

No. 83024

IN THE SUPREME COURT OF THE STATE OF NEVADA

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Mar 07 2022 04:07 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

JESSE D. NOBLE, JR.,

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

On Appeal from the Eighth Judicial
District Court of the State of Nevada
Case No. C-18-336940-1

RESPONDENT'S APPENDIX

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RESPECTFULLY SUBMITTED this 7th day of March 2022.

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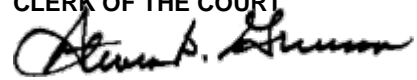
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I hereby certify that I electronically filed the foregoing in accordance with this Court's electronic filing system and consistent with NEFCR 9 on March 7, 2022.

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CASE NO. C-18-336940-1

DEPT. NO. 5

IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP
COUNTY OF CLARK, STATE OF NEVADA

THE STATE OF NEVADA,)
)
Plaintiff,) PRELIMINARY HEARING
)
vs.) Case No.
) 18F18999X
JESSE NOBLE,)
)
)
Defendant.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE CYNTHIA CRUZ
JUSTICE OF THE PEACE

TAKEN ON WEDNESDAY, DECEMBER 19, 2018
AT 9:15 A.M.

APPEARANCES:

For the State: Chelsea Kallas, Esq.
Deputy Attorney General

For the Defendant: Kenneth Frizzell, Esq.
Las Vegas, Nevada

REPORTED BY: ROBERT A. CANGEMI, CCR No. 888

I N D E X

WITNESSES :

D C RD RC

WAYLON BROWN

5 15

1 LAS VEGAS, NEVADA, THURSDAY, DECEMBER 19,
2 2018

3 * * * * *

4 THE COURT: Jesse Noble, 18F18999X.

5 He is present in custody with the assistance
6 of Mr. Frizzell.

7 This is a case being handled by the
8 prosecutorial body of the Attorney General's Office.

9 Mr. Noble, let's get you switched down.

10 Before we get going, is there any need to
11 make a record of the offer extended?

12 MS. KALLAS: There is, Your Honor.

13 The offer was attempt battery by a prisoner
14 with a stipulated sentence of 2 to 5 years.

15 My understanding is that that has been
16 rejected.

17 MR. FRIZZELL: That is correct, Your Honor.

18 Ken Frizzell, Bar Number 6303, on behalf of
19 Mr. Noble.

20 And the only other thing is that I invoke
21 the exclusionary rule.

22 THE COURT: The defense has invoked
23 exclusionary rule.

24 There are a lot of people in here, so I will
25 ask that anybody who is here on the Noble case, so

1 that we can keep everybody sorted, to please step
2 outside of the courtroom, and my marshal will call
3 you back in.

4 MS. KALLAS: Your Honor, I have another
5 preliminary matter.

6 THE COURT: Just a second.

7 MS. KALLAS: Okay.

8 THE COURT: Are there any other preliminary
9 matters?

10 MS. KALLAS: Yes, Your Honor.

11 Mr. Frizzell said he would be stipulating to
12 the fact that the Defendant was an inmate at the
13 time for this offense.

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

15 MR. FRIZZELL: That's correct, Your Honor.

16 THE COURT: And, Mr. Noble, I just want to
17 make sure, just before we start calling witnesses,
18 that Mr. Frizzell has had an opportunity to talk to
19 you about the offer that was extended.

20 And I just want to make sure that he talked
21 you to about that.

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: Okay. Fine.

24 I just want to make sure that somebody did
25 talk to you about it.

1 Okay?

2 THE DEFENDANT: Yes.

3 THE COURT: With that, State, call your
4 first witness.

5 MS. KALLAS: The State's first witness is
6 Waylon Brown.

7
8 WAYLON BROWN,

9
10 who, being first duly sworn to tell the truth, the
11 whole truth, and nothing but the truth, was examined
12 and testified as follows:

13
14 THE CLERK: Please be seated.

15 State your first and last name and spell it
16 slowly for the record.

17 THE WITNESS: Waylon A. Brown, W-a-y-l-o-n
18 A. B-r-o-w-n.

19 THE COURT: State, your witness.

20
21 DIRECT EXAMINATION

22
23 BY MS. KALLAS:

24 Q. Sir, how are you employed?

25 A. Through the Nevada Department of

1 Corrections.

2 Q. And are you a correctional officer with
3 NDOT?

4 A. Yes.

5 Q. And how long have you been employed?

6 A. About 4 years.

7 Q. And which prison facility do you work at?

8 A. High Desert State Prison.

9 Q. And is High Desert Prison located in Clark
10 County, Nevada?

11 A. Yes.

12 Q. Specifically what are your duties as a
13 corrections officer at High Desert State Prison?

14 A. To enforce the rules and regulations of the
15 prison, and to also keep the community safe.

16 Q. Is there anyone specifically that is housed
17 at High Desert State Prison?

18 A. Yes, convicted felons.

19 Q. Okay.

20 Do you know what type?

21 MR. FRIZZELL: I didn't hear that.

22 Sorry.

23 THE COURT: Convicted felons.

24 Q. Is that for all felonies or violent
25 felonies?

1 What type?

2 A. All felonies.

3 Q. And what type of clothing do these inmates
4 at High Desert State Prison wear?

5 A. A blue shirt and blue pants.

6 Q. And is that year round?

7 A. Yes. They wear jackets and stuff. Their
8 normal color is blue.

9 Q. And what type of outfits do the corrections
10 officers wear?

11 A. Normally green VDU pants, and a green top
12 with a badge and name.

13 Q. And is that the outfit that you are wearing
14 today?

15 A. No. I am wearing my Class A's.

16 Q. What is your Class A's?

17 A. Just a dressier uniform.

18 Q. So you are wearing something different when
19 you are at High Desert?

20 A. Yes.

21 Q. Directing your attention to December 21,
22 2017, were you working in the capacity as a
23 corrections officer on that date?

24 A. Yes.

25 Q. And was that at High Desert State Prison?

1 A. Yes.

2 Q. And what shift were you working?

3 A. Swing, one to 9.

4 Q. And is that at night?

5 A. Yes.

6 Q. 1:00 p.m. to 9:00?

7 A. Yes.

8 Q. Specifically where in the prison were you
9 working around 6:30 that evening?

10 A. Specifically I work search and escort. So I
11 walk around the prison, walk inmates around.

12 I get them to the chapel and stuff like
13 that.

14 Around 6:30 I was watching the inmates come
15 up for their evening meal, and then they go back
16 after they are done.

17 Q. Around that time, did anything particular
18 happen?

19 A. Yes, there was 2 inmates that were fighting
20 in the 5-6 quad.

21 It is like a housing unit for inmates.
22 There is different housing locations, but in certain
23 area.

24 Q. A certain area of the prison?

25 A. Yes.

1 Q. And how did you know that there was an
2 inmate fight at 5-6 quad?

3 A. Over radio traffic. Somebody called, inmates
4 fighting.

5 Q. After you heard that, what did you do?

6 A. I responded to the incident.

7 Q. And what happened when you got there?

8 A. I noticed that inmates were laying on the
9 ground.

10 Some were laying on their sides and on their
11 backs.

12 And then the 2 inmates fighting were already
13 restrained, and medical was coming to evaluate them.

14 Q. Okay.

15 And what happened after that?

16 A. After that incident, for officer safety, I
17 was instructing inmates to lay on their stomachs,
18 because if they don't lay on their stomachs, then
19 they can jump up easier and attack us, or do
20 something else to their officers or another inmate.

21 Q. Okay.

22 You said that you were instructing them to
23 lay on their stomach.

24 Where were their hands supposed to be and
25 their face?

1 A. Down on the ground, out in front of them.

2 Q. Face down, belly down?

3 A. Yes.

4 THE COURT: Hold on.

5 This gentleman sitting right in front of us,
6 I have had him working non-stop with a heavy
7 calendar since 7:45.

8 He can keep up with me, because I say the
9 same stuff.

10 He doesn't know what you guys are saying, so
11 you have got to slow down.

12 And you have to clear up stuff, because he
13 cannot keep up if you are bouncing back and forth
14 that fast.

15 He does a great job, but he can't keep up.

16 MS. KALLAS: I apologize.

17 THE COURT: Let's back it up.

18 I have inmates that were instructed to lay
19 on their stomachs with their face down and hands
20 where?

21 THE WITNESS: Out in front of them.

22 THE COURT: Okay.

23 Let's ask another question.

24 Q. And when you instructed them to lay face
25 down, did all of the inmates do that?

1 A. Most of them.

2 Q. Did any of them not?

3 A. Inmate Noble.

4 Q. Do you see him in the courtroom?

5 A. Yes.

6 Q. Can you please point to him and identify an
7 article of clothing he is wearing?

8 A. An orange jump suit.

9 MS. KALLAS: And, Your Honor, may the record
10 reflect that the witness identified the Defendant?

11 THE COURT: It will.

12 Q. Can you tell the Court what happened when
13 instructing the Defendant to lay down?

14 A. I instructed him to lay on his stomach
15 multiple times.

16 And after 5 or 6 attempts of telling him to
17 lay on his stomach, he said fuck you, why don't you
18 make me.

19 At that time, I went down to grab his right
20 arm, to put him in wrist restraints, and he struck
21 me in the face multiple times.

22 Q. Okay.

23 I just want to back up.

24 You said to lay on the ground and he told
25 you, fuck you, why don't you make me?

1 A. Yes.

2 Q. And then where did you reach?

3 A. For his right arm.

4 Q. And what did you intend to do with right
5 arm?

6 A. To put it behind his back and put him
7 in wrist restraints.

8 Q. At that time would you consider him to be
9 non-compliant?

10 A. Yes.

11 Q. So after that, he punched you in the face?

12 A. Yes, multiple times.

13 MS. KALLAS: Court's indulgence.

14 Q. Was he saying anything while he punched you
15 in the face?

16 A. I don't recall.

17 After the second strike to the face, I
18 blacked out.

19 And when I came back to the situation, I was
20 pulled away from the incident, and other officers
21 restrained him.

22 Q. And what happened after that?

23 A. I was instructed to go to a different area
24 of the quad, up into a control unit, away from the
25 inmates, and away from inmate Noble.

1 Q. Okay.

2 He hit you and you blacked out?

3 A. Yes.

4 Q. That was after the second punch?

5 A. Yes.

6 Q. And when you woke up -- how long do you
7 think it took for you to wake up and come to your
8 senses?

9 A. 3 to 5 seconds.

10 Q. At that point you saw other officers?

11 A. They helped.

12 Q. Did you receive any injuries as a result?

13 A. I received a fat lip, a bloody lip.

14 MS. KALLAS: And I apologize, Your Honor, I
15 need to have one thing marked as an exhibit.

16 THE COURT: And a bloody lip?

17 THE WITNESS: A bloody lip from being struck
18 in the face.

19 THE COURT: Okay.

20 Q. Officer Brown, showing you what has
21 previously been marked as State's Exhibit 1, can you
22 take a look at photo for me?

23 A. Yes.

24 Q. Do you recognize what's depicted in that
25 photo?

1 A. Yes.

2 Q. What?

3 A. My upper lip and face.

4 Q. Is that an injury from when you were punched
5 that day from Mr. Noble?

6 A. Yes.

7 Q. And is that a fair and accurate depiction of
8 that injury?

9 A. Yes.

10 MS. KALLAS: And, Your Honor, I move to
11 admit.

12 THE COURT: Is there any objection to the
13 admission of State's 1?

14 MR. FRIZZELL: Well, I have a relevance
15 objection, only because we don't know anything about
16 where he got that fat lip, other than what he is
17 saying here.

18 But I understand that the Court is going to
19 admit it anyway.

20 MS. KALLAS: He said he got that fat lip from
21 the inmate.

22 THE COURT: He basically said it was an
23 injury as a result.

24 And he said that it is a true and accurate
25 depiction of the result.

1 The objection is overruled.

2 1 will be deemed admitted for the purposes
3 of the preliminary hearing only.

4 MS. KALLAS: Thank you, Your Honor. I have
5 no further questions.

6 THE COURT: Mr. Frizzell, cross.

7 MR. FRIZZELL: Thank you.

8
9 CROSS-EXAMINATION

10
11 BY MR. FRIZZELL:

12 Q. All right.

13 So, officer, you were on duty you say from
14 1:00 p.m. to 9 p.m. on December 21.

15 Correct?

16 A. Yes, sir.

17 Q. Of 2017, last year?

18 A. Yes.

19 Q. And this incident happened at about 6:30?

20 A. Yes, sir.

21 Q. The fight, where was the fight?

22 A. In the 5-6 quad area.

23 Q. So that's inside of a building?

24 A. It is inside of a quad with multiple
25 buildings around it and a gate in front.

1 Q. So like maybe what we would describe as a
2 courtyard?

3 A. Yes, like a courtyard.

4 Q. And on December 21 of last year at 6:30 it
5 is clearly dark, isn't it?

6 A. Yes.

7 Q. Okay.

8 Now, are there cameras in that area?

9 A. No.

10 Q. And I am talking about the quad area, there
11 is no security cameras?

12 A. There are no security cameras.

13 Q. Okay.

14 How many inmates would you say that you had
15 lay on their stomach, everybody that was out there,
16 or how many?

17 A. Yes. When a fight happens, the other
18 officers that respond too instruct the inmates to
19 lay on their stomach.

20 It is a well-known thing for them to lay on
21 their stomach, and to be face down with their hands
22 out, so that we know they are not part of that
23 situation.

24 Q. My question is how many? How many would you
25 say?

1 A. A whole unit, so 80. Probably like one
2 hundred or something.

3 Q. So how many officers were out there
4 in the courtyard?

5 I am going to say the courtyard, because it
6 is easier for me to say.

7 A. Okay.

8 Officers that responded or that were out
9 there?

10 Q. How many officers were out there at the time
11 this fight broke out?

12 A. I would say ten at the most.

13 Q. Now, the fight breaks out, and you heard
14 radio traffic, you say?

15 A. Yes.

16 Q. And you respond, correct?

17 A. Um-hum.

18 Q. Roughly how big is this area?

19 Do you have to run for 50 yards, or how far
20 away were you from the incident?

21 A. I ran probably a good 200 yards.

22 Q. 200 yards?

23 A. I didn't run. I walked some then.

24 Q. The distance, the distance is about 200
25 yards?

1 A. Yes.

2 Q. And is that away -- is that away from
3 buildings or are there buildings on all 4 sides?

4 A. Inside the courtyard?

5 Q. Yes.

6 A. On all 4 sides.

7 Q. But it is about 200 yards across from one to
8 other?

9 A. Roughly. There is a basketball court in the
10 middle on the side of the courtyard, and like a
11 little track.

12 Q. So at that area the lighting is not that
13 good?

14 A. I would say, no. Not like really great, no,
15 but there is light in there.

16 Q. So you walk and run, and walk and run about
17 2 hundred yards.

18 You get over to the area. At that point
19 where that area that you go to start having people
20 lay on their stomachs, was there all one hundred
21 guys out there laying on their stomachs?

22 A. Around, yes.

23 Q. How many would you say were in your general
24 vicinity, say within a 15, 20 yard radius?

25 A. A good 20.

1 Q. All right.

2 Do you separate them in anyway, like have
3 different races lay in groups?

4 A. No.

5 Q. Just kind of wherever they are standing, you
6 tell them to drop down?

7 A. Yes.

8 Q. And so you are saying probably about 20 guys
9 were there in your general area?

10 A. Yes.

11 Q. Were there any other officers, any other
12 corrections officers that also responded to that
13 particular area that you ran to?

14 A. Yes.

15 Q. So now you are telling 20 guys roughly to
16 stay down, lay down?

17 A. Yes.

18 Q. How many, if you can tell me, if you can
19 tell the Court, how many would you say were African-
20 American in just that area of 20 guys?

21 A. I --

22 Q. Could you take an educated guess, if you
23 will?

24 A. 10 to 15 of them.

25 Q. 3 quarters, roughly half to 3 quarters?

1 A. Yes.

2 Q. And you say Mr. Noble was in that group?

3 A. Yes.

4 Q. And initially when you told everybody to lay
5 down, everybody laid down, right?

6 A. Yes.

7 Q. Now, was it cold out that night, would you
8 say, like it is today, like this time of year?

9 A. Nevada cold, yes.

10 Q. And how were the inmates dressed when they
11 are out there, are they just in the short sleeve
12 oranges?

13 A. No, they have blue pants on and a blue
14 shirt, and then a blue jacket as well, a thin
15 jacket.

16 Q. Like a windbreaker?

17 A. Yes.

18 Q. Okay.

19 Is there a lining in this jacket?

20 A. Like that they can take out?

21 Q. Just a lining, inside there is also fleece
22 or something?

23 A. Yes.

24 Q. Okay.

25 So when you had him lay face down on the

1 ground, and you say their hands are supposed
2 to be above their heads?

3 A. Just out in front of them, not above,
4 just where we can see them.

5 Q. Is it your practice to also have them
6 put their faces in the dirt as well?

7 A. Not in the dirt. It is not the
8 practice.

9 Q. On this night did you tell the people
10 to put their faces in the dirt too?

11 A. No. I just told them to lay on their
12 stomachs.

13 Q. How long would you say you had them
14 lay on their stomachs?

15 A. Until the incident that happened
16 prior to that, that we know who was involved,
17 and what was going on.

18 Q. Would it be fair to say maybe about
19 45 minutes?

20 Could it have been 45?

21 A. It could have been, yes.

22 Q. Okay.

23 So it would have taken that long to
24 go through the investigation and find out who
25 did it.

1 Correct?

2 A. Yes.

3 Q. Who was originally in the fight?

4 A. Yes. It normally doesn't take that long, but
5 it possibly could take 45, yes.

6 Q. So all of that time, these guys are laying
7 out in the cold with their hands above their heads
8 on their stomachs for 45 minutes.

9 Correct?

10 A. Once we know what the situation is, we don't
11 make the other inmates stay out in the cold and
12 wait.

13 Once we know who is the aggressor, and who
14 is our victim, and nobody else is involved, we send
15 them back into their unit, their cells.

16 Q. Okay.

17 So along with everyone else, Mr. Noble
18 initially got down like everybody else and went on
19 the ground.

20 Correct?

21 A. Yes.

22 Q. Okay.

23 And you said at some point he got up, or
24 what happened?

25 A. He was laying on his side.

1 Q. Okay.

2 So did he say why he was laying on his side?

3 A. No.

4 Q. He didn't say he was cold and he needed to
5 roll over a little bit?

6 A. No.

7 Q. He never got up, correct?

8 A. No.

9 Q. Do you remember which side he was laying on?

10 A. Yes, his left side.

11 Q. He was laying on his left side?

12 A. Yes.

13 Q. Do you know what hand he is, whether he is
14 right-handed or left-handed?

15 A. No.

16 Q. Okay.

17 So you asked him for his right hand, you
18 say?

19 A. I first instructed him to lay on his
20 stomach.

21 Q. Okay.

22 And he said no, I am cold, or something like
23 that, or what?

24 A. He ignored me the first time. And the
25 second time I said lay on your stomach, and he said

1 no.

2 Q. Obviously you are not talking like you are
3 talking to me.

4 Were you yelling, like get on your stomach?

5 A. No. I mean the 4 or 5 time, I probably
6 yelled, get on your stomach, and that's when he
7 said, no, fuck you.

8 Why don't you make me.

9 Q. Okay.

10 So it is at that point that you asked for
11 him to give you his right-hand, is that what you
12 said?

13 A. Yes.

14 Q. Okay.

15 Would it surprise that you put in your
16 report that you asked him for his left hand?

17 Do you recall that?

18 A. I recall him laying on his side. I asked
19 for his right hand.

20 Q. Okay.

21 That's your testimony today, all right.

22 So did he -- did he give you his right hand?

23 A. No.

24 Q. Is that the hand that you ultimately got a
25 grip on to continue to try and put him in custody,

1 or put cuffs on him, or roll him over?

2 A. Yes. I grabbed one of his hands, yes.

3 Q. And were you able to roll him on his
4 stomach?

5 A. After I bent down to the grab his hand, he
6 struck me in the face.

7 Q. Which hand?

8 Was it the one you were grabbing for, the
9 right one?

10 A. No.

11 Q. You are not sure?

12 A. I am not sure, no.

13 Q. Okay.

14 So if I told you -- you say he is laying on
15 his left side told, and if he was left-handed, you
16 wouldn't know that?

17 A. No.

18 Q. And at this point you can't tell me which
19 hand that you were allegedly hit with?

20 MS. KALLAS: Objection, Your Honor, asked
21 and answered.

22 THE COURT: Sustained.

23 Q. Were you ever able to get Mr. Noble on his
24 stomach again?

25 A. After he struck me, I was out of the

1 situation.

2 Q. That was after the first time. You say
3 there were 2 hits?

4 A. Multiple hits, yes.

5 Q. You said after the second hit, you say you
6 blacked out?

7 A. Yes.

8 Q. Were both of them in the general area as the
9 photo, the picture of your mouth?

10 A. Yes.

11 Q. So he never hit you in the ear?

12 A. No.

13 Q. Or anywhere in the head area?

14 A. No.

15 Q. Or in the eyes?

16 A. No, right here in the face.

17 Q. So just in the general mouth, lip, teeth
18 area?

19 A. Yes. After his second strike, I blacked
20 out.

21 Q. Okay.

22 Do you recall if he was giving you a
23 roundhouse hay maker, or like a backhand?

24 A. No. I don't recall.

25 Q. You can't tell?

1 A. No.

2 Q. All right.

3 At the time that you were attempting to get
4 him to comply with your order, you recall taking 2
5 hits.

6 At that point was there any other officers
7 that were standing next to you?

8 A. Yes.

9 Q. Okay.

10 Would those be -- strike that.

11 MR. FRIZZELL: Court's indulgence. I will
12 pass the witness.

13 THE COURT: Any redirect?

14 MS. KALLAS: No, Your Honor.

15 THE COURT: Officer Brown, thank you very
16 much for your time and testimony today.

17 Please don't discuss your testimony with
18 anybody else during the pendency of the case, unless
19 it is a representative from the Attorney General or
20 from Frizzell's office.

21 They will themselves appropriately.

22 Thank you very much.

23 You can leave that with me.

24 THE WITNESS: Okay.

25 THE COURT: Thank you.

1 State, call your next witness.

2 MS. KALLAS: The State would rest at this
3 time.

4 THE COURT: The State rests.

5 Are there any witnesses or evidence on
6 behalf of the defense?

7 MR. FRIZZELL: No.

8 My client has decided exercise his 5th
9 Amendment right and not testify.

10 THE COURT: Is that correct, Mr. Noble,
11 you are going to follow your attorney's advice and
12 not testify?

13 THE DEFENDANT: Yes.

14 THE COURT: The defense rests?

15 MR. FRIZZELL: Yes.

16 THE COURT: State.

17 MS. KALLAS: I would like to make an
18 amendment to the complaint.

19 THE COURT: Okay.

20 MS. KALLAS: On line 28, I would just like
21 to add, struck Correctional Officer Waylon Brown in
22 the face, hand or head and/or neck with a closed
23 fist.

24 THE COURT: Mr. Frizzell, any objection to
25 the amendment to conform to the testimony?

1 MR. FRIZZELL: Well, I kind of do, because I
2 explicitly just asked if he was hit in the head, or
3 if he was hit in the eye, or the ear, or where he
4 was hit.

5 He testified --

6 THE COURT: To be honest, the last I
7 checked, the face is on the head.

8 MS. KALLAS: And I was just doing it to
9 be -- I consider the face and the head to be the
10 same thing.

11 THE COURT: I will allow the amendment,
12 because technically your face is on your head.

13 MR. FRIZZELL: It is just because of
14 redundancy of it. We are signaling out specific
15 areas of the face.

16 THE COURT: With that, anything else,
17 State?

18 MS. KALLAS: No. I will reserve for
19 rebuttal.

20 THE COURT: Mr. Frizzell.

21 MR. FRIZZELL: Well, Your Honor, we have that
22 it is dark, where he ultimately ran to, 200 yards
23 away from where he originally was.

24 The lighting was not very good.

25 He said that 3 -- I believe his testimony

1 was that 10 to 15 of the 20 inmates were of African-
2 American decent.

3 And, Your Honor, there were definitely
4 others. It wasn't just Mr. Noble that was up and
5 doing -- at least not complying.

6 And it very well could have been mistaken
7 identity type situation. I understand what his
8 testimony was here.

9 And that I also understand that this is
10 probably going to get bound up anyway, but I am just
11 pointing that out to Your Honor.

12 And that's it.

13 I will rest.

14 THE COURT: State.

15 MS. KALLAS: Your Honor, I don't think this
16 is a case of mistaken identity.

17 The officer specifically testified that the
18 Defendant is the one had who punched him in the
19 face.

20 And I think that is enough for the State to
21 meet its burden at this time.

22 So I would rest, Your Honor.

23 THE COURT: So, Mr. Noble, I will hold you
24 to answer in the Eighth Judicial District Court on
25 the charges of battery by a prisoner.

1 You will appear with Mr. Frizzell in the
2 lower level Arraignment Court on the following date
3 and time.

4 THE CLERK: December 21 at 10:00 a.m.

5 THE COURT: As far as a housekeeping matter,
6 the warrant needs to be pulled and recalled at this
7 point.

8 I want it to reflect that Mr. Noble has been
9 present in this Court as of November 8 on these
10 charges, so he will be in custody on these charges,
11 but housed at NDOC.

12 MS. KALLAS: Thank you, Your Honor.

13 THE COURT: Thank you, everybody.

14 MR. FRIZZELL: Thank you everybody. Thank
15 you very much.

16
17 (Proceedings concluded.)
18
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25

1 REPORTER'S CERTIFICATE

2
3 STATE OF NEVADA)

4) ss.

5 CLARK COUNTY)
6
7

8 I, Robert A. Cangemi, a certified court
9 reporter in and for the State of Nevada, hereby
10 certify that pursuant to NRS 239B.030 I have not
11 included the Social Security number of any person
12 within this document.

13 I further certify that I am not a relative
14 or employee of any party involved in said action,
15 nor a person financially interested in said action.
16
17

18 (signed) /s/ Robert A. Cangemi
19 _____

20 ROBERT A. CANGEMI, CCR NO. 888
21
22
23
24
25

C E R T I F I C A T E

STATE OF NEVADA)

) ss.

CLARK COUNTY)

I, Robert A. Cangemi, CCR 888, do hereby
certify that I reported the foregoing proceedings,
and that the same is true and accurate as reflected
by my original machine shorthand notes taken at said
time and place.

(signed) /s/ Robert A. Cangemi

Robert A. Cangemi, CCR 888

Certified Court Reporter

Las Vegas, Nevada

/s/

correct

<p>/</p> <p>/s/ (32:18)(33:16)</p> <p>A</p> <p>able (25:3)(25:23) above (21:2)(21:3)(22:7) accurate (14:7)(14:24)(33:11) across (18:7) action (32:14)(32:15) add (28:21) admission (14:13) admit (14:11)(14:19) admitted (15:2) advice (28:11) african-american (19:20)(30:2) after (8:16)(9:5)(9:15)(9:16)(11:16)(12:11)(12:17)(12:22)(13:4)(25:5)(25:25)(26:2)(26:5)(26:19) again (25:24) aggressor (22:13) all (6:24)(7:2)(10:25)(15:12)(18:3)(18:6)(18:20)(19:1)(22:6)(24:21)(27:2) allegedly (25:19) allow (29:11) along (22:17) already (9:12) also (6:15)(19:12)(20:21)(21:5)(30:9) amendment (28:9)(28:18)(28:25)(29:11) and/or (28:22) another (4:4)(9:20)(10:23) answer (30:24) answered (25:21) any (3:10)(4:8)(11:2)(13:12)(14:12)(19:11)(27:6)(27:13)(28:5)(28:24)(32:11)(32:14) anybody (3:25)(27:18) anyone (6:16) anything (8:17)(12:14)(14:15)(29:16) anyway (14:19)(19:2)(30:10) anywhere (26:13) apologize (10:16)(13:14) appear (31:1) appearances (1:18) appropriately (27:21) are (3:24)(4:8)(5:24)(6:2)(6:12)(7:13)(7:18)(7:19)(8:16)(10:10)(10:13)(16:8)(16:12)(16:22)(18:3)(19:5)(19:8)(19:15)(20:11)(21:1)(22:6)(24:2)(25:11)(28:5)(28:11)(29:14) area (8:23)(8:24)(12:23)(15:22)(16:8)(16:10)(17:18)(18:12)(18:18)(18:19)(19:9)(19:13)(19:20)(26:8)(26:13)(26:18) areas (29:15) arm (11:20)(12:3)(12:5) around (8:9)(8:11)(8:14)(8:17)(15:25)(18:22) arraignment (31:2) article (11:7) a's (7:15)(7:16) ask (3:25)(10:23) asked (23:17)(24:10)(24:16)(24:18)(25:20)(29:2) assistance (3:5) attack (9:19) attempt (3:13) attempting (27:3) attempts (11:16) attention (7:21) attorney (1:20)(3:8)(27:19) attorney's (28:11) away (12:20)(12:24)(12:25)(17:20)(18:2)(29:23)</p> <p>B</p> <p>back (4:3)(8:15)(10:13)(10:17)(11:23)(12:6)(12:19)(22:15) backhand (26:23) backs (9:11) badge (7:12) bar (3:18) basically (14:22) basketball (18:9)</p>	<p>battery (3:13)(30:25) because (9:18)(10:8)(10:12)(14:15)(17:5)(29:1)(29:12)(29:13) been (3:15)(6:5)(13:21)(21:20)(21:21)(30:6)(31:8) before (1:14)(3:10)(4:17) behalf (3:18)(28:6) behind (12:6) being (3:7)(5:10)(13:17) believe (29:25) belly (10:2) bent (25:5) big (17:18) bit (23:5) blackened (12:18)(13:2)(26:6)(26:19) bloody (13:13)(13:16)(13:17) blue (7:5)(7:8)(20:13)(20:14) body (3:8) both (26:8) bouncing (10:13) bound (30:10) breaks (17:13) broke (17:11) brown (2:4)(5:6)(5:8)(5:17)(13:20)(27:15)(28:21) b-r-o-w-n (5:18) building (15:23) buildings (15:25)(18:3) burden (30:21) but (5:11)(8:22)(10:15)(14:18)(18:7)(18:15)(22:4)(30:10)(31:11)</p> <p>C</p> <p>calendar (10:7) call (4:2)(5:3)(28:1) called (9:3) calling (4:17) came (12:19) cameras (16:8)(16:11)(16:12) can (4:1)(9:19)(10:8)(11:6)(11:12)(13:21)(19:18)(20:20)(21:4)(27:23) cangemi (1:25)(32:8)(32:18)(32:20)(33:9)(33:16)(33:18) cannot (10:13) can't (10:15)(25:18)(26:25) capacity (7:22) case (1:1)(1:9)(3:7)(3:25)(27:18)(30:16) ccr (1:25)(32:20)(33:9)(33:18) cells (22:15) certain (8:22)(8:24) certificate (32:1) certified (32:8)(33:19) certify (32:10)(32:13)(33:10) chapel (8:12) charges (30:25)(31:10) checked (29:7) chelsea (1:20) clark (1:4)(6:9)(32:5)(33:4) class (7:15)(7:16) clear (10:12) clearly (16:5) clerk (5:14)(31:4) client (28:8) closed (28:22) clothing (7:3)(11:7) cold (20:7)(20:9)(22:7)(22:11)(23:4)(23:22) color (7:8) come (8:14)(13:7) coming (9:13) community (6:15) complaint (28:18) comply (27:4) complying (30:5) concluded (31:17) conform (28:25) consider (12:8)(29:9) continue (24:25) control (12:24) convicted (6:18)(6:23) correct (3:17)(4:14)(4:15)(15:15)(17:16)(22:1)(22:9)</p>
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1 RTRAN

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3
4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,
9 Plaintiff,

CASE#: C-18-336940-1
DEPT. VIII

10 vs.

11 JESSE D. NOBLE,
12 Defendant.

13
14 BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE
15 MONDAY, FEBRUARY 11, 2019

16 **RECORDER'S TRANSCRIPT OF PROCEEDINGS:**
17 **JURY TRIAL - DAY 1**

18
19 APPEARANCES:

20 For the State:

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Deputy Attorney General

23 For the Defendant:

KENNETH G. FRIZZELL, III, ESQ.

24
25 RECORDED BY: GINA VILLANI, COURT RECORDER

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1 Las Vegas, Nevada, Monday, February 11, 2019

2
3 [Jury trial began at 9.26 a.m.]

4 [Outside the presence of the prospective jury]

5 THE COURT: All right. This is Case C336940, State of
6 Nevada versus Jesse Noble. State's ready, defense says they're ready, is
7 there anything that needs to be put on by the -- for the record?

8 MS. KALLAS: Just the last offer, Your Honor.

9 THE COURT: Okay.

10 MS. KALLAS: The last offer was an attempt battery by a
11 prisoner, stipulated to 19 to 48, consecutive to his current sentence.

12 THE COURT: By statute it has to go consecutive.

13 MS. KALLAS: Correct.

14 THE COURT: And you don't want -- you don't want to deal?

15 THE DEFENDANT: No, I never did anything.

16 THE COURT: Okay. Bring -- go get the jury. Go get the jury.

17 MR. FRIZZELL: One other thing, Your Honor, --

18 THE COURT: This is about a --

19 MR. FRIZZELL: -- this is more --

20 THE COURT: -- day and a half trial.

21 MR. FRIZZELL: -- this is more than -- more for just today, I
22 don't know if you knew this, I'm a --

23 THE COURT: Go get the jury.

24 MR. FRIZZELL: -- I'm a basketball coach and today is our first
25 game. It's not till six o'clock but --

1 THE COURT: You'll be out about 6:00. We'll get a jury picked
2 today.

3 MR. FRIZZELL: Well, well, that's fine, but I need to be out
4 about 4:30.

5 THE COURT: Well, probably not.

6 MR. FRIZZELL: I'll do my -- I'll do my best.

7 THE COURT: This has got to get done.

8 MR. FRIZZELL: Well, I hear you.

9 THE COURT: We're going to pick a jury today.

10 MR. FRIZZELL: Okay.

11 MS. KALLAS: And then there was one other matter I wanted to
12 put on the record. Originally defense said they want to call two inmate
13 witnesses, Nathaniel Gaines and Darryl Teagues, so we did those
14 transport orders for him. And one of them, Mr. Teagues, is in Ely State
15 Prison, they said they wouldn't be able to transport him until the 14th, till
16 Thursday. So Mr. Frizzell told me that he's not going to worry about
17 calling him.

