

IN THE SUPREME COURT OF THE STATE OF NEVADA

CALVIN ELAM,

Appellant,

v.

STATE OF NEVADA,

Respondent.

Docket No. 85421

Electronically Filed
Mar 27 2023 06:08 PM
Elizabeth A. Brown
Clerk of Supreme Court

**APPELLANT'S APPENDIX
Volume II**

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Calvin Elam

By: /S/ Monique McNeill
MONIQUE MCNEILL
State Bar # 9862

1 only morning shift I have -- day shift I have.

2 MS. LUZAICH: Okay. So what if --

3 THE COURT: So tomorrow would be 7:00 a.m. to 7:00
4 p.m.?

5 PROSPECTIVE JUROR NO. 177: Yeah. And then after
6 that it's all --

7 THE COURT: So obviously if you're here you can't --

8 PROSPECTIVE JUROR NO. 177: And then after that it's
9 all night shifts.

10 MS. LUZAICH: 4:00 to 4:00?

11 PROSPECTIVE JUROR NO. 177: 4:00 to 4:00 and then the
12 other one is 7:00 to 7:00.

13 MS. LUZAICH: Okay. Did you grow up here?

14 PROSPECTIVE JUROR NO. 177: Yeah.

15 MS. LUZAICH: Are you familiar with the Jones-Owens
16 area?

17 PROSPECTIVE JUROR NO. 177: No.

18 MS. LUZAICH: Northeastish.

19 PROSPECTIVE JUROR NO. 177: Okay.

20 MS. LUZAICH: The month that you've been working
21 where have your calls been? Just all over or --

22 PROSPECTIVE JUROR NO. 177: We're out of Henderson.

23 MS. LUZAICH: I'm sorry.

24 PROSPECTIVE JUROR NO. 177: We're based out of
25 Henderson.

1 MS. LUZAICH: Oh. Oh.

2 PROSPECTIVE JUROR NO. 177: We only cover up to
3 Tropicana.

4 MS. LUZAICH: Okay. So you don't generally work in
5 Las Vegas?

6 PROSPECTIVE JUROR NO. 177: No. More Henderson.

7 MS. LUZAICH: As a research technician for the prior
8 company, what did you do?

9 PROSPECTIVE JUROR NO. 177: It was a bunch of
10 different government contracts. So, like, the big one we had
11 was the hellfire missile case, and, like, if one -- if one blew
12 up, they wanted that case to stop that missile instead of
13 cooking all the rest of them. So just like -- it was all -- we
14 built a big ice machine, and it sounds corny, but this ice
15 machine produces, like, 25,000 pounds of ice a day for the
16 military, just little -- or big projects like that, I guess,
17 for the military.

18 MS. LUZAICH: Did you have to have a particular
19 education to go into that job?

20 PROSPECTIVE JUROR NO. 177: No.

21 MS. LUZAICH: Do you have post high school education?

22 PROSPECTIVE JUROR NO. 177: Yeah. I went to UNLV.

23 MS. LUZAICH: And what did you study?

24 PROSPECTIVE JUROR NO. 177: Public administration.

25 MS. LUZAICH: Would you agree that different people

1 react differently to the same set of circumstances?

2 PROSPECTIVE JUROR NO. 177: Yeah.

3 MS. LUZAICH: That made sense to you?

4 PROSPECTIVE JUROR NO. 177: Yeah.

5 MS. LUZAICH: Do you think that different people can
6 perceive one event the same -- or differently?

7 PROSPECTIVE JUROR NO. 177: Yeah.

8 MS. LUZAICH: And that makes sense to you as well?

9 PROSPECTIVE JUROR NO. 177: Yeah.

10 MS. LUZAICH: Do you watch *CSI*?

11 PROSPECTIVE JUROR NO. 177: I just started Blacklist.
12 I don't know if you've seen that, but --

13 MS. LUZAICH: Okay. So doing what you have been
14 doing for so long, between the research and the EMT, would you
15 agree that *CSI* is fake?

16 PROSPECTIVE JUROR NO. 177: Yeah.

17 MS. LUZAICH: Do you have any opinions about people
18 who use drugs?

19 PROSPECTIVE JUROR NO. 177: No.

20 MS. LUZAICH: Have you in the month that you've been
21 working as the EMT responded to any overdose or drug use or
22 anything like that?

23 PROSPECTIVE JUROR NO. 177: Yeah.

24 MS. LUZAICH: Were you able to -- like, were you able
25 to tell whether or not the individual was high, or were they

1 just already overdosed?

2 PROSPECTIVE JUROR NO. 177: No, we could tell. Well,
3 there's signs, and they did react to the certain drugs we give
4 or stated that he was, but, you know.

5 MS. LUZAICH: Can you listen to somebody who will
6 tell you that they have used drugs and still be objective in
7 evaluating their testimony?

8 PROSPECTIVE JUROR NO. 177: I would listen to them.

9 MS. LUZAICH: Is it possible that you'll believe what
10 they have to say?

11 PROSPECTIVE JUROR NO. 177: Yeah.

12 MS. LUZAICH: You won't automatically disbelieve them
13 simply because they say they use drugs?

14 PROSPECTIVE JUROR NO. 177: No.

15 MS. LUZAICH: Did you ever respond to any sexual
16 abuse or sexual assault type calls?

17 PROSPECTIVE JUROR NO. 177: Yeah.

18 MS. LUZAICH: And what did you have to do for that?

19 PROSPECTIVE JUROR NO. 177: It was a transport. So
20 they got put on a Legal 2000, and basically we had to transport
21 them because they were suicidal. That's the majority of it.

22 MS. LUZAICH: But did you have to evaluate or just
23 transport?

24 PROSPECTIVE JUROR NO. 177: Yeah, evaluate and
25 transport.

1 MS. LUZAICH: When you are trained to show up to a
2 scene where you have to evaluate somebody for, I mean, injury
3 or whatever, are you evaluating everything or just enough to
4 figure out what's wrong and get them to the doctor? Do you
5 know what I mean?

6 PROSPECTIVE JUROR NO. 177: Usually, I mean, if it's
7 a critical, we just want to find that, you know, critical part,
8 but if we have time we can get a head to toe and spend more
9 time to figure out really what's going on.

10 MS. LUZAICH: Okay. So it's not always just a
11 triage?

12 PROSPECTIVE JUROR NO. 177: No.

13 MS. LUZAICH: Thank you.

14 I would pass for cause.

15 THE COURT: All Right. Mr. Ericsson.

16 MR. ERICSSON: Thank you.

17 Good afternoon, Mr. Roper.

18 PROSPECTIVE JUROR NO. 177: Good afternoon.

19 MR. ERICSSON: So you have -- do you have a college
20 degree?

21 PROSPECTIVE JUROR NO. 177: Yeah.

22 MR. ERICSSON: Okay. Do you have any formal training
23 in the medical field?

24 PROSPECTIVE JUROR NO. 177: No.

25 MR. ERICSSON: With your current job working as an

1 EMT, so do you have an EMT certification?

2 PROSPECTIVE JUROR NO. 177: Oh, okay. Yeah. Yeah.
3 Yeah. This is my first time working in EMS, but I do have
4 certifications for EMT.

5 MR. ERICSSON: Okay. What is your plan for the next
6 couple of years employmentwise? Are you planning on staying in
7 this field? Are you --

8 PROSPECTIVE JUROR NO. 177: I'm testing for fire.

9 MR. ERICSSON: Okay. So that's your --

10 THE COURT: So is this kind of a steppingstone to --

11 PROSPECTIVE JUROR NO. 177: Yeah. This is kind of a
12 steppingstone.

13 THE COURT: -- become an ambulance driver or
14 ambulance personnel for the fire department?

15 PROSPECTIVE JUROR NO. 177: Yeah. I thought, you
16 know, learn the language and get familiar with it
17 (unintelligible).

18 MR. ERICSSON: And what is the ambulance company that
19 you're currently working for?

20 PROSPECTIVE JUROR NO. 177: Community.

21 MR. ERICSSON: Community. Okay. Have you had any
22 involvement with any of the EMTs from AMR?

23 PROSPECTIVE JUROR NO. 177: We see them pretty much
24 every day. Yeah.

25 MR. ERICSSON: Okay. If there are witnesses or

1 reports in this case from AMR personnel, would that affect your
2 ability to evaluate information?

3 PROSPECTIVE JUROR NO. 177: No.

4 MR. ERICSSON: So you don't hold them in low regard
5 or high regard? You would be able to just evaluate the
6 evidence as it comes in; is that correct?

7 PROSPECTIVE JUROR NO. 177: Yes.

8 MR. ERICSSON: It wasn't clear to me. You indicated
9 that you've had some involvement with sexual assault
10 allegations in this month that you've been working as an EMT;
11 is that correct?

12 PROSPECTIVE JUROR NO. 177: Yes.

13 MR. ERICSSON: And then you talked about a Legal
14 2000. Were you treating the alleged victim of the sexual
15 assault or the alleged perpetrator?

16 PROSPECTIVE JUROR NO. 177: We carried the -- we
17 transported the patient that was claiming she was sexually
18 assaulted.

19 MR. ERICSSON: Okay. And have you had more than one
20 of those cases in the month you've been working?

21 PROSPECTIVE JUROR NO. 177: No. That was the only
22 one.

23 MR. ERICSSON: Anything about that experience that
24 you think might affect your ability to be fair and impartial in
25 a case like this where there are allegations of sexual assault?

1 PROSPECTIVE JUROR NO. 177: No.

2 MR. ERICSSON: You've indicated that you interact
3 with police officers in your current duties. How would you go
4 about evaluating law enforcement testimony in this case?

5 PROSPECTIVE JUROR NO. 177: I like to hear everyone's
6 opinion or everyone's evidence. I don't -- I wouldn't take it
7 as a higher just because they're a police officer.

8 MR. ERICSSON: Okay. So is it fair to say that you
9 would evaluate the information that comes from whatever witness
10 depending on how it fits in to your understanding of all of the
11 evidence in the case?

12 PROSPECTIVE JUROR NO. 177: Yes.

13 MR. ERICSSON: I think the last area that I'm going
14 to ask you questions about are what you've been asked by the
15 Judge and Ms. Luzaich, and that is your sleep in this case. I
16 hope that you can appreciate this is a very serious case that
17 has long-term consequences for people. If you were selected to
18 serve as a juror on this case, can you assure us that if you
19 find that you are getting too tired by trying to continue your
20 work that you would take time off from work to be able to focus
21 on this case?

22 PROSPECTIVE JUROR NO. 177: Yeah. I mean, I don't
23 know if I would take time off, but I would -- I don't know. I
24 would like to work. I mean, that's --

25 MR. ERICSSON: Sure

1 THE COURT: How does that work in your job? You said
2 the shift is, say, 4:00 to 4:00 a.m. What if you don't get
3 there until 6:00 p.m. or 6:30 p.m.? Do you just miss that
4 shift then, or don't they have to staff the shift with somebody
5 else?

6 PROSPECTIVE JUROR NO. 177: Yeah. If I missed it?

7 THE COURT: Well, what I'm saying is -- say your
8 shift is scheduled for 4:00 p.m. to 4:00 a.m. That's what you
9 said, correct?

10 PROSPECTIVE JUROR NO. 177: Yeah.

11 THE COURT: What if you don't get to work until 6:30
12 p.m.? Don't they staff that shift with somebody else?

13 PROSPECTIVE JUROR NO. 177: Yes.

14 THE COURT: Okay. So you miss the shift then. Is
15 that --

16 PROSPECTIVE JUROR NO. 177: I would miss the shift,
17 yeah.

18 THE COURT: All right.

19 MR. ERICSSON: So and I would assume that on a number
20 of days that -- in this trial that we will be going to probably
21 5:00 o'clock or sometime around there at the end of the day
22 before we finish testimony for the day, and if you're doing the
23 4:00 p.m. shifts, then would that mean that you would miss that
24 shift for that period?

25 PROSPECTIVE JUROR NO. 177: I would have to miss it,

1 yeah.

2 MR. ERICSSON: So I understand your desire to work
3 and, you know, there obviously are others here who are going to
4 be missing work -- because they have day shifts -- if they're
5 called to serve on the jury. If you find that you are not able
6 to concentrate on the evidence that's being presented, will you
7 miss work to make sure that you can be a fair and deliberative
8 juror in this case?

9 PROSPECTIVE JUROR NO. 177: Well, I would like to
10 work, but if that was the case, then yes.

11 MR. ERICSSON: Okay. Thank you very much.
12 I'd pass for cause.

13 THE COURT: All right. Thank you.

14 I believe we're on State's second.

15 Is that --

16 THE CLERK: Correct.

17 THE COURT: Correct. State's second.

18 MS. LUZAICH: The State would thank and ask the Court
19 to excuse Juror Badge No. 157, Mr. Osorio.

20 THE COURT: Sir, thank you for being here. You are
21 excused at this time.

22 And if the court clerk would please call up the next
23 prospective juror.

24 THE CLERK: Lara Deguzman.

25 MR. ERICSSON: Your Honor, while this person's

1 coming, what time do you think we'll take our last break?

2 THE COURT: Maybe at 4:00. Is that okay?

3 MR. ERICSSON: Uh-huh.

4 THE COURT: Good afternoon. What do you do for a
5 living?

6 PROSPECTIVE JUROR NO. 183: I'm the director for the
7 project management office at Credit One Bank.

8 THE COURT: Okay. And are you married, domestic
9 partner, significant other?

10 PROSPECTIVE JUROR NO. 183: Married.

11 THE COURT: What does your husband do?

12 PROSPECTIVE JUROR NO. 183: He's a realtor.

13 THE COURT: All right. And do you have any children?

14 PROSPECTIVE JUROR NO. 183: Yes, I do.

15 THE COURT: How many, and what's the age range?

16 PROSPECTIVE JUROR NO. 183: Two -- a 9 year old and a
17 4 year old.

18 THE COURT: Have you ever been a juror before?

19 PROSPECTIVE JUROR NO. 183: No.

20 THE COURT: Have you or anyone close to you ever been
21 arrested, charged or accused of a crime?

22 PROSPECTIVE JUROR NO. 183: No.

23 THE COURT: How about the victim of a crime?

24 PROSPECTIVE JUROR NO. 183: No.

25 THE COURT: Nothing? Not you? Not anyone close to

1 you?

2 PROSPECTIVE JUROR NO. 183: Fortunately not.

3 THE COURT: Do you have any friends or family who've
4 worked in law enforcement?

5 PROSPECTIVE JUROR NO. 183: No.

6 THE COURT: Okay. You heard all the questions I
7 asked, the lawyers asked. Did you hear any of us ask a
8 question of another juror that you thought, oh, I'd have to
9 raise my hand and answer that question?

10 PROSPECTIVE JUROR NO. 183: Yes. Just to be
11 completely forthcoming, I think people who do use drugs, not
12 that it's a judgment or I hold it against them, it's just that
13 I can't help but think that it would impair their brain
14 somehow.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NO. 183: So there is that
17 reservation, and the other piece of it, too, is I think it'd
18 be -- I'd be objective, and I'll always stick to the facts, but
19 it'd be very difficult for me to hear things about sexual
20 abuse.

21 THE COURT: Okay. And I don't mean to pry but is
22 that just because it's a -- just generally a difficult
23 subject --

24 PROSPECTIVE JUROR NO. 183: Yeah.

25 THE COURT: -- or is there something in your own

1 background that makes it more difficult for you to hear as
2 opposed to anyone else?

3 PROSPECTIVE JUROR NO. 183: Generally speaking, just
4 as a human being.

5 THE COURT: Okay. Because I don't think it's a
6 comfortable topic for most people. So I don't think that's
7 probably unusual. You heard me talking about the fact that the
8 defendant is innocent unless proven guilty and that the State
9 has the burden of proving his guilt beyond a reasonable doubt.
10 Do you have any issues or difficulties or problems with those
11 constitutional rights, those concepts?

12 PROSPECTIVE JUROR NO. 183: No.

13 THE COURT: All right. Do you feel like you're the
14 kind of person who would make a good juror?

15 PROSPECTIVE JUROR NO. 183: Yes.

16 THE COURT: And tell me why.

17 PROSPECTIVE JUROR NO. 183: Because I have integrity.
18 I'm fair and I'm objective.

19 THE COURT: Okay. Ms. Luzaich, you may follow up.

20 MS. LUZAICH: Thank you.

21 Good afternoon, ma'am.

22 PROSPECTIVE JUROR NO. 183: Good afternoon.

23 MS. LUZAICH: You said that to be forthcoming you
24 have concerns about people who use drugs because it impairs
25 their brain.

1 PROSPECTIVE JUROR NO. 183: Yes. Mentally and
2 physiologically I would think that if they -- I mean, even --
3 even legal drugs have side effects so I would just have that
4 skepticism for people. Depending on when they used it I would
5 just -- I would just be conservative in evaluating what they
6 were saying.

7 MS. LUZAICH: Okay. You won't automatically
8 disbelieve what they have to say simply because they use drugs?

9 PROSPECTIVE JUROR NO. 183: No.

10 MS. LUZAICH: You would give that person a fair
11 chance?

12 PROSPECTIVE JUROR NO. 183: Absolutely.

13 MS. LUZAICH: Because, you know, not everybody comes
14 from a -- not everybody lives in the nicer part of town. Not
15 everybody has a job.

16 PROSPECTIVE JUROR NO. 183: I understand.

17 MS. LUZAICH: Life is more difficult for some than
18 for others.

19 PROSPECTIVE JUROR NO. 183: Yes. I would have that
20 empathy.

21 MS. LUZAICH: So you can listen to individuals and
22 accept what they have to say based on how they appear to you,
23 basically and describe for you?

24 PROSPECTIVE JUROR NO. 183: That's correct. Yes.

25 MS. LUZAICH: Do you think -- well, do you own a gun?

1 PROSPECTIVE JUROR NO. 183: No.

2 MS. LUZAICH: By choice?

3 PROSPECTIVE JUROR NO. 183: Yes.

4 MS. LUZAICH: How do you feel about people who do
5 have guns?

6 PROSPECTIVE JUROR NO. 183: I think it's unnecessary,
7 and it poses more problems than it does help, but then I -- on
8 the flip side, I do believe that people have the right to bear
9 arms and protect themselves. So but personally I don't think
10 it's necessary.

11 MS. LUZAICH: Okay. Would you agree that it is
12 embarrassing to come and talk about sexual-type issues?

13 PROSPECTIVE JUROR NO. 183: Absolutely, I mean, I
14 think it would carry a certain amount of shame.

15 MS. LUZAICH: Okay. Traumatic?

16 PROSPECTIVE JUROR NO. 183: Yes.

17 MS. LUZAICH: Do you think having a gun put in your
18 mouth is also traumatic?

19 PROSPECTIVE JUROR NO. 183: Of course. Yes.

20 MS. LUZAICH: And are those things that you would
21 take into consideration when you're evaluating the testimony of
22 witnesses?

23 PROSPECTIVE JUROR NO. 183: Yes.

24 MS. LUZAICH: Would you agree that people do react
25 differently to the same set of circumstances?

1 PROSPECTIVE JUROR NO. 183: Yes, completely agree.

2 MS. LUZAICH: So if somebody gets on the stand and
3 testifies and doesn't appear the way you think you might if you
4 suffered that or doesn't react in a way that you think you
5 might if you suffered that, you won't automatically disbelieve
6 what they have to say?

7 PROSPECTIVE JUROR NO. 183: No.

8 MS. LUZAICH: Are these all things that you'll take
9 into consideration?

10 PROSPECTIVE JUROR NO. 183: Yes.

11 MS. LUZAICH: Do you watch *CSI* or any of those court
12 shows on TV?

13 PROSPECTIVE JUROR NO. 183: No.

14 MS. LUZAICH: So you won't be surprised to know that
15 *CSI* is fake?

16 PROSPECTIVE JUROR NO. 183: Yes.

17 MS. LUZAICH: Are you expecting anything in this
18 trial?

19 PROSPECTIVE JUROR NO. 183: Just that I would expect
20 that you representing the State would do their very best to be
21 fair and that I've put a lot of good faith there. So --

22 MS. LUZAICH: Okay. Are you expecting --

23 PROSPECTIVE JUROR NO. 183: On both sides.

24 MS. LUZAICH: Sorry.

25 PROSPECTIVE JUROR NO. 183: No. No. That's all

1 right. And then just I would hope there would be a lot of
2 facts and evidence.

3 MS. LUZAICH: Okay. So are you expecting to see
4 anything?

5 PROSPECTIVE JUROR NO. 183: No, not at this moment.
6 I can't think of anything.

7 MS. LUZAICH: Okay. I mean, just, you know, some
8 people would expect somebody who went through something bad to
9 come in here and burst into tears.

10 PROSPECTIVE JUROR NO. 183: Oh, no. No.

11 MS. LUZAICH: Different people react differently,
12 right?

13 PROSPECTIVE JUROR NO. 183: Yes. I would hope there
14 wouldn't be, to be perfectly honest, too, too much graphic
15 information.

16 MS. LUZAICH: I can't promise you anything there.
17 Sorry. Do you have any scientific background?

18 PROSPECTIVE JUROR NO. 183: I have an undergrad in
19 psychology.

20 MS. LUZAICH: Okay. Nothing in, like, the physical
21 sciences? DNA, fingerprint, anything like that?

22 PROSPECTIVE JUROR NO. 183: No.

23 MS. LUZAICH: Can you listen to individuals who are
24 going to talk about those kinds of things and be objective
25 about that as well?

1 PROSPECTIVE JUROR NO. 183: Yes.

2 MS. LUZAICH: Ever have a bad experience with a
3 police officer?

4 PROSPECTIVE JUROR NO. 183: No.

5 MS. LUZAICH: Ticket you didn't deserve?

6 PROSPECTIVE JUROR NO. 183: No.

7 MS. LUZAICH: Okay. Can you listen to police
8 officers and be objective about them as well?

9 PROSPECTIVE JUROR NO. 183: Yes.

10 MS. LUZAICH: Is there anything that would prevent
11 you from being able to sit in judgment?

12 PROSPECTIVE JUROR NO. 183: No.

13 MS. LUZAICH: And if you were convinced after seeing
14 all the evidence and hearing all the testimony, if you were
15 convinced beyond a reasonable doubt the defendant committed the
16 crimes he was charged with, would you be able to say the word
17 guilty?

18 PROSPECTIVE JUROR NO. 183: Yes.

19 MS. LUZAICH: If you were representing the State of
20 Nevada, would you want you as a juror?

21 PROSPECTIVE JUROR NO. 183: Yes.

22 MS. LUZAICH: You hesitated and sighed.

23 PROSPECTIVE JUROR NO. 183: Yes. I just -- and again
24 I think it's just, you know, as a human being it's just such a,
25 as the Judge said, it's just such an uncomfortable topic. It's

1 not one, thankfully, that I've been exposed to, and there's
2 that small dread of being exposed. I know it exists, and, you
3 know. So --

4 MS. LUZAICH: But you would still be okay?

5 PROSPECTIVE JUROR NO. 183: Yes.

6 MS. LUZAICH: Thank you.

7 I'd pass for cause.

8 THE COURT: Mr. Ericsson.

9 MR. ERICSSON: Thank you, Your Honor.

10 Good afternoon.

11 PROSPECTIVE JUROR NO. 183: Good afternoon.

12 MR. ERICSSON: So you have an undergrad degree in
13 psychology; is that right?

14 PROSPECTIVE JUROR NO. 183: Yes. Yes.

15 MR. ERICSSON: And what is your master's degree in?

16 PROSPECTIVE JUROR NO. 183: In analytics.

17 MR. ERICSSON: Okay. And what are your current basic
18 duties or assignments in the job you hold?

19 PROSPECTIVE JUROR NO. 183: I make sure that we
20 implement the right technology for the bank, more like a
21 financial technology, make sure that we are servicing our
22 clients well, (unintelligible) action, anticipate your needs.

23 MR. ERICSSON: Okay. I want to focus some questions
24 on your concern about the types of allegations in this case.

25 PROSPECTIVE JUROR NO. 183: Sure.

1 MR. ERICSSON: As it has been expressed a number of
2 times, there are some people who are not a good fit for certain
3 types of cases.

4 PROSPECTIVE JUROR NO. 183: Agreed.

5 MR. ERICSSON: And only you know whether you have the
6 background and makeup that you would be able to be objective if
7 there are very difficult and harsh allegations that are being
8 analyzed in this case. So tell me --

9 PROSPECTIVE JUROR NO. 183: I would be objective.
10 I'm strong. It's just that I wanted to declare I'm human. So
11 that would be (unintelligible) --

12 MR. ERICSSON: Sure. Okay. In your training in
13 psychology have you worked with any victims of sexual assault?

14 PROSPECTIVE JUROR NO. 183: We volunteered once. I
15 did with my professors. We went to a home, some children. So
16 I did have a little bit of exposure. I wouldn't say it was a
17 one-to-one type of interaction, but as a group.

18 MR. ERICSSON: Okay. And in that program, was that
19 dealing with juveniles or adults as well?

20 PROSPECTIVE JUROR NO. 183: Yes. Yes, just
21 juveniles.

22 MR. ERICSSON: Juveniles. Okay. Have you had any
23 college or graduate school classes in the law, in legal --

24 PROSPECTIVE JUROR NO. 183: Yes.

25 MR. ERICSSON: Okay.

1 PROSPECTIVE JUROR NO. 183: Contract law.

2 MR. ERICSSON: Contract law. Okay. Have you had any
3 training in criminal law?

4 PROSPECTIVE JUROR NO. 183: No.

5 MR. ERICSSON: I'll ask the flip question. If you
6 were -- knowing who you are and your background, do you feel
7 that you can be equally fair to Mr. Elam if you were selected
8 as a juror in this case?

9 PROSPECTIVE JUROR NO. 183: Yes. I'll do my duty.

10 MR. ERICSSON: Thank you.

11 Pass for cause.

12 THE COURT: All right. I believe we are on
13 defendant's second, please.

14 MR. ERICSSON: Your Honor, the defense would thank
15 and excuse Juror 168, Ms. Maynard.

16 THE COURT: Ms. Maynard, thank you very much for
17 being here today and your willingness to serve as a juror. You
18 are excused at this time.

19 And, ladies and gentlemen, we're going to go ahead
20 and take our afternoon recess. We're just going to take about
21 15 minutes and that'll put us right about at 4:10.

22 During the brief recess, you are reminded you are not
23 to discuss the case or anything relating to the case with each
24 other or with anyone else. You are not to read, watch, or
25 listen to any reports of or commentaries on the case, person or

1 subject matter relating to the case. Don't do any independent
2 research by way of the Internet or any other media, and please
3 don't form or express an opinion on the case.

4 If everyone will please follow Officer Hawkes out
5 into the hallway, we will be in recess for a few minutes.

6 (Proceedings recessed from 3:51 p.m. to 4:12 p.m.)

7 (In the presence of the panel of prospective jurors.)

8 THE COURT: Good afternoon. What do you do for a
9 living?

10 PROSPECTIVE JUROR NO. 196: I'm retired.

11 THE COURT: From what type of work?

12 PROSPECTIVE JUROR NO. 196: I worked as a medical
13 assistant for 30 years, and I worked as a clerical supervisor
14 for 15.

15 THE COURT: Okay. Which job was the most recent?

16 PROSPECTIVE JUROR NO. 196: The clerical supervisor.

17 THE COURT: Okay. And what type of business or firm
18 was that?

19 PROSPECTIVE JUROR NO. 196: It was with the same
20 company. I worked for Kaiser Permanente.

21 THE COURT: Okay. And you said you were a medical
22 assistant?

23 PROSPECTIVE JUROR NO. 186: Uh-huh.

24 THE COURT: Was that for a particular physician or
25 group of physicians?

1 PROSPECTIVE JUROR NO. 196: Family medicine.
2 THE COURT: I'm sorry. Family medicine?
3 PROSPECTIVE JUROR NO. 196: Uh-huh.
4 THE COURT: Okay. And you did that for 30 years.
5 Was that here in town?
6 PROSPECTIVE JUROR NO. 196: California.
7 THE COURT: In California. Okay. Are you married,
8 domestic partner?
9 PROSPECTIVE JUROR NO. 196: Married.
10 THE COURT: What does your husband do?
11 PROSPECTIVE JUROR NO. 196: He's retired, but he has
12 a part time job at the original Las Vegas Golf Course.
13 THE COURT: Okay. And what type of work is he
14 retired from?
15 PROSPECTIVE JUROR NO. 196: Post office.
16 THE COURT: Was he a letter carrier, or what did he
17 do at the post office?
18 PROSPECTIVE JUROR NO. 196: Clerk.
19 THE COURT: Okay. Any children?
20 PROSPECTIVE JUROR NO. 196: We have two boys, men, 37
21 and 34.
22 THE COURT: Okay. Have you ever been a juror before?
23 PROSPECTIVE JUROR NO. 196: Yes.
24 THE COURT: Was that here in Clark County?
25 California?

1 PROSPECTIVE JUROR NO. 196: Uh-huh.

2 THE COURT: Is that a yes?

3 PROSPECTIVE JUROR NO. 196: Yes. Sorry.

4 THE COURT: How many -- how many times have you been
5 a juror before?

6 PROSPECTIVE JUROR NO. 196: I think twice, but I've
7 sat in the jury room maybe four or five times.

8 THE COURT: Okay. Now, how long ago was your most
9 recent jury service?

10 PROSPECTIVE JUROR NO. 196: I'd say probably 10 or 15
11 years ago.

12 THE COURT: Okay. And was that a criminal case or a
13 civil case?

14 PROSPECTIVE JUROR NO. 196: They were both civil
15 cases.

16 THE COURT: Okay. And did the -- don't tell me what
17 the verdict was, but did the jury reach a verdict in both
18 cases?

19 PROSPECTIVE JUROR NO. 196: Yes.

20 THE COURT: Okay. Were you ever the foreperson of
21 the jury?

22 PROSPECTIVE JUROR NO. 196: No.

23 THE COURT: Have you or anyone close to you ever been
24 arrested, charged or accused of a crime?

25 PROSPECTIVE JUROR NO. 196: Yes.

1 THE COURT: Tell me about that.

2 PROSPECTIVE JUROR NO. 196: It was my husband. He
3 had an alcohol problem, and he stole personal property from the
4 post office.

5 THE COURT: Okay. And was that investigated by,
6 like, local law enforcement or by the US Postal Service
7 inspector?

8 PROSPECTIVE JUROR NO. 196: Postal inspectors.

9 THE COURT: Okay. What happened with that situation?

10 PROSPECTIVE JUROR NO. 196: He was forced to resign.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR NO. 196: He paid restitution --

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NO. 196: -- paid a fine, but they
15 still put charges against him. So then he was on probation for
16 a year and came out of that okay.

17 THE COURT: Did that go through federal court?

18 PROSPECTIVE JUROR NO. 196: Yes.

19 THE COURT: Okay. And I'm assuming he had a lawyer
20 representing him; is that right?

21 PROSPECTIVE JUROR NO. 196: Yes.

22 THE COURT: Okay. Is his alcohol problem resolved --

23 PROSPECTIVE JUROR NO. 196: Yes.

24 THE COURT: -- or does he still battle with that?

25 PROSPECTIVE JUROR NO. 196: It's been 9 years.

1 THE COURT: Okay. Was that kind of the impetus for
2 him to get sober, or did it take some time after that?

3 PROSPECTIVE JUROR NO. 196: No. I think that was
4 the --

5 THE COURT: Straw that broke the camel's back?

6 PROSPECTIVE JUROR NO. 196: That was the motivation.
7 Uh-huh.

8 THE COURT: What about the victim of a crime? Have
9 you ever been the victim of a crime? You or anyone close to
10 you?

11 PROSPECTIVE JUROR NO. 196: No.

12 THE COURT: Nothing. Okay. Anybody that you're
13 close to in law enforcement?

14 PROSPECTIVE JUROR NO. 196: No.

15 THE COURT: Nothing like that. You heard the
16 questions that we've been asking all day long. Did you hear
17 any of us ask a question that you thought you'd have to raise
18 your hand and answer in the affirmative if you had been sitting
19 in the box?

20 PROSPECTIVE JUROR NO. 196: Well, I do have to say
21 that I've had a personal event with drugs. My son is about 9
22 months out of recovery --

23 THE COURT: Okay.

24 PROSPECTIVE JUROR NO. 196: -- or in to recovery, I
25 should say, and I do have to say that I've seen the physical

1 side of what his experience with drugs has done to him. It has
2 affected memory and not in a, like, he doesn't know what's
3 going on, but his short-term memory is really very stunted
4 sometimes.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR NO. 196: And then we've had --
7 also we've had experiences with being around somebody who was
8 on drugs and their need to find things or the money that they
9 need to get what they need, and I think it does kind of stunt
10 your belief system in them. You know, you want to believe them
11 especially now when he's doing so well.

12 THE COURT: This is your son?

13 PROSPECTIVE JUROR NO. 196: My son. And, I mean, for
14 the first time in a year, he is passing drug tests for work,
15 and so I'm really proud of him, but at the same time there's
16 still things. Even though he's doing good you still kind of
17 don't know if you want to believe him or not.

18 THE COURT: Okay. So you have -- fair to say you
19 have trouble trusting him?

20 PROSPECTIVE JUROR NO. 196: Yes.

21 THE COURT: Okay. Do you feel like people who abuse
22 drugs or alcohol can be truthful?

23 PROSPECTIVE JUROR NO. 196: Yes, when they want to
24 be.

25 THE COURT: Okay.

1 PROSPECTIVE JUROR NO. 196: Maybe when they know that
2 it's hopefully something good for them, or I don't know, but,
3 yeah, I think they could be.

4 THE COURT: Okay. Was your son ever involved in the
5 criminal justice system as a result of his drug use?

6 PROSPECTIVE JUROR NO. 196: No.

7 THE COURT: Okay. Do you feel like you're the kind
8 of person who would make a good juror?

9 PROSPECTIVE JUROR NO. 196: Yes.

10 THE COURT: And why is that?

11 PROSPECTIVE JUROR NO. 196: I'm a good listener. I
12 think I'm good at weighing out situations, listening to the
13 evidence and trying to discern, you know, if it's a consistent
14 story, if there's something that's, you know, maybe not quite
15 right, but, yeah, I think I'd be a good juror.

16 THE COURT: Okay. State.

17 MS. LUZAICH: Thank you.

18 Good afternoon, Ms. Daley.

19 PROSPECTIVE JUROR NO. 196: Hi.

20 MS. LUZAICH: Do you think that your personal
21 experience through your family members with, you know, drugs,
22 alcohol, whatever will cause you to view the witnesses
23 differently?

24 PROSPECTIVE JUROR NO. 196: Probably only in that I
25 would listen to their story, but I also know that there's also

1 that -- that flaw that those -- that the alcohol and the drugs
2 can cause sometimes. So I would always listen to the story and
3 then decide after hearing what they had to say.

4 MS. LUZAICH: Okay. You won't automatically
5 disbelieve what they have to say?

6 PROSPECTIVE JUROR NO. 196: Automatically, no.

7 MS. LUZAICH: Do you think -- well, you mentioned
8 something about they can tell the truth when it's beneficial to
9 them. Do you mean kind of like bribery?

10 PROSPECTIVE JUROR NO. 196: Uh-huh.

11 MS. LUZAICH: I mean, is that how you perceive it?

12 PROSPECTIVE JUROR NO. 196: Sometimes -- sometimes or
13 depending on whatever it is. First of all, I think it depends
14 on how deep they are into the alcohol or into the drug as to
15 what kind of an answer you're going to get. If they've started
16 to clean themselves up, I think that their stories can be very
17 plausible and understanding, but I do think that there is that
18 element of trying to do whatever they can to get you to believe
19 what they're saying.

20 MS. LUZAICH: Is that because there's something in it
21 for them?

22 PROSPECTIVE JUROR NO. 196: Uh-huh. Yes. Yes.

23 MS. LUZAICH: What if there's nothing in it for them?

24 PROSPECTIVE JUROR NO. 196: Then they most likely
25 would be pretty open and honest.

1 MS. LUZAICH: So if there's nothing in it for them,
2 will you view what they have to say differently.

3 PROSPECTIVE JUROR NO. 196: Yes.

4 MS. LUZAICH: -- than otherwise, I guess?

5 PROSPECTIVE JUROR NO. 196: Yes.

6 MS. LUZAICH: Okay. Do you agree that different
7 people do react differently to a set of circumstances?

8 PROSPECTIVE JUROR NO. 196: Definitely.

9 MS. LUZAICH: Oh, okay. I was going to say you're
10 hesitating, but --

11 PROSPECTIVE JUROR NO. 196: No. I was thinking, but,
12 yes, definitely.

13 MS. LUZAICH: And if somebody comes in here and talks
14 about an experience and doesn't either appear or act or react
15 the way you think you might have, you won't automatically
16 disbelieve what they say, will you?

17 PROSPECTIVE JUROR NO. 196: No.

18 MS. LUZAICH: Would you agree that two different
19 people can view something and perceive it differently?

20 PROSPECTIVE JUROR NO. 196: Yes. I've done it
21 myself.

22 MS. LUZAICH: And that could be based on a whole
23 bunch of things, but one thing that it could be based on is,
24 you know, upbringing, culture, things like that. Would you
25 agree with that?

1 PROSPECTIVE JUROR NO. 196: Right. Right.
2 MS. LUZAICH: Because everybody is different, right?
3 PROSPECTIVE JUROR NO. 196: Uh-huh.
4 MS. LUZAICH: And -- is that a yes?
5 PROSPECTIVE JUROR NO. 196: Yes. I'm sorry.
6 MS. LUZAICH: And we're all made up based on our
7 upbringing and our culture and things like that.
8 PROSPECTIVE JUROR NO. 196: True.
9 MS. LUZAICH: Would you agree with that?
10 PROSPECTIVE JUROR NO. 196: True.
11 MS. LUZAICH: Do you watch CSI or any of those court
12 shows?
13 PROSPECTIVE JUROR NO. 196: I love court shows. I
14 love court shows.
15 MS. LUZAICH: Do you?
16 PROSPECTIVE JUROR NO. 196: Yes.
17 MS. LUZAICH: Okay. Real life is nothing like what
18 you see on TV. Would that surprise you?
19 PROSPECTIVE JUROR NO. 196: Yes. I've been -- the
20 two times I was a juror I realized that it's nothing.
21 MS. LUZAICH: Very, very different.
22 PROSPECTIVE JUROR NO. 196: Yes. Very real.
23 MS. LUZAICH: First of all --
24 PROSPECTIVE JUROR NO. 196: Very real.
25 MS. LUZAICH: -- on TV everything is wrapped up

1 nicely in bow in an hour, right? Would you agree with that?

2 PROSPECTIVE JUROR NO. 196: Right.

3 MS. LUZAICH: You served on two civil juries. Is
4 that what you said?

5 PROSPECTIVE JUROR NO. 196: Yes.

6 MS. LUZAICH: So in both of those situations somebody
7 was looking for either money or something like that?

8 PROSPECTIVE JUROR NO. 196: Yes.

9 MS. LUZAICH: Were they both here?

10 PROSPECTIVE JUROR NO. 196: No. They were in
11 California.

12 MS. LUZAICH: Oh, I'm sorry. I thought you said
13 here. The law in Nevada is very different than the law in
14 California. And the law evolves a ton over time. So if you
15 remember any of the law that those two Judges read to you, will
16 you promise to forget it and only follow the law that this
17 judge reads?

18 PROSPECTIVE JUROR NO. 196: I would definitely listen
19 to this Judge. I can't even remember what those Judges said.

20 MS. LUZAICH: What if the Judge reads to you a law or
21 an instruction that you don't agree with? Will you follow it
22 anyway?

23 PROSPECTIVE JUROR NO. 196: Yes.

24 MS. LUZAICH: Did you have that happen at all when
25 you sat as a juror before?

1 PROSPECTIVE JUROR NO. 196: No. And the only reason
2 I am kind of hesitating is because it was so long ago. It was
3 probably like 35 years ago.

4 MS. LUZAICH: Oh, okay. So whether you agree with
5 the law or not, you'll follow it, right?

6 PROSPECTIVE JUROR NO. 196: Yes.

7 MS. LUZAICH: Write your congressman a letter
8 afterwards to try and get the law changed, maybe, but you'll
9 follow it now?

10 PROSPECTIVE JUROR NO. 196: Yes.

11 MS. LUZAICH: Is there anything about you that would
12 prohibit you from sitting in judgment of somebody?

13 PROSPECTIVE JUROR NO. 196: No.

14 MS. LUZAICH: Do you have a gun?

15 PROSPECTIVE JUROR NO. 196: No, we don't.

16 MS. LUZAICH: Because?

17 PROSPECTIVE JUROR NO. 196: We just don't.

18 MS. LUZAICH: Nothing, like, philosophically,
19 morally --

20 PROSPECTIVE JUROR NO. 196: No.

21 MS. LUZAICH: -- or religious against it?

22 PROSPECTIVE JUROR NO. 196: No.

23 MS. LUZAICH: Just because you don't want one?

24 PROSPECTIVE JUROR NO. 196: My kids have guns, but my
25 husband and I don't.

1 MS. LUZAICH: The experience that your husband had,
2 that was in California?

3 PROSPECTIVE JUROR NO. 196: Yes.

4 MS. LUZAICH: That was probably the federal
5 government that handled that. That obviously had nothing to do
6 with me or my office.

7 PROSPECTIVE JUROR NO. 196: Huh-uh.

8 MS. LUZAICH: You won't hold any maybe bad feeling
9 you have about what happened against the State of Nevada, would
10 you?

11 PROSPECTIVE JUROR NO. 196: No. It's totally
12 different.

13 MS. LUZAICH: Did you feel that he was treated badly?

14 PROSPECTIVE JUROR NO. 196: Did I feel he was treated
15 badly? There was no police involved or anything. Just the
16 inspectors were there in -- interview, but every once in a
17 while, he just feels like maybe the -- the DA could've given up
18 on it since he had paid the restitution and the fine, but the
19 post office kept pressing for a --

20 MS. LUZAICH: Conviction.

21 PROSPECTIVE JUROR NO. 196: -- an indictment. Yeah.

22 MS. LUZAICH: Okay. If at the end of the trial, if
23 you're selected, if you were convinced the defendant committed
24 the crime he is charged with, would you be able to say the word
25 guilty?

1 PROSPECTIVE JUROR NO. 196: Yes.
2 MS. LUZAICH: Thank you.
3 Pass for cause.
4 THE COURT: All right. Mr. Ericsson.
5 MR. ERICSSON: Thank you, Your Honor.
6 Good afternoon ma'am.
7 PROSPECTIVE JUROR NO. 196: Hello.
8 MR. ERICSSON: It's hard to see you back there.
9 There we go. How are you holding up? It's been a long day.
10 PROSPECTIVE JUROR NO. 196: Yeah, I thought I'd miss
11 this part.
12 MR. ERICSSON: Yeah. You're in the box, as they say.
13 You've heard lots of questions. Anything about the
14 constitutional protections that someone who is accused of crime
15 has that you have disagreement with or problems with?
16 PROSPECTIVE JUROR NO. 196: No.
17 MR. ERICSSON: No. If Mr. Elam were to choose not to
18 testify in his trial, would you hold that against him in any
19 way?
20 PROSPECTIVE JUROR NO. 196: No. He has that right.
21 MR. ERICSSON: Okay. What -- maybe you've been asked
22 this, and I don't remember the answer. Do you have any family
23 members or close friends who are involved in law enforcement?
24 PROSPECTIVE JUROR NO. 196: No, we don't.
25 MR. ERICSSON: How would you go about evaluating the

1 testimony from law enforcement officers in this trial?

2 PROSPECTIVE JUROR NO. 196: I think I would probably
3 look at them as the first responders, being the first ones on
4 the scene and just more or less taking what they're saying as
5 the history of what they saw, not really -- I mean, it is
6 evidence, but it would be evidence along with everybody else
7 that had something to say.

8 MR. ERICSSON: Okay. Do you feel that you can
9 evaluate their testimony in a fair and unbiased manner?

10 PROSPECTIVE JUROR NO. 196: Yeah. More of a just,
11 you know, what they saw when they got there kind of thing, and
12 because they're not supposed to have an opinion or --

13 MR. ERICSSON: Okay. And I'm not -- I mean, I
14 would -- typically, a police officer if they've been heavily
15 involved in a case are going to have an opinion. They
16 typically are probably going to think that the person that has
17 been arrested is guilty, but even if that is their opinion
18 would you be able to sit and listen to all of the evidence and
19 then make an independent decision?

20 PROSPECTIVE JUROR NO. 196: Yes.

21 MR. ERICSSON: If you were sitting at the defense
22 table, would you be comfortable with somebody with your outlook
23 on life and experience sitting as a juror on this case?

24 PROSPECTIVE JUROR NO. 196: Yes.

25 MR. ERICSSON: And why is that?

1 PROSPECTIVE JUROR NO. 196: I think for the same
2 reasons, that I'll, you know, do my due diligence as a juror,
3 listen to all of the evidence and try not to make a decision
4 unless -- well, try not make a snap judgment or have an opinion
5 of my own that would have nothing to do with this case.

6 MR. ERICSSON: Okay. You've talked a little bit
7 about your son who is in drug recovery, but what's your other
8 son up to?

9 PROSPECTIVE JUROR NO. 196: My other son lives here
10 in Vegas, has four children, and he works at the Venetian as a
11 surveillance agent.

12 MR. ERICSSON: Okay. Great. Thank you very much.
13 I would pass for cause.

14 THE COURT: All right. Thank you.
15 I believe we are on State's third.

16 MS. LUZAICH: Thank you. The State would thank and
17 ask the Court to excuse Juror Badge No. 176, Ms. Baldwin.

18 THE COURT: Ms. Baldwin, thank you very much for
19 being here and your willingness to serve as a juror. You are
20 excused at this time.

21 And if the clerk would please call up the next
22 prospective juror.

23 THE CLERK: Kurt Koenig.

24 THE COURT: Good afternoon. What do you do for a
25 living, sir?

1 PROSPECTIVE JUROR NO. 200: I'm a dealer here
2 downtown.

3 THE COURT: Okay. What do you deal?

4 PROSPECTIVE JUROR NO. 200: Poker.

5 THE COURT: And are you married, domestic partners?

6 PROSPECTIVE JUROR NO. 200: Married.

7 THE COURT: And what does your wife do?

8 PROSPECTIVE JUROR NO. 200: She's a regional manager
9 for Lens Crafter's.

10 THE COURT: Okay. Any children?

11 PROSPECTIVE JUROR NO. 200: Two girls, 16, 13.

12 THE COURT: Have you ever been a juror before?

13 PROSPECTIVE JUROR NO. 200: Yeah, in California.

14 THE COURT: How long ago was that?

15 PROSPECTIVE JUROR NO. 200: About 17 years ago.

16 THE COURT: Okay. Do you recall if it was a criminal
17 case or a civil case?

18 PROSPECTIVE JUROR NO. 200: It was criminal.

19 THE COURT: And don't tell me what the verdict was,
20 but did the jury reach a verdict?

21 PROSPECTIVE JUROR NO. 200: Yes.

22 THE COURT: Were you the foreperson?

23 PROSPECTIVE JUROR NO. 200: No.

24 THE COURT: Okay. Have you or anyone close to you
25 ever been arrested, charged or accused of a crime?

1 PROSPECTIVE JUROR NO. 200: I had a DUI in '92.

2 THE COURT: All right. Was that a misdemeanor DUI?

3 PROSPECTIVE JUROR NO. 200: Yes.

4 THE COURT: Okay. So no one was seriously hurt or
5 anything like that?

6 PROSPECTIVE JUROR NO. 200: No.

7 THE COURT: All right. Do you recall what agency was
8 the arrest -- was it Metro? Nevada Highway Patrol?

9 PROSPECTIVE JUROR NO. 200: It was in California.

10 THE COURT: Oh, I'm sorry.

11 PROSPECTIVE JUROR NO. 200: Yeah, no problem.

12 THE COURT: In California. Okay. And did you go to
13 court on that?

14 PROSPECTIVE JUROR NO. 200: Yes.

15 THE COURT: Did you have a lawyer represent you?

16 PROSPECTIVE JUROR NO. 200: No.

17 THE COURT: Okay. Was there a trial in front of a
18 judge or did you plead guilty --

19 PROSPECTIVE JUROR NO. 200: It was in front of a
20 judge and I pleaded guilty.

21 THE COURT: All right. And then you had to what? Do
22 the classes and a panel and that kind of thing?

23 PROSPECTIVE JUROR NO. 200: Yes. Yeah, because my
24 first offense. I had no record.

25 THE COURT: Okay. Any feelings as to how you were

1 treated in the system on that?

2 PROSPECTIVE JUROR NO. 200: No. I was treated
3 fairly.

4 THE COURT: Okay. You or anyone close to you been
5 the victim of a crime?

6 PROSPECTIVE JUROR NO. 200: No. My neighbor just got
7 their house robbed, and I -- I witnessed it.

8 THE COURT: Okay. You witnessed the people breaking
9 in or running out or --

10 PROSPECTIVE JUROR NO. 200: No. Taking the
11 appliances out of the house, I was a witness to that.

12 THE COURT: Okay. Did you call 9-1-1 or --

13 PROSPECTIVE JUROR NO. 200: Actually, I called the --
14 it was for rent. Because I remembered it was for rent, so I
15 called the property manager, and he called Metro.

16 THE COURT: Okay. Did you have to fill out a
17 statement?

18 PROSPECTIVE JUROR NO. 200: Yes.

19 THE COURT: And did you ever get subpoenaed to court?

20 PROSPECTIVE JUROR NO. 200: No.

21 THE COURT: Okay. You heard all of the questions
22 we've been asking here all day. Did you hear any questions
23 that you would've had to answer in the affirmative?

24 PROSPECTIVE JUROR NO. 200: No.

25 THE COURT: Okay. Anything in your background or in

1 your family background involving drugs or alcohol abuse?
2 Anything like that that you've been sort of personally touched
3 by?

4 PROSPECTIVE JUROR NO. 200: I'm a recovering meth
5 addict.

6 THE COURT: Okay. How far along are you in your
7 recovery?

8 PROSPECTIVE JUROR NO. 200: It was 25 years since
9 I've -- last time.

10 THE COURT: Now, did you have any contacts with law
11 enforcement as a result of your meth use or no?

12 PROSPECTIVE JUROR NO. 200: No.

13 THE COURT: Okay. Is there anything about the fact
14 that somebody may be a drug -- illegal drug user that would
15 cause you to automatically disbelieve their testimony, or can
16 you listen to it and evaluate it just like you would anybody
17 else's testimony?

18 PROSPECTIVE JUROR NO. 200: Yeah. I would be able to
19 listen objectively.

20 THE COURT: Okay. All right. Anything else we
21 should know about you in making a determination as to whether
22 or not you would be a good juror on this type of a case?

23 PROSPECTIVE JUROR NO. 200: No, not at this time.

24 THE COURT: All right. Thank you.
25 State.

1 MS. LUZAICH: Thank you.
2 Good afternoon, Mr. Koenig.
3 PROSPECTIVE JUROR NO. 200: Good afternoon.
4 MS. LUZAICH: You said you're a dealer downtown?
5 PROSPECTIVE JUROR NO. 200: Yes.
6 MS. LUZAICH: You see some interesting people on a
7 daily basis?
8 PROSPECTIVE JUROR NO. 200: Every night, yeah.
9 MS. LUZAICH: Do you think that your recovery gives
10 you a different kind of insight into some of the people that
11 could testify?
12 PROSPECTIVE JUROR NO. 200: Not really.
13 MS. LUZAICH: Would you agree that different people
14 perceive things differently?
15 PROSPECTIVE JUROR NO. 200: Yes.
16 MS. LUZAICH: Would you agree that different people
17 also react to things differently?
18 PROSPECTIVE JUROR NO. 200: Yes.
19 MS. LUZAICH: Is there anything that you're expecting
20 to see as a result of this case?
21 PROSPECTIVE JUROR NO. 200: No.
22 MS. LUZAICH: Do you watch *CSI*, court stuff, any of
23 that on TV?
24 PROSPECTIVE JUROR NO. 200: I've seen those shows.
25 Yes.

1 MS. LUZAICH: Would it surprise you that it's fake?
2 PROSPECTIVE JUROR NO. 200: No.
3 MS. LUZAICH: Real life is nothing like you see on
4 TV.
5 PROSPECTIVE JUROR NO. 200: They've filmed an episode
6 in my casino. So I -- I knew it was fake.
7 MS. LUZAICH: Which casino?
8 PROSPECTIVE JUROR NO. 200: Golden Nugget.
9 MS. LUZAICH: Sorry. I lost my train of thought.
10 It's been a long day.
11 PROSPECTIVE JUROR NO. 200: The fake shows.
12 MS. LUZAICH: Yeah. Is there anything that you think
13 that we need to know about you to determine whether or not
14 you'd be a fair juror?
15 PROSPECTIVE JUROR NO. 200: No.
16 MS. LUZAICH: Would you consider yourself to be a
17 fair and open-minded person?
18 PROSPECTIVE JUROR NO. 200: Yes.
19 MS. LUZAICH: Listen to everything before you make up
20 your mind?
21 PROSPECTIVE JUROR NO. 200: I would.
22 MS. LUZAICH: Are you somebody who can express your
23 opinion amongst strangers?
24 PROSPECTIVE JUROR NO. 200: Yes.
25 MS. LUZAICH: And listen to what they have to say?

1 PROSPECTIVE JUROR NO. 200: Absolutely.
2 MS. LUZAICH: Stick to your guns if you believe
3 you're right?
4 PROSPECTIVE JUROR NO. 200: Always. Yes.
5 MS. LUZAICH: Won't change your mind at five to 5:00
6 on Friday just because you want to go home?
7 PROSPECTIVE JUROR NO. 200: No.
8 MS. LUZAICH: Is there anything that would -- oh, do
9 you own a gun?
10 PROSPECTIVE JUROR NO. 200: No, I don't.
11 MS. LUZAICH: Because?
12 PROSPECTIVE JUROR NO. 200: We just don't.
13 MS. LUZAICH: Just personal preference?
14 PROSPECTIVE JUROR NO. 200: Yes.
15 MS. LUZAICH: Is there anything that would prohibit
16 you from sitting in judgment of somebody?
17 PROSPECTIVE JUROR NO. 200: No.
18 MS. LUZAICH: So if you listen to all the testimony,
19 see the evidence, if you were convinced beyond a reasonable
20 doubt that the defendant committed the crimes he is charged
21 with, would you be able to say the word guilty?
22 PROSPECTIVE JUROR NO. 200: I would, yes.
23 MS. LUZAICH: Thank you.
24 Pass for cause.
25 THE COURT: Mr. Ericsson.

1 MR. ERICSSON: Thank you, Your Honor.
2 Good afternoon, sir.
3 PROSPECTIVE JUROR NO. 200: Good afternoon.
4 MR. ERICSSON: How long have you been a poker dealer?
5 PROSPECTIVE JUROR NO. 200: 10 years.
6 MR. ERICSSON: Okay. And I'm not sure if you
7 answered this, but what did you do prior to doing that?
8 PROSPECTIVE JUROR NO. 200: I was in the flooring
9 business. I worked for a distributor selling ceramic tile,
10 stone, that kind of thing.
11 MR. ERICSSON: Okay. Over at the casino that you
12 work at, do you personally have much involvement with law
13 enforcement officers for crimes that may have been committed
14 there at the hotel?
15 PROSPECTIVE JUROR NO. 200: No.
16 MR. ERICSSON: And what about -- do you interact with
17 security personnel there at your casino much?
18 PROSPECTIVE JUROR NO. 200: I used to when I was a
19 shift manager, but now I just straight deal. So I do not -- I
20 don't have that contact with them any longer.
21 MR. ERICSSON: Okay. Anything about your prior
22 experience or involvement as a shift manager and interacting
23 with the security personnel that might affect your ability to
24 be fair and impartial in this case?
25 PROSPECTIVE JUROR NO. 200: No.

1 MR. ERICSSON: Describe for -- describe for us your
2 feeling on the overall criminal justice system.

3 PROSPECTIVE JUROR NO. 200: My overall feeling?

4 MR. ERICSSON: Correct.

5 PROSPECTIVE JUROR NO. 200: Seems to be a fair
6 system. Everybody gets treated fairly, I would guess.

7 MR. ERICSSON: Okay. And what do you see your role
8 as a juror if you were to be selected in this case?

9 PROSPECTIVE JUROR NO. 200: If I was going to be
10 selected, I'd be fair, open, hearing all of the evidence
11 presented and make a, you know, a decision on -- based on
12 what's presented in front of me.

13 MR. ERICSSON: Okay. Are you -- are you comfortable
14 as you, you know, think, and you've been sitting here a lot of
15 time now, are you comfortable if you were to be selected that
16 you'd be the right type of person for both the State and Mr.
17 Elam in this case?

18 PROSPECTIVE JUROR NO. 200: Yes.

19 MR. ERICSSON: And expand upon that. What makes you
20 think that you'd be a fair juror?

21 PROSPECTIVE JUROR NO. 200: I'm here to serve my
22 duty. I mean, I'm called upon, you know. I'd make the best
23 decision based upon what's presented to me.

24 MR. ERICSSON: Okay. Great. Thank you very much.
25 Pass for cause.

1 THE COURT: All right. Thank you. I believe we are
2 on defendant's third.

3 MR. ERICSSON: Your Honor, I appreciate your
4 patience. The defense would thank and excuse Juror 163, Mr.
5 Winn.

6 THE COURT: Mr. Winn, thank you very much for being
7 here, sir, and your willingness to serve. You are excused at
8 this time, and the bailiff will direct you from the courtroom.

9 And if the court clerk would please call up the next
10 prospective juror.

11 THE CLERK: Jazmine Romulo.

12 THE COURT: Good Afternoon.

13 PROSPECTIVE JUROR NO. 206: Good afternoon.

14 THE COURT: What do you do for a living?

15 PROSPECTIVE JUROR NO. 206: I work at Eagle Promotion
16 and Design Group.

17 THE COURT: What do you do for them?

18 PROSPECTIVE JUROR NO. 206: My position is called a
19 catcher. I make sure every shirt -- it's -- comes out right
20 with the design and all that.

21 THE COURT: So kind of quality control?

22 PROSPECTIVE JUROR NO. 206: Yeah.

23 THE COURT: Okay. And are you married, domestic --

24 PROSPECTIVE JUROR NO. 206: No. Single.

25 THE COURT: All right. Any children?

1 PROSPECTIVE JUROR NO. 206: No.

2 THE COURT: Where are you from originally?

3 PROSPECTIVE JUROR NO. 206: I'm from California, San
4 Diego.

5 THE COURT: Okay. And how long have you lived here
6 in Clark County?

7 PROSPECTIVE JUROR NO. 206: Nine years.

8 THE COURT: Nine years. Okay. And have you ever
9 been a juror before?

10 THE COURT: No.

11 PROSPECTIVE JUROR NO. 206: You or anyone close to
12 you ever been arrested, charged or accused of a crime?

13 PROSPECTIVE JUROR NO. 206: No.

14 THE COURT: How about the victim of a crime?

15 PROSPECTIVE JUROR NO. 206: Huh-uh.

16 THE COURT: Nothing?

17 PROSPECTIVE JUROR NO. 206: No.

18 THE COURT: And do you have anybody you are close to
19 that currently works or has worked in law enforcement?

20 PROSPECTIVE JUROR NO. 206: No.

21 THE COURT: Okay. You heard with the other jurors we
22 talked about the fact that a defendant who is accused of a
23 crime is innocent unless and until proved guilty beyond a
24 reasonable doubt. Do you have any difficulty or issue with
25 that constitutional presumption, that constitutional right?

1 PROSPECTIVE JUROR NO. 206: No.

2 THE COURT: Okay. Is there anything at all in your
3 background or your family background that you think could
4 impact your ability to be completely fair and impartial in this
5 case?

6 PROSPECTIVE JUROR NO. 206: Well, I had two uncle
7 that passed away due to drinking alcohol.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR NO. 206: Yeah.

10 THE COURT: So two uncles passed away. Was it that
11 they got diseases as a result of alcohol abuse, or what
12 happened?

13 PROSPECTIVE JUROR NO. 206: Overdose. Like, they
14 would drink, like, pills, and I just don't like talking about
15 it.

16 THE COURT: Okay. And I'm sorry.

17 PROSPECTIVE JUROR NO. 206: It's okay.

18 THE COURT: We bring up these difficult things. So
19 two different uncles -- what, they had pills and alcohol
20 overdoses?

21 PROSPECTIVE JUROR NO. 206: Yes, one of them. Yeah.

22 THE COURT: Okay. And the other, what happened?
23 Like, cirrhosis?

24 PROSPECTIVE JUROR NO. 206: Just overdose and yeah.

25 THE COURT: Okay. Were you close with these uncles?

1 PROSPECTIVE JUROR NO. 206: One of them, yeah.

2 THE COURT: Okay. Was it the uncle that had the
3 overdose?

4 PROSPECTIVE JUROR NO. 206: Yes, him.

5 THE COURT: Okay. Was that -- and I don't mean to
6 pry, but was that an accidental overdose, or do they think it
7 was more like a suicide, deliberate kind of a --

8 PROSPECTIVE JUROR NO. 206: More like a suicide
9 thing, yeah.

10 THE COURT: Okay. How long ago did that happen?

11 PROSPECTIVE JUROR NO. 206: Three years ago.

12 THE COURT: Oh, so fairly recently.

13 PROSPECTIVE JUROR NO. 206: Yeah.

14 THE COURT: Okay. Was that here in Clark County
15 or --

16 PROSPECTIVE JUROR NO. 206: No. It was back in
17 California.

18 THE COURT: Okay. Anything involving drug use that
19 has kind of touched you personally through your family or
20 somebody you're close to?

21 PROSPECTIVE JUROR NO. 206: No. No.

22 THE COURT: So just the alcohol abuse?

23 PROSPECTIVE JUROR NO. 206: Yeah.

24 THE COURT: Okay. And the other uncle who died as a
25 result of alcohol, not the overdose, but the other uncle, you

1 weren't close with that uncle?

2 PROSPECTIVE JUROR NO. 206: Not really, no.

3 THE COURT: And how long ago did he pass away?

4 PROSPECTIVE JUROR NO. 206: It's been a while.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR NO. 206: Around a year or so.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR NO. 206: Yeah.

9 THE COURT: Ms. Luzaich, you can follow up.

10 MS. LUZAICH: Hi.

11 PROSPECTIVE JUROR NO. 206: Hello.

12 MS. LUZAICH: For how long have you been working in
13 this design field?

14 PROSPECTIVE JUROR NO. 206: Nine months.

15 MS. LUZAICH: Oh, okay. Do you like it?

16 PROSPECTIVE JUROR NO. 206: Yeah.

17 MS. LUZAICH: What do you do on a daily basis? Like,
18 you go to work and then what?

19 PROSPECTIVE JUROR NO. 206: I go to work, come home
20 and just stay home.

21 MS. LUZAICH: No. No. No. While you're at work,
22 what do you do? You get there and then, like, what do you do,
23 physically?

24 PROSPECTIVE JUROR NO. 206: Oh, I have to --

25 MS. LUZAICH: Do you answer phones? Do you --

1 PROSPECTIVE JUROR NO. 206: No. No. No. It's just
2 a table where I have to be standing the whole hours I have
3 there and receive every shirt from the dryer and see if it
4 doesn't have any mistakes or if it's -- the design is not
5 moved -- that's what they call it there -- and make sure they
6 get boxed. Then make sure they're in boxes to deliver the
7 customers in to see if they approve or not.

8 MS. LUZAICH: Okay. What did you do before that?

9 PROSPECTIVE JUROR NO. 206: That's.

10 MS. LUZAICH: Like, were you in school still, or --

11 PROSPECTIVE JUROR NO. 206: No. No, I'm not in
12 school. That's the first job I have right now.

13 MS. LUZAICH: Okay. Do you live with your parents?

14 PROSPECTIVE JUROR NO. 206: Yes.

15 MS. LUZAICH: Did you move here with your parents?

16 PROSPECTIVE JUROR NO. 206: Yes.

17 MS. LUZAICH: Okay. I asked some of the other jurors
18 earlier. You're a little younger than a lot of the jurors.
19 Are you somebody who can express your opinion to a group of
20 strangers?

21 PROSPECTIVE JUROR NO. 206: Depends on the situation.
22 I'm not that really of a (unintelligible) person
23 (unintelligible).

24 MS. LUZAICH: Okay. And not everybody is. That's
25 okay. Like I said, no right or wrong answers, only honest

1 answers.

2 PROSPECTIVE JUROR NO. 206: Yes.

3 MS. LUZAICH: So if you're selected to sit as a juror
4 in this case and you go back in the deliberation room with all
5 the other jurors and 11 of them feel one way and you feel the
6 other way, how are you going to handle that?

7 PROSPECTIVE JUROR NO. 206: I'll try the best I can
8 to put myself in their situation and try to handle it the way
9 they are.

10 MS. LUZAICH: Okay. You'll listen to what they have
11 to say?

12 PROSPECTIVE JUROR NO. 206: I'll listen, uh-huh.
13 Yes.

14 MS. LUZAICH: Will you try and convince them of your
15 point of view?

16 PROSPECTIVE JUROR NO. 206: If I have to, yes.

17 MS. LUZAICH: Okay. But if you're sure you're right,
18 will you stick to your guns?

19 PROSPECTIVE JUROR NO. 206: Of course.

20 MS. LUZAICH: You won't change your mind --

21 PROSPECTIVE JUROR NO. 206: No.

22 MS. LUZAICH: -- just because they try to make you?

23 PROSPECTIVE JUROR NO. 206: Right.

24 MS. LUZAICH: Okay. You won't change your mind just
25 because it's Friday and it's five to 5:00 and you want to go

1 home?

2 PROSPECTIVE JUROR NO. 206: Correct.

3 MS. LUZAICH: Okay. Do you think that you could be a
4 good juror?

5 PROSPECTIVE JUROR NO. 206: I don't think so.

6 MS. LUZAICH: No. How come? Tell me.

7 PROSPECTIVE JUROR NO. 206: I'm just -- how can I say
8 this? I don't think I have the guts to be listening to
9 whatever situation they're going through. Either he's right or
10 he's wrong. I just like to -- I don't know how to express
11 myself that well.

12 MS. LUZAICH: That's okay. Being a juror is a
13 serious job, right?

14 PROSPECTIVE JUROR NO. 206: Yeah.

15 MS. LUZAICH: Would you agree with that?

16 PROSPECTIVE JUROR NO. 206: Yes.

17 MS. LUZAICH: And you're going to listen to some very
18 heavy serious topics. Do you think that that's something that
19 you're just not ready to do?

20 PROSPECTIVE JUROR NO. 206: No.

21 MS. LUZAICH: Okay.

22 PROSPECTIVE JUROR NO. 206: No.

23 MS. LUZAICH: Thank you.

24 THE COURT: Counsel approach.

25 (Conference at the bench not recorded)

1 THE COURT: Thank you for being here. We're going to
2 go ahead and excuse you from this department.

3 PROSPECTIVE JUROR NO. 206: Thank you.

4 THE COURT: And hand the microphone to either
5 gentleman next to you. All right. Thank you. And the bailiff
6 will direct you from the courtroom.

7 And if the court clerk would please call up the next
8 prospective juror.

9 THE CLERK: Nikolas Piazza.

10 THE COURT: Good afternoon. What do you do for a
11 living?

12 PROSPECTIVE JUROR NO. 217: I'm a server at a
13 bar-restaurant.

14 THE COURT: Okay. And are you married, domestic
15 partners?

16 PROSPECTIVE JUROR NO. 217: Single.

17 THE COURT: Any children?

18 PROSPECTIVE JUROR NO. 217: Nope.

19 THE COURT: Have you ever been a juror before?

20 PROSPECTIVE JUROR NO. 217: No, I haven't.

21 THE COURT: Have you or anyone close to you ever been
22 arrested, charged or accused of a crime?

23 PROSPECTIVE JUROR NO. 217: No. My mom has before.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NO. 217: I believe some

1 trespassing, maybe theft.

2 THE COURT: Okay. Like, theft, shoplifting kind of
3 things or --

4 PROSPECTIVE JUROR NO. 217: It was a construction
5 site, I believe.

6 THE COURT: Okay. Did she work there?

7 PROSPECTIVE JUROR NO. 217: No. She was just looking
8 around.

9 THE COURT: Okay. And you think she got trespassed
10 and maybe charged.

11 PROSPECTIVE JUROR NO. 217: I believe so.

12 THE COURT: Was that recent or --

13 PROSPECTIVE JUROR NO. 217: I would say maybe five
14 years or more.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NO. 217: Maybe.

17 THE COURT: Okay. And was that here in Clark County?

18 PROSPECTIVE JUROR NO. 217: Yes. I believe so.

19 THE COURT: Do you know what happened with that? Did
20 she go to court or get a lawyer or --

21 PROSPECTIVE JUROR NO. 217: I believe so. I'm pretty
22 sure it's settled.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR NO. 217: I know it's still on her
25 record.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NO. 217: But I know there was
3 no -- there might have been a little bit of jail time, but
4 nothing too serious.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR NO. 217: Yeah.

7 THE COURT: And what about the victim of a crime?
8 Have you or anyone close to you been the victim of a crime?

9 PROSPECTIVE JUROR NO. 217: No.

10 THE COURT: Okay. How long have you been at your
11 current job?

12 PROSPECTIVE JUROR NO. 217: A little over three
13 years.

14 THE COURT: Okay. You've heard all of the questions
15 I've asked, the lawyers have asked. Did you hear any of us ask
16 a question that you would have had to raise your hand and
17 answer?

18 PROSPECTIVE JUROR NO. 217: I don't believe so.

19 THE COURT: Anything in your background, your family
20 background or someone close to you involving drugs or alcohol
21 abuse?

22 PROSPECTIVE JUROR NO. 217: No alcohol abuse. My mom
23 is a user, but I don't think it's really something that has
24 affected me.

25 THE COURT: A user of alcohol or a user of drugs?

1 PROSPECTIVE JUROR NO. 217: User of drugs.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NO. 217: Yeah.

4 THE COURT: Was she using drugs when you grew -- when
5 you were growing up?

6 PROSPECTIVE JUROR NO. 217: Not that I was aware of
7 when I was growing up.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR NO. 217: But now that I'm older --

10 THE COURT: Okay.

11 PROSPECTIVE JUROR NO. 217: -- more aware of it.

12 Yeah.

13 THE COURT: Okay. But you don't think it affected
14 your upbringing or anything, your childhood?

15 PROSPECTIVE JUROR NO. 217: No, not at all.

16 THE COURT: Okay. Is it that you just now are a
17 little more aware, and you've figured out that your mom was
18 using drugs, or did she confide in you, or how did you sort of
19 come to understand that your mom was using drugs?

20 PROSPECTIVE JUROR NO. 217: More awareness and just
21 knowing what, I guess, people are doing, you know, when they
22 say, you know, they are just doing one thing, but it's really
23 another thing, you know, just being more conscious about what's
24 going on around me.

25 THE COURT: Okay.

1 PROSPECTIVE JUROR NO. 217: Noticing the little
2 things. Yeah.

3 THE COURT: Okay. Do you feel like it's adversely
4 impacted your mother's life?

5 PROSPECTIVE JUROR NO. 217: Probably.

6 THE COURT: Okay. In what ways?

7 PROSPECTIVE JUROR NO. 217: Divorce from my dad.
8 That could've been the start of it.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 217: But her quality of life
11 compared to my father's is a lot different.

12 THE COURT: Do you mean, like, economic quality of
13 life?

14 PROSPECTIVE JUROR NO. 217: Economic, day-to-day
15 life, pretty much all aspects.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NO. 217: Yeah.

18 PROSPECTIVE JUROR NO. 217: And I don't mean to pry,
19 but what kind of drugs are we talking about?

20 PROSPECTIVE JUROR NO. 217: I believe it's meth,
21 crystal meth.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR NO. 217: Yeah.

24 THE COURT: Okay. Why do you think that?

25 PROSPECTIVE JUROR NO. 217: I've seen the pipes. I

1 know the -- the smell. My little brother is very aware of it
2 because he's lived with her his whole life while I'll live with
3 my father.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR NO. 217: Yeah.

6 THE COURT: So you pretty much grew up with your
7 father?

8 PROSPECTIVE JUROR NO. 217: Yeah. My parents split
9 when I was 4 or 5.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR NO. 217: And I lived at my dad's
12 house throughout the week, visited my mom on the weekends.

13 THE COURT: Okay. Did you grow up here in Clark
14 County?

15 PROSPECTIVE JUROR NO. 217: Yeah.

16 THE COURT: Went to high school here and all of that?

17 PROSPECTIVE JUROR NO. 217: Uh-huh, whole life.

18 THE COURT: Okay. Do you feel like you're the kind
19 of person who would be a good juror?

20 PROSPECTIVE JUROR NO. 217: I believe so.

21 THE COURT: And tell me why that is.

22 PROSPECTIVE JUROR NO. 217: My dad was an attorney
23 for 30, 40 years.

24 THE COURT: Is your dad Carl Piazza?

25 PROSPECTIVE JUROR NO. 217: He is, yeah.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NO. 217: I figure you might've
3 known him. So I've been -- I've been in and out of courtrooms,
4 his office since I could walk, probably before.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR NO. 217: So I've even worked at
7 his law firm for a couple summers. So I know the proceedings.
8 I know the ins and outs, you know.

9 THE COURT: And your dad, I know he does a lot of --
10 or he used to do a lot of personal injury work.

11 PROSPECTIVE JUROR NO. 217: Uh-huh.

12 THE COURT: Did he ever do any kind of criminal work?

13 PROSPECTIVE JUROR NO. 217: I don't believe he did
14 criminal. I know it was a lot of personal injury, a lot of
15 family law.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NO. 217: At the end, before he
18 retired, it was some mortgage here and there.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR NO. 217: Yeah.

21 THE COURT: Anybody you're close to who's worked,
22 does work or has worked in law enforcement?

23 PROSPECTIVE JUROR NO. 217: I have a stepuncle who
24 works for Metro.

25 THE COURT: Okay. And so that's your father's wife's

1 uncle?

2 PROSPECTIVE JUROR NO. 217: Yeah, father's wife's
3 stepbrother.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR NO. 217: Or half brother.

6 THE COURT: Right.

7 PROSPECTIVE JUROR NO. 217: Yeah.

8 THE COURT: And did you know your father's wife's
9 stepfather?

10 PROSPECTIVE JUROR NO. 217: Say that one more time.
11 It gets -- my family gets a little confusing. Yeah.

12 THE COURT: Okay. So the person who works for Metro,
13 are you close with him? Do you see --

14 PROSPECTIVE JUROR NO. 217: No, not very.

15 THE COURT: Not really.

16 PROSPECTIVE JUROR NO. 217: Yeah.

17 THE COURT: Okay. Is there anything about the fact
18 that somebody is a Metro employee or a police officer that
19 would cause you to automatically believe or disbelieve their
20 testimony?

21 PROSPECTIVE JUROR NO. 217: No. I feel like their
22 voice has the same weight as a regular citizen.

23 THE COURT: Anything else we should know about you in
24 determining whether or not you would be a good juror on this
25 case?

