

IN THE SUPRME COURT OF THE STATE OF NEVADA

DARWYN ROSS YOWELL,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

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

**JOINT APPENDIX TO APPELLANT'S OPENING BRIEF VOL II**

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Elko County  
Public Defender

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

8	1. Criminal Complaint filed June 15, 2020.....	1-8
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10	2. Criminal Information filed August 21, 2020.....	11-15
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26	14. Transcript of Trial Volume 2 Filed November 18, 2021...	368-669
27	15. Transcript of Trial Volume 3 Filed November 18, 2021...	670-857
28	16. Transcript of Trial Volume 4 Filed Nov 18, 2021.....	858-966


1 RESPECTFULLY SUBMITTED this 31<sup>st</sup> day of January, 2022.

2  
3  
4 MATTHEW PENNELL  
5 ELKO CO. PUBLIC DEFENDER  
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13 RESPECTFULLY SUBMITTED this 31<sup>st</sup> day of January, 2022.

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1                                    CERTIFICATE OF SERVICE BY ELECTRONIC FILING

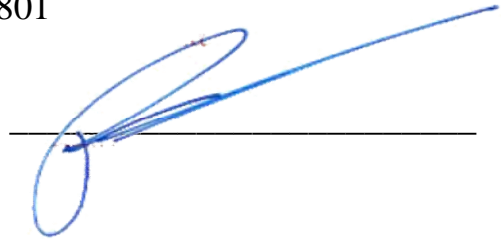
2                    I hereby certify, pursuant to the provisions of NRAP 25, that I am an  
3 employee of the Elko County Public Defender's Office, and that on the  
4 \_\_\_\_\_ day of 31<sup>ST</sup> January 2022, I electronically filed a copy of the  
5 foregoing, Appendix to Appellant's Fast Track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

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

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

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

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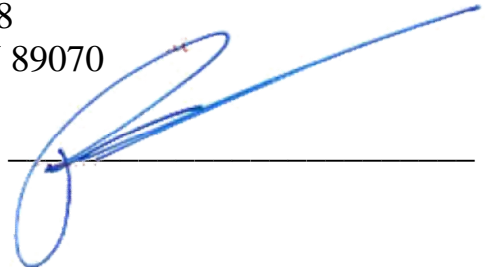


30                                    CERTIFICATE OF MAILING

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

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

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FILED

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ELKO CO DISTRICT COURT

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

CLERK \_\_\_\_\_ DEPUTY 

-oOo-

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STATE OF NEVADA,

Plaintiff,

Case No. DC-CR-20-159

V.

Dept. No. 3

DARWYN ROSS YOWELL,

Defendant.  

---

**COPY**

Transcript of Proceedings

Jury Trial

Volume I

June 14, 2021

Elko, Nevada

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

A P P E A R A N C E S

For the Plaintiff: Chad Thompson, Esq.  
Elko County District Attorney's  
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Elko, NV 89801

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

-oOo-

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1 JUNE 14, 2021, ELKO, NEVADA

2 -oOo-

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

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

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

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

1 later on during the proceedings.

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

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

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

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

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

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

7 MR. THOMPSON: (No audible response)

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

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

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

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

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

11 MR. THOMPSON: No.

12 MR. PENNELL: No, Your Honor.

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

16 MR. THOMPSON: Yes.

17 MR. PENNELL: So stipulated.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 THE PROSPECTIVE JURORS: (Affirmative)

2 THE COURT: Thank you, please be seated.

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

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

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

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

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

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

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

25 Just briefly, let me touch on jury fees and

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

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

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

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

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

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

16 JURY SELECTION

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

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

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

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

4 Mr. Thompson.

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

6 THE COURT: Yes.

7 (Whereupon, sidebar off the record)

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

13 Where are you Ms. Nutting?

14 Are you having any difficulty hearing us?

15 MS. NUTTING: (No audible response)

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

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

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

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

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

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

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

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

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

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

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

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

13 MR. GUBLER: Newmont.

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

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

20 THE COURT: What's a GSL?

21 MS. THOMPSON: It's a manager.

22 THE COURT: Oh, okay.

23 MS. THOMPSON: Yeah.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 over to seat 15, Ms. Meade.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 MS. LONERGAN: Yes. My name is Melinda

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

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

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

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

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

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

18 MS. BOGDON: Downtown Barber Shop.

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

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

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

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

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

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

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

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

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

19 THE COURT: A homemaker, okay.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 MS. BORDA: As caretaker for my --

21 THE COURT: Is the microphone on, Carlos?

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

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

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

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

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

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

16 THE COURT: Mr. Pennell.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 THE COURT: Mr. Pennell.

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

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

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

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

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

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

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

16 MR. BARRUETABENA: (No audible response)

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

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

25 Do any of you have personal knowledge of the

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

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

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

10 MR. THOMPSON: Jean Ortega.

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

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

16 THE COURT: Sure.

17 (Whereupon, sidebar off the record)

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

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

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

1 MR. BAUER: Yeah.

2 THE COURT: The question is this --

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

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

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

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

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

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

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

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

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

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

1 worked for me.

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

4 MR. BAUER: No.

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

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

9 MR. THOMPSON: Okay. Who is --

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

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

14 MR. BAUER: Michael Ortega.

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

17 MR. BAUER: Okay, sounds good.

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

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

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

23 MR. BAUER: No.

24 MR. THOMPSON: No, okay.

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

1 Mr. Pennell?

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

4 THE COURT: Okay, thank you.

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

7 THE COURT: Sure.

8 (Whereupon, sidebar off the record)

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

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

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

1 Ms. Thompson.

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

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

7 MS. THOMPSON: Yes.

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

10 MS. THOMPSON: I tend to --

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

15 MS. THOMPSON: Yes.

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

18 MR. THOMPSON: No.

19 THE COURT: Mr. Pennell.

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

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

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

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

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

9 MR. VALDEZCIRILO: Just a little bit.

10 THE COURT: Just a little bit.

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

13 THE COURT: Okay.

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

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

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

20 THE COURT: Okay. Mr. Thompson.

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

23 THE COURT: Mr. Pennell.

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

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

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

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

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

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

16 MS. JOHNSON: No.

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

19 MS. JOHNSON: No.

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

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

25 MS. TAPIA: Yeah, Tapia.

1 THE COURT: Okay.

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

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

7 MS. TAPIA: Potentially, yes.

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

10 MS. TAPIA: Yes.

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

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

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

17 MS. TAPIA: Yes.

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

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

23 MS. TAPIA: Right.

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

1 position of the victim --

2 MS. TAPIA: Right.

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

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

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

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

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

22 MS. TAPIA: Uh-huh.

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

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

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

3 MS. TAPIA: No, no.

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

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

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

11 MS. TAPIA: Okay.

12 MR. THOMPSON: Can you do that?

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

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

16 MS. TAPIA: Yes.

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

19 MS. TAPIA: Yes.

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

22 THE COURT: Mr. Pennell, any questions?

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

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

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

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

9 MR. PENNELL: Okay.

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

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

16 MS. TAPIA: Yeah.

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

19 MS. TAPIA: Right.

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

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

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

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

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

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

11 MS. TAPIA: The alleged victim.

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

15 MS. TAPIA: Presently, yes.

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

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

20 MR. PENNELL: Okay.

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

22 MR. PENNELL: But there is some?

23 MS. TAPIA: -- is an inclination.

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

1 MS. TAPIA: Uh-huh.

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

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

7 MS. TAPIA: Thank you.

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

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

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

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

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

24 THE COURT: Okay.

25 MR. KIRBY: Yeah.

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

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

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

9 MR. KIRBY: Correct. Correct.

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

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

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

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

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

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

1 MS. ARNETT: Yes.

2 THE COURT: Thank you very much.

3 Anyone else? Okay.

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

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

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

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

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

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

17 MR. STIEGER: Yes.

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

20 MR. STIEGER: No, it would not.

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

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

2 Go ahead, Mr. Pennell.

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

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

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

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

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

23 MR. MCKAY: I know Mr. Thompson.

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

1 MR. MCKAY: Just through the community.

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

4 MR. MCKAY: Just an acquaintance.

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

9 MR. MCKAY: No.

10 THE COURT: Okay. Thank you very much.

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

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

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

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

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

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

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

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

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

18          MS. BORDEN: Yes.

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

21          MS. BORDEN: Melva Jackson.

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

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

25          THE COURT: In the community?

1 MS. BORDEN: Yes.

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

7 MS. BORDEN: No.

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

11 MS. BORDEN: Yes.

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

13 MS. BORDEN: Uh-huh.

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

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

18 THE COURT: Sure, go ahead, sure.

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

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

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

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

1 person?

2 MS. BORDEN: Andrew Neff.

3 MR. PENNELL: Andrew Neff, okay.

4 MS. BORDEN: Uh-huh.

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

7 MS. BORDEN: Yes.

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

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

12 MR. PENNELL: Okay.

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

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

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

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

24 MS. BORDEN: Yes.

25 MR. PENNELL: And that you respect him?

1 MS. BORDEN: Yes.

2 MR. PENNELL: And that you trust him?

3 MS. BORDEN: Yes.

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

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

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

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

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

23 MS. BORDEN: Possibly.

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

1 MS. BORDEN: Uh-huh.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 MR. GRESS: I would, yeah.

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

6 MR. THOMPSON: No.

7 THE COURT: Mr. Pennell.

8 MR. PENNELL: No, Your Honor.

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

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

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

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

17 MS. NUTTING: From --

18 THE COURT: There you go.

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

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

25 MR. THOMPSON: I have no idea.

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

3 THE COURT: Melva Garcia was a previous name.

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

7 THE COURT: Okay.

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

9 THE COURT: So you do know her?

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

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

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

15 THE COURT: Okay.

16 MS. NUTTING: Ten years, yeah.

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

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

23 THE COURT: Okay.

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

25 THE COURT: But same question, would that

1 association --

2 MS. NUTTING: No.

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

5 MS. NUTTING: No.

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

8 MR. THOMPSON: Not for me, no.

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

12 MS. NUTTING: Okay.

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

15 MS. NUTTING: Okay, fine.

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

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

21 MR. PENNELL: Okay.

22 THE COURT: Okay.

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

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

1 would affect your ability?

2 MS. NUTTING: No.

3 THE COURT: Okay. Thank you very much.

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

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

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

13 MS. BONDELIE: (No audible response)

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

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

18 THE COURT: How long ago was it?

19 MS. BONDELIE: About 18 years ago.

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

22 MS. BONDELIE: It was.

23 THE COURT: Okay.

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

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

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

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

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

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

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

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

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

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

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

16 MS. BONDELIE: No.

17 THE COURT: Okay. Thank you very much.

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

20 MS. SEAL: Yes.

21 THE COURT: Seat number 14.

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

23 THE COURT: It was a gambling criminal case.

24 MS. SEAL: Yeah.

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

1 were you the foreperson of the jury?

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

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

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

8 MS. SEAL: Okay, sorry.

9 THE COURT: Yeah.

10 MS. SEAL: Yes, we did.

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

13 MS. SEAL: Yes.

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

17 MS. SEAL: Absolutely not.

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

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

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

1 MS. MEADE: Both times.

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

5 MS. MEADE: Yes.

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

9 MS. POWRIE: Yes.

10 THE COURT: Go ahead.

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

13 THE COURT: Here in Elko County?

14 MS. POWRIE: Yes.

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

16 MS. POWRIE: Yes.

17 THE COURT: Were you the foreperson?

18 MS. POWRIE: No.

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

21 MS. POWRIE: Yeah.

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

25 MS. POWRIE: No.

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

4 MR. GRISWOLD: Griswold.

5 THE COURT: Mr. Griswold in seat 27.

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

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

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

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

16 MR. GRISWOLD: No.

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

19 Anyone else have their hand raised?

20 (Sneeze)

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

23 MR. NELSON: I need a sidebar.

24 THE COURT: Okay, come on up.

25 (Whereupon, sidebar off the record)

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

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

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

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

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

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

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

15           Thank you.

16           (Whereupon, court recessed)

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

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

25           MR. THOMPSON: Yes.

1 MR. PENNELL: Yes, Your Honor.

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

7 Juror No. 30, Daniel Kough.

8 MR. KOUGH: Kough.

9 THE COURT: Kough, Daniel Kough.

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

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

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

21 MR. KOUGH: Nope.

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

24 MR. KOUGH: No, sir.

25 THE COURT: Okay, thank you.

1 MR. KOUGH: Thank you.

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

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

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

19 MR. KIRBY: Generally, no.

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

22 MR. KIRBY: Yes.

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

1 MR. KIRBY: Yes.

2 THE COURT: Okay. Thank you very much.

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

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

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

18 MS. BORDEN: No.

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

22 MS. BORDEN: Yes.

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

25 Who else had their hand raised? Over here in

1 seat number 7, Ms. Arnett.

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

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

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

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

20 THE COURT: Okay.

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

23 THE COURT: Okay. Thank you very much.

24 Who else had their hand raised? Anybody?

25 Okay.

1 THE BAILIFF: Your Honor --

2 THE COURT: Yes.

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

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

7 (Whereupon, sidebar off the record)

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

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

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

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

23 MR. RILEY: Yes, Your Honor.

24 THE COURT: Okay.

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

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

3 (Whereupon, sidebar off the record)

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

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

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

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

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

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

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

19 THE COURT: Yes, come on up.

20 (Whereupon, sidebar off the record)

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

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

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

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

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

10 THE COURT: A medical type appointment?

11 MS. KELLY: Yes.

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

14 MS. KELLY: Yes.

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

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

19 THE COURT: Mr. Pennell.

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

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

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

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

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

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

9 THE COURT: Okay.

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

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

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

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

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

21 THE COURT: Oh, okay.

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

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

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

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

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

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

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

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

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

16 MR. PETERSON: (No audible response)

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

19 MR. THOMPSON: Not for me.

20 THE COURT: Mr. Pennell.

21 MR. PENNELL: No, Your Honor.

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

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

1 you had ever worked in law enforcement?

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

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

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

11 MR. BARRUETABENA: Elko.

12 THE COURT: And what's his name?

13 MR. BARRUETABENA: Dennis Williams.

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

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

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

22 MR. BARRUETABENA: Yes, I could.

23 THE COURT: Okay, thank you, sir.

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

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

3 THE COURT: Officer Bogdon?

4 MS. BOGDON: Yes.

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

9 MS. BOGDON: I can.

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

13 MS. BOGDON: I follow the science.

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

16 MS. BOGDON: So to speak.

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

19 MS. BOGDON: Yes.

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

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

25 THE COURT: Okay. So you have a family

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

5 MS. TAYLOR: No.

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

10 MS. TAYLOR: No.

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

13 MS. TAYLOR: No.

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

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

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

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

25 MS. POWRIE: I do not.

1 THE COURT: Okay.

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

5 THE COURT: Newer people.

6 MS. POWRIE: Yeah.

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

12 MS. POWRIE: No.

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

15 MS. POWRIE: Yes, sir.

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

19 MS. POWRIE: No.

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

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

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

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

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

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

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

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

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

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

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

22 MR. KENNEDY: No.

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

25 MR. KENNEDY: No.

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

6 MR. KENNEDY: No.

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

10 MR. KENNEDY: I think so.

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

13 MR. KENNEDY: I know so.

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

16 MR. KENNEDY: Thank you.

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

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

22 THE COURT: Okay. Is he your supervisor?

23 MR. BARRUETABENA: No, he is not.

24 THE COURT: Are you his supervisor?

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

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

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

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

7 MR. BARRUETABENA: Yes, I could.

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

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

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

15 MS. JOHNSON: Uh-huh.

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

18 MS. JOHNSON: No.

19 THE COURT: Are you their supervisor?

20 MS. JOHNSON: No.

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

25 MS. JOHNSON: No.

1 THE COURT: You could disagree with them?

2 MS. JOHNSON: Yes.

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

5 MS. JOHNSON: No.

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

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

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

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

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

20 MS. BOGDON: No.

21 THE COURT: You could disagree with them?

22 MS. BOGDON: Yes.

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

25 MS. BOGDON: No.

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

4 MR. THOMPSON: No.

5 MS. TAYLOR: No.

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

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

10 THE COURT: Okay. Mr. Jim Kennedy?

11 MS. TAYLOR: Uh-huh.

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

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

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

19 MS. TAYLOR: No.

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

23 MS. TAYLOR: I could disagree.

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

1 MS. TAYLOR: (No audible response)

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

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

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

11 MS. NUTTING: No.

12 THE COURT: You could disagree with them?

13 MS. NUTTING: Yes.

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

16 MS. NUTTING: No.

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

18 Who else had their hand raised there?

19 Ms. Meade in seat 15.

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

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

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

24 THE COURT: Are any of them your supervisor?

25 MS. MEADE: Not anymore.

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

3 MS. MEADE: Yes.

4 THE COURT: And who was that?

5 MS. MEADE: Julius.

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

10 MS. MEADE: No, sir.

11 THE COURT: You could disagree with them?

12 MS. MEADE: Yes.

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

15 MS. MEADE: Yes.

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

18 MS. SEAL: I know Theresa and Rhonda.

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

21 MS. SEAL: No.

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

24 MS. SEAL: Yes.

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

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

2 MS. EVANS: Yes.

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

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

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

8 MS. EVANS: Yep.

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

11 MS. EVANS: Nope.

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

14 MS. EVANS: Nope.

15 THE COURT: You could disagree with them?

16 MS. EVANS: Yep.

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

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

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

1 think about the case?

2 MR. STIEGER: Nope, we can argue.

3 THE COURT: You could disagree with them?

4 MR. STIEGER: Yes, sir.

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

7 MR. STIEGER: Nope.

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

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

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

13 THE COURT: Okay. Are you her supervisor?

14 MR. GUBLER: No.

15 THE COURT: Okay. Is she your supervisor?

16 MR. GUBLER: No.

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

19 MR. GUBLER: No, no issues.

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

22 MR. GUBLER: No.

23 THE COURT: You could be fair?

24 MR. GUBLER: Yes.

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

1 else? Okay, this is Ms. Powrie?

2 MS. POWRIE: Yes.

3 THE COURT: In seat 19, go ahead.

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

6 THE COURT: Uh-huh.

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

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

13 MS. POWRIE: No.

14 THE COURT: You could disagree with them --

15 MS. POWRIE: Yes.

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

18 MS. POWRIE: (No audible response)

19 THE COURT: Is that yes?

20 MS. POWRIE: Yes.

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

24 MS. POWRIE: Nope.

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

1 else? Okay.

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

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

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

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

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

1 have some problem following the law?

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

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

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

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

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

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

3 MR. THOMPSON: Thank you, Judge.

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

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

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

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

1 civil case or a criminal case?

2 UNIDENTIFIED JUROR: It was a criminal case.

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

5 UNIDENTIFIED JUROR: Yes.

6 MR. THOMPSON: Were you the foreperson?

7 UNIDENTIFIED JUROR: I was.

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

11 UNIDENTIFIED JUROR: It was a good  
12 experience.

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

15 UNIDENTIFIED JUROR: (Indiscernible)

16 THE COURT: Yes, come on up.

17 (Whereupon, sidebar off the record)

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

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

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

1 prosecuted by our office?

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

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

14 MS. BORDEN: Oh, yes.

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

20 MS. BORDEN: No problem at all.

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

23 MS. BORDEN: Yes.

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

1 MS. BORDEN: Yes.

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

4 MS. BORDEN: (Indiscernible)

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

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

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

15 MS. BORDEN: Yes.

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

18 MS. BORDEN: Yes.

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

23 MS. BORDEN: (No audible response)

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

1 MS. BORDEN: It popped in my head.

2 MR. THOMPSON: All right, thank you.

3 MS. BORDEN: Uh-huh.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 MS. JOHNSON: What specifically do you want?

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

17 MS. JOHNSON: What specifically do you want?

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

20 MS. JOHNSON: A little bit of everything.

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

24 MS. JOHNSON: No.

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

1 TV?

2 MS. JOHNSON: Through media, yes.

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

5 MS. JOHNSON: The news.

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

8 MS. JOHNSON: Uh-huh.

9 MR. THOMPSON: Would that be --

10 MS. JOHNSON: Yes.

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

15 MS. JOHNSON: No.

16 MR. THOMPSON: Okay.

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

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

21 MS. JOHNSON: Yes, everyone does.

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

1 Minnesota?

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

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

8 MS. JOHNSON: No.

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

11 MS. JOHNSON: Doesn't everyone?

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

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

17 MR. THOMPSON: Okay.

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

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

1 any issue with that?

2 MS. JOHNSON: No.

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

7 MS. JOHNSON: Right.

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

10 MS. JOHNSON: Yes.

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

15 MS. JOHNSON: Right.

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

19 MS. JOHNSON: Yes.

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

24 Have you ever heard the term hearsay before?

25 MR. PETERSON: I have.

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

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

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

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

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

23 MR. PETERSON: No issue with that.

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

1 MR. PETERSON: Yeah.

2 MR. THOMPSON: Okay.

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

5 MR. THOMPSON: Very good, thank you.

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

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

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

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

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

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

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

1 you could find that it rained under both witnesses.

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

4 Okay, no hands.

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

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

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

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

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

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

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

8           MS. POWRIE: Yes.

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

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

15          MR. THOMPSON: Okay.

16          MS. POWRIE: -- that was it.

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

19          MS. POWRIE: Yes.

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

23          MS. POWRIE: No.

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

1 MS. POWRIE: Yes.

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

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

7 MR. THOMPSON: I did.

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

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

12 MR. STIEGER: Yeah, the one side.

13 MR. THOMPSON: I'm sorry?

14 MR. STIEGER: The one side.

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

17 MR. STIEGER: No.

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

20 MR. STIEGER: It was interesting.

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

23 MR. STIEGER: It was good.

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

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

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

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

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

12 Number 31 --

13 THE BAILIFF: He said he wanted a sidebar.

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

15 (Whereupon, sidebar off the record)

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

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

25 MR. BROOKE: Cornelius Brooke. Engineer at

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

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

7 MR. BROOKE: No, Your Honor.

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

10 MR. BROOKE: (No audible response)

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

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

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

25 And if you're concerned about my foot hurts

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

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

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

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

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

18 THE COURT: Okay.

19 MR. THOMPSON: -- Pennell is through.

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

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

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

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

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

24           Thank you.

25           (Whereupon, court recessed)

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

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

10 MR. THOMPSON: Yes.

11 MR. PENNELL: Yes, Your Honor.

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

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

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

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

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

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

20           Yes.

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

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

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

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

18 MR. PENNELL: Okay.

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

21 MR. PENNELL: Sure.

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

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

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

8 MR. PENNELL: Sure.

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

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

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

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

1 stand up and be honest with us about this?

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

5 MR. PENNELL: Sure.

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

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

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

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

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

6 MR. KOUGH: Yeah.

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

10 MR. KOUGH: Kough.

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

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

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

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

1 JUROR NO. 36: Okay.

2 MR. PENNELL: Does that mean that -- and you  
3 said that automatically you're going to credit law  
4 enforcement with their testimony, the believability of  
5 it, the likelihood, that you think it's true or  
6 accurate? You feel that way right now?

7 JUROR NO. 36: It would sway it some, but no,  
8 I'd be willing to listen to everything.

9 MR. PENNELL: Sure.

10 JUROR NO. 36: Yeah, everybody makes  
11 mistakes.

12 MR. PENNELL: Of course. So we have --  
13 obviously, we haven't heard any of the evidence. None  
14 of us have gotten to that point. So you're saying that  
15 once you hear the evidence, you'll be fair, but right  
16 now, it sounds like you might have some trouble being  
17 fair because you've already decided that law enforcement  
18 is going to be believed or at least you weigh in that  
19 favor simply because of who they are.

20 Is that accurate to say?

21 JUROR NO. 36: Yeah, but --

22 MR. PENNELL: Okay.

23 JUROR NO. 36: Yeah, they wouldn't hold --  
24 slightly more credibility but --

25 MR. PENNELL: Okay.

1 JUROR NO. 36: -- it wouldn't sway my  
2 decisions.

3 MR. PENNELL: Okay. But basically right now,  
4 you're saying it's slight, but there's credibility  
5 already there?

6 JUROR NO. 36: Yeah.

7 MR. PENNELL: Okay. All right, I believe I  
8 saw some other people. Thank you for answering that  
9 question. I think there was some other hands up. Yeah,  
10 let's go to you, sir, number 9.

11 JUROR NO. 9: I too believe that it's good to  
12 respect authority. I think that's commendable, and at  
13 the same time, I think it's becoming more published that  
14 there's mistakes being made. So I think it's important  
15 to keep an open mind. That's what I would hope I could  
16 do in the situation here but maybe some areas -- even  
17 larger areas have a bigger problem. That's kind of the  
18 way I feel. Smaller town areas, a lot like Elko, is  
19 kind of a melting pot. But it's not past any -- any --  
20 you know anybody. Any area can make a mistake or  
21 whatnot, so. But I haven't seen any problems in our  
22 area that seems severe.

23 MR. PENNELL: Okay. So if I could just  
24 follow up with you, sir, a little bit. You said -- it  
25 kind of sounds like you're saying you understand that

1 police officers are human. They can make mistakes. Is  
2 that kind of what you're getting at?

3 JUROR NO. 9: I think that's pretty much what  
4 we've seen. You mentioned, you know, nationwide. It  
5 could be all around the world to hear of corruption and  
6 different realms, but still you've got to have law and  
7 order, you know, and you've got to have authority and  
8 that type of thing. So you should respect what that is.  
9 But in a case of, you know, innocence or guilt, yeah, I  
10 think it's important to keep an open mind on things.

11 MR. PENNELL: Okay. And I think Mr. Thompson  
12 asked some questions kind of related to what you were  
13 just saying. I mean, how do you feel about the sort of  
14 situation at large in terms of law enforcement and  
15 protests? I mean, I'm interested to know how you feel  
16 about that. You've kind of alluded to you think there's  
17 a problem kind of somewhere else.

18 JUROR NO. 9: Well --

19 MR. PENNELL: But I'd like to know how you  
20 feel about it.

21 JUROR NO. 9: Well, I don't think Elko has  
22 seen what we -- you know, the demonstrations or  
23 anything. It's kind of interesting, some of these  
24 bigger areas it's hard to imagine riots and looting and  
25 all that type of thing. So, you know, violence and

1   looting and all that is a pretty obvious wrong, and yet,  
2   some of the protests, people think it's good to voice  
3   what they think.

4               So maybe there's -- there is a place for  
5   change or improvement in some of the things going on,  
6   but, yeah, I think, you know, Elko is a small enough  
7   area or such a -- you know, we have to appreciate what  
8   we see going on here, but still, you have to keep an  
9   open mind on judging cases and all that.

10              MR. PENNELL: Sure. Just wanted to follow up  
11   a little bit more on something you said. I appreciate  
12   that answer. You said the violence and the looting,  
13   what in your mind -- obviously, most people are going to  
14   feel the same way. What makes that wrong?

15              JUROR NO. 9: Well, stealing is wrong.  
16   That's all looting. Some people try to justify it one  
17   way or the other but --

18              MR. PENNELL: Sure.

19              JUROR NO. 9: And then violence, well, yeah,  
20   that would be -- that's probably another deal, but I --  
21   violence would be something to keep an open mind to  
22   because if it's -- if it's proven, you know, somebody's  
23   brutalizing somebody else or bullying them is a big  
24   problem too. We see that in the school systems  
25   nowadays. You think that's a thing of the past, but it

1 really isn't.

2 And you even hear of it on the, you know,  
3 Internet and cyberbullying and all that type of thing  
4 and people committing suicide because they get their  
5 feelings hurt and all -- it's pretty serious stuff, I  
6 guess. So -- so you'd like to see that type of thing  
7 nipped in the bud before, you know, people get injured  
8 and hurt and all that type of thing, so.

9 MR. PENNELL: I think I understood most of  
10 what you said. Could I maybe ask a follow-up? You said  
11 if someone's being picked on or attacked, does that mean  
12 you feel that someone should be able to defend  
13 themselves?

14 JUROR NO. 9: And it's commendable when  
15 people stand up to help each other that are getting  
16 victimized. So, you know, that's what the -- again, the  
17 authority tries to do is to keep a -- you know, to keep  
18 that element away from people that are trying to live a  
19 peaceful, productive life. So I think it's commendable  
20 to respect authority for that reason.

21 MR. PENNELL: Sure. If we're not talking  
22 specifically about law enforcement, what is your  
23 position and your belief on a person's right to defend  
24 themself?

25 JUROR NO. 9: Yeah, well, if you're in danger

1 of being injured, you know, you should be able to do  
2 what you can to remove yourself from that dangerous  
3 situation. Of course, probably report it. Report it so  
4 that other people don't fall in the same environment.

5 MR. PENNELL: What if -- just to follow up.  
6 You said that they should leave. Do you think, based on  
7 what you believe, that if someone is defending  
8 themselves, they first have to leave the area or try and  
9 retreat?

10 JUROR NO. 9: Well, you might have to -- you  
11 might have to try to explain yourself, I suppose, or,  
12 you know, you don't want people to think you're what, a  
13 coward or something, but if -- if you're -- if the  
14 situation's going to be like say in a protest sense  
15 getting violent or something of the sort, you'd be  
16 better off to find a different way to try to correct  
17 injustices.

18 MR. PENNELL: I appreciate your answers to  
19 all those questions. I think I've kind of picked on you  
20 enough for now.

21 JUROR NO. 9: Okay.

22 MR. PENNELL: So I'll probably move on.

23 Is there someone else who has a similar idea  
24 or a similar belief about a person's right to defend  
25 themselves? I'm interested to know what all of you

1 think about that if someone's willing to tell us about  
2 that and be honest about it.

3 Yes, sir.

4 JUROR NO. 10: My thoughts on that, if you're  
5 going to be attacked -- if you're going to be attacked,  
6 you're going to be attacked. I believe you have the  
7 right to defend yourself, try to de-escalate it the best  
8 you can, but you should be able to protect yourself.

9 MR. PENNELL: So you believe that if  
10 someone's trying to de-escalate that and nothing's  
11 working, that at that point is when you feel someone has  
12 a right to defend themselves?

13 JUROR NO. 10: Yes, I do.

14 MR. PENNELL: Okay. Could you tell me more  
15 about that. Why do you believe that?

16 JUROR NO. 10: If -- I think it's just your  
17 right to defend yourself.

18 MR. PENNELL: I appreciate your honesty about  
19 that. So I know there was -- I asked for people to  
20 raise their hand, and you did. So thank you.

21 Is there anybody else who maybe agrees with  
22 Juror No. 10 or maybe disagrees? Yeah, Juror 17. And  
23 I'm sorry, ma'am, what was your name?

24 MS. BONDELIE: I'm Jennifer Bondelie.

25 MR. PENNELL: Okay. Ms. Bondelie --

1 Bondelie?

2 MS. BONDELIE: Bondelie, like Bondelie.

3 MR. PENNELL: Okay. Go ahead, thank you.

4 MS. BONDELIE: I agree with Juror No. 10. I  
5 don't have TV so I don't know all the details of  
6 everything that you guys do, but I was always raised if  
7 I was put in danger, don't be a victim. Just like he  
8 had mentioned, de-escalate the situation, get yourself  
9 safe, your loved one's safe, and kind of be proactive.  
10 Do what you can to not be the victim.

11 MR. PENNELL: Okay. So kind of do everything  
12 that you could possibly do in that situation to try and  
13 defuse it or --

14 MS. BONDELIE: Right.

15 MR. PENNELL: -- you know, not cause the  
16 problem, but at a certain point, there's just nothing  
17 left to do --

18 MS. BONDELIE: You've got to make that  
19 decision right, that you can't get your life back so --

20 MR. PENNELL: Sure.

21 MS. BONDELIE: -- if it were to come to  
22 violence like that, I would protect myself.

23 MR. PENNELL: Okay. Well, I appreciate your  
24 honesty about that. I believe, sir, you were raising  
25 your hand as well, Juror 23.

1 JUROR NO. 23: I agree with number 10 as  
2 well. I think it's everybody's right to defend  
3 themselves, their family, and all their -- all their  
4 home values and everything. And if somebody's trying to  
5 take my life or my family's life, I'm going to be there  
6 and give it all I got. I'm not going to stand for  
7 somebody to come in and invade my privacy or my family,  
8 to take things away from me that I've worked hard for.

9 MR. PENNELL: Sure. It sounds like you're  
10 kind of talking about your home. Does it change  
11 anything --

12 JUROR NO. 23: My home --

13 MR. PENNELL: -- what you believe if you're  
14 not in your home and you're trying to --

15 JUROR NO. 23: My home, myself, my family,  
16 things that belong to me.

17 MR. PENNELL: Okay. And if you're in a  
18 situation where a person may think -- you know, they'd  
19 be a reasonable mind might think I have nothing left to  
20 do. That's okay to defend yourself at that point?

21 JUROR NO. 23: I believe so as long as I'm  
22 not taking anything away from somebody else or trying to  
23 bother them. They don't need to be bothering me.

24 MR. PENNELL: Okay. I appreciate that, sir,  
25 thank you. Does anybody else have a strong opinion or

1 feelings about anything that these jurors have talked  
2 about with self-defense?

3 Is there anybody here that would maybe  
4 consider themselves a pacifist, that even if you are  
5 attacked, that under no circumstances should you use  
6 violence back?

7 Yes, sir, in the corner there, 39.

8 MR. KIRBY: So I would say -- oh, and Cody  
9 Kirby. I would say that I generally agree with a lot of  
10 what the other folks said, that, ultimately, there's a  
11 right to self-defense, but I'm more of the camp of  
12 trying to remove myself from the situation if able to do  
13 so. So basically, if you have a way to leave that area  
14 -- you know, you can try and de-escalate, but, yeah,  
15 that you do have a bit of an ethical obligation to try  
16 and remove yourself from the situation before escalating  
17 with force.

18 MR. PENNELL: Okay. So remove yourself from  
19 the situation. Could you go into more detail about what  
20 you kind of mean by that?

21 MR. KIRBY: So if somebody's like coming  
22 after you, trying to pick a fight or something like  
23 that, that you should just try to leave. So,  
24 essentially, attempt to flee the situation unless if you  
25 have no other option, and then I would say it would be

1 reasonable to use force to defend yourself.

2 MR. PENNELL: So it's kind of -- I think what  
3 you're kind of saying is if someone is just hurting your  
4 pride, but you have a chance to get out of there, you  
5 have a duty to do that?

6 MR. KIRBY: Right. Right, that you should  
7 try to avoid escalating violence.

8 MR. PENNELL: But you agree -- or disagree,  
9 if I'm wrong, that at some point, under certain  
10 circumstances, there's just nothing left for a person to  
11 do?

12 MR. KIRBY: Correct --

13 MR. PENNELL: Is that accurate?

14 MR. KIRBY: -- kind of if you're backed into  
15 a corner and, you know, you or someone else is at risk  
16 of bodily harm, then right to self-defense.

17 MR. PENNELL: Okay. All right, I appreciate  
18 your answer, thank you. Is there -- I saw some people  
19 nodding their heads, but they're not in the panel right  
20 now for questioning. Is there anybody else who maybe  
21 leans towards that passivist side of things where under  
22 basically no circumstances should you ever engage in  
23 violence? Anybody else who feels that way?

24 Ms. Bogdon, there's something interesting  
25 that I heard you say, and I'll wait for him to get to

1 you, but I think it was in response to something the  
2 State said to you and your response was follow the  
3 science.

4 MS. BOGDON: Yeah.

5 MR. PENNELL: Can you kind of elaborate --  
6 and I was pretty intrigued --

7 MS. BOGDON: I meant the evidence.

8 MR. PENNELL: -- by what you meant by that.

9 MS. BOGDON: I meant the evidence.

10 MR. PENNELL: What's that?

11 MS. BOGDON: I meant to follow the evidence  
12 --

13 MR. PENNELL: Okay.

14 MS. BOGDON: -- not the science.

15 MR. PENNELL: Okay. Does that -- are you an  
16 engineer or have a scientific background? Is that why  
17 you said that?

18 MS. BOGDON: No, it's just been on TV a lot.

19 MR. PENNELL: Oh, okay. All right, it's kind  
20 of that CSI effect you were -- we were talking about.

21 MS. BOGDON: Yeah, no.

22 MR. PENNELL: Okay. All right, thank you.

23 I want to talk about people's experiences  
24 dealing with family members or friends or maybe even in  
25 their job with dealing with people with mental health

1 issues. Is there anybody that has had that affect their  
2 lives or is in some way a big part of their lives?

3 Yes, Juror 27.

4 JUROR NO. 27: Well, again, it's my  
5 profession to be a mental health counselor. Sure, I  
6 come from a lot of disfunction. That's kind of what  
7 spurred me to become a counselor, so. I don't know what  
8 else you want to know but definitely mental health  
9 issues, some minor DV. I'm from the 60's. We got the  
10 belt, you know, that kind of thing when we were bad.  
11 But anyway, definitely dealing with different mental  
12 health issues in my family.

13 MR. PENNELL: And did any of that experience  
14 -- and I know this is a sensitive question so I  
15 appreciate your honesty about it. Did any of that ever  
16 involve violence or anything related to where those two  
17 things were kind of converging?

18 JUROR NO. 27: Someone that I am related to  
19 was involved with a domestic violence situation.

20 MR. PENNELL: Okay. And did that have to do  
21 with mental health issues as well, or was that something  
22 separate?

23 JUROR NO. 27: Being a mental health  
24 counselor, I'm going to say yes, it does deal with  
25 mental health issues.

1 MR. PENNELL: Okay. And you're familiar with  
2 the term secondary trauma?

3 JUROR NO. 27: Uh-huh.

4 MR. PENNELL: So that kind of means, if I'm  
5 right -- well, you're the expert. Why don't you tell me  
6 what it means to you, and then I can kind of work from  
7 there.

8 JUROR NO. 27: Well, that phrase can mean  
9 different things to different people. So sometimes,  
10 it's that you witness something that causes trauma for  
11 yourself, or it -- sometimes people get it confused with  
12 complex trauma. So maybe they've had multiple traumatic  
13 situations and consider secondary presentations as part  
14 of a primary trauma.

15 MR. PENNELL: Okay. What I was kind of  
16 talking about is another person can kind of take on  
17 stress or trauma. Is that accurate --

18 JUROR NO. 27: Yes, that's accurate.

19 MR. PENNELL: -- or am I using the wrong the  
20 term?

21 JUROR NO. 27: Uh-huh.

22 MR. PENNELL: Okay. Have you seen that  
23 affect people in your life, in your profession, and can  
24 you give me more information about that?

25 JUROR NO. 27: I'll -- first and foremost

1 myself. I witnessed things that shaped my life and what  
2 direction I would go.

3 MR. PENNELL: Okay. I asked you a lot of  
4 personal questions, thank you.

5 Now, some of you have worked in law  
6 enforcement -- well, actually, I should probably go back  
7 to Juror 20. I don't think I ever gave you the  
8 opportunity to answer the question from earlier. You  
9 had your hand up.

10 JUROR NO. 20: I lost my train of thought so  
11 it's okay.

12 MR. PENNELL: Oh, okay, I'll move on.

13 I know there's a lot of people who have  
14 family in law enforcement or, you know, personal  
15 experience in law enforcement. What we're asking you to  
16 do, as Mr. Thompson said, is that there is a presumption  
17 of innocence where right now as you're sitting,  
18 Mr. Yowell is innocent, and there's not a shred of  
19 evidence against him.

20 But if someone -- when you read that -- when  
21 you had that charging document, that criminal indictment  
22 -- or, excuse me, criminal information read to you, you  
23 know, that can be jarring. Was there anybody that  
24 inside of your own mind or how it made you feel, that  
25 you began to think that this document, what I'm being

1 read, is evidence of guilt? Is there anybody that  
2 started to kind of have those thoughts come into their  
3 mind?

4 Is there anybody that thinks that if someone  
5 is arrested for something, that that means that that is  
6 evidence when they get to trial that they are guilty? I  
7 see you shaking your head, no, ma'am. Could you  
8 elaborate on that for me, please.

9 MS. SEAL: I think everybody has the  
10 opportunity. They're innocent until something shows  
11 that they are guilty at that time --

12 THE COURT: And this is juror number -- in  
13 seat 14, Mary Seal?

14 MS. SEAL: Yes.

15 THE COURT: Okay, thank you.

16 MS. SEAL: -- that they are proven guilty,  
17 but everybody's innocent in my opinion.

18 THE COURT: Okay.

19 MS. SEAL: Because I've known people that  
20 have been -- or I've seen their name, have been arrested  
21 for something, and then it really wasn't true, and then  
22 it doesn't come out that they weren't convicted of the  
23 charges or whatever but...

24 MR. PENNELL: Right. Is that someone that  
25 was close to you or just someone you know?

1 MS. SEAL: No. No.

2 MR. PENNELL: Okay. How often do you think  
3 that kind of thing might happen?

4 MS. SEAL: I have no idea because I don't  
5 ever know people that, you know --

6 MR. PENNELL: Sure.

7 MS. SEAL: -- that it happens to. I mean, I  
8 had heard one person, and they -- they'd been arrested  
9 for a DUI, and then they got off of it so they didn't  
10 have -- but you don't ever see that part. You only saw  
11 their name in the paper for it.

12 MR. PENNELL: Sure. Okay, thank you for your  
13 answer. Now, just to follow up on that, not only  
14 someone being arrested, but what if someone is put in  
15 handcuffs when they're arrested, does that in your mind  
16 kind of ratchet up the potential proof that someone is  
17 guilty because they've been arrested, they're in  
18 handcuffs? Does that -- anybody have that kind of  
19 reaction?

20 What about if someone is not only arrested  
21 and put in handcuffs but is put into jail? At that  
22 point, if a person is put into jail, is that some  
23 indication that this person's guilty at that point for  
24 you? Is there anybody that feels that way?

25 We talked about people who have family who

1 are law enforcement. I think a lot of people may not  
2 realize that prosecutors are considered part of that.  
3 Is there anybody who's worked in a prosecutor's office  
4 or has a family member or close friend who's a  
5 prosecutor? Is there nobody? Okay.

6 Is there anybody who has worked in something  
7 like a domestic violence shelter or -- obviously, we  
8 know that you've worked with that in your profession.  
9 Is there anybody else that's had any close connection to  
10 that as part of their work?

11 Is it Mr. Brooke or Brooke, or do I got it  
12 totally wrong here?

13 MR. BROOKE: Either/or. Brooke is fine, but  
14 --

15 MR. PENNELL: All right, Cornelius, I think  
16 you've been paying attention. You were one of the last  
17 people that we called on. I'm interested in knowing  
18 more about what you felt about any of the questions that  
19 I have asked or the Prosecutor's asked, maybe one that  
20 had the strongest impression on you.

21 MR. BROOKE: Everybody's innocent until  
22 proven guilty. It's a court of law. We're all here to  
23 be objective. Full disclosure, I used to be Navy law  
24 enforcement, which isn't really applicable because we  
25 did physical security.

1 MR. PENNELL: I didn't catch that last one,  
2 I'm sorry.

3 MR. BROOKE: We did physical security rather  
4 than law enforcement.

5 MR. PENNELL: Okay. Is there anything as far  
6 as your background on that that would maybe have you  
7 start leaning in a different direction or in favor of  
8 the Prosecution or even the Defense?

9 MR. BROOKE: No.

10 MR. PENNELL: Okay. And so, I guess, you  
11 said it was protection?

12 MR. BROOKE: Physical security.

13 MR. PENNELL: Okay. So could you give me an  
14 idea of what the difference is?

15 MR. BROOKE: Not law enforcement, guarding  
16 assets.

17 MR. PENNELL: Okay. Oh, okay, all right. Is  
18 there anything else that you've heard that really jumped  
19 into your mind when you were asked a question, but you  
20 didn't raise your hand?

21 MR. BROOKE: No.

22 MR. PENNELL: Okay. All right. I think on  
23 your questionnaire, Mr. Griswold, you also were in the  
24 Navy?

25 MR. GRISWOLD: Yes.

1 MR. PENNELL: Were you in law enforcement?

2 MR. GRISWOLD: No, I was a crewman on  
3 helicopters and a jet mechanic.

4 MR. PENNELL: Okay. What about you,  
5 Mr. Griswold, is there anything about any of the  
6 questions you were asked that something really popped  
7 into your mind, but you just didn't raise your hand or  
8 didn't talk about it at the time?

9 MR. GRISWOLD: Well, kind of maybe that  
10 self-defense one. You know, I think everybody has an  
11 opinion on that one. You know, maybe some people more  
12 than others, but --

13 MR. PENNELL: Right.

14 MR. GRISWOLD: -- you know, I think, you  
15 know, that's one to think about, you know. I --

16 MR. PENNELL: What about your opinion on  
17 that? I'm interested to know that.

18 MR. GRISWOLD: I think everybody should be  
19 able to protect themselves if they're in a situation to  
20 where there's no other recourse to, you know, fight or  
21 flight, you know. You know, if you can get out of the  
22 situation, fine. If not, you know, I think you -- your  
23 responsibility is to protect yourself and your family or  
24 friends if you have the opportunity to do that, you  
25 know.

1 MR. PENNELL: Well, I appreciate your honesty  
2 about that, thank you. If I could actually -- I  
3 actually wanted to follow up just with one more.

4 MR. GRISWOLD: Sure.

5 MR. PENNELL: Does it have any affect on you  
6 about whether or not it's a man or a woman attacking or  
7 defending? Does that change your mind about what you  
8 think about self-defense?

9 MR. GRISWOLD: No. I mean, if you're  
10 threatened, it doesn't matter who's threatening you, you  
11 know. I mean, the potential is there either way. I  
12 mean, you know --

13 MR. PENNELL: Okay.

14 MR. GRISWOLD: -- male or female, I mean.

15 MR. PENNELL: Well, I appreciate --

16 MR. GRISWOLD: A female can dish out violence  
17 sometimes better than some men, you know. I mean,  
18 that's just the nature of the beast sometimes.

19 MR. PENNELL: Sure. I appreciate that. I  
20 won't pretend to get you down and then bring you back  
21 up.

22 MR. GRISWOLD: All right.

23 MR. PENNELL: So, thank you. Is there  
24 anybody that feels the same way about that question I  
25 just asked as Mr. Griswold or maybe that they feel

1 differently, that that changes the dynamic of whether or  
2 not someone has a right to defend themselves? Is there  
3 anybody that feels differently about that?

4 Let me see, Mr. Bauer --

5 MR. BAUER: Yes, sir.

6 MR. PENNELL: -- Juror 51. Is there anything  
7 in your mind, based on things that you've heard so far,  
8 that's kind of boiled up in your mind about something  
9 you immediately thought of or believed in or you felt  
10 strongly about that maybe you didn't raise your hand and  
11 answer earlier?

12 MR. BAUER: The question you just asked him  
13 about male or female --

14 MR. PENNELL: Sure.

15 MR. BAUER: -- I don't know, my personal  
16 opinion is if a lady or my wife or whoever was coming  
17 after me, that I pretty much feel I can remove myself  
18 from the situation to where I didn't -- don't have to  
19 inflict harm, you know, to resolve the situation. I'm  
20 pretty sure I can get away from just about any woman in  
21 here if needed, depending on the situation.

22 MR. PENNELL: Okay. Could you imagine -- or  
23 I just -- your belief, if you could imagine a situation  
24 where that just wasn't possible, would that change your  
25 answer?

1 MR. BAUER: About the only way I would even  
2 think that way would be, I mean, if there was a gun  
3 pointed at me or something that I couldn't get away, so.

4 MR. PENNELL: Okay. What if you knew about  
5 this person's violent history, would that change how you  
6 might feel about whether or not you need to get out of  
7 there first or you need to do one thing or the other?

8 MR. BAUER: Yeah, I would have to know the  
9 situation before I would know whether I could flee or  
10 not, so.

11 MR. PENNELL: Okay. So it just depends on  
12 all the facts, every situation's different kind of  
13 thing, right?

14 MR. BAUER: Yeah, me just --

15 MR. PENNELL: Okay.

16 MR. BAUER: Me personally, that's the way I  
17 feel.

18 MR. PENNELL: Okay. I appreciate it, thank  
19 you. Let's see, all right, so I'm going to start  
20 calling on some more people. Juror 53, I was interested  
21 to know what you thought about some of these questions  
22 we've been asking you.

23 JUROR NO. 53: I think it's maybe important  
24 to remember that there can easily be a gender bias when  
25 it comes to, like you mentioned, domestic violence, you

1 know. I anecdotally dated a girl back in the day who  
2 was a marriage and family therapist for a reservation up  
3 in Washington, and most of what she dealt with was  
4 domestic violence, and it was -- sometimes it was female  
5 toward male, sometimes it was male toward female. And,  
6 you know, she dealt with a lot of issues, you know,  
7 mental health, drugs, a lot of things, you know, are  
8 hand-in-hand.

9 So in her mind, you know, and in my mind as  
10 well, every situation is different, every household is  
11 different, every environment is different, and there is  
12 really no benefit to carrying any -- you know, maybe  
13 besides your common sense and your ability to listen,  
14 but I don't really feel there's a reason to carry a bias  
15 from maybe your own, you know, limited life experience  
16 into something like this.