18 THE COURT: He's --

19 MS. KALLAS: He is now here.

20 THE COURT: -- we're not waiting till Thursday anyway.

21 MS. KALLAS: Well, no, he is now here.

22 MR. FRIZZELL: No, they actually --

23 MS. KALLAS: But the --

24 MR. FRIZZELL: -- no, they brought him.

25 THE COURT: All right.

1 MS. KALLAS: -- issue is that we are not necessarily prepared
2 because Mr. Frizzell didn't notice him and said he wasn't calling him
3 anymore.

4 THE COURT: All right.

5 MS. KALLAS: So I would object to him testifying.

6 THE COURT: You've got to figure out how to handle it, get your
7 case together.

8 MR. FRIZZELL: I mean, I didn't know he was going to be here.
9 I was just told this morning they brought him.

10 THE COURT: It's all right.

11 MR. FRIZZELL: My information was they wouldn't be able to
12 get him till the 14th or the 15th, and I knew that our trial would be done by
13 that time, so I just said I wasn't going to worry about it.

14 But evidently they --

15 THE COURT: Look, I just did a eight count robbery with use,
16 kidnapping with use, battery with use, we did it in three days.

17 MS. KALLAS: You're fast, Your Honor.

18 THE COURT: We'll do this -- we'll do this one in three days.

19 MR. FRIZZELL: I think we can do this one.

20 THE COURT: It'll be done in --

21 MS. KALLAS: I think we'll be able to knock it out, hopefully
22 maybe today.

23 THE COURT: Well, it'll take us until 3 o'clock to pick a jury.

24 MS. KALLAS: Oh, really, okay.

25 THE COURT: Oh, yeah, it'll take a while to pick the jury.

1 MS. KALLAS: See, everyone told me you were fast and you
2 were done by like 11:30.

3 THE COURT: I'm fast but --

4 MS. KALLAS: Not that fast?

5 THE COURT: Not that fast.

6 MS. KALLAS: All right.

7 MR. FRIZZELL: I don't ask too many questions.

8 MS. KALLAS: Well, there's worse reputations to have.

9 THE COURT: And I need jury instructions --

10 MS. KALLAS: We have those.

11 I sent those to Mr. Frizzell already to look over. There was just
12 one more additional.

13 THE COURT: Send them to -- send them to Josh.

14 MR. KOVAC: Do you want a hard copy or an electronic copy?

15 THE COURT: As long as they don't have numbers on them or
16 page things, just so I can write -- write down.

17 THE CLERK: Do you need Josh's email?

18 MR. KOVAC: I'm sorry, what?

19 THE CLERK: Do you need Josh's email?

20 MR. KOVAC: Sure.

21 THE COURT: And it's my understanding as well they filed
22 notice of habitual.

23 MS. KALLAS: Correct; Your Honor. Essentially I think where
24 negotiations fell through is that we are obviously looking for consecutive,
25 defendant wanted concurrent time, and that's just nothing we're going to

1 agree to right now.

2 THE COURT: You know, you live with your -- consequences of
3 your actions. So he says he didn't do anything, we'll see.

4 [Colloquy between the Court and the Law Clerk]

5 THE COURT: Okay. You guys haven't -- you've done a trial in
6 here.

7 MR. FRIZZELL: Yes.

8 THE COURT: We will -- oh -- and there are five peremptories
9 each. So we have one, two, three, four, five, six, seven, eight, nine, ten --

10 THE COURT RECORDER: We did seven, seven, five, and
11 five.

12 THE COURT: Okay. So it's all setup?

13 THE COURT RECORDER: 24.

14 THE COURT: All right.

15 MS. KALLAS: Do you want me to go run back and give this to
16 Josh? It's the jury instructions.

17 THE COURT: You can.

18 MR. KOVAC: Your Honor, how are the spots numbered for the
19 juror seats?

20 THE COURT: One in the back, up.

21 MR. KOVAC: Okay, thanks.

22 THE COURT: I'll ask group questions and then turn it over to
23 you guys.

24 MR. KOVAC: Okay.

25 [Pause in proceedings]

1 THE COURT: Okay. Go ahead.

2 MS. KALLAS: I gave to your clerk, Your Honor, there was just
3 one stipulation regarding the defendant's custody status. Defense was
4 stipulating that he was in custody at the time of the offense. And then we
5 also, I gave the instruction to Mr. Judd regarding -- what was it? I don't
6 have it in front me.

7 THE COURT: That they can't hold that against him.

8 MS. KALLAS: That they can't hold it against him, yeah.

9 THE COURT: All right.

10 MS. KALLAS: And that was the only other thing. The second
11 you left, I remembered.

12 THE COURT: All right.

13 MS. KALLAS: And is that instruction going to be read during
14 opening instructions?

15 THE COURT: [Nods head.]

16 MS. KALLAS: All right. Thank you.

17 THE COURT: Actually, the stipulation will be read when we
18 swear the jury in.

19 MS. KALLAS: Okay.

20 THE COURT: Depending on how late it is today, are you guys
21 ready to do opening statements?

22 MR. FRIZZELL: Yeah.

23 MR. KOVAC: We are.

24 MS. KALLAS: Our witnesses aren't going --

25 THE COURT: Ken, are you ready to do opening statement?

1 MR. FRIZZELL: Yeah.

2 THE COURT: Okay.

3 MS. KALLAS: -- our witnesses aren't going to be here until

4 12:30.

5 THE COURT: That's okay.

6 MS. KALLAS: So that --

7 THE COURT: Well, it'll take a while to pick a jury.

8 MS. KALLAS: See, everyone said eleven --

9 MR. FRIZZELL: You keep saying that.

10 MS. KALLAS: -- every person I asked they said 11:30, 11:30

11 you'll be done.

12 THE COURT: Well, I have law and motion calendar that I had

13 to do today.

14 MS. KALLAS: Oh, okay.

15 THE COURT: So I do that first and I have to do Judge Adair's

16 calendar tomorrow.

17 MR. KOVAC: If we're able to get a jury quickly, we'll have our --

18 all of our witnesses here and we can do 'em quickly.

19 MS. KALLAS: We'll knock 'em out.

20 THE COURT: All right.

21 MR. FRIZZELL: And then we can save mine for tomorrow.

22 [Pause in proceedings]

23 THE COURT: Okay. You have five peremptories.

24 MR. FRIZZELL: Yes.

25 THE COURT: Juror -- we'll have two alternates just in case, 13

1 and 14 will be the alternates. But you can use -- you can use your
2 peremptories on any one of them, you don't have to use -- because some
3 judges say the last two have to be used on alternates. I don't care. So
4 you can use them anywhere you want.

5 MS. KALLAS: Sounds goods.

6 MR. FRIZZELL: All right.

7 [Pause in proceedings]

8 [Colloquy between the Court and the Marshal]

9 THE COURT: We'll put seven on the back row, seven on the
10 front row, five and five.

11 Is that right?

12 THE COURT RECORDER: Yes.

13 THE COURT: And number one is in the far back.

14 So if you guys aren't listening, you're not going to know this.

15 I will ask general questions, then we will go through the for
16 cause real fast. When I'm done asking my questions, you still will be able
17 to ask anything you want to ask when you stand up with them. But I want
18 for cause to go through when I'm done.

19 Do you understand?

20 That doesn't mean forever it's for cause. Let's say you were
21 examining and something came up that they wouldn't be fair, approach
22 the bench, say, hey, that didn't sound fair, and you challenge for cause.

23 MR. FRIZZELL: Okay, cool.

24 THE COURT: That's okay. I don't inhibit your challenges for
25 cause. But we're going to go through for cause pretty fast. I'll ask general

1 questions of the whole group and then go back one at a time, and we go
2 through that pretty fast, then I turn it over to you all.

3 MS. KALLAS: Okay. And we already talked about it, we should
4 be pretty fast too.

5 [Pause in proceedings]

6 [Colloquy between the State and the Corrections Officer]

7 THE COURT: What is?

8 MS. KALLAS: We're talking about the inmate witnesses.

9 THE COURT: Oh.

10 MS. KALLAS: How to bring them in. I don't know.

11 THE COURT: You know what --

12 THE CORRECTIONS OFFICER: Those guys don't have keys
13 like we have. So, I mean, I can always go out and around. If you want
14 them to come in this way or do you want to put the jury out and then put a
15 witness on the stand and let them come back in.

16 THE COURT: I don't move juries around. We'll just tell them
17 that the witnesses, when they talk, when they testify, your witnesses are
18 in custody as well.

19 MR. FRIZZELL: Are still in custody, yes.

20 THE COURT: And --

21 THE CORRECTIONS OFFICER: So is it okay to bring them
22 through here?

23 THE COURT: They can bring them right out of that door.

24 THE CORRECTIONS OFFICER: Okay.

25 THE COURT: Because they're not charged.

1 THE CORRECTIONS OFFICER: Yeah.

2 MS. KALLAS: They're not charged, so I think they're dressed, I
3 mean, they're going to be able to tell.

4 THE COURT: Yeah.

5 THE CORRECTIONS OFFICER: Okay.

6 THE COURT: We've done it -- we've done it before that way
7 from the jail.

8 THE CORRECTIONS OFFICER: I thought I would just ask. I
9 don't want to get yelled at.

10 THE COURT: I never yell at you guys.

11 [Pause in proceedings]

12 THE COURT: All right. Mr. Noble, under the constitution of the
13 United States and under the constitution of the State of Nevada, you
14 cannot be compelled to testify in this case.

15 Do you understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: You may at your own request give up that right
18 and take the witness stand and testify. If you do, you'll be subject to
19 cross-examination by the deputy district -- well, the assistant state
20 attorneys, and anything that you may say, be it on direct or
21 cross-examination, will be the subject of fair comment when the state
22 attorneys speak to the jury in their final argument.

23 Do you understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: If you choose not to testify, the Court will not

1 permit the government attorneys to make any comments to the jury
2 because you have not testified.

3 Do you understand that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: If you elect not to testify. And if your attorney
6 specifically requests, which I'm going to give anyway, the Court will give a
7 jury instruction, which reads substantially this, quote, the law does not
8 compel a defendant in a criminal case to take the stand and testify and no
9 presumption may be raised and no inference of any kind may be drawn
10 from the failure of a defendant to testify.

11 Do you have any questions about your rights?

12 THE DEFENDANT: No.

13 THE COURT: You're further advised that if you have a felony
14 conviction and more than ten years has not lapsed from the date you have
15 been convicted or discharged from prison or parole, whichever is the
16 latter, the defense -- or the State will have, in the presence of the jury, will
17 be permitted to ask you the following, one, have you been convicted of a
18 felony; two, what was the felony; and, three, when did it happen; however,
19 no details may be gone into.

20 Do you understand that?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: If you have questions, you should talk to your
23 attorney about that, you don't have to make a selection right now or a
24 decision. But at some point, probably tomorrow, you'll have to make that
25 call.

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Okay?

THE DEFENDANT: Yes, sir.

[Pause in proceeding]

[In the presence of the prospective jury]

THE COURT: All right. You may be seated.

We will swear the venire in. So everybody that just come in
needs to stand, raise your right hand.

THE CLERK: Do you want me to call roll call?

THE COURT: You can do it while they're standing.

THE CLERK: Oh.

THE COURT: Just swear 'em in and then do the roll.

THE CLERK: Okay.

[The Court Clerk swears in the prospective jury]

THE COURT: Okay. You can be seated now.

And the clerk will read the roll of the jury.

THE CLERK: I'm just going to use your first names, so when
you hear your name say here.

[The Court Clerk calls roll call of prospective jury]

THE COURT: All right. All are present?

THE CLERK: Yes.

THE COURT: Thank you for being prompt.

Ladies and gentlemen, you're in Department 8 of the Eighth
Judicial District Court, State of Nevada. My name is Doug Smith and I am
the presiding judge here. You've been summons here to serve as jurors
in this case.

1 I'll introduce my staff. Gina Villani is the court recorder. She
2 takes down everything that's said. So please no nodding or shaking of the
3 head because that won't go on our recording.

4 And to my right is Carol Donahoo. She is the boss. She runs
5 the courtroom, she swears in witnesses, marks exhibits, keeps track of
6 the evidence, and prepares the official record.

7 Tom Lemke is my marshal but I had to borrow a marshal
8 because Tom got ill today. So Chris Rivers is the marshal and he will --
9 the only time you can talk to the Court is through him. So if you want to
10 bring something up, you notify him, and he will let us know.

11 Is there anybody that knows myself or any of the people that
12 I've introduced? Seeing no hands.

13 Counsel for the State will now introduce themselves and their
14 witnesses.

15 And read all of the witnesses that you have on your witness list.

16 They may not all be called, likely won't be, but you listen to
17 them and see if you identify any of them.

18 MR. KOVAC: Good morning, my name's Michael Koval, with
19 me is co-counsel Chelsea Kallas. The witness's names are Waylon
20 Brown, Jamal Ali, Joseph Dugan, Kerry Hunter, Henry Grant, Jr., Patrick
21 Moreda, Stephen Newman, and Dario Picone.

22 THE COURT: Does anybody know those names or any of
23 those names or the attorneys for the State? Seeing no hands.

24 Mr. Frizzell, if you'll introduce --

25 MR. FRIZZELL: Yes.

1 THE COURT: -- your client and read a list of your witnesses.

2 MR. FRIZZELL: Sure.

3 Good morning, ladies and gentlemen, my name's Ken Frizzell.

4 I apologize, I'm just kind of getting over a cold, so bear with me.

5 This is my client, Jessie Nobles, and my two witnesses are

6 Nathaniel Gaines and Anthony Teagues, T-e-a-g-u-e-s, madam clerk.

7 THE COURT: All right. Does anybody know those names?

8 Seeing no hands.

9 Ladies and gentlemen, we're about to commence --

10 MR. FRIZZELL: I'm sorry, I apologize, he goes by Darryl

11 Teagues, I apologize.

12 THE COURT: Okay. Anybody know Darryl Teagues? Okay,

13 no.

14 We're going to start the process, it's asking questions of jury,

15 the venire panel, which you are part of that venire panel. We don't mean

16 to impose or sound like we're trying to get into your life at all. We just

17 have to ask certain questions. Some of them are embarrassing. We don't

18 mean to be embarrassing. What we're trying to do is get 14 people that

19 will be fair and impartial both to the defendant and to the State of Nevada.

20 As he sits here, Mr. Noble is not guilty. And if we were to send

21 you in the back right now, or before the trial is over, without hearing any

22 evidence, you'd have to vote not guilty because that's the way our system

23 is.

24 Does anybody have a problem with that?

25 And the State has the burden of proving everything that they

1 charge and you'll hear that document later. Mr. Noble doesn't have to do
2 anything. Mr. Frizzell doesn't have to do anything. They can sit and read
3 magazines, if I allowed that. Don't have to present any evidence because
4 our system of government, which I believe in, is that the State has the
5 burden of proving every element of the crime and defendant has to do
6 nothing.

7 Does anybody have a problem with that? All right. Seeing no
8 hands.

9 It's important that you know the significance of full and complete
10 honest answers to all the questions we're about to ask. Don't try to hide
11 anything or withhold any information. Generally it's difficult to fix a jury
12 that has hidden information. I have to do it and I'm prepared to do it but
13 we're asking you to be fair and impartial both, again, to the State and to
14 the defendant.

15 I'll do the -- I'll conduct the general examination and then ask
16 the State if they have -- and the defense if they have any questions. And
17 they both have the right to ask questions.

18 And then we're going to go into challenges, there are
19 challenges for cause and there are peremptory challenges. Please don't
20 be offended if you're challenged for cause because something you may
21 have said or heard or read or a book you came in with that the attorneys
22 didn't like. It isn't an editorial on your abilities. It's they've just chosen to
23 not have you sit as a juror.

24 If you wish to respond to a question individually and
25 affirmatively, please raise your hand and give me your name and your

1 badge.

2 And I think I asked about this, and I may not have, did any of
3 you know the names of the people or the attorney that asked, for the
4 defense, Mr. Noble's attorney, did anybody recognize those? Seeing no
5 hands.

6 Okay. Now, here comes the embarrassing questions, if
7 anybody here is not a citizen of the United States you cannot sit as a
8 juror.

9 Is there anybody that fits into that category? Okay. Seeing no
10 hands.

11 Or if you're a convicted felon, you cannot -- and have not had
12 your civil rights restored, you can't sit as a juror.

13 Does anyone fit in that category? All right. Seeing no hands.

14 Is there anyone here who has such sympathy, prejudice, or bias
15 relating to age, religion, race, gender, or nation origin they feel they
16 would -- it would affect their ability to be open mind and fair and impartial
17 jurors? Raise your hand. Seeing no hands.

18 Now, you, as a jury, will be the trier of facts. You'll hear the
19 testimony, look at the exhibits, and make a decision from what you see
20 and hear in this courtroom. You'll bring your everyday commonsense in.
21 And what you've -- what you're -- what you've learned in life.

22 But I am the trier of the law. And I will give you written
23 instructions at the end, I'll give you some oral instructions later on, but at
24 the end of the trial I give you written instructions. It would be a violation of
25 your oath to base a verdict on anything but what I give you, the law, even

1 if you don't think that's what the law should be.

2 Is there anybody have a problem with that? You'll follow the law
3 that I -- okay.

4 Chris, where are you? I need the mic and this gentleman.

5 Your name and your last three numbers of your badge, please.

6 PROSPECTIVE JUROR NUMBER 075: Max Guernsey, 075.

7 THE COURT: And you can't follow the law?

8 PROSPECTIVE JUROR NUMBER 075: No.

9 THE COURT: Why?

10 PROSPECTIVE JUROR NUMBER 075: I can answer honestly;
11 right?

12 THE COURT: Yeah, there is no right or wrong answers.

13 PROSPECTIVE JUROR NUMBER 075: I don't believe in it.

14 THE COURT: All right.

15 PROSPECTIVE JUROR NUMBER 075: I just don't believe that
16 there should be a code of laws. I don't believe there should be
17 courtrooms. I'm sorry, just --

18 THE COURT: Okay. That's fine.

19 PROSPECTIVE JUROR NUMBER 075: It's hard to be
20 impartial.

21 THE COURT: All right. If you can't be impartial -- you don't feel
22 like you can be partial?

23 PROSPECTIVE JUROR NUMBER 075: No, I don't.

24 THE COURT: All right. See --

25 PROSPECTIVE JUROR NUMBER 075: I'm radically skeptical

1 of the State.

2 THE COURT: -- see, I believe that that -- we have a great
3 system. It's not a perfect system. But it's the only system in the world
4 that -- and our system of government won't work if we don't have good
5 citizens that will be fair and impartial to come and appear.

6 I mean, I know what you're going through because I got
7 summons to jury duty and I could get off by telling the jury commissioner,
8 just get me off. And I went down with my jury summons, and she said,
9 what are you doing here? And I said, well, this is my jury summons. She
10 goes, well, I can get you off. And I said, no, it's my right as a citizen to be
11 here. And I ended up sitting all day long. I was in the last group and I
12 didn't get picked for the jury but I tried.

13 You're excused and thank you. There wasn't a right or wrong
14 answer and we're not judging you in anyway.

15 PROSPECTIVE JUROR NUMBER 075: Can I say something?

16 THE COURT: Yeah.

17 PROSPECTIVE JUROR NUMBER 075: I wasn't saying that to
18 get out of it. I was just being honest with you.

19 THE COURT: No, I appreciate that.

20 PROSPECTIVE JUROR NUMBER 075: Okay.

21 THE COURT: But the State and the defendant deserve people
22 that are unbiased. And if people don't answer honestly, then we have
23 problems.

24 But thank you.

25 All right. If you'll go to -- well, no, let me ask general questions.

1 First of all, is there anybody here that's been the victim of a crime before?
2 All right. Leave your hands -- if you'll go up in the -- just leave your hands
3 so Chris can bring these around.

4 Your name and the last three numbers of your badge.

5 PROSPECTIVE JUROR NUMBER 001: Robert McAfee and
6 001.

7 THE COURT: And you were the victim of?

8 PROSPECTIVE JUROR NUMBER 001: The place I worked
9 was, two different times, two armed robberies.

10 THE COURT: When?

11 PROSPECTIVE JUROR NUMBER 001: The last one was
12 Friday, July -- Friday, January 13th of 2017.

13 THE COURT: Were you -- were the police called?

14 PROSPECTIVE JUROR NUMBER 001: Yes.

15 THE COURT: Generally satisfied how the police handled it?

16 PROSPECTIVE JUROR NUMBER 001: Yes.

17 THE COURT: Is there anything about that experience that
18 would prejudice you against the defendant or the State of Nevada?

19 PROSPECTIVE JUROR NUMBER 001: No.

20 THE COURT: You'll be fair and impartial?

21 PROSPECTIVE JUROR NUMBER 001: I will.

22 THE COURT: Thank you.

23 Any in the back row? Okay, right down here.

24 PROSPECTIVE JUROR NUMBER 010: Steve Anderson,
25 number 10.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NUMBER 010: I talk better without

3 that.

4 I had a car stolen a couple years ago.

5 THE COURT: Where?

6 PROSPECTIVE JUROR NUMBER 010: Dallas, Texas.

7 THE COURT: Police called?

8 PROSPECTIVE JUROR NUMBER 010: Yes.

9 THE COURT: Generally satisfied how they handled it?

10 PROSPECTIVE JUROR NUMBER 010: Yes.

11 THE COURT: Did you have to go in and testify or anything, go

12 into court?

13 PROSPECTIVE JUROR NUMBER 010: No.

14 THE COURT: Is anything about that experience that would

15 prejudice you against the State or the defendant?

16 PROSPECTIVE JUROR NUMBER 010: No, sir.

17 THE COURT: You'll put that aside and listen, make a decision

18 for what you see and hear in this courtroom?

19 PROSPECTIVE JUROR NUMBER 010: Yes.

20 THE COURT: Okay. Thank you.

21 All right. Now, in front, anybody else? This young lady. Okay.

22 PROSPECTIVE JUROR NUMBER 003: Hi. Lori Hunton,

23 badge 003.

24 I was attacked by a gentleman in my backyard with a gun, he

25 jumped the fence. And it was, I think, it was 2007.

1 THE COURT: Where?
2 PROSPECTIVE JUROR NUMBER 003: Here in Las Vegas.
3 THE COURT: Police called?
4 PROSPECTIVE JUROR NUMBER 003: Yes.
5 THE COURT: Generally satisfied how they handled it?
6 PROSPECTIVE JUROR NUMBER 003: Oh, yes.
7 THE COURT: Did you have to go in and testify?
8 PROSPECTIVE JUROR NUMBER 003: No, they never caught
9 him.
10 THE COURT: Okay. Is there anything about that experience
11 that would prejudice you against the State or the defendant?
12 PROSPECTIVE JUROR NUMBER 003: No.
13 THE COURT: You'll be fair?
14 PROSPECTIVE JUROR NUMBER 003: Yes.
15 THE COURT: Okay. Anybody -- okay, right here. Right here,
16 front row.
17 PROSPECTIVE JUROR NUMBER 031: Maria Carrillo and it's
18 0031.
19 THE COURT: Okay.
20 PROSPECTIVE JUROR NUMBER 031: You said -- can you
21 repeat the question.
22 THE COURT: If you were a victim of any crime.
23 PROSPECTIVE JUROR NUMBER 031: A victim?
24 THE COURT: Victim.
25 PROSPECTIVE JUROR NUMBER 031: Victim?

1 THE COURT: Yes.

2 PROSPECTIVE JUROR NUMBER 031: Oh, okay, no. I'm
3 sorry, I misunderstood.

4 THE COURT: Okay. This gentleman here.

5 PROSPECTIVE JUROR NUMBER 029: Hello, my name is
6 Aaron Harmych. My number is 0029.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR NUMBER 029: I was victim of a home
9 invasion, a couple years ago.

10 THE COURT: When?

11 PROSPECTIVE JUROR NUMBER 029: About 12 years ago.

12 THE COURT: Where?

13 PROSPECTIVE JUROR NUMBER 029: Here in Las Vegas.

14 THE COURT: Police called?

15 PROSPECTIVE JUROR NUMBER 029: Yes.

16 THE COURT: Generally satisfied how it was handled?

17 PROSPECTIVE JUROR NUMBER 029: Yeah.

18 THE COURT: Did you have to go in and testify?

19 PROSPECTIVE JUROR NUMBER 029: We tried. We came to
20 court and the perpetrator didn't show up.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR NUMBER 029: So they wrote it off.

23 THE COURT: Is there anything about that experience that
24 would prejudice you against the defendant or the State?

25 PROSPECTIVE JUROR NUMBER 029: I don't know what he

1 did but I'm not happy with people that go in and break into people's
2 houses so.

3 THE COURT: All right. This is -- I'll tell you generally what this
4 is -- and I probably should have asked you to do that, but you didn't -- I
5 didn't -- this is a battery by a prisoner. It's going to be stipulated later on
6 that Mr. Noble was in the lawful custody of the State of Nevada. And it's
7 up to you guys to determine whether or not he's -- if the State's met their
8 burden of proof on that. So it's not a home invasion.

9 PROSPECTIVE JUROR NUMBER 029: Okay.

10 THE COURT: All right.

11 PROSPECTIVE JUROR NUMBER 029: Yeah, I probably can
12 be impartial.

13 THE COURT: All right. Anybody else on the front row? None.
14 How about in the back, back there? Okay.

15 THE MARSHAL: Do you want me to start in the back or in the
16 front?

17 THE COURT: Yeah, it doesn't matter. They have to say their
18 name and the badge number.

19 THE MARSHAL: Okay.

20 THE COURT: Start in the front row.

21 PROSPECTIVE JUROR NUMBER 047: Kevin Cardiff, badge
22 47.

23 THE COURT: Okay. You were the victim of?

24 PROSPECTIVE JUROR NUMBER 047: A crime, burglary.

25 THE COURT: Where?

1 PROSPECTIVE JUROR NUMBER 047: In my home.
2 THE COURT: When?
3 PROSPECTIVE JUROR NUMBER 047: September 2017.
4 THE COURT: Here in Las Vegas?
5 PROSPECTIVE JUROR NUMBER 047: Yes.
6 THE COURT: Were the police called?
7 PROSPECTIVE JUROR NUMBER 047: Yes.
8 THE COURT: Were you generally satisfied with what they did?
9 PROSPECTIVE JUROR NUMBER 047: I was not satisfied with
10 the follow up.
11 THE COURT: Okay. Would you hold that against the State or
12 the defendant?
13 PROSPECTIVE JUROR NUMBER 047: No.
14 THE COURT: All right. You'll be fair and impartial?
15 PROSPECTIVE JUROR NUMBER 047: I think I can.
16 THE COURT: Okay.
17 PROSPECTIVE JUROR NUMBER 057: Hello, my name is Dan
18 Traczyk. My badge number is 0057.
19 I had a theft committed against me when I purchased a home in
20 '88, my pool equipment was stolen.
21 THE COURT: Where?
22 PROSPECTIVE JUROR NUMBER 057: Out of my home.
23 THE COURT: Where -- it was in Las Vegas?
24 PROSPECTIVE JUROR NUMBER 057: Yes, Las Vegas.
25 THE COURT: Police called?

1 PROSPECTIVE JUROR NUMBER 057: Yes.
2 THE COURT: Were you generally satisfied how they handled
3 it?
4 PROSPECTIVE JUROR NUMBER 057: Yes.
5 THE COURT: Did you have to go in and testify in court?
6 PROSPECTIVE JUROR NUMBER 057: No, never got that far.
7 THE COURT: Is there anything about that experience that
8 would prejudice you against the State or the defendant?
9 PROSPECTIVE JUROR NUMBER 057: No.
10 THE COURT: You'll be fair?
11 PROSPECTIVE JUROR NUMBER 057: Yes.
12 THE COURT: Okay. Anybody else in that row?
13 PROSPECTIVE JUROR NUMBER 054: Sharon Collins, badge
14 54.
15 About three years ago my car was stolen here in Las Vegas.
16 THE COURT: Were police called?
17 PROSPECTIVE JUROR NUMBER 054: Yes.
18 THE COURT: Generally satisfied how they handled it?
19 PROSPECTIVE JUROR NUMBER 054: Yes.
20 THE COURT: Is there anything about that experience that
21 would prejudice you against the defendant or the State?
22 PROSPECTIVE JUROR NUMBER 054: No.
23 THE COURT: You'll be fair?
24 PROSPECTIVE JUROR NUMBER 054: Yes.
25 THE COURT: Okay. Anybody else in that row?

1 PROSPECTIVE JUROR NUMBER 063: Good morning.

2 THE COURT: Good morning.

3 PROSPECTIVE JUROR NUMBER 063: Ana Ayala, 0063.

4 I had three different incidents. In 2000 my car was stolen. I
5 was blamed for it but it wasn't me. And then my house was shot at twice
6 last year.

7 THE COURT: Here in Las Vegas?

8 PROSPECTIVE JUROR NUMBER 063: Yes, North Las Vegas.

9 THE COURT: North Las Vegas.

10 Were the police called?

11 PROSPECTIVE JUROR NUMBER 063: Yes.

12 THE COURT: Were you generally satisfied how they handled
13 it?

14 PROSPECTIVE JUROR NUMBER 063: I did, yeah.

15 THE COURT: Was there anything about that experience that
16 would prejudice you against the defendant or the State?

17 PROSPECTIVE JUROR NUMBER 063: No.

18 THE COURT: You'll be fair?

19 PROSPECTIVE JUROR NUMBER 063: Yes.

20 THE COURT: Okay. There's, I think, in the corner.

21 PROSPECTIVE JUROR NUMBER 060: Armando Rantins, my
22 badge number is 60.

23 My car got stolen last January -- December 28, this -- 2018.

24 THE COURT: Here in Las Vegas?

25 PROSPECTIVE JUROR NUMBER 060: Yes, sir.

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THE COURT: Were the police called?

PROSPECTIVE JUROR NUMBER 060: Yes.

THE COURT: Were you generally satisfied how they handled it?

PROSPECTIVE JUROR NUMBER 060: They haven't found my car yet.

THE COURT: Is there anything about that experience that would prejudice you against the defendant or the State?

PROSPECTIVE JUROR NUMBER 060: I really am not sure.

THE COURT: Well, there's going to be police officers that testify, and that's the next question, but you would hold that against the State because your car was stolen?

PROSPECTIVE JUROR NUMBER 060: Not really.

THE COURT: You would hold it against the defendant because your car was stolen?

PROSPECTIVE JUROR NUMBER 060: No.

THE COURT: Okay. You'll be fair, you'll listen to the evidence and make a decision from what you see and hear?

PROSPECTIVE JUROR NUMBER 060: Yes.

THE COURT: Okay. How about up here? Do you have any questions? Did you --

PROSPECTIVE JUROR NUMBER 067: Shehzad Parekh, badge number 67.

THE COURT: Okay.

PROSPECTIVE JUROR NUMBER 067: I had a burglary about

1 seven years ago in Laughlin and the police came in.

2 THE COURT: Were you generally satisfied how they handled
3 it?

4 PROSPECTIVE JUROR NUMBER 067: Not really because
5 they didn't do much. And a few days later I called them, what happened,
6 they didn't find nothing, they didn't do much investigation.

7 THE COURT: All right. Will you hold that against the State or
8 the defendant?

9 PROSPECTIVE JUROR NUMBER 067: No, no, sir.

10 THE COURT: Okay. You'll be fair?

11 PROSPECTIVE JUROR NUMBER 067: Yes, sir.

12 THE COURT: All right. Okay. Here's another harder one, has
13 anybody here been accused of a crime before? Raise your hands. Not
14 that you did it but you were accused. All right. Seeing no hands.

15 Is there anybody here -- some police officers may testify, or
16 some authorities may testify, they may have uniforms on. Is there anyone
17 here that would believe a police officer just because they're wearing a
18 uniform? Seeing no hands.

19 You will listen to the testimony and see how it all fits together?
20 Is that what you would do? Is everybody okay with that? All right.

21 Is there anybody here that knows somebody else on this venire,
22 in your group? Do you know anybody from your group? I noticed there
23 were a couple Castillos.

24 And do you know somebody -- okay. Who you do know?

25 PROSPECTIVE JUROR NUMBER 036: Him.

1 THE COURT: And how do you know him?

2 PROSPECTIVE JUROR NUMBER 036: My name is Angelica

3 Castillo. I'm badge number 36.

4 THE COURT: And how do you know him?

5 PROSPECTIVE JUROR NUMBER 036: He's my dad.

6 THE COURT: Oh. Now, that I've asked that question, you

7 know, that's the first time in 11 years that someone said that and I don't

8 know how to deal with it.

9 If both of you are on the jury, would you feel like you had to do

10 what your father said?

11 PROSPECTIVE JUROR NUMBER 036: No.

12 THE COURT: You will -- is that okay with you dad?

13 Just so that you're fair to both parties, that's what we're asking

14 for. We're not trying to get somebody that will -- that we just want them

15 that they will listen to the evidence, they'll make a decision, you'll be the

16 triers of facts and determine what facts were proven.

17 You can do that?

18 PROSPECTIVE JUROR NUMBER 036: Yes.

19 THE COURT: All right. How about you, dad?

20 Tell me your name and your badge number.

21 PROSPECTIVE JUROR NUMBER 028: I'm Manolito Castillo.

22 My badge number is 07-0028.

23 THE COURT: Will you be fair and impartial?

24 PROSPECTIVE JUROR NUMBER 028: Yes.

25 THE COURT: You wouldn't find the way your daughter found

1 just because she said, oh, one way or the other, you would -- you can
2 stand on your own?

3 PROSPECTIVE JUROR NUMBER 028: Yeah. I did.

4 THE COURT: Okay. All right. Is there anybody here that has
5 ever sat as a juror before? Okay. Who? Start in the back.

6 You know, here's what we're going to do, we're going to go
7 down with the mic, down that line.

8 So you've sat as a juror before?

9 PROSPECTIVE JUROR NUMBER 001: Yes.

10 THE COURT: Where?

11 PROSPECTIVE JUROR NUMBER 001: Here.

12 THE COURT: What kind of case was it, criminal or civil?

13 PROSPECTIVE JUROR NUMBER 001: Criminal.

14 THE COURT: What type of criminal?

15 PROSPECTIVE JUROR NUMBER 001: That's -- I don't
16 remember, I'm sorry.

17 THE COURT: How long ago was it?

18 PROSPECTIVE JUROR NUMBER 001: Six years.

19 THE COURT: Were you the jury foreperson?

20 PROSPECTIVE JUROR NUMBER 001: No.

21 THE COURT: Without telling us a verdict, were you able to
22 reach a verdict?

23 PROSPECTIVE JUROR NUMBER 001: There was no verdict.
24 It was declared a mistrial.

25 THE COURT: Okay. Is there anything about that experience

1 that would prejudice you against the defendant or the State?