1 PROSPECTIVE JUROR NO. 217: I don't think so.
2 THE COURT: All right. Counsel approach.
3 (Conference at bench not recorded.)
4 THE COURT: All right. Follow-up.
5 MS. LUZAICH: Thank you.
6 Hi, Mr. Piazza. How are you doing?
7 PROSPECTIVE JUROR NO. 217: Good. How are you doing?
8 MS. LUZAICH: I'm fine. Thank you very much. Did
9 you think you weren't going to get up there?
10 PROSPECTIVE JUROR NO. 217: Oh, no. I figured I
11 would.
12 MS. LUZAICH: Okay. I've asked everybody else, well,
13 most of the other people why you would want to serve. Is there
14 any reason that you shouldn't serve on this jury?
15 PROSPECTIVE JUROR NO. 217: I don't have any reason.
16 MS. LUZAICH: You said your dad didn't do any
17 criminal as far as you're aware?
18 PROSPECTIVE JUROR NO. 217: No.
19 MS. LUZAICH: When you would work in his office, what
20 would you do?
21 PROSPECTIVE JUROR NO. 217: I did a lot of filing,
22 some billing, secretary work here and there.
23 MS. LUZAICH: When you would -- you said you spent a
24 lot of time in courtrooms.
25 PROSPECTIVE JUROR NO. 217: Uh-huh.

1 MS. LUZAICH: What would you do? Like, would you
2 just watch him?

3 PROSPECTIVE JUROR NO. 217: Just watch. I was -- I
4 was really little at the time, so mainly just sit in the room
5 and color, all that stuff.

6 MS. LUZAICH: Kind of a childcare --

7 PROSPECTIVE JUROR NO. 217: Yeah. Uh-huh. Just a
8 couple times, you know, here and there.

9 MS. LUZAICH: Were you old enough to understand what
10 was going on?

11 PROSPECTIVE JUROR NO. 217: No, not at the beginning,
12 but he, you know, he was an attorney for 40, 50 --

13 MS. LUZAICH: Forever.

14 PROSPECTIVE JUROR NO. 217: Yeah, my whole life
15 basically. So there was times when I got older that I knew
16 what he was talking about. He would talk about cases, all that
17 stuff.

18 MS. LUZAICH: So he would talk to you about his cases
19 and stuff like that?

20 PROSPECTIVE JUROR NO. 217: Uh-huh. Yeah.

21 MS. LUZAICH: Did you find it interesting or boring?

22 PROSPECTIVE JUROR NO. 217: Oh, it was very
23 interesting, but I would've never gone into this field.

24 MS. LUZAICH: Why is that?

25 PROSPECTIVE JUROR NO. 217: Oh, because I saw how

1 much stress and reading and paperwork, everything -- couldn't
2 do it.

3 MS. LUZAICH: Yeah, a lot of paperwork. True.

4 PROSPECTIVE JUROR NO. 217: Yeah. Uh-huh.

5 MS. LUZAICH: The fact that you now look back and see
6 that your mother may have had a -- has a drug issue, at what
7 point was it that you realized?

8 PROSPECTIVE JUROR NO. 217: I would say probably in
9 the past three to five years maybe.

10 MS. LUZAICH: But what caused you -- like, was there
11 one thing that caused you to, like, oh, wow, you know, the
12 light bulb went off?

13 PROSPECTIVE JUROR NO. 217: A lot of it was my little
14 brother, how he was feeling -- he saw it, you know. He sees it
15 because he lives with her -- also growing up and being more
16 aware of your surroundings, knowing that there's a lot more
17 doors behind the first door. You know what I mean?

18 MS. LUZAICH: Yeah.

19 PROSPECTIVE JUROR NO. 217: There's not just that one
20 straight line of thinking. There's a lot of different
21 directions that things can branch out to that you don't think
22 of when you're a child or, you know, adolescent.

23 MS. LUZAICH: Okay. The experiences that you have
24 had, is that going to affect how you view witnesses in this
25 case?

1 PROSPECTIVE JUROR NO. 217: I don't believe so.

2 MS. LUZAICH: So you can listen to somebody who may
3 talk to you about having done drugs and be objective in the way
4 you evaluate that person?

5 PROSPECTIVE JUROR NO. 217: Uh-huh.

6 MS. LUZAICH: Is that a yes?

7 PROSPECTIVE JUROR NO. 217: Yes.

8 MS. LUZAICH: Remember the yes-button, no-button?

9 PROSPECTIVE JUROR NO. 217: Yeah. I was trying not
10 to do that.

11 MS. LUZAICH: You should know that, right?

12 PROSPECTIVE JUROR NO. 217: Yeah, I was trying not to
13 do that.

14 MS. LUZAICH: Do you think that it could be
15 embarrassing to come into a room full of strangers and talk
16 about having been sexually assaulted?

17 PROSPECTIVE JUROR NO. 217: I think it could be
18 embarrassing depending on the person.

19 MS. LUZAICH: Right. Because all people are
20 different. Would you agree with that?

21 PROSPECTIVE JUROR NO. 217: Uh-huh. Yes.

22 MS. LUZAICH: And if somebody comes in and acts,
23 reacts or appears in a way that you don't think your, you know,
24 girlfriend or best friend's sister or somebody would have
25 acted, you won't automatically disbelieve what they say simply

1 because it's not what you expect?

2 PROSPECTIVE JUROR NO. 217: No. Everyone reacts
3 differently. Some people are more open than others. Some
4 people react to things differently than others.

5 MS. LUZAICH: Are you expecting anything from this
6 trial?

7 PROSPECTIVE JUROR NO. 217: I don't think so, no.

8 MS. LUZAICH: I mean, because you have a little more
9 experience than other people with --

10 PROSPECTIVE JUROR NO. 217: Yeah.

11 MS. LUZAICH: -- you know, attorneys and cases and
12 stuff.

13 PROSPECTIVE JUROR NO. 217: I would assume with the
14 case type there should, I would assume, be some evidence as far
15 as, I believe, there -- you said there was a kidnapping charge.
16 I'm sure there's ropes. You said there might've been a gun.
17 I'm sure those things will be present in court.

18 MS. LUZAICH: What if they're not?

19 PROSPECTIVE JUROR NO. 217: I'm sure there's a reason
20 behind that.

21 MS. LUZAICH: Okay. When you say evidence, what is
22 evidence to you?

23 PROSPECTIVE JUROR NO. 217: It can be physical, or it
24 can be verbal.

25 MS. LUZAICH: Okay. So it doesn't -- you don't have

1 to be able to touch it.

2 PROSPECTIVE JUROR NO. 217: No.

3 MS. LUZAICH: Evidence can be testimony. Would you
4 agree with that?

5 PROSPECTIVE JUROR NO. 217: Someone's voice can be
6 just as "presenting" as a gun or a glove or a fingerprint or
7 something like that.

8 MS. LUZAICH: Okay. If there is no fingerprints for
9 example, is that going to be a problem for you?

10 PROSPECTIVE JUROR NO. 217: No.

11 MS. LUZAICH: Is there anything that would prevent
12 you from being able to sit in judgment?

13 PROSPECTIVE JUROR NO. 217: No.

14 MS. LUZAICH: And if you are convinced beyond a
15 reasonable doubt the defendant committed the crimes he's
16 charged with, would you be able to say guilty?

17 PROSPECTIVE JUROR NO. 217: Yes.

18 MS. LUZAICH: If you were me representing the State
19 of Nevada, would you want you on this jury?

20 PROSPECTIVE JUROR NO. 217: Yes.

21 MS. LUZAICH: Why?

22 PROSPECTIVE JUROR NO. 217: I have the experience, I
23 guess you could say. I'm kind of knowledgeable but also very
24 open minded. I can see things in front of me and not come to a
25 decision until I've heard everything.

1 MS. LUZAICH: Okay. Thank you.
2 Pass for cause.
3 THE COURT: All right. Mr. Ericsson
4 MR. ERICSSON: Thank you, Your Honor.
5 Good afternoon, sir.
6 PROSPECTIVE JUROR NO. 217: How are you doing?
7 MR. ERICSSON: I'm well. How are you doing?
8 PROSPECTIVE JUROR NO. 217: Very good.
9 MR. ERICSSON: I'm tired.
10 PROSPECTIVE JUROR NO. 217: Uh-huh.
11 MR. ERICSSON: It indicates here that you've done
12 some college; is that right?
13 PROSPECTIVE JUROR NO. 217: Yes.
14 MR. ERICSSON: Where did you go to school?
15 PROSPECTIVE JUROR NO. 217: I went to the University
16 of Arizona for a year and a half in Tucson, and then I also
17 went to CSN for a semester.
18 MR. ERICSSON: And what have you been studying
19 generally?
20 PROSPECTIVE JUROR NO. 217: I was doing business and
21 retail and consumer science, and then when I came back to
22 Vegas, I was doing graphic design.
23 MR. ERICSSON: Okay. And are you -- are you working
24 full time now?
25 PROSPECTIVE JUROR NO. 217: Correct. Yeah.

1 MR. ERICSSON: Okay. I know the day is long, and
2 you've been listening to all these questions. Tell me, do you
3 feel that you could be fair to the defense if you were selected
4 to sit as a juror?

5 PROSPECTIVE JUROR NO. 217: Yes.

6 MR. ERICSSON: And explain why you think that.

7 PROSPECTIVE JUROR NO. 217: With my -- with my dad,
8 I've seen both sides, whether the plaintiff seems more guilty
9 or not or the defendant does. My dad has defended all types of
10 people. So I've learned to keep an open mind and see
11 everything that's present first before coming to a decision.
12 So I think I can make a fair decision.

13 MR. ERICSSON: Okay. Are you comfortable with all of
14 the constitutional protections that we have in the United
15 States if we are charged with a crime?

16 PROSPECTIVE JUROR NO. 217: Yeah. Yes.

17 MR. ERICSSON: How do you feel about the
18 constitutional right that one has not to testify if he so
19 chooses?

20 PROSPECTIVE JUROR NO. 217: I don't see any problem
21 with it.

22 MR. ERICSSON: And then why is that?

23 PROSPECTIVE JUROR NO. 217: Well, first of all, it's
24 their right, but also, if they don't have anything to say,
25 whether it's towards one side or the other, they shouldn't have

1 to be able to say anything.

2 MR. ERICSSON: Okay. Thank you very much.

3 I have -- I would pass for cause.

4 THE COURT: All right. Thank you.

5 State's Fourth.

6 MS. LUZAICH: The State would thank and ask the Court
7 to excuse Juror Badge No. 196, Ms. Daley.

8 THE COURT: Ms. Daley, thank you very much for being
9 here. You are excused at this time, and the bailiff will
10 direct you from the courtroom.

11 Ladies and gentlemen, unfortunately we are not going
12 to finish picking a jury today. We're going to go ahead and
13 take our evening recess. The Court has a calendar on various
14 unrelated matters in the morning. So we will reconvene
15 tomorrow morning at 10:30, and we will definitely finish jury
16 selection tomorrow.

17 Before I excuse you for the evening recess, I must
18 remind you that you're not to discuss the case or anything
19 relating to the case with each other, with anyone else. You're
20 not to read, watch or listen to any reports of or commentaries
21 on the case, person or subject matter relating to the case. Do
22 not do any independent research by way of the Internet or any
23 other media. Do not visit the location at issue. Do not
24 engage in any social networking on any subject matter
25 concerning these proceedings, and please do not form or express

1 an opinion on the trial.

2 In a moment I'm going to ask all of you to follow
3 Officer Hawkes through the double doors. He will give you
4 instructions on where to park tomorrow, which unfortunately I
5 think is the same place, as well as where to meet and --

6 Excuse me one moment.

7 All Right. So 10:30 a.m. tomorrow morning, and if
8 all of you would please follow Officer Hawkes through the
9 double doors.

10 (Panel of prospective jurors recessed 5:05 p.m.)

11 THE COURT: And I also made another executive
12 decision to go ahead and have the bailiff tell Juror No. 150,
13 Mr. Abiva, that he didn't have to come back tomorrow. That's
14 the one with the orientation.

15 UNIDENTIFIED SPEAKER:

16 THE CLERK: I'm sorry. 150?

17 THE COURT: Yeah, Abiva. Wasn't he the one --

18 MS. LUZAICH: Okay. So could we go back to --

19 THE COURT: Yeah. Wasn't he --

20 MS. LUZAICH: -- Ms. Herbert is the one with the
21 kids. She left and isn't coming back, correct?

22 THE COURT: Right. Right.

23 MS. LUZAICH: Okay. And then --

24 THE COURT: It was the one with the orientation. Oh,
25 I'm sorry. It was Mr. Guerrero --

1 MS. LUZAICH: One, six, zero.
2 THE COURT: Right. 160, the one with the --
3 MS. LUZAICH: Okay. So he's also gone. Okay.
4 THE COURT: ESL. Right.
5 THE CLERK: All right. So I've taken both of them
6 off the list.
7 THE COURT: Right.
8 THE CLERK: What about the -- wasn't there a lady
9 that left?
10 THE COURT: Oh, and then the two left already, the --
11 THE CLERK: 326.
12 THE COURT: I can't remember those numbers though.
13 THE CLERK: Oh, no. I'm sorry.
14 MS. LUZAICH: No.
15 THE COURT: The lady who -- well, it was, like,
16 one -- it was, like, 381 and 261.
17 THE CLERK: Yeah. 361 and 381.
18 THE COURT: One was -- right
19 MS. LUZAICH: No, not 361.
20 THE COURT: Right
21 MS. LUZAICH: 381 and 2- --
22 THE COURT: -61.
23 MS. LUZAICH: -61. Correct
24 THE COURT: 261 left because she was ill.
25 MS. LUZAICH: She was sick.

1 THE COURT: And 381, Yolanda Edwards told -- was
2 crying because her godson was in a shootout or something with
3 police in Colorado.

4 MS. LUZAICH: Right.

5 THE COURT: Which was -- well, not that it was her
6 godson, but was verified in the news.

7 MS. LUZAICH: Yes. The fact of a shootout in Aurora,
8 Colorado.

9 THE COURT: Right.

10 THE CLERK: Kelly Gonzalez is still here, 361.

11 THE COURT: Right. The nurse is still here.

12 MS. LUZAICH: Yes. Yes.

13 THE COURT: And then Mr. Ericsson at the bench had
14 challenged a couple of jurors for cause based on their
15 statements relating to police and the -- or greater likelihood,
16 I guess, that a police officer would be credible.

17 Mr. Ericsson, anything you want to put on the record
18 about that?

19 MR. ERICSSON: Yes, Your Honor. And just so I
20 understand, when we are up at the bench, it --

21 THE COURT: It's not recorded.

22 MR. ERICSSON: It's not recorded. Okay.

23 THE COURT: So we have to memorialize it on the
24 record.

25 MR. ERICSSON: So it is my understanding that there

1 were three --

2 THE COURT: Right.

3 MR. ERICSSON: -- prospective jurors that I
4 challenged based on their statements, in my opinion, that
5 simply because of the position of someone being in law
6 enforcement that they would give that witness -- witness's
7 testimony greater weight. The three are Juror No. 172 Sihan
8 Chen. First name is S-i-h-a-n. Last name is C-h-e-n.

9 THE COURT: Right.

10 MR. ERICSSON: The second one is Quinn Coulombe and
11 that's Juror No. 149. Quinn is Q-u-i-n-n. Last name is
12 spelled C-o-u-l-o-m-b-e. And the third one is Juror No. 175,
13 Michael Wasinger. Wasinger is spelled W-a-s-i-n-g-e-r.

14 THE COURT: The Court felt that all of them said that
15 it -- well, I can't -- Mr. Chen said it would have -- I can't
16 remember the word he used, but the idea was almost no impact
17 and all three of them said that they could still evaluate it
18 and that police sometimes didn't tell the truth or weren't
19 accurate. So I felt like those weren't for-cause challenges.

20 And then on everybody else who was excused for cause,
21 it was stipulated between both sides. There was one that Ms.
22 Luzaich had challenged and Mr. Ericsson originally opposed, but
23 then, as she was further questioned, it looked like she could
24 be biased actually against the defense. I can't remember what
25 number she was. And then you submitted on that. Is that a

1 fair synopsis?

2 MR. ERICSSON: That is correct. I actually think it
3 was a male juror.

4 MS. LUZAICH: Mr. Anderson.

5 THE COURT: Right. He started out -- he looked like
6 he'd be biased --

7 MS. LUZAICH: 174.

8 THE COURT: -- biased in favor of the defense, but
9 then he -- at further questioning, it seemed like he was biased
10 against the defense. So that was stipulated, too, correct?

11 MR. ERICSSON: Yes, Your Honor.

12 THE COURT: And all the other jurors we excused were
13 stipulated. Anything else anybody needs to put on the record?

14 MS. LUZAICH: No.

15 MR. ERICSSON: Not from the defense.

16 THE COURT: All right. We'll see you back tomorrow.

17 MS. LUZAICH: And I apologize. I wasn't listening.
18 What time did you tell them?

19 THE COURT: I said 10:30.

20 MS. LUZAICH: Uh-huh. Okay.

21 THE COURT: That's optimistic, to be candid.

22 (Colloquy off the record.)

23 THE COURT: Yeah. Because they'll have to -- I'm
24 really more worried about them --

25 You guys switching him out. So there might be a

1 little delay.

2 MR. ERICSSON: Switching him out?

3 THE COURT: Yeah. When I say switch, you know, when
4 you take those inmates --

5 MS. LUZAICH: The custodies back.

6 THE CORRECTION OFFICER: He'll be dressed
7 (unintelligible) down there.

8 THE COURT: Yeah. That's the usually the -- you
9 know, that's what I mean, switch them out.

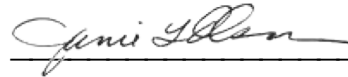
10 (Proceedings recessed for the evening 5:11 p.m.)

11 -oOo-

12 ATTEST: I do hereby certify that I have truly and correctly
13 transcribed the audio/video proceedings in the above-entitled
14 case.

15

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Janie L. Olsen
Transcriber

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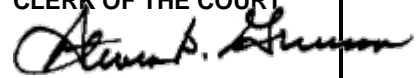
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TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,
Plaintiff,

vs.

CALVIN THOMAS ELAM,
Defendant.

CASE NO. C305949-1
DEPT NO. XXI

**TRANSCRIPT OF
PROCEEDINGS**

BEFORE THE HONORABLE VALERIE P. ADAIR, DISTRICT COURT JUDGE

TUESDAY, JUNE 20, 2017

JURY TRIAL - DAY 2

APPEARANCES:

FOR THE STATE:

ELISSA LUZAICH, ESQ.
Chief Deputy District Attorney

FOR THE DEFENSE:

THOMAS A. ERICSSON, ESQ.

RECORDED BY: SUSIE SCHOFIELD, COURT RECORDER
TRANSCRIBED BY: JD REPORTING, INC.

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1 **LAS VEGAS, CLARK COUNTY, NEVADA, JUNE 20, 2017, 11:02 A.M.**

2 * * * * *

3 (Panel of prospective jurors entering 11:04 a.m.)

4 THE COURT: All right. Court is now back in session.
5 The record should reflect the presence of the State through Ms.
6 Luzach, the presence of the defendant and his counsel Mr.
7 Ericsson, the officers of the court and the ladies and
8 gentleman of the prospective jury panel.

9 And if the court clerk could please call up the next
10 prospective juror.

11 THE CLERK: Javier Cortez.

12 THE COURT: Good morning, Mr. Cortez.

13 PROSPECTIVE JUROR NO. 257: Morning.

14 THE COURT: What do you do for a living, sir?

15 PROSPECTIVE JUROR NO. 257: I'm a cook at a
16 restaurant.

17 THE COURT: All right. And do you work in one of the
18 hotel casinos or --

19 PROSPECTIVE JUROR NO. 257: Hotel casino, yes.

20 THE COURT: You do. Okay. And are you married?

21 PROSPECTIVE JUROR NO. 257: I am.

22 THE COURT: What does your wife do?

23 PROSPECTIVE JUROR NO. 257: She works for the school
24 district.

25 THE COURT: What does she do for them?

1 PROSPECTIVE JUROR NO. 257: She's an office manager.

2 THE COURT: Okay. Does she work in a particular
3 school or does she work --

4 PROSPECTIVE JUROR NO. 257: She, yeah -- well, she
5 just lost her permanent full-time job at one of the elementary
6 schools.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR NO. 257: She had surgery, eye
9 surgery. And she's been out for a while.

10 THE COURT: So she lost that job. And is she going
11 back to work for the school district in the fall, or do you
12 know?

13 PROSPECTIVE JUROR NO. 257: I'm not sure because the
14 surgery recovery is taking too long, so --

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NO. 257: -- I don't know if she'll
17 be able to go back and work.

18 THE COURT: Okay. And do you have any children?

19 PROSPECTIVE JUROR NO. 257: I do. I have three
20 children.

21 THE COURT: And how old are they?

22 PROSPECTIVE JUROR NO. 257: One is 24, one's 12, and
23 I'm sorry, one is 14 and one's 11.

24 THE COURT: Okay. And have you ever been a juror
25 before?

1 PROSPECTIVE JUROR NO. 257: Never. No. No.
2 THE COURT: Never. Where are you from originally?
3 PROSPECTIVE JUROR NO. 257: From Mexico.
4 THE COURT: And how long have you lived in the United
5 States?
6 PROSPECTIVE JUROR NO. 257: I moved here back in
7 1984.
8 THE COURT: Okay. And did you go to cooking school,
9 or did you just kind of learn cooking on the job?
10 PROSPECTIVE JUROR NO. 257: I just learned, yes.
11 THE COURT: Just learned on the job?
12 PROSPECTIVE JUROR NO. 257: Yes.
13 THE COURT: Okay. Have you or anyone close to you
14 ever been arrested, charged or accused of a crime?
15 PROSPECTIVE JUROR NO. 257: No.
16 THE COURT: Nobody?
17 PROSPECTIVE JUROR NO. 257: Well, my brother back
18 in -- long time ago. It was --
19 THE COURT: Okay. Are you close with your brother?
20 PROSPECTIVE JUROR NO. 257: I am.
21 THE COURT: What kind of crime was that?
22 PROSPECTIVE JUROR NO. 257: He was accused of, him
23 and his friends of vandalizing somebody's car.
24 THE COURT: Okay. Was he a juvenile when that
25 happened?

1 PROSPECTIVE JUROR NO. 257: He was. He was.

2 THE COURT: Okay. And then have you ever been a
3 victim of a crime?

4 PROSPECTIVE JUROR NO. 257: No.

5 THE COURT: No. And has anyone close to you been the
6 victim of a crime?

7 PROSPECTIVE JUROR NO. 257: No.

8 THE COURT: Nothing you can think of?

9 PROSPECTIVE JUROR NO. 257: No.

10 THE COURT: Do you have any friends or family that
11 work or have worked in law enforcement?

12 PROSPECTIVE JUROR NO. 257: Yes, my cousin, he's a
13 police officer. And my wife's cousin also, a school police
14 officer.

15 THE COURT: Okay. So your wife's cousin is school
16 police?

17 PROSPECTIVE JUROR NO. 257: Correct.

18 THE COURT: Is that with the Clark County School
19 District police?

20 PROSPECTIVE JUROR NO. 257: Yes.

21 THE COURT: Okay. And then your cousin, where does
22 he work?

23 PROSPECTIVE JUROR NO. 257: He works for Metro, but
24 I'm not sure which zone or --

25 THE COURT: Okay. Is he a uniform, like, drives

1 around in a patrol car in the uniform?

2 PROSPECTIVE JUROR NO. 257: He was for some time.
3 But I think he's in the office now. He's a -- does something
4 else.

5 THE COURT: Okay. Are you close with your wife's
6 cousin or with your cousin?

7 PROSPECTIVE JUROR NO. 257: I see him sometime, but
8 we're not very close.

9 THE COURT: Okay. Same with the cousin, school
10 district?

11 PROSPECTIVE JUROR NO. 257: Same thing with my
12 cousin, right.

13 THE COURT: Okay. Did you -- I don't -- you probably
14 didn't go home thinking about all the questions that we were
15 asking the other jurors, but as you sit here today, do you
16 recall any of us asking another juror a question that you
17 would've had to answer yes? If you can --

18 PROSPECTIVE JUROR NO. 257: Yes, I do. For example,
19 people that use drugs. I have a problem believing what they --
20 some things that they say, right. Plus, I believe that they
21 lose part of their memory --

22 THE COURT: Okay.

23 PROSPECTIVE JUROR NO. 257: -- and even if they try
24 to tell the truth I have a hard time believing everything they
25 say.

1 THE COURT: Okay. Do you think that's all people
2 that use drugs, or do you think that's just a factor that could
3 impact a person's memory if they're a drug user? I mean, do
4 you think there are things that, you know, how long they've
5 been using drugs, the type of drugs that they use, things like
6 that that could matter?

7 PROSPECTIVE JUROR NO. 257: I think most people that
8 use drugs I have a problem with, I guess.

9 THE COURT: Okay. Do you have a personal experience
10 with people who use drugs, or what is that opinion based on?

11 PROSPECTIVE JUROR NO. 257: Yes. I used to own some
12 apartment units, right, and I had this tenants, this family and
13 when I used to come and fix something inside their unit, the
14 smell of the drugs, all the marijuana and all that. I don't
15 know if they're using something else also, but I used to smell
16 all the marijuana. And I saw little kids running in the inside
17 the unit and I just had a problem with that. I didn't like
18 that. It was a bad thing for me.

19 THE COURT: Did they pay their rent on time, unless
20 you kick them out?

21 PROSPECTIVE JUROR NO. 257: No, not really. I had to
22 evict them.

23 THE COURT: You wound up evicting them?

24 PROSPECTIVE JUROR NO. 257: Yeah, because they party
25 and --

1 THE COURT: Anybody you're close with that has an
2 issue or a problem with drugs or alcohol abuse?

3 PROSPECTIVE JUROR NO. 257: No. Not in my family,
4 no.

5 THE COURT: All right. State, you can follow up.

6 MS. LUZAICH: Good morning, Mr. Cortez.

7 PROSPECTIVE JUROR NO. 257: Good morning.

8 MS. LUZAICH: When you say that you have a hard time
9 believing people who use drugs because of your experience, do
10 you think that you just can't believe what they have to say
11 because of that?

12 PROSPECTIVE JUROR NO. 257: Yes. Like I said,
13 because I think they lose some kind -- some part of their
14 memory. And I just don't think it's -- I have a hard time,
15 yeah, believe what they said, yes. I don't know if that
16 answers your question, I'm sorry, it's not --

17 MS. LUZAICH: Okay. It does. And like I kept saying
18 yesterday, there are no right or wrong answers only honest
19 answers.

20 PROSPECTIVE JUROR NO. 257: Okay. Okay.

21 MS. LUZAICH: So if one or more people come into
22 court during the trial and testify that there have been times
23 in their lives that they have used drugs, are you just kind of
24 going to ignore what they have to say?

25 PROSPECTIVE JUROR NO. 257: Yeah, I guess it depends

1 how long ago they used drugs and if they've been to rehab and
2 those things. Otherwise, I don't know what to tell you. I
3 don't know what to tell you with that.

4 MS. LUZAICH: No, no, just the truth that's all.

5 PROSPECTIVE JUROR NO. 257: Right.

6 MS. LUZAICH: Not to beat a dead horse, so if
7 somebody has not been to rehab and may have used drugs fairly,
8 not that day, you know, but fairly recently, does that mean
9 you're just not going to believe what they have to say?

10 PROSPECTIVE JUROR NO. 257: Yes. I don't think I
11 would believe what everything they said. Like I said, even if
12 they tried to tell the truth I think there'll be some things
13 missing on their memory -- on their, what they remember of the
14 whatever they did or didn't do.

15 THE COURT: So it's more you think their memory,
16 like, they wouldn't be able to remember everything?

17 PROSPECTIVE JUROR NO. 257: Correct.

18 THE COURT: But do you think that some of the things
19 that they may remember some things correctly, or do you think
20 they wouldn't remember anything correctly? Or in your own
21 words what do you think?

22 PROSPECTIVE JUROR NO. 257: I think they'll remember
23 some things. But I think they'll be missing some of the things
24 that happen, right. So that's what I think. It's what I
25 believe. I don't know if maybe I got you all confused but I

1 just --

2 MS. LUZAICH: No, no, not at all.

3 THE COURT: Counsel, approach.

4 (Conference at the bench not recorded.)

5 THE COURT: Mr. Cortez, thank you for being here.

6 We're going to go ahead and excuse you from these proceedings.

7 And our bailiff will direct you from the courtroom for

8 reassignment downstairs.

9 PROSPECTIVE JUROR NO. 257: Thank you.

10 THE COURT: And if the clerk would please call up the
11 next prospective juror.

12 THE CLERK: Chante Jimerson.

13 THE COURT: Yes?

14 PROSPECTIVE JUROR NO. 183: Good morning, Your Honor.

15 THE COURT: Good morning.

16 PROSPECTIVE JUROR NO. 183: I just wanted to make you
17 aware that, you know, you asked a question before yesterday of
18 undue hardship.

19 THE COURT: Yes.

20 PROSPECTIVE JUROR NO. 183: And so yesterday, of
21 course, I went home and let my office know that I was going to
22 be here today. The OCC is coming in to audit us, and I have a
23 fairly new team and that actually the person that I took over
24 from resigned. So my team right now is not exactly a hundred
25 percent confident if I'm not going to be there because right

1 now we're prepping because they're coming in July. So I'm
2 concerned that if --

3 THE COURT: When are they -- what's the OCC and when
4 are they coming in July?

5 PROSPECTIVE JUROR NO. 183: So the OCC is the Office
6 of Controller and Currency.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR NO. 183: And they're coming in --

9 THE COURT: And this is a fed -- I'm assuming it's
10 a --

11 PROSPECTIVE JUROR NO. 183: Yes, it is. It is.

12 THE COURT: -- it's part of the United States
13 government?

14 PROSPECTIVE JUROR NO. 183: That's correct.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NO. 183: So they're coming in at
17 either first week of July or second week of July.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 183: So we're prepping and
20 making sure all the documents are there. I've been only with
21 my company for six months. So my team is not exactly --
22 they're new, I'm new to them --

23 THE COURT: Right.

24 PROSPECTIVE JUROR NO. 183: -- because I replaced
25 someone.

1 THE COURT: And is this a, I guess, evaluation of
2 just a particular branch, or is it the entire local bank, or
3 what is it?

4 PROSPECTIVE JUROR NO. 183: The entire local bank,
5 but I'm only responsible for one branch --

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NO. 183: -- which is Vendor
8 Management. And my concern comes from mostly me because then I
9 should share that because they're not a hundred percent
10 confident, if there should be less than a hundred percent
11 positive outcome, which I think is remote, but should that
12 happen, concern that one of them may quit or just not feel good
13 about it, and I know that -- but I take my duties very
14 seriously, Your Honor.

15 THE COURT: Right.

16 PROSPECTIVE JUROR NO. 183: So and this is, like, a
17 long story, but in 2008 when we had to cut 20 percent of the
18 folks' salary, I had to do that to make sure that they
19 continued to hold their jobs. But I ended up because it was
20 such a heart-wrenching experience, I ended up having to go to
21 therapy for that. So I think my point is that it would be an
22 undue hardship on me in terms of the level of responsibility I
23 feel towards these people.

24 THE COURT: I get it, I think. It's not a surprise
25 visit though. They tell you in advance when they're coming.

1 PROSPECTIVE JUROR NO. 183: Correct. Correct.

2 THE COURT: Okay. So the OCC has told your bank
3 what, we're coming --

4 PROSPECTIVE JUROR NO. 183: First week or second week
5 of July.

6 THE COURT: And then in the future they give you the
7 actual date that they come in?

8 PROSPECTIVE JUROR NO. 183: No. No, they're coming
9 in first week and second week of July, this July.

10 THE COURT: Okay. So it's a two-week process?

11 PROSPECTIVE JUROR NO. 183: It's -- so it depends on
12 when they get to us. So they either come in the first week of
13 July or the second week of July.

14 THE COURT: I mean is it, like, you know, like
15 something you would see in the movies, a team of people rushing
16 in and going through your papers? Or is it one, you know,
17 government employee or how does that work?

18 PROSPECTIVE JUROR NO. 183: This is my first time
19 with the bank so as I understand it's going to be two
20 government employees.

21 THE COURT: Okay. And then what do they do? You
22 hand them papers, or do they randomly go through the paperwork
23 and your computer files to make sure you're in compliance or
24 how or do --

25 PROSPECTIVE JUROR NO. 183: The latter.

1 THE COURT: Okay. So they just come in --

2 PROSPECTIVE JUROR NO. 183: Yes. And they can access
3 anything.

4 THE COURT: Okay. And then you're there to
5 facilitate that I'm assuming.

6 PROSPECTIVE JUROR NO. 183: Correct.

7 THE COURT: So if they say, where do you keep this
8 kind of a document you would say, okay, well, it's in this file
9 cabinet, or you would log onto your computer or whatever you
10 need to do --

11 PROSPECTIVE JUROR NO. 183: Yes.

12 THE COURT: -- is that how that works?

13 PROSPECTIVE JUROR NO. 183: Yes.

14 THE COURT: Okay. And I'm -- so what you're telling
15 me is right now you're not sure exactly what day these people
16 are coming in?

17 PROSPECTIVE JUROR NO. 183: Yes. And we're prepping
18 right now. So we've gone through two reviews with our
19 executive leadership. But again my team is not confident --

20 THE COURT: Right. And so what do you have -- I'm
21 assuming, you know, your bank is in daily compliance with --

22 PROSPECTIVE JUROR NO. 183: Yes.

23 THE COURT: -- federal regulations?

24 PROSPECTIVE JUROR NO. 183: Yes.

25 THE COURT: So what is it that you need to do to be

1 ready for this particular audit or evaluation? Do you see what
2 I'm saying? I mean, I'm assuming you keep your paperwork up to
3 date --

4 PROSPECTIVE JUROR NO. 183: We do. We do.

5 THE COURT: -- and do what you're supposed to be
6 doing?

7 PROSPECTIVE JUROR NO. 183: So there's a special
8 focus on my department this year for Vendor Management. They
9 came up with it. They issued it in January 24th of this
10 year --

11 THE COURT: Right.

12 PROSPECTIVE JUROR NO. 183: -- based on all the
13 things that are happening with Wells Fargo. So there's a
14 special emphasis which makes my team a little bit more
15 sensitive, if you will, too, because there's a special focus on
16 Vendor Management. So -- and again it's just --

17 THE COURT: Meaning what, you're not opening accounts
18 for people without their authorization, or you're not trying
19 to --

20 PROSPECTIVE JUROR NO. 183: Right. I mean, they came
21 up with a special supplemental --

22 THE COURT: -- sell people products that they don't
23 need, that kind of thing?

24 PROSPECTIVE JUROR NO. 183: That's correct. So they
25 came up with an entire supplemental checklist that wasn't --

1 that wasn't in existence before. So we're over preparing, and
2 again, I do believe my company's highly ethical and there's no
3 issue, but I'm more concerned about the personal component, my
4 responsibility towards them and --

5 THE COURT: So let me ask you this. There's no new
6 paperwork you need to generate, correct? I mean, whatever
7 paperwork is relevant to their inquiry would have already been
8 kept and maintained as part of the normal course of business of
9 your bank; is that a fair assumption? Or are you generating
10 new paperwork in anticipation of this evaluation?

11 PROSPECTIVE JUROR NO. 183: We have a new checklist
12 in anticipation for this supplemental evaluation.

13 THE COURT: But it's based on paper -- is it true
14 that it's based on paperwork or documents that are already
15 generated, meaning that you would've already had as part of
16 your normal course of business, is that --

17 PROSPECTIVE JUROR NO. 183: Correct.

18 THE COURT: Okay. All right. Thank you for making
19 us aware of that. And if you'd hand the microphone down.

20 And good morning to you. What do you do for a
21 living?

22 PROSPECTIVE JUROR NO. 259: Good morning. Cocktails.

23 THE COURT: And do you work at one of the hotel
24 casino properties?

25 PROSPECTIVE JUROR NO. 259: Yes, ma'am.

1 THE COURT: Okay. Are you married, domestic partner?
2 PROSPECTIVE JUROR NO. 259: Single.
3 THE COURT: Any children?
4 PROSPECTIVE JUROR NO. 259: No.
5 THE COURT: Have you ever been a juror before?
6 PROSPECTIVE JUROR NO. 259: No.
7 THE COURT: Have you or anyone close to you ever been
8 arrested, charged, or accused of a crime?
9 PROSPECTIVE JUROR NO. 259: Yes.
10 THE COURT: Tell me about that.
11 PROSPECTIVE JUROR NO. 259: I have for a DUI. My
12 brother has for traffic. My stepdad has for drugs.
13 THE COURT: Okay.
14 PROSPECTIVE JUROR NO. 259: And my stepdad's brother
15 for drugs.
16 THE COURT: Okay. The DUI that you had, was that a
17 misdemeanor DUI?
18 PROSPECTIVE JUROR NO. 259: Yes.
19 THE COURT: Okay. Was that here in Clark County?
20 PROSPECTIVE JUROR NO. 259: Yes.
21 THE COURT: Did -- were charges filed against you?
22 Did you have to go to court and all of that?
23 PROSPECTIVE JUROR NO. 259: I went to court with a
24 lawyer, yes.
25 THE COURT: Okay. And did the matter resolve? Did

1 you plead guilty? Did you go to trial? What happened?

2 PROSPECTIVE JUROR NO. 259: No trial.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NO. 259: I think it just went down
5 to the misdemeanor.

