. You hear the 911 call. She
11 was in that house. She knew what was going on. In the 911 call, she ran
12 into the house. And you know Sanyleh was in there.

13 MR. NADIG: Your Honor, can we approach?

14 THE COURT: Yes.

15 MR. NADIG: Can you remove that slide, please?

16 [Bench conference]

17 THE COURT: We've seen that before.

18 MR. SCARBOROUGH: We added that.

19 MR. NADIG: No, not the one in front of the car. Remember,
20 that one was not --

21 MR. SCARBOROUGH: Well, he's not -- he never.

22 MR. NADIG: Specifically, I objected to.

23 THE COURT: You're talking about this one?

24 MR. NADIG: No, not that one.

25 MR. SCARBOROUGH: The one that she's --

1 MR. NADIG: The other one on the split screen, where she's in
2 the police car with the police standing around and they can't identify
3 Sanyleh.

4 MR. SCARBOROUGH: You said there no prejudicial --

5 THE COURT: No, [indiscernible] the words these in the back
6 seat a little bit hard to see.

7 MR. NADIG: Yeah.

8 THE COURT: I let that one in.

9 MR. NADIG: I thought you let the other one in where he's
10 crying, but not the one where --

11 THE COURT: Crying?

12 MR. SCARBOROUGH: The one of Brenton Martinez.

13 MR. NADIG: Brenton Martinez where she's in the background,
14 but I --

15 THE COURT: Oh, that one in the first -- I let both of those in.

16 MR. NADIG: Oh, I thought you did not.

17 MR. SCARBOROUGH: So.

18 THE COURT: Do you need an extension cord?

19 MR. LEXUS: You have an extension cord in my thing and I
20 plugged it in, but then it popped up full battery, so I don't think -- maybe
21 that extension cord's not working.

22 MR. NADIG: We'll just --

23 THE COURT: If I needed help, you need to take a break and
24 we can --

25 MR. LEXUS: We'll just keep going and then advise and we'll

1 take a break.

2 THE COURT: Okay.

3 [End bench conference]

4 MR. SCARBOROUGH: Yes, sorry.

5 THE COURT: I saw a juror raise his hand?

6 JUROR NO. 8: No, I realize my phone was still on because it
7 vibrated.

8 THE COURT: Perfect.

9 JUROR NO. 8: So I just turned it off.

10 THE COURT: Not a problem, thank you.

11 Let's continue.

12 MR. SCARBOROUGH: Thank you, Your Honor. And picking
13 up where we left off, we know Sanyleh was in the house again here for
14 the 911 call. Sanyleh being three or four years old can't get up here to tell
15 you, so.

16 Ladies and gentlemen, he tried to take the lives of those people
17 that day. And keep in mind, he tried to wrap that gun and there were two
18 more bullets that he didn't get to fire. Two bullets away from a potential
19 murder trial. Those two bullets.

20 Now Jason Bolden is the shooter. Now that's something that
21 you know, right? And what I want you to do when you're talk -- when you
22 think about what links Jason Bolden to the scene, I want you to focus on
23 your -- the instruction for credibility and common sense.

24 For credibility, although you are to consider only the evidence in
25 the case in reaching a verdict, pardon me, this is common sense, you

1 must bring into consideration of the evidence your everyday common
2 sense and judgment as reasonable men and women.

3 Just because you're inside this box doesn't mean you can't think
4 outside of it. You're all people who bring your own experiences. Use that.
5 The law allows you to.

6 For the credibility instruction, the credibility or believability of a
7 witness should be determined by his or her manner upon the stand, their
8 relationship to the parties.

9 So when you're evaluating the credibility of these witnesses that
10 take the stand, Brenton Martinez and Bryson Martinez, I want you to keep
11 in mind your common sense.

12 THE COURT: Let's hold on for a second. The --

13 MR. SCARBOROUGH: Of course.

14 THE COURT: -- Court's equipment might be malfunctioning
15 here. This isn't counsel, this is the Court's equipment. Give us a moment,
16 please.

17 Marshal, will you go see and make sure that the -- it is plugged
18 into the outlet there? Sometimes the wire going to the outlet gets
19 disconnected.

20 MR. LEXUS: Let me just load it back up, Judge.

21 THE COURT: No problem.

22 MR. SCARBOROUGH: I think you'll have to reconnect, too.

23 THE COURT: No problem. Take your time. Sorry, we're good.

24 MR. SCARBOROUGH: Thank you for your patience.

25 THE COURT: Yeah. Did you get it hook back up, Marshal?

1 THE MARSHAL: Yes.

2 THE COURT: Okay.

3 MR. SCARBOROUGH: Okay.

4 THE COURT: Very good. Everything's working. Let's
5 continue.

6 MR. SCARBOROUGH: Sorry. I appreciate your patience. So
7 again, when the Defense wants to attack the witness' IDs and the
8 investigation, again, I want you to come back to these instructions for the
9 credibility and common sense, okay? And I want to go over some of
10 those things.

11 Now the Defense wants to attack the investigation. All right,
12 now minutes after the shooting, officers already have a name and a
13 picture of the suspect, okay?

14 Now Brenton is bleeding out. When Officer Jegge took the
15 stand, he saw that Brenton was in, remember the phrase, dire straits.
16 And through his training, it's very regular to get information when you can.

17 And so eventually, Officer Jegge showed the picture to get that
18 vital information. And that picture was of Jason Bolden.

19 And Brenton ID'd him. Okay, now Officer Jegge testified that
20 Brenton was lucid. Do you remember defense cross-examining Officer
21 Jegge about his training and dealing with people who are under the
22 influence and whether or not they're inebriated?

23 And then, I came back up and asked, hey, was he lucid? Did
24 he understand what you were asking him? Was he able to comprehend
25 what you were meaning by your questions? Did he respond to you

1 coherently?

2 The testimony by Officer Jegge was a resounding yes. So
3 attacking the whether or not Brenton was able to ID, again, your common
4 sense will tell you that based on the credibility of Officer Jegge, he's not
5 going to come into contact with someone who's so out of it that he can't
6 even give or say the words, yes, that's him. Okay.

7 So more importantly, too, Detective Krmpotich, when he came
8 up, he also said what Officer Jegge did was the right call. When I asked
9 him questions about, hey, are those six-pack photo line-ups, are those
10 feasible on every occasion? Officer Jegge and Detective Krmpotich said
11 you know what? No, they're not.

12 We make the evaluations on the fly whether or not we think this
13 person's going to make it out alive. And that was their determination. And
14 they made the right call.

15 Detective, the lead detective said Officer Jegge made the right
16 call by showing that photo. Okay?

17 More about the investigation Defense wants to attack, DNA and
18 fingerprints on the cases. Well, you remember when Detective Krmpotich
19 was on the stand, he talked to you about the shell casings, right, and how
20 when they're discharged out of the gun, the likelihood of getting any DNA
21 or fingerprints on those shell casings are burned off because of the heat
22 that happens when the bullet is trajected [sic] through that chamber.
23 Okay, so that is something that wasn't feasible.

24 Also, Defense attacked him during cross-examination about the
25 CSI -- the CSA advising him that it wasn't feasible. Well, he has to rely on

1 the professionals to do their job. And they advised him that it wasn't
2 feasible.

3 So these avenues that Defense wants to attack if the detective
4 should or shouldn't have pursued, they weren't feasible here. He gave
5 you reasons as to why, hey, these shell casings fell in the dirt. These
6 shell casings wouldn't be covered with DNA or fingerprints.

7 Even the unspent casings as well. We went over that, how they
8 fell in the dirt. It's not likely the CSA, the professional, who goes up and
9 looks at them says listen, these aren't feasible to get fingerprints or DNA
10 off of. So attacking that part of the investigation, it's moot. It's not
11 something that would be feasible for the detective to follow up on.

12 Now again, when he attacks the witness testimony, I can't
13 stress enough the credibility and common sense instruction, okay? Now
14 with Bryson Martinez, that's the transcript that I read.

15 Remember, he was saying everything was made up, right?
16 Anything to get to his brother. And Bryson said in that transcript I never
17 saw anybody. Yet moments later in the transcript, he gave a description.
18 Medium braids, around 6 feet.

19 Now the credibility instruction tells you that if you believe a
20 witness lies about something, you can disregard the testimony entirely.
21 And that's true.

22 But common sense will tell you, you can't disregard some of the
23 truth. The medium braids, the height, then him trying to minimize the
24 issue. This could be anybody. The uncooperativeness. He wasn't here.

25 That's what he's trying to do. He's trying to minimize. He's

1 trying to say, listen, I don't want to be a snitch just like his brother raised
2 into the same household who got up there and told you that.

3 He won't -- he'll want to attack Brenton Martinez's ID, too.
4 Again, too high or under the influence to ID that photo. No, Officer Jegge,
5 again trained, the credibility of his training and experience.

6 He sat there and talked to him. Every response was lucid. The
7 recounting of details was coherent. He's not going to get an ID of
8 someone who's high out of their mind or under the influence of painkillers.
9 Brenton wasn't too high to ID, okay?

10 And he got up here and admitted to you that he didn't ID at the
11 prior hearing. He did. He got up here and said, yeah, I didn't ID. I just -- I
12 survived. I survived. I thought that was it. I wanted to move on.

13 And I stood over there and I said why? What does that mean?
14 What does that mean to you? Well, I wasn't raised to be a snitch.

15 Well, ladies and gentlemen, not everyone's going to be the
16 same. Not everyone's going to be the same and come into Court and say,
17 yeah, that's the person who did it. There's different people out there.

18 And he sat there and told you. He looked at all of you and said,
19 yeah, that's me. I did an ID. You're right, but I had my reasons why.

20 And lastly, he'll want to attack the length of time that he saw the
21 Defendant, right? When Brenton came up to you or Brenton came up to
22 the Defendant right in front of the walkway, face to face with him talking to
23 him, hey, let's resolve this dispute as men. We're all adults here. Face to
24 face with him, face to face to someone who almost took your life.

25 He ID'd him. The ID is reliable. So when you think about all

1 those things that the Defense would want to attack and how he attacked
2 that in the cross-examination of our witnesses, go back to those
3 instructions. Evaluate the credibility of the witnesses. Use your common
4 sense.

5 Jason Bolden is the shooter. The evidence establishes that.
6 And Jason Bolden is the shooter and he's guilty of all of those charges.
7 Find him guilty. Thank you.

8 THE COURT: All right, thank you, counsel.

9 Mr. Nadig, you may now present your closing argument on
10 behalf of the Defendant.

11 MR. NADIG: Your Honor, I apologize.

12 THE COURT: No problem.

13 MR. NADIG: I need to take a five-minute break.

14 THE COURT: No problem. Let's go ahead and give everybody
15 a short break. Then, ladies and gentlemen of the jury, we're going to take
16 a five-minute recess.

17 During this recess, don't talk among yourselves or with anybody
18 else about the case or the subject of the case. Don't communicate at all
19 with any of the parties, attorneys, or witnesses involved in the trial.

20 Don't seek or obtain any information or comments about the
21 case from any source. Do not read, watch, or listen to any report or
22 commentary about the case.

23 Do not perform any research or investigation and do not form or
24 express any opinion on any subject connected with the trial until the case
25 is finally submitted to you.

1 Let's go ahead and take -- let's go ahead and take 10 minutes,
2 okay? 10 minute break, everybody. Stretch, leave your notepads. We'll
3 see you back here shortly.

4 THE MARSHAL: All rise for the jury.

5 [Outside the presence of the jury]

6 THE COURT: All right, we're outside the presence of the jury.
7 You might want to use the one in the back of course.

8 MR. SCARBOROUGH: Thank you.

9 THE COURT: All right.

10 MR. SCARBOROUGH: Sorry about that --

11 [Trial in recess taken at 11:23 a.m.]

12 [Trial resumes at 11:36 a.m.]

13 THE MARSHAL: Ready for the jury?

14 THE COURT: Yes, sir.

15 MR. NADIG: 119A.

16 THE MARSHAL: Okay, all rise for the jury. Okay, all jurors are
17 present.

18 [In the presence of the jury]

19 THE COURT: Please be seated everybody, except Mr. Nadig.
20 You may present the Defendant's closing argument.

21 CLOSING ARGUMENT BY THE DEFENDANT'S ATTORNEY

22 MR. NADIG: Thank you, Your Honor.

23 Good morning, ladies and gentlemen of the jury. And it's
24 interesting and usually during my voir dire when I talked you guys in the
25 beginning, I talk about the idea of leaving your common sense at the door

1 because often in my line of work, we're accusing of leaving, you know,
2 we're accused of trying to have you leave your common sense at the
3 door, but that's not my job. My job is to talk about the evidence in this
4 case.

5 And the evidence in this case will show that Mr. Bolden is not
6 guilty. You have a situation where Mr. Scarborough presented this theory
7 of that somebody was dating Mr. Bolden's baby mama and he was angry
8 and shot somebody.

9 There was no testimony of that. There was no mention of that
10 by Brenton. There was no mention of that by Bryson. There was no
11 mention of at all.

12 So the first thing I want you to guys to realize is that they're
13 attempting to fill in the blanks with what they have. And what I'm asking
14 you guys to do is simply rely on the testimony as you remember it.

15 By everybody's testimony, the only two people who potentially
16 were outside were Brenton and Bryson. They both -- one testified he was
17 in. The other testified that he and his brother were outside. But at most,
18 two people inside.

19 So that means if there was anybody else inside, nobody
20 necessarily knows and there's a suggestion that maybe the people inside
21 saw out.

22 But let's look at the evidence and what the evidence shows if
23 we turn sideways, can we switch over to the ELMO?

24 What the evidence shows if we look is that those blinds were
25 closed. And how do we know those blinds were closed? Because the

1 shots went through and they shattered the blinds.

2 So at the time of the shooting, the evidence shows that the
3 blinds were closed. So at the time of the shooting, the only two people
4 potentially who saw anybody outside were the Martinez brothers.

5 And one of the reasons this is important is because there's this
6 testimony that Brandi could have identified the person.

7 How could Brandi identify the person when she was inside?
8 How could Brandi identify the person if the blinds were closed? We don't
9 know. I would submit to you that they can't.

