

No. 86694

IN THE NEVADA SUPREME COURT

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Elizabeth A. Brown
Clerk of Supreme Court

John Seka,

Petitioner-Appellant,

v.

State of Nevada, et al.

Respondents-Appellees.

Petitioner-Appellant's Appendix
Volume 1 of 15

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District of Nevada
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Dated October 4, 2023.

Respectfully submitted,

Rene L. Valladares
Federal Public Defender

/s/ Jonathan M. Kirshbaum

Jonathan M. Kirshbaum
Assistant Federal Public Defender

CERTIFICATE OF SERVICE

I hereby certify that on October 4, 2023, I electronically filed the foregoing with the Clerk of the Nevada Supreme Court by using the appellate electronic filing system.

Participants in the case who are registered users in the appellate electronic filing system will be served by the system and include:
Alexander G. Chen and Aaron D. Ford.

I further certify that some of the participants in the case are not registered appellate electronic filing system users. I have mailed the foregoing document by First-Class Mail, postage pre-paid, or have dispatched it to a third party commercial carrier for delivery within three calendar days, to the following person:

John Joseph Seka, #69025 High Desert State Prison P.O. Box 650 Indian Springs, NV 89070	
--	--

/s/ Kaitlyn O'Hearn
An Employee of the Federal
Public Defender, District of
Nevada

COPY

CASE NO. 159915
DEPARTMENT NO. 5

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

THE STATE OF NEVADA,

VS.

JOHN SEKA,

DEFENDANT.

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REPORTER'S TRANSCRIPT OF PRELIMINARY HEARING
BEFORE THE HONORABLE JUDGE WILLIAM D. JANSEN
JUSTICE OF THE PEACE
MONDAY, JUNE 28, 1999

APPEARANCES:

FOR THE STATE: E. KANE, ESQ.
DEPUTY DISTRICT ATTORNEY

FOR THE DEFENDANT: K. KENNEDY, ESQ. ✓

REPORTED BY: KRIS REMAKEL
CSR NO. 85, RPR/702-636-5399

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APP0001

1 LAS VEGAS, NEVADA MONDAY, JUNE 28, 1999

2

3

P R O C E E D I N G S

4

5 THE COURT: THIS IS NOW THE
6 TIME AND PLACE FOR THE PRELIMINARY HEARING IN
7 THE STATE OF NEVADA VERSUS JOHN SEKA.

8 LET THE RECORD REFLECT THAT THE
9 DEFENDANT IS PRESENT ALONG WITH HIS ATTORNEY
10 MR. KENNEDY, AND MR. ED KANE FROM THE CLARK
11 COUNTY DISTRICT ATTORNEYS OFFICE IS
12 REPRESENTING THE STATE.

13 I WOULD ASK THAT ALL THOSE
14 INDIVIDUAL WITNESSES WHO ARE SUBPOENAED HERE,
15 BE EXCLUDED FROM THE COURTROOM.

16 MR. KANE: YES, YOUR HONOR, I
17 TOLD THEM THEY'D BE EXCLUDED AS SOON AS THE
18 HEARING STARTED.

19 I WOULD ASK THAT DR. GREEN BE
20 ALLOWED TO REMAIN. HE IS OUR FIRST WITNESSES.

21 THE COURT: WHO ARE THE
22 WITNESSES IN THE COURTROOM STILL? NOW PEOPLE,
23 I ASK THAT YOU NOT DISCUSS YOUR TESTIMONY
24 BETWEEN OR AMONG YOURSELVES, ONLY WITH THE
25 ATTORNEYS WHO ARE REPRESENTING, MR. KENNEDY FOR

000005

APP0002

DR. GILES SHELDON GREEN#

WAS CALLED AS A WITNESS BY THE STATE, AND AFTER
HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND
DID TESTIFY, AS FOLLOWS:

DIRECT EXAMINATIONBY MR. KANE:

Q BY WHOM ARE YOU EMPLOYED, SIR?

A BY CLARK COUNTY, IN THE CORONER
MEDICAL EXAMINER DEPARTMENT.

Q AND YOU ARE A MEDICAL DOCTOR,
SIR?

A I AM.

MR. KANE: I'D ASK YOUR HONOR,
IF THE DEFENSE WOULD BE WILLING TO STIPULATE
FOR PURPOSES OF THIS HEARING ONLY, TO DR.
GREEN'S EXPERTISE IN THE FIELD OF FORENSIC
PATHOLOGY?

MR. KENNEDY: NO OBJECTION.

THE COURT: AND I WILL STATE,
FOR THE RECORD, THAT HE HAS BEEN ACCEPTED AS AN

000006

APP0003

1 EXPERT IN THE FIELD OF CRIMINAL FORENSIC
2 PATHOLOGY IN NUMEROUS CASES THAT HE HAS
3 TESTIFIED BEFORE THIS COURT.

4 SO YOU CAN GO AHEAD AND
5 PROCEED.

6 BY MR. KANE:

7 Q DR. GREEN, ON NOVEMBER 17TH OF
8 1998, DID YOU PERFORM AN AUTOPSY ON THE BODY OF
9 A PERSON IDENTIFIED TO YOU AS ERIC HAMILTON?

10 A YES, SIR.

11 Q WOULD YOU DESCRIBE FOR THE
12 COURT THE SIGNIFICANT FINDINGS OF YOUR EXTERNAL
13 EXAMINATION OF THE BODY OF ERIC HAMILTON?

14 A OKAY. THE SIGNIFICANT FINDINGS
15 CONSISTED OF THREE GUNSHOT WOUNDS. WE HAVE ONE
16 IN THE BACK, ONE IN THE LEFT FLANK, AND ONE IN
17 THE RIGHT THIGH. I WILL LOCATE THOSE A LITTLE
18 MORE SPECIFICALLY FOR YOU, IF YOU WISH.

19 Q NO, THAT WILL BE IT FOR NOW,
20 DOCTOR.

21 A THE ONE IN THE BACK IS
22 APPROXIMATELY TEN INCHES BELOW THE LEVEL OF THE
23 BASE OF THE SKULL, ABOUT TWO INCHES TO THE LEFT
24 OF THE MIDLINE OF THE BACK. THAT'S THE WOUND
25 OF ENTRY.

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APP0004

1 THERE IS A CORRESPONDING
2 GUNSHOT WOUND OF EXIT IN THE FRONT OF THE
3 CHEST, JUST TO THE RIGHT OF THE TOP OF THE
4 BREASTBONE. THIS BULLET HAD GONE THOROUGHLY
5 THROUGH AND WAS NOT RECOVERED.

6 ANOTHER BULLET HAD HIT IN THE
7 LEFT FLANK. THIS ONE WAS ABOUT THIRTEEN INCHES
8 BELOW THE LEVEL OF THE TOP OF THE BREAST BONE,
9 OR JUST DOWN HERE TOWARD THE LOWER ABDOMEN AND
10 OVER IN THE LEFT FLANK AREA, ABOUT FIVE INCHES
11 TO THE LEFT OF THE MIDLINE OF THE BODY.

12 THAT HAD ENTERED AND APPARENTLY
13 LEFT, MORE OR LESS LEFT THE RIGHT DIRECTION.
14 IT HAD NOT EXITED THE BODY, AS BEST I REMEMBER.
15 I HAVEN'T MUCH CHANCE TO LOOK AT THIS. FORGIVE
16 ME FOR HAVING TO REFER TO THE RECORDS HERE
17 RATHER FREQUENTLY.

18 AND FINALLY, WE HAVE A BULLET
19 IN THE RIGHT THIGH, HIT THE BACK OF THE THIGH
20 APPROXIMATELY THREE INCHES ABOVE THE KNEE,
21 GOING BACK TO FRONT, UPWARD A LITTLE BIT AND
22 EXITING ABOUT FOUR INCHES ABOVE THE KNEE ON THE
23 INNER ASPECT OF THE THIGH.

24 Q AND WOULD YOU NEXT THEN DESCRIBE
25 FOR THE COURT THE SIGNIFICANT FINDINGS OF YOUR

000008

APP0005

1 INTERNAL EXAMINATIONS OF THE BODY OF ERIC
2 HAMILTON?

3 A THE BULLET THAT HIT THE BACK
4 AND WENT ON THROUGH THE BODY HAD HIT THE SPINAL
5 COLUMN, 6TH THORACIC VERTEBRAE, HAD RUPTURED
6 THE DESCENDING AORTA, THE LARGE ARTERY THAT
7 SUPPLIES BLOOD TO THE LOWER PART OF THE BODY.

8 IT HAD HIT THE LEFT MAIN STEM
9 BRONCHUS, THE PULMONARY ARTERY, CROSSED THE
10 MIDLINE, AND EXITED BY THE TOP OF THE BREAST
11 BONE. SO WE HAVE HERE AN IRREPARABLE LETHAL
12 INJURY ALL BY ITSELF.

13 THE BULLET THAT HIT THE LEFT
14 FLANK AREA PASSED AT A LEFT TO RIGHT DIRECTION,
15 AS I MENTIONED, WAS GOING SLIGHTLY DOWNWARD AND
16 SLIGHTLY IN FRONT TO BACK DIRECTION. THIS ONE
17 ENTERED THE ABDOMINAL CAVITY.

18 IT MADE FOUR AREAS OF DAMAGE,
19 THE PERFORATION OF THE SMALL INTESTINE, THEN
20 HIT THE LEFT PERITONEAL TISSUES AND COMPLETELY
21 SEVERED THE LEFT COLUMN ILIAC ARTERY. THAT'S
22 THE BIG VESSEL. IT'S NOT QUITE AS BIG AS MY
23 LITTLE FINGER BUT GETS CLOSE. THAT HAD CREATED
24 A MAJOR HEMORRHAGE IN THAT AREA, AND THE BULLET
25 INVOLVED IN THE RIGHT THIGH AS A NON-LETHAL

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APP0006

1 WOUND.

2 Q I DON'T KNOW IF YOU MENTIONED
3 IT, AND I APOLOGIZE FOR ASKING YOU AGAIN IF YOU
4 DID: THE SECOND WOUND THAT YOU DISCUSSED,
5 WOULD THAT HAVE BEEN A LETHAL WOUND, IN AND OF
6 ITSELF?

7 A IT CERTAINLY COULD HAVE BEEN.
8 IT WOULD HAVE TAKEN A VERY IMMEDIATE AND MAJOR
9 SURGERY TO HAVE SALVAGED HIM FROM THAT.

10 Q AS A RESULT OF YOUR INTERNAL
11 AND EXTERNAL EXAMINATIONS OF THE BODY OF ERIC
12 HAMILTON, WERE YOU ABLE TO ARRIVE AT AN OPINION
13 AS TO THE CAUSE OF HIS DEATH?

14 A YES, SIR.

15 Q AND WHAT WAS THAT OPINION?

16 A DEATH WAS A RESULT OF THE
17 GUNSHOT WOUNDS OF THE BACK AND LEFT FLANK.

18 Q WERE YOU ABLE TO ARRIVE AT AN
19 OPINION AS TO THE NATURE OF HIS DEATH?

20 A BASED ON THE INFORMATION THAT
21 WE HAD AND THE EVIDENCE OF THE BODY ITSELF, IT
22 WAS MY OPINION THIS WAS HOMICIDAL.

23 MR. KANE: NO FURTHER QUESTIONS
24 FOR DR. GREEN.

25 MR. KENNEDY: NO QUESTIONS,

000010

APP0007

1 YOUR HONOR.

2 THE COURT: YOU'RE EXCUSED, DR.
3 GREEN.

4 CALL YOUR NEXT WITNESS.

5 MR. KANE: YOUR HONOR, PRIOR TO
6 CALLING THE NEXT WITNESS, THERE WERE TWO
7 VICTIMS IDENTIFIED UNTIL THE CRIMINAL
8 COMPLAINT. ONE WAS PETER LAMANNI. HIS AUTOPSY
9 WAS ACCOMPLISHED BY THE OFFICE OF THE CORONER
10 FOR THE COUNTY OF SAN BERNARDINO.

11 COUNSEL HAS BEEN KIND ENOUGH TO
12 STIPULATE TO THE ADMISSIBILITY OF THAT AUTOPSY
13 REPORT FOR THE PURPOSES OF THIS HEARING ONLY.
14 I'VE HAD IT MARKED AS STATE'S EXHIBIT 1 AND
15 WE'D OFFER IT AT THIS TIME.

16 THE COURT: DO YOU HAVE IT
17 ALREADY MARKED?

18 MR. KENNEDY: THAT IS CORRECT,
19 YOUR HONOR.

20 THE COURT: IT WILL BE SO
21 ADMITTED THEN. AND THIS WILL BE TO VICTIM --

22 MR. KANE: PETER LAMANNI,
23 L-A-M-A-N-N-I, YOUR HONOR.

24

25

1 (WHEREUPON, STATE'S EXHIBIT NO.
2 1 WAS ADMITTED INTO EVIDENCE.)

3
4 CALL MICHAEL STANISH, YOUR
5 HONOR.

6 THE CLERK: PLEASE BE SEATED.
7 STATE YOUR FULL NAME AND SPELL YOUR LAST NAME.

8 THE WITNESS: MICHAEL STANISH,
9 S-T-A-N-I-S-H.

10

11

12

13

14

MICHAEL STANISH#

15 WAS CALLED AS A WITNESS BY THE STATE, AND AFTER
16 HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND
17 DID TESTIFY, AS FOLLOWS:

18

19

20

21

DIRECT EXAMINATION

22 BY MR. KANE:

23

Q

24

MR. STANISH, IN WHAT CITY AND
STATE DO YOU RESIDE?

25

A

LAS VEGAS, NEVADA.

1 Q HOW LONG HAVE YOU LIVED HERE?

2 A AROUND FIVE YEARS.

3 Q I WANT TO TALK TO YOU ABOUT
4 NOVEMBER THE 16TH OF 1998, DID SOMETHING HAPPEN
5 THAT DAY THAT CAUSED YOU TO CONTACT THE POLICE
6 DEPARTMENT?

7 A YES, IT DID.

8 Q WHAT WAS THAT?

9 A APPROXIMATELY 6:00 ON MY WAY TO
10 A SMALL CONSTRUCTION SITE, I SAW A BODY ON THE
11 SIDE OF THE ROAD.

12 Q WOULD YOU PLACE THE LOCATION
13 BETWEEN LAS VEGAS AND SLOANE AND TELL US
14 APPROXIMATELY WHERE THIS WAS THAT YOU SAW THE
15 BODY?

16 A IT WAS APPROXIMATELY 50 FEET ON
17 THE SIDE OF THE ROAD ON THE WEST SIDE OF THE
18 ROAD AS I APPROACHED THE CONSTRUCTION SITE.

19 Q AND HOW FAR WAS THE
20 CONSTRUCTION SITE FROM SLOANE, LET'S SAY?

21 A I THINK IT'S ACTUALLY IN
22 SLOANE.

23 Q DID YOU APPROACH THE BODY OR
24 WHAT DID YOU DO NEXT AFTER YOU SAW IT?

25 A I PROCEEDED TO MY JOB SITE. I

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APP0010

1 HAD NO PHONE WITH ME, SO I PROCEEDED TO THE JOB
2 SITE. AND THERE WAS A TRUCK DRIVER THERE WHO
3 HAD A CELLULAR PHONE. AND I TOLD HIM WHAT I
4 DISCOVERED AND CALLED 911.

5 Q WAS THAT JEFF LOWERY?

6 A CORRECT.

7 Q AND HE EITHER CALLED OR YOU
8 CALLED USING HIS CELL PHONE?

9 A CORRECT.

10 Q DID YOU AT ANY TIME GO BACK AND
11 POINT OUT TO THE POLICE WHERE THE BODY WAS?

12 A I BELIEVE WE BOTH WENT BACK TO
13 THE SITE OF THE BODY AND WAITED FOR THE POLICE.

14 Q WHILE YOU WERE WAITING FOR THE
15 POLICE, DID EITHER OF YOU APPROACH THE BODY OR
16 DISTURB ANYTHING IN THE AREA?

17 A NO, SIR.

18 Q HOW MUCH OF THE BODY COULD YOU
19 SEE?

20 A WHEN I FIRST DISCOVERED THE
21 BODY?

22 Q NO, WHEN YOU WENT BACK THERE
23 AND YOU HAD A BETTER CHANCE TO LOOK?

24 A BY THEN IT WAS DAYLIGHT. ALL I
25 REMEMBER IS HE WAS FACE DOWN. I THINK HE WAS

1 PARALLEL WITH THE ROAD. THAT'S ALL I REMEMBER.

2 Q COVERED WITH ANYTHING BESIDES
3 THE NATURAL THINGS THAT YOU FIND OUT IN THE
4 DESERT; OR DO YOU REMEMBER?

5 A NO, HE WASN'T COVERED WITH
6 ANYTHING.

7 MR. KANE: I HAVE NO FURTHER
8 QUESTIONS FOR THIS WITNESS.

9

10 ***

11

12 CROSS EXAMINATION

13 BY MR. KENNEDY:

14 Q MR. STANISH, WHEN YOU FIRST SAW
15 THIS OBJECT IN THE DESERT, WHAT YOU BELIEVE WAS
16 A BODY, WAS IT DARK OUT AT THAT TIME?

17 A IT WAS JUST GETTING LIGHT.

18 Q BASICALLY, WHAT CALLED YOUR
19 ATTENTION TO LOOK OFF INTO THE DESERT? WERE
20 YOU JUST LOOKING AROUND WHILE YOU WERE DRIVING?

21 A YES, I WENT UP AND DOWN THAT
22 ROAD QUITE A BIT. JUST HAPPENED TO LOOK IN
23 THAT DIRECTION AND CAUGHT MY EYE.

24 Q THIS IS LAS VEGAS BOULEVARD
25 SOUTH; IS THAT RIGHT?

1 A RIGHT.

2 Q IS THAT A TWO-LANE ROAD AT THAT

3 POINT?

4 A YES.

5 Q LET'S SEE, I'M TRYING TO THINK

6 OF THAT AREA THERE. WHERE DOES IT STOP BEING A

7 FOUR-LANE HIGHWAY AND TURN INTO A TWO-LANE

8 ROAD? IS THAT AT LAKE MEAD, WHEN IT TURNS INTO

9 THAT?

10 A IT'S WELL BEYOND LAKE MEAD.

11 Q OH, BEYOND. FURTHER SOUTH, I

12 GUESS. STILL FOUR-LANE PAST LAKE MEAD PAST THE

13 INTERSECTION?

14 A NO, IT'S TWO-LANE THERE.

15 Q IT'S A TWO-LANE THERE?

16 A YES.

17 Q IS THAT WHERE IT STARTS TO BE A

18 TWO-LANE ROAD, TO THE BEST OF YOUR

19 RECOLLECTION?

20 A I REALLY DON'T RECALL. IT'S

21 WAY BACK BEFORE THE STRIP.

22 Q ARE THERE ANY, THE AREA WHERE

23 YOU SAW THE BODY IN THE DESERT, WERE THERE ANY

24 STREETLIGHTS OR ANYTHING LIKE THAT?

25 A I DON'T BELIEVE THERE ARE, NO.

1 Q AND I BELIEVE YOU TESTIFIED
2 THAT, AFTER YOU WENT TO WORK AND YOU MADE THE
3 CALL, YOU WENT BACK TO THE AREA IN THE DESERT;
4 IS THAT RIGHT?

5 A I WENT BACK TO WHERE I SAW THE
6 BODY.

7 Q AND YOUR TESTIMONY WAS IT WAS
8 NOT COVERED AT THAT TIME?

9 A NO.

10 Q THERE WAS NO WOOD ON CARDBOARD
11 BOXES OR ANYTHING LIKE THAT COVERING?

12 A NOW I DO RECALL THERE WERE.
13 YES, THERE WERE 2X4'S, SOME SORT OF WOOD.

14 Q WAS IT COVERING THE ENTIRE
15 BODY?

16 A NO. IT WOULD BE MY -- IT'S MY
17 RECOLLECTION NOW THAT THE WOOD MUST HAVE BEEN
18 PLACED OVER THE BODY. IT WASN'T A NATURAL
19 THING ON THE SIDE OF THE ROAD.

20 Q AND THIS BODY WAS LOCATED ABOUT
21 FIFTY FEET OFF THE ROAD ITSELF; IS THAT
22 CORRECT?

23 A YES.

24 Q ANY VEGETATION AROUND, ANY
25 SAGEBRUSH OR ANYTHING LIKE THAT?

000017

APP0014

1 A PROBABLY SOME.

2 Q DID YOU HAVE AN INDEPENDENT
3 MEMORY AS TO WHETHER THERE WAS ANY DESERT
4 VEGETATION AROUND THE BODY?

5 A PROBABLY JUST SAGE.

6 Q ANY TREES OR JOSHUA TREES OR
7 ANYTHING LIKE THAT?

8 A NO, NOTHING TALLER THAN A FOOT
9 TALL.

10 A WAS THE ENTIRE BODY COVERED BY
11 THESE 2X4'S AND OTHER PIECES OF WOOD?

12 A NO, NO.

13 Q WHAT AREAS OF THE BODY WERE
14 COVERED?

15 A I ONLY RECALL A COUPLE OF, I'LL
16 CALL THEM 2X4'S THAT I REMEMBER COVERING THE
17 BODY.

18 Q WHAT DID YOU DO? DID YOU STAND
19 THERE AND JUST WAIT UNTIL THE POLICE ARRIVED?

20 A NO, I THINK WE STAYED ON THE
21 OTHER SIDE OF THE ROAD, ME AND JEFF.

22 Q SO WHEN THE POLICE ARRIVED, YOU
23 WROTE A WRITTEN STATEMENT; IS THAT CORRECT?

24 A YES.

25 Q AND THEN YOU LEFT?

000018

APP0015

1 A YES.

2 MR. KENNEDY: I HAVE NOTHING
3 FURTHER, YOUR HONOR.

4 MR. KANE: NOTHING FURTHER.

5 THE COURT: OKAY, MR. STANISH.
6 THANK YOU VERY MUCH FOR COMING AND TESTIFYING.
7 YOU'RE EXCUSED. CALL YOUR NEXT WITNESS.