6 THE COURT: Okay. And did you plead to that; do you
7 remember?

8 PROSPECTIVE JUROR NO. 259: I --

9 THE COURT: Did you have to do, like, the classes and
10 victim impact --

11 PROSPECTIVE JUROR NO. 259: I took the classes, yeah.

12 THE COURT: -- panel and all that? Okay. And do you
13 recall what agency arrested you? Was it, like, Nevada --

14 PROSPECTIVE JUROR NO. 259: North town.

15 THE COURT: North Las Vegas? Okay.

16 PROSPECTIVE JUROR NO. 259: North Las Vegas.

17 THE COURT: And any feelings as to how you were
18 treated in the system? And just be honest, by the North Las
19 Vegas Police or by the Judge or the prosecutor, your own
20 lawyer, you know, did he do a -- he or she do a good job, that
21 kind of thing?

22 PROSPECTIVE JUROR NO. 259: Well, the Judge wasn't
23 bad, the lawyer wasn't bad. I wasn't too fond of the whole,
24 you know, jail experience.

25 THE COURT: Understandably. Do you feel like you

1 were treated fairly overall?

2 PROSPECTIVE JUROR NO. 259: Yeah.

3 THE COURT: Okay. And then the stepfather who was
4 involved in drugs, was that here in Clark County?

5 PROSPECTIVE JUROR NO. 259: I believe so.

6 THE COURT: Okay. Were you living with, I mean, with
7 him, him and your mom when he had his problems, or was it
8 something once you were, you know, grown up and --

9 PROSPECTIVE JUROR NO. 259: No, that was in the past.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR NO. 259: 25 years ago.

12 THE COURT: Okay. Did it occur when you were a
13 child?

14 PROSPECTIVE JUROR NO. 259: Yes.

15 THE COURT: Were you aware of things 25 years ago, or
16 is it something that you've now learned about as an adult?

17 PROSPECTIVE JUROR NO. 259: I didn't know back then.

18 THE COURT: Okay. So you've learned about it since
19 it happened --

20 PROSPECTIVE JUROR NO. 259: Yes.

21 THE COURT: -- is that fair? Okay. Do you know if
22 he went to prison for it?

23 PROSPECTIVE JUROR NO. 259: He did.

24 THE COURT: Okay. And have you now as an adult
25 talked to either him or other family members about his

1 experiences in the justice system?

2 PROSPECTIVE JUROR NO. 259: No.

3 THE COURT: No. Okay. Have you ever been the victim
4 of a crime?

5 PROSPECTIVE JUROR NO. 259: I didn't press charges,
6 but I did get a restraining order.

7 THE COURT: Okay. Was that a domestic violence
8 situation?

9 PROSPECTIVE JUROR NO. 259: Yes.

10 THE COURT: All right. And was it one -- and I don't
11 mean to pry, but was it one incident or more than one incident?

12 PROSPECTIVE JUROR NO. 259: It was more than one, but
13 that was the only -- that was the last time, and that's when I
14 went and got the restraining order.

15 THE COURT: Okay. And did that sort of resolve the
16 situation? I mean, you didn't have any more problems with the
17 person?

18 PROSPECTIVE JUROR NO. 259: No, no more problems.

19 THE COURT: Was it a boyfriend, former boyfriend?

20 PROSPECTIVE JUROR NO. 259: Yes.

21 THE COURT: And was law enforcement ever involved?

22 PROSPECTIVE JUROR NO. 259: No.

23 THE COURT: You never called the police or anything?

24 PROSPECTIVE JUROR NO. 259: No.

25 THE COURT: Why not?

1 PROSPECTIVE JUROR NO. 259: I actually went down
2 there to file a report, but the office, they just took the last
3 people, and they were like, we're not taking any more today.

4 So I just had the restraining order, and I was okay with that.

5 THE COURT: Okay. Did you ever have to seek medical
6 attention as a --

7 PROSPECTIVE JUROR NO. 259: I did.

8 THE COURT: Okay. Was it the kind of thing you had
9 to go to the emergency room, or was it --

10 PROSPECTIVE JUROR NO. 259: No, just Quick Care.

11 THE COURT: -- like, the next day you went?

12 PROSPECTIVE JUROR NO. 259: Quick Care the same day.

13 THE COURT: Okay. And you said -- what about the
14 process of obtaining the restraining order; were you satisfied
15 with that whole process how that worked?

16 PROSPECTIVE JUROR NO. 259: Yes, I was just upset
17 that they didn't prolong it for the whole year.

18 THE COURT: Okay. Did you go back for a hearing to
19 extend the TRO or --

20 PROSPECTIVE JUROR NO. 259: I did.

21 THE COURT: Okay. Did the ex-boyfriend show up?

22 PROSPECTIVE JUROR NO. 259: No.

23 THE COURT: Okay. Anybody else that's close to you
24 that's been the victim of a serious crime?

25 PROSPECTIVE JUROR NO. 259: No, not that I can

1 recall.

2 THE COURT: Okay. Thank you.

3 Ms. Luzaich.

4 MS. LUZAICH: Thank you. Good morning --

5 PROSPECTIVE JUROR NO. 259: Good Morning.

6 MS. LUZAICH: -- or it's still morning. Morning, Ms.
7 Jimerson. When the Judge asked you if you felt like you've
8 been treated fairly you laughed; is there something that you
9 want to share with us about your experience?

10 PROSPECTIVE JUROR NO. 259: The only thing that I
11 didn't like is they kind of got frustrated with me because they
12 couldn't take my fingerprints, and then the nurse when she took
13 my blood, I was completely black on my whole arm --

14 MS. LUZAICH: Yeah, that would be bad.

15 PROSPECTIVE JUROR NO. 259: -- and I didn't know that
16 until I -- 'cause I had on a long sleeve when I went in. So
17 when I got home and I was shivering the whole time, I didn't
18 know what was wrong, and when I got home, I freaked out because
19 I didn't know.

20 MS. LUZAICH: Okay. Yeah, that's bad. The court
21 process itself, was that not as bad?

22 PROSPECTIVE JUROR NO. 259: Not too bad, no.

23 MS. LUZAICH: I mean, I'm a prosecutor. A prosecutor
24 would have handled your case. So I just need to be sure you're
25 not going to hold it against the State of Nevada. You're not

1 going to hold it against me because you had a bad experience,
2 are you?

3 PROSPECTIVE JUROR NO. 259: No.

4 MS. LUZAICH: What happened to you is independent of
5 what's going on in this courtroom; would you agree with that?

6 PROSPECTIVE JUROR NO. 259: Sure.

7 MS. LUZAICH: Do you not want to be here?

8 PROSPECTIVE JUROR NO. 259: Not really.

9 MS. LUZAICH: I mean, I get it. Nobody wants to be
10 here except maybe me 'cause this is what I do. How come?

11 PROSPECTIVE JUROR NO. 259: Well, I obviously work.
12 My mom, she had back surgery so she still kind of needs, you
13 know, my help throughout the day. Sometimes I have to call
14 out, I have FMLA for her just in case she does, you know, need
15 my assistance.

16 MS. LUZAICH: Has she had a problem yesterday or
17 today that you're concerned about?

18 PROSPECTIVE JUROR NO. 259: No.

19 MS. LUZAICH: Do you think she'll be okay if you're
20 selected and have to sit through next Monday or Tuesday?

21 PROSPECTIVE JUROR NO. 259: I can't guarantee that.
22 Her flare-ups are whenever they flare up.

23 MS. LUZAICH: And is it just kind of a you get a
24 phone call, hey, got to go home kind of thing, pretty much at
25 work?

1 PROSPECTIVE JUROR NO. 259: Uh-huh.

2 MS. LUZAICH: Is that a yes?

3 PROSPECTIVE JUROR NO. 259: Yes, and I can be excused
4 whenever.

5 MS. LUZAICH: Because of your concern for your mom,
6 do you think that you might find yourself, I won't say not
7 paying attention, but of maybe not giving your full attention
8 to the witnesses that would testify here?

9 PROSPECTIVE JUROR NO. 259: Probably.

10 MS. LUZAICH: Okay. We appreciate that. Do you have
11 any feelings, personal feelings or opinions about individuals
12 who use drugs?

13 PROSPECTIVE JUROR NO. 259: I am willing to hear them
14 out. My uncle, he is currently in jail because of drug use.

15 MS. LUZAICH: Oh, is he the one that went to prison?
16 Is he still in or back in?

17 PROSPECTIVE JUROR NO. 259: He's back in.

18 THE COURT: And is he in jail, or is he in prison?

19 PROSPECTIVE JUROR NO. 259: He's in jail.

20 THE COURT: Okay.

21 MS. LUZAICH: He has a new case wherein he's, like,
22 pending trial or something?

23 PROSPECTIVE JUROR NO. 259: No, he's been back in for
24 about four or five years now.

25 THE COURT: Do you know where he -- is he -- do you

1 know where he --

2 PROSPECTIVE JUROR NO. 259: He's here.

3 THE COURT: Here?

4 PROSPECTIVE JUROR NO. 259: Here in Vegas.

5 THE COURT: Here downtown or is he at Indian Springs

6 --

7 PROSPECTIVE JUROR NO. 259: Downtown.

8 THE COURT: -- or High Desert?

9 PROSPECTIVE JUROR NO. 259: I want to say downtown.

10 THE COURT: Okay.

11 MS. LUZAICH: Does his -- what you experienced
12 through him do you think that that's going to color the way or,
13 you know, make you view any of the witnesses differently?

14 PROSPECTIVE JUROR NO. 259: It might. I can't
15 guarantee that it won't.

16 MS. LUZAICH: Thank you very much.

17 THE COURT: All right. Pass?

18 MS. LUZAICH: Uh-huh.

19 THE COURT: Mr. Ericsson, you may follow up.

20 MR. ERICSSON: Thank you, Your Honor.

21 Good morning, ma'am.

22 PROSPECTIVE JUROR NO. 259: Good morning.

23 MR. ERICSSON: You've obviously expressed some
24 concern about if your mother needs your help with her back
25 condition; does she have some neighbors or friends who would be

1 able to help her.

2 PROSPECTIVE JUROR NO. 259: She's not close with the
3 neighbors, no. And there's probably no close friends that will
4 be able to come and assist her.

5 MR. ERICSSON: Okay. So and obviously, you know, we
6 can just take what you're telling us is as being accurate as
7 you sit here now, are you thinking that because of that
8 situation with your mother that you're not, you wouldn't be
9 able to give full attention to this case if you were selected
10 as a juror?

11 PROSPECTIVE JUROR NO. 259: Right. Right.

12 MR. ERICSSON: Okay. All right.

13 THE COURT: How long has your mother's back situation
14 --

15 PROSPECTIVE JUROR NO. 259: It's been going on since
16 about 2012-13.

17 THE COURT: Okay. And then what happens when she
18 gets flare-up? What do you do?

19 PROSPECTIVE JUROR NO. 259: Well, she -- I just have
20 to help her do any -- everything. She can't bend --

21 THE COURT: Okay.

22 PROSPECTIVE JUROR NO. 259: -- she can't pick up too
23 much, she can't, you know --

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NO. 259: -- wash up sometimes, you

1 know --

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NO. 259: -- the things that --

4 THE COURT: Okay. So she just stays home; you don't
5 have to take her to a medical facility or anything like that?

6 PROSPECTIVE JUROR NO. 259: Right.

7 THE COURT: Okay. So it's more assisting with just
8 the tasks of daily life; is that fair?

9 PROSPECTIVE JUROR NO. 259: Yes.

10 THE COURT: Okay.

11 MR. ERICSSON: Your Honor, I would pass for cause.

12 THE COURT: All right. I believe we're on
13 defendant's fourth challenge.

14 MR. ERICSSON: Your Honor, the defense would thank
15 and excuse Juror No. 172, Mr. Chen.

16 THE COURT: Mr. Chen, thank you very much for being
17 here and your willingness to serve as a juror. You are excused
18 at this time. Thank you.

19 And if the court clerk would please call up the next
20 prospective juror.

21 THE CLERK: William Shaffer.

22 THE COURT: Good after -- still morning, good
23 morning. What do you do for a living, sir?

24 PROSPECTIVE JUROR NO. 314: Good morning. I own a
25 glass company.

1 THE COURT: All right. Is it, like, windows, or what
2 is it?
3 PROSPECTIVE JUROR NO. 314: Yes. Commercial.
4 THE COURT: Okay. And are you married, domestic
5 partner?
6 PROSPECTIVE JUROR NO. 314: Married.
7 THE COURT: What does your wife do?
8 PROSPECTIVE JUROR NO. 314: She works for the Tao
9 Group.
10 THE COURT: Tao?
11 PROSPECTIVE JUROR NO. 314: Tao the nightclub.
12 THE COURT: Nightclub?
13 PROSPECTIVE JUROR NO. 314: Uh-huh.
14 THE COURT: Okay. What does she do for them?
15 PROSPECTIVE JUROR NO. 314: She's a compliance
16 director.
17 THE COURT: Okay. Is it, like, for their licensing?
18 PROSPECTIVE JUROR NO. 314: License -- pretty much
19 everything. Yeah.
20 THE COURT: Okay.
21 PROSPECTIVE JUROR NO. 314: She's just making sure
22 that all the employees are in compliance.
23 THE COURT: Okay. And do you have any children?
24 PROSPECTIVE JUROR NO. 314: Two. Two girls, 31 and
25 33.

1 THE COURT: All right. Have you ever been a juror
2 before?

3 PROSPECTIVE JUROR NO. 314: No.

4 THE COURT: Have you or anyone close to you ever been
5 arrested, charged or accused of a crime or the victim of a
6 crime?

7 PROSPECTIVE JUROR NO. 314: Not a victim, but my
8 nephew when he was a juvenile, he got caught stealing at a
9 convenience store.

10 THE COURT: Okay. Was it just, like, a shoplifting
11 kind of a thing, or was it more a robbery kind of a thing?

12 PROSPECTIVE JUROR NO. 314: No. No, shoplifting.

13 THE COURT: Okay. Was that here in town?

14 PROSPECTIVE JUROR NO. 314: Yes.

15 THE COURT: And that obviously was handled in
16 juvenile court?

17 PROSPECTIVE JUROR NO. 314: Yes.

18 THE COURT: All right. You've heard all of our
19 questions and discussions with the other jurors. Anything you
20 heard any of us ask one of the other jurors that you would've
21 had to raise your hand and answer in the affirmative?

22 PROSPECTIVE JUROR NO. 314: No. Other than maybe
23 regarding the law that would pertain here.

24 THE COURT: Okay. What do you mean?

25 PROSPECTIVE JUROR NO. 314: I have morals.

1 THE COURT: Right.

2 PROSPECTIVE JUROR NO. 314: So as long as, you know,
3 I don't -- hopefully they won't interfere but, you know, I was
4 raised a certain way.

5 THE COURT: Okay. Well, do you feel like you can
6 follow the laws instructed to you by the Court? Is that what
7 your concern is?

8 PROSPECTIVE JUROR NO. 314: Yes.

9 THE COURT: Okay. That you wouldn't follow the law
10 if it contradicted with your values?

11 PROSPECTIVE JUROR NO. 314: Yes.

12 THE COURT: Okay. And are you concerned about
13 something in particular or just sort of --

14 PROSPECTIVE JUROR NO. 314: Yes.

15 THE COURT: And what is that?

16 PROSPECTIVE JUROR NO. 314: My wife also is a
17 trustee. She's on a board of the Rape Crisis Center --

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 314: -- and so I've heard some
20 stories.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR NO. 314: And she's also a CASA.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR NO. 314: She's a Court Appointed
25 Specialist --

1 THE COURT: Right. I know what that is; we all know.
2 Okay.

3 PROSPECTIVE JUROR NO. 314: And so, you know, I've
4 got empathy with -- about certain things.

5 THE COURT: Okay. And no one's -- I think I said
6 this to another prospective juror, no one's asking -- looking
7 for jurors who don't have empathy. The issue is, do you think
8 if you were selected you'd be able to, you know, listen to the
9 evidence with an open mind, listen to the law and then apply
10 the evidence to the law and answer the one question that the
11 jurors are required to answer, whether or not the State has
12 proven the defendant's guilt beyond a reasonable doubt?

13 PROSPECTIVE JUROR NO. 314: Truthfully no.

14 THE COURT: Okay. And that's because what?

15 PROSPECTIVE JUROR NO. 314: Because of my morals and
16 thoughts about certain things.

17 THE COURT: Right. Right. Well, hopefully the law
18 is moral. I guess my question is, I'm a little perplexed as to
19 why you are operating under the assumption that somehow the law
20 would be immoral or would contradict your values.

21 PROSPECTIVE JUROR NO. 314: And that would be -- that
22 would --

23 THE COURT: That seems to be an assumption you're
24 making, and I'm a little bit perplexed by that.

25 PROSPECTIVE JUROR NO. 314: This just isn't a fit for

1 me. It's not my thing.

2 THE COURT: Okay. And that's because of your wife's
3 work with the Rape Crisis Center?

4 PROSPECTIVE JUROR NO. 314: That would be part of it,
5 yes.

6 THE COURT: And what else?

7 PROSPECTIVE JUROR NO. 314: Just isn't me. I'm not
8 real comfortable with all this.

9 THE COURT: Okay. And that's not really the issue.
10 The issue is whether or not jurors can be fair and impartial.
11 Not whether they find the charges comfortable or uncomfortable.

12 May I see counsel. May I see the bailiff.

13 (Conference at the bench not recorded.)

14 THE COURT: -- excuse you. Again, I'm somewhat
15 perplexed as to why you would assume that the laws here in our
16 state are somehow immoral. I have to tell you in 27 years of
17 being an attorney, almost 28 years, that's the first time
18 someone has voiced such a concern, but we're looking for
19 honesty, and when it comes to opinions as long as you are being
20 honest there's no right or wrong answer. So I have to respect
21 your view in that regard. Although I have to say I am
22 perplexed as to why someone would operate under that
23 assumption.

24 In any event I am going to excuse you from this
25 department. There are a number of civil trials, and so you're

1 eligible for reassignment to a civil department. And the
2 bailiff will direct you from the courtroom.

3 And if the court clerk would please call up the next
4 prospective juror.

5 THE CLERK: Margo Winter-Light.

6 THE COURT: Good morning.

7 PROSPECTIVE JUROR NO. 316: Good morning.

8 THE COURT: What do you do for a living?

9 PROSPECTIVE JUROR NO. 316: What do I do for a
10 living?

11 THE COURT: Uh-huh.

12 PROSPECTIVE JUROR NO. 316: I'm retired now.

13 THE COURT: From what?

14 PROSPECTIVE JUROR NO. 316: May of 2011, from Metro.

15 THE COURT: Oh, okay. What did you do for Metro?

16 PROSPECTIVE JUROR NO. 316: Well, I worked in
17 warrants and summons --

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 316: -- and validation.

20 THE COURT: Okay. So you were a clerical Metro
21 employee?

22 PROSPECTIVE JUROR NO. 316: Yes.

23 THE COURT: Okay. A civilian employee, correct?

24 PROSPECTIVE JUROR NO. 316: An LEST.

25 THE COURT: Okay. And you did that for what, 30

1 years?

2 PROSPECTIVE JUROR NO. 316: 14.

3 THE COURT: 14. What did you do before --

4 PROSPECTIVE JUROR NO. 316: Almost 14.

5 THE COURT: Okay. And what did you do before that?

6 PROSPECTIVE JUROR NO. 316: Before that I was in
7 several different businesses an office manager, administration,
8 supervisor, trainer. Kind of a lot of everything for 33 years
9 under --

10 THE COURT: Okay. Now with Metro the last -- how
11 long ago did you retire from Metro? You told me, and I didn't
12 hear the date.

13 PROSPECTIVE JUROR NO. 316: May of 2011.

14 THE COURT: Okay. So that was fairly recent. Now,
15 what did you do with warrants? How did that work?

16 PROSPECTIVE JUROR NO. 316: Validated them --

17 THE COURT: Okay.

18 PROSPECTIVE JUROR NO. 316: -- to make sure they were
19 still in force and accurate.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR NO. 316: All necessary paperwork
22 in the files.

23 THE COURT: Okay. So you're at a computer and then
24 you're just verifying the information; is that right?

25 PROSPECTIVE JUROR NO. 316: Correct.

1 THE COURT: Okay. So are you in an office with other
2 clerical Metro civilian employees?

3 PROSPECTIVE JUROR NO. 316: Other validation members,
4 yes. In the department of which there were, like, six to seven
5 and I worked the night shift for a good many of the almost 14
6 years.

7 THE COURT: Okay. Did you work directly with police
8 officers, or did you work mostly with civilian employees?

9 PROSPECTIVE JUROR NO. 316: No. No. What we did was
10 each warrant had to be validated for accuracy, and so if an
11 officer or anybody of the courts wanted to pull up that
12 person's warrant everything would be accurate and up to date.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NO. 316: We made no decision about
15 a specific warrant or person right or wrong; we simply used
16 what was available to us on the computers and so forth.

17 THE COURT: Let me ask you this. Was your supervisor
18 a police officer or a civilian employee?

19 PROSPECTIVE JUROR NO. 316: Civilian.

20 THE COURT: Civilian employee?

21 PROSPECTIVE JUROR NO. 316: Yes.

22 THE COURT: Okay. And then are you married, domestic
23 partner or significant other?

24 PROSPECTIVE JUROR NO. 316: I'm sorry --

25 THE COURT: Are you married or?

1 PROSPECTIVE JUROR NO. 316: Oh, yes, married.
2 THE COURT: Okay. And what does your husband do?
3 PROSPECTIVE JUROR NO. 316: Well, he's retired too.
4 THE COURT: From?
5 PROSPECTIVE JUROR NO. 316: So he goes fishing with
6 me now.
7 THE COURT: Okay.
8 PROSPECTIVE JUROR NO. 316: But he was construction
9 for all of his working, you know --
10 THE COURT: Okay. Have you ever been a juror before?
11 PROSPECTIVE JUROR NO. 316: Yes.
12 THE COURT: Tell me about that.
13 PROSPECTIVE JUROR NO. 316: Well, that was kind of
14 interesting. It was a fast track, and we heard the case all
15 in --
16 THE COURT: Like, six hours?
17 PROSPECTIVE JUROR NO. 316: -- one day.
18 THE COURT: So it was a short trial. Was it a civil
19 case?
20 PROSPECTIVE JUROR NO. 316: Yes.
21 THE COURT: Okay. Okay. And have you ever been or
22 anybody close to you been accused of a crime, victim of a
23 crime? Have you ever been the victim of a crime?
24 PROSPECTIVE JUROR NO. 316: I'm sorry would --
25 THE COURT: Are you a little bit hard of hearing?

1 PROSPECTIVE JUROR NO. 316: Yes, I am.

2 THE COURT: Okay. We have these handy --

3 PROSPECTIVE JUROR NO. 316: I have. I can hear most
4 everything else. It's just when you're speaking your voice is
5 --

6 THE COURT: It's high, isn't it?

7 PROSPECTIVE JUROR NO. 316: Low for me but --

8 THE COURT: Oh, it's a day of firsts. No one's ever
9 said that to me before either.

10 PROSPECTIVE JUROR NO. 316: I'm sorry.

11 THE COURT: No, no, that's actually a compliment --

12 PROSPECTIVE JUROR NO. 316: First thing for
13 everything.

14 THE COURT: -- to me, because I think my voice is too
15 high pitched not too low pitched so.

16 THE MARSHAL: So you can turn it up or down --

17 PROSPECTIVE JUROR NO. 316: Okay.

18 THE MARSHAL: It's already on.

19 PROSPECTIVE JUROR NO. 316: Okay. I'm ready.

20 THE COURT: Can you hear me now?

21 PROSPECTIVE JUROR NO. 316: Yes.

22 THE COURT: All right. And have you ever been --

23 PROSPECTIVE JUROR NO. 316: Yeah, I can really hear
24 you now.

25 THE COURT: Okay. I'll move away from the

1 microphone. Have you ever been the victim of a crime?

2 PROSPECTIVE JUROR NO. 316: A victim yes, kind of
3 more misdemeanor.

4 THE COURT: Okay. What happened?

5 PROSPECTIVE JUROR NO. 316: And we had at one time a
6 fifth wheel that was broken into by kids, you know, out for the
7 summer looking for something to do.

8 THE COURT: Anyone close to you been a victim of a
9 serious crime?

10 PROSPECTIVE JUROR NO. 316: No.

11 THE COURT: All right. Ms. Luzaich, you may follow
12 up with any questions you may have for this prospective juror.

13 MS. LUZAICH: Good morning, ma'am.

14 PROSPECTIVE JUROR NO. 316: Good morning.

15 MS. LUZAICH: With all your years at Metro working in
16 that warrant department, did you ever work with any police
17 officers?

18 PROSPECTIVE JUROR NO. 316: No.

19 MS. LUZAICH: So none of the names that were read
20 early rang any bells to you except maybe you've seen their
21 names on the bottom of an arrest report or something?

22 PROSPECTIVE JUROR NO. 316: No.

23 MS. LUZAICH: Do you have any opinions or feelings
24 about people who use drugs?

25 PROSPECTIVE JUROR NO. 316: My brother used drugs,

1 and I had a negative opinion about that. But he took care of
2 his problem and his issue then he moved on to alcohol, and he
3 took care of that problem too. Family encouraged him to do
4 something, and he celebrated in March 25 of sobriety.

5 MS. LUZAICH: That's fabulous. Did either of his
6 issues cause him to become involved in the criminal justice
7 system?

8 PROSPECTIVE JUROR NO. 316: No.

9 MS. LUZAICH: Did you have, like, personal problems
10 with him because of his use?

11 PROSPECTIVE JUROR NO. 316: Yes. The family had to
12 kind of lock him out, and he realized that family was pretty
13 important and without them, you know, he didn't have much of a
14 life. It took him years to realize that, but he did it on his
15 own.

16 MS. LUZAICH: Okay. So if some people come into this
17 trial and talk about the fact that they have used drugs; are
18 you going to be able to listen to what those individuals say
19 and just evaluate what they have to say objectively?

20 PROSPECTIVE JUROR NO. 316: I would have to weigh --
21 you know, I know a lot of young people now days drugs are
22 common, that's an issue nationwide. My opinion is I would like
23 to see them get help because there is a lot of help. They have
24 to make the decision. You can't do it for them. And it's
25 really a matter of changing their whole lives. For me to make

1 a judgment why they started using drugs --

2 MS. LUZAICH: You're not going to need to make any
3 kind of judgment about why they started using drugs, for how
4 long they've used drugs. They may come in here and tell you
5 that they have used drugs at some point in time. That being
6 said, when they come in here assuming they have not used drugs
7 that day, can you listen to what these people have to say and
8 evaluate their testimony objectively? Or are you going to look
9 at them and say, I can't believe anything you say because there
10 was a time in your life that you used drugs?

11 PROSPECTIVE JUROR NO. 316: Well, I wouldn't think
12 that would be a matter of not believing what they say just
13 because they used drugs. You know, if they're sworn in I have
14 to believe what they make a statement to, you know.

15 MS. LUZAICH: Okay. Will you listen to every witness
16 that testifies and evaluate their testimony pretty much the
17 same?

18 PROSPECTIVE JUROR NO. 316: I would say so.

19 MS. LUZAICH: Okay. You have -- do you have kids?

20 PROSPECTIVE JUROR NO. 316: I have one.

21 MS. LUZAICH: How old?

22 PROSPECTIVE JUROR NO. 316: 51 this year.

23 MS. LUZAICH: What does your child do for a living?

24 PROSPECTIVE JUROR NO. 316: She sells security
25 systems, has her own security business in Ohio, not locally.

1 MS. LUZAICH: As she was growing up did you have any
2 problems with her or her friends?

3 PROSPECTIVE JUROR NO. 316: No, I didn't. I got her
4 involved in horseback riding 4-H 'cause we kind of lived out of
5 the city. So I kind of kept close watch on her because I was
6 lucky to have her, and I wanted to give her every opportunity.

7 MS. LUZAICH: Do you watch CSI?

8 PROSPECTIVE JUROR NO. 316: I watch all of them.

9 MS. LUZAICH: Okay. Would you agree that CSI is
10 fake?

11 PROSPECTIVE JUROR NO. 316: The real metro life is
12 not anything like the programs on TV, trust me.

13 MS. LUZAICH: Have you experienced the real metro
14 life?

15 PROSPECTIVE JUROR NO. 316: Oh, yes.

16 MS. LUZAICH: Okay. So you know that everything you
17 see on TV is drama, and it's made for TV?

18 PROSPECTIVE JUROR NO. 316: A lot of it's comical.

19 MS. LUZAICH: Right. And you're not expecting to see
20 any of those things here in court, correct?

21 PROSPECTIVE JUROR NO. 316: No.

22 MS. LUZAICH: Okay. Is there anything you are
23 expecting to see here in court?

24 PROSPECTIVE JUROR NO. 316: What am I expecting?
25 Well, I'm expecting to hear the testimony from witnesses and,

1 you know for judgment -- not judgment, I don't like that to use
2 that word. (Unintelligible) the jury, I guess.

3 MS. LUZAICH: Okay. Would you agree that different
4 people react differently to certain circumstances, to any
5 circumstances?

6 PROSPECTIVE JUROR NO. 316: Oh, absolutely.

7 MS. LUZAICH: So if some people come into court and
8 testify and they either appear differently or act differently
9 than you think you or I might have given those circumstances,
10 you're not going to disbelieve what they say simply because of
11 that?

12 PROSPECTIVE JUROR NO. 316: Oh, no. If they're sworn
13 in, you know, they're going to give truthful testimony I
14 assume. So I would expect to hear, you know, truth from them
15 as they see it as their perspective is.

16 MS. LUZAICH: Would you agree that different people
17 perceive the same things sometimes differently?

18 PROSPECTIVE JUROR NO. 316: Oh, no doubt about it.
19 One of the things I learned at Metro when I -- first couple of
20 years, there's two sides to every story, you know, it's --

21 MS. LUZAICH: Okay. You understand that it's
22 possible that you'll only hear one side because I'm the only
23 one here who has the burden of proof?

24 PROSPECTIVE JUROR NO. 316: Yes. I do understand
25 that.

1 MS. LUZAICH: And you agree with that, right? You
2 don't have any problem with that? The defense doesn't have to
3 do anything; is that okay with you?

4 PROSPECTIVE JUROR NO. 316: Sure.

5 MS. LUZAICH: Okay. And you'll hold me to the burden
6 not them, correct?

7 PROSPECTIVE JUROR NO. 316: Yes.

8 MS. LUZAICH: Okay. Is there anything about you that
9 would prevent you from being able to sit in judgment?

10 PROSPECTIVE JUROR NO. 316: Not really. I'd like to
11 think I'm a fair person.

12 MS. LUZAICH: Okay. You're open minded?

13 PROSPECTIVE JUROR NO. 316: Yes.

14 MS. LUZAICH: Until you --

15 PROSPECTIVE JUROR NO. 316: I have become more so
16 probably in the past 15, 20 years.

17 MS. LUZAICH: Wait until you hear absolutely
18 everything before you make up your mind?

19 PROSPECTIVE JUROR NO. 316: Yes.

20 MS. LUZAICH: So if at the conclusion of the case if
21 you sit as a juror if you are convinced beyond a reasonable
22 doubt that the defendant committed the crimes that he is
23 charged with; would you be able to say the word guilty?

24 PROSPECTIVE JUROR NO. 316: Yes.

25 MS. LUZAICH: Thank you. Pass for cause.

1 THE COURT: All right. Thank you.

2 Mr. Ericsson.

3 MR. ERICSSON: Thank you, Your Honor. Good morning,
4 ma'am.

5 PROSPECTIVE JUROR NO. 316: Good morning.

6 MR. ERICSSON: Can you hear me okay?

7 PROSPECTIVE JUROR NO. 316: Oh, yeah, these are
8 great.

9 MR. ERICSSON: You can take them home with you
10 (unintelligible).

11 PROSPECTIVE JUROR NO. 316: I can?

12 THE COURT: No, you can't.

13 MR. ERICSSON: You might imagine that from the
14 defense perspective that I have some concerns given that you
15 worked for Metro for 14 years.

16 PROSPECTIVE JUROR NO. 316: Yes. I assumed that.

17 MR. ERICSSON: Yeah. So to begin with let me ask you
18 a question. If you were either me or my client Mr. Elam, would
19 you be comfortable with somebody with your outlook on life and
20 experiences sitting as a juror on this type of a case?

21 PROSPECTIVE JUROR NO. 316: Yes.

22 MR. ERICSSON: Okay. And help me understand why.
23 Why do you think --

24 PROSPECTIVE JUROR NO. 316: They both have sides.
25 You know, in my work I didn't create reports, documents,

1 warrants and so forth. I merely made sure they were correct as
2 given to me as reported. So I make no decision if one report
3 was correct over another because any officer involved, any
4 attorneys involved, everything, you know, is accumulated in a
5 file and it has to be correct -- accurate so.

6 MR. ERICSSON: Okay.

7 PROSPECTIVE JUROR NO. 316: -- I'm sorry, I can hear
8 so well I can hear everybody else in here. So, you know, it's
9 a matter of -- I took pride in my work so no matter who pulled
10 a file I worked on everything in it was correct and accurate to
11 the best of my ability. Whether that benefits the defense or,
12 you know, the prosecutor it was all the same.

13 MR. ERICSSON: Okay. So it sounds to me, and correct
14 me if I'm wrong, that your job when you worked for Metro was
15 not doing investigations on criminal activities or things like
16 that --

17 PROSPECTIVE JUROR NO. 316: No, never.

18 MR. ERICSSON: -- you were doing an administrative
19 position?

20 PROSPECTIVE JUROR NO. 316: Yes. More of
21 administrative. But based only on what was given to me by
22 others who did investigations or by the defendant's own written
23 report and so forth. Everything had to be complete in the
24 file.

25 MR. ERICSSON: Okay.

1 PROSPECTIVE JUROR NO. 316: You couldn't omit one
2 because you didn't like the way it sounded or something.

3 MR. ERICSSON: Okay. I want to follow up on a
4 comment that you made. You were asked about evaluating
5 testimony of a question, along those lines, and I believe you
6 said something to the effect that, Well, if they swore to tell
7 the truth that you would assume -- or have to assume that they
8 were telling the truth. Do you remember saying something along
9 those lines?

10 PROSPECTIVE JUROR NO. 316: Yes. Yes, because I
11 figure any witness that's sworn in they're sworn to tell the
12 truth, and who am I to judge whether or not they are. I would
13 hope that they would if they were sworn in, I mean, I could
14 rely on that a lot.

15 MR. ERICSSON: You would rely on that a lot or alone?

16 PROSPECTIVE JUROR NO. 316: Witness being sworn in to
17 tell the truth (inaudible).

18 MR. ERICSSON: Okay. Well, this is a very important
19 concept that everybody needs to understand; that your job as a
20 juror is to determine the facts of the case based on the
21 evidence, and part of that evidence will be testimony that is
22 given from witnesses, and you're the one to -- the jurors are
23 the ones who need to evaluate whether they believe that
24 testimony or not. Just because somebody swears to tell the
25 truth that doesn't mean you don't have to analyze what they say

1 and determine if you believe what they're saying is true.

2 PROSPECTIVE JUROR NO. 316: Okay. I understand that
3 now.

4 MR. ERICSSON: Okay.

5 PROSPECTIVE JUROR NO. 316: But I guess I have a lot
6 of belief in people. A case this serious should be taken very
7 seriously from the witness, from the evidence and so forth. I
8 would hope that they would be telling the truth under -- and I
9 could -- it would help me to determine, you know, from all the
10 testimony and evidence --

11 MR. ERICSSON: Okay.

12 PROSPECTIVE JUROR NO. 316: -- it would help me make
13 a determination at that point.

14 MR. ERICSSON: Do you feel that you personally can
15 listen to the testimony and evaluate the mannerisms of
16 witnesses and come to a determination yourself as to whether or
17 not what they are saying is accurate?

18 PROSPECTIVE JUROR NO. 316: I would hope so.

19 MR. ERICSSON: Okay. And would you be able to make
20 the determination regardless of whether they swore to tell the
21 truth or not?

22 PROSPECTIVE JUROR NO. 316: I would say, you know,
23 some lies, you know, even from neighbors or friends or whatever
24 you can kind of detect that for yourself as the story goes on.
25 I would think be able to -- like I said, I have a lot of faith

1 in people. When you swear someone had to tell the truth and
2 nothing but the truth I have a lot of faith that they would,
3 but I don't want the wool pulled over my eyes too. Because,
4 you know, I would have to have some kind of sense if it's
5 believable --

6 MR. ERICSSON: Okay.

7 PROSPECTIVE JUROR NO. 316: -- you know.

8 MR. ERICSSON: I think I know what you're saying.

9 PROSPECTIVE JUROR NO. 316: If I didn't explain it
10 very well I know what I mean besides --

11 MR. ERICSSON: And I'll try to summarize this and you
12 help me understand --

13 PROSPECTIVE JUROR NO. 316: Okay.

14 MR. ERICSSON: -- if we're on the same page. If
15 you're selected as a juror, would you listen to all the
16 evidence and the testimony and then make an independent
17 evaluation whether you believe what a particular person was
18 saying was accurate or not?

19 PROSPECTIVE JUROR NO. 316: As a juror I would have
20 to say yes.

21 MR. ERICSSON: Okay.

22 PROSPECTIVE JUROR NO. 316: You know, I would think
23 that would be my job as a juror.

24 MR. ERICSSON: And I would agree with that. That
25 would be your job and you would -- everyone's going to come in

1 and swear to tell the truth but they may not be accurate, and
2 we've talked about this. Do you understand that some people
3 could come in and think that they are telling the truth but
4 they are just mistaken?

5 PROSPECTIVE JUROR NO. 316: That's their perception
6 of what they saw, heard, (inaudible) they can be honest about
7 that.

8 MR. ERICSSON: And still be wrong, correct?

9 PROSPECTIVE JUROR NO. 316: Yes.

10 MR. ERICSSON: Okay. If Mr. Elam were to decide
11 after consulting with me not to testify in this trial, would
12 you hold that against him in any way?

13 PROSPECTIVE JUROR NO. 316: No.

14 MR. ERICSSON: And why is that?

15 PROSPECTIVE JUROR NO. 316: That's his right, I would
16 say.

17 MR. ERICSSON: Yes, that is a right under the
18 constitution, but some people are uncomfortable with that.
19 They -- some people think well, if I was the defendant I would
20 get up and testify, and some people think that they would -- if
21 they don't testify that they would be wondering why or hold
22 that against the person; would you do that in this case?

23 PROSPECTIVE JUROR NO. 316: No. I wouldn't deny, you
24 know, any defendant the right to testify or not.

25 MR. ERICSSON: Okay.

1 PROSPECTIVE JUROR NO. 316: I would think that would
2 be up to the defendant ultimately.

3 MR. ERICSSON: And then the last area of questioning
4 I have is, since you worked for Metro for 14 years, how would
5 you evaluate testimony that comes from police officers in this
6 case?

7 PROSPECTIVE JUROR NO. 316: I would evaluate anybody
8 the same that's on the stand whether it's an officer, eye
9 witness, depending on their testimony and how they perceive
10 what happened. I do know that that's okay to say, the officer
11 has to in writing put down in the report what he saw, what he
12 heard, you know, so that's also in a written report. I'm not
13 sure if the defendant has to do a written report on it. I
14 really don't recall, you know, that kind of speaks for itself
15 in some cases.

16 MR. ERICSSON: Right. Typically there are reports
17 that are prepared --

18 PROSPECTIVE JUROR NO. 316: Right.

19 MR. ERICSSON: -- in a police investigation, but is
20 it -- if I'm understanding you correctly, you agree that you
21 would evaluate any witness whether they're a police officer or
22 not based on what they say and how it fits into the rest of the
23 evidence to determine if you believe what they're saying or not
24 exactly?

25 PROSPECTIVE JUROR NO. 316: I think that would be

1 fair.

2 MR. ERICSSON: Thank you very much, ma'am.

3 I'll pass for cause.

4 THE COURT: All right. I believe we're on State's
5 fifth.

6 MS. LUZAICH: The State thanks and asks the Court to
7 excuse Juror Badge No. 259, Ms. Jimerson.

8 THE COURT: Ms. Jimerson, thank you for being here
9 today and yesterday. You are excused at this time.

10 And if the clerk would please call up the next
11 prospective juror.

12 THE CLERK: John Baker.

13 THE COURT: Mr. Baker, come on down and have a seat
14 there in the back row please. Good -- well, now it's
15 afternoon. Good afternoon. What do you do for a living?

16 PROSPECTIVE JUROR NO. 331: Sorry about that. Okay,
17 currently I work at (unintelligible) to McDonald's.

18 THE COURT: Okay. Are you all right? Are you having
19 anxiety about have --

20 PROSPECTIVE JUROR NO. 331: Yes, I have anxiety.
21 Please proceed.

22 THE COURT: Okay. You okay now?

23 PROSPECTIVE JUROR NO. 331: Yes.

24 THE COURT: And I, you know, we're all lawyers.

25 Well, the three of us are lawyers so we're used to speaking in

1 front of people. And I recognize sometimes we forget that
2 that's not a daily occurrence for other people. So I, you
3 know, I understand it's perfectly natural to be nervous and not
4 want to speak in front of a group of strangers.

5 As you sat here today and yesterday were you
6 absolutely dreading --

7 PROSPECTIVE JUROR NO. 331: Yes.

8 THE COURT: -- being called into the box?

9 PROSPECTIVE JUROR NO. 331: Yes.

10 THE COURT: All right. And you said you're working
11 at McDonald's now?

12 PROSPECTIVE JUROR NO. 331: Currently, yeah.

13 THE COURT: And how long have you been working at
14 McDonald's?

15 PROSPECTIVE JUROR NO. 331: Like, less than a year,
16 not very long.

17 THE COURT: Okay. And like some of the other young
18 people I'm going to ask you about when you graduated from high
19 school. Or when you -- did you graduate, or did you just leave
20 high school?

21 PROSPECTIVE JUROR NO. 331: I did graduate high
22 school.

23 THE COURT: Okay. When was that?

24 PROSPECTIVE JUROR NO. 331: Five years ago actually.

25 THE COURT: Five years?

1 PROSPECTIVE JUROR NO. 331: Yes.

2 THE COURT: Okay. All right. And before you went to
3 work at McDonald's what did you do?

4 PROSPECTIVE JUROR NO. 331: I did try college for
5 some time, but that didn't really work. I did drop out because
6 of stress, I couldn't decide my major and other issues.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR NO. 331: Okay.

9 THE COURT: Okay. And I don't mean to pry, is
10 anxiety something you've had a problem with in the past?

11 PROSPECTIVE JUROR NO. 331: Yes.

12 THE COURT: Okay. Is that something, and I don't
13 mean to pry, and you've heard other people have to talk about
14 some personal issue. Do you get treatment for that, is it
15 something you've seen a doctor for?

16 PROSPECTIVE JUROR NO. 331: I have seen -- I've seen,
17 like, I do have a counselor and I've seen doctors over it, yes.

18 THE COURT: Okay. Do you feel like -- you know, this
19 is the only part of the trial where we ask the jurors, unless
20 you're the foreperson, then you would have to speak again
21 publicly, but with that limited exception this is the only time
22 where we make the juror's talk. The rest of the time the
23 lawyers ask the questions, and I ask the questions, the
24 witnesses obviously speak; do you feel like once you're through
25 this part of the process you would be okay to serve on the jury

1 with your anxiety and everything?

2 PROSPECTIVE JUROR NO. 331: To just speak with 14
3 people about the case, I can do that. Just got to get past
4 this.

5 THE COURT: Okay. All right. Good. And I'll try to
6 make this brief. Married, domestic partner, significant other?

7 PROSPECTIVE JUROR NO. 331: Single.

8 THE COURT: Single. Children?

9 PROSPECTIVE JUROR NO. 331: None.

10 THE COURT: Ever been a juror?

11 PROSPECTIVE JUROR NO. 331: No.

12 THE COURT: You or anyone close to you arrested,
13 charged, accused of a crime?

14 PROSPECTIVE JUROR NO. 331: Yes. My brother has been
15 -- he has, like, two warrants out for him for burglary and
16 possession of heroin.

17 THE COURT: Okay. So he's been charged with
18 something but he hasn't -- he didn't show up to court; is that
19 what's going on?

20 PROSPECTIVE JUROR NO. 331: Yeah. He currently -- he
21 fled up to Utah, yes.

22 THE COURT: Okay. Can you make a note of that? I'm
23 just kidding. Are you close with your brother?

24 PROSPECTIVE JUROR NO. 331: Not anymore, I wouldn't
25 say.

1 THE COURT: Okay. And have you ever been the victim
2 of a crime?

3 PROSPECTIVE JUROR NO. 331: Well, besides the
4 burglary he did was actually against my family, he was, like,
5 stealing things to pay for the heroin. And also -- actually
6 also while he was in Utah he's also been a victim of a crime;
7 he was hit by a hit and run.

8 THE COURT: Okay. Was he seriously hurt?

9 PROSPECTIVE JUROR NO. 331: Yes. He lost
10 consciousness after the accident, and his leg was completely
11 crushed where they amputate up to the knee --

12 THE COURT: Oh my goodness.

13 PROSPECTIVE JUROR NO. 331: -- and then further up
14 when the life cells started dying up like almost to the thigh.
15 Okay.

16 THE COURT: So is he still, like, in a rehab hospital
17 or --

18 PROSPECTIVE JUROR NO. 331: He's, like, still in
19 the -- he got out of it recently.

20 THE COURT: Okay. And then your brother as you said
21 has a heroin issue, was this the kind --

22 PROSPECTIVE JUROR NO. 331: It was a waking point
23 (unintelligible) was on heroin as far as we know.

24 THE COURT: Okay. And do you live with your parents?

25 PROSPECTIVE JUROR NO. 331: I still do, yes.

1 THE COURT: Okay. So the house that was burglarized
2 is where you and your parents live?

3 PROSPECTIVE JUROR NO. 331: Yes.

4 THE COURT: Okay. And did your parents or you call
5 the police?

6 PROSPECTIVE JUROR NO. 331: Yeah, my mom did when she
7 realized what was going on.

8 THE COURT: Okay. Do you know if the police came out
9 and did any kind of investigation like taking photographs or
10 dusting for fingerprints or anything like that?

11 PROSPECTIVE JUROR NO. 331: They -- I really -- that
12 was -- I don't think they did an official investigation; they
13 just spoke to my mom over it.

14 THE COURT: Okay. And you said your brother was a
15 victim of a hit and run; you don't know if that was a DUI or?

16 PROSPECTIVE JUROR NO. 331: (Unintelligible) was on
17 prescription drugs that she didn't get charged --

18 THE COURT: Okay. All right.

19 PROSPECTIVE JUROR NO. 331: -- yeah, she was on
20 prescription drugs; she should have not been driving at that
21 time.

22 THE COURT: Okay. Was there a criminal case against
23 the driver of the other vehicle?

24 PROSPECTIVE JUROR NO. 331: Yeah, she didn't show up
25 for her court case either.

1 THE COURT: So she -- they've got warrants out for
2 her?

3 PROSPECTIVE JUROR NO. 331: Yeah, and we don't know
4 where she is.

5 THE COURT: Okay. Do you feel like you can follow
6 the law as instructed to you by the Court if selected?

7 PROSPECTIVE JUROR NO. 331: Yes, I can. Regardless
8 of that, I can still follow court here.

9 THE COURT: Okay. And can you keep an open mind and
10 base your verdict upon the evidence that's presented in this
11 case, and by evidence, that's sworn testimony from the witness
12 stand and whatever the exhibits are that are admitted; can you
13 do that?

14 PROSPECTIVE JUROR NO. 331: Yes, I can do that.

15 THE COURT: Are you -- do you know anybody that
16 you're close with, a family member or close friend that works
17 in law enforcement?

18 PROSPECTIVE JUROR NO. 331: No.

19 THE COURT: Nobody. All right.

20 Ms. Luzaich, you can follow up.

21 MS. LUZAICH: Hi.

22 PROSPECTIVE JUROR NO. 331: Hello.

23 MS. LUZAICH: Okay. Now, I know the Judge said this
24 is the only time you're going to have to talk, but truthfully
25 back in the deliberation --

1 THE COURT: I meant publicly.

2 MS. LUZAICH: -- in the deliberation room you may
3 need to do a whole lot of talking; can you do that?

4 PROSPECTIVE JUROR NO. 331: Yes. Like I -- it's
5 mostly personal I have trouble with. If it's, like, a court
6 case or work, I can still talk to the group of 14 people in the
7 case room.

8 MS. LUZAICH: Okay. 'Cause that was going to be my
9 next question, like, while you are at work -- do you work kind
10 of behind the counter at McDonald's?

11 PROSPECTIVE JUROR NO. 331: Yeah. I'm mainly split
12 between the kitchen and working with the person working the
13 drive through. I am able to do that as long as it's simple.

14 THE COURT: So are you the fellow in the
15 drive-through window that's taking the order or are you --

16 PROSPECTIVE JUROR NO. 331: Not taking the order,
17 giving the food out. But I do have --

18 THE COURT: So you're the second McDonald's window?

19 PROSPECTIVE JUROR NO. 331: The second window, yes.

20 THE COURT: Okay. So I have to admit I have been
21 through the McDonald's drive-through before.

22 PROSPECTIVE JUROR NO. 331: Okay.

23 MS. LUZAICH: So you can -- I mean you can do --

24 PROSPECTIVE JUROR NO. 331: If it's work related I'm
25 able to do at this point, okay.

1 MS. LUZAICH: Okay. Do you want to do this, I mean,
2 do you think that you can -- 'cause that's the bottom line. If
3 you don't feel that you can do it we don't want you to be
4 uncomfortable obviously.

5 PROSPECTIVE JUROR NO. 331: I can do it, okay.

6 MS. LUZAICH: Okay. Well, and here's the other issue
7 that I've asked a whole bunch of the other young people, if you
8 go back in the deliberation room, you're selected as one of the
9 jurors, most of the other jurors are going to be probably, no
10 offense to everybody else, significantly older than you are;
11 are you going to be able to hold your ground amongst all of
12 them?

13 PROSPECTIVE JUROR NO. 331: Yes, I can do that.

14 MS. LUZAICH: Okay. So if you go back there and
15 you're talking about the case 'cause you are able to do that,
16 and 11 of them feel one way and you feel the other way, it
17 doesn't matter which but just the other way; how will you
18 handle that?

19 PROSPECTIVE JUROR NO. 331: I'll stick to my ground
20 unless they can convince me otherwise.

21 MS. LUZAICH: Okay. But will you try and convince
22 them of your point of view?

23 PROSPECTIVE JUROR NO. 331: Yes. I'll explain to
24 them why I have my point of view. We'll debate it from there.

25 MS. LUZAICH: Okay, okay. And you'll listen to what

1 they have to say?

2 PROSPECTIVE JUROR NO. 331: Yes.

3 MS. LUZAICH: If they're able to point out something
4 that maybe you either didn't hear or misheard, is it possible
5 that you could change your mind?

6 PROSPECTIVE JUROR NO. 331: Yes.

7 MS. LUZAICH: But if you're sure you're right you'll
8 stick to your guns and you won't change your mind?

9 PROSPECTIVE JUROR NO. 331: That's correct.

10 MS. LUZAICH: Okay. When you talked about -- and I'm
11 sorry this is going to be difficult -- when you talked about
12 your brother and his drug issues, did you have, I mean,
13 personal experience watching him being under the influence and
14 stuff like that?

15 PROSPECTIVE JUROR NO. 331: No, he's always out in
16 private.

17 MS. LUZAICH: Would you know when he was using?

18 PROSPECTIVE JUROR NO. 331: No, I can't really say
19 exactly what times he'd been using.

20 MS. LUZAICH: Okay. Would it just be kind of like
21 stuff turned up missing?

22 PROSPECTIVE JUROR NO. 331: Yeah, that's how I found
23 out 'cause I, like, I was looking for some of my old things and
24 they were just gone.

25 MS. LUZAICH: Okay. Now, in light of the experience

1 you've had with your brother, if some people come into court to
2 testify and tell you that they have at some point in their
3 lives used drugs, are you going to be able to objectively
4 evaluate what they have to say?

5 PROSPECTIVE JUROR NO. 331: Yes, I can evaluate
6 objectively. Yes, I can do that.

7 MS. LUZAICH: Okay. You won't look at them and say,
8 I can't believe anything you say simply because you've just
9 told me that you used drugs?

10 PROSPECTIVE JUROR NO. 331: People are complicated, I
11 understand. Okay.

12 MS. LUZAICH: You would agree with that; people are
13 very complicated, right?

14 PROSPECTIVE JUROR NO. 331: Yes.

15 MS. LUZAICH: Everybody's different?

16 PROSPECTIVE JUROR NO. 331: Uh-huh.

17 MS. LUZAICH: And that's something that you'll keep
18 into or take into --

19 PROSPECTIVE JUROR NO. 331: I keep that in mind as
20 people give their testimonies. Just because they used drugs
21 doesn't mean they are always going to be lying about
22 everything.

23 MS. LUZAICH: Okay. Do you think that -- well, do
24 you watch CSI or any of those shows?

25 PROSPECTIVE JUROR NO. 331: I do not. I understand

1 it's not real.

2 MS. LUZAICH: Thank you. You've been paying
3 attention and I appreciate that. 'Cause I know a lot of the
4 other people have not. Can you think of any other question
5 that I was going to ask?

6 PROSPECTIVE JUROR NO. 331: No. Sorry, nothing off
7 the top of my head.

8 MS. LUZAICH: Oh, I lost my whole train of thought.
9 I am so sorry about that.

10 So if somebody does something foolish, something that
11 you don't think you would've done or your mother or father
12 would have done, is that person still entitled to the same
13 protection under the law in your opinion as you or I or the
14 nice guy sitting next to you would be?

15 PROSPECTIVE JUROR NO. 331: Yes.

16 MS. LUZAICH: So if somebody breaks the law on
17 Tuesday, on Thursday if something bad happens to them they can
18 still come to court and be the victim of a crime in your mind?

19 PROSPECTIVE JUROR NO. 331: Yes. It's just like my
20 brother, like, just 'cause he did drugs he's still the victim
21 of a crime with a hit and run and thinks he'll only be
22 accountable for that.

23 MS. LUZAICH: So if they ever find the person that
24 hit him, that person should have to be charged and --

25 PROSPECTIVE JUROR NO. 331: Yes. Even though he

1 committed a crime it doesn't justify what they did.

2 MS. LUZAICH: Okay. Thank you very much. Now also,
3 sorry to bring up your age again but given your age, do you
4 think that you would have any kind of problem sitting in
5 judgment?

6 PROSPECTIVE JUROR NO. 331: No.

7 MS. LUZAICH: Because that's what you're going to do,
8 you know, as a juror you're going to listen to all of the
9 evidence and testimony and make the decision whether the State
10 of Nevada, me, whether we have proven beyond a reasonable doubt
11 that the defendant committed the crimes charged. So you can
12 make that decision?

13 PROSPECTIVE JUROR NO. 331: I can make that decision,
14 yes.

15 MS. LUZAICH: Is there anything that you're expecting
16 to see in this trial?

17 PROSPECTIVE JUROR NO. 331: Listen to a lot of
18 witnesses, beyond that, I don't know.

19 MS. LUZAICH: Okay. So, you know, you hear things
20 like sexual assault or somebody having a gun, you know, forced
21 in their mouth, do you think that would upset you if that
22 happened?

23 PROSPECTIVE JUROR NO. 331: Yes. It would upset me.

24 MS. LUZAICH: If you came into court is it possible
25 that you would cry about it?

1 PROSPECTIVE JUROR NO. 331: No.
2 MS. LUZAICH: No, not possible?
3 PROSPECTIVE JUROR NO. 331: I wouldn't --
4 MS. LUZAICH: While talking about it?
5 PROSPECTIVE JUROR NO. 331: -- I would keep my
6 emotions in check, otherwise I'll talk --
7 MS. LUZAICH: Okay. So you wouldn't be surprised --
8 PROSPECTIVE JUROR NO. 331: I don't exactly know how
9 I would react. I would --
10 MS. LUZAICH: And you wouldn't be surprised if
11 somebody tried really hard to keep their emotions in check and
12 didn't, you know, burst out crying --
13 PROSPECTIVE JUROR NO. 331: Yes.
14 MS. LUZAICH: -- talking about stuff like that?
15 PROSPECTIVE JUROR NO. 331: Yes.
16 MS. LUZAICH: Is there anything about yourself that
17 you think that we need to know?
18 PROSPECTIVE JUROR NO. 331: Nothing else, no.
19 MS. LUZAICH: So if you sit as a juror and you listen
20 to all the evidence and you are convinced beyond a reasonable
21 doubt the defendant committed the crimes he's charged with;
22 would you be able to say the word guilty?
23 PROSPECTIVE JUROR NO. 331: Yes.
24 MS. LUZAICH: Thank you. Pass for cause.
25 THE COURT: All right. Mr. Ericsson.

1 MR. ERICSSON: Thank you, Your Honor.

2 Now into the afternoon. Good afternoon. I
3 appreciate your willingness, you know, to share some
4 vulnerability that, you know, you've got some anxiety issues,
5 and I know that this isn't easy for you. I do appreciate your
6 honest answers, okay.

7 PROSPECTIVE JUROR NO. 331: Okay.

8 MR. ERICSSON: We at this point when we go into a day
9 and a half -- and I know that I sound like a broken record --
10 but I do need to go through some of these issues with you to
11 make sure I understand your thoughts and feelings on the
12 criminal justice system and how they apply to a defendant's
13 rights, okay? Tell me in general, what are your thoughts on
14 what the Judge has told us, that a defendant is presumed to be
15 innocent when they come into a court of law?

16 PROSPECTIVE JUROR NO. 331: That it's true. They're
17 innocent until proven guilty. It's their burden to actually
18 prove that.

19 MR. ERICSSON: And have you -- and you've articulated
20 that very well. Is that something that you have through, like,
21 civics classes or through watching TV or movies; where have you
22 learned that?

23 PROSPECTIVE JUROR NO. 331: Where did I -- yes, I've
24 taken, like, civic classes in high school and college, yes.

25 MR. ERICSSON: Okay. And do you think that that is a

1 proper standard, that the State is held to a burden of proof?

2 PROSPECTIVE JUROR NO. 331: Yes.

3 MR. ERICSSON: What are your thoughts on whether or
4 not a person who's on trial in a criminal case decides not to
5 testify at his trial; how would you treat that?

6 PROSPECTIVE JUROR NO. 331: That's his decision to
7 make. I wouldn't hold it against him.

8 MR. ERICSSON: Okay. Have you personally had any
9 interactions with police officers?

10 PROSPECTIVE JUROR NO. 331: I have not. No, I have
11 not.

12 MR. ERICSSON: No. Okay. While working at
13 McDonald's have there been crimes committed there where police
14 have had to do investigations while you've been working there?

15 PROSPECTIVE JUROR NO. 331: Not since I've been
16 working there, no.

17 MR. ERICSSON: Anything in your background that,
18 obviously Mr. Elam is African American, anything about his
19 background that would affect your ability to be fair and
20 impartial in this type of a case?

21 PROSPECTIVE JUROR NO. 331: Nope. Race doesn't
22 matter to me.

23 MR. ERICSSON: Okay. And you've heard me talking
24 about a juror's responsibility to evaluate evidence that comes
25 in, and I want to bring that issue of witnesses are going to

1 come in and they're going to be sworn to tell the truth, but
2 how will you evaluate in general whether somebody is telling
3 what you think is truthful or accurate information?

4 PROSPECTIVE JUROR NO. 331: I base that off usually,
5 like, the other testimonies and other physical evidence that's
6 been brought to the case --

7 MR. ERICSSON: Okay.

8 PROSPECTIVE JUROR NO. 331: -- whether or not how
9 much that person's mistaken how much is telling the truth.

10 MR. ERICSSON: Okay.

11 PROSPECTIVE JUROR NO. 331: I'll look at everything
12 and compile it and then make the decision.

13 MR. ERICSSON: Thank you. Do you feel in your heart
14 of hearts that you are an appropriate type of juror for this
15 type of a case?

16 PROSPECTIVE JUROR NO. 331: Yes, I likely can remain
17 partial to this type of a case.

18 MR. ERICSSON: Great. Thank you very much.

19 Pass for cause.

20 THE COURT: And you pass for cause. I believe we are
21 on defendant's fifth.

22 MR. ERICSSON: Your Honor, the defense would thank
23 and excuse Juror No. 316, Ms. Winter-Light.

24 THE COURT: Ma'am, thank you very much for being
25 here, your willingness to serve as a juror. You do have to

1 return the headphones, and the bailiff will direct you from the
2 courtroom and thank you very much.

3 And if the court clerk would please call up the next
4 prospective juror.

5 THE CLERK: Willeina Whitacre.

6 THE COURT: Good afternoon, ma'am. What do you do
7 for a living?

8 PROSPECTIVE JUROR NO. 336: I'm retired.

9 THE COURT: From what type of work?

10 PROSPECTIVE JUROR NO. 336: Telecommunications.

11 THE COURT: Okay. And what did you do just in a
12 nutshell?

13 PROSPECTIVE JUROR NO. 336: Well, I started out my
14 career as an operator and then I worked in a switch room and
15 then I did -- I was technician on a computer.

16 THE COURT: Okay. What kind of a business did you
17 work for? Was it a telecommunications business?

18 PROSPECTIVE JUROR NO. 336: GTE

19 THE COURT: All right. And are you married, domestic
20 partner?

21 PROSPECTIVE JUROR NO. 336: Married.

22 THE COURT: What does your husband do? Retired?

23 PROSPECTIVE JUROR NO. 336: Yeah, he's retired also.
24 He's retired military and he spent 20 years in the military and
25 then he worked another 20 years for the naval shipyard in Long

1 Beach.

2 THE COURT: Okay. So I'm assuming he's retired from
3 the Navy?

4 PROSPECTIVE JUROR NO. 336: Yes.

5 THE COURT: Was he ever a military police officer
6 when he was in the Navy?

7 PROSPECTIVE JUROR NO. 336: He did some of shore
8 patrol.

9 THE COURT: Okay. Was that a long time ago that he
10 did that?

11 PROSPECTIVE JUROR NO. 336: Oh, yes.

12 THE COURT: Okay. And that was when he was what,
13 stationed at a base in the United States or --

14 PROSPECTIVE JUROR NO. 336: Yes.

15 THE COURT: -- a base overseas? Okay. And do you
16 have any children?

17 PROSPECTIVE JUROR NO. 336: Yes. I have three.

18 THE COURT: Okay. All grown?

19 PROSPECTIVE JUROR NO. 336: Yes.

20 THE COURT: Have you ever been a juror before?

21 PROSPECTIVE JUROR NO. 336: Yes.

22 THE COURT: Here in Clark County?

23 PROSPECTIVE JUROR NO. 336: Yes.

24 THE COURT: Just once?

25 PROSPECTIVE JUROR NO. 336: Yes.

1 THE COURT: Okay. How long ago was your jury
2 service?

3 PROSPECTIVE JUROR NO. 336: Probably around ten
4 years.

5 THE COURT: Okay. Was it a criminal case or a civil
6 case?

7 PROSPECTIVE JUROR NO. 336: It was involving child
8 abuse.

9 THE COURT: Okay. And did the jury actually go in
10 the back and deliberate?

11 PROSPECTIVE JUROR NO. 336: Yes.

12 THE COURT: Okay. Don't tell me what the verdict
13 was, but did the jury reach a verdict?

14 PROSPECTIVE JUROR NO. 336: Yes.

15 THE COURT: Were you the foreperson?

16 PROSPECTIVE JUROR NO. 336: No.

17 THE COURT: Okay. And have you or anyone close to
18 you ever been arrested, charged or accused of a crime?

19 PROSPECTIVE JUROR NO. 336: Yes. I have a
20 granddaughter who's in rehab.

21 THE COURT: All right. And is that here in town?

22 PROSPECTIVE JUROR NO. 336: Boulder City.

23 THE COURT: Okay. Was she charged with drug offenses
24 or some other type of offense?

25 PROSPECTIVE JUROR NO. 336: DUI

1 THE COURT: Okay. Was it a misdemeanor DUI, or was
2 somebody seriously hurt or killed?

3 PROSPECTIVE JUROR NO. 336: No, misdemeanor.

4 THE COURT: Misdemeanor. Okay. And is she in
5 alcohol rehab or drug rehab?

6 PROSPECTIVE JUROR NO. 336: Alcohol, I believe.

7 THE COURT: Okay. Was that part of the, I guess,
8 penalty for the misdemeanor DUI or did she, just if you know,
9 decide hey, this is getting out of hand I'm going to go to
10 rehab or?

11 PROSPECTIVE JUROR NO. 336: No. It was court
12 mandated.

13 THE COURT: Okay. And that's out of Boulder City?

14 PROSPECTIVE JUROR NO. 336: Yes.

15 THE COURT: Okay. Do you know if that's municipal
16 court in Boulder City or?

17 PROSPECTIVE JUROR NO. 336: I don't.

18 THE COURT: Okay. Have you ever been the victim of a
19 crime?

20 PROSPECTIVE JUROR NO. 336: Yes. We were robbed when
21 we were moving into our current home.

22 THE COURT: Okay. This is you and your husband were
23 robbed?

24 PROSPECTIVE JUROR NO. 336: Yes.

25 THE COURT: And did somebody break into your home, or

1 were you there, or what happened?

2 PROSPECTIVE JUROR NO. 336: Well, we started moving
3 things in and neglected to change the locks, so we're pretty
4 sure it was the people that lived there before.

5 THE COURT: Okay. Did you report it to the police?

6 PROSPECTIVE JUROR NO. 336: Yes.

7 THE COURT: Did they apprehend anybody ever?

8 PROSPECTIVE JUROR NO. 336: I don't think they did a
9 thing.

10 THE COURT: Okay. Was it Metro, Henderson, North Las
11 Vegas police?

12 PROSPECTIVE JUROR NO. 336: You know, we're in the
13 county so --

14 THE COURT: Okay. So Metro. So you don't feel like
15 they did any investigation or anything like that?

16 PROSPECTIVE JUROR NO. 336: No.

17 THE COURT: Okay. Did you follow up with them, or
18 what did you do, go down and make a police report or?

19 PROSPECTIVE JUROR NO. 336: We did.

20 THE COURT: All right. Anybody that you're close
21 with works or has worked in law enforcement?

22 PROSPECTIVE JUROR NO. 336: Close with, no.

23 THE COURT: Okay. Do you have some people that
24 you're not close with, that you're friendly with, neighbors,
25 that kind of thing?

1 PROSPECTIVE JUROR NO. 336: Old friends from
2 California.

3 THE COURT: Okay. But nobody that you're currently
4 close with?

5 PROSPECTIVE JUROR NO. 336: No.

6 THE COURT: Okay. Ms. Luzaich, you may follow up.

7 MS. LUZAICH: Thank you. When your house was broken
8 into and you said that the police didn't do a thing, did that
9 irritate you?

10 PROSPECTIVE JUROR NO. 336: A little but I figure
11 they just, you know, it's not important to them so, you know,
12 nobody was hurt or killed.

13 MS. LUZAICH: Well, I would hope it would still be
14 important to them but --

15 PROSPECTIVE JUROR NO. 336: I think they could've
16 followed up.

17 MS. LUZAICH: Do you think that whatever frustration
18 you had with them then, you don't think you'll hold that
19 against any police officers that come into testify --

20 PROSPECTIVE JUROR NO. 336: No.

21 MS. LUZAICH: -- this week? Okay. So the police
22 officers that come in they get a clean bill of health from you?

23 PROSPECTIVE JUROR NO. 336: Yes.

24 MS. LUZAICH: You'll evaluate their testimony the
25 same as you would any other witness?

1 PROSPECTIVE JUROR NO. 336: Yes.

2 MS. LUZAICH: Okay. Do you have -- well, with your
3 granddaughter being in rehab, you think that's alcohol, does
4 that cause you to have any opinions about people who maybe use
5 drugs?

6 PROSPECTIVE JUROR NO. 336: Just the same opinion
7 I've always had.

8 MS. LUZAICH: Which is?

9 PROSPECTIVE JUROR NO. 336: I think it's sad. I
10 think a lot of times there's contributing factors but --

11 MS. LUZAICH: I share your opinions completely. Does
12 that mean that you can be objective about somebody who if they
13 come in here and tell you they have used drugs at some point
14 that you won't just look at them and say, I can't believe
15 anything you say because you told me you use drugs?

16 PROSPECTIVE JUROR NO. 336: No, I wouldn't say that.

17 MS. LUZAICH: Can you listen to what they say and
18 still be objective?

19 PROSPECTIVE JUROR NO. 336: Yes.

20 MS. LUZAICH: Evaluate their testimony, kinda the --
21 I mean, use it keeping that in mind, don't forget that but
22 evaluate their testimony the same as you would any other
23 witness?

24 PROSPECTIVE JUROR NO. 336: Yes.

25 MS. LUZAICH: Do you think that if somebody does

1 something foolish, something that you or I might not do, are
2 they still entitled to the same protection of the law that you
3 and I are?

4 PROSPECTIVE JUROR NO. 336: Definitely.

5 MS. LUZAICH: So if they break the law on Tuesday, on
6 Thursday if something bad happens to them they can still come
7 into court, be a victim and get justice?

8 PROSPECTIVE JUROR NO. 336: Yes.

9 MS. LUZAICH: And you can still give them justice if
10 that's the case?

11 PROSPECTIVE JUROR NO. 336: Correct.

12 MS. LUZAICH: Would you agree that different people
13 react differently?

14 PROSPECTIVE JUROR NO. 336: Oh, yes.

15 MS. LUZAICH: That everybody is actually different?

16 PROSPECTIVE JUROR NO. 336: Yes.

17 MS. LUZAICH: And is that something you'll just keep
18 in mind when you're evaluating witnesses?

19 PROSPECTIVE JUROR NO. 336: Yes.

20 MS. LUZAICH: How many kids do you have?

21 PROSPECTIVE JUROR NO. 336: Three.

22 MS. LUZAICH: As your kids were growing up did you
23 have to resolve disputes amongst them?

24 PROSPECTIVE JUROR NO. 336: Yes.

25 MS. LUZAICH: All the time?

1 PROSPECTIVE JUROR NO. 336: Yes, a lot.

2 MS. LUZAICH: How would you go about doing that?

3 PROSPECTIVE JUROR NO. 336: I used to make them sit
4 down on the couch and make them think about what they were
5 arguing about, and then I would come back and make them say
6 something nice about the other person.

7 MS. LUZAICH: I bet they loved that.

8 PROSPECTIVE JUROR NO. 336: Yeah, uh-huh.

9 MS. LUZAICH: Did you have situations where, you
10 know, something was either missing, broken or whatever and none
11 of them would fess up?

12 PROSPECTIVE JUROR NO. 336: A lot.

13 MS. LUZAICH: How would you figure out who did it?

14 PROSPECTIVE JUROR NO. 336: Most of the time I
15 couldn't.

16 MS. LUZAICH: Okay. It's kind of like a trial you've
17 got to figure out, you know, what happened. How might you go
18 about trying to evaluate the testimony of people that you don't
19 know?

20 PROSPECTIVE JUROR NO. 336: You know, I'm not sure.
21 You would just have to listen and decide for yourself whether
22 they were being sincere or not.

23 MS. LUZAICH: Okay. Would you look at what they have
24 to say and see how it compares to what other people say?

25 PROSPECTIVE JUROR NO. 336: Oh, yes.

1 MS. LUZAICH: Will you look at what they have to say
2 and see how it compares to evidence if there is any?

3 PROSPECTIVE JUROR NO. 336: Yes.

4 MS. LUZAICH: And are all those things things you
5 would take into consideration?

6 PROSPECTIVE JUROR NO. 336: Yes.

7 MS. LUZAICH: Having sat here for two days is there
8 anything that you can think of that we need to know about you?

9 PROSPECTIVE JUROR NO. 336: Yes. I love to watch all
10 those forensic shows.

11 MS. LUZAICH: The one person I didn't ask. Doesn't
12 that figure. Okay. So do you watch all the CSI shows, like,
13 all the different ones?

14 PROSPECTIVE JUROR NO. 336: Oh, yes.

15 MS. LUZAICH: Are you heartbroken now that you know
16 that it's all fake?

17 PROSPECTIVE JUROR NO. 336: No, because I know that
18 maybe some of it is taken from things that happen but, you
19 know, it's all a script. And I have friends that work in the
20 movie industry and, you know --

21 MS. LUZAICH: So you know that it's a lot of --

22 PROSPECTIVE JUROR NO. 336: Oh, yeah. A lot.

23 MS. LUZAICH: -- that goes into it. Okay. So you're
24 not expecting any of those crazy things that they do to come
25 here in court?

1 PROSPECTIVE JUROR NO. 336: No.

2 MS. LUZAICH: Is there anything about you that would
3 prevent you to sit in judgment?

4 PROSPECTIVE JUROR NO. 336: I don't think so.

5 MS. LUZAICH: Can you listen to all of the witnesses'
6 testimony -- testify, view any evidence and then make a
7 decision whether or not the State of Nevada has proven its
8 case?

9 PROSPECTIVE JUROR NO. 336: Yes.

10 MS. LUZAICH: And if you were convinced beyond a
11 reasonable doubt that the defendant had committed the crimes
12 that he was charged with, would you be able to say the word
13 guilty?

14 PROSPECTIVE JUROR NO. 336: Yes.

15 MS. LUZAICH: Thank you. Pass for cause.

16 THE COURT: All right. Thank you. Mr. Ericsson.

17 MR. ERICSSON: Thank you. Good afternoon, ma'am.

18 PROSPECTIVE JUROR NO. 336: Good afternoon.

19 MR. ERICSSON: Now that you're retired what kind of
20 things do you do with your time?

21 PROSPECTIVE JUROR NO. 336: I have an herb garden. I
22 like to read. I love taking naps, and I enjoy having the time
23 to clean the house.

24 MR. ERICSSON: Very nice. And how long have you been
25 retired?

1 PROSPECTIVE JUROR NO. 336: Since '96.

2 MR. ERICSSON: Okay. So it's been a good long while.
3 As you've been sitting here the last day and a half
4 contemplating possibly being selected to serve on this jury,
5 how have you been feeling about that?

6 PROSPECTIVE JUROR NO. 336: It doesn't bother me one
7 way or the other.

8 MR. ERICSSON: Now, you've heard in general some of
9 the allegations, and they're obviously very serious
10 allegations; do you feel that even though there's going to be
11 serious allegations that you will be able to focus on the
12 evidence and critically examine what is presented to you?

13 PROSPECTIVE JUROR NO. 336: Yes.

14 MR. ERICSSON: And I -- I'll follow that question up
15 with a -- there are some people who for whatever reason just
16 either experiences they've had in the past that they might just
17 become overwhelmed emotionally, and it would be very difficult
18 for them to hear testimony in a case like this. How do you
19 think you would be able to -- well, do you think that you would
20 be able to focus on the evidence and not become so overwrought
21 with emotions that your ability to evaluate what's presented
22 would be clouded?

23 PROSPECTIVE JUROR NO. 336: Yes, I think so.

24 MR. ERICSSON: Okay. I've asked lots of people about
25 their thoughts of if they were sitting at the defense table and

1 had somebody like themselves as a juror, if they'd be
2 comfortable with that; what's your response to that?

3 PROSPECTIVE JUROR NO. 336: Yes, I would be.

4 MR. ERICSSON: Okay. And I follow that up with, why
5 is that? Why do you think you'd be fair to the defense?

6 PROSPECTIVE JUROR NO. 336: I think because I'm able
7 to take a step back and weigh all the evidence.

8 MR. ERICSSON: Okay. Do you have any issues with any
9 of the constitutional rights that have been talked about that a
10 defendant in a criminal case has in the United States?

11 PROSPECTIVE JUROR NO. 336: No.

12 MR. ERICSSON: Would you, if Mr. Elam decides not to
13 testify in this case, would you hold that against him in any
14 way?

15 PROSPECTIVE JUROR NO. 336: No. And in most cases I
16 think it's much smarter if they don't, you know, from their
17 perspective.

18 MR. ERICSSON: Okay. Okay. How -- and you may have
19 been asked this question, if so, I apologize, how are you going
20 to evaluate testimony presented by police officers?

21 PROSPECTIVE JUROR NO. 336: I think equal.

22 MR. ERICSSON: Okay. So what -- would you agree that
23 police officers are like all of us and they can make mistakes
24 like us, like all of us?

25 PROSPECTIVE JUROR NO. 336: Yeah, they can. They

1 can, oh I don't know how to word it. They have the same
2 thoughts that we do.

3 MR. ERICSSON: Okay. Were you asked, do you have
4 anyone close to you either family or friends who are currently
5 or in the past have been in law enforcement?

6 PROSPECTIVE JUROR NO. 336: No.

7 MR. ERICSSON: Where were you raised?

8 PROSPECTIVE JUROR NO. 336: California.

9 MR. ERICSSON: And how long have you lived in Clark
10 County?

11 PROSPECTIVE JUROR NO. 336: Since '96.

12 MR. ERICSSON: Okay. Ma'am, thank you very much.
13 I pass for cause.

14 THE COURT: Pass for cause. All right. I believe
15 we're on State's sixth.

16 MS. LUZAICH: The State would thank and ask the Court
17 to excuse Juror Badge No. 166, Mr. Warren.

18 THE COURT: Sir, thank you for being here and your
19 willingness to serve. You are excused at this time.

20 And if the clerk would please call up the next
21 prospective juror.

22 THE CLERK: Michael Grogan.

23 THE COURT: They're handing you the microphone.

24 PROSPECTIVE JUROR NO. 338: Right.

25 THE COURT: Good afternoon. What do you do for a

1 living?

2 PROSPECTIVE JUROR NO. 338: I work in the Department
3 of Homeland Security for TSA as a behavior detection officer.

4 THE COURT: Okay. So are you one of the individuals
5 that's there at the gate or at the screening area, or do you, I
6 don't know, what do you do? Do you wander around looking for
7 people who are acting suspicious, or do you train other agents,
8 or tell me what you do.

9 PROSPECTIVE JUROR NO. 338: So I'm out front looking
10 for people, behavioral cues, right. Someone passes a certain
11 threshold then we conduct secondary screening --

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NO. 338: -- to determine whether
14 they're truthful or not. I've been trained in behavior
15 detection as far as determining whether someone has
16 physiological or verbal cues as far as honesty, and then we
17 determine whether they're a threat to, you know, aviation or
18 not.

19 THE COURT: Okay. And do you wear a uniform or are
20 you undercover to do that, I mean, wearing plainclothes?

21 PROSPECTIVE JUROR NO. 338: Sometimes both.

22 THE COURT: Okay. And how long have you been with
23 the TSA?

24 PROSPECTIVE JUROR NO. 338: For ten years.

25 THE COURT: Did they train you on behavioral

1 observation, or did you come to the TSA with experience or
2 training in that area?

3 PROSPECTIVE JUROR NO. 338: They trained me, yeah.

4 THE COURT: Okay. How long is the training program
5 that you have to go through?

6 PROSPECTIVE JUROR NO. 338: The training program
7 itself is ten days in Glynco, Georgia which is the federal
8 facility, law enforcement facility there, and then there's,
9 like, a 90-day on-the-job training where you're trained under
10 an officer.

11 THE COURT: Okay. And what did you do before you
12 went to the TSA?

13 PROSPECTIVE JUROR NO. 338: Before that I was
14 actually security supervisor at the Galleria Mall.

15 THE COURT: At the where?

16 PROSPECTIVE JUROR NO. 338: The Galleria Mall in
17 Henderson.

18 THE COURT: Oh, the Galleria Mall.

19 PROSPECTIVE JUROR NO. 338: Yeah.

20 THE COURT: Okay. Before you became a supervisor
21 were you -- you said the word regular security or --

22 PROSPECTIVE JUROR NO. 338: No, I was just an
23 officer, Paul Blart, Mall Cop.

24 THE COURT: Was that at the Galleria Mall as well?

25 PROSPECTIVE JUROR NO. 338: That was at the Galleria,

1 yeah.

2 THE COURT: Okay. Did you -- I'm assuming you had a
3 lot of interaction with law enforcement as a security officer?

4 PROSPECTIVE JUROR NO. 338: Yes.

5 THE COURT: Okay. So that would be what, when you
6 said a shoplifting or other problems you'd have to call --

7 PROSPECTIVE JUROR NO. 338: Yes, mostly shoplifting.
8 I had Henderson on speed dial.

9 THE COURT: Okay. Do you have any close friends or
10 family that work in law enforcement?

11 PROSPECTIVE JUROR NO. 338: Yes, my best friend is a
12 Henderson officer. He was best man at my wedding.

13 THE COURT: Okay. What does he do for Henderson
14 police?

15 PROSPECTIVE JUROR NO. 338: He's an officer, third
16 shift.

17 THE COURT: Okay. Is he a uniformed patrol officer
18 --

19 PROSPECTIVE JUROR NO. 338: He's a uniformed patrol
20 officer, yeah.

21 THE COURT: Does he talk about his work much with you
22 or --

23 PROSPECTIVE JUROR NO. 338: Yeah, we talk about it,
24 and I interact with Metro daily at the airport.

25 THE COURT: Okay. They're there also looking for

1 people who look --

2 PROSPECTIVE JUROR NO. 338: Yes.

3 THE COURT: -- suspicious and -- Okay. Do you feel
4 like when police officers testify you can listen critically to
5 their testimony and evaluate it just like you would the
6 testimony of anybody else? I mean, can you keep an open mind
7 and look for inconsistencies and things like that like you
8 would with any other witness?

9 PROSPECTIVE JUROR NO. 338: Yeah, I think I can.

10 THE COURT: Okay. Now, the training to -- you said
11 one of the things you're looking for is when people are being
12 truthful?

13 PROSPECTIVE JUROR NO. 338: Yes.

14 THE COURT: Okay. How do you think that training
15 would impact your service as a juror?

16 PROSPECTIVE JUROR NO. 338: It makes me nervous,
17 quite honestly.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NO. 338: Because I'm looking for
20 physiological signs as well as verbal cues beyond just
21 someone's testimony. I mean, the training involves with people
22 can't really hide from these signs.

23 THE COURT: Okay. Let me ask you this. You're the
24 guy that tells the other agents, hey, this, you know, this
25 person looks suspicious. You need to pull them aside and check

1 their --

2 PROSPECTIVE JUROR NO. 338: Yeah, if people pass a
3 certain threshold of behavior as far as stress, fear, or
4 anxiety, then --

5 THE COURT: Okay. Do you actually interview them?

6 PROSPECTIVE JUROR NO. 338: Yes. And sometimes it's
7 natural why people have those -- most of the time it is.

8 THE COURT: Right, because they're afraid to fly or
9 --

10 PROSPECTIVE JUROR NO. 338: Absolutely. Yeah.

11 THE COURT: -- you know, stressed out for other
12 reasons.

13 PROSPECTIVE JUROR NO. 338: Yeah. So I was just
14 trying to determine whether it's a threat to aviation or not.

15 THE COURT: Right. And how good are you at that? I
16 mean, how many people --

17 PROSPECTIVE JUROR NO. 338: Top of my class.

18 THE COURT: Are you, okay. May I see counsel.

19 (Conference at the bench not recorded.)

20 THE COURT: -- from these proceedings, and the
21 bailiff will direct you from the courtroom.

22 PROSPECTIVE JUROR NO. 338: Thank you.

23 THE COURT: They've got a new dog out there at the
24 airport that alerts on everybody.

25 PROSPECTIVE JUROR NO. 338: Yes.

1 THE COURT: Yes. He was sniffing my tote bag, and I,
2 you know, it even made me nervous because I thought --

3 PROSPECTIVE JUROR NO. 338: Yeah, the dog is the best
4 thing ever. It makes it much faster, so.

5 THE COURT: Right. I think I talked to some people
6 and I guess he's new. Thank you.

7 All right. If the court clerk will please call up
8 the next prospective juror.

9 THE CLERK: Sheri Williams.

10 THE COURT: Good afternoon. What do you do for a
11 living?

12 PROSPECTIVE JUROR NO. 340: I work for the Clark
13 County School District.

14 THE COURT: And what do you do for them?

15 PROSPECTIVE JUROR NO. 340: I am a project
16 facilitator. I was a teacher for 20 years in the classroom and
17 two years ago I stepped out to work with parents.

18 THE COURT: Okay. So is that for kids with special
19 needs, you --

20 PROSPECTIVE JUROR NO. 340: (Unintelligible)
21 population. I work with the Zoom schools.

22 THE COURT: And then what grade level when you were a
23 teacher?

24 PROSPECTIVE JUROR NO. 340: K-5.

25 THE COURT: Okay. So kind of all subjects?

1 PROSPECTIVE JUROR NO. 340: Yes.

2 THE COURT: All right. And are you married, domestic
3 partner, or significant other?

4 PROSPECTIVE JUROR NO. 340: Single.

5 THE COURT: Any children?

6 PROSPECTIVE JUROR NO. 340: No.

7 THE COURT: Have you ever been a juror before?

8 PROSPECTIVE JUROR NO. 340: No.

9 THE COURT: Anyone close to you or you yourself ever
10 been arrested, charged or accused of a crime or the victim of a
11 crime?

12 PROSPECTIVE JUROR NO. 340: Yes.

13 THE COURT: Tell me about that.

14 PROSPECTIVE JUROR NO. 340: Victim.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NO. 340: I was molested.

17 THE COURT: Okay. I'm sorry, but we're going to ask
18 you just a few questions about this. Was that when you were
19 young?

20 PROSPECTIVE JUROR NO. 340: Yes, ma'am.

21 THE COURT: So still a child?

22 PROSPECTIVE JUROR NO. 340: (No audible response.)

23 THE COURT: Okay. And obviously that's emotional.
24 Let me ask you this. Was law enforcement involved?

25 PROSPECTIVE JUROR NO. 340: No, they were not.

1 THE COURT: Okay. Was that because you didn't
2 disclose to anybody?

3 PROSPECTIVE JUROR NO. 340: I kind of blocked it out,
4 but in the last 3-4 years I've had flashbacks.

5 THE COURT: Okay. So you never told a teacher or a
6 counselor or your parents or anything like that?

7 PROSPECTIVE JUROR NO. 340: No.

8 THE COURT: Okay. Since you became an adult did you
9 disclose that to anybody or confront the perpetrator or
10 anything like that?

11 PROSPECTIVE JUROR NO. 340: Yes.

12 THE COURT: Disclosed to who?

13 PROSPECTIVE JUROR NO. 340: My mother, counselors,
14 psychiatrists.

15 THE COURT: Okay. Was the person, the perpetrator,
16 was that a family member or a family friend or like a stranger
17 or --

18 PROSPECTIVE JUROR NO. 340: He was my uncle.

19 THE COURT: Okay. And is he still alive or?

20 PROSPECTIVE JUROR NO. 340: Yep.

21 THE COURT: And obviously this is an emotional thing.
22 I apologize for having to bring it up.

23 PROSPECTIVE JUROR NO. 340: That's okay.

24 THE COURT: Now, the allegations in this case don't
25 concern any kind of child sexual abuse or anything like that.

1 Do you feel like you could set aside what happened to you and
2 your background and base your verdict in this case on the
3 evidence that's presented during this trial?

4 PROSPECTIVE JUROR NO. 340: I do not think so.

5 THE COURT: Okay. And is that just because it's too
6 emotional or --

7 PROSPECTIVE JUROR NO. 340: Yes, ma'am.

8 THE COURT: Counsel.

9 MS. LUZAICH: I'd stipulate.

10 MR. ERICSSON: We would as well, Your Honor.

11 THE COURT: All right. We're going to excuse you
12 from these proceedings. There are many, many trials that don't
13 concern these kind of issues. So thank you for being here.
14 And you are excused.

15 And if the clerk would please call up the next
16 prospective juror.

17 THE CLERK: Kelly Gonzales.

18 THE COURT: Good afternoon.

19 PROSPECTIVE JUROR NO. 361: Good afternoon.

20 THE COURT: What do you do for a living, sir?

21 PROSPECTIVE JUROR NO. 361: I'm an insurance
22 adjustor.

23 THE COURT: All right. So you evaluate claims then
24 and determine --

25 PROSPECTIVE JUROR NO. 361: I write estimates on

1 vehicles that have damage due to an accident.

2 THE COURT: Okay. Did you ever work as an adjustor
3 on, like, personal-injury claims or anything like that?

4 PROSPECTIVE JUROR NO. 361: No.

5 THE COURT: Okay. So just vehicle damage?

6 PROSPECTIVE JUROR NO. 361: Yes.

7 THE COURT: Married, domestic partner, significant --

8 PROSPECTIVE JUROR NO. 361: Married.

9 THE COURT: What does your wife do?

10 PROSPECTIVE JUROR NO. 361: She works for an
11 attorney, gaming attorney, Frank Schreck.

12 THE COURT: Oh, okay. Is she -- what does she do for
13 him, paralegal, secretary?

14 PROSPECTIVE JUROR NO. 361: Secretary.

15 THE COURT: All right. How long has she worked for
16 him?

17 PROSPECTIVE JUROR NO. 361: Six years.

18 THE COURT: And before that?

19 PROSPECTIVE JUROR NO. 361: Worked at Caesar's as an
20 assistant.

21 THE COURT: Okay. Has she ever worked for a lawyer
22 that did, you know, other kinds of legal work like personal
23 injury, criminal defense?

24 PROSPECTIVE JUROR NO. 361: Not in this state.

25 THE COURT: In another state what did she do?

1 PROSPECTIVE JUROR NO. 361: Personal injury.
2 THE COURT: So no criminal defense or anything like
3 that?
4 PROSPECTIVE JUROR NO. 361: No.
5 THE COURT: Okay. Any children?
6 PROSPECTIVE JUROR NO. 361: Two, older.
7 THE COURT: Okay. Have you ever been a juror before?
8 PROSPECTIVE JUROR NO. 361: Yes, civil.
9 THE COURT: In Clark County or --
10 PROSPECTIVE JUROR NO. 361: California.
11 THE COURT: How long ago?
12 PROSPECTIVE JUROR NO. 361: '89, it's been a while.
13 THE COURT: Okay. And don't tell me what the verdict
14 was, but did the jury reach a verdict?
15 PROSPECTIVE JUROR NO. 361: Yes, I believe so, and I
16 wasn't the person who read the --
17 THE COURT: Okay. Were you back in the jury
18 deliberation room deliberating with them?
19 PROSPECTIVE JUROR NO. 361: You know what, I was
20 thinking about that. I think I was, but I don't really recall
21 any discussion.
22 THE COURT: But in either case you weren't the
23 foreperson?
24 PROSPECTIVE JUROR NO. 361: No.
25 THE COURT: You or anyone close to you ever been

1 arrested, charged, or accused --

2 PROSPECTIVE JUROR NO. 361: Oh, absolutely.

3 THE COURT: Okay. Tell me about that.

4 PROSPECTIVE JUROR NO. 361: I've been arrested when I
5 was younger, 20, 21, disorderly conduct.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NO. 361: Minor in possession of
8 alcohol.

9 THE COURT: Okay. So all misdemeanor kinds of
10 things?

11 PROSPECTIVE JUROR NO. 361: Sure.

12 THE COURT: Is that yes or if they're felonies you
13 need to tell me.

14 PROSPECTIVE JUROR NO. 361: Yes. They're
15 misdemeanors, yeah.

16 THE COURT: Okay. So no felony arrests?

17 PROSPECTIVE JUROR NO. 361: No.

18 THE COURT: And have you ever been the victim of a
19 crime?

20 PROSPECTIVE JUROR NO. 361: No.

21 THE COURT: Has anyone close to you been the victim
22 of a serious crime?

23 PROSPECTIVE JUROR NO. 361: Not to my knowledge.

24 THE COURT: Okay. Any friends or family that work in
25 law enforcement or have worked in law enforcement?

1 PROSPECTIVE JUROR NO. 361: State prison. Oregon.
2 THE COURT: Okay. So a corrections officer?
3 PROSPECTIVE JUROR NO. 361: Yes.
4 THE COURT: All right. And what is your relationship
5 to that person?
6 PROSPECTIVE JUROR NO. 361: Brother-in-law.
7 THE COURT: And you said he's at the state prison in
8 Oregon?
9 PROSPECTIVE JUROR NO. 361: Uh-huh.
10 THE COURT: Anything else we should know about you
11 based on our questions and discussions with the other
12 prospective jurors?
13 PROSPECTIVE JUROR NO. 361: Oh, I'm sure they'll ask
14 me.
15 THE COURT: Okay. So any questions any of us have
16 asked that pop into your mind that you thought as you sat there
17 today and yesterday you would have had to raise your hand?
18 PROSPECTIVE JUROR NO. 361: No.
19 THE COURT: All right. Ms. Luzaich.
20 MS. LUZAICH: Thank you. Good afternoon, Mr.
21 Gonzales.
22 PROSPECTIVE JUROR NO. 361: Good afternoon.
23 MS. LUZAICH: Are you having fun yet?
24 PROSPECTIVE JUROR NO. 361: Absolutely. This is a
25 great time.

1 MS. LUZAICH: Did you think you were not going to get
2 there?

3 PROSPECTIVE JUROR NO. 361: I knew I was going to be
4 up here.

5 THE COURT: How did you know that?

6 MS. LUZAICH: Are you clairvoyant?

7 PROSPECTIVE JUROR NO. 361: I just knew I was going
8 to be up here.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 361: I knew you guys were
11 going to get to me.

12 MS. LUZAICH: Is that one of those just my luck I
13 knew I was going to be here?

14 PROSPECTIVE JUROR NO. 361: No. I had a feeling just
15 the way things were going that I'd be sitting right here.

16 MS. LUZAICH: Because they're dropping like flies?

17 PROSPECTIVE JUROR NO. 361: Yeah.

18 MS. LUZAICH: How would you feel about serving as a
19 juror in this case?

20 PROSPECTIVE JUROR NO. 361: Mixed emotions. I would
21 still do it. I would do it. I mean, I don't have a problem.

22 MS. LUZAICH: I can't imagine anybody really is
23 jumping for joy to do it, but what are your mixed emotions?

24 PROSPECTIVE JUROR NO. 361: Just the -- just what
25 I've heard about what happens, and that's only a minute part of

1 what we're going to listen to. I'm not a big fan of that
2 stuff. I don't own a gun. I don't think they're -- I think
3 they're used for one thing and that's destruction, and I'm not
4 part of that, so.

5 MS. LUZAICH: Okay. And I can't imagine anybody is
6 going to say they're a fan of this kind of thing, but remember,
7 these are still allegations and I on behalf of the State of
8 Nevada have to prove to you that what I've charged occurred.

9 PROSPECTIVE JUROR NO. 361: I understand that. But
10 personally I just don't even like listening to it, but I
11 understand why I'm here, and I would go through the process.

12 MS. LUZAICH: And you agree that it's all of our
13 responsibility for being a citizen here to come and sit as
14 jurors?

15 PROSPECTIVE JUROR NO. 361: Absolutely.

16 MS. LUZAICH: And we appreciate the fact that you do
17 that. Do you think that people who do foolish things are still
18 entitled to the same protection of the law as you and I are?

19 PROSPECTIVE JUROR NO. 361: Absolutely.

20 MS. LUZAICH: So for example, like I've asked a bunch
21 of times, if somebody commits a crime on Tuesday, on Thursday
22 if they're the victim of the crime can they come into court
23 here and testify as a victim and you would listen to that?

24 PROSPECTIVE JUROR NO. 361: Absolutely.

25 MS. LUZAICH: Would you agree, like I have asked a

1 whole bunch of other people, everybody reacts differently to
2 different circumstances?

3 PROSPECTIVE JUROR NO. 361: Yes.

4 MS. LUZAICH: And that's because everybody is
5 different?

6 PROSPECTIVE JUROR NO. 361: Everybody's different.

7 MS. LUZAICH: And do you think that people are what
8 they've experienced in the past, whether it's, you know,
9 hereditary or cultural or any of those things?

10 PROSPECTIVE JUROR NO. 361: Absolutely, yes.

11 MS. LUZAICH: And that's what makes our society great
12 because everybody is different?

13 PROSPECTIVE JUROR NO. 361: I agree.

14 MS. LUZAICH: Do you have any feelings, opinions
15 about people who use drugs?

16 PROSPECTIVE JUROR NO. 361: Not necessarily. I just
17 don't get involved in that stuff. So I just, I mean, not that
18 I'm an angel, but I just don't --

19 MS. LUZAICH: And I don't expect you --

20 PROSPECTIVE JUROR NO. 361: -- I don't get in -- I
21 don't even think about it because I don't get involved in that.
22 It's not part of who I am or who my household is. We just
23 don't do that.

24 MS. LUZAICH: Right. Right. And I don't expect, you
25 know, your family does, and I don't expect you to condone it,

1 but if somebody is going to come in here and talk about the
2 fact that at some point in their life they may have used drugs,
3 can you listen --

4 PROSPECTIVE JUROR NO. 361: Absolutely.

5 MS. LUZAICH: -- to what that person says and still
6 evaluate them objectively?

7 PROSPECTIVE JUROR NO. 361: Absolutely. Yep.

8 MS. LUZAICH: You won't look at anybody who says that
9 and just say I can't believe anything you say simply because
10 you do drugs?

11 PROSPECTIVE JUROR NO. 361: No. No.

12 MS. LUZAICH: Do you know people who have used drugs?

13 PROSPECTIVE JUROR NO. 361: Oh, absolutely. Yeah.

14 MS. LUZAICH: Can you still be friends with some of
15 them?

16 PROSPECTIVE JUROR NO. 361: You just --

17 MS. LUZAICH: And if no is the right answer --

18 PROSPECTIVE JUROR NO. 361: No, it's not like that to
19 me. I can talk to people that have used drugs. I know people
20 that use drugs but --

21 MS. LUZAICH: You don't want to hang out with them?

22 PROSPECTIVE JUROR NO. 361: -- do I go to a bar with
23 them, no. Just, no.

24 MS. LUZAICH: You talked a little bit about a couple
25 of skirmishes you had when you were younger, a couple of

1 arrests --

2 PROSPECTIVE JUROR NO. 361: Uh-huh.

3 MS. LUZAICH: -- did you ever go to trial on any of
4 those?

5 PROSPECTIVE JUROR NO. 361: No.

6 MS. LUZAICH: Came in, pled guilty, did your thing?

7 PROSPECTIVE JUROR NO. 361: The disorderly conduct,
8 the lawyer went in and stood for me. Yeah.

9 MS. LUZAICH: Okay. But nothing went to trial?

10 PROSPECTIVE JUROR NO. 361: No.

11 MS. LUZAICH: Do you watch CSI, any of those --

12 PROSPECTIVE JUROR NO. 361: No.

13 MS. LUZAICH: None at all?

14 PROSPECTIVE JUROR NO. 361: No.

15 MS. LUZAICH: So you won't be disturbed to know that
16 they're fake?

17 PROSPECTIVE JUROR NO. 361: I don't watch it, no.

18 MS. LUZAICH: Is there anything that you're expecting
19 to see in this case?

20 PROSPECTIVE JUROR NO. 361: No, I'm not expecting to
21 see anything that's -- you know, I don't understand that
22 question, but testimonies, that type of thing I expect that,
23 but I don't have any expectations.

24 MS. LUZAICH: Okay. Some people would expect that if
25 somebody has been through a horrible experience that when they

1 come in here and recount that, they describe it to you, that
2 they may burst into tears. Would you be surprised if that did
3 not happen?

4 PROSPECTIVE JUROR NO. 361: No.

5 MS. LUZAICH: Would you be concerned if that did not
6 happen?

7 PROSPECTIVE JUROR NO. 361: No.

8 MS. LUZAICH: Is there anything else about you, I
9 mean, it sounded like an invitation a minute ago, but is there
10 anything else about you that you think that we need to know?
11 Just because we need fair jurors, people that are going to be
12 fair to both sides.

13 PROSPECTIVE JUROR NO. 361: No, I think I -- I have
14 the quality to be fair and listen, listen to people what they
15 have to say and evaluating what they have to say and come up
16 with a fair decision.

17 MS. LUZAICH: Would you consider yourself to be an
18 open-minded person?

19 PROSPECTIVE JUROR NO. 361: Absolutely.

20 MS. LUZAICH: And you'll wait until you listen to and
21 see all the evidence before you make up your mind?

22 PROSPECTIVE JUROR NO. 361: Yes.

23 MS. LUZAICH: Is there anything that would prevent
24 you from being able to sit in judgment?

25 PROSPECTIVE JUROR NO. 361: No.

1 MS. LUZAICH: So if you do listen to all the
2 testimony, see the evidence, if you're convinced beyond a
3 reasonable doubt that the defendant has committed the crimes
4 that he is charged with, would you be able to say the word
5 guilty?

6 PROSPECTIVE JUROR NO. 361: Yes.

7 MS. LUZAICH: Thank you. Pass for cause.

8 THE COURT: Thank you. Mr. Ericsson.

9 MR. ERICSSON: Thank you. Good afternoon, sir.

10 PROSPECTIVE JUROR NO. 361: Good afternoon.

11 MR. ERICSSON: The jury that you were on, and I know
12 it was a long time ago, I didn't hear, was that a criminal or a
13 civil case?

14 PROSPECTIVE JUROR NO. 361: Civil.

15 MR. ERICSSON: Civil, okay. You had a comment about
16 weapons a few minutes ago. Tell me what your thoughts are on
17 --

18 PROSPECTIVE JUROR NO. 361: I don't own one. I don't
19 anticipate on owning one. I don't care for them. I've shot
20 them. I've gone through a hunter safety as a youngster.

21 MR. ERICSSON: Okay.

22 PROSPECTIVE JUROR NO. 361: I just think they're for
23 one reason and that's for destruction. That's my belief, but I
24 don't care if anybody else owns a gun, that's just me, yeah.

25 MR. ERICSSON: I want to make sure I understood. So

1 you personally don't have any interest in owning a gun?

2 PROSPECTIVE JUROR NO. 361: No, no. And that's just
3 me.

4 MR. ERICSSON: But would you agree that there are
5 some people who own guns legally and --

6 PROSPECTIVE JUROR NO. 361: Oh, yeah. Yeah. That's
7 -- yeah. That's the right to bear arms. I understand that.
8 But this is not for me.

9 MR. ERICSSON: Okay. What are your thoughts about
10 evaluating the testimony of police officers in a court case?

11 PROSPECTIVE JUROR NO. 361: I don't have a problem
12 evaluating anybody. It doesn't make any difference what their
13 status is. I just don't -- I don't have a problem with that.
14 I will evaluate everybody the same way.

15 MR. ERICSSON: Okay. And give me a general
16 description of how you'd go about in your mind trying to
17 determine whether or not somebody is being truthful or just
18 being accurate is what I'm saying.

19 PROSPECTIVE JUROR NO. 361: I would listen to what
20 they have to say, demeanor, how they say it, how they come
21 across. I'd listen to all that. I take all that into
22 consideration.

23 MR. ERICSSON: Okay. Would you agree that there are
24 cases where the police have been given information, and they
25 evaluate it incorrectly, and they arrest people for crimes that

1 they didn't do?

2 PROSPECTIVE JUROR NO. 361: Absolutely.

3 MR. ERICSSON: And as you are contemplating possibly
4 sitting as a juror in this case, are you able to as you sit
5 here now have the presumption that or give Mr. Elam the
6 presumption that he is innocent?

7 PROSPECTIVE JUROR NO. 361: Absolutely.

8 MR. ERICSSON: And would you feel completely
9 comfortable in holding the State to its burden of proof in this
10 case?

11 PROSPECTIVE JUROR NO. 361: Yes, I would.

12 MR. ERICSSON: And if you came to the conclusion
13 after hearing all the evidence that they had not met their
14 burden of proof would you have any hesitancy to render a not
15 guilty decision?

16 PROSPECTIVE JUROR NO. 361: I would have no
17 hesitation.

18 MR. ERICSSON: Okay. I think like most people your
19 feelings of serving on a jury are such that you'd maybe rather
20 not do it, but if you are selected would you do your very best
21 to be a fair and impartial juror?

22 PROSPECTIVE JUROR NO. 361: Absolutely.

23 MR. ERICSSON: And if you were sitting at the defense
24 table would you be comfortable with you sitting as a juror on
25 this case?

1 PROSPECTIVE JUROR NO. 361: Yes, I would.

2 MR. ERICSSON: Thank you very much.

3 All right, pass for cause.

4 THE COURT: Pass for cause. I believe we're on
5 defendant's sixth.

6 MR. ERICSSON: Your Honor, the defense would thank
7 and excuse Juror 177, Mr. Roper.

8 THE COURT: Thank you for being here. You are
9 excused at this time. The bailiff will direct you from
10 courtroom.

11 And ladies and gentleman, we're going to go ahead and
12 take our lunch break. We'll be in recess for the lunch break
13 until 2:00 o'clock. During the lunch break you are reminded
14 that you're not to discuss the case or anything relating to the
15 case with each other or with anyone else. You're not to read
16 watch or listen to any reports or commentaries on the case,
17 person or subject matter relating to the case. Do not do any
18 independent research by way of the Internet or any other
19 medium. Do not visit the location at issue. Do not engage in
20 any social networking on any subject matter concerning these
21 proceedings and please do not form or express an opinion on the
22 trial.

23 If everyone will please follow the bailiff through
24 the double doors he will give you instruction on where to meet
25 when we resume at 2:00 o'clock.

1 MS. LUZAICH: Can we have 2:15? I'll explain why.

2 (Panel of prospective jurors recessed 1 p.m.)

3 THE COURT: 2:15. I think it's probably going to be
4 2:00. We've only got six more people to go.

5 UNIDENTIFIED SPEAKER: I thought he said 12.

6 THE COURT: 12 people are left? We've got 6 more
7 people to go through if everybody exercises their challenges.
8 But those alternates look really good, so maybe we can waive
9 our alternate challenge.

10 MS. LUZAICH: Well, as of right now I plan on waiving
11 my alternate challenge.

12 THE COURT: 'Cause compared to --

13 THE CLERK: We have 14 left.

14 THE COURT: Right.

15 (Proceedings recessed 1:01 p.m. to 2:17 p.m.)

16 (Panel of prospective jurors entering.)

17 THE COURT: We're missing one.

18 All right. Court is now back in session. The record
19 will reflect the presence of the State, the defendant and his
20 counsel, the officers of the court and the ladies and gentleman
21 of the prospective jury panel.

22 And if the court clerk would please call up the next
23 prospective juror.

24 THE CLERK: Kelly Gonzales.

25 MS. LUZAICH: Is sitting.

1 PROSPECTIVE JUROR NO. 361: I'm right here.
2 THE COURT: Yes.
3 THE CLERK: Oh, I'm sorry.
4 THE COURT: Still there.
5 THE CLERK: The next one. Ryan Mohoric.
6 THE COURT: Good afternoon. What do you do for a
7 living?
8 PROSPECTIVE JUROR NO. 389: I'm a marketing manager
9 for Hakkasan Group.
10 THE COURT: For what group?
11 PROSPECTIVE JUROR NO. 389: Hakkasan Group. Like,
12 nightclubs and restaurants.
13 THE COURT: Okay. Married, domestic partner,
14 significant other?
15 PROSPECTIVE JUROR NO. 389: I have a significant
16 other who's a loan officer.
17 THE COURT: Okay. With a bank or a credit --
18 PROSPECTIVE JUROR NO. 389: Yes, bank.
19 THE COURT: Okay. And do you have any children?
20 PROSPECTIVE JUROR NO. 389: No.
21 THE COURT: Have you or anyone -- have you ever been
22 a juror before?
23 PROSPECTIVE JUROR NO. 389: Yes.
24 THE COURT: Okay. Was that here in Clark County?
25 PROSPECTIVE JUROR NO. 389: It was in Portland,

1 Oregon.

2 THE COURT: Okay. How long ago?

3 PROSPECTIVE JUROR NO. 389: Five years.

4 THE COURT: Civil or criminal case?

5 PROSPECTIVE JUROR NO. 389: Civil.

6 THE COURT: And don't tell me what the verdict was,
7 but did the jury reach a verdict?

8 PROSPECTIVE JUROR NO. 389: Yes.

9 THE COURT: Were you the foreperson?

10 PROSPECTIVE JUROR NO. 389: No.

11 THE COURT: Okay. Have you or anyone close to you
12 ever been arrested, charged or accused of a crime or the victim
13 of a crime?

14 PROSPECTIVE JUROR NO. 389: No.

15 THE COURT: Any friends or family, anyone you're
16 close to that currently works or has worked in law enforcement?

17 PROSPECTIVE JUROR NO. 389: Nope.

18 THE COURT: You heard all the questions I've asked
19 and the lawyers have asked; did you hear any of us ask a
20 question over these last couple of days that you would have had
21 to raise your hand and answer in the affirmative?

22 PROSPECTIVE JUROR NO. 389: No.

23 THE COURT: Do you feel like you're the kind of
24 person that would make a good juror on this case?

25 PROSPECTIVE JUROR NO. 389: Yes.

1 THE COURT: Tell me why.

2 PROSPECTIVE JUROR NO. 389: Because I am impartial
3 and open to hearing what will be said.

4 THE COURT: Okay. No preconceived biases or
5 prejudice?

6 PROSPECTIVE JUROR NO. 389: No.

7 THE COURT: All right. Ms. Luzaich, you may follow
8 up.

9 MS. LUZAICH: Thank you. Good afternoon, Mr. -- do
10 you say it Morick (phonetic)?

11 PROSPECTIVE JUROR NO. 389: Mohoric.

12 MS. LUZAICH: Mohoric?

13 PROSPECTIVE JUROR NO. 389: Yep.

14 MS. LUZAICH: Okay. As the marketing manager for
15 Hakkasan, do you go to Hakkasan, or do you just stay in the
16 offices?

17 PROSPECTIVE JUROR NO. 389: I stay in the office and
18 go when I want to.

19 MS. LUZAICH: Okay. So you socialize there; you
20 don't go for purposes of work?

21 PROSPECTIVE JUROR NO. 389: Yeah. I don't have to go
22 there for work.

23 MS. LUZAICH: But, I mean, anybody who frequents the
24 clubs sees all the drug use; would you agree with that?

25 PROSPECTIVE JUROR NO. 389: I think it's present, and

1 I think they do a good job of finding it, but it's there, yeah.

2 MS. LUZAICH: Okay. Do you have any strong opinions
3 or feelings about people who use drugs?

4 PROSPECTIVE JUROR NO. 389: No.

5 MS. LUZAICH: So can if -- if somebody comes in and
6 says that they have used drugs in the past, can you listen to
7 that person and evaluate their testimony objectively?

8 PROSPECTIVE JUROR NO. 389: Yes.

9 MS. LUZAICH: Would you agree with everybody else
10 that everybody's different?

11 PROSPECTIVE JUROR NO. 389: Yes.

12 MS. LUZAICH: Different people react to situations
13 differently?

14 PROSPECTIVE JUROR NO. 389: Yep.

15 MS. LUZAICH: And is that something you'd also take
16 into consideration?

17 PROSPECTIVE JUROR NO. 389: Yep.

18 MS. LUZAICH: If somebody were to do something
19 foolish in your mind, can they still -- or are they still
20 entitled to the same protection under law as you and I are?

21 PROSPECTIVE JUROR NO. 389: Yes.

22 MS. LUZAICH: Having sat here -- well, do you watch
23 CSI?

24 PROSPECTIVE JUROR NO. 389: I watch Judge Judy but
25 that's it. Little different.

1 MS. LUZAICH: Not any more realistic than any of the
2 other shows, I expect you recognize?

3 PROSPECTIVE JUROR NO. 389: Yeah, I don't -- I
4 don't -- I don't believe that they're real, but I don't really
5 watch any of those.

6 MS. LUZAICH: So having sat here for two long days,
7 are there any -- is there anything about you that we need to
8 know?

9 PROSPECTIVE JUROR NO. 389: No.

10 MS. LUZAICH: Can you be a fair, open-minded juror?

11 PROSPECTIVE JUROR NO. 389: Yes.

12 MS. LUZAICH: Listen to all the testimonies, see all
13 the evidence before you make up your mind?

14 PROSPECTIVE JUROR NO. 389: Yes.

15 MS. LUZAICH: Is there anything about you that would
16 prevent you from being able to sit in judgment?

17 PROSPECTIVE JUROR NO. 389: No.

18 MS. LUZAICH: And if you were convinced at the
19 conclusion of the trial beyond a reasonable doubt the defendant
20 committed the crimes that he is charged with; would you be able
21 to say the word guilty?

22 PROSPECTIVE JUROR NO. 389: Yes.

23 MS. LUZAICH: Thank you. Pass for cause.

24 THE COURT: Mr. Ericsson.

25 MR. ERICSSON: Thank you, Your Honor.

1 Good Afternoon.

2 PROSPECTIVE JUROR NO. 389: Hey there.

3 MR. ERICSSON: How are you feeling about possibly
4 being selected as a juror in this case?

5 PROSPECTIVE JUROR NO. 389: I'm fine, fine with it.

6 MR. ERICSSON: Okay. Is it something that you think
7 that you would enjoy doing or -- or not?

8 PROSPECTIVE JUROR NO. 389: I think that the last
9 time I did jury duty it was interesting. Going into the
10 situation I'm pretty impartial, so I don't mind seeing a case
11 go through.

12 MR. ERICSSON: Okay. You've obviously heard all my
13 questions related from the defense perspective. Anything about
14 your background or experiences that you think would impact your
15 ability to be fair and impartial to the defense?

16 PROSPECTIVE JUROR NO. 389: I don't think so.

17 MR. ERICSSON: Do you feel that you can equally be
18 fair to the two sides in this case?

19 PROSPECTIVE JUROR NO. 389: Yes.

20 MR. ERICSSON: How would you go about evaluating
21 witness testimony for accuracy or truthfulness?

22 PROSPECTIVE JUROR NO. 389: I would listen and form
23 an opinion.

24 MR. ERICSSON: Okay. And what -- just strike that
25 question. What are your thoughts on some of the constitutional

1 rights that we have in this country for criminal defendants?
2 For example, the right to remain silent if one decides not to
3 testify in a trial?

4 PROSPECTIVE JUROR NO. 389: I agree with that right.

5 MR. ERICSSON: Okay. Would you be -- if Mr. Elam
6 were to decide not to testify in this case would you hold that
7 against him in any way?

8 PROSPECTIVE JUROR NO. 389: No.

9 MR. ERICSSON: Do you feel that you would be able to
10 follow the directions of the Judge and hold the State to its
11 burden of proof?

12 PROSPECTIVE JUROR NO. 389: Yes.

13 MR. ERICSSON: And as Mr. Elam sits here today are
14 you comfortable with the presumption of innocence that he is
15 entitled to under the law?

16 PROSPECTIVE JUROR NO. 389: Yes.

17 MR. ERICSSON: Anything else about your background
18 that you think either side should be aware of?

19 PROSPECTIVE JUROR NO. 389: Nope.

20 MR. ERICSSON: Okay. As far as your work schedule
21 we've had some people who have indicated they work nights and
22 that they might be up late and coming in quite tired. What --
23 if you were selected to serve as a juror on this case, what
24 would your work obligations be during the next week or so?

25 PROSPECTIVE JUROR NO. 389: Try to fill in stuff that

1 needed to be done after, but I'm usually nine to six, so.

2 MR. ERICSSON: Okay. So you normally work during the
3 days?

4 PROSPECTIVE JUROR NO. 389: Yeah.

5 MR. ERICSSON: All right. Thank you very much. I
6 have no further questions. I do think I made a
7 (unintelligible).

8 THE MARSHALL: Here, I can fix it.

9 MR. ERICSSON: I got it.

10 THE COURT: Pass for cause?

11 MR. ERICSSON: Yes, Your Honor.

12 THE COURT: All right. I believe we're on State's
13 seventh.

14 MS. LUZAICH: Thank you. The State would thank and
15 ask the Court to excuse Juror Badge No. 217, Mr. Piazza.

16 THE COURT: Mr. Piazza, thank you for being here,
17 your willingness to serve as a juror. You are excused at this
18 time.

19 And if the clerk would please call the next potential
20 juror.

21 THE CLERK: Keith Doering.

22 THE COURT: Good afternoon. What do you do for a
23 living, sir?

24 PROSPECTIVE JUROR NO. 395: I am a project manager
25 for National Security's Technology as a contractor to the U.S.

1 Department of Energy.

2 THE COURT: Okay. And National Security's
3 Technologies, what kind of security do they provide? Is it,
4 like, computer-type security or is it physical, like, security
5 officers or what type of security?

6 PROSPECTIVE JUROR NO. 395: National Security of many
7 different types.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR NO. 395: Anything that the
10 Department of Energy is responsible for.

11 THE COURT: Okay. And you said your job is what?

12 PROSPECTIVE JUROR NO. 395: Project manager.

13 THE COURT: And can you just tell us briefly what
14 that entails?

15 PROSPECTIVE JUROR NO. 395: I help the different
16 daily customers develop scope, schedule budget and then execute
17 the work.

18 THE COURT: Okay. How long have you been doing that?

19 PROSPECTIVE JUROR NO. 395: 32 years.

20 THE COURT: And are you married, domestic partner,
21 significant other?

22 PROSPECTIVE JUROR NO. 395: Married.

23 THE COURT: What does your wife do?

24 PROSPECTIVE JUROR NO. 395: She works at the same
25 company that I do, and she's an operation specialist.

1 THE COURT: All right. And do you have any children?

2 PROSPECTIVE JUROR NO. 395: I have two children, 32
3 and 33.

4 THE COURT: Have you ever been a juror before?

5 PROSPECTIVE JUROR NO. 395: I have not.

6 THE COURT: Have you or anyone close to you ever been
7 arrested, charged, accused of a crime or the victim of a crime?

8 PROSPECTIVE JUROR NO. 395: Yes.

9 THE COURT: Tell me about that.

10 PROSPECTIVE JUROR NO. 395: Don't know a lot of the
11 detail because my son didn't want to drag us into it, but when
12 he was a very young adult out of high school, I believe, the
13 company he worked for he used their purchasing system to buy a
14 high performance motor part for his personal car. And he got
15 caught at it --

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NO. 395: -- and convicted.

18 THE COURT: And was that here in Clark County?

19 PROSPECTIVE JUROR NO. 395: Yes.

20 THE COURT: Okay. So when you say you weren't
21 involved you didn't go to court with him or anything like that?

22 PROSPECTIVE JUROR NO. 395: Nope. He contacted us
23 once he was in Clark County Detention for a seven month period.

24 THE COURT: Okay. Do you know if his case went to
25 trial or if it was negotiated, there was some kind of plea

1 negotiation?

2 PROSPECTIVE JUROR NO. 395: I don't know. I know
3 that the other individual paid restitution, and my son was
4 smart enough not to ask me to do the same.

5 THE COURT: All right. Have you formed any opinions
6 as to how your son was treated in the system?

7 PROSPECTIVE JUROR NO. 395: I can only assume it was
8 fair.

9 THE COURT: Okay. And what about the victim of a
10 crime, have you been a victim of a crime or has anyone close to
11 you been a victim of a crime?

12 PROSPECTIVE JUROR NO. 395: I have.

13 THE COURT: Tell me about that.

14 PROSPECTIVE JUROR NO. 395: My house was burglarized
15 25 years ago.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NO. 395: My truck was stolen in
18 2002 from in front of my house, and my wife's truck has been
19 attempted to be stolen three different times unsuccessfully.

20 THE COURT: With respect to any of those crimes has
21 anyone ever been apprehended?

22 PROSPECTIVE JUROR NO. 395: I believe that when they
23 stole my truck they did. I was just informed by the insurance
24 company and Metro that they found it, and they also found the
25 folks that took it.

1 THE COURT: Okay. But you never received a subpoena
2 to come to court and testify or anything like that?

3 PROSPECTIVE JUROR NO. 395: That's correct.

4 THE COURT: All right. And the residential burglary,
5 was that here in Clark County?

6 PROSPECTIVE JUROR NO. 395: Yes, it was.

7 THE COURT: Did -- I'm assuming you reported it to
8 law enforcement?

9 PROSPECTIVE JUROR NO. 395: Yes, and also our
10 neighbor at the time was a highway patrolman, and he was home.
11 So when my wife found it she went and told him, took the kids
12 over there so his wife could watch the kids while she dealt
13 with Metro. And then I also rode the bus back and forth to the
14 test site at the time --

15 THE COURT: Uh-huh.

16 PROSPECTIVE JUROR NO. 395: -- the Nevada test site,
17 and when there's a highway patrolman waiting for me when I got
18 off the bus I was a little concerned. But he just came to pick
19 me up and give me a ride.

20 THE COURT: Do you know what kind of investigation
21 the police did, dusting for prints or photos or --

22 PROSPECTIVE JUROR NO. 395: I honestly don't know. I
23 didn't get home until a couple hours after all that activity
24 had taken place.

25 THE COURT: Okay. You mentioned your neighbor's a

1 highway patrol --

2 PROSPECTIVE JUROR NO. 395: He was --

3 THE COURT: He was?

4 PROSPECTIVE JUROR NO. 395: -- this was many, many
5 years ago.

6 THE COURT: Are you -- were you close with him? Good
7 friends?

8 PROSPECTIVE JUROR NO. 395: At the time we were. I
9 understand that he's passed away with melanoma, so I haven't
10 seen him in many years.

11 THE COURT: Okay. Anybody else in your family or
12 close friend who has worked or currently works in law
13 enforcement?

14 PROSPECTIVE JUROR NO. 395: No.

15 THE COURT: Is there anything else we should know
16 about you based on our questions and discussions with the other
17 potential jurors?

18 PROSPECTIVE JUROR NO. 395: No.

19 THE COURT: You feel like you could be fair and
20 impartial if you're selected to serve?

21 PROSPECTIVE JUROR NO. 395: Yes.

22 THE COURT: All right. Ms. Luzaich.

23 MS. LUZAICH: Thank you. You hesitated a second when
24 she said is there anything else that we need to know.

25 PROSPECTIVE JUROR NO. 395: I usually think before I

1 speak.

2 MS. LUZAICH: Okay. Fair enough. You sound like a
3 pretty upfront, straightforward kind of guy. Are you the kind
4 of person who thinks everything is black and white, or do you
5 recognize any gray?

6 PROSPECTIVE JUROR NO. 395: I have to deal with a lot
7 of gray in my day-to-day work responsibilities, so I understand
8 there are different shades of gray also.

9 MS. LUZAICH: Okay. Would you consider yourself to
10 be a fair and open-minded person?

11 PROSPECTIVE JUROR NO. 395: I am.

12 MS. LUZAICH: Would you be a good juror?

13 PROSPECTIVE JUROR NO. 395: I can sit here and say I
14 hope to be.

15 MS. LUZAICH: Do you believe that you have the
16 qualities that it would take to be a good juror?

17 PROSPECTIVE JUROR NO. 395: Definitely.

18 MS. LUZAICH: Okay. Do you have any strong opinions
19 about drugs and people who use drugs?

20 PROSPECTIVE JUROR NO. 395: Based on experience with
21 again, my son, certain types of drugs have a certain lasting
22 effect. I dealt with him through some pretty rough times.
23 There were things that he did not think out; there were things
24 he didn't understand, and there were things that he didn't
25 remember. And I guess that's all I have to say about that.

1 MS. LUZAICH: Okay. Given your experience with your
2 son, can you listen to somebody who may tell you that they have
3 done drugs at some point and evaluate that person's testimony
4 objectively?

5 PROSPECTIVE JUROR NO. 395: I can.

6 MS. LUZAICH: You won't just look at that person and
7 say I can't believe anything you say simply because you've used
8 drugs?

9 PROSPECTIVE JUROR NO. 395: They're going to have to
10 prove it to me.

11 MS. LUZAICH: Prove what?

12 PROSPECTIVE JUROR NO. 395: They're going to have to
13 prove to me that I shouldn't listen to them anymore, and I can
14 pick up on that through my past experiences, if they say things
15 over and over again that I don't believe then I don't believe.
16 But if we never get to that point I'm still believing what they
17 tell me.

18 MS. LUZAICH: Okay.

19 PROSPECTIVE JUROR NO. 395: Does that make sense?

20 MS. LUZAICH: Yes. Yes. Do you think that different
21 drugs do different things to people?

22 PROSPECTIVE JUROR NO. 395: Absolutely.

23 MS. LUZAICH: So some are more hard core and do more
24 damage, some are less hard core, and in your mind do they do
25 less damage?

1 PROSPECTIVE JUROR NO. 395: Yes.

2 MS. LUZAICH: And therefore will there be a
3 difference in how you view an individual?

4 PROSPECTIVE JUROR NO. 395: No.

5 MS. LUZAICH: Drugs are drugs period?

6 PROSPECTIVE JUROR NO. 395: You just described what I
7 believe. Hard stuff, it affects you. If you haven't done the
8 hard stuff for a long time then it's probably not as bad.

9 MS. LUZAICH: Okay. Do you think that if somebody
10 does something foolish they are still entitled to the same
11 protection of the law that you and I are?

12 PROSPECTIVE JUROR NO. 395: Yes, they are.

13 MS. LUZAICH: So your son while he did what he did
14 when he did it, if a drunk driver came and hit him today and
15 incapacitated him, should that drunk driver still be prosecuted
16 to the full extent of the law?

17 PROSPECTIVE JUROR NO. 395: Yes.

18 MS. LUZAICH: The situation with your son when you
19 say he did the right thing and didn't ask me, had you and he
20 had conversations before, if you get in trouble don't come
21 knocking at my door?

22 PROSPECTIVE JUROR NO. 395: No.

23 MS. LUZAICH: What do you think caused him to not
24 contact you?

25 PROSPECTIVE JUROR NO. 395: He knew that dad wasn't

1 going to pony up 10,000 dollars to bail him out of something
2 that he did that was against the law.

3 MS. LUZAICH: Okay. Has that, whatever he did and
4 suffered, has he -- is he still suffering consequences of it?
5 I mean, is he able to get a job and be self-sufficient?

6 PROSPECTIVE JUROR NO. 395: He's doing very well
7 today.

8 MS. LUZAICH: Is he off drugs?

9 PROSPECTIVE JUROR NO. 395: Yes.

10 MS. LUZAICH: Okay. Do you watch CSI and any of
11 those shows?

12 PROSPECTIVE JUROR NO. 395: I watch them all, and I
13 love Bull.

14 MS. LUZAICH: Would you agree that those shows are
15 not reality?

16 PROSPECTIVE JUROR NO. 395: Yes, I agree.

17 MS. LUZAICH: Okay. So you're not expecting any of
18 those crazy things to happen here?

19 PROSPECTIVE JUROR NO. 395: No.

20 MS. LUZAICH: Not expecting anybody to come running
21 through the door and say, I solved it, I solved it. Nothing
22 like that?

23 PROSPECTIVE JUROR NO. 395: No.

24 MS. LUZAICH: Nothing I assume about you would
25 prevent you from being able to sit in judgment?

1 PROSPECTIVE JUROR NO. 395: Nothing.

2 MS. LUZAICH: If you were me representing the State
3 of Nevada knowing what you've heard thus far, would you want
4 you as a juror in this case?

5 PROSPECTIVE JUROR NO. 395: Yes.

6 MS. LUZAICH: And if you sit as a juror and if you
7 are convinced at the end of the trial beyond a reasonable doubt
8 that the defendant committed the crimes that he is charged
9 with, would you be able to say the word guilty?

10 PROSPECTIVE JUROR NO. 395: Yes.

11 MS. LUZAICH: Thank you. Pass for cause.

12 THE COURT: All right. Mr. Ericsson.

13 MR. ERICSSON: Thank you, Your Honor.

14 Good afternoon, sir.

15 PROSPECTIVE JUROR NO. 395: Good afternoon.

16 MR. ERICSSON: When your son had his issues with the
17 justice system, did you have any interaction with the attorney
18 who was helping him on the case?

19 PROSPECTIVE JUROR NO. 395: I did not.

20 MR. ERICSSON: Okay. It sounds like you've been in
21 this field for quite a while that you're working in; what type
22 of educational background do you have?

23 PROSPECTIVE JUROR NO. 395: I have an architectural
24 degree.

25 MR. ERICSSON: Okay. And have you personally been

1 involved prior to the current job you're with in law
2 enforcement of any kind?

3 PROSPECTIVE JUROR NO. 395: Negative.

4 MR. ERICSSON: Okay. What about military experience?

5 PROSPECTIVE JUROR NO. 395: Negative.

6 MR. ERICSSON: Okay.

7 PROSPECTIVE JUROR NO. 395: I've been doing this a
8 long time.

9 MR. ERICSSON: Doing your --

10 PROSPECTIVE JUROR NO. 395: My current job.

11 MR. ERICSSON: Okay. And it sounds fairly
12 complicated. The various types of security for the Department
13 of Energy, that's what your company provides; is that right?

14 PROSPECTIVE JUROR NO. 395: Yes. One of the things
15 that I've been asked to focus on the past ten years is weapons
16 security.

17 MR. ERICSSON: Okay. In your work, do you interact
18 with law enforcement personnel or officers related to your
19 work?

20 PROSPECTIVE JUROR NO. 395: I do.

21 MR. ERICSSON: In what capacities do you do that?

22 PROSPECTIVE JUROR NO. 395: I've had to work with
23 them to build what they call a shoot tower, you know, where
24 they do training. There's a number of folks I've dealt with
25 from the military as far as weapons security, you know, some

1 other things I really don't want to go into, but.

2 MR. ERICSSON: Okay. Have you dealt with officers
3 from the Las Vegas Metropolitan Police Department?

4 PROSPECTIVE JUROR NO. 395: No.

5 MR. ERICSSON: No. Okay. You've heard me ask lots
6 of questions about evaluating the testimony of police officers;
7 how would you personally go about doing that if you were called
8 to serve on this jury?

9 PROSPECTIVE JUROR NO. 395: Yeah, and I've thought
10 about this because one of the things that I in my job is
11 expected to have is a high level of integrity, high level of
12 honesty, fairness, because you also, as a project manager, we
13 have to deal with a lot of different things, sometimes
14 conflict, a lot of times resolution. I have those qualities --

15 MR. ERICSSON: Uh-huh.

16 PROSPECTIVE JUROR NO. 395: -- very proud of them,
17 and I believe I would be able to use them here.

18 MR. ERICSSON: Okay. Do you feel that you would be
19 able to evaluate the testimony of police officers like you
20 would any other type of person testifying in the case?

21 PROSPECTIVE JUROR NO. 395: You know, and I've heard
22 this before, I would think and I would expect that Metro would
23 have a little higher integrity than the normal common person
24 that walks the streets. So again, I would start out with that
25 in mind, and if there was some reason to lower that in my mind

1 from things that they say or, you know, things that have been
2 proven, then that would lower. But it's higher than normal in
3 my opinion.

4 MR. ERICSSON: Okay. And that's a fair, fair answer.
5 So is it accurate to say then, that a police officer would, in
6 your mind, start with a higher level of creditability than
7 somebody off of the street?

8 PROSPECTIVE JUROR NO. 395: Correct.

9 MR. ERICSSON: Okay. So if all things being equal
10 from two witnesses, if everything else that they said you
11 matched up and it seemed similar but one was a police officer
12 and one was not, you would believe the police officer over the
13 other witness?

14 PROSPECTIVE JUROR NO. 395: I would unless something
15 made me change my mind.

16 MR. ERICSSON: Okay. You've heard me ask about the
17 rights that we have in this country in the criminal justice
18 system as a defendant, are you comfortable with the right that
19 one has to not testify in a criminal trial if he decides not
20 to?

21 PROSPECTIVE JUROR NO. 395: As far as the law goes,
22 yes.

23 MR. ERICSSON: Okay. But, what about you? And I'm
24 not sure when you put as far as the law goes in front of it,
25 what about you personally, how do you feel about that?

1 PROSPECTIVE JUROR NO. 395: So I was raised that God
2 helps those that help themselves.

3 MR. ERICSSON: Okay. And what -- what does that mean
4 as far as the trial goes?

5 PROSPECTIVE JUROR NO. 395: Well, if I were a
6 defendant I would want to try and defend myself, but if he --
7 if he didn't really have a defense, sure, sit there and stay
8 quiet, help yourself.

9 MR. ERICSSON: Okay. So is it fair to say that in
10 your mind if somebody doesn't take the stand as a defendant
11 then --

12 PROSPECTIVE JUROR NO. 395: He has a reason.

13 MR. ERICSSON: Okay. But could that reason be that
14 the person is, in your mind, the person's not articulate and
15 does not feel comfortable in being subjected to
16 cross-examination from a trained lawyer?

17 PROSPECTIVE JUROR NO. 395: I can see that.

18 MR. ERICSSON: And can you see that an innocent
19 person who feels they're not articulate would still decide not
20 to take the stand even if they are innocent?

21 PROSPECTIVE JUROR NO. 395: And there's some folks
22 that don't want to go in front of a crowd and speak, I get that
23 too.

24 MR. ERICSSON: Okay. So getting back to the first
25 part of the question. As you sit here today, if Mr. Elam

1 decides not to take the stand, would you in your mind hold that
2 against him thinking that, well, he must have something to hide
3 if he's not testifying in this case?

4 PROSPECTIVE JUROR NO. 395: Not necessarily.

5 MR. ERICSSON: Okay. And the law provides that you
6 cannot hold that against a person for any reason. So when
7 you're saying not necessarily, I need to know what you're
8 meaning by that. Is there some limitation on that for you?

9 PROSPECTIVE JUROR NO. 395: I wouldn't automatically
10 think he's trying to hold something back. I would not be
11 automatically thinking anything negative. It's just that he
12 decided not to do it, okay.

13 MR. ERICSSON: Okay. So are you able to assure us
14 that if Mr. Elam were to decide not to testify that you would
15 not take that into any consideration against him at all?

16 PROSPECTIVE JUROR NO. 395: I would not hold that
17 against him.

18 MR. ERICSSON: Okay.

19 Your Honor, may we approach?

20 THE COURT: Sure.

21 (Conference at the bench not recorded.)

22 MR. ERICSSON: Your Honor, I have no further
23 questions.

24 THE COURT: All right. Thank you. I believe we're
25 on defendant's seventh; is that right?

1 THE CLERK: Correct.

2 MR. ERICSSON: Yes, Your Honor. Your Honor, the
3 defense would thank and excuse Juror 395, Mr. Doering.

4 THE COURT: Sir, thank you for being here. You are
5 excused at this time, and the bailiff will direct you from the
6 courtroom.

7 And if the court clerk would please call up the next
8 potential juror.

9 THE CLERK: Rosemarie Quiroga.

10 THE COURT: Good afternoon.

11 PROSPECTIVE JUROR NO. 396: Good afternoon, Your
12 Honor.

13 THE COURT: And I think we talked to you a few
14 minutes yesterday. You work at the Stratosphere?

15 PROSPECTIVE JUROR NO. 396: Yes. Yes, I do.

16 THE COURT: And you're a PBX operator?

17 PROSPECTIVE JUROR NO. 396: Yes, I am.

18 THE COURT: And your days off are Tuesday and
19 Wednesday?

20 PROSPECTIVE JUROR NO. 396: Yes.

21 THE COURT: All right. I did that without notes.
22 Can you believe it? And you mentioned that you were concerned
23 about missing work or?

24 PROSPECTIVE JUROR NO. 396: Oh, absolutely not.

25 THE COURT: Okay. All --

1 PROSPECTIVE JUROR NO. 396: Absolutely not.

2 THE COURT: Okay. I know some properties pay their
3 employees whether they're there or not there.

4 PROSPECTIVE JUROR NO. 396: No. I get no pay.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR NO. 396: But, I was just worried
7 about the two days off because without those days then I'm
8 going into the 12 day work week with no time off.

9 THE COURT: I see.

10 PROSPECTIVE JUROR NO. 396: So when you're off on
11 Saturday and Sunday I'm at work.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NO. 396: So.

14 THE COURT: And I get it, okay. But you're able in
15 terms of financially and everything --

16 PROSPECTIVE JUROR NO. 396: Oh, no, no --

17 THE COURT: -- two weeks' worth?

18 PROSPECTIVE JUROR NO. 396: -- that's, no.

19 THE COURT: Okay. Okay. And of course, if you did
20 serve as a juror and we finished up Monday you would have
21 Tuesday and Wednesday off.

22 PROSPECTIVE JUROR NO. 396: Exactly.

23 THE COURT: All right. Are you married, domestic
24 partner, significant other?

25 PROSPECTIVE JUROR NO. 396: Single.

1 THE COURT: And do you have any children?
2 PROSPECTIVE JUROR NO. 396: Two children.
3 THE COURT: Grown and --
4 PROSPECTIVE JUROR NO. 396: Grown, 41 and 38.
5 THE COURT: Okay.
6 PROSPECTIVE JUROR NO. 396: Grandmother of two.
7 THE COURT: Have you ever been a juror before?
8 PROSPECTIVE JUROR NO. 396: Yes.
9 THE COURT: Okay. Here -- just once?
10 PROSPECTIVE JUROR NO. 396: Three times I was called,
11 but I was never a juror in Clark County. But in California
12 about five times and I was juror three times.
13 THE COURT: Okay. So you actually sat through the
14 trial three times?
15 PROSPECTIVE JUROR NO. 396: Twice.
16 THE COURT: Okay.
17 PROSPECTIVE JUROR NO. 396: One time when we went to
18 lunch, when we came back was a plea bargain, so they dismissed
19 us.
20 THE COURT: All right. Now, the two times that you
21 actually deliberated, how long ago was your most recent jury
22 service?
23 PROSPECTIVE JUROR NO. 396: Maybe, 30 years ago.
24 Yeah.
25 THE COURT: Okay. Was that a civil case or a

1 criminal case?

2 PROSPECTIVE JUROR NO. 396: It was a civil.

3 THE COURT: And the one before that, was that --

4 PROSPECTIVE JUROR NO. 396: Was criminal.

5 THE COURT: Okay. Don't tell me what the verdicts
6 were, but did the jury reach a verdict in both cases?

7 PROSPECTIVE JUROR NO. 396: Yes.

8 THE COURT: And were you the ever -- I'm sorry, were
9 you ever the foreperson of the jury?

10 PROSPECTIVE JUROR NO. 396: No.

11 THE COURT: Okay. And have you or anyone close to
12 you ever been arrested, charged or accused of a crime or the
13 victim of a crime?

14 PROSPECTIVE JUROR NO. 396: Never.

15 THE COURT: Okay. You heard all the other questions
16 we've been asking over the past day and a half; did you hear
17 any of us ask another potential juror a question that you
18 thought oh, yeah, I'd have to raise my hand and answer that
19 question?

20 PROSPECTIVE JUROR NO. 396: No, not really.

21 THE COURT: Okay. Is there anything at all in your
22 background or family background that you think could impact
23 your ability to be a fair and impartial juror?

24 PROSPECTIVE JUROR NO. 396: Not at all.

25 THE COURT: Okay. Do you want to be a juror?

1 PROSPECTIVE JUROR NO. 396: Yes. Yes.

2 THE COURT: Okay. And tell me why.

3 PROSPECTIVE JUROR NO. 396: Well, I think it would be
4 interesting. I haven't done it in a while --

5 THE COURT: Okay.

6 PROSPECTIVE JUROR NO. 396: -- you know, and I want
7 to see the interactions between the two peers here, yes.

8 THE COURT: Meaning, Ms. Luzaich and Mr. Ericsson?

9 PROSPECTIVE JUROR NO. 396: And Eric, yes.

10 THE COURT: Okay. All right. Ms. Luzaich.

11 MS. LUZAICH: Thank you. The jury that you sat on in
12 California where it was a criminal trial, what were the nature
13 of the charges?

14 PROSPECTIVE JUROR NO. 396: I can't even remember.
15 It was, like, in the early '80s. The last one when I was on
16 trial was when the O.J. trial was. I was on a different trial.

17 MS. LUZAICH: Okay. You weren't on the O.J. trial
18 though?

19 PROSPECTIVE JUROR NO. 396: No, no. My company only
20 paid for 30 days. So I can only stay 30 days.

21 MS. LUZAICH: Okay.

22 PROSPECTIVE JUROR NO. 396: But it was in, like, the
23 early '80s and I don't really remember. I remember the second
24 one because that was, like, in the '90s, yeah.

25 MS. LUZAICH: Okay. Time flies, doesn't it?

1 PROSPECTIVE JUROR NO. 396: Yeah.

2 MS. LUZAICH: As a PBX operator, do you just kind of
3 sit in a room and dispatch people, or do you get to wander
4 around?

5 PROSPECTIVE JUROR NO. 396: No. I answer for all
6 four hotels that we own. And everything's done on the computer
7 and on a keyboard.

8 MS. LUZAICH: So what do you dispatch?

9 PROSPECTIVE JUROR NO. 396: Well, what we do is we
10 take in calls and route them to wherever they need to go,
11 whether it's reservations, housekeeping, room service, outside
12 valet, security --

13 MS. LUZAICH: Okay. So it's just phones, you're not,
14 like, dispatching security to a problem or something like that?

15 PROSPECTIVE JUROR NO. 396: We could. Sometimes we
16 get calls that somebody's trying to break into somebody's room,
17 pounding on the door, and we dispatch security, you know.

18 MS. LUZAICH: Okay. So you deal with some crazy
19 people and some sane people?

20 PROSPECTIVE JUROR NO. 396: Yes, of course. It's
21 Vegas.

22 MS. LUZAICH: And I know the Judge asked, for how
23 long have you been doing that?

24 PROSPECTIVE JUROR NO. 396: 20 years.

25 MS. LUZAICH: Okay. Do you have any opinions about

1 drugs and people who use drugs?

2 PROSPECTIVE JUROR NO. 396: No.

3 MS. LUZAICH: So in theory, if somebody comes in and
4 testifies and tells you that they had used drugs, can you still
5 listen to their testimony objectively?

6 PROSPECTIVE JUROR NO. 396: Absolutely.

7 MS. LUZAICH: Do you have any experience with anybody
8 who's used drugs?

9 PROSPECTIVE JUROR NO. 396: A childhood friend, who's
10 been using drugs for many years, got fired from her job in
11 California because of the drugs. And I thought she would learn
12 her lesson. So she moved here, and two years later I lost my
13 job because they relocated to Phoenix. So I ended up moving
14 here and I thought, well she's clean of the narrow now and
15 she's not. But she's a lifelong friend, and I see her maybe a
16 couple times a year and that's it.

17 MS. LUZAICH: Okay. So you're still friends?

18 PROSPECTIVE JUROR NO. 396: We're still friends,
19 yeah. What she does is her business. I don't have to get
20 involved in that.

21 MS. LUZAICH: Okay. Do you believe that people who
22 do foolish things can still or are still entitled to the same
23 protection under the law as you and I are?

24 PROSPECTIVE JUROR NO. 396: Oh, yes.

25 MS. LUZAICH: So if they commit a crime on Tuesday,

1 on Thursday they're hit by a drunk driver they can still come
2 into court and be a victim?

3 PROSPECTIVE JUROR NO. 396: Exactly.

4 MS. LUZAICH: Do you -- what -- would you consider
5 yourself to be a fair and open-minded person?

6 PROSPECTIVE JUROR NO. 396: Yes.

7 MS. LUZAICH: Is there anything that you know about
8 yourself that we need to know?

9 PROSPECTIVE JUROR NO. 396: No.

10 MS. LUZAICH: If you were me representing the State
11 of Nevada would you want you to sit on this jury?

12 PROSPECTIVE JUROR NO. 396: Yes.

13 MS. LUZAICH: Is there anything that would prevent
14 you from being able to sit in judgment?

15 PROSPECTIVE JUROR NO. 396: Not at all.

16 MS. LUZAICH: So if you listen to all the witnesses,
17 see the evidence, if you're convinced beyond a reasonable doubt
18 at the end of the trial that the defendant committed the crimes
19 that he's charged with, would you be able to say the word
20 guilty?

21 PROSPECTIVE JUROR NO. 396: Yes.

22 MS. LUZAICH: Thank you. Pass for cause.

23 THE COURT: All right. Mr. Ericsson.

24 MR. ERICSSON: Thank you, Your Honor.

25 Good afternoon.

1 PROSPECTIVE JUROR NO. 396: Good afternoon.

2 MR. ERICSSON: So I think you indicated that -- that
3 you would be comfortable serving as a juror on this case if you
4 were selected?

5 PROSPECTIVE JUROR NO. 396: Yes.

6 MR. ERICSSON: Okay. And you've been on three prior
7 juries, is that --

8 PROSPECTIVE JUROR NO. 396: Yeah, but that was, like,
9 decades ago.

10 MR. ERICSSON: Okay.

11 PROSPECTIVE JUROR NO. 396: And they didn't last very
12 long, maybe two days. It wasn't very long, yeah.

13 MR. ERICSSON: Okay. From the defense perspective,
14 anything about your background or experiences that you think we
15 should be aware of or be concerned about?

16 PROSPECTIVE JUROR NO. 396: No. Just I was married,
17 became a single mom, raised my children, went to work, my kids
18 graduated college, they have their own lives, they do very
19 well. I've been very blessed with good children and that's all
20 I can say.

21 MR. ERICSSON: Okay. You've heard the nature of the
22 charges, and they're obviously very serious charges; how do you
23 feel about sitting as a juror on a case with such serious
24 charges?

25 PROSPECTIVE JUROR NO. 396: Well, I've got to listen

1 to both sides of the story. So I can't make, you know, a
2 decision now unless I hear both sides.

3 MR. ERICSSON: Right. But do you feel that you'd be
4 fine to listen to very troubling allegations?

5 PROSPECTIVE JUROR NO. 396: Yes. Yes.

6 MR. ERICSSON: Okay. And it's been mentioned many
7 times, you talked about listening -- hearing both sides of the
8 story, you do understand that the State has the burden of proof
9 in the case --

10 PROSPECTIVE JUROR NO. 396: Proof, exactly.

11 MR. ERICSSON: -- correct?

12 PROSPECTIVE JUROR NO. 396: Yeah.

13 MR. ERICSSON: And are you comfortable with holding
14 the State to its burden of proof in this case?

15 PROSPECTIVE JUROR NO. 396: Well, yes.

16 MR. ERICSSON: And if as the defense if we didn't put
17 on any witnesses would you still hold the State to its burden?

18 PROSPECTIVE JUROR NO. 396: Well, aren't you going to
19 speak, or I mean, she's not going to do all the talking is she?
20 You're not going to say anything?

21 MR. ERICSSON: Well --

22 PROSPECTIVE JUROR NO. 396: Because I know if he's
23 not going to take the stand he might plead the fifth, and
24 that's fine with me --

25 MR. ERICSSON: Okay.

1 PROSPECTIVE JUROR NO. 396: -- you know.

2 MR. ERICSSON: Yeah, so what I'm -- and it's been
3 mentioned a number of times, the defense doesn't have to put on
4 any type of --

5 PROSPECTIVE JUROR NO. 396: Exactly.

6 MR. ERICSSON: -- case at all. After the State puts
7 on their witnesses the defense can say, we rest, Your Honor.
8 And we don't have to put on anything. Obviously, I will likely
9 be asking questions of the State's witnesses and things like
10 that so --

11 PROSPECTIVE JUROR NO. 396: Oh, okay. Okay.

12 MR. ERICSSON: -- you'll get to hear from me. But,
13 if the defense were to decide not to put on any separate
14 witnesses from what's been presented through the prosecution,
15 would you have any problem with that?

16 PROSPECTIVE JUROR NO. 396: No, because like you
17 said, you're going to cross-examine them.

18 MR. ERICSSON: Okay.

19 PROSPECTIVE JUROR NO. 396: So I'll take that into
20 consideration.

21 MR. ERICSSON: Okay. So are you comfortable with the
22 protections that we have in this country, in the defense -- or
23 for a criminal defendant?

24 PROSPECTIVE JUROR NO. 396: Yes.

25 MR. ERICSSON: You feel that they're fair?

1 PROSPECTIVE JUROR NO. 396: Yes.

2 MR. ERICSSON: And you had mentioned about somebody
3 taking the fifth and you're referring to the Fifth Amendment,
4 somebody deciding not to testify --

5 PROSPECTIVE JUROR NO. 396: Right I've heard, you
6 know, like, take the fifth.

7 MR. ERICSSON: Right. So --

8 PROSPECTIVE JUROR NO. 396: But I don't know if
9 that's like in your situation when they do that.

10 MR. ERICSSON: Okay. But do you believe there are
11 reasons why an innocent person who is charged with a crime
12 would decide not to take the stand in their case?

13 PROSPECTIVE JUROR NO. 396: No.

14 MR. ERICSSON: No, okay.

15 PROSPECTIVE JUROR NO. 396: Sometimes it's better to
16 keep quiet and say nothing --

17 MR. ERICSSON: Okay.

18 PROSPECTIVE JUROR NO. 396: -- than to volunteer
19 information that might get you in trouble.

20 MR. ERICSSON: Okay. And I want to make sure I
21 understand you -- your response to that. So do you believe
22 that someone who is innocent could decide because I'm not
23 articulate or whatever, it's not in my best interest to try to
24 tangle with a very experienced prosecutor?

25 PROSPECTIVE JUROR NO. 396: Exactly. Exactly.

1 MR. ERICSSON: Okay. I think the last question I
2 have is the general one of if you were on -- at the defense
3 table, would you be comfortable with you sitting as a juror on
4 this case?

5 PROSPECTIVE JUROR NO. 396: Yes. Yes.

6 MR. ERICSSON: Okay. Thank you very much.

7 PROSPECTIVE JUROR NO. 396: You're welcome.

8 MR. ERICSSON: Your Honor, we pass for cause.

9 THE COURT: All right. Thank you. I believe we're
10 on State's eighth.

11 MS. LUZAICH: State waives its eighth.

12 THE COURT: Defense's eighth.

13 MR. ERICSSON: If we may have a moment to consult
14 here. Your Honor, the defense would thank and excuse Juror
15 165, Mr. Sullivan.

16 THE COURT: Mr. Sullivan, thank you very much for
17 being here, sir, and your willingness to serve as a jury. You
18 are excused at this time.

19 And if the court clerk would please call up the next
20 prospective juror.

21 THE CLERK: Celeste Greene.

22 THE COURT: Is that the sound of enthusiasm?

23 PROSPECTIVE JUROR NO. 399: It's anxiety. So I'm
24 just trying to blow it off.

25 THE COURT: Okay. All right. Fair enough. Do you

1 -- are you anxious about having to speak in front of all these
2 people as --

3 PROSPECTIVE JUROR NO. 399: The whole situation. The
4 whole situation.

5 THE COURT: Okay. Anything -- all right. Well, let
6 me ask you this. When you say the whole situation, what do you
7 mean? Do you mean, being a juror and having to be asked --

8 PROSPECTIVE JUROR NO. 399: Being a juror. I have a
9 criminal record too. So I just don't like being in, you know,
10 in a courthouse just --

11 THE COURT: Okay. Fair enough. Let's --

12 PROSPECTIVE JUROR NO. 399: -- yeah, it's
13 uncomfortable for me.

14 THE COURT: Now, yesterday if you'll recall, I asked
15 whether or not people had felony convictions, and you didn't
16 raise your hand, so I'm assuming your criminal record does not
17 include a felony conviction?

18 PROSPECTIVE JUROR NO. 399: No, ma'am.

19 THE COURT: Okay. Tell me about, I guess, your
20 criminal background or what you've been arrested for or charged
21 with.

22 PROSPECTIVE JUROR NO. 399: As a juvenile or as an
23 adult, I was in trouble as a juvenile.

24 THE COURT: Okay. What kind of trouble?

25 PROSPECTIVE JUROR NO. 399: Arson.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NO. 399: And as an adult I got
3 arrested for assault causing bodily harm with intent to kill
4 with special circumstances.

5 THE COURT: Okay. Was that here in Clark County?

6 PROSPECTIVE JUROR NO. 399: No, it wasn't. It was in
7 the state of California.

8 THE COURT: How long ago did that happen?

9 PROSPECTIVE JUROR NO. 399: Like, seven years ago.

10 THE COURT: Okay. I'm going to -- and I'm assuming
11 that was a felony in California what you were arrested for?

12 PROSPECTIVE JUROR NO. 399: It wasn't.

13 THE COURT: It wasn't. Okay.

14 PROSPECTIVE JUROR NO. 399: It wasn't.

15 THE COURT: Okay. So you were arrested for a
16 misdemeanor assault?

17 PROSPECTIVE JUROR NO. 399: I guess you could say
18 that. I mean, I was away for a little bit, and it went to
19 trial and --

20 THE COURT: Okay. Well, when you were first
21 arrested, do you know if you were charged with a felony crime,
22 a gross misdemeanor crime or a misdemeanor crime?

23 PROSPECTIVE JUROR NO. 399: I don't remember that.

24 THE COURT: You don't remember?

25 PROSPECTIVE JUROR NO. 399: Yeah.

1 THE COURT: Okay. Did you have a lawyer represent
2 you?

3 PROSPECTIVE JUROR NO. 399: Yes. My grandma got a
4 lawyer and had him come out to California.

5 THE COURT: Okay. So your grandmother went about
6 locating a lawyer and paying the lawyer?

7 PROSPECTIVE JUROR NO. 399: Yeah.

8 THE COURT: Okay. And then you said you spent some
9 time in jail?

10 PROSPECTIVE JUROR NO. 399: Yes.

11 THE COURT: Did you -- your case, did it go to trial
12 or was there a plea negotiation or what happened?

13 PROSPECTIVE JUROR NO. 399: It went to trial.

14 THE COURT: Okay. Did it go to trial in front of a
15 jury, or did it go to trial in front of a Judge?

16 PROSPECTIVE JUROR NO. 399: There was a Judge there,
17 and there was a jury there as well.

18 THE COURT: There's usually a Judge if there is a
19 jury, but there is not always a jury when there's a Judge.

20 PROSPECTIVE JUROR NO. 399: There was a jury.

21 THE COURT: Okay. How many people were on the jury;
22 do you remember? Was it 12, 14, 6?

23 PROSPECTIVE JUROR NO. 399: Maybe 12, maybe 14. It
24 was more than 6 for sure.

25 THE COURT: Okay. And you were ultimately convicted

1 of something; do you remember what you were convicted of?

2 PROSPECTIVE JUROR NO. 399: It was actually dropped.
3 The victim never came in and testified. That's what would have
4 put me away, so.

5 THE COURT: Okay. And then the -- so how far
6 along -- you went through jury, you sat at counsel table while
7 they picked a jury like we've been doing; is that correct?

8 PROSPECTIVE JUROR NO. 399: Yes, ma'am.

9 THE COURT: Okay. And then did the lawyers make the
10 opening statements?

11 PROSPECTIVE JUROR NO. 399: Yes, ma'am.

12 THE COURT: Okay. And then what, the State went to
13 call the victim and nobody showed up; is that what happened?

14 PROSPECTIVE JUROR NO. 399: Yes, ma'am. We did
15 something kind of like this, and then, you know, we had to
16 wait, like, a week or whatever it was and come back so that the
17 victim had more than enough time to be contacted to come in and
18 testify, and he never did.

19 THE COURT: Okay. Okay. And so the case was
20 dismissed?

21 PROSPECTIVE JUROR NO. 399: Yes, ma'am.

22 THE COURT: But prior to trial you spent some time in
23 jail; is that what happened?

24 PROSPECTIVE JUROR NO. 399: Yes, ma'am.

25 THE COURT: Okay. And then the victim or purported

1 victim, was that a stranger, a family member, a friend, who was
2 it?

3 PROSPECTIVE JUROR NO. 399: It was somebody I knew.

4 THE COURT: Was it a romantic thing or a --

5 PROSPECTIVE JUROR NO. 399: No. I was having, like,
6 a get together at my house, and so there was a lot of drinking
7 going on --

8 THE COURT: Okay.

9 PROSPECTIVE JUROR NO. 399: -- and he proceeded to
10 get violent with somebody that was in my house. So I asked him
11 to leave, and it turned really bad really fast, so.

12 THE COURT: Was a weapon involved on your part, did
13 you use a weapon, allegedly?

14 PROSPECTIVE JUROR NO. 399: Yes.

15 THE COURT: All right. And allegedly, what kind of
16 weapon was it?

17 PROSPECTIVE JUROR NO. 399: Nunchucks.

18 THE COURT: Okay. Now, is there anything about you
19 going through that experience, having been accused of a crime,
20 sitting through at least part of a trial as a defendant that
21 would impact your ability to be a fair and impartial juror in
22 this particular case? And by fair and impartial, I mean,
23 obviously to both sides you have to be impartial.

24 PROSPECTIVE JUROR NO. 399: A little bit.

25 THE COURT: Okay. Tell --

1 PROSPECTIVE JUROR NO. 399: A little bit.

2 THE COURT: -- and tell me what you mean by that.

3 PROSPECTIVE JUROR NO. 399: I don't want to get into
4 it, like, too detailed but, you know, just my experience I had
5 and stuff I think I would just be a little bit more hesitant on
6 just everything I'm thinking about, because of my experience
7 and, you know, what I experienced when that situation occurred.

8 THE COURT: Okay. And that's fine to look at
9 everything critically and analyze it. There's nothing wrong or
10 unfair or not impartial about that. I mean, as you sit here
11 now do you feel like you favor one side above the others or
12 above the other, or do they both, kind of, start out on an even
13 playing field so to speak?

14 PROSPECTIVE JUROR NO. 399: It's about the same, I
15 guess.

16 THE COURT: Okay. All right. What do you do for a
17 living now?

18 PROSPECTIVE JUROR NO. 399: Right now I'm a stay-at-
19 home mom.

20 THE COURT: Okay. How many kids do you have?

21 PROSPECTIVE JUROR NO. 399: I have two. I have a
22 two-year-old little girl that's at the house, and then I have a
23 21-year-old son who is in Italy so he is no longer dependent.

24 THE COURT: And are you married, domestic partner,
25 significant other?

1 PROSPECTIVE JUROR NO. 399: Married.

2 THE COURT: What does your husband do?

3 PROSPECTIVE JUROR NO. 399: He is a welder for Las
4 Vegas Local 525.

5 THE COURT: Okay. And have you ever been a juror
6 before?

7 PROSPECTIVE JUROR NO. 399: No.

8 THE COURT: Back to the arson, was that a, like a
9 property damage arson, or was it like you were trying to hurt
10 somebody arson, or what was it insurance fraud arson; what was
11 that about?

12 PROSPECTIVE JUROR NO. 399: I was -- it was a
13 residential -- just being a kid. I was just bad, didn't really
14 have any rhyme or reason.

15 THE COURT: I mean, did you set fire to your own
16 house or to a neighbor's house or the mailbox, or what?

17 PROSPECTIVE JUROR NO. 399: It was a -- an empty
18 house.

19 THE COURT: Okay. So kind of like an --

20 PROSPECTIVE JUROR NO. 399: Like an abandoned house.

21 THE COURT: -- a vandalism type thing?

22 PROSPECTIVE JUROR NO. 399: Yes.

23 THE COURT: Okay. Did you have to spend any time in
24 juvenile detention?

25 PROSPECTIVE JUROR NO. 399: I did go to girls' school

1 for a little bit.

2 THE COURT: Okay. How long was that for?

3 PROSPECTIVE JUROR NO. 399: Maybe, like, three
4 months, four months.

5 THE COURT: Okay. And have you ever been a victim of
6 a crime?

7 PROSPECTIVE JUROR NO. 399: Nothing really to write
8 home about, you know. I mean, I owned a Jeep and when I lived
9 in the valley somebody had, like, stolen the doors off of my
10 Jeep. I've had a couple of people try to break into the car I
11 have now but, you know, nothing too serious.

12 THE COURT: Okay. What about somebody close to you,
13 has somebody close to you been the victim of a serious crime?

14 PROSPECTIVE JUROR NO. 399: Not the victim, no.

15 THE COURT: Okay. Anything else we should know about
16 you based on our questions and discussions with the other
17 prospective jurors?

18 PROSPECTIVE JUROR NO. 399: No.

19 THE COURT: Okay. Thank you.

20 Counsel, approach. Excuse me.

21 (Conference at the bench not recorded.)

22 THE COURT: Any further questions?

23 MS. LUZAICH: The State would ask the Court to thank
24 and excuse juror badge, well, Ms. Greene. Thank you, ma'am.

25 THE COURT: All right. Ms. Greene, thank you for

1 being here. Just hand the microphone to the lady next to you.

2 And if the court clerk would please call up another
3 -- the next prospective juror.

4 THE CLERK: Karen Bezrutczyk.

5 THE COURT: Good afternoon. What do you do for a
6 living?

7 PROSPECTIVE JUROR NO. 400: I'm retired. I was
8 automotive for Sears.

9 THE COURT: You need to hold that closer. You were
10 in the automotive department you said, at Sears?

11 PROSPECTIVE JUROR NO. 400: Yeah. 26 years.

12 THE COURT: Okay. And can you hold the microphone
13 closer to your mouth, because we can't hear you.

14 PROSPECTIVE JUROR NO. 400: Oh, okay.

15 THE COURT: You have a soft voice.

16 THE MARSHAL: I don't think it's on.

17 PROSPECTIVE JUROR NO. 400: Yeah, 'cause they tell me
18 I'm too loud.

19 THE MARSHAL: There's a little button if you just
20 push it up it says on.

21 THE COURT: They told me I had a deep voice today, so
22 what do -- what do you want with that.

23 PROSPECTIVE JUROR NO. 400: I just put my glasses
24 away, sorry.

25 THE MARSHAL: It's okay. There you go.

1 PROSPECTIVE JUROR NO. 400: Hello. That better?

2 THE COURT: That's better. So you're retired from
3 the Automotive Department at Sears?

4 PROSPECTIVE JUROR NO. 400: Right.

5 THE COURT: And are you married, domestic partner,
6 significant other?

7 PROSPECTIVE JUROR NO. 400: Divorced.

8 THE COURT: And what kind of work did your ex-husband
9 do?

10 PROSPECTIVE JUROR NO. 400: He -- when we lived in
11 New York he was a dye maker, out here he was security.

12 THE COURT: Okay. Did he ever work in law
13 enforcement?

14 PROSPECTIVE JUROR NO. 400: No, he did not. I have
15 two children; they are both Henderson Police Department.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NO. 400: My daughter is a 9-1-1
18 operator --

19 THE COURT: All right.

20 PROSPECTIVE JUROR NO. 400: -- and my son is a
21 detective in Henderson.

22 THE COURT: Okay. How long has he been with
23 Henderson police?

24 PROSPECTIVE JUROR NO. 400: I think since '08.

25 THE COURT: Okay.

1 PROSPECTIVE JUROR NO. 400: And my daughter will be
2 25 tomorrow, and she's been highway patrol for a year and then
3 transferred over to Henderson.

4 THE COURT: Okay. For dispatch?

5 PROSPECTIVE JUROR NO. 400: Yes.

6 THE COURT: And then your son, you said he's now a
7 detective.

8 PROSPECTIVE JUROR NO. 400: Yeah. He's called PSU,
9 property something.

10 THE COURT: Okay. Problem Solving Unit, is that it?

11 PROSPECTIVE JUROR NO. 400: That's it, yes.

12 THE COURT: Okay. Does he talk to you about his work
13 much?

14 PROSPECTIVE JUROR NO. 400: I want to say no, but we
15 eat dinners together and stuff so, yeah.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NO. 400: He doesn't go into the
18 gruesome details but --

19 THE COURT: Okay. And do you know what they do in
20 the Problem Solving, what kind of cases they work on in the
21 Problem Solving Unit?

22 PROSPECTIVE JUROR NO. 400: I know he does, like,
23 burglaries. He's been on drug forces and goes on warrants and
24 stuff like that.

25 THE COURT: Okay. Did he ever work undercover, you

1 know, buying drugs, selling drugs, anything like that?

2 PROSPECTIVE JUROR NO. 400: Yes.

3 THE COURT: Okay. But as far as you know he's not
4 doing that now or he might still be --

5 PROSPECTIVE JUROR NO. 400: No, that's what he does.

6 THE COURT: He does that now. Okay.

7 PROSPECTIVE JUROR NO. 400: Yeah, he just got into
8 that. He was doing every 15 minutes for, like, five years,
9 four years. In the high schools he would do that --

10 THE COURT: Okay. Okay.

11 PROSPECTIVE JUROR NO. 400: -- before that and then
12 before that he was on the streets, but now he's in that
13 detective thing.

14 THE COURT: Okay. Now, as you've heard you're going
15 to be hearing some testimony from police officers, not
16 Henderson police --

17 PROSPECTIVE JUROR NO. 400: Right.

18 THE COURT: -- Las Vegas Metro. Can you listen to
19 the testimony of a police officer and keep an open mind and
20 evaluate it just for credibility, inconsistency, things like
21 that, just like you would anybody else's testimony?

22 PROSPECTIVE JUROR NO. 400: See I'm friends with a
23 lot of Henderson. And also my niece's husband just finished
24 field training for Metro.

25 THE COURT: Okay.

1 PROSPECTIVE JUROR NO. 400: But to me you gotta think
2 the police and if not just that the -- you gotta think that
3 they're going to try and tell the truth better, but I also know
4 some of them that had stuff.

5 THE COURT: Okay. So do you -- can you listen
6 critically to testimony to see whether it's truthful or even
7 mistaken? I mean, you know, it's not just black and white,
8 lying or telling the truth. Sometimes people believe they're
9 telling the truth but they're mistaken; they didn't perceive
10 something correctly or they don't remember it correctly. Do
11 you think that's --

12 PROSPECTIVE JUROR NO. 400: Everybody's like --

13 THE COURT: -- right?

14 PROSPECTIVE JUROR NO. 400: Everybody's like that.

15 THE COURT: So do you think -- can you listen to the
16 testimony of a police officer and consider it like that to see,
17 you know, are they perceiving things accurately, are they
18 remembering things accurately, or do you feel like --

19 PROSPECTIVE JUROR NO. 400: I hope so.

20 THE COURT: -- they're a police officer, you know,
21 it's got to be true or it's got to be correct or?

22 PROSPECTIVE JUROR NO. 400: You hope so, but then
23 again you gotta think they got so many different cases, so many
24 different things they could mix up. I don't know how to say
25 that but.

1 THE COURT: Okay. They could be talking about one
2 case --

3 PROSPECTIVE JUROR NO. 400: And thinking --

4 THE COURT: -- and testifying in a different case --

5 PROSPECTIVE JUROR NO. 400: Right.

6 THE COURT: -- and talk about something that happened
7 in some other unrelated case.

8 PROSPECTIVE JUROR NO. 400: Uh-huh.

9 THE COURT: You accept that happens sometimes, or you
10 think that probably happens sometimes?

11 PROSPECTIVE JUROR NO. 400: Yeah.

12 THE COURT: Okay. Let me ask you this. You've heard
13 us talking about the fact that the State has the burden of
14 proving the defendant's guilt beyond a reasonable doubt; do you
15 have any problem or difficulty with that concept?

16 PROSPECTIVE JUROR NO. 400: She's got a tougher job
17 to do.

18 THE COURT: Okay. But, I mean, do you have any
19 problem holding the State to that burden, or do you feel like
20 you can't hold the State to that burden, or it's unfair in some
21 way?

22 PROSPECTIVE JUROR NO. 400: No, I --

23 THE COURT: Okay. You seem a little bit hesitant.

24 PROSPECTIVE JUROR NO. 400: I am. I get bad
25 headaches from the florescent lights.

1 THE COURT: Do you have a headache right now?

2 PROSPECTIVE JUROR NO. 400: Yeah, that's why I've
3 been rubbing my head for the last few days, 'cause it's from
4 the lights, so.

5 THE COURT: Okay. Do you feel like if you were
6 selected as a juror, I mean, the light -- these lights we
7 actually have the lights lower in here than a lot of the
8 departments, but it's not going to get much darker. Do you
9 feel like you would have -- have a headache pretty much every
10 day you came in here because of the situation with the lights?

11 PROSPECTIVE JUROR NO. 400: I asked him the other --
12 yesterday if anybody -- nobody sells aspirins in here. I
13 brought my own today --

14 THE COURT: Right.

15 PROSPECTIVE JUROR NO. 400: -- so yeah, I will be
16 having a headache (unintelligible).

17 THE COURT: Yeah. I don't know what kind of an
18 ethical violation it would be, but I'm sure if I sold you an
19 aspirin it would probably --

20 PROSPECTIVE JUROR NO. 400: No, I brought my own
21 today.

22 THE COURT: -- be something. But my question, and I
23 mean this seriously, do you feel like because of the situation
24 in the courtroom, the lights and what not, that you would have
25 a headache if you serve? Because, you know, A, we don't want

1 people to suffer, and B, we need people who are attentive and
2 can, you know, concentrate and listen to the evidence?

3 PROSPECTIVE JUROR NO. 400: I can. But I, like I'm
4 saying, it -- it's there and it's not letting me not know about
5 it.

6 THE COURT: Okay. Do you have a -- and you said you
7 brought aspirin today. Did you -- is that helping your
8 headache, or you have a headache even though you took the
9 aspirin?

10 PROSPECTIVE JUROR NO. 400: I just took some more
11 right after lunch and it's not doing anything.

12 THE COURT: Okay. Okay. Well, you tell me because I
13 don't know, you know, how your head is feeling.

14 PROSPECTIVE JUROR NO. 400: I don't know if I'm --
15 when I called my doctor he said wear sunglasses in there --

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NO. 400: -- but I didn't know if I
18 was allowed to.

19 THE COURT: Okay. And then did you have a headache
20 -- you said you had a headache yesterday?

21 PROSPECTIVE JUROR NO. 400: Yes. Yes. I went home
22 and went straight to bed and --

23 THE COURT: Okay. Is that something that you've had
24 in the past, headaches because of light and things --

25 PROSPECTIVE JUROR NO. 400: The florescent lights,

1 yes.

2 THE COURT: Okay. And that's something that -- do
3 you get medical treatment for your headaches or?

4 PROSPECTIVE JUROR NO. 400: No. I don't like taking
5 medicine.

6 THE COURT: Okay. All right.

7 PROSPECTIVE JUROR NO. 400: So.

8 THE COURT: Well, I mean, again, you know, I don't
9 know how you feel, but do you feel like that would be a problem
10 for you, headaches or do you --

11 PROSPECTIVE JUROR NO. 400: If I sat here for a week
12 or so, yeah. I'm just -- would not be good for me.

13 THE COURT: Okay. Counsel.

14 MR. ERICSSON: Want us to approach, or?

15 THE COURT: Yeah. You weren't getting my telepathic.

16 (Conference at the bench not recorded.)

17 THE COURT: Ma'am, we're going to go ahead and excuse
18 you from these proceedings. I'm sorry that you've been having
19 the headaches and everything --

20 PROSPECTIVE JUROR NO. 400: Yeah, I know I've been --

21 THE COURT: -- thank you for being here.

22 PROSPECTIVE JUROR NO. 400: Thank you.

23 THE COURT: All right. And if the court clerk would
24 please call up the next prospective juror.

25 THE CLERK: Lisa Alcindor.

1 THE COURT: Good afternoon.
2 PROSPECTIVE JUROR NO. 405: Good afternoon.
3 THE COURT: What do you do for a living?
4 PROSPECTIVE JUROR NO. 405: I'm retired.
5 THE COURT: From what type of work?
6 PROSPECTIVE JUROR NO. 405: Air Force.
7 THE COURT: And what did you do in the Air Force?
8 PROSPECTIVE JUROR NO. 405: I was a medic.
9 THE COURT: All right. And how many years did you
10 spend in the Air Force?
11 PROSPECTIVE JUROR NO. 405: 23 years, 2 months, and 5
12 days.
13 THE COURT: Not that you're counting. And what was
14 your rank when you discharged?
15 PROSPECTIVE JUROR NO. 405: I was a Master Sergeant
16 E7.
17 THE COURT: All right. And how -- were you a medic
18 the entire time or?
19 PROSPECTIVE JUROR NO. 405: The entire time.
20 THE COURT: Okay. Before you retired were you
21 stationed at Nellis?
22 PROSPECTIVE JUROR NO. 405: Yes.
23 THE COURT: Okay. And that's kind of how you wound
24 up living here in Las Vegas?
25 PROSPECTIVE JUROR NO. 405: Yes.

1 THE COURT: Are you married, domestic partner,
2 significant other?

3 PROSPECTIVE JUROR NO. 405: Married.

4 THE COURT: What does your husband do?

5 PROSPECTIVE JUROR NO. 405: He is a truck driver.

6 THE COURT: All right. And do you have any children?

7 PROSPECTIVE JUROR NO. 405: I have three.

8 THE COURT: Okay. The age range?

9 PROSPECTIVE JUROR NO. 405: I have a 20 year old; I
10 have an 8 year old and 6 year old.

11 THE COURT: Wow. And have you ever been a juror
12 before?

13 PROSPECTIVE JUROR NO. 405: Never.

14 THE COURT: Okay. Have you or anyone close to you
15 ever been arrested, charged or accused of a crime or the victim
16 of a crime?

17 PROSPECTIVE JUROR NO. 405: No.

18 THE COURT: Nothing like that ever?

19 PROSPECTIVE JUROR NO. 405: No.

20 THE COURT: Okay. You've heard all of the questions
21 and discussions with the other prospective jurors, I'm sure,
22 today and yesterday?

23 PROSPECTIVE JUROR NO. 405: Yes.

24 THE COURT: Did you hear any of us ask a question and
25 you thought, okay, I'd have to raise my hand and answer that

1 question?

2 PROSPECTIVE JUROR NO. 405: No.

3 THE COURT: Okay. Anybody you're close to in law
4 enforcement?

5 PROSPECTIVE JUROR NO. 405: Previous. Not now.

6 THE COURT: Okay. Was that a previous friend or --

7 PROSPECTIVE JUROR NO. 405: Well, my husband used to
8 work for High Desert and he worked for North Las Vegas -- he
9 used to work for North Las Vegas as well.

10 THE COURT: Okay. So your current husband, was he a
11 corrections officer at High Desert?

12 PROSPECTIVE JUROR NO. 405: Yes.

13 THE COURT: Okay. How long ago was that?

14 PROSPECTIVE JUROR NO. 405: Probably about six years
15 ago.

16 THE COURT: Okay. And then you said he worked for
17 North Las Vegas PD?

18 PROSPECTIVE JUROR NO. 405: He worked for the local
19 jail.

20 THE COURT: Oh, okay. All right. The City of North
21 Las Vegas.

22 PROSPECTIVE JUROR NO. 405: Yes. City of North Las
23 Vegas, yes.

24 THE COURT: Okay. And how long did he do that for?

25 PROSPECTIVE JUROR NO. 405: He did that for a year.

1 He worked for High Desert for three years.

2 THE COURT: Okay. So he spent about four years in
3 corrections --

4 PROSPECTIVE JUROR NO. 405: Yes.

5 THE COURT: -- and now he's a truck driver.

6 PROSPECTIVE JUROR NO. 405: Yes.

7 THE COURT: And do you still socialize with anybody
8 who was a corrections officer at the prison or jail, North Las
9 Vegas Police, or anything like that?

10 PROSPECTIVE JUROR NO. 405: Yes, he still does have
11 friends there.

12 THE COURT: Okay. Is it the kind of thing where you
13 all, you know, go to the barbecues together, or is it more just
14 he's friendly with them and --

15 PROSPECTIVE JUROR NO. 405: We have get-togethers.

16 THE COURT: Okay. Now, you've heard us talking about
17 the fact the State has the burden of proving the defendant's
18 guilt beyond a reasonable doubt; are you comfortable holding
19 the State to that burden?

20 PROSPECTIVE JUROR NO. 405: Yes.

21 THE COURT: And you've also heard us talking about
22 the fact that under our constitution this defendant is innocent
23 unless and until proven guilty beyond a reasonable doubt; are
24 you comfortable with that?

25 PROSPECTIVE JUROR NO. 405: Yes.

1 THE COURT: Okay. Now, if the State fails to prove
2 the defendant's guilt beyond a reasonable doubt, he's entitled
3 to a verdict of not guilty; do you understand that?

4 PROSPECTIVE JUROR NO. 405: Yes.

5 THE COURT: Okay. Would you have any problems
6 telling your friends who are in law enforcement, you know, I
7 sat on a criminal jury and the State didn't prove it and I
8 voted not guilty?

9 PROSPECTIVE JUROR NO. 405: No.

10 THE COURT: Okay. Is there any reason, anything at
11 all in your background or your family background that you think
12 can impact your ability to be a fair and impartial juror in
13 this case?

14 PROSPECTIVE JUROR NO. 405: No.

15 THE COURT: Excuse me. Are you the kind of person
16 who would make a good juror in your opinion?

17 PROSPECTIVE JUROR NO. 405: Yes.

18 THE COURT: And tell me why that is.

19 PROSPECTIVE JUROR NO. 405: Because I believe I'm a
20 fair person. I can listen to testimony and make a decision
21 based on the testimony given.

22 THE COURT: All right. State, you may follow up with
23 this prospective juror.

24 MS. LUZAICH: Thank you.

25 Good afternoon, Ms. Alcindor.

1 PROSPECTIVE JUROR NO. 405: Hi.
2 MS. LUZAICH: Thank you for your service.
3 Why did your husband leave corrections?
4 PROSPECTIVE JUROR NO. 405: He left High Desert
5 because it was better pay at the other place.
6 MS. LUZAICH: And then he left North Las Vegas --
7 PROSPECTIVE JUROR NO. 405: And he left North Las
8 Vegas when they had the layoffs.
9 MS. LUZAICH: Oh. Oh, okay.
10 PROSPECTIVE JUROR NO. 405: Yeah, he was part of
11 that.
12 MS. LUZAICH: Okay. So it wasn't like he was just
13 miserable doing that --
14 PROSPECTIVE JUROR NO. 405: No. No.
15 MS. LUZAICH: -- that he had to leave?
16 PROSPECTIVE JUROR NO. 405: No.
17 MS. LUZAICH: Okay. Do you have any strong opinions
18 about drugs or people who do drugs or use drugs?
19 PROSPECTIVE JUROR NO. 405: I don't have any strong
20 opinions I would say, but I would definitely say people who use
21 drugs I wonder why, and I wonder why they even get started.
22 MS. LUZAICH: Okay.
23 PROSPECTIVE JUROR NO. 405: I mean, you decide to use
24 drugs knowing what it could -- knowing what could happen and
25 knowing there's consequences 'cause it alters your mind.

1 MS. LUZAICH: Would you agree that there are
2 different kinds of drugs, different levels of drug use?

3 PROSPECTIVE JUROR NO. 405: Yes.

4 MS. LUZAICH: And if you hear from somebody who says
5 something along the lines of, I have used drugs in the past,
6 can you listen to that person and still evaluate their
7 testimony objectively?

8 PROSPECTIVE JUROR NO. 405: Absolutely.

9 MS. LUZAICH: You won't just listen to them saying
10 that and say I can't believe anything you say simply because
11 you told me you use drugs?

12 PROSPECTIVE JUROR NO. 405: No, not at all.

13 MS. LUZAICH: And if an individual does something
14 foolish in your opinion, are they still entitled to the same
15 protection under the laws you and I are?

16 PROSPECTIVE JUROR NO. 405: Yes, they are.

17 MS. LUZAICH: And you can still listen to what they
18 have to say?

19 PROSPECTIVE JUROR NO. 405: Yes, I can.

20 MS. LUZAICH: Is there anything about you that would
21 prevent you from being able to sit in judgment of somebody?

22 PROSPECTIVE JUROR NO. 405: No.

23 MS. LUZAICH: You can listen to all the evidence,
24 make a decision whether or not the State of Nevada proved its
25 case?

1 PROSPECTIVE JUROR NO. 405: Yes.

2 MS. LUZAICH: And if you were convinced beyond a
3 reasonable doubt that the defendant had committed the crimes
4 he's charged with, would you be able to say the word guilty?

5 PROSPECTIVE JUROR NO. 405: I would.

6 MS. LUZAICH: Thank you. Pass for cause.

7 THE COURT: All right. Mr. Ericsson.

8 MR. ERICSSON: Thank you, Your Honor.

9 We're coming to the end. You're towards the end of
10 this ordeal, all these questions. How would you feel if you
11 were selected to serve on this jury?

12 PROSPECTIVE JUROR NO. 405: I would be okay.

13 MR. ERICSSON: Okay. And with your kids, young kids
14 and being summer time, would they have some place that they
15 could go during the day if you were called to serve for a week
16 or so?

17 PROSPECTIVE JUROR NO. 405: Yes.

18 MR. ERICSSON: Okay. You've heard me ask lots of
19 questions from the defense perspective, would you be
20 comfortable with somebody with your background, military
21 experience, things of that nature, serving as a juror on this
22 type of a case?

23 PROSPECTIVE JUROR NO. 405: I would say that I would
24 be okay, I think.

25 MR. ERICSSON: Okay. Do you feel that you can be

1 equally fair to Mr. Elam as you will be towards the State?

2 PROSPECTIVE JUROR NO. 405: Yes.

3 MR. ERICSSON: Okay. Any concerns that you have with
4 the protections that we have under the constitution to not to
5 testify in a criminal case if we decide not to?

6 PROSPECTIVE JUROR NO. 405: Say that again.

7 MR. ERICSSON: Sure. We've discussed the right that
8 a person has in a criminal case not to testify if he or she
9 chooses not to do so; are you comfortable with that?

10 PROSPECTIVE JUROR NO. 405: Oh, yes. It's his right.

11 MR. ERICSSON: Okay. So if Mr. Elam were to decide
12 not to testify in this case, would you hold that against him in
13 any way?

14 PROSPECTIVE JUROR NO. 405: Not at all.

15 MR. ERICSSON: Okay. And lastly, you obviously have
16 some connection with correction officers and law enforcement
17 related officers, anything about that that you think would
18 affect your ability to be equally fair to both sides in this
19 case?

20 PROSPECTIVE JUROR NO. 405: No.

21 MR. ERICSSON: Okay. Thank you very much.

22 THE COURT: Pass for cause?

23 MR. ERICSSON: Pass for cause, Your Honor.

24 THE COURT: All right. Thank you. I believe we're
25 on defendant's ninth.

1 MR. ERICSSON: Your Honor, we're almost finished here
2 making this decision. Your Honor, we would waive our ninth.

3 THE COURT: All right. Ladies and gentleman, all of
4 the peremptory challenges having been either exercised or
5 waived, you are the 14 members of the jury.

6 So the rest of you please don't be too disappointed,
7 but thank you all very much for being here today and yesterday
8 through this process. I know it takes a long time, but
9 obviously, I'm sure you can all appreciate how important it is
10 for both sides in a case like this to make sure that they have
11 a completely fair and impartial jury. So for those of you
12 seated in the audience, you folks are all excused.

13 (Remainder of prospective jurors exited 3:30 p.m.)

14 THE COURT: All right. Ladies and gentleman of the
15 jury, as you know, the bailiff just passed out notepads which
16 you can utilize throughout the trial to take notes. He also
17 passed out blue badges that identify you as Department 21
18 jurors. It's important that you wear those badges throughout
19 this process when you're in and around the building. The
20 reason for that is so that people recognize that you are jurors
21 here in Department 21 and someone doesn't inadvertently start
22 talking about the case in your presence, someone who doesn't
23 realize you're jurors. So that's why you always have to wear
24 the badges when you come in, and when you leave, and when
25 you're here throughout the day.

1 In a few minutes we're going to take our afternoon
2 recess, and then I'll give you some introductory comments, and
3 the lawyers will have the opportunity to make their opening
4 statements. Before we take our brief afternoon recess, the
5 court clerk is going to administer the oath of service to the
6 jurors. So if you'd all please rise.

7 (Jury sworn.)

8 THE COURT: All right. Ladies and gentleman, is ten
9 minutes sufficient for everybody?

10 UNIDENTIFIED SPEAKER: Yes.

11 THE COURT: All right. We're going to go ahead and
12 take a break until 3:40. Before we take our break I must
13 remind you that you're not to discuss the case or anything
14 relating to the case with each other or anyone else. You're
15 not to read, watch or listen to any reports or commentaries
16 about the case, any person or subject matter relating to the
17 case. Don't do any independent research by way of the Internet
18 or any other medium, and please don't form or express an
19 opinion on the trial.

20 Please place your notepads in your chairs, and follow
21 the bailiff through the double doors. We'll see you back in 10
22 minutes.

23 (Jury exiting 3:30 p.m.)

24 MS. LUZAICH: Can that take any longer? Okay, the
25 door is closed.

1 THE COURT: Okay. So scheduling before we all take
2 our little break --

3 MS. LUZAICH: Just also the Information -- the
4 Indictment has an ex-felon possession. So we'll just need to
5 make sure not to read that --

6 THE COURT: Right --

7 MS. LUZAICH: -- part. I just --

8 THE COURT: -- after all of this ordeal.

9 MS. LUZAICH: Uh-huh.

10 THE CLERK: Holy crap.

11 MS. LUZAICH: Yes. The last count -- so just don't
12 read the last count.

13 THE COURT: And don't also read from the --

14 MS. LUZAICH: Oh, yeah.

15 THE COURT: -- where it lists the crimes, don't read
16 ex-felon possession.

17 MS. LUZAICH: Do you want me to close it out for you?

18 THE COURT: Yeah, why don't you double check.

19 THE CLERK: Yeah, that would be awesome.

20 THE COURT: Okay. Scheduling, I'm going to do the
21 introductory remarks and then you'll open.

22 And do you intend to do an opening statement?

23 MR. ERICSSON: Yes, Your Honor.

24 THE COURT: Now, do you have a witness?

25 MS. LUZAICH: I do.

1 THE COURT: Okay. So we'll just go till five then,
2 wherever that takes us.

3 MS. LUZAICH: Okay. I have here -- I have Debra Fox
4 who I want to come first. I have to get her on today because
5 child care issues. And then Arrie, the victim, is here. She's
6 in custody, should I just send her back?

7 THE COURT: I don't know that we'll get to her, I
8 mean, if we --

9 MS. LUZAICH: I don't, I mean, we may get to ten
10 minutes of her, and I don't know that I want to do ten minutes
11 with her.

12 THE COURT: That's fine. Yeah, if it's only ten
13 minutes --

14 MS. LUZAICH: So can I send her back and then --

15 THE COURT: Send her back and then our --

16 MS. LUZAICH: And this is why I want to start
17 tomorrow at 1:00 o'clock. She has court tomorrow morning --

18 THE COURT: Oh.

19 MS. LUZAICH: -- and just the logistics of --

20 THE COURT: What does she have?

21 MS. LUZAICH: Arraignment.

22 THE COURT: So shouldn't she be done by, like, 10:00
23 if it's just arraignment court?

24 THE MARSHAL: I can probably --

25 MS. LUZAICH: No, it's 10:00 o'clock court.

1 THE COURT: Huh?

2 MS. LUZAICH: It's master calendar arraignment court.

3 THE COURT: Oh, oh, I thought you meant, like,
4 justice court arraignments.

5 MS. LUZAICH: Oh, no, no, no. That's the calendar
6 (inaudible).

7 THE COURT: I thought -- so she has arraignment --

8 MS. LUZAICH: 10:00 o'clock.

9 THE COURT: Do they have to arraign her tomorrow, or
10 can't they kick that and just let her testify and arraign her
11 another day?

12 THE MARSHAL: What courtroom is she in, or --

13 THE COURT: I mean, I'd rather --

14 MS. LUZAICH: Master calendar.

15 THE MARSHAL: Is that down on the lower level?

16 MS. LUZAICH: Yeah.

17 THE COURT: Yeah.

18 THE MARSHAL: I can have them -- I can ask the
19 marshal to have that case called first, and then can you guys
20 grab her and get her out?

21 CORRECTION OFFICER: As long as her attorney's there.

22 MS. LUZAICH: And get her to court by 10:30?

23 THE MARSHAL: Usually we wait for attorneys.

24 UNIDENTIFIED SPEAKER: Is it PD or is it --

25 MS. LUZAICH: I don't know the answer, I mean, I have