

IN THE SUPREME COURT OF THE STATE OF NEVADA

TULY LEPOLO,

Appellant,

vs.

STATE OF NEVADA,

Respondent,

Supreme Court Case No. 85631
District Court Case No. C-20-345911-1
Electronically Filed
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Clerk of Supreme Court

**APPELLANT'S APPENDIX
Volume I**

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INDEX TO APPENDIX

Lepolo v. State, Case No. 85631

<u>Document</u>	<u>Page</u>
Amended Information filed August 22, 2022	55-56
Criminal Complaint filed October 6, 2016	1
Information filed January 8, 2020	2-4
Judgment of Conviction filed October 12, 2022	63-66
Minute Order filed May 4, 2021	51-54
Motion for Disclosure of Evidence filed April 1, 2021	5-41
Notice of Appeal filed November 3, 2022	67-69
Opposition to Motion for Disclosure of Evidence filed April 6, 2021	41-50
Second Amended Information filed August 23, 2022	57-58
Stipulation and Order filed August 25, 2022	61-62
Transcript of Jury Trial Day 1 filed February 8, 2023	70-238
Transcript of Jury Trial Day 2 filed February 8, 2023	239-407
Transcript of Jury Trial Day 3 filed February 8, 2023	408-627
Transcript of Jury Trial Day 4 filed February 8, 2023	628-827
Transcript of Jury Trial Day 5 filed February 8, 2023	828-962
Transcript of Jury Trial Day 6 filed February 8, 2023	963-1027
Transcript of Jury Trial Day 7 filed February 8, 2023	1028-1042
Transcript of Sentencing filed February 8, 2023	1023-1055
Verdict Form filed August 24, 2022	59-60

JUSTICE COURT LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

THE STATE OF NEVADA, 2019 AUG -5 A 11: 31

Plaintiff, JUSTICE COURT
LAS VEGAS, NEVADA

CASE NO: 19F15993A-B

-vs-

DEPT NO: 11

TULY LEPOLO #8471381,
HENRY TAYLOR #1884899,


GMH

Defendants.

CRIMINAL COMPLAINT

The Defendants above named having committed the crime of MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165 - NOC 50001), in the manner following, to wit: That the said Defendants, on or about the 3rd day of April, 2016, at and within the County of Clark, State of Nevada, did willfully, unlawfully, feloniously and with malice aforethought, kill RAQUEL STAPINSKI, a human being, with use of a deadly weapon, to wit: firearm, by shooting at and into the body of the said RAQUEL STAPINSKI, the said killing having been (1) willful and premeditated, and/or (2) pursuant to a challenge to fight by each Defendant whereby RAQUEL STAPINSKI was shot and killed in the cross-fire.

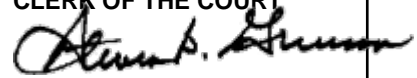
All of which is contrary to the form, force and effect of Statutes in such cases made and provided and against the peace and dignity of the State of Nevada. Said Complainant makes this declaration subject to the penalty of perjury.


08/05/19

19F15993A-B/lal
LVMPD EV# 160403003524
(TK11)

19F15993A
CRM
Criminal Complaint
11286988





INFM
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
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DISTRICT COURT
CLARK COUNTY, NEVADA

I.A. 1/21/20
9:00 AM
W. STORMS, SPD

THE STATE OF NEVADA,

Plaintiff,

CASE NO: C-20-345911-1

-vs-

DEPT NO: III

TULY LEPOLO,
#8471381

Defendant.

INFORMATION

STATE OF NEVADA)
COUNTY OF CLARK) ss.

STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That TULY LEPOLO, the Defendant(s) above named, having committed the crimes of MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165 - NOC 50001) and ASSAULT WITH A DEADLY WEAPON (Category B Felony - NRS 200.471 - NOC 50201), on or about the 3rd day of April, 2016, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

COUNT 1 - MURDER WITH USE OF A DEADLY WEAPON

did willfully, unlawfully, feloniously and with malice aforethought, kill RAQUEL STAPINSKI, a human being, with use of a deadly weapon, to wit: firearm, by shooting at and into the body of the said RAQUEL STAPINSKI, the said killing having been (1) willful and

premeditated, and/or (2) pursuant to a challenge to fight whereby RAQUEL STAPINSKI was shot and killed in the cross-fire.

COUNT 2 - ASSAULT WITH A DEADLY WEAPON

did willfully, unlawfully, feloniously and intentionally place another person in reasonable apprehension of immediate bodily harm and/or did willfully and unlawfully attempt to use physical force against another person, to wit: FLORA MARIE TAYLOR, with use of a deadly weapon, to wit: a firearm, by pointing said firearm at FLORA MARIE TAYLOR.

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

BY /s/MARC DIGIACOMO
MARC DIGIACOMO
Chief Deputy District Attorney
Nevada Bar #6955

Names of witnesses known to the District Attorney's Office at the time of filing this Information are as follows:

<u>NAME</u>	<u>ADDRESS</u>
ARMSTRONG JR., DWAYNE	6501 W. CHARLESTON BLVD., LVN
CUSTODIAN OF RECORDS	LVMPD DISPATCH RECORDS
CUSTODIAN OF RECORDS	CCDC
CUSTODIAN OF RECORDS	LVMPD RECORDS
FABERT, CRAIG	CCDA INVESTIGATOR
FORMAN, DANA	6501 W. CHARLESTON BLVD., LVN
FRANCO, COURTNEY	6501 W. CHARLESTON BLVD., LVN
HONAKER, JAMIE	CCDA INVESTIGATOR
LEON, RUTH	CCDA INVESTIGATOR
OLSON, DR. ALANE	CCME, 1704 PINTO LANE, LVN

1 SANBORN, T.

LVMPD P#5450

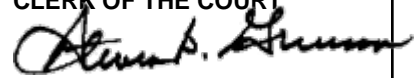
2 TAYLOR, FLORA

3070 S. NELLIS BLVD., LVN

3 WIFE OF HENRY TAYLOR

c/o JAMES GALLO, ESQ.

27 19F159993A/dd/MVU
28 LVMPD EV#160403003524
(TK11)



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Attorneys for Tutaumua Lepolo

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff

CASE NO. C-20-345911-1
DEPT. NO. 17

vs.

TUTAUUMUA LEPOLO, ID: 8471381
/AKA/TULY LEPOLO
Defendant.

MOTION FOR DISCLOSURE OF EVIDENCE

COMES NOW, the Defendant, TULY LEPOLO, by and through WILLIAM JEREMY STORMS, Chief Deputy Special Public Defender and hereby requests pursuant to Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194 (1963), the Due Process Clause to the Fourteenth Amendment to the United States Constitution and the Nevada Constitution Article 1 § 8, this Court order the State to produce any and all relevant evidence in its actual or constructive possession.

This Motion is made and based upon all the papers and pleadings on file herein, the attached Declaration of Counsel, and oral argument at the time set for hearing this Motion.

AA00005

NOTICE OF MOTION

TO: STATE OF NEVADA, Plaintiff; and

TO: STEVEN WOLFSON, District Attorney, Attorney for Plaintiff

YOU WILL PLEASE TAKE NOTICE that the undersigned will bring on the above and foregoing **MOTION** on for hearing on _____, at the hour of _____ a.m., or as soon thereafter as counsel may be heard.

FACTUAL ALLEGATIONS

This case arose out of Dana Foreman's son, Dwyane Armstrong, wanting to fight Mr. Lepolo's son, Tut Lepolo. Dana Forman said her son wanted to fight Tut because "[t]he mother and the son jumped me." During the fight initiated by Dwayne Armstrong, his uncle, T-Loc, a.k.a, Henry Taylor, discharged a firearm. The two groups dispersed. At some time after this first shot, more shots were fired. The decedent, Stapinski, was in the crossfire and was shot by .40 caliber bullets. No one would suggest that Ms. Stapinski, herself, had shot at the Samoan party but the evidence shows she was armed with a hammer, apparently prepared to engage in physical conflict. The State's forensic analysis of the scene concluded that the .40 caliber bullets came from the direction of the Samoan family. Multiple shell casings, live bullets and a disassembled extended magazine for a 9 mm handgun were found on the doorstep of the Dana Foreman residence. A .357 magnum was hidden in a charcoal bag in the backyard.

Neither family involved in the conflict gave information to the police that allowed them to identify who shot guns that day. One witness gave an account suggesting that a member of the Samoan family shot at members of the African American family after a pause in the conflict between the parties. A witness reported a person getting a gun from

1 an SUV found on scene with California plates. The State associates Tutaumua with that
2 SUV. DNA found on the SUV in question as well the DNA of a trail of blood leaving the
3 area of the incident allegedly matched “Tuly Lepolo,” a name associated by the State with
4 Mr. Lepolo.

5 After the State charged Henry “T-Loc” Taylor for the shooting that occurred, his
6 sister, Dana Foreman, the person this conflict centered around, identified Tutaumua as
7 the person from the Samoan family who shot that day. Additionally, it is the defense’s
8 understanding that Henry Taylor’s wife has also changed her story and identified
9 Tutaumua as the shooter. Henry Taylor himself did not identify Tutaumua as the
10 shooter.
11 shooter.

12 ARGUMENT

13 **I. FAILURE BY THE STATE TO PROVIDE DISCOVERY IS A VIOLATION** 14 **OF THE DUE PROCESS CLAUSE UNDER THE U.S. CONSTITUTION AND** 15 **THE NEVADA CONSTITUTION**

16 The State must provide to the defense all exculpatory evidence in its actual or
17 constructive possession prior to trial. Failure to do so results in a violation of the Due
18 Process Clauses of the Fifth and Fourteenth Amendments of the United States
19 Constitution. Brady v. Maryland, 373 U.S. 83 (1963); Kyles v. Whitley, 514 U.S. 419,
20 (1995). The rule applies regardless of how the State has chosen to structure its overall
21 discovery process. Strickler v. Greene, 527 U.S. 263, (1999).
22

23 Hereinafter this type of exculpatory evidence will be referred to as “Brady
24 material.” Brady material is evidence which is (1) material, (2) favorable to the accused,
25 (3) relevant to guilt or punishment, and (4) within the actual or constructive possession
26 of anyone acting on behalf of the state. Brady, supra.
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1 Article 1, Section 8 of the Nevada Constitution also guarantees every defendant a
2 right to due process. “It is a violation of due process for the prosecutor to withhold
3 exculpatory evidence, and his motive for doing so is immaterial....The prosecutor
4 represents the state and has a duty to see that justice is done in criminal prosecution.”
5 Jimenez v. State, 112 Nev. 610, 618 (1996).

6
7 **II. THE STATE MUST TURN OVER ALL EVIDENCE FAVORABLE TO THE**
8 **DEFENDANT AND MATERIAL TO THE CASE.**

9 The purpose of Brady is to ensure that criminal trials are fair. Brady, 373 U.S. at
10 87. To ensure “that a miscarriage of justice does not occur,” United States v. Bagley, 473
11 U.S. 667, 675 (1985). That the burden is on the prosecutors to disclose favorable and
12 material information, “illustrate[s] the special role played by the American prosecutor in
13 the search for truth in criminal trials.” Strickler v. Greene, 527 U.S. 263, 281 (1999). The
14 prosecution is entrusted with the responsibility to turn over favorable and material
15 evidence because its motive “is not that it shall win a case, but that justice shall be done.”
16 Id. (quoting Berger v. United States, 295 U.S. 78, 88 (1935)).

17
18 The prosecution’s duty to divulge relevant information is a “broad duty of
19 disclosure.” Strickler, 527 U.S. at 281; cf. United States v. Agurs, 427 U.S. 97, 108 (1976)
20 (finding that “the prudent prosecutor will resolve doubtful questions in favor of
21 disclosure”). Although the prosecution is not required to “deliver his entire file to defense
22 counsel,” it is required to turn over evidence that is both favorable to the defendant and
23 material to the case. Bagley, 473 U.S. at 675. Prosecutors are required to divulge this
24 information even “when the defendant does not make a Brady request.” Id. at 680-82.

25
26
27 Favorable evidence, under Federal precedent, clearly includes both exculpatory
28 information and impeachment information. In Giglio, the government’s case rested

1 entirely on the testimony of one witness, yet the defense was not informed that the
2 witness testified in exchange for a promise not to be prosecuted. The Supreme Court held
3 that the prosecution was required to divulge this information because “evidence of any
4 understanding or agreement as to a future prosecution would be relevant to [the
5 witness’s] credibility and the jury was entitled to know of it,” accordingly, the conviction
6 was reversed. Giglio v. United States, 405 U.S. 150, 154 (1972). Even the existence of a
7 non-binding promise of leniency by the prosecution must be disclosed as it shows that the
8 witness attempted to obtain a deal before testifying and the jury “might well have
9 concluded that [the witness] had fabricated testimony in order to curry the prosecutor’s
10 favor.” Wearry v. Cain, 577 U.S. ____ (2016) (quoting Napue v. Illinois, 360 U.S. 264, 270
11 (1959). The Supreme Court has further made clear that the prosecution must disclose all
12 impeachment evidence, not just evidence relating to cooperation agreements. Youngblood
13 v. West Virginia, 547 U.S. 867 (U.S. 2006); United States v. Bagley, 473 U.S. 667, 676
14 (1985).

15
16
17
18 The Nevada Supreme Court has spoken directly to what is considered “favorable
19 to the accused” and therefore proper Brady material. In Mazzan v. Warden, 116 Nev. 48,
20 67 (2000) the court stated:

21 Due process does not require simply the disclosure of “exculpatory”
22 evidence. Evidence also must be disclosed if it provides grounds for the
23 defense to attack the reliability, thoroughness, and good faith of the police
24 investigation, to impeach the credibility of the state’s witnesses, or to
25 bolster the defense case against prosecutorial attacks. Furthermore,
26 “discovery in a criminal case is not limited to investigative leads or reports
that are admissible in evidence.” Evidence “need not have been
independently admissible to have been material.” (citations omitted)

27 Therefore, Brady material is defined broadly. It includes, but not be limited to, the
28 following examples: forensic testing which was ordered, but not done, or which was

1 completed but did not inculcate the defendant; any medical or psychological treatment of
2 any victim or witness; criminal records or other evidence concerning State's witnesses
3 which might show their bias, motive to lie, or otherwise impeach their credibility;
4 evidence that the alleged victim has been the alleged victim of other crimes; investigative
5 leads or investigation which was not followed-up on or completed by law enforcement;
6 any information relating to the credibility of any witness including law enforcement
7 officers or other agents of the state and, of course, anything which is inconsistent with
8 any prior or present statements of a State's witness, including the failure to previously
9 make a statement which is later made or testified to. Of course, traditionally exculpatory
10 evidence such as that which would show that someone else committed the charged crime
11 or that no crime occurred would also be included as Brady material. This is not meant to
12 be an exclusive list; it is merely a few examples.

15 Brady material applies not only to evidence that might affect the defendant's guilt,
16 but also includes evidence which could serve to mitigate a defendant's sentence upon
17 conviction. Jimenez v. State, 112 Nev. 610 (1996). An example of this kind of evidence
18 might be where the victim of a robbery who identified the defendant as one of two people
19 who robbed him, also indicated that he tried to keep the co-defendant from injuring him.
20 Although the identification would actually go to establishing the defendant's guilt, it
21 would also be Brady material because it might serve to mitigate the defendant's sentence
22 because of his effort to aid the victim.

25 Other examples of this kind of evidence could be the evidence of a diminished
26 mental state, even if not rising to a legal defense, evidence that the defendant has mental
27 health issues, evidence that the defendant was using drugs or alcohol at the time of the
28

1 offense, evidence that the defendant was under some kind of duress or mistaken belief,
2 evidence that the defendant tried to turn himself in, evidence that the defendant tried to
3 seek help, evidence that the defendant was remorseful, evidence that the defendant was
4 cooperative with law enforcement, and any similar type of evidence. Essentially, anything
5 which could convince the court to impose something less than a maximum sentence, or
6 rebut alleged aggravating circumstances would be relevant to punishment, and must be
7 provided to the defense pursuant to Brady.

9 When the defense makes a specific request for Brady material and the State does
10 not provide such material, the Nevada Supreme Court has held that there are grounds
11 for reversal of a conviction “if there exists a reasonable possibility that the claimed
12 evidence would have affected the judgment of the trier of fact.” Roberts v. State, 110 Nev.
13 1121 (1994). *See, also*, Jimenez v. State, *supra*; State v. Bennett, 119 Nev. 589 (2003).
14 The Nevada Supreme Court has defined “material evidence” as evidence that is logically
15 connected with the facts of consequences or the issues in the case. Wyman v. State, 217
16 P.3d 572, 583 (Nev. 2009).

19 It should be noted that the only significant difference between a “general” and a
20 specific” request for Brady material is the proper standard of appellate review for failure
21 to disclose the information. Even if a specific request has not been made, reversal is
22 warranted, “if there exists a reasonable probability that, had the evidence been disclosed,
23 the result of the proceeding would have been different.” United States v. Bagley, 473 U.S.
24 at 667, 682, 685 (1985); Pennsylvania v. Ritchie, 480 U.S. 39, 57 (1986). A ‘reasonable
25 probability’ is a probability sufficient to undermine confidence in the outcome. Bagley,
26 473 U.S. at 678, 685; Ritchie, 480 U.S. at 57.” Roberts, *supra*, at 1129.
27
28

1 The fact that a general request, rather than a specific request, was made does not
2 relieve the State of its absolute obligation to turn over favorable evidence to the defense
3 prior to trial. Absent a specific request for Brady material, anything that might have
4 created a *probability* that the confidence of the verdict was undermined is considered
5 material and can serve as a basis for reversing the case. See Bagley. Where a specific
6 request is made, however, anything that creates a reasonable *possibility* that the evidence
7 might have affected the fact-finder's judgment is material and could lead to a reversal
8 upon appeal See Roberts.

10 Simply stated, there is no legal authority to support the position that the State's
11 obligation to turn over favorable evidence to an accused is in any way dependent on the
12 specificity of the pretrial request. Indeed, the State remains obligated to provide favorable
13 evidence even in the case where a defendant makes no pretrial request at all. However,
14 where, as here, a specific request for certain evidence is made, in Nevada the evidence is
15 considered "material" at the appellate level if there is a reasonable possibility that it could
16 affect the fact finder's judgment.

19 **III. THE STATE IS RESPONSIBLE FOR ALL MATERIAL EITHER IN ITS**
20 **POSSESSION OR CONSTRUCTIVE POSSESSION AND HAS AN**
21 **AFFIRMATIVE DUTY TO OBTAIN SUCH REQUIRED MATERIAL**

22 "It is a violation of due process for the prosecutor to withhold exculpatory evidence,
23 and his motive for doing so is immaterial." Jimenez, supra at 618. A prosecutor is not
24 only responsible for turning over Brady materials in his possession, but it equally
25 responsible for Brady material in the possession of any other government agents. Id. at
26 620. See also State v. Bennett, 119 Nev. 589, 603 (2003) (Finding a Brady violation when
27 exculpatory information was in the constructive possession of the Clark County District
28

1 Attorney's office and LVMPD obtained said information Utah police). This constructive
2 knowledge that is imputed to the prosecutor applies even if the evidence is being withheld
3 by other agencies. "Even if the detectives withheld their reports without the prosecutor's
4 knowledge, 'the state attorney is *charged with constructive knowledge and possession of*
5 *evidence withheld by other state agents*, such as law enforcement officers.'" Jimenez.
6 (citation omitted) (emphasis added). "Exculpatory evidence cannot be kept out of the
7 hands of the defense just because the prosecutor does not have it, where an investigative
8 agency does." United States v. Zuno-Arce, 44 F.3d 1420, 1427 (9th Cir. 1995). The
9 Defendant would submit that other state agents such as probation and parole officers,
10 Child Protective Service workers and their agents, jail personnel, and similar agents of
11 the State are also included in those from whom the prosecution must seek out Brady
12 material.
13
14

15 In Kyles, *supra*, the United States Supreme Court made it clear that the prosecutor
16 has an *affirmative obligation* to obtain Brady material and provide it to the defense, *even*
17 *if the prosecutor is initially unaware of its existence*. In so finding, the Supreme Court
18 noted that "[t]he prosecution's affirmative duty to disclose evidence favorable to a
19 defendant can trace its origins to early 20th century strictures against misrepresentation
20 and is of course most prominently associated with this Court's decision in Brady v.
21 Maryland. . ." Id. 514 U.S. at 432. The Kyles Court also made it clear that this obligation
22 exists even where the defense does not make a request for such evidence. Id. The Kyles
23 Court additionally made the following observations when finding the State had breached
24 its duty to the defendant and discussing the prosecutor's obligations:
25
26

27 This in turn means that the *individual prosecutor has a duty to learn of*
28 *any favorable evidence known to the others acting on the government's*

1 *behalf in the case, including the police.* But whether the prosecutor succeeds
2 or fails in meeting this obligation (whether, that is, a failure to disclose is
3 in good faith or bad faith), the prosecution's responsibility for failing to
4 disclose known, favorable evidence rising to a material level of importance
5 is inescapable...Since then, the prosecutor has the means to discharge the
6 government's Brady responsibility if he will, any argument for excusing a
7 prosecutor from disclosing what he does not happen to know about boils
8 down to a plea to substitute the police for the prosecutor, and even for the
9 courts themselves, as the final arbiter's of the government's obligation to
10 ensure fair trials.

11 Kyles, supra, 514 U.S. at 437,438 (emphasis added)(citations and footnotes
12 omitted).

13 When presented with Brady requests, on occasion, prosecutors respond saying they are
14 not obligated to go on "fishing expeditions" for the defense, or, alternatively, they do not
15 have to obtain information which the defense with due diligence could find on their own.
16 Often Steese is quoted to support the notion that, "Brady does not require the State to
17 disclose evidence which is available from other sources, including diligent investigation
18 by the defense." Steese v. State, 114 Nev. 479 (1998) (Citing Stockton v. Murray, 41 F.3d
19 920, 927 (4th Cir. 1994); and United States v. Davis, 787 F.2d 1501 (11th Cir. 1986); see
20 also State v. Huebler, 275 P.3d 91, 100 (2012) (footnote 11).

21 It should be noted, if the prosecution invokes the "diligent investigation" language
22 from Steese that the United States Supreme Court has never limited the Brady obligation
23 imposed on the State by requiring a showing of due diligence by defense. See Amado v.
24 Gonzalez, 758 F.3d 1119, 1137 (9th Cir. 2014). The language in Steese adopted by our
25 Supreme Court has been specifically disavowed in the 9th Circuit and never invoked by
26 the United States Supreme Court, the ultimate arbiter of limitations on Brady. See
27 Amado. Given the serious nature of the charges in this case, the requirements of Brady
28

1 as announced by the Supreme Court of the United States should be followed by the
2 prosecution.

3 Further, the Nevada Rules of Professional Conduct specifically call for the
4 prosecution to disclose Brady-type material:

5 **Rule 3.8. Special Responsibilities of a Prosecutor.** The prosecutor in
6 a criminal case shall:

7 [. . .]

8 (d) Make timely disclosure to the defense of all evidence or information
9 known to the prosecutor that tends to negate the guilt of the accused or
10 mitigates the offense, and, in connection with sentencing, disclose to the
11 defense and to the tribunal all unprivileged mitigating information known
12 to the prosecutor, except when the prosecutor is relieved of this
responsibility by a protective order of the tribunal;

13 In summary, both controlling Federal case law and the dictates of the profession require
14 the prosecutor to seek out and disclose Brady material.

15 **IV. THE CLARK COUNTY DISTRICT ATTORNEY'S "DISCOVERY**
16 **PRACTICE" SET FORTH IN THE MEMORANDUM DATED APRIL 13,**
17 **2016, DOES NOT SATISFY THE STATE'S DUTY TO THE DEFENDANT TO**
OBTAIN AND PROVIDE EXCULPATORY MATERIAL.

18 In 2016, the Clark County District Attorney's office issued a memorandum setting
19 forth the office's discovery practice. See Memorandum from Steven B. Wolfson, Clark
20 County District Attorney, to the Eighth judicial District Court, et al., Regarding Clark
21 County District Attorney Discovery Practice (April 13, 2016) (attached as Exhibit A)
22 (herein referred to as, "memorandum"). Although the memorandum requires district
23 attorneys to know and comply with Brady, Giglio and their progeny, the District
24 Attorney's discovery practice now explicitly disavows an "open-file" policy. Mr. Wolfson
25 reasons that there should be no "open-file" policy "as that phrase has been interpreted by
26 courts to relieve defense counsel of its obligation to exercise due diligence in discovering
27
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1 impeachment and exculpatory evidence.” Id. at 3. Despite requiring deputy district
2 attorneys to be familiar with Brady and Giglio, the memorandum goes on to emphasize
3 that what, if any, “case file review” now permitted upon the defendant’s request “shall
4 not be construed as a representation that the deputy district attorney is in possession of
5 all material in possession of law enforcement.” Id. This position, of course, runs contrary
6 to Brady and its progeny. Bagley requires the state to produce Brady material without a
7 request from the defendant, despite the district attorney’s stated “discovery practice”
8 which appears conditioned on the defense attorney’s request to review the file. United
9 States v. Bagley, 473 U.S. 667, 682, 105 S. Ct. 3375, 3383 (1985). Although Kyles v.
10 Whitley, requires the state to produce Brady in the possession of all state agencies
11 connected with the prosecution, the memorandum disavows that the prosecutor will have
12 such material at the time of the requested Brady file review. Kyles v. Whitley, 115 S.Ct.
13 1555, 1568 (1995). Inasmuch as the District Attorney’s policy continues to be that it
14 complies with Brady and its progeny, it is unclear when exactly the State expects that
15 the defendant’s “due diligence” is supposed to trump the prosecutor’s Brady obligations.
16 As the United States Supreme Court has observed when prosecutors took a similar
17 position in a case it reversed for Brady violations:

21 Our decisions lend no support to the notion that defendants must scavenge
22 for hints of undisclosed Brady material when the prosecution represents
23 that all such material has been disclosed. As we observed in Strickler,
24 defense counsel has no "procedural obligation to assert constitutional error
25 on the basis of mere suspicion that some prosecutorial misstep may have
26 occurred." Strickler v. Greene, 527 U.S. 263 at 286-287, 144 L. Ed. 2d 286,
27 119 S. Ct. 1936. The "cause" inquiry, we have also observed, turns on
events or circumstances "external to the defense." Amadeo v. Zant, 486 U.S.
214, 222, 100 L. Ed. 2d 249, 108 S. Ct. 1771 (1988) (quoting Murray v.
Carrier, 477 U.S. 478, 488, 91 L. Ed. 2d 397, 106 S. Ct. 2639 (1986)).

28 Banks v. Dretke, 540 U.S. 668, 695-96, 124 S. Ct. 1256, 1275 (2004)

1 In other words, if the defense has a good reason to believe that prosecutors are required
2 to turn over a particular piece of information, the defense is not required to hunt down
3 that information on its own. See Amando v. Gonzalez, No. 11-56420 at 27 (9th Cir. 2013).

4
5 The Nevada Supreme Court agrees: “[i]t is a violation of due process for the
6 prosecutor to withhold exculpatory evidence, and his motive for doing so is immaterial.”
7 Jimenez, supra, at 618. Furthermore, even if the evidence is being held by an out-of-
8 jurisdiction agent that is cooperating with local law enforcement, the prosecutor is
9 deemed to have constructive knowledge. The Court noted in State v. Bennett, 119 Nev.
10 589 (2003), where a Utah police detective was aware of the evidence, “We conclude that
11 it is appropriate to charge the State with constructive knowledge of the evidence because
12 the Utah police assisted in the investigation of this crime...” Id. at 603.

13
14
15 There can be little question, therefore, that despite its no “open-file” policy the
16 prosecution has an affirmative duty to seek out Brady material, regardless of whether
17 such material is in the hands of the prosecutor or in the hands of some other entity acting
18 on behalf of the State. According to this standard, the prosecution *must seek out*
19 Brady material from other state agents such as probation and parole officers, Child
20 Protective Service workers and their agents, jail personnel, out-of-state police agencies
21 and similar agents of the State. This is an affirmative responsibility; the prosecutor
22 cannot rely on law enforcement or other government agents to come forward with the
23 information.
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1 **V. THE STATE MUST ALSO TURN OVER PRIVILEGED RECORDS IF THEY**
2 **CONTAIN MATERIAL EVIDENCE.**

3 The United State Supreme Court has held that a defendant has a right to have
4 otherwise confidential records reviewed by the trial court to determine if they contain
5 material evidence. Pennsylvania v. Ritchie, 480 U.S. 39, 60 (1987). In Ritchie, the United
6 States Supreme Court held that the State could not claim privilege to fail to disclose Child
7 and Youth Services (CYS) records unless there is a statutory scheme that forbids, any
8 use, including disclosure to a prosecutor, of such records. Id. at 57-58. The United States
9 Supreme Court found that the defendant was entitled to have the CYS file reviewed by
10 the trial court to determine whether it contains information that would be material. Id.

11
12 Furthermore, the United States Supreme Court has held that when the ground for
13 asserting privilege as to subpoenaed materials was based only on the generalized interest
14 in confidentiality it cannot prevail over the fundamental demands of due process of law.
15
16 United States v. Nixon, 418 U.S. 683, 713 (1974). The generalized interest in
17 confidentiality must yield to the demonstrated, specific need for evidence in a pending
18 criminal trial. Id.

19 In Wyman, supra, the Nevada Supreme Court held that the District court abused
20 its discretion by denying the Defendant's request for a certificate of materiality to obtain
21 her accuser's mental health records from out-of-state. Id. at 584. The Defendant had
22 adequately demonstrated that her accuser's mental health records were material—the
23 Defendant had only one direct accuser, and her accuser's reliability and credibility were
24 central to the case. Id.

25
26 Many other jurisdictions have applied the Ritchie framework in similar
27 circumstances and required the disclosure of privileged records to the trial court for *in*
28

1 camera review. For example, the Supreme Court of Utah held that the Defendant was
2 entitled to directly request the alleged victim's school psychological records that indicated
3 that the alleged victim had a high propensity to lie and records that showed that the
4 victim has previously lied about an attempted rape by a school janitor. State v. Cardall,
5 982 P.2d 79, 86 (Ut. 1999). Additionally, the Supreme Court of Delaware found that
6 Ritchie applies to privately held records. Burns v. State, 968 A.2d 1012, 1024-25 (Del.
7 2009). In Burns, the Court held that the Defendant was entitled to private therapy
8 records and he had established a compelling justification that the information was needed
9 for impeachment purposes. Id. at 1026. Furthermore, the Court held that a defendant
10 need only make a "plausible showing" that the records sought are material and relevant.
11 Id. at 1025.

14 Evidence that calls into question a witness' competence to testify is powerful
15 impeachment material. Broad-brushed assertions of the societal interest in protecting the
16 confidentiality of medical records cannot justify the denial of the defendant's right to
17 examine and use psychiatric information to attack the credibility of a key government
18 witness. United States v. Lindstrom, 698 F.2d 1154, 1167 (11th Cir. 1983). In Lindstrom,
19 the Eleventh Circuit held that it was a reversible error to deny defendant's access to
20 psychiatric materials suggesting that the witness suffered from psychiatric illness. Id. at
21 1166. Impeachment evidence has been found to be material where the witness at issued
22 supplied the only evidence linking the defendant to the crime. United States v. Robinson,
23 583 F.3d 1265, 1271 (10th Cir. 2009). In Robinson, the Tenth Circuit held the district
24 court denied the Defendant due process by refusing to provide access to the material
25 portions of the CI's mental health records. Id. at 1274. In determining the materiality of
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1 the mental health records, the court considered that the CI was the only witness who
2 testified directly to the Defendant's possession and that his testimony was essentially
3 uncorroborated.

4 **VI. THE STATE MUST RUN CRIMINAL BACKGROUND CHECKS ON**
5 **WITNESSES AND THE DECEASED, DISCLOSING *BRADY* MATERIAL,**
6 **INCLUDING IMPEACHMENT INFORMATION.**

7 The State should provide the defense with any Brady information that is accessible
8 to it by performing a search of the NCIC database. The State has an affirmative
9 obligation to obtain Brady material and provide it to the defense, even if the prosecutor
10 is initially unaware of its existence. Kyles, 514 U.S. at 432.

11 The Supreme Court has made clear that the prosecution must disclose all
12 impeachment evidence, not just evidence relating to cooperation agreements. Youngblood
13 v. West Virginia, 547 U.S. 867 (U.S. 2006); United States v. Bagley, 473 U.S. 667, 676
14 (1985). The Ninth Circuit Court of Appeals has also specifically addressed the
15 prosecutor's duties regarding impeachment evidence in Carriger v. Stewart, 132 F.3d 463,
16 479-82 (9th Cir. 1997). There, the Court held that the prosecution had a duty to obtain
17 and review the file of the Department of Corrections for its principle witness and to
18 disclose any impeaching evidence. The Court explained:

21 The prosecution is obligated by the requirements of due process to disclose
22 material exculpatory evidence on its own motion, without request. See
23 Kyles v. Whitley, 514 U.S. 419, 115 S. Ct. 1555, 1565 (1995); United States
v. Bagley, 473 U.S. 667, 682, 105 S. Ct. 3375, 3383 (1985). . . .

24 Material evidence required to be disclosed includes evidence bearing on the
25 credibility of government witnesses. See Bagley, 473 U.S. at 676, 105 S. Ct.
26 at 3380; Giglio [v. United States], 405 U.S. 150, 154-55, 92 S. Ct. 763,
766(1972)]

27

1 The prosecutor's actual awareness (or lack thereof) of exculpatory evidence
2 in the government's hands, however, is not determinative of the
3 prosecution's disclosure obligations. See Kyles, 115 S. Ct. at 1567-68.
4 Rather, the prosecution has a duty to learn of any exculpatory evidence
5 known to others acting on the government's behalf. See id., at 1567.
6 *Because the prosecution is in a unique position to obtain information known*
7 *to other agents of the government, it may not be excused from disclosing what*
8 *it does not know but could have learned.* See id. at 1568. The disclosure
9 obligation exists, after all, not to police the good faith of prosecutors, but to
10 ensure the accuracy and fairness of trials by requiring the adversarial
11 testing of all available evidence bearing on guilt or innocence. *See id.*, at
12 1568-69, Brady, 373 U.S. at 87, 83 S. Ct. at 1196-97.

13 Carriger v. Stewart, 132 F.3d at 479-80 (emphasis added).

14 The Court in Odle v. United States, 65 F. Supp. 2d 1065 (N.D. Cal. 1999), rev'd on other
15 grounds by Odle v. Woodford, 238 F.3d 1084 (9th Cir. 2001), similarly recognized that
16 "[t]he cases variously describe the prosecutor's duty in terms of a duty to search for
17 favorable evidence or in terms of constructive or imputed knowledge." Id. at 1071 (citing
18 Carriger, 132 F.3d at 479-80; Kyles, 514 U.S. at 437). Further, the Court stated that
19 "*knowledge may be imputed to the prosecutor, or a duty to search may be imposed, in cases*
20 *where a search for readily available background information is routinely performed, such*
21 *as routine criminal background checks of witnesses.*" Id. at 1072 (citing United States v.
22 Perdomo, 929 F.2d 967 (3rd Cir. 1991) (emphasis added); Carriger, 132 F.3d 463; United
23 States v. Auten, 632 F.2d 478 (5th Cir. 1980); United States v. Striffler, 851 F.2d 1197,
24 1202-02 (9th Cir. 1988); United States v. Cadet, 727 F.2d 1453, 1467 (9th Cir. 1984);
25 United States v. Jennings, 960 F.2d 1488, 1490-91 (9th Cir. 1992) (emphasis added).

26 The disclosure of criminal history information to defense counsel appears to be
27 routinely done in criminal cases in order to comply with Brady. For example, in United
28 States v. Perdomo, 929 F.2d 967 (3rd Cir. 1991), the Court addressed the issue of the
government's duty to run criminal history checks, including NCICs on its witnesses. In

1 Perdomo, the prosecutor had checked NCIC on the witness, but had failed to check the
2 witness's prior criminal history as to local Virgin Islands arrests and convictions which
3 are not recorded in the NCIC database. The then Court adopted the Fifth Circuit's
4 approach in United States v. Auten, 632 F.2d 478, 481 (5th Cir. 1980). The Court stated:

5 The Fifth Circuit has spoken the most often on this issue and has *declined*
6 *to excuse non-disclosure in instances where the prosecution has not sought*
7 *out information readily available to it.* In Auten, the appellant argued that
8 his motion for a new trial should have been granted because the prosecution
9 failed to disclose that one of its key witnesses had been convicted more than
10 once. The prosecution argued that it did not withhold or suppress evidence
11 because the information was unknown to it. The prosecutor had chosen not
12 to run an NCIC check on the witness because of the shortness of time. The
13 court held that the prosecutor's lack of knowledge was not an excuse for a
14 Brady violation. "In the interests of inherent fairness," the prosecution is
15 obligated to produce certain evidence actively or constructively in its
16 possession or accessible to it. To do otherwise would be "inviting and
17 placing a premium on conduct unworthy of representatives of the . . .
18 government."

19 We agree with and adopt the reasoning of the Fifth Circuit. In the instant
20 case *[t]he prosecutor was obliged to produce information regarding [a*
21 *government witness's criminal] background because such information was*
22 *available to him.*

23 Perdomo, 929 F.2d at 970 (citations omitted) (emphasis added).

24 Ultimately, the Court concluded that the witness's criminal record contained in the Virgin
25 Islands was readily available to the federal government, and that the district court erred
26 in finding that the prosecution's failure to learn and disclose his record was not
27 suppression of exculpatory evidence. Id. at 971. See also United States v. Bracy, 67 F.3d
28 1421, 1428 (9th Cir. 1995) (addressing Brady claim where the government provided the
defense with NCIC printout of government witness, and this disclosure provided the
defense with all the information necessary to discover Brady material related to witnesses
criminal background); Martinez v. Wainwright, 621 F.2d 184, 187-89 (5th Cir. 1980)

1 (recognizing that the criminal defense is entitled to criminal records of the State's
2 witnesses to the extent the information is in the State's actual or constructive possession,
3 including data obtainable from the FBI, and that the prosecutor's lack of awareness of an
4 alleged victim's criminal history does not excuse him from his duty to obtain and produce
5 the victim's rap sheet requested by the defense). See generally United States v.
6 Thornton, 1 F.3d 149 (3rd Cir. 1993) (recognizing that the prosecutor is charged with
7 producing impeachment evidence actually or constructively in his possession and that
8 "prosecutors have an obligation to make a thorough inquiry of all enforcement agencies
9 that had a potential connection with the witnesses). But cf. United States v. Blood, 435
10 F.3d 612, 627 (6th Cir. 2006) (concluding that no Brady violation occurred where
11 prosecutor did not produce to the defense the printout of the NCIC check but disclosed
12 that the witness in question had no criminal history; "the Government is only required to
13 disclose its informant's criminal history if he has one").

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16 Here, due to the seriousness of the charges and the gravity of the penalty that
17 Defendant faces, the prosecutor must be ordered to comply with his Brady obligations
18 and provide the NCIC information as requested. Such Brady material must include
19 impeachment material. See United States v. Bagley, 473 U.S. 667, 676 (1985).
20 Accordingly, in addition to any other requirements imposed by Brady as to other
21 witnesses, the defense is requesting that the District Attorney be required to run the
22 witnesses specifically requested below through an NCIC check and allow defense counsel
23 to review the NCIC reports of any lay witnesses whom the State intends to call or upon
24 whose testimony or statements the State will rely during either the guilt or penalty
25 phases of trial.
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1 The defense requests that the NCIC information be provided to defense counsel as
2 soon as possible. If there is no NCIC record for a particular witness, the State can make
3 that representation. If there is a record, the defense will stipulate to accept the ability to
4 review the record and make notes as being sufficient to satisfy its request. The defense
5 is not insisting that NCICs be run on the State's experts or law enforcement witnesses;
6 however, the defense expects the State will comply with any Brady obligations with
7 respect to these witnesses. The instant request for NCIC information is, therefore,
8 narrowed to the lay witnesses and the deceased.
9

10 If the State is unwilling to provide NCIC information directly to defense counsel,
11 it is requested that the Court order the State to provide the information to the Court for
12 an in-camera review. In previous cases, the State has argued it cannot legally disclose
13 the information to defense counsel pursuant to federal law. However, federal law permits
14 disclosure to courts. 28 C.F.R. Chapter 1 addresses the United States Department of
15 Justice and Criminal Justice Information Systems. 28 C.F.R. sec. 20.33 provides the
16 instances in which NCIC criminal history record information may be disclosed. It states,
17 *inter alia*, that such information may be disclosed "(1) To criminal justice agencies for
18 criminal justice purposes" The definition of "criminal justice agencies" is set forth
19 at 28 C.F.R. sec. 20.3(g), which states, "Criminal justice agencies means: (1) Courts; and
20 [other entities set forth in that section]." Additionally, 28 C.F.R. section 20.3 defines
21 "[a]dministration of criminal justice" to include the "performance of any of the following
22 activities . . . adjudication" Therefore, the C.F.R. which authorizes the District
23 Attorney's access to NCICs also authorizes the dissemination of NCICs to courts.
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1 **VII. DEFENDANT'S SPECIFIC REQUESTS FOR *BRADY* MATERIAL**

2 The following specific requests are meant to assist the State in their duty to find
3 and turn over the required Material. This request is not in any way intended to be a
4 substitute for the generalized duties described above.

- 5 1. All statements, whether written or recorded, confessions, or admissions made
6 by the defendant to any person, including any comments made at the time of
7 his arrest or during his transportation to the detention center. This includes
8 the substance of any statements made by the Defendant which the prosecution
9 intends to use as evidence at trial, including but not limited to any
10 conversations or correspondence overheard or intercepted by any jail personnel
11 or other inmates which have not been recorded or memorialized.¹
- 12 2. All statements of identification, or, alternatively, witness interviewed who did
13 not identify Tuly Lepolo as the perpetrator of the alleged crime to include:
- 14 a. Any statements identifying another person as the perpetrator of this offense.
- 15 b. Any prior statement by eyewitnesses who now identify my client as involved
16 in this offense that they previously could not identify anyone.
- 17 c. A copy of all photographic lineups shown to any witnesses for the purposes
18 of identifying suspects in this case, including lineups created without Tuly
19 Lepolo in them.
- 20 d. Other identification procedures, if any, used to identify suspects in this case.
21 This request includes, but is not limited to, any show-ups, lineups,
22 photographic lineups, single photo show-ups, photo compilations and
23 composite drawings made or shown.
- 24 e. The identify of each witness who was shown an identification procedure.
- 25 f. The date such procedure occurred.
- 26 g. The time such a procedure occurred.
- 27 h. Names of all persons who were present when the procedure took place.
- 28 i. Instructions given to the witness prior to the procedure being conducted.

¹ NRS 174.235. Additionally, it is the District Attorney's stated position as of April 13, 2016 that "all inculpatory evidence that the deputy district attorney intends to use at trial during his/her case-in chief will be provided." See Appendix A, page 2.

- 1 j. The results of the procedure, including as exact a rendition as possible of
2 what the witness said, how long the witness took to make the identification
3 if it was made, and any hesitancy or uncertainty of the witness in making
4 the identification.
- 5 k. Whether or not the witness before or after the procedure was informed that
6 they had picked the suspect officers believed committed the crime.
- 7 3. The names of any other suspect(s) arrested and/or investigated as a perpetrator,
8 co-conspirator, aider and abettor, accessory after-the-fact or uncharged
9 facilitator of the offense for which my client is now charged.
- 10 4. Any and all information obtained by the use of confidential informants, for any
11 aspect of the investigation of this case, to include, confidential informants who's
12 information lead directly to arrest or those who's information was otherwise
13 verified by other investigative measures regardless of the State's intent to
14 present testimony from said confidential informants in the court presentation
15 of their case.
- 16 5. Any and all information obtained by the use of inside informant(s), for any
17 aspect of the investigation of this case, to include, inside informant(s) who
18 provide information allegedly learned while incarcerated with the accused or
19 through any other means such as information learned from co-conspirator,
20 aider and abettor, accessory after-the-fact or uncharged facilitator's alleged
21 information about the accused regardless of the State's intent to present
22 testimony from said inside informant(s) in the State's court presentation of
23 their case.
- 24 6. Access to and preservation of any and all material collected in the investigation
25 of this case to include but not limited to forensic material, raw data, video
26 surveillance, photographic negatives, digital negatives, biological samples and
27 toxicological samples.
- 28 7. Any and all video and audio recordings obtained by the Las Vegas Metropolitan
Police Department recording devices, included but not limited to: dashboard
cameras; body-mounted cameras; car-to-car audio communications, as well as
any other recording equipment operational during the investigation of this case
or related or connected to Event Number 160403-3524.
8. Any and all information in the custody or control of the State pertaining to
firearm(s) involved in this case, a handgun that fires a .25 bullet, including
registration records, pawn search records, police reports and/or any information
about all persons known to be in possession of the gun.
9. Request, results and/or reports of any and all crime scene analysis, evidence
collection and/or forensic testing performed in this case, including, but not

1 limited to, any and all photographs, the results of any fingerprint collection and
2 comparison, AFIS (Automated Fingerprint Identification System) searches
3 and/or results, DNA testing, CODIS (Combined DNA Index System) searches
4 and/or results, toxicological analyses, footwear impressions, trace evidence
5 analyses, any forensic analysis of cellular telephones, any requests for forensic
6 analysis regardless of the outcome of such request. Neuropathological,
7 toxicological, or other medical evaluations of the deceased, performed through
8 this investigation. The State should also include the complete case file for any
9 testing done, which should include but is not limited to: raw data, photographs,
10 rough notes, draft reports, recorded or otherwise memorialized notes relied
11 upon by experts in rendering an opinion in this case. To include said documents
12 for the State's endorsed witnesses

13 10. Any and all records, photographs, reports, imaging studies, test results and
14 notes pertaining to any alleged victim (including Raquel Stapinski) generated
15 pursuant to treatment provided in connection with the instant matter; including,
16 without limitation, all emergency medical, fire department, hospital, or other
17 medical care provider records, including all relevant prior medical records. This
18 request includes all pathological neuropathological, toxicological, or other
19 medical evaluations of Raquel Stapinski, including all relevant prior medical
20 records and the name and badge numbers of any paramedics who responded to
21 the scene and all documentation, notes, reports, charts, conclusions, or other
22 diagnostic, prognostic or treatment information pertaining to any person
23 evaluated, assessed, treated, or cleared by a paramedics at the scene, or
24 transported to a hospital from the scene.

25 11. Any and all intercepted electronic and/or oral communications and/or any and
26 all communications sent to and from handset and/or telephone and/or
27 computers pursuant to the investigation in this case, including but not limited
28 to: Audio, Push to Talk, Data, Packet Data, electronic messaging encompassing
Global System for Mobile Communications (GSM), Short Message Service (SMS), Multimedia Messaging Service (MMS), and Internet Relay Chat, File Transfer Protocol (FTP), Internet Protocol (IP), Voice Over Internet Protocol (VOIP), Transmission Control Protocol (TCP) and electronic mail or other internet based communications, obtained by the State in its investigation of this case via subpoena, interception² or other means. Accordingly, all intercepted communications obtained, including records related to the communication of DANA FOREMAN, HENRY "T-LOC" TAYLOR, DWAYNE ARMSTRONG or any other member of the Foreman Clan should be produced.

29 12. Any and all records reflecting government surveillance of TULY LEPOLO, or
of other individuals as part of or connected to this investigation. "Government Surveillance" as used in this request means any method by which law enforcement, national security or other government agents obtain information regarding my client. Specifically, it includes all forms of location tracking

² Pursuant to the provisions of NRS 179.410 to NRS 179.515.

1 (including cell site location tracking, use of a GPS device, monitoring the
2 location of a cellular phone or other electronic device, etc., hidden video, drones
3 or other location monitoring tools), any use of a cell-site simulator or similar
4 device (such as a stingray, triggerfish, WIT technology, etc.), access to telephone
5 or email transactional records or meta data, and any access to, or storage,
6 acquisition, collection, monitoring, targeting or use in connection with this
7 investigation of oral, wire, electronic communications or of other information
8 related to or concerning my client. It also includes access to the contents of
9 communications either directly by the government or via third parties
10 (including wiretaps, FISA intercepts, any other means of obtaining
11 communications content, installation of pen registers/trap-and-trace devices,
12 access to signaling, dialing, routing or other telephone billing, account or
13 transactional information or metadata, any monitoring of internet activity of
14 any type, and any installation of software on a machine not owned by the
15 government). Government surveillance also includes any instance where the
16 government obtains records from a third party, such as a phone company,
17 internet service provider, financial institution, or other party, and obtains any
18 records of my client's location, communications, or records related to her or this
19 investigation.

20 This request for "all records" includes both the raw and refined data obtained
21 from the electronic surveillance. It also includes any authorizing
22 documentation (including subpoenas, court orders, warrants, etc.) and any
23 requests for authorization or records (including certifications, directives,
24 motions, affidavits, declarations, national security or exigency letters, etc.)
25 seeking judicial governmental, or other third-party authorization or disclosure
26 of records, whether or not such authorization or disclosure was granted.

27 This request specifically includes any activity falling entirely or partially under
28 any of the following statutes: the Wiretap Act, Electronic Communications
Privacy Act, Stored Communications Act (18 USC 2701 et seq.), Pen
Register/Trap and Trace Statute (18 USC 3121), USA Patriot Act including
section 215 orders (50 USC 1861) and National Security Letters (18 USC 2709),
Foreign Intelligence Surveillance Act (50 USC 1801 et seq.), including as
amended by the Protect America (now expired) or the FISA Amendments Act
(50 USC 1881a et seq.), and the Communications Assistance for Law
Enforcement Act (47 USC 1001 et seq.)

13. Any and all data, recordings, reports and documentation of voice monitoring
devices and/or geographic tracking devices and/or pen register and/or trap and
trace device installed pursuant to interception, warrant or other means, as part
of the investigation in this case. To include such intercepts of communication
by the following individuals:

a) Henry "T-Loc" Taylor

- b) Dana Foreman
- c) Dwyane “Wayne Wayne” Armstrong Jr.
- d) Flora “Flo” Taylor
- e) Antoine Hall
- f) Person identified to defense as “wife of Henry Taylor”

14. Any and all interviews of the Defendant, any witnesses, and any potential witnesses in the case, to include any and all audio and video recording of any form collected by the investigating officers or any other agent of the State during the course of the investigation. This includes any notes of interviews that were not later recorded, such as notes of patrol officers, or notes of phone calls made to potential witnesses, or attempts to contact such witnesses. This also includes any police reports, notes, or other documents that contain information pertaining to this case or any witnesses in this case, no matter what the form or title of the report. Including, any 911 recordings to include the relevant dispatch log, any report of information related to the case, given by anyone to any police department or crime tip organization such as Crime Stoppers, and any reward or benefit received for such tip.³ Including but not limited to interviews of:

- a) Maleka Sagale, aka Elaine Lepolo
- b) Dana Foreman
- c) Stanley Lepolo Jr.
- d) Gordon Lepolo
- e) Flora “Flo” Taylor
- f) Person identified to defense as “wife of Henry Taylor”
- g) Terrence Parris
- h) Cortney Franco

³ NRS 174.235 1(a) mandates disclosure of all written or recorded statements for any witnesses the prosecution intends to call. NRS 171.1965 1(a) mandates disclosure of all written or recorded statements made by a witness or witnesses. This request calls for all memorialized statements by all witnesses, whether or not the State intends to call them, as it is obviously the witnesses that the State will not call which often provide the most relevant and discoverable information, under the law.

- i) Tavon Love
- j) Elise Faamasino
- k) Michelle Ishan
- l) Kaleo Ah Quin
- m) Jessica Hall
- n) Dwyane “Wayne Wayne” Armstrong, Jr.
- o) Antoine Hall
- p) Cecelia Jacklynn Lepolo
- q) Tut Tauta
- r) Lanija Marie Fleming
- s) John “John John” Lepolo Muasau
- t) Taufu Lepolo
- u) Dabrejae Hampton
- v) Lupega T. Lepolo
- w) Lupega Lepolo
- x) Ben Muasau aka Siamupeni Muasau
- y) Daysheane Armstrong
- z) Deshawn Armstrong
- aa) Davontae Daley
- bb) Damiya Daley
- cc) Dontece Daley
- dd) Sik Taylor

15. Disclosures of any and all compensation, express or implied promises of favorable treatment or leniency, or any other benefit that any of the State’s

witnesses received,⁴ or requested,⁵ in exchange for their cooperation with this prosecution without regard to whether the state uses the information provided in the prosecution of this case. Including, but not limited to, any and all records and notes from the victim witness office of the District Attorney to include any and all records of any expectation⁶ of any benefit⁷ or assistance to be received, or already received by any witness presented by the State.⁸ This also includes, but is not limited to, any monetary benefits received as well as any express or implied promises made to any witness to provide counseling and/or treatment as a result of their participation in the prosecution of the case. This is to include the names of any and all agencies and workers or other referrals that were given to any family member, relative or guardian in connection with this case, or relevant to this case. This also includes travel either in state or out-of-state travel expenses covered by the State to any witness and an estimate of future benefits to be received during or after the trial. ⁹

16. Disclosures of any and all statements tangible or intangible, recorded or unrecorded, made by any material witness in the case that are in any manner consistent or inconsistent with the written and/or recorded statements previously provided to the defense. Including but not limited to any oral statements made to any employee or representative of the District Attorney's office or any other State employee during pre-trial conferences or other investigative meetings. ¹⁰

17. Any and all impeachment information located in the personnel files of any police witness called to testify at trial or any pretrial hearing in this matter, including, but not limited to, any Statement of Complaint regarding the witness or this investigation, any Employee Notice of Internal Investigation, any Internal Affairs Investigative Report of Complaint, any witness statement, any Bureau Investigation Supervisory Intervention, and any other document maintained or generated by the Office of Internal Affairs, Critical Incident Review Panel, or

⁴ State violated Brady when it refused to disclose evidence that that State paid witness as an informant on several occasions. State v. Bennett, 119 Nev. 589, 603 (2003).

⁵ Wearry v. Cain, 577 U.S. ____ (2016); Napue v. Illinois, 360 U.S. 264, 270 (1959).

⁶ The law is clear that it is the witness' own anticipation of reward, not the intent of the prosecutor, which gives rise to the necessity of disclosure. Moore v. Kemp, 809 F.2d 702, 726, 729-30 (11th Cir. 1987), cert. denied, 481 U.S. 1054 (1987); Duggan v. State, 778 S.W.2d 465, 468 (Tex. Crim. App. 1989). Check cites.

⁷ Evidence of benefits to State witness is not limited to agreement made in relation to the specific case at issue. Jimenez v. State, 112 Nev. 610, 622-23 (1996); Information about benefits to an important State witness constitutes Brady material, even though no explicit deal was outlined. Browning v. State, 120 Nev. 347, 369 (2004).

⁸ Agreements need not be express or formal arrangements, and understanding merely implied, suggested, insinuated, or inferred to be of possible benefit to witness constitutes proper material for impeachment. Duggan v. State, 778 S.W.2d 465, 468 (Tex. Crim. App. 1989).

⁹ This is relevant to issues regarding possible bias, credibility, motive to lie, impeachment. See Davis v. Alaska, 415 U.S. 308 (1974) and FN 15.

¹⁰ State violated Brady when it failed to inform the defense of prior inconsistent statements by a key prosecution witness. Lay v. State, 116 Nev. 1185, 1199 (2000); State acted improperly by failing to disclose statements in its possession of evidence contradictory to another State witness. Rudin v. State, 120 Nev. 121, 139 (2004).

1 other investigative agency.¹¹ To include impeachment information for civilian
2 employees involved in the case, such as lab technicians.

3 18. Any and all information which shows that the defendant did not commit the
4 crimes alleged or which show the possibility of another perpetrator,¹² including
5 but not limited to, any information concerning an arrest of any other individual
6 for the charged crime¹³ and any information suggesting a possible suspect other
7 than the defendant,¹⁴ including investigating leads to other suspects¹⁵ such as
8 tips provided law enforcement or a crime tip organization such as Crime
9 Stoppers, including any reward or benefit received for such tip.

10 19. Any information on any criminal history or any material or information which
11 relates to specific instances of misconduct of any material witness in the case
12 from which it could be inferred that the person is untruthful and which may be
13 or may lead to admissible evidence.¹⁶ This is to include, but is not limited
14 to any juvenile record,¹⁷ misdemeanors, out-of-state arrests and conviction,
15 outstanding arrest warrants or bench warrants, and cases which were
16 dismissed or not pursued by the prosecuting agency or any other information
17 that would go to the issue of credibility and bias, whether or not the information
18 is admissible by the rules of evidence.¹⁸

14 ¹¹ See United States v. Henthorn, 931 F.2d 29 (9th Cir. 1991), reversing a conviction when prosecutor
15 refused to inspect the personnel files of the involved officers claiming the defense must show the file
16 contained information material to the defense—the court held that the prosecution had a duty to review
17 the personnel files upon the defense’s request as, absent such an examination, the State could not
18 determine whether it was obligated to turn the files over.

17 ¹² See Holmes v. South Carolina, 547 U.S. 319 (2006), which holds that preventing a defendant from
18 presenting evidence of third party guilt deprives him of a meaningful right to present a complete defense
19 under the 14th and 6th Amendment of the US Constitution.

18 ¹³ Banks v. Reynolds, 54 F.3d 1508, 1518 n.21 (10th Cir. 1995).

19 ¹⁴ State’s failure to disclose evidence of another perpetrator violated Brady. Lay v. State, 116 Nev. 1185,
20 1195-96 (2000); Summary of prosecutor’s perspective on written reports relating to potential suspects were
21 constitutionally inadequate and reports should have been disclosed pursuant to Brady. Mazzan v. Warden,
22 116 Nev. 48, 69 (2000); Bloodworth v. State, 512 A.2d 1056, 1059-60 (1986).

21 ¹⁵ Jimenez v. State, 112 Nev. 610, 622-23 (1996) (withholding evidence of investigative leads to other
22 suspects, regardless of admissibility, constitutes Brady violations.

22 ¹⁶ A defendant is entitled to material in the government witness’ confidential probation file that bears on
23 the credibility of that witness. United States v. Strifler, 851 F.2d 1197, 1201 (9th Cir. 1988), cert. denied,
24 489 U.S. 1032 (1989).

23 ¹⁷ Failure to disclose co-conspirator’s juvenile records in penalty hearing was Brady violation. State v.
24 Bennett, 119 Nev. 589, 603 (2003).

24 ¹⁸ The State usually is under the mistaken impression that they only must disclose felony conviction s from
25 the last 10 years that can be used as impeachment under NRS 50.095. However, in Davis v. Alaska, *supra*,
26 the US Supreme Court found that a witness can be attacked by “revealing possible biases, prejudices, or
27 ulterior motives of the witnesses as they may relate directly to the issues or personalities on the case at
28 hand. The partiality of a witness is...always relevant as discrediting the witness and affecting the weight
of his testimony.” *Id.* at 354. The court found that the State’s policy interest in protecting the confidentiality
of a juvenile offender’s record must yield to the defendant’s right to cross-examine as to bias. *Id.* at 356. See
also Lobato v. State, 120 Nev. 512 (2004), discussing the “nine basic modes of impeachment.” Therefore,
juvenile records, misdemeanors and older criminal records may yield information relevant to many forms
of impeachment other than that outlined in NRS 50.095

1 20. Any and all Brady material, including impeachment material, found in the
2 NCIC background checks of the following witnesses and/or any other witness
3 the State intends to call at trial:

4 a) Dwyane Armstrong, Jr.

5 b) Dana Foreman

6 c) Courtney Franco

7 d) Person identified to defense as “wife of Henry Taylor”

8 21. All relevant reports of chain of custody. All reports of any destruction of any
9 evidence in the case.¹⁹

10 22. Any documents used to prepare State’s witnesses for preliminary hearing or
11 trial, including any and all notes and reports of any expert in the case, to include
12 mental health workers. This includes any preliminary reports or notes, not
13 included in a final report.²⁰

14 23. All updated witness contact Information, to include last known address and
15 phone number.²¹

16 24. Any and all records of the Las Vegas Metropolitan Police Department
17 concerning this case including photocopies or other reproduction of any and all
18 handwritten or otherwise memorialized notes kept by the investigating police
19 officers in each of the allegations in this case, including, but not limited to, any
20 notes documenting alternate suspects, investigative leads that were not
21 followed up on, or any other matter bearing on the credibility of any State
22 witness.

23 **VII. EVIDENCE TO BE DISCLOSED TO THE DEFENSE PURSUANT TO THE**
24 **CLARK COUNTY DISTRICT ATTORNEY DISCOVERY PRACTICE**
25 **MEMORANDUM.**

26 The Defense further requests that “[a]ll inculpatory evidence that the deputy
27 district attorney intends to use at trial during his/her case-in-chief will be provided”
28

26 ¹⁹ Destruction of evidence can result in dismissal of the case or a jury instruction stating such evidence
27 is presumed favorable to the accused. Crockett v. State, 95 Nev. 859, 865 (1979); Sparks v. State, 104
28 Nev. 316, 319 (1988); Sanborn v. State, 107 Nev. 399, 409 (1991).

²⁰ NRS 174.234 (2)(a)(b)(c); Las Vegas Sands Corp v. Eight Judicial Court, 130 Nev., Adv. Op. 13
(2014).

²¹ NRS 174.234 (4).

1 pursuant to the District Attorney's discovery policy memorandum. See Exhibit A, page

2 2.

3 **VIII. EVIDENCE TO BE DISCLOSED TO THE DEFENSE PURSUANT TO**
4 **N.R.S. 174.235**

5 The Defense further requests that the following evidence be disclosed pursuant to
6 N.R.S. 174.235:

- 7 1. Written or recorded statements or confessions made by the defendant, or
8 any written or recorded statements made by a witness the prosecuting
9 attorney intends to call during the case in chief of the state, or copies thereof,
10 within the possession, custody or control of the state, the existence of which
11 is known, or by the exercise of due diligence by become known, the
12 prosecuting attorney.
- 13 2. Results or reports of physical or mental examinations, scientific tests or
14 scientific experiments made in connection with the particular case, or copies
15 thereof, within the possession, custody or control of the state, the existence
16 of which is known, or by the exercise of due diligence may become known, to
17 the prosecuting attorney.
- 18 3. Books, papers, documents, tangible objects, or copies thereof, which the
19 prosecuting attorney intends to introduce during the case in chief of the
20 state and which are within the possession, custody or control of the state,
21 the existence of which is known, or by the exercise of due diligence may
22 become known, to the prosecuting attorney.

23 The Defense also requests an Order from the Court allowing the Defense to inspect
24 and document all evidence impounded in this case currently in the possession of the Las
25 Vegas Metropolitan Police Department or State of Nevada.

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CONCLUSION

The defense requests that the Court grant the instant motion and order the requested evidence disclosed pursuant to NRS 174.235; Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194 (1963); U.S.C.A. V, VI, XIV and the Nevada Constitution Article 1 § 8.

DATED this 31st day of March, 2021.

SUBMITTED BY

/s/ W. JEREMY STORMS

W. JEREMY STORMS

Attorney for Lepolo

CERTIFICATE OF SERVICE

I hereby certify that service of the above Motion For Disclosure Of Evidence, was made on March 31, 2021, by Electronic Filing to:

DISTRICT ATTORNEY'S OFFICE

email: motions@clarkcountyda.com

/s/ Elizabeth (Lisa) Araiza

Legal Secretary

Special Public Defender

EXHIBIT A



**CLARK COUNTY
OFFICE OF THE DISTRICT ATTORNEY**

Criminal Division

STEVEN B. WOLFSON
District Attorney

200 Lewis Avenue • Las Vegas, NV 89101 • 702-671-2500 • Fax: 702-455-2294 • TDD: 702-385-7486

MARY-ANNE MILLER
County Counsel

CHRISTOPHER LALLI
Assistant District Attorney

ROBERT DASKAS
Assistant District Attorney

JEFFREY WITTHUN
Director D.A. Family Support

M E M O R A N D U M

TO: EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY PUBLIC DEFENDER'S OFFICE
SPECIAL PUBLIC DEFENDER'S OFFICE
CLARK COUNTY OFFICE OF APPOINTED COUNSEL
NEVADA ATTORNEYS FOR CRIMINAL JUSTICE

FROM: STEVEN B. WOLFSON
CLARK COUNTY DISTRICT ATTORNEY

DATE: APRIL 13, 2016

SUBJECT: CLARK COUNTY DISTRICT ATTORNEY DISCOVERY PRACTICE

In an effort to clarify the Clark County District Attorney's Office discovery practice, the following information is provided to interested parties:

I. CONSTITUTIONAL REQUIREMENTS

The Clark County District Attorney's Office will comply with constitutional requirements as follows:

All deputy district attorneys are expected to be familiar – and comply – with the controlling opinions of the Nevada Supreme Court, the Ninth Circuit Court of Appeals, and the United States Supreme Court with regard to *Brady v. Maryland*, 373 U.S. 83 (1963), *Giglio v. United States*, 405 U.S. 10 (1972), and their progenies.

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II. STATUTORY REQUIREMENTS

The Clark County District Attorney's Office will comply with statutory requirements as follows:

All deputy district attorneys are expected to be familiar – and comply – with the statutory discovery obligations contained within the Nevada Revised Statutes, as well as those legal opinions interpreting the State's discovery obligations.

All inculpatory evidence that the deputy district attorney intends to use at trial during his/her case-in-chief will be provided. Inculpatory evidence that the deputy district attorney does not intend to use during his/her case-in-chief, but may use in cross-examination or in rebuttal, is not discoverable pursuant to this policy. Irrelevant material will not be provided.

Pursuant to NRS 174.235(1), at the request of the defense, the prosecuting attorney shall permit the defense to inspect and to copy or photograph any:

- (a) Written or recorded statements or confessions made by the defendant, or any written or recorded statements made by a witness the prosecuting attorney intends to call during the case in chief of the State, or copies thereof, within the possession, custody or control of the State, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney;
- (b) Results or reports of physical or mental examinations, scientific tests or scientific experiments made in connection with the particular case, or copies thereof, within the possession, custody or control of the State, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney; and
- (c) Books, papers, documents, tangible objects, or copies thereof, which the prosecuting attorney intends to introduce during the case in chief of the State and which are within the possession, custody or control of the State, the existence of which is known, or by the exercise of due diligence may become known, to the prosecuting attorney.

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III. CASE FILE REVIEW

On February 18, 2016, the Nevada Court of Appeals, in *Quisano v. State*, considered “whether, under the facts of the present case, the State maintained an open-file policy” (emphasis added). In a 2-1 opinion, the Court held that “the State’s discovery policy constituted an open-file policy.”

The Clark County District Attorney’s Office does not have an “open-file” policy, as that phrase has been interpreted by courts to relieve defense counsel of its obligation to exercise due diligence in discovering impeachment and exculpatory evidence.¹ Upon request, however, a defense attorney may be permitted to review the case file of the deputy district attorney assigned the prosecution.

The invitation for a “case file review” is not a promise to disclose the entirety of the State’s case file and does not extend to anything more than discovery required by statute and *Brady*. Expressly excluded from the case file is any attorney work product or other privileged material not otherwise discoverable under *Brady*. The invitation for a “case file review” shall not be construed as a representation that the deputy district attorney is in possession of all material in possession of law enforcement. Finally, the invitation for a “case file review” does not relieve defense counsel of its obligation to discover material which is available to the defense from other sources, including diligent investigation by the defense.

IV. LAS VEGAS METROPOLITAN POLICE DEPARTMENT REQUESTS

The Clark County District Attorney’s Office does not represent any police agency, including the Las Vegas Metropolitan Police Department (“LVMPD”). However, in an effort to facilitate the acquisition of material from LVMPD, the Clark County District Attorney’s Office provides the following procedure for informational purposes only and, where applicable, will comply with the procedure outlined below:

As a general rule, upon receipt of a defense subpoena, LVMPD will contact the deputy district attorney assigned the case to determine if the requested material already has been provided to the State. If so, the State will be asked to provide the material to the defense.

A valid defense subpoena to LVMPD must include the trial date or an evidentiary hearing date (this is true even though the subpoena may request documents or records “in lieu of appearance”), unless the defense has a court order authorizing the subpoena for pre-trial production of records. LVMPD will not comply with a subpoena which includes a

¹ The Clark County District Attorney’s Office discovery practice remains virtually unchanged. Although the phrase “open-file” policy may have been used in the past, such terminology was not uniformly defined -- and not reflective of our practice as interpreted -- by some courts. This memorandum does not represent a change in our discovery practice; it is simply an attempt to clarify and communicate the Clark County District Attorney’s Office discovery practice to judges and the defense bar.

date other than the trial date or an evidentiary hearing date as provided by NRS 174.315. Calendar Call is not an evidentiary hearing.

LVMPD will not comply with a subpoena which requests investigative records related to someone other than the client of the defense attorney issuing the subpoena.

Subject to the conditions outlined above, if LVMPD receives a subpoena for any of the following items, LVMPD will voluntarily provide the information to the defense:

- 1) LVMPD 911 and Radio Traffic Recordings and CAD printouts.
- 2) LVMPD photographs from the event number assigned the case.
- 3) CCDC records if the attorney issuing the subpoena represents the person whose records are being requested.

In the case of 911 calls, CADs and photographs, the deputy district attorney assigned to the case will not be notified of the request and will not receive a copy of items being provided. In the case of CCDC records, the deputy district attorney assigned to the case will get a copy of the records being provided.

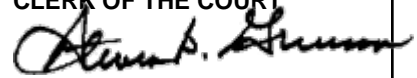
ALL OTHER SUBPOENAS DUCES TECUM for discovery-type materials will be objected to by LVMPD. The following process will be instituted to protect LVMPD should litigation ensue from that objection:

If LVMPD does not have their own objection to releasing the records:

- 1) If the subpoena is not for a pending court date and merely orders records to be provided directly to the defense, LVMPD will send a letter indicating that the Nevada Revised Statutes in criminal cases do not provide a lawful mechanism for records to be provided directly to the defense without a court order. Should the defense seek these records, they should request the records from the deputy district attorney assigned to the case.
- 2) If the subpoena is for a pending court date, but indicates that the records may be provided directly to the defense IN LIEU of appearance, LVMPD will send a similar letter indicating that the Nevada Revised Statutes in criminal cases do not provide a lawful mechanism for records to be provided directly to the defense. Notwithstanding, LVMPD will inform the defense that the request for records has been forwarded to the deputy district attorney assigned to the case and the deputy should be prepared to address the issue regarding the records at the identified court date. AT THAT NEXT COURT DATE, the deputy should raise the issue regarding the records with the court and either provide them to the defense as discovery or, if there is an issue with disclosure, litigate the issue before the court.

In the case of records to which LVMPD has an independent objection:

LVMPD will send a similar letter indicating not only that the Nevada Revised Statutes in criminal cases do not provide a lawful mechanism for records to be provided directly to the defense, but that they also object to certain records on substantive grounds. Notwithstanding, the procedure above will be followed with the exception that LVMPD will decide whether it wants to intervene by way of motion to quash for the records to which LVMPD has an independent objection.



OPPS
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
MARC DIGIACOMO
Chief Deputy District Attorney
Nevada Bar #006955
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

TULY LEPOLO,
#8471381

Defendant.

CASE NO: C-20-345911-1

DEPT NO: XVII

**STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR DISCLOSURE OF
EVIDENCE**

DATE OF HEARING: 04/13/2021
TIME OF HEARING: 8:30 AM

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through MARC DIGIACOMO and JOHN GIORDANI, Chief Deputy District Attorneys, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion for Disclosure of Evidence.

This Opposition is made and based upon all the papers and pleadings on file herein, the attached points and authorities in support hereof, and oral argument at the time of hearing, if deemed necessary by this Honorable Court.

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1 **POINTS AND AUTHORITIES**

2 **I. GENERAL LAW RELATED TO DISCOVERY**

3 **A. THE COURT CAN ONLY COMPEL “DISCOVERY” UNDER THE**
4 **NEVADA REVISED STATUTES**

5 Under Common Law, a defendant has no right of discovery. State v. Wallace, 399 P.2d
6 909, 97 Ariz. 296 (1965). This, of course, can be superseded by statutory enactment and that
7 is the case in Nevada. Regarding the law of discovery in the State of Nevada, NRS 174.235,
8 *et. seq.* controls. The Nevada Supreme Court has held that even an accused’s statement is not
9 constitutionally compelled through pre-trial discovery. Mears v. State, 83 Nev. 3, 7, 422 P.2d
10 230, 232 (1967), Thompson v. State, 93 Nev. 342, 565 P.2d 1011 (1977).

11 In Franklin v. Eighth Judicial District Court, 85 Nev. 401, 455 P.2d 919 (1969), the
12 Nevada Supreme Court held that the lower court erred in granting defendant’s Motion to
13 Discovery, inspect and copy statements of all persons to be called by the prosecution as
14 witnesses at trial, since NRS 174.245 does not authorize discovery of inspection of statements
15 made by State witnesses or` perspective State witnesses to agents of the State. Nor does the
16 defendant enjoy a constitutional right to discover them. With regard to the discovery statutes
17 previously alluded to, the Court stated:

18
19 “Those provisions (NRS 174.235-174.295) represent the legislative
20 intent with respect to the scope of allowable pre-trial discovery and are not
lightly to be disregarded.”

21 From the aforementioned, it is clear that Nevada’s discovery statutes are to be strictly
22 construed and adhered to since no Common Law right of discovery existed. It should,
23 therefore, also be clear that the defendant’s motion, so far as it exceeds the requirements of
24 NRS 174.235, *et. seq.*, must be denied.

25 1. The State Must Allow the Defense to “Inspect” Inculpatory Evidence.

26 Initially, Defendant Stamps attempts to mislead the Court with respect to applicable
27 discovery statutes by blending the requirements of a statute and constitutional obligations into
28 a generalized discovery request. In his motion, Defendant Stamps states NRS 174.235 requires

1 prosecutors to disclose various items within the possession or which the State can discover
2 through due diligence.

3 To be clear, NRS 174.235 requires the State to disclose inculpatory evidence. The
4 method of disclosure prescribed by the statute is to allow the defense to *“inspect and to copy,
5 or photograph”* the following items:

6
7 1. Written or recorded statements or confessions made by the
8 defendant or any witness the State intends to call during the case in chief of
the State, within the custody of the State or which the State can obtain by an
exercise of due diligence. (1)(a).

9 2. Results or reports of physical or mental examinations,
10 scientific tests or scientific experiments made in connection to the case,
within the control of the State, or which the State may learn of by an exercise
11 of due diligence. (1)(b).

12 3. Books, papers, documents, tangible objects which the State
intends to introduce during its case in chief, within the possession of the
13 State, or which the State may find by an exercise of due diligence. (1)(c).

14 Defendant filed a motion to compel discovery prior to ever inspecting and copying the
15 information in the possession of the State. Thus, a motion to compel discovery is not properly
16 before the court. NRS 174.235 requires the State to allow the defense to inspect and copy
17 various pieces of information. NRS 174.295, allows for the defense to seek an order to compel
18 only upon the State’s failure to allow such an inspection.

19 Specifically, NRS 174.295(2) states:

20
21 If at any time during the course of the proceedings it is brought to the attention
22 of the court that a party **has failed to comply** with the provisions of NRS
23 174.234 to 174.295, inclusive, the court may order the party to permit the
24 discovery or inspection of materials not previously disclosed, grant a
25 continuance, or prohibit the party from introducing in evidence the material not
26 disclosed, or it may enter such other order as it deems just under the
27 circumstances.
28

(Emphasis added). It is clear from the language of the statutes that a motion to compel is only appropriate where the State refuses a defendant's request to review the discoverable material in its possession. As the State has complied with NRS 174.235, the Court must deny the motion in its entirety.

2. The Statute Limits Disclosure.

Section 1(a) specifically states that the State must allow the defense to inspect written or recorded statements of the defendant or witnesses "the prosecuting attorney intends to call during the case in chief of the State." NRS 174.235. Similarly, Section 1(c) requires the State to allow inspection of tangible items of evidence.

Moreover, Defendant seeks to compel items which are not discovery. Defendant predicates the Court's authority on a line of cases beginning with Brady v. Maryland. However, Brady and its progeny are not cases granting the Court the authority to compel discovery, but cases defining remedies upon the failure of the State to fulfill its constitutional obligations. Thus, the Court should not be in the business of usurping the constitutional authority of the State in making Brady determinations. As such, the Court should deny the motion in its entirety.

As of the filing of the defense motion, Defendant Stamps has not made a request to inspect anything.

II. BRADY MATERIAL AND ITS PROGENY

A. BRADY AND ITS PROGENY DOES NOT AUTHORIZE THE COURT TO ORDER DISCOVERY. THEY ARE REMEDIES IF THE STATE FAILS TO DISCLOSE AN ITEM WHICH IS FOUND TO HAVE BEEN REQUIRED TO BE DISCLOSED POST TRIAL.

The State has an obligation to disclose exculpatory evidence pursuant to Brady v. Maryland, 373 U.S. 83, 83 S. Ct. 1194 (1963). Giglio v. United States, 405 U.S. 150, 92 S. Ct. 763 (1972), requires that certain impeaching material be disclosed as well. The rule of Brady v. Maryland, 373 U.S. 83 (1963), which requires the State to disclose to the defendant exculpatory evidence, is founded on the constitutional requirement of a fair trial. Brady is not a rule of discovery, however. As the Supreme Court held in Weatherford v. Bursy, 429 U.S.

1 545, 559, 97 S. Ct. 837, 846 (1977):

2
3 There is no general constitutional right to discovery in a criminal case, and
4 Brady did not create one... ‘the Due Process Clause has little to say
5 regarding the amount of discovery which the parties must be afforded....’
6 Wardius v. Oregon, 412 U.S. 470, 474, 93 S. Ct. 2208, 2212, 37 L.Ed.2d 82
7 (1973).

8 In addition, Brady does not require the State to conduct trial preparation and
9 investigation on behalf of the defense. The obligation is to produce exculpatory information
10 which the defense would not be able to obtain itself through an ordinary exercise of diligence.

11 While defense attorneys routinely claim they need to be provided the information in
12 order to conduct the investigation to determine if there is any exculpatory information, that is
13 simply not the law. In the Ninth Circuit, the obligation for the prosecution to examine
14 information is triggered by a defense request with no requirement that the defense make a
15 showing that the information is likely to contain helpful information. United States v.
16 Henthorn, 931 F.2d 29, 31 (9th Cir. 1990) (holding that the “government is incorrect in its
17 assertion it is the defendant’s burden to make an initial showing of materiality,” rather the
18 “obligation to examine the files arises by virtue of making a demand for their production”);
19 United States v. Santiago, 46 F.3d 885, 895 (9th Cir. 1995) (“[u]nder Henthorn, the government
20 has a duty, upon defendant’s request for production, to inspect for material information the
21 personnel records of federal law enforcement officers who will testify at trial, regardless of
22 whether the defense has made a showing of materiality”) *accord* Sonner v. State, 112 Nev.
23 1328, 930 P.2d 707 (1996)(requiring materiality before a review of a police officer’s personnel
24 file.).

25 **B. THE STATE MAKES THE DETERMINATION AT ITS OWN PERIL IF IT WILL**
26 **DISCLOSE THE INFORMATION, NOT THE DEFENSE OR THE COURT**

27 This, of course, does not mean that files are produced for the defense. Henthorn
28 explains that following that examination, “the files need not be furnished to the defendant or
the court unless they contain information that is or may be material to the defendant’s case.”
Id. Thus, the only time disclosure is required is if the State finds information that qualifies as

1 Brady material. If the prosecutor is unsure, the information should be provided to the court
2 for review. As the court explained:

3
4 We stated that the government must ‘disclose information favorable to the
5 defense that meets the appropriate standard of materiality If the
6 prosecution is uncertain about the materiality of information within its
7 possession, it may submit the information to the trial court for an in camera
inspection and evaluation. . . .’ As we noted in Cadet, the government has a
duty to examine personnel files upon a defendant’s request for their
production.

8 Id. at 30-31 (internal citation omitted). Despite this procedure, Defendant’s routinely request
9 the Court to order production of information to them, or to the Court. It is not the Court’s
10 responsibility under the Constitution. It is the prosecution’s responsibility.

11 Moreover, Brady and its progeny are remedies **post trial** for the prosecution’s failure
12 to perform its responsibility. Brady does not support the defense’s request to conduct an
13 investigation independent of the prosecution, or to ensure the prosecution completes its duty.

14 **III. TIMING OF DISCLOSURES**

15 **A. TRUE BRADY MATERIAL**

16 Traditionally, Brady material is information which indicates that Defendant did not
17 commit the crime, or his sentence should be less based upon culpability. The State’s duty
18 under Brady is ongoing. When reviewing cases on appeal, however, courts decide allegations
19 of tardy Brady disclosures according to the facts surrounding the disclosure and if the alleged
20 Brady information was used in the trial. The Ninth Circuit has recognized that “Brady does
21 not necessarily require that the prosecution turn over exculpatory material before trial. To
22 escape the Brady sanction, disclosure ‘must be made at a time when [the] disclosure would be
23 of value to the accused.’” United States v. Gordon, 844 F.2d 1397, 1403 (9th Cir. 1988). With
24 this precedent, the Ninth Circuit has typically found no prejudice when alleged Brady
25 information was disclosed at some point before trial. Notwithstanding, whenever the State is
26 in possession of true Brady material, it is the practice of the undersigned to immediately turn
27 over such information.

28 ///

1 **B. IMPEACHMENT MATERIAL**

2 From Brady, a line of cases related to the credibility of testifying witnesses, the Court
3 established rules and requirements for impeachment material, or Giglio material. The right to
4 impeach witnesses is based on the Confrontation Clause of the constitution. The United States
5 Supreme Court has held that the Confrontation Clause is not “a constitutionally compelled
6 right of pretrial discovery.” Pennsylvania v. Ritchie, 480 U.S. 39, 52, 107 S. Ct. 989, 999
7 (1987). Instead, the right to confrontation is a trial right, “designed to prevent improper
8 restrictions on the types of questions that defense counsel may ask during cross-examination.”
9 It “does not include the power to require the pretrial disclosure of any and all information that
10 might be useful in contradicting unfavorable testimony.” It guarantees the opportunity for
11 effective cross-examination, “not cross-examination that is effective in whatever way, and to
12 whatever extent the defense might wish.” Id. at 53, 107 S. Ct. 999, *citing* Delaware v.
13 Fensterer, 474 U.S. 15, 20, 106 S. Ct. 292, 294 (1985).

14 Almost universally, courts have held that there is no Giglio obligation if the witness
15 does not testify.¹ *See* United States v. Green, 178 F.3d 1099, 1109 (10th Cir. 1999) (holding
16 that Giglio did not apply when the government “did not ever call” its confidential informant
17 as a witness); United States v. Mullins, 22 F.3d 1365, 1372 (6th Cir. 1994) (finding “no
18 authority that the government must disclose promises of immunity made to individuals the
19 government does not have testify at trial,” and holding that a grant of immunity could not be
20 “‘favorable to the accused’ as impeachment evidence because the government did not call [the
21 witness] and, thus, there was no one to impeach”); *see also* United States v. Pena, 949 F.2d
22 751, 758-59 (5th Cir. 1991) (impeachment evidence regarding a non-testifying witness is an
23 insufficient basis upon which to grant a new trial); United States v. Storey, 956 F. Supp. 934,
24 942 (D. Kan. 1997) (holding that while impeachment evidence falls within the Brady rule,
25 “[s]uch evidence as it pertains to an informant, however is only discoverable if the informant
26 testifies”); Kowalczyk v. United States, 936 F. Supp. 1127, 1149 (E.D.N.Y. 1996) (holding
27 that “[t]he Government was not obligated to produce the Janis arrest record, assuming the

28

¹ The exception to this rule is where the witness will not testify, but the witness’ hearsay statement will be admitted, then the witness’ credibility may be in issue. *See* United States v. Jackson, 345 F.3d 59, 70-71 (2nd Cir. 2003).

1 prosecution was in possession of such information, as Janis was not a witness at trial”); United
2 States v. Hill, 799 F. Supp. 86, 90 (D. Kan. 1992), (denying defense request for any
3 information which could be used to impeach non-witnesses); United States v. Villareal, 752
4 F. Supp. 851, 853 (N.D. Ill. 1991) (holding that “[a]s for statements by government witnesses
5 that qualify as impeachment materials, the government is under no obligation to disclose this
6 information before trial,” and that “the government is under no obligation at any time to
7 provide impeachment evidence for non-witnesses”); United States v. Coggs, 752 F. Supp. 848,
8 849, (N.D. Ill. 1990) (holding that the government is not required to produce impeachment
9 evidence impacting non-witnesses, reasoning that “[r]equiring that the government provide
10 impeachment evidence for non-witnesses will not further the interest sought to be served by
11 Giglio-allowing for a meaningful determination of witness credibility”). Finally, evidence of
12 impeachment of a witness need not be disclosed until the witness testifies. United States v.
13 Rinn, 586 F.2d 113 (9th Cir. 1978) (“[S]ince information concerning “favors or deals” merely
14 goes to the credibility of the witness, it need not be disclosed prior to the witness
15 testifying.”). Thus, unless the witness is going to testify, there is no basis to disclose any
16 impeachment material.

17 **IV. DEFENDANT’S SPECIFIC REQUESTS**

18 To the extent Defendant has made requests for specific items in this case, some of those
19 requests have previously been fulfilled. In addition, upon receipt of the instant Motion, the
20 State invited the defense to inspect and copy its file. The defense has accepted that invitation
21 and said meeting will occur when the parties’ schedules permit. If, after this meeting, there are
22 any items in the State’s possession that the State refuses to turn over, they will certainly be
23 brought to the Court’s attention.

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1 **CONCLUSION**

2 Based on the foregoing, the State respectfully asks this Court to order discovery to the
3 extent required by statute and constitutional standards and deny the remainder of the requests.

4 DATED this 6th day of April, 2021.

5 Respectfully submitted,

6 STEVEN B. WOLFSON
7 Clark County District Attorney
8 Nevada Bar #001565

9 BY /s/ John Giordani
10 JOHN GIORDANI
11 Chief Deputy District Attorney
12 Nevada Bar #006955

13
14 **CERTIFICATE OF ELECTRONIC SERVICE**

15 I hereby certify that service of the above and foregoing, was made this 6th day of April
16 2021, by email to:

17 W. Jeremy Storms, Chief Deputy Special PD
18 Jeremy.storms@clarkcountynv.gov

19 Alzora B. Jackson, Chief Deputy Special PD
20 Alzora.jackson@clarkcountynv.gov

21
22 BY: /s/ Stephanie Johnson
23 Employee of the District Attorney's Office

24
25
26
27
28 19F15993A/MD/saj/MVU

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

May 04, 2021

C-20-345911-1 State of Nevada
 vs
 Tuly Lepolo

May 04, 2021 3:00 AM Minute Order

HEARD BY: Villani, Michael **COURTROOM:** Chambers

COURT CLERK: Samantha Albrecht

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- THIS MATTER having come before this Court on April 30, 2021, and good cause appearing therefore, IT IS HEREBY ORDERED the State is to comply with NRS 174.2355, Brady, and its progeny.

IT IS FURTHER HEREBY ORDERED the State of Nevada is to provide in addition to NRS 174.235 the following items, as referenced by Defendant s specific requests for discovery:

1. The State is ordered to turn over all video and audio recordings and comply with mandatory obligations under Brady and Giglio, including statements made by Defendant. See footnote ¹
2. The State is further ordered to comply with NRS 174.235, Brady, and its progeny, including identification statements of identification or misidentification.

¹ For the purposes of this order, the “State of Nevada” is charged with the constructive knowledge and possession of evidence held by other state agents who assist in the investigation of the crime, such as law enforcement officers. See State v. Bennett, 119 Nev. 589, 81 P.3d 1 (2003); See also U.S. v. Blanco, 392 F.3d 382 (9th Cir. 2004).

3. The State is further ordered to comply with NRS 174.234(1)(a)(2).
4. The State is further ordered to comply with NRS 174.235, Brady, Giglio, and its progeny, including witness statements.
5. See #4.
6. The State is further ordered to comply with NRS 174.235, Brady, and its progeny. Chain of custody information contained in the LVMPD evidence vault can be made by appointment by Defense counsel.
7. The State is ordered to turn over any dashboard cameras, body cam footage, or video footage associated with event number 160403-3524. The State is further ordered to comply with NRS 174.235, Brady, and its progeny.
8. See #6.
9. The State is ordered to turn over all photographic, video, and audio recordings of evidence collection and testing, fingerprint evidence, DNA evidence, and forensic results in their actual possession of State of Nevada. Otherwise, defense should subpoena them on their own.
10. See #9.
11. The State is ordered to turn over any electronic communications intercepted in this case, if any, and any jail house phone calls in their possession, if any. The State is further ordered to comply with NRS 174.235, Brady, and its progeny.
12. See #11.
13. See #11.
14. See #1 and #4. The State is ordered to turn over all 911 and 311 recordings in their possession, if such are not available, Defendant may subpoena the same. The State is ordered to furnish the unit log to Defendant.
15. The State is ordered to disclose any benefits beyond witness fees and Giglio material, as well as all Brady and Giglio material required under NRS 174.235.
16. The State is further ordered to comply with NRS 174.235, Brady, Giglio, and its progeny, including witness statements.

17. The State is further ordered to comply with *United States v. Henthorn*, 931 F.2d 29 (9th Cir. 1991) by reviewing personal files of testifying officers for evidence of perjury or dishonest conduct and if said information is found it is to be provided to the Court for an in camera review.

18. The State is further ordered to comply with NRS 174.235, Brady, and its progeny, including identification of any known alternative suspects.

19. If the State is aware of any witnesses that have felony convictions or convictions involving moral turpitude, they are to provide such information to defense counsel. Furthermore, Defense Counsel may contact the Criminal Presiding Judge to run scope requests on the witness for this case. Defense Counsel may also contact the Federal Bureau of Investigation to request the same.

20. If the State is aware of any witnesses that have felony convictions or convictions involving moral turpitude, they are to provide such information to defense counsel.

21. See #6.

22. State is further ordered to comply with NRS 174.234(2), Brady, and its progeny. If any expert reports have been prepared, State is ordered to turn over said reports to Defense Counsel.

23. Both parties are ordered to comply with NRS 174.2349(4).

24. The State is ordered to turn over any reports under the above event number, and or associated event numbers in accordance with Brady, and Giglio.

25. Omitted.

26. Omitted.

27. Omitted.

28. Omitted.

29. Omitted.

30. Omitted.

31. Omitted.

32. Omitted.

33. Omitted.

34. Omitted.

35. Omitted.

36. Omitted.

37. Omitted.

38. Omitted.

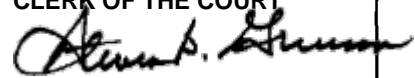
39. Omitted.

40. Omitted.

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46. Omitted.
47. Omitted.
48. Omitted.
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62. Omitted.
63. Omitted.
64. Omitted.
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68. Omitted.
69. Omitted.
70. The State is further ordered to comply with NRS 174.235, Brady, Giglio, and its progeny.

The COURT FURTHER ORDERS Defendant to provide the State with reciprocal discovery as enumerated in NRS 174.245. Counsel for Defendant is FURTHER ORDERED to submit a proposed order consistent with the foregoing within ten (10) days after counsel is notified of the ruling and distribute a filed copy to all parties involved pursuant to EDCR 7.21. Both parties to approve said order as to form and content.

CLERK'S NOTE: A copy of this Minute Order was provided to counsel by the Law Clerk. 5/4/2021
sa



AINFM
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JOHN GIORDANI
Chief Deputy District Attorney
Nevada Bar #12381
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

CASE NO: C-20-345911-1

-vs-

DEPT NO: VI

TULY LEPOLO, aka Tutamua Lepolo,
#8471381

Defendant.

**AMENDED
INFORMATION**

STATE OF NEVADA }
COUNTY OF CLARK } ss.

STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That TULY LEPOLO, aka Tutamua Lepolo, the Defendant above named, having committed the crimes of MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165 - NOC 50001) and ASSAULT WITH A DEADLY WEAPON (Category B Felony - NRS 200.471 - NOC 50201), on or about the 3rd day of April, 2016, within the County of Clark, State of Nevada, contrary to the form, force and effect of

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1 statutes in such cases made and provided, and against the peace and dignity of the State of
2 Nevada,

3 COUNT 1 - MURDER WITH USE OF A DEADLY WEAPON

4 did willfully, unlawfully, feloniously and with malice aforethought, kill RAQUEL
5 STAPINSKI, a human being, with use of a deadly weapon, to wit: firearm, by shooting at and
6 into the body of the said RAQUEL STAPINSKI, the said killing having been (1) willful,
7 deliberate, and premeditated, and/or (2) pursuant to a challenge to fight whereby RAQUEL
8 STAPINSKI was shot and killed in the cross-fire.

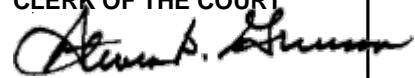
9 COUNT 2 - ASSAULT WITH A DEADLY WEAPON

10 did willfully, unlawfully, feloniously and intentionally place another person in
11 reasonable apprehension of immediate bodily harm and/or did willfully and unlawfully
12 attempt to use physical force against another person, to wit: FLORA MARIE TAYLOR, with
13 use of a deadly weapon, to wit: a firearm, by pointing said firearm at FLORA MARIE
14 TAYLOR.

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

17
18 BY /s/JOHN GIORDANI
19 JOHN GIORDANI
20 Chief Deputy District Attorney
21 Nevada Bar #12381
22
23
24
25

26 19F159993A/dd/MVU
27 LVMPD EV#160403003524
28 (TK11)



AINFM
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
JOHN GIORDANI
Chief Deputy District Attorney
Nevada Bar #12381
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

-vs-

TULY LEPOLO, aka Tutamua Lepolo,
#8471381

Defendant.

CASE NO: C-20-345911-1

DEPT NO: VI

**SECOND AMENDED
INFORMATION**

STATE OF NEVADA }
COUNTY OF CLARK } ss.

STEVEN B. WOLFSON, District Attorney within and for the County of Clark, State of Nevada, in the name and by the authority of the State of Nevada, informs the Court:

That TULY LEPOLO, aka Tutamua Lepolo, the Defendant above named, having committed the crimes of MURDER WITH USE OF A DEADLY WEAPON (Category A Felony - NRS 200.010, 200.030, 193.165 - NOC 50001) and ASSAULT WITH A DEADLY WEAPON (Category B Felony - NRS 200.471 - NOC 50201), on or about the 3rd day of April, 2016, within the County of Clark, State of Nevada, contrary to the form, force and effect of

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1 statutes in such cases made and provided, and against the peace and dignity of the State of
2 Nevada,

3 COUNT 1 - MURDER WITH USE OF A DEADLY WEAPON

4 did willfully, unlawfully, feloniously and with malice aforethought, kill RAQUEL
5 STAPINSKI, a human being, with use of a deadly weapon, to wit: firearm, by shooting at and
6 into the body of the said RAQUEL STAPINSKI, the said killing having been willful,
7 deliberate, and premeditated.

8 COUNT 2 - ASSAULT WITH A DEADLY WEAPON

9 did willfully, unlawfully, feloniously and intentionally place another person in
10 reasonable apprehension of immediate bodily harm and/or did willfully and unlawfully
11 attempt to use physical force against another person, to wit: FLORA MARIE TAYLOR, with
12 use of a deadly weapon, to wit: a firearm, by pointing said firearm at FLORA MARIE
13 TAYLOR.

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

17 BY /s/JOHN GIORDANI
18 JOHN GIORDANI
19 Chief Deputy District Attorney
20 Nevada Bar #12381
21
22
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25 19F159993A/dd/MVU
26 LVMPD EV#160403003524
27 (TK11)
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1 VER

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT

AUG 24 2022

BY, Kristen Brown @ 1:58 pm
KRISTEN BROWN, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

C-20-345911-1
VER
Verdict
5003945



7 THE STATE OF NEVADA,

8 Plaintiff,

9 -vs-

10 TULY LEPOLO, aka Tutamua Lepolo,

11 Defendant.

CASE NO: C-20-345911-1

DEPT NO: VI

13 VERDICT

14 We, the jury in the above entitled case, find the defendant TULY LEPOLO, aka Tutamua Lepolo, as follows:

15 COUNT 1 – MURDER WITH USE OF A DEADLY WEAPON

16 *(Please check the appropriate box, select only one)*

- 17 ☒ Guilty of First Degree Murder With Use Of A Deadly Weapon
- 18 ☐ Guilty of First Degree Murder
- 19 ☐ Guilty of Second Degree Murder With Use of a Deadly Weapon
- 20 ☐ Guilty of Second Degree Murder
- 21 ☐ Guilty of Voluntary Manslaughter With Use Of A Deadly Weapon
- 22 ☐ Guilty of Voluntary Manslaughter
- 23 ☐ Not Guilty

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AA00059

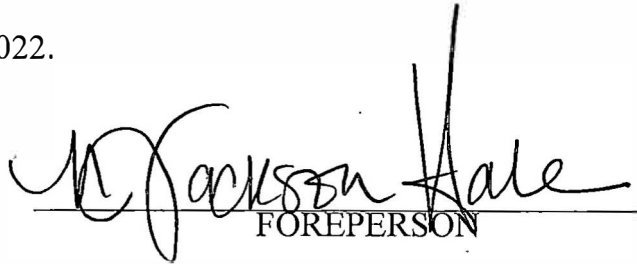
1 We, the jury in the above entitled case, find the defendant TULY LEPOLO, aka Tutamua
2 Lepolo, as follows:

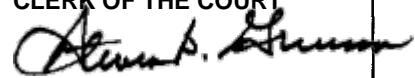
3 **COUNT 2** – ASSAULT WITH A DEADLY WEAPON

4 *(Please check the appropriate box, select only one)*

- 5 ☒ Guilty of Assault With A Deadly Weapon
6 ☐ Guilty of Assault
7 ☐ Not Guilty

8 DATED this 24 day of August, 2022.

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1 **SAO**
2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 JOHN GIORDANI
6 Chief Deputy District Attorney
7 Nevada Bar #012381
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

7 DISTRICT COURT
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,
10 Plaintiff,

11 -vs-

CASE NO: C-20-345911-1

12 TULY LEPOLO, aka Tutamua Lepolo,
13 #8471381,

DEPT NO: VI

14 Defendant.

15 **STIPULATION AND ORDER**

16 COMES NOW, the Defendant, TULY LEPOLO, aka Tutamua Lepolo, by and
17 through his counsel, JASON MARGOLIS, ESQ., and the State of Nevada, by and through
18 JOHN GIORDANI, Chief Deputy District Attorney, and pursuant to NRS 175.552(2),
19 hereby agree and stipulate to the following:

- 20 1. The jury in the above-captioned case having returned a verdict of guilty
21 on the offense First Degree Murder, the parties hereby waive the
22 penalty hearing before the jury as normally required under NRS
23 175.552(1)(a) and stipulate to a prison term of 20 to 50 years in the
24 Nevada Department of Corrections;
- 25 2. Pursuant to NRS 175.552(2), both parties agree that the sentence on the
26 weapon enhancement and the sentence on count 2 – Assault with a
27 Deadly Weapon – shall be imposed by this Honorable Court after a pre-
28 sentence investigation is conducted by the Department of Parole and
Probation;

26 ///

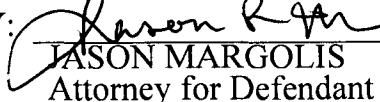
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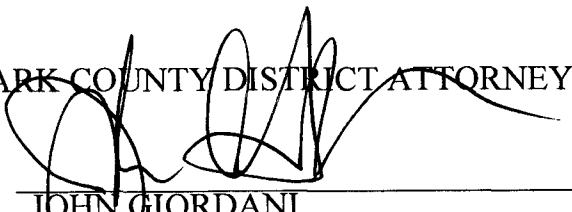
AA00061

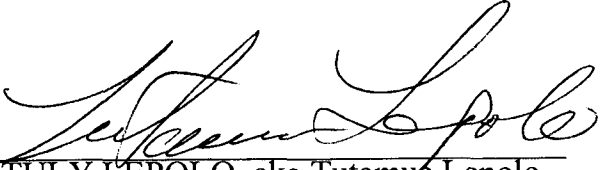
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2 DATED this 25th day of August 2022.

3
4 ATTORNEY FOR DEFENDANT

5 BY: 
6 JASON MARGOLIS
7 Attorney for Defendant
8 Nevada Bar #012439

CLARK COUNTY DISTRICT ATTORNEY

9 BY: 
10 JOHN GIORDANI
11 Chief Deputy District Attorney
12 Nevada Bar #012381

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TULY LEPOLO, aka Tutamua Lepolo
#8471381

IT IS SO ORDERED.


DISTRICT JUDGE

21CRN000070/saj/MVU

Heather S. Smith

CLERK OF THE COURT

JOC

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

CASE NO. C-20-345911-1

-vs-

DEPT. NO. VI

TULY LEPOLO
(AKA) Tutamua Lepolo
#8471381

Defendant.

JUDGMENT OF CONVICTION



(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of COUNT 1 – FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON (Category A Felony) in violation of NRS 200.010, 200.030, 193.165; and COUNT 2 – ASSAULT WITH A DEADLY WEAPON (Category B Felony) in violation of NRS 200.471, and the matter having been tried before a jury and the Defendant having been found guilty of the crimes of COUNT 1 – FIRST DEGREE MURDER WITH USE OF A DEADLY WEAPON (Category A Felony) in violation of NRS 200.010, 200.030, 193..165; and COUNT 2 – ASSAULT WITH A DEADLY WEAPON (Category B Felony) in violation of NRS 200.471; thereafter, on the 12TH day of October, 2022, the Defendant was

1 present in court for sentencing with counsel JASON MARGOLIS, ESQ., and good
2 cause appearing,

3
4 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in
5 addition to the \$25.00 Administrative Assessment Fee, \$250.00 Indigent Defense Civil
6 Assessment Fee, \$350.00 Extradition Fees, \$5,722.62 Restitution payable to
7 VICTIMS OF CRIME and \$150.00 DNA Analysis Fee including testing to determine
8 genetic markers plus \$3.00 DNA Collection Fee, the Defendant is sentenced to the
9 Nevada Department of Corrections (NDC) as follows: COUNT 1 - a MAXIMUM of
10 FIFTY (50) YEARS with a MINIMUM Parole Eligibility of TWENTY (20) YEARS plus a
11 CONSECUTIVE term of TEN (10) YEARS with a MINIMUM parole eligibility of FOUR
12 (4) YEARS for the Use of a Deadly Weapon; and COUNT 2 - to a MAXIMUM of FIVE
13 (5) YEARS with a MINIMUM parole eligibility of TWO (2) YEARS, CONSECUTIVE to
14 COUNT 1; with ONE THOUSAND EIGHTY-FOUR (1084) DAYS credit for time
15 served. The AGGREGATE TOTAL sentence is SIXTY-FIVE (65) YEARS MAXIMUM
16 with a MINIMUM of TWENTY-SIX (26) YEARS.
17
18

19 Dated this 12th day of October, 2022

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23 8D9 B4E 3D2F 2AF2
24 Jacqueline M. Bluth
25 District Court Judge
26
27
28

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 State of Nevada

CASE NO: C-20-345911-1

7 vs

DEPT. NO. Department 6

8 Tuly Lepolo
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Judgment of Conviction was served via the court's electronic eFile
13 system to all recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 10/12/2022

15 Mace Yampolsky

mace@macelaw.com

16 Jason Margolis

jason@macelaw.com

17 Theresa Muzgay

theresa@macelaw.com

18 Dept 6 Law Clerk

dept06lc@clarkcountycourts.us

19 District Attorney

motions@clarkcountyda.com

20 John Giordani

john.giordani@clarkcountyda.com

21 Heather Ungermann

ungermannh@clarkcountycourts.us

22 Alzora Jackson

ajackson@clarkcountynv.gov

23 Jason Margolis

jason@macelaw.com

24 Marc DiGiacomo

marc.digiacom@clarkcountyda.com

25 Guadalupe Ortiz

guadalupe@macelaw.com

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28 AA00065

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Antonio Mendoza antonio@macelaw.com

1 **NOASC**
2 JEAN J. SCHWARTZER, ESQ.
3 Nevada Bar No. 11223
4 **LAW OFFICE OF JEAN J. SCHWARTZER, Ltd.**
5 411 E. Bonneville Avenue, Suite 360
6 Las Vegas, Nevada 89101
7 Office: (702) 979-9941
8 Email: jean.schwartzter@gmail.com
9 Attorney for Petitioner

10 **DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 STATE OF NEVADA,)
13 Plaintiff/Respondent,)
14 v.) CASE NO: C-20-345911-1
15) DEPT NO: VI
16)
17)
18 TULY LEPOLO #8471381,)
19 Defendant/Appellant.)
20 _____)

21 **NOTICE OF APPEAL**

22 NOTICE IS HEREBY GIVEN that TULY LEPOLO, defendant above named, hereby
23 appeals to the Supreme Court of Nevada from the Judgment of Conviction entered on October 10,
24 2022.

25 DATED this 3rd day of November 2022.

26 /s/ Jean J. Schwartzter
27 **JEAN J. SCHWARTZER, ESQ.**
28 Nevada Bar No. 11223
Law Office of Jean J. Schwartzter, Ltd.
411 E. Bonneville Avenue, Suite 360
Las Vegas, Nevada 89101
Phone: (702) 979-9941
jean.schwartzter@gmail.com

AA00067

1 **CERTIFICATE OF SERVICE**

2 **IT IS HEREBY CERTIFIED** by the undersigned that on the 3rd day of November, 2022, I
3 served a true and correct copy of the foregoing **NOTICE OF APPEAL** on the parties listed on the
4 attached service list via one or more of the methods of service described below as indicated next to
5 the name of the served individual or entity by a checked box:

6 **VIA U.S. MAIL:** by placing a true copy thereof enclosed in a sealed envelope with postage thereon
7 fully prepaid, in the United States mail at Las Vegas, Nevada.

8 **VIA FACSIMILE:** by transmitting to a facsimile machine maintained by the attorney or the party
9 who has filed a written consent for such manner of service.

10 **BY PERSONAL SERVICE:** by personally hand-delivering or causing to be hand delivered by such
11 designated individual whose particular duties include delivery of such on behalf of the firm,
12 addressed to the individual(s) listed, signed by such individual or his/her representative accepting on
13 his/her behalf. A receipt of copy signed and dated by such an individual confirming delivery of the
14 document will be maintained with the document and is attached.

15 **BY E-MAIL:** by transmitting a copy of the document in the format to be used for attachments to the
16 electronic-mail address designated by the attorney or the party who has filed a written consent for
17 such manner of service.

18 By:

19 /s/ Jean Schwartzter

20 **JEAN J. SCHWARTZER, ESQ.**

21 Nevada Bar No. 11223

22 Law Office of Jean J. Schwartzter, Ltd.

23 411 E. Bonneville Avenue, Suite 360

24 Las Vegas, Nevada 89101

25 Phone: (702) 979-9941

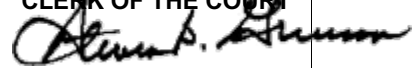
26 jean.schwartzter@gmail.com

27 Attorney for Petitioner

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SERVICE LIST

ATTORNEYS OF RECORD	PARTIES REPRESENTED	METHOD OF SERVICE
CLARK COUNTY DISTRICT ATTORNEY’S OFFICE 200 E. LEWIS AVENUE LAS VEGAS, NEVADA 89101 Alexander.chen@clarkcountyyda.com	State of Nevada	<input type="checkbox"/> Personal service <input checked="" type="checkbox"/> Email service <input type="checkbox"/> Fax service <input type="checkbox"/> Mail service
TULY LEPOLO #8471381 High Desert State Prison P.O. Box 650 Indian Springs, Nevada 89070-0650		<input type="checkbox"/> Personal service <input type="checkbox"/> Email service <input type="checkbox"/> Fax service <input checked="" type="checkbox"/> Mail service



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5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

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8 THE STATE OF NEVADA,
9 Plaintiff,

10 vs.

11 TULY LEPOLO, #8471381,
12 Defendant.

)
) CASE#: C-20-345911-1
)
) DEPT. VI
)
)
)
)
)

13 BEFORE THE HONORABLE JACQUELINE BLUTH
14 DISTRICT COURT JUDGE
WEDNESDAY, AUGUST 17, 2022

15 **RECORDER'S TRANSCRIPT OF JURY TRIAL - DAY 1**

16
17 APPEARANCES:

18 For the Plaintiff:

JOHN GIORDANI, ESQ.
ELISA CONLIN, ESQ.

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20 For the Defendant:

JASON MARGOLIS, ESQ.

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25 RECORDED BY: DE'AWNA TAKAS, COURT RECORDER

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INDEX

Jury Voir Dire 7

WITNESSES FOR THE PLAINTIFF

None

WITNESSES FOR THE DEFENDANT

None

1 Las Vegas, Nevada, Wednesday, August 17, 2022

2
3 [Case called at 12:40 p.m.]

4 THE COURT: We are on the record in State of Nevada v.
5 Lepolo, Tuly, C-345911. Mr. Lepolo is present with counsel,
6 Mr. Margolis, as well as paralegal Mr. Mendoza. Both Mr. Giordani as
7 well as Ms. Conlin are present on behalf of the State.

8 We are outside the presence of the prospective jury panel.
9 There have been some negotiations going back and forth with -- between
10 the parties. The State had made an offer. The Defendant had countered
11 with a 6 to 15. Mr. Giordani and Ms. Conlin consulted with the family.
12 After doing so, the State rejected the counteroffer.

13 Would that be a fair assessment of what had gone on,
14 Mr. Margolis?

15 MR. MARGOLIS: Correct.

16 MR. GIORDANI: Yes, Your Honor.

17 THE COURT: And Mr. Giordani?

18 MR. GIORDANI: Yes, Your Honor.

19 THE COURT: Okay. All right. So at this point in time, we
20 will, as soon as my marshal is in, we will bring in the jury, potential jury
21 members. Any housekeeping that I need to be aware of, guys?

22 MR. MARGOLIS: Now would be the time if you wanted to
23 address what you wanted to address.

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Yeah.

1 THE DEFENDANT: I've been -- I know we had a -- a lot of
2 disagreements in this courtroom. And most -- most of my arguments
3 was without filing these motions. And I talked to Mr. Margolis. He said
4 he was okay with it. I could file this motion just to have it on record so I
5 could appeal it.

6 THE COURT: Sure.

7 THE DEFENDANT: And there was another thing as well.
8 There is a letter from the state supreme that the mandamus that came
9 back for the 9th of September. And I was -- I was waiting on that -- that
10 mandamus to be answered. And now they're saying that there's a oral --
11 oral argument on the 9th of September. And I talked to Mr. Margolis to
12 see if they could -- we could wait till after that, the oral argument, to see
13 what happens, but he said it might not happen 'cause we're -- we're here
14 and present doing our jury trial.

15 THE COURT: Wait. What's the oral argument on?

16 MR. MARGOLIS: There was a bail writ about whether or not
17 proof was evident.

18 THE COURT: Yeah. The bail writ. Okay. Yeah. So yeah, no,
19 I wouldn't -- I'm not going to continue the trial for that purpose, because
20 that purpose is just to determine whether or not the bail setting is
21 appropriate or whether or not the procedures that were put in place for
22 that type of hearing were appropriate. So it doesn't really affect the trial
23 day. If anything, it just affects custodial status.

24 THE DEFENDANT: Okay.

25 THE COURT: But I'm happy to have it noted for the record

1 that your request was to continue this trial till after the hearing.

2 And then the motion that you'd like to file, can you tell me a
3 little bit? I don't know exactly what the motion is.

4 THE DEFENDANT: Actually, it's the same thing as, like, a
5 motion to dismiss, appoint counsel.

6 THE COURT: Oh.

7 THE DEFENDANT: But I already, you know, just to have it on
8 record on paper --

9 THE COURT: That's fine.

10 THE DEFENDANT: -- because in the past I never actually
11 wrote it, because -- actually I had help with this. And, you know, I was
12 like okay, let me use it. That's -- because, you know --

13 THE COURT: It's for the same basis that you stated orally
14 though?

15 THE DEFENDANT: Well, there's -- there's other bases in here
16 that I put -- put in there. Basically, like, you know, things that I asked for,
17 Mr. Margolis has not been there as much as he's supposed to be at the
18 county jail --

19 THE COURT: Okay.

20 THE DEFENDANT: -- to, you know, talk to me about what
21 type of defense we had. Basic stuff like that, Your Honor.

22 THE COURT: Okay. All right. So you --

23 THE DEFENDANT: And I know it's, you know, it's nothing
24 personal. I just -- a lot of people think I have a problem with all my
25 attorneys, but only one particularly, which was Mr. Jeremy Storms. But

1 Ms. Jackson I had no problems with and went on record saying I got rid
2 of her. She never -- but I never did get rid of her.

3 THE COURT: Right. She left. She left the office. Yeah. And
4 then you thought that she was going to keep your case, but then I guess
5 she ultimately decided some she could keep, some she couldn't.

6 THE DEFENDANT: Yeah. And disagreement 'cause he
7 thought I was -- actually, I was complimenting her about how she
8 represented my case during the time that she took over with Mr. Jeremy
9 Storms.

10 THE COURT: Yeah.

11 THE DEFENDANT: And I felt that energy from her, like, okay,
12 she's really talking for me. And, you know, with other counselors, I don't
13 feel the same effect.

14 THE COURT: Sure. Okay.

15 THE DEFENDANT: And, you know, I'm not holding anything
16 against Mr. Margolis. I just felt like -- that, you know, we didn't have
17 enough time -- meeting at the county jail. Every time I had to find out
18 about something, I got a call, and then he gives me the news, and I was
19 like --

20 THE COURT: Okay. So, Officer Kennis, can you grab that
21 motion for Mr. Lepolo, so I can have it filed in open court?

22 THE DEFENDANT: Thank you.

23 THE COURT: This is regarding --

24 THE DEFENDANT: Can I get a copy and a receipt? Or?

25 THE COURT: We don't give receipts, but I can make you a

1 copy.

2 THE DEFENDANT: Thank you.

3 THE COURT: Can I have a copy of that, please, and then we'll
4 file the other -- we'll file the original, and let's bring in the jury, please.

5 THE MARSHAL: Yes, ma'am.

6 [Prospective Jury in at 12:46 p.m.]

7 THE COURT: All right. Thank you, everyone. Please be
8 seated.

9 We are on the record in State of Nevada v. Lepolo, Tuly,
10 C-345911. Mr. Lepolo is present with counsel, Mr. Margolis, as well as
11 paralegal Mendoza. Both deputy district attorneys, Mr. Giordani as well
12 as Ms. Conlin, are present on behalf of the State. Do the parties stipulate
13 in the presence of the perspective jury panel?

14 MR. GIORDANI: We do, Your Honor.

15 THE COURT: All right. I'm sorry, Mr. Margolis, did you say
16 yes?

17 MR. MARGOLIS: Yes, Your Honor.

18 THE COURT: Okay. Thank you.

19 All right, ladies and gentlemen, as you just heard me, this is
20 the time set for trial in case number C-345911, State of Nevada v. Tuly
21 Lepolo, who is the defendant. The record will reflect the presence of the
22 defendant, Mr. Lepolo, with his counsel, Mr. Margolis. Also, the firm's
23 paralegal is joining us, Mr. Mendoza. Both deputy district attorneys are
24 to my right, Mr. Giordani as well as Ms. Conlin. You are in Department
25 VI of the Eighth Judicial District Court. My name is Jacqueline Bluth, and

1 I am the presiding judge in this department.

2 You have been called upon today to serve as a juror in a
3 criminal case. There are two charges in this matter. One count of
4 murder with use of a deadly weapon and one count of assault with use
5 of a deadly weapon. We expect this trial to last about a week, a week
6 and a half. Our trials generally run from no earlier than 8:30 in the
7 morning till no later than 5 at night.

8 In this country we place great faith in our citizens as jurors to
9 reach fair and objective decisions. Part of what you're doing here is
10 being good citizens of our country and community. Jury duty is a civic
11 responsibility, like obeying laws, voting, and paying taxes. We
12 appreciate the fact that you responded to the jury summons and showed
13 up willing to do your job. It's important what you are doing here, and I
14 do hope that you find the experience as a juror rewarding.

15 I know when I say that and when I say, "I hope you find this
16 experience rewarding," I know that many of you are secretly or
17 outwardly rolling your eyes at me. And I get it. I have been a juror
18 before, and so I understand at this stage why it's frustrating. I know that
19 people have jobs and families, significant others, schooling. I know it. I
20 get all of it. I promise. I don't want you to think that I'm not
21 compassionate to that. But I just ask you to think of a few things when
22 you're going through those thoughts. Right?

23 So number 1, what if you were in a trial of some sort that
24 was very important to you. And how important would it be to you to
25 have people that were willing to pay it the dignity and respect in which

1 the matter deserved and pay attention and show up willing to do the job.

2 Number 2, and I know that this is hard to believe as you sit
3 here right now, but I try to keep track of my trials, and I believe that this
4 is trial 93. Never, not ever one time, have I ever not met with a jury
5 trial -- a jury after trial where the jurors haven't said to me, this was such
6 a great experience. I did not want to be here in the beginning. I totally
7 rolled my eyes at you, but I can tell you after sitting through it, I actually
8 really enjoyed the experience.

9 The last thing if those first two didn't get you, is that there
10 are several trials being selected right now. One of them is for another
11 homicide case that is supposed to last four to six weeks. So I know that
12 a week to a week and a half sounds like a lot of time -- and it's not to take
13 away from what that will, you know, take away from your jobs and your
14 family and your significant others -- but in the last few years in the
15 Eighth Judicial District Court, we have picked juries up to six to nine
16 months. So be careful what you try to get out of, because if you get out
17 of my jury trial, it doesn't necessarily mean you get out of jury service. It
18 means that you can go back downstairs and get reassigned to a different
19 department. And I promise you that no department is as good as this
20 one.

21 So, all right. So let's go on. And let me take this opportunity
22 to introduce to you my staff. You've already met my marshal, which is
23 Officer Kennis. His job is to maintain order and security in the
24 courtroom. He's also my representative to the jury. So anything you
25 need, any issues that you have, please just raise your hand or go up to

1 him and let him know about it. He is the conduit to me, so he comes, he
2 tells me the issue, and we take care of it. The only rule in regards to
3 communications with my marshal, with Officer Kennis, is that he can
4 never, under any circumstances, speak to you about the facts of the case.
5 There are very strict rules about that that we'll get into later. So just
6 don't ever talk to him about facts, just specific trial-type things. Okay?

7 To my far left is my reporter. Her name is De'Awna Takas.
8 She sees that everything that is said during the trial is recorded.
9 Normally, when we watch things on TV and it has to do with court, you
10 usually see like a male or a female sitting in front of the judge typing
11 everything out. That's what we consider old school. They don't do that
12 anymore. Now, everything is recorded and then later a transcriptionist
13 goes back, listens, and types everything out. Because of that, everything
14 we say, everything -- we being you, me, the attorneys -- everything we
15 say is being recorded.

16 Therefore, the things that we do in everyday language when
17 we communicate like uh-huh and huh-uh or shaking our head yes,
18 shaking our head no, it doesn't work, because it doesn't pick up on the
19 recording. So a lot of the times you'll hear me say or you'll hear the
20 attorneys say, "Was that a yes?" "Was that a no?" That's just a polite
21 reminder to say things out loud. Don't feel badly if you get asked that.
22 It's just something that, in the legal world, is quite common but in
23 everyday talk we don't, you know, we use those cues.

24 You'll also notice that there are multiple cameras around my
25 courtroom. Those are not used, really, during the jury trial. In the

1 mornings, I have what's referred to as criminal calendars. And those are
2 really used, and the purpose of those is, for those criminal calendars.
3 Jurors' faces are never videotaped and never released. So I don't want
4 anyone to feel nervous about the cameras.

5 On my immediate left is Ms. Brown. She is my court clerk.
6 She sees that all the exhibits are marked. She swears in the witnesses
7 and keeps track of the evidence and prepares minutes of the proceedings
8 for the court record.

9 You may also see my judicial executive assistant. Her name
10 is Crystal Jacobs [phonetic]. She works behind this wall in my
11 chambers. She'll come in as well as my law clerk Joe. And then sitting
12 to my right is my law clerk -- or excuse me, is my intern from the Boyd
13 School of Law, John Sandoval. So he is with us as well.

14 So in a moment, I'm going to ask the State to stand up and
15 introduce themselves to you. They'll give a short synopsis of what this
16 case is about, and they'll also read a list of witnesses to you of those that
17 they intend to call. Please make sure you pay close attention to the
18 names of the witnesses that they are calling, because a few minutes after
19 that, I am going to ask you a few questions, one of which is, is do you --
20 did you recognize any of the names that were named on that list?

21 At this point in time, I'll turn it over to Mr. Giordani for the
22 State.

23 MR. GIORDANI: Thank you, Your Honor.

24 Good afternoon, everyone. My name is John Giordani. I'm a
25 chief deputy district attorney with the Clark County DA's Office, homicide

1 unit. This is Elise Conlin, also a deputy district attorney with the DA's
2 office.

3 We've charged Mr. Lepolo here with one count of murder
4 with use of a deadly weapon and one count of assault with a deadly
5 weapon for acts that were committed back in 2016 April. The victims in
6 this case are named Raquel Stapinski, she was shot and killed by the
7 defendant, and Flora Taylor, who had a gun pointed in her face.

8 I'm about to read a lengthy list of witnesses to you. Please
9 pay attention and let the Judge know if you recognize or know any of
10 these folks because we can't have jurors with personal relationships with
11 any of our potential witnesses in this case.

12 There are several Las Vegas Metropolitan Police Department
13 employees. I'm going to refer to that as Metro. So the following four are
14 officers of Metro: Troy Barrett, Dolphis Boucher, Andrew Burnett, Travis
15 Busby. There's a Dwayne Armstrong, Joe Androvandi, William -- I'm
16 sorry. The following six witnesses are with Metro: William Catricala,
17 Lazaro Chavez, Brian Cole, Brandon Copley, Nelson Cortes, Mitch Dosch,
18 a detective with Metro, Larry Douglas and Craig Dunn, both Metro.

19 We have Elise Faamasino, Craig Fabert, Jamie Honaker,
20 former investigator or investigator with the Clark County District
21 Attorney's Office, Lanija Fleming, Dana Forman, Ronald Fox with Metro,
22 Courtney Franco, Vicente Gaona, Michael Garces, Alfred Garcia, Cesar
23 Garcia -- all those four with Metro -- Trina Gill, David Gordon with Metro,
24 James Gustaw with the ATF, Antoine Hall, Jessica Hall, Dabrejae
25 Hampton, Breck Hodson with Metro, Michelle Isham, Travis Ivie,

1 formerly with Metro, Brian Jackson with Metro, Alice Jenkins.

2 And the following four witnesses are with Metro: Matthew
3 Jogodka, Joseph Kabbani, Alexander Kazee, and Joel Kisner. Max
4 Kunzman, he's with the San Bernardino County Sheriff's Department,
5 Muasau John Lepolo, Cecila Lepolo, Gordon Lepolo, Stanley Lepolo,
6 Taufau Lepolo.

7 The following officers with Metro: Brett Levasseur,
8 Christopher Loucks, Elliott Ludtke, Alejandro Macias, Gerald Mauch,
9 Daniel McGrath, Jacob McLemore, Sean O'Donnell, also with Metro. We
10 have a Dr. Lisa Gavin. She's with the Clark County coroner's office and
11 conducted the autopsy in this case, Jasper Park of Metro, Ashley Perez,
12 also of Metro, Terrence Parris, and Kaleo Quin.

13 The following four are with Metro: Dean Raetz, Christopher
14 Ries, Kenneth Ruzicka, Thomas Ryback. Tate Sanborn is with the Metro
15 homicide division. Antonio Scott, an officer with Metro. The following
16 are also Metro officers: Jon Scott, Adam Seely, Andrew Shark, Gregory
17 Stinnett, and David Summers. Henry Taylor, James Gallo, Bradley
18 Vanpamel is a Metro officer as is Jessica Wert.

19 We have several crime scene analysts with the Las Vegas
20 Metro Police Department as well: Lara Alexander, Debbie Andrews,
21 Noreen Charlton, Stephanie Fletcher. Heather Gouldthorpe is a
22 fingerprint analyst with Metro's forensic lab. Kristin Grammas is a CSA,
23 or crime scene analyst. Bradley Grover is also a CSA. Noelle Howell,
24 also a CSA. Shandra Lynch, a former CSA with Metro. Angel Moses,
25 with the ballistics and firearms lab at Las Vegas Metro. Tabatha Paine,

1 crime scene analyst, Allison Rubino is a DNA analyst with Las Vegas
2 Metro's forensics lab, and two additional crime scene analysts are Jeff
3 Smink and Erinmarie Taylor.

4 Thank you all very much for your time and attention over the
5 course of the next week or so. We do appreciate it.

6 THE COURT: Thank you, State.

7 MR. GIORDANI: Thank you, Your Honor.

8 THE COURT: Mr. Margolis.

9 MR. MARGOLIS: Thank you, Your Honor.

10 Good afternoon, ladies and gentlemen, my name is Jason
11 Margolis. I'm a criminal defense attorney. I have a small law firm with
12 my partner, Yampolsky & Margolis. At my table you'll find
13 Mr. Tutaumua Lepolo, my client. And you'll also find my paralegal,
14 Antonio Mendoza. The defense witness list consists of each and every
15 witness on the State's witness list, to be determined whom we will call. I
16 thank you for your time and attention, and I ask that you reserve
17 judgment until all the evidence is in. Appreciate it.

18 THE COURT: Thank you, Mr. Margolis.

19 All right. Ladies and gentlemen, I'm going to call roll at this
20 point in time. If you hear your name, please just say "present" or "here."
21 Pamela Charles?

22 PROSPECTIVE JUROR 254: Here.

23 THE COURT: Benjamin Auten?

24 PROSPECTIVE JUROR 260: Here.

25 THE COURT: Emilio Mendez?

1 PROSPECTIVE JUROR 269: Here.
2 THE COURT: Elijah Brigham?
3 PROSPECTIVE JUROR 273: Here.
4 THE COURT: Megan Ortiz?
5 PROSPECTIVE JUROR 275: Present.
6 THE COURT: Bailey Acosta?
7 PROSPECTIVE JUROR 286: Here.
8 THE COURT: Souriyeth Chantharath?
9 PROSPECTIVE JUROR 293: Here.
10 THE COURT: Christopher Durrett?
11 PROSPECTIVE JUROR 304: Here.
12 THE COURT: Richard Lim?
13 PROSPECTIVE JUROR 311: Here.
14 THE COURT: Joseph Overmyer?
15 PROSPECTIVE JUROR 314: Here.
16 THE COURT: A. Weeks?
17 PROSPECTIVE JUROR 316: Who?
18 THE COURT: It says "A. Weeks."
19 PROSPECTIVE JUROR 316: It supposed to be a P. My
20 name's Preston.
21 THE COURT: Preston. Huh. Okay. I don't know why it says
22 A, but, Preston Weeks, thank you.
23 Joyce Burns?
24 PROSPECTIVE JUROR 318: Here.
25 THE COURT: Mesele Engida?

1 PROSPECTIVE JUROR 345: Here.
2 THE COURT: Michelle Mazzanti?
3 PROSPECTIVE JUROR 346: Here.
4 THE COURT: Allison Daniel?
5 PROSPECTIVE JUROR 359: Here.
6 THE COURT: Christina Adrian?
7 PROSPECTIVE JUROR 366: Here.
8 THE COURT: Renata Rocha?
9 PROSPECTIVE JUROR 377: Here.
10 THE COURT: Jerry Martin?
11 PROSPECTIVE JUROR 379: Here.
12 THE COURT: Nakia Jackson-Hale?
13 PROSPECTIVE JUROR 380: Present.
14 THE COURT: Shawn Palmer?
15 PROSPECTIVE JUROR 386: Here.
16 THE COURT: Sherry Van Natta?
17 PROSPECTIVE JUROR 390: Here.
18 THE COURT: James McFerron?
19 PROSPECTIVE JUROR 401: Here.
20 THE COURT: Marisa Magatelli?
21 PROSPECTIVE JUROR 414: Here.
22 THE COURT: Mei-Ling Yang?
23 PROSPECTIVE JUROR 426: Here.
24 THE COURT: Justin Peck?
25 PROSPECTIVE JUROR 447: Here.

1 THE COURT: James Wallin?
2 PROSPECTIVE JUROR 455: Here.
3 THE COURT: James Compton?
4 PROSPECTIVE JUROR 493: Here.
5 THE COURT: Arthur Amil?
6 PROSPECTIVE JUROR 497: Here.
7 THE COURT: David Zarate?
8 PROSPECTIVE JUROR 499: Present.
9 THE COURT: Jose Barrera?
10 PROSPECTIVE JUROR 500: Here.
11 THE COURT: Arnette Givens-Wells?
12 PROSPECTIVE JUROR 501: Here.
13 THE COURT: Margarita Saldivar?
14 PROSPECTIVE JUROR 504: Here.
15 THE COURT: Thanh Novack?
16 PROSPECTIVE JUROR 507: Here.
17 THE COURT: Amber Smith?
18 PROSPECTIVE JUROR 510: Here.
19 THE COURT: Dara Carno?
20 PROSPECTIVE JUROR 514: Here.
21 THE COURT: Denise Long?
22 PROSPECTIVE JUROR 522: Here.
23 THE COURT: Dimitri Grigorov?
24 PROSPECTIVE JUROR 523: Here.
25 THE COURT: Omar Lopez?

1 PROSPECTIVE JUROR 531: Here.
2 THE COURT: Steven Lane?
3 PROSPECTIVE JUROR 538: Here.
4 THE COURT: Mister -- how do I -- Kaleikini?
5 PROSPECTIVE JUROR 560: Here.
6 THE COURT: How do I say it?
7 PROSPECTIVE JUROR 560: Hoohiwahiwa.
8 THE COURT: Okay. Kelley Hamlet?
9 PROSPECTIVE JUROR 564: Here.
10 THE COURT: Hye Kim?
11 PROSPECTIVE JUROR 577: Here.
12 THE COURT: Yolanda Ali?
13 PROSPECTIVE JUROR 581: Here.
14 THE COURT: Ren Matsubara?
15 PROSPECTIVE JUROR 587: Here.
16 THE COURT: Pedro Enriquez?
17 PROSPECTIVE JUROR 592: Present.
18 THE COURT: Aliya Scheppmann?
19 PROSPECTIVE JUROR 596: Here.
20 THE COURT: Cristobal Monarrez?
21 PROSPECTIVE JUROR 597: Here.
22 THE COURT: Kimberly Goun?
23 PROSPECTIVE JUROR 600: Here.
24 THE COURT: Leticia Ritchey?
25 PROSPECTIVE JUROR 601: Here.

1 THE COURT: John Hall?
2 PROSPECTIVE JUROR 604: Here.
3 THE COURT: Christopher Rapanos?
4 PROSPECTIVE JUROR 605: Here.
5 THE COURT: Emilie Stevenson?
6 PROSPECTIVE JUROR 606: Present.
7 THE COURT: Wayne Davenport?
8 PROSPECTIVE JUROR 607: Present.
9 THE COURT: Deanna Romero?
10 PROSPECTIVE JUROR 608: Here.
11 THE COURT: Samantha Griffiths?
12 PROSPECTIVE JUROR 629: Here.
13 THE COURT: Jhoanna Villablanca?
14 PROSPECTIVE JUROR 630: Here.
15 THE COURT: Robert Judin?
16 PROSPECTIVE JUROR 632: Here.
17 THE COURT: Joseph Mieszala?
18 PROSPECTIVE JUROR 646: Here.
19 THE COURT: Brian Kulpa?
20 PROSPECTIVE JUROR 647: Here.
21 THE COURT: Brian Friedman?
22 PROSPECTIVE JUROR 652: Here.
23 THE COURT: Christopher Acosta?
24 PROSPECTIVE JUROR 670: Here.
25 THE COURT: Leythy Holdridge?

1 PROSPECTIVE JUROR 686: Here.

2 THE COURT: Christopher Kairy?

3 PROSPECTIVE JUROR 690: Here.

4 THE COURT: Thomas Klein?

5 PROSPECTIVE JUROR 696: Here.

6 THE COURT: Judith Ferreri?

7 PROSPECTIVE JUROR 698: Here.

8 THE COURT: Is there anyone who is present and I did not
9 call their name? Okay. Showing no response for the record.

10 All right, ladies and gentlemen, we're about to begin jury
11 selection process. This is the part of the case where the parties and their
12 lawyers have the opportunity to get to know a little bit about you in order
13 to help them come to their own conclusions about your ability to be fair
14 and impartial so that they can decide who they think should be jurors in
15 this case. This process is done under oath. So if you could please stand,
16 raise your right hand so that Ms. Brown can swear you in.

17 [Prospective Jury, sworn]

18 THE COURT: All right. So the process will go like this. First,
19 I'm going to ask some general questions while you are all seated in the
20 seats that you're currently in. And these questions will be directed to
21 everyone, including those in the jury box and then those in each of the
22 sides of the galley. After those general questions, the focus of the
23 questions will turn to the first 32 of you who are seated in the jury box
24 and then that first row behind the State.

25 After I am done and my questions have concluded, each of

1 the lawyers will have more specific questions that they will ask you. The
2 questions that you will be asked during this process are not intended to
3 embarrass you or unnecessarily pry into your personal affairs. But it is
4 important that the parties and their attorneys know enough about you to
5 make this important decision.

6 There are no right or wrong answers to the questions that
7 will be asked of you. The only thing that I ask is that you answer the
8 questions as honestly and completely as you can. You have taken an
9 oath to answer all the questions truthfully, and you must do so.

10 Remaining silent when you have information you should disclose is a
11 violation of that oath as well. If a juror violates this oath, it not only may
12 result in having to try the case all over again but can result in penalties
13 against the juror personally. So again, it is very important that you be as
14 honest and complete with your answers as possible. If you don't
15 understand the question, please ask for an explanation or clarification,
16 and I will be happy to aid you.

17 At some point during the process of selecting a jury, the
18 attorneys on both sides will have the right to ask that a particular person
19 not serve as a juror. That is called the challenge. There are two types of
20 challenges. The first type of challenge is referred to as a challenge for
21 cause. A challenge for cause is a request to excuse a juror because the
22 juror might have a difficult time being fair and impartial in this particular
23 case. The second type of challenge is what's referred to as a peremptory
24 challenge. A peremptory challenge means that a juror can be excused
25 from duty without counsel having to give a reason for the excusal.

1 In this case, each side will have nine peremptory challenges.
2 Please do not be offended should you be excused by either of the
3 challenging procedures. They are simply a part of the procedures
4 designed to assist the parties and their attorneys to select a fair and
5 impartial jury. Once all challenges are exercised, we will have 14
6 qualified jurors. Two of the 14 will be designated as alternates, and the
7 12 remaining jurors will deliberate in the case. However, out of the 14,
8 you will not know which two are the alternates. So please, if selected,
9 make sure you're paying attention at all times.

10 I am now going to ask some questions of the entire group. If
11 you wish to respond, please raise your hand. My marshal will bring you
12 the microphone. When he gets the microphone to you, please read your
13 last name and the last three digits of your Badge Number into the
14 microphone. Your Badge Number is found on your jury summons.
15 Please make sure you're looking at your Badge Number, not your jury
16 summons number. While you're doing that, I'm going to have
17 Ms. Brown read you the charges and the information.

18 Ms. Brown?

19 THE CLERK: District Court, Clark County, Nevada, State of
20 Nevada, Plaintiff v. Tuly Lepolo, Defendant, case number C-20-345911-1,
21 Department Number 3 information. Steven B. Wolfson, District Attorney
22 within and for the County of Clark, State of Nevada, and the name and by
23 the authority of the State of Nevada informs the court that Tuly Lepolo,
24 the defendant above named, having committed the crimes of murder
25 with use of a deadly weapon and assault with a deadly weapon on or

1 about the 3rd day of April 2016 within the County of Clark, State of
2 Nevada, contrary to the form, force, and effect of statutes in such cases
3 made and provided, and against the peace and dignity of the State of
4 Nevada.

5 Count 1, murder with use of a deadly weapon, did willfully,
6 unlawfully, and feloniously, and with malice aforethought, kill Raquel
7 Stapinski, a human being, with use of a deadly weapon to wit:
8 firearm -- firearm by shooting at and into the body of the said Raquel
9 Stapinski. The said killing having been (1) willful and premeditated
10 and/or (2) pursuant to a challenge to fight, whereby Raquel Stapinski was
11 shot and killed in the crossfire.

12 Count 2, assault with a deadly weapon, did willfully,
13 unlawfully, feloniously, and intentionally place another person in
14 reasonable apprehension of immediate bodily harm and/or did willfully
15 and unlawfully attempt to use physical force against another person, to
16 wit: Flora Marie Taylor with use of a deadly weapon, to wit, a firearm by
17 pointing said firearm at Flora Marie Taylor.

18 Steven B. Wolfson, Clark County District Attorney, signed by
19 Marc Di Giacomo, Chief Deputy District Attorney.

20 THE COURT: All right. Thank you.

21 Okay, so let's start with the question for the group. Is there
22 anyone who has a disability or medical issue that might impact their
23 ability to serve as a juror in this particular case? A disability or medical
24 issue.

25 Showing no response.

1 Is there anyone who has been convicted of a felony?
2 Convicted of a felony.
3 Okay?
4 PROSPECTIVE JUROR 447: Yes.
5 THE COURT: Okay. Just one second.
6 THE MARSHAL: I got you. Give me one second.
7 PROSPECTIVE JUROR 447: Justin Peck, 447.
8 THE COURT: All right. Mr. Peck. What year was that?
9 PROSPECTIVE JUROR 447: 2011.
10 THE COURT: Okay. And what was the felony?
11 PROSPECTIVE JUROR 447: Burglary, attempted robbery.
12 THE COURT: And have your civil rights been restored?
13 PROSPECTIVE JUROR 447: I'm not too sure.
14 THE COURT: Are you able to vote?
15 PROSPECTIVE JUROR 447: I believe so.
16 THE COURT: Okay. All right. Thank you, sir.
17 And then if I could have the --
18 PROSPECTIVE JUROR 647: Brian Kulpa, 647.
19 THE COURT: All right. What year, sir?
20 PROSPECTIVE JUROR 647: 1999.
21 THE COURT: And crime?
22 PROSPECTIVE JUROR 647: Manufacturing and distribution
23 of drugs.
24 THE COURT: And have your civil rights been restored?
25 PROSPECTIVE JUROR 647: Yeah. I was pardoned.

1 THE COURT: Do you vote?
2 PROSPECTIVE JUROR 647: Yes.
3 THE COURT: Or do you have the ability to vote is what I
4 should ask.
5 PROSPECTIVE JUROR 647: Yes, ma'am.
6 THE COURT: Okay. All right. Thank you, sir.
7 Any other hands that I missed? Yes, ma'am.
8 PROSPECTIVE JUROR 377: My name is Renata. I'm not
9 citizenship, and I can't speak English well. I'll understand some things,
10 might not everything.
11 THE COURT: Okay. And did you say four -- what did you say
12 your Badge Number is?
13 PROSPECTIVE JUROR 377: 0377.
14 THE COURT: Renata Rocha?
15 PROSPECTIVE JUROR 377: Yeah.
16 THE COURT: Okay. And did you say -- I'm sorry. Did you
17 say you're not a citizen?
18 PROSPECTIVE JUROR 377: No, I'm not citizen. I'm a
19 permanent hesitant.
20 THE COURT: Permanent resident.
21 PROSPECTIVE JUROR 377: Yes.
22 THE COURT: Thank you.
23 THE COURT: All right. That was going to lead me to my next
24 question, which is, is there anyone here who is not a United States
25 citizen? Not a United States citizen.

1 Thank you.

2 We anticipate this case lasting about a week and a half. As I
3 was stating earlier, I recognize that serving on a jury is almost always a
4 personal or financial hardship. And for that reason, unfortunately,
5 financial hardship is not an excuse as to serving as a juror in the Eighth
6 Judicial District Court. However, you may be confronted with unique
7 inconveniences or hardships that would impact your service in this
8 particular trial at this particular time. In a moment, I'm going to ask the
9 following question: Is there anyone who has an extraordinary reason
10 why he or she cannot serve as a juror on this -- in this case?

11 Let me give you an example of some of the reasons that rise
12 to the level of jury excusal: a full-time student, full-time caregiver to a
13 vulnerable person that you live with or that you take care of, not
14 meaning like a nurse or anything like that. Like you're a full-time
15 caregiver of a family member. You have bus tickets, train tickets, hotel
16 out of the city that you won't be here, and you can provide my marshal
17 proof of those, and if you have a surgery within the allotted time of the
18 seven to eight days. So those are the general reasons. I'm sure I haven't
19 heard everything, but I just wanted to give you an idea of where, really,
20 kind of, that level of excusal is.

21 So knowing that information, is there anyone who has an
22 extraordinary reason why he or she cannot serve as a juror on this
23 particular case at this particular time? Please raise your hand.

24 Okay, let's go to the third row, Chris.

25 PROSPECTIVE JUROR 366: I'm a full-time caregiver for two

1 young children. And also, I have --

2 THE COURT: Just one second, ma'am. You have to do your
3 name and Badge Number.

4 PROSPECTIVE JUROR 366: Oh. Cristina Adrian. Sorry.
5 Badge Number 366.

6 THE COURT: 366. Okay. So let's go back. So you're a full-
7 time caregiver to small children?

8 PROSPECTIVE JUROR 366: Yes.

9 THE COURT: Are you related to them? Are you --

10 PROSPECTIVE JUROR 366: Yeah. They're my grandkids.

11 THE COURT: Your grandchildren? Okay. So their parents
12 both work during the day?

13 PROSPECTIVE JUROR 366: Yeah.

14 THE COURT: Okay. And how old are the children?

15 PROSPECTIVE JUROR 366: Two and five.

16 THE COURT: So what happens with the children like if you
17 go on vacation or you're not around?

18 PROSPECTIVE JUROR 366: Usually I take them with me
19 wherever we go.

20 THE COURT: Even on vacation?

21 PROSPECTIVE JUROR 366: Yeah.

22 THE COURT: Oh. Okay. And what was the other thing you
23 were going to say to me?

24 PROSPECTIVE JUROR 366: And the other thing is we do
25 have plane tickets for August 31st. So I don't know if this trial would last

1 that long, but.

2 THE COURT: No. We'll be out by then. But thank you for
3 letting me know.

4 PROSPECTIVE JUROR 366: Okay.

5 THE COURT: All right. Any other hands? Behind. This is
6 Mr. Weeks.

7 PROSPECTIVE JUROR 316: Yes.

8 THE COURT: Badge Number 316. Yes, sir?

9 PROSPECTIVE JUROR 316: Well, my -- my answer probably
10 should have been to the first question.

11 THE CLERK: Are the batteries dying?

12 THE MARSHAL: Yeah. Let me change the batteries.

13 THE COURT: I think the batteries might be out. Let's change
14 those really quick.

15 And then can you pick him up if he talks loud enough?

16 THE CLERK: He just needs to talk louder.

17 THE COURT: All right. Just talk a little bit louder, and I'll be
18 able to keep going with you.

19 PROSPECTIVE JUROR 316: Okay. You want my Badge
20 Number first?

21 THE COURT: No. I've got you. I've got you. A. Weeks 316 --
22 or P, P. Weeks 316.

23 PROSPECTIVE JUROR 316: Well, this probably be related to
24 your first question that, you know, I have a tendency to fall asleep. And I
25 don't want to be incoherent and miss something here in trial. If I was to

1 fall asleep, you'd probably be ready put me out of here.

2 THE COURT: Is it like a medical condition, or you're just tired
3 all the time?

4 PROSPECTIVE JUROR 316: Probably a combination of both.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR 316: You know, I just don't want to be
7 sitting here and I miss something. I fall asleep.

8 THE COURT: Okay.

9 All right. Were there any other hands in the back? Okay.
10 Towards the back, please. This is Badge Number 560.

11 PROSPECTIVE JUROR 560: Yes. I actually have a newborn
12 son, five months old. My wife works Monday through Friday right now.
13 She actually has baby while she's at work, which is kind of stopping her
14 from doing her job as well because I had to show up here.

15 THE COURT: So when do you normally work?

16 PROSPECTIVE JUROR 560: I work -- I work Wednesday
17 through Saturday.

18 THE COURT: You work Wednesday through Saturday.

19 PROSPECTIVE JUROR 560: But I've been taking Wednesday
20 off to -- to try and help her out and alleviate all that caregiving that she
21 has to do.

22 THE COURT: So then do you work Thursday through
23 Sunday? Do you pick up another day or no?

24 PROSPECTIVE JUROR 560: I work -- I work Wednesday
25 through Saturday, and then on Sunday, Monday, Tuesday, I am off.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR 560: Yeah.

3 THE COURT: All right. Thank you.

4 PROSPECTIVE JUROR 507: Please, Your Honor, my name is

5 Novack. My number 507.

6 THE COURT: Yes, ma'am.

7 PROSPECTIVE JUROR 507: Please, Your honor, I don't

8 understand anything from -- from when come in here. I don't know

9 English well. I generally can speak like normal, so.

10 THE COURT: What do you do for work?

11 PROSPECTIVE JUROR 507: I -- I am dealer. I deal the card.

12 THE COURT: And how long have you been in the United

13 States?

14 PROSPECTIVE JUROR 507: Twenty-seven years, I believe.

15 THE COURT: And what is your native language?

16 PROSPECTIVE JUROR 507: Vietnamese.

17 THE COURT: Okay. Thank you.

18 PROSPECTIVE JUROR 507: Yeah. Thank you.

19 PROSPECTIVE JUROR 592: Pedro Enriquez, 0592.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR 592: So everyone in my family that I --

22 I live with is disabled. They're on, like, on a fixed income. And I only

23 work on the weekend. So if I miss this weekend, then chances are we

24 can't make rent, which every dollar that we make is -- literally goes

25 straight to that. And there's, like, a good chance that we'll have to, like,

1 deal with that in some way. I'm not really sure how they would do that,
2 but I can't really afford to miss work at all.

3 THE COURT: So we don't go to court on the weekends.

4 PROSPECTIVE JUROR 592: Oh. Really?

5 THE COURT: Yeah.

6 PROSPECTIVE JUROR 592: Oh. I didn't know that. There
7 you go.

8 THE COURT: At some point we have to rest.

9 PROSPECTIVE JUROR 592: True. All right.

10 THE COURT: Okay. All right. Thank you.

11 PROSPECTIVE JUROR 600: Hi. Kimberly Goun, 600.

12 My -- both of my parents are having health issues. My dad has the heart
13 problems, so he constantly has to go to the doctors -- to doctors. My
14 mom had brain hemorrhage pretty recently, so I also have to take care of
15 her. And we don't have any other income except for me and my little
16 sister. So it'll be hard for me to miss a week of work.

17 THE COURT: So who takes care of your parents when you
18 work?

19 PROSPECTIVE JUROR 600: Then my sister will.

20 THE COURT: And what days do you work?

21 PROSPECTIVE JUROR 600: I -- I work in retail, so it's, you
22 know, not consistent.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR 601: My name is Leticia Ritchey, 0601.

25 THE COURT: Yes, ma'am.

1 PROSPECTIVE JUROR 601: Yes. Only I don't -- I can't speak
2 good English. I understand, but it's hard to me sometimes to.

3 THE COURT: Yeah. Do you work?

4 PROSPECTIVE JUROR 601: No. I stay home.

5 THE COURT: Okay. And what is your native language?
6 What do you speak?

7 PROSPECTIVE JUROR 601: Spanish.

8 THE COURT: And how long have you been in the United
9 States?

10 PROSPECTIVE JUROR 601: Twenty-six years.

11 THE COURT: Okay. Next?

12 PROSPECTIVE JUROR 577: My name is Hye Kim. And this
13 Badge Number is 577.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR 577: I'm speak English just in reverse.
16 I don't --

17 THE COURT: What do you do for work?

18 PROSPECTIVE JUROR 577: I no work.

19 THE COURT: And what is your native language?

20 PROSPECTIVE JUROR 577: Korean.

21 THE COURT: And how long have you been in the United
22 States?

23 PROSPECTIVE JUROR 577: Thirty years ago.

24 THE COURT: Next?

25 PROSPECTIVE JUROR 604: My name is John Hall, number

1 456 [sic].

2 THE COURT: Yes, sir.

3 PROSPECTIVE JUROR 604: It's not necessarily that I'm going
4 on vacation, but I'm a restaurant manager, and one of my coworkers is
5 on a nine-day vacation. I am actually scheduled to work 11-hour days for
6 the next eight days to cover that. So it'd put an undue hardship on my
7 restaurant for me not to be available.

8 THE COURT: Did you say 456?

9 PROSPECTIVE JUROR 604: Yes, 456.

10 MR. GIORDANI: 604, Judge.

11 THE COURT: 604.

12 Okay. Thank you, sir.

13 PROSPECTIVE JUROR 652: Hi. Brian Friedman, 652.

14 THE COURT: Yes.

15 PROSPECTIVE JUROR 652: I am a freelance photographer,
16 and I -- I rely solely on assignments. And I do have an assignment in
17 New York starting at the end of next week that I have a contract for. I
18 brought it actually with me and a plane ticket. And so I'm just concerned
19 that that would -- that would be a conflict for me.

20 THE COURT: Okay. Thank you.

21 PROSPECTIVE JUROR 686: Hi. Leythy Holdridge, 686. I am
22 a full-time caregiver of my 91-years-old mother. I was able to
23 accommodate it to her with my sister. And if it's needed, I will try my
24 best to find support. But she lives with me, and I take care of her all the
25 time.

1 THE COURT: Do you work outside the home?

2 PROSPECTIVE JUROR 686: No.

3 THE COURT: Okay. Thank you.

4 PROSPECTIVE JUROR 345: My name is Mesele Engida,
5 Badge Number 0345. I'm a little nervous because I don't understand that
6 much the way you say too fast to me. It's very faster to me that way you
7 speak, so I don't understand that much.

8 THE COURT: Okay. Just give me one second. Could you tell
9 me your Badge Number again?

10 PROSPECTIVE JUROR 345: 0345.

11 THE COURT: Okay. And what is your native language?

12 PROSPECTIVE JUROR 345: Aramaic. Aramaic.

13 THE COURT: And what do you do for work?

14 PROSPECTIVE JUROR 345: Taxi driver.

15 THE COURT: And how long have you been in the United
16 States?

17 PROSPECTIVE JUROR 345: Twenty years.

18 THE COURT: Okay.

19 Is there any other?

20 PROSPECTIVE JUROR 426: My name is Mei-Ling Yang, and
21 my number is 426. I have severe hearing loss.

22 THE COURT: Hearing loss?

23 PROSPECTIVE JUROR 426: Yeah. And my husband has a
24 stroke. He -- he is disabled. Need -- need me take care of. And English
25 is not my native language. My native language is Chinese.

1 THE COURT: Do you work outside the home?

2 PROSPECTIVE JUROR 426: No. I'm retired.

3 THE COURT: Okay. What did you retire from?

4 PROSPECTIVE JUROR 426: No. Because my husband gets a
5 stroke. So I -- I leave my job.

6 THE COURT: What did you used to do? When you did work,
7 what did you do?

8 PROSPECTIVE JUROR 426: I'm editor.

9 THE COURT: A what?

10 PROSPECTIVE JUROR 426: Editor. Chinese newspaper
11 editor.

12 THE COURT: Oh. An editor.

13 PROSPECTIVE JUROR 426: Yeah, yeah, yeah.

14 THE COURT: An editor. And how long have you been in the
15 United States?

16 PROSPECTIVE JUROR 426: Since 1991.

17 THE COURT: Okay.

18 Any other hands I missed?

19 Is this Mr. Durrett?

20 PROSPECTIVE JUROR 293: Last name is Chantharth.

21 THE COURT: Oh yeah. Sorry. 293.

22 PROSPECTIVE JUROR 293: Badge Number 293. My wife and
23 I, we have an events business in -- in Las Vegas. And we have, like, ten
24 weddings in the next week, and I'm in charge of staging and all the props
25 and getting stuff there. So if I can't do that, it opens up my business to a

1 lot of legalities if I'm not able to fulfill my obligations.

2 THE COURT: How many employees do you have?

3 PROSPECTIVE JUROR 293: It's just myself, my wife, and
4 probably about -- small business -- about four employees, right? But
5 I'm -- I'm primarily the one that -- that's in charge of moving everything
6 and staging and all that stuff, because I'm the guy. So that's what I do,
7 and they do all the designing, so.

8 THE COURT: Okay. Thank you.

9 All right, so --

10 THE MARSHAL: Sorry. We have one more, Judge.

11 THE COURT: Okay. Mr. Lim, Badge Number 311?

12 PROSPECTIVE JUROR 311: Yeah. My name's Richard Lim.
13 Yeah. Badge Number's 311. Yeah, because I only, like, can speak, like, a
14 very simple English, so like go to the church. I don't really understand,
15 so.

16 THE COURT: What work did you -- do you do or did you do
17 for a job?

18 PROSPECTIVE JUROR 311: Oh, for job. Bartender.

19 THE COURT: Bartender?

20 PROSPECTIVE JUROR 311: Yeah.

21 THE COURT: And how long did you do that for?

22 PROSPECTIVE JUROR 311: About 28 years.

23 THE COURT: Here in the United States?

24 PROSPECTIVE JUROR 311: Yeah.

25 THE COURT: Anybody else? All right. So I have tried to

1 come up with the best way to do this. And honestly, I'm not a loss
2 because I don't know how to do it in a way that will effectively work. So
3 every trial I say, "This is your one time to tell me if you can't serve or if
4 there's something that you have." And every single time my marshal
5 comes to me the next day and says so and so forgot that they have a
6 brain surgery coming up in a few days, or that they're going on a world
7 cruise in 48 hours. I'm not kidding. This happens.

8 Chris, does this happen every single time?

9 And then Chris comes to me like tiptoeing, because he knows
10 I'm going to lose it. And you don't want to do that to Chris. Okay? You
11 don't want to do it to Chris. So please, for the love of everything, if you
12 have something that you're like ah, I don't know if I should bring it up,
13 just bring it up because if tell me tomorrow, it's a 100 percent no
14 because this is the only time that I have with the attorneys to analyze the
15 situation. Tomorrow we're moving on. So if you have it, say it or really
16 forever hold, like, do not come here tomorrow and tell me.

17 Okay. Smart woman. Megan Ortiz, 275.

18 PROSPECTIVE JUROR 275: Yes. I'm an attorney, and I have
19 my own case load, quite a few deadlines within, obviously, today,
20 tomorrow, the next day, forever more after that. So I currently practice
21 civil law; but if it's applicable to know here now, I am a former public
22 defender so --

23 THE COURT: Thank you.

24 Let's go to Mr. Auten, Badge Number 260.

25 PROSPECTIVE JUROR 260: Yes. I'm also a licensed attorney.

1 I'm not a litigator. I'm a transactional attorney, but I wanted to just note
2 to the Court that I practice law as well so --

3 THE COURT: Okay. Thank you.

4 PROSPECTIVE JUROR 493: I'm Jim Compton, and it's 493 --

5 THE COURT: Yes.

6 PROSPECTIVE JUROR 493: -- is the number.

7 THE COURT: Yes, sir.

8 PROSPECTIVE JUROR 493: I just have a concern in that I'm
9 sort of recovering from prostate cancer. So it's uncomfortable for me to
10 sit for long periods of time. And well, to put it bluntly, I just have to pee
11 a lot.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR 493: So --

14 THE COURT: When you say a lot, give me an idea. How --
15 how --

16 PROSPECTIVE JUROR 493: Like every half hour.

17 THE COURT: Every half hour. Okay. Thank you for telling
18 me.

19 PROSPECTIVE JUROR 493: Depending on how much I drink.

20 PROSPECTIVE JUROR 499: My name is David Zarate.

21 THE COURT: Yes, sir.

22 PROSPECTIVE JUROR 499: Last four numbers are 499. I'm a
23 carpenter. I do nailing. I work five days a week, and I work past
24 deadlines. And I have school next week. It's kind of mandatory.

25 THE COURT: For the carpenter -- for carpentry, and you have

1 school?

2 PROSPECTIVE JUROR 499: Yes.

3 THE COURT: Tell me a little bit about that because I -- it -- tell
4 me about the schooling.

5 PROSPECTIVE JUROR 499: It -- it's my first -- it's going to be
6 my first week.

7 THE COURT: Oh. Does it -- how long does it last, though? Is
8 it like months?

9 PROSPECTIVE JUROR 499: Oh, it's like four days like every
10 three months -- a week.

11 THE COURT: Four days every three months?

12 PROSPECTIVE JUROR 499: Yeah.

13 THE COURT: Okay. Got it. Thank you.

14 PROSPECTIVE JUROR 499: I'm an apprentice, that's why.

15 THE COURT: Understood. Thank you very much.

16 PROSPECTIVE JUROR 500: Okay. My number is -- the three
17 last number is 500. I am the only person. I work in my house. I am
18 behind this contract for like two months, and I have it. I don't know if
19 this thing is going to take more than one day. So if you can give me
20 chance to come back another thing like this in a month more, two
21 months more, going to be -- going to be good. And on the problems I
22 got is my English is not -- not too good. So if I going to do this job, I feel
23 a big responsibility so I'm going to need somebody to be translation
24 everything what they are telling to me, so I want to be fair with the
25 whoever is on -- on trial.

1 THE COURT: Okay. And I'm sorry, tell me what you do for
2 work.

3 PROSPECTIVE JUROR 500: I do remodel for myself. I don't
4 have employees.

5 THE COURT: You're -- you remodel homes?

6 PROSPECTIVE JUROR 500: Yes.

7 THE COURT: Okay. And how long have you been doing
8 that?

9 PROSPECTIVE JUROR 500: Fifteen years.

10 THE COURT: And how long have you been in the United
11 States?

12 PROSPECTIVE JUROR 500: For more than 20.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR 514: My last name is Carno, 514. I'm
15 sorry, I must have missed the dates that the trial will be. Do we know the
16 dates here?

17 THE COURT: It's about a week to a week-and-a-half.

18 PROSPECTIVE JUROR 514: But when will it start?

19 THE COURT: Today.

20 PROSPECTIVE JUROR 514: Today?

21 THE COURT: Yeah.

22 PROSPECTIVE JUROR 514: Okay.

23 PROSPECTIVE JUROR 605: My name is Christopher
24 Rapanos, and Badge Number 605. So next Wednesday I am retiring
25 from PERS from the State, and I have my meeting with PERS at 4:00.

1 And it will be about another two or three weeks before I can get another
2 appointment. I'm retiring at the end of September, and I really don't
3 want to mis that because that's getting everything lined up for our
4 retirement.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR 630: My last name is Villablanca, last
7 four 0630.

8 THE COURT: Yes.

9 PROSPECTIVE JUROR 630: Your Honor, my husband is only
10 working two to three days a week. And I work as a waitress, and I'm
11 only relying on the tips that I make. I already make -- missed work today,
12 so we don't know how are we going to pay our mortgage. Plus, I have a
13 -- an MRI tomorrow, and I brought my paperwork with me.

14 THE COURT: What time is the MRI?

15 PROSPECTIVE JUROR 630: Tomorrow it's at 9:00.

16 THE COURT: Okay. Thank you.

17 PROSPECTIVE JUROR 647: This is Brian Kulpa again, 647. I
18 just wanted to mention I have plane tickets for September 3rd. I know
19 that's past, but you said if there's anything that you want to mention,
20 make sure you mention it now so --

21 THE COURT: We won't be here, but I appreciate --

22 PROSPECTIVE JUROR 647: Okay. Just --

23 THE COURT: -- you bringing it up.

24 PROSPECTIVE JUROR 647: -- felt convicted so --

25 PROSPECTIVE JUROR 670: Hello. My name is Acosta,

1 Badge Number 670. I'm just following up on a -- I just following --
2 clarifying to follow up. So I'm a full-time student and leader of a
3 registered student organization at UNLV. This -- you said the trial is
4 going to be a week- and-a-half. Would that be before the semester starts
5 on the 29th of August?

6 THE COURT: Yeah.

7 PROSPECTIVE JUROR 670: Okay. Yeah. Never mind then.

8 PROSPECTIVE JUROR 514: Hi, it's me again, Carno, 514. Do
9 we tell you now if there's a conflict with some of the witnesses or do we
10 -- do you -- going to ask that next?

11 THE COURT: I usually ask it next. But since you have the
12 mike, we can go ahead.

13 PROSPECTIVE JUROR 514: Okay. I'm a licensed funeral
14 director in -- in Las Vegas, and I work closely with the Clark County
15 Coroner's Office, as well as Metro so --

16 THE COURT: Okay. Do you -- would that impact you in any
17 way of being fair?

18 PROSPECTIVE JUROR 514: I mean, I -- I work -- I've been
19 doing it for 11 years, so I work closely with the coroner's office and Dr.
20 Gavin, so I didn't know if that's something you need to know.

21 THE COURT: Yeah, no.

22 PROSPECTIVE JUROR 514: Yeah.

23 THE COURT: And I appreciate it. I just -- I always have to ask
24 the follow up --

25 PROSPECTIVE JUROR 514: Oh.

1 THE COURT: -- because it's -- it's very common that people
2 know witnesses and this and that. The -- the real threshold, though, is
3 oh, I know this person and because I know this person and our
4 relationship, I wouldn't be able to be fair. And so --

5 PROSPECTIVE JUROR 514: No, no. Huh-uh. That --

6 THE COURT: Okay. All right.

7 PROSPECTIVE JUROR 514: Okay. Just wanted you to know.

8 THE COURT: I appreciate that. Thank you.

9 PROSPECTIVE JUROR 507: I forget to ask you do I have to
10 come here for hearing tomorrow? Because my son go to the service. I
11 have to take my son go to the physical checkup and test. That's why --
12 why I -- I don't know how many days, but I need to be there with my son.
13 I'm single mom so -- so I don't know when he returning in the service so
14 I want to be with him.

15 THE COURT: Okay. All right. Thank you.

16 PROSPECTIVE JUROR 507: And I don't want one car -- so I
17 really want to have time with my son before he goes in service.

18 THE COURT: Okay. All right. Thank you.

19 PROSPECTIVE JUROR 507: Thank you.

20 THE COURT: You're welcome.

21 MR. MARGOLIS: Your Honor, I don't -- we didn't get the
22 Badge Number on that one.

23 THE COURT: 507.

24 MR. MARGOLIS: Okay. Thank you.

25 THE COURT: And then you're close enough to a mic. Just

1 speak loud.

2 PROSPECTIVE JUROR 390: Sherry Van Natta, Badge
3 Number 551. I missed work today. My co-worker is the only other one
4 that can cover the counter. She had to go out of town for her father's
5 funeral, so I have no coverage for my -- my counter at work.

6 THE COURT: I'm sorry, and I think 551 might be your ID
7 number.

8 UNIDENTIFIED SPEAKER: It's 390.

9 THE COURT: 390.

10 PROSPECTIVE JUROR 390: 390.

11 THE COURT: Okay. And what is it you do for work?

12 PROSPECTIVE JUROR 390: A fragrance manager at Saks
13 Fifth Avenue.

14 THE COURT: Okay. Anybody else? All right. Attorneys in
15 the back, please.

16 [Indiscernible sidebar at 1:35 p.m.]

17 THE COURT: All right. Ladies and gentlemen, please stand if
18 you hear your name. 311 Richard Lim, 316 P. Weeks, 345 Mesele Engida,
19 377 Renata Rocha, 426 Mei-Ling Yang, 493 James Compton, 499 David
20 Zarate, 500 Jose Barrera, 507 Thanh Novack, 577 Hye Kim, 601 Leticia
21 Ritchey, Jhoanna Villablanca 630, Brian Friedman 652, 686 Leythy
22 Holdridge.

23 All right. If your name was called and you're standing, you
24 are released from jury service at this point in time. Thank you.

25 THE MARSHAL: Come on back, and then I'll just grab your --

1 your juror badge.

2 THE COURT: And then in regards to Mr. Rapanios in regards
3 to -- or Rapanos, in regards to your 4:00 appointment, if you are selected
4 I'll make sure to break early that day so you can make it because I
5 know -- I know that those are difficult.

6 All right. Are -- thank you -- are any of you acquainted with
7 myself or any of my staff? Myself or any of my staff. Okay. Let's go to
8 the first -- I'm sorry, Elija, did you raise your hand?

9 PROSPECTIVE JUROR 273: Yes.

10 THE COURT: Okay. Elijah Brigham, Badge Number 273.
11 Just speak a little bit louder since you don't have the mike yet.

12 PROSPECTIVE JUROR 273: I'm a friend with Joseph Moreeta
13 [phonetic].

14 THE COURT: Okay. And that is my law clerk. Thank you.
15 And then Ms. Ortiz, Badge Number 275.

16 PROSPECTIVE JUROR 275: I'm acquainted with you, Your
17 Honor.

18 THE COURT: Okay. And is that through --

19 PROSPECTIVE JUROR 275: We interviewed when I was still a
20 student at Boyd.

21 THE COURT: That's right. Yes, that's right.

22 Yes. Let's see here. Ms. Nakia Jackson-Hale, 380.

23 PROSPECTIVE JUROR 380: Yes. We exchanged a couple of
24 emails when I worked at Boyd Law School.

25 THE COURT: Yes. Thank you.

1 Any other hands that I missed? All right.

2 Do any of you know one another? Okay. All right. Let's start
3 with Mr. Emilio Mendez, Badge Number 269. Mr. Mendez, who do you
4 know?

5 PROSPECTIVE JUROR 269: I know Margarita Saldivar.

6 THE COURT: And how do you guys know each other?

7 PROSPECTIVE JUROR 269: We used to work together.

8 THE COURT: And where was that?

9 PROSPECTIVE JUROR 269: Southern Nevada Occupational
10 Health Center.

11 THE COURT: Okay. Is there anything about you guys
12 knowing each other that if you both were on the jury together that you
13 would have a difficult time serving or being fair?

14 PROSPECTIVE JUROR 269: No, Your Honor.

15 THE COURT: And if you disagreed with her, would you be
16 able to talk it out and try to kind of work on that together?

17 PROSPECTIVE JUROR 269: [No audible response].

18 THE COURT: And that was a yes?

19 PROSPECTIVE JUROR 269: Yes. Sorry.

20 THE COURT: And -- that's okay. And if you disagreed with
21 her, would you feel comfortable telling her that?

22 PROSPECTIVE JUROR 269: Yes.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR 269: Yes, Your Honor.

25 THE COURT: All right. Thank you.

1 Ms. Ortiz, you raised your hand; didn't you or no?

2 PROSPECTIVE JUROR 275: I did.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR 275: Yeah.

5 THE COURT: 275.

6 PROSPECTIVE JUROR 275: I'm acquainted with Nakia

7 Jackson-Hale. She works at the Boyd School of Law where I was a

8 student, and I was closely involved working with her when I was

9 president of PELA [phonetic].

10 THE COURT: Okay. In regards to kind of those same

11 questions, right, if you guys were selected on the jury, do you feel like

12 that would impact you in any way of being fair?

13 PROSPECTIVE JUROR 275: I do not.

14 THE COURT: And do you feel comfortable both, you know,

15 voicing your concerns or listening to hers if they came up?

16 PROSPECTIVE JUROR 275: I do.

17 THE COURT: Okay. Thank you.

18 Any other hands I saw? We'll go to Ms. Hale. Yeah, could

19 we go to the front, please, to Ms. Nakia Jackson-Hale, Badge Number

20 380. Ms. Hale, same type of questions. Would you -- would it be any

21 problem at all if you were on the same jury as Mr. Ortiz?

22 PROSPECTIVE JUROR 380: No.

23 THE COURT: Would you feel comfortable voicing your

24 concern?

25 PROSPECTIVE JUROR 380: Yes.

1 THE COURT: And would you feel comfortable listening to
2 her concerns if she had any?

3 PROSPECTIVE JUROR 380: Yes.

4 THE COURT: Okay. Thank you.

5 I saw some hands in the back. Okay. Let's go back to Ms.
6 Carno, Badge Number 514.

7 PROSPECTIVE JUROR 514: I am engaged to --

8 THE MARSHAL: Hold on.

9 PROSPECTIVE JUROR 514: -- Ms. Van Natta's --

10 THE MARSHAL: Hold on a second.

11 PROSPECTIVE JUROR 514: Okay. I am engaged to Ms. Van
12 Natta's ex-husband, and we've been in a relationship for 14 years so --

13 THE COURT: Okay. All right. So let's start back. You say
14 Ms. --

15 PROSPECTIVE JUROR 514: What are the chances of that?

16 THE COURT: Yeah. We got a whole lot of -- okay. So I'm
17 sorry, though, but remind me which juror it is.

18 PROSPECTIVE JUROR 514: Ms. Van Natta.

19 THE COURT: Ms. --

20 PROSPECTIVE JUROR 514: Sherry Van Natta.

21 THE COURT: -- Van Natta. Okay. So Ms. Carno, if you two
22 served on a jury, would -- could you serve together?

23 PROSPECTIVE JUROR 514: I wouldn't feel comfortable with
24 that.

25 THE COURT: Okay. All right.

1 PROSPECTIVE JUROR 514: I mean, that's just my opinion.

2 THE COURT: Yeah. That's okay. That's okay. Would it
3 prevent you from speaking your peace?

4 PROSPECTIVE JUROR 514: Probably.

5 THE COURT: Okay. All right. Appreciate that.

6 Were there any other hands out there?

7 PROSPECTIVE JUROR 504: Hi. Margarita Saldivar, Badge
8 Number 504. I know you asked this earlier, but I did forget. I work three
9 days a week, and my mom is the one that babysits my daughter. If I was
10 to be a juror, she does have a MRI appointment on Tuesday the 13th at
11 9:15, and I just want to make sure that it's noted in case --

12 THE COURT: Okay.

13 PROSPECTIVE JUROR 504: -- I'm selected.

14 THE COURT: Thank you.

15 And then if you could come forward, please, to Ms. Van
16 Natta, Badge Number 390, here in seat 21.

17 THE MARSHAL: Ma'am. Ms. Van Natta.

18 PROSPECTIVE JUROR 390: She answered everything so --

19 THE COURT: Do you feel the same way?

20 PROSPECTIVE JUROR 390: Well, I -- I would feel
21 comfortable. I --

22 THE COURT: Okay.

23 PROSPECTIVE JUROR 390: Yeah. But -- yeah.

24 THE COURT: Okay. All right. Thank you, Ms. Van Natta.
25 Appreciate it. All right.

1 Are any of you acquainted with the Defendant, Mr. Lepolo, or
2 his attorney, Mr. Margolis, or the paralegal, Mr. Mendoza [phonetic]?
3 Showing no response.

4 Are any of you acquainted with either of the District
5 Attorneys, Mr. Giordani as well -- or Ms. Conlin?

6 Are any of you -- showing no response. Are any of you
7 acquainted with District Attorney Steve Wolfson or any of the individuals
8 working in his office? Okay. Let's go to Mr. Auten, Badge Number 260.

9 PROSPECTIVE JUROR 260: I -- I can just speak up.

10 THE COURT: As long as the mike picks you up.

11 PROSPECTIVE JUROR 260: I'm sorry, I'm not sure if Jacob
12 Villani still works in the DA's office, but I -- Jacob and I went to high
13 school. We're not close friends, but I've, whatever, Bonanza High
14 School.

15 THE COURT: Okay. Just one second. You have to keep that
16 for a second. Anything about that -- the fact that you went to the same
17 high school makes you feel like you would be impartial?

18 PROSPECTIVE JUROR 260: I could be impartial.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR 260: Yes.

21 THE COURT: Yeah. You could be impartial. Thank you.

22 All right. Ms. Ortiz, Badge Number 275.

23 PROSPECTIVE JUROR 275: I'm not acquainted, per se, but
24 Mr. Wolfson, obviously, teaches at the Boyd School of Law. I did take a
25 class with him many years ago.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR 275: I don't know how well he would
3 remember. But -- and then I do know a handful of people in the District
4 Attorney's Office as well.

5 THE COURT: All right. Anything about that knowledge or
6 any of those -- well, I use the term relationships, but they seem more like
7 acquaintances like you said -- is there anything about that that makes
8 you feel like it would impact you in any way?

9 PROSPECTIVE JUROR 275: No, I don't think so.

10 THE COURT: Okay. Thank you, Ms. Ortiz.

11 All right. Are any of you acquainted -- I know Ms. Carno
12 already stated. Any of you acquainted with any of the witnesses read by
13 the State of Nevada? Okay. All right.

14 I know that you know very little about the facts of this case,
15 and so this is a question that's difficult for you to assess. But on the little
16 that you know about it, is there anyone here who believes they know
17 something about this case other than what they've learned here today,
18 whether it be social media, TV, newspaper, anything like that? Showing
19 no hands.

20 Does anyone have any philosophical, religious, or any other
21 type of belief or belief systems that would prevent you from sitting as a
22 fair and impartial juror? Okay. Let's go please up to Mr. Brigham. This
23 is 273.

24 PROSPECTIVE JUROR 273: I believe that God is the one to
25 judge.

1 THE COURT: Okay. Let me ask you a follow up about that,
2 Mr. Brigham. So I think that many of us were raised with this idea that,
3 right, we're not supposed to judge other people, God's the only person
4 who can judge. And I definitely understand and respect that viewpoint.

5 I think what we're doing here is a little bit different as though
6 you are judging the acts of the individual. So basically, you are to look at
7 a fact pattern presented and then look at those facts and apply it to the
8 law. Instead of judging a person, you're more judging the actions. Does
9 that change your viewpoint at all?

10 PROSPECTIVE JUROR 273: No.

11 THE COURT: Okay. Do you -- do you feel like that would --
12 your beliefs would prevent you from being able to sit as a juror and
13 make decisions?

14 PROSPECTIVE JUROR 273: Yes.

15 THE COURT: Thank you.

16 All right. Are there any witnesses that would require the use
17 of an interpreter in this trial?

18 MR. GIORDANI: No, I don't believe so, Your Honor.

19 THE COURT: Okay.

20 All right. Ladies and gentlemen, under our system, certain
21 principles in every criminal trial --

22 THE MARSHAL: Sorry, Judge.

23 THE COURT: Oh, I'm sorry. I didn't see a hand. Okay. All
24 right. Let's go back to Mr. Kulpa, Badge Number 647. Mr. Kulpa.

25 PROSPECTIVE JUROR 647: I -- I wouldn't necessarily say it's

1 like a philosophical belief, but I came up in a very abusive household.

2 THE COURT: Sure.

3 PROSPECTIVE JUROR 647: And acts of violence, it's very
4 hard for me to find the actual facts in that because of the things that have
5 happened to me as a child and growing up. And so when it comes to
6 violent acts or any types of aggression-type behavior, there's like post-
7 traumatic stress that I deal with, and I've actually been seeking
8 counseling for the 12 years now trying to come through that. And so,
9 you know, being the current case, you know, I just don't know -- like, I
10 don't have all the facts, but just, you know, the charges that have been
11 listed it -- it would be hard for me to try to have an honest assessment of
12 that so --

13 THE COURT: So let me ask you a few follow-up questions.
14 So a term that is used a lot is the term clinical. So when you're a juror,
15 you have to look at it from a very clinical perspective. It has to be what's
16 referred to as a clinical verdict meaning emotions can't play into it. And
17 you have to, like I was explaining to Mr. Brigham earlier, it's that there
18 are facts, there are law, and there is the State's burden. And you have to
19 consider those three things and say did the State meet their burden, did
20 they prove this case to you beyond a reasonable doubt looking through a
21 clinical lens. Are you able to separate those things? Are you able to,
22 looking at it that way, say to yourself if I look at it clinically, it's
23 something that I can do?

24 PROSPECTIVE JUROR 647: Currently, at this point, that's
25 part of what the counseling therapy session I'm going through is -- is

1 learning how to separate that emotional from the actual reality of what
2 the occurrence, and it's -- it's -- it's been a process. And I don't think I'd
3 be able to honestly be able to be in a position to separate that right now
4 because of the trauma that I've experienced myself.

5 THE COURT: Okay. Thank you.

6 All right. Let's go back to the back right, please. Is this Pedro
7 Enriquez, 592?

8 PROSPECTIVE JUROR 592: Yes, it is, ma'am. I didn't realize
9 that that was something that I -- unfortunately, I was in -- I was involved
10 in a shooting a couple years ago in front of -- in front of my old
11 restaurant. And anything having to do with like shooting, gun violence,
12 anything like that, it -- unfortunately, it does trigger me. And when it
13 comes to post-traumatic stress disorder, it's just -- it's not like separating
14 emotions. It -- it just happens, and I have a panic attack, and it's -- it's
15 not ideal. I haven't gotten any help for it yet. Of course, that is --- that's
16 on me. But it's extremely -- extremely difficult to talk about anything
17 having to do with -- with anything like that because it does -- it does
18 really affect me.

19 THE COURT: Okay.

20 THE MARSHAL: Sorry, Judge. One more.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR 560: Hi. Badge Number 560. I kind of
23 deal with the same problem. I had a -- I come from an abusive family as
24 well, having screws in my shoulder as we speak right now. Coming to
25 that point, coming to any type of violence, I am, like, I'm very, like, I get

1 very, very nervous around all -- all that type of stuff.

2 THE COURT: Okay. Well, you heard me speaking earlier
3 about the ability to separate those things. I mean, and while I completely
4 understand where you're coming from and I have compassion for that
5 type of situation, I guess what I'm trying to figure out is, is I think in all
6 walks -- everybody has walked a life before this, right, and there have
7 been all sorts of things that people have seen and gone through. But
8 once you walk in these walls, you have to look at it from a clinical
9 perspective. Are you saying that that's something that you can't do?

10 PROSPECTIVE JUROR 560: Yeah. That's why I kind of live in
11 Vegas now. I basically moved away from my family because I could not
12 deal with the hardship of that problem.

13 THE COURT: Of -- sorry, of the violence you're saying?

14 PROSPECTIVE JUROR 560: Yes.

15 THE COURT: Okay. Okay. Did I miss any other hands? All
16 right. All right.

17 Under our system of criminal justice, there are certain rules
18 that apply. It doesn't matter what courtroom you're in in what city
19 across the United States. There are these three things. Number one, the
20 charging document filed, the charges in this case, are just that. They're
21 merely an accusation. They are not in any way evidence of guilt.
22 Number two, Mr. Lepolo, the Defendant, is presumed innocent. And
23 number three, the State must prove the Defendant guilty beyond a
24 reasonable doubt.

25 Is there anyone here who doesn't understand the three

1 principles or would like me to explain them further? I'm happy to do so.
2 Showing no response.

3 Is there anyone here who disagrees with any one of those
4 principles? Showing no response.

5 So I just want to make sure that we talk a little bit about
6 those three things. So when we say that the Defendant is presumed
7 innocent, it means as he sits there right now, he is innocent. The State
8 has the burden, and they have to prove to you the elements of this crime
9 -- these crimes beyond a reasonable doubt. And until then, he enjoys the
10 presumption of innocence just like each of us would enjoy and does
11 enjoy the presumption of innocence.

12 Therefore, if you were to go back into the deliberation room
13 and vote right now, what would the verdict be?

14 GROUP RESPONSE: Not guilty. Innocent.

15 THE COURT: Exactly. Innocent or not guilty, right? Because
16 the State hasn't done anything. They haven't proven anything to you.
17 Exactly.

18 The other thing that I want to explain as I have spoken about
19 is the State has the burden. That means that Mr. Margolis could sit there
20 all day for weeks on end and not do a thing. He could doodle. He could
21 text. He could be on his computer. And even if the State -- he's not
22 going to do that. He's -- he's a great attorney. But the point is, is he
23 doesn't have to. He doesn't have to do anything. It's the State's burden.
24 And therefore, I want to make sure that everyone understands that the
25 Defense doesn't have to do anything.

1 State, there's an old adage that says you do the accusing,
2 you do the proving, right? So the State has the burden. Is there
3 anybody who doesn't understand that or is there anybody who disagrees
4 with that? Okay. All right.

5 One thing I do want to say, because I know I feel badly that I
6 said that somebody would be on their computer, so you will from time to
7 time see all of the attorneys on their cell phones, on their laptops. I can't
8 explain to you how dynamic a trial is. You're constantly reaching out to
9 investigators, to witnesses, to -- while we're in here, they're doing things
10 on the outside trying to make sure everything gets lined up. So don't
11 judge them if you see them on their cell phones or on their laptops. I
12 promise you it's case related. Okay?

13 Last question. Is there anyone here that would have trouble
14 following the instruction on the law that I give you even if you disagree
15 with that law? So is there anyone here who would have difficulty
16 following the instructions on the law that I give you if you were to
17 disagree with that law? Showing no response.

18 THE MARSHAL: No, we have one, Judge.

19 THE COURT: Oh, we do? Okay. All right. This is Ms. Adrian,
20 Badge Number 366. Ms. Adrian.

21 PROSPECTIVE JUROR 366: I'm not sure I understand what
22 you mean by following.

23 THE COURT: Yeah. So at the end of the case, before closing
24 arguments, it's my job to read to you the law that applies to this case.
25 So basically, read to you the laws, define them. And when you're a

1 juror, you take an oath to follow the laws. And so my questions is, is
2 well, what if you disagree with the law? Would you still follow it?
3 Because like I said, you take an oath to follow the law. So the question
4 is, is would you have trouble following the law that I give you if you
5 disagree with the law? Does that make more sense?

6 PROSPECTIVE JUROR 366: Yeah, it does. I might. I don't
7 know I mean, there's violence.

8 THE COURT: Okay. Tell me a little bit more about that.
9 What are your thoughts or concerns?

10 PROSPECTIVE JUROR 366: I don't know -- I don't know how
11 to put it. I'd -- I'd like to be fair, but I do kind of usually agree with the
12 prosecution.

13 THE COURT: Okay. As you sit here today, when -- as you sit
14 here right now, when I was saying --

15 PROSPECTIVE JUROR 366: Yeah, I haven't heard anything --

16 THE COURT: Yes.

17 PROSPECTIVE JUROR 366: -- about the case yet so --

18 THE COURT: Okay. But when you say you -- a lot of the time
19 you agree with the prosecution, does that mean that you would hold
20 them to less of the burden or would you hold them to the burden as
21 prescribed by law?

22 PROSPECTIVE JUROR 366: Probably less of a burden.

23 THE COURT: You would hold them to less of a burden. And
24 why -- why would you do that?

25 PROSPECTIVE JUROR 366: I don't know. It's just how I am.

1 I'm more of a, you know, I believe the prosecution because usually they
2 have some proof. You know, they wouldn't bring a case if they didn't.

3 THE COURT: Okay. All right.

4 Can I have the parties at the bench, please?

5 [Sidebar begins at 2:03 p.m.]

6 THE COURT: So on two [indiscernible] the one who says that
7 he can't judge. That he doesn't feel like he -- I mean, I tried to --

8 MR. GIORDANI: I'd like a chance to talk to him
9 [indiscernible].

10 THE COURT: Hold on [indiscernible]. I'll let you -- if you
11 want, I want you to do it now. I want you to [indiscernible] him now only
12 because I want to fill the seats. So either --

13 MR. GIORDANI: Oh, okay.

14 THE COURT: Do you want to do that?

15 MR. GIORDANI: I don't really want to do it. I'd rather just fill
16 the seats and then --

17 THE COURT: I mean, asking --

18 MR. GIORDANI: [Indiscernible].

19 THE COURT: I don't think -- him saying that he believes only
20 God can judge and me trying to, like, separate it, right, and have him do
21 a clinical verdict and this and that, and he said yes, still not something I
22 can do.

23 MR. GIORDANI: [Indiscernible].

24 MR. MARGOLIS: [Indiscernible].

25 THE COURT: [Indiscernible] that's in play. 592 Enriquez,

1 shooting PTSD.

2 MR. MARGOLIS: If we let him go, we got to let the other guy
3 go.

4 THE COURT: What?

5 MR. MARGOLIS: If we let him go, we got to let the other guy
6 go, right?

7 THE COURT: So [indiscernible].

8 MR. MARGOLIS: I kind of feel like with Brigham and Adrian
9 it's the same situation.

10 THE COURT: With -- okay. Well, no, I mean -- does he need
11 to speak a little louder?

12 THE COURT RECORDER: Yes, ma'am.

13 THE COURT: Okay. So with Adrian 366, she's holding the
14 State to less of a burden [indiscernible].

15 MR. GIORDANI: She's trying to get off the jury.

16 MR. MARGOLIS: So is Brigham.

17 THE COURT: You and I know that.

18 MR. GIORDANI: So let me talk to -- I haven't said a word yet.
19 Let me try to make an example of her.

20 THE COURT: You want to do it now? I mean, here's the
21 thing, like, even -- let's say you're able to rehabilitate her to a certain
22 degree, right? On black and white, she has already said --

23 MR. MARGOLIS: Yeah.

24 THE COURT: -- I'm going to hold the State to a lesser
25 burden. So I don't really care what rainbows you get coming out of her

1 mouth --

2 MR. GIORDANI: Sure.

3 THE COURT: -- she's still going. So 366 Adrian is gone.

4 Hoohiwahiwa Kaleikini screws in his shoulder, abusive
5 childhood, I moved from my family to get away from this, I don't think I
6 can separate it. What do you want me to do with him?

7 MR. MARGOLIS: He feels like the other side of the PTSD coin
8 to me, you know. He's basically saying I'm going to have an emotional
9 reaction that is going to overwhelm my reason.

10 THE COURT: Right.

11 MR. MARGOLIS: You know. So kind of like Brigham and
12 Adrian, I feel like there are two sides of a coin. I feel like these two are
13 the I can't -- I can't be held to a reason because my trauma is too bad --

14 THE COURT: Right.

15 MR. MARGOLIS: -- and I'm post-traumatic stress. Not
16 enough to do anything about it, but I'll use it --

17 THE COURT: Right. Yeah. Yeah.

18 MR. MARGOLIS: -- to get out of jury service.

19 THE COURT: So you want him to stay or do you want him to
20 go?

21 MR. MARGOLIS: I think if -- I think if one goes, both go. I
22 mean --

23 THE COURT: What? All three then?

24 MR. MARGOLIS: We probably should just kick them all.

25 THE COURT: Kulpa, Brigham and Enriquez? Oh, sorry,

1 Enriquez, Kulpa, and Kaleikini in regards to too much trauma, if it's
2 violence, I can't deal with it.

3 MR. GIORDANI: Submitted. I mean -- I mean, it feels like
4 we're running out of jurors one way or the other.

5 THE COURT: Yeah, I'm going to get whole panel tomorrow.

6 MR. GIORDANI: Yeah, we're going to have get more.

7 MR. MARGOLIS: [Indiscernible]?

8 THE COURT: Okay. Thank you.

9 MR. MARGOLIS: Sorry, Judge. Which three?

10 THE COURT: 273.

11 MR. MARGOLIS: Just jotting them down.

12 THE COURT: Brigham.

13 MR. MARGOLIS: 273.

14 THE COURT: 593 Enriquez, 647 Kulpa, 560 Kaleikini, 366
15 Adrian.

16 MR. MARGOLIS: Okay. Thank you.

17 THE COURT: Thank you.

18 [Sidebar ends at 2:06 p.m.]

19 THE COURT: If you hear your name, please stand. 273
20 Brigham, 593 Enriquez, 647 Kulpa, 560 Kaleikini, 366 Adrian. Thank you
21 very much. You're excused at this point in time.

22 All right. Ladies and gentlemen, we are going to take a 15-
23 minute break. During this recess, please do not discuss or communicate
24 with anyone including fellow jurors in any way regarding the case or its
25 merits either by voice, phone, email, text, internet, or other means of

1 communication or social media. Please do not read, watch, or listen to
2 any news, media counts, or comments about the case, do any research
3 such as consulting dictionaries, using the internet, or using reference
4 materials. Please do not make any investigation, test a theory of the
5 case, recreate any aspect of the case, or in any other way attempt to
6 learn or investigate the case on your own. And please do not form or
7 express any opinion on the matter until it is formally submitted to you.

8 We'll see you outside. Please remember what seats you're in
9 because this is where you'll return to at 2:20, 220. Thank you.

10 THE MARSHAL: All rise.

11 [Jury out at 2:07 p.m.]

12 THE MARSHAL: All rise.

13 THE COURT: Hey Chris, as you're walking in, would you
14 grab the sheets of paper for me.

15 THE MARSHAL: Oh, absolutely.

16 THE COURT: Thank you.

17 [Jury in at 2:29 p.m.]

18 THE COURT: And then, Chris, we're going to fill those seats.

19 THE MARSHAL: Yes.

20 THE COURT: Please.

21 All right. Welcome back, everybody. Thank you. Please be
22 seated.

23 We are on the record in the State of Nevada versus Lepolo --
24 Tuly Lepolo, C345911. Mr. Lepolo is present with counsel, Mr. Margolis.
25 Both Deputy District Attorneys Mr. Giordani as well as Ms. Conlin are

1 present on behalf of the State.

2 Do the parties stipulate to the presence of the prospective
3 jury panel?

4 MR. GIORDANI: We do, Your Honor.

5 MR. MARGOLIS: Yes, Your Honor.

6 THE COURT: All right. Great. We will now fill the vacant
7 seats in the first 32, please.

8 THE CLERK: In seat number 4 will be Badge Number 510
9 Amber Smith.

10 THE COURT: While she's filling those seats, parties can you
11 come up here for a sec? Mr. Giordani, Mr. Margolis, Ms. Conlin.

12 MR. GIORDANI: Yeah.

13 [Sidebar begins at 2:31 p.m.]

14 THE COURT: The one I forgot to ask you guys about is the
15 lady who can't [indiscernible].

16 MR. GIORDANI: Yeah, that's really uncomfortable.

17 THE COURT: Yeah.

18 MR. GIORDANI: [Indiscernible].

19 THE COURT: You know which one I'm talking about or no?
20 Ms. Carno, the one who is --

21 MR. MARGOLIS: Oh, yeah, yeah, yeah, yeah. Yeah, that's -- I
22 even wrote awkward in --

23 THE COURT: Yeah, so awkward. All right. Thanks.

24 [Sidebar ends at 2:31 p.m.]

25 THE COURT: At this point in time, Ms. Carno Badge Number

1 514 is excused. Thank you, ma'am.

2 THE CLERK: Okay. So then in badge -- in badge -- in seat
3 number 9 will be Badge Number 522 Denise Long.

4 In seat number 11, Badge Number 523, Dimitri Grigorov.

5 In seat number 13, Badge Number 531, Omar Lopez.

6 In seat number 16 will be Badge Number 538, Steven Lane.

7 In seat number 17, Badge Number 564, Kelley Hamlet.

8 In seat number 24, Badge Number 581, Yolanda Ali.

9 In seat number 27, Badge Number 587, Ren Matsubara.

10 In seat number 29, Badge Number 596, Aliya Scheppmann.

11 And in seat number 30 will be Badge Number 597, Cristobal
12 Monarrez.

13 THE COURT: Perfect. Thank you.

14 All right. So, ladies and gentlemen, those of you that are in
15 the first 32 should have a piece of paper at this time. So I want to go
16 over a little bit about how to answer these questions. So we're going to
17 start with juror number one in a moment, who's in the first seat. And I'm
18 just going to say start from the top. So there's a specific way you have
19 to do it though. Some people ask the entire question, like, they read it
20 out loud to themselves. Like "One, how long have you lived in Clark
21 County?"

22 And then they say, "I have lived in Clark County for ten years.
23 How far did you go in school?"

24 You don't have to do that, but you also can't say, "One, 22
25 years. Two, high school. Three, yes. Four --" You can't do that because

1 then I don't know which one you're on. So it's kind of a happy medium.
2 Basically, you have to incorporate the question into the answer. So if I
3 were doing it, I would say, "I've lived in Clark County for 25 years. I went
4 to law school. I am employed as a judge. I am married," you know, like,
5 so I know exactly which ones you're on.

6 Couple things about the questions. I have to establish ten
7 years of residency. So if you've only been in Clark County for six years,
8 tell me where you were those other four years, so I can get the ten-year
9 period. And then if you look at question number nine, it says "Is there
10 anything you have heard about the trial thus far that makes you feel like
11 it would be difficult for you to sit as a juror?" I'm not asking if you have
12 heard about this trial before because I already asked that question, if you
13 remember. I'm asking, hey, is there anything that you've heard today,
14 maybe through my questions, through other jurors' comments, that
15 makes you feel like you wouldn't be able to be fair and impartial in this
16 trial. All right?

17 So juror number one, may I have your name and Badge
18 Number, please? And then we'll have you start from the top whenever
19 you're ready.

20 PROSPECTIVE JUROR 254: My name is Pam Charles, and
21 my Badge Number is 254. I have lived in Clark County since '91. I got a
22 couple masters' degrees. I work as a teacher for Clark County School
23 District. I am --

24 THE COURT: Are your masters all in education?

25 PROSPECTIVE JUROR 254: Yes. I am married. I have six

1 children. The baby is 26, and they go up to 38. They do all sorts of
2 things.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR 254: Do you want me to list them?

5 THE COURT: Yeah. Just give us an idea.

6 PROSPECTIVE JUROR 254: I have one in tech, a couple that
7 work for -- one's a welder, one is an HP, one is a waitress, and one works
8 for NDOT.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR 254: I think I got them all.

11 I have not been convicted of a crime or a victim of a crime. I
12 don't know anybody that's been a victim of a crime. I have not been
13 accused of a crime, and I don't know anyone that has been accused of a
14 crime.

15 I have never served as a juror. Number nine, there is nothing
16 that I've heard that would make me think I would not be able to sit as a
17 juror. Ten, I can base my verdict solely on the evidence presented
18 during the trial. And I feel that I can be fair and impartial to both sides.

19 THE COURT: Thank you. Appreciate that.

20 Mr. Auten, Badge Number 260, from the top, please.

21 PROSPECTIVE JUROR 260: I've lived in Clark County since
22 2011 -- or moved back to Clark County in 2011. I have a law degree. I'm
23 sorry. I -- I graduated from law school, have a law degree. I'm employed
24 as an attorney here in Clark County. I am married. My spouse is a
25 teacher for the Clark County School District. I have two children, ages

1 ten and six.

2 My spouse has been a victim of a home burglary. I've had
3 my car burglarized. The home burglary was reported. Person was not
4 caught. I don't feel strongly one way or the other about how the
5 situation was handled.

6 No one close to me or that I know has ever been accused of a
7 crime. I've never served as a juror before. With respect to number nine,
8 I would say I am generally uncomfortable sitting in judgment of
9 somebody, but I don't know that it arises to a philosophical principle.

10 THE COURT: Sure.

11 PROSPECTIVE JUROR 260: Yes, I can base my verdict on the
12 evidence presented. And yes, I can be fair and impartial.

13 THE COURT: Okay. Thank you.

14 PROSPECTIVE JUROR 269: Emilio Mendez, Badge Number
15 269. I've lived in Clark County for 27 years. For schooling, I did go to,
16 like, a tech school for a certification in medical assisting, which is what
17 I'm currently employed in. I am currently engaged, and my partner is a
18 phlebotomist at Henderson Hospital. I do not have any children. I have
19 never been a victim of a crime, and I don't believe I know anyone that's
20 been a victim of a crime, at least not personally.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR 269: I've never been accused of a
23 crime. I have never served as a juror before. There's nothing about the
24 trial that makes me feel like I would be difficult to sit as a juror. And I can
25 base my verdict solely on the evidence presented, and I can be fair and

1 impartial to both sides.

2 THE COURT: Okay. Great. Thank you.

3 PROSPECTIVE JUROR 510: Last name Smith, Badge Number
4 510. I've lived in Clark County for two years, and prior to that I lived in
5 Georgia. I have a master's degree in human resource management. I
6 am employed, and I currently do account management. I am married,
7 and my spouse is in the Air Force. I do not have any children.

8 Myself or anyone that I -- that's close to me has not been a
9 victim of a crime. Myself or anyone close to me has not been accused of
10 a crime. I've never been a juror before. There is nothing about this case
11 or trial that would make me -- make it difficult for me to sit as a juror.

12 And ten -- hold on. Let me read it. Sorry. Yes, I can base my
13 verdict solely on the evidence presented in the trial, and I can be fair and
14 impartial.

15 THE COURT: Okay. Thank you. Appreciate that.

16 Ms. Ortiz, Badge Number 275.

17 PROSPECTIVE JUROR 275: Ortiz, Badge Number 275. I've
18 lived in Clark County since 2017 with a brief one year hiatus when I lived
19 in Elko County from -- for the whole year of 2021. Before that, I am a
20 Reno local, so I was a resident of Washoe County.

21 I have a bachelor's degree in journalism, and I have a law
22 degree. I'm currently employed as an attorney here in Clark County, and
23 I practice civil law. I used to be a public defender in Elko County. I'm not
24 married, but I am in a significant relationship, and my partner is also an
25 attorney licensed to practice here in Clark County. He does not do

1 criminal law. He does civil law as well. I do not have any kids.

2 I don't believe anyone I've known, close to, has ever been the
3 victim of a crime. I myself have been accused of a DUI when I was 18
4 years old in 2006. It was dismissed, and it was dropped to a reckless
5 driving.

6 I have never served as a juror before. I don't think there's
7 anything substantive that we've heard that makes me feel like it would
8 be difficult. I'd like to think I can be fair and impartial, but I do have a
9 history of criminal defense, and I'm going to have a pretty strong feeling
10 about the prison system. And I don't think there's almost anything that a
11 person deserves to go to prison for, so I'd just like to say that.

12 THE COURT: Okay. Yeah, that's okay. And you know what?
13 That brings me to a question that I forgot to ask the attorneys, so just
14 give me one second. It has nothing to do with you.

15 May I talk to the attorneys at the bench, please?

16 [Sidebar begins at 2:42 p.m.]

17 THE COURT: If we get [indiscernible]? As of right now.

18 MR. MARGOLIS: As of right now, yes.

19 THE COURT: [Indiscernible].

20 MR. GIORDANI: If I could suggest, maybe we just wait till
21 tomorrow morning to ask that question. I can handle that in five
22 seconds. So he has overnight to maybe think about [indiscernible]. It's
23 not capital, so it's super easy to do the penalty stuff.

24 THE COURT: Yeah.

25 MR. GIORDANI: Because once we open that door and run

1 out, we can't close it, right? So if there's still a chance, maybe, he sleeps
2 on it?

3 MR. MARGOLIS: I mean, I'll take another run at him.

4 THE COURT: Okay. All right. Thank you.

5 MR. MARGOLIS: That's fine.

6 [Sidebar ends at 2:43 p.m.]

7 THE COURT: All right. So let's go back. You stated that
8 there are almost no crimes in which you feel like someone should go to
9 prison for. In this case, obviously, you know what the charges are:
10 murder. So is murder one of those cases that you consider in that
11 section, or are you just like no, this is not something that I do?

12 PROSPECTIVE JUROR 275: I mean, I think the prison
13 system's pretty horrendous in general. I don't think anyone should be
14 subjected to that regardless of what they're being accused of, so.

15 THE COURT: So I guess what I'm trying to figure out then is,
16 take -- take this case out of it, right? But let's take like another murder.
17 What is your answer to that? I understand saying, hey, I don't think
18 prison is the right answer, but what is your answer to that?

19 PROSPECTIVE JUROR 275: You know, I mean, I'm a -- I was
20 a public defender for a reason. I really think that, you know, most people
21 are way more than that really bad moment in their life, and I think I
22 would have a really hard time, even with another situation, passing just
23 any kind of judgment without knowing all of the intricacies of what led
24 up to that moment. And I'm not talking about, you know, just the facts of
25 the case. Nobody wakes up one day and decides to commit a crime.

1 There's a lifetime of stuff behind that that leads to that moment, and I
2 think those things should be considered and they're often not in the
3 criminal justice system.

4 THE COURT: Okay. As someone who has worked in the
5 criminal justice system, you understand, I know, the burden of
6 reasonable doubt, and that the state has that burden. Because of your
7 feelings, would you hold the state to a higher burden than is prescribed
8 by law?

9 PROSPECTIVE JUROR 275: More than likely.

10 THE COURT: Okay. Let's talk about witness testimony, like
11 police officers. Officer hits the stand. Do you judge their testimony just
12 like any other witness? Do you hold them to a higher burden? Lower
13 burden? How do you feel about law enforcement?

14 PROSPECTIVE JUROR 275: In my role as a public defender,
15 all of my interactions with law enforcement were really nice, but I tend to
16 find that law enforcement and attorneys get on well regardless of
17 whether you're on the prosecution or the defense. However, I would be
18 remiss if I didn't say that I definitely am wary of them as witnesses and
19 the things that they say on the stand. I've read plenty of transcripts and
20 plenty of police reports that are very contradictory to lots of other pieces
21 of evidence.

22 THE COURT: So does that mean you would judge them with
23 a harsher eye than other witnesses, or you're not sure?

24 PROSPECTIVE JUROR 275: More than likely.

25 THE COURT: Okay. All right. So with all that being said, do

1 you -- I mean, only you know you, right? So, like, do you think you could
2 be fair and impartial to both sides?

3 PROSPECTIVE JUROR 275: I think I'd always have in the
4 back of my mind that even though I am a trier of fact and not the trier of
5 law, that I am aware of what the punishments are for these crimes, and
6 that I would have a difficult time following my objective instincts
7 knowing what the punishment would be coming down the pipeline.

8 THE COURT: Okay. Thank you for your honesty. Appreciate
9 it.

10 All right. Let's go to Bailey Acosta, 286.

11 PROSPECTIVE JUROR 286: Bailey Acosta, 286. I have lived
12 in Clark County for 27 years. I did went to high school, Valley High
13 School, and I haven't gone to college yet. I am -- have a full-time job at
14 Resorts World Casino. I am not married, though I do have a significant
15 other, and he works at Audio Express. I don't have no children.

16 I do not or do not have anyone close that have been victim of
17 a crime. I do not or do not have anybody have been accused of any
18 crime. I have not been served as a juror before. Is there anything I --
19 have I heard about the trial as it would not affect me or feel anything
20 difficult to this as a juror. Yes, I can be based on my verdict solely to the
21 evidence, and I can be fair and impartial to the both sides.

22 THE COURT: Okay. Thank you. Appreciate that.

23 Badge Number 293?

24 PROSPECTIVE JUROR 293: Chantharath, 293. I've been in
25 Clark County since 1996. A little bit of college. I am self-employed. I'm

1 married. Have a 29-year-old daughter, who's a stay-at-home mom.

2 My sister was -- was in a court case in California where my
3 brother-in-law was arrested for premeditated murder, and he's been
4 serving the past 15 years in a California prison.

5 I've never served as a juror before. It's the first time. Is there
6 anything about the trial? I haven't heard anything about the trial. I
7 believe that I can make a verdict based on evidence and be fair and
8 impartial, but you -- you have to be able to do it beyond a reasonable
9 doubt. So with my past of having to deal with my sister's situation, I -- I
10 don't feel 100 percent confident that I can make that decision, you know,
11 beyond a reasonable doubt. So --

12 THE COURT: Can you just explain that to me a little bit more
13 though?

14 PROSPECTIVE JUROR 293: Well, she was having a marital
15 affair --

16 THE COURT: She -- okay.

17 PROSPECTIVE JUROR 293: -- and my -- my brother-in-law
18 was a very good husband, you know, took care of the kids, yada, yada,
19 yada. My sister decides to go do her thing. And -- and like the lady back
20 here said, that no one wakes up in the morning thinking they're going to
21 commit a crime. And one day he just went crazy, and he made some
22 bad decisions. But at the end of the day, like, I still love him --

23 THE COURT: Yeah.

24 PROSPECTIVE JUROR 293: -- and I love my sister, and it was
25 very traumatic for the whole family. So, you know, it hits me pretty hard.

1 THE COURT: So because you knew both parties, and you
2 have feeling towards both parties, I'm trying to figure out -- because you
3 kind of know both sides of things --

4 PROSPECTIVE JUROR 293: Yeah.

5 THE COURT: -- in that situation, right? So you probably
6 have compassion for both sides of the coin there.

7 PROSPECTIVE JUROR 293: Yeah.

8 THE COURT: Here, looking at it clinically, like what I was
9 talking about before, the State has a burden, and they either meet that
10 burden or they don't. Are you able to assess that? Like here are the
11 facts; here's the State's burden. They met it; they didn't meet it.

12 PROSPECTIVE JUROR 293: Well, I think that, honestly, I think
13 I can. But once emotions get involved, like, I really don't know how I'm
14 going to react as far as my -- my decision-making process, whether it's
15 fair or not. So I could say yeah, but when the time comes, it affects me
16 differently. That's why I kind of -- I question that I can, but still, like,
17 beyond a reasonable doubt -- reasonable doubt, I really don't know until
18 it hits me, you know?

19 THE COURT: Yeah. Are you afraid that you'll hold the State
20 to a higher burden, or that you'll lessen their burden?

21 PROSPECTIVE JUROR 293: I'm just afraid that, you know, if
22 the evidence is what it is and whatever the verdict is, I just don't feel like
23 I'm confident enough to -- to really, really make the right decision,
24 because I just don't know how I'm going to react when -- when it comes
25 down to seeing the evidence and hearing the evidence, because I don't

1 know what emotions might be triggered at the time.

2 THE COURT: Does it help you to realize, hey, I'm not making
3 this decision by myself. There's 11 other people in there that -- we're
4 discussing and going through our notes and walking through the
5 evidence together.

6 PROSPECTIVE JUROR 293: Yeah.

7 THE COURT: Does that brings you any type of assurance?

8 PROSPECTIVE JUROR 293: It brings me assurance. But, I
9 mean, if -- if they believe that the -- the person is innocent or guilty, then
10 I'm sure it's the right decision. But again, it's just -- it's all about me.
11 Like, I -- I don't really know how I'm going to react.

12 THE COURT: Yeah. Well, I don't think anyone knows how
13 they're going to react right now, right? I mean, that's the whole point is
14 we have to --

15 PROSPECTIVE JUROR 293: Yeah.

16 THE COURT: -- sit and listen to it.

17 PROSPECTIVE JUROR 293: Yeah. I mean, I -- I could
18 promise to -- to be impartial and be those things and -- and be fair with
19 all the evidence that's submitted, you know, do my best that I can. I can
20 promise that, you know.

21 THE COURT: Right. Right.

22 PROSPECTIVE JUROR 293: But completely confident, I can't
23 promise that.

24 THE COURT: You mean being completely confident that --

25 PROSPECTIVE JUROR 293: With --

1 THE COURT: -- you wouldn't be emotional?

2 PROSPECTIVE JUROR 293: Yeah.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR 293: Because it hits so close to home,
5 you know? I'm sorry, Your Honor.

6 THE COURT: Yeah. Okay. Thank you.

7 Mr. Durrett, 304?

8 PROSPECTIVE JUROR 304: Chris Durrett, 304. I have lived in
9 Clark County for three years. Before that I was in Massachusetts. I had
10 attended some college. I am employed. I work for Natural Gas. I am
11 single. I have no kids.

12 I do not know anybody that's been a victim. I have not, and I
13 don't know anybody accused of being a victim or a crime. I haven't
14 heard anything about this trial. I can be -- I can base my verdict on the
15 evidence, and I can be a fair and -- fair and impartial to both sides.

16 THE COURT: Okay. Thank you.

17 Next?

18 PROSPECTIVE JUROR 522: Denise Long, Badge Number
19 522. I've lived in Clark County for a year and a half. I was in Orange
20 County, California, for 54 years before that. I've -- I've actually had
21 probably about three years of college, but no degree. I am semiretired. I
22 work part time as a senior caregiver, and prior to that, I'm -- I retired
23 from the University of California system. I am not married. I have one
24 son, 31 years old, and he's in the financial check business.

25 I do have someone close that was a victim of a crime. The

1 person was caught, and I have someone close who had been accused of
2 a crime. It was handled very fair. The issues, because of what she went
3 through, she's not the same person anymore. She's a much better
4 person.

5 THE COURT: In regards to the individual you knew that was
6 a victim of a crime, how long ago was that, and where was it?

7 PROSPECTIVE JUROR 522: It was in, it was either two
8 thousand -- let's see -- 2014, I believe. And it was in -- in our home in
9 Fountain Valley, California.

10 THE COURT: Okay. And what type of crime was it?

11 PROSPECTIVE JUROR 522: It was my mom. She was the
12 victim of -- of felony elder abuse. And it was my sister who perpetrated
13 the crime. She was a meth addict at the time, so --

14 THE COURT: And is that the person you know who was
15 accused of the crime who's gotten better?

16 PROSPECTIVE JUROR 522: Yes.

17 THE COURT: Okay. And so it was obviously reported, the
18 police got involved, and you feel like that situation was handled
19 appropriately?

20 PROSPECTIVE JUROR 522: Yes. Absolutely.

21 THE COURT: All right. Thank you.

22 PROSPECTIVE JUROR 522: I have served on a jury in a civil
23 matter before, and we did reach a verdict.

24 THE COURT: Were you the foreman?

25 PROSPECTIVE JUROR 522: No.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR 522: And I have not heard anything
3 today or prior on this case. And I would be able to base my verdict
4 solely on the evidence presented during the trial. And I do believe I can
5 be fair and impartial to both sides.

6 THE COURT: Okay. Thank you. Appreciate that.

7 PROSPECTIVE JUROR 314: Joe Overmyer, Badge 314. I've
8 lived in Clark County seven years. Prior to that I lived in Ohio. I have a
9 bachelor of arts in interior design. I'm a stay-at-home dad currently. I
10 am married. My wife is an assistant federal public defender here in
11 Nevada. I have two children, ages 9 and 13.

12 I have not been a victim of a crime or anyone close to me. I
13 have not been accused of a crime or anyone close to me. I have served
14 as a juror before in a civil case, and we did reach a verdict. I was not the
15 foreperson. There's nothing about the trial that makes me feel I couldn't
16 sit as a juror. I believe I can base my verdict on the information
17 submitted, and I can be impartial.

18 THE COURT: What specific type of work does your wife do
19 for the fed PD?

20 PROSPECTIVE JUROR 314: She works in -- she's the
21 assistant chief in the appellate unit.

22 THE COURT: Okay. And do you feel any -- like that would
23 affect you in any way from being fair and impartial to both sides on this
24 case?

25 PROSPECTIVE JUROR 314: No.

1 THE COURT: And has she always been an FPD, or has she
2 worked in other fields?

3 PROSPECTIVE JUROR 314: A state public defender before
4 that.

5 THE COURT: Like here in Las Vegas?

6 PROSPECTIVE JUROR 314: Back in Ohio.

7 THE COURT: Back in Ohio.

8 PROSPECTIVE JUROR 314: Yeah.

9 THE COURT: Okay. Great. Thank you.

10 PROSPECTIVE JUROR 314: Yep.

11 PROSPECTIVE JUROR 523: Hi. My name is Dimitri, Badge
12 Number 523. I've lived in Clark County for 20 years. I go to college and
13 study real estate. Unemployed. I am single, no children.

14 I have had my home burglarized, and the crime was
15 reported. The person was not caught. And I don't really have any
16 feelings about how the situation was handled.

17 I have never been accused of a crime nor anyone close to
18 me. I have never served as a juror before. There is nothing I heard
19 about the trial thus far that makes me feel like it would be difficult for me
20 to sit as a juror. And I can base my verdict solely on the evidence
21 presented, and I can be fair and impartial to both sides.

22 THE COURT: Okay. Thank you.

23 Ms. Burns? Badge Number 318.

24 PROSPECTIVE JUROR 318: Burns, Badge 318. I've lived in
25 Clark County for 22 years. I have an associate's degree. I am retired. I

1 worked for a financial advisor for those 22 years.

2 I'm married. My husband's also retired. We have two
3 children, a daughter, 51, and a son, 47. My daughter's a schoolteacher at
4 Clark County. My son is a lab tech for Procter & Gamble in Ohio.

5 Our house was burglarized, the people were caught, but
6 that's all I know about it. I don't know anything else about that.

7 As far -- I've never been a victim of a crime. Other than that, I
8 have a niece that was accused of a crime: road rage and child abuse
9 back in Ohio. She served some time. I think three months, and then
10 she's out now. She has joined the church, and she's turned around. I
11 have served on a criminal trial. We did get a verdict, and I was not the
12 foreperson.

13 THE COURT: What type of a -- what type of charges was it?

14 PROSPECTIVE JUROR 318: Robbery.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR 318: I've not heard anything about
17 this case, and I can base my verdict on the evidence, and I can be fair
18 and impartial to both sides.

19 THE COURT: All right. Thank you.

20 Pass it down to Mister -- how do I pronounce it? Grigorov?
21 How do I pronounce your last name, sir?

22 PROSPECTIVE JUROR 531: Mine?

23 THE COURT: Yeah.

24 PROSPECTIVE JUROR 531: Lopez.

25 THE COURT: Oh. Yeah. I'm sorry about that. Go ahead,

1 Mr. Lopez. This is Badge Number 531.

2 PROSPECTIVE JUROR 531: Omar Lopez, Badge 531. I have
3 lived in Clark County for 17 years. I just finished high school. Currently
4 self-employed. I am not married. I do have a significant other. She
5 works at a -- well, she manages a dental office. We do have children.
6 We have one, and then we have one on the way.

7 I don't know anyone that's been a victim of a crime, and I
8 don't know anyone that's been accused of a crime. I have not served as
9 a juror before. And there's nothing that I've heard here that will make it
10 difficult for me for -- to sit as a juror. And I can base my verdict solely on
11 the evidence provided, and I can be fair and impartial to both sides.

12 THE COURT: Okay. Thank you.

13 Go ahead.

14 PROSPECTIVE JUROR 346: Hi. My name is Michele
15 Mazzanti, Badge Number 346. I have lived in Clark County roughly 27
16 years now. I went to college. I got my master's degree in library and
17 information science at the University of California, Los Angeles. I am
18 employed by the Henderson District Public Libraries.

19 I am not married. I have no children. My house was
20 burglarized when I was in college. Nobody was caught. Meh, whatever.
21 My step-nephew has been accused of a crime in Texas.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR 346: I have served on a jury twice.
24 Once was a civil case. A verdict was reached. I was not the foreperson.
25 The second was a criminal case, and it was a mistrial before it got to jury

1 deliberation.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR 346: I was not the foreman in that
4 case.

5 THE COURT: All right. Go back to your nephew.

6 PROSPECTIVE JUROR 346: Yes, ma'am.

7 THE COURT: Do you feel like that situation is being handled
8 properly? Do you have feelings on it one way or the other?

9 PROSPECTIVE JUROR 346: I think it's being handled
10 properly.

11 THE COURT: Okay. All right.

12 PROSPECTIVE JUROR 346: I haven't heard anything about
13 the trial thus far that makes me feel I couldn't sit as a juror. I can base
14 my verdict solely on the evidence presented, and I do believe I can be
15 fair and impartial to both sides.

16 THE COURT: Okay. Thank you. Appreciate that.

17 PROSPECTIVE JUROR 359: Allison Daniel, 359. I lived in
18 Clark County for three and a half years. Previous to that it was
19 Pennsylvania. Graduated twelfth grade, high school. I'm retired. I
20 worked in a specialty steel mill. My wife is retired. I have three -- three
21 children, 41, 43, and 46. One's a -- does home remodeling. Another one
22 does -- is the manager of a office that does social services, and the older
23 one is a manager of a distribution center.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR 359: My mother was a victim of a

1 home burglary. They never caught the person. I don't know nothing
2 about that. I don't feel either way about it.

3 THE COURT: How long ago was that?

4 PROSPECTIVE JUROR 359: A long time ago.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR 359: Like over 20 years ago, 25 years
7 ago.

8 Nobody has ever been, close to me, has been accused of a
9 crime. I was a juror before in a criminal trial. We reached a verdict, and I
10 was not the foreperson.

11 THE COURT: And what type of charges were they?

12 PROSPECTIVE JUROR 359: I'm not exactly sure. It was like a
13 20-year-old guy with a young -- young girl, like 16, 17, and sexual.

14 THE COURT: Oh, okay. Like statutory seduction, something
15 like that?

16 PROSPECTIVE JUROR 359: Yes.

17 I -- I didn't hear anything about the trial so far that'd make me
18 feel it'd be difficult to sit as a juror. And I can base my verdict solely on
19 the evidence I hear, and I can be impartial to both sides.

20 THE COURT: All right. Thank you.

21 Go ahead, sir.

22 PROSPECTIVE JUROR 538: Steven Lane, Badge Number 538.
23 Lived in Clark County for 30 years. High school diploma with some trade
24 school after that. I'm self-employed. I do business consultation for
25 companies that want to enter the public markets on the small exchanges.

1 I'm in a significant relationship, and she does the same thing. I have two
2 children, ages 14 and 17.

3 This -- number six will be a little bit more extensive. My
4 children, when I was going through my divorce, my children were
5 abused at the time -- they were five and eight -- by my ex's then
6 boyfriend, and it was reported. But unfortunately, I got bounced back
7 and forth between family and justice. There's children involved, you got
8 to go to family. The accused isn't family, so you got to go to justice.
9 And back and forth we went.

10 Fast forward about six years later, my daughter was then
11 strangled by my ex's then husband. I went to -- it was reported. Went to
12 get a permanent restraining order. The judge in the family court over
13 there ruled, despite photographic evidence and everything, he did not
14 grant me the permanent restraining order against him, and nothing ever
15 happened to him.

16 Fast forward a little bit later, my daughter was sexually
17 assaulted about a year and a half ago. Charges were brought by the --
18 the DA's office. It got pushed quite a bit. The judge didn't seem to really
19 understand the statute, and so there was quite a bit of back and forth
20 between the DA office and the judge, and ultimately the judge felt that it
21 didn't fit the statute and dismissed the case.

22 So if you're asking me how I feel the situation was handled
23 on all those cases, I thought it was a colossal failure on every single level
24 by -- by the -- in those particular cases.

25 I had a DUI about ten years ago that I pled to, careless

1 driving. I was in the middle of all that, or I probably would have taken it
2 a little bit further, but I had to focus on my kids at that time.

3 I have not served as a juror. Let's see. I have not heard
4 anything about this trial that would make me -- make it difficult for me to
5 sit. I can base my verdict solely on the evidence presented. And I
6 believe I can be fair and impartial to both sides.

7 THE COURT: Thank you, sir. I appreciate that.

8 PROSPECTIVE JUROR 564: Hi. Kelley Hamlet, Badge
9 Number 564. I've been in Clark County for 12 years. I graduated from
10 high school, went to hair school afterwards. I am employed at a bakery.
11 I am married. My husband does real estate photography. We have no
12 children.

13 I've never -- I've never, or anyone close to me, have been the
14 victim of a crime. Me or anyone else has never been accused of a crime.
15 I've never served as a juror. And then there is -- anything that I've -- I
16 have never heard anything about the trial. And I can base my verdict
17 solely on the evidence presented. And I can be fair and impartial to both
18 sides.

19 THE COURT: Thank you.

20 PROSPECTIVE JUROR 379: Jerry Martin, number 580. I have
21 been here since 1995 in Clark County. And I had a little bit of college, no
22 degree. And yes, I am employed. I'm -- I am also retired military of 26
23 years, and I am currently working as a retail manager. I -- I am the
24 district manager for seven bases. And I am married. And my wife's
25 retired. I -- I have one son who's 48 that works for Microsoft. It's in

1 Japan. And I got a stepdaughter that works for Mandalay Bay at the
2 events center.

3 And I -- I was married before, and -- and then I had a stepson
4 that actually burglarized a store. And I really think that it was handled
5 properly. He actually got what he was supposed to get. And in fact, I -- I
6 actually thought the judge was a little lenient on him, to be honest with
7 you.

8 So I've never been accused of a crime. Yes, I have served as
9 a juror before in a civil and criminal trial. And had -- the criminal trial
10 was here in Clark County, and it was a child molestation case. And then I
11 think the verdict was correct, and I was for it. I was actually an alternate
12 juror in that -- in that particular trial, but I had to sit, you know, through
13 everything.

14 THE COURT: I'm sorry. Did you say, "I didn't think that the
15 verdict was correct," or I didn't --

16 PROSPECTIVE JUROR 379: No. I -- I thought -- think the
17 verdict was a good verdict.

18 THE COURT: Oh. Was correct. Okay. Got you. Understood.

19 PROSPECTIVE JUROR 379: Yes, yes. Absolutely. And
20 there's nothing about any of this trial that I think that makes me feel
21 difficult to sit as a juror. And again, yes, I think it will be based on -- the
22 verdict solely on the evidence presented. And yes, I can be fair and
23 impartial to both sides. The only one thing that I'd like to say about that
24 is guns today. Guns. You know, on the news and everything, they say
25 there's 318 million guns out there. You know, I -- I just think it's time for

1 the United States to do something.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR 379: That's it.

4 THE COURT: Thank you, sir.

5 PROSPECTIVE JUROR 379: You're welcome.

6 THE COURT: All right. Ms. Jackson-Hale, Badge Number
7 380.

8 PROSPECTIVE JUROR 380: Jackson-Hale, Badge Number
9 380. I've lived in Clark County since 1999. I have a bachelor's in
10 kinesiology, a bachelor's in criminal justice, and a master's in emergency
11 and crisis management. I'm employed at UNLV. I'm an assistant dean at
12 the school of nursing.

13 I am married. My significant other is a project manager for a
14 construction company. I have children. I have two stepchildren. One is
15 27. He lives in Thailand and teaches English. The other one is 25, and
16 he works in a residential facility. The other ones are 11, 13, and 14, and
17 they do chores.

18 I was a victim of a crime, a burglary, when I first moved to
19 Vegas. My storage unit was burgled. They did catch the person. I don't
20 feel one way or the other about the situation. No one close to me has
21 ever been accused of a crime. I have not served as a juror before. I have
22 not heard anything about the trial that would make it difficult for me to
23 sit. I can base the verdict solely on the evidence presented, and I can be
24 fair and impartial to both sides.

25 THE COURT: Thank you.

1 PROSPECTIVE JUROR 386: I am Shawn Palmer, Badge
2 Number 386. I've lived in Clark County for 34 years. I graduated high
3 school. I'm a senior manager for corporate finance with MGM Resorts. I
4 am not married but in a relationship. He's in the tech industry. I do not
5 have children. I have a niece that was raped when she was between the
6 ages of 6 and 13 by a step-cousin. He was recently sent to prison for six
7 years, just like two months ago.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR 386: I have a sister that was accused
10 of a -- accused of a crime, and she did do prison time. I feel like the
11 criminal justice system handled both of those situations correctly. I have
12 never served as a juror. There's nothing I've heard that would make it
13 difficult for me to sit as -- sit as a juror in this case. I can base my verdict
14 solely on the evidence, and I can be fair and impartial.

15 THE COURT: All right. Thank you.

16 Ms. Van Natta, Badge Number 390.

17 PROSPECTIVE JUROR 390: I've lived in Clark County for 19
18 years. I have some college. I never finished. I'm employed. I work at
19 Saks Fifth Avenue as a business manager. I have a significant other. He
20 works at Caesars Palace, an executive. I have four children, 29, 26, 22,
21 and 19. My daughter, my oldest, is a copywriter, and my other two
22 daughters are going to college right now. And my son's joining the
23 military.

24 I was -- I had a DUI March of 2020. No one that I know has
25 ever been accused of a crime.

1 THE COURT: Did you feel like you were treated properly with
2 that DUI?

3 PROSPECTIVE JUROR 390: It was the day that the world shut
4 down. I didn't know what I was going to do. I just went to the store, and
5 I'd had some drinks, and I just -- I didn't think, you know. So I did all the
6 classes that I had to do, and -- and I'm actually voluntarily keeping the
7 device in my car just so nothing like that would ever happen again, so.

8 THE COURT: Thank you.

9 PROSPECTIVE JUROR 390: I have never served as a juror. I
10 was chosen, but then the case was dismissed in Florida. And I've not
11 heard anything about this trial that would make me -- make it difficult for
12 me to sit as a juror. And yes, I can base my verdict solely on the
13 evidence and be fair and impartial to both sides.

14 THE COURT: Okay.

15 Mr. McFerron, Badge Number 401.

16 PROSPECTIVE JUROR 401: Yes. I've lived here for 22 years.
17 A high school graduate from Ohio. I am employed by the Las Vegas
18 Sun, Greenspun Media Group, and I'm in a significant relationship. I
19 have no children.

20 I -- the victim of the crime was my significant -- girlfriend was
21 a victim of a rape before I knew her over ten years ago. Believe she
22 reported it. I don't believe the person was caught.

23 I had a DUI in 1987. I've never served on a jury. I'm not
24 really sure how hearing about all the witnesses, all the police officers,
25 and how that would make me feel. All the evidence of the forensics and

1 fingerprints and DNA has made me -- just to hear how many witnesses
2 they already have, all that, how it can make me feel fair or impartial to
3 both sides at this point.

4 THE COURT: Okay. What do you do for Greenspun, for the
5 Sun?

6 PROSPECTIVE JUROR 401: I'm a courier in mail room, office
7 worker.

8 THE COURT: Okay. So in regards to your comments about,
9 you know, reading all of the names. So basically what happens is, the
10 parties have to -- it's referred to as "notice" any -- any person that they
11 could possibly call. And so when Mr. Giordani read that list to you, it
12 doesn't mean they're going to call all those person -- those persons.

13 It definitely doesn't mean that, you know, the more witnesses
14 you call, the more evidence you have, or that you have fingerprints and
15 DNA and all that. And Mr. Margolis has also declared the right and
16 noticed those individuals as well.

17 So I just want to make sure that you -- I understand why you
18 may feel that, right? Because the State got up there and they read that
19 whole list and went through everything, and you heard about the
20 forensic analyst? Mr. Margolis could have done that exact same thing,
21 but, honestly, it would've been somewhat of a waste of our time, right,
22 for him to stand up and read that exact same list? So instead, he just
23 said, "We reserve the right," and noticed those exact same witnesses. So
24 does that, kind of, put you a little bit --

25 PROSPECTIVE JUROR 401: Yeah.

1 THE COURT: -- more at ease?

2 PROSPECTIVE JUROR 401: Yeah.

3 THE COURT: Okay. Yeah.

4 PROSPECTIVE JUROR 401: I understand.

5 THE COURT: No, I completely understand why you feel that
6 way, but I just wanted to make sure that we were on the same page with
7 that. But thank you for bringing it up.

8 PROSPECTIVE JUROR 401: Okay. Thank you.

9 THE COURT: All right. Is it Magatelli?

10 PROSPECTIVE JUROR 414: Yeah. Hi, Your Honor.

11 THE COURT: Hi.

12 PROSPECTIVE JUROR 414: My name is Marisa Magatelli.

13 And my Badge Number is 414. I've lived in Clark County for 22 years.

14 And I spent four years going to college at Portland State University. I got
15 two bachelor degrees, in marketing and advertising. I'm currently a
16 senior sales manager at a digital marketing firm. So I oversee about 40
17 people.

18 I have a daughter who is five years old. I am in a
19 relationship, and he does the same thing that I do. I, myself, or no one
20 close to me, has ever been a victim of a crime. I my -- or anyone close to
21 me has ever been accused of a crime.

22 I've never served on a jury. There's nothing that I've heard
23 about the trial, so far, that would make me feel like it would be difficult
24 for me to sit as a juror. I could base my verdict solely on the evidence
25 presented. And I can be fair and impartial to both sides.

1 THE COURT: Okay. Thank you. I appreciate that. Next?

2 PROSPECTIVE JUROR 581: Hi. Yolanda --

3 THE COURT: Hi.

4 PROSPECTIVE JUROR 581: -- Ali. Badge Number 581. I'm
5 actually a native of Clark County, so I've been here 51 years. I did
6 graduate high school. I am employed at a behavioral health clinic. I'm
7 the director of operations there.

8 I am married. My husband's a clinical psychologist. I have
9 four children, ages 31, 27, 16, and 12. My oldest is a flight attendant. My
10 son is in insurance sales. I have a high schooler and a middle schooler.

11 We were victims of a crime. Our place of business was
12 burglarized. The crime was reported. No one was caught, and nothing
13 was -- there was no outcome of it. I don't know anybody that has been
14 accused of a crime. I've never served as a juror before. I haven't heard
15 anything about this trial. And I believe I can base my verdict solely on
16 the evidence.

17 THE COURT: Thank you. I appreciate that.

18 PROSPECTIVE JUROR 581: Uh-huh.

19 THE COURT: Mr. Peck, Badge Number 447, when the mike
20 gets to you.

21 PROSPECTIVE JUROR 447: Justin Peck, 447. I've lived in
22 Clark County for over 25 years. I have some college. I'm employed for a
23 custom cabinet company, here in Las Vegas. I am married, and do have
24 one son who's three years old, going to preschool.

25 I do not know anyone who's been a victim of a crime. I,

1 myself, have been convicted or -- accused and convicted of a felony. I
2 have never served on a jury before. I have not heard anything about this
3 trial. And I do believe that I can base my verdict solely on the evidence
4 presented, and be fair and impartial on both sides.

5 THE COURT: Mr. Peck, do you feel like you were treated the
6 way that you should've been treated, through the arrest, through the
7 court system?

8 PROSPECTIVE JUROR 447: No, I do not. I believe that I was
9 treated quite harshly.

10 THE COURT: Okay. Where do you believe that lies? With
11 the police, with the prosecutors, with the judge?

12 PROSPECTIVE JUROR 447: With the prosecution.

13 THE COURT: Okay. And I apologize. I forgot if you stated;
14 was that here, or was that somewhere else?

15 PROSPECTIVE JUROR 447: That was here in Clark County.

16 THE COURT: That was here. And what year was it? I wrote
17 it down, actually. 2011?

18 PROSPECTIVE JUROR 447: 2011, yes.

19 THE COURT: Okay. Did that case go to trial or did you take a
20 deal?

21 PROSPECTIVE JUROR 447: I did take a deal.

22 THE COURT: You took a deal. Okay. And so tell me about
23 the -- obviously, it wasn't these prosecutors, right?

24 PROSPECTIVE JUROR 447: No.

25 THE COURT: Okay. Tell me, why -- why do you feel -- why

1 you have those feelings? Like, what did they do or what did they not do?

2 PROSPECTIVE JUROR 447: I believe that my sentence was
3 harsh. My accused crime was a burglary, attempted theft of a Home
4 Depot store. There was no victims other than the store itself. And I was
5 given two one-to -- one-to-ten-year sentences --

6 THE COURT: Okay.

7 PROSPECTIVE JUROR 447: -- for my first crime ever.

8 THE COURT: Did you do probation, or did you go to prison?

9 PROSPECTIVE JUROR 447: No, I did four years in prison.

10 THE COURT: So was a stipulated sentence? Or did --
11 meaning, like, you signed up for the four-to-ten? Or --

12 PROSPECTIVE JUROR 447: There were two one-to -- two
13 separate one-to-tens.

14 THE COURT: Okay. but then did the -- did your attorney
15 have the right to argue for probation, and the State had the right to
16 argue for prison? Or when you signed the deal, you knew you were
17 going to prison for four?

18 PROSPECTIVE JUROR 447: There was a possibility of parole
19 or probation, yes.

20 THE COURT: Okay. So the judge --

21 PROSPECTIVE JUROR 447: Yes.

22 THE COURT: -- the State argued for prison, Defense argued
23 for probation, Judge went along with the State?

24 PROSPECTIVE JUROR 447: Yes.

25 THE COURT: Okay. All right. Knowing what you went

1 through and knowing, you know, completely different case and different
2 attorneys, do you still feel like you can look at this with you know, clear
3 eyes, and be fair to both sides?

4 PROSPECTIVE JUROR 447: I do believe that I can base my
5 decision off of evidence. But I do have a hard time believing the
6 prosecution to the full extent, I guess --

7 THE COURT: Sure.

8 PROSPECTIVE JUROR 447: -- you could say.

9 THE COURT: Yeah.

10 PROSPECTIVE JUROR 447: Because of my -- my case. And I
11 know that the -- the stipulations of my case and what happened, and
12 what actually didn't happen.

13 THE COURT: Yeah. What about if a police officer comes and
14 testifies, are you going to judge their credibility just like you would judge
15 anyone else's, or would you -- do you think you might judge them a little
16 bit more harshly?

17 PROSPECTIVE JUROR 447: I may judge them a little harshly,
18 yes.

19 THE COURT: And then you've heard me talk a little bit about
20 the State, you know, and they have this burden, right, the burden to
21 prove to you, beyond a reasonable doubt?

22 PROSPECTIVE JUROR 447: Yes.

23 THE COURT: The law says, you can't lower that burden, and
24 you can't raise that burden. The burden is what the burden is. And it's
25 prescribed by law. Because of your situation and your feelings, do you

1 feel like you would hold them to a higher burden?

2 PROSPECTIVE JUROR 447: Yes, I do.

3 THE COURT: Okay. Is there anything that I could say that
4 could talk you out of that, or -- I mean you -- you only know you, right?
5 And so --

6 PROSPECTIVE JUROR 447: Yes.

7 THE COURT: -- sometimes people waver on that and then
8 sometimes people are just, like, no, you know? Like, this is a firmly held
9 belief. And I'm just trying to figure out where you are on that spectrum.

10 PROSPECTIVE JUROR 447: I feel that they can stretch the
11 truth and force people to do things that they don't agree with. Just to be
12 done with it so they -- they hold something else higher over your head to
13 have you agree to something else, I guess, you could say.

14 THE COURT: All right. And last question about that. Were
15 there any weapons involved in that?

16 PROSPECTIVE JUROR 447: Yes, there was.

17 THE COURT: Okay. Thank you for your honesty, Mr. Peck. I
18 appreciate you. Mr. Wallin, 445?

19 PROSPECTIVE JUROR 455: Yes, James Wallin, 455. I've
20 lived in Clark County for 17 years. I graduated from Tulane University. I
21 have a Master's in Business. I'm employed by the State of Nevada. I do
22 social work, Division of Welfare and Social Services.

23 I have a partner. He owns a electrical installation company.
24 No children. Have I been a victim of a crime? Yes, I had my car broken
25 in, probably 20 years ago. Was the person caught? I don't know. And I

1 don't have any feelings, one way or the other, about the situation.

2 Has anyone close to me ever been accused of a crime, et
3 cetera? I had a DUI, like, 13 years ago. Do I feel that the situation was
4 handled by the criminal justice system correctly? Yes.

5 I have never served as a jury before. I haven't heard
6 anything about the trial. And I don't think that there's anything that
7 would make it difficult for me to sit as a juror. And I can base my verdict
8 solely on the evidence presented during the trial and waiting to form my
9 opinion until the case is submitted to me. I can be fair and impartial to
10 both sides.

11 THE COURT: Okay. Thank you.

12 PROSPECTIVE JUROR 587: Ren Matsubara, Badge
13 Number 587. I've been here in Clark County for six years. I attend UNLV
14 right now. I work on my Bachelor's for Computer Science. I'm
15 employed in the restaurant field right now, as a busser and a waiter. I
16 am not married. I don't have any children.

17 And my brothers -- I mean, my -- my brother's bicycle was
18 stolen. The person was not caught. No one has ever been accused of a
19 crime, that I know of. I've never served as a juror before. And there's
20 nothing I've heard about the trial that would be difficult for me to sit as a
21 juror. I can base my

22 verdict solely on the evidence presented. And I can be fair impartial,

23 THE COURT: Okay. Thank you. I appreciate that. Oh, you
24 know what? I apologize. Can we go back to Mr. Matsubara --

25 PROSPECTIVE JUROR 587: Yes.

1 THE COURT: -- for a moment? 587?

2 PROSPECTIVE JUROR 587: Yes.

3 THE COURT: Where were you -- you said you've been here
4 for six years?

5 PROSPECTIVE JUROR 587: Yes.

6 THE COURT: Where were you before, years -- where were
7 you for the previous --

8 PROSPECTIVE JUROR 587: Oh, I was -- I was in California for
9 -- prior to being --

10 THE COURT: Okay.

11 PROSPECTIVE JUROR 587: -- being here, yes.

12 THE COURT: Thank you. All right. Go ahead, sir.

13 PROSPECTIVE JUROR 497: Last name is -- excuse me. Last
14 name is Amil, Badge Number 0497. I live in Clark County since 1999.

15 And I have a degree in accountancy, and I work as an accountant.

16 I am married, and my wife is a licensed clinical laboratory
17 scientist, but she is not working now. We have two kids, six, and ten
18 years old. I don't know anybody being a victim of a crime. Or I am not
19 accused of a crime. And I also don't know anybody who's accused of a
20 crime.

21 I served as a jury (sic) before, but I was an alternate jury --
22 juror. I have not heard anything about this trial. And, yes, I can be fair
23 and impartial to both sides.

24 THE COURT: Okay. Thank you.

25 PROSPECTIVE JUROR 596: Aliya Scheppmann. Badge

1 Number 596. I'm a Clark County native. I've graduated high school. I
2 am currently employed in pastry, and as a freelance artist.

3 I am not married. I do not have any children. Neither I nor
4 anyone close to me has been a victim of crime. I've never, nor anyone
5 close to me has been accused of a crime. I've never served as a juror
6 before.

7 There is some information that does make it feel difficult to
8 sit as a juror for this trial.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR 596: I have very anti-gun beliefs.
11 They terrify me. I've had several family members take their lives with
12 them, and attempted to. And anything related to it, just kind of freaks
13 me out a little bit.

14 THE COURT: Okay. Does it freak you out to the point where
15 you feel like you couldn't analyze evidence?

16 PROSPECTIVE JUROR 596: Yes.

17 THE COURT: Okay.

18 PROSPECTIVE JUROR 596: I also do not believe I could base
19 my verdict solely on the evidence. I'm currently going under treatment
20 for severe depression, and part of that involves -- some of the
21 medication alters my mood and could lead to some instability and
22 judgment.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR 596: And I do not believe I could be
25 fair and impartial, because of my anti-gun beliefs.

1 THE COURT: All right. Thank you.

2 PROSPECTIVE JUROR 597: Last name, Monarrez. Badge
3 Number 597. I've lived in Clark County for 22 years. I have an
4 associate's degree, and I'm currently a student at UNLV.

5 I work part-time in retail. I am not married, nor am I in a
6 significant relationship. I do not have any children. I have not been a
7 victim of a crime, but I know someone that -- close to me, that has been a
8 victim of a crime. The crime was reported, the person was caught, and I
9 feel the situation -- the criminal justice system is handling the situation
10 well.

11 I have not, nor has anyone close to me, been accused of
12 a crime. I have never served as a juror before. There is nothing I have
13 heard about the trial, thus far, that makes me feel it would be difficult to
14 sit as a juror.

15 I can base my verdict solely on the evidence presented
16 during the trial. And I can be fair and impartial to both sides.

17 THE COURT: Thank you.

18 PROSPECTIVE JUROR 501: My name is Arnette Givens-
19 Wells. Badge 0501. I have been in Clark County for three years, from
20 California -- San Francisco. And I did some college.

21 Unemployed -- well, retired. And not married. No children.
22 My sister was -- was murdered.

23 THE COURT: I'm sorry.

24 PROSPECTIVE JUROR 501: And no one's been accused. No
25 one close to me has been accused of a crime. I've never served on a

1 jury. I haven't heard anything about this case. And I don't know if I can
2 base my verdict solely on the evidence. And I don't know if I can be fair
3 and impartial.

4 THE COURT: Okay. So let's go back. How long ago was
5 your sister?

6 PROSPECTIVE JUROR 501: It was in '09?

7 THE COURT: '09? Okay. And where was that at?

8 PROSPECTIVE JUROR 501: It was in Richmond, California.

9 THE COURT: Sorry, you have to use the mike.

10 PROSPECTIVE JUROR 501: Richmond, California.

11 THE COURT: Okay. And, I'm sorry -- first of all, I'm sorry for
12 your loss. I'm sorry that you have to talk about these things, because I
13 know it's difficult. The person who took her life, did that person know
14 her or was it a stranger?

15 PROSPECTIVE JUROR 501: It was a stranger. It -- well, it was
16 -- was a drive-by shooting. Five people were shot, three died.

17 THE COURT: Okay. How did you feel like that situation was
18 handled by the police and the court system?

19 PROSPECTIVE JUROR 501: I removed myself from the
20 situation. I didn't -- I couldn't deal with that.

21 THE COURT: Okay. When you were talking about, you
22 know, you didn't know if you could be fair and impartial, talk to me about
23 your concerns about that.

24 PROSPECTIVE JUROR 501: I don't know if I'd be thinking
25 about her.

1 THE COURT: Would you hold it against Mr. Lepolo, what
2 happened to your sister?

3 PROSPECTIVE JUROR 501: I don't know. It's irrational, but I
4 don't know.

5 THE COURT: Yeah. Yeah. Just let me now take this. I'm
6 sure you've heard me discuss this with the other jurors. Do you think
7 you're capable of that clinic -- that clinical lens of considering facts, law,
8 State's burden, and applying those things and looking at it through that
9 lens, you know, clinically, in black and white, and being able to separate
10 the loss of your sister?

11 PROSPECTIVE JUROR 501: I don't know.

12 THE COURT: Okay. Thank you.

13 PROSPECTIVE JUROR 504: Saldivar. Badge 504. I've lived
14 in Clark County for 30 years. I graduated high school. I went to a tech
15 school, for medical assistant. I am currently actually doing billing for the
16 same practice.

17 I am married. I have a four-year-old daughter. My husband
18 works construction. My cousin was involved in a crime back in
19 California. She was -- she's a current police officer, and was shot, with
20 her partner. I'm not sure if the person was caught, because we really
21 don't talk about that. I know -- and I know it's not in -- really in the
22 media.

23 I feel -- let me see. I've never been accused of a crime. I've
24 never been served as a juror. And I haven't heard anything about the
25 trial that would make it difficult for me to sit as a juror. I can base my

1 verdict solely on the presented evidence. And I can be fair and impartial
2 to both sides.

3 THE COURT: Okay. Thank you. May I please see the parties
4 at the bench?

5 [Sidebar at 3:36 p.m.]

6 THE COURT: All right, guys. Who do you want to start with?

7 MR. GIORDANI: We would like to remove 275, Ortiz. She
8 indicated she would hold the State to a higher burden than beyond a
9 reasonable doubt. She indicated to me -- what I interpreted was that she
10 knows the punishments for murder, she just couldn't do it. Couldn't be
11 objective.

12 And, obviously, as I'm putting this on the record, I'm reading
13 my notes, so I'm not going verbatim before the Supreme Court with this.
14 She indicated, the present system is horrendous. Regardless of what
15 they're accused of, they shouldn't be subjected to prison. And that's --
16 that's really all I have with the notes.

17 I would just note, for the record, we haven't quite sorted out
18 this penalty issue, so I want to know if penalty will be in play during jury
19 selection. But she's -- she's unique, in that she's indicated she already
20 knows the murder penalties, and she couldn't do it. So we'd ask to
21 remove her for cause.

22 THE COURT: Mr. Margolis?

23 MR. MARGOLIS: Did she say the word, she couldn't be fair?

24 THE COURT: So, again, like, it's not verbatim, right? But I'm
25 writing as fast as I can.

1 MR. MARGOLIS: Uh-huh.

2 THE COURT: She said, it's more than likely that I will hold
3 the State to a higher burden. I'm wary of police officers as witnesses.
4 I've read plenty of reports. It's more likely that I will judge them more
5 harshly than other witnesses.

6 I always will have, in the back of my mind, about the
7 punishment. I am aware of the punishment. And I have a -- I would
8 have a difficult time knowing that and being objective in this case.

9 MR. MARGOLIS: We'll submit.

10 THE COURT: Okay. Yeah. 275, Ortiz is going to be kicked for
11 cause.

12 MR. GIORDANI: Next would be 293.

13 THE COURT: Chantharath.

14 MR. GIORDANI: 293, Chantharath. He indicated that his
15 sister was having an affair. Her husband apparently killed the guy who
16 she was having an affair with. He's been in prison for 15 years.

17 The problem I have with him is, he just kept repeating, over
18 and over and over, that he didn't know how he would react and if his
19 emotion became involved. And that uncertainty is very concerning for
20 us, considering the fact that this is a murder case and he -- the one thing
21 I have, in quotes is, he said, "It hit so close to home." So I think in this
22 unique circumstance, with the same charge in this case, it's problematic.

23 MR. MARGOLIS: I focused on something else he said that I
24 found interesting, which was, namely that he was -- still loved his
25 brother-in-law --

1 THE COURT: Yeah.

2 MR. MARGOLIS: who killed his sister.

3 THE COURT: Yeah.

4 MR. MARGOLIS: That indicates to me a preternatural ability

5 to be fair, you know --

6 THE COURT: That what I was --

7 MR. MARGOLIS: -- that most of us don't possess.

8 THE COURT: That's where I was trying to go with him, as

9 well. If you remember, I was, like --

10 MR. MARGOLIS: Yeah.

11 THE COURT: -- well, it seems like, then, you could

12 understand both sides of the coin, right? Like, you would feel -- have

13 compassion for both sides, and understand. Which I was trying to get

14 him to see.

15 But the fact is, is that he -- you know, the case law says, like,

16 you have to be unequivocal in your ability to sit as a fair and impartial

17 juror. You have to know that you can do that. And I tried, in so many

18 different way, to get there. But in every single time, he said, I just don't

19 know how -- his words were --

20 MR. MARGOLIS: I remember.

21 THE COURT: -- "it would be too emotional for me, and I just

22 don't know how my emotions --

23 MR. MARGOLIS: I don't know how it'll affect my --

24 THE COURT: -- will come into play. Exactly,

25 MR. MARGOLIS: -- decision-making.

1 THE COURT: Yeah.

2 MR. GIORDANI: Okay.

3 THE COURT: So I am going to allow him to be kicked for
4 cause. Next?

5 MR. GIORDANI: Next is Mr. Peck, 447. I mean, I think the
6 record speaks for itself there. Do I need to go any further?

7 THE COURT: Yeah, so I do think that Mr. Peck has made
8 some comments, on the record, that would difficult to back from, in
9 regards to the case law and the [indiscernible] be all of our -- he states
10 that prosecutors stretch the truth, they hold something over your head to
11 get what they want. The police judged me. The prosecutors were not
12 fair in my case. I would judge police officers harshly, and I would hold
13 the State to a higher burden. I'm letting him go. Next?

14 MR. GIORDANI: 596, Scheppmann. I mean, I'll -- I'm
15 assuming the Defense is going to make a for cause challenge, so I'll
16 just --

17 MR. MARGOLIS: Yeah.

18 MR. GIORDANI: -- submit.

19 THE COURT: Yeah. So the parties --

20 MR. GIORDANI: So --

21 THE COURT: -- are going to stipulate to Scheppmann being
22 gone. Parties' opinion on Givens-Wells, 501?

23 MR. GIORDANI: Submitted.

24 MR. MARGOLIS: Oh, State [indiscernible] African-American
25 woman that can't be fair?

1 MR. GIORDANI: Yeah, it breaks my heart, but I will submit.

2 THE COURT: Yeah, I don't -- it seems to me like she cannot
3 be unequivocal about giving your client a fair trial.

4 MR. MARGOLIS: She was emphatic about --

5 THE COURT: Yeah.

6 MR. MARGOLIS: -- her inability, so.

7 THE COURT: Yeah. Okay. Defense moves to kick her is
8 granted. And I will seat 5. Thank you.

9 MR. GIORDANI: Thank you.

10 [Sidebar ends at 3:42 p.m.]

11 THE COURT: All right. If you hear your name being called,
12 please stand. 275, Ortiz. 293, Chantharath. 447, Peck. 596,
13 Scheppmann. 501, Givens-Wells. Thank you for your willingness to be
14 here. I appreciate it. You are excused at this point in time. All right. Ms.
15 Brown, could you call the next five, please?

16 THE CLERK: So in seat number 5 will be Badge Number 600,
17 Kimberly Goun. In seat number 7, Badge Number 604, John Hall. In
18 seat number 25, Badge Number 605, Christopher Rapanos. In seat
19 number 29, Badge Number 606, Emilie Stevenson. And then in seat
20 number 31 is Badge Number 607, Wayne Davenport.

21 THE COURT: All right. Thank you. Let's go to Mr. Hall,
22 Badge Number 604.

23 PROSPECTIVE JUROR 604:

24 THE MARSHAL: Hold on. Ms. Goun?

25 THE COURT: Oh, yeah. Oh, I apologize, sorry. Ms. Goun.

1 She is 600, in seat number 5.

2 PROSPECTIVE JUROR 600: I have lived in Clark County for
3 20 years. I went to high school and then graduated high school. Went to
4 college for two years. I am working at a retail shop, as a client advisor.

5 I'm not married. I am in a significant relationship. He's
6 working at -- as a retail -- restaurant manager. I don't have any children.
7 I was not victim of a crime, but my sister was. And we were not -- no
8 one was accused of being in a crime.

9 THE COURT: How long ago was your sister a victim?

10 PROSPECTIVE JUROR 600: I believe about six years ago.

11 THE COURT: Okay. And what type of crime was it?

12 PROSPECTIVE JUROR 600: So it was, basically, a hate crime.
13 Being an Asian.

14 THE COURT: Yeah. Was --

15 PROSPECTIVE JUROR 600: She was --

16 THE COURT: Do --

17 PROSPECTIVE JUROR 600: Yeah?

18 THE COURT: Sorry. I didn't mean to cut you off. Did she --
19 but did she report it?

20 PROSPECTIVE JUROR 600: Yes, we reported to the police,
21 the school police, and everything. The person wasn't caught.

22 THE COURT: How do you feel like the police handled that
23 situation?

24 PROSPECTIVE JUROR 600: To be honest. I'm not sure what
25 has been done by the police.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR 600: Because we reported it right
3 away, but nothing was really resolved, or no re-ertions [sic] of my sister
4 being able to go to school safely.

5 THE COURT: Okay. All right. Thank you.

6 PROSPECTIVE JUROR 600: I was -- not served as a juror
7 before. Well, about using the gun and everything, because of my sister's
8 incident six years ago, I'm not sure if I'm comfortable of listening to the
9 incident, or you know, go through the details and everything and make
10 the right decision for both parties.

11 THE COURT: Did your sister's incident have a gun?

12 PROSPECTIVE JUROR 600: Yes.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR 600: I will try my best to, you know,
15 base my verdict on the evidence and everything. But at the same time,
16 because of my personal experience that involved with the gun, I'm not
17 sure if I will a hundred percent be able to do that.

18 THE COURT: So let me ask you a few questions, though,
19 because -- so your -- you weren't -- you weren't physically there; you
20 didn't watch it, right? Your sister came home and told you?

21 PROSPECTIVE JUROR 600: So she was on the way to the
22 school to the -- to get the school bus in the morning, and she got gun
23 pointed by a random stranger saying that --

24 THE COURT: You don't have -- just saying, like, a racial
25 epithet towards her?

1 PROSPECTIVE JUROR 600: Yes,

2 THE COURT: Is that fair?

3 PROSPECTIVE JUROR 600: So --

4 THE COURT: Yeah. Okay. And I'm -- I'm sorry that that
5 happened. And that's very wrong for your sister to have to go through
6 that. What I'm trying to understand, though, is, these facts are so
7 dissimilar -- they're so very different than that situation -- as how that
8 situation would impact your or affect your ability to be fair here.

9 PROSPECTIVE JUROR 600: I'm sorry.

10 THE COURT: That's okay.

11 PROSPECTIVE JUROR 600: Thank you. I understand it's not
12 the perfectly same scenario and everything, but just the idea of having
13 the gun involved is somewhat -- somewhat traumatic, because I'm still
14 seeing how my sister is going through that traumatic event. And she's
15 going through different treatments, and seeing the -- you know, the
16 psychologist and everything. Even taking different medications to, you
17 know, be able to function as a -- as a human being. So, I guess, I get
18 emotional --

19 THE COURT: Sure.

20 PROSPECTIVE JUROR 600: -- when it comes to gun-related
21 issues.

22 THE COURT: Okay. As you sit here today, can you give Mr.
23 Lepolo a fair trial?

24 PROSPECTIVE JUROR 600: I'm not sure if I can, a hundred
25 percent, do that.

1 THE COURT: Okay. All right. If you could pass the
2 microphone down to Mr. Hall, in seat seven, Badge Number 604.

3 PROSPECTIVE JUROR 604: 456. Did it ever get mixed up?

4 THE COURT: What's your last name?

5 PROSPECTIVE JUROR 604: Hall.

6 THE COURT: So on our paperwork, you're Badge Number
7 604.

8 PROSPECTIVE JUROR 604: I did have to reschedule. I never
9 got a new thing. So --

10 THE COURT: Okay. That might be it.

11 PROSPECTIVE JUROR 604: -- I brought the old one, so.

12 THE COURT: Okay. So we'll just call you 604 --

13 PROSPECTIVE JUROR 604: Okay.

14 THE COURT: -- since that's in ours. And I'll just keep
15 cracking. So don't worry about it.

16 PROSPECTIVE JUROR 604: All right.

17 THE COURT: But go ahead.

18 PROSPECTIVE JUROR 604: All right. I've lived in Clark
19 County since early '94, so 28 years. I have an associate degree. I'm in
20 restaurant management. I'm married. My wife is a guidance counselor
21 for Clark County School District.

22 I have two boys, 20 and 16. My 20-year-old is in school, part-
23 time, and is, kind of, a handyman for a guy that helps build boxes for
24 people that are relocating. My youngest, 16, does not work. He just
25 started his junior year.

1 I have been the victim of a crime. I have had a gun pulled on
2 me three times, including fired, once. Two of those were in the '80s,
3 including the firing. The third one was in 2004. I was running a tavern
4 here in town. I saw the trouble brewing. I'd already called the police,
5 and the gentleman pulled a 9mm, in the parking lot, on me and my
6 security. And, luckily, the police officer got there just as that was
7 happening. Charges were filed. I was supposed to be a witness, but
8 they worked out a plea -- a plea deal, the night before, so.

9 THE COURT: Do those incidents affect your ability to be fair?

10 PROSPECTIVE JUROR 604: It'd be tough to say, really. That
11 guy, actually, was calling me at -- at work and told me I knew what -- I
12 knew what I needed to do. I knew what the right thing was. So it was a -
13 - it was an ordeal, so. I also got beat up, at that same job, by a bunch of
14 kids drinking on the sidewalk. You don't want to work in taverns here.

15 THE COURT: Yes.

16 PROSPECTIVE JUROR 604: Anyone close to me accused of a
17 crime? I, myself, have had a pretty colorful past. I was arrested in
18 Oklahoma twice in the early '80s, for DWI, in Oklahoma. That's for a .05.
19 I also -- I was arrest for driving on a suspended license, in 1999, there.
20 Too many points. I was home for the holidays in '96, and got a DUI, in
21 Oklahoma. I don't live there anymore, obviously.

22 I did get arrested here, in September of '20, for possession of
23 marijuana and -- and paraphernalia. It was pled down to a
24 misdemeanor. My sister was also -- in early 2000, my sister was --
25 worked out a deal for embezzlement -- embezzlement from the company

1 that she worked for. And the answer to that is that she probably got off
2 easy. I think she really got a good deal on that. They must've liked her.

3 I have served on two juries, one criminal case and one civil
4 case.

5 THE COURT: What were the charges in the criminal?

6 PROSPECTIVE JUROR 604: The criminal case was domestic
7 abuse against -- a father against his son.

8 THE COURT: Verdict? Was a --

9 PROSPECTIVE JUROR 604: We --

10 THE COURT: Was a verdict reached? Sorry.

11 PROSPECTIVE JUROR 604: Yes.

12 THE COURT: And were --

13 PROSPECTIVE JUROR 604: Yes.

14 THE COURT: -- you the foreman?

15 PROSPECTIVE JUROR 604: I was not.

16 THE COURT: Okay. Thank you.

17 PROSPECTIVE JUROR 604: I have not heard anything about
18 this trial. It doesn't mean, somewhere along the way I didn't. But sitting
19 here looking at him, I don't -- I don't remember it at all.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR 604: I like to think that I could be
22 impartial. As we go on, I'm not sure I can really say that I would be. I'm
23 pretty good at following rules, so I would try. But that would have -- I'm
24 not sure where we would go. And one other thing, I mean, I agree with
25 this gentleman down here. I am extremely angry with way the state of

1 guns are in this country, so -- especially against children, so it might be a
2 little tough on me.

3 THE COURT: Okay. Thank you, Mr. Hall. I appreciate that.

4 PROSPECTIVE JUROR 604: Thanks.

5 THE COURT: Christopher Rapanos, 605.

6 PROSPECTIVE JUROR 605: My name is Christopher
7 Rapanos. Badge Number 605. I've lived in Clark County. I'm a native of
8 almost 48 years. I have a high school diploma. I work for UNLV, in the
9 facilities department. I'm getting ready to retire from there.

10 I have been married. I'm not currently married. And I'm not
11 in a significant relationship. I have two children. The age is 26 and 22.
12 The 26-year-old is currently active duty Marines. And the 22-year-old
13 works for the City of Henderson in Parks and Rec.

14 I've never known anyone close to me been the victim of a
15 crime. I've never been a -- me, or myself, or anyone close, ever been
16 accused of a crime. I've never served on a jury before. There's nothing
17 that would -- I've heard about the trial that would make it feel as if it
18 would difficult to sit as a juror? No.

19 I could base my verdict solely on the evidence presented
20 from both sides, and form my opinion after I've heard both sides. And,
21 yes, I can be fair and impartial to both sides.

22 THE COURT: Thank you. Let's go to Stevenson, 606.

23 PROSPECTIVE JUROR 606: Yes.

24 THE COURT: Thank you.

25 PROSPECTIVE JUROR 606: My name is Emilie Stevenson.

1 And my Badge Number is 0606. I've been here in Clark County for two
2 years. And I have a college degree. And I am presently employed as a
3 sales associate. I am married. And I have three children, ages 30, 26,
4 and 20.

5 I am not -- I am not a victim of a crime, nor anyone close to
6 me a victim of a crime. I haven't served as a juror. I haven't heard about
7 this trial. And I -- I will solely base my verdict on evidence presented in
8 the trial, and wait in the forming of any case that is admitted. And I will
9 be fair and impartial to both sides.

10 THE COURT: Thank you. I appreciate that. Let's move to Mr.
11 Davenport, 607.

12 PROSPECTIVE JUROR 607: Yes. My name is Wayne
13 Davenport. My number is 0607. I lived in Clark County for five years.
14 Before that, I was in New York and Washington DC. I got a degree in
15 accounting and management. I work for CCSD -- that's Clark County
16 School District. I'm also employed as a armed escort. I'm a retired
17 Marine.

18 I'm not married. I have a fiancée. She works in Qatar as an
19 optometrist. I have three boys, 34, 36, and 38. One is a bodyguard. The
20 other is a security officer. And the other one has his own business.

21 I have been a victim of a crime, and I know somebody that
22 has. My ex-wife was raped. They never found the person. I was held up
23 as a cab driver in New York. And I didn't report that crime -- crime. Let
24 me see if I covered -- as far as the one with the rape, like I said, they
25 never found the person, so nothing could be done. I was in the military

1 at that time.

2 How do I feel about any of the situations? Things happen.
3 Have I served as a juror before? Yes, in a criminal, twice. It was drug
4 possession, and weapons possession. And it was a --

5 THE COURT: Was that in New York?

6 PROSPECTIVE JUROR 607: Yes.

7 THE COURT: And were you -- were verdicts reached in each
8 of those cases?

9 PROSPECTIVE JUROR 607: One was a hung jury and the
10 other went -- was reached.

11 THE COURT: Okay. And were you the foreman in either?

12 PROSPECTIVE JUROR 607: No. Can I be fair, impartial? Yes.
13 Can I make a -- base on the evidence and everything? Yes, I can.

14 THE COURT: Okay. Thank you.

15 PROSPECTIVE JUROR 607: Okay.

16 THE COURT: Parties approach, please?

17 [Sidebar at 3:58 p.m.]

18 THE COURT: Does Defense want to - any movement to
19 make, before I turn it over to the State?

20 MR. GIORDANI: 600, Goun.

21 MR. MARGOLIS: Yeah. Plus, I don't know about Hall either.

22 THE COURT: What's that?

23 MR. MARGOLIS: I don't know about Hall either.

24 THE COURT: Yeah, I mean, I think Ms. Goun said some very,
25 like -- you know, tried to point out the differences between the things

1 when she was in there, but she was crying.

2 She's saying, because a gun was involved. And he doesn't
3 know if she can be fair. It's just the idea of having -- of having a gun
4 involved is very traumatic for her. And her sister's on medications.

5 I don't know. I don't think that she can be equivocal in her
6 ability to give the Defendant a fair trial, so I'm going to kick her.

7 MR. MARGOLIS: Uh-huh.

8 THE COURT: And then, in regards to Hall. The part where he
9 really, kind of, started to throw me is when he said as we go on, I'm just
10 not sure if I can be fair. I've had a gun pulled on -- he talked about
11 having a gun pulled on him three different times.

12 MR. MARGOLIS: All right. I think his antipathy for the gun is
13 a real problem.

14 THE COURT: You what?

15 MR. MARGOLIS: I think his antipathy for the guns and his
16 experience with the guns is -- is foreshadowing pretty strongly, he's not
17 going to be fair.

18 THE COURT: State?

19 MR. GIORDANI: I'll submit.

20 THE COURT: All right. 604 is gone.

21 MR. MARGOLIS: Thank you.

22 [Sidebar ends at 4:00 p.m.]

23 THE COURT: All right. Ms. Goun, 600, and Mr. Hall, 604,
24 thank you. You are excused. I appreciate it. Ms. Brown, if you could fill
25 those seats.

1 THE CLERK: So in seat number 5, will be Badge Number 608,
2 Deanna Romero. And in seat number 7, will be Badge Number 629,
3 Samantha Griffith.

4 THE COURT: All right. Let's start off with Ms. Romero,
5 Badge Number 608. Whenever you get seated.

6 PROSPECTIVE JUROR 608: So my name is Deanna Romero.
7 I've lived in Clark County since September of 2001. I have an Associate's
8 Degree in Hearing Instrument Sciences. I am employed. I work in a
9 wholesale -- in the wholesale, I guess, industry.

10 I'm not married, but I do have a significant other. and he
11 does the same. We work in the same business. I have two children. I
12 have a boy, 15, and a daughter, 12. And their job is to go to school and
13 be good kids.

14 THE COURT: Okay. Sounds like a good job.

15 PROSPECTIVE JUROR 608: Nobody -- I'm not aware of
16 anybody -- well, nobody close to me has ever been a victim of a crime.
17 And nobody that -- that I know of, anybody close to me, has never been
18 accused of a crime.

19 I've never served on a jury before. I've not heard anything
20 about this trial -- or about -- about this. And, yes, I feel like I could base
21 my verdict solely on the evidence presented. And I would hope that I
22 could be fair and impartial, yes.

23 THE COURT: Okay. Thank you. And let's go to Ms. Griffith,
24 629.

25 PROSPECTIVE JUROR 629: Thank you.

1 THE MARSHAL: Sure.

2 PROSPECTIVE JUROR 629: All right. My name is Samantha
3 Griffith, 629. I have lived in Clark County for almost 22 years. I went to
4 high school. I am employed in property management. I am not married,
5 but I do have a significant other. We have a six-year-old daughter, and I
6 have an 18-year-old stepson who just left for college.

7 When I was in high school, I did have someone break into the
8 home while I was home alone. They did try to force their self into the
9 room where I was, but I was able to fight them off before the cops was
10 able to get there. They did escape, so they were not caught.

11 No one close to me have been convicted of a crime, or
12 accused of a crime, that I'm aware of. I have served as a juror before. It
13 was a criminal case. It was a father accused of molesting his daughters.
14 I'm not aware of anything about this case, so there's really nothing that
15 can prevent me to serve fairly. And I do believe I can -- I do believe that I
16 can be fair and impartial to both sides.

17 THE COURT: Okay. Thank you. State?

18 MR. GIORDANI: Thank you, Your Honor.

19 [Counsel confer]

20 MR. GIORDANI: Good afternoon, everyone. I'm going to ask
21 you first 32 jurors several questions now. I understand it's late in the day
22 and you want to get home, but we have to push through this, because
23 we have a schedule that we'd like to meet. And that's having this whole
24 process done by the end of next week, as you heard.

25 As you've gathered, we are looking for jurors who are made

1 up of a particular formula. We need people who can be fair, we need
2 people who can be impartial, and who can follow the law. That's really
3 it. You all have different backgrounds, you're from different places in the
4 world, been through some horrible things. Some people less
5 experienced with life. But none of that really matters.

6 All that matters is, can you be fair? Can you give Mr. Lepolo
7 a fair trial? Can you give us, the State, a fair shake and listen to the
8 evidence before -- before rendering a judgment? So with all that said, I
9 mean, the judge intimated and asked you several questions about this.
10 Is there anyone, that after I explained it in that way, thinks that they
11 might not be a good fit for this particular jury, understanding it's a
12 criminal case with a murder charge and all? I'm seeing no hands. I
13 didn't really expect any hands, but I have to ask.

14 So I'm going to ask some general questions of the group,
15 and probably, then, individually address each and every one of you until
16 the judge starts staring daggers into my back. So for right now, if you
17 could pass the microphone up to -- to Juror Number 1, Ms. Charles.
18 You're in the number 1 spot, so I'm going to ask you several questions. I
19 hope you don't mind?

20 PROSPECTIVE JUROR 254: No.

21 MR. GIORDANI: Ma'am, can you tell me your feeling on the
22 criminal justice system, as a whole, your opinion of it, if you have one?

23 PROSPECTIVE JUROR 254: I don't know. I mean, that's
24 pretty big. I like it. I support it. I think it's intended to work very well. It
25 doesn't --you know, you hear of things that it doesn't always work the

1 way it's intended, but nothing does, really, so.

2 MR. GIORDANI: Yeah. Okay. And I apologize for the big
3 question, but that's exactly the kind of answer I'm looking for is, we want
4 to understand if you have any real strong opinions about the system.
5 There's a lot, obviously, in the media these days, pro-police, anti-police,
6 pro-this-movement, pro-that-movement.

7 And so is there anything about you, as an individual, as it
8 relates to the criminal justice system, that either side here should be
9 concerned about?

10 PROSPECTIVE JUROR 254: No, nothing. I don't -- I -- I don't
11 think -- I -- I would say I'm more supportive. I have a -- a son who's an
12 NHP, and so I'm more supportive of the law and people who follow the
13 law. But I wouldn't say anything would make me sway, either way.

14 MR. GIORDANI: Okay. fair enough. And your son, how long
15 has he been with NHP?

16 PROSPECTIVE JUROR 254: Eight years, I believe.

17 MR. GIORDANI: And is he a -- an officer still out on patrol?
18 Is he a sergeant?

19 PROSPECTIVE JUROR 254: He is still on the street.

20 MR. GIORDANI: Okay. One of the questions that we typically
21 ask of jurors is, is there anyone on the jury that feels real strongly, one
22 way or another, about law enforcement? And the idea behind that, or
23 the reason for that is, we don't want folks who are going to see an officer
24 walk in -- if I call an officer as witness, they walk in with a badge, they
25 swear to tell the truth and then they testify, we don't want people who

1 are going to prejudge them because they're wearing that badge or
2 because of what they do for a living. Does that make sense to you?

3 PROSPECTIVE JUROR 254: Yes.

4 MR. GIORDANI: Are you that type of person that -- that can
5 judge them based upon what they have to say, as opposed to what they
6 do for a living?

7 PROSPECTIVE JUROR 254: Yes.

8 MR. GIORDANI: Do you have any criminal justice -- or
9 anything, with regard to criminal justice or crime, in your background as
10 it relates to education?

11 PROSPECTIVE JUROR 254: No.

12 MR. GIORDANI: Okay. You said you have two master's
13 degree? And I couldn't write fast enough on what those were.

14 PROSPECTIVE JUROR 254: I have a Master's Degree in
15 Mental Retardation, and I have a Master's Degree in Autism.

16 MR. GIORDANI: Oh, okay. All related to education --

17 PROSPECTIVE JUROR 254: Yes.

18 MR. GIORDANI: -- I presume?

19 PROSPECTIVE JUROR 254: Yes.

20 MR. GIORDANI: And none of that took you down a path
21 where you're dealing with the legal system at all, right?

22 PROSPECTIVE JUROR 254: No.

23 MR. GIORDANI: Okay.

24 PROSPECTIVE JUROR 254: Well, there is a lot of
25 litigiousness in the field of Special Ed.

1 MR. GIORDANI: Okay.

2 PROSPECTIVE JUROR 254: But, no, not -- I mean, I don't
3 know. I think, with regards to what you're asking, no.

4 MR. GIORDANI: Okay. Do you watch any crime shows or
5 listen to any crime podcasts?

6 PROSPECTIVE JUROR 254: I watch all of them and I listen to
7 all of them.

8 MR. GIORDANI: Okay. All right. So crime shows, in
9 particular, and then we'll get to the podcasts. That's a whole another
10 thing. With regard to the shows, do you watch True Crime or do watch,
11 like, CSI Los Angeles?

12 PROSPECTIVE JUROR 254: All of it.

13 MR. GIORDANI: Really? You really do? Okay.

14 PROSPECTIVE JUROR 254: I really do.

15 MR. GIORDANI: What interests you about them?

16 PROSPECTIVE JUROR 254: All of it. It's -- I -- I like -- you
17 know, I mean, the -- the shows on TV. They're just entertaining, they're
18 mindless. But, you know, normally -- norm -- you know, you want to see
19 if you can guess what's happening --

20 MR. GIORDANI: Sure.

21 PROSPECTIVE JUROR 254: -- and if you can solve it yourself,
22 and all that kind of stuff. But I like seeing the behind the scenes of the
23 True Crime, and reading True Crime, and -- and how things really
24 happen, how things really get processed, and how things really unfold.
25 And sometimes -- sometimes, justice isn't served. Sometimes it's served

1 in a way that you don't really see coming, either. So it's just interesting.

2 MR. GIORDANI: Okay. That goes back to my original
3 question about -- the -- "the big question" about the criminal justice
4 system as a whole. So you have, kind of, a unique perspective in that
5 you watch all these different shows on the system, but you haven't really
6 been involved, in any way. with the system, personally, right?

7 PROSPECTIVE JUROR 254: Correct.

8 MR. GIORDANI: Do you think that you could sit back and
9 listen to the evidence as it plays out, and hold us to our burden of proof
10 -- meaning, us, the State -- to our burden of proof?

11 PROSPECTIVE JUROR 254: Yes.

12 MR. GIORDANI: Okay. Whatever you may see on TV, some
13 of it may be reality, but a lot of it's not. Would you agree with me there,
14 with those --

15 PROSPECTIVE JUROR 254: Oh, yeah. Most of it's not, I
16 would say.

17 MR. GIORDANI: Yeah. Okay.

18 PROSPECTIVE JUROR 254: Yeah.

19 MR. GIORDANI: Okay. So I can't go into detail. We're -- the
20 parties are not permitted to go into details about the evidence right now.
21 That's what calling witnesses is for, right? But I -- I can tell you this, is
22 that we are going to present witnesses in support of our case. Do you
23 think that you can hold us to our burden of beyond a reasonable doubt?

24 PROSPECTIVE JUROR 254: Yes.

25 MR. GIORDANI: And do you think that you can -- I don't want

1 to say "detach" what you've seen on TV, because that's just part of your
2 life experience -- but do you think that you can limit your analysis to
3 what you hear in the four corners of this room?

4 PROSPECTIVE JUROR 254: Yes.

5 MR. GIORDANI: Okay. And you indicated podcasts. How
6 many podcasts can you name, off the top of your head, that you listened
7 to, criminal-related -- criminal-justice related?

8 PROSPECTIVE JUROR 254: Well, are you talking about the
9 ones that, every week, it's a new episode?

10 MR. GIORDANI: Oh, you're listening -- you're listening as
11 actively. I mean, weekly, you're, like, a subscriber to the podcast?

12 PROSPECTIVE JUROR 254: My parents live -- my parents
13 live, like, five hours away. So every time I see them, I'm listening to
14 those. And so, you know --

15 MR. GIORDANI: Okay.

16 PROSPECTIVE JUROR 254: -- there's, like, an episode for an
17 hour, an hour and a half. And it would be a new crime, and --

18 MR. GIORDANI: Okay.

19 PROSPECTIVE JUROR 254: -- you know. So I don't --

20 MR. GIORDANI: Are those -- let me ask you this. Are they --
21 are they True Crime podcasts?

22 PROSPECTIVE JUROR 254: Yes.

23 MR. GIORDANI: No fiction, it's -- well, when I say "true
24 crime," I think of one thing. You may think another. Is it reporting on
25 past events?

1 PROSPECTIVE JUROR 254: Yes.

2 MR. GIORDANI: Okay. And are they the type of podcasts
3 where there's a question, still, about the guilt or innocence of the person
4 accused?

5 PROSPECTIVE JUROR 254: No, not normally. Normally,
6 they're solved.

7 MR. GIORDANI: Okay. All right. So it's almost historical
8 reporting on events?

9 PROSPECTIVE JUROR 254: Yes.

10 MR. GIORDANI: And it's maybe in a storytelling way?

11 PROSPECTIVE JUROR 254: Yes.

12 MR. GIORDANI: Okay. Anything about your experience with
13 podcasts that might cause you to be unfair or anything in this case?

14 PROSPECTIVE JUROR 254: No.

15 MR. GIORDANI: Okay. You heard the -- the witness list that
16 we mentioned earlier. There is going to be a witness from the coroner's
17 office, who conducted an autopsy in this case. And you're going to have
18 to see at least a few photos of that. Are you going to be able to do that,
19 stomach it, consider those photos for the evidentiary value that they may
20 have?

21 PROSPECTIVE JUROR 254: Sure.

22 MR. GIORDANI: Okay. You seem hesitant?

23 PROSPECTIVE JUROR 254: I've -- I mean, I don't know. I --
24 I've -- I haven't seen photos like that, that are real --

25 MR. GIORDANI: Right.

1 PROSPECTIVE JUROR 254: -- so.

2 MR. GIORDANI: Right.

3 PROSPECTIVE JUROR 254: But I -- sure, I guess.

4 MR. GIORDANI: Okay. Similarly, you're going to hear
5 testimony about an autopsy and what that entails and the injuries in this
6 case. Are you going to be able to at least listen to it and consider it?

7 PROSPECTIVE JUROR 254: Uh-huh.

8 MR. GIORDANI: Is that a yes?

9 PROSPECTIVE JUROR 254: Yes.

10 MR. GIORDANI: Okay. You may have heard the judge
11 indicate, earlier, we, the parties, Mr. Margolis, myself, all -- everyone at
12 these tables might be on our phones or laptops. And by no means are
13 we trying to disrespect your time or this process. This is real heavy,
14 important stuff. But we have things we have to do related to this case,
15 scheduling witnesses and coordinating things. Are you okay with that?

16 PROSPECTIVE JUROR 254: Yes.

17 MR. GIORDANI: And I don't recall if the judge mentioned this
18 yet. You are going to be prohibited entirely from Tweeting or
19 researching or doing social media or anything related to this case. Do
20 you think that you're the type of person that can hold off on Tweeting for
21 a week?

22 PROSPECTIVE JUROR 254: Yes.

23 MR. GIORDANI: Okay. And if you go home, you can't talk
24 about the case. You can look it up. Are you okay with that?

25 PROSPECTIVE JUROR 254: Yes.

1 MR. GIORDANI: All right. All right. Thank you very much,
2 ma'am. You can pass that microphone down. Mr. Auten, how are you,
3 sir?

4 PROSPECTIVE JUROR 260: Good. How are you?

5 THE COURT: Sorry. Mr. Giordani, could you guys come up
6 for a second?

7 [Sidebar at 4:16 p.m.]

8 THE COURT: So I know it's been a while since you've been
9 in here, but you know I don't allow individual questioning.

10 MR. GIORDANI: You don't allow it?

11 THE COURT: No. Did you not read the memo I sent you last
12 week?

13 MR. MARGOLIS: I think that's pretty much --

14 MR. GIORDANI: You sent me a memo?

15 MR. MARGOLIS: I think that's apparent, at this point.

16 THE COURT: So, yeah. Only in death cases can you go one
17 by one.

18 MR. GIORDANI: Okay.

19 THE COURT: So you have to ask them general questions.
20 You can follow up with individual questions who answer. Now, at the
21 end of it, if there's someone that you haven't spoken to, then you can go
22 back and poll that person.

23 But it has to be, like, Hey, I mean, do you watch those shows,
24 blah, blah, blah. And then you can do follow-up with each of those ones,
25 but only one by one on death.

1 MR. GIORDANI: You sent an email?
2 THE COURT: Wasn't he on there?
3 MR. MARGOLIS: It was a few days ago. You know what? I
4 think you didn't, but I don't know. You might've sent it to Jim Carlo
5 (phonetic) instead.
6 THE COURT: For a second, I thought Cashew (phonetic) was
7 on the case --
8 MR. GIORDANI: Oh.
9 THE COURT: -- so I'm not --
10 MR. GIORDANI: Yeah, I didn't get a memo. Sorry.
11 THE COURT: Oh, no, that's okay.
12 MR. GIORDANI: And --
13 THE COURT: But I'll send it to you. But you've heard
14 [indiscernible].
15 MR. GIORDANI: Yeah, I just didn't remember.
16 THE COURT: Sure. So just ask --
17 MR. GIORDANI: Okay.
18 THE COURT: -- general questions.
19 MR. GIORDANI: I do have some specific questions --
20 THE COURT: That's fine.
21 MR. GIORDANI: -- of him, real quick.
22 THE COURT: You can stick with him.
23 MR. GIORDANI: Okay.
24 THE COURT: Yeah.
25 [Sidebar ends at 4:18 p.m.]

1 MR. GIORDANI: Mr. Auten, am I pronouncing that correctly?

2 PROSPECTIVE JUROR 260: Yes.

3 MR. GIORDANI: You indicated that you know a deputy or
4 chief deputy district attorney, Jake Villani?

5 PROSPECTIVE JUROR 260: Well, I should say, "I knew." I
6 don't -- I'm not -- I don't currently have any --

7 MR. GIORDANI: Okay.

8 PROSPECTIVE JUROR 260: -- interaction with Jacob. But
9 Jacob and I were in high school together, here in Las Vegas.

10 MR. GIORDANI: Got you. That was my follow-up question. I
11 mean, is there anything about that relationship that either side should be
12 concerned about?

13 PROSPECTIVE JUROR 260: No.

14 MR. GIORDANI: Okay. You talked about being
15 uncomfortable sitting in judgment, and I want to ask you about that,
16 okay? Is it something that is religion-based, or just --

17 PROSPECTIVE JUROR 260: I mean, I guess I said, technically,
18 I don't know that it would rise to a philosophical position. It's not
19 religious.

20 MR. GIORDANI: Okay.

21 PROSPECTIVE JUROR 260: I just -- in all honesty, I would
22 prefer not to be in the position of having to judge, one way or the other.
23 I just -- I just -- I would -- that would even be my preference. I wouldn't
24 think I'm the only one who feels that way, but that would be -- I mean, I
25 will -- I'm here because I have to be.