2 PROSPECTIVE JUROR NUMBER 001: No, because I don't

3 remember that trial.

4 THE COURT: No, let's leave the mic with him.

5 Tell me your name again.

6 PROSPECTIVE JUROR NUMBER 001: Robert McAfee.

7 THE COURT: Do you work?

8 PROSPECTIVE JUROR NUMBER 001: I do.

9 THE COURT: What do you do?

10 PROSPECTIVE JUROR NUMBER 001: Retail. I sell watches.

11 THE COURT: You married?

12 PROSPECTIVE JUROR NUMBER 001: Yes.

13 THE COURT: Spouse work?

14 PROSPECTIVE JUROR NUMBER 001: Yes.

15 THE COURT: What does your spouse do?

16 PROSPECTIVE JUROR NUMBER 001: Sells watches.

17 THE COURT: Children.

18 PROSPECTIVE JUROR NUMBER 001: None.

19 THE COURT: Can you think of any reason you would not be

20 fair and impartial to both parties in this case?

21 PROSPECTIVE JUROR NUMBER 001: Absolutely not.

22 THE COURT: Pass for cause at this point, State?

23 MS. KALLAS: No, Your Honor.

24 THE COURT: Okay. We'll never get through this -- you better

25 approach the bench.

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[Bench conference begins]

THE COURT: You guys are going to be -- you're going to be asking some questions, but this is just the general for cause.

And then you're going to be asking questions.

You can ask them as a group or you can ask individual. And if you want somebody off, you can tell me I want this person off. You come to the bench and tell me that.

MS. KALLAS: Okay.

MR. FRIZZELL: Okay.

THE COURT: Okay, for cause.

Let's say you find out in your examination that there's no way they could be fair to either side, just like this other gentleman, then you can get 'em off. But I just want to get all of these and get my questioning out of the way and then turn it over to you guys.

MS. KALLAS: Okay.

THE COURT: That's how I've always done it.

MR. KOVAC: You're doing all the questioning for each one of them and then turning it over to us to --

THE COURT: Yep, and then I'm turning it over to you.

You'll have questions.

And then you'll have questions.

MR. FRIZZELL: I mean, I think our issue is just we don't a father/daughter.

THE COURT: What?

MR. FRIZZELL: We don't want a father/daughter team on the

1 jury.

2 THE COURT: Well, you're likely aren't going to have it but we'll
3 deal with that when we down the road.

4 MR. FRIZZELL: Okay, perfect.

5 THE COURT: All right?

6 MR. FRIZZELL: All right.

7 MS. KALLAS: Okay. Thank you, Your Honor.

8 THE COURT: Is it all right?

9 MS. KALLAS: Yeah, that's fine.

10 THE COURT: So you pass for cause at this point?

11 MR. KOVAC: Just for this particular --

12 THE COURT: Yes.

13 MR. KOVAC: -- juror?

14 THE COURT: Yes.

15 MR. KOVAC: Right.

16 MS. KALLAS: A particular juror or the whole jury.

17 THE COURT: No, just this juror.

18 MS. KALLAS: Oh, okay, just double checking.

19 THE COURT: Yeah, just this juror.

20 MS. KALLAS: You called me up right away, I was a little
21 nervous.

22 THE COURT: All right.

23 [Bench conference ends]

24 THE COURT: So the State passed for cause.

25 MR. FRIZZELL: Defense will pass for cause at this juncture as

1 well, Your Honor.

2 THE COURT: All right. If you'll pass that mic over to that young
3 lady next to you.

4 Yes, you.

5 PROSPECTIVE JUROR NUMBER 002: Me?

6 THE COURT: Yes.

7 Tell me your name.

8 PROSPECTIVE JUROR NUMBER 002: Myrna Borges.

9 THE COURT: Do you work?

10 PROSPECTIVE JUROR NUMBER 002: No.

11 THE COURT: Have you worked in the past?

12 PROSPECTIVE JUROR NUMBER 002: In the hospital.

13 THE COURT: The what?

14 PROSPECTIVE JUROR NUMBER 002: The hospital,
15 MountainView.

16 THE COURT: Oh, at the hospital.

17 PROSPECTIVE JUROR NUMBER 002: Yes.

18 THE COURT: You were a nurse there?

19 PROSPECTIVE JUROR NUMBER 002: Assistant nurse.

20 THE COURT: Okay. Are you married?

21 PROSPECTIVE JUROR NUMBER 002: No, widow.

22 THE COURT: Children?

23 PROSPECTIVE JUROR NUMBER 002: Three.

24 THE COURT: Ages?

25 PROSPECTIVE JUROR NUMBER 002: 47, 45, and 40.

1 THE COURT: Either of them in law or law enforcement?
2 PROSPECTIVE JUROR NUMBER 002: Excuse me?
3 THE COURT: Were any of them police officers?
4 PROSPECTIVE JUROR NUMBER 002: [Shakes head.]
5 THE COURT: Okay. And you have never sat as a juror
6 before?
7 PROSPECTIVE JUROR NUMBER 002: This is my first time.
8 THE COURT: And you can be fair and impartial to both parties
9 in this case?
10 PROSPECTIVE JUROR NUMBER 002: [Nods head.]
11 THE COURT: Is that yes?
12 PROSPECTIVE JUROR NUMBER 002: Yes.
13 THE COURT: Can't shake your head or nod.
14 PROSPECTIVE JUROR NUMBER 002: I'm sorry.
15 THE COURT: Because they don't record that.
16 Speak out, okay. Hold that mic right by your mouth.
17 Okay. You'll be fair and impartial to both?
18 PROSPECTIVE JUROR NUMBER 002: Yes.
19 THE COURT: All right. Pass it over to that young lady -- oh,
20 pass for cause at this point?
21 MR. KOVAC: Pass.
22 THE COURT: Pass for cause, Mr. Frizzell?
23 MR. FRIZZELL: Yes, Your Honor, pass.
24 THE COURT: All right. Tell me your name.
25 PROSPECTIVE JUROR NUMBER 008: Kelly Paiz.

1 THE COURT: Do you work?
2 PROSPECTIVE JUROR NUMBER 008: Yes.
3 THE COURT: What do you do?
4 PROSPECTIVE JUROR NUMBER 008: I'm a floor supervisor
5 at Planet Hollywood.
6 THE COURT: Married?
7 PROSPECTIVE JUROR NUMBER 008: Yes.
8 THE COURT: Spouse work?
9 PROSPECTIVE JUROR NUMBER 008: Yes.
10 THE COURT: What does your spouse do?
11 PROSPECTIVE JUROR NUMBER 008: He's in IT at Caesars.
12 THE COURT: Children?
13 PROSPECTIVE JUROR NUMBER 008: Yes.
14 THE COURT: Ages?
15 PROSPECTIVE JUROR NUMBER 008: 23, 22, 19, and 16.
16 THE COURT: Any of them in law or law enforcement?
17 PROSPECTIVE JUROR NUMBER 008: No.
18 THE COURT: And you sat as a juror before?
19 PROSPECTIVE JUROR NUMBER 008: Yes.
20 THE COURT: Where?
21 PROSPECTIVE JUROR NUMBER 008: Here.
22 THE COURT: When?
23 PROSPECTIVE JUROR NUMBER 008: About four years ago.
24 THE COURT: What kind of a case?
25 PROSPECTIVE JUROR NUMBER 008: I believe it's civil. It

1 was --

2 THE COURT: Okay. The difference between civil and criminal,
3 civil you have eight jurors, six decide the case when they go back in the
4 jury room and they come right back out.

5 PROSPECTIVE JUROR NUMBER 008: Yes, it was civil.

6 THE COURT: It doesn't have to be unanimous. This has to be
7 unanimous, this criminal case.

8 Do you understand that?

9 PROSPECTIVE JUROR NUMBER 008: Yes.

10 THE COURT: Do you have a problem with that?

11 PROSPECTIVE JUROR NUMBER 008: No.

12 THE COURT: Does anybody in here have a problem with that?
13 Seeing no hands.

14 Okay. You'll be fair and impartial?

15 PROSPECTIVE JUROR NUMBER 008: Yes.

16 THE COURT: Okay. Anything about your experience as a juror
17 that would prejudice you against the State or the defendant?

18 PROSPECTIVE JUROR NUMBER 008: No.

19 But you asked earlier is he was a jury foreman, I was the jury
20 foreman on that one.

21 THE COURT: You were the jury foreperson?

22 PROSPECTIVE JUROR NUMBER 008: Yes.

23 THE COURT: Okay. All right. Thanks.

24 Pass that over.

25 Pass for cause?

1 MR. KOVAC: Pass for cause.
2 MR. FRIZZELL: Pass for cause right now, Your Honor.
3 THE COURT: All right. Go ahead.
4 PROSPECTIVE JUROR NUMBER 009: Hi.
5 THE COURT: Hi.
6 Tell me your name.
7 PROSPECTIVE JUROR NUMBER 009: Andrea Kata.
8 THE COURT: Do you work?
9 PROSPECTIVE JUROR NUMBER 009: No.
10 THE COURT: Have you worked?
11 PROSPECTIVE JUROR NUMBER 009: Yes.
12 THE COURT: What have you done?
13 PROSPECTIVE JUROR NUMBER 009: Like cosmetology.
14 THE COURT: Are you married?
15 PROSPECTIVE JUROR NUMBER 009: Yes.
16 THE COURT: Spouse work?
17 PROSPECTIVE JUROR NUMBER 009: Yes.
18 THE COURT: What does your spouse do?
19 PROSPECTIVE JUROR NUMBER 009: He sells skin care.
20 THE COURT: Children?
21 PROSPECTIVE JUROR NUMBER 009: Yes.
22 THE COURT: Ages?
23 PROSPECTIVE JUROR NUMBER 009: Almost two.
24 THE COURT: Have you ever sat as a juror before?
25 PROSPECTIVE JUROR NUMBER 009: No.

1 THE COURT: You'll be fair in this case?
2 PROSPECTIVE JUROR NUMBER 009: Yes.
3 THE COURT: Pass for cause?
4 MS. KALLAS: Pass, Your Honor.
5 THE COURT: Pass for --
6 MR. FRIZZELL: Yes, Your Honor, pass.
7 THE COURT: Okay. Tell me your name.
8 PROSPECTIVE JUROR NUMBER 010: Steve Anderson,
9 badge number 10.
10 THE COURT: Do you work?
11 PROSPECTIVE JUROR NUMBER 010: Yes.
12 THE COURT: What do you do?
13 PROSPECTIVE JUROR NUMBER 010: I work for the Missile
14 Defense Agency.
15 THE COURT: Do you have any background in law or law
16 enforcement?
17 PROSPECTIVE JUROR NUMBER 010: No.
18 THE COURT: I mean, if I asked you what you did would you
19 have to shoot a missile at me? No.
20 Are you married?
21 PROSPECTIVE JUROR NUMBER 010: Yes.
22 THE COURT: Spouse work?
23 PROSPECTIVE JUROR NUMBER 010: No.
24 THE COURT: Children?
25 PROSPECTIVE JUROR NUMBER 010: Two.

1 THE COURT: Ages?
2 PROSPECTIVE JUROR NUMBER 010: 31 and 27.
3 THE COURT: Either of them in law or law enforcement?
4 PROSPECTIVE JUROR NUMBER 010: No.
5 THE COURT: Can you think of any reason you would not be
6 fair and impartial to both parties in this case?
7 PROSPECTIVE JUROR NUMBER 010: No.
8 THE COURT: Ever sat on a jury before?
9 PROSPECTIVE JUROR NUMBER 010: I did, in Dallas one
10 time, a civil case.
11 THE COURT: Civil case. And you understand the difference?
12 PROSPECTIVE JUROR NUMBER 010: Yes.
13 THE COURT: The majority votes in civil but it's unanimous in
14 criminal.
15 PROSPECTIVE JUROR NUMBER 010: Yes.
16 THE COURT: All right. You don't have a problem with that?
17 PROSPECTIVE JUROR NUMBER 010: No.
18 THE COURT: Pass for cause?
19 MS. KALLAS: Pass, Your Honor.
20 MR. FRIZZELL: Yes, Your Honor.
21 THE COURT: All right. Tell me your name.
22 PROSPECTIVE JUROR NUMBER 012: David Riley, juror
23 number 012.
24 THE COURT: Do you work?
25 PROSPECTIVE JUROR NUMBER 012: No, I'm retired.

1 THE COURT: From what?
2 PROSPECTIVE JUROR NUMBER 012: Police department in
3 the State of Maryland, 23 years as a corporal.
4 THE COURT: As a corporal in?
5 PROSPECTIVE JUROR NUMBER 012: Patrol division and
6 K-9.
7 THE COURT: Okay. Is there anything about that experience
8 that would prejudice you against the State or the defendant?
9 PROSPECTIVE JUROR NUMBER 012: No.
10 THE COURT: You'll listen to the evidence, if it's not there, you
11 could vote not guilty?
12 PROSPECTIVE JUROR NUMBER 012: Yes, Your Honor.
13 THE COURT: But if it's also, and if the evidence is there, you
14 could vote guilty?
15 PROSPECTIVE JUROR NUMBER 012: Yes, Your Honor.
16 THE COURT: Are you married?
17 PROSPECTIVE JUROR NUMBER 012: Yes.
18 THE COURT: Children?
19 PROSPECTIVE JUROR NUMBER 012: No.
20 THE COURT: What does your spouse do?
21 PROSPECTIVE JUROR NUMBER 012: She's retired.
22 THE COURT: From?
23 PROSPECTIVE JUROR NUMBER 012: Billing clerk for
24 medical.
25 THE COURT: You'll be fair and impartial?

1 PROSPECTIVE JUROR NUMBER 012: Yes, sir.
2 THE COURT: Have you ever sat as a juror before?
3 PROSPECTIVE JUROR NUMBER 012: No.
4 THE COURT: Okay. Pass for cause?
5 MR. FRIZZELL: Yes, Your Honor.
6 MS. KALLAS: Yes, Your Honor.
7 THE COURT: All right.
8 PROSPECTIVE JUROR NUMBER 003: Hi, Lori Hunton, 003.
9 I have two jobs, I work for the Clark County School District as
10 an office manager, and I work for university police department as a
11 special events dispatcher.
12 THE COURT: Okay. Do you have any background in law or
13 law enforcement? Have you been to cadet training or anything?
14 PROSPECTIVE JUROR NUMBER 003: No, I just --
15 THE COURT: Now, you know a lot of policemen.
16 PROSPECTIVE JUROR NUMBER 003: Yes.
17 THE COURT: You can't call them for help.
18 PROSPECTIVE JUROR NUMBER 003: No.
19 THE COURT: You couldn't call them and say, hey, I'm on this
20 criminal jury, this was the testimony, tell me what really is happening.
21 PROSPECTIVE JUROR NUMBER 003: No.
22 THE COURT: You can tell people that you are on a criminal
23 trial, jury, but that's all you can tell them.
24 Do you have a problem with that?
25 PROSPECTIVE JUROR NUMBER 003: No.

1 THE COURT: You could be fair and impartial?
2 PROSPECTIVE JUROR NUMBER 003: Yes.
3 THE COURT: Would you feel any pressure to say, well, I've got
4 to find him guilty because that's my job as working with the police.
5 Would you feel that way?
6 PROSPECTIVE JUROR NUMBER 003: No.
7 THE COURT: Okay. I mean, if -- you'll listen to the evidence,
8 and if it's not guilty, it's not guilty, if it's guilty, it's guilty; is that right?
9 PROSPECTIVE JUROR NUMBER 003: Correct.
10 THE COURT: And you'll be fair?
11 PROSPECTIVE JUROR NUMBER 003: Yes.
12 THE COURT: Have you ever sat as a juror before?
13 PROSPECTIVE JUROR NUMBER 003: No.
14 THE COURT: You'll be fair in this case?
15 PROSPECTIVE JUROR NUMBER 003: Yes.
16 THE COURT: State?
17 MS. KALLAS: Pass, Your Honor.
18 MR. FRIZZELL: Pass.
19 THE COURT: Okay. Thank you.
20 PROSPECTIVE JUROR NUMBER 003: Thank you.
21 THE COURT: All right. Tell me your name.
22 PROSPECTIVE JUROR NUMBER 025: Naomi Marquez,
23 badge 0025.
24 THE COURT: Do you work?
25 PROSPECTIVE JUROR NUMBER 025: Yes.

1 THE COURT: What do you do?
2 PROSPECTIVE JUROR NUMBER 025: I work as a medical
3 technologist in a laboratory.
4 THE COURT: Married?
5 PROSPECTIVE JUROR NUMBER 025: No.
6 THE COURT: Children?
7 PROSPECTIVE JUROR NUMBER 025: No.
8 THE COURT: Have you ever sat as a juror before?
9 PROSPECTIVE JUROR NUMBER 025: No.
10 THE COURT: Can you think of any reason you would not be
11 fair and impartial to both parties in this case?
12 PROSPECTIVE JUROR NUMBER 025: No.
13 THE COURT: State, pass?
14 MS. KALLAS: Pass, Your Honor.
15 MR. FRIZZELL: Pass.
16 THE COURT: All right. Pass it over.
17 Tell me your name.
18 PROSPECTIVE JUROR NUMBER 024: Cynthia Hill.
19 THE COURT: Do you work?
20 PROSPECTIVE JUROR NUMBER 024: No, I'm retired.
21 THE COURT: From?
22 PROSPECTIVE JUROR NUMBER 024: Post office.
23 THE COURT: Married?
24 PROSPECTIVE JUROR NUMBER 024: No.
25 THE COURT: Children?

1 PROSPECTIVE JUROR NUMBER 024: No.

2 THE COURT: Can you think of any reason you wouldn't be fair
3 and impartial to both parties in this case?

4 PROSPECTIVE JUROR NUMBER 024: No.

5 THE COURT: Ever sat as a juror before?

6 PROSPECTIVE JUROR NUMBER 024: Yeah, I did, three
7 years ago, it was civil.

8 THE COURT: Where?

9 PROSPECTIVE JUROR NUMBER 024: Here in Vegas.

10 THE COURT: Were you able to reach a verdict?

11 PROSPECTIVE JUROR NUMBER 024: I think it was a mistrial.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NUMBER 024: They dismissed it.

14 THE COURT: All right. You'll be fair and impartial in this case?

15 PROSPECTIVE JUROR NUMBER 024: Yes.

16 THE COURT: State?

17 MS. KALLAS: Pass, Your Honor.

18 MR. FRIZZELL: Pass.

19 THE COURT: All right. Pass that.

20 Tell me your name.

21 PROSPECTIVE JUROR NUMBER 023: Lisa Stephens.

22 THE COURT: Do you work?

23 PROSPECTIVE JUROR NUMBER 023: Yes.

24 THE COURT: What do you do?

25 PROSPECTIVE JUROR NUMBER 023: Charter sales for

1 tourism.

2 THE COURT: Married?

3 PROSPECTIVE JUROR NUMBER 023: Yes.

4 THE COURT: Spouse work?

5 PROSPECTIVE JUROR NUMBER 023: Yes.

6 THE COURT: What does your spouse do?

7 PROSPECTIVE JUROR NUMBER 023: Maintenance.

8 THE COURT: Children?

9 PROSPECTIVE JUROR NUMBER 023: No.

10 THE COURT: Ever sat as a juror before?

11 PROSPECTIVE JUROR NUMBER 023: No.

12 THE COURT: Can you think of any reason you would not be
13 fair to both parties in this case?

14 PROSPECTIVE JUROR NUMBER 023: No.

15 THE COURT: State?

16 MS. KALLAS: Pass, Your Honor.

17 MR. FRIZZELL: Pass.

18 THE COURT: Okay. Tell me your name.

19 PROSPECTIVE JUROR NUMBER 022: Jessica
20 Recarey-Valenzuela.

21 THE COURT: Do you work?

22 PROSPECTIVE JUROR NUMBER 022: Yes, I'm a math
23 teacher.

24 THE COURT: Where at?

25 PROSPECTIVE JUROR NUMBER 022: Equipo Academy.

1 THE COURT: Married?

2 PROSPECTIVE JUROR NUMBER 022: Yes.

3 THE COURT: Does your spouse work?

4 PROSPECTIVE JUROR NUMBER 022: Yes, he's an attorney.

5 THE COURT: Where?

6 PROSPECTIVE JUROR NUMBER 022: LBC Law Group.

7 THE COURT: What's his name?

8 PROSPECTIVE JUROR NUMBER 022: Jose Valenzuela.

9 THE COURT: He just does civil things?

10 PROSPECTIVE JUROR NUMBER 022: Mostly civil, but he

11 does some PI as well, plaintiff's side.

12 THE COURT: All right. You can't ask him for help.

13 PROSPECTIVE JUROR NUMBER 022: Yeah.

14 THE COURT: You could tell him that you're on a jury but that's

15 all you can tell him. Is that all right? Until I release you.

16 PROSPECTIVE JUROR NUMBER 022: Okay.

17 THE COURT: Is that okay?

18 PROSPECTIVE JUROR NUMBER 022: Yeah.

19 THE COURT: Do you have children?

20 PROSPECTIVE JUROR NUMBER 022: No children.

21 THE COURT: And, again, have you ever sat as a juror before?

22 PROSPECTIVE JUROR NUMBER 022: No.

23 THE COURT: All right. You'll be fair and impartial to both

24 parties in this case?

25 PROSPECTIVE JUROR NUMBER 022: Yes.

1 I do have a job interview on Wednesday though, a really big
2 one.

3 THE COURT: You know what, if we move this along, you'll be
4 free on Wednesday.

5 PROSPECTIVE JUROR NUMBER 022: Okay.

6 THE COURT: State?

7 MS. KALLAS: Pass, Your Honor.

8 MR. FRIZZELL: Pass.

9 THE COURT: What time is your job interview?

10 PROSPECTIVE JUROR NUMBER 022: From 9:00 to noon,
11 Wednesday.

12 THE COURT: Okay. Okay, we'll work around that if we have
13 to.

14 Okay?

15 PROSPECTIVE JUROR NUMBER 022: Okay.

16 THE COURT: Tell me your name.

17 PROSPECTIVE JUROR NUMBER 020: Pamela Mullins, badge
18 20.

19 THE COURT: Do you work?

20 PROSPECTIVE JUROR NUMBER 020: Yes, I do.

21 THE COURT: What do you do?

22 PROSPECTIVE JUROR NUMBER 020: Union payroll analyst.

23 THE COURT: For?

24 PROSPECTIVE JUROR NUMBER 020: Caesars
25 Entertainment.

1 THE COURT: Married?
2 PROSPECTIVE JUROR NUMBER 020: No.
3 THE COURT: Children?
4 PROSPECTIVE JUROR NUMBER 020: Three.
5 THE COURT: Ages?
6 PROSPECTIVE JUROR NUMBER 020: 39, 35, and 33.
7 THE COURT: Any of them in law or law enforcement?
8 PROSPECTIVE JUROR NUMBER 020: No.
9 THE COURT: Have you ever sat as a juror before?
10 PROSPECTIVE JUROR NUMBER 020: Yes.
11 THE COURT: Where?
12 PROSPECTIVE JUROR NUMBER 020: Here in Nevada, about
13 11 years ago, on a criminal case, assault and battery.
14 THE COURT: Were you able to reach a verdict?
15 PROSPECTIVE JUROR NUMBER 020: I was an alternate.
16 THE COURT: Oh, you were an alternate.
17 PROSPECTIVE JUROR NUMBER 020: Yes.
18 THE COURT: So you didn't get to go back in the room?
19 PROSPECTIVE JUROR NUMBER 020: No.
20 THE COURT: Is there anything about that experience that
21 would prejudice you against the defendant or the State?
22 PROSPECTIVE JUROR NUMBER 020: No.
23 THE COURT: You'll be fair and impartial?
24 PROSPECTIVE JUROR NUMBER 020: Absolutely.
25 THE COURT: Thank you.

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State?

MS. KALLAS: Pass, Your Honor.

MR. FRIZZELL: Pass.

THE COURT: Okay. Tell me your name.

PROSPECTIVE JUROR NUMBER 015: Dawn Buffum, my badge number is 015.

THE COURT: Do you work?

PROSPECTIVE JUROR NUMBER 015: I do. I'm a teacher for the Clark County School District.

THE COURT: What do you teach?

PROSPECTIVE JUROR NUMBER 015: I teach third grade at Manch School.

THE COURT: Bless your heart.

Are you married?

PROSPECTIVE JUROR NUMBER 015: I am married. My husband's retired.

THE COURT: From what?

PROSPECTIVE JUROR NUMBER 015: From offshore drilling.

THE COURT: Have you ever sat as a juror before?

PROSPECTIVE JUROR NUMBER 015: No.

THE COURT: Is there anything -- any reason that you couldn't be fair to the State and to the defendant in this case?

PROSPECTIVE JUROR NUMBER 015: No.

THE COURT: You'll listen to all the evidence and be fair?

PROSPECTIVE JUROR NUMBER 015: Yes.

1 THE COURT: Thank you.
2 Pass, State?
3 MR. KOVAC: Pass.
4 MR. FRIZZELL: Pass.
5 THE COURT: Okay. Tell me your name.
6 PROSPECTIVE JUROR NUMBER 014: Jon Sol.
7 THE COURT: Do you work?
8 PROSPECTIVE JUROR NUMBER 014: Yes.
9 THE COURT: What do you do?
10 PROSPECTIVE JUROR NUMBER 014: Mechanic.
11 THE COURT: What kind?
12 PROSPECTIVE JUROR NUMBER 014: Nissan mechanic.
13 THE COURT: Married?
14 PROSPECTIVE JUROR NUMBER 014: No.
15 THE COURT: Children?
16 PROSPECTIVE JUROR NUMBER 014: No.
17 THE COURT: Have you ever sat as a juror before?
18 PROSPECTIVE JUROR NUMBER 014: No, sir.
19 THE COURT: Can you be fair to both parties in this case?
20 PROSPECTIVE JUROR NUMBER 014: Yeah.
21 THE COURT: State?
22 MS. KALLAS: Pass, Your Honor.
23 MR. FRIZZELL: Pass.
24 THE COURT: Okay.
25 PROSPECTIVE JUROR NUMBER 031: My name is Maria

1 Carrillo and my badge number is 0031.

2 THE COURT: Do you work?

3 PROSPECTIVE JUROR NUMBER 031: No.

4 THE COURT: Have you worked?

5 PROSPECTIVE JUROR NUMBER 031: Yes.

6 THE COURT: What have you done?

7 PROSPECTIVE JUROR NUMBER 031: Housekeeper.

8 THE COURT: Are you married?

9 PROSPECTIVE JUROR NUMBER 031: Yes.

10 THE COURT: Does your spouse work?

11 PROSPECTIVE JUROR NUMBER 031: Yes.

12 THE COURT: What does your spouse do?

13 PROSPECTIVE JUROR NUMBER 031: He's an electrician.

14 THE COURT: Children?

15 PROSPECTIVE JUROR NUMBER 031: Yes, two.

16 THE COURT: Ages?

17 PROSPECTIVE JUROR NUMBER 031: Six and five.

18 THE COURT: Have you ever sat as a juror before?

19 PROSPECTIVE JUROR NUMBER 031: No.

20 THE COURT: You'll listen to the evidence and be fair?

21 PROSPECTIVE JUROR NUMBER 031: Yes.

22 THE COURT: All right. State?

23 MR. KOVAC: Pass.

24 MS. KALLAS: Pass.

25 MR. FRIZZELL: Pass.

1 THE COURT: All right. Pass it.
2 Tell me your name.
3 PROSPECTIVE JUROR NUMBER 030: James O'Connor,
4 badge number is 030, sir.
5 THE COURT: Do you work?
6 PROSPECTIVE JUROR NUMBER 030: Currently a contractor
7 for the Air Force on the drone program, retired army also.
8 THE COURT: Any background in law or law enforcement?
9 PROSPECTIVE JUROR NUMBER 030: No, sir.
10 THE COURT: Married?
11 PROSPECTIVE JUROR NUMBER 030: Yes, sir.
12 THE COURT: Spouse work?
13 PROSPECTIVE JUROR NUMBER 030: No, sir.
14 THE COURT: Children?
15 PROSPECTIVE JUROR NUMBER 030: Yes, sir, 25, 23, and
16 18.
17 THE COURT: Any of them in law or law enforcement?
18 PROSPECTIVE JUROR NUMBER 030: No, sir.
19 THE COURT: Ever sat as a juror before?
20 PROSPECTIVE JUROR NUMBER 030: No, sir.
21 THE COURT: Can you be fair to both parties in this case?
22 PROSPECTIVE JUROR NUMBER 030: Yes, sir.
23 THE COURT: All right. State?
24 MS. KALLAS: Pass, Your Honor.
25 MR. FRIZZELL: Pass.

1 THE COURT: All right. Tell me your name, again.
2 PROSPECTIVE JUROR NUMBER 029: Aaron Harmych,
3 badge number 29.
4 THE COURT: Do you work?
5 PROSPECTIVE JUROR NUMBER 029: Yes.
6 THE COURT: What do you do?
7 PROSPECTIVE JUROR NUMBER 029: I'm a bartender at Park
8 MGM.
9 THE COURT: Married?
10 PROSPECTIVE JUROR NUMBER 029: Yes.
11 THE COURT: Spouse work?
12 PROSPECTIVE JUROR NUMBER 029: Part-time substitute
13 teacher.
14 THE COURT: Children?
15 PROSPECTIVE JUROR NUMBER 029: Two, 8 and 13.
16 THE COURT: Have you ever sat as a juror before?
17 PROSPECTIVE JUROR NUMBER 029: No.
18 THE COURT: Can you be fair and impartial in this case?
19 PROSPECTIVE JUROR NUMBER 029: Yes.
20 THE COURT: All right. State?
21 MS. KALLAS: Pass, Your Honor.
22 MR. FRIZZELL: Pass.
23 THE COURT: Again, tell me your name.
24 PROSPECTIVE JUROR NUMBER 028: Manolito Castillo.
25 THE COURT: Do you work?

1 PROSPECTIVE JUROR NUMBER 028: Yes.
2 THE COURT: What do you do?
3 PROSPECTIVE JUROR NUMBER 028: Kitchen worker.
4 THE COURT: Married?
5 PROSPECTIVE JUROR NUMBER 028: Yes.
6 THE COURT: Spouse work?
7 PROSPECTIVE JUROR NUMBER 028: Yes.
8 THE COURT: What does your spouse do?
9 PROSPECTIVE JUROR NUMBER 028: CNA.
10 THE COURT: Other than this child, do you have any other
11 children?
12 PROSPECTIVE JUROR NUMBER 028: I got three kids.
13 THE COURT: Any of them in law or law enforcement?
14 PROSPECTIVE JUROR NUMBER 028: No.
15 THE COURT: Are any of them police officers?
16 PROSPECTIVE JUROR NUMBER 028: No.
17 THE COURT: Could you be fair and impartial in this case?
18 PROSPECTIVE JUROR NUMBER 028: Yes.
19 THE COURT: State?
20 MS. KALLAS: Pass Your Honor.
21 MR. FRIZZELL: Pass.
22 THE COURT: All right. Tell me your name.
23 PROSPECTIVE JUROR NUMBER 027: Keith Meriwether,
24 badge number 0027.
25 THE COURT: Do you work?

1 PROSPECTIVE JUROR NUMBER 027: Yes, I work for FedEx
2 as a courier.

3 THE COURT: Married?

4 PROSPECTIVE JUROR NUMBER 027: Divorced.

5 THE COURT: What did your ex-wife do?

6 PROSPECTIVE JUROR NUMBER 027: She worked for FedEx
7 as well.

8 THE COURT: Children?

9 PROSPECTIVE JUROR NUMBER 027: No.

10 THE COURT: Can you think of any reason you would not be
11 fair and impartial to both parties in this case?

12 PROSPECTIVE JUROR NUMBER 027: No.

13 THE COURT: Have you sat as a juror before?

14 PROSPECTIVE JUROR NUMBER 027: No.

15 THE COURT: All right. State?

16 MS. KALLAS: Pass.

17 MR. FRIZZELL: Pass.

18 THE COURT: All right. Tell me your name.

19 PROSPECTIVE JUROR 032: Michael Spotofora.

20 THE COURT: Do you work?

21 PROSPECTIVE JUROR NUMBER 032: Yes.

22 THE COURT: What do you do?

23 PROSPECTIVE JUROR NUMBER 032: Production technician
24 with NV Energy.

25 THE COURT: Married?

1 PROSPECTIVE JUROR NUMBER 032: Yes.
2 THE COURT: Spouse work?
3 PROSPECTIVE JUROR NUMBER 032: Yes.
4 THE COURT: What does your spouse do?
5 PROSPECTIVE JUROR NUMBER 032: Occupational
6 therapist.
7 THE COURT: Children?
8 PROSPECTIVE JUROR NUMBER 032: I have five, three girls
9 and two stepchildren.
10 THE COURT: Ages?
11 PROSPECTIVE JUROR NUMBER 032: Oh, wow.
12 THE COURT: About, not --
13 PROSPECTIVE JUROR NUMBER 032: The three of mine are
14 grown in their 30s, one's 40, and then the other two are in their 20s, the
15 step kids.
16 THE COURT: Any of them in law or law enforcement?
17 PROSPECTIVE JUROR NUMBER 032: No.
18 THE COURT: Ever sat as juror before?
19 PROSPECTIVE JUROR NUMBER 032: Yes.
20 THE COURT: Where?
21 PROSPECTIVE JUROR NUMBER 032: Joliet, Illinois.
22 THE COURT: When?
23 PROSPECTIVE JUROR NUMBER 032: About 30 years ago.
24 THE COURT: What kind of case was it?
25 PROSPECTIVE JUROR NUMBER 032: Criminal.

1 THE COURT: What kind of criminal case?
2 PROSPECTIVE JUROR NUMBER 032: It was theft of a -- a
3 theft, yeah.
4 THE COURT: Were you -- without telling us a verdict, did you
5 reach a verdict?
6 PROSPECTIVE JUROR NUMBER 032: Yes, they did.
7 THE COURT: Were you the jury foreperson?
8 PROSPECTIVE JUROR NUMBER 032: No.
9 THE COURT: Can you think of any reason you would not be
10 fair and impartial to both parties in this case?
11 PROSPECTIVE JUROR NUMBER 032: No.
12 THE COURT: State?
13 MS. KALLAS: Pass, Your Honor.
14 MR. FRIZZELL: Pass.
15 THE COURT: All right. Tell me your name.
16 PROSPECTIVE JUROR NUMBER 033: Jeff Williams.
17 THE COURT: Do you work?
18 PROSPECTIVE JUROR NUMBER 033: I do.
19 THE COURT: What do you do?
20 PROSPECTIVE JUROR NUMBER 033: I'm a teacher.
21 THE COURT: Where?
22 PROSPECTIVE JUROR NUMBER 033: I'm working as a
23 mentor teacher right now for the district.
24 THE COURT: Married?
25 PROSPECTIVE JUROR NUMBER 033: I am.