17 MR. PENNELL: Okay. So every situation  
18 speaks for itself kind of --

19 JUROR NO. 53: Right.

20 MR. PENNELL: -- the facts have to be judged  
21 based on each person --

22 JUROR NO. 53: Correct.

23 MR. PENNELL: -- each group of people, each  
24 circumstance?

25 JUROR NO. 53: Correct, every human being,

1 you know, is completely unique. Every upbringing is  
2 unique. Every environment is unique. Every trauma is  
3 unique, you know. So --

4 MR. PENNELL: So -- go ahead, I didn't mean  
5 to interrupt you.

6 JUROR NO. 53: Oh, so I just feel like, you  
7 know, there's not a big benefit for me to -- to make any  
8 assumptions, you know, about anything. You know, I've  
9 known amazing and not so amazing law enforcement, and  
10 that's gone with any walk of life. You know, I've -- so  
11 I just feel as if -- you know, in my experience, I've  
12 seen people from any background in any situation. There  
13 are no two people, there are no two situations that are  
14 alike, and that's -- I don't know if that's helpful  
15 but...

16 MR. PENNELL: Yeah, it was. I appreciate  
17 your answer. If I could just be more specific.

18 JUROR NO. 53: Sure.

19 MR. PENNELL: Could you tell me more about  
20 what you mean by gender bias in that situation? I think  
21 you were referring to self-defense if I'm not mistaken?

22 JUROR NO. 53: Sure, you know, I mean, you  
23 know, I have a twin brother who's married to a  
24 Venezuelan girl who got him into Jujitsu, you know,  
25 because he was tired of getting arm-barred, you know.

1 And so a lot of times life experience, you know, there's  
2 just so much you don't know. The tiniest person can  
3 have the, you know, the most incredible background. The  
4 largest person can be the, you know, the softest teddy  
5 bear. So I don't know if that further clarifies, but,  
6 again, for me it's the same as --

7 My mom, I think, was a Judge doing like  
8 corporate law or whatever, you know, and I was always  
9 raised to study -- study. Don't make assumptions.  
10 Don't make judgments until the absolute last moment, but  
11 just gather information and just keep eye awareness, you  
12 know, and treat every situation and every person  
13 uniquely.

14 MR. PENNELL: All right. I appreciate that,  
15 thank you. Based on what he said, is there anybody that  
16 has the same general kind of opinion or maybe has a  
17 different opinion about that?

18 Juror 46, I think when he was speaking, I  
19 noticed that you were looking down and it looked like  
20 you were concentrating really hard. I kind of wanted to  
21 be -- I was interested in what maybe was going through  
22 your mind when he was speaking.

23 JUROR NO. 46: I just have a headache. I was  
24 --

25 MR. PENNELL: Oh, okay. So it's our fault

1 basically.

2 JUROR NO. 46: Well, I don't know.

3 MR. PENNELL: Okay. Well, you're already  
4 standing up. You have the microphone. Is there  
5 anything that you've heard so far as far as questions or  
6 answers that just immediately bring something to mind  
7 that you feel like, you know, we should maybe know about  
8 or that is an opinion you have about anything related to  
9 what we've talked about? .

10 JUROR NO. 46: Not really. I mean, I agree  
11 with some of the -- you have the right to defend  
12 yourself if somebody's attacking you. I think there is  
13 a bias, like men with domestic abuse, people look at  
14 them differently but...

15 MR. PENNELL: What do you mean by that, look  
16 at them differently?

17 JUROR NO. 46: I feel like some people see it  
18 as men can't be abused by women.

19 MR. PENNELL: Do you believe that?

20 JUROR NO. 46: No.

21 MR. PENNELL: Could you tell me more about  
22 that.

23 JUROR NO. 46: I don't know what else to say.  
24 I just think that's a thing.

25 MR. PENNELL: Okay.

1 JUROR NO. 46: Yeah.

2 MR. PENNELL: All right, well, thank you for  
3 your honesty about that. Let me see, Juror 34, Mr. --  
4 is it Gubler? So I -- I'm guessing in your profession,  
5 you don't see a lot of that sort of thing, but I'm still  
6 interested in knowing if you've developed any strong  
7 opinions associated with people -- what people have  
8 said. Maybe you believe something similar or maybe you  
9 had a different opinion altogether. I'm interested to  
10 know maybe what may have come to mind.

11 MR. GUBLER: No, I agree with some of the  
12 other comments here, that you have your right to defend  
13 yourself if you're being attacked. I mean, I think, as  
14 others said, try to diffuse the situation, but, yeah, if  
15 you're being attacked, I think you have a right to  
16 defend yourself, so.

17 MR. PENNELL: And would it matter whether or  
18 not you know that person whether or not you would change  
19 your mind about that belief, that position you just gave  
20 us?

21 MR. GUBLER: I don't think so. Yeah, I mean,  
22 if you're being attacked it's...

23 MR. PENNELL: Okay. If you do know that  
24 person that's attacking you, do you think it's fair to  
25 use your knowledge and past history with that person to

1 make a decision about defending yourself?

2 MR. GUBLER: Yeah, depending on the  
3 situation.

4 MR. PENNELL: Okay. All right, well, I  
5 appreciate your answer, thank you. We're getting pretty  
6 close.

7 Juror 4, William Wilkinson, so I've noticed  
8 you've been kind of quiet. I am interested to know what  
9 you may have wanted to say but maybe haven't had the  
10 chance to say it in terms of the questions you've been  
11 answered -- or asked today.

12 MR. WILKINSON: I believe in self-defense,  
13 but you have to de-escalate the problem. Other than  
14 that, I'm just listening and learning on the way.

15 MR. PENNELL: Sure.

16 MR. WILKINSON: I really don't have no strong  
17 opinion left or right, so.

18 MR. PENNELL: Sure. You talked about  
19 de-escalation. I think we've kind of got a couple  
20 different opinions that are similar but maybe a little  
21 different too. What is a person's obligation in terms  
22 of de-escalating as far as in your mind how you're  
23 describing that to me right now?

24 MR. WILKINSON: All right. How I was raised,  
25 you never hit a woman or a girl. So if somebody's -- if

1 it's a woman coming to you, you try to grab her or  
2 whatever and try to calm her down, but you never --  
3 that's just how I was raised. You never hit a woman.

4 MR. PENNELL: Okay. So your first reaction  
5 is to --

6 MR. WILKINSON: De-escalate it, but, I mean,  
7 if it gets to that point to -- the main thing, just grab  
8 her or whatever and try to calm her down. Yeah, you can  
9 let her hit you and that, but in my belief and how I was  
10 raised, you never hit a woman.

11 MR. PENNELL: Okay. So you talked about  
12 de-escalating. Does that -- part of that mean like you  
13 should try and grab someone if they're -- try and stop  
14 them?

15 MR. WILKINSON: You try to, like this  
16 gentleman over here said, you try to walk away and get  
17 out of the room or whatever, but if you can't do that,  
18 you just got to, I guess, grin and bear it, and there  
19 you go.

20 MR. PENNELL: So do you think that there's  
21 basically no circumstance, based on what your upbringing  
22 is, where you can hit back?

23 MR. WILKINSON: Well, no, there is -- there  
24 would be a circumstance. I mean, if she has a knife or  
25 -- I mean, if a person has a knife or a gun, yeah,

1 that's totally different.

2 MR. PENNELL: What if they don't have a knife  
3 or a gun?

4 MR. WILKINSON: It depends on the situation.  
5 I mean, I don't know. That situation you would have to  
6 be there and determine what you would do.

7 MR. PENNELL: Okay.

8 MR. WILKINSON: That's where -- yeah.

9 MR. PENNELL: All right. Well, I appreciate  
10 your answers, thank you. So I couldn't help -- sir, I  
11 can't see your badge or --

12 UNIDENTIFIED JUROR: (Indiscernible)

13 MR. PENNELL: Yeah, I kind of saw you  
14 following along with some of these questions. I'd like  
15 to know your opinion about that?

16 UNIDENTIFIED JUROR: Yeah, I think it's, you  
17 know, just specific to what's happening.

18 MR. PENNELL: Yeah.

19 UNIDENTIFIED JUROR: So I think if it's an  
20 intimidating figure -- I was raised the same way. You  
21 don't strike a woman. I was raised with five sisters.  
22 You know, you have a right to defend yourself, and if  
23 you got yourself in a pickle and somebody's coming to  
24 get you, then, you've got to fight your way out of it.

25 MR. PENNELL: So you said get yourself in a

1 pickle.

2 UNIDENTIFIED JUROR: Something -- you know,  
3 if you're in a situation, a pickle or a situation --

4 MR. PENNELL: Right.

5 UNIDENTIFIED JUROR: -- where, you know,  
6 you're there whether it's -- you've -- you know, you've  
7 created it or you're in the wrong place at the wrong  
8 time, yeah, you've got to fight or flee, you know, so --  
9 in most situations.

10 MR. PENNELL: So you said you had a somewhat  
11 similar upbringing. Could you just go into more detail  
12 about that. I'm interested in --

13 UNIDENTIFIED JUROR: You know, I was -- I had  
14 five sisters and two older brothers so we -- you know, I  
15 was instructed that you don't -- you don't hit a lady,  
16 and so in my instances through life, there's been  
17 situations where, you know, it's not been perfect. So  
18 you have to remove yourself from the situation.

19 MR. PENNELL: Okay. So you and your brothers  
20 and your sisters weren't supposed to hit each other,  
21 right? Is that --

22 UNIDENTIFIED JUROR: That's correct.

23 MR. PENNELL: Sometimes you probably would,  
24 though?

25 UNIDENTIFIED JUROR: Yeah, we maybe got a

1 little bit rowdy but...

2 MR. PENNELL: Okay. So is there a situation  
3 based on that upbringing where you can see maybe you had  
4 a right to defend yourself, or is it just out of the  
5 question?

6 UNIDENTIFIED JUROR: Oh, you know, exactly.  
7 So, you know, it's -- you know, when it comes to a lady,  
8 it's -- unless it's -- you know, my general instinct is  
9 to remove myself from the situation.

10 MR. PENNELL: Okay. Well, I appreciate your  
11 honesty with us about that. I appreciate your taking  
12 the time to answer my questions.

13 UNIDENTIFIED JUROR: All right, thanks.

14 MR. PENNELL: And Juror 56, I don't think  
15 I've -- have you said anything yet? I don't think so.

16 JUROR NO. 56: No.

17 MR. PENNELL: I'd like to know what you  
18 think.

19 JUROR NO. 56: I was kind of raised the same  
20 way, but I was also raised that the way you act is the  
21 way you should be treated too, so.

22 MR. PENNELL: Okay. Can you elaborate more  
23 on that?

24 JUROR NO. 56: Well, if you're kind to  
25 people, people will be kind back to you, but if you're

1 going to be mean, they're either going to be mean back  
2 or just walk away, so.

3 MR. PENNELL: Okay. Well, what about  
4 something more direct like they were talking about, the  
5 issue of self-defense?

6 JUROR NO. 56: You've got to defend yourself.  
7 You can't let somebody just sit there and beat up on  
8 you. You've got to either take it or walk away, and  
9 it's better just to walk away because then there's other  
10 problems behind it.

11 MR. PENNELL: So do you think that someone  
12 has a duty to walk away before they defend themselves, a  
13 duty to retreat?

14 JUROR NO. 56: You can try to defend yourself  
15 as much as possible, but there's always that way that  
16 the person that's coming in on you hard, they're going  
17 to -- sometimes there's no way to get through to them --

18 MR. PENNELL: Okay.

19 JUROR NO. 56: -- except to walk away from  
20 it.

21 MR. PENNELL: Okay. We heard some talk about  
22 this sort of gender bias in these roles. What is your  
23 kind of belief, or how do you feel about that?

24 JUROR NO. 56: There is. I've seen people  
25 that think that men can't be beat up by women, but they

1 do.

2 MR. PENNELL: I assume you think differently  
3 than those people?

4 JUROR NO. 56: Yeah.

5 MR. PENNELL: Could you --

6 JUROR NO. 56: Everybody gets picked on.

7 Everybody gets beat up.

8 MR. PENNELL: Okay.

9 JUROR NO. 56: It just all depends on who you  
10 are.

11 MR. PENNELL: Okay. Well, I appreciate your  
12 answers and thanks for letting me call you out on that,  
13 so.

14 And Ms. Evans, Juror 2.

15 MS. EVANS: Hi.

16 MR. PENNELL: So if you haven't figured out  
17 so far, if I haven't talked to you yet, I might call on  
18 you. So you might just want to raise your hand.

19 MS. EVANS: I know. I thought I was going to  
20 be quietly sitting here hiding behind this line of  
21 people.

22 MR. PENNELL: So go ahead.

23 MS. EVANS: So I don't think violence is  
24 gender specific. I have four older brothers, four  
25 younger sisters. Each gender gave it as good as they

1 got it. So I know my brothers are just as terrified as  
2 me as they are the rest of my sisters, and so I don't --  
3 I don't think that we can say there's a specific gender  
4 that's more violent than the other.

5 MR. PENNELL: Okay. We had a couple of the  
6 jurors who maybe expressed, if I'm not wrong, maybe a  
7 slightly different opinion about --

8 MS. EVANS: Uh-huh.

9 MR. PENNELL: -- you know, just if it's a  
10 brother and a sister or if it's a man and a woman,  
11 there's just about no circumstance where it's okay to  
12 use any violence even if you think it's justified. What  
13 do you feel about that?

14 MS. EVANS: There was nine of us so there was  
15 violence. There's no way to get out of that. So there  
16 were times, yeah, I mean, my brothers would beat up on  
17 me. The only way out of it is to beat them back to get  
18 an equal standing on them, so. Yeah, I think there are  
19 situations where you have to fight yourself back.

20 MR. PENNELL: Okay, thank you.

21 MS. EVANS: Yep.

22 MR. PENNELL: Is there anybody else that had  
23 maybe the same opinion as Juror No. 2 about that? I  
24 know, Juror 15, you said you work in the dental field?

25 JUROR NO. 15: Yes.

1 MR. PENNELL: Okay. Maybe I'm wrong, but I  
2 believe you would have -- if you saw signs of abuse, you  
3 have like a legal requirement to report that to  
4 authorities, is that right or is that not right?

5 JUROR NO. 15: Honestly, I'm not sure.

6 MR. PENNELL: Okay. Well, if that's not the  
7 case, what is your opinion about some of the issues  
8 we've been talking about so far?

9 JUROR NO. 15: I'm really trying to keep like  
10 an open mind and listen to what everybody is saying. I  
11 do agree that you should defend yourself. I don't  
12 necessarily think there is a gender bias. I believe  
13 women can hit men as much as men would hit women, but  
14 it's just not brought to light.

15 MR. PENNELL: Okay. Could you tell me more  
16 about that in terms of your opinion about that.

17 JUROR NO. 15: I think there is almost a  
18 stigma where men feel that they weren't -- they  
19 shouldn't have got into that situation, or they're like  
20 weak because a female had beat them up or --

21 MR. PENNELL: So the stigma is it's almost --  
22 it's their -- it's the man's fault just by getting  
23 himself in that situation? Is that what you mean, or is  
24 that wrong? Or at least that's what some people  
25 believe, maybe not you, but --

1 JUROR NO. 15: Yes.

2 MR. PENNELL: -- is that what you were  
3 getting at?

4 JUROR NO. 15: Uh-huh.

5 MR. PENNELL: Okay. So what is your position  
6 on that?

7 JUROR NO. 15: I guess that it's a terrible  
8 stigma. I believe you should come forward if you're in  
9 that situation, man or woman.

10 MR. PENNELL: Okay. Thank you for sharing  
11 that with us.

12 Juror 8, Melinda -- is it Lonergan?

13 MS. LONERGAN: Lonergan.

14 MR. PENNELL: So I -- I'm interested in  
15 hearing what you have to say. I think you were kind of  
16 like Juror 2. You were kind of hiding a little bit  
17 there, but I still want to know.

18 MS. LONERGAN: I don't think violence is ever  
19 justified for a man or a woman. My opinion kind of is  
20 to get out of the situation as best you can. I mean, if  
21 there's -- if you have to, if there's just nothing else  
22 to do and you have to fight back, then, yeah, but try to  
23 do the best you can not to cause violence and just kind  
24 of remove yourself from the situation.

25 MR. PENNELL: Okay. So we've heard of

1 people -- a couple of people, I think, talk about fight  
2 or flight so is that kind of what you're getting at, you  
3 know, get yourself out of the situation?

4 MS. LONERGAN: Not really fight or flight.  
5 Like to me, if I was in a situation like that, I would  
6 do everything I could just to leave, to get out, you  
7 know, rather than, you know, fight back. If I was in  
8 the situation where I couldn't leave, then, yeah, I  
9 probably would fight as much as I can to not get hurt or  
10 to get out of the situation but...

11 MR. PENNELL: Okay.

12 MS. LONERGAN: Never -- there should never be  
13 violence, man or a woman.

14 MR. PENNELL: Okay. Even -- so never be  
15 violence meaning you shouldn't even be able to defend  
16 yourself?

17 MS. LONERGAN: I mean, if you have to defend  
18 yourself, yes, but --

19 MR. PENNELL: Okay.

20 MS. LONERGAN: -- as far as if somebody's  
21 trying to harm you, you know, that person should  
22 probably just leave the situation rather than to try to  
23 harm you.

24 MR. PENNELL: Okay. Do you think, based on  
25 what we've all talked about, if someone is in that kind

1 of situation where they may, in their own mind, think I  
2 may need to defend myself, there's a point where they  
3 reach where they come to that decision, do you think  
4 that that -- in that situation someone's likely to just  
5 react to what's happening, or do you think they're going  
6 to deliberate and think about it? What is your  
7 impression about that?

8 MS. LONERGAN: Oh, I think they would  
9 probably just try to react to it, just mainly survival  
10 mode, you know, just try to get out without being hurt  
11 --

12 MR. PENNELL: Okay.

13 MS. LONERGAN: -- as best that you can.

14 MR. PENNELL: All right. Thank you for  
15 answering my questions. So I -- Juror 11, I believe --  
16 did you say you worked at a casino, Cactus Petes?

17 JUROR NO. 11: Yeah, I work down in Jackpot.

18 MR. PENNELL: Okay. What -- what is it that  
19 you do for them?

20 JUROR NO. 11: I work at the gift shop.

21 MR. PENNELL: Okay. Well, have you ever had  
22 experiences where you were a witness or -- to violence  
23 or anything through your job?

24 JUROR NO. 11: No, just the typical drunks  
25 there.

1 MR. PENNELL: What do you mean the typical  
2 drunks?

3 JUROR NO. 11: Guests that drink too much and  
4 are escorted out.

5 MR. PENNELL: Okay. Is there anything that  
6 anybody said that kind of brought something immediately  
7 to mind for you in terms of this case?

8 JUROR NO. 11: Not really.

9 MR. PENNELL: Okay. Is there any strong  
10 opinions you have that are similar to what someone may  
11 have said or maybe different than what they had --  
12 someone said?

13 JUROR NO. 11: The gender bias because, yeah,  
14 like everybody says men don't want to seem weak or they  
15 don't want to hit a girl when the girl might be  
16 deserving of that right now put in the situation. Like  
17 they said, if they had a weapon and they were coming  
18 towards them, then I see the man putting themselves in  
19 line and...

20 MR. PENNELL: So what is it you believe that  
21 someone should -- a man should be able to do in that  
22 situation --

23 JUROR NO. 11: If -- defend themselves.

24 MR. PENNELL: -- that you're kind of  
25 referring to. Okay, all right, thank you for sharing

1 all of that with me.

2 Let's see, Juror 19, is it Cassy -- is it  
3 Meade?

4 MS. MEADE: Cassy, yes.

5 MR. PENNELL: Oh, Cassy, I'm sorry. So  
6 you've been the foreperson on two juries?

7 MS. MEADE: Yes, that's correct.

8 MR. PENNELL: Forgive me if I'm wrong, but I  
9 would assume that means you probably have a forceful  
10 personality or kind of a leadership personality?

11 MS. MEADE: I do.

12 MR. PENNELL: Okay. So does that mean you  
13 have strong opinions about certain things sometimes?

14 MS. MEADE: Yes.

15 MR. PENNELL: Is there anything about what we  
16 talked about that you have a really strong opinion of so  
17 far, some of the answers, some of the questions?

18 MS. MEADE: No.

19 MR. PENNELL: What's that? I'm sorry.

20 MS. MEADE: I do not have a strong opinion on  
21 anything that has been said thus far.

22 MR. PENNELL: Okay. What about the idea of  
23 this gender bias, do you have a strong opinion about  
24 that that we've talked about?

25 MS. MEADE: For me personally, no.

1 MR. PENNELL: I just want to know your  
2 opinion about it.

3 MS. MEADE: Men and women can do wrong on  
4 either side. Men can be beat up by women. Women can be  
5 beat up by men. It doesn't matter. It just depends on  
6 the situation.

7 MR. PENNELL: Okay. Is someone justified in  
8 that situation? I mean, we're speaking very broadly  
9 here, but I'm just trying to get your opinion on it, so.

10 MS. MEADE: Only -- no. They -- you have the  
11 right to protect yourself and rightly so.

12 MR. PENNELL: Okay. I appreciate it, thank  
13 you.

14 MS. MEADE: Yeah.

15 MR. PENNELL: There's just a couple left,  
16 right? Juror 54, Theresa, correct me if I'm wrong, but  
17 I seem to recognize you. Were you in a jury selection  
18 in a trial that I did previously?

19 MS. NUTTING: No.

20 MR. PENNELL: Okay. For some reason, you  
21 remind me of someone that was in that pool, so. Anyway,  
22 I want to know if there's any strong opinions or  
23 anything that's come to mind, based on what you've  
24 heard, the questions we've asked, the things people have  
25 said.

1 MS. NUTTING: Well, I -- there are nine of us  
2 also, brothers and -- or I have four bothers and four  
3 sisters also. I think -- I've seen a family member who  
4 is a girl provoke things, and I guess you could say push  
5 things. That's her -- it depends on the personality,  
6 and her personality is that way. So if -- if -- if a  
7 woman is going to make trouble and, you know, get  
8 physical with a man and tempers start flaring, I -- you  
9 know, I can see that. Yeah, I mean, I think a man has a  
10 right to hit a woman if she's hitting him first or  
11 whatever --

12 MR. PENNELL: Sure.

13 MS. NUTTING: -- whatever it be, yeah.

14 MR. PENNELL: Kind of be based on the facts  
15 of each situation is kind of what a lot of people have  
16 been saying.

17 MS. NUTTING: Right.

18 MR. PENNELL: I assume that's kind of how --  
19 what you're saying here as well?

20 MS. NUTTING: Right, uh-huh .

21 MR. PENNELL: What would be an example of a  
22 situation where you wouldn't think that it would be  
23 justifiable?

24 MS. NUTTING: Where it wouldn't be justified  
25 for --

1 MR. PENNELL: Sure.

2 MS. NUTTING: Just to do it, I guess, for a  
3 man just to hit a woman just because -- for no reason at  
4 all or for --

5 MR. PENNELL: What do you mean, to be the  
6 attacker rather than the defender --

7 MS. NUTTING: Right.

8 MR. PENNELL: -- is what you mean? Is that  
9 what you were getting at?

10 MS. NUTTING: So say that again now, what?

11 MR. PENNELL: So you're saying if they were  
12 the attacker rather than the defender, that would be a  
13 situation?

14 MS. NUTTING: Right.

15 MR. PENNELL: What about if the man is  
16 defending himself, is there a situation where you could  
17 say, well, that's not justified?

18 MS. NUTTING: No, not really. I mean, if --

19 MR. PENNELL: Okay.

20 MS. NUTTING: -- yeah, if somebody's  
21 defending themselves, it doesn't matter who or what.

22 MR. PENNELL: Okay.

23 MS. NUTTING: Yeah, I think that's fine,  
24 yeah.

25 MR. PENNELL: Okay. Is there anything else

1 that you wanted to share with us?

2 MS. NUTTING: No.

3 MR. PENNELL: Okay. Well, I appreciate it,  
4 thank you.

5 MS. NUTTING: Uh-huh.

6 MR. PENNELL: Juror 35, Ms. Seal -- I think I  
7 already did speak to you, didn't I?

8 MS. SEAL: Yes, you did.

9 MR. PENNELL: Well --

10 MS. SEAL: Do you have anything else?

11 MR. PENNELL: -- we didn't cross your name  
12 out so do you have an opinion that you want to give a  
13 second time?

14 MS. SEAL: I really don't. I mean, I think  
15 you have the right to defend yourself.

16 MR. PENNELL: Okay.

17 MS. SEAL: That's my --

18 MR. PENNELL: All right.

19 MS. SEAL: -- main thing, and it doesn't  
20 matter who it is coming after you. I think you have  
21 your right to defend yourself.

22 MR. PENNELL: Thank you. So Mr. Stiegler, I  
23 was going to call on you now -- or, excuse me, I said  
24 your name wrong, didn't I?

25 MR. STIEGER: Yes, you did. No worries.

1           MR. PENNELL: Okay. Do you have any strong  
2 opinions, or have you developed any sort of ideas based  
3 on the discussions we've had, the questions that you've  
4 heard people answer?

5           MR. STIEGER: It's tough because I have my  
6 own experiences growing up, you know, with being bullied  
7 or whatever and regretting not doing anything and, you  
8 know, made a decision not to be bullied anymore, right,  
9 and that's why I got into martial arts so I can be more  
10 assertive and do things. But I would never -- you know,  
11 you always look at the situation in terms of how you're  
12 going to respond, and there's always the obligation of  
13 not putting yourself into the situation as best you can.

14          MR. PENNELL: So just to kind of build on  
15 part of that answer, and thank you for sharing that with  
16 us. It seemed like you said there was a point in your  
17 life where you wish maybe you would have done more to  
18 fight back or -- you're talking about maybe being  
19 bullied?

20          MR. STIEGER: Well, when you get to a point  
21 where you're -- you're -- where things aren't improving,  
22 I mean, no one else is going to change it, right? You  
23 can go to teachers all you want. You can do whatever,  
24 and they're not going to do anything so sometimes you  
25 have to take matters into your own hands, right?

1 MR. PENNELL: Okay. All right, thank you.

2 MR. STIEGER: Then, I guess, the other thing  
3 is on the mental health.

4 MR. PENNELL: Oh, sure.

5 MR. STIEGER: I think that's another one that  
6 struck me because --

7 MR. PENNELL: Why is that?

8 MR. STIEGER: I think it's, you know, just  
9 being -- having a friend, you know, commit suicide and  
10 stuff, you know, not getting the help and then, you  
11 know, through teaching students and having them get  
12 bullied at school and not being -- doing anything so  
13 they're doing things to themselves, and I think that's a  
14 pretty tough thing and really commend the people that  
15 have to work around resolving those types of situations,  
16 so.

17 MR. PENNELL: All right. Well, thank you for  
18 sharing that. And could we just have Juror 26. Is it  
19 Rye McKay? I just wanted to get your opinion on some of  
20 the things we've been talking about, maybe something  
21 that Julius talked about. Is there a strong reaction  
22 you've had so far about some of these statements?

23 MR. MCKAY: No. I -- I -- personally, I just  
24 try to get along as best I can, and I think if you're in  
25 a situation where you -- you can't get along anymore,

1 then you try to get out of it. And if you can't get out  
2 of a situation, then you do have the right -- a  
3 God-given right to defend yourself or your family by  
4 whatever means necessary, even -- even to death I would  
5 say if it comes to that.

6 MR. PENNELL: And so you said if it comes to  
7 that. Are you saying maybe there's a time where there  
8 -- someone may have taken it too far? Is that kind of  
9 what you're referring to, or am I understanding that  
10 wrong?

11 MR. MCKAY: That I'm taking too far --

12 MR. PENNELL: As far as the defense.

13 MR. MCKAY: -- or somebody I know or...

14 MR. PENNELL: The person defending  
15 themselves.

16 MR. MCKAY: A person has a right to defend  
17 himself or herself even to the taking of someone's life.  
18 If they're doing all they can and the person -- the  
19 attacker or whoever is not backing down and it becomes  
20 you or them, then you have that right to make it them  
21 and not you.

22 MR. PENNELL: Okay. Thank you for sharing  
23 all that with us. And 38, would be -- is it Rhonda? So  
24 I'll just ask you some of the same questions. Is there  
25 something that has immediately kind of sprang to your

1 mind or a strong feeling that came out based on some of  
2 the questions or the answers that we've gotten so far?

3 MS. POWRIE: No. I pretty much agree with  
4 everybody else. You have a right to defend yourself,  
5 man or woman. There are men that are abused, that they  
6 don't come forward, but you got to defend yourself. You  
7 can't just sit there and take it. I've always been this  
8 height. So in school I was picked on constantly, and my  
9 oldest sister finally taught me how to fight, so.

10 MR. PENNELL: Okay.

11 MS. POWRIE: And that bullying came to a  
12 stop.

13 MR. PENNELL: Thank you for sharing that with  
14 us. I just have a few more questions for everybody  
15 generally. Is there anybody that believes that perhaps  
16 our system is too soft on criminals or people who are  
17 accused of crimes or maybe that people who are accused  
18 of crimes maybe have too many rights? Is there anybody  
19 that feels that way? Am I seeing you say yes?

20 JUROR NO. 4: It depends on what territory  
21 you're in, what's --

22 MR. PENNELL: Okay.

23 JUROR NO. 4: Like California.

24 MR. PENNELL: Hold on.

25 JUROR NO. 4: It depends on what state you're

1 in. Like California is real liberal. Minnesota, it  
2 depends where you're at. Like here I think it's pretty  
3 good, but in other states -- in the Midwest, it's  
4 basically justice, but once you go to the big cities and  
5 that, like defund cops and -- I don't want to seem  
6 racist here, but every life matters. And with these  
7 movements, I mean, we're going to have trouble going  
8 forward with justice, and that's what I believe.

9 MR. PENNELL: So you said you think here. Do  
10 you mean Nevada, like Nevada laws --

11 JUROR NO. 4: Nevada -- Nevada is -- oh,  
12 sorry.

13 MR. PENNELL: Sure.

14 JUROR NO. 4: Nevada is -- I mean, it doesn't  
15 seem -- at least here it doesn't seem like the  
16 movement's catching on as much. I mean, yes, they did  
17 have a -- try to have a parade and everything, but I  
18 think if you mess up, you have to face the consequences.  
19 You don't get off easy or -- and just, you know, lately  
20 in the news, the media, with how California is going, I  
21 mean, I'm sorry, from --

22 MR. PENNELL: You don't have to be sorry. I  
23 appreciate your honesty.

24 JUROR NO. 4: From the last two months our  
25 Government, our nation's going downhill. I mean, we

1 can't even protect our border, so. I mean, if you can't  
2 protect your border, that's just an avalanche for more  
3 bad to come.

4 MR. PENNELL: So, I guess, just to maybe be  
5 more specific on one thing, you said, it's okay here.  
6 Do you mean the State of Nevada, or do you mean just  
7 Elko?

8 JUROR NO. 4: Where we live --

9 MR. PENNELL: Uh-huh.

10 JUROR NO. 4: -- there's upstanding people  
11 here. We've got a good work ethic. I mean, yes,  
12 there's bad everywhere, but I'm just saying be grateful  
13 where you live, where the people have a good outlook and  
14 they're positive that they live here.

15 MR. PENNELL: Okay. I didn't want to cut you  
16 off. Were you --

17 JUROR NO. 4: I'm good.

18 MR. PENNELL: Okay. I don't want you to be  
19 sorry either. That's what we're trying to get is people  
20 to be honest, and I appreciate that.

21 JUROR NO. 4: Yeah, I didn't want to sound  
22 racist or that, but every life matters here, not just  
23 one race.

24 MR. PENNELL: Okay.

25 JUROR NO. 4: Because then --

1 MR. PENNELL: I appreciate it. Thank you for  
2 your honesty. Is there anybody that has some strong  
3 feelings about what Juror No. 4 just told us or maybe  
4 they agree or disagree? I thought I saw you almost  
5 raise your hand.

6 UNIDENTIFIED JUROR: (Indiscernible)

7 MR. PENNELL: Okay. I just had a couple more  
8 questions. Is there anything in your own life that  
9 reminds you of this case? Is there anybody that, you  
10 know, there is a sort of personal element to this based  
11 on what they've heard? Is there anybody?

12 Is there anything anyone's heard so far that  
13 would make it impossible or difficult for them to judge  
14 Darwyn as fairly as you would the Prosecution or the  
15 police officers? Is there anything that would make that  
16 difficult for you at this point in time? If you're  
17 being honest with yourself and honest with us that maybe  
18 this isn't the right case for you. Is there anybody  
19 that feels that way?

20 And this will be my second to last question.  
21 Is there anything that I have not asked you or that we  
22 have not asked you, as the Prosecutor and the Judge,  
23 that we probably should know about, about you or a  
24 belief? Is there anyone who thinks that maybe there's  
25 something we should know?

1           And my last question is: Is there anybody  
2 who is sitting in this jury panel, if they were in the  
3 Defendant's position, would they not feel comfortable  
4 with themselves being a juror on this case? So,  
5 essentially, would you not like to be a juror in your  
6 own trial? Is there anybody that feels that way about  
7 themselves based on what they've heard?

8           Okay, thank you for your honesty. Thank you  
9 for taking my questions. And I think from here, we'll  
10 be able to move forward.

11           THE COURT: Okay. Any further questions,  
12 Mr. Pennell?

13           MR. PENNELL: If I could just speak to the  
14 Defendant real quick, Your Honor.

15           THE COURT: Go ahead.

16           MR. PENNELL: I don't have anything further,  
17 Your Honor, thank you.

18           THE COURT: Okay. Did the State have any  
19 challenges for cause, Mr. Thompson?

20           MR. THOMPSON: I do not.

21           THE COURT: Does the State pass the panel for  
22 cause?

23           MR. THOMPSON: I do.

24           THE COURT: Does the Defense have any  
25 challenges for cause, Mr. Pennell?

1 MR. PENNELL: If we could take a quick break,  
2 Your Honor, I'd like to be able to review any notes  
3 before I go further with that.

4 THE COURT: Okay. We're going to go ahead  
5 and take a brief recess. I need to admonish the parties  
6 as follows before this recess:

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

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

24 In other words, you cannot talk to anyone on  
25 the phone, correspond with anyone, or electronically

1 communicate with anyone about this case.

2 All rise. We'll go ahead and take a  
3 15-minute break.

4 (Whereupon, court recessed)

5 THE COURT: Okay. We're going to go back  
6 on the record then. The time is 2:16 p.m., Monday,  
7 June 14th, 2021. We're back on the record in Case  
8 DC-CR-20-159, the State of Nevada versus Darwyn Ross  
9 Yowell. Mr. Yowell present, along with his counsel,  
10 Mr. Pennell. Mr. Thompson is here from the District  
11 Attorney's Office.

12 We're convened outside the presence of the  
13 jury. We had gotten to the point of addressing  
14 potential challenges for cause. Mr. Pennell wanted to  
15 address these outside the presence of the jury.

16 Mr. Pennell.

17 MR. PENNELL: Yes, Your Honor. I have one  
18 juror that I am challenging for cause. That would be  
19 number 20. I believe Mary Borden is her name.

20 THE COURT: What seat number is that? Okay,  
21 she's in the back, okay.

22 MR. PENNELL: And just based on what I've  
23 heard, I believe that the law would support my challenge  
24 for cause. The case that's most important is the  
25 Sayedazda case by the Nevada Court of Appeals, and it

1 basically just says that the -- a juror can be removed  
2 for actual bias, implied bias, or inferable bias.

3 And the actual bias here is that -- if the  
4 Court finds there's an actual bias, it admits to  
5 partiality, or the juror's voir dire answers demonstrate  
6 a bias. In terms of the inferable bias, it does not  
7 require that the juror actually admit bias, but based on  
8 the Judge's evaluation, there doesn't need to be an  
9 existing independent assertion of impartiality. It's  
10 just that the disqualification is implied based on all  
11 the answers and circumstances.

12 So she did indicate that in her 30 years of  
13 law enforcement, that she had essentially raised  
14 Detective Stake as her, I guess -- I don't -- law  
15 enforcement son, I guess, so to speak.

16 THE COURT: Prodigy of some sort.

17 MR. PENNELL: And so she, obviously, has a  
18 very clear, strong relationship with him, and when I did  
19 ask her some questions, that did, in fact, come out that  
20 she would have sort of a thumb on the scales or credit  
21 him before he's on the stand. And she did try and  
22 qualify that as, well, maybe slightly, may a little bit,  
23 but I think as people, we try and we don't want anybody  
24 to think we're biased. We want to be objective.

25 So I think those qualifications are people's

1 attempts to kind of act as if they're not going to be  
2 biased. But I believe, based on those answers, actual  
3 bias has been shown or at least that we can infer based  
4 on those circumstances that her crediting law  
5 enforcement's testimony, especially Detective Stake, is  
6 problematic for her objectivity in this case, and I'd  
7 ask that she be removed for cause.

8 THE COURT: Mr. Thompson.

9 MR. THOMPSON: Well, that's why I asked her  
10 the questions that I did is basically you could disagree  
11 with him. You've seen law enforcement officers make  
12 mistakes. You would judge this based on the facts and  
13 evidence of this particular case and not based on her  
14 previous knowledge of him, and she said she would. So I  
15 think that she, after further discussions -- and we've  
16 heard a lot from her -- I think she has indicated that  
17 she can be fair and impartial.

18 THE COURT: Anything else, Mr. Pennell?

19 MR. PENNELL: Just, Your Honor, that the  
20 rehabilitation the State's referring to, again, I think  
21 that once someone -- it's demonstrated they have some  
22 kind of impartial, they're uncomfortable with it, and so  
23 in response to those kinds of questions, they usually  
24 try and back themselves away from their bias or their  
25 impartiality.

1           So I think that's what the questions --  
2 really what they did is that, yes, she can be an  
3 objective person generally, but when it comes to  
4 Detective Stake, the relationship is too ingrained  
5 between them for her to be impartial in this case, and I  
6 believe that she's likely to credit his testimony before  
7 he even gets on the stand.

8           THE COURT: Anything else, Mr. Thompson?

9           MR. THOMPSON: No.

10          THE COURT: The Court's going to grant the  
11 motion to strike Ms. Borden for cause. Anyone else that  
12 you needed to address?

13          MR. PENNELL: That would be it for now, Your  
14 Honor, thank you.

15          THE COURT: Okay. So we'll need to bring  
16 them back in and seat another juror, see if this new  
17 juror would have answered any other questions, and then  
18 we can get to the peremptory challenges.

19          Anything else we need to address outside the  
20 presence of the jury before we bring them back in and go  
21 through that next step?

22          MR. THOMPSON: Yeah, no, I'm fine.

23          THE COURT: You're okay? Okay. Then we'll  
24 start bringing them back in if they're ready.

25          (Whereupon, court recessed)

1 THE COURT: Okay. So I think everyone is  
2 back. We're going to go ahead and get back underway.  
3 The time is 2:26 p.m. It's Monday, June 14th, 2021.  
4 We're back on the record in Case DC-CR-20-159, State of  
5 Nevada versus Darwyn Ross Yowell. The Defendant is  
6 present along with his counsel. Mr. Thompson is here  
7 from the District Attorney's Office.

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

10 MR. THOMPSON: Yes.

11 MR. PENNELL: Yes, Your Honor.

12 THE COURT: Okay. Ms. Borden in seat  
13 number 2, we're going to thank and excuse you at this  
14 time. Thank you so much. Amanda Johnson in seat number  
15 29, you're going to move over to seat number 2, and then  
16 those in seats 30, 31, and 32 will each move over one  
17 seat.

18 Juror No. 16, Samantha Cook. We're going to  
19 start by having you answer those questions on the screen  
20 there for us.

21 MS. COOK: My name is Samantha Cook. I am a  
22 homemaker, I guess you'd call it. My spouse is an  
23 electrician for a contracting company. I have four  
24 children. I have lived in Elko County for 12 years, and  
25 I live in Spring Creek.

1 THE COURT: So you heard us go over a big  
2 long list of questions over the past few hours. Would  
3 you have answered in the affirmative to any of those  
4 questions?

5 MS. COOK: The very first question I would  
6 like to talk to you guys back --

7 THE COURT: Okay. Come on up here to the  
8 dais if you would.

9 (Whereupon, sidebar off the record)

10 THE COURT: Okay, we're going to thank and  
11 excuse the juror in seat 32, Ms. Cook. We'll draw  
12 another name here.

13 41, Nancy Blakeman, come on up.

14 MS. BLAKEMAN: Sorry, I'm slow.

15 THE COURT: Oh, you're fine, no problem.

16 MS. BLAKEMAN: My name is Nancy Blakeman.  
17 I'm a domestic goddess is what I like to call myself.  
18 My husband is an underground mechanic for Cortez -- not  
19 Cortez or Leeville for SMD. We have three children  
20 together, and we've lived in Elko County for 22 years.  
21 We live in Carlin.

22 THE COURT: Okay. So you heard us go over  
23 all these many questions we've asked over the past few  
24 hours. Is there any of those questions that we've posed  
25 that you feel the need to answer in the affirmative?

1 MS. BLAKEMAN: No.

2 THE COURT: Okay. Thank you, you can have a  
3 seat. Did any of the parties want to question  
4 Ms. Blakeman any further about anything?

5 MR. THOMPSON: No.

6 THE COURT: Mr. Thompson passes.

7 Mr. Pennell.

8 MR. PENNELL: Yeah, Ms. Blakeman, I called on  
9 several people and just said is there an impression, a  
10 really strong impression about any of the answers or  
11 questions that you've heard so far. I'm interested in  
12 knowing if there was something like that for you that  
13 would be --

14 MS. BLAKEMAN: Nothing comes to mind right  
15 now.

16 MR. PENNELL: Okay. So you didn't get a  
17 strong impression about any of the questions or the  
18 answers?

19 MS. BLAKEMAN: No.

20 MR. PENNELL: Okay. All right, that's all  
21 the questions I have, Your Honor.

22 THE COURT: Okay. Does the State then pass  
23 this newly-constituted panel for cause?

24 MR. THOMPSON: Yes.

25 THE COURT: Does the Defense pass the

1 newly-constituted panel for cause?

2 MR. PENNELL: If I could just take one  
3 moment, Your Honor.

4 THE COURT: Sure, go ahead.

5 MR. PENNELL: Yes, we can pass for cause,  
6 Your Honor.

7 THE COURT: Okay. So we've now arrived at a  
8 new stage of the proceeding in which the parties are  
9 going to be able to exercise something known as  
10 peremptory challenges. Basically what that means is  
11 that each side is allowed to excuse a certain number of  
12 you that are in the box with no particular reason. They  
13 just may decide that they don't want you on the jury for  
14 some reason. We're going to do that outside of your  
15 presence. It's going to take us maybe 20 or 30 minutes  
16 to get this process wrapped up. So we're going to take  
17 an extended break at this point in time.

18 When we come back, we will have constituted  
19 the jury at that point in time and then everyone else  
20 who is left will be excused at that particular time.  
21 But at this point, we're going to go ahead and take a  
22 recess, and we'll do this outside of your presence.

23 Please do not converse amongst yourselves or  
24 with anyone else on any subject connected with the  
25 trial. Do not read, watch, or listen to any report of

1 or commentary on the trial or any person connected with  
2 the trial by any medium of information, including,  
3 without limitation, newspapers, television, radio and  
4 the Internet. Do not form or express any opinion on any  
5 subject connected with the trial until the cause is  
6 finally submitted to you.

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

15           In other words, you cannot talk to anyone on  
16 the phone, correspond with anyone, or electronically  
17 communicate with anyone about this case.

18           All rise. We should have you back in the  
19 room no later than 3:00 o'clock, thank you.

20           (Whereupon, court recessed)

21           THE COURT: Okay. We're going to go back on  
22 the record then, 2:44 p.m., Monday, June 14th, 2021.  
23 We're back on the record in Case DC-CR-20-159, the State  
24 of Nevada versus Darwyn Ross Yowell. Mr. Yowell is  
25 present, along with his counsel, Mr. Pennell.

1 Mr. Thompson is here from the District Attorney's  
2 Office. We're convened outside the presence of the  
3 jury.

4 Before we get to the peremptory challenges, I  
5 just wanted to make a record on the record of the  
6 various sidebar conferences and those that we excused as  
7 a result of those and make a record of that. So we did  
8 have Mr. John Nelson, Juror No. 13, approach the bench  
9 about his nephew being Eduardo Estrada, and he expressed  
10 various concerns about being on the jury, and he was  
11 excused.

12 Juror No. 12, William Hylton, approached the  
13 bench, expressed some concerns about some health issues  
14 he was experiencing and specifically with allergies and  
15 indicated he had a preference for being excused, and I  
16 believe the parties stipulated to him being excused.

17 Wyatt Riley, Juror No. 47, approached the  
18 dais, and he had indicated he was having some PTSD  
19 issues, and the parties stipulated to excuse him as  
20 well.

21 Juror No. 32, Lupe Sanchez, also approached  
22 the dais and expressed privately some concerns that she  
23 had been -- previously a domestic violence victim and  
24 had some concerns about being on this case and was  
25 excused.

1           Jury No. 27, Cynthia Arnett, also approached  
2 the dais about her husband being involved in a DV  
3 incident about 25 years ago with his child. She wasn't  
4 sure if he'd actually been convicted or not, but he had  
5 participated in some counseling, and she was not  
6 excused.

7           David Goodrich, Juror No. 31, had a health  
8 issue related to a recent hip replacement and was having  
9 difficulty sitting, and he was excused.

10          And Samantha Cook, Juror No. 16, had a child  
11 who had threatened or had a recent suicide attempt and  
12 had a medical appointment she needed to go to at the  
13 psychiatrist with her child, and she was excused.

14          Anything I left off about any of those  
15 individuals that either party wanted to make a record  
16 about?

17          MR. THOMPSON: Just that I believe that we  
18 all stipulated -- those that were excused were all  
19 stipulated to by both sides.

20          THE COURT: Is that correct, Mr. Pennell?

21          MR. PENNELL: Either there was a stipulation  
22 or no opposition. I think functionally, it's the same.

23                   PEREMPTORY CHALLENGES

24          THE COURT: Very well. Okay, we've now  
25 arrived then at the time for exercising peremptory

1 challenges. Those jurors who remain seated in seats 1  
2 through 28 are the potential members of our jury panel,  
3 and then those in seats 29 through 32 are potential  
4 alternates. So each side will have eight peremptory  
5 challenges as to the main pool and one peremptory  
6 challenge as to the alternates.

7 So we'll start with the State. As to the  
8 main jury panel, who is the first peremptory challenge  
9 by the State?

10 MR. THOMPSON: Number 53, who's in seat 4,  
11 Robert Byram.

12 THE COURT: Robert Byram in seat number 4  
13 will be the first peremptory challenge by the State of  
14 Nevada. Mr. Pennell, first peremptory challenge by the  
15 Defense.

16 MR. PENNELL: Your Honor, I think -- my  
17 social worker Jordan and I are -- maybe have a different  
18 opinion about this so I just want to clarify. Is there  
19 four peremptories on each side or eight on each side?

20 THE COURT: Eight on each side because this  
21 is a -- because of the potential penalties. There's a  
22 larger pool so you each get eight. Normally it would be  
23 four but because of the penalties.

24 MR. PENNELL: All right, thank you, Your  
25 Honor. Number 8, Melinda Lonergan.

1 THE COURT: Okay. So that's the juror in  
2 seat number 22 is the first peremptory challenge by the  
3 Defense, Melinda Lonergan. The second peremptory  
4 challenge by the State of Nevada, Mr. Thompson.

5 MR. THOMPSON: Seat number 20, Hiliana  
6 Gonzalez. She's wearing Juror No. 11.

7 THE COURT: Okay. So we'll excuse Hiliana  
8 Gonzalez. That's the State's second peremptory  
9 challenge, and she's in seat 20. Second peremptory  
10 challenge from the Defense, Mr. Pennell.

11 MR. PENNELL: Number 36, Rebecca Hansen.

12 THE COURT: That's in seat 13. Becky Hansen  
13 is the second peremptory challenge from the Defense.  
14 Third from the State.

15 MR. THOMPSON: Juror No. 48 in seat 2, Amanda  
16 Johnson.

17 THE COURT: Okay. The third peremptory  
18 challenge from the State of Nevada will be the juror in  
19 seat number 2, Amanda Johnson. Third peremptory  
20 challenge from the Defense, Mr. Pennell.

21 MR. PENNELL: Number 48, Raechelle Bogdon.

22 THE COURT: That's the seat number 24.  
23 Ms. Raechelle Bogdon is the third peremptory challenge  
24 from the Defense.

25 MR. PENNELL: Is it juror 42 or 24, Your

1 Honor? I wasn't --

2 THE COURT: Let me look.

3 MR. THOMPSON: Number 42 is her number.

4 THE COURT: 42 is her number, yes.

5 MR. THOMPSON: She's in seat 24.

6 THE COURT: She's in seat 24, yep. And I  
7 think we were at the fourth peremptory challenge for the  
8 State.

9 MR. THOMPSON: Seat number 9, Juror No. 1,  
10 Julius Stieger or Stieger.

11 THE COURT: Okay. Julius Stieger is the  
12 fourth peremptory challenge from the State of Nevada.  
13 Mr. Pennell, fourth peremptory challenge from the  
14 Defense.

15 MR. PENNELL: Number 51, Anthony Bauer.

16 THE COURT: Anthony Bauer, okay, he's in seat  
17 25. So that would be the fourth Defense peremptory  
18 challenge, Mr. Bauer. Fifth peremptory challenge from  
19 the State of Nevada, Mr. Thompson.

20 MR. THOMPSON: Seat number 12, Juror No. 2,  
21 Tricia Evans.

22 THE COURT: Okay. Tricia Evans, seat 12, is  
23 the fifth peremptory challenge from the State of Nevada.  
24 Fifth peremptory challenge from the Defense, Mr. Pennell  
25 .

1 MR. PENNELL: Juror No. 44, Toril Tapia.

2 THE COURT: Toril Tapia, seat 28, is the  
3 fifth peremptory challenge from the Defense. Sixth  
4 peremptory challenge from the State, Mr. Thompson.

5 MR. THOMPSON: Seat number 23, Juror No. 15,  
6 Anna Taylor.

7 THE COURT: Anna Taylor, seat 23, and that's  
8 the sixth, I believe, from the State. Sixth peremptory  
9 challenge from the Defense, Mr. Pennell.

10 MR. PENNELL: Number 4, William Wilkinson,  
11 Your Honor.

12 THE COURT: William Wilkinson, he's in seat  
13 11, is the sixth peremptory challenge from the Defense.  
14 Seventh peremptory challenge from the State,  
15 Mr. Thompson.

16 MR. THOMPSON: Seat 14, Juror No. 35, Mary  
17 Seal.

18 THE COURT: Okay. Mary Seal is the seventh  
19 peremptory challenge from the State, seat 14. Seventh  
20 peremptory challenge from the Defense, Mr. Pennell.

21 MR. PENNELL: Juror 19, Cassy Meade.

22 THE COURT: Cassy Meade in seat 15 is the  
23 seventh peremptory challenge from the Defense. Final  
24 peremptory challenge from the State as to the main pool,  
25 Mr. Thompson.

1 MR. THOMPSON: Seat 7, Juror No. 27, Cynthia  
2 Arnett.

3 THE COURT: Okay. Eighth peremptory  
4 challenge from the State is Cynthia Arnett in seat 7.

5 MR. PENNELL: If we could have just a brief  
6 moment, Your Honor.

7 THE COURT: Sure, no problem.

8 MR. PENNELL: I've come to a decision, Your  
9 Honor. It would be Juror 39, Cody Kirby. I believe he  
10 was in seat number 1.

11 THE COURT: Seat number 1. Cody Kirby is the  
12 final Defense peremptory challenge. Okay, so that gives  
13 us our main jury panel, which would be -- consist of  
14 David Gubler in seat 3, Jennifer Bondelie in seat 5,  
15 Ron B. in seat 6, Shanna Stevenson in seat 8, Yannett  
16 Daines in seat 10, Theresa Nutting in seat 16, Jared  
17 Moffitt in seat 17, Steven Gress in seat 18, Rhonda  
18 Powrie in seat 19, Rye McKay in seat 21, James Kennedy  
19 in seat 26, and Ken Griswold in seat 27.

20 Okay. So as to the alternates, which are --  
21 the potential alternates are Daniel Kough in seat 29,  
22 John Peterson in seat 30, Cornelius Brooke in seat 31,  
23 and Nancy Blakeman in seat 32. Each side has one  
24 peremptory challenge.

25 Mr. Thompson, who does the State wish to

1 strike?

2 MR. THOMPSON: Seat 31, number 24, Cornelius  
3 Brooke.

4 THE COURT: Cornelius Brooke is the  
5 peremptory challenge by the State. And Mr. Pennell, who  
6 does the Defense wish to strike?

7 MR. PENNELL: Number 41, Nancy Blakeman.

8 THE COURT: Nancy Blakeman in seat 32 by the  
9 Defense.

10 Okay. So that gives us our alternates. So,  
11 again, just for the record, to be clear here, the jury  
12 panel consists of David Gubler, Jennifer Bondelie, Ron  
13 B., Shanna Stevenson, Yannett Daines, Theresa Nutting,  
14 Jared Moffitt, Steven Gress, Rhonda Powrie, Rye McKay,  
15 James Kennedy, Ken Griswold, with Daniel Kough and  
16 John Peterson being the alternates.

17 Okay. So next, we can bring them back in,  
18 excuse everyone who was not selected. I was going to do  
19 some initial instructions and then we can take a break  
20 and move up to the courtroom upstairs. And then we'll  
21 do Instruction 1 and 2 and do opening statements. I  
22 don't know if the parties want to get underway with any  
23 testimony today, or would you prefer to start in the  
24 morning?

25 MR. THOMPSON: Let's see where we're at.

1 THE COURT: Okay.

2 MR. THOMPSON: I have a couple here, but  
3 we'll see where we're at.

4 THE COURT: Okay.

5 MR. PENNELL: I would prefer to do it in the  
6 morning, but I understand the Court's trying to move  
7 things along too with how backed up we are, but if it  
8 doesn't -- I think we're going to be able to get through  
9 with everything in four days even if we stop at opening  
10 statements but --

11 THE COURT: Okay. Well, we'll see where  
12 we're at that point in time and go from there. So let's  
13 go ahead and bring everyone back in.

14 (Whereupon, court recessed)

15 THE COURT: Okay, we're back on the record.  
16 The time is 2:59 p.m., Monday, June 14th, 2021. We're  
17 back on the record in Case DC-CR-20-159, the State of  
18 Nevada versus Darwyn Ross Yowell. The Defendant is  
19 present, along with his counsel, Mr. Pennell.  
20 Mr. Thompson is here from the District Attorney's  
21 Office.

22 Do the parties stipulate to the presence of  
23 the venire panel?

24 MR. THOMPSON: Yes.

25 MR. PENNELL: Yes, Your Honor.

1           THE COURT: Okay. So we did meet outside the  
2 presence of the jury to do this peremptory challenge  
3 process. Before we announce the various people who have  
4 been selected as jurors and alternates, I just want to  
5 state it's important that you remember that if you were  
6 not selected, it doesn't mean you did anything wrong.  
7 It's just part of the process. Each side gets to excuse  
8 a certain number of the jurors from the panel. So  
9 there's no suggestion here you did anything wrong at  
10 all.

11           And I want to say before we announce the  
12 various members of the panel here, I sincerely  
13 appreciate everyone who has showed up today and gave us  
14 your time and attention. This is a very valuable and  
15 important process that we're underway here with today,  
16 and it's so important that we have people that are  
17 conscientious and willing to show up and give your  
18 undivided attention to this process. So I sincerely  
19 appreciate that you showed up today and participated in  
20 this process, and I wanted to give you my personal  
21 thanks for being here today.

22           So if you're name is called, that means that  
23 you have been selected to be part of the jury or as one  
24 of the alternates. If your name is not called after we  
25 get done announcing the various names, I will go ahead

1 and excuse you at that time. And, again, I thank you so  
2 much for your attendance today and your participation.

3 So if the clerk will please stand and  
4 announce those who have been selected.

5 TRIAL JURORS SEATED

6 THE CLERK: David Gubler, Jennifer Bondelie,  
7 Ronnie Barruetabena, Shanna Stevenson, Yannett Daines,  
8 Theresa Nutting, Jared Moffitt, Steven Gress, Rhonda  
9 Powrie, Rye McKay, James Kennedy, Kenneth Griswold,  
10 Daniel Kough, and Jonathon Peterson.

11 THE COURT: Okay. Everyone else, if your  
12 name was not called, we thank you for your attendance  
13 today, and you're now excused. If everyone will please  
14 stand, you can go ahead and exit at this time. Thank  
15 you so much for your attendance today.

16 (Whereupon, the jurors not called to serve as  
17 jurors left the courtroom)

18 THE COURT: Okay, thank you, please be  
19 seated. Okay, we've now excused those who were not  
20 selected. Now what I need to happen is if all those of  
21 you who remain, if you will please stand, and the court  
22 clerk is going to administer the jury oath. Please  
23 stand and raise your right hand.

24 THE CLERK: Do you and each of you solemnly  
25 swear that you will well and truly try the case now

1 pending before this Court and a true verdict render  
2 according to the evidence given so help you God?

3 THE JURY: (Affirmative)

4 THE COURT: Are we missing somebody?

5 MR. THOMPSON: Yeah, we called James  
6 Kennedy's name.

7 THE COURT: Whose name?

8 MR. THOMPSON: James Kennedy. Where did he  
9 go?

10 THE COURT: Did we lose Kennedy?

11 UNIDENTIFIED SPEAKER: (Indiscernible)

12 THE COURT: Go ahead and see if can you track  
13 him down. We might have to call him. Do you have a --  
14 is there a phone number for him on his questionnaire?

15 MR. PENNELL: Yeah, we do have that, Your  
16 Honor.

17 THE COURT: What's that?

18 MR. PENNELL: We do have that number.

19 THE COURT: Okay. We'll have Carlos try to  
20 call him here in a second when he comes back.

21 You can go ahead and have a seat back down  
22 while we wait. Go ahead and have a seat. We do have a  
23 phone number, Carlos. Can you try calling his phone  
24 number that's on his questionnaire and see if he  
25 answers. Right here.

1 THE BAILIFF: It went right to voicemail.

2 THE COURT: There's another gentleman I just  
3 saw walking in. I don't know if that's him.

4 UNIDENTIFIED SPEAKER: Found him.

5 THE COURT: Oh, okay. Okay.

6 MR. KENNEDY: I thought I was supposed to be  
7 upstairs.

8 THE COURT: Oh, okay. I apologize for the  
9 confusion. You're okay. So the record will reflect  
10 that Mr. Kennedy has now joined us. So we have all of  
11 the members of the jury panel and alternates present.

12 If all of you will please stand and raise  
13 your right hand to be -- and the clerk will administer  
14 the jury oath.

15 THE CLERK: Do you and each of you solemnly  
16 swear that you will well and truly try to the case now  
17 pending before this Court and a true verdict render  
18 according to the evidence given, so help you God?

19 THE JURY: (Affirmative)

20 THE COURT: Thank you, please be seated.

21 No juror may declare to any fellow jurors any  
22 fact relating to the case as of the juror's own  
23 knowledge, and if any juror discovers during the trial  
24 or after the jury has retired that he or she or any  
25 other juror has personal knowledge of any fact in

1 controversy in the case, the juror shall disclose such  
2 situation to the Judge out of the presence of the other  
3 jurors. If that comes to your attention, find Carlos  
4 and let him know, and he'll pass that information on to  
5 the Court.

6 It's very important during this case that we  
7 not engage in any personal investigations of the case.  
8 So I'll just give you a couple examples. Maybe there  
9 will be a location mentioned during this case, and maybe  
10 after-hours you -- the idea occurs to you I'm going to  
11 go out to this location. Do not go to any locations  
12 mentioned in the case.

13 Do not research any topics on-line or  
14 anything that might come up during this proceeding.  
15 It's very important that you not engage in any type of  
16 personal investigations. You only need to consider  
17 what's brought into evidence here in the courtroom.

18 Obviously, I would assume most of you, if not  
19 all of you, have cell phones. We've talked about on  
20 these breaks about being careful with your use of your  
21 electronic devices. It's fine to use those devices to  
22 call or text about things other than the trial. We just  
23 don't want you communicating any information about the  
24 trial itself to anybody else.

25 Please do not use your cell phones to record

1 the proceedings. If there are questions about something  
2 that may have been testified to during the proceedings,  
3 there's ways for us to provide that information to you.  
4 So do not record any of the trial.

5 Please do not go onto social media and post  
6 any information about this case while this case is  
7 pending. So once we're done and a verdict has been  
8 returned, if you want to talk about the case to other  
9 people or post stuff on social media about it, have at  
10 it, but do not do that during the course of the trial  
11 while it's pending, okay.

12 You're, obviously, going to go home and your  
13 family and friends might have questions about what  
14 you've been doing all day. It's perfectly fine to tell  
15 them that you are serving on a jury but leave it at  
16 that. If you want to discuss the facts of the case,  
17 wait until the case is over with, and then you're  
18 welcome to discuss any of the facts that you want with  
19 anybody else.

20 It's important that you abide by these  
21 things. They may seem insignificant, but they're, in  
22 fact, very important. If there's any violation of any  
23 of these rules, it could potentially mean that there  
24 will be a mistrial. You've obviously seen how much  
25 effort we've gone to just to get to this point. So it

1 could be, obviously, a great inconvenience to everybody  
2 involved and a great expense to the parties. So please  
3 abide by these directions that we've given to you.

4 Just a couple housekeeping matters. You're  
5 going to be provided notebooks upstairs when you get up  
6 to the courtroom, and you are allowed to use those  
7 notebooks to take notes. There's no requirement that  
8 you take any notes, but we will provide them for you so  
9 that you have the ability to write down things that  
10 might be important to you during this process.

11 We will try to take recesses periodically.  
12 We'll try to do that every 90 minutes or so. Sometimes  
13 I might forget and go a little bit too long. If you  
14 really desperately need a recess, I don't have a  
15 problem. If you want to let Carlos know that you need a  
16 recess, he'll pass that information on to me, and I'm  
17 more than happy to take a recess at any time if you just  
18 desperately need to go use the restroom or walk around  
19 or something like that, that's not a problem. Just let  
20 us know.

21 Each morning we're going to start up at  
22 9:00 o'clock. You're going to meet in the jury room  
23 that's up on the top floor of the courthouse around  
24 8:45. We'll have snacks and food in that room for you,  
25 some coffee, that sort of thing. So if -- you know,

1 come hungry and have some food there in the room when  
2 you arrive. We'll take breaks for lunch just like we  
3 did today. We'll always break around noon for you to go  
4 to lunch and try to -- we always get you out of here by  
5 5:00 o'clock. You don't have to worry about that. So  
6 whenever you come back from a break, just go and hang  
7 out in the jury room until we're ready to start.

8 We take your time very seriously. We're  
9 trying to make valuable use of your time. Every once in  
10 a while there's an issue that has to be addressed  
11 outside of your presence. So if there's kind of some  
12 unexpected delay of some kind, keep in mind that there's  
13 probably some issue that we're addressing outside of  
14 your presence, and that's the reason for the delay. And  
15 we apologize for that, but some of those things are just  
16 things that we're required to do outside of your  
17 presence.

18 We're going to give you different badges that  
19 reflect that you've now been selected as a juror in the  
20 case. The purpose of these badges is to identify you to  
21 other people that you're a juror. As we talked about  
22 during this process, we don't want people interacting  
23 with you, and we want people to sort of avoid contact  
24 with you. So the badges will assist us in doing that  
25 and making sure that people aren't having any contact

1 with you.

2           We want you to be comfortable while you're  
3 here. So if there's anything that you need in the jury  
4 room that we haven't provided for you, just let us know.  
5 We'd be happy to get some additional items there for  
6 you. We'll have some candy in there, some fruit, some  
7 donuts, you know, other -- sodas and coffee, that sort  
8 of thing, but if there's something we don't have that  
9 you really want, let us know and we'll do our best to  
10 get that for you. And just let Carlos know if there's  
11 some particular need, and we will try to take care of  
12 that for you.

13           So before we continue on with the rest of the  
14 process, what we're going to do is we're going to move  
15 up to the jury -- or excuse me, the courtroom up on the  
16 top floor of the courthouse. When you get to the top of  
17 the stairs, it's the courtroom on the left-hand side.  
18 Right before the door that goes into the courtroom,  
19 there's another door on the right-hand side, which is  
20 where the jury room is.

21           And so that's where you guys will hang out  
22 during breaks. If you're waiting to go back in the  
23 courtroom, just wait in that room, and that's where  
24 we'll have the various snacks and that sort of thing for  
25 you.

1           So we're going to take a break right now for  
2 about 15 minutes or so so we can get all of our stuff  
3 moved up to the courtroom so we can get started. I do  
4 need to admonish you as follows before the break:

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

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

22           In other words, you cannot talk to anyone on  
23 the phone, correspond with anyone, or electronically  
24 communicate with anyone about this case.

25           So if you'll please just assemble in the jury

1 room on the top floor of the courthouse at 3:30, and  
2 we'll get started promptly around 3:30.

3 Okay, thank you. If you'll please rise.  
4 You're free to take a break, and we'll see you upstairs  
5 in a few minutes.

6 (Whereupon, court recessed)

7 THE COURT: We're now on the record, the time  
8 3:40 p.m., June 14th, 2021. We're back on the record in  
9 Case DC-CR-20-159, the State of Nevada, Plaintiff,  
10 versus Darwyn Ross Yowell. The Defendant is present,  
11 along with his counsel, Mr. Pennell. We do have  
12 Mr. Thompson here from the District Attorney's Office.

13 We're convened outside the presence of the  
14 jury. There was a correction we needed to make to the  
15 charging document. And actually, now that I mention  
16 it, I see the criminal information that was filed  
17 August 21st, 2020, Judge Porter noted the change of  
18 category A felony already on that document. She  
19 corrected it by interlineation back on October 5th,  
20 2020. So I guess, technically, that correction was  
21 already made to the document.

22 The only other issue was when -- it looks  
23 like someone has written in -- Brandi also pointed that  
24 the case number was messed up at the top of the  
25 document, but it looks like someone has written in the

1 correct -- it was missing the year, but that has been  
2 written in on this document as well.

3 And I think that the State wanted to correct  
4 SR 288 to be 228; is that correct?

5 MR. THOMPSON: That is correct.

6 THE COURT: Any objection to correcting that  
7 by interlineation, Mr. Pennell?

8 MR. PENNELL: This is the one we already  
9 discussed earlier, I believe?

10 THE COURT: Yes.

11 MR. PENNELL: No objection, Your Honor.

12 THE COURT: So on page 1 of the criminal  
13 information, on line 17, where it says 288 will be  
14 corrected to 228.

15 Anything else we need to address before we  
16 bring in the members of the jury?

17 MR. THOMPSON: No.

18 THE COURT: Is there anything else,  
19 Mr. Pennell?

20 MR. PENNELL: I'm sorry, Your Honor, I didn't  
21 hear you.

22 THE COURT: I said anything else before I  
23 bring in the members of the jury?

24 MR. PENNELL: Oh, no, Your Honor.

25 THE COURT: Okay. If everyone will please

1 rise then at this time.

2 (Whereupon, the jury entered the courtroom)

3 THE COURT: Court is back in session, please  
4 be seated.

5 The time is 3:44 p.m. It's June 14th, 2021.  
6 We're back on the record in Case DC-CR-20-159, the State  
7 of Nevada versus Darwyn Ross Yowell. Mr. Yowell is  
8 present, along with his counsel, Mr. Pennell.  
9 Mr. Thompson is here from the District Attorney's  
10 Office. Do the parties stipulate to the presence of the  
11 jurors and the alternates?

12 MR. THOMPSON: Yes.

13 MR. PENNELL: Yes, Your Honor.

14 THE COURT: Okay. So next up we're going to  
15 have the clerk read the criminal information as amended.

16 THE CLERK: Case No. DC-CR-20-159, Department  
17 No. 3, in the Fourth Judicial District Court of the  
18 State of Nevada, in and for the County of Elko. The  
19 State of Nevada, Plaintiff, versus Darwyn Ross Yowell,  
20 Defendant.

21 Comes now, the State of Nevada, the Plaintiff  
22 in the above-entitled cause, by and through its counsel  
23 of record, the Elko County District Attorney's Office,  
24 and informs the above-entitled court that the Defendant  
25 above-named, on or about the 5th day of June, 2020, at

1 or near the location of the City of Elko and/or SR 227  
2 and/or SR 228, within the County of Elko and the State  
3 of Nevada, committed a crime or crimes described as  
4 follows:

5 Count 1, kidnapping in the first degree, a  
6 category A felony; or in the alternative to the Count 1,  
7 Count 2, kidnapping in the second degree, a category B  
8 felony; or in the alternative to Counts 1 and 2,  
9 Count 3, coercion, a category B felony. In addition to  
10 Counts 1 through 3, Count 4, domestic battery resulting  
11 in substantial bodily harm, a category B felony; or in  
12 the alternative to Count 4, Count 5, battery resulting  
13 in substantial bodily harm, a category C felony.

14 All of which is contrary to the form of the  
15 statute in such cases made and provided and against  
16 the peace and dignity of the State of Nevada, dated  
17 August 14th, 2020, signed Justin Barainca, to which the  
18 Defendant previously pled not guilty.

19 THE COURT: Thank you. I'm next going to  
20 read two jury instructions to the jury. The --  
21 Instruction No. 1 is sort of a roadmap of the trial,  
22 and Instruction No. 2 governs the submission of written  
23 questions by the jury following testimony of various  
24 witnesses. So I do need to read these instructions to  
25 you at this time.

1           Instruction No. 1: Ladies and gentlemen,  
2   this instruction is intended to serve as an introduction  
3   to the trial of this case. It is not a substitute for  
4   the detailed instructions on the law and the evidence  
5   that I will give you at the close of the case and before  
6   you retire to consider your verdicts.

7           This is a criminal case commenced by the  
8   State of Nevada, which I may sometimes refer to as the  
9   State against Darwyn Ross Yowell. The case is based on  
10   a criminal information, which has been read to you. You  
11   should distinctly understand that the criminal  
12   information simply contains charges. It is not in any  
13   sense evidence of the allegations it contains, nor is it  
14   a substitute for the instructions containing the  
15   elements of the crimes charged that I will give you at  
16   the close of this case.

17          The Defendant has plead not guilty to the  
18   crimes charged in the criminal information. Therefore,  
19   the State has the burden of proving every element of the  
20   crimes charged beyond a reasonable doubt. The purpose  
21   of the trial is to determine whether the State can meet  
22   this burden.

23          The trial will proceed in the following  
24   order: First, the parties have the opportunity to make  
25   opening statements. The State may make an opening

1 statement at the beginning of the trial. The Defendant  
2 may make an opening statement following the opening  
3 statement for the State or may defer the making of an  
4 opening statement until the close of the State's case.  
5 Neither party is obliged to make an opening statement.  
6 What is said in the opening statements is not evidence.  
7 The statement simply serves the purpose of discussing  
8 the evidence that the party making the statement expects  
9 to be admitted.

10 Second, the State will introduce evidence in  
11 support of the charges in the criminal information.

12 Third, after the State has presented its  
13 evidence, the Defendant may present evidence; however,  
14 he is not obliged to do so. The burden is always on the  
15 State to prove every element of the crimes charged  
16 beyond a reasonable doubt. The law never imposes on the  
17 Defendant in a criminal case the burden of calling any  
18 witnesses or introducing any evidence.

19 Fourth, I will instruct you on the applicable  
20 law. Your verdicts must be unanimous.

21 Fifth, after the reading of the instructions,  
22 each party has the opportunity to present oral argument  
23 in support of their respective cases. What is said in  
24 closing argument is not evidence, just as what is said  
25 in the opening statements is not evidence. The

1 arguments are designed to present to you the contentions  
2 of the parties as to what the evidence has shown and  
3 what inferences may be drawn from the evidence. The  
4 State has the right to open and close the argument.

5 Your purpose as jurors is to find and  
6 determine the facts. Under our system of criminal  
7 procedure, you are the sole judges of the facts. If at  
8 any time I should make any comment regarding the facts,  
9 you are admonished to disregard it. It is especially  
10 important that you perform your duty of determining the  
11 facts diligently and conscientiously, for ordinarily  
12 there is no means of correcting an erroneous  
13 determination of the facts by a jury.

14 On the other hand, and with equal emphasis, I  
15 instruct you that the law, as given by the Court,  
16 constitutes the only law for your guidance. It is your  
17 duty to accept and follow it. It is your duty to follow  
18 the law as I give it to you, even though you may  
19 disagree with the law. You are to determine the facts  
20 in the case solely from the evidence produced at trial,  
21 which consists of the testimony of witnesses and  
22 exhibits received in evidence. Questions asked by the  
23 lawyers are not evidence, for the evidence consists of  
24 answers given by witnesses to questions posed by the  
25 lawyers.

1           Again, statements and arguments of counsel  
2     are not evidence. Counsel, however, may enter into  
3     agreements or stipulations to facts, which are not in  
4     dispute. When they do so, you are to accept the facts  
5     as stipulated by counsel. On occasion, I may tell you  
6     that I am making -- or I am taking judicial notice of  
7     certain facts. You then may accept those facts as true  
8     but are not required to. It is up to you to decide what  
9     inferences are to be drawn from the evidence and what  
10    facts are established by the evidence.

11           The parties may sometimes present objections  
12    to some of the testimony or other evidence. It is the  
13    duty of a lawyer to object to evidence that he or she  
14    believes may not properly be offered, and you should not  
15    be prejudiced in any way against a lawyer who makes  
16    objections or against the party he or she represents.  
17    At times I may sustain objections or direct that you  
18    disregard certain testimony or exhibits. You must not  
19    consider any evidence to which an objection has been  
20    sustained or that I have instructed you to disregard.

21           In considering the weight and value of the  
22    testimony of any witness, you may take into  
23    consideration the appearance, attitude, and behavior of  
24    the witness, the extent of his or her opportunity and  
25    ability to see or hear or otherwise become aware and to

1 remember and communicate the interests of the witness in  
2 the outcome of the case, if any, the existence or  
3 nonexistence of a bias or other motive, the inclination  
4 of the witness to speak truthfully or not, the  
5 probability or improbability of the statements of the  
6 witness, a statement previously made by him or her that  
7 is inconsistent with his or her testimony, evidence of  
8 the existence or nonexistence of any fact testified to  
9 by him or her, and all other facts and circumstances in  
10 evidence.

11 No statement, ruling, remark, or comment that  
12 I may make during the course of the trial is intended to  
13 indicate my opinion as to how you should decide the case  
14 or to influence you in any way in your determination of  
15 the facts. At times I may ask questions of witnesses.  
16 If I do so, it is for the purpose of bringing out  
17 matters that I feel should be brought out, and not in  
18 any way to indicate my opinion about the evidence or to  
19 indicate the weight I feel you should give the testimony  
20 of the witnesses. I may also find it necessary to  
21 admonish the lawyers. If I do, you should not show  
22 prejudice toward a lawyer or his client because I have  
23 found it necessary to admonish him or her.

24 It is the duty of an attorney to present to  
25 you his client's case in the most favorable light

1 consistent with the truth and the law. During the  
2 trial, I ask you not to communicate with the attorneys,  
3 even on matters having no connection whatsoever with  
4 this case. The attorneys are officers of the Court, and  
5 they are aware of their responsibilities as such.

6 Even if you are acquainted with the attorney,  
7 you will observe that he or she will avoid any contact  
8 with you during the trial, and you should not be  
9 offended by that. The lawyer will be attempting merely  
10 to comply with the Rules of Professional Conduct in  
11 avoiding any appearance of impropriety.

12 Not only must your conduct as jurors be above  
13 reproach, but you must avoid the appearance of any  
14 improper conduct. Do not talk to the parties,  
15 attorneys, or witnesses during the trial, even upon  
16 matters unconnected with the case. In the event that  
17 anyone should attempt to improperly influence you in any  
18 manner, you should promptly report the matter to me or  
19 to the Bailiff. If you notice anything out of the  
20 ordinary, you should promptly report the matter to me or  
21 to the Bailiff.

22 You must not consider anything you may have  
23 read or heard about the case outside the courtroom,  
24 whether before or during the trial. Under our system of  
25 criminal procedure, you are not to concern yourself in

1 any way with the sentence or sentences that the  
2 Defendant might receive if you should find him guilty.

3 Your function is solely to decide whether he  
4 is guilty or not guilty of the charges against him. If,  
5 and only if, you find him guilty of a charge or charges  
6 in this case, then it becomes the duty of the Court to  
7 pronounce sentence.

8 Until this case is submitted to you, you must  
9 not discuss it with anyone, even with your fellow  
10 jurors. After it is submitted to you, you must discuss  
11 it only in the jury room with your fellow jurors. It is  
12 important that you keep an open mind and not decide any  
13 issue in the case until the entire case has been  
14 submitted to you under instructions of the Court.

15 Instruction No. 2: You will be given the  
16 opportunity to ask written questions of any of the  
17 witnesses called to testify in this case. However, I  
18 caution that you are not to consider yourselves  
19 advocates, and you are not encouraged to ask large  
20 numbers of questions because it is the primary  
21 responsibility of each lawyer to present his client's  
22 case and evidence. You may ask a question, which you  
23 need to have answered in order to obtain all of the  
24 facts necessary for your deliberations.

25 Questions may be asked only in the following

1 manner. After the lawyers have finished questioning a  
2 witness, I will ask the jury if it has any questions.  
3 Your questions must be written with your juror number on  
4 each question. In order to ask a question, simply raise  
5 your hand, and the Bailiff will deliver your written  
6 question to the Court. Questions must be directed to  
7 the witness instead of the lawyers or the Judge.

8 After consulting with counsel at a sidebar  
9 conference, the Court will determine if your written  
10 question is legally proper. If it is, I will ask it.  
11 Only questions permissible under the rules of evidence  
12 will be asked. No adverse inference should be drawn if  
13 the Court does not allow a particular question to be  
14 asked. After the question has been answered, the Court  
15 may ask follow-up questions and will permit the  
16 attorneys to ask follow-up questions. The jury must not  
17 place undue weight on the responses to its questions.

18 It is not necessary that you spell each word  
19 in a given jury question correctly. Please try to be  
20 specific with your questions and cover only one subject  
21 with each question. Phonetic spelling is acceptable.  
22 Do not concern yourselves with the form of the question  
23 because I will reword it so that it is presented to the  
24 witness in the proper manner.

25 Did either party wish to invoke the rule of

1 exclusion?

2 MR. PENNELL: Yes, the Defense would, Your  
3 Honor.

4 THE COURT: The rule of exclusion has been  
5 invoked. What that means is anyone that was named  
6 previously as a potential witness will be required to  
7 remain out in the hallway until they're specifically  
8 called in to provide their testimony to the Court.

9 While they're seated out in the hallway, they  
10 can have conversations amongst themselves or with other  
11 folks that might be out in the hallway. However,  
12 they're directed not to discuss anything specifically  
13 related to this case.

14 If either of the attorneys needs to go out  
15 into the hallway to discuss any of the -- any of the  
16 testimony with one of the potential witnesses, the  
17 witness is directed to have that conversation quietly so  
18 that the conversation is not overheard by one of the  
19 other witnesses.

20 And I will leave it to the various parties to  
21 specifically admonish the various witnesses as to the  
22 rule of exclusion as they're not currently present.

23 Okay, at this point in time, we've arrived at  
24 the time for opening statements, however, we're very  
25 late in the day, and we're all probably very worn out

1 because it's been a long day for everyone. At this  
2 point, we're going to break for the day, and we're going  
3 to start back up at 9:00 o'clock in the morning tomorrow  
4 with opening statements, and then we'll get underway  
5 with the presentation of evidence.

6 So please reconvene in the jury room. If  
7 you'll be in the jury room about 8:45 or so. Like I  
8 told you before, we'll have some food and snacks in  
9 there for you, and we'll try to get underway right at  
10 9:00 o'clock tomorrow.

11 I do need to admonition you as follows before  
12 we break for the evening: Please do not converse  
13 amongst yourselves or with anyone else on any subject  
14 connected with the trial. Do not read, watch, or listen  
15 to any report of or commentary on the trial or any  
16 person connected with the trial by any medium of  
17 information, including, without limitation, newspapers,  
18 television, radio and the Internet. Do not form or  
19 express any opinion on any subject connected with the  
20 trial until the cause is finally submitted to you.

21 You may not use any electronic device or  
22 media such as the telephone, a cell phone, smartphone,  
23 iPhone, BlackBerry or computer, the Internet, any  
24 Internet service, any texts or instant messaging  
25 service, any Internet chat room, blog, or website, such

1 as Facebook, Myspace, LinkedIn, YouTube, or Twitter to  
2 communicate to anyone any information about this case  
3 until I accept your verdict.

4 In other words, you cannot talk to anyone on  
5 the phone, correspond with anyone, or electronically  
6 communicate with anyone about this case.

7 All rise. You can go ahead and break for the  
8 evening. Leave your notebooks here, and they'll be  
9 ready for you tomorrow. Have a good night.

10 - - - - -

11 WHEREUPON, the proceedings were adjourned to the  
12 following day, TO WIT: June 15, 2021

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C E R T I F I C A T I O N

I, JULIE ROWAN, do hereby certify:

That on June 14, 2021, a jury trial was held in the within-entitled matter in the Fourth Judicial District Court, Department 3, within the State of Nevada, in and for the County of Elko;

That said hearing was recorded on a recording system, and said recording was delivered to me for transcription;

That the foregoing transcript, consisting of pages 1 through 221, is a full, true, and correct transcript of said recording performed to the best of my ability.

Dated this 16th day of November, 2021.

  
Julie Rowan

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