8 MR. KANE: IF THE BAILIFF WOULD
9 BE KIND ENOUGH, I'D LIKE TO EXCUSE JEFF LOWERY,
10 IF HE IS OUTSIDE.

11 AND THE NEXT WITNESS WE WOULD
12 CALL WOULD BE PETER BORDEN, B-O-R-D-E-N.

13 THE CLERK: PLEASE BE SEATED.
14 STATE YOUR FULL NAME AND SPELL YOUR LAST NAME.

15 THE WITNESS: PETER BORDEN,
16 B-O-R-D-E-N.

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2
3 PETER BORDEN#

4 WAS CALLED AS A WITNESS BY THE STATE, AND AFTER
5 HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND
6 DID TESTIFY, AS FOLLOWS:
7

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9
10 DIRECT EXAMINATION

11 BY MR. KANE:

12 Q MR. BORDEN, IN WHAT CITY AND
13 STATE DO YOU RESIDE?

14 A HENDERSON, NEVADA.

15 Q AND HOW LONG HAVE YOU LIVED
16 THERE?

17 A APPROXIMATELY SIX YEARS.

18 Q I WANTED TO TALK TO YOU ABOUT
19 DECEMBER THE 23RD OF 1998, AT ABOUT 6:00 OR
20 6:15 IN THE MORNING.

21 DID SOMETHING HAPPEN THAT DAY
22 THAT CAUSED YOU TO CONTACT THE POLICE
23 DEPARTMENT?

24 A YES.

25 Q WHAT WAS THAT?

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APP0017

1 A I WAS DRIVING DOWN CIMA ROAD
2 WHILE I WAS WORKING, AND I SAW A DOG OFF TO THE
3 SIDE OF THE ROAD TUGGING ON SOMETHING.

4 SO I PULLED OVER TO SEE WHAT IT
5 WAS, AND IT WAS A MAN'S BODY.

6 Q WOULD YOU SPELL THE NAME OF
7 THAT ROAD FOR THE COURT REPORTER?

8 A C-I-M-A, CIMA.

9 Q AND WHERE IS THAT LOCATED?

10 A JUST PAST STATELINE INTO
11 CALIFORNIA. IT'S IN CALIFORNIA.

12 Q SO IT'S JUST OVER THE STATE
13 LINE BETWEEN NEVADA AND CALIFORNIA?

14 A YES.

15 Q AND YOUR REASON FOR GOING OUT
16 THERE IS YOU WERE ON YOUR WAY TO A JOB SITE?

17 A I WORKED, AT THE TIME I WORKED
18 AT THE MALLEY COURT (PHONETIC) MINE, WHICH IS
19 JUST UP AT MOUNTAIN PASS, JUST FURTHER UP I-15.
20 PART OF MY JOB WAS TO PATROL THE WATER LINES
21 THAT RAN PARALLEL TO THE CIMA ROAD.

22 Q HOW MUCH OF THE BODY COULD YOU
23 SEE AS YOU FIRST DROVE BY?

24 A WHEN I ACTUALLY STOPPED THE
25 TRUCK TO SEE WHAT IT WAS, I COULD SEE FROM

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APP0018

1 ABOUT WAIST UP.

2 Q WOULD YOU DESCRIBE WHAT YOU
3 SAW? A MAN, WOMAN, BLACK, WHITE?

4 A I DIDN'T REALLY KNOW AT THE
5 TIME WHAT IT WAS. THERE HAD BEEN CONSIDERABLE
6 DECAY OR ANIMALS HAD PICKED APART THE HEAD. IT
7 WAS JUST A SKULL. AND I COULD SEE A BARE
8 TORSO. THE ARM WAS OUTSTRETCHED. THE FINGERS
9 WERE UP, AND ONE OF THE LITTLE FINGERS LOOKED
10 LIKE IT HAD BEEN EITHER CHEWED OR CUT OFF, I
11 COULDN'T TELL WHICH.

12 Q WHO DID YOU NOTIFY ABOUT YOUR
13 DISCOVERY?

14 A THE BUREAU OF LAND MANAGEMENT
15 HAD SEVERAL TRAILERS SET UP JUST DOWN THE ROAD.
16 I TRIED TO USE MY RADIO TO CONTACT THE MINE BUT
17 IT WOULDN'T WORK, SO I WENT DOWN TO ONE OF THE
18 TRAILERS AND I NOTIFIED ONE OF THE GENTLEMAN
19 THERE. AND HE USED THE TELEPHONE TO CALL THE
20 POLICE.

21 Q DID YOU GO BACK TO WHERE YOU
22 FOUND THE BODY AND WAIT FOR THE POLICE TO
23 ARRIVE?

24 A YES.

25 Q DID YOU APPROACH THE BODY OR

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APP0019

1 DISTURB ANYTHING?

2 A NO, I STAYED INSIDE.

3 Q DID ANYONE ELSE APPROACH THE
4 BODY OR DISTURB ANYTHING WHILE YOU WERE THERE
5 UNTIL THE POLICE GOT THERE?

6 A NOT WHILE I WAS THERE.

7 MR. KANE: I HAVE NOTHING
8 FURTHER, YOUR HONOR.

9

10 ***

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12 CROSS EXAMINATION

13 BY MR. KENNEDY:

14 Q MR. BORDEN, WHEN YOU FIRST SAW
15 THIS DOG TUGGING ON THE BODY IN THE DESERT, HOW
16 FAR WAS YOUR TRUCK FROM THAT POINT?

17 A PROBABLY TWENTY TO THIRTY FEET.

18 Q THIS ROAD, THIS WAS OFF OF CIMA
19 ROAD; IS THAT CORRECT? IS THAT CIMA HIGHWAY?

20 A YES.

21 Q HOW DO YOU GET TO CIMA ROAD?
22 AS YOU'RE COMING FROM HENDERSON WHERE YOU GET
23 ON AT 15 AND YOU'RE HEADING SOUTH, I ASSUME, IS
24 THAT HOW YOU GET TO THE GENERAL DIRECTION PAST
25 STATELINE?

000023

APP0020

1 A MM HMM.

2 Q HOW DO YOU GET TO CIMA ROAD

3 FROM STATELINE?

4 A I THINK IT'S PROBABLY THE

5 SECOND EXIT.

6 Q SO THERE'S A MARKED EXIT FOR

7 CIMA ROAD OFF I-15?

8 A MM HMM.

9 Q YOU'VE RIDDEN THAT BEFORE?

10 A MANY TIMES.

11 Q THE SECOND EXIT, IS THAT --

12 LET'S SAY, LEAVING FROM PRIMM FROM THAT POINT

13 WHEN YOU CROSS OVER TO CALIFORNIA, HOW MANY

14 MINUTES DOES IT TAKE YOU TO GET TO THAT EXIT?

15 A IN MINUTES, PROBABLY TEN

16 MINUTES OR LESS.

17 Q FROM THAT EXIT TO THE POINT YOU

18 SAW THE BODY, HOW LONG OF A DRIVE WAS THAT?

19 A PROBABLY TWO OR THREE MINUTES.

20 Q DOES CIMA ROAD RUN PARALLEL TO

21 I-15 OR DOES IT JUST HEAD OFF IN A TOTALLY

22 OPPOSITE DIRECTION?

23 A IT'S PERPENDICULAR TO I-15.

24 Q SO IT HEADS STRAIGHT OUT, THEN?

25 A MM HMM.

1 Q SO FROM I-15, IT WAS TWO
2 MINUTES, SO LESS THAN A QUARTER MILE FROM --

3 A I'D SAY ABOUT A QUARTER MILE.
4 I WAS COMING FROM THE OPPOSITE DIRECTION,
5 HOWEVER.

6 Q SO YOU WERE HEADING BACK?

7 A I WAS HEADING TOWARD VEGAS FROM
8 MOUNTAIN PASS. I WORKED AT MOUNTAIN PASS.

9 Q IS THAT AREA WELL-LIT? ARE
10 THERE ANY STREETLIGHTS OR ANYTHING LIKE THAT
11 OUT THERE?

12 A I DON'T KNOW, I'VE NEVER DRIVEN
13 IT AT NIGHT.

14 Q SO IT WAS VERY DARK AT THAT
15 TIME?

16 A NO, IT WAS DAYLIGHT.

17 Q BY THE TIME YOU SAW THE BODY,
18 IT WAS 6:15 IN THE MORNING OR IN THE EVENING?

19 A IT WAS MORNING, BUT I'M NOT
20 SURE IT WAS 6:15. I BELIEVE IT WOULD HAVE BEEN
21 CLOSER TO 7:15.

22 Q CLOSER TO 7:15?

23 A I WOULD THINK SO.

24 THE COURT: WHAT TIME DO YOU
25 START TO WORK?

1 THE WITNESS: WHEN I WORKED AT
2 THE MINE IT WAS 7:00 TO 3:30.

3 THE COURT: SO YOU STARTED TO
4 WORK THEN AT 7:00 THAT MORNING?

5 THE WITNESS: YES, SO IT WAS
6 PROBABLY CLOSER TO 7:00.

7 THE COURT: SO AFTER 7:00, AT
8 LEAST; IS THAT CORRECT?

9 THE WITNESS: RIGHT.

10 BY MR. KENNEDY:

11 Q THE DAY BEFORE -- WHAT DAY OF
12 THE WEEK WAS THIS; CAN YOU REMEMBER?

13 A CHRISTMAS EVE-EVE, WHATEVER DAY
14 THAT WAS.

15 Q SO THE DAY BEFORE, DID YOU GO
16 TO WORK THAT DAY, AS WELL?

17 A I BELIEVE SO. IF IT WAS A
18 MONDAY, THEN I DID GO TO WORK. I WORKED MONDAY
19 THROUGH FRIDAY.

20 Q SO THIS WAS THE FIRST TIME YOU
21 SAW THIS OBJECT IN THE DESERT; YOU DIDN'T SEE
22 IT AT ANY TIME BEFORE; IS THAT CORRECT?

23 A NO.

24 MR. KENNEDY: I HAVE NOTHING
25 FURTHER.

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APP0023

1 MR. KANE: NOTHING FURTHER,
2 YOUR HONOR.

3 THE COURT: OKAY. THANK YOU
4 MR. BORDEN. THANK YOU FOR COMING AND
5 TESTIFYING.

6 CALL YOUR NEXT WITNESS.

7 MR. KANE: CALLING OFFICER
8 RICHARD NOGEES, N-O-G-E-E-S.

9 THE CLERK: PLEASE BE SEATED.
10 STATE YOUR FULL NAME AND SPELL YOUR LAST NAME.

11 THE WITNESS: RICHARD NOGEES,
12 N-O-G-E-E-S.

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APP0024

RICHARD NOGEES#

WAS CALLED AS A WITNESS BY THE STATE, AND AFTER
HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND
DID TESTIFY, AS FOLLOWS:

DIRECT EXAMINATIONBY MR. KANE:

Q SIR, BY WHOM ARE YOU EMPLOYED?

A LAS VEGAS METROPOLITAN POLICE

DEPARTMENT.

Q HOW LONG HAVE YOU BEEN EMPLOYED

BY THAT DEPARTMENT?

A TWO YEARS, SIR.

Q TO WHAT DIVISION ARE YOU

ASSIGNED?

A DOWNTOWN AREA, COMMAND PATROL.

Q AND WERE ARE ASSIGNED TO PATROL

AND ON DUTY ON NOVEMBER THE 17TH OF 1998?

A YES, SIR.

Q DID YOU RECEIVE A CALL TO

RESPOND TO A SCENE AT 1929 WESTERN AVENUE, HERE

000028

APP0025

1 IN LAS VEGAS, CLARK COUNTY, NEVADA?

2 A YES, SIR.

3 Q WHAT WAS THE NATURE OF THE
4 CALL?

5 A WE GOT A CALL OF A SUSPICIOUS
6 BREAK-IN, IS WHAT IT LOOKED LIKE, A FRONT
7 WINDOW. LIKE THERE WAS A FOUR-PLEX BUSINESS, I
8 GUESS, IT'S FOUR BUSINESSES, SIDE-BY-SIDE. AND
9 THE SECOND BUSINESS FROM THE LEFT, THE SECOND
10 ONE, THE WINDOW WAS BUSTED OUT AND THERE WAS
11 BLOOD ON THE OUTSIDE OF THE WINDOW AND ALSO
12 ALONG ALL ON THE INSIDE, POOLS OF BLOOD ON THE
13 INSIDE OF THE WINDOW.

14 Q WHEN YOU SAY WE, WHO DID YOU
15 RESPOND TO THE SCENE WITH?

16 A OFFICER BOB KROLL, ROBERT
17 KROLL. HE'S ALSO ON THE SQUAD.

18 Q IS THAT K-R-O-L-L?

19 A K-R-O-L-L, YES.

20 Q WHAT ELSE DID YOU OBSERVE WHEN
21 YOU RESPONDED TO THE SCENE, BESIDES THE BROKEN
22 GLASS AND WHAT APPEARED TO BE BLOOD?

23 A WELL, AT THE TIME WE WEREN'T
24 SURE IF THERE WAS POSSIBLY SOMEONE INJURED
25 INSIDE THE BUSINESS, THE VACANT BUSINESS. WE

000029

APP0026

1 DETERMINED THAT WE NEEDED TO GO IN AND MAKE
2 SURE THAT EVERYBODY WAS OKAY OR THAT THERE
3 WASN'T SOMEBODY THAT NEEDED MEDICAL ASSISTANCE.

4 AS WE CRAWLED THROUGH THIS
5 GLASS WINDOW, WE COULD SEE THERE WAS A JACKET,
6 A BLUE WINDBREAKER, HEAVY-TYPE JACKET, LAYING
7 ON THE FLOOR ON THE LEFT-HAND SIDE. THERE WAS
8 A HAT LAYING NEAR THAT.

9 Q WHAT KIND OF HAT?

10 A LIKE A BALL CAP. AND IF I
11 REMEMBER CORRECTLY, IT WAS MESH, POSSIBLY IN
12 THE BACK HALF. I DON'T REMEMBER WHAT WAS ON
13 THE FRONT OF IT.

14 AT THIS POINT, THAT WAS WHAT WE
15 SAW. JUST AS WE CAME IN, THAT'S WHAT STOOD
16 OUT. AND WE WENT BACK IN THROUGH THE BUSINESS
17 AND DETERMINED THAT WE WERE GOING TO CLEAR THE
18 ROOMS THAT WERE IN THE BUSINESS. SO WE CLEARED
19 THE OTHER THREE OR FOUR ROOMS THAT WERE IN
20 THERE AND WE COULDN'T FIND ANYBODY.

21 Q WAS THERE ANYTHING ELSE THAT
22 YOU DID OR OBSERVED PRIOR TO YOUR CLEARING THE
23 SCENE?

24 A YES. WE WENT BACK OUT INTO THE
25 MAIN ROOM AREA. AS YOU COME THROUGH THIS GLASS

000030

APP0027

1 WINDOW, THE DOOR IS JUST TO THE LEFT, AND THE
2 DOOR WAS LOCKED.

3 WE LOOKED IN THE GENERAL AREA
4 WHERE ALL THE BLOOD WAS TO SEE IF THERE WAS
5 ANYTHING UNUSUAL. WE FOUND A WRIST WATCH OR A
6 WRIST BAND. I BELIEVE IT WAS GOLD IN COLOR.
7 AND ALSO AFTER QUITE A FEW MINUTES OF LOOKING
8 AROUND, WE FOUND SOME SLUGS, SOME ROUNDS THAT
9 APPEARED TO HAVE BEEN SHOT INSIDE OF THAT AREA.
10 I CAN'T REMEMBER HOW MANY, MAYBE THREE OR FOUR
11 OF THEM.

12 A DID YOU EXAMINE ANY OF THE
13 OUTSIDE OF THE BUSINESS PREMISES?

14 A YES, I WENT BACK OUTSIDE AND WE
15 DETERMINED AT THE TIME WE WERE GOING TO CHECK
16 WITH BUSINESSES 1 AND 3 ON EITHER SIDE, TO SEE
17 IF THERE WAS ANYBODY THAT MIGHT HAVE HEARD WHAT
18 WAS GOING ON OR HEARD ANYTHING WITHIN THE LAST
19 FEW DAYS.

20 1 WAS CLOSED. BUSINESS 3 WAS
21 VACANT. THERE WASN'T ANYBODY THERE, SO I
22 DECIDED TO GO AROUND THE BACK OF THE BUSINESSES
23 AND CHECK THE DUMPSTER AREAS, THE POWER BOXES,
24 ANYTHING THAT MIGHT GIVE US SOME INFORMATION
25 ABOUT WHAT MIGHT HAVE HAPPENED OR IF WE COULD

000031

APP0028

1 FIND A VICTIM. AT THAT POINT WE DIDN'T KNOW
2 WHAT WAS GOING ON, EVEN IF IT WAS A HUMAN BEING
3 OR NOT THAT HAD BEEN INJURED THERE.

4 Q AT THAT TIME, DID YOU FIND
5 ANYTHING SIGNIFICANT IN THE DUMPSTERS?

6 A NO. THE PR, WHICH IS OUR
7 PERSON REPORTING, THAT WAS IN BUSINESS NUMBER 4
8 THERE WAS A TROPHY SHOP THERE, I BELIEVE IT WAS
9 1937. I CAN'T REMEMBER THE ADDRESS.

10 HE CAME OUT AND TOLD ME THAT
11 THE DUMPSTERS HAD JUST BEEN EMPTIED RECENTLY
12 AND THAT -- AS I WAS WALKING UP TO THE DUMPSTER
13 HE SAID THAT I IT HAD JUST BEEN EMPTIED
14 RECENTLY, I WOULDN'T FIND ANYTHING IN THERE.
15 BUT I LOOKED ANYWAYS.

16 AT THE BOTTOM OF THE DUMPSTER I
17 COULD SEE JUST SOME MISCELLANEOUS PIECES OF
18 PAPER STUCK TO THE BOTTOM. AND I COULD ALSO
19 SEE THE BOTTOM OF THE DUMPSTER IN MANY PLACES
20 AS IF IT HAD JUST BEEN EMPTIED AND SOME THINGS
21 WERE STUCK TO THE BOTTOM.

22 Q DID YOU MAKE CONTACT WITH ANY
23 OTHER PERSONS AT ANY BUSINESSES?

24 A YES, SIR. THERE WAS A, TO THE
25 REAR, I GUESS IT WOULD BE NORTHEAST OF THE

000032

APP0029

1 BUSINESS, THERE'S A CHAIN LINK FENCE BUSINESS
2 BACK THERE. A GENTLEMAN CAME OUT OR HAPPENED
3 TO BE WALKING THROUGH THAT AREA, AND I ASKED
4 HIM IF HE HAD SEEN OR HEARD ANYTHING UNUSUAL IN
5 THE AREA.

6 HE SAID THAT HE KNOWS THAT
7 THERE'S PARTIES, GET-TOGETHERS IN THE NUMBER 3
8 BUSINESS, THAT NOBODY WAS IN AT THAT TIME ON A
9 NORMAL BASIS. HE HADN'T HEARD ANYTHING THERE
10 IN THE LAST FEW DAYS BUT THAT HE KNOWS THAT
11 THERE WAS PARTIES AND STUFF THERE. AND HE ALSO
12 KNEW THAT THE DUMPSTER HAD JUST BEEN EMPTIED
13 AND HE HADN'T SEEN ANYTHING UNUSUAL TO THE REAR
14 OF THE BUSINESS.

15 Q AS YOU WERE CLEARING THE CALL,
16 DID YOU MEET SOMEONE AS YOU WERE GETTING READY
17 TO LEAVE, I MEAN?

18 A BEFORE WE LEFT, AND WE CALLED
19 OUT OUR SERGEANT, AND WE ALSO CALLED OUT
20 IDENTIFICATION OR ID FOR METRO TO PROCESS THE
21 SCENE. WE CALLED A-M-R, WE CALLED F-D, AND WE
22 ALSO WENT THROUGH OUR DISPATCH TO SEE IF THERE
23 WAS ANY CALLS IN THE AREA OF SOME SUSPICIOUS
24 NOISE OR ANYTHING UNUSUAL OVER THE LAST DAY OR
25 SO. AND WE COULDN'T FIND ANY INFORMATION OR

000033

APP0030

1 ANY CALLS TO THAT NATURE.

2 SO AT THAT TIME WE JUST CALLED
3 OUT ID TO PROCESS THE SCENE AND WE ALSO CALLED
4 OUT OUR SERGEANT TO PASS EVERYTHING ON TO HIM
5 AND TO LET HIM KNOW WHAT WAS GOING ON.