10 Additionally, they talk about Officer Jegge and how Officer
11 Jegge based on his training and experience felt that this person was going
12 to die, that he said he was at death's door. He was at dire straits.

13 You have the ability to listen to the 911. I could encourage you
14 to listen to it again to refresh your recollection. But one of the things
15 Brandi talks about is that the victim was in and out. He was halfway
16 through consciousness. That's what she says at the time of the shooting.
17 Officer Jegge wants you to believe that he was completely lucid.

18 We know by both testimony that they were drinking and
19 smoking. So they were high and they were drunk. Detective Krmpotich
20 came two hours later and he had to be reminded, but he came two hours
21 later and he could still smell booze on the Martinez brothers' breath, two
22 hours after the event. So I would submit to you that the guys were
23 drinking pretty heavily.

24 Now so we have the situation where a gentleman comes up.
25 We have a situation where a gentleman starts shooting.

1 The State says because -- and I'm sorry the Martinez brothers
2 their things are too close. I should be better, I have a twin brother, but I'm
3 not.

4 Brenton Martinez said he didn't identify him at a previous
5 hearing when he was under oath. But here under oath, he identified him.

6 And here under oath, he identified him, what were the reasons
7 why? Where I'm from, but additionally because he didn't want to get
8 subpoenaed any more.

9 Additionally, because his sisters told him to. Additionally,
10 because sorry I have a frog in my throat, guys, because he just wanted it
11 to be over.

12 At no point did he say because that guy shot me. He didn't say
13 that. He said because of this, this, this and this.

14 What I would suggest is that a shooting occurred Brandi
15 instantly assumed that it was Jason. And so she put that out there.
16 Jason Bolden shot my boyfriend. Shot my brother actually is what she
17 said. They weren't married. That's actually Bryson's brother, Bryson's
18 brother, not Brenton's brother. Not Brandi's brother.

19 She give the description. You heard Josh Knowlton, who has
20 no connection to these events, who saw a gentleman run into a gold
21 Cadillac across the road.

22 He saw him running from here all the way to there and then
23 driving around. The call he described that he described as heavy jacket,
24 he doesn't remember what else, but that isn't in tune with what Brandi
25 described, which was black shirt, white writing, black pants.

1 So there's some issues there. And what Mr. Scarborough
2 points out is that if all these things occurred, that he's guilty of all these
3 crimes, but you have to get to the predicate. You have to get the first
4 language. Is this the person who did the shooting?

5 You don't know. You can't know. They have a relationship
6 because they have a child together. That's all you know. That's the
7 evidence you have.

8 There is this discussion about how Bryson identified somebody
9 who was 6 feet tall with braids. Remember, when she made that phone
10 call, she had already provided that photo to the police.

11 So Bryson didn't -- when he had to give that statement, when he
12 couldn't leave, he already had something to base it off of. He already had
13 something to say, oh, well, Brandi says it's this guy, so I could just say this
14 and I'm out.

15 But then when he had the opportunity to identify him, he did not.
16 There's been -- and the jury instruction says the State doesn't have to
17 prove a motive, but at the same time, what motive is there? Why is Jason
18 firing into the house where he allegedly knows where his child is? That's
19 ridiculous.

20 They are asking you to leave your common sense at the door.
21 The State also brings up Detective Krmpotich, who says that what Officer
22 Jegge did was correct, running with that thing, running with the photo to
23 show it, to get the identification.

24 But if you listen to Detective Krmpotich, he also walked it back,
25 because he said nobody in the detective's bureau did this. None of us did

1 this. The patrol officers did this.

2 And he talks about how this gentleman was at death's door and
3 they were worried about him. But you heard during my cross of Officer
4 Jegge, he was released two days later. So he was not critically injured to
5 the point where he was about to die. Two days later would suggest that it
6 was a through and through and he left. So he wasn't at death's door.

7 He was drunk. He was high. He did have pain meds. He all
8 those things in his system and Officer Jegge's like oh, well, he's totally
9 lucid.

10 I'm going to say that Officer Jegge is a new officer. I am going
11 to say that he does not intend to lie. I'm not suggesting that. What I'm
12 saying is he's very eager and he wants to catch the person because
13 everybody has an interest in this case.

14 Jason has an interest in this case because he's innocent. The
15 State has an interest because they don't believe him. And the officers
16 have an interest in the case because they want to find somebody guilty.
17 And so, what he did is he rushed the gun. And he suggested to the
18 Martinez brothers that this was the individual who did the shot.

19 And it doesn't help him if that person was under the influence. It
20 doesn't help him if that person had been drinking and smoking.

21 And so for those reasons, he's going to say, no, he was fine.
22 But that doesn't match up with the facts as explained to both the 911 and
23 you know, based on the other Martinez brother's history or alcohol use
24 two hours after the fact.

25 What you have is you have a situation where the State has a

1 bunch of things that they want to fit them all together, but they can't
2 because you can't get past the fact that nobody can place Jason at the
3 scene. Nobody can provide a reason why Jason would do this. None
4 whatsoever.

5 They had the ability to do things. Cell phone towers, they didn't
6 do it. You'll get the photos in the back. He said that he couldn't test the
7 DNA on the bullets because they were covered in dirt. Look at those
8 bullets. They're not covered in dirt.

9 Additionally, he suggests that he followed the advice of
10 whatever CSA was there. He didn't know what CSA was there. And he
11 admitted that some CSAs only have the ability to do photographs.

12 So how is he going to know whether that CSA had the ability to
13 say he tested DNA? They had the opportunity to attempt to tie Jason to
14 the case and they didn't.

15 And the reason they didn't is they said, oh, that ID was good
16 enough, but that's an ID through close blinds. That's an ID of a guy who
17 saw a person for a minute.

18 And what's ironic is, if you think about it, there's somebody on a
19 jury who we see or at least I've seen on a fairly regular basis. See her on
20 TV, 10 minutes here, 15 minutes there for years.

21 And yet, when it came time when she's on the jury, did I see
22 that person, did I recognize that person? Did I say, oh, that's her.

23 No, because a minute and a half is not long enough to identify
24 somebody. I've seen somebody for months and I can't identify that
25 person until she identified herself.

1 So you're sitting here in a situation where Brenton Martinez has
2 to point and identify the only guy in the room, the only guy in the room
3 who's sitting there. At most, he saw him for a minute and a half. At most,
4 he was suggestive that this is the guy from one photograph when they
5 had the time and the opportunity to give a six-pack and to do those things.
6 And in addition to that, they could have tied him to the scene in other
7 ways and they didn't.

8 I understand in a situation like this, there's an urge to want to
9 find somebody guilty. Somebody was injured. Somebody should pay.

10 But the State has to be held to their burden. The State has to
11 be held to show beyond a reasonable doubt that Jason Bolden was the
12 person that did it. I will tell you that he wouldn't even there. That would
13 be my argument.

14 And, ladies and gentlemen, you have to find him not guilty.
15 Now the State is going to get up here and Mr. Lexus is very passionate.
16 He's going to get up and he's going to suggest things that I say are
17 ridiculous.

18 But when all is said and done, look at the evidence. Don't look
19 at my argument. Don't look at their argument. Look at the evidence.

20 Can they show that Jason Bolden is the person who failed?
21 And the answer is no. Thank you.

22 THE COURT: Thank you, counsel. The State may present a
23 rebuttal.

24 MR. LEXUS: [Indiscernible] folks. Ladies and gentlemen, what
25 you've heard from the Defense is no surprise in these type of cases.

1 You do this with regard to the 3,000 pound elephant in the
2 room, which is identification of [indiscernible], ID, and a name within
3 minutes of him being there.

4 And we do this, right? Blame the cops, blame the victim, blame
5 the witnesses, blame everybody other than this man right here.

6 Another thing too is, you know, there's two ways to go about
7 these cases. One is self-defense. You're not instructed on self-defense.
8 Why? Because this isn't -- there's no evidence of self-defense. He didn't
9 bring a gun. And when the cops get there, there's no evidence that any
10 other weapons were used.

11 So what's the only other option? ID. So no surprise the attacks
12 on the ID. Folks, I also want to point out before I even get to my slides,
13 and I'll go through defense argument one by one, it's easy for people not
14 to care on these type of cases.

15 Brandi's not here. Bryson's not here. Brenton told you, you
16 know, he -- the way he was raised and the first hearing, he was -- thought
17 it would go away. It's easy not to care.

18 But guess what? That's now how the law works. And we'll go
19 over some slides and the law that you let you take into consideration and
20 fill in the blanks for yourself with both direct and circumstantial evidence.

21 You don't look at these things in the box. You look at all of the
22 pieces of evidence combined and use your common sense to deduce
23 what's the truth.

24 You can't just call up the cops or call up the D.A.'s office. Or we
25 see, you know, oh, they're uncooperative. And so you know what? We're

1 good. Case dismissed.

2 And jurors shouldn't do that either. I understand you're not
3 dealing with model citizens -- with an average person would think would
4 being a model citizen.

5 As that one man came up here Brenton, he's got a history of
6 crime. Grew up in L.A. Has unwritten codes of conduct, if you will, that
7 don't pertain to the average person.

8 Some people can't fathom the fact you mean to tell me these
9 people get the apartment shot up, you're the target of the shooting, you
10 get shot and you don't care? Yeah, you better believe it happens all the
11 time, especially in these type of cases.

12 Folks, defense counsel, and I'm going to go through his
13 arguments, okay? Talk to -- brought you back to the beginning of this
14 case when he was up here before trial gets started.

15 Well, defense counsel told you what? There's nobody that's
16 going to ID the Defendant. Really? Within minutes, a name and a picture
17 ID'ing this man.

18 Came up here and talked about, you know, they're trying to fill
19 in the blanks. No, the evidence will fill in the blanks. Again, the direct and
20 circumstantial evidence. And we'll go over what circumstantial evidence
21 is. Only two people outside he says because these blinds were there.

22 Well, folks, listen to that 911. And we'll play it. What's that 911
23 show you? First of all, that woman says she runs back inside the house.
24 And then she even says later on she knows the direction of travel that he's
25 going.

1 Is that so hard to imagine? He -- you know, she knows these
2 people. The evidence shows that that. The mother of his child in a
3 relationship and in a relationship with the brother, Bryson, Brenton's
4 brother.

5 Tells you, these people were outside. Bryson tells you he and
6 his brother were outside. Arguing ensues. Does he know what's going on
7 behind him? Is he -- he's got eyes on the back of his head?

8 Would it be surprising to you that this woman came out to see
9 what's going on and then when he pulled out the gun, ran back inside as
10 she stated in the 911.

11 Would it surprise you that he didn't see exactly where she was
12 headed when he came in that -- the house and collapsed on the ground?
13 Jegge, attacks Jegge and the detective with showing the picture.

14 Folks, I would submit to you when you are shot in the chest, exit
15 wound -- exit wound through the chest and an entry wound towards the
16 back there, these cops ain't doctors. They're doing the best they can
17 trying to act in real-time on an emergency situation.

18 What do you think his superiors would have said if he did it and
19 that guy died? Defense counsel comes up in here and says, oh, he's
20 released three days later. Jegge doesn't have that luxury of knowing that.
21 He doesn't know what artery it hit or anything else.

22 You're damn right he's going to show a picture. If he has a
23 picture of a suspect, absolutely, he's going to show a picture of the
24 suspect and ask is this the man?

25 Attack the six-pack. It's easy to quarterback these people all

1 day long. And we'll talk about that later. Attack the witnesses. Attack the
2 cops. Talk about, well, it's possible this. Speculate as to that. That's not
3 reasonable doubt.

4 Talked about, again, the booze. Yeah, they were smoking.
5 Bryson with the alcohol that he had Bryson on his breath. Okay. Attack
6 these men all you want. It doesn't make him any less of a victim.

7 Then came in and Brenton attacked the fact that now
8 he's -- now you're coming in and identify -- yeah. That's what we're
9 saying. Are we going to try everything we can to get these people? Yes.

10 A material witness sworn out for Brandi. Continuing to
11 subpoena that man Brenton. He's here to fight it while he's in town with
12 his girl and kids as he told you.

13 Eventually, we secure him to appear. Yes. He's getting
14 pressure from his sister. Yes. Doesn't want to keep getting harassed by
15 the District Attorney's office. Yes.

16 And then when we kept pressing him, well, why why? Okay,
17 then he comes down and tells you about being brought up in L.A. Has to
18 two felony convictions from the past. Had to serve probation. It's not how
19 he's raised. Doesn't want to be a snitch. No less of a victim, folks. And it
20 doesn't change the facts of this case.

21 Then attacks the witness. The one witness that says, you
22 know, it was so far away, I couldn't really make out much other than I
23 thought he was wearing, jacket, a dark jacket.

24 Is that inconsistent, the dark jacket from the testimony?

25 MR. NADIG: Your Honor, can we approach?

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THE COURT: Yes.

[Bench conference]

MR. NADIG: He said a heavy coat. He didn't say a dark coat.

MR. LEXUS: You asked if it was dark.

MR. NADIG: He didn't say it was dark.

MR. LEXUS: Yes, he did.

MR. NADIG: No, he didn't. He did not.

MR. SCARBOROUGH: I think that's for the jury for determine.

THE COURT: How do you guys expect me to remember that?

MR. LEXUS: Yeah.

THE COURT: I'm just going to tell the jurors that --

MR. SCARBOROUGH: I'll move on, I'll move on.

THE COURT: All right, that's fine.

[End bench conference]

MR. LEXUS: Folks once again, as I was saying, what did he say? What was he said for sure? Saw him run away. Black man. Thought he had a jacket on.

Is that inconsistent with anything else? The other people saying -- describing a dark shirt with lettering? Folks, once again, his testimony was brought in to establish a shooting and that there was a single male was fleeing the scene.

Too far of a distance to give an ID, but was sure of a black male. We could play this game and speculate -- once again, we're going to speculate and talk about possibilities. You know, what if he was closer? You know, what if he -- what if the individual couldn't see the shirt

1 and has just described the jacket?

2 What if Brandi's just describing the shirt and not describing the
3 jacket? Maybe if he was mistaken and running down the street and
4 thought he had -- we could go on the wheel of possibilities and
5 speculation all day long.

6 The fact of the matter is you have a man hearing shots and
7 someone fleeing the scene.

8 Once again, the detective we go about this wheel again. Oh,
9 you know, it's he could have done cell phone tower. What? There's a
10 million things that go into that.

11 We could done DNA, latent print, this, that and the other. What
12 did he tell you? He's relying on other experts at Metro. Policy and
13 procedure, we asked did you follow that? Yes. Were you relying on
14 others? Yes.

15 But once again, we could do that in every case. We could talk
16 about, you know, it's possible this and speculate to that all day long.
17 That's not reasonable doubt, folks.

18 And lastly, he talks about, you know, one and a half minutes is
19 not enough to identify and gives a TV [indiscernible]. Well, folks, I would
20 submit to you that watching somebody on TV or going down the street
21 and talking to somebody for a minute is a lot different than somebody
22 approaching you with a hand behind their back.

23 And then, an argument ensues knowing something bad might
24 go wrong, and then, he pulled out a gun. That face will probably be with
25 him for the rest of his life. Your common sense tells you that. Attack that

1 all you want.

2 Folks, we have a jury instruction. As Jory pointed out it, it says
3 you bring the consideration the evidence your everyday common sense
4 and judgment of reasonable men and woman. You don't look at this in a
5 box.

6 More importantly, you have a jury instruction that recognizes in
7 cases you're not going to have people take the stand and not have any
8 baggage on them, but be like yeah, you know, I wasn't shot. I wasn't
9 stabbed. I have no dog in the fight. There's no personal vendetta going
10 on here. And guess what? That's the guy 100 percent.

11 And I got DNA and fingerprints and this, that, and the other.
12 The law recognizes that. It's called direct and circumstantial evidence.
13 Direct evidence is the testimony of a person who claims to have personal
14 knowledge of the crime such as an eyewitness.

15 Circumstantial evidence is proof of chain of facts and
16 circumstances which tend to show whether the Defendant is guilty or not.
17 The law makes no distinction between the two.

18 Sometimes we rely 100 percent on circumstantial evidence.
19 The law makes no distinction -- and this is straight from your jury
20 instructions. This isn't Chad's spin on it. The law makes no distinction
21 between the weight to be given to either direct or circumstantial evidence.

22 There's -- all of the evidence in the case, including the
23 circumstantial evidence, should be considered by you in arriving at your
24 verdict.

25 Nobody identified Mr. Bolden, right? That's what defense

1 counsel told you. Again, minutes with them showing up, they have a
2 name and they have a picture.

3 Here's the woman whose house we shot up. The man -- the
4 woman that was caught, a Ms. [indiscernible] if you will, a man you know
5 who had relations at one in point in time with this man, the mother of his
6 child. Out in front is another man that she's have sexual relations with.

7 And what? Within minutes, scrolling through her phone as that
8 officer told you showing a picture of who? Of that man sitting right there
9 with the name Jason Bolden.

10 Then, attack that all you want, folks. Attack Jegge all you want
11 for showing him a picture of this man. What's he do? Identifies him.

12 Now, folks, I want you to use your common sense for a second
13 on this. Often on cases where we're dealing with personal vendettas or
14 personal relationships, or anything like that where there's emotions get
15 involved, or people don't want testify and not show up for Court, or they
16 want to change their story, often our most powerful piece of evidence --

17 MR. NADIG: Your Honor, can we approach?

18 THE COURT: Yeah.

19 [Bench conference]

20 MR. NADIG: This isn't proper argument. He can't bring out
21 extrinsic case law and things of that nature or cases to discuss this case
22 and compare it to others.

23 THE COURT: No.

24 MR. LEXUS: I'm not talking about case law.

25 MR. NADIG: You are.

1 MR. LEXUS: I'm talking about --

2 THE COURT: I think you're talking about how you normally
3 handle other things, right? So.

4 MR. LEXUS: Yeah.

5 THE COURT: I mean, that's what you said.

6 MR. LEXUS: Yeah, absolutely.

7 MR. NADIG: That's improper.

8 MR. LEXUS: No, it's not.

9 THE COURT: Well, I'm going to rule that you have to move on.

10 MR. LEXUS: Okay.

11 THE COURT: I think that's not something that should be
12 brought up. We don't have the evidence of how you normally do it or
13 whether --

14 MR. LEXUS: That's 100 percent argument, Judge, but I'll move
15 on.

16 MR. NADIG: Yes, but it's improper.

17 THE COURT: Okay, go ahead just move on.

18 [End bench conference]

19 MR. LEXUS: Like I was saying, Judge, ladies, and gentlemen,
20 there's no time when you're calling to think about you know what? Maybe
21 I shouldn't be doing this. There's no time to think about you know what?
22 How's this going to affect me later on. You know what? How is this going
23 to be a repercussion on the 911 or statements made immediately after a
24 shocking event or emergency, something immediate is often one of the
25 best pieces of evidence for a jury.

1 And let's play it. And when we play it, I want you to focus on the
2 fact, again, this woman telling you how did she see him? She runs back
3 into the house. And then, she later on says she knows the way he left.

4 Is that inconsistent with anything? Once again, this man came
5 and told you he's outside with his brother. Back is to the apartment, back
6 is to the door.

7 When a heated exchange takes place between two men, his
8 brother and this man, two people very well Brandi knows, knows their
9 voice. Obviously knows something's -- situation's going to go down given
10 the fact there's a heated exchange.

11 And how do you know evidence of a heated exchange? Well,
12 the man's shot up the joint.

13 [Playing of 911 recording, admitted as Exhibit 125A]

14 MR. LEXUS: Ladies and gentlemen, I'd submit to you that
15 that's about as real as it gets. I also want you to consider what you'd
16 make of this call, what you just experienced. Almost lost her life as to her
17 child, as to her cousins, as to the other two people in that house, the
18 brothers.

19 If you think that was some Academy Award performance, by all
20 means, find this man not guilty. Absolutely supported by the man at a
21 distance saying he saw somebody running. Talk about possibility and
22 speculation all day long.

23 Well, you know, the jacket, this man saw the distance of his
24 jacket. Okay, she didn't mention jacket. Talk about possibilities of
25 speculation all day long when something is trying is give a description

1 when under that type of stress.

2 Or a man from that distance describing someone running off.
3 I'd submit to you if somebody broke in this room right here now and
4 started beating up Jory and took off and we would have been asked for
5 descriptions of suspects, we'd be getting a litany of different minor things.

6 Once again, it's a possibility and speculation. Is it backed up by
7 Brandi's 911 call, this man fleeing the scene in dark clothing? Absolutely.

8 Is it backed up by this situation where Jegge is showing the
9 man the picture? Absolutely. Both of them identified. Whether Defense
10 likes it or not, that's what they do. Circumstantial evidence, folks.

11 Brandi, Bryson, Brenton. Brandi not being here. Bryson not
12 being here, dodging service. Brenton brought in and told you why, why
13 didn't he up a fight? Why he's the way like -- that's circumstantial
14 evidence for you to consider.

15 You better believe, folks, if all we had is that 911, we'd be telling
16 you that's your man. If all we had is Brenton coming in, we'd be telling
17 you that's your man because direct and circumstantial evidence all goes
18 to one. And everything else is up to possibilities and speculation.

19 You add that with the circumstantial evidence and your mind's
20 telling you big surprise, the relationship, the mother of his child, Bryson, a
21 primary target. Big surprise he's not back here.

22 Brandi, same thing. Big surprise. Brenton, same thing. The
23 way this man's raised, not uncommon one day that this is a situation
24 you're dealing with.

25 Folks, I want to bring up something else which the law allows

1 you to look at in situations like this because all cases, you're not going to
2 have fingerprints, DNA, people taking the stand that are -- that they've
3 been [indiscernible] these would have baggage upon them and no
4 criminal history. No.

5 Motive, do I need to prove a motive, State need to prove a
6 motive? No, but is that other circumstantial evidence you can look at in
7 this case? Absolutely. Motive is not an element of the crime charged.
8 And the State's not required to prove motive on the part of the Defendant
9 in order to convict.

10 However, you may consider evidence of motive or lack of
11 motive as circumstances in this case. So you've got a motive in this case.
12 You've got motive of a man just coming by, walking by, then lighting up
13 the joint, shooting a man, shooting inside where the mother of his child is?
14 Yeah. Yeah.

15 Where the other man who's having sexual relations with is right
16 outside the apartment, right outside the girl's apartment, right outside the
17 apartment where you're child stays. Motive, absolutely you could
18 consider as you well you could flip around and the motive on the other
19 people not willing to be here.

20 Flight, folks, oftentimes cases are turned into identification case
21 because the suspect flees the scene. The law allows you to take that into
22 consideration. It's not a windfall for the Defense because the Defendant
23 flees the scene. No, it's the exact opposite.

24 Flight of a person immediately after the commission of a crime
25 is not sufficient itself to establish guilt, but is a fact which if proved may be

1 considered by you in light of all the other proved facts in deciding the
2 question of his guilt or innocence. Once again, folks, you take all this
3 evidence combined.

4 And another thing, too, which once again oftentimes we don't
5 have forensic evidence or people that don't have any criminal past or any
6 baggage in their past, the law is going to say, and I'll show you, the
7 evidence comes from right here, folks. What comes out of their mouth
8 and exhibits? The 911, the photos.

9 For example, I -- Brenton, is his story backed by any of the
10 photos? You got two unspent casings on the ground which indicate what?
11 His story from the get go of the man jammed his gun. That's why you can
12 those two unspent casings on the ground.

13 You can have all this other evidence we talked about as far as
14 exhibits. The picture of the Defendant. What comes out of their mouth?
15 Again, the 911 call.

16 Folks, that's what came and that's what the evidence is.
17 There's nothing that came from up here that's actual that you could grasp
18 on to, say you know what, it's Peter Smith. It's Jason Allen. Nothing that
19 came from this stand that says otherwise without you engaging in
20 possibilities or speculation.

21 You know what? Maybe the cops could have done X, Y, Z.
22 Maybe no, this person saw this. Maybe that. Speculating as to that.
23 Defense comes up, well, you could have done a six-pack. Maybe he
24 wasn't dying, so you know.

25 We could go on and on all day. Possibilities and speculations.

1 There's nothing from up here that you could grasp on to that came from
2 the exhibits and out of their mouth that say, you know what? It was Jason
3 Smith, it was John Doe without engaging in possibilities and speculation.

4 And folks, that's not me telling you. That's the law. The
5 evidence which you are to consider in this case consists of the testimony
6 of the witnesses, the exhibits, and any facts admitted or agreed to by
7 counsel.

8 Moreover, reasonable doubt. A reasonable doubt is one based
9 on reason. It's not mere possible doubt, but is such a doubt as would
10 govern or control a person in the more weighty affairs of life.

11 If the mind of the jurors after the entire comparison and
12 consideration of all the evidence are subject to conditions that they say
13 they feel an abiding conviction of the truth of the charge, there is not
14 reasonable doubt.

15 Let me go on. This is right out of your jury instructions. This is
16 the last part of the reasonable doubt jury instruction. Doubt to be
17 reasonable must be actual, not mere possibility or speculation.

18 Your man is shooting right there. There's nothing that's actual
19 without engaging in possibilities or speculation which points to anybody
20 else.

21 The State of Nevada asks that you give the people of this
22 community the justice they deserve and find this man guilty of four counts
23 of Attempt Murder with a Deadly Weapon, seven counts of Discharging a
24 Firearm at or into a Structure, and one part of Battery With a Deadly
25 Weapon. Thank you.

1 MR. NADIG: Your Honor, can we approach? I know he's
2 finished, but can we approach?

3 THE COURT: Yes.

4 [Bench conference]

5 THE COURT: Hold on, everybody.

6 MR. NADIG: This is for purposes of the record, I'm objecting to
7 the last two minutes of the burden shifting. He's attempting to place the
8 burden on my client to provide an alternate theory. I fully expect you to
9 overrule my objection.

10 THE COURT: Right.

11 MR. NADIG: I just want the objection for the record.

12 THE COURT: Right, I didn't find that to be improper, so it is
13 overruled.

14 MR. NADIG: Thank you.

15 THE COURT: Okay.

16 [End bench conference]

17 THE COURT: All right, ladies and gentlemen of the jury, at this
18 point in time, we're going to swear in the officers who will take charge of
19 you.

20 Marshal, and why don't you go in the back and see if the JEA
21 is --

22 THE MARSHAL: Okay.

23 THE COURT: All right, Madam Clerk, will you please swear in
24 the officers that will take charge of the jury and the alternate?

25 THE CLERK: Yes.

1 [The Court Officers and alternate are sworn by the Clerk]

2 THE COURT: All right, given that, Mr. Randolph, you were
3 chosen last, so you are the alternate in this case. The officer appointed to
4 take custody of you, Melanie Howard, will provide you with further
5 instructions as you exit and your need to be available.

6 All right, the rest of you are the jurors who will now retire to
7 deliberate.

8 Marshal, you will take charge of the jurors for that purpose.
9 Rise for the jurors.

10 THE MARSHAL: Okay, all rise for the jury. Stand up, guys.
11 You guys come on this way now.

12 [Outside the presence of the jury]

13 THE COURT: Please be seated, everybody.

14 MR. LEXUS: Judge, I'm going to get the --

15 THE COURT: Yes, sir?

16 MR. LEXUS: I'm going to run and get the verdict form because
17 I need to make a correction on it.

18 THE COURT: Thank you. My Clerk was just asking me about
19 that as well.

20 MR. LEXUS: And then we have -- I think Mr. Nadig's going to
21 bring around the next set of jury instructions.

22 THE COURT: Of course.

23 MR. LEXUS: And then, we already filed yesterday --

24 THE COURT: The second amended information.

25 MR. LEXUS: The second amended --

1 MR. SCARBOROUGH: And the JOCs.
2 MR. LEXUS: And the JOCs as court exhibits.
3 THE COURT: And I checked with my Clerk last night and those
4 have all been filed as well.
5 MR. LEXUS: Okay.
6 MR. SCARBOROUGH: And I also have a clean laptop ready to
7 go for the jurors as well.
8 THE CLERK: Yes.
9 MR. LEXUS: And then just so you know, too, whether even if
10 it's not guilty, we still are presenting Phase 2 --
11 THE COURT: Of course.
12 MR. LEXUS: -- of this.
13 THE COURT: I understand.
14 MR. SCARBOROUGH: Thank you.
15 THE COURT: Anything else to put on the record?
16 MR. NADIG: No, Your Honor.
17 MR. SCARBOROUGH: Nothing from the State.
18 THE COURT: All right, all right, Mr. Nadig, you going to stick
19 around close somewhere? I don't know where your office is.
20 MR. NADIG: I have my office literally down the street.
21 THE COURT: Oh, okay.
22 MR. SCARBOROUGH: I'll give my answer.
23 THE COURT: All right, very good.
24 MR. NADIG: Yeah.
25 THE COURT: All right, see you guys back whenever.

1 [Trial in recess taken at 12:22 p.m.]

2 [Trial resumed at 3:59 p.m.]

3 THE MARSHAL: And remain seated. Department 2 back on
4 the record, back in session.

5 THE COURT: All right, I understand the jury has reached a
6 verdict. Before we bring them in, after we read the verdict, I'm going to tell
7 them they can't go home yet. We have another short phase which we're
8 going to get done tonight. I am going to --

9 MR. LEXUS: The proper --

10 THE COURT: -- what I'm trying to think go ahead.

11 MR. LEXUS: The proper procedure would be read the second
12 amended.

13 THE COURT: Let me just ask if she has it. She's pulling it up
14 now.

15 MR. LEXUS: -- then ask the State if we have anything
16 additional. And we're going to stand up and say with the adoption of
17 everything that has already been admitted, we have nothing further. I'm
18 sure Ben is going to --

19 MR. NADIG: I would change that a little bit. I think on the
20 record, I would put the convictions. I would put the convictions on the
21 record what specifically they are and then rest. And then I would rest.

22 MR. LEXUS: Okay.

23 MR. NADIG: Yeah.

24 MR. LEXUS: Will do, will do.

25 MR. NADIG: Yeah.

1 MR. LEXUS: Okay.

2 MR. NADIG: Just for purposes of this, because they're
3 admitted in the record, which is fine. However, you still need to lay a
4 predicate case.

5 MR. LEXUS: Okay.

6 THE COURT: All right, so I'll just put on the record that --

7 MR. LEXUS: The State does.

8 THE COURT: You'll put it on the record as part of your case in
9 chief.

10 MR. LEXUS: I'll move to formally admit the judgments and
11 conviction.

12 THE COURT: Perfect.

13 MR. LEXUS: And request that Defense --

14 MR. NADIG: Well, no, they're already admitted. You just read
15 out he's convicted of this on this date, convicted of this on this date,
16 convicted of this.

17 MR. LEXUS: Okay.

18 MR. NADIG: Because you need to have the evidence
19 presented with the admission.

20 THE COURT: Right, do you need to grab those back from the
21 Clerk?

22 MR. LEXUS: Sure, no problem.

23 THE COURT: All right, very good. The convictions that we
24 introduced yesterday may be marked. You have them, right? All those
25 documents that you were introducing that we discussed.

1 THE CLERK: Those are the cross exhibits?

2 THE COURT: Yes.

3 THE CLERK: Okay. Yes, I have them.

4 THE COURT: All right. All right, let's go ahead and bring them
5 in.

6 MR. NADIG: And just for the record, if you like, we should do
7 an opening and closing, but I don't anticipate myself or the State doing an
8 opening. The closing is --

9 THE COURT: I'll invite you to it.

10 MR. NADIG: Yeah. .

11 [Counsel confer]

12 [The Judge confers with the Clerk]

13 THE MARSHAL: Ready?

14 THE COURT: Yes.

15 THE MARSHAL: Okay, all rise for the jury. All right. All right,
16 great, all jurors are present.

17 [In the presence of the jury]

18 THE COURT: All right, please be seated, everybody. Thank
19 you for your patients, jurors.

20 I understand that the jury has reached a verdict. Has the jury
21 selected a foreperson?

22 JUROR NO. 10: Yes, sir.

23 THE COURT: All right, will the foreperson please stand and
24 identify yourself?

25 JUROR NO. 10: Shania Harris, Juror 10.

1 THE COURT: Juror 10? All right, and Ms. Harris, has the jury
2 reached a verdict?

3 JUROR NO. 10: Yes, we have.

4 THE COURT: All right, you may present that to the Marshal.
5 Thank you. All right, and Ms. Harris under Count 12 --

6 JUROR NO. 10: That was my --

7 THE COURT: Are these your initials next to a place?

8 JUROR NO. 10: Correct.

9 THE COURT: Okay.

10 JUROR NO. 10: It was mismarked.

11 THE COURT: Okay, and that was mismarked. Okay, I
12 understand.

13 JUROR NO. 10: I asked if we needed a new sheet, he said it
14 should be fine with the --

15 THE COURT: That's fine. We understand what you're doing
16 here. All right, very good.

17 All right, Madam Clerk, will you please read the verdict?

18 THE CLERK: District Court, Clark County, Nevada, the state of
19 Nevada plaintiff versus Jason Bolden, aka Jason Jerome Bolden
20 Defendant. Case number C334635, Department 2.

21 Verdict, we the jury in the above-entitled case find Defendant
22 Jason Bolden as follows. Count 1, Attempt Murder with Use of a Deadly
23 Weapon Brenton Martinez. Guilty of Attempt Murder with Use of a Deadly
24 Weapon.

25 Count 2, Attempt Murder with Use of a Deadly Weapon Bryson

1 Martinez, guilty of Attempt Murder with Use of a Deadly Weapon.

2 Count 3, Attempt Murder with Use of a Deadly Weapon, Brandi
3 Coleman. guilty of Attempt Murder with Use of a Deadly Weapon.

4 Count 4, , Attempt Murder with Use of a Deadly Weapon,
5 Sanyleh Bolen, guilty of , Attempt Murder with Use of a Deadly Weapon.

6 Count 5, Discharging Firearm at or into Occupied Structure,
7 Vehicle, Aircraft, or Water Craft, guilty of Discharging Firearm at or into
8 Occupied Structure, Vehicle, Aircraft, or Water Craft.

9 Count 6, Discharging Firearm at or into Occupied Structure,
10 Vehicle, Aircraft, or Water Craft, guilty of Discharging Firearm at or into
11 Occupied Structure, Vehicle, Aircraft, or Water Craft.

12 Count 7, Discharging Firearm at or into Occupied Structure,
13 Vehicle, Aircraft, or Water Craft, guilty of Discharging Firearm at or into
14 Occupied Structure, Vehicle, Aircraft, or Water Craft.

15 Count 8, Discharging Firearm at or into Occupied Structure,
16 Vehicle, Aircraft, or Water Craft, guilty of Discharging Firearm at or into
17 Occupied Structure, Vehicle, Aircraft, or Water Craft.

18 Count 9, Discharging Firearm at or into Occupied Structure,
19 Vehicle, Aircraft, or Water Craft, guilty of Discharging Firearm at or into
20 Occupied Structure, Vehicle, Aircraft, or Water Craft.

21 Count 10, Discharging Firearm at or into Occupied Structure,
22 Vehicle, Aircraft, or Water Craft, guilty of Discharging Firearm at or into
23 Occupied Structure, Vehicle, Aircraft, or Water Craft.

24 Count 11, Discharging Firearm at or into Occupied Structure,
25 Vehicle, Aircraft, or Water Craft, guilty of Discharging Firearm at or into

1 Occupied Structure, Vehicle, Aircraft, or Water Craft.

2 Count 12, Battery with a Deadly Weapon, Brenton Martinez,
3 guilty of Battery with a Deadly Weapon, dated this 30th day of May, 2019,
4 Shania Harris, foreperson.

5 Ladies and gentlemen of the jury, is this your verdict as read so
6 say you one, so say you all?

7 JURORS [IN UNISON]: Yes.

8 THE COURT: All right, the jurors have answered in the
9 affirmative collectively.

10 Would -- counsel, would you like to have the jurors polled
11 individually?

12 MR. NADIG: No, Your Honor.

13 THE COURT: All right, very good. Anything else to put on the
14 record before I discharge the jurors?

15 MR. NADIG: You're not discharging the jurors.

16 THE COURT: With respect to this?

17 MR. LEXUS: That's correct, but we do need to make a
18 correction with Phase 2, so.

19 THE COURT: Understood.

20 MR. LEXUS: -- we'd ask you to make -- to have them go back
21 in the jury deliberation room while we take a --

22 THE COURT: All right, very good. So I'll ask the Clerk to enter
23 the verdict and the minutes of the Court.

24 Jurors, I'm going to have you retire. I didn't mean to say
25 discharge. I'm going to have you retire momentarily while we have to

1 discuss a few things here.

2 The admonishment that I had given you before still applies.
3 Don't talk to the attorneys, or the witnesses, or the parties while you are
4 waiting for us to get back to you.

5 Don't discuss the subject matter of this trial any more while
6 you're waiting for us. And do not discuss your deliberations. Do not
7 discuss any opinions that you will form. Do you understand all that?

8 JUROR NO. 10: Yes, sir.

9 THE COURT: All right, Marshal, please excuse the jurors. Let
10 them retire back to the deliberation room momentarily.

11 THE MARSHAL: Okay.

12 THE COURT: Thank you.

13 THE MARSHAL: Rise for the jury.

14 [Outside the presence of the jury]

15 THE COURT: All right, we're outside the presence of the jury.
16 Looks like Mr. Lexus stepped out?

17 MR. SCARBOROUGH: Yes, there were some amendments
18 and corrections we actually had to make for the amended -- the second
19 amended information in relation to the possession by prohibited person.

20 THE COURT: I understand.

21 MR. SCARBOROUGH: There was some typographical errors
22 and mislabelings of the underlying convictions we were alleging in the
23 amended. So rather than interlineate a bunch of times on it, we just
24 wanted to get a clean document. So that's why Mr. Lexus --

25 THE COURT: All right, I understand. Where's the second set

1 of instructions that I'm going to read?

2 MR. NADIG: You should have been provided and I have them
3 if not.

4 THE COURT: All right, my Clerk has it.

5 MR. NADIG: Instruction number 3 will need to be changed.

6 THE COURT: Understood.

7 MR. NADIG: Additionally, Your Honor, just for the record, the
8 State did not fill a notice of habitual in this case, so would not be
9 applicable.

10 THE COURT: All right, very good. We're just going to -- we're
11 waiting for Mr. Lexus to come back with --

12 MR. NADIG: An amended amended.

13 THE COURT: An -- right.

14 MR. NADIG: Text to make sure he knows that he needs to
15 change instruction number 3 as well.

16 MR. SCARBOROUGH: [Indiscernible].

17 THE COURT: We can simply interlineate that if that makes it --

18 MR. NADIG: And I'm fine with that. I was actually fine with him
19 interlineating, but --

20 MR. SCARBOROUGH: Yeah.

21 THE COURT: Mr. Scarborough?

22 MR. SCARBOROUGH: Yes, Your Honor.

23 THE COURT: I needed to know if we were going to entertain
24 argument on the custody status of the Defendant?

25 MR. NADIG: I expect that that will be something.

1 THE COURT: That will be something --

2 MR. NADIG: Yes.

3 THE COURT: Contested?

4 MR. SCARBOROUGH: Yes.

5 THE COURT: Because I -- if it was going to be agreed upon by
6 the parties, whatever we were going to do, I was going to let the Marshals
7 go, but we got to hang around with a couple Marshals deciding what might
8 be the appropriate disposition.

9 MR. SCARBOROUGH: I understand.

10 MR. NADIG: From a political aspect, I don't think that the D.A.
11 could agree to what we would want them to agree to. Submit with that.

12 THE COURT: All right, well, I didn't know if you guys worked
13 something out so I need to ask.

14 MR. NADIG: No, we didn't.

15 THE COURT: All right, so I'm going to ask the Marshals to stay,
16 please. You can go ahead and be seated.

17 MR. NADIG: Thank you.

18 THE DEFENDANT: [Indiscernible.]

19 MR. NADIG: Your Honor at this point in time, he's not in
20 custody. So he's free to do whatever else?

21 THE COURT: Marshal, I'll go ahead and allow it. If it's okay
22 with his counsel.

23 THE MARSHAL: Okay.

24 [Counsel confers with the Defendant]

25 THE COURT: Guys.

1 MR. NADIG: Oh, are we on record?

2 THE COURT: Well, no --

3 MR. NADIG: I apologize, Your Honor.

4 THE COURT: Well, I think we are -- but I -- let's go off the
5 record.

6 MR. NADIG: Okay. .

7 [Trial in recess at 4:13 p.m.]

8 [Trial resumed at 4:27 p.m.]

9 MR. NADIG: Amended information with an interlineation
10 specifically as to line 3 and 4 on page 2 striking through Las Vegas
11 Municipal Court, Clark County.

12 THE COURT: Oh, hold on. Can you hold on my Clerk was
13 looking for something.

14 THE CLERK: Sorry, I was just going to see [indiscernible].

15 MR. NADIG: Oh, you're right, you're right.

16 THE CLERK: Yes, [indiscernible].

17 MR. NADIG: Yes, it is the 3rd, because we never -- this was
18 not filed.

19 THE COURT: Thank you.

20 MR. NADIG: Just for the record, interlineating on page 2, line 3
21 and line -- through line 4 replacing Las Vegas Municipal Court Clark
22 County with Clark County District Court, Clark County. And that should be
23 the sum total of the interlineations. I am initialing it.

24 UNIDENTIFIED SPEAKER: And you also have the same
25 corrections to the jury instructions [indiscernible].

1 MR. NADIG: Yes, on instruction number 3 in the jury
2 instructions as to line 15 on page 3, Your Honor, we will be striking
3 through Las Vegas Municipal Court Clark County and putting Clark
4 County District Court, Chad Lexus and Ben Nadig and both initialed with a
5 C.L. and a B.N.

6 THE CLERK: Okay.

7 THE COURT: Okay, thank you. Looks like my Clerk will
8 conform. Right, thank you.

9 THE CLERK: Thank you.

10 THE COURT: All right, give me a moment, counsel.

11 All right, we're ready to bring the jurors back in.

12 MR. LEXUS: Judge, as we previously spoke, as defense
13 counsel stated earlier when after you read the 3rd amended, you asked
14 the State if we present any witnesses.

15 We're not going to present any witnesses. I'm just going to
16 move to formally admit the judgments of convictions that are listed on the
17 information and with that, we will rest after.

18 THE COURT: Very good. Thank you. So first thing we do is
19 when they come in, I'll tell them that we have another phase in this
20 proceeding and go ahead and read the charges and then we'll proceed
21 with what you say.

22 All right, Marshal?

23 THE MARSHAL: Yes, sir.

24 [Pause]

25 THE MARSHAL: Okay, rise for the jury. All jurors are present.

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[In the presence of the jury]

THE COURT: All right, please be seated everybody. Ladies and gentlemen of the jury, I can't release you yet because we have another mini proceeding that we have to conduct. This won't take long depending on how long you want to have new deliberations.

All right, so bear with me. Pay attention and we'll get through this in most economical fashion that we can.

So there's an additional charge that I need to have the Court Clerk read. Let me go ahead and give you the preface. This is a criminal case brought by the state of the Nevada. The State charges the Defendant with an alleged crime. The charge against the Defendant is contained in the third amended information.

This information simply describes the charge that the State brings against the Defendant. This information is not evidence and does not prove anything.

The Clerk will now read the information.

THE CLERK: District Court, Clark County Nevada, the State of Nevada Plaintiff versus Jason J. Bolden, aka Jason Jerome Bolden Defendant.

Case number C334635, department number 2, third amended information. Steven B. Wolfson, District Attorney within and for the county of Clark, state of Nevada, in the name and by the authority of the state of Nevada informs the Court that Jason Jay Bolden aka Jason Jerome Bolden, the Defendant above named having committed the crime of ownership or possession of firearm by prohibited person on or about the

1 first day of July 2018 within the County of Clark, state of Nevada, contrary
2 to the form, force, and effect of statutes in such cases made and provided
3 and against the peace and dignity of the state of Nevada did willfully,
4 unlawfully, and feloniously own, or in his own possession and/or under his
5 custody or control a firearm to wit firearm, the Defendant being a
6 convicted felon, having in 2009 been convicted of trafficking controlled
7 substance in case number C228792 in or having in 2009 been convicted
8 of battery constituting domestic violence with substantial bodily harm and
9 attempt battery constituting domestic violence with substantial bodily harm
10 in case number C246243 in the Clark County District Court felonies under
11 the law of the state of Nevada. Steven B. Wolfson, Clark County District
12 Attorney.

13 THE COURT: Thank you, Madam Clerk.

14 The Defendant has pled guilty or not guilty to the charge -- this
15 additional charge and is presumed innocent unless the State proves the
16 Defendant guilty beyond a reasonable doubt.

17 In addition, the Defendant has the right to remain silent and
18 never has to prove innocence or to present any evidence.

19 I'll ask the State, does the State have any witnesses that it
20 wishes to present at this time as to this additional charge or to provide any
21 additional evidence to the Court?

22 MR. NADIG: Your Honor, can we approach?

23 THE COURT: Yes.

24 [Bench conference]

25 THE COURT: I thought you guys both waived any opening

1 statement?

2 MR. NADIG: Well, no, we do have to do it on the record that's
3 the only thing.

4 THE COURT: Oh, okay.

5 MR. NADIG: That's it.

6 THE COURT: Okay. That's fine.

7 [End bench conference]

8 THE COURT: All right, does the State have any opening
9 statement it would like to make in this matter?

10 MR. LEXUS: No, Judge.

11 MR. SCARBOROUGH: No, Your Honor.

12 THE COURT: Does the Defense have any opening statement it
13 would like to make in this matter?

14 MR. NADIG: No, Your Honor.

15 THE COURT: All right, does the State have any witnesses or
16 other evidence that it would like to present at this time?

17 MR. LEXUS: The State moves to admit certified judgments of
18 convictions the first out of Clark County district Court in case C228792 for
19 trafficking controlling a substance in 2009.

20 THE COURT: All right.

21 MR. LEXUS: I also have --

22 THE COURT: It's so admitted. The document having been
23 previously reviewed.

24 MR. NADIG: At this point, I want to object as to foundation.

25 THE COURT: All right.

1 MR. LEXUS: That's fine, Judge. I'll -- let me restate.

2 MR. NADIG: For the record, who is the person who was
3 convicted of that charge?

4 MR. LEXUS: Jason Jerome Bolden, ID Number 1891927
5 judgment and conviction, case C228792 trafficking a controlled substance
6 2009. I also have --

7 THE COURT: Thank you, Mr. Nadig, for that clarification. All
8 right. Go ahead.

9 MR. LEXUS: Also have ID number 1891927, which is Jason
10 Spillers [phonetic], also known as Jason Bolden in case C246243, 2009
11 for battery constituting domestic violence with substantial bodily harm and
12 attempt battery constituting domestic violence with substantial bodily harm
13 all certified.

14 THE COURT: Mr. Nadig?

15 MR. NADIG: And Your Honor, for the record, I have reviewed
16 those. I believe that they are admissible based on their certified nature.
17 So I'll submit.

18 THE COURT: They are admitted. Anything else from the
19 State?

20 MR. LEXUS: No, with this being admitted, Judge, the State
21 rests.

22 THE COURT: Very good.

23 Does the Defense have any witnesses or evidence that it would
24 like to present to the Court at this time?

25 MR. NADIG: No, Your Honor Defense rests.

1 THE COURT: All right. Very good.

2 Would the State like to make any closing argument?

3 MR. LEXUS: Judge, I would first -- may we re-approach,
4 Judge?

5 THE COURT: Yeah. Oh, let me go ahead and read the -- let
6 me read the supplemental instructions.

7 MR. LEXUS: Yeah.

8 THE COURT: Ladies and gentlemen, I have to read you some
9 additional instructions. Some of these may be repetitive of what you
10 heard in the prior phase of this proceeding, but I'm going to read them
11 nevertheless, okay?

12 All right, instructions to the jury.

13 [The Court read the supplemental instructions to the jury]

14 THE COURT: Those are the instructions. Jurors, if I read
15 those fast, please don't interpret that as suggesting in any way how long
16 you should spend for any subsequent deliberations. That is totally up to
17 you to determine, you know, based upon the law and the evidence.

18 Also, please don't concern yourself as to why I bifurcated these
19 proceedings. All right, does the State wish to present closing argument?

20 MR. LEXUS: Briefly, Judge.

21 Ladies and gentlemen, this comes down to basically jury
22 instruction 11, which says that it's against the law for a prohibited person,
23 meaning a person who has previously been convicted of a felony which
24 we have admitted his JOCs to possess a firearm. You don't need to shoot
25 the firearm. You don't need to hit anybody with a firearm. It's simply

1 possess a firearm.

2 You already found him guilty of not only owning a gun, but
3 shooting that firearm, which I way more than what the law requires under
4 this charge. Therefore, I would ask him to found to be guilty of
5 possession of a firearm by a prohibited person. Thank you.

6 THE COURT: Mr. Nadig, would you like to present a closing
7 argument --

8 MR. NADIG: Thank you.

9 THE COURT: -- to the jury, sir?

10 MR. NADIG: Briefly. Ladies and gentlemen of the jury, they
11 have to prove he possessed a firearm, they have to prove that he did not
12 have the ability legally to possess a firearm. And based upon that, you
13 need to make a decision. So I'll submit it on that.

14 THE COURT: Thank you. Anything before I submit the jury for
15 further deliberations? .

16 MR. NADIG: No.

17 MR. SCARBOROUGH: [Indiscernible] rebuttal of proof of the
18 gun.

19 THE COURT: All right.

20 MR. LEXUS: Yes.

21 THE COURT: We have that, right?

22 MR. LEXUS: Once again, you're able to adopt all the facts and
23 evidence that came in during the first phase of this trial and again, direct
24 and circumstantial evidence. With that, I'll submit. Thank you.

25 THE COURT: Anything else from the attorneys before I allow

1 the jury to retire for further deliberations?

2 MR. NADIG: No, Your Honor.

3 MR. SCARBOROUGH: No, Your Honor.

4 THE COURT: Okay, the Marshal has already been sworn. He
5 will continue to be under oath to take charge of the jury and to make sure
6 that they properly conduct their deliberations in accordance with previous
7 instructions.

8 THE MARSHAL: Yes.

9 THE COURT: Correct, Marshal?

10 THE MARSHAL: Yes, sir.

11 THE COURT: All right, ladies and gentlemen of the jury, I need
12 you to retire one more time to deliberate on this one additional charge.
13 The Court Clerk will again provide you with the jury instructions and a
14 verdict form for you to consider. All right. So you're not going to retire for
15 this additional phase of the proceedings. Thank you.

16 THE MARSHAL: Rise for the jury. Come on back.

17 [Outside the presence of the jury]

18 THE COURT: All right, everybody may be seated. Be at ease.
19 Anything to put on the record before -- anything to put on the record
20 before we go off the record?

21 MR. NADIG: No, Your Honor.

22 MR. SCARBOROUGH: No, Your Honor.

23 THE COURT: Okay, very good. I'll be back when it's
24 appropriate. All right.

25 MR. NADIG: Thank you, Your Honor.

1 THE COURT: You have the jury verdict form to give to the
2 jurors?

3 THE CLERK: I [indiscernible].

4 THE COURT: All right.

5 THE CLERK: And then we'll leave as State's exhibits and
6 they're going to back, right, to the jurors, these --

7 MR. NADIG: Yes.

8 THE COURT: Yes, I didn't know what these was yes.

9 THE CLERK: Sorry.

10 THE COURT: Thank you.

11 [Trial in recess at 4:51 p.m.]

12 [Trial resumed at 4:55 p.m.]

13 THE COURT: I was hoping we could have just adopted the jury
14 instructions rather than reading them all, but --

15 MR. NADIG: Yeah, unfortunately because they're slightly
16 different.

17 THE COURT: Okay, right, 11, maybe a couple of others.

18 MR. NADIG: I was joking with the State that I was going to
19 object because they didn't establish identification or jurisdiction for the
20 second charge.

21 THE COURT: I understand.

22 MR. SCARBOROUGH: Yeah.

23 THE COURT: We are still on the record, but I'm going to invite
24 you to go back and confer, talk to the jurors.

25 THE MARSHAL: Rise for the jury.

1 MR. NADIG: Thank you.

2 MR. SCARBOROUGH: Thank you.

3 [In the presence of the jury]

4 THE COURT: All right, please be seated everybody. The
5 jurors are present.

6 Ms. Harris, are you still the foreperson?

7 JUROR NO. 10: Yes, Your Honor.

8 THE COURT: All right, Shania Harris, 069, seat number 10 has
9 the jury reached a verdict on the additional charge?

10 JUROR NO. 10: Yes, we have.

11 THE COURT: Can you please present the verdict to the
12 Marshal? All right, I will have the Court Clerk read the verdict.

13 THE CLERK: District Court, Clark County Nevada, the state of
14 Nevada Plaintiff versus Jason J. Bolden aka Jason Jerome Bolden
15 Defendant. Case number C334635, Department number 2.

16 Verdict, we the jury in the above-entitled case find the
17 Defendant Jason J. Bolden as follows. Count 1, Ownership or
18 Possession of Firearm By a Prohibited Person, guilty of Ownership or
19 Possession of Firearm By a Prohibited Person. Dated this 30th day of
20 May, 2019, Shania Harris, foreperson.

21 Jurors, is this your verdict as read so say you one so say you
22 all?

23 JURORS [IN UNISON]: Yes.

24 THE COURT: I think you've all answered in the affirmative?
25 Does anybody wish to have the jurors polled?

1 MR. NADIG: No, Your Honor.

2 THE COURT: All right, the Court will enter the verdict and the
3 minutes in the record of the Court.

4 Ladies and gentlemen of the jury, at this time, I am discharging
5 you. You're free from the admonishments that I'd given you before.
6 You're free to discuss your deliberations, your opinions, your decision
7 making process, your feelings about this case, the evidence of the case.
8 You're free to discuss anything about this case that you would like to do
9 so.

10 I'm going to invite you to go back to the deliberation room. And
11 if you'd like to, I'm going to invite the attorneys to go back there. And
12 you're free to confer with the attorneys and answer any questions that
13 they might have for you. Give them your thoughts.

14 It's -- in my department, it's customary to allow the jurors to talk
15 to the attorneys after a case. So feel free to do that. If you don't wish to
16 do that, you can simply gather your belongings and go home. Otherwise,
17 please stick around.

18 You've been a most attentive jury. You've served a critical role
19 in our judicial system. We cannot have a judicial system like ours without
20 citizens that are willing to dedicate their time. Thank you very much.

21 All right, Marshal?

22 THE MARSHAL: All rise for the jury.

23 [Outside the presence of the jury]

24 THE COURT: All right, please be seated.

25 MR. NADIG: And, Your Honor, if we can I think at this point

1 time, it's fair to discuss, Mr. Bolden's custody status?

2 THE COURT: Exactly.

3 MR. SCARBOROUGH: He has to stay with move for -- remand
4 into custody without bail. He was convicted of 13 felonies. The
5 presumption of innocence is no longer in existence. Four of which those
6 felonies are nonprobationary. Based on that, we'd ask for a remand with
7 no bail pending sentencing.

8 MR. NADIG: Your Honor --

9 THE COURT: Mr. Nadig?

10 MR. NADIG: -- my response to that is, while he was convicted
11 of the charges and the presumption is gone, he has lived out of state. He
12 has attended every single court appearance except for those where his
13 presence has been waived.

14 You heard the victim in this case's statement that he has not
15 threatened that gentleman or has not had any contact with that individual.
16 He has a house in Oklahoma and he has an apartment here.

17 He would request time to get his affairs in order prior to turning
18 himself in as he did not expect the verdict that he got. Your Honor, if we
19 could do an out-of-custody sentencing or even in the alternative, give him
20 two weeks to get his affairs in order, that is what I would ask for.

21 THE COURT: Under the circumstances of this case, I must
22 remand him without bail at this time. All right? Let me go ahead and give
23 some further instructions to Mr. Bolden.

24 Mr. Bolden, you will be contacted by Department of Parole and
25 Probation. You will be requested to provide them with in -- with

1 information and to interview with them.

2 The purpose of providing them with that information is so they
3 can prepare a report called a presentence investigation report. That
4 report will have information you give them as well as other information
5 they collect. They'll present that report to me for careful consideration
6 before I sentence you. Do you understand that, sir?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right, very good. Your sentencing date will
9 be?

10 THE CLERK: July 9th, 2019 at 9 a.m.

11 THE COURT: Mr. Nadig, do you have that, sir?

12 MR. NADIG: I do, Your Honor.

13 THE COURT: All right, anything else to put on the record,
14 counsel?

15 MR. LEXUS: No, Judge, thank you.

16 MR. SCARBOROUGH: No, Your Honor, thank you.

17 THE COURT: All right, then again I invite you to go confer with
18 the jurors if you so wish. And the Court is now off the record.

19 MR. NADIG: Thank you.

20 [Trial Day 3 concluded at 5:01 p.m.]

21 * * * * *

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

3 a 14

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5 Chris Hwang
6 Transcriber
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1 **RTRAN**

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5 **DISTRICT COURT**
6 **CLARK COUNTY, NEVADA**

8 **THE STATE OF NEVADA,**

9 **Plaintiff,**

10 **vs.**

11 **JASON BOLDEN,**

12 **Defendant.**

CASE NO. C-18-334635-1

DEPT. NO. II

13
14 **BEFORE THE HONORABLE RICHARD F. SCOTTI,**
15 **DISTRICT COURT JUDGE**
16 **TUESDAY, JULY 23, 2019**

17 **RECORDER'S TRANSCRIPT OF HEARING:**
18 **SENTENCING**

19 **APPEARANCES:**

20 **For the Plaintiff:**

CHAD LEXIS, ESQ.,
M. JORY SCARBOROUGH, ESQ.
Deputy District Attorneys

21 **For the Defendant:**

BENJAMIN J. NADIG, ESQ.

22 **Victim Speaker:**

BRANDI COLEMAN

23
24
25 **RECORDED BY: DALYNE EASLEY, COURT RECORDER**

1 Las Vegas, Nevada; Tuesday, July 23, 2019

2
3 [Hearing commenced at 8:54 a.m.]

4 THE COURT: All right. Counsel, this is -- you can go ahead
5 and take a seat. This is the case of State versus Bolden, C-18-334635-
6 1. We're here for sentencing.

7 Counsel, identify yourselves.

8 MR. SCARBOROUGH: Jory Scarborough for the State, along
9 with my co-counsel, Chad Lexis for the State.

10 MR. NADIG: And good morning, Your Honor. Ben Nadig on
11 behalf of Mr. Bolden, who's present in custody.

12 THE COURT: Very good. Counsel, I've read all the
13 paperwork carefully. Let's go ahead and hear from the State first.

14 MR. SCARBOROUGH: Well, Your Honor, before I begin, and
15 this is actually to my surprise, we have a Victim Speaker who's here.
16 And I believe that's actually Ms. Coleman. And Ms. Coleman, as you
17 would recognize, was the mother of Sanyleh Bolden, another victim that
18 Mr. Bolden almost took the life of as he blindly shot into that apartment.

19 She avoided our subpoenas. She didn't bring herself, nor her
20 child to Court to answer to the call. I'm at a loss for -- I can't even
21 believe she's here to come speak. It's -- I think it's actually pretty
22 egregious. We have a man who opened fire blindly into an apartment
23 building, almost killing his -- the mother of his child, his child, and two
24 other people.

25 Looking at his extensive record, it's -- you know, I'll admit

1 there's some just relatively nonviolent charges for drugs, but what is also
2 present is a litany of battery domestic violence charges, domestic
3 violence with a deadly weapon, attempt battery with substantial bodily
4 harm, multitude of domestic violence convictions on the misdemeanor
5 level, and it's only escalated from there.

6 Frankly, this man wasn't supposed to have a gun. He almost
7 took the lives of four people. And I think, P and P's recommendation,
8 the way I calculated it, was 28 on the bottom -- 28 years on the bottom
9 because the four attempted murder counts with the deadly weapon
10 enhancement, seven years totaling each, all to run consecutive, then the
11 remaining counts to run concurrent, for a total of 160 on the back end.
12 Your Honor, I think he deserves every last bit of that time.

13 Regardless if Ms. Coleman's here to speak in attempt to
14 persuade you, the reality of it is, is she didn't show up. There's a bias
15 here. There was a bias for her not showing up at trial. There's going to
16 be a bias here. And I think, Your Honor, this offense is so egregious
17 that it's worth all that time. Again, his own daughter was in the house.

18 Sanyleh Bolen was four years old at the time. And I think at
19 the time, the witnesses and the victim, who is here, thought they could
20 avoid prosecution of Mr. Bolden by not showing up. But as you sat
21 through the trial and heard the jury verdict, that wasn't true.

22 So Your Honor, I mean, looking at the litany of violent
23 offenses this man has, looking at his extensive record and looking at the
24 egregious nature of the offense and the lives that he almost took by just
25 recklessly discharging round after round after round into that apartment,

1 I think the 28 to 160 is more than warranted. And based on that, Your
2 Honor, I'll submit.

3 THE COURT: Thank you. Mr. Nadig, you or your client first?

4 MR. NADIG: I believe I'd like Mr. Bolden to speak first.

5 THE COURT: All right. Mr. Bolden, you may address the
6 Court.

7 THE DEFENDANT: Yes, how you doing, Your Honor? My
8 name is Jason Bolden. I'm here today to say that I really didn't commit
9 this crime. You know what I mean? I did not commit this crime. I never
10 was there, nor I never seen [indiscernible] how a man can get on the
11 stand and say I did that. He got on the stand to say it. I wasn't the
12 shooter. I don't understand that. I'm not here to play that.

13 And I did do things back in my days, though. I'm 47 years old
14 now. Those convictions was years ago. You know what I mean? I
15 never -- I aint got in no trouble after that. When this case happened, I
16 never got no trouble. I actually got away from Vegas. You know?

17 So I'm just asking you to give me some leniency because I
18 really didn't do this crime. And I'm hoping my lawyer can get me an
19 appeal to whatever I gotta do to get back to my family. Like, I really
20 didn't commit this crime, like -- this crime is just really messed up. I
21 don't see how a man can just get up there and just say that I did it after
22 he said I didn't do it, that is weird, like. You know what I mean? But it's
23 in God's hands. That's all I can do.

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

25 MR. NADIG: And Your Honor --

1 THE COURT: Would you like to hear from the Victim Speaker
2 before --

3 MR. NADIG: I think by statute she has to go last.

4 THE COURT: Okay.

5 MR. NADIG: Your Honor, from 2009 to 2018 Mr. Bolden
6 stayed out of trouble. And I checked his record to make that sure he
7 wasn't incarcerated during that period of time, and it appears that he
8 was not. So, for a nine year period as an adult, he was gainfully
9 employed. He was staying out of trouble. He was doing the things he
10 was supposed to be doing. Obviously, as Mr. Bolden represented, he
11 denies doing this crime. He wishes to appeal this crime.

12 If you look at the facts of the case as you heard them -- Mr.
13 Scarborough looks at it one way. What happened to one individual is
14 they almost died. There are arguments as to what occurred, but he was
15 convicted of the charges.

16 I think based upon the facts as they were adduced at trial, I
17 would ask for 12 to 36-year sentence, Your Honor. I think that's fair
18 based on the facts, based on the damage that was done, and for those
19 reasons, Your Honor, I think 12 to 36 with Mr. Bolden's history, with the
20 fact that for a large part of his adult life, he stayed out of trouble. For
21 those reasons, I think that is a more representative sentence of the
22 facts, and I'll submit it to Your Honor.

23 THE COURT: Thank you, Mr. Nadig. All right, Ms. Coleman.
24 You're Brandi Coleman?

25 MS. COLEMAN: Yes, sir.

1 THE COURT: All right. You may step forward next to the
2 Defense Counsel. And I'll give you a moment to speak in a second.

3 Counsel, it's my understanding I need to have her sworn in.

4 MR. NADIG: Yes, Your Honor.

5 MR. SCARBOROUGH: Yes, please.

6 THE COURT: All right. Madam Clerk.

7 BRANDI COLEMAN

8 [first duly sworn as a Victim Speaker]

9 THE COURT: Thank you. So, Ms. Coleman, this is your
10 opportunity to speak to the Court about circumstances and factors that
11 you would like the Court to consider other than the -- incident itself.

12 MS. COLEMAN: I just ask for leniency for Jason.

13 THE COURT: Could you speak up?

14 MS. COLEMAN: Yeah. I ask for leniency for Jason because
15 he's not the one who did it. And I just ask that you guys give him as
16 much leniency as possible because an innocent person is going to jail
17 for something they didn't do. And my daughter's going to be without her
18 dad because of a lie that somebody else told. I just ask that you guys
19 take in consideration my child because he would never do nothing to
20 hurt me or my child, ever.

21 THE COURT: All right. Thank you, Ma'am.

22 MS. COLEMAN: Thank you.

23 THE COURT: Anything else?

24 MS. COLEMAN: No, that's it.

25 THE COURT: All right. Thank you. You can go ahead and

1 be seated. So the Defendant is now denying that he committed the
2 crime, but the jury found otherwise, and I have to accept the verdict of
3 the jury. And I do accept the verdict of the jury.

4 I've studied the presentence investigation report very
5 carefully. On the one hand, I do see that there's couple drug -- some
6 drug crimes in there, marijuana that I believe have virtually no weight in
7 sentencings.

8 However, I did look at the -- carefully looked at the parole and
9 probation -- probation success probability scoring. I checked the math
10 on that scoring. The raw score, the offense score total, the social score,
11 the combined nature of those and looked at the calculation form, the
12 sentence structures, together with the classification based upon the
13 scoring of the Defendant as medium high. In fact, the raw score was a
14 six. That's within the media -- medium high range, right on the border of
15 the next category, which would be maximum.

16 Considering all this, my sentence is going to be first the
17 standard fees per the PSI, the restitution as recommended in the PSI
18 and credit for time served of 87, and I'm -- I am following the
19 recommendation of the parole and probation report.

20 And so, that is counts 1, 2, 3, and 4. That's a sentence of 4
21 years to 20 years each, together with the enhancement for the use of a
22 deadly weapon of 3 to 20 years each. That's a total of 7 to 40 years per
23 each count times 4, that's a total sentence of 28 to 160 years. I agree
24 with the parole and probation recommendation that as to counts 5, 6, 7,
25 8, 9, 10 and 11, those should all run concurrent. So that doesn't result

1 in additional time. As to each of those, I do accept the recommendation
2 of parole and probation of -- for each of those is.

3 MR. NADIG: I'm sorry, Your Honor. Just to make sure that
4 nobody --

5 THE COURT: Yeah, let me just finish this thought. Those
6 other counts are all 2 to 6 years.

7 MR. NADIG: And, Your Honor, just for the record, because
8 the Nevada Department of Corrections have been sending things back,
9 what you're talking about is the aggregate sentence would be 336
10 months to 1,920 months. The math's good.

11 THE COURT: Yeah, let me -- yes. Okay.

12 MR. NADIG: Okay.

13 THE COURT: I'll accept your math, I was going --

14 MR. NADIG: Okay.

15 THE COURT: -- to multiply that, but I accept you're correct. I
16 see you have a calculator there. Thank you.

17 MR. NADIG: So as --

18 THE COURT: Say it again for my Court Clerk.

19 MR. NADIG: Just for the record, the aggregate sentence,
20 counts 1, 2, 3, and 4 to run consecutive would be 336 to 1,920 months,
21 and on counts 5 through 13, you are sentencing him to 24 to 72 months.
22 Those are to run concurrent.

23 THE COURT: That's correct. That is what my math shows.

24 MR. NADIG: Okay.

25 THE COURT: Anything else to put on the record?

1 MR. NADIG: Just for the record, so Mr. Bolden knows, we
2 have 30 days from the entry of the judgment of conviction to file the
3 notice of appeal. As soon as the judgement of conviction enters, I will
4 file that notice.

5 THE MARSHAL: Your Honor, what was the CTS?

6 THE COURT: I had -- hold on here -- credit for time --

7 THE MARSHAL: I'm sorry.

8 THE COURT: I have 87.

9 THE MARSHAL: Thank you.

10 THE COURT: All right. That's based upon the PSI, which
11 goes through the 9th and then the 9th through today.

12 MR. NADIG: That is correct, Your Honor.

13 MR. SCARBOROUGH: Thank you, Your honor.

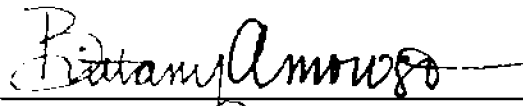
14 THE COURT: Thank you, Counsels.

15 MR. LEXIS: Thank you.

16 [Hearing concluded at 9:05 a.m.]

17 *****

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19
20
21 ATTEST: I do hereby certify that I have truly and correctly transcribed
22 the audio/video proceedings in the above-entitled case to the best of my
ability.

23 
24 Brittany Amoroso
25 Court Recorder/Transcriber



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

vs.

JASON BOLDEN, aka Jason
Jerome Bolen,
Defendant.

CASE#: C-18-334635-1
DEPT. II

BEFORE THE HONORABLE RICHARD F. SCOTTI, DISTRICT COURT JUDGE
WEDNESDAY, MAY 29, 2019

**RECORDER'S TRANSCRIPT OF HEARING
JURY TRIAL - DAY 2**

APPEARANCES:

For the Plaintiff:

JORY SCARBOROUGH, ESQ.
CHAD LEXUS, ESQ.
Chief Deputy District Attorneys

For the Defendant:

BENJAMIN NADIG, ESQ.

RECORDED BY: DALYNE EASLEY, COURT RECORDER

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WITNESSES FOR PLTF.	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
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WITNESSES FOR DEFT.	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
None				

EXHIBITS	<u>OFFERED</u>	<u>RECEIVED</u>
Exhibit 116	11	11
Exhibit 124	13	13
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1 Las Vegas, Nevada, Wednesday, May 29, 2019

2
3 [Case called at 11:15 a.m.]

4 THE MARSHAL: All rise. Okay, Department 2 now in session.
5 The Honorable Richard Scotti presiding.

6 MR. SCARBOROUGH: Pardon my approach. We were just
7 discussing exhibits.

8 THE COURT: Not a problem.

9 [Counsel confer]

10 MR. NADIG: And Your Honor, just for the -- are we on?

11 THE COURT: Yes, we are.

12 MR. SCARBOROUGH: Okay, just for the record, 2 through 114
13 State's 2 through 114 is that --

14 MR. SCARBOROUGH: It's actually 1.

15 MR. NADIG: State's 1 through 114 are admitted via stipulation.

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

17 THE COURT: All right.

18 MR. NADIG: State's 115 has already been admitted.

19 THE COURT: All right.

20 MR. NADIG: We're going to argue about State's 116.

21 THE COURT: Who's offering it and who's objecting?

22 MR. NADIG: The State is offering. I'm objecting.

23 THE COURT: Okay, so that's State's 116. I -- yeah. And
24 Defense objects.

25 MR. NADIG: And State's 124 I'm going to object.

1 THE COURT: So State offers, Defendant objects. Okay.

2 MR. NADIG: And then as to State 119, I believe --

3 THE COURT: State 119.

4 MR. NADIG: That the State is going to edit the photo. And just
5 for the record, Your Honor, if you look at the photo and it's of my client, my
6 objection is I don't want them to see these and to think that these are all
7 separate arrests or separate citations. So for those reasons, I just object
8 and the State is going to give us a photo without the numbers on the --

9 THE COURT: That's good. We don't want the jury speculating
10 extraneous material is in the photo?

11 MR. SCARBOROUGH: Okay, if we can get -- so here's my only
12 weird thing. So this is on the photo paper. So if make another copy, it's
13 going to stand out as like some random newspaper.

14 MR. NADIG: Why don't you just -- I would --

15 THE COURT: Why don't you just cut and paste a white piece of
16 paper covering that up? And -- oh, but then, how does it go back to the
17 jury?

18 MR. NADIG: I was going to say just cut out the photo. You
19 know? I mean, just literally take scissors and go like that.

20 THE COURT: Yeah, yeah.

21 MR. SCARBOROUGH: Since it's an exhibit, do you want to the
22 Court Clerk to handle me or me?

23 THE COURT: It's up to her.

24 MR. SCARBOROUGH: Okay.

25 MR. NADIG: Whoever cuts straight.

1 THE COURT: Well, you know what? We -- you know what?
2 You probably have to do it. I don't think the Court Clerk is at liberty to
3 change proposed exhibits.

4 MR. SCARBOROUGH: That makes sense.

5 MR. NADIG: And I have no objection to the --

6 THE CLERK: I have --

7 MR. NADIG: What?

8 THE CLERK: Before you cut this, since it's already a proposed
9 exhibit, I'm going to find out and let you know how they want me to handle
10 it. Because I don't -- if you cut it --

11 THE COURT: Why don't I put it on the record that we decided
12 to withdraw the proposed exhibit, but --

13 THE CLERK: Okay.

14 THE COURT: -- if you want, you can make a black and white
15 copy if you can put in the record. Unless the parties stipulate that that
16 exhibit's withdrawn, and there's no need to keep a black and white copy in
17 the file. And then, you're going to cut it and resubmit it.

18 MR. SCARBOROUGH: Okay, let's see if we can just rework
19 this.

20 [Counsel confer]

21 MR. NADIG: So, Your Honor, we'll stipulate that -- tell me if I'm
22 wrong. We'll stipulate that they don't need a black and white copy. They'll
23 be a resubmitted State's 119, which will simply be the cut-up version of
24 State's 119.

25 THE COURT: Yes, is that stipulated to, counsel?

1 MR. SCARBOROUGH: Yes, Your Honor. I just want my -- are
2 we calling Jegge right now?

3 MR. NADIG: No.

4 MR. SCARBOROUGH: Okay, because we're admitting that
5 through a witness we're about to call soon, so.

6 MR. NADIG: We just won't.

7 THE COURT: All right, so --

8 MR. NADIG: That's fine.

9 THE COURT: Exhibit 119, the proposed Exhibit 119 is
10 withdrawn from the possession of the Court Clerk. No copy is maintained.
11 We're now going to submit -- let's call it Exhibit 119A.

12 MR. NADIG: Okay.

13 THE COURT: All right?

14 MR. SCARBOROUGH: Okay, so we're just going to cut --

15 THE COURT: So 119A is color copy of the original 119, which
16 is being redacted by cutting off some extraneous material. Very good.

17 MR. SCARBOROUGH: Make sure you cut straight, Chad. I
18 know, I got nervous when someone wanted me to cut it. It was great.

19 THE COURT: We can go off the record momentarily.

20 MR. NADIG: If you would like, Your Honor, we could discuss
21 State's 124 and State's 116.

22 MR. SCARBOROUGH: [Indiscernible] him?

23 MR. NADIG: Yes.

24 THE COURT: All right, let me take -- we're still off or we are on
25 the record now. Very good. So the parties have handed me State's

1 proposed 116 and State's proposed 124. Let me just take a look at these.

2 [Counsel confer]

3 MR. NADIG: And, Your Honor, the photo of the gentleman is
4 the person whose transcript was read in yesterday. I would suggest, just
5 based on his demeanor and things of that nature, that that photo serves
6 no evidentiary purpose other than to be more prejudicial than probative
7 and I'll submit to Your Honor.

8 MR. SCARBOROUGH: And --

9 THE COURT: Mr. Scarborough, what's the purpose of this
10 photo?

11 MR. SCARBOROUGH: That purpose right there is to identify
12 actually Bryson Martinez. I would have my officers testify and identify that
13 man as Bryson Martinez.

14 THE COURT: Which is which?

15 MR. SCARBOROUGH: Bryson is the --

16 MR. NADIG: Bryson is the gentleman in the photo, yes.

17 MR. SCARBOROUGH: Yes.

18 THE COURT: All right, 116. So you're showing it to prove he
19 was at the scene?

20 MR. SCARBOROUGH: Correct, yes.

21 THE COURT: Yeah.

22 MR. NADIG: There are other photos they could have used,
23 Your Honor.

24 MR. SCARBOROUGH: I mean, to be fair, scanning through the
25 bodycam, there are various scanned images of him walking by and

1 everything like that. So that's why I chose that one.

2 THE COURT: I mean, he's making a grimace. There's no
3 indication that this -- that he's being arrested, or detained, or this is in
4 connection with anyhow law enforcement other than this -- wait, this is a
5 bodycam photo?

6 MR. SCARBOROUGH: Correct.

7 THE COURT: Are you going to introduce it as such?

8 MR. SCARBOROUGH: Just a photo of the -- yeah, I mean it's
9 going to be through the detective, who's going to identify --

10 THE COURT: All right.

11 MR. SCARBOROUGH: -- everyone who's reviewed all the
12 bodycam and is able to say that that's an accurate photo captured from
13 the bodycam he's reviewed.

14 THE COURT: Did -- I guess Defense knew before today that
15 this was marked as a proposed exhibit. You could have --

16 MR. NADIG: I was provided all of the photos. I was not told
17 which photos would be used.

18 THE COURT: So 124 is just one of several in a group or
19 something?

20 MR. NADIG: Theoretically, yeah. You provided the bodycams
21 correct?

22 MR. SCARBOROUGH: I did. I provided him all the links to the
23 bodycams. These are --

24 THE COURT: This is a still of the bodycam.

25 MR. SCARBOROUGH: Correct.

1 THE COURT: The bodycam is 124?

2 MR. NADIG: The bodycam is not 124.

3 MR. SCARBOROUGH: No.

4 MR. NADIG: The still of the bodycam is 124.

5 THE COURT: All right, so we're getting back to what I originally
6 said is you received as a proposed Exhibit 124, which is the still that
7 you're objecting to now?

8 MR. NADIG: No, I received the entirety of the bodycam. I did
9 not -- I was not told that they were going to take stills from the bodycam
10 and then present them as exhibits. I was not provided that prior to.

11 THE COURT: What was 124 before today?

12 MR. SCARBOROUGH: Nothing. That was just a photo.

13 MR. NADIG: Yes, I mean, I don't understand your question I
14 guess, Your Honor.

15 THE COURT: All right, let's start over. All right, Exhibit 124
16 yesterday was what?

17 MR. NADIG: I had not reviewed the photos prior to yesterday
18 because we were doing jury selection. I had not seen the proposed
19 exhibits --

20 THE COURT: Okay.

21 MR. NADIG: -- until this morning. That's --

22 THE COURT: When did the State first identify and produce to
23 the Defense's proposed exhibits?

24 MR. SCARBOROUGH: This bodycam, I can go to my file. I
25 mean, this bodycam of this --

1 THE COURT: Before trial started?

2 MR. NADIG: Yes, I'm not --

3 MR. SCARBOROUGH: Correct, correct. Yes.

4 MR. NADIG: Your Honor, I received all the bodycams before
5 trial started.

6 THE COURT: Okay, all right.

7 MR. SCARBOROUGH: And so, I think I know where Your
8 Honor's going. I did not create a still from the bodycam and provide a still
9 to him before trial.

10 THE COURT: All right.

11 MR. SCARBOROUGH: It's a bodycam and so.

12 THE COURT: Perfect. So what I'm leading up to is whether the
13 Defense had a fair opportunity to, you know, examine or cross-examine
14 this gentleman as to why he's grimacing here.

15 MR. NADIG: Well, I mean, the answer to that question would
16 be no because --

17 MR. SCARBOROUGH: Well, he cross-examined
18 [indiscernible].

19 MR. NADIG: Yeah, I did cross-examine him, but I didn't discuss
20 his facial --

21 THE COURT: No, you had the bodycam at that point in time?

22 MR. SCARBOROUGH: I disclosed it before the prelim.

23 THE COURT: Okay.

24 MR. SCARBOROUGH: I --

25 MR. NADIG: Did I have before the prelim?

1 MR. SCARBOROUGH: I don't know. It was in August.

2 MR. NADIG: Yeah, the odds are pretty good I did, but --

3 THE COURT: All right, I see nothing unduly prejudicial.

4 MR. NADIG: If you're saying it's not prejudicial, for purposes of
5 like discovery and things like that, I'm not challenging that. It's just for
6 purposes of prejudicial. So if you're saying it's not prejudicial, obviously,
7 my objection is noted and I'll leave it at that.

8 THE COURT: And part of my prejudice analysis was the timing
9 of production, but I'm finding that it's unduly prejudicial. It has some
10 probative value.

11 Probative value exceeds the prejudicial nature of this photo.
12 The Court overrules the Defense objection to -- this is 116 and 116 is
13 admitted into evidence, all right?

14 [EXHIBIT 116 ADMITTED]

15 MR. SCARBOROUGH: Okay.

16 MR. NADIG: Yes, and then the --

17 THE COURT: All right, now let's talk about Exhibit 124.

18 MR. NADIG: And, Your Honor, I just need to put on the record
19 that I was -- when I think we've been saying 124 for 116 the entire time.
20 So just for record purposes, the one we've previously been discussing is
21 124 is actually Exhibit 116.

22 THE COURT: You're correct.

23 MR. NADIG: Okay.

24 MR. SCARBOROUGH: That's --

25 MR. NADIG: So now we're talking about the correct 124.

1 MR. SCARBOROUGH: That's correct.

2 THE COURT: All right, what do you guys want to say about it?

3 MR. NADIG: I -- my whole point is that if they're using this as
4 identification of Sanyleh, I don't think that that would be the best
5 representation of Sanyleh, who is the juvenile involved in the case. And
6 based on her position, based on the law enforcement in the photo, I would
7 say it's more prejudicial than probative.

8 It's not going to provide a correct ID. It shows it in a
9 sympathetic fashion to the State. And for those reasons, I would object.

10 MR. SCARBOROUGH: And, Your Honor, again, the same
11 purpose is for identification would be to show that Sanyleh was there at
12 the scene and was actually in the back seat of the car.

13 And another exhibit that we had admitted, if I may approach,
14 shows Sanyleh.

15 THE COURT: Who's going to authenticate this?

16 MR. SCARBOROUGH: That would, again, be the detective.

17 THE COURT: The detective?

18 MR. SCARBOROUGH: Yes.

19 THE COURT: All right. You can't really make out a face. We
20 could see it is --

21 MR. SCARBOROUGH: The body.

22 THE COURT: -- a young person in the backseat.

23 MR. SCARBOROUGH: And more importantly, it's probative in
24 the aspect that Sanyleh was three to four years old at the time. And it
25 actually corroborates some of my other witness' testimony from what I

1 plan to get out that the kid -- that the child was small.

2 THE COURT: All right. Objection is noted. It's overruled. This
3 will be admitted. Okay? You can come up. You can approach.

4 [EXHIBIT 124 ADMITTED]

5 MR. SCARBOROUGH: Thanks, Your Honor.

6 And then, Ben, you want to talk about the 911 call?

7 MR. NADIG: Yes, now and -- or you -- and finally, Your Honor,
8 the State is going to attempt to introduce the 911 call that was made in
9 this. I don't know the exhibit number off the top -- oh, it's right here.

10 MR. SCARBOROUGH: It is 125, Your Honor.

11 MR. NADIG: State's 125 and --

12 THE COURT: Who made the call?

13 MR. NADIG: This was made by --

14 MR. SCARBOROUGH: Brandi Coleman.

15 MR. NADIG: Brandi Coleman, who's not going to testify as far
16 as I know. And in addition to that, did not testify at the time of preliminary
17 hearing.

18 MR. SCARBOROUGH: Did you take the 911 call?

19 MR. NADIG: I did not. I didn't.

20 THE COURT: Well, so, do we have someone that would
21 recognize her voice? Do we have the --

22 MR. SCARBOROUGH: We do.

23 THE COURT: -- dispatcher? I mean, what do we have to
24 authenticate?

25 MR. SCARBOROUGH: And, Your Honor, we do have

1 someone that can recognize the voice if you give me a brief indulgence.
2 Under -- and I know you'll want to hear the 911 call. I just had the 911 call
3 in my computer.

4 THE COURT: Yeah, let's hear it.

5 MR. SCARBOROUGH: Chad is bringing it up. I'm sorry about
6 that.

7 THE COURT: Is there an objection, Mr. Nadig, to statements
8 within or other foundation --

9 MR. NADIG: There --

10 THE COURT: -- or prejudicial impact based on the statements?

11 MR. NADIG: There are a number of objections.

12 THE COURT: Let's hear them before I watch the video.

13 MR. NADIG: Specifically.

14 THE COURT: Before I listen to the call.

15 MR. NADIG: Yes, they are going to argue to that this comes in
16 under the Bryant versus Michigan [sic] standard, which involves an
17 analysis of the formality of the interview.

18 It involves whether this was to determine whether the individual
19 was still outstanding and whether it was used for the purposes of future
20 prosecution is my understanding of the test under Bryant.

21 MR. SCARBOROUGH: That's correct, Your Honor. And for the
22 Court's edification, I've actually printed out a copy of Bryant if you'd like.

23 THE COURT: Right. Yeah, to be honest with you, I'm not
24 familiar with this case.

25 MR. NADIG: To be fair, I just learned it myself.

1 THE COURT: Okay.

2 MR. NADIG: Because I thought it was under the old Crawford
3 standard. But they're using this. Obviously, I don't have the ability to
4 cross-examine this woman. Obviously, she has not been provided for
5 trial.

6 And in it, she identifies that her baby daddy was the one who's
7 shot. Later on, she says that her baby daddy is Jason Bolden.

8 Obviously, I would argue that that is testimonial in nature. I
9 would argue it's hearsay. The State would object and say it's an excited
10 utterance.

11 My objection would be the confrontation clause, but under the
12 analysis in Bryant, you're the person who decides whether it comes in for
13 those purposes.

14 Now in addition to that, there's a statement made on that by Ms.
15 Coleman, wherein she says that Mr. Bolden stole a gun from her. And
16 there was no bad acts motion filed prior.

17 So it makes it problematic to say that we are now going to add
18 an uncharged crime into the record as to this 911 call, which makes it
19 doubly problematic for me.

20 THE COURT: And, interestingly enough, I had a murder trial
21 some time ago where the State requested the introduction of a prior bad
22 act.

23 And I considered it carefully and determined that three different
24 exceptions applied. And the supreme court overruled, saying that they
25 didn't apply and prejudicial impact exceeded the probative value. And that

1 case is set for re-trial actually.

2 And so, I just have -- I have to be very careful in these types of
3 analysis is what the message was to me.

4 MR. SCARBOROUGH: And that's very fair, Your Honor.

5 May I --

6 MR. NADIG: Please do, sorry.

7 MR. SCARBOROUGH: And it's very fair. And to respond to
8 Mr. Nadig's issue with the fact --

9 THE COURT: Well, it's [indiscernible] Mr. Jacimo [phonetic] in
10 that case.

11 MR. SCARBOROUGH: Oh.

12 THE COURT: To respond to Mr. Nadig's concern about the
13 statement of the stolen gun, I think that's appropriate. That can be fixed
14 by an absolute redaction. We can redact that outright from the call.

15 But under the Michigan v. Bryant analysis, I want to turn Your
16 Honor's attention. The primary purpose is the central focus of the
17 admissibility of the call in terms of the analysis in terms -- in comparison to
18 its testimonial value.

19 So the primary purpose would be to enable police assistance to
20 meet an ongoing emergency. And forgive me, I've made my notes and
21 I'm just looking down. I provided you the case.

22 So the primary purpose like in a case that is cited in Michigan v.
23 Bryant Hannon [phonetic], they delineated testimonial statements to be
24 deliberately recounted in response to questioning in order to prove past
25 events for a future prosecution.

1 Here, the context, it is an ongoing emergency. And the case
2 goes on to discuss explicitly an ongoing emergency. And I'm reading from
3 the case.

4 "The existence of an ongoing emergency at the time of the
5 encounter is among the most important circumstances informing the
6 interrogation's primary purpose.

7 And emergency focus is the part focuses the participants not on
8 proving past events potentially relevant later to criminal prosecution, but
9 on ending a threatening situation."

10 And moving further down in the case, there's actually analysis
11 and an analogy to a gun crime, such as this, and an ongoing emergency.

12 And I'm quoting again from the case. "The circumstances of the
13 interrogation involved an armed shooter, who's motive for and location
14 after the shooting were unknown."

15 Your Honor, in this exact case, it's particularly relevant, the
16 location of the shooter, and the motive in terms of the shooter fleeing, the
17 shooter getting into the car and going away and fleeing the scene.

18 And also continuing on reading from the case, and who had
19 mortally wounded, and they were talking about the victim in their case,
20 Covington [phonetic], within a few blocks and a few minutes of the
21 location where police found the victim in that case.

22 I think that's exactly like this case. And Brandi Coleman's call
23 with the exception of the fact that the stolen gun, as I conceded before I
24 think is fair and we need to redact, this is in response to an ongoing
25 emergency. The 911 dispatcher is not using this to prove future events

1 for prosecution.

2 In fact, in the 911 call when you hear it, and if I misquote small
3 words, I apologize. That the dispatcher is saying, hey, we needed a
4 description. We need to know what's going on, what happened?

5 In fact, also in the 911 call, the dispatcher is telling Ms.
6 Coleman how to dress and how to apply pressure to the wound. This is
7 all in response to an ongoing emergency. It's nontestimonial under Bryant
8 because it's not used to prove events for a prosecution.

9 More importantly, it's not -- and as I read before, a deliberately
10 recounted in response to a police interrogation recounting of events.

11 It's Brandi Coleman calling immediately after the shooting
12 saying, hey, this happened. This is who did it. This is a description of this
13 person.

14 And that's to meet the ongoing emergency, so officers can
15 assess the danger. Because I think what's important also is the focus of
16 the primary emergency or the emergency and the ongoing emergency
17 doesn't necessarily stop with just the victim, right? The Defendant in this
18 case fled the scene after discharging multiple rounds, fled the scene with
19 the firearm in a vehicle. So his location being unknown is very probative
20 to this analysis as well.

21 So to address Your Honor's earlier concerns, too, for
22 foundational issues, we have detectives who have spoken to Brandi
23 Coleman, who recognize her voice, who's watched all the bodycam, would
24 know her voice, and can authenticate her voice.

25 And I would also say that under NRS 52.252, it is a 911 system,

1 a recording from a 911 system that's admissible under the statute. So
2 based on those arguments, Your Honor, we can get this in legally under
3 multiple fronts. And based on that, I would submit.

4 THE COURT: Question, and I would ask Mr. Nadig to respond.
5 So even though this is you said nontestimonial?

6 MR. SCARBOROUGH: Correct.

7 THE COURT: Do I need to balance the need to admit it under
8 the ongoing emergency rule versus whether there's a violation of the
9 confrontation clause? Am I supposed to balance those two things? Do I
10 have discretion to do so?

11 MR. SCARBOROUGH: You do have --

12 THE COURT: What are the factors I should consider?

13 MR. SCARBOROUGH: You do have discretion to balance that
14 test. And you do have discretion to admit that evidence. That evidence is
15 always within the discretion of the trial court.

16 In terms of balancing whether or not the confrontation clause is
17 violated, here under Michigan v. Bryant, they delineate what violates the
18 confrontation clause because violations of the confrontation clause are
19 responses or testimonial evidence under this.

20 THE COURT: Uh-huh.

21 MR. SCARBOROUGH: And the confrontation clause isn't
22 violated under Michigan v. Bryant. And it's up to you to obviously weigh
23 that, but again the fact --

24 THE COURT: What page is that? You were paraphrasing
25 some of it.

1 MR. SCARBOROUGH: I had it marked, I apologize.

2 THE COURT: This is the first time I've seen this case, so I just
3 want to --

4 MR. SCARBOROUGH: No, that's fair, Your Honor.

5 THE COURT: Make sure I read the right portion, so.

6 MR. SCARBOROUGH: Going, okay, so you have the packet
7 that I provided the Court, correct?

8 THE COURT: Yes.

9 MR. SCARBOROUGH: Okay.

10 MR. NADIG: And I apologize, Your Honor, I marked it on mine
11 as well, but I left it at the office when I ran over here.

12 MR. SCARBOROUGH: So if you would turn to page 4, Your
13 Honor, in the packet.

14 THE COURT: I'm there.

15 MR. SCARBOROUGH: And then if you go to that subsection
16 (b) to make the primary purpose determination.

17 THE COURT: Yes.

18 MR. SCARBOROUGH: The court must objectively evaluate the
19 circumstances in which the encounter between the individual and the
20 police occurs and the parties statements and actions.

21 And if you look at subsections, it analyzes that. So subsection
22 (1), the primary purpose inquiry is objective. The circumstances in which
23 an encounter occurs. And then it lists those factors.

24 And then it moves onto (2), the existence of the ongoing
25 emergency.

1 And then, number (3), the statements and actions of both the
2 declarant and interrogators also provide objective evidence of the
3 interrogation's primary purpose.

4 And when you do to (c), that's when they do the factual
5 analysis.

6 So Your Honor, I would turn your attention to those factors 1, 2,
7 and 3 and really stress and place particular emphasis that the inquiry on
8 your behalf is the primary purpose of this 911 call and the primary
9 purpose in terms of testimonial evidence.

10 The primary purpose here is what defeats or overcomes the
11 burden that we have to show that it's not testimonial. The testimonial
12 would -- go ahead, sorry.

13 THE COURT: No, no, I thought you were done. I was just
14 pointing to --

15 MR. SCARBOROUGH: Okay. So the testimonial evidence is
16 what would violate the confront clause, Your Honor. These three factors
17 are what Your Honor would look to and what the State would argue to
18 overcome those testimonial -- to overcome that testimonial label of the
19 testimony we're trying get into the 911 call.

20 THE COURT: Mr. Nadig?

21 MR. NADIG: And, Your Honor, here's the situation. It's, I
22 believe, roughly five minutes. The initial two -- during the call, Ms.
23 Coleman states three times my baby daddy's shot, my baby daddy's shot.
24 We need medical, we need medical. Okay.

25 That is in the first, I'd say, 3 minutes, 30 seconds of the call. I

1 think that under the analysis in Bryant versus Michigan or Michigan versus
2 Bryant, that that appears to satisfy the primary purpose test for the State.

3 I think the analysis changes when we get to the point after
4 medical has been ordered and you hear the 911 call operator or
5 somebody, because it might have been one of the Metro operators, I don't
6 know. But somebody say we think we have him, what's his name?

7 And then she says Jason Bolden. And I think at that point in
8 time, there's a change from medical get help for this individual, apply
9 pressure, to testimonial in we think we have him. Now we have to start
10 building the case. What's his name?

11 And so, I think there is a cutoff roughly at about 3:30. I may be
12 wrong, but roughly around that page where it changes from, you know,
13 proper under Bryant versus Michigan [sic] to testimonial in nature and
14 violative of the confrontation clause. That would be my argument.

15 THE COURT: So certainly, it's going to come in, but in some
16 redacted form. The question is what parts need to be redacted? And I do
17 find that in a general sense, it does satisfy the Michigan versus Bryant
18 test.

19 So let's discuss what -- first of all, what the State would agree is
20 proper to redact and then, let's narrowly discuss what remains.

21 MR. SCARBOROUGH: I'll stick with my earlier position in terms
22 of I think it's entirely appropriate to redact the part where there was a
23 stolen gun, that the crime or the incident was committed with the stolen
24 gun. I think that's absolutely fair to redact.

25 But, Your Honor, I don't think after that, I don't believe there's

1 much more to redact. In terms of Jason Bolden and building the case,
2 again, I don't think there's this fine line as Defense represents.

3 I think at this point, that the operator and the 911 call right now
4 is ascertaining information as to the continuing date you're presented by
5 the suspect of the shooting and the ongoing emergency in terms of the
6 first responders.

7 And so, that's also an inquiry, too. And I have another case,
8 Your Honor, for Harkins v. State. And I have can give you that case as
9 well.

10 THE COURT: Yeah.

11 MR. SCARBOROUGH: Um.

12 THE COURT: Well, do you have a copy?

13 MR. SCARBOROUGH: I do.

14 THE COURT: All right.

15 MR. NADIG: He's provided one to me as well, Your Honor.

16 MR. SCARBOROUGH: Yes.

17 THE COURT: All right, thank you.

18 MR. SCARBOROUGH: May I approach?

19 THE COURT: Yes.

20 MR. SCARBOROUGH: Thank you, sir.

21 THE COURT: Thank you.

22 MR. SCARBOROUGH: I believe that was my copy. I'm not let
23 me grab --

24 THE COURT: Marshal, will you let the jurors know it's just
25 going to be a few more minutes?

1 THE MARSHAL: Okay.

2 THE COURT: All right, thanks.

3 MR. SCARBOROUGH: And Your Honor, if we --

4 THE COURT: What do you want me to look?

5 MR. SCARBOROUGH: Let me just flip through page. And just
6 to be --

7 THE COURT: He shot me and he was paid to do it. So I see
8 that.

9 MR. SCARBOROUGH: Right, and this is -- I think there is a
10 distinction. Here, there's a dying declaration contemplated in Harkins. I
11 don't think that's contemplated in this case.

12 What I'm using this case to illustrate and let me just --

13 THE COURT: Well, I mean, you said it's excited utterance,
14 ongoing emergency.

15 MR. SCARBOROUGH: Yes, and I just -- as I'm searching for
16 the page, what I made note of, Your Honor, and I apologize. I'm
17 searching for the page, but in that case, the court held that statements are
18 not testimonial when weighed in the course of a police interrogation under
19 circumstances objectively indicating the primary purpose.

20 They are testimonial when the circumstances objectively
21 indicate that there's no such ongoing emergency and that the primary
22 purpose of the interrogation is to establish a proof.

23 And I understand that I've said that before. But what I want to
24 just reiterate is again, the inquiry here is not saying Jason Bolden is the
25 one who did it, please admit this into Court later.

**PLEADING
CONTINUES
IN NEXT
VOLUME**