1 THE COURT: Spouse work?
2 PROSPECTIVE JUROR NUMBER 033: Yes, she is also a
3 teacher.
4 THE COURT: Children?
5 PROSPECTIVE JUROR NUMBER 033: Three teenagers.
6 THE COURT: Been through that.
7 Have you ever sat as a juror before?
8 PROSPECTIVE JUROR NUMBER 033: No, I have not.
9 THE COURT: Can you think of any reason you would not be
10 fair and impartial both to the State and to the defendant?
11 PROSPECTIVE JUROR NUMBER 033: No, sir.
12 THE COURT: You'll listen to all the evidence?
13 PROSPECTIVE JUROR NUMBER 033: I will.
14 THE COURT: State?
15 MS. KALLAS: Pass, Your Honor.
16 THE COURT: Defense?
17 MR. FRIZZELL: Pass.
18 THE COURT: All right. Tell me your name.
19 PROSPECTIVE JUROR NUMBER 034: Harold Garrison.
20 THE COURT: Do you work?
21 PROSPECTIVE JUROR NUMBER 034: Yes.
22 THE COURT: What do you do?
23 PROSPECTIVE JUROR NUMBER 034: I install medication
24 management systems.
25 THE COURT: Married?

1 PROSPECTIVE JUROR NUMBER 034: Yes.
2 THE COURT: Spouse work?
3 PROSPECTIVE JUROR NUMBER 034: Yes.
4 THE COURT: What does your spouse do?
5 PROSPECTIVE JUROR NUMBER 034: Finance clerk.
6 THE COURT: Children?
7 PROSPECTIVE JUROR NUMBER 034: Yes.
8 THE COURT: Ages?
9 PROSPECTIVE JUROR NUMBER 034: 28 and 26.
10 THE COURT: Either of them in law or law enforcement?
11 PROSPECTIVE JUROR NUMBER 034: No.
12 THE COURT: Ever sat as a juror before?
13 PROSPECTIVE JUROR NUMBER 034: No.
14 THE COURT: Can you be fair and impartial in this case?
15 PROSPECTIVE JUROR NUMBER 034: Of course.
16 THE COURT: State?
17 MS. KALLAS: Pass, Your Honor.
18 MR. FRIZZELL: Pass.
19 THE COURT: All right. Tell me your name.
20 PROSPECTIVE JUROR NUMBER 035: John Lundmark.
21 THE COURT: Do you work?
22 PROSPECTIVE JUROR NUMBER 035: No, retired.
23 THE COURT: From?
24 PROSPECTIVE JUROR NUMBER 035: Plumbers, pipefitters.
25 THE COURT: Married?

1 PROSPECTIVE JUROR NUMBER 035: No.
2 THE COURT: Children?
3 PROSPECTIVE JUROR NUMBER 035: No.
4 THE COURT: Ever sat as a juror before?
5 PROSPECTIVE JUROR NUMBER 035: No.
6 THE COURT: Can you be fair to both parties in this case?
7 PROSPECTIVE JUROR NUMBER 035: Yes.
8 THE COURT: Okay. State?
9 MS. KALLAS: Pass, Your Honor.
10 MR. FRIZZELL: Pass.
11 THE COURT: All right. Tell me your name, again.
12 PROSPECTIVE JUROR NUMBER 036: Angelica Castillo.
13 THE COURT: Do you work?
14 PROSPECTIVE JUROR NUMBER 036: Yes, and I go to
15 school.
16 THE COURT: Where do you work?
17 PROSPECTIVE JUROR NUMBER 036: I work at UNLV human
18 resources.
19 THE COURT: Where are you going to school?
20 PROSPECTIVE JUROR NUMBER 036: UNLV.
21 THE COURT: What are you studying?
22 PROSPECTIVE JUROR NUMBER 036: Nursing.
23 THE COURT: Children?
24 PROSPECTIVE JUROR NUMBER 036: No.
25 THE COURT: Ever sat as a juror before?

1 PROSPECTIVE JUROR NUMBER 036: No.

2 THE COURT: Can you think of any reason you would not be
3 fair and impartial in this case, if you're chosen?

4 PROSPECTIVE JUROR NUMBER 036: No.

5 THE COURT: You'll listen to the evidence and look at the
6 exhibits and be fair?

7 PROSPECTIVE JUROR NUMBER 036: Yes.

8 THE COURT: State?

9 MS. KALLAS: Pass.

10 MR. FRIZZELL: Pass.

11 THE COURT: All right. One of things that I need to do --
12 because I've been doing this since early this morning -- is take breaks.

13 Does anybody need a break? I don't see no hands.

14 All right. But in ten minutes we're going to take a break
15 because my staff, I know, needs one because we've been on the bench
16 for three hours, four hours.

17 Number one, mic, and then the State, you'll examine.

18 MS. KALLAS: I'm sorry, can we approach?

19 THE COURT: Approach the bench.

20 [Bench conference begins]

21 THE COURT: Okay. Now, you can ask them any questions
22 you want to ask.

23 MS. KALLAS: Okay.

24 THE COURT: If you don't have any questions, you don't ask.
25 But if you want to voir dire the jury, you can now.

1 MS. KALLAS: Would you rather --

2 MR. KOVAC: You said, number one, mic. I'm sorry, I missed
3 the beginning, you said, number one, mic, then --

4 THE COURT: The mic, it goes to him.

5 MR. KOVAC: Oh, that mic, I thought you meant -- I'm Mike and
6 I thought you were talking --

7 THE COURT: No, no, no, the mic goes to him.

8 MS. KALLAS: Yeah, that's why I was like, what are you talking
9 about? Okay.

10 THE COURT: So you guys can do whatever you want, ask
11 whatever question --

12 MS. KALLAS: Okay. Would you rather take a break and then
13 come back?

14 THE COURT: Yeah, we can take a five minute recess.

15 MS. KALLAS: Okay. Sounds good.

16 [Bench conference ends]

17 THE COURT: All right. Ladies and gentlemen, we're going to
18 take a five minute recess.

19 During the recess you're admonished not to talk or converse
20 among yourselves or with anyone else on any subject connected with the
21 trial; or read or watch or listen to any report of or commentary on the trial
22 by any medium of information including, without limitation, newspapers,
23 television, radio, or the internet; or form or express any opinion on any
24 subject connected with the trial until the case is finally submitted to you.

25 Remember, do not get on a computer or a telephone to do any

1 legal research to see if you can find more information. You can't do that
2 because that would make you a witness in the case and that wouldn't be
3 fair to the State or to the defendant. So stay off of computers, don't put
4 anything from social -- on social media about this. Nothing.

5 See you in five minutes.

6 And remember where you're sitting, that's where you'll sit when
7 you get back.

8 Ms. Hunton, you have to leave as well.

9 PROSPECTIVE JUROR NUMBER 003: Oh, okay. I didn't
10 know.

11 THE COURT: I know it's difficult for you but we -- you'll sit on
12 the end no matter what your number is.

13 Okay?

14 PROSPECTIVE JUROR NUMBER 003: Okay.

15 THE COURT: Thank you.

16 PROSPECTIVE JUROR NUMBER 003: You're welcome.

17 [Outside the presence of the prospective jury]

18 THE COURT: All right. They may need to take the defendant
19 to use the restroom as well. And you guys can use the restroom back
20 here.

21 MS. KALLAS: All right. Thank you, Your Honor.

22 [Recess taken at 11:22 a.m.]

23 [Jury trial resumed at 11:29 a.m.]

24 [Outside the presence of the prospective jury]

25 THE COURT: You guys are going to do examinations?

1 MS. KALLAS: Yeah, I'll be quick, Your Honor.

2 MR. KOVAC: Just a couple questions.

3 THE COURT: And then you.

4 MR. FRIZZELL: Yeah, maybe a few.

5 THE COURT: All right. Well, what we'll do is we'll do one, and
6 then if you have examination, then you pass that one, then you go to two,
7 you examine, he'll examine.

8 MS. KALLAS: Oh, so we do the juror one by one?

9 THE COURT: Yep.

10 MR. KOVAC: Can we ask anybody, as a whole group, and
11 whoever raises their hand?

12 THE COURT: You can ask as a whole group, if you want.

13 MS. KALLAS: Yeah, I was just going to make it quicker.

14 THE COURT: I don't stop you guys from asking anything.

15 MS. KALLAS: Okay.

16 MR. FRIZZELL: Yes, I'd rather do it that way.

17 MS. KALLAS: I don't know -- I was going to do the whole group
18 and then kind of, if I needed to, ask follow ups from there.

19 THE COURT: Do what -- you do it however you want.

20 MS. KALLAS: All right. I just want to make sure I was following
21 your rules, Your Honor.

22 THE COURT: I'm pretty easy.

23 MR. KOVAC: Sorry, I got confused on the last --

24 MS. KALLAS: I don't know if that's what I've heard about you,
25 Your Honor, but we'll see.

1 THE COURT: I'm not cheap but I'm easy.

2 MR. KOVAC: Sorry, I got confused on the last one, you said,
3 mic, I wasn't thinking the microphone. My name's Michael.

4 THE COURT: Okay.

5 MS. KALLAS: Yeah.

6 MR. KOVAC: And what am I supposed to do?

7 MS. KALLAS: I was, like, what.

8 THE COURT: Microphone, microphone.

9 [Pause in proceedings]

10 [In the presence of the prospective jury]

11 THE COURT: All right. State, you're up.

12 MS. KALLAS: All right. Monday morning, jury duty, who's
13 excited? All right. I believe all of you. For the record there were no
14 hands raised.

15 My name is Chelsea Kallas. I'm a deputy attorney general. I'm
16 here with Mike Kovac. He is a deputy -- or chief deputy attorney general,
17 got to give my boss credit.

18 THE MARSHAL: Hold on a second, I think you're missing one.

19 MS. KALLAS: Oh. Ready to go?

20 All right. Really, as Judge Smith explained to you, we're just
21 trying to get to know you a little bit. I don't have too many questions for
22 you.

23 THE COURT: Hold on, are we missing --

24 MS. KALLAS: Now I'm going to have to make that joke again.

25 [Colloquy between the Court and the Marshal]

1 MS. KALLAS: Are we good?

2 THE COURT: We're okay.

3 MR. FRIZZELL: Start over.

4 MS. KALLAS: Start over. It's not funny the second time.

5 So really what my job is just to get to know you a little bit, to see
6 if you can be fair and impartial, there's no right or wrong answers, so feel
7 free to speak up, if you have something to say. I'll try to make it quick and
8 get you guys to lunch sooner rather than later.

9 So my first question, has anyone here do you personally or
10 have you known anyone that's had a negative experience with law
11 enforcement? All right. Juror number --

12 PROSPECTIVE JUROR NUMBER 030: 30.

13 MS. KALLAS: -- 30. Sorry I can't see that far.

14 THE COURT: And there are two in the box that did as well,
15 raised their hands.

16 PROSPECTIVE JUROR NUMBER 030: Yes, ma'am, juror
17 number 30, James O'Connor.

18 My father-in-law had a pretty bad run-in, they threw him a
19 beating in Hawaii, a misunderstanding. He had to get partial face
20 reconstruction and whatnot. And he's very against that authority now
21 because of it. I personally am not.

22 MS. KALLAS: Okay. So you think you can still be fair and
23 impartial?

24 PROSPECTIVE JUROR NUMBER 030: Yes. Bad
25 circumstances, with a bad set of officers, I think he had.

1 MS. KALLAS: Okay. Thank you.
2 Anybody else?
3 PROSPECTIVE JUROR NUMBER 008: My younger brother.
4 MS. KALLAS: Okay. Could you read your juror number for the
5 record.
6 PROSPECTIVE JUROR NUMBER 008: 8.
7 MS. KALLAS: 8.
8 Can you tell me a little bit about it, please.
9 PROSPECTIVE JUROR NUMBER 008: He was on the streets
10 here in Vegas, drugs, and when they would pick him up they would rough
11 him up.
12 MS. KALLAS: The police would?
13 PROSPECTIVE JUROR NUMBER 008: Well, according to him.
14 I wasn't there so.
15 MS. KALLAS: Okay. And do you think you could still be fair
16 and impartial?
17 PROSPECTIVE JUROR NUMBER 008: Yes.
18 MS. KALLAS: All right. Anybody else?
19 PROSPECTIVE JUROR NUMBER 022: Number 22.
20 I was really little, probably five. And then my brother's, one of
21 his best friends was like arrested, and he's probably like 11, for punching
22 another boy in the nose.
23 MS. KALLAS: In the nose?
24 PROSPECTIVE JUROR NUMBER 022: Yeah.
25 MS. KALLAS: All right. Has that affected your perception on

1 law enforcement at all?

2 PROSPECTIVE JUROR NUMBER 022: Not really.

3 MS. KALLAS: Do you think that you could still be fair and
4 impartial considering that?

5 PROSPECTIVE JUROR NUMBER 022: Yeah.

6 MS. KALLAS: Okay. Thank you.

7 I think we had some other hands raised.

8 Okay. Kind of snow balling off what I just said, but does anyone
9 here have any, just, general negative perceptions with law enforcement?
10 Anyone have bad views? All right, for the record, no hand was raised.

11 Does anybody have any good perceptions of law enforcement?
12 The law enforcement officer himself in the back.

13 PROSPECTIVE JUROR NUMBER 012: I do.

14 MS. KALLAS: That's good.

15 PROSPECTIVE JUROR NUMBER 012: Dave Riley, badge
16 number 012.

17 MS. KALLAS: All right. Could you elaborate a little bit.

18 PROSPECTIVE JUROR NUMBER 012: I'm retired, I believe in
19 law enforcement.

20 MS. KALLAS: It sounds like a silly question, now that I'm
21 asking you about it.

22 PROSPECTIVE JUROR NUMBER 012: I believe in enforcing
23 the law, it's part of the job, I mean.

24 MS. KALLAS: Okay.

25 PROSPECTIVE JUROR NUMBER 012: Yes, there is bad ones

1 among 'em but very few, frequently, not very happen a lot.

2 MS. KALLAS: All right. Thank you.

3 Anybody else?

4 We're just going to go in order, I think.

5 PROSPECTIVE JUROR NUMBER 015: Number 015.

6 I have a very positive view of law enforcement. I mean, they
7 have a tough job and I think that they put their lives on the line every day,
8 so, yeah. I don't think that's going to impact me being a juror but I do
9 have a positive view of it.

10 MS. KALLAS: All right. Thank you.

11 PROSPECTIVE JUROR NUMBER 020: Now, I have a pretty
12 positive view. My grandson went missing a couple of years ago up in
13 North Las Vegas and they were very, very helpful and help in locating him
14 and finding and getting home safe.

15 MS. KALLAS: All right.

16 THE MARSHAL: Name and badge number.

17 PROSPECTIVE JUROR NUMBER 020: I'm sorry, badge 20.

18 THE MARSHAL: Name and badge number.

19 PROSPECTIVE JUROR NUMBER 020: Pamela Mullins, badge
20 20.

21 MS. KALLAS: I think we had some other hands raised.

22 PROSPECTIVE JUROR NUMBER 029: Aaron Harmych,
23 badge number 29.

24 I have a positive view of law enforcement. I agree as well that
25 they do have a tough job and I have a couple of friends that are actual

1 officers and I see what they go through. So it's a tough job, I couldn't do
2 it, but I think they do their best.

3 MS. KALLAS: Are you friends with any officers here in town?

4 PROSPECTIVE JUROR NUMBER 029: Yes.

5 MS. KALLAS: Okay. Which department?

6 PROSPECTIVE JUROR NUMBER 029: Police department --

7 MS. KALLAS: Metro? Henderson?

8 PROSPECTIVE JUROR NUMBER 029: They're Metro, yeah.

9 MS. KALLAS: Okay.

10 PROSPECTIVE JUROR NUMBER 029: I'm not sure exactly
11 what part of town they work at now but they move 'em so.

12 MS. KALLAS: Okay. Great. Thank you.

13 Anybody else? I think we had a hand over here.

14 PROSPECTIVE JUROR NUMBER 057: Hello, my name's Dan
15 Traczyk, my badge number is 57.

16 My son-in-law's a police officer and I have a high respect for
17 what he does. I wouldn't want to do his job but I do respect the police
18 officers for putting their life on the line every day for us because it is a
19 tough town we live in.

20 MS. KALLAS: All right. Is he an officer here in town?

21 PROSPECTIVE JUROR NUMBER 057: Yes.

22 MS. KALLAS: Okay. Which department?

23 PROSPECTIVE JUROR NUMBER 057: Metro.

24 MS. KALLAS: Okay.

25 All right. And anybody else?

1 All right. So I kind of just a catch-all question, is there
2 anything -- anyone here that you would -- if you were me that you would
3 want to know that -- would want me to know that would make you not fair
4 and impartial? Any secrets that you're keeping that maybe I should know
5 that I'm not asking about?

6 Over here.

7 PROSPECTIVE JUROR NUMBER 038: Just secrets are
8 impartial or?

9 MS. KALLAS: No, I'm just saying if you were me, is there
10 something that I haven't you that you think you would want to -- I would
11 want to know, if you were in my position?

12 PROSPECTIVE JUROR NUMBER 038: No.

13 MS. KALLAS: No? Are you sure? Don't be afraid.

14 PROSPECTIVE JUROR NUMBER 038: Well, I'm an attorney, I
15 do criminal law sometimes so.

16 MS. KALLAS: You're an attorney and you do criminal law?

17 PROSPECTIVE JUROR NUMBER 038: Glen Howard, bar --
18 badge number instead of bar number -- badge number 38.

19 I do primarily personal injury law but I do some criminal defense
20 law.

21 MS. KALLAS: Do you work for a law firm here in town?

22 PROSPECTIVE JUROR NUMBER 038: I have my own firm.

23 MS. KALLAS: Okay. Anybody else?

24 Castillo, do you want me to ask your dad who his favorite child
25 is while we're here?

1 PROSPECTIVE JUROR NUMBER 036: No.

2 MS. KALLAS: No? Now's your time, I'll do it for you, if you
3 want. Okay. Are you sure?

4 PROSPECTIVE JUROR NUMBER 036: Yeah.

5 MS. KALLAS: All right. You already know that you're number
6 one, that's why.

7 PROSPECTIVE JUROR NUMBER 036: Well, I am the oldest.

8 MS. KALLAS: You are, okay.

9 Dad? Just kidding.

10 Brief indulgence.

11 All right. I'll pass, Your Honor.

12 THE COURT: Okay.

13 MR. FRIZZELL: Well, I think you could at least say that you're
14 his favorite oldest daughter; right?

15 PROSPECTIVE JUROR NUMBER 036: Yeah.

16 THE COURT: All right. I just have a couple of questions too.

17 Let's see, let's start off with badge number 8, Kelly Paiz.

18 A couple things, I think you said that you were the foreman of
19 the jury when you were -- but that was a civil matter; correct?

20 PROSPECTIVE JUROR NUMBER 008: Yes.

21 MR. FRIZZELL: And you mentioned something about when the
22 State asked about negative -- negative interaction with law enforcement,
23 you said something about you had a brother that was on the streets and
24 he would get arrested, is that -- did I hear you correctly?

25 PROSPECTIVE JUROR NUMBER 008: Well, I thought the

1 question was, do we know anybody who's had any -- I forget how you
2 worded it exactly -- but, so, that was his experience that he had shared
3 with me. So I said, yes, I knew someone who claimed to have had a bad
4 experience. Now, I wasn't there, so I can't --

5 MR. FRIZZELL: Okay. So --

6 PROSPECTIVE JUROR NUMBER 008: -- say whether --

7 MR. FRIZZELL: -- but nothing about that would affect your
8 ability here to be fair and impartial?

9 PROSPECTIVE JUROR NUMBER 008: No.

10 MR. FRIZZELL: And just in case we're all -- you're all
11 wondering, this is all about finding fair and impartial, that's, I mean, the
12 judge asked you that 30 times, the State asked you that. That's all we're
13 looking for. We're just looking for someone that could sit here and be
14 impartial, look at Mr. Noble and say, you know what, as he sits there right
15 now he's not guilty of anything. It's up to the State to do what they need
16 to do.

17 Is there anybody that has a problem with that? Okay.

18 Another overall question, and I ask this almost to every juror,
19 every jury that I've ever done. Let's say that you, one of you were sitting
20 right there where Mr. Noble is, would you want someone like yourself on
21 your jury or not? Knowing how you look at the world, knowing your
22 leanings one way or the other, your experiences, would you want
23 someone like you judging you if you were sitting right there?

24 Is there anybody that would not want themselves to be judging
25 themselves?

1 Kind of a strange question, but if you -- is there anybody that
2 doesn't understand that question, I guess? Okay.

3 Did somebody raise their hand? Oh, you brought it up, I
4 thought somebody raised their hand.

5 All right. Ms. Ayala, badge number 63. She's all the way in the
6 back. Sorry, I'm making you walk a little bit.

7 THE MARSHAL: That's fine. It's not as far.

8 MR. FRIZZELL: There you go.

9 MS. KALLAS: Get your steps in.

10 PROSPECTIVE JUROR NUMBER 063: Yes.

11 MR. FRIZZELL: Now, I believe that you had said that you --
12 you had -- you were a victim of crime three times, you said a car stolen
13 and house shot at twice; is that correct?

14 PROSPECTIVE JUROR NUMBER 063: Yes.

15 MR. FRIZZELL: Okay. Now, you mentioned something, you
16 said a car stolen, they originally thought it was my fault, what -- can you
17 elaborate on that a little bit, what happened?

18 PROSPECTIVE JUROR NUMBER 063: Right. So it was
19 around 2008, so that was when the economy fell and a lot of people were
20 purposely hiring people to steal their vehicles and the detectives thought
21 that's what I had done.

22 So at first they blamed me for it and they were making it seem
23 like I was going to go to jail because -- I don't remember specifically where
24 the vehicle was found but there was a supposed witness that stated that I
25 was the one that drove it out there and they actually set it on fire.

1 MR. FRIZZELL: Okay. So was there anything about that
2 experience, did you think that law enforcement was fair to you, unfair?

3 PROSPECTIVE JUROR NUMBER 063: I think they were doing
4 their job honestly. I mean, it did scare me because I thought I was going
5 to go to jail for something I did not do. But, you know, I still think that they
6 were doing their job and I don't hold anything against them.

7 MR. FRIZZELL: Okay. Okay.

8 Back up here to badge number 12, Mr. Riley.

9 PROSPECTIVE JUROR NUMBER 012: Yes, sir.

10 MR. FRIZZELL: You had made a comment when the State was
11 asking you questions about, you said on the whole I, you know, I respect
12 and admire law enforcement, and you said not all of 'em are good but for
13 the most part.

14 Did you say -- you remember saying something like that?

15 PROSPECTIVE JUROR NUMBER 012: Yes, I do.

16 MR. FRIZZELL: Okay. And understanding not all -- not all
17 lawyers are good either so.

18 PROSPECTIVE JUROR NUMBER 012: I agree.

19 MR. FRIZZELL: There are -- there are bad -- there are negative
20 people in every -- in every occupation.

21 Do you -- all right, first off, are you familiar with any or know any
22 corrections officers that are out at High Desert State Prison?

23 PROSPECTIVE JUROR NUMBER 012: No, sir, I'm not from
24 here. I'm from Maryland. I've just living been living here for four years.

25 MR. FRIZZELL: Okay. So you don't have any contact out

1 there with --

2 PROSPECTIVE JUROR NUMBER 012: No contact with
3 nobody here in law enforcement or in corrections or anything.

4 MR. FRIZZELL: Okay. Okay. Because that wasn't a question
5 that was asked because we weren't sure about where you had -- whether
6 you had any contact out here. So I just wanted to make sure to see if you
7 knew anybody that was up there.

8 PROSPECTIVE JUROR NUMBER 012: No, no, sir I don't.

9 MR. FRIZZELL: Okay. Badge number 22, Jessica -- is it
10 Recarey-Valenzuela?

11 PROSPECTIVE JUROR NUMBER 022: Yes.

12 MR. FRIZZELL: Did I say that right?

13 PROSPECTIVE JUROR NUMBER 22: Yes.

14 MR. FRIZZELL: I took phonetics in school.

15 All right. Now, when the State was questioning you, you said
16 you -- said something about a child, your son got in a fight with somebody
17 or that a boy punched another boy in the face.

18 Can you tell me a little more about that.

19 PROSPECTIVE JUROR NUMBER 022: I was a little girl, I was
20 five years old, and my brother and his friend they were like playing at the
21 park and then another little boy and my brother's friend got in a fight, a fist
22 fight, and my brother -- the police came and kind of like took my brother's
23 friend out and arrested him and took him, and yeah.

24 MR. FRIZZELL: Now, while I understand that you were five
25 years old --

1 PROSPECTIVE JUROR NUMBER 022: I was five so.

2 MR. FRIZZELL: -- I mean, how much older was your brother at
3 that time?

4 PROSPECTIVE JUROR NUMBER 022: They were probably
5 like 12, 13.

6 MR. FRIZZELL: Okay. So he was about seven, eight years
7 older than you?

8 PROSPECTIVE JUROR NUMBER 022: U'm-h'm.

9 MR. FRIZZELL: So I'm sure as a five year old that scared you.

10 PROSPECTIVE JUROR NUMBER 022: Yeah.

11 MR. FRIZZELL: Looking back on that now did you have any
12 problems with what law enforcement did on that -- at that time?

13 PROSPECTIVE JUROR NUMBER 022: I think they were trying
14 to do their best. Honestly, now like being an adult, at the moment I
15 thought that they were mean and whatnot, like any five year old would
16 think.

17 MR. FRIZZELL: Sure.

18 And let's see, lastly, Mr. Howard, badge number 38.

19 Unfortunately, folks, the numbers that we have don't line up with
20 the way you're sitting, so that's why we're kind of having to run around a
21 little bit.

22 Mr. Howard, you said that you practice some criminal work, is
23 it -- would you say it's primarily misdemeanor work or do you do some
24 felony work or what?

25 PROSPECTIVE JUROR NUMBER 038: DUIs, I mean, some of

1 them go up to felony counts, but mostly just DUIs and traffic tickets,
2 nothing more than basic than that.

3 MR. FRIZZELL: Okay. Okay. That's all I had for him.

4 I think I'll pass -- pass for cause.

5 THE COURT: Okay. We're going to do now what is called
6 peremptory challenges.

7 I don't know how Mike does that next door. But the officer will
8 get the peremptory challenge list and give it to the State, then -- to get all
9 five on each side.

10 THE MARSHAL: I'll pass this.

11 THE COURT: Okay. And I'll read some of the law to you right
12 now.

13 [Colloquy between the Court and the Marshal]

14 THE COURT: You are admonished that no juror may declare to
15 a fellow juror any fact relating to this case as their own knowledge. And if
16 any juror discovers during the trial or after the jury has retired that they, or
17 any other juror, has personal knowledge of any fact in controversy in this
18 case, they'll disclose such situation to myself in the absence of the other
19 jurors.

20 It means if you learn during the course of the trial that you are
21 acquainted with the facts in the case or the witnesses, and you haven't
22 previously told me of that, you must declare that fact to me and you do
23 that through the marshal.

24 And it may be that you don't -- you've heard these names and
25 when you see a witness come in you'll probably recognize their face and

1 go, oh, and that's my son's soccer coach or something like that. Just tell
2 the marshal, the marshal will let me know.

3 During the course of the trial, the attorneys for both sides and
4 the court personnel, other than the marshal, are not permitted to converse
5 with members of the jury. These individuals are not being antisocial
6 they're bound by ethics and the law not to talk to you. To do so might
7 contaminate your verdict. You're admonished additionally that you are not
8 to visit the scene of any acts or occurrences made mention of during the
9 trial unless specifically directed to do so by the Court.

10 When you come in the courthouse we have no ways of putting a
11 W on people's -- showing they're a witness. So when you talk to
12 somebody in the courthouse, talk to only people with a blue badge on,
13 that designates them as a juror and that won't contaminate the verdict.
14 But if you talk to a witness, it could be determined that it was
15 contaminating the verdict.

16 Again, I will give you written instructions at the end of the trial
17 before you retire to consider your verdict.

18 This is a criminal commenced by Information or Indictment, to
19 which the defendant has pled not guilty.

20 You should distinctly understand that the pleadings in this case
21 are not in any sense evidence of the allegations they contain. The State
22 has the burden of proving each element of the crime charged beyond a
23 reasonable doubt.

24 The purpose of the trial is to determine whether the State will
25 meet that burden.

1 The trial will proceed in the following order:

2 The parties have the opportunity to make opening statements.
3 What is said in opening statement is not evidence. The statements simply
4 serve the purpose of an introduction to the evidence, which the party
5 making the statement intends to produce.

6 The State will introduce evidence in support of the State's
7 information, it's called the State's case in chief.

8 After the State presents evidence, the Defendant may, if they
9 choose, present evidence, but is not obligated to do so. This would be
10 called the Defendant's case in chief.

11 If the Defendant presents evidence, the State may present
12 rebuttal evidence.

13 After the evidence, I will instruct you on the applicable law. You
14 must not be concerned with the wisdom of any rule of law stated in these
15 instructions or in the instructions, which I'll read to you after the evidence.
16 Regardless of any opinion you may have as to what the law ought to be, it
17 would be a violation of your oath to base a verdict upon any other view of
18 the law than that given you by me.

19 After the instructions on the law are read to you, each party has
20 the opportunity to present closing argument in support of their case. What
21 is said in closing argument is not evidence. Just as what is said in
22 opening statements is not evidence. The arguments are designed to
23 present to you the contentions of the parties as to what the evidence has
24 shown and what inferences may be drawn from the evidence.

25 You'll be given the opportunity to ask questions of any of the

1 witnesses called to testify. You're not encouraged to ask a large number
2 of questions because that is the primary responsibility of the attorneys.
3 Only a limited number of questions may be posed by jurors and you will
4 not be allowed to become the third attorney or to advocate a certain
5 position with your questions.

6 I have the discretion of precluding individual jurors from asking
7 an excessive number of questions.

8 Here's how it'll work, they'll call a witness, the State will
9 examine, the defense will cross, if they wish, re-cross -- or redirect,
10 re-cross, until neither of them have questions anymore. And then I will
11 turn to you, as the jury, and say, does the jury have any questions of this
12 witness? Be pretty fast because I move pretty quickly. Raise your hand,
13 you'll have a little notebook, put your name and your seat number on it,
14 not your badge number at that point when you become a juror. And then
15 put your question and make sure it's legible because I've had some that I
16 can't read their writing.

17 Any questions you pose must be factual in nature and designed
18 to clarify information already presented. All questions must be directed to
19 the witness and not to the lawyers or to myself, the judge.

20 After you have indicated that you have a question, the marshal
21 will pick up your question and give it me. After consulting with counsel, I
22 will determine if your question is legally proper. Only questions
23 permissible under the rules of evidence will be asked and jurors should
24 not draw any inferences or conclusions if their question they've submitted
25 is not asked or if it is asked, you shouldn't draw any conclusions.

1 Until this case is submitted to you, you must not discuss it with
2 anyone, even with your fellow jurors.

3 After it has been submitted to you, you must discuss it only in
4 the jury room with your fellow jurors. It is important that you keep an open
5 mind and not decide any issue in the case until the entire case has been
6 submitted to you under instructions from me.

7 If you can't hear a witness, please raise your hand as an
8 indication. Also, if you need to use the restroom, or if you feel ill, please
9 raise your hand as an indication. We will take intermittent breaks. I try to
10 take them at 90 minutes. I forget to sometimes. So don't be afraid to
11 raise your hand if we need a break.

12 Your purpose as jurors is to find and determine the facts.
13 Under our system of criminal procedure, you are the sole judge of the
14 facts. You determine the facts from the testimony you hear and other
15 evidence, including exhibits introduced in court. It is up to you to
16 determine the inferences which you feel may be properly drawn from the
17 evidence. It is especially important that you perform your duty of
18 determining the facts diligently and conscientiously for ordinarily there's
19 no means of correcting an erroneous determination of facts by a jury.

20 The parties may sometimes present objections to some of the
21 testimony or other evidence. It is the duty of the lawyer to object to
22 evidence which they believe may not be properly offered and you should
23 not be prejudiced in any way against a lawyer who makes objections on
24 behalf of the party they represent. At times I may sustain the objection or
25 direct that you disregard the testimony or exhibits. You must not consider

1 any evidence to which an objection has been sustained or which I have
2 instructed you to disregard.

3 Anything you may have seen or heard outside the courtroom is
4 not evidence and also must be disregarded. Remember, statements,
5 arguments, and opinions of counsel are not evidence in the case.
6 However, if the attorney stipulate to the existence of a fact, you must
7 accept the stipulation as evidence and regard the fact as proved. You
8 must not speculate to be true any insinuation suggested by a question
9 asked a witness. A question is not evidence and may be considered only
10 as it supplies meaning to the answer.

11 You must not be influenced in any degree by any personal
12 feeling of sympathy for or prejudice against the State or the defendant.
13 Both sides are entitled to the same fair and impartial considerations.

14 In considering the weight and the value of the testimony of any
15 witness you may take into consideration the appearance, attitude, and
16 behavior of the witness, the interest of the witness in the outcome of the
17 case, if any, the relation of the witness to the defendant or State, and the
18 inclination of the witness to speak truthfully or not, and the probability or
19 improbability of the witness's statements and all of the facts and
20 circumstances in evidence. Thus, you may give the testimony of any
21 witness just such weight and value as you believe the testimony of the
22 witness is entitled.

23 There are two kinds of evidence, direct and circumstantial.

24 Direct evidence is testimony by a witness about what that
25 witness personally saw or heard or did. Circumstantial evidence is

1 testimony or exhibits which are a proof of a particular fact from which, if
2 proven, you may infer the existence of a second fact.

3 This is not Crime Stories or something you'd watch on TV,
4 NCIS, and that kind of stuff. This is real life. And you can use
5 circumstantial evidence, you can use direct evidence. And here's the
6 difference, when we came in today there's no snow on ground, although
7 this is probably a bad example because it snowed yesterday. But if we go
8 out and there's three feet of snow, you didn't see it snow but you can infer
9 the fact that it snowed because there's three feet of snow across the
10 valley. But if you're outside and you feel the snow and see the snow
11 falling on you, that's direct evidence that it snowed. So you may give both
12 direct and circumstantial evidence and you may determine that in deciding
13 the case. The law permits you to give equal weight to both, but it's up for
14 you to decide how much weight to give any evidence.

15 No statement, ruling, remark, or comment which I may make
16 during the course of the trial is intended to indicate my opinion as to how
17 you should decide the case or to influence you in any way in your
18 determination of the facts.

19 At times, I may even ask questions of witnesses. If I do so, it's
20 for the purpose of bringing out matters which I feel should be brought out
21 and not in any way to indicate my opinion about the facts or to indicate
22 what the weight I feel the testimony should be given.

23 I may also find it necessary to admonish the attorneys, and if I
24 do, you should not show prejudice against a lawyer or his or her client
25 because I have found it necessary to admonish them.

1 Until this case is submitted to you, you must not discuss it with
2 anyone, even with your fellow jurors. After it is submitted to you, you must
3 discuss it only in the jury room. It's important that you keep an open mind
4 and not decide any issue in the case until the entire case has been
5 submitted to you under instructions from me.

6 If you can't hear a witness, raise your hand. If you need to go to
7 the restroom, again, raise your hand.

8 I may make -- I may, during the trial, take notes of witness's
9 testimony. And I may take a lot of notes or I may take a few notes. And
10 you would look up and say, oh, that must be important because Judge is
11 taking notes on this. Well, I'm probably making my grocery store list for
12 tonight. So whatever I do don't think that I'm trying to communicate
13 anything to you. I don't have an opinion either way.

14 But we do have a panel. So you folks that have been waiting in
15 the audience, this has been a quick situation, you're free to go. You need
16 to give your badge -- you've got to get that --

17 THE MARSHAL: We've got a question.

18 THE COURT: I don't answer questions. You have to write 'em
19 down.

20 Those in here are free to leave -- before we have any
21 questions --

22 THE MARSHAL: Okay.

23 THE COURT: -- take the bucket and give your badge to Chris
24 and then you guys are all free to go. And it doesn't mean you've wasted
25 time. It's important that good people, as yourselves, participate.

1 Thank you.

2 Have her write her question on there.

3 Name, seat --

4 THE MARSHAL: 3.

5 THE COURT: 3.

6 Parties approach the bench.

7 [Bench conference begins]

8 MS. KALLAS: Didn't we ask something that would have

9 covered that?

10 THE COURT: I think we covered it. She should have brought it

11 up but.

12 MR. KOVAC: She should have brought it up.

13 THE COURT: We'll mark that as an exhibit.

14 We'll talk -- we'll talk to her afterwards. We'll talk to her alone.

15 MS. KALLAS: That's probably information that would have

16 been --

17 THE COURT: All right.

18 [Bench conference ends]

19 THE COURT: If I can get everybody, except you, to move in

20 the audience.

21 No, you can stay right there. I don't want you to have to move a

22 lot.

23 The rest of you stand over in the -- and we'll get the jury.

24 [Bench conference begins]

25 THE COURT: So I thought that was covered. She should have

1 raised that issue. That would have been an issue that she should have
2 raised.

3 MS. KALLAS: That would have been something --

4 MR. FRIZZEL: Yeah.

5 MR. KOVAC: [indiscernible] family members that had contact
6 with law enforcement.

7 THE COURT: Yeah.

8 MS. KALLAS: I mean, she may very well may hate her son.

9 THE COURT: But I don't think that --

10 MS. KALLAS: I think he belongs there.

11 THE COURT: -- I don't think it's problematic but it's up to you
12 guys.

13 MS. KALLAS: Well, the only thing is that he's had contact --

14 MR. FRIZZELL: Which one is seat number one? Over here or
15 over here?

16 THE COURT: Seat number one is this one over here.

17 MR. FRIZZELL: Okay.

18 THE COURT: But she's going to sit right where she's at.

19 MR. FRIZZELL: Okay. That's fine.

20 THE COURT: All right.

21 MR. FRIZZELL: She's technically number 3.

22 [Bench conference ends]

23 THE COURT: All right. Carol will sit you guys now.

24 THE CLERK: Okay. Jury number 1 is Lori Hunton. But you
25 can --

1 THE COURT: You just stay right there.
2 PROSPECTIVE JUROR NUMBER 003: Okay.
3 THE COURT: Okay.
4 THE CLERK: Juror number 2 is Andrea Kata.
5 THE COURT: Andrea Kata.
6 PROSPECTIVE JUROR NUMBER 009: Yes.
7 THE COURT: Come on up. Sit in seat number two up there,
8 back row. Two, is the second seat.
9 THE MARSHAL: Second seat.
10 THE CLERK: Juror number 3 is Steven Anderson.
11 THE COURT: Mr. Anderson, come on up, you're in seat three.
12 THE CLERK: Juror number 4 is Jon Sol.
13 Juror number 5 is Dawn Buffum.
14 Juror number 6 is Pamela Mullins.
15 Juror number 7 is Lisa Stephens.
16 Juror number 8 is Cynthia Hill.
17 THE COURT: Ms. Hill, you'll be on the front row, on the left.
18 THE CLERK: Juror number 9 is Naomi Marquez.
19 Juror number 10 is Keith Meriwether.
20 Juror number 11 is James O'Connor.
21 Juror number 12 is Maria Carrillo.
22 Juror number 13 is Michael Spotofora.
23 And juror number 14 is Jeffrey Williams.
24 THE COURT: The rest of you are excused. We appreciate
25 your participation in answering the questions, there were no right or wrong

1 answers. You've got to leave your badge with Chris. So before you go
2 out, Chris will get that bucket.

3 THE CLERK: Put them in that orange bucket right there.

4 THE COURT: Yeah, just put them in the orange bucket.

5 You're free to go, leave the building. Thank you for your
6 participation. I hope you had a good experience here.

7 All right. Ladies and gentlemen, we're going to take a recess,
8 you'll be back here at 1:15.

9 During the recess, you're admonished not to talk or converse
10 among yourselves or with anyone else on any subject connected with the
11 trial; or read, watch, or listen to any report of or commentary on the trial or
12 any person connected with the trial by any medium of information
13 including, without limitation, newspapers, television, radio, or the internet;
14 or form or express any opinion on any subject connected with the trial until
15 the case is finally submitted to you.

16 Remember, do not get on any computers, telephones, or
17 anything to do any legal research to try to better educate yourself. What
18 you see and hear in the courtroom is what you're going to make your
19 decision on.

20 And please don't post anything on social media. On anything.

21 We'll see you back here at 1:15.

22 If you'll stay for just a second, I want to talk to you about your
23 question.

24 PROSPECTIVE JUROR NUMBER 003: Okay.

25 THE COURT: If you'll wait out in the hall, Chris will tell you

1 where you can find lunch.

2 THE MARSHAL: That's right. All the good spots.

3 THE COURT: All the good spot.

4 THE MARSHAL: All the good spots.

5 THE COURT: There's only one.

6 [Prospective jury exit courtroom.

7 Juror 003 present]

8 THE COURT: All right. Ms. Hunton, your question was, my son
9 was in High Desert and he was transferred to Casa Grande in 2018.

10 PROSPECTIVE JUROR NUMBER 003: Yes.

11 THE COURT: I guess that's something we should have known
12 about. Will that affect your listening to the evidence in this case --

13 PROSPECTIVE JUROR NUMBER 003: No.

14 THE COURT: -- in making a decision?

15 PROSPECTIVE JUROR NUMBER 003: No.

16 THE COURT: There is actually -- the parties were going to
17 stipulate, and you'll hear this, while in lawful custody of the Nevada
18 Department of Corrections, as a prisoner, they stipulate that he was a
19 prisoner at the time and the allegation is that he struck a guard.

20 Is there anything about that that would prejudice you against the
21 defendant or the State?

22 PROSPECTIVE JUROR NUMBER 003: No.

23 THE COURT: And you'll be fair?

24 PROSPECTIVE JUROR NUMBER 003: Yes.

25 THE COURT: Okay. You're free to go.

1 PROSPECTIVE JUROR NUMBER 003: Okay.

2 MR. FRIZZELL: I have a couple of -- I have a question.

3 THE COURT: Oh, you want to ask some questions. Go ahead.

4 MR. FRIZZELL: Was your son is High Desert on

5 December 21st, 2017; do you remember? Not this -- not this past

6 Christmas but the Christmas before.

7 PROSPECTIVE JUROR NUMBER 003: He's been in three

8 times so.

9 MR. FRIZZELL: No, but was he -- do you know if he was in

10 over that period, like four days before Christmas 2017, a year ago?

11 PROSPECTIVE JUROR NUMBER 003: I believe he was.

12 MR. FRIZZELL: Did he ever explain or talk to you about an

13 altercation that broke out?

14 PROSPECTIVE JUROR NUMBER 003: No, no. When he

15 would call it would just be about family matters, and, you know.

16 MR. FRIZZELL: So you don't have anything specific, on

17 anything on December 21st, 2017?

18 PROSPECTIVE JUROR NUMBER 003: No.

19 MR. FRIZZELL: Okay. I'm fine with it.

20 THE COURT: All right. All right. We'll see you back at 1:15.

21 PROSPECTIVE JUROR NUMBER 003: Okay.

22 THE COURT: Thank you.

23 PROSPECTIVE JUROR NUMBER 003: Thank you.

24 [Outside the presence of the prospective jury]

25 THE COURT: Okay. For the parties benefit, that question will

1 be marked as a Court's exhibit --

2 MR. FRIZZELL: Okay.

3 THE COURT: -- in case we need it in the future.

4 MS. KALLAS: All right.

5 THE COURT: All right. So 1:15, she'll read -- I'll read the jury
6 instruction about the stipulation to the jury, she'll read the Information or
7 Indictment, and you'll start your opening statement then.

8 You'll do your opening statement, if you can call witnesses, we'll
9 take witnesses.

10 MS. KALLAS: All right. I think we -- they're supposed to be
11 here at 12:30, so we should be good with that.

12 THE COURT: We'll try and get done at 4:30 so those kids can
13 play basketball.

14 MS. KALLAS: I don't know, do we think we want Ken coaching
15 them?

16 MR. FRIZZELL: I don't know. He made me text the AD and
17 the --

18 THE COURT: All right.

19 MS. KALLAS: Thank you, Your Honor.

20 THE COURT: See you guys at 1:15.

21 [Recess taken at 12:12 p.m.]

22 [Jury trial resumed at 1:18 p.m.]

23 [Outside the presence of the prospective jury]

24 MS. KALLAS: A juror has a question.

25 MR. FRIZZELL: Well, I would like to put something on the

1 record anyway.

2 THE COURT: Our young lady that, with the walker, has
3 another question.

4 Bring her in, Chris.

5 THE MARSHAL: I will.

6 MR. FRIZZELL: Well, Your Honor, I want to put something on
7 the record before you bring her.

8 THE COURT: Okay. Just -- I'll hold him up.

9 MR. FRIZZELL: Okay.

10 THE COURT: Chris, hold it. Chris, hold her. Just hold her right
11 there for a minute. Close the door.

12 THE MARSHAL: Okay.

13 THE COURT: Close the door.

14 THE MARSHAL: All right.

15 MR. FRIZZELL: Your Honor, just real quick, and I'm -- I always
16 err on the side of letting you know. As I was leaving, I was down by the
17 elevators before any of the jurors got there, pushed the down arrow, as
18 that one came they were all coming around the corner and they kind of
19 raced in and they were talking to me about, oh, there's room. And I did
20 not speak, I just shook my head, and they said, oh, you don't want to ride
21 with us, huh.

22 THE COURT: I'll remind them again.

23 MR. FRIZZELL: And I just shook my head so.

24 THE COURT: I'll remind them again.

25 MR. FRIZZELL: I wasn't being rude but. And then I waited for

1 the next elevator.

2 THE COURT: All right.

3 MS. KALLAS: You're rude. Ken's rude.

4 THE COURT: I'll remind them again.

5 MR. FRIZZELL: All right. Thank you.

6 THE COURT: All right. Thanks.

7 Bring her in.

8 [In the presence of Juror Number 003]

9 THE COURT: This is Ms. Hunton, is present now without the
10 other jurors.

11 You have another question, Ms. Hunton?

12 PROSPECTIVE JUROR NUMBER 003: Yes, sir, I'm sorry.

13 My girl -- I work with a lady, I've known her for a while. Her son
14 was a corrections officer. I don't know if it was at Jean, High Desert, or
15 Ely.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NUMBER 003: And he was in a fight a
18 few years ago, Thomas Strigle, (phonetic) with somebody there.

19 And it was -- I just wanted to let you know. If -- I'm not sure.

20 THE COURT: Do you have any questions?

21 MR. FRIZZELL: I don't, Your Honor.

22 THE COURT: All right. Just disregard that, don't -- would you
23 hold that against him?

24 PROSPECTIVE JUROR NUMBER 003: No, no.

25 THE COURT: All right.

1 PROSPECTIVE JUROR NUMBER 003: But I just wanted to
2 make you aware of it.

3 THE COURT: You let us know and I appreciate that. Don't
4 bring that with the other jurors.

5 PROSPECTIVE JUROR NUMBER 003: Okay. Not at all.

6 THE COURT: And you just -- don't hold that against the
7 defendant or the State.

8 PROSPECTIVE JUROR NUMBER 003: Not at all.

9 THE COURT: All right. Bring the rest of the jury in, please.

10 [In the presence of the prospective jury]

11 THE COURT: All right. Stipulate to the presence of the jury.

12 MS. KALLAS: Yes, Your Honor.

13 MR. FRIZZELL: Yes, Your Honor.

14 THE COURT: All right. During the course of the trial, ladies
15 and gentlemen, the attorneys, for both sides, and the court personnel,
16 other than the marshal, are not permitted to converse with you. They're
17 not being antisocial, they're bound by ethics and the law and my order not
18 to talk to you.

19 So when you get on an elevator if you see one of us on there,
20 don't even -- it's not rude, just reach around us and push a button. Don't
21 ask for it, don't say good morning, they are not even to say good morning
22 to you.

23 Is that real clear?

24 Don't talk to anybody.

25 Thank you.

1 Don't talk to each other or anyone else about it or about anyone
2 who has anything to do with this trial until the end of the case when you
3 go to the jury room, anyone else includes members of your family, your
4 friends. And you may tell them that you're a juror on a criminal case but
5 don't tell them anything else until you have been discharged by myself.

6 Do not let anyone talk to you about the case or anyone who has
7 anything to do with it you. If someone should try to talk to you, please
8 report it to me immediately by contacting the marshal.

9 Don't read any news stories, articles, or listen to any report of
10 radio or television reports about the case or anyone who has anything to
11 do with it.

12 This one is vitally important, but it's kind of messed up, don't
13 jump on the internet to do any personal research, nor -- I don't know if
14 he's still around -- Ask Jeeves. That's kind of old.

15 Please don't communicate or publish anything about this case
16 on any social media sites like Facebook, Instagram, and those other
17 things.

18 THE CLERK: Tweet.

19 THE COURT: Tweet.

20 THE CLERK: Snapchat.

21 THE COURT: Don't tweet. Don't Snapchat.

22 All right. Now, I need everyone to stand to be sworn in as a
23 juror.

24 [The Court Clerk swears in the jury]

25 THE COURT: All right. Now you can be seated.

1 The parties have stipulated to the fact -- and you'll get this in the
2 written jury instructions later but I want you to know this.

3 The parties have stipulated the fact that, at the time of the
4 events at issue, the defendant was an inmate in the lawful custody of the
5 Nevada Department of Corrections as a prisoner. You should not guess
6 or speculate as to why -- to the reasons why the defendant was in custody
7 of the Nevada Department of Corrections.

8 You can't use the fact the defendant was incarcerated or any
9 act that resulted in his incarceration for any purpose other than to
10 establish that the defendant was, in fact, incarcerated at the time of the
11 events alleged. You may not convict a person simply because you
12 believe he may have committed other crimes at another time.

13 Keep in mind the defendant is on trial for the crime that's
14 charged in this case, and for that crime only.

15 The clerk will now read the Information to the jury.

16 [The Court Clerk reads the Information]

17 THE COURT: State ready?

18 MR. KOVAC: We are, Your Honor.

19 **OPENING STATEMENT BY THE STATE**

20 MR. KOVAC: Good afternoon.

21 Ladies and gentlemen, we're here for one reason and one
22 reason only that's because the defendant, Jessie Noble, thinks he's above
23 the law. We're here because Jessie Noble thinks it's okay to respond to a
24 corrections officers lawful demands by punching him in the face.

25 I want to thank you ahead of time for your time and attention to

1 this matter. I don't expect it's going to be overly complex. We'll do our
2 best to most it along at a quick pace and get you in and out of here as
3 quickly as possible.

4 Just a quick warning, before I end, I know some people are
5 offended by foul language. If you hear a swear word or two, it's not used
6 gratuitously, if anything, it's either the attorneys or the witnesses quoting
7 individuals who participated in the events that we're going to discuss.

8 The offense that we're discussing took place on December 21st,
9 2017, the events took place at High Desert State Prison. For those of you
10 unfamiliar, it's located about 40 miles northwest from where we're at right
11 now.

12 Our main witness is going to be the victim in this case,
13 Corrections Officer Waylon Brown. Officer Brown's going to testify to the
14 following facts, Officer Brown was working on that night, December 21st,
15 2017, and he was on search and escort duty. Search and escort duty,
16 part of the duty entails that the corrections officers, such as Officer Brown,
17 oversee inmates as they move from one part of the prison to another part
18 of the prison.

19 These events took place around 6:30 p.m. Officer Brown and
20 the others on search and escort duty were tasked with watching inmates
21 as they move from their housing units, where they normally sleep, to the
22 dining hall where they have their dinner, or you'll hear it sometimes
23 referred to as chow.

24 This can be a tricky situation, on any given night there's, you
25 know, over 100 inmates moving from their housing units to the dining hall.

1 And if you're lucky, you have ten corrections officers overseeing all these
2 inmates.

3 Now, remember, this is a prison, so a lot of the inmates do not
4 like each other and a lot of them don't like corrections officers.

5 So on this particular night, while Officer Brown is carrying out
6 his duties on search and escort, he receives a call over the radio about an
7 inmate on inmate fight. The inmate on inmate fight has nothing to do with
8 the defendant. I just bring that up because it starts the whole chain of
9 events that leads to the defendant getting charged in this particular case.

10 So Officer Brown responds to the inmate on inmate fight, it's not
11 a far distance he has to go in the prison. And he goes to an area where
12 you might hear, refer to as the quad or the yard, essentially housing units
13 for them that's around an open area where the basketball court is, where
14 inmates can congregate, go on their free time.

15 So Officer Brown responds to the quad, at this point the fight
16 has stopped. As is typical in any of these situations, all the inmates had
17 been ordered to get down on the ground, flat on their stomachs, facedown
18 with their hands out.

19 And there's two purposes for this, first, when there's a fight, or
20 any kind of incident like this, this allows the corrections officers to search
21 inmate by inmate, they look at their hands for any type of abrasions or any
22 marks, something that would indicate some involvement with this
23 particular fight.

24 The second reason is it's a safety precaution, when the inmates
25 are flat on their stomachs like that it takes them more time to get up, if

1 they get the idea to suddenly attack a corrections officer or a fellow
2 inmate. So it's done for institutional safety.

3 Unless there's some sort of medical condition, they have to be
4 flat on their stomachs. They can't sit on their butts, they can't lean on their
5 elbows, and obviously they can't stand up.

6 Normally when this happens it's -- the inmates usually comply.
7 For whatever reason on this particular night, inmates were not happy with
8 it and they were not complying, they were fusing orders, at least a lot of
9 them were. This is completely unusual. What was -- what happened --
10 inmates were -- some of them were flat out standing up, some of them
11 refused and were just sitting on their butts, some of them were leaning on
12 their elbows, a lot of them were belligerent with the corrections officers
13 who were giving them orders. It might have been because it was cold, it's
14 December and it's outside, so understandably they're cold, but at the
15 same time they have to get on their stomachs.

16 So as these -- remember, the COs are greatly outnumbered by
17 the inmates, inmates are acting up, so the COs are scrambling from one
18 inmate to another, while they're not complying, to try to get them to
19 comply.

20 Corrections Officer Brown is scrambling from inmate to another,
21 one of the inmates not complying is the defendant, Jesse Noble.
22 Officer Brown -- he's leaning on his elbows and he's not flat on his
23 stomach. Officer Brown orders him time and time again, get on your
24 stomach, get on your stomach. Noble doesn't comply with that order.
25 Finally Noble swears at him and says, why don't you come make me.

1 So Officer Brown has to walk over and try to physically turn him
2 over onto his stomach, as they have had to do with other inmates at this
3 point.

4 As Officer Brown reaches down to do that, the defendant
5 decides to punch him right in the mouth. So he punches him in the
6 mouth, Officer Brown is staggered. You'll see a photo of his bloody lip
7 and other officers have to step in and make sure the defendant doesn't do
8 any damage so they subdue him.

9 Not every case that walks through -- that comes through these
10 court doors is worthy of a Law and Order episode. Some of them are
11 every bit as straightforward as they seem to be.

12 I submit to you that after you hear the testimony in this case and
13 see the evidence, this is going to be one of those straightforward cases.

14 And after you hear that testimony and see that evidence, I'll ask
15 you to return a verdict of guilty for the crime of battery by a prisoner.

16 Thank you.

17 THE COURT: Frizzell.

18 **OPENING STATEMENT BY THE DEFENSE**

19 MR. FRIZZELL: Ladies and gentlemen, there's always two
20 sides to every story. And while the background of this is fairly
21 straightforward, and the State said it basically how things happen, there
22 was some other altercation, there were dozens of inmates out in the yard.
23 Again, it was December 21st, 2017, 6:30 p.m., cold, dimly lit, there's no
24 cameras or anything out there so we don't get the benefit of being able to
25 see what happened.

1 But where you're at is in an instruction that the Court's going to
2 give to you. And I'm sure you've heard it a million times on all these
3 police shows and lawyer shows and whatnot. But that -- the -- your -- the
4 burden that the State has means that we don't have to do anything. I can
5 sit there and read articles. Mr. Noble could sit and doodle. We don't have
6 to do anything. It's up to the State to show what they've just told you they
7 believe that they can show you.

8 Now, their burden is the highest one that we have in our
9 system, in our court system, which is beyond a reasonable doubt. You as
10 triers of fact get to look -- you don't have to check your brains at the door.
11 You can bring in your -- bring in your -- your logical minds. You can bring
12 in your ability to weigh the evidence and you can look at this and you get
13 to determine who was the aggressor in this. And was it actually even
14 Mr. Noble who did it.

15 Understand, something that the State said to you in their
16 opening, that at that time when there's a change there's hundreds of
17 inmates outside and I believe he said ten -- I don't -- he may have said 10
18 to 15 officers out there. So if there's a fight that breaks out, I mean,
19 there's chaos, there's a lot of chaos that goes on out there. Hundreds
20 versus 10 to 15. I mean, those aren't -- those aren't the greatest odds if
21 you were -- if you met up with somebody in an alley, 10 against 100.

22 And so Mr. Nobles -- Mr. Noble, where his group was was not --
23 not near where the scrimmage was. This yard is about 200 yards from
24 the doors. I mean, it's that big, it's a big area. And with it being 6:30 at
25 night, it was definitely night time. It was definitely dark.

1 Now, the question that you really have to determine is, number
2 one, were the words said that the State -- that the State brought up, why
3 don't you come over and make me, kind of a thing, were those said?

4 Number two, with it being so cold out, did the officer in question,
5 Officer Way -- or CO Waylon Brown, who you'll hear from here in a little
6 bit, did he go up and just gently try and turn him over? Or did he go up
7 and push his head in the dirt, trying to get him to lay down? Was there --
8 was there essentially any force that was over and above of what needed
9 to be done? And was it even actually Mr. Noble who was the person in
10 question?

11 Now, there's a word I want you to just kind of keep in the back
12 of your mind, as you're hearing all this evidence, and that's word
13 discrepancy. Discrepancy is when something just doesn't add up. There
14 are -- there are stories from different -- different COs, different inmates
15 that were there that say, well, they were -- they were rolling around on the
16 ground, when I came in they were rolling around on the ground. Or you
17 might hear another one say, well, when I came in Mr. Noble was standing
18 up. You might hear others he was laying on his side. Well, with over 100
19 inmates out there may be somebody was standing up. Maybe somebody
20 was laying on their side. Maybe somebody was just up on their elbows
21 because it was so cold they didn't want to put their chest in the ground.

22 And so it was -- it was -- it happened very forcefully, very, get
23 your head down there, kind of thing. We don't know. We don't know. But
24 that's what you're going to have to -- that's what you're going to have
25 ascertain.

1 And, number one, was it Mr. Noble who actually hit Mr. Brown
2 or was it somebody else? Or was Mr. Noble just simply trying to get his
3 hands off -- get Officer Brown's hands off of him. And during that he -- he
4 got grazed in the lip. There's just so many -- so many issues, so many
5 facets of this.

6 And, granted, it probably only took all of about 10 to 15
7 seconds. I mean, we're not talking about a long drawn out event, at least
8 as it pertains to why Mr. Noble is sitting here today.

9 Now, we are sitting under the greatest system of justice in the
10 world today, as far as I'm concerned. And if everything were the way that
11 the State said it was, there would be no reason for me, there would be no
12 reason for you, we just move right to the sentencing phase.

13 But it's the things that the State doesn't say, it's the things that
14 the State maybe won't bring out to you. Those are the things I want you
15 to pay attention to. And then as you're weighing 'em you can look, well,
16 there's a discrepancy here, is it enough to go, is it enough, did they meet
17 their burden of reasonable doubt or did they come close but not close
18 enough? That's what you all have to judge.

19 And I appreciate, and everyone in this courtroom appreciates,
20 that you guys are sitting here today and that you're willing to be jurors.

21 And candidly, like the State said, this isn't going to be one of
22 these, one, two, three week trials. Chances are we'll probably get done
23 within a couple of days. But it doesn't minimize the job that you have,
24 which is to go back and render a verdict. And we believe that after you
25 hear all the evidence that you're going to come back with a verdict of not

1 guilty.

2 Thank you.

3 THE COURT: Call your first witness, State.

4 MS. KALLAS: Officer Waylon Brown.

5 **WAYLON BROWN**

6 [Having been called as a witness and being first duly sworn, testified as
7 follows:]

8 THE CLERK: Please be seated and then state and spell your
9 name for the record.

10 THE WITNESS: Okay. Waylon Brown, W-a-y-l-o-n, Brown,
11 B-r-o-w-n.

12 THE COURT: Go ahead.

13 **DIRECT EXAMINATION**

14 BY MS. KALLAS:

15 Q Sir, who do you work for?

16 A Nevada Department of Corrections.

17 Q And what is your position?

18 A Correctional officer.

19 Q How long have you been employed as a correctional officer?

20 A Four years.

21 Q Were you employed in that capacity on December 21st, 2017?

22 A Yes.

23 Q Where were you stationed at that time?

24 A High Desert State Prison.

25 Q And is High Desert State Prison located in Clark County,

1 Nevada?

2 A Yes.

3 Q Specifically, at that time, what were your responsibilities as a
4 correctional officer?

5 A My current post was search and escort, so I'd search cells and
6 escort inmates around and respond to incidents.

7 Q Okay. And, Officer Brown, directing your attention, again, to
8 December 21st, 2017 --

9 A Yes.

10 Q -- were you working as a correctional officer at High Desert
11 State prison on that date?

12 A Yes.

13 Q What shift were you working?

14 A Swing shift, from 1:00 -- 1:00 to 9:00, 1:00 p.m. to 9:00 p.m.

15 Q 1:00 p.m. to 9:00 p.m.?

16 A Yes.

17 Q And do you recall anything out of the ordinary happening
18 around 6:30 that evening?

19 A Yes, ma'am, there was an inmate fight and then I was assaulted
20 by an inmate.

21 Q Okay. I just want to go back, how were you alerted that
22 there was a fight?

23 A Via radio traffic.

24 Q And where was that fight at?

25 A In the 5-6 quad.

1 Q And after you were alerted, through the radio, you said the radio
2 traffic?

3 A Yes.

4 Q Did you respond to the 5-6 quad?

5 A Yes, I did.

6 Q And what happened when you got there?

7 A Inmates weren't complying with officers to lay on their stomachs
8 and so we were instructing them to lay on their stomachs.

9 And there was an incident where a fight happened and we took
10 the victim up to the infirmary to check for wounds and stab wounds.

11 Q Okay. So I want to -- now, was that when you were initially at
12 the 5-6 quad --

13 A Yes.

14 Q -- you were responding to that fight; correct?

15 A Yes.

16 Q Okay. And then you said you took somebody to the infirmary?

17 A Yes, the victim.

18 Q The victim?

19 A U'm-h'm.

20 Q At that time what did you believe he was a victim of?

21 A Being in a fight and he had consistent wounds of being in a
22 fight, so we were checking him in the infirmary for stab wounds or
23 anything else like that.

24 Q All right. And then what, if anything, happened while you were
25 at the infirmary?

1 A We heard that there were shots fired back in the 5-6 quad. So
2 me and a couple of other officers went back to the 5-6 quad.

3 Q Okay. Now, how soon after when you got to the infirmary did
4 you get this call or that there was a -- or that shots had been fired at the
5 5-6 quad?

6 A 10, 15 minutes at the most.

7 Q All right. And did you respond --

8 A Yes.

9 Q -- go back and respond to the 5-6 quad?

10 A Yes, I went back to -- I went back to 5-6 quad.

11 Q And could you describe what, if anything, you observed when
12 you got back to the 5-6 quad?

13 A I observed inmates not complying with officers' orders, they
14 were laying on their sides, sitting up, not listening to officers.

15 Q Okay. And were these still the same inmates that were out on
16 the quad from earlier before?

17 A Yes.

18 Q All right. And why was it that these inmates were still out there?

19 A To make sure that they didn't pass any weapons off or anything
20 that -- related to that incident.

21 Q Okay. So was --

22 A And to see if we had any other victims or suspects.

23 Q -- so was it a safety concern?

24 A Yes.

25 Q All right. And then, I believe, you mentioned were there

1 instructions being given to these inmates?

2 A Yes.

3 Q And what were those instructions?

4 A For them to lay on their stomachs or to listen to the officers'
5 commands and lay on their stomachs pretty much.

6 Q And why is it that you instruct them to lay on their stomachs?

7 A Safety and security reasons. If they're not laying on their
8 stomachs, they can easy -- easier to get up to attack us or to do other
9 harm to other inmates.

10 Q So it's not only a safety concern for you, it's a safety concern for
11 the other inmates as well; is that fair?

12 A Yes.

13 Q All right.

14 MR. FRIZZELL: Objection, leading, but I know it's background.

15 THE COURT: Overruled.

16 BY MS. KALLAS:

17 Q Now, were you yourself instructing inmates to lay on the
18 ground?

19 A Yes.

20 Q Or, I believe, sorry, was it -- you said stomach down?

21 A U'm-h'm, just lay on their stomachs.

22 THE COURT: Does u'm-h'm mean yes?

23 THE WITNESS: What was that?

24 THE COURT: You said, u'm-h'm, and she can't take that down.

25 So you need yes or no, please.

1 THE WITNESS: Okay. Yes.

2 THE COURT: Thank you.

3 BY MS. KALLAS:

4 Q All right. And did any inmates not comply?

5 A Yes, there were multiple.

6 Q All right. And what, if anything, happened while you were giving
7 them the instructions?

8 A I stopped at a certain individual and instructed him to lay on his
9 stomach because he was laying on his side and he refused multiple times
10 after I instructed him multiple times to lay on his side -- stomach.

11 Q Do you see that person in the courtroom today?

12 A Yes.

13 Q Could you please point to him and identify an article of clothing
14 he's wearing?

15 A A white shirt.

16 MS. KALLAS: And, Your Honor, may the record --

17 THE COURT: Let the record reflect he's identified the
18 defendant.

19 MS. KALLAS: You beat me to it.

20 BY MS. KALLAS:

21 Q Okay. So what was happening while you were giving him these
22 commands?

23 A He was getting more aggressive, more non-compliant.

24 Q And how far away were you from the defendant when he was --
25 when you were giving these commands?

1 A Maybe a foot or two.

2 Q Okay. Now, what is it that inmates at High Desert State Prison
3 wear?

4 A Blue shirt and blue pants.

5 Q And what is it that the correctional officers wear?

6 A BDU uniforms, so a green shirt, green pants, badge, name
7 embroidered on it.

8 Q And were you wearing that at that time?

9 A Yes.

10 Q So you were easily identifiable as a correctional officer?

11 A Yes.

12 Q Okay. When you instructed the defendant to lay belly down, or
13 stomach down, what happened?

14 A He basically told me, no. And I said, lay on your stomach. He
15 said, no, fuck, why don't you make me.

16 And at that point I went down to grab this individual's arm and
17 place wrist restraints on him. And as soon as I grabbed his arm, he
18 punched me in the face multiple times.

19 Q Okay.

20 MS. KALLAS: Court's indulgence.

21 BY MS. KALLAS:

22 Q And do you remember how many times he punched you in the
23 face?

24 A Two that I remember, after the second one I blacked out, kind
25 of.

1 Q All right. And what happened after he punched you in the face?

2 A I was -- as soon as I came to I was pulled away from the
3 incident and one of my supervisors told me to go to 5-AB Control, which is
4 a controlled unit away from the inmates to just get out of the situation and
5 be safe.

6 Q Now, after the defendant punched you, did you notice any
7 injuries at that time?

8 A I noticed that I was -- had blood in my mouth.

9 Q Okay. Did you have any other injuries as a result of the
10 defendant punching you in the face?

11 A A fat lip.

12 MS. KALLAS: Your Honor, may I approach the witness?

13 THE COURT: Yes.

14 BY MS. KALLAS:

15 Q Showing you what's previously been marked, State's Exhibit 1,
16 can you take a look at that.

17 A Yeah.

18 Q Do you recognize that?

19 A Yes.

20 Q What is it?

21 A That's my upper lip.

22 Q And is that -- how did you --

23 A From being hit in the face by inmate Noble.

24 Q All right. Is that a fair and accurate depiction of the injury that --
25 or the injury you received from being hit by Mr. Noble?

1 A Yes.

2 MS. KALLAS: Permission to -- or move to admit, Your Honor.

3 MR. FRIZZELL: No objection.

4 THE COURT: It'll be admitted.

5 You can publish it.

6 **[STATE'S EXHIBIT 1 ADMITTED]**

7 MS. KALLAS: Permission -- or thank you.

8 BY MS. KALLAS:

9 Q And, Officer, directing your attention to your lip, is this -- was
10 that the result of the defendant punching you in the face?

11 A Yeah.

12 MS. KALLAS: I'll pass the witness at this time, Your Honor.

13 THE COURT: Cross.

14 [Colloquy between counsel]

15 **CROSS-EXAMINATION**

16 BY MR. FRIZZELL:

17 Q Hello, Officer Brown, how are you?

18 A Good. How are you, sir?

19 Q I'm doing all right, man. I'm doing all right.

20 All right. So I just want the jury to understand a little bit.

21 Am I close enough, can you hear me okay?

22 THE COURT RECORDER: Yes.

23 MR. FRIZZELL: I tend to wonder so just tell me.

24 BY MR. FRIZZELL:

25 Q Now, I believe that we've already established it was about 6:30

1 at night when this particular incident took place; correct?

2 A Yes.

3 Q And when we are -- when you're responding to the fight that had
4 broken out earlier, about how much time, about, do you recall what time
5 that was?

6 A Um --

7 Q Like 6:00, maybe a half hour earlier or something?

8 A Yeah.

9 Q Would that be fair?

10 A That would be fair.

11 Q Okay. And so then you come down, you respond, you come
12 down, after that particular situation was -- was quelled, you take the
13 person up to the infirmary?

14 A Yes.

15 Q And then it's at that time you say you hear something called
16 shots fired?

17 A Yes.

18 Q What does that mean, I mean, gun, are we talking gun, or
19 what?

20 A We have a gun rail officer who carries a shotgun and to -- in
21 order to gain compliance they, if something happens or say, not fight
22 happened, in order to quell the disturbance, our use of force policy is to
23 shoot a blank round out of the shotgun, and then inmates are supposed to
24 get on the ground, on their stomachs, and stop what they're doing. So
25 that's --

1 Q Okay.

2 A -- that's the respond.

3 Q Now, are you in a -- are you in place at the infirmary where you
4 can physically hear the shots or are you just -- it's just something that
5 comes over the radio?

6 A I just heard something over the radio saying shots fired, 5-6
7 quad.

8 Q Okay. So you respond, by the time you get down there to the
9 yard area, to the quad area --

10 A U'm-h'm.

11 Q -- is the scrimmage still going on or has it been contained?

12 A From when I responded, after the shot was fired, all I noticed
13 were inmates not complying with officers, as in not laying on their
14 stomachs, not listening to officers.

15 Q Okay. But -- so when you got down there there was not actually
16 an inmate fight going on, it had been contained, if you will?

17 A Yeah, the inmate fight was contained, yes.

18 Q Okay. Now, roughly how long -- and mind you we're talking
19 December 21st, so it's cold; right?

20 A Yeah.

21 Q Inmates, do they have jackets on or are they just in their --

22 A They have --

23 Q -- in their denim blues?

24 A -- yes, the State -- sorry, the State provides them with jackets,
25 yes.

1 Q Okay. And what type of jackets, is it like a windbreaker, is it a
2 quilted jacket, what is it?

3 A A blue jacket that's got padding on the inside.

4 Q Do you recall what the weather was like that night? Was it
5 windy? Was it --

6 A It was a colder night, yeah.

7 Q Okay. And is there any grass in this quad area?

8 A No, it's concrete and rocks.

9 Q Okay. So when inmates have to comply, they have to either get
10 on cold cement or cold rock at that time?

11 A At that time, yes.

12 Q Okay. And about how long do you have them laying there?

13 A Until we know who was involved with that particular incident and
14 we can determine if there's any weapons and search for weapons.

15 Q Okay. So at least from the time you arrived, and understanding
16 that there was other guards that were out there before you arrived;
17 correct?

18 A Yes, there were other officers in the quad.

19 Q So by the time you arrive, from the time that this incident
20 allegedly took place, roughly how much time elapsed?

21 A From the first incident?

22 Q From the time that you responded and you came down and you
23 came out the quad 5-6 doors, or the 5-6 quad doors, until the time that
24 this allegedly took place, about how much time elapsed? How much time
25 passed, would you say?

1 A Around 30 minutes, I would say.

2 Q Okay. So --

3 A That's with taking the inmate up to the infirmary and coming
4 back.

5 Q Okay. And so how long -- how long would it have taken -- I'm
6 trying to add -- I'm trying to get a picture of how much time. So once
7 you're up in the infirmary and you get this call of shots fired, how much
8 time did it take for you to get from the infirmary to, at least to get outside
9 to begin with?

10 A Maybe a minute or two at the most.

11 Q Okay. So total we're talking roughly about 32 minutes?

12 A Yeah.

13 Q Of the inmates having to be out in the cold, laying prostrate on
14 the ground?

15 A U'm-h'm.

16 Q Okay. Is that a yes?

17 A Yes.

18 Q Okay.

19 A Sorry.

20 Q You just have to remember her. It's not me. It's her.

21 Now, when you -- well, let me backup -- strike that.

22 Okay. So you come out, of the end of the quad, what is the first
23 thing that you remember doing when you come outside?

24 A Informing inmates to lay on their stomachs.

25 Q Okay. So did you -- was there like a -- an area of concentration

1 of guards that were maybe holding people down or anything like that?

2 A Not that I recall.

3 Q Okay. So when you came out all the guards were just walking
4 around?

5 A Well, when we respond to an incident, we separate officers
6 around -- around the whole yard to make sure inmates don't pass stuff,
7 like shanks, or --well, weapons, inmate made weapons and items of that
8 nature, bloody rocks, cups.

9 Q Okay.

10 A Anything that can be considered evidence.

11 Q Okay. So when you come out the door, the quad 5-6 door -- I
12 don't know if I'm saying that right, 5-6 quad.

13 A It's a gate, but yeah.

14 Q The gate.

15 A U'm-h'm.

16 Q And you come into the -- into the actual quad, the yard area --

17 A Yes.

18 Q -- how -- how far -- how far would you say it was from that -- that
19 gate area to where Mr. Nobles and the group that he was -- he was
20 around, how far were they away from you at that point?

21 A Maybe 25 yards.

22 Q Okay. Do you recall your testimony at the preliminary hearing
23 that you said 200 yards; do you recall that?

24 A I was speaking about the quad was 200 yards, yes.

25 MR. FRIZZELL: Court's indulgence.

1 BY MR. FRIZZELL:

2 Q Okay. I'm showing you page 17 of your preliminary hearing.

3 A Okay.

4 Q Would reading your former testimony refresh your recollection?

5 A Yes.

6 MR. FRIZZELL: May I approach, Your Honor?

7 THE COURT: Sure.

8 BY MR. FRIZZELL:

9 Q Just look at me when you're done.

10 A Okay.

11 Q So do you now recall telling me that you ran probably a good
12 200 yards to Mr. Noble?

13 A Yes. And what I was speaking of there --

14 Q That's --

15 A Okay.

16 Q You answered my question.

17 So at any rate from that gate Mr. Noble was a ways away from
18 you?

19 A Yes.

20 Q Just curious, were you -- were you assigned to his particular
21 group or did you just make a beeline to him out of the hundreds of
22 inmates?

23 A No, I didn't make a beeline to him and I wasn't assigned to his
24 particular group. I don't know what particular group you're talking of.

25 Q Well, I mean, you have 100 inmates that are so out there --

1 A U'm-h'm.

2 Q -- and all of a sudden wherever they're at, whatever they're
3 doing, they have to stop and drop essentially?

4 A Yes.

5 Q Correct?

6 A Correct.

7 Q So unless he's a loner, he's with a group; right?

8 A He's around other inmates, yes.

9 Q Okay. And you have to run/walk about 200 yards to get to him;
10 correct?

11 A When I responded, yes.

12 Q Okay. And that's -- and at that part of the yard that's probably
13 almost about the farthest away from the gate, would you say?

14 A Not from the gate.

15 Q Not from the gate but from the area where you were?

16 A Yes.

17 Q Okay. So what prompted you to basically go 200 yards to go
18 over to that group?

19 A Well, when the incident first happened I was at the top of the hill
20 by the dining halls so.

21 Q Okay. But so what caught your attention from 200 yards away
22 that you decided that you needed to walk and -- walk and run,
23 combination, all the way over to where Mr. Noble was?

24 A Due to the fight.

25 Q Okay. But he wasn't anywhere near that fight; correct?

1 A No, he wasn't.

2 Q So now you come over to Mr. Noble's area --

3 A Yes.

4 Q -- and I'm not going to hold you to this particular number, but
5 roughly in the -- in the area where he was, how many inmates would you
6 say were around him, roughly?

7 A 20, 30.

8 Q Okay. And are they -- can you tell at that point are they of
9 mixed races, primarily one race?

10 A Primarily one race but I didn't look at everybody that was
11 around him.

12 Q Okay. But so of these 20 to 30 people, given that Mr. Noble's a
13 black man, it's your testimony that basically everyone in his general
14 vicinity were African American men?

15 A Most of them probably were, yes.

16 Q Okay. Now, you say, in your testimony, you go over to
17 Mr. Noble because he's -- did you say leaning on his elbow?

18 A Yeah, laying on his side, leaning on his elbow.

19 Q Okay. So is he -- and I'm going to try and describe this for the
20 record as good as I can -- is he on his stomach yet just up on his elbows?

21 A No.

22 Q Or is he on a side with an elbow say up to -- leaning on his
23 shoulder to his elbow on his side?

24 A Laying on his side with his elbow up, holding his side up.

25 Q Okay. Do you recall if there was any -- if there was any

1 discussion out of that general group of, wow, this is cold, or something like
2 that?

3 A No.

4 Q So basically everybody was quiet is what you're telling me?

5 A They were.

6 Q In that -- just in the area where you were of these 20 to 30
7 guys?

8 MR. KOVAC: Objection, assumes facts not in evidence.

9 THE COURT: Well, that wasn't really his testimony. You asked
10 about the noise level, not everybody was quiet. He said -- that's not what
11 he said.

12 So why don't you restate your question.

13 BY MR. FRIZZELL:

14 Q All right. So he said no one -- I asked if you were hearing
15 anything from -- if anyone was complaining about it was cold and they
16 needed to move or anything like that?

17 A No.

18 Q Okay. Were they quiet, were those 20 to 30 inmates quiet?

19 A They were talking amongst themselves and disobeying officers.

20 Q Okay. When you say, talking amongst themselves, just general
21 banter?

22 A I didn't --

23 Q You couldn't make -- could you make out what they were
24 saying?

25 A I could not make out what they were saying.

1 Q Okay. And so it's your testimony, you go over to mister -- you
2 go over to Mr. Noble and do you get right up -- because you said that you
3 were about a foot away from him.

4 A His feet.

5 Q So, I guess, my question is -- and wait until I'm done before you
6 answer because I want to make sure the jury understands this. Did you
7 walk up to him first and then from about a foot away start saying, get on
8 your stomach, get on your stomach? Or were you giving him orders from
9 say about 10 feet away, which is about me to you right now, 10, 12 feet
10 away, he wasn't complying so you go closer.

11 Which was it?

12 A The second one. I was about 10 feet away ordering him to get
13 on his stomach.

14 Q Okay. And so were you asking or were you ordering him?

15 A First I asked, then I ordered him to get on his stomach.

16 Q Okay. So you asked him twice or?

17 A Multiple times.

18 Q How many would you say?

19 A Five or six, to get on his stomach.

20 Q Okay. And so it's your testimony that he doesn't -- he doesn't
21 comply with that order?

22 A Yes.

23 Q And, without using the explicative, he says, why don't you --
24 why don't you come over and make me; is that your testimony?

25 A Why don't you fuckin' make me.

1 Q Okay. So at that point your adrenaline is starting to pump, you
2 think that you're going to have to get a little physical right now; right?

3 A Yes.

4 Q Okay. So at that point -- when he says that, how close was he
5 to you?

6 A That's when I was standing at his feet, approximately two feet
7 away.

8 Q So he says, why don't you F'ing make me, and you're about a
9 foot away from him?

10 A His feet, yeah. I was about -- I was standing at his feet.

11 Q Okay. Where was his head?

12 A At the -- at the other end of his feet.

13 Q So you're standing up, and if his feet are where mine are, his
14 head is somewhere about five, six feet in front of where I'm standing right
15 now?

16 A Yes, sir.

17 Q Okay. So you're at his feet and you're yelling at him from about
18 five, six feet away?

19 A I was directing him, yes.

20 Q Okay. So you weren't -- you weren't a foot away from him;
21 correct?

22 A Correct; I wasn't -- I was a foot away from his feet, yeah.

23 Q Okay. Okay. So he says that, what do you do next? Do you
24 immediately go down and arm bar him --

25 A No.

1 Q -- to subdue him?

2 A I reached down to grab his arm to put him in wrist restraints.

3 Q Okay. Now, is that the -- is that protocol just to reach down,
4 reach your hand out?

5 A I wasn't -- I walked over to him, and I used both my hands,
6 grabbed his arm, and to put him on his stomach and put him in wrist
7 restraints.

8 Q Okay. Do you remember what arm you grabbed?

9 A His right arm.

10 Q So you grab -- and I'm just trying to understand -- if you grabbed
11 his right arm, that means he was laying on his left side?

12 A Yes.

13 Q And when you grabbed his arm, did you go down then to try to
14 arm bar him?

15 A I have no idea after that. I was punched in the face multiple
16 times.

17 Q Okay. Well, I'm trying to figure out how close you were to him
18 when you actually -- or you're claiming that you got hit?

19 A I was --

20 Q So I want to know at that point you reached out --

21 A Yep

22 Q -- you said you were reaching down?

23 A Yep, I reached down.

24 Q Do you remember which hand you reached down with?

25 A I reached down with both hands, one to grab his wrist and the

1 other one to grab the top of his arm.

2 Q Okay. So at that point, if he's laying on his left side, do you
3 remember -- do you remember what arm he's allegedly hit you with?

4 A No.

5 Q So was it the right arm, maybe he was just trying to flail away
6 from you?

7 A I have no idea.

8 Q So then how -- I'm trying to understand here, Officer, how did
9 you -- how do you even -- how do you even know that you were hit twice?

10 A Because I felt it.

11 Q Was -- would it be fair to say that Mr. Noble was just trying to
12 get out of your grip and hit you, say, with a back hand of his right arm?

13 A No, because it was multiple strikes to my face.

14 Q Okay. Well --

15 A After the second hit --

16 Q -- let's go to a picture, do you recall when State's Exhibit 1 was
17 taken? Do you remember that?

18 A Yes.

19 Q Okay. Do you recall about how long after the incident that that
20 picture was taken?

21 A Yes.

22 Q Can you tell me?

23 A That was taken two days after.

24 Q It was taken two days after?

25 A U'm-h'm.

1 Q Okay. Now, there weren't any other photos taken of your face
2 that you recall, were there?

3 A No.

4 Q It was mainly of your lip area there?

5 A Yes.

6 Q Okay. So there wasn't damage to your neck at all?

7 A I had soreness in my neck.

8 Q Okay. But was there any bruising?

9 A No.

10 Q Okay. And with this being two days post, I mean, I think, the
11 jury can probably figure this out, but roughly --

12 THE COURT: Are you arguing?

13 BY MR. FRIZZELL:

14 Q -- how wide would you say this area --

15 THE COURT: Are you arguing? We don't need the little
16 editorials --

17 MR. FRIZZELL: Okay, that's fine.

18 THE COURT: -- they can figure this out. Just ask a question,
19 please.

20 BY MR. FRIZZELL:

21 Q Roughly how wide would you say this area is on your lip right
22 here, as we're looking at you?

23 A I have no clue.

24 Q Okay. Would you know, just estimating, just kind of look, does
25 Mr. Noble look the say way today that he basically did back then?

1 A Yeah.

2 Q Okay. Do you recall about how tall, how heavy he is?

3 A I mean, what, six, six foot, a 100 and something pounds.

4 Q Okay. So if I told you he was about six-four, two-forty back
5 then, you wouldn't -- you wouldn't dispute that?

6 A No, I wouldn't.

7 Q Okay.

8 MR. FRIZZELL: Court's indulgence.

9 I'll pass the witness, Your Honor.

10 MS. KALLAS: Just brief redirect, Your Honor.

11 **REDIRECT EXAMINATION**

12 BY MS. KALLAS:

13 Q Officer Brown, you said that you went to reach to the defendant
14 to grab his arm and turn him over.

15 A Yes.

16 Q Did you actually have the opportunity to do that or did he punch
17 you first?

18 A As soon as I touched him, I started getting punched in the face.

19 Q Okay. And you told us that the reason they were all out there
20 was you were checking them for weapons?

21 A Yes.

22 Q Now, does this process go a lot faster when inmates are
23 complying?

24 A Yes.

25 Q Okay. So if inmates like the defendant had been complying,

1 they might have already been done and out of the yard; correct?

2 A Yes.

3 MS. KALLAS: No further questions, Your Honor.

4 MR. FRIZZELL: I just have one more follow-up, Your Honor.

5 THE COURT: Okay.

6 MR. FRIZZELL: I can't see your face so I'm listening for your
7 voice.

8 THE COURT: I can hear you.

9 **RECROSS-EXAMINATION**

10 BY MR. FRIZZELL:

11 Q When you came into the gated area from the infirmary, were
12 you by yourself or did you come in with any other officers?

13 A There were two other officers with me.

14 Q Do you recall who you came in with?

15 A Officer Picone and Officer Grant.

16 Q Okay.

17 MR. FRIZZELL: That's all. Nothing further.

18 MS. KALLAS: Nothing further, Your Honor.

19 THE COURT: Jury have any questions of this witness? Seeing
20 no hands.

21 Thank you, Officer, you're free to go.

22 THE WITNESS: All right. Thank you.

23 THE COURT: Call your next witness, State.

24 MR. KOVAC: Henry Grant, Jr.

25 We're not going to need that exhibit for any other witnesses,

1 should I bring it back up to the clerk?

2 THE COURT: Sure.

3 MR. KOVAC: Thanks.

4 **HENRY VILLAS GRANT, JR.**

5 [Having been called as a witness and being first duly sworn, testified as
6 follows:]

7 THE CLERK: Please be seated and then state and spell your
8 name for the record.

9 THE WITNESS: Henry Villas Grant, Jr.

10 THE COURT: Spell it, please.

11 THE WITNESS: Huh?

12 THE COURT: Spell it.

13 THE WITNESS: Oh. H-e-n-r-y; middle name, V-i-l-l-a-s; last
14 name, G-r-a-n-t; suffix, junior, J-R.

15 **DIRECT EXAMINATION**

16 BY MR. KOVAC:

17 Q Good afternoon, Officer Grant.

18 A Good morning.

19 Q Who do you work for?

20 A I work for the Nevada Department of Corrections.

21 Q And what's your position?

22 A My position is a correctional officer.

23 Q How long have you been working for the department?

24 A I've been working for the department now for over a year and
25 four months.

1 Q Were you working for them on December 27th -- or, I'm sorry,
2 December 21st, 2017?

3 A Yes, I was.

4 Q And what was your position at that point?

5 A At that position I was a correctional officer trainee.

6 Q Okay. And where were you stationed at that time?

7 A At that time I was on search and escort on swing shift.

8 Q Okay. And what is search and escort?

9 A Search and escort is a position at High Desert State Prison
10 where we're additional officers that respond to different scenarios or
11 events, situations. We also help escort inmates to different parts of the
12 prison to where, if they're like, if they need escorting from, let's say,
13 visitation to back to their unit, we're the officers that provide that.

14 Q Okay. Do you remember anything out of the ordinary
15 happening on that particular night around 6:30 p.m.?

16 A Yes, I do.

17 Q We'll, get into specifics, but what's just brief description of the
18 incident?

19 A A brief description was there was an inmate fight and also a
20 1033, which is a code for our department over the radio it's just staff
21 assault, that's your brief decision.

22 Q Okay. So they -- the first thing that you were alerted to, what
23 was the first thing you were alerted to that night, the first incident that you
24 were alerted to?

25 A The first incident that I alerted to was there was a 416, which is

1 a code that's an inmate on inmate fight and I was on search and escort. I
2 was alerted over the radio that there was a 416 in our 5-6 quad. So that's
3 when I responded, as we were running chow, because we escort and we
4 also provide officer presence during chow, and I responded to that first
5 initial incident to the 5-6 quad.

6 Q Okay. And can you kind of, as you did, describe a little bit of
7 the layout, where you were when you got the call about the inmate fight
8 and where you responded to?

9 A Okay. I was initially, it was like a high road, a higher road, the
10 way our prison is setup with the culinary, because I was out there
11 providing officer presence. And maybe about, I would say, no more than
12 a 100 meters down are -- down a certain like pathway would lead to 5-6
13 quad.

14 Q Okay. How long would it take you to get from where you were
15 by the culinary to the 5-6 quad then?

16 A In a response, no more than 30 seconds.

17 Q All right. During this time, when chow was being run,
18 approximately how many inmates are being moved at this time?

19 A Approximately, one unit would hold just about 200 inmates, so
20 not all the inmates go at that time, so approximately between 150 to 200
21 inmates.

22 Q Okay. And how many of you corrections officers are overseeing
23 the movement of all these inmates?

24 A During this shift, sir, approximately it was six to eight search
25 and escort officers.

1 Q Okay. So what did you see when you responded to the inmate
2 on inmate fight?

3 A When I first got to the 5-6 quad initially what I saw is all the
4 inmates were on the ground, laying on their stomach as to gain
5 compliance, and also control and safety for the whole quad. At that time,
6 as search and escorts officers we were alerted by Lieutenant Morea to still
7 provide control and compliance with inmates, as some inmates weren't
8 on -- fully on their stomach with their hands laid out, fingers extended,
9 joints, so we could see if there might be any possible movement with the
10 inmate. And it's also just for our safety and our concern.

11 When I was walking around we were just telling individual
12 inmates, if they weren't in compliant, get on your stomach, you know,
13 hands, 'cause it was cold that night and also there was a fight, the first
14 initial fight that happened. So all the inmates that weren't involved had to
15 be on the ground. So they were growing impatient, being aggravated.

16 Q So if you can go into some specifics, you're saying inmates
17 aren't being compliant, can you give us some specific examples of what
18 you saw that night?

19 A Laying on their side with like, you know, on their elbow, hand on
20 their --

21 MR. FRIZZELL: I guess, relevance. Objection, relevance as to
22 just generally.

23 THE COURT: Overruled.

24 BY MR. KOVAC:

25 Q You can answer the question.

1 A Oh. Yeah, some of them were just sitting on their -- on their --
2 just sitting down, straight up.

3 Q Okay.

4 A Laying on their side, not fully being in compliance, which we
5 stated it's, lay on your stomach, hands out, to minimize anything that
6 could possibly happen, and also for control and safety.

7 Q Okay. Earlier you said that you first got a call about an inmate
8 on inmate fight and then you said response to it --

9 A U'm-h'm.

10 Q -- staff assault, can you describe the staff assault?

11 A The staff assault I was with Correctional Officer Brown at that
12 time, we were walking around the yard, still telling the inmates, you know,
13 hey, get on the ground, lay on your stomach, hands out where I could see
14 them.

15 When we were talking around Correctional Officer Brown told
16 inmate Noble, because he was laying on his side with his hand on his
17 head, not being in compliance, he stated to him, hey, get on the ground,
18 you know, lay on your stomach. Inmate Noble told Correctional Officer
19 Brown, what are you going to do, bitch ass CO, how about you make me.

20 At that time Correctional Officer Brown went to put inmate
21 Noble in compliance by putting him onto his stomach. At that time I didn't
22 physically see inmate Noble physically strike.

23 Q Okay. So let's talk about where you're at then.

24 A Okay.

25 Q So Officer Brown goes over to officer Noble?

1 A U'm-h'm.

2 Q How close are you to Officer Brown and Noble at that point?

3 A Probably no more than ten feet away.

4 Q Okay.

5 A No more than ten feet away.

6 Q And do you see Officer Brown approach Noble?

7 A U'm-h'm; correct. I went to go see him approach but I did not
8 see Correctional Officer Brown physically put his hands on inmate Noble
9 'cause I was still looking around as we were -- there was probably 200
10 inmates in the yard and approximately six to eight officers. So I stayed a
11 little bit farther back just to gain a better vantage point, just to make sure
12 that it's -- we're not really focused on just one inmate, so I can still keep
13 our security and our guard up.

14 Q Okay. And then what happens as Officer Brown approaches
15 inmate Noble --

16 A U'm-h'm.

17 Q -- you're about ten feet away, looking at the other inmates, then
18 what happens?

19 A I heard over the radio 1033, staff assault. At that time, in the
20 direction of inmate Noble and Officer Brown, I heard some scuffling. So
21 I'm going to divert my attention towards Officer Brown and inmate Noble.
22 I see Officer Brown stumbling and I see inmate Noble was trying to stand
23 up. So, me, I went to go and segment and put him to compliance, inmate
24 Noble, by restraining and segmenting his lower body, specifically his legs
25 and his feet.

1 Q When say, segmenting, just for the jury's information, can you
2 describe what that means?

3 A Segmenting is for -- to put in control and compliance of an
4 inmate by using physical hands on force, meaning force on force with the
5 inmate. So that is to, if an inmate is resisting, we're able to put our hands
6 on the legs, restrain the inmate with our waist restraints, or our leg
7 restraints. Just to ensure that the inmate is in compliance and we have
8 control and safety throughout the whole yard.

9 Q Did any other officers intervene to assist in the segmenting of
10 inmate Noble?

11 A U'm-h'm; correct. When I was there I had senior Correctional
12 Officer Hunter come also to my aid as I was holding both legs, senior
13 officer -- Senior Correctional Officer Hunter went to help and segment the
14 left -- I'm sorry, the right leg of inmate Noble. And also CERT
15 Officer Karsky (phonetic) he provided me with the leg restraints and that's
16 what we utilized to restrain inmate Noble's legs.

17 Q So after the call for staff assault, all the COs focused their
18 energies on inmate Noble then?

19 A Yes; correct.

20 Q Okay. Was there anybody else within striking distance at that
21 time you turned your back and --

22 A No, at that time it was just me and Correctional Officer Brown.

23 Q And as far as the inmates, was it just Noble and Corrections
24 Officer Brown?

25 A Yes; correct.

1 Q Do you see inmate Noble in the courtroom right now?

2 A Yes, I do.

3 Q Can you please point him out and describe something he's
4 wearing?

5 A He's right there.

6 Q And can you describe something he's wearing?

7 A Oh, a white button-up shirt, collar.

8 THE COURT: The record will reflect he's identified the
9 defendant.

10 MR. KOVAC: Court's indulgence.

11 BY MR. KOVAC:

12 Q Did you have notice any injuries on Officer Brown after the
13 incident?

14 A After the incident when we were done we had to go write our
15 reports and operations, I did notice his face was swelled up and also red.
16 I noticed his eye was a little bit closed, but I didn't -- nothing major that I
17 could foresee. But I did notice that he did have a swollen face.

18 Q Okay.

19 MR. KOVAC: I'll pass the witness.

20 THE COURT: Cross.

21 **CROSS-EXAMINATION**

22 BY MR. FRIZZELL:

23 Q Now, at the time, Officer, you were -- you were identified as a
24 correctional officer trainee?

25 A U'm-h'm.

1 Q Okay. Are you no longer a trainee right now?

2 A Yes; correct, sir.

3 Q Okay. So you're a full-fledged CO now?

4 A U'm-h'm; correct, sir.

5 Q Okay. So what was your job back on December 21st, 2017, as
6 a trainee? What was your general -- in other words -- strike that.

7 Were you, in a sense, shadowing, say, Officer Brown?

8 A In a sense, yes; correct. Because we're -- as a correctional
9 officer trainee you have one year probationary period from your date of
10 hirer. And so usually you would follow underneath the more experienced
11 correctional officer or a senior correctional officer at that time.

12 Q Okay. Now, I just want to clarify just a little bit more as to
13 exactly where you were when this alleged incident with Mr. Noble took
14 place. You say that you were no more than ten feet away from him
15 initially?

16 A Initially; correct.

17 Q Okay. And did you then watch Officer Brown go up to him or
18 did you go with Officer Brown, say, side by side up towards Mr. Noble?

19 A I went initially side by side and then backed off because then I
20 realized at that time it was us two physically side by side with a lot of
21 inmates around us, surrounding us.

22 So, then, basically, I told myself, okay, instead of focusing,
23 divert our attention to strictly on inmate Noble, we still have to maintain
24 our guard and our attention to the rest of the inmates that are still on the
25 yard.

1 Q Okay. So when you're both together at ten feet, roughly ten feet
2 away from Mr. Noble, and you're both walking side by side, how much
3 closer did you get before you decided to back off, if you will, and divert
4 your attention?

5 A Approximately like five to eight feet at that time.

6 Q Okay. And was your -- was Officer Brown back to you at that
7 point?

8 A Yes; correct, because he went farther than me. He went --

9 Q Okay. And so Mr. Noble was in front of Officer Brown?

10 A Yes; correct.

11 Q Was he on his side facing you or was he -- or was Mr. Noble
12 back to you?

13 A No, his body was facing towards us. So his face, his chest,
14 torso, everything, was facing towards us.

15 Q Okay. And which side was he laying on; do you remember?

16 A I cannot recall.

17 Q Do you recall if his head was on your right or his head was on
18 your left?

19 A During the segmenting process, sir?

20 Q No, no, no. When you go five to eight feet away and you stop
21 and Officer Brown goes forward, which side of Officer Brown was
22 Mr. Noble's head, if you recall?

23 A I cannot recall.

24 Q Okay. Now, you said that you went up and you made a -- you
25 made a report after the incident?

1 A Yes; correct.

2 Q Okay. Do you recall that report?

3 A Not to memory, sir.

4 [Colloquy between counsel]

5 BY MR. FRIZZELL:

6 Q I'm showing you State of Nevada Department of Corrections
7 Disciplinary Form One, Notice of Charges.

8 It's a little bit small.

9 Okay. Do you see about half way where it starts with you, it
10 says, I, Correctional Officer Trainee, Henry Grant?

11 A Yes; correct.

12 Q Okay. Do you recall what you -- do you recall what you told or
13 what you put in that report as to what you witnessed as far as any
14 altercation between Mr. Noble and Officer Brown?

15 A I cannot recall.

16 Q Okay. Would reading this reflect -- excuse me, refresh your
17 recollection?

18 A Yes, it would.

19 Q I'll point you to --

20 A Okay.

21 Q Are you done?

22 A Yes, sir.

23 Q So is it fair and accurate to say that you never saw Mr. Noble
24 strike Officer Brown?

25 A I did not see the striking of Officer Brown.

1 Q And, actually, in your report, you put that all you saw was
2 Mr. Noble shoving Officer Brown's hands away from him; correct?

3 A U'm-h'm; correct.

4 Q And that was then when you -- when you instructed Mr. Noble
5 to stop resisting, would you say?

6 A U'm-h'm, correct.

7 Q Okay. But you didn't see any punching or anything like that, did
8 you?

9 A I did not see inmate Noble physically strike Correctional Officer
10 Brown.

11 Q And you -- other than you and Officer Brown, there were no
12 other guards in your immediate area; correct?

13 A In the immediate area, no, they were about, probably about 30
14 feet away within certain sections of the yard.

15 Q Okay. And you were roughly five to eight feet away, you said?

16 A U'm-h'm.

17 Q Okay. Is that a yes?

18 A Yes, yes; correct.

19 Q So you were in the best position of anybody to see, other than
20 Officer Brown, you were in the best position of anybody to see what
21 actually took place; right?

22 THE COURT: Calls for speculation. Calls for speculation.

23 BY MR. FRIZZELL:

24 Q Was there anyone with a closer vantage point than yours to
25 what Officer Brown claimed happened?

1 A Meaning, closer as in to --

2 Q Closer than you?

3 A No, it was just me and Officer Brown.

4 Q Okay.

5 A I was the closest officer to Officer Brown.

6 Q Okay. And at that particular moment, when you're five to eight
7 feet away, there's no other scrimmage going on in your immediate vicinity,
8 that would take your mind -- that would take your attention off of
9 Officer Brown; correct?

10 A There was no scrimmages at that point but I was just looking
11 around, just ensuring. 'Cause, like I stated, there were inmates on the
12 ground, and prior to that there was an inmate on inmate fight.

13 Q Okay.

14 A And --

15 Q But there was no -- there was -- at no time was Officer Brown
16 out of your sight?

17 A A 100 percent of the time he was not in my sight 'cause as he
18 was walking up towards inmate Noble, I were to look around just to
19 ensure that no other inmates were to surprise attack us or anything like
20 that, so just to keep our guard up.

21 Q Okay. But you didn't put that in your report; correct?

22 A U'm-h'm; correct.

23 Q Okay.

24 MR. FRIZZELL: Pass the witness.

25 MR. KOVAC: Nothing further, Your Honor.

1 THE COURT: Jury have any questions of this officer?

2 Thank you, Officer, you're free to go.

3 THE WITNESS: Okay.

4 THE COURT: Let's take a five minute recess.

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

12 Remember, no personal research, don't get on any computers
13 or phones or anything. No tablets. And don't post anything on social
14 media.

15 See you in five minutes.

16 [Outside the presence of the jury]

17 THE COURT: All right. The juries out. The doors closed.

18 Take five minutes.

19 We're going to start earlier tomorrow. Judge Adair took back
20 her calendar so.

21 MR. FRIZZELL: Oh, great.

22 THE COURT: We'll be ready at 9:30.

23 MR. KOVAC: Okay.

24 Your Honor --

25 THE COURT: Maybe a little sooner.

1 MR. KOVAC: -- sorry, the State's actually going to rest. And
2 we wanted to address a couple of things for impeaching the defendant's
3 witnesses prior convictions.

4 THE COURT: All right.

5 MR. KOVAC: If you wanted to do that.

6 THE COURT: We'll come and do that in a minute.

7 MR. KOVAC: Thanks.

8 [Recess taken at 2:30 p.m.]

9 [Jury trial resumed at 2:40 p.m.]

10 [Outside the presence of the jury]

11 THE COURT: All right. So are you ready with your witnesses?

12 MR. FRIZZELL: I am ready.

13 THE COURT: All right.

14 MR. KOVAC: Your Honor, just --

15 THE COURT: How many of 'em are you going to call?

16 MR. FRIZZELL: There's two. I'm going to call both of them
17 because they had a little different vantage point so.

18 THE COURT: All right.

19 MR. KOVAC: Your Honor, just off the record -- or on the
20 record, before the jury comes in, so one of his witnesses has three prior
21 felony convictions, we want to impeach, first I'll ask about that. If he
22 denies it, I think there's been a stipulation that we can get the certified
23 JOCs into evidence.

24 But the other witness, he has two prior felony convictions, same
25 thing, we'll ask about that. And then he was also prosecuted by our office

1 for a gross misdemeanor, very recently. We also wanted to ask about
2 that for evidence of bias.

3 THE COURT: Then can get into it, if you don't.

4 MR. FRIZZELL: Yeah, I mean, that's what I'm saying --

5 THE COURT: I mean, if you ask 'em, then they can't get into it.

6 MR. FRIZZELL: Yeah, so.

7 THE COURT: So you just ask what you want to ask. I'm going
8 to let them do it because that's -- totally they can. We'll go from there.

9 MR. FRIZZELL: All right. Thank you.

10 THE COURT: So they're going to rest their case with all the
11 exhibits that you've provided or have been admitted; is that right?

12 THE CLERK: There's just one.

13 THE COURT: Well, all of them then.

14 THE CLERK: Yes.

15 THE COURT: Okay.

16 MR. FRIZZELL: The plethora.

17 THE COURT: All of that one.

18 All right. So we'll bring the --

19 MR. FRIZZELL: Do you want to bring him in first?

20 THE COURT: -- they're going to know. They're going to know.
21 There's just nothing hiding. These guys are from the prison.

22 MR. FRIZZELL: Yeah. Well, I just didn't know if you just
23 wanted him to come in first to be sitting there.

24 THE COURT: You can have one of them in, if you want.

25 MR. FRIZZELL: We'll call Darryl Teagues, we'll call Teagues

1 first.

2 THE COURT: It's up to you guys. You guys are the security. I
3 trust you guys implicitly, all of you.

4 Just bring him in and sit him in here.

5 [Pause in proceedings]

6 THE COURT: All right. Bring the jury in.

7 Now, you can -- yeah, you can stay over there, if you like.

8 [In the presence of the jury]

9 THE COURT: Stipulate to the presence of the jury.

10 MS. KALLAS: Yes, Your Honor.

11 MR. FRIZZELL: Yes, Your Honor.

12 THE COURT: All right. State -- you can just be seated for just
13 a second -- State?

14 You can just be seated for just a second.

15 The State.

16 MR. KOVAC: The State rests.

17 THE COURT: The State's rested their case in chief.

18 It's your opportunity to present any witnesses.

19 MR. FRIZZELL: Yes, Your Honor, the defense calls Darryl
20 Teagues to the stand.

21 He's actually sitting there already.

22 THE COURT: Are you Darryl Teagues?

23 THE WITNESS: Yes, sir.

24 THE COURT: All right. If you'll stand, and best you can, raise
25 your right hand.

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DARRYL TEAGUES

[Having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: You can be seated and then state and spell your name for the record.

THE WITNESS: Darryl Teagues, D-a-r-r-y-l, T-e-a-g-u-e-s.

DIRECT EXAMINATION

BY MR. FRIZZELL:

Q Mr. Teagues, I'm Ken Frizzell, we talked a little bit in the back; do you remember?

A Yes.

Q Now, you're in -- you're in Nevada Department of Corrections attire, are you not?

A Yes.

Q And currently, as you sit there, you're handcuffed?

A Yes.

Q Are you -- so fair to say you're currently housed in the Nevada Department of Corrections?

A Yes.

Q Where are housed at?

A High Desert State Prison.

Q You're currently at High Desert?

A Yes.

Q Okay. And what -- what are you housed there for? What were you convicted of?

1 A Pandering.

2 Q I'm sorry?

3 A Pandering.

4 Q Okay. And do you have any other -- do you have any other
5 convictions?

6 A Yes.

7 Q Okay. What do you got?

8 A Ex-felon with possession of a firearm.

9 Q Okay. All right. To the best of your knowledge, is that it?

10 A Yes.

11 Q Okay. Now, I'm going to direct your attention to December 21st,
12 2017, you -- are you familiar with events that occurred on that date?

13 A What was the date?

14 Q December 21st, 2017?

15 A Yes.

16 Q Okay. And at that time where were you housed?

17 A High Desert State Prison.

18 Q Okay. And do you recall there being a gun rail sergeant shot
19 that night at about 6:30, 6 o'clock, 6:30?

20 A Gun rail? He was shot or he --

21 Q No, no, no.

22 A Oh, okay.

23 Q The shots that they fire when they want to get everybody's
24 attention.

25 A Yes, yes.

1 Q Do you recall that?

2 A Yes.

3 Q Okay. What are you supposed to do when that happens?

4 A Get on the ground.

5 Q Okay. Now, are you -- are you familiar with the defendant,

6 Jesse Noble?

7 A I really don't know him but --

8 Q Okay. So --

9 A I --

10 Q -- you were just housed together?

11 A Yes, I just seen him in the prison.

12 Q Okay.

13 A Well, in that unit I seen him.

14 Q Okay. Are you related to him?

15 A No.

16 Q Are you related to any of his family?

17 A No.

18 Q So you don't -- other than the fact that you were housed

19 together, you don't know him?

20 A I really don't. I didn't even know his name was Noble.

21 Q Okay.

22 A Yeah.

23 Q All right. So on that night when that gun rail fire shot -- the

24 shots went off, do you recall where you were on that night?

25 A Yeah, we were walking to the dining hall.

1 Q Okay. And if I told you it was in the 5-6 quad area, would that
2 be about right?

3 A Yeah.

4 MR. KOVAC: Objection, leading.

5 THE COURT: Overruled.

6 MR. FRIZZELL: That's just for location, background.

7 THE WITNESS: Yes.

8 BY MR. FRIZZELL:

9 Q Were you in a group with Mr. Noble; do you recall that?

10 A We were kind of altogether.

11 Q Okay. So the shot -- the shots are fired, do you drop down on
12 your stomach?

13 A [No audible response.]

14 Q Do you recall?

15 A Yes. We all -- we kind of got on the ground before the shots
16 was fired, you know.

17 Q Okay. Any particular reason?

18 A Yeah. Well, when we walked out another incident happened
19 with some other -- not pertaining to this case, it was some other
20 individuals.

21 Q Okay.

22 A And the COs seen blood, so when they seen blood they start
23 yelling, get on the ground, before the actual gun went off.

24 Q Okay. So you were already --

25 A We were already on the ground.

1 Q -- so is it fair to say you were already on the ground?

2 A Yes.

3 Q Okay. Now, where were you, when you go on the ground, in
4 relation to Mr. Noble?

5 A Where was I?

6 Q Were you -- in other words --

7 A Well, he was probably --

8 THE COURT: Let him answer the question.

9 BY MR. FRIZZELL:

10 Q Were you near him?

11 A Yeah, he was probably as near as he is right now. It's not a big
12 yard. We were kind of all bunched up, it's 84 people so.

13 Q Okay.

14 A He was about where he's at right now.

15 Q Okay. And so you were on the ground?

16 A Yes.

17 Q Was he on the ground; do you recall?

18 A Yes.

19 Q Okay. Was his entire body on the ground?

20 A Yes, everybody entire body was on the ground.

21 Before this -- before I --

22 Q Well, let me just -- let me just backup here.

23 A All right.

24 Q Do you recall was he laying on his stomach?

25 A Yes, he was laying on his stomach.

1 Q Okay.

2 A Without a doubt.

3 Q Now, when you are ordered to lay on your stomach, are you
4 ordered to put your entire body, face and all, into the -- into the dirt or
5 wherever you're at?

6 A Excuse me? Say that again.

7 Q In other words, are you allowed to hold your head up or do you
8 have to put everything down on the ground, all parts of your body, in
9 contact?

10 A [No audible response.]

11 Q If you recall.

12 A I'm not sure.

13 Q Okay.

14 A I'm not sure.

15 Q But to the best of your knowledge, your testimony is is that
16 Mr. Noble was --

17 A Yeah.

18 Q -- on his stomach, on the ground?

19 A He was on his chest area, laying on the ground.

20 Q Okay.

21 A With his hands spread and his legs was out.

22 Q Okay.

23 THE COURT: For the record, they're about 20 feet apart.

24 MR. FRIZZELL: Okay.

25

1 BY MR. FRIZZELL:

2 Q So from your -- from where you were laying, could you see
3 Mr. Noble?

4 A Yes.

5 Q On the ground?

6 A Yes.

7 Q And did something happen that caused you to pay attention to
8 him?

9 A Yes, that's -- that's --

10 Q Can you tell us -- can you tell us what you saw?

11 A That's what I was getting to. Before, like I was saying, before
12 that incident occurred they made us get on the ground, they made us get
13 on the ground and -- and -- we stayed on the ground a long time. This
14 was -- it started to get -- the environment started to get real hostile
15 because they made us -- it's winter time and the ground is freezing. So
16 they made us get on the ground for about an hour while they investigate
17 the other situation that occurred.

18 So while this happened an individual ended up getting up, he
19 get up and put his hands on his head, trying, like --

20 Q Okay. Was that Mr. Noble?

21 A No, not at all.

22 Q Okay. Did you know who it was?

23 A Not -- not by his name.

24 Q Okay. All right. All right. So keep going, what else?

25 A He was kind of gesturing that -- that -- the ground is freezing

1 and we've been right here for a long time. We're tired of being on the
2 ground. It's cold. When he do that the CO slam him.

3 So after -- when that occurred, another individual gets up to see
4 how his friend, I guess that was his friend that got slammed, how he was
5 doing.

6 Q Okay.

7 A So it -- while we're doing this, he gets slammed also. So now
8 the -- the environment is real hostile, like, you -- everybody's kind of
9 screaming and things that have no -- or you ain't have to do that. It was
10 kind of overly aggressive how they slam both the individuals.

11 Q Okay. So --

12 A So while --

13 Q -- then what did you see in relation to Mr. Noble?

14 A -- while this occurred I hear -- all the COs come down, a bunch
15 of COs start coming down from different units, and, you know what I'm
16 saying, yelling and things of that avenue. So, now, I hear, put your F'n
17 head on the ground.

18 Q Did you know who they were talking about at that point?

19 A Yes -- well, it seemed like they was talking to Noble.

20 Q Okay. And you can see this?

21 A Yes. I could see it. I can hear it. I'm right there. I'm part of the
22 situation.

23 Q Okay. So what happened next?

24 A After he said that, it looked like -- it looked like he -- he felt like
25 Mr. Noble didn't comply to his command. And afterwards he just like put

1 his knee on his back. He like tried to -- I don't know what he tried to do. It
2 seemed like he tried to leap and put his knee on his back and push his
3 head down.

4 Q Okay. And then what did you see?

5 A While he was trying to push his head down the other COs came
6 because every -- it's a lot of COs about this time. So they came and kind
7 of surrounded him and started to handcuff him and, you know, things like
8 that.

9 Q At any point did you see Mr. Noble punch a correctional officer?

10 A I didn't see nobody punch nobody.

11 Q Okay. Were you watching the whole time?

12 A Yeah. I think we all were watching. It was so -- it was such a
13 hostile environment. Everybody was paying attention. Everybody seen it.
14 It's no secret; right. Everybody -- everybody was directed towards him;
15 right.

16 Q Okay. Did you happen to hear Mr. Noble say anything to the
17 effect of, why don't you come over and F'ing make me?

18 A No, no, I never heard that. That -- that's funny that you say that
19 'cause, yeah, no, I didn't hear that.

20 Q Okay. Were you close enough that you would have heard that
21 if it was said?

22 A Yeah, I heard -- yes, I heard pretty much everything. I was a
23 part of the situation. So, yes, I would have heard it.

24 Q Okay. All right.

25 MR. FRIZZELL: I'll pass the witness.

1 **CROSS-EXAMINATION**

2 BY MR. KOVAC:

3 Q Good afternoon, Mr. Teagues.

4 A Hi. How you doing?

5 Q Okay.

6 So you said you're a part of the situation?

7 A Yes.

8 Q Does that mean that you're a part of this group that's getting
9 hostile?

10 A Yeah, I'm part of the unit, yeah -- well, part of the unit. It was
11 the whole unit. I meant that as far as the whole unit; right.

12 Q And all of you are getting pretty hostile because it's cold out and
13 you're made to lay on the ground?

14 A Yes.

15 Q And a lot of people were yelling a lot of things; is that accurate?

16 A Well, not necessarily.

17 MR. FRIZZELL: Objection, that's vague and ambiguous.

18 THE WITNESS: Not necessarily --

19 THE COURT: Overruled.

20 THE WITNESS: -- us yelling, they were kind of yelling. It was
21 the COs that was doing the yelling; right.

22 BY MR. KOVAC:

23 Q So COs were just yelling for no reason?

24 A They're not yelling for no reason, they're -- somebody's
25 bleeding, on the side, they're investigating the situation.

1 Q So it's okay for COs to yell just because they're investigating?

2 A No, no.

3 Q Yeah, but you just there was a good reason for them to be
4 yelling; right?

5 A I said there was a good reason? I didn't say it was a good
6 reason.

7 Q Okay. You said, so there's no reason for the COs to be yelling,
8 they're just yelling?

9 A I said that they were yelling because --

10 MR. FRIZZELL: Objection, he's kind of badgering --

11 THE COURT: Overruled.

12 MR. FRIZZELL: -- and being argumentative.

13 THE COURT: Overruled. This is cross-examination.

14 MR. FRIZZELL: I hear you.

15 THE WITNESS: Yeah, I said they were yelling because they
16 were trying to investigate this situation. It was a good reason why they
17 was yelling?

18 BY MR. KOVAC:

19 Q So the COs just start yelling when they're investigating things?

20 A No, they're yelling, get -- yes, that's --

21 Q That's how they investigate, they just yell?

22 A They were yelling like, get the F on the ground, and things like
23 that. Yes, they were yelling. They were doing the majority of the yelling.

24 Q Okay. And some of the inmates were disobeying the orders;
25 correct? I mean, you've already --

1 A No.

2 Q -- admitted that, you said that the inmates were getting up?

3 A I mean, at first. That was like an hour after that, we get on the
4 ground, then about an hour later that's what started the hostile
5 environment was we'd been on the ground so long. And that's when the
6 inmates started to get upright.

7 Q So you said you don't know Mr. Noble very well; right?

8 A I don't.

9 Q Okay. How many inmates were out there at this time?

10 A At least -- I can't give you a precise number, but at least 60, 70
11 of us.

12 Q I mean, there's a lot of you probably within a 20 foot range?

13 A No. It's prison so.

14 Q You said it's a small area though; right?

15 A Yes, but we're kind of altogether, as far as Africans Americas
16 we're kind of stick -- everybody just kind of bunched up.

17 Q You guys kind of segregate yourself?

18 A Well, yes, everybody does, it's just prison.

19 Q You just stick to your, you know, stick to your own race?

20 A Right.

21 Q That's just the way it goes in prison?

22 A Right.

23 Q Okay. It's not from the COs to do, you guys kind of choose to
24 do that; right?

25 A Yes, I guess so.

1 Q Okay. So there are a bunch of your fellow inmates laying down
2 on the ground, you don't know Mr. Noble; right, you've already said that?

3 A No, I don't.

4 Q And you've already testified that you saw him flat on his
5 stomach, his arms out?

6 A Yes.

7 Q So you had a good view of him, you were looking right at him?

8 A Yes.

9 Q You were paying attention to Mr. Noble?

10 A Yes.

11 Q Why, when there's a 100 people out there, why are you
12 studying somebody you don't know at all?

13 A Because it wasn't -- it was the incident that I start paying to. It
14 wasn't necessarily him. When I seen the COs say, put your F'n head on
15 the ground, everybody's attention kind of lead.

16 Q So you had no idea if he's -- if he was complying with the orders
17 before he got that direction; right?

18 A If he was complying to the words?

19 Q You have -- you weren't even looking at him when he was
20 getting those orders to get on the ground?

21 A I --

22 Q You just said you weren't paying any attention until the order
23 came; right?

24 A I didn't say that.

25 Q Oh, so you were paying attention to him now?

1 A Now --

2 Q Before you got the order, you were paying attention to him, this
3 random guy that you barely know?

4 A I was --

5 Q Is that your testimony?

6 A Yes, I was paying attention to him.

7 Q Okay. So out of all these 100 inmates, you're staring at
8 somebody you barely know?

9 A It's not even about the 100 inmates. I was paying attention to
10 my own.

11 Q So you're paying attention to Mr. Noble, somebody you barely
12 know --

13 A I was --

14 Q -- now he's one of your own?

15 A After the incident, after the correctional officer said what he
16 said, -- I, yes, I paid attention to him?

17 Q Okay. So before that you weren't paying attention?

18 A I seen him before that.

19 Q But you weren't paying attention?

20 A I was paying attention.

21 Q Okay. So you said you weren't paying attention, you just told
22 me you weren't paying attention until we got the order, now, you're saying
23 you were paying attention before you got the order?

24 A I did not say that.

25 Q Okay. So you were paying attention before you got the order?

1 A Yes, I said I was paying attention --

2 Q So that's -- we've got with now?

3 A I was saying -- I said, I was paying attention to my own.

4 Q Okay. So before he got the order, you were paying attention to
5 him; right?

6 A Yeah, we all got on the ground, the whole yard was flat on their
7 stomach on the ground.

8 Q Okay. A 100 people, you're paying attention to somebody you
9 barely know?

10 A Before the incident, it's an hour then passed.

11 Q And you're paying attention all this time to somebody you don't
12 know; right?

13 A So we're on the ground for an hour. So we're just on the
14 ground for an hour, you're kind of just looking around, you're paying
15 attention to everything.

16 Q Okay.

17 A Before that incident occurred, we'd been on the ground for
18 about an hour already.

19 Q And you were paying attention to him that entire time and you
20 know that he was flat on his stomach with his arms out?

21 A Yeah, can we go to the next question, please.

22 Q No, you can answer this one.

23 A Yeah, I answered --

24 Q So for that full hour you were paying attention, you saw him
25 complying that whole time; right?

1 A Yes, yes.

2 Q Okay. You kind of undersold your criminal record, didn't you,
3 you said you were convicted of pandering and possession of a firearm?

4 A That's why I'm in prison.

5 Q That's it? Those are your only convictions?

6 A That's what I'm in prison now.

7 Q I'm asking you, are they your only convictions?

8 A No.

9 Q All right. What are your other ones?

10 A Well, how does that -- how is that concerning this --

11 Q Just answer my question.

12 A But how is that concerning --

13 Q Answer my question.

14 A -- this situation?

15 Q It doesn't matter how. You don't get to ask how. I get to ask
16 you the questions.

17 A Robbery, besides that.

18 Q Okay. You got robbery and also conspiracy to commit robbery
19 with that robbery as well; right?

20 A Yeah, that was all one incident, yes.

21 Q Yes, so those are two convictions that you didn't mention
22 earlier.

23 So you also said pandering; right?

24 A Yes.

25 Q All right. And along with that you also have sex trafficking?

1 A Yeah --
2 Q And you also have living from the earnings of a prostitute; right?
3 A That's the all -- that's all the same situation, you naming --
4 Q Those are three crimes; right?
5 A Yes, but --
6 Q Three separate crimes?
7 A It's not three --
8 Q You were convicted of all three?
9 A -- it's one incident. That's one incident.
10 Q With three crimes?
11 A Yeah, I guess so.
12 Q Right?
13 A Yes.
14 Q Were you convicted of all three of those crimes?
15 A Yes.
16 Q There we go.

17 MR. KOVAC: Okay. I'll pass the witness.

18 **REDIRECT EXAMINATION**

19 BY MR. FRIZZELL:

20 Q Mr. Teagues, they got into a little bit about what paying attention
21 meant. When you were saying that you're on the ground for an hour, are
22 you around all 100 or so inmates?

23 A No --

24 Q No?

25 A -- I'm around --

1 Q How many people would you say were in your general vicinity
2 between you and Mr. Noble?

3 A It was only like 10 of us. It was around 10, 15 of us that was at
4 that -- like I said, it's prison, so it's not really you paying attention to --
5 it's -- you're paying attention to your own.

6 Q Okay.

7 A As far as race goes.

8 Q Okay. And you happen to be in an area, you said --

9 A Yeah.

10 Q -- where there was 15 or 20 --

11 A Yeah.

12 Q 10 or 15, I believe you said --

13 A Yeah.

14 Q -- of African American males?

15 A Right; exactly.

16 Q And of that Mr. Noble was one of them?

17 A Yes.

18 Q And where you were laying, is it your testimony that you could --
19 you could see Mr. Nobles and some of your other -- some of the other
20 people?

21 A I could, yes. Yes, I could see him very well, yes.

22 Q Okay.

23 THE COURT: You keep chuckling, do you think this is funny?

24 THE WITNESS: Who, me?

25 THE COURT: Yeah.

1 THE WITNESS: Oh, no, no.

2 THE COURT: All right.

3 THE WITNESS: Not at all.

4 THE COURT: Okay.

5 THE WITNESS: I don't think this is funny at all.

6 BY MR. FRIZZELL:

7 Q From where you were laying, could -- is it your testimony that
8 these 10 to 15 guys that are in your immediate area, were all laying down
9 like they were supposed to?

10 A Yes. That, see, that's what the chuckling is for. Because, yes, I
11 could see him. I could see him well. We were all on -- flat on our
12 stomach.

13 I just felt like you trying to like -- well, not necessary you but
14 there's questions around, yeah, I could see him very well. Yeah, I was
15 paying attention to my own and he was very close and I could see him
16 very well.

17 Q Okay. And then when -- and then is it your testimony then that
18 when you -- when you heard -- when you heard the command about
19 putting his head in the ground -- putting his head down.

20 A Yes.

21 Q That you specifically then paid attention to that particular --

22 A Yes, yes.

23 Q Okay. Okay. That -- I just -- I just want -- I just want it to be
24 clear so that the jury can understand --

25 THE COURT: Okay.

1 BY MR. FRIZZELL:

2 Q -- what it is that you're saying.

3 THE COURT: I told you no editorials.

4 MR. FRIZZELL: Withdrawn.

5 Thanks.

6 THE WITNESS: All right.

7 MR. KOVAC: Nothing further.

8 THE COURT: Jury have any questions of this witness?

9 You're free to go --

10 THE WITNESS: All right.

11 THE COURT: -- back to that room, not out the door.

12 Call your next witness.

13 MR. FRIZZELL: The defense calls Nathaniel Gaines.

14 THE COURT: As best you can, raise your right hand.

15 **NATHANIEL GAINES**

16 [Having been called as a witness and being first duly sworn, testified as
17 follows:]

18 THE CLERK: Please be seated and then state and spell your
19 name for the record.

20 THE WITNESS: Nathaniel Gaines, 1163396.

21 THE COURT: Scoot as close as you can to the mic, please,
22 and spell your name.

23 THE WITNESS: N-a-t-h-a-n-i-e-l, G-a-i-n-e-s.

24 THE COURT: Go ahead.

25

1 **DIRECT EXAMINATION**

2 BY MR. FRIZZELL:

3 Q Good afternoon, Mr. Gaines. I'm Ken Frizzell. I'm representing
4 Jesse Noble.

5 Are you related at all to Mr. Noble?

6 A No, sir.

7 Q Okay. Now, I see that you're in -- you're in Nevada Department
8 of Corrections prison outfit; is that correct?

9 A Yes, sir.

10 Q And as you sit here today you're currently also in handcuffs?

11 A Yes, sir.

12 Q Where are you housed out currently?

13 A 6C, High Desert State Prison.

14 Q High Desert State Prison. Okay.

15 And what were you convicted of that you're in there now?

16 A Conspiracy to commit robberies, sir.

17 Q Okay. Any other -- any other charges with that or just
18 conspiracy?

19 A And robbery, I believe.

20 Q Okay. And do you have any other -- do you have any other
21 convictions?

22 A Not that I'm aware of, sir.

23 Q Okay. Any other prior convictions?

24 A Yeah, juvenile, sir.

25 Q All juvenile?

1 A Yes, sir.

2 Q Okay. On December 21st, 2017, were you an inmate at High
3 Desert Correctional -- or High Desert State Prison?

4 A Yes, sir.

5 Q Okay. And do you recall an incident that took place on
6 December 21st, 2017, at about 6:30 in the evening?

7 A Yes, sir.

8 Q Okay. And where were you -- where were you at on
9 December 21st, 2017, at about 6:30 in the evening?

10 A We was -- I was on the yard, sir.

11 Q Okay. And what were you doing on the yard?

12 A I was getting -- I was lining up to go to chow.

13 Q Okay. Did there come a time when you had to get on the
14 ground?

15 A Yes, sir.

16 Q Do you recall what the -- what happened that you had to get on
17 the ground?

18 A No, sir.

19 Q Okay. Do you recall hearing the -- a gun rail sergeant fire -- fire
20 off a couple of rounds?

21 A Yes, sir.

22 Q Okay. And what are you supposed to do when that happens?

23 A Get down, sir, lay on your, like, your chest.

24 Q Okay. Do you recall -- well, let me backup, other than the fact
25 that you were housed together, do you have a personal relationship with

1 Mr. Noble?

2 A No, sir.

3 Q Okay. Prior to you becoming an inmate up there, did you know
4 him?

5 A No, sir.

6 Q While you were on the inside with him, did you hang together?
7 Were you buds?

8 A No, sir. I just met him the night the incident happened.

9 Q Okay. And so let's move to that, so you don't know why you got
10 on the ground but you recall the shots being fired and you knew what to
11 do, did you get on the ground?

12 A Yes, sir.

13 Q Okay. Was Mr. Noble out there in the yard with you?

14 A Yes, sir; he was right next -- right next to me, shoulder to
15 shoulder.

16 Q Okay. When you say -- when you say, right next to you, what
17 do you mean?

18 A Like, we was shoulder to shoulder on the ground.

19 Q Okay. So were you actually touching shoulders?

20 A Literally, yeah; yes, sir.

21 Q Okay. Do you recall how he was -- do you recall how he was
22 laying on the ground?

23 A Yes, sir; he was laying like everybody else with their chest
24 down, sir.

25 Q Okay. So is it your testimony he was laying on his stomach?

1 A Yes, sir.

2 Q And do you recall an incident that took place that night with
3 Mr. Noble?

4 A Yes, sir.

5 Q Can you tell the jury what you saw from being right next to him
6 shoulder to shoulder?

7 A Yes, sir. They had fired the weapon and that means we're
8 supposed to get down. So as we got down, the officer, he was walking
9 around telling people to lay on their stomachs, which we was already
10 laying on our stomach. So when he got to Jesse, he -- he told him to lay
11 on their stomach and to turn over. So before Jesse could respond --

12 Q Okay. Let me backup, so, lay on your stomach and turn over,
13 what did you understand that to mean?

14 A It made no sense if he was laying on his stomach to turn over
15 because he would be facing outwards.

16 Q Okay. Okay. So keep going, what happened next?

17 A So he, like, he told Jesse to turn over. Jesse said, I'm on my
18 stomach, like, what you want me to do. So that's when he grabbed Jesse
19 by his back, back of his neck, and then he told him to put his arms behind
20 his back. And so as he was trying to do that, he grabbed his arm, the CO,
21 I believe, CO Brown.

22 Q Okay. Who grabbed his arm?

23 A I believe that was his name, CO Brown.

24 And he like tried to force his arm but instead of putting it
25 backwards he put it, like, towards his head though. So he, like, I'm trying

1 to put my arm behind my back so you can handcuff me but it was like --

2 Q Do you remember what arm he grabbed?

3 A I believe it was his -- the one that was next to me, which would
4 be his left.

5 Q Okay. So you saw him grab his left arm, what happened next?

6 A Jesse was trying to comply with him, instead the CO, like, trying
7 to let him put his hand behind his back, he was, like, using unnecessary
8 force that wasn't needed. He was, like, cussing at him, telling him, like,
9 excuse my language, but to put his fucking hands behind his back.

10 Q Okay. Did Jesse ever -- did you ever notice Mr. Noble retaliate
11 in anyway?

12 A No, sir; not at all. It was like --

13 Q Did you ever see him punch CO Brown?

14 A No, sir.

15 Q Okay. Did you ever see him -- or, excuse me, strike that.

16 Did you ever hear him say anything to CO Brown in an
17 aggressive manner?

18 A No, sir; he was all the way compliant.

19 Q Was there anything else then that happened -- that happened
20 right after that, right after that when he -- when you say CO Brown came
21 down to try and get his arm --

22 A After they handcuffed him and instead of standing him up they
23 like drug him away from everybody.

24 Q Did you see -- did you see Mr. Noble fight back at all?

25 A No, sir. They had his feet and his hand like tied together like

1 you would do a pig or something.

2 Q Okay. And you never at any point saw Mr. Noble punch a CO?

3 A No, sir.

4 MR. FRIZZELL: Pass the witness.

5 **CROSS-EXAMINATION**

6 BY MR. KOVAC:

7 Q Mr. Gaines, good afternoon.

8 A Good afternoon.

9 Q How you doing today?

10 You said that you're not -- you aren't really close to Mr. Noble at
11 all, as far as being friends with him or anything like that?

12 A Yes, sir; I said that.

13 Q Okay. When you go to chow do you normally sit with your
14 friends?

15 A Yes, sir.

16 Q And when you kind of walk to and from there you're usually with
17 your friends?

18 A No, sir.

19 Q Who do you normally walk with?

20 A Every race walk with every race, sir.

21 Q Okay. They're not segregated at all, the -- I'm sorry, you guys
22 don't kind of separate with your own race?

23 A Yeah, yes, sir; blacks be with blacks, whites be with white,
24 Hispanic is with Hispanic.

25 Q That doesn't happen when you're walking, it only happens in the

1 dining hall?

2 A It happens everywhere.

3 Q Okay. So you just said that you were walking with every race
4 but that's not really true, you were walking with your friends; right? You
5 were walking --

6 A They're not me friends because I walk with him.

7 Q You're walking with own race, I should say.

8 A Yes, sir.

9 Q Okay. So what you just said before, that you were walking with
10 all different races, that wasn't true, was it?

11 A Well, I didn't mean it like every race. I meant like my race, sir.

12 Q So when you said you were walking with all different races, you
13 meant just your race, that's what you meant?

14 A Yes, sir.

15 Q By all races, you meant just your race?

16 A Yes, sir.

17 Q Okay. You kind of undersold your criminal history, you actually
18 have two cases where you were convicted of robbery; right, not just one?

19 A I don't remember that, sir.

20 Q You weren't convicted in 2016 of conspiracy to commit robbery
21 and then 2017 a conspiracy to commit robbery and robbery?

22 A Not that I'm aware of, sir.

23 Q Nothing happened in two separate cases?

24 A Not that I recall, sir.

25 MR. KOVAC: State's going to offer the Judgments of

1 Conviction.

2 THE COURT: You can file them.

3 MR. KOVAC: May I approach, Your Honor?

4 THE COURT: Yes.

5 THE CLERK: Do you want them marked separately?

6 MR. KOVAC: Yes, please.

7 THE CLERK: Okay. So that will be 2 and 3.

8 MR. KOVAC: Thank you.

9 **[STATE'S EXHIBITS 2 and 3 ADMITTED]**

10 BY MR. KOVAC:

11 Q Okay. So during the situation you're with Mr. Noble and a
12 bunch of other inmates; right?

13 A Yes, sir.

14 Q And you just so happened to end up next to Mr. Noble even
15 though you're not friends with him?

16 A Yes, sir.

17 Q Okay. Now, when this is happening, what's the attitude of the
18 inmates?

19 A Calm, just everybody was on their stomachs, sir.

20 Q Everybody was calm and complying?

21 A Yeah.

22 Q No problems at all?

23 A Not at all.

24 Q No? Nobody got up, nobody swore at all?

25 A Not at all, sir. Not that I'm aware of.

1 Q Everybody was okay laying for a long time on their stomachs in
2 December?

3 A Yes, sir.

4 Q And no complaints at all?

5 A Not at all, sir.

6 Q That's a happy prison you're sitting in, huh?

7 A I wouldn't say that.

8 Q No, okay.

9 So you wouldn't describe the atmosphere as hostile then?

10 A No, sir.

11 Q Okay. Did you end up in handcuffs as a result of all this?

12 A Yes, sir.

13 Q And is it because you got up?

14 A No, sir.

15 Q You never got up?

16 A No, sir.

17 Q You were never ordered to sit back down?

18 A No, sir.

19 Q You never answered -- called to sit back down by saying, fuck
20 that?

21 A No, sir.

22 Q That never happened?

23 A No, sir.

24 Q Okay. So during this entire situation, all the inmates just laid on
25 their stomach, in the cold of December, without any complaints

1 whatsoever?

2 A Yes, sir.

3 MR. KOVAC: Okay. I'll pass the witness.

4 MR. FRIZZELL: I have nothing, Your Honor, further, Your
5 Honor.

6 THE COURT: Jury have any questions of this witness? Seeing
7 into hands.

8 Sir, you're free to go out that door.

9 We need to take a five minute recess. We're about done for the
10 evening but I need to -- we need to take a five minute recess.

11 During this recess, you're admonished not to talk or converse
12 among yourselves or with anyone else on any subject connected with this
13 trial; or read, watch, or listen to any report of or commentary on the trial or
14 any person connected with this trial by any medium of information
15 including, without limitation, newspapers, television, radio, or the internet;
16 or form or express any opinion on any subject connected with the trial until
17 the case is finally submitted to you.

18 If you need to use the restroom, use it.

19 Please don't get on the computers and do any research and
20 don't post anything on social media.

21 See you in five minutes.

22 [Outside the presence of the jury]

23 THE COURT: Okay. The jury -- yeah, you can close the door.

24 All right. The door is closed.

25 All right. Mr. Noble, it's your chance, are you going to take the

1 stand or are you not?

2 THE DEFENDANT: No, I'm not taking the stand, sir.

3 THE COURT: You've discussed that with your attorney and
4 you're satisfied that that's in your best interest?

5 THE DEFENDANT: Yes.

6 THE COURT: All right. I just had to do that --

7 MR. FRIZZELL: No, no.

8 THE COURT: -- and I didn't want to do it in front of the jury, of
9 course so.

10 MR. FRIZZELL: No, no, that's fine.

11 THE COURT: So let's take five minutes and then we'll be back.

12 You can rest, you've got no other witnesses, and then we'll
13 come back tomorrow morning at 9:30, we'll do jury instructions. I'll tell the
14 jury to come back at 10:00, that'll give us some time to do the jury
15 instructions.

16 MR. FRIZZELL: That's fine.

17 THE COURT: Okay. So I need him back at 9:30 tomorrow so
18 we can do jury instructions and then we'll finish up this trial.

19 MS. KALLAS: And, Your Honor, I'm going to have a
20 PowerPoint for my closing, did you need to see it?

21 THE COURT: I don't.

22 MS. KALLAS: Does defense counsel need to see it?

23 THE COURT: I don't see nothing. I don't care. As long as you
24 make sure it's --

25 MS. KALLAS: That must be fun.

1 THE COURT: -- as long as you make it follows the statutes.

2 MS. KALLAS: All right.

3 MR. FRIZZELL: As long as it works.

4 THE COURT: Take five minutes and then you can rest and
5 then we'll --

6 MR. FRIZZELL: All right.

7 THE COURT: Okay?

8 MR. FRIZZELL: I thank you, Judge, I do.

9 THE COURT: Okay.

10 [Recess taken at 3:18 p.m.]

11 [Jury trial resumed at 3:26 p.m.]

12 [In the presence of the jury]

13 THE COURT: Stipulate to the presence of the jury.

14 MR. FRIZZELL: Yes, Your Honor.

15 MS. KALLAS: Yes, Your Honor.

16 THE COURT: All right. Ladies and gentlemen, we will finish
17 this tomorrow, you'll have it, if you'll be back at 10 o'clock tomorrow. And
18 you'll park at a different place. The officer will show you where or tell you
19 where.

20 Isn't it across the street now?

21 THE MARSHAL: Across the street; yes, sir.

22 THE COURT: Yeah, he knows what he's doing.

23 And we'll have it before noon tomorrow, you'll have it to make a
24 decision.

25 During the recess though, you're admonished not to talk or

1 converse among yourselves or with anyone else on any subject
2 connected with this trial; or read, watch, or listen to any report of or
3 commentary on the trial or any person connected with this trial by any
4 medium of information including, without limitation, newspapers,
5 television, radio, or the internet; or form or express any opinion on any
6 subject connected with the trial until the case is finally submitted to you.

7 Remember, no personal research, no posting on social media.

8 See you in the morning at 10:00.

9 [Outside the presence of the jury]

10 THE COURT: All right. You can close the door.

11 Juries gone.

12 See you guys in the morning at 9:30. Okay?

13 MR. FRIZZELL: All right.

14 MR. KOVAC: Thank you, Your Honor.

15 MR. FRIZZELL: Thanks, Judge, I appreciate it.

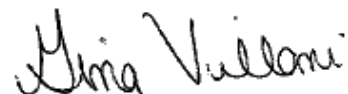
16 THE COURT: Thank you.

17 MR. FRIZZELL: I owe you one. I'll let you know the score.

18 [Jury trial, Day 1, concluded at 3:28 p.m.]

19 * * * * *

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

23 

24 Gina Villani
25 Court Recorder/Transcriber
District Court Dept. IX



1 RTRAN

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3
4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,
9 Plaintiff,

CASE#: C-18-336940-1
DEPT. VIII

10 vs.

11 JESSE D. NOBLE,
12 Defendant.

13
14 BEFORE THE HONORABLE DOUGLAS E. SMITH, DISTRICT COURT JUDGE
15 TUESDAY, FEBRUARY 12, 2019

16 **RECORDER'S TRANSCRIPT OF PROCEEDINGS:**
17 **JURY TRIAL - DAY 2**

18
19 APPEARANCES:

20 For the State:

MICHAEL KOVAC, ESQ.
Chief Deputy Attorney General
CHELSEA N. KALLAS, ESQ.
Deputy Attorney General

23 For the Defendant:

KENNETH G. FRIZZELL, III, ESQ.

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25 RECORDED BY: GINA VILLANI, COURT RECORDER

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Las Vegas, Nevada, Tuesday, February 12, 2019

[Jury trial began at 9:26 a.m.]

[Outside the presence of the jury]

THE COURT: We're back on the record of State of Nevada
versus Jesse D. Noble.

We are doing our jury instructions.

Are you both ready for that?

MR. FRIZZELL: Yes, Your Honor.

MS. KALLAS: Yes, Your Honor.

MR. KOVAC: Yes, Your Honor.

THE COURT: Is there anything that needs to be put on the
record before we get started with these?

MR. KOVAC: No, Your Honor.

THE COURT: Okay.

MR. FRIZZELL: Not from the defense.

THE COURT: All right. And what we'll do is, before the jury
gets here, my office will make 18 copies, so you'll have copies of these.

Jury instruction number 1, it is now my duty as judge to instruct
you in the law that applies to this case.

Jury instruction number 2, you must not be concerned.

Jury instruction number 3, an Information is but a formal
method.

Jury instruction number 4, to constitute the crime charged.

Jury instruction number 5, an ignorance or mistake.

1 Jury instruction number 6, the evidence which you are to
2 consider.

3 Jury instruction number 7, the credibility or believability of a
4 witness.

5 Jury instruction number 8, every person charged with the
6 commission.

7 Jury instruction number 9, although you as jurors are to
8 consider.

9 Jury instruction number 10, it is a constitutional right of a
10 defendant not to be compelled to testify.

11 Jury instruction number 11, the word willfully when applied.

12 Jury instruction number 12, battery is defined as.

13 Jury instruction number 13, a person who willingly, unlawfully.

14 Jury instruction 14, an act done with intent to commit a crime.

15 Jury instruction 15, if counsel for the parties have stipulated.

16 Jury instruction number 16, the parties have stipulated.

17 Jury instruction 17, you are here to determine whether the
18 defendant.

19 And jury instruction 18, in your deliberations.

20 Jury instruction 19, when the jurors retire, verdict.

21 Jury instruction number 20, if, during your deliberations.

22 Jury instruction 21, your verdict must be unanimous.

23 Jury instruction number 22, there is no requirement.

24 And then the signature line.

25 You know what we don't have, the Supreme Court has come

1 out and they want a jury instruction.

2 Go get one of those that talks about they can't do any social
3 media and that thing.

4 THE LAW CLERK: They want that as a jury instruction?

5 THE COURT: Yeah, you've got to do it. The Supremes said
6 you have to do this.

7 MS. KALLAS: Yeah.

8 MR. KOVAC: New instruction, social media, that's a new case?

9 THE COURT: Right.

10 MR. KOVAC: Okay.

11 THE COURT: And we have it on another case. He's going to
12 get me one copy.

13 MR. FRIZZELL: Your Honor, we had one more in our list that
14 you didn't have.

15 THE COURT: Okay. Where?

16 MR. KOVAC: I thought you said it was -- where the one before
17 the last one.

18 MR. FRIZZELL: There's no requirement --

19 THE COURT: There's no requirement --

20 MR. FRIZZELL: Okay.

21 THE COURT: -- that the testimony of a victim be corroborated,
22 and his testimony stands --

23 MR. FRIZZELL: So what number is that? What number is
24 that?

25 THE COURT: 22.

1 MR. FRIZZELL: Okay. I just had it out of order.

2 THE COURT: But this other one is new and I didn't even -- I
3 didn't catch it until I was reading it. I said, I hope you guys have it, and
4 you don't, but you should probably take it back to your office and put this
5 in as a standard jury instruction now.

6 And it's that one where I read as they -- and admonish them
7 when they leave.

8 MR. KOVAC: Okay.

9 THE COURT: The Supremes want that as a jury instruction.

10 MR. KOVAC: How long ago was that case issued, I haven't
11 seen that?

12 THE COURT: It's been probably in the last year.

13 MR. KOVAC: Okay. Thank you.

14 THE COURT: So -- and maybe it's just the last six months.

15 MR. KOVAC: Okay.

16 THE COURT: I suppose that not every judge reads that
17 admonishment, I guess. I read it every break.

18 MR. FRIZZELL: So are you going to make -- are you going to
19 make that one you're talking about number 23?

20 THE COURT: Yes, that'll be 23 and then the signature line will
21 be 24.

22 MR. FRIZZELL: Okay.

23 THE COURT: But before we close this out I'll have him bring
24 that in.

25 [Pause in proceedings]

1 THE COURT: All right. 23 reads, as such, during the course of
2 this trial, and your deliberations, you are not to: 1, communicate with
3 anyone in any way regarding this case or its merits either by phone, text
4 internet, or other means.

5 2, read, watch, or listen to any news or media accounts or
6 commentary about the case.

7 3, do any research, such as consulting dictionaries, using the
8 internet, or using reference materials; or.

9 4, make any investigation, test a theory of the case, recreate
10 any aspect of the case, or in any way investigate or learn about the case
11 on your own.

12 Ordered by the Supremes.

13 The, State, you're aware of jury instructions 1 through 24?

14 MR. KOVAC: Correct.

15 THE COURT: Do you have any others to provide?

16 MR. KOVAC: No.

17 THE COURT: You're satisfied with these?

18 MR. KOVAC: We are.

19 THE COURT: And you've looked at the verdict form; you're
20 satisfied with it?

21 MR. KOVAC: Chelsea.

22 MS. KALLAS: Yes, Your Honor.

23 MR. FRIZZELL: Yes, Your Honor.

24 THE COURT: All right. And you're familiar then, defense, with
25 1 through 24?

1 MR. FRIZZELL: Yes.

2 THE COURT: You're satisfied with them?

3 MR. FRIZZELL: I am.

4 THE COURT: Do you have any more that you wish to put in?

5 MR. FRIZZELL: No, Your Honor.

6 THE COURT: You've reviewed the verdict form?

7 MR. FRIZZELL: Yes, I have.

8 THE COURT: Satisfied with it?

9 MR. FRIZZELL: And I accept it.

10 THE COURT: Okay. 28 -- or 18 copies.

11 He'll make copies for everyone, they'll be done hopefully before

12 the jury gets here.

13 [Pause in proceedings]

14 [In the presence of the jury]

15 THE COURT: Stipulate to the presence of the jury.

16 MS. KALLAS: Yes, Your Honor.

17 MR. FRIZZELL: Yes, Your Honor.

18 THE COURT: Thank you for being prompt, ladies and

19 gentlemen.

20 You've met Tom, he is my marshal, the bailiff, we refer to him

21 as. He's been with me 25 years. Longer than most people are married in

22 Las Vegas.

23 So now we'll read the jury instructions to you and then have

24 closing argument and you can then decide the case.

25 Now, what you'll do is you can make notes on these and take

1 them back in the jury room with you. There will be a -- you'll have a copy
2 of the verdict form, it's on the back. It'll be in a blue folder. However, the
3 official one, your jury foreperson just has to check the box, and after
4 you've made a decision, you sign and date it and return with it to this court
5 room.

6 [Colloquy between the Court and the Clerk]

7 [The Court read the instructions to the jury]

8 THE COURT: You'll have this, this is your formal, you have that
9 copy, but this will be in a blue binder as well, to be brought back to you.

10 State ready?

11 MS. KALLAS: Yes, Your Honor.

12 THE COURT: Okay.

13 **CLOSING ARGUMENT BY THE STATE**

14 MS. KALLAS: Good morning ladies and gentlemen, welcome
15 back.

16 [The Jury in Unison: Good morning.]

17 MS. KALLAS: I want to first thank you guys for being here and
18 considering the evidence and listening to the testimony. Well, hopefully
19 that's what you guys were doing. I know somebody mentioned something
20 about a grocery list making yesterday so.

21 I do appreciate you being here. I'll try to make this as fast as
22 possible for you. I know my co-counsel said it's a straightforward case. I
23 will get us going.

24 Now, in every criminal case the State must prove two things,
25 they must prove, one, that a crime was committed; and, two, that the

1 defendant, that's Jesse Noble in this case, committed the crime.

2 Now, the defendant is charged in this case with one count of
3 battery by a prisoner. And you have that instruction for you, that's
4 instruction 13.

5 Now, battery is the willful and the unlawful use of force or
6 violence upon another person. So if somebody hits another person and
7 that other person doesn't agree to it, a battery has occurred. And the
8 touching can be so slight. You don't have to find that there's any type of
9 injury. It's just the unwanted touching.

10 Now, in this particular case there's a third extra element, and,
11 again, that in instruction 13. Because the law says that when you commit
12 a battery and you hit another person and you do that while you are in
13 lawful custody as a prisoner, you are therefore guilty of battery by a
14 prisoner.

15 Now, defense counsel and I made that last element pretty easy
16 for you. We stipulated to it. So you really don't have to look any further
17 than that.

18 So what you're going to do when you go back and you
19 deliberate, what your focus should be on is what evidence do you have,
20 what testimony was presented that shows that the defendant in this case
21 hit another person.

22 And, ladies and gentlemen, you can look no further than
23 mister -- or Officer Waylon Brown himself. He specifically got on the
24 stand and he said the defendant punched him in the face.

25 He said that he had gotten back out onto the quad, the 5-6

1 quad, after literally just taking somebody that was hurt to the infirmary and
2 he gets out back there and he instructs everyone to lay on the ground.
3 Not just for his safety, not just for the safety of the other COs, but for the
4 safety of the other inmates as well.

5 Because, again, he was just coming back from the infirmary
6 where someone, an inmate, had gotten hurt, he just heard shots were
7 fired.

8 And so when he gets there he instructs the defendant to lay
9 down, to go stomach down. The defendant doesn't do it, not in
10 compliance. He instructs him again and again to do it. And what does the
11 defendant do, he tells him, fuck you, why don't you make me. Not being
12 compliant.

13 So Officer Brown walks over to him and what happens, just as
14 my co-counsel told you in his opening statement, the defendant proved
15 the wisdom behind the policy, because the defendant punches him in the
16 face, ladies and gentlemen. That's a battery. At that time, when he
17 punches him in the face, he becomes guilty of battery by a prisoner.

18 Now, I want to address instruction number 22, and it says that,
19 there is no requirement that the testimony of a victim be corroborated, and
20 his testimony standing alone, if believed beyond a reasonable doubt, is
21 sufficient to sustain a verdict of guilty.

22 So if you believe Officer Brown's testimony beyond a
23 reasonable doubt, ladies and gentlemen, that is enough to find the
24 defendant guilty.

25 But that's not all that you have. You also have a picture of his

1 injury. You have a picture of the fat lip he got after the defendant punched
2 him in the face.

3 And not only that but we also had -- you heard from
4 Officer Grant. And the important thing to focus, Officer Grant's testimony
5 was essentially the same as Officer Brown's about what happened, the
6 defendant not being compliant, cussing at Officer Brown. But the one
7 important thing I want you to take from that testimony is that even though
8 he -- he said he didn't see the strike. He had turned. He was a little ways
9 away. But when he turns around, he said that nobody else was in striking
10 distance of Officer Brown but the defendant.

11 So ask yourselves, ladies and gentlemen, how is it -- or how is it
12 that the defendant -- or sorry, that Officer Brown was spitting blood later
13 that day? How is it that he ended up with that fat lip? Why was it that he
14 was dazed and confused when Officer Grant turned around? There's one
15 reasonable explanation for that, and that is that the defendant hit him.
16 Nobody else was around, Officer Grant told you that himself.

17 Why is everyone going, when Officer Grant turns around, and
18 they're going to restrain the defendant? There's one reasonable
19 explanation for that and that's that the defendant had hit Officer Brown.

20 Now, I want to get a little bit into the defense witnesses. You
21 heard yesterday first from Mr. Teagues and then next from Mr. Gaines.

22 And you'll have this instruction, and it says, that if you as jurors
23 believe that a witness hasn't testified truthfully, you can disregard their
24 entire testimony.

25 Let's first get started with Mr. Gaines himself. My co-counsel

1 had asked him if he had any other robbery cases and Mr. Gaines seemed
2 to say that he only had one.

3 Well, ladies and gentlemen, what you're going to have back
4 there with you, as part of your evidence, are two Judgment of Convictions
5 for Mr. Gaines himself. One for conspiracy to commit robbery and one for
6 conspiracy to commit robbery and robbery. And that's something to
7 consider. So if you don't believe Mr. Gaines' testimony, you can disregard
8 the entire thing.

9 And you also have Mr. Teagues' testimony, when he was
10 talking about his convictions, and he seemed to have amnesia about
11 those too.

12 And what's interesting about that, ladies and gentlemen, is that
13 these two men can't even seem to remember the own crimes that they
14 were convicted of. But they somehow remember this entire incident with
15 Mr. Noble, who they don't know.

16 I mean, do people remember what the stranger at the store in
17 aisle nine bought? What kind of peanut butter they got? You don't
18 remember stuff that someone you don't know. But they can't somehow
19 remember their own convictions? That's something to consider when
20 you're considering -- when you're thinking about their testimony, ladies
21 and gentlemen.

22 And not only that their testimonies are inconsistent with one
23 another. You have Mr. Gaines who appeared to make it seem like prisons
24 a great place. I think my co-counsel had asked him, is it -- oh, it's all
25 happy there. He said that the whole scene was calm, that people weren't

1 complaining, it was calm, cool, collected.

2 And then you have Mr. Teagues who's saying, no, it's hostile.

3 So their own testimony doesn't line up with one another.

4 So if you don't believe their testimony, you can disregard the
5 entire thing.

6 Now -- sorry, one second.

7 And so as much as Mr. Teagues and Mr. Gaines want us to
8 believe that the defendant didn't hit Officer Brown that night, the evidence
9 clearly shows otherwise.

10 Again, ladies and gentlemen, you have Officer Brown's
11 testimony. He specifically sat and said the defendant punched him in the
12 face.

13 And then, again, you have Officer Grant's testimony that when
14 he turned around no one else was there. Why -- and that Officer Brown
15 was looking dazed and confused. And even later when he saw him, his
16 face was swollen.

17 How is Officer Brown looking dazed and confused when nobody
18 else is around besides the defendant? How does he get that fat lip, ladies
19 and gentlemen? How does he -- why is he spitting blood? Again, there is
20 one reasonable explanation for that, and that is that this defendant
21 punched him.

22 Now, the last thing I want to discuss is the reasonable doubt
23 instruction, and that is instruction number 8, and it says that we must
24 prove beyond a reasonable doubt every material element. It's a
25 reasonable doubt, ladies and gentlemen. It's not above all doubt. It says

1 that doubt must be reasonable. It's not a possibility, not mere speculation,
2 but beyond a reasonable doubt.

3 And I think the evidence in this case, when you look at the
4 evidence and you hear the testimony, it's obvious that on December 21st,
5 2017, the defendant, while he was in lawful custody of the Nevada
6 Department of Corrections, punched Officer Brown.

7 And it's because of that, ladies and gentlemen, I will ask that
8 you find a verdict of guilty.

9 Thank you.

10 MR. FRIZZELL: Can you hear me okay?

11 THE COURT: Yes, you're fine.

12 MR. FRIZZELL: Okay.

13 **CLOSING ARGUMENT BY THE DEFENSE**

14 MR. FRIZZELL: Well, ladies and gentlemen, the beauty of a
15 short trial like this is we still have all the witnesses pretty much fresh in our
16 mind. It's different if we'd had several days of trial and we'd be going,
17 talking about witness number one. But everybody testified yesterday, so
18 you have everything in front of you for today.

19 Now, let's just go through, you heard from four different people.
20 Now, I want to show you -- and I'm probably going to be about right here --
21 this -- as you'll recall, Officer Brown said that my client, Mr. Noble, was on
22 his -- on the ground, on his left side, with his hand up on his head, holding
23 his head up. In other words, he wasn't -- I don't know if everybody can
24 see -- but he was laying -- basically, the way he was describing, he was
25 laying like this (indicating) and he would not put his hand down.

1 Officer Brown walks up to him, as you'll recall, he starts from ten
2 feet, comes up, and by the time he's actually grabbing his arm to do
3 what's called segment him, which is stiffening and pull him forward, to try
4 and get him on his stomach. Being about a foot away from him somehow
5 my client is able, when he's being forced on his stomach, to pull his hand
6 out, which would evidently cause his head to fall, and somehow get a
7 straight on fist right here in the center. Right there in the center of
8 Officer Brown's lip.

9 I'm in a suit and tie, it's comfortable in here, that was hard for
10 me to do. To get up and go straight on into someone's lip who's a foot
11 away from me. Just think about the mechanics there.

12 Mr. Noble's got long arms. He's a tall man. He's six-four. I'm a
13 short guy. I'm five-eight and I've got short arms and that would have been
14 hard for me to do.

15 So the instruction that says about that you don't have to -- you
16 can still bring in your -- your own experiences and your own logic and your
17 own thoughts about things. That's a mechanic that you've got to be able
18 to reconcile when you go back there.

19 Now, we have Mr. Grant, Mr. Grant was the closet one, as you'll
20 recall, he said he started walking with Officer Brown and then at about five
21 feet he stops and he's just kind of surveying the area. He says he doesn't
22 see Mr. Noble hit Officer Brown. And he said that he's standing behind
23 him so he can't -- he can't see because he's standing behind him. But as
24 you'll recall, when I showed him a copy of his report, he said, I saw
25 Mr. Noble push Officer Brown's hands away from him. Never said he saw

1 him hit him.

2 Now, keep in mind also that this was kind of an active situation
3 still and these guys have been laying on the ground. And you did, you
4 heard -- you heard Mr. Teagues.

5 Now, they're trying to draw this distinction between Mr. Teagues
6 and Mr. Gaines, but what you need to remember Mr. Gaines was literally
7 laying shoulder to shoulder with Mr. Noble. And as you'll recall from the
8 testimony and the Court gave you the estimate that it's about 20 feet from
9 the witness stand to where Mr. Noble is sitting.

10 So vantage points are different. Mr. Gaines says over here, by
11 where he was laying, things were calm. Mr. Teagues was a little farther
12 away and around a little different group and he said things were starting to
13 get hostile.

14 Well, the State is trying to tell you that can't co-exist. Well, you
15 have over 100 inmates, I believe you heard Officer Grant say at that time,
16 when they're switching everybody, there can be upwards of 150 to 200
17 inmates out there in that yard. They're not all going to drop gown in a line
18 and be in a perfect line or be stacked on top of one another or whatever.
19 They're to drop wherever, you know, wherever they're at.

20 So is it totally possible -- is it totally plausible that Mr. Gaines
21 can have a little different vantage point of what happened than
22 Mr. Teagues? Because Mr. Teagues is over here with a different group.
23 He's 20 feet away.

24 Mr. Brown says Mr. Noble, in an act of defiance, says, well, I'm
25 not going to lay down, why don't you come over here and F'ing make me.

1 Okay.

2 Where we contrast that is what Officer Grant said he heard. He
3 didn't hear that phrase. He heard, why don't you come make me, you
4 bitch ass CO, that's what -- that's what he heard. He didn't say that he
5 heard the F word and he was five feet, six feet away from him.

6 The point I'm trying to make, ladies and gentlemen, is because
7 this was an active situation, there was a lot of things that were going on at
8 that time. If you can just imagine, like Officer Grant said, you have 150 to
9 200 inmates, and I believe he said six to eight inmates. I think Officer
10 Brown said 10 to -- or, not inmates, guards, I'm sorry. Officer Brown said
11 10 to 15 guards.

12 Well, still, comparatively speaking, that's one guard for -- one
13 guard for 15 -- for 15 inmates. That can -- that can potentially be a very --
14 be a very difficult situation that can turn -- turn bad pretty quickly. So
15 there's a lot of things going on.

16 You heard both, both Mr. Teagues and Mr. Gaines, say that
17 officers were yelling, the officers were the ones yelling things. Officers
18 were the ones yelling at everybody.

19 Last thing, and I'm not -- I'm not saying one way or the other
20 that it took too long to find out who did it or what happened, but you can't
21 discount the fact that we're in December 21st, 2017, at night, 6:30, it's
22 cold, these guys have been laying there on the ground for over an hour,
23 either on cold cement or rocks because that's what we were told was the
24 only two things out in that yard.

25 People are going to get fidgety. I mean, even just during this

1 trial, as jurors, you switch your seat a little bit, you move in your seat, you
2 cross your legs, uncross your legs, and that's certainly within a few
3 minutes sometimes some of use do. That's just natural.

4 Well, they're laying their prostrate on the ground for over an
5 hour and it's cold. Can't say I wouldn't, maybe, move either. Maybe I'm
6 getting cold. Maybe I didn't want to put my face in the dirt or in the rocks
7 but lift it up because my nose was freezing.

8 Ladies and gentlemen, basically what I want you to -- what I
9 want you to think about, I don't know where Officer Brown got that -- got
10 that fat lip. But that's -- that's all the injury that he received. He said he --
11 he said his neck was a little -- his neck was a little sore, probably from the
12 adrenaline of having to strain muscles to move inmates around and
13 whatnot. But all you have is a picture of one injury, which is literally about
14 half an inch right here in the very middle of his lip.

15 My client didn't hit him. I don't know how he got that. I don't
16 know how he got that fat lip but my client didn't hit him. Maybe he got it
17 from someone else. Maybe -- I don't know.

18 And so when you guys go back there and you start
19 deliberating -- oh, I just want you to keep these mechanics in mind and
20 come back with a verdict of not guilty.

21 Thank you.

22 [Colloquy]

23 **REBUTTAL CLOSING ARGUMENT BY THE STATE**

24 MR. KOVAC: So this instruction six -- I'll be quick here, I know
25 it's close to lunchtime -- I just highlighted a small portion of it, statements,

1 arguments, and opinions of counsel are not evidence.

2 So Mr. Frizzell asked a lot of questions but the questions he
3 asked aren't supported by any evidence. Those questions might sound
4 convincing, but questions are questions, they don't mean anything.

5 He questions the mechanics of how Mr. Noble could have
6 punched Officer Brown. I'm about the same size as Officer Brown I can
7 tell you how it happened. Officer Noble rips his hand away from
8 Officer Brown and punches him in the face. It's as easy as that. It's not
9 difficult.

10 What this comes down to is a credibility contest, the State's
11 witnesses versus the defense witnesses. The theory that defendant
12 Noble didn't punch Officer Brown, what evidence supports that theory? All
13 the evidence goes the other way. Who better is going to know who
14 punched Officer Brown then Officer Brown?

15 If one of you get sick of hearing me talk and comes up and
16 punches me in the face, I'm going to know which one of you guys did it.
17 It's not going to be difficult.

18 On top of that, if you're six-foot-four and have braids, it's going
19 to be even easier for me to pick out who punched me in the face.

20 You have the defendant's own witness Darryl Teagues said that
21 they were bunched up, there was only a group of 10 or 15 of 'em, yeah,
22 there's 200 people out in the yard. But according to the defense's own
23 witness, there's only 10 or 15. So there's not a whole lot of people for
24 Officer Brown to pick out who punched him in the face.

25 On top of that, Officer Grant's sitting right next to him, nobody

1 else is within striking distance. That's the testimony from Officer Grant.
2 That's a pretty big coincidence.

3 Third coincidence, if you're to believe the defense, all the
4 corrections officers who respond to the scene then subdue the wrong
5 person.

6 Those are three pretty big coincidences that you have to believe
7 if you believe the defendant's innocent. You have to believe that
8 Officer Brown doesn't know who punched him in the face, Officer Grant
9 got it wrong, who was within striking distance, then all the other COs
10 responded and subdued the wrong person.

11 Is that a reasonable way to think?

12 Another instruction, I just want to briefly point out, when I ask
13 you that question, is instruction number 9, again, I highlight the portion I
14 want you to top focus on, you must bring to the consideration of the
15 evidence your everyday commonsense and judgment as reasonable men
16 and women.

17 If I told you that story outside of the courtroom before you came
18 in here, who would you say punched Officer Brown? Would it really be a
19 difficult question for you to answer?

20 As far as the defense witnesses go, and again, this is a
21 credibility contest, Officer Brown, on our side, what motivation does he
22 have to lie? Why would he lie about this? How else would he get this fat
23 lip? What motivation did Officer Grant have to lie?

24 Was there any motivation whatsoever on the defense side?
25 You have Gaines come in, he lies about his convictions. When I asked

1 him, do you guy's self-segregate when you walk, and, you know, you walk
2 with your friends you self-segregate in your same race?

3 No, we walk with all races.

4 I call him out on it. Well, what I meant by all race is, yeah, we
5 just walk with our own race.

6 Does that make sense to you?

7 You have Teagues, he didn't tell you about his sex trafficking
8 conviction, didn't tell you about his robbery conviction, didn't tell you about
9 living off the earnings of a prostitute.

10 You have him specifically say -- how many times did he say this
11 was a hostile situation?

12 Then I ask Gaines, was it hostile?

13 No, it wasn't hostile.

14 You have Teagues come in here, everybody was getting
15 agitated because it was cold.

16 I ask Gaines, was everybody getting agitated?

17 No, nobody cared, it was fine, everybody was calm.

18 It's a credibility contest.

19 Officer Brown has a tough job. He's about the same size as
20 me, I wouldn't want to do that job.

21 When an inmate batters an officer they have to be held
22 accountable. And that's what I'm going to ask you to do here and return a
23 verdict of guilty and hold Mr. Noble accountable for punching Officer
24 Brown.

25 Thank you.

1 THE COURT: Swear the officers of the court in, please.

2 [The Clerk swears in the officers to take charge of the jury and the
3 alternates.]

4 THE COURT: All right. The jurors 13 and 14, you'll go with Jill.
5 This is my secretary. You 13 and 14. Take your personal property, Tom
6 will tell you.

7 The rest of you pick up your property and go with Tom and we'll
8 bring the -- or Tom will bring the evidence in to you.

9 [Outside the presence of the jury]

10 THE COURT: All right. The doors closed.

11 Thank you. Good job, everyone.

12 Please make sure we have your cell phones and be within 20
13 minutes of the courthouse, please.

14 MR. KOVAC: Thank you, Your Honor.

15 MS. KALLAS: Thank you, Your Honor.

16 MR. FRIZZELL: Thank you.

17 [Jury retired to deliberate at 10:46.]

18 [Jury trial resumed at 12:06 p.m.]

19 [In the presence of the jury]

20 THE COURT: The record will reflect the presence of the
21 defendant, his attorney, the government's attorneys, and all 12 members
22 of the jury.

23 Who's the jury foreperson?

24 JUROR NUMBER 5: I am.

25 THE COURT: Were you able to reach a verdict?

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JUROR NUMBER 5: Yes, we did.

THE COURT: Was it unanimous?

JUROR NUMBER 5: Yes, it was.

THE COURT: Would you hand that to the marshal.

The clerk will now read the verdict into the record and poll the jury.

THE CLERK: State of Nevada -- District Court, Clark County, Nevada, State of Nevada, Plaintiff, versus Jesse D. Noble, Defendant. Case Number C336940, Department 8.

Verdict:

We, the jury in the above entitled case, find the Defendant, Jesse D. Noble, as follows:

Count 1, battery by a prisoner, guilty of battery by a prisoner.

Signed this 12th day of February by the jury foreperson.

Ladies and gentlemen of the jury, is this your verdict so say you one so say you all?

[The Jury Panel in unison: Yes.]

THE CLERK: Juror number 1, is this your verdict as read?

JUROR NUMBER 1: Yes.

THE CLERK: Juror number 2, is this your verdict as read?

JUROR NUMBER 2: Yes.

THE CLERK: Juror number 3, is this your verdict as read?

JUROR NUMBER 3: Yes.

THE CLERK: Juror number 4, is this your verdict as read?

JUROR NUMBER 4: Yes.

1 THE CLERK: Juror number 5, is this your verdict as read?

2 JUROR NUMBER 5: Yes.

3 THE CLERK: Juror number 6, is this your verdict as read?

4 JUROR NUMBER 6: Yes.

5 THE CLERK: Juror number 7, is this your verdict as read?

6 JUROR NUMBER 7: Yes.

7 THE CLERK: Juror number 8, is this your verdict as read?

8 JUROR NUMBER 8: Yes.

9 THE COURT: Yeah, you just -- eight as you're sitting here.

10 THE CLERK: Is this your verdict as read?

11 JUROR NUMBER 8: Yes.

12 THE CLERK: Juror number 9, is this your verdict as read?

13 JUROR NUMBER 9: Yes.

14 THE CLERK: Juror number 10, is this your verdict as read?

15 JUROR NUMBER 10: Yes.

16 THE CLERK: Juror number 11, is this your verdict as read?

17 JUROR NUMBER 11: Yes.

18 THE CLERK: And Juror number 12, is this your verdict as

19 read?

20 JUROR NUMBER 12: Yes.

21 THE COURT: The clerk will now record the verdict in the

22 minutes of the court.

23 Ladies and gentlemen, as you know, I have a strong feeling
24 towards trial by jury and it's one of our basic, fundamental rights, and it's a
25 right that I take -- feel strongly about. And if we don't have good jurors

1 that are willing to sit, and you can see that people shirk their duty as
2 jurors, our system won't work. I firmly believe in that right.

3 And that you would need a fair and impartial jury and you must
4 have jurors and unfortunately jury service, as I say -- or what many
5 persons shirk, they don't wish to become involved. That's why I'm so
6 pleased that you 12 were willing to give of your valuable time. You've
7 been most attentive and conscientious.

8 On behalf of counsel, the parties, and Eighth Judicial District
9 Court, I wish to thank you for your careful deliberation in the case.

10 The question may arise now as to whether you can talk to other
11 persons regarding this matter. I advise you that you may, if you wish, talk
12 to other persons and discuss your deliberation which you gave the case.

13 You're not required to do so, however, and if any person is
14 persistent in discussing this case after you have indicated you don't want
15 to or raises an objection how you reached your result or how you
16 deliberated, you'll report that fact to me. And you do that through the
17 marshal.

18 And I can tell you I'll take strong -- handle it quickly and
19 strongly.

20 The jury is now excused with the thanks of the Court.

21 And you'll go with Tom.

22 [Outside the presence of the jury]

23 THE COURT: All right. The juries out.

24 Thank you. It was a good job for all of you.

25 Sentencing will be?

1 THE CLERK: August 3rd.
2 MR. FRIZZELL: I'm sorry?
3 THE CLERK: August 3rd.
4 MR. FRIZZELL: August.
5 THE COURT: Defendant is remanded without bail, of course,
6 he's in Nevada State Prison, so I don't know how long.
7 MR. FRIZZELL: He needs a PSI. I don't know they will do that.
8 THE COURT: I know. And we'll send him -- well, they'll do it by
9 telephone, they'll call him.
10 MR. FRIZZELL: Okay.
11 THE COURT: Now, I know that you filed notice of habitual. I'm
12 not sure this is a habitual. But if you file it, the habitual, I have to follow it.
13 And I don't know -- I can't dismiss things.
14 So I'd like you to think about whether you should really file it in
15 this case.
16 MR. KOVAC: You're saying that we can withdraw it then?
17 THE COURT: You can withdraw -- well, you don't have to file
18 the certified copies, if you don't --
19 MS. KALLAS: Oh, okay.
20 MR. KOVAC: Oh, I see.
21 THE COURT: If you don't, I won't follow -- well, of course, I
22 have to, if you file it.
23 MR. KOVAC: We'll do the --
24 MS. KALLAS: File the -- the JOCs?
25 THE COURT: Talk about it before sentencing.

1 MR. KOVAC: -- we'll do the reasonable thing before
2 sentencing.

3 THE COURT: All right. Thanks.

4 MR. FRIZZELL: Thank you, Your Honor.

5 THE COURT: All right.

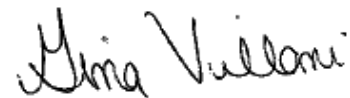
6 MS. KALLAS: Thank you, Your Honor.

7 MR. KOVAC: Thank you.

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9 [Jury trial, Day 2, concluded at 12:11 p.m.]

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

22 

23 Gina Villani
24 Court Recorder/Transcriber
25 District Court Dept. IX