6 Q AS YOU WERE LEAVING TO CALL,
7 DID YOU MEET AND INTERVIEW ANOTHER PERSON?

8 A YES, WE WERE PRETTY MUCH
9 GETTING READY TO LEAVE AND A SMALL PICKUP
10 PULLED UP TO BUSINESS NUMBER 3.

11 OFFICER KROLL, I BELIEVE, MADE
12 FIRST CONTACT WITH THE GENTLEMAN AND TOLD HIM
13 THE CIRCUMSTANCES, WHY WE WERE IN THE AREA, THE
14 SITUATION THAT WAS HAPPENING NEXT DOOR, AND
15 ASKED HIM IF HE HAD HEARD ANYTHING OR IF HE
16 KNEW ANYTHING THAT HAD HAPPENED THERE THAT
17 COULD HELP US OUT.

18 Q DID THIS PERSON IDENTIFY
19 HIMSELF TO YOU BY NAME?

20 A YES, HE DID.

21 Q WHAT NAME DID HE GIVE YOU?

22 A SEKA WAS THE LAST NAME, I
23 BELIEVE IT WAS S-E-K-A. AND IF I REMEMBER
24 CORRECTLY, I THINK IT WAS JOHN JOSEPH.

25 Q IS THAT PERSON PRESENT HERE IN

000034

APP0031

COURT?

A YES, SIR.

Q WOULD YOU POINT TO HIM AND TELL ME WHAT HE IS WEARING.

A HE'S RIGHT HERE AT THIS TABLE AND HE IS WEARING BLUE OVERALLS WITH WHITE TENNIS SHOES.

MR. KANE: ASK THAT THE RECORD REFLECT IDENTIFICATION OF THE DEFENDANT?

THE COURT: SO REFLECT.

BY MR. KANE:

Q DID YOU ASK HIM PERMISSION TO LOOK AROUND IN HIS BUSINESS? DID HE HAVE ONE OF THE BUSINESSES?

A YES, SIR, HE WAS IN BUSINESS 3. IT APPEARED THAT HE HAD A KEY TO GET INTO THE BUSINESS. WE ASKED HIM IF WE MINDED IF WE COULD CHECK INSIDE HIS BUSINESS TO MAKE SURE THAT EVERYBODY WAS OKAY, DUE TO THE FACT THAT HIS WAS CONNECTED TO WHERE ALL THIS BLOOD WAS LOCATED, AND HE SAID - SURE.

Q DID YOU TAKE A LOOK AROUND THEN?

A YES, SIR.

Q AND BASICALLY, WHAT WERE YOU

000035

APP0032

1 LOOKING FOR?

2 A JUST BODIES, ANYTHING UNUSUAL,
3 BLOOD TRIAL, SOMETHING THAT MIGHT HELP US
4 FIGURE OUT IF THERE WAS ANY PROBLEMS THAT MIGHT
5 BE RELATED TO WHAT HAPPENED NEXT DOOR.

6 Q AND YOU DIDN'T FIND ANYTHING
7 LIKE THAT IN MR. SEKA'S BUSINESS?

8 A NOT ANY BODIES THERE OR ANY
9 BLOOD TRAILS, OR ANYTHING LIKE THAT.

10 Q AND THEN YOU CLEARED THE SCENE?

11 A AT THAT POINT IDENTIFICATION
12 SHOWED UP AND THEY WERE STARTING TO GET
13 INFORMATION NEXT DOOR, AND WE LEFT IT IN HIS
14 HANDS.

15 Q WERE YOU CALLED BACK LATER THAT
16 DAY?

17 A YES, SIR.

18 Q ABOUT HOW LONG, HOW MUCH TIME
19 ELAPSED BETWEEN THE TIME YOU LEFT AND WHEN YOU
20 GOT CALLED BACK?

21 A PROBABLY, GIVE OR TAKE, AN HOUR
22 TO AN HOUR AND TEN MINUTES. BECAUSE RIGHT WHEN
23 WE LEFT THE SCENE, WE WERE CLEARING TO GO TO
24 LUNCH. AND WE GET AN HOUR FOR LUNCH.

25 WHEN WE CAME BACK OUT TO OUR

1 VEHICLES, WE HAD A CALL TO COME BACK TO THE
2 CRIME SCENE.

3 Q WHO CALLED YOU BACK?

4 A WE WERE CALLED BACK BY HOMICIDE
5 DETECTIVES.

6 Q WHAT DID YOU DO WHEN YOU GOT
7 BACK THERE?

8 Q ONE OF THE DETECTIVES ASKED ME,
9 SPECIFICALLY, ASKED MYSELF AND OFFICER KROLL
10 SPECIFICALLY IF -- ABOUT --

11 MR. KENNEDY: OBJECTION;
12 HEARSAY.

13 MR. KANE: IT'S NOT OFFERED FOR
14 THE TRUTH BUT TO SHOW WHY HE DID WHAT HE DID.

15 THE COURT: JUST FOR THAT
16 PURPOSE ONLY, NOT TO ESTABLISH THE TRUTH OF THE
17 ANY OF THE ISSUES. GO AHEAD.

18 THE WITNESS: HE ASKED ME,
19 SPECIFICALLY, ABOUT SOME TRASH OR ABOUT A
20 DUMPSTER TO THE REAR OF THE BUSINESS, AND ASKED
21 ME IF THERE WAS ANYTHING IN IT OR UNUSUAL THAT
22 HAD NOT BEEN THERE EARLIER WHEN I WAS ON THE
23 SCENE EARLIER IN THE DAY.

24 BY MR. KANE:

25 Q DID YOU GO BACK AND LOOK IN THE

000037

APP0034

1 SAME DUMPSTER THAT YOU HAD LOOKED IN BEFORE?

2 A YES, SIR.

3 Q WAS THERE ANYTHING THERE AN
4 HOUR AND FIFTEEN, AND HOUR AND TEN TO FIFTEEN
5 MINUTES LATER THAT HADN'T BEEN THERE BEFORE?

6 A YES, THERE WAS.

7 Q WHAT?

8 A THERE WAS NOW, APPROXIMATELY, I
9 WOULD SAY FOUR TO SIX INCHES OF DEBRIS, PAPERS,
10 TRASH, MISCELLANEOUS PAPERWORK. THERE WAS
11 ALSO, IF I REMEMBER CORRECTLY, A SHOE, MAYBE A
12 PAIR OF PANTS, JUST SOME MISCELLANEOUS
13 CLOTHING. AND IT LOOKED LIKE SOME OF THE STUFF
14 HAD BEEN BURNT. THERE WAS SOME BURNED
15 MARKINGS. IT LOOKED LIKE A FIRE, SMALL FIRE,
16 THAT KIND OF THING.

17 Q DID YOU FIND ANY ITEMS OF
18 IDENTIFICATION?

19 A YES, SIR, DOWN AT THE BOTTOM OF
20 THE DUMPSTER.

21 Q WHAT?

22 A WE FOUND AN ID FOR ONE OF THE
23 GENTLEMEN THAT SUPPOSEDLY WORKED OR WAS A PART
24 OF BUSINESS NUMBER 3, WHICH IS NEXT TO HIS.

25 Q AND HIS NAME?

000038

APP0035

1 A LAMANNI, I BELIEVE. LAMANNI
2 WAS THE LAST NAME OF THE I.D., ON THE I.D.
3 PETER LAMANNI, I BELIEVE.

4 MR. KANE: NOTHING FURTHER,
5 YOUR HONOR.

6

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9

CROSS EXAMINATION

10 BY MR. KENNEDY:

11 Q OFFICER, SO YOU WERE THERE
12 APPROXIMATELY AN HOUR OR SO BEFORE THE
13 FORENSICS I.D. TECHS SHOWED UP; IS THAT
14 CORRECT?

15 A I DON'T RECALL. I WOULD SAY
16 SOMEWHERE BETWEEN A HALF HOUR TO AN HOUR BEFORE
17 I.D. TECHS CAME OUT. THAT'S JUST A GUESS.

18 Q WERE THE I.D. TECHS THE FIRST
19 ONES TO COME OUT THAT YOU HAD CALLED, OR WAS IT
20 YOUR SERGEANT?

21 A MY SERGEANT WAS.

22 Q AND HOW LONG WERE YOU THERE
23 BEFORE THE INDIVIDUAL YOU IDENTIFIED AS MR.
24 SEKA HAD PULLED UP?

25 A I WOULD GUESS MAYBE FORTY-FIVE

000039

APP0036

1 MINUTES.

2 Q SO PRIOR TO MR. SEKA PULLING
3 UP, YOU HAD CONTACT, IF I'M NOT MISTAKEN, WITH
4 AT LEAST TWO OTHER INDIVIDUALS, SOMEONE WHO
5 OWNED A TROPHY SHOP THERE?

6 A YES, SIR.

7 Q AND SOMEONE BEHIND ONE OF THE
8 BUILDINGS WHO WAS ENCLOSED IN A CHAIN LINK
9 FENCE THAT WAS SEPARATED FROM IT?

10 A YES, SIR.

11 Q DO YOU REMEMBER THEIR NAMES OF
12 THE INDIVIDUAL YOU SPOKE WITH, NOT FROM THE
13 TROPHY SHOP BUT THE GUY YOU SPOKE WITH WHO WAS
14 BEHIND THE CHAIN LINK FENCE?

15 A NO, SIR.

16 Q HOW FAR WAS THAT AREA WHERE THE
17 CHAIN LINK FENCE WAS TO THE DUMPSTER? WAS THAT
18 SOME DISTANCE OR VERY CLOSE?

19 A I WOULD GUESS MAYBE TEN YARDS,
20 OR THIRTY FEET.

21 Q THE DUMPSTER ITSELF, THAT YOU
22 WERE TESTIFYING ABOUT, WAS IT DIRECTLY BEHIND
23 1929 WESTERN, BEHIND THAT UNIT WHERE THE BROKEN
24 GLASS WAS?

25 A IT WAS, I WOULD GUESS IT WAS

000040

APP0037

1 PROBABLY IN THE MIDDLE OF THE FOUR-PLEX, IN THE
2 CENTER OF THE FOUR-PLEX TO THE REAR.

3 Q WAS IT THE ONLY DUMPSTER THAT
4 WAS BACK THERE?

5 A IT WAS THE ONLY ONE THAT I CAN
6 RECALL; YES, SIR.

7 Q DID IT HAVE LIKE SILVER STATE
8 DISPOSAL LABELS ON IT? WAS IT SOMETHING VERY
9 LARGE?

10 A I DON'T REMEMBER THAT. IT
11 WASN'T VERY -- IT WAS PROBABLY TEN FEET BY SIX
12 FEET, MAYBE SIX BY TEN FEET, AND IT WAS GREEN
13 IN COLOR. I DON'T REMEMBER ANY LABELS ON THE
14 SIDES.

15 Q AND IT WAS THE ONLY DUMPSTER
16 WITHIN THAT AREA?

17 A THAT I CAN RECALL; YES, SIR.

18 Q NOW WHEN MR. SEKA PULLED UP
19 WHEN YOU STARTED QUESTIONING HIM, YOU WERE
20 THERE FOR ANOTHER TWENTY MINUTES OR SO AND THEN
21 YOU WENT TO LUNCH; WOULD YOU SAY?

22 A I WOULD SAY; YES, SIR.

23 Q AND YOU AND YOUR PARTNER THEN
24 LEFT?

25 A YES.

000041

APP0038

1 Q DID YOU GUYS COME IN THE SAME
2 CAR?

3 A WE HAD DIFFERENT CARS.

4 Q THEN YOU AND OFFICER KROLL LEFT
5 TO GO TO LUNCH?

6 A YES, SIR.

7 Q AT THE TIME YOU LEFT, HOW MANY
8 OTHER METRO INDIVIDUALS -- WHEN I SAY
9 INDIVIDUALS, EITHER FORENSICS OFFICERS -- WERE
10 THERE AT THAT SCENE AT THE TIME YOU LEFT, TO
11 THE BEST OF YOUR RECOLLECTION?

12 A JUST ONE.

13 Q JUST THE SERGEANT?

14 A WELL, THE SERGEANT ACTUALLY --
15 I THINK THE SERGEANT LEFT, TOO. THE I.D. TECH
16 WAS THE ONLY ONE LEFT THERE.

17 Q AND YOU WERE GONE FOR ABOUT AN
18 HOUR OR SO, AN HOUR AND A HALF?

19 A ABOUT AN HOUR; YES, SIR.

20 Q WHEN DID YOU RECEIVE A CALL
21 FROM THE HOMICIDE DETECTIVES?

22 A WHEN WE CLEARED LUNCH AND WENT
23 OUT TO OUR CARS, WE DIDN'T EVEN HAVE A CHANCE
24 TO HANDLE ANY OTHER CALLS. WE GOT A CALL TO
25 RETURN BACK TO THE SCENE.

000042

APP0039

1 Q SO TO THE BEST OF YOUR
2 RECOLLECTION, AT THE TIME YOU LEFT, OFFICER
3 KROLL LEFT, THERE WAS JUST ONE I.D. TECH THERE
4 WITH MR. SEKA; IS THAT CORRECT?

5 A YES, HE WASN'T WITH. MR. SEKA
6 WAS IN HIS OWN, IN BUSINESS NUMBER 3, AND THE
7 I.D. TECH WAS PROCESSING THE SCENE IN BUSINESS
8 NUMBER 2.

9 Q I BELIEVE YOU TESTIFIED YOU
10 ENTERED PRETTY MUCH AT 1933 WESTERN.

11 IS THAT THE UNIT THAT MR. SEKA
12 HAD THAT HE WAS LIVING IN OR WORKING OUT OF?

13 A I BELIEVE THAT WAS NUMBER 3,
14 THE 3 BUSINESS. 1929 WAS THE CALL WE WERE
15 THERE ON. I THINK 1933 WAS THE THIRD BUSINESS;
16 YES, SIR.

17 Q DID YOU THOROUGHLY CHECK OUT
18 THE ENTIRE LOCATION?

19 A WHAT DO YOU MEAN BY THOROUGHLY?

20 Q WELL, DID YOU GO INTO EACH AND
21 EVERY ROOM INSIDE THE BUSINESS?

22 A WE WENT TO ALL THE ROOMS THAT
23 WE COULD HAVE A VISUAL, TO MAKE SURE THAT THERE
24 WASN'T ANYBODY LAYING OR INSIDE THE BUSINESS.

25 Q WERE THE ROOMS LIGHTED AT THE

000043

APP0040

1 TIME YOU WERE LOOKING THROUGH THEM?

2 A THAT I CAN RECALL; YES, SIR.

3 Q DIDN'T NOTICE ANYTHING UNUSUAL
4 AT ALL?

5 A NOT ANY BODIES.

6 Q DID YOU NOTICE ANY BULLETS OR
7 SLUGS OR BLOOD OR ANYTHING OF THAT TYPE WITHIN
8 THE UNITS YOU LOOKED AT?

9 A YES, SIR.

10 Q YOU DID?

11 A YES.

12 Q WAS THAT -- I GUESS I'M GETTING
13 A LITTLE CONFUSED. YOU'RE SAYING IN THE
14 DWELLING OR THE BUSINESS THAT MR. SEKA SHOWED
15 YOU, NOW YOU'RE SAYING YOU DID FIND BLOOD OR
16 SOMETHING?

17 A I FOUND A ROUND.

18 Q A ROUND?

19 A YES, SIR, ABOUT A TWO AND A
20 HALF INCH ROUND.

21 Q THIS WAS IN THE THIRD UNIT, NOT
22 IN THE FIRST; IS THAT CORRECT?

23 A IT WAS IN THE THIRD BUSINESS,
24 THE ONE THAT MR. SEKA WAS ENTERING.

25 Q DID YOU FIND ANY TRACES OF

000044

APP0041

1 BLOOD, VISUAL? DID YOU SEE PUDDLES OF BLOOD OR
2 ANYTHING OF THAT TYPE?

3 A NO, SIR.

4 Q I WANT TO CLARIFY SOMETHING.
5 YOU SAID EARLIER ON, WHEN YOU
6 SAW THE BROKEN GLASS THAT HAD BLOOD ON IT, THAT
7 YOU ACTUALLY CRAWLED THROUGH IT; IS THAT
8 CORRECT?

9 A YES, SIR.

10 Q THE 1929, THE FIRST UNIT?

11 A YES, SIR. IT'S THE SECOND
12 UNIT.

13 Q I'M SORRY, THE UNIT THAT YOU
14 WENT IN AND SAW ALL THE BLOOD?

15 A YES, SIR.

16 Q WAS THERE A REASON THAT YOU
17 WENT THROUGH THE GLASS; YOU DIDN'T GOT THROUGH
18 THE DOOR? WAS THERE A DOOR THAT YOU COULD GO
19 THROUGH?

20 A WE WEREN'T SURE ANYBODY WAS
21 INJURED OR THAT THERE MAY BE SOMEBODY INSIDE
22 WITH A WEAPON. AND THE GENTLEMAN FROM BUSINESS
23 NUMBER 4, THE TROPHY SHOP, OR OUR PERSON
24 REPORTING, WE ASKED HIM TO STAY CLEAR OF THE
25 AREA IN CASE THERE WAS ANY PROBLEMS OR ANYTHING

1 UNUSUAL.

2 AND THE DOOR WAS LOCKED, SO WE
3 DIDN'T HAVE A WAY IN THAT WAY. AND WE
4 DETERMINED THAT THE EASIEST ACCESS WAS TO GO
5 THROUGH THE WINDOW, EVEN THOUGH WE WERE
6 CONCERNED ABOUT THE WEIGHT OF THE WINDOW AND
7 THE AMOUNT OF GLASS, THAT I MAY HAVE COLLAPSED.
8 BUT WE DECIDED TO TRY TO CRAWL THROUGH THERE,
9 BECAUSE WE WANTED TO MAKE SURE THAT EVERYBODY
10 WAS OKAY.

11 Q HOW LARGE WAS THE OPENING
12 THROUGH THE WINDOW; CAN YOU REMEMBER?

13 A ENOUGH WHERE, AS I BENT DOWN, I
14 COULD BARELY GET THROUGH AND I COULD ALMOST
15 CATCH MY GUN BELT ON THE GLASS AS IT WENT
16 THROUGH.

17 Q AND THERE WAS BLOOD ON THIS
18 WINDOW THAT YOU CROSSED OVER?

19 A YES, SIR.

20 Q WHEN YOU WERE CALLED BACK TO
21 THE SCENE AFTER LUNCH CONCERNING THE DUMPSTER,
22 DID YOU, YOURSELF, PHYSICALLY PARTICIPATE IN
23 REMOVING ANY OF THOSE ITEMS FROM THE DUMPSTER?

24 A NO, SIR.

25 Q DO YOU REMEMBER THE NAME OF THE

000046

APP0043

1 DETECTIVE WHO CALLED YOU BACK THERE, THE
2 HOMICIDE DETECTIVE?

3 A I BELIEVE IT WAS DETECTIVE
4 HUSAK (PHONETIC).

5 MR. KENNEDY: I HAVE NOTHING
6 FURTHER.

7

8 ***

9

10 REDIRECT EXAMINATION

11 BY MR. KANE:

12 Q THE ROUND THAT YOU OBSERVED IN
13 THE BUSINESS WHERE YOU WERE TALKING TO MR. SEKA
14 --

15 A YES, SIR.

16 Q -- WHAT, IF ANYTHING, DID YOU
17 DO WITH IT?

18 A WE DIDN'T DO ANYTHING WITH IT.
19 IT WAS LAYING ON A TABLE, IMMEDIATELY INSIDE
20 THE SECOND ROOM. AND IT WAS PROBABLY ABOUT TWO
21 AND A HALF INCHES LONG. IT WAS A GOLD ROUND.

22 WE DETERMINED THAT IT WASN'T
23 ILLEGAL FOR THEM TO HAVE ROUNDS IN THEIR
24 BUSINESS. WE DID ASK MR. SEKA IF HE KNEW WHAT
25 THE ROUND WENT TO AND IF THEY HAD ANY WEAPONS

000047

APP0044

1 IN THE BUSINESS.

2 AND HE SAID HE PRETTY MUCH
3 STATED THAT HE DIDN'T, THEY DIDN'T HAVE ANY
4 WEAPONS, AND THAT HE DIDN'T KNOW ANYTHING ABOUT
5 THE ROUND.

6 MR. KANE: NOTHING FURTHER,
7 JUDGE.

8 MR. KENNEDY: NOTHING FURTHER.

9 THE COURT: YOU'RE EXCUSED.
10 THANK YOU, OFFICER. CALL YOUR NEXT WITNESS.

11 MR. KANE: CALL ROBERT KROLL,
12 YOUR HONOR.

13 THE CLERK: PLEASE BE SEATED.
14 STATE YOUR FULL NAME AND SPELL YOUR LAST NAME.

15 THE WITNESS: MY NAME IS ROBERT
16 JOHN KROLL, K-R-O-L-L.

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000048

APP0045

1 ***

2
3 ROBERT KROLL#

4 WAS CALLED AS A WITNESS BY THE STATE, AND AFTER
5 HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND
6 DID TESTIFY, AS FOLLOWS:

7 ***

8
9
10 DIRECT EXAMINATION

11 BY MR. KANE:

12 Q BY WHOM ARE YOU EMPLOYED, SIR?

13 A LAS VEGAS METROPOLITAN POLICE
14 DEPARTMENT.

15 Q AND TO WHAT DIVISION ARE YOU
16 ASSIGNED?

17 A I'M A PATROL OFFICER, DOWNTOWN
18 AREA COMMAND.

19 Q WERE YOU ON DUTY AND ASSIGNED
20 TO THAT DIVISION ON NOVEMBER 17TH OF 1998?

21 A I WAS.

22 Q AND WERE YOU ON DUTY AND ON
23 PATROL WITH THE OFFICER THAT YOU JUST PASSED
24 WHEN YOU WERE ENTERING THE COURTROOM AND HE WAS
25 LEAVING?

000047

APP0046

1 A I BELIEVE THAT OFFICER NOGEES
2 WAS ASSIGNED AS A MARKED PATROL,
3 TWO-CHARLEY-34, 2C34, AND I WAS ASSIGNED AS
4 PATROL, I WAS MARKED PATROL UNIT 2C12.

5 Q DID YOU RESPOND, ALONG WITH
6 OFFICER NOGEES, TO A BUSINESS LOCATED ON
7 WESTERN AVENUE, HERE IN LAS VEGAS, CLARK
8 COUNTY, NEVADA, ON THAT DAY NOVEMBER 17TH?

9 A I DID.

10 Q IN THE COURSE OF YOUR
11 INVESTIGATION -- AND I DON'T WANT TO GO OVER
12 THE WHOLE THING WITH YOU AGAIN -- DID YOU TALK
13 TO AN INDIVIDUAL NAMED JOHN SEKA?

14 A I DID.

15 Q DO YOU SEE HIM HERE IN COURT?

16 A I DO.

17 Q WOULD YOU POINT TO HIM AND TELL
18 ME WHAT HE IS WEARING.

19 A (PPOINTING), RIGHT THERE AT THE
20 DEFENSE ATTORNEY'S TABLE.

21 Q WHAT'S HE WEARING?

22 A HE IS WEARING BLUE SHIRT AND
23 BLUE PANTS, ORANGE SOCKS, WHITE TENNIS SHOES.

24 MR. KANE: YOUR HONOR, MAY THE
25 RECORD REFLECT THE IDENTIFICATION OF THE

000050

APP0047

1 DEFENDANT?

2 THE COURT: THE RECORD SHALL SO
3 REFLECT.

4 BY MR. KANE:

5 Q WHERE DID YOU SPEAK TO MR.
6 SEKA?

7 A INSIDE OF THE HEATING AND
8 VENTILATION, AIR CONDITIONING BUSINESS. I
9 BELIEVE THE ADDRESS WAS 1933 WESTERN AVENUE.

10 Q AND DURING YOUR CONVERSATION
11 WITH MR. SEKA, DID YOU OBSERVE ANY FIREARMS OR
12 ROUNDS IN THE AREA?

13 A I DID.

14 Q WHAT DID YOU SEE?

15 A I SAW WHAT APPEARED TO BE
16 APPROXIMATELY A TWO AND A HALF INCH LONG
17 BULLET, SITTING ON TOP OF A DESK, WHICH WOULD
18 HAVE BEEN, I BELIEVE, JUST TO THE BACK OF THE
19 ENTRYWAY FOR THE BUSINESS, JUST INSIDE OF THE
20 BUSINESS.

21 Q DID YOU ASK MR. SEKA ABOUT IT?

22 A I DID.

23 Q WHAT DID HE TELL YOU?

24 A HE SAID HE HAD NO IDEA THAT
25 THERE WAS A BULLET IN THERE, HE DIDN'T KNOW

000051

APP0048

1 ANYTHING ABOUT IT.

2 Q WERE YOU CALLED BACK TO THE
3 SCENE AT SOME LATER TIME IN THE DAY?

4 A I WAS.

5 Q AND HOW MUCH TIME HAD ELAPSED
6 BETWEEN THE TIME YOU LEFT THE FIRST TIME AND
7 THE TIME YOU WERE CALLED BACK THE SECOND TIME?

8 A I BELIEVE IT WAS AN HOUR TO AN
9 HOUR AND A HALF TIME LAPSE.

10 Q WAS THE BULLET THERE WHEN YOU
11 GOT BACK?

12 A IT WAS NOT.

13 Q DID YOU ASK MR. SEKA ABOUT
14 THAT?

15 A I DID.

16 Q WHAT DID HE SAY?

17 A HE SAID THAT HE MAY HAVE MOVED
18 IT, BUT HE WASN'T SURE. HE SAID HE'D BEEN
19 CLEANING UP AND HE DIDN'T KNOW IF HE'D TOUCHED
20 THAT BULLET OR NOT.

21 MR. KANE: NOTHING FURTHER,
22 YOUR HONOR.

23

24

25

000052

APP0049

CROSS EXAMINATION

BY MR. KENNEDY:

Q OFFICER, SO YOUR TESTIMONY IS THAT YOU ASKED MR. SEKA WHERE THE BULLET WENT, AND THAT HE TOLD YOU THAT IT WAS, HE HAD NO IDEA WHERE IT WAS? OR HE HAD BEEN CLEANING UP AND IT WAS MISSING?

A I GUESS I'M A LITTLE CONFUSED ON WHAT YOU MEANT. WHAT EXACTLY DID HE TELL YOU CONCERNING THIS BULLET WHEN YOU CAME BACK TO THE BUSINESS THERE AT 1933 WESTERN?

A I BELIEVE HE SAID HE'D BEEN CLEANING UP AND THAT HE DIDN'T RECALL IF HE'D TOUCHED THE BULLET OR NOT OR MOVED IT.

OBVIOUSLY, SOMEBODY HAD BECAUSE THE BULLET WAS NO LONGER THERE.

Q AND THIS BULLET, YOU SAID THAT YOU ACTUALLY SAW IT YOURSELF?

A I DID.

Q IT WAS LIKE TWO AND A HALF INCHES LONG?

A IT WAS, IT WAS ACTUALLY STANDING UP. THE BASE WAS ON THE DESK AND IT

000053

APP0050

1 STANDING STRAIGHT UP IN THE MIDDLE OF THE DESK.

2 Q ANY IDEA WHAT KIND OF BULLET IT
3 WAS, WHAT SORT OF AMMUNITION IT WAS?

4 A I'D ONLY BE GUESSING.

5 Q I DON'T WANT YOU TO GUESS.

6 WHAT'S THE STANDARD FIREARM
7 THAT YOU NORMALLY KEEP ON YOUR PERSON ON YOUR
8 PATROL?

9 A I USE .9 MILLIMETER.

10 Q THIS IS MUCH LARGER THAN A .9
11 MILIMETER?

12 A THE BULLET ITSELF IS LONGER
13 THAN A .9 MILLIMETER BULLET.

14 Q WAS IT MADE CLEAR TO YOU BY MR.
15 SEKA, OR THROUGH YOUR INVESTIGATION, THAT HE
16 WAS NOT THE ONLY PERSON THAT WORKED OUT OF THIS
17 THIS BUSINESS?

18 A IT WAS, YES.

19 Q WAS IT CLEAR THERE WAS ANOTHER
20 PERSON THERE OR MAYBE NOT THERE AT THAT TIME
21 BUT THAT WORKED OUT OF 1933 WESTERN?

22 A YES.

23 MR. KENNEDY: I HAVE NOTHING
24 FURTHER, YOUR HONOR.

25 MR. KANE: NOTHING FURTHER,

000054

APP0051

1 YOUR HONOR.

2 THE COURT: YOU'RE EXCUSED.

3 THANK YOU VERY MUCH.

4 MR. KANE: CALL CARL BELL.

5 THE COURT: WILL YOU ASK MR.

6 BELL TO COME IN, PLEASE. THAT WILL PROBABLY BE
7 OUR LAST WITNESS THIS MORNING.

8 MR. KANE: I'D LIKE TO TRY AND
9 DO ONE MORE. I HAVE TWO OUT-OF-STATE
10 WITNESSES, THIS WITNESS AND ANOTHER, AND I
11 THINK WE CAN GET THEM BOTH IN.

12 THE COURT: OKAY, NO PROBLEM.
13 COME ON UP, MR. BELL; IF YOU WILL, PLEASE, SIR.
14 COME OVER HERE AND RAISE YOUR RIGHT HAND.

15 THE WITNESS: CARL JEROME BELL,
16 B-E-L-L.

17

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APP0052

1 ***

2 CARL BELL#

3 WAS CALLED AS A WITNESS BY THE STATE, AND AFTER
4 HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND
5 DID TESTIFY, AS FOLLOWS:

6 ***

7
8
9 DIRECT EXAMINATION

10 BY MR. KANE:

11 Q MR. BELL, IN WHAT CITY AND
12 STATED DO YOU RESIDE?

13 A LOS ANGELES, CALIFORNIA.

14 Q DID YOU, BACK IN DECEMBER OF
15 1998, HAVE A COUSIN NAMED ERIC HAMILTON?

16 A YES.

17 Q DID YOU, IN FACT, BRING HIM
18 HERE TO LAS VEGAS?

19 A YES.

20 Q ABOUT WHEN WAS THAT, SIR?

21 A IT WAS ON THE 25TH OF OCTOBER.

22 Q WHAT WAS HIS REASON FOR COMING
23 HERE TO LAS VEGAS?

24 A HE WANTED TO FIND A JOB OUT
25 HERE.

000056

APP0053

1 Q HE'D HAD SOME TROUBLES WITH THE
2 LAW IN CALIFORNIA; HAD HE NOT?

3 A I BELIEVE SO, YES.

4 Q AND HAD SOME TROUBLE WITH
5 DRUGS?

6 A YES.

7 Q AND HE WAS COMING TO LAS VEGAS
8 TO TRY AND GET A FRESH START?

9 A I BELIEVE THAT'S WHAT HE TOLD
10 ME, YES.

11 Q WHERE DID YOU TAKE HIM,
12 SPECIFICALLY?

13 A I TOOK HIM TO DOWNTOWN, LAS
14 VEGAS, AT THE DOWNTOWNER HOTEL.

15 Q AND AT THE TIME THAT YOU
16 BROUGHT HIM HERE, DID HE BRING A LOT OR A
17 LITTLE OF HIS PERSONAL POSSESSIONS?

18 A HE BROUGHT, I BELIEVE IT WAS A
19 BAG, A JACKET, HIS HAT, AND MAYBE SOME
20 IDENTIFICATION.

21 Q WOULD YOU DESCRIBE THE JACKET?

22 A IT WAS DARK BLUE. IT WASN'T A
23 HEAVY JACKET, IT WAS A LIGHT JACKET.

24 Q AND THE CAP?

25 A I THINK IT WAS EITHER A DARK

000057

APP0054

1 BLUE OR BLACK, AND IT WAS BASEBALL-TYPE OF CAP.

2 Q AFTER YOU DROPPED YOUR BROTHER
3 OFF HERE IN LAS VEGAS, DID YOU EVER SEE HIM
4 ALIVE AGAIN?

5 A HE WAS ME MY COUSIN, AND NO, I
6 DIDN'T.

7 Q I'M SORRY, YOUR COUSIN.
8 DID YOU EVER SEE HIM ALIVE
9 AGAIN?

10 A NO, WE TALKED OVER THE PHONE.

11 Q WHEN WAS THE LAST TIME THAT YOU
12 HAD TALKED TO HIM, IF YOU CAN RECALL?

13 A I CAN'T RECALL.

14 Q WERE YOU NOTIFIED AT SOME POINT
15 THAT HIS BODY HAD BEEN FOUND?

16 A YES, MY MOTHER TOLD ME.

17 Q DO YOU REMEMBER ABOUT WHEN THAT
18 WAS?

19 A NO, I DON'T.

20 MR. KANE: I HAVE NOTHING
21 FURTHER FOR THIS WITNESS.

22

23

24

25

CROSS EXAMINATION

000058

APP0055

1 BY MR. KENNEDY:

2 Q MR. BELL, WHAT DID YOU KNOW

3 ABOUT ERIC'S TROUBLE WITH DRUGS? WAS HE

4 ADDICTED OR WAS HE JUST AN OCCASIONAL USER?

5 DID YOU HAVE ANY KNOWLEDGE OF THAT?

6 A I BELIEVE THAT HE COULD CONTRO

7 IT IF HE WANTED TO, BUT I BELIEVE THAT HE

8 DIDN'T WANT TO.

9 Q AND YOU SAID HE HAD A CRIMINAL

10 RECORD IN CALIFORNIA?

11 A YES.

12 Q WAS HE, YOUR COUSIN, WAS HE

13 SOMEONE YOU'D HANG AROUND WITH IN LOS ANGELES?

14 A YES.

15 Q TO GO TO DINNER AND FAMILY

16 GET-TOGETHERS?

17 A YES, HE STAYED WITH ME, I THIN

18 IT WAS SOMEWHERE AROUND A WEEK BEFORE I TOOK

19 HIM TO LAS VEGAS.

20 Q WITH THIS DRUG HABIT, WOULD HE

21 BRING PEOPLE AROUND THE HOUSE THAT PERHAPS YOU

22 DIDN'T LIKE, OTHER DRUG USERS?

23 A NOT WITH ME, NO.

24 Q YOU NEVER SAW THAT?

25 A NO.

000059

APP0056

1 MR. KENNEDY: I HAVE NOTHING
2 FURTHER, YOUR HONOR.

3 MR. KANE: NOTHING FURTHER,
4 YOUR HONOR.

5 THE COURT: MR. BELL, THANK YOU
6 VERY MUCH FOR COMING AND TESTIFYING.

7 THE WITNESS: I HAVE SOMETHING
8 TO ADD.

9 THE COURT: WELL, YOU CAN'T DO
10 IT --

11 MR. KANE: I'VE TOLD MR. BELL
12 THAT I WILL TALK TO HIM AFTER COURT, JUDGE.

13 THE COURT: OKAY. YOU CAN'T DO
14 IT BECAUSE --

15 MR. KANE: HE'S GOT OTHER
16 THINGS HE NEEDS TO TALK TO ME ABOUT.

17 THE COURT: THAT'S GOOD. BUT
18 THE RULES PRECLUDE ME. YOU CAN ONLY STATE FOR
19 WHAT QUESTIONS THAT HAVE BEEN PRESENTED TO YOU.
20 IF YOU HAVE ANYTHING TO STATE, WE WILL BE DONE
21 HERE IN A FEW MINUTES AND YOU CAN TALK TO HIM.

22 MR. KANE: YES, I'VE TOLD HIM
23 WE WILL NEED TO DO THAT.

24 THE COURT: CALL YOUR NEXT
25 WITNESS.

000060

APP0057

1 MR. KANE: CALL TOM CRAMER,
2 YOUR HONOR.

3 THE BAILIFF: TOM CRAMER.

4 THE CLERK: PLEASE BE SEATED.
5 STATE YOUR FULL NAME AND SPELL YOUR LAST NAME.

6 THE WITNESS: MY NAME IS THOMAS
7 CRAMER, C-R-A-M-E-R.

8

9 ***

10

11 THOMAS CRAMER#

12 WAS CALLED AS A WITNESS BY THE STATE, AND AFTER
13 HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND
14 DID TESTIFY, AS FOLLOWS:

15

16 ***

17

18 DIRECT EXAMINATION

19 BY MR. KANE:

20 Q SIR, IN WHAT CITY AND STATE DO
21 YOU RESIDE?

22 A FLOWERTOWN, PENNSYLVANIA.

23 Q THAT'S FLOWERTOWN, LIKE FLOWER
24 AND TOWN?

25 A YES.

000061

APP0058

1 Q DO YOU KNOW JOHN SEKA?
2 A YES.
3 Q HOW LONG HAVE YOU KNOWN HIM?
4 A ABOUT TEN YEARS.
5 Q WHEN AND WHERE DID YOU FIRST
6 MEET HIM?
7 A DRUG REHAB.
8 Q WHERE?
9 A SELF-HELP, IN PHILADELPHIA, ON
10 SOUTH HAMPTON BOULEVARD.
11 Q DID YOU DEVELOP A CLOSE
12 FRIENDSHIP WITH HIM?
13 A YES, I DID.
14 Q AND AT SOME POINT, DID THAT
15 CHANGE TO THE EFFECT WHERE YOU WERE NO LONGER
16 CLOSE FRIENDS?
17 A YES, IT DID.
18 Q WERE YOU AWARE THAT HE HAD COME
19 OUT HERE TO LAS VEGAS IN 1998?
20 A YES, HE WAS OUT HERE FOR, I
21 DON'T KNOW HOW LONG BEFORE I GOT A PHONE CALL
22 THAT HE WAS OUT HERE, A COUPLE WEEKS, A MONTH.
23 Q SOMETIME AROUND NOVEMBER OF
24 1998, DID YOU GET A CALL NOT FROM MR. SEKA BUT
25 ABOUT MR. SEKA FROM A GENTLEMAN NAMED LEE

000062

APP0059

1 POLSKI?

2 A YES, I DID.

3 Q WHO IS LEE POLSKI?

4 A HE'S A CAR DEALER IN NEW

5 JERSEY.

6 MR. KANE: AND YOUR HONOR, I'M
7 NOT ASKING THIS FOR THE TRUTH OF WHAT WAS SAID
8 HEREIN, BUT JUST THAT IT WAS SAID.

9 BY MR. KANE:

10 Q WHAT DID MR. POLSKI TELL YOU HE
11 WAS CALLING YOU ABOUT?

12 A "DID YOU HEAR THIS BULLSHIT
13 ABOUT JACK KILLING PETE LAMANNI?"

14 Q IN DECEMBER OF 1998, DID YOU
15 GET A PHONE CALL FROM JOHN SEKA?

16 A I DON'T REMEMBER. I PROBABLY
17 DID.

18 Q DO YOU REMEMBER GETTING A PHONE
19 CALL FROM JOHN SEKA SOMETIME IN LATE 1998,
20 AFTER YOU TALKED WITH LEE POLSKI?

21 A YES, I DID.

22 Q AND AS FAR AS YOU KNOW, WAS
23 THERE ANYBODY ON THE TELEPHONE, EXCEPT FOR YOU
24 AND MR. SEKA?

25 A AS FAR AS I KNOW, NO.

000063

APP0060

1 Q DID YOU ASK HIM ABOUT THIS PETE
2 LAMANNI GUY?

3 A LET ME THINK FOR A SECOND. I
4 DON'T REMEMBER. I PROBABLY DID.

5 Q DID MR. SEKA AT SOME POINT THEN
6 COME BACK TO THE FLOWERTOWN, PENNSYLVANIA, AREA
7 AFTER YOU HAD THIS PHONE CALL?

8 A YES, HE DID.

9 Q AND HE WAS ARRESTED IN MARCH OF
10 1999; AM I CORRECT?

11 A YES.

12 Q AND YOU PROVIDED THE
13 INFORMATION ABOUT HIS LOCATION TO THE POLICE
14 THAT GOT HIM ARRESTED, CORRECT?

15 A YES.

16 Q HAD YOU BEEN IN CONTACT WITH
17 HIM FROM THE TIME THAT HE RETURNED TO THE
18 PENNSYLVANIA AREA, UP UNTIL HE GOT ARRESTED IN
19 MARCH OF 1999?

20 A YES, I WAS.

21 Q DID YOU HAVE A CONVERSATION
22 WITH HIM IN YOUR HOUSE THAT RESULTED IN A
23 PRETTY VIOLENT ALTERCATION?

24 A YES, I DID.

25 Q WAS THERE ANYBODY THERE, EXCEPT

000064

APP0061

1 FOR YOU AND HIM?

2 A MY GIRLFRIEND MARGARET, AND MY
3 GRANDMOTHER.

4 Q WERE THEY PRESENT TO HEAR THE
5 ARGUMENT?

6 A NO, THEY WEREN'T.

7 Q WHEN YOU WERE ARGUING AND
8 STATEMENTS WERE MADE, THERE WAS NOBODY AROUND
9 TO HEAR THEM, EXCEPT FOR YOU AND JOHN SEKA; IS
10 THAT CORRECT?

11 A THAT'S RIGHT.

12 Q WHAT DID MR. SEKA SAY TO YOU IN
13 THE COURSE OF THE ARGUMENT?

14 A WELL, WE STARTED HAVING WORDS.
15 I STARTED SAYING TO HIM HOW I FELT LIKE HE WAS
16 USING ME FOR THE LAST FEW YEARS AND I HAD LENT
17 HIM MONEY, GOT HIM JOBS, TESTIFIED FOR HIM ON
18 HIS BEHALF. I WAS VERY ANGRY.

19 IT WAS GOING BACK AND FORTH,
20 BACK AND FORTH. AND I GOT UP AND FINALLY SAID
21 SOMETHING THAT SET ME OFF THAT I DON'T
22 REMEMBER. AND I GOT UP IN HIS FACE IN FRONT OF
23 THE TOP OF THE STEPS. AND HE SAID - DO YOU
24 WANT ME TO DO TO YOU WHAT I DID TO PETE
25 LAMANNI?

000065

APP0062

1 Q WHAT DID YOU DO?

2 A I GRABBED HIM BY THE NECK AND
3 THREW HIM DOWN THE STEPS AS HARD AS I COULD.

4 Q IN FACT, YOU GOT ARRESTED AFTER
5 THAT; IS THAT CORRECT?

6 A I GOT COMMITTED TO NORSTRAND
7 (PHONETIC) STATE HOSPITAL.

8 Q ASIDE FROM THIS STATEMENT MADE
9 TO YOU DURING AN ARGUMENT, DID YOU HAVE ANOTHER
10 CONVERSATION AT YOUR HOUSE IN JANUARY OF THIS
11 YEAR WITH MR. SEKA, SPECIFICALLY ABOUT PETE
12 LAMANNI?

13 A YES.

14 Q AND AT THAT TIME, DID YOU
15 SPECIFICALLY ASK HIM IF HE REALLY DID KILL MR.
16 LAMANNI?

17 A YES.

18 Q WHAT DID HE TELL YOU?

19 A YES.

20 Q DID HE TELL YOU HOW?

21 A HE TOLD ME THAT LAMANNI CAME AT
22 HIM WITH A GUN. AND JACK HAD LIKE WRESTLED THE
23 GUN FROM HIM AND PLUGGED HIM, AND PROCEEDED TO
24 PLUG HIM A FEW MORE TIMES.

25 Q DID HE SAY WHY HE PLUGGED HIM A

000006

APP0063

1 FEW MORE TIMES?

2 A WELL, I GUESS HE BELIEVED HIS
3 LIFE WAS IN DANGER.

4 Q DO YOU REMEMBER TELLING THE
5 POLICE THAT HE SAID HE PLUGGED HIM TO SHUT HIM
6 UP BECAUSE HE WAS GURGLING?

7 A GURGLING, YES.

8 MR. KANE: NOTHING FURTHER,
9 YOUR HONOR.

10 YOUR HONOR, FOR THE RECORD, I
11 BELIEVE THAT A COPY OF THIS STATEMENT WAS
12 PROVIDED TO THE DEFENSE BY WAY OF DISCOVERY.
13 THE DEFENSE IN THIS CASE IS RATHER VOLUMINOUS,
14 SO I ONLY HAVE ONE COPY IN COURT. BUT I'LL
15 MAKE SURE AFTER COURT IS DONE, I WILL MAKE A
16 DUPLICATE JUST IN CASE HE DIDN'T GET ONE.

17 THE COURT: THE BAILIFF WILL
18 MAKE ONE.

19 MR. KANE: WELL, NO, HE'S GOT
20 IT FOR CROSS-EXAMINATION.

21 MR. KENNEDY: THAT'S FINE, YOUR
22 HONOR.

23

24

25

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APP0064

CROSS EXAMINATIONBY MR. KENNEDY:

Q MR. CRAMER, YOU TESTIFIED YOU
FIRST MET JOHN SEKA AT A DRUG REHAB PLACE; IS
THAT CORRECT?

A JULY OF '89, THE MIDDLE OF JULY
OF '89.

Q IS THIS BACK IN PENNSYLVANIA?

A YES.

Q AND YOU HAVE KNOWN HIM FOR
ABOUT TEN YEARS?

A YES.

Q AND IN THIS TEN YEAR TIME SPAN,
YOU'VE SUFFERED SEVERAL MENTAL CONDITIONS; IS
THAT CORRECT?

A YES.

Q WHAT IS YOUR MENTAL CONDITION?
IN OTHER WORDS, ARE YOU DIAGRAMED AS A MANIC
DEPRESSIVE, SCHIZOPHRENIC? WHAT IS YOUR
CONDITION?

A I'M CLINICALLY DEPRESSED.

Q DO YOU TAKE MEDICATION FOR
THAT?

000068

APP0065

1 A YES.

2 Q WHEN WERE YOU DIAGNOSED AS
3 BEING CLINICALLY DEPRESSED?

4 A WHEN I WAS IN THE HOSPITAL.

5 Q HOW LONG AGO WAS THAT?

6 A JANUARY 23RD TO -- I WAS IN
7 THERE TEN DAYS.

8 Q OF THIS YEAR?

9 A YES.

10 Q PRIOR TO JANUARY OF 1999, HAD
11 YOU EVER BEEN TO A MENTAL INSTITUTION BEFORE?

12 A YES, I HAVE.

13 Q WAS IT FOR DEPRESSION?

14 A BI-POLAR.

15 Q IS THAT BI-POLAR, MANIC
16 DEPRESSION?

17 A I DON'T EVEN KNOW WHAT IT
18 MEANS.

19 Q DO YOU HAVE A PSYCHOLOGIST OR A
20 PSYCHIATRIST THAT TREATS YOU BACK IN
21 PENNSYLVANIA?

22 A I HAD ONE FOR FOUR MONTHS FROM
23 WHEN I GOT OUT OF THE HOSPITAL, THE MENTAL
24 HOSPITAL.

25 Q OF THIS YEAR?

000069

APP0066

1 A YES.

2 Q WHAT IS THAT DOCTOR'S NAME?

3 A JOE CLARK. HE'S NOT WITH THEM

4 ANY MORE.

5 Q WHAT WAS NAME OF THAT HOSPITAL

6 YOU WERE AT?

7 A COPE.

8 Q IS THAT IN FLOWERTOWN?

9 A THAT'S IN LANSDALE.

10 Q LANSDALE.

11 IN THE PAST, PRIOR TO JANUARY

12 OF THIS YEAR, YOU HAVE BEEN INSTITUTIONALIZED.

13 AT LEAST FIVE TIMES; IS THAT CORRECT?

14 A WHAT DO YOU MEAN

15 INSTITUTIONALIZED? MENTAL HOSPITAL, JAIL OR

16 WHAT?

17 Q YOU'VE BEEN TREATED BY MENTAL

18 HOSPITALS AT LEAST FIVE TIMES; IS THAT CORRECT?

19 A THREE.

20 Q THREE TIMES?

21 A YES.

22 Q AND OF THOSE TIMES, THEY WERE

23 NOT ALWAYS VOLUNTARY? IN OTHER WORDS, SOMEONE

24 FORCED YOU TO GO THERE; IS THAT CORRECT?

25 A RIGHT.

000070

1 Q ISN'T IT TRUE THAT MR. SEKA HAD
2 YOU INSTITUTIONALIZED AT LEAST ONE TIME?

3 A YES.

4 Q IS THAT WHAT THEY CALL A .302,
5 IS THAT .302, UNDER PENNSYLVANIA LAW?

6 A YES.

7 Q AND, IN FACT, THERE WAS ONE
8 POINT IN TIME WHERE MR. SEKA HAD YOU
9 INSTITUTIONALIZED AND YOU ACCUSED HIM OF DOING
10 THIS TO TAKE YOUR GIRLFRIEND; IS THAT CORRECT?

11 A NO.

12 Q WHEN WAS THE LAST TIME THAT YOU
13 WERE INSTITUTIONALIZED AS A RESULT OF MR.
14 SEKA'S ACTIONS?

15 A JANUARY 23RD.

16 Q SO YOU HAVE NEVER BEEN
17 INSTITUTIONALIZED BEFORE INVOLUNTARILY? IN
18 OTHER WORDS, THE AUTHORITIES MADE YOU GO?

19 A I WAS INSTITUTIONALIZED IN '85.
20 I SIGNED MYSELF IN '89, AND THEN I WENT TO
21 SELF-HELP, THE DRUG AND ALCOHOL COUNSELING.

22 Q DO YOU TAKE ANY -- AT THIS
23 POINT IN TIME, ARE YOU TAKING ANY MEDICATIONS
24 FOR YOUR DEPRESSION?

25 A I STOPPED BECAUSE IT IS NOT

000071

APP0068

1 WORKING, AND I AM GOING TO SEE ANOTHER DOCTOR
2 THIS WEEK.

3 Q BACK IN JANUARY OF THIS YEAR,
4 WERE YOU TAKING ANY MEDICATION?

5 A YES.

6 Q WHAT WERE YOU TAKING?

7 A PAXIL.

8 Q WERE YOU TAKING ANYTHING ELSE?

9 A ATAVAN.

10 Q WHAT ELSE?

11 A THAT'S IT.

12 Q WHAT IS ATAVAN FOR?

13 A IT'S TO TAKE THE TREMORS AWAY
14 FROM THE PAXIL.

15 Q AND PAXIL?

16 A IT'S A TRANQUILIZER.

17 Q OKAY, AND PAXIL IS FOR THE
18 DEPRESSION?

19 A YES.

20 Q DO YOU TAKE XANAX?

21 A I HAVE TAKEN XANAX.

22 Q DID YOU TAKE XANAX IN JANUARY
23 OF THIS YEAR?

24 A YES, I WAS TAKING XANAX THEN.

25 Q WAS THIS ALL UNDER THE ORDERS

000072

APP0069

1 OF DR. JOE CLARK?

2 A NO.

3 Q THESE MEDICATIONS REQUIRE
4 PRESCRIPTIONS TO OBTAIN.

5 DID YOU GET THEM FROM ANOTHER
6 DOCTOR?

7 A YES.

8 Q WHAT WAS THAT DOCTOR'S NAME?

9 A DR. STAFFORD, I BELIEVE.

10 Q WERE THERE ANY OTHER DOCTORS
11 YOU WERE SEEING TO GET THESE MEDICATIONS?

12 A YES, I WAS SEEING ALL KINDS OF
13 DOCTORS. I WAS ON A RUN.

14 Q WHAT'S "A RUN" MEAN?

15 A "RUN" MEANS USING DRUGS.

16 Q WHAT IS YOUR DRUG OF CHOICE?

17 A ALCOHOL.

18 Q DO YOU USE ANYTHING ELSE LIKE
19 METH AMPHETAMINE?

20 A NO.

21 Q COCAINE?

22 A NO.

23 Q SO WHEN YOU SAY YOU'RE USING
24 DRUGS, YOU'RE BASICALLY JUST TALKING ABOUT
25 ALCOHOL; IS THAT CORRECT?

000073

APP0070

1 A THAT'S MY DRUG OF CHOICE.

2 Q YOU HAVE TESTIFIED THAT, AT THE

3 TIME THAT THIS ARGUMENT OCCURRED AT YOUR HOUSE

4 IN PENNSYLVANIA WHEN YOU PICKED MR. SEKA UP BY

5 THE NECK AND THROUGH HIM DOWN THE STAIRS, THAT

6 YOUR GIRLFRIEND WAS THERE; IS THAT CORRECT?

7 A YES.

8 Q MARGARET?

9 A YES.

10 Q WHAT'S MARGARET'S LAST NAME?

11 A D-A-L-Y, DALY.

12 Q DO YOU STILL SEE HER?

13 A NO, I DON'T. SHE'S GOT A

14 RESTRAINING ORDER ON ME.

15 Q WHEN WAS THAT RESTRAINING ORDER

16 PUT ON YOU?

17 A WHEN I WAS IN THE NUT HOUSE.

18 Q YOU WERE IN THE NUT HOUSE?

19 A YES.

20 Q WHEN WERE YOU IN THE NUT HOUSE?

21 A I ALREADY SAID JANUARY 23RD.

22 Q SO THE RESTRAINING ORDER WAS

23 PUT ON YOU THIS YEAR?

24 A YES.

25 MR. KENNEDY: YOUR HONOR,

000074

APP0071

1 COURT'S INDULGENCE. I REALIZE YOU WANT TO BE
2 DONE BY 11:00. DID YOU WANT TO --

3 THE COURT: WE'LL FINISH UP. I
4 DON'T THINK YOU'LL BE THAT MUCH LONGER.

5 MR. KENNEDY: OKAY, FINE.

6 THE WITNESS: I'D LIKE TO SAY
7 SOMETHING.

8 MR. KENNEDY: HOLD ON.

9 MR. KANE: THERE IS NO
10 QUESTION, YOUR HONOR.

11 THE COURT: UNLESS YOU WANT
12 SOME TIME TO GO OVER THAT REPORT, HIS
13 STATEMENT.

14 MR. KENNEDY: I THINK I CAN
15 FINISH UP HERE.

16 THE COURT: THAT'S UP TO YOU.
17 ARE YOU GOING TO BE AROUND THIS AFTERNOON? ARE
18 YOU LEAVING TODAY?

19 THE WITNESS: NO.

20 THE COURT: IF YOU WANT SOME
21 TIME TO DO IT ON THE RECESS, WE'LL GO AHEAD AND
22 RECESS NOW. AND THEN YOU CAN LOOK OVER AND SEE
23 IF THERE'S ANYTHING YOU WANT IN THERE.

24 MR. KENNEDY: YES, WHY DON'T WE
25 DO THAT, YOUR HONOR?

000075

APP0072

1 THE COURT: DO YOU HAVE ANY
2 OBJECTION TO THAT, MR. KANE?

3 MR. KANE: NO. I WAS ONLY
4 DOING IT BECAUSE I KNEW HE WAS OUT OF STATE.

5 THE COURT: WHEN ARE YOU GOING
6 BACK TO PENNSYLVANIA?

7 THE WITNESS: TOMORROW.

8 THE COURT: SO IT WILL BE NO
9 PROBLEM. WHY DON'T YOU PLAN TO BE BACK HERE AT
10 AROUND 1:00. WE WILL RECESS UNTIL 1:15, BUT
11 COME BACK HERE AROUND 1:00. IN CASE YOU WANT
12 TO SPEAK TO THE PROSECUTOR HERE -- NO, IT WAS
13 THE OTHER INDIVIDUAL WHO WANTED TO TALK. IN
14 CASE THE PROSECUTOR WANTS TO TALK TO THE
15 OFFICER, WE'LL BE IN RECESS UNTIL 1:15.

16

17 (LUNCH RECESS TAKEN.)

18

19

20

21

22

23

24

25

000076

APP0073

AFTERNOON SESSION

THE COURT: LET THE RECORD
REFLECT THAT WE'RE BACK FROM THE NOON RECESS IN
THE PRELIMINARY HEARING IN THE CASE OF THE
STATE OF NEVADA VERSUS JOHN JOSEPH SEKA.

LET THE RECORD REFLECT THAT THE
DEFENDANT IS PRESENT, ALONG WITH HIS ATTORNEY
MR. KIRK KENNEDY AND MR. ED KANE IS FROM THE
DISTRICT ATTORNEYS OFFICE AND IS REPRESENTING
THE STATE.

WHEN WE WENT TO LUNCH, WE HAD A
MR. TOM CRAMER, IS THAT CORRECT?

THE WITNESS: YES, YOUR HONOR.

THE COURT: MR. CRAMER, WHO WAS
STILL UNDER CROSS-EXAMINATION BY THE DEFENSE
ATTORNEY.

MR. CRAMER, I AM GOING TO
REMIND YOU THAT YOU TOOK THE OATH EARLIER TODAY
AND THAT OATH STAYS WITH YOU UNTIL THIS MATTER
IS COMPLETELY RESOLVED.

ALSO, LET THE RECORD REFLECT
THAT THE WITNESSES ARE EXCLUDE FROM THE
COURTROOM. THE EXCLUSIONARY RULE FOR WITNESSES

000077

APP0074

1 HAS BEEN INVOKED.

2 MR. KANE: THEY ARE OUTSIDE.

3 THE COURT: YES. MR. KENNEDY,
4 YOU MAY CONTINUE WITH YOUR CROSS-EXAMINATION,
5 SIR.

6 MR. KENNEDY: THANK YOU, SIR.

7 THE WITNESS: GIVE ME JUST A
8 SECOND.

9 THE COURT: OKAY. HERE'S SOME
10 MORE KLEENEX, IF YOU NEED IT. I'M GOING TO ASK
11 YOU, DID YOU GET A COPY OF HIS STATEMENT?

12 MR. KENNEDY: YES, I DID, FINE,
13 THANK YOU.

14 ARE YOU OKAY, MR. CRAMER?

15 THE WITNESS: NO. WHAT'S IT
16 LOOK LIKE?

17 THE COURT: NOW WAIT A MINUTE.

18 THE WITNESS: USE YOUR HEAD.

19 MR. KENNEDY: MR. CRAMER, THERE
20 IS NO REASON TO TRADE INSULTS HERE. I'M JUST
21 ASKING YOU A QUESTION; ALL RIGHT?

22 THE WITNESS: YES, BUT IT
23 SOUNDS STUPID TO ME.

24 THE COURT: SIR, I AM GOING TO
25 ADMONISH YOU RIGHT NOW, YOU'RE NOT GOING TO

000078

APP0075

1 TALK TO ANY ATTORNEY LIKE THAT IN THIS
2 COURTROOM.

3 DO YOU UNDERSTAND THAT?

4 THE WITNESS: ALL RIGHT, YOUR
5 HONOR.

6 THE COURT: DO YOU UNDERSTAND
7 THAT?

8 THE WITNESS: YES.

9 MR. KENNEDY: THANK YOU, YOUR
10 HONOR.

11 THE COURT: I DON'T CARE IF
12 IT'S THE PROSECUTION OR THE DEFENSE, YOU TREAT
13 EVERY ATTORNEY WITH RESPECT AND DIGNITY IN THIS
14 COURTROOM.

15 THE WITNESS: I JUST DON'T WANT
16 TO BE ASKED A STUPID QUESTION.

17

18

19

20

21

22

23

24

25

000070

APP0076

1 ***

2
3 CROSS EXAMINATION CONTINUED

4 BY MR. KENNEDY:

5 Q MR. CRAMER, YOU TESTIFIED
6 BEFORE THE BREAK, THAT PRIOR TO THE TIME -- YOU
7 DESCRIBED AN INCIDENT WHERE YOU BASICALLY
8 ASSAULTED MY CLIENT AND YOU GRABBED HIM BY THE
9 NECK AND THREW HIM DOWN SOME STAIRS.

10 AND I BELIEVE YOU TESTIFIED YOU
11 WERE VERY ANGRY WITH HIM AT THAT TIME; IS THAT
12 RIGHT?

13 A WITH GOOD REASON.

14 Q YOU FELT THAT HE WAS USING YOU?

15 A I FELT THAT MY LIFE WAS
16 THREATENED, AND MY GIRLFRIEND'S LIFE WAS
17 THREATENED, AND MY GRANDMOTHER'S LIFE WAS
18 THREATENED.

19 Q ARE YOU SAYING THAT MR. SEKA
20 HAD THREATENED YOUR LIFE AT THAT TIME THAT
21 CAUSED YOU TO --

22 A YES, HE DID.

23 Q SINCE THAT TIME, WOULD YOU
24 DESCRIBE YOUR RELATIONSHIP WITH MR. SEKA AS NOT
25 FRIENDLY? HOW WOULD YOU DESCRIBE IT? DO YOU

000080

APP0077

1 STILL VIEW HIM AS A FRIEND?

2 A I STILL LOVE HIM.

3 Q DO YOU STILL VIEW HIM AS A

4 FRIEND?

5 A THAT'S HARD TO SAY. I STILL

6 LOVE HIM.

7 Q IN YOUR STATEMENT --

8 A I DON'T VIEW HIM AS A FRIEND,

9 NO.

10 Q YOU DON'T?

11 A NO. BUT I STILL LOVE HIM.

12 Q OKAY.

13 A THAT'S MY PROBLEM.

14 Q MR. CRAMER, I BELIEVE IN YOUR

15 STATEMENT THAT YOU GAVE TO THE PHILADELPHIA

16 POLICE, WAS THAT INTERVIEW RECORDED?

17 A BURKE.

18 Q I'M SORRY?

19 A BURKE.

20 Q DETECTIVE BURKE?

21 A YES.

22 Q WAS THAT RECORDED? WAS THERE A

23 RECORDING DEVICE THERE AT THAT TIME, DO YOU

24 REMEMBER THAT?

25 A THEY WROTE IT ALL DOWN AND THEN

000001

APP0078

1 THEY WANTED TO TAPE IT, AND I SAID - NO.

2 Q SO YOU DIDN'T SEE A
3 MICRO-CASSETTE RECORDER OR ANY KIND OF
4 RECORDING DEVICE THERE AT THAT TIME; DID YOU?

5 A I WAS TOO UPSET TO REMEMBER.

6 Q DO YOU REMEMBER IN THAT
7 STATEMENT THAT --

8 A I REMEMBER THE STATEMENT.

9 Q WELL, LET ME FINISH MY
10 QUESTION.

11 DO YOU REMEMBER IN THE
12 STATEMENT WHERE YOU STATED THAT YOU TOLD MY
13 CLIENT THAT LEE POLSKI WAS ASKING IF JACK HAD
14 KILLED PETE LAMANNI, AND I BELIEVE YOU WROTE
15 DOWN OR STATED THAT JACK TOLD YOU HE HAD
16 NOTHING TO DO WITH THAT; IS THAT CORRECT?

17 A THAT'S CORRECT.

18 Q SO YOU INITIALLY DENIED THAT,
19 TOO; IS THAT RIGHT?

20 A THAT'S RIGHT.

21 Q I BELIEVE HE TOLD YOU THAT THE
22 POLICE HAD QUESTIONED HIM HERE IN LAS VEGAS AND
23 THEY LET HIM GO?

24 A YES, HE DID.

25 Q SO IT WAS SOMETIME AFTER THIS

000032

APP0079

1 CONVERSATION, I GUESS IT WAS IN JANUARY, WHEN
2 YOU HAD THE PHYSICAL ALTERCATION WITH MR. SEKA?

3 A YES.

4 Q AND IT WAS DURING THAT
5 ALTERCATION THAT YOU ALLEGE HE MADE THESE
6 STATEMENTS SAYING THAT HE KILLED PETE LAMANNI;
7 IS THAT CORRECT?

8 A HE SAID TO ME - DO YOU WANT ME
9 TO DO TO YOU WHAT I DID TO PETE LAMANNI?

10 Q WAS IT OUT OF THE SAME
11 CONVERSATION THAT YOU ALLEGED THAT YOU SAID
12 THAT HE PLUGGED HIM, THAT HE PLUGGED PETE?

13 A NO.

14 Q THAT'S A SEPARATE INCIDENT?

15 A THAT WAS WEEKS LATER.

16 Q WEEKS LATER, OKAY.

17 AND ACCORDING TO YOUR
18 STATEMENT, JACK SAID HE DUMPED PETE'S BODY IN
19 LAS VEGAS IN THE DESERT SOMEWHERE; THAT'S
20 SOMETHING YOU ALLEGED HE TOLD YOU?

21 A YUP.

22 Q DO YOU KNOW WHERE PETE
23 LAMANNI'S BODY WAS FOUND?

24 A NO. SOMEWHERE IN VEGAS.

25 Q I DON'T WANT YOU TO GUESS,

000033

APP0080

1 THAT'S FINE. WERE YOU CONTACTED BY THE FBI IN
2 PENNSYLVANIA?

3 A YES, THEY KNOCKED ON MY DOOR AT
4 6:00 IN THE MORNING. AND JACK TOLD ME THAT HE
5 WASN'T STAYING AT MY GIRLFRIEND'S. AND AS FAR
6 AS I KNEW, FROM EVERYTHING HE TOLD ME FOR THE
7 LAST FIVE YEARS, WAS MOSTLY LIES. I JUST TOLD
8 THEM WHERE MY GIRLFRIEND LIVED.

9 AND HE TOLD -- IT GOT BACK TO
10 ME THAT HE TOLD PEOPLE THAT I GAVE HIM UP, AND
11 I DIDN'T. ALL E DID WAS GIVE MY GIRLFRIEND'S
12 ADDRESS, AND THAT WAS WHERE HE HAPPENED TO BE,
13 WHERE HE SAID HE WASN'T.

14 Q SO YOU WERE UPSET THAT HE WAS
15 AT YOUR GIRLFRIEND'S HOUSE, MARGARET'S HOUSE?

16 A I DIDN'T KNOW THAT. I
17 SUSPECTED IT, BUT HE SAID HE WASN'T.

18 AND I'M NOT AN ASSHOLE, EITHER.

19 Q SIR, I'M NOT ASKING YOU
20 QUESTIONS LIKE THAT, OKAY?

21 SIR, I WANTED YOU TO CLARIFY
22 SOME OF YOUR PRIOR PHYSICIANS. YOU TOLD ME
23 ABOUT A DR. STAFFFORD AND, OF COURSE, WE KNOW
24 ABOUT DR. CLARK.

25 ARE THERE ANY OTHER DOCTORS

000084

APP0081

1 THAT YOU RECALL THAT YOU TREATED WITH LET'S SAY
2 IN 1998?

3 A I DON'T EVEN KNOW THEIR NAMES.
4 I WAS JUST TRYING TO STAY OFF OF ALCOHOL.
5 WHOEVER.

6 WHICH WAS NEITHER HERE NOR
7 THERE, BECAUSE THE NIGHT THAT --

8 MR. KENNEDY: SIR, I DON'T HAVE
9 ANY QUESTIONS.

10 THE COURT: THERE'S NO QUESTION
11 PRESENTED TO YOU, SIR.

12 BY MR. KENNEDY:

13 Q SO AT THE TIME YOU GAVE THE
14 STATEMENT TO THE POLICE, I BELIEVE THIS WAS IN
15 -- YOU GAVE THE STATEMENT TO THE POLICE IN
16 APRIL OF THIS YEAR; IS THAT CORRECT?

17 A IF YOU SAY SO.

18 Q WELL, DO YOU REMEMBER IF IT WAS
19 IN APRIL OF THIS YEAR?

20 A I DON'T REMEMBER.

21 Q DURING THAT TIME IN APRIL OF
22 THIS YEAR, YOU WERE UNDER THE MEDICATIONS OF
23 PAXIL AND ATAVAN AND XANAX; IS THAT CORRECT?

24 A YES.

25 Q AS YOU SIT HERE TODAY, ARE YOU

000085

APP0082

1 UNDER THE INFLUENCE OF THOSE MEDICATIONS?

2 A NOT PAXIL, XANAX.

3 Q XANAX.

4 HOW ABOUT ATAVAN?

5 A NO, NO ATAVAN.

6 Q DO YOU TAKE ANY MEDICATIONS FOR
7 YOUR ALCOHOLISM?

8 A IT'S DEPRESSION.

9 Q ARE THERE ANY MEDICATIONS THAT
10 YOU HAVE TAKEN FOR ALCOHOLISM?

11 A NO.

12 MR. KENNEDY: YOUR HONOR,
13 NOTHING FURTHER, OF THIS WITNESS.

14 MR. KANE: NOTHING FURTHER.

15 THE COURT: OKAY, TOM, YOU'RE
16 EXCUSED. THANK YOU VERY MUCH FOR COMING AND
17 TESTIFYING. HAVE A GOOD TRIP BACK TO NEW
18 JERSEY.

19 CALL YOUR NEXT WITNESS.

20 MR. KANE: DAVID RUFFINO.

21 THE CLERK: PLEASE BE SEATED.

22 STATE YOUR FULL NAME AND SPELL YOUR LAST NAME.

23 THE WITNESS: MY NAME IS DAVID
24 RUFFINO. THE SPELLING OF MY LAST NAME IS
25 R-U-F-F-I-N-O.

000056

APP0083

1
2 ***

3
4 DAVID RUFFINO#

5 WAS CALLED AS A WITNESS BY THE STATE, AND AFTER
6 HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND
7 DID TESTIFY, AS FOLLOWS:
8

9 ***

10
11 DIRECT EXAMINATION

12 BY MR. KANE:

13 Q BY WHOM ARE YOU EMPLOYED, SIR?

14 A LAS VEGAS METROPOLITAN POLICE
15 DEPARTMENT.

16 Q HOW LONG HAVE YOU BEEN EMPLOYED
17 BY THAT DEPARTMENT?

18 A TWENTY-ONE AND A HALF YEARS.

19 Q TO WHAT DIVISION ARE YOU
20 CURRENTLY ASSIGNED?

21 A FOR ALL THOSE TWENTY-ONE AND A
22 HALF YEARS, I'VE BEEN ASSIGNED TO THE
23 CRIMINALISTICS BUREAU, FIELD SECTION.

24 Q AND IS PART OF YOUR DUTIES IN
25 THE CRIMINALISTICS SECTION THE DRAWING OF THE

000017

APP0084

1 CRIME SCENES TO REFLECT THE SCENES THEMSELVES
2 AND THE RECOVERY OF EVIDENCE FROM THOSE SCENES?

3 A THAT'S CORRECT.

4 Q ON NOVEMBER THE 17TH OF 1998,
5 WERE YOU WERE YOU PRESENT AT ALL THE PRIOR
6 SEARCHES OF 1929 SOUTH WESTERN AVENUE AND 1933
7 SOUTH WESTERN AVENUE, HERE IN LAS VEGAS, CLARK
8 COUNTY, NEVADA?

9 A YES, I WAS.

10 Q AND AS ITEMS OF EVIDENCE WERE
11 COLLECTED, DID YOU NOTE THEIR LOCATION AND
12 INSERT THOSE ON THE CRIME SCENE DIAGRAM?

13 A YES.

14 Q I AM SHOWING YOU WHAT'S BEEN
15 MARKED FOR THE PURPOSES OF IDENTIFICATION AS
16 STATE'S EXHIBIT 2, AND ASK IF THOSE ARE THE TWO
17 DIAGRAMS THAT YOU ACCOMPLISHED ON THAT DATE?

18 A YES, MYSELF AND RANDY MCVALE,
19 ALSO OF THE CRIMINALISTICS BUREAU, WE BOTH PUT
20 THESE TOGETHER.

21 Q DO THEY ACCURATELY REFLECT, NOT
22 TO EXACT SCALE, BUT THE LAYOUT OF THE TWO
23 PREMISES AND THE ITEMS THAT WERE RECOVERED FROM
24 THOSE PREMISES BY A VARIETY OF POLICE OFFICERS?

25 A YES.

000038

APP0085

MR. KANE: NOTHING FURTHER,
YOUR HONOR.

CROSS EXAMINATION

BY MR. KENNEDY:

Q DID YOU ACTUALLY DRAW THESE
YOURSELF, RATHER THAN MR. MCVALE?

A ACTUALLY, WE BOTH ASSISTED EACH
OTHER. I WAS SOLELY RESPONSIBLE FOR THE ROUGH
DIAGRAM OF THE 1929, AND MR. MCVALE HELPED PUT
TOGETHER INTO THE COMPUTER THE FINAL DRAFT.
AND I ASSISTED MR. MCVALE IN ASSISTING HIM IN
DIAGRAMING 1933 AND THEN HE PUT THIS INTO THE
COMPUTER. AND BOTH OF THESE ARE THE FINISHED
PRODUCT.

Q ON THE RESIDENCE AT 1929 SOUTH
SOUTH WESTERN, DID YOU ACTUALLY -- WELL, NOT
THE RESIDENCE, THE LOCATION -- DID YOU ACTUALLY
GO INSIDE AND LOOK AROUND?

A YES, I DID.

Q DO YOU RECALL SEEING A GOLD
BRACELET OR GOLD WATCH ON THE FLOOR?

A YES, IT WAS A GOLD BRACELET.

000089

APP0086

1 IT APPEARED TO BE NOT REAL, BUT I'M NOT SURE
2 WHETHER IT WAS OR WAS NOT. IT WAS LYING ON THE
3 FLOOR AT THAT LOCATION. IT WAS A NUGGET-TYPE,
4 GOLD-COLOR BRACELET.

5 Q HOW WIDE WAS THE BRACELET?
6 WOULD YOU SAY HALF AN INCH, QUARTER INCH, TO
7 THE BEST OF YOUR RECOLLECTION?

8 A I DON'T RECALL AT THIS TIME
9 EXACTLY HOW WIDE IT WAS.

10 Q LARGE ENOUGH TO SEE ON THE
11 FLOOR, THOUGH?

12 A MOST DEFINITELY.

13 Q DID YOU PICK IT UP?

14 A YES, AND IMPOUNDED IT AS
15 EVIDENCE.

16 Q DID IT APPEAR HEAVY, LIKE FOR A
17 GOLD BRACELET?

18 A LIKE I SAID, IT APPEARED TO ME
19 THAT IT COULD HAVE BEEN A FAKE PIECE OF
20 JEWELRY. BUT I'M NOT AN EXPERT IN THE AREA OF
21 JEWELRY.

22 Q YOU ALSO FOUND A BLUE WINTER
23 COAT?

24 A YES.

25 Q I NOTICE HERE IN THE DIAGRAM IT

000090

APP0087

1 SAYS - WINTER COAT.

2 WHAT MADE YOU MAKE THAT
3 DETERMINATION THAT IT WAS A WINTER COAT? WAS
4 IT VERY HEAVY, WAS IT DOWN-FILLED OR SOMETHING?

5 A IT WAS A HEAVIER-TYPE COAT,
6 THICKER-TYPE COAT. AND TO ME IT APPEARED TO BE
7 A BLUE, SECURITY-TYPE OF WINTER-TYPE COAT.

8 Q DID IT HAVE A LINER?

9 A FROM WHAT I RECALL, IT HAD SOME
10 TYPE OF LINING. IT APPEARED TO BE A
11 WINTER-TYPE COAT.

12 MR. KENNEDY: I HAVE NOTHING
13 FURTHER, YOUR HONOR.

14 MR. KANE: NOTHING FURTHER.

15 THE COURT: YOU'RE EXCUSED.
16 THANK YOU VERY MUCH FOR COMING AND TESTIFYING.

17 MR. KANE: CALL TOM THOWSEN,
18 YOUR HONOR.

19 THE CLERK: PLEASE BE SEATED.
20 STATE YOUR FULL NAME AND SPELL YOUR LAST NAME.

21 THE WITNESS: THOMAS D.
22 THOWSEN, T-H-O-W-S-E-N.

23

24

25

000021

APP0088

1 ***

2

3

TOM THOWSEN#

4

WAS CALLED AS A WITNESS BY THE STATE, AND AFTER

5

HAVING BEEN FIRST DULY SWORN, WAS EXAMINED AND

6

DID TESTIFY, AS FOLLOWS:

7

8

9

10

DIRECT EXAMINATION

11

BY MR. KANE:

12

Q BY WHOM ARE YOU EMPLOYED, SIR?

13

A THE LAS VEGAS METROPOLITAN

14

POLICE DEPARTMENT.

15

Q TO WHAT DIVISION ARE YOU

16

ASSIGNED?

17

A THE HOMICIDE SECTION.

18

Q HOW LONG HAVE YOU BEEN WITH THE

19

LAS VEGAS METROPOLITAN POLICE DEPARTMENT?

20

A FOR A LITTLE MORE THAN

21

TWENTY-ONE YEARS.

22

Q HOW LONG WERE YOU ASSIGNED TO

23

THE HOMICIDE DIVISION?

24

A A LITTLE MORE THAN SEVEN YEARS.

25

Q DIRECTING YOUR ATTENTION TO

000002

APP0089

1 NOVEMBER 17TH OF 1998, DID YOU HAVE OCCASION TO
2 RESPOND TO A SCENE AT 1929 AND 1933 WESTERN
3 AVENUE, HERE IN LAS VEGAS, CLARK COUNTY,
4 NEVADA?

5 A YES, I DID.

6 Q HOW DID YOU GET NOTIFIED TO
7 REPORT THERE?

8 A I RECEIVED NOTIFICATION FROM
9 SERGEANT HEFNER.

10 Q WOULD YOU DESCRIBE YOUR
11 OBSERVATIONS WHEN YOU INITIALLY ARRIVED AT THE
12 SCENE?

13 A WHEN I ARRIVED --

14 Q WHAT WAS GOING ON, BASICALLY?

15 A WHEN I ARRIVED AT THE SCENE,
16 SERGEANT HEFNER AND DETECTIVE HUSAK HAD ALREADY
17 BEEN THERE FOR A WHILE. SOME CRIME SCENE
18 ANALYSTS WERE ON THE SCENE, DOING SOME
19 PROCESSING.

20 Q AND WERE ANY ITEMS, THAT WERE
21 AT LEAST POTENTIALLY INCRIMINATING, POINTED OUT
22 TO YOU?

23 A YES.

24 Q WHAT WERE THOSE?

25 A SOME ITEMS OF BLOOD.

000093

APP0090

1 Q ANY BULLET HOLES OR PROJECTILES
2 OR ANYTHING OF THAT NATURE?

3 A YES, THERE WAS A BULLET HOLE
4 THROUGH A COUCH INSIDE 1933 WESTERN. THE HOLE
5 WENT THROUGH THE COUCH AND THEN IT APPEARED
6 THAT THERE WAS AN ACTUAL BULLET STUCK IN SOME
7 DRY WALL BEHIND THE COUCH.

8 THERE WAS ALSO MENTION MADE OF
9 A MISSING CARTRIDGE CASE.

10 Q WAS THERE ANY CONSTRUCTION
11 EQUIPMENT MATERIALS OR SUPPLIES ON THE
12 PREMISES?

13 A THERE WERE CERTAIN TOOLS AND
14 ITEMS LIKE THAT.

15 Q DID YOU MAKE CONTACT WITH AN
16 INDIVIDUAL WHO WAS IDENTIFIED TO YOU AS JACK
17 SEKA?

18 A HIS TRUE NAME WAS JOHN JOSEPH
19 BUT EVERYBODY CALLS HIM JACK.

20 Q IS HE PRESENT HERE IN COURT?

21 A YES, YES IS.

22 A POINT TO HIM, PLEASE, AND TELL
23 ME WHAT HE IS WEARING.

24 A HE IS THE GENTLEMAN AT THE
25 DEFENSE TABLE, WEARING THE WHITE TENNIS SHOES

000094

APP0091

1 AND BLUE OUTFIT.

2 MR. KANE: YOUR HONOR, MAY THE
3 RECORD REFLECT IDENTIFICATION OF THE DEFENDANT,
4 YOUR HONOR?

5 THE COURT: THE RECORD SHALL SO
6 REFLECT.

7 BY MR. KANE:

8 Q DID YOU INDICATE TO MR. SEKA
9 THAT YOU WANTED TO TALK TO HIM ABOUT WHAT WAS
10 GOING ON AT 1929 AND 1933 WESTERN?

11 A YES, I DID.

12 Q DID YOU DISCUSS WITH HIM
13 WHETHER OR NOT HE WAS UNDER ARREST OR WHETHER
14 HE HAD TO TALK TO YOU?

15 A YES, I DID.

16 Q WHAT DID YOU TELL HIM?

17 A I EXPLAINED TO HIM THAT HE
18 WASN'T UNDER ARREST, THAT WE WERE JUST TRYING
19 TO FIND OUT WHAT HAD HAPPENED HERE, AND WE WERE
20 CONDUCTING AN INVESTIGATION.

21 Q DID YOU, IN FACT, INTERVIEW
22 HIM?

23 A YES, I DID.

24 Q DID THAT TAKE PLACE AT WESTERN
25 OR SOMEWHERE ELSE?

000095

APP0092

1 A HE AGREED TO ACCOMPANY ME TO
2 THE DETECTIVE BUREAU, OVER AT 400 EAST STEWART
3 AVENUE.

4 Q ALTHOUGH HE WAS NOT UNDER
5 ARREST, DID YOU ADVISE HIM OF ANY OF WHAT WE
6 COMMONLY REFER TO AS HIS MIRANDA RIGHTS?

7 A YES, I DID.

8 Q AND DID YOU DO THAT FROM MEMORY
9 OR FROM A CARD THAT YOU CARRY?

10 A NO, I HAD A CARD THAT I
11 PROVIDED HIM AND ASKED HIM TO READ THE CARD
12 ALoud TO ME AND THEN HE SIGNED THE CARD, UPON
13 ACKNOWLEDGING THAT HE UNDERSTANDS IT.

14 Q AND AFTER ALL OF THAT, DID HE
15 STILL INDICATE THAT HE WAS WILLING TO TALK TO
16 YOU?

17 A YES.

18 Q WOULD YOU DESCRIBE THE
19 INTERVIEW TO HIS HONOR.

20 A THERE WAS A CONVERSATION THAT
21 TOOK PLACE INITIALLY FOR A FEW MINUTES. AND
22 THEN I ASKED IF HE WAS WILLING TO GIVE ME A
23 TAPED STATEMENT ABOUT WHAT HE HAD EXPLAINED.

24 AND HE AGREED, AND WE TOOK A
25 TAPED STATEMENT FROM HIM, IN WHICH HE BASICALLY

000096

APP0093

1 EXPLAINED THAT HE WAS AN EMPLOYEE THERE AT THE
2 AIR CONDITIONING CENTER THAT WAS OWNED BY PETER
3 LAMANNI. HE EXPLAINED THAT HE HAD BEEN A
4 LONG-TIME FRIEND OF MR. LAMANNI AND MR. LAMANNI
5 HAD BROUGHT HIM TO VEGAS TO WORK IN THE
6 BUSINESS.

7 HE ALSO EXPLAINED THAT THEY
8 WERE IN THE PROCESS OF BUILDING A LARGE HUMIDOR
9 TO RUN A CIGAR BUSINESS OUT OF THE SAME
10 COMPLEX, BECAUSE THE AIR CONDITIONING BUSINESS
11 HAD BEEN FADING OUT.

12 HE EXPLAINED THAT HE HAD NOT
13 SEEN MR. LAMANNI FOR MORE THAN A WEEK, AND THAT
14 HE WAS THE ONLY PERSON THERE. EVEN THOUGH MR.
15 LAMANNI HAD BEEN GONE, HE WAS CONTINUING TO
16 WORK ON THE BUSINESS HIMSELF, EVEN THOUGH HE
17 HAD NO IDEA WHERE MR. LAMANNI WAS.

18 HE EXPLAINED THAT THERE WAS
19 SOME LUMBER THAT WAS AT THE BUSINESS THAT THEY
20 WERE USING TO BUILD THE HUMIDOR. AND HE
21 EXPLAINED THAT HE AND MR. LAMANNI HAD BOTH
22 PURCHASED SOME OF THE LUMBER AND BROUGHT IT TO
23 THE BUSINESS.

24 AS FAR AS A BLACK, MALE
25 HOMICIDE VICTIM, HE MENTIONED THAT SOMEBODY AT

000097

APP0094

1 THE WESTERN ADDRESS HAD ALREADY MENTIONED THAT
2 THERE WAS A DEAD, BLACK MALE THAT HAD HIS NAME
3 IN HIS POCKET. AND HE SAID THAT THERE WAS A
4 PERSON THAT USED TO DO SOME CASUAL LABOR FOR
5 HIM IN THE PAST, THAT HE COULDN'T GIVE ME THE
6 PERSON'S NAME. AFTER A LONG TIME, HE RECALLED
7 THAT THE PERSON'S NAME WAS SEYMOR.

8 AND THEN HE SAID THAT HE HAD
9 SEYMOR MORE THAN A MONTH AGO, AND HE SAID,
10 BASICALLY - CALL ME IN A MONTH.

11 Q PRIOR TO HIS MENTIONING TO YOU
12 THAT THIS BLACK MALE HAD BEEN FOUND WITH HIS,
13 THAT IS MR. SEKA'S PHONE NUMBER IN HIS POCKET,
14 HAD YOU SAID ANYTHING TO HIM ABOUT THAT?

15 A NO.

16 Q IS THAT THE TYPE OF THING THAT
17 YOU WOULD ORDINARILY DISCLOSE TO SOMEBODY WHO
18 YOU ARE INTERVIEWING IN CONNECTION WITH A
19 HOMICIDE?

20 A NO, I'D WANT TO TRY TO FIND OUT
21 WHAT THEY HAD TO OFFER FIRST, AND THEN GO FROM
22 THERE, NORMALLY.

23 Q WHILE YOU WERE INTERVIEWING MR.
24 SEKA, DO YOU KNOW WHAT SERGEANT HEFNER WAS
25 DOING?

000098

APP0095

1 A HE WAS IN THE PROCESS OF
2 OBTAINING A SEARCH WARRANT FOR THE BUSINESS.

3 Q DID YOU, AT SOME POINT DURING
4 YOUR INTERVIEW WITH MR. SEKA, CONTACT DETECTIVE
5 HEFNER?

6 A YES.

7 Q AND FOR WHAT PURPOSE?

8 A I WANTED TO PASS ON TO SERGEANT
9 HEFNER THE INFORMATION THAT I HAD OBTAINED FROM
10 MR. SEKA, THAT BEING THAT HE WAS PLACING
11 HIMSELF AS THE ONLY PERSON AT THAT BUSINESS FOR
12 A SPECIFIC TIME PERIOD, AND SEE IF THERE WAS
13 ANY MORE EVIDENCE THAT WAS DISCOVERED AT THE
14 SCENE THAT I DID NOT KNOW ABOUT, AND DISCUSS
15 WITH THEM THE POSSIBILITY OF MAKING A PROBABLE
16 CAUSE ARREST ON MR. SEKA.

17 Q AND, IN FACT, YOU WERE UNABLE
18 TO OBTAIN APPROVAL FOR THAT PROBABLE CAUSE
19 ARREST; IS THAT RIGHT?

20 A THAT IS CORRECT.

21 Q WHAT DID YOU DO NEXT WITH
22 RESPECT TO MR. SEKA?

23 A I WENT BACK INTO THE INTERVIEW
24 ROOM AND I EXPLAINED TO HIM THAT, BASED ON MY
25 CONVERSATION WITH HIM AND THE EVIDENCE THAT WE

000099

APP0096

1 HAD, I BELIEVED THAT HE DID, IN FACT, KILL THIS
2 BLACK, MALE VICTIM THAT WE HAD, WHO WAS LATER
3 IDENTIFIED AS ERIC HAMILTON.

4 AND I WAS ASKING MR. SEKA FOR
5 HIS EXPLANATION AS TO WHAT AND HOW IT HAD
6 HAPPENED. AND HE, BASICALLY, REPLIED TO ME
7 THAT -- HE KIND OF LAID BACK IN HIS CHAIR A
8 LITTLE BIT AND SMILED AND HE SAID KIND OF
9 SARCASTICALLY THAT I WAS BEGINNING TO SCARE HIM
10 NOW AND THAT I SHOULD EITHER ARREST HIM OR TAKE
11 HIM BACK HOME.

12 AND HE SAID - DO YOU HAVE
13 ENOUGH TO ARREST ME FOR RIGHT NOW? AND I
14 EXPLAINED TO HIM THAT I WOULD NOT ARREST HIM
15 UNTIL ALL THE FORENSIC WORK WAS COMPLETE AND
16 EVERY AVENUE WAS EXHAUSTED.

17 Q PRIOR TO MR. SEKA'S LEAVING,
18 DID YOU OBTAIN PHOTOGRAPHS OR ANYTHING OF THAT
19 NATURE FROM HIM?

20 A THAT WAS BACK AT THE WESTERN
21 ADDRESS. ONCE I DROVE HIM BACK HOME, AS HE PUT
22 IT, TO WHERE HE WAS LIVING AT 1933 WESTERN, I
23 ASKED FOR HIS PERMISSION TO TAKE HIS
24 PHOTOGRAPHS, FINGERPRINTS, AND A BUCKLE SWAB.

25 AND HE AGREED AND SIGNED A

000100

APP0097

1 CONSENT TO SEARCH INDICATING SUCH.

2 Q DID MR. SEKA TELL YOU THAT HE
3 WAS GOING TO LEAVE IN ONE OF THE VEHICLES THAT
4 WAS PARKED AT THE BUSINESS?

5 A YES, HE SAID THAT IF HE WASN'T
6 BEING ARRESTED, HE HAD A DINNER ENGAGEMENT AND
7 THAT HE WOULD LIKE TO LEAVE AND THAT HE WOULD
8 LIKE TO TAKE ONE OF THE VEHICLES AND LEAVE.

9 Q DID YOU THEN DISCUSS A SPECIFIC
10 VEHICLE WITH HIM?

11 A YES. I TOLD HIM THAT WE WERE
12 GOING TO NEED TO PROCESS THE BROWN PICKUP TRUCK
13 THAT HE HAD THERE.

14 Q AND DID YOU TELL HIM WHY?

15 A BECAUSE WE BELIEVED THAT IT
16 CONTAINED EVIDENCE IN THE CRIME. AND HE
17 REACHED INTO HIS POCKET AND HE GAVE ME THE KEYS
18 TO THAT VEHICLE.

19 Q AND PRIOR TO HIS LEAVING, DID
20 HE SET OR MAKE ANY ARRANGEMENTS TO MEET WITH
21 YOU AT ANY LATER TIME?

22 A YES, ACTUALLY PRIOR TO EVEN
23 THAT, HE ASKED IF HE COULD GO INSIDE THE
24 BUSINESS AND LOOK FOR KEYS TO THE VAN. THERE
25 WERE TWO VANS PARKED OUT FRONT THAT ALSO

000101

APP0098

1 BELONGED TO THE COMPANY, A SOLID WHITE VAN, AND
2 A VAN THAT HAD LARGE SYNERGY AIR CONDITIONING
3 EMBLEMS ON IT.

4 AND I TOLD HIM HE COULDN'T GO
5 IN, BUT I WOULD GO IN AND GET THE KEYS IF HE'D
6 TELL ME WHERE THEY WERE. HE DIRECTED ME TO AN
7 AREA BY A WATER HEATER AND I CAME OUT WITH TWO
8 SETS OF KEYS, IN HIS AND ONE OF THE SETS.

9 AND HE EXPLAINED TO ME WITH A
10 PERPLEXED LOOK, THAT THIS WAS THE KEY TO THE
11 SOLID WHITE VAN. KIND OF LIKE HE WAS EXPECTING
12 THE ONE WITH ALL OF THE STICKERS.

13 AND I THOUGHT THAT WAS ODD,
14 BECAUSE IF I WAS GOING TO GO TO DINNER I
15 THOUGHT I WOULD TAKE SOMETHING THAT WAS NOT
16 MARKED RATHER THAN SOMETHING THAT HAD MARKINGS
17 ALL OVER IT. AND I THOUGHT TO MYSELF THAT
18 PERHAPS IT WOULD BE BETTER IF I GAVE HIM THE
19 OTHER ONE WITH THE STICKERS, JUST IN CASE HE
20 DIDN'T COME BACK AND WE WOULD LOOK FOR HIM WITH
21 A VAN THAT WOULD BE EASIER TO SPOT.

22 AND I ASKED HIM IF HE'D MIND IF
23 I LOOKED IN EITHER OF THE VANS BEFORE HE LEFT,
24 AND HE TOLD ME THAT HE DIDN'T HAVE A PROBLEM
25 WITH THAT.

000102

APP0099

1 Q WAS HE SUPPOSED TO MEET YOU AT
2 SOME LATER TIME, EITHER ON THAT DAY OR AT ANY
3 OTHER TIME?

4 A HE SAID HE WAS GOING TO GO TO
5 DINNER AND HE WAS GOING TO COME RIGHT BACK SO
6 HE COULD TAKE CHARGE OF THE BUSINESS.

7 Q WHEN WAS THE NEXT TIME YOU SAW
8 MR. SEKA?

9 A THE NEXT TIME I SAW MR. SEKA
10 WAS, I BELIEVE, MAY OF 1999.

11 Q FOLLOWING HIS ARREST IN
12 PENNSYLVANIA?

13 A CORRECT.

14 Q AS PART OF YOUR INVESTIGATION,
15 DID YOU BECOME AWARE AT SOME TIME OF THE
16 DISCOVERY OF A JOHN DOE?

17 A YES.

18 Q AT THE TIME IT WAS A JOHN DOE,
19 LATER IDENTIFIED AS ERIC HAMILTON?

20 A THAT'S CORRECT, YES.

21 Q AND HOW DID YOU BECOME AWARE OF
22 THAT?

23 A I RECEIVED A TELEPHONE CALL,
24 AGAIN FROM SERGEANT HEFNER, I BELIEVE,
25 DIRECTING ME TO AN AREA OFF OF LAS VEGAS

000103

APP0100

1 BOULEVARD, APPROXIMATELY TWO MILES SOUTH OF
2 STATE ROUTE 146, ALSO KNOWN AS THE HENDERSON
3 CUT-OFF.

4 Q WOULD YOU DESCRIBE THAT SCENE
5 WHERE THE BODY WAS RECOVERED, AS YOU FIRST
6 OBSERVED IT?

7 A YES. IT WAS EARLY MORNING
8 DAYLIGHT WHEN I ARRIVED AT THE SCENE. AND THE
9 SCENE WAS LOCATED ABOUT FORTY TO FIFTY FEET OFF
10 TO THE SIDE OF LAS VEGAS BOULEVARD, JUST IN THE
11 DESERT AREA THAT'S BETWEEN LAS VEGAS BOULEVARD
12 AND I-15.

13 THERE WAS A BODY OF A BLACK
14 MALE THAT WAS LAYING ON TOP OF THE GROUND AND
15 HAD ITEMS OF SCRAP LUMBER PILED ON TOP OF HIM.

16 THERE WAS ALSO SOME TIRE
17 IMPRESSION THAT WERE EVIDENT IN THE SCENE THAT
18 DROVE AWAY FROM THE BODY, AS IF THE BODY WAS
19 DROPPED OUT OF A VEHICLE AND THEN THE VEHICLE
20 DROVE OFF BACK ONTO THE ROADWAY.

21 Q WAS THE BODY WHOLLY OR
22 PARTIALLY COVERED IN ANY WAY?

23 A IT WAS PARTIALLY COVERED WITH
24 THE LUMBER.

25 Q WAS THE LUMBER OF SIGNIFICANCE

000104

APP0101

1 IN YOUR INVESTIGATION?

2 A YES, IT WAS.

3 Q WHY?

4 A BECAUSE THE LUMBER CONSISTED OF
5 NEW LUMBER THAT WAS BOTH 2X4, 1X2, SORT OF PINE
6 WOOD, AS WELL AS SOME CEDAR, THAT APPEARED TO
7 BE SIMILAR TO THE LUMBER THAT WE FOUND BACK AT
8 1933 WESTERN WHERE THEY WERE BUILDING THE
9 HUMIDOR.

10 THE LUMBER ALSO HAD BAR
11 MARKINGS STAPLED ONTO THE END OF SOME OF IT, AS
12 WELL AS LIKE AN ORANGE, GREASE PENCIL MARKINGS
13 ON SOME OF IT, THAT WAS CONSISTENT WITH LUMBER
14 FOUND AT THE SYNERGY LOCATION ON WESTERN.

15 Q WAS THERE ANYTHING FOUND ON OR
16 AROUND THE BODY OF JOHN LUMBER DOE, LATER
17 IDENTIFIED AS ERIC HAMILTON, THAT WAS OF
18 SIGNIFICANCE IN YOUR INVESTIGATION?

19 A YES, I BELIEVE IN THE RIGHT
20 FRONT POCKET OF THE VICTIM THERE WAS A SMALL
21 PIECE OF PAPER THAT HAD THE NAME "JACK" AND A
22 CELLULAR PHONE NUMBER WRITTEN ON IT.

23 Q WERE YOU ABLE TO TELEPHONE
24 RECORDS TO VERIFY THE SUBSCRIBER OF THAT
25 NUMBER?

000105

APP0102

1 A YES.

2 Q WHO WAS THAT?

3 A IT CAME BACK TO SYNERGY HAVE
4 CAR AT 1933 WESTERN, TO AN INDIVIDUAL NAMED
5 "JACK".

6 MR. KANE: I HAVE NOTHING
7 FURTHER, YOUR HONOR.

8

9

10

11 CROSS EXAMINATION

12 BY MR. KENNEDY:

13 Q DETECTIVE THOWSEN, THROUGHOUT
14 THE TIME, I GUESS BACK ON NOVEMBER 17TH OF
15 1998, WHEN YOU WERE TALKING WITH MR. SEKA, DID
16 YOU FIND HIM TO BE VERY HELPFUL WITH YOU? DID
17 YOU FIND HIM TO BE HELPFUL?

18 A I FOUND HIM TO BE COOPERATIVE
19 AT TIMES.

20 Q HE WAS COOPERATIVE?

21 A YES.

22 Q AND HE AGREED TO ALLOW THE
23 SEARCH, HE SIGNED THE CONSENT TO SEARCH FORM;
24 IS THAT CORRECT?

25 A YES, HE DID.

000106

APP0103

1 Q AND HE AGREED TO GIVE A
2 VOLUNTARY STATEMENT; IS THAT RIGHT?

3 A YES, HE DID.

4 Q HE ALSO GAVE A BUCKEL SWAB
5 SAMPLE; IS THAT RIGHT?

6 A YES.

7 Q IS THERE SOMETHING ELSE HE DID,
8 AS WELL? DID HE GIVE ANY FINGERPRINTS?

9 A HE GAVE US FINGERPRINTS AND
10 ALLOWED HIS PHOTOGRAPHS TO BE TAKEN.

11 Q WOULD YOU DESCRIBE HIS Demeanor
12 AT THIS TIME AS CONCERNED?

13 A NO, I'D DESCRIBE HIS Demeanor
14 AS NERVOUS AND, AT THE END, COCKY.

15 Q I BELIEVE YOU TESTIFIED THAT HE
16 MADE A STATEMENT, SOMETHING TO EFFECT THAT IF
17 YOU'RE GOING TO -- YOU'RE STARTING TO SCARE ME
18 NOW, YOU'D BETTER ARREST ME OR TAKE ME HOME.

19 WAS THAT ACTUALLY PART OF HIS
20 RECORDED STATEMENT, OR WAS THAT --

21 A THAT WAS AFTER THE RECORDED
22 STATEMENT, AFTER I WENT AND MADE MY PHONE CALL
23 TO SERGEANT HEFNER AND I CAME BACK TO THE ROOM
24 AND HAD A CONVERSATION WITH HIM.

25 Q SO THAT'S NOT ACTUALLY ON THE

000107

APP0104

1 TAPE?

2 A NO, IT IS NOT.

3 Q AND HOW MANY VEHICLES WERE --
4 AS PART OF YOUR INVESTIGATION, DID YOU
5 DETERMINE THAT THERE WERE A NUMBER OF VEHICLES
6 BY THE AIR CONDITIONING COMPANY, SYNERGY?

7 A YES.

8 Q HOW MANY VEHICLES DID YOU
9 DETERMINE WERE OWNED BY THAT COMPANY?

10 A THERE WAS THREE AT THAT
11 LOCATION, AND THERE WAS ONE THAT WAS IN LAKE
12 TAHOE.

13 Q DID YOUR INVESTIGATION REVEAL
14 IF PETER LAMANNI WAS THE ACTUAL OWNER OF
15 SYNERGY OR IF THERE WAS SOME OTHER INVESTORS OR
16 OWNERS?

17 A THERE WAS OTHER INVESTORS.
18 THERE WERE TWO JAPANESE INVESTORS.

19 Q AS PART OF YOUR INVESTIGATION,
20 DID YOU LOOK INTO THAT AT ALL, AS TO WHO THESE
21 JAPANESE INVESTORS WERE?

22 A YES.

23 Q DO YOU REMEMBER THEIR NAMES?

24 A JACK KATO (PHONETIC) AND
25 SOMETHING KAZ (PHONETIC), I BELIEVE.

000108

APP0105

1 Q DID YOUR INVESTIGATION REVEAL
2 THAT THESE JAPANESE INVESTORS HAD INVESTED OVER
3 A HUNDRED THOUSAND DOLLARS TO START UP THIS
4 BUSINESS?

5 A YES.

6 Q AND YOU ALSO LEARNED THAT AT
7 THIS TIME FRAME DURING NOVEMBER OF 1998, THAT
8 THE BUSINESS WAS RATHER SLOW; IS THAT CORRECT?

9 A THAT'S CORRECT.

10 Q PART OF THAT WAS ALSO THAT THEY
11 WERE BUILDING A CIGAR HUMIDOR TO PERHAPS
12 GENERATE OTHER INCOME; IS THAT CORRECT?

13 A THAT'S CORRECT.

14 Q DID YOUR INVESTIGATION REVEAL,
15 OR DID YOU LOOK INTO WHETHER OR NOT THE MONEY
16 THAT WAS USED TO START SYNERGY BUSINESS WAS
17 SOMEHOW OR ANOTHER THAT PETER LAMANNI HAD AN
18 OBLIGATION ON THAT, THAT HE WAS OBLIGATED ON
19 THAT HUNDRED THOUSAND?

20 IN OTHER WORDS, WAS HE A
21 PERSONAL GUARANTOR OF THAT?

22 A I BELIEVE THAT HE WAS. I
23 DIDN'T EVER SEE A WRITTEN DOCUMENT. BUT IT WAS
24 MY FEELING, FROM TALKING WITH MR. KATO, THAT
25 MR. LAMANNI WAS SUPPOSED TO GUARANTEE THIS

000109

APP0106

1 MONEY. HOWEVER, IT DID NOT APPEAR THAT THAT
2 WAS GOING TO EVER COME ABOUT.

3 Q SO YOU ACTUALLY SPOKE WITH MR.
4 KATO; IS THAT CORRECT?

5 A ON THE TELEPHONE, LONG
6 DISTANCE.

7 Q AND I BELIEVE YOU PREPARED A
8 REPORT, OR AT LEAST YOU DOCUMENTED THAT IN A
9 WRITTEN REPORT; IS THAT CORRECT?

10 A THAT'S CORRECT.

11 Q AND MR. KATO TOLD YOU THAT HE,
12 I GUESS EITHER IN OCTOBER OR NOVEMBER OF 1998,
13 HE CAME TO LAS VEGAS AND TOOK ONE OF THE VANS
14 BACK?

15 A YES.

16 Q DO YOU RECALL IF HE WAS UPSET
17 AT THAT TIME, THAT THE BUSINESS WASN'T DOING
18 WELL? DID HE TELL YOU THAT?

19 A HE DID NOT TELL ME THAT HE WAS
20 UPSET AT THE TIME; NO, HE DID NOT.

21 Q WHAT WERE THE CIRCUMSTANCES
22 THAT HE RELATED TO YOU CONCERNING THE VAN,
23 TAKING THE VAN BACK TO CALIFORNIA, ONE OF THE
24 VEHICLES BACK?

25 A BASICALLY, THAT WHEN HE CAME TO

000110

APP0107

1 TOWN TO TALK WITH MR. LAMANNI ABOUT THE
2 BUSINESS, THAT HE REALIZED THAT THE BUSINESS
3 WAS GOING UNDER, MR. LAMANNI TRIED TO SEE IF HE
4 WAS INTERESTED IN BECOMING INVOLVED IN THIS NEW
5 BUSINESS THAT THEY WERE GOING TO DO.

6 AND HE DECIDED THAT HE DIDN'T
7 WANT ANY PART OF THAT. AND, IN FACT, HE WOULD
8 TAKE ONE OF HIS VANS WITH HIM AT THAT POINT, TO
9 GET BACK TO CALIFORNIA, AND WAS EXPECTING TO
10 GET THE REST OF HIS PROPERTY BACK.

11 Q DID MR. KATO APPEAR UPSET ON
12 THE PHONE DURING THE CONVERSATION, THAT HE HAD
13 BASICALLY LOST HIS HUNDRED THOUSAND DOLLAR
14 INVESTMENT?

15 A NO, HE DIDN'T.

16 Q DID YOU DO ANY BACKGROUND CHECK
17 TO DETERMINE WHETHER MR. KATO IS A MAN OF
18 MEANS? IS HE A WEALTHY INDIVIDUAL?

19 A I DON'T KNOW. I KNEW FROM
20 TALKING WITH MR. SEKA AND FROM TALKING WITH THE
21 PROPERTY MANAGER, THAT MR. KATO HAD NOT BEEN
22 ANYWHERE AROUND FOR MORE THAN A MONTH.

23 Q WAS IT YOUR UNDERSTANDING THAT
24 PETER LAMANNI WORKED FOR JACK KATO?

25 A NO, HE DID NOT WORK FOR HIM.

000111

APP0108

1 HE OWNED THE BUSINESS, AND JACK KATO WAS LIKE
2 AN INVESTOR IN THE BUSINESS.

3 Q I SEE.

4 WAS IT YOUR UNDERSTANDING THAT
5 PETER LAMANNI WAS TO PAY BACK THIS HUNDRED
6 THOUSAND THEN, THAT WAS INVESTED IN THE
7 BUSINESS?

8 A MY UNDERSTANDING, FROM TALKING
9 TO MR. KATO, WAS THAT HE WAS WRITING IT OFF AS
10 A LOSS, THAT HE MADE A BAD INVESTMENT AND THAT
11 HE LOST THE MONEY, BASICALLY.

12 Q IS THAT WHAT HE SAID HE WAS
13 GOING TO DO, WAS TO WRITE IT OFF?

14 A HE DIDN'T SPECIFICALLY SAY.

15 Q IS MR. KATO A CITIZEN OF THE
16 UNITED STATES?

17 A I DON'T KNOW.

18 Q IS HE JAPANESE OR KOREAN?

19 A I BELIEVE HE'S JAPANESE.

20 Q AND MR. KATO, WAS HE ON THE
21 LEASE THERE AT THE 1933 WESTERN AVENUE
22 PROPERTY?

23 A AS I RECALL, I BELIEVE HE WAS
24 ON THE LEASE WITH MR. LAMANNI, FROM THE
25 INFORMATION I GOT FROM THE PROPERTY MANAGER.

000112

APP0109

MR. KENNEDY: I HAVE NOTHING
FURTHER, YOUR HONOR.

MR. KANE: NOTHING FURTHER,
YOUR HONOR.

THE COURT: OKAY, YOU'RE
EXCUSED, AND THANK YOU.

CALL YOUR NEXT WITNESS.

MR. KANE: THE STATE HAS NO
FURTHER WITNESSES TO CALL NOR EVIDENCE TO
PRESENT, YOUR HONOR, AND THE STATE RESTS.

THE COURT: OKAY.

THE CLERK: THERE'S TWO
DOCUMENTS. HAVE THEY BEEN ADMITTED?

MR. KANE: I THOUGHT IT WAS.

THE COURT: YES, THEY HAVE
BEEN.

MR. KENNEDY: YOUR HONOR, I
HAVE ADVISED MY CLIENT OF HIS RIGHT TO TESTIFY
AT THIS PRELIMINARY HEARING. I BELIEVE IT'S MY
UNDERSTANDING THAT HE WOULD NOT SEEK TO
EXERCISE THAT RIGHT AT THIS TIME.

OTHER THAN THAT, WE WOULD
SUBMIT AND RESERVE ARGUMENT.

THE COURT: OKAY. OKAY, I'LL
GO AHEAD. DO YOU HAVE ANY ARGUMENT?

0000113

1 MR. KANE: WAIVE OPENING, YOUR
2 HONOR.

3 MR. KENNEDY: YOUR HONOR, AS IT
4 STANDS RIGHT NOW, MY CLIENT IS CHARGED WITH
5 FOUR COUNTS, TWO COUNTS OF MURDER WITH THE USE
6 OF A DEADLY WEAPON, AND TWO COUNTS OF ROBBERY
7 WITH THE USE OF A DEADLY WEAPON. I'D LIKE TO
8 ADDRESS THE COUNTS, THE ROBBERY COUNTS FIRST,
9 COUNTS 3 AND 4.

10 AS WE SIT HERE TODAY, YOUR
11 HONOR, THERE'S BEEN ABSOLUTELY NO TESTIMONY OR
12 OTHER EVIDENCE PRESENTED THAT DOCUMENTS THAT
13 PETER LAMANNI AND ERIC HAMILTON WERE ROBBED OF
14 ANYTHING.

15 THERE'S BEEN NO WITNESSES
16 WHETHER THERE WAS JEWELRY OR MONEY THAT WAS
17 TAKEN. THERE'S BEEN ABSOLUTELY NO EVIDENCE TO
18 THAT EFFECT. I WOULD SUBMIT THAT BOTH THE
19 ROBBERY COUNTS HAVE NOT BEEN MET IN ANY REGARD
20 THROUGH THIS PRELIMINARY HEARING.

21 AS TO THE ALLEGATION OF MURDER
22 --

23 THE COURT: DO YOU WISH TO
24 ADDRESS THAT ISSUE?

25 MR. KANE: SURE, IF YOU WANT TO

000114

APP0111

1 DO THEM THAT WAY. AS FAR AS THE ROBBERY, I
2 WOULD CALL THE COURT'S ATTENTION TO GOVERNMENT
3 EXHIBIT 2, WHEREIN A DUMPSTER WHICH HAD BEEN
4 EMPTY AN HOUR BEFORE THE POLICE FIRST TALKED TO
5 MR. LAMANNI AND TOLD HIM HE WAS UNDER
6 SUSPICION, WERE FOUND AMONG OTHER THINGS,
7 PHOTOS AND PERSONAL PAPERS IN THE NAME OF PETER
8 LAMANNI, A THREE AND A HALF INCH COMPUTER DISC,
9 AN MCI PHONE CARD AND A JERSEY BOAT OPERATOR'S
10 LICENSE, TWO CANCELED SYNERGY CHECKS, A BLUE
11 CHECKBOOK WITH LAMANNI MECHANICAL SERVICES
12 CHECKS INSIDE, A BLACK APPOINTMENT BOOK, KEYS,
13 AND ONE OF MR. LAMANNI'S SHOES.

14 I DON'T THINK THOSE ITEMS WERE
15 REMOVED FROM HIM WITH HIS OWN FREE WILL, AND I
16 THINK THEY DOCUMENT THE FACT THAT HE WAS ROBBED
17 AT THE TIME THAT HE WAS MURDERED.

18 AS FAR AS MR. HAMILTON, WE KNOW
19 THAT HE CAME TO TOWN IN POSSESSION OF AT LEAST
20 WITH A BLUE JACKET, A BLUE CAP AND SOME MONEY.
21 FOUND IN THE PREMISES WHERE HE WAS MURDERED
22 WERE THE BLUE, BULLET-RIDDLED JACKET AND A CAP.
23 WHEN HE WAS FOUND, HE HAD NO PERSONAL EFFECTS
24 ON HIM, EXCEPT FOR A PIECE OF PAPER WITH THE
25 DEFENDANT'S PHONE NUMBER ON IT.

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APP0112

1 YOU'RE HARDLY EVER GOING TO
2 KNOW, UNLESS YOU HAVE AN EYE WITNESS TO A
3 ROBBERY-MURDER, THAT A PERSON'S PROPERTY WAS
4 ACTUALLY RECOVERED FROM THEM BY MEANS OF FORCE
5 OR VIOLENCE. BUT WHAT WE'RE TALKING ABOUT HERE
6 IS AN INFERENCE, SUPPORTED BY PROBABLE CAUSE AT
7 A PRELIMINARY HEARING, AND I SUGGEST THE STATE
8 HAS MET THEIR BURDEN.

9 THE COURT: COULDN'T HE JUST
10 HAVE TAKEN IT OFF BY HIMSELF?

11 MR. KENNEDY: THAT'S THE
12 QUESTION I HAVE, YOUR HONOR. I MEAN, WE HAVE
13 DETECTIVE NOGEES, AND HE TESTIFIED CONCERNING
14 WHAT HE FOUND IN THE DUMPSTER. I MEAN, THIS IS
15 AN EXTREMELY CIRCUMSTANTIAL-TYPE CASE. AND
16 THIS PRELIMINARY HEARING I THINK HAS BEEN
17 DEFECTIVE IN A NUMBER OF WAYS IN TRYING TO
18 ANSWER SOME EVEN FUNDAMENTAL QUESTIONS.

19 AND I KNOW THAT THE BURDEN HERE
20 IS SO SLIGHT, AND CASES GET BOUND OVER ALL THE
21 TIME. BUT YOU STILL HAVE TO TAKE A LOOK AT
22 WHAT'S BEEN PRESENTED HERE BEFORE YOU IN ORDER
23 TO MAKE A DETERMINATION AS TO WHETHER A CRIME
24 HAS OCCURRED; NOT ONLY THAT, BUT THAT THE
25 DEFENDANT ACTUALLY COMMITTED THAT CRIME, IN

000116

APP0113

1 ORDER TO BIND HIM OVER.

2 NOW UNDER THAT STANDARD, EVEN
3 UNDER THAT SLIGHT OR MARGINAL EVIDENCE
4 STANDARD, THEY'VE GOT EVIDENCE THAT THEY FIND
5 IN A DUMPSTER. THERE IS NO EVIDENCE THAT PETER
6 LAMANNI HAD THOSE ITEMS ON HIS POSSESSION AT
7 THAT TIME. THE EVIDENCE FROM ERIC HAMILTON,
8 IT'S A REACH IT'S A STRETCH TO SAY THAT HE HAD
9 THE JACKET ON HIM AT THAT TIME. WE DON'T HAVE,
10 IT'S JUST NOT PRESENTED HERE AT THIS
11 PRELIMINARY HEARING. NOW MAYBE THEY HAVE OTHER
12 EVIDENCE BUT IT IS NOT BEFORE YOUR COURT.

13 AS TO THE ALLEGATIONS OF MURDER
14 ITSELF, THERE'S NO DOUBT THAT WE'VE GOT TWO
15 DEAD INDIVIDUALS. I MEAN, THE AUTOPSY REPORTS
16 ARE IN, BOTH LAMANNI AND ERIC HAMILTON. THE
17 CONCLUSIONS ARE THAT THE DEATHS WERE BY
18 HOMICIDE. THERE IS NO DOUBT ABOUT THAT.

19 BUT IT'S STILL A FUNDAMENTAL
20 QUESTION AS TO WHETHER THE STATE HAS PRESENTED
21 ANY EVIDENCE LINKING MY CLIENT TO THE MURDER OF
22 THESE TWO INDIVIDUALS. THERE IS NO EVIDENCE
23 CONCERNING IDENTIFICATION, THERE IS NO EVIDENCE
24 LINKING MY CLIENT TO THE MURDER SCENES, AS WELL
25 AS TO THE SITES AT 1929 WESTERN AND 1933

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APP0114

1 WESTERN, AS WELL.

2 I KNOW THESE CHARGES ARE VERY
3 SERIOUS. AND TO TRY AND DISMISS A CASE AT A
4 PRELIMINARY HEARING ON A MURDER WOULD TAKE, YOU
5 KNOW, A STRONG AND AFFIRMATIVE STEPS BY THIS
6 COURT. BUT I WOULD SUBMIT THAT, BASED ON WHAT
7 YOU HAVE HEARD HERE TODAY, THIS MORNING AND
8 THIS AFTERNOON, EVEN IN LIGHT OF THE ALLEGED
9 CONFESSION THAT THOMAS CRAMER HAD TESTIFIED TO,
10 I WOULD SUBMIT THAT THOMAS CRAMER HAS A NUMBER
11 OF ISSUES IN HIS OWN LIFE THAT MAY SUGGEST THAT
12 HIS CREDIBILITY IS NOT EVEN, IS NOT SOMETHING
13 TO BE RELIED ON, EVEN VERSUS AT A PRELIMINARY
14 HEARING.

15 I WOULD SUBMIT THAT THE STATE
16 HAS NOT MET ITS BURDEN TO PROVE THE FUNDAMENTAL
17 ISSUES OF IDENTIFICATION. EVEN UNDER
18 CIRCUMSTANTIAL EVIDENCE, IF YOU CONSIDER THE
19 INFERENCES THEY ARE TRYING TO HAVE YOU BELIEVE
20 HERE, THEY HAVEN'T TIED UP ALL THE ROPES.
21 THERE'S A LOT OF LITTLE FRAGMENTS. AND I KNOW
22 THIS IS NOT A TRIAL, OF COURSE; BUT THEY HAVE
23 GOT TO TIE THOSE FRAGMENTS TOGETHER. THEY
24 CAN'T JUST THROW THEM UP THERE AND SAY - WELL,
25 THERE IT IS, JUDGE, BIND HIM OVER AND WE'RE

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APP0115

1 DONE.

2 I WOULD SUBMIT, YOUR HONOR,
3 THAT THE BURDEN HERE, ALTHOUGH SLIGHT, HAS NOT
4 BEEN MET. AND AS TO ALL COUNTS, 1 THROUGH 4,
5 THEY SHOULD BE DISMISSED.

6 MR. KANE: FIRST OF ALL,
7 COUNSEL IS CORRECT THAT THE BURDEN IS SLIGHT AT
8 A PRELIMINARY HEARING. AND AS TO THE MURDER OF
9 MR. LAMANNI, I SUGGEST THERE CAN BE NO SERIOUS
10 ARGUMENT THAT THAT BURDEN HASN'T BEEN MET.

11 THIS COURT DOES NOT, LIKE A
12 JURY AT A CRIMINAL TRIAL, SIT AS A JUDGE OF
13 CREDIBILITY. IT MAY BE THAT MR. CRAMER IS
14 SUBJECT TO CREDIBILITY ON A NUMBER OF GROUNDS.
15 BUT HE'S ALSO SOMEONE WHO HAS BEEN ACQUAINTED
16 WITH THE DEFENDANT FOR A GOOD TEN YEARS. THEY
17 MET IN DRUG REHABILITATION TOGETHER. SO
18 WHATEVER ARGUMENTS CAN BE LEVELED AGAINST HIS
19 CREDIBILITY CAN BE LEVELED AGAINST THE
20 DEFENDANT AT AN APPROPRIATE PERIOD OF TIME.

21 THE COURT: LET ME SAY
22 SOMETHING ABOUT MR. LAMANNI. HE'S THE
23 INDIVIDUAL WHO WAS BOUND OVER IN CALIFORNIA; IS
24 THAT CORRECT?

25 MR. KENNEDY: THAT'S CORRECT.

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APP0116

1 THE COURT: AND THE AUTOPSY WAS
2 PERFORMED IN CALIFORNIA?

3 MR. KANE: THAT'S CORRECT.

4 THE COURT: NOW THE STATEMENT
5 THAT TOM MADE, MR. CRAMER, STATED THAT HE
6 ALLEGEDLY, THE DEFENDANT CLAIMED TO HIM THAT HE
7 WOULD DO TO HIM WHAT HE DID WITH MR. LAMANNI.
8 AND THEN LATER ON HE SAID - YOU KNOW, I SHOT
9 HIM AND THEN I HAD TO PLUG HIM SOME MORE
10 BECAUSE HE WAS GURGLING TO KEEP HIM QUIET.

11 NOW THE AUTOPSY SHOWED THAT
12 THERE WAS SEVERAL SHOTS FIRED AT MR. LAMANNI.
13 SO THAT SORT OF CORROBORATES, THE AUTOPSY
14 REPORT, AS TO THE NUMBER OF SHOTS, SORT OF
15 CORROBORATES THE STATEMENT THAT THE DEFENDANT
16 MADE TO MR. CRAMER, WHERE HE STATED THAT HE HAD
17 TO SHOOT HIM SOME MORE TO KEEP HIM QUIET
18 BECAUSE HE WAS REGURGITATING OR WHATEVER IT
19 WAS, THE WAY HE DESCRIBED IT.

20 SO I THINK THAT IS
21 CORROBORATING. I THINK THAT, FOR THE PURPOSE
22 OF THIS HEARING, I THINK THAT IS SUFFICIENTLY
23 CORROBORATING.

24 MR. KANE: AND JUST THE LAST
25 WORD ON THE ROBBERY CHARGES: COUNSEL ARGUES

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APP0117

1 THAT YOU REALLY CAN'T MAKE THE ASSUMPTION THAT
2 AT THE TIME THAT MR. HAMILTON WAS SHOT, THAT HE
3 WAS WEARING THAT JACKET, AND SO THE JACKET
4 COULD HAVE BEEN REMOVED FROM HIM POST-MORTEM
5 AND IT WASN'T PART OF ANY FORCE OR VIOLENCE.

6 IF YOU LOOK AT THE SECOND PAGE
7 OF STATE'S EXHIBIT 2, IF YOU DOCUMENT THE
8 EVIDENCE, THE LAST ITEM RECOVERED, NUMBER 20,
9 WAS A BLUE WINTER COAT WITH APPARENT BULLET
10 HOLES.

11 UNLESS HE SHOT HIM AND THEN
12 REDEEMED THE COAT, OR UNLESS HE SHOT HIM
13 WITHOUT PUTTING ANY BULLET HOLES IN THE COAT
14 AND THEN TOOK THE COAT OFF AND PUT A COUPLE
15 BULLET HOLES IN THE COAT JUST FOR THE HELL OF
16 IT, THEN ERIC HAMILTON WAS WEARING THAT COAT
17 WHEN HE WAS SHOT. AND IT WAS TAKEN FROM HIM AS
18 A RESULT OF THE APPLICATION OF FORCE OR
19 VIOLENCE AND IT SUPPORTS THE FINDING OF
20 PROBABLE CAUSE TO BIND HIM OVER ON THE CHARGE
21 OF ROBBERY.

22 OR IF MR. LAMANNI, WHILE IT'S
23 TRUE THAT -- NO, WE HAVEN'T PRODUCED ANY
24 EVIDENCE THAT ALL OF THESE ITEMS OF KEYS,
25 IDENTIFICATION, CHECKS, AND EVERYTHING ELSE

000121

APP0118

1 THAT YOU WOULD NORMALLY EXPECT A PERSON TO
2 CARRY ON THEIR PERSON WERE ON MR. LAMANNI'S
3 PERSON WHEN HE WAS SHOT. WE KNOW THAT HE
4 WASN'T FOUND WITH THEM WHEN HIS BODY WAS FOUND,
5 AND WE KNOW THAT ALL OF THEM WERE FOUND IN A
6 DUMPSTER, AND WE KNOW THAT THEY WERE ALL FOUND,
7 THEY WEREN'T THERE. AND THEN THE POLICE TALKED
8 TO MR. LAMANNI AND AN HOUR LATER THEY WERE
9 THERE AND PART OF THEM WERE BURNT. THEY WERE
10 ALL ITEMS THAT YOU WOULD NORMALLY EXPECT THAT A
11 PERSON WOULD HAVE AT LEAST SOME OF THESE
12 THINGS, LIKE ID CARDS AND KEYS ON THEM, AND
13 THEY WEREN'T THERE.

14 SO AGAIN, I THINK WHEN YOU'RE
15 TALKING ABOUT PROBABLE CAUSE OR SLIGHT BURDEN
16 OF PROOF AT A PRELIMINARY HEARING, THAT THERE
17 IS PROBABLE CAUSE THAT THE PROPERTY WAS TAKEN,
18 BOTH FROM MR. HAMILTON AND FROM MR. LAMANNI BY
19 THE USE OF FORCE OR VIOLENCE.

20 AND JUST LAST YEAR THE NEVADA
21 SUPREME COURT, IN LOOKING AT THIS, DECIDED A
22 CASE -- AND I APOLOGIZE I DON'T HAVE THE NAME

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24
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APP0119

1 OF THE CASE -- THAT IF YOU THREATEN SOMEONE AND
2 THEN YOU STOP AND YOU'RE NOT APPLYING THE
3 FORCE, AND THEY LATER GIVE YOU THE MONEY
4 BECAUSE OF THE INITIAL APPLICATION OF FORCE,
5 THAT'S STILL ROBBERY.

6 I MEAN, THE GRAVAMEN OF ROBBERY
7 IS THAT YOU USE FORCE TO GET SOMETHING. YOU
8 DON'T HAVE TO USE IT RIGHT UP UNTIL YOU GET IT;
9 YOU DON'T HAVE TO USE IT CONTEMPORANEOUSLY WITH
10 GETTING IT, BUT WHAT YOU HAVE TO DO IS OBTAIN
11 PROPERTY BY THE USE OF FORCE OR VIOLENCE OF
12 PUTTING SOMEONE IN FEAR.

13 AND I THINK FOR PROBABLE CAUSE
14 DETERMINATION PURPOSES, THAT'S WHAT WE'VE GOT.
15 AND I WOULD SUBMIT IT.

16 MR. KENNEDY: YOUR HONOR, I
17 WOULD JUST NOTE THAT IT SEEMS THAT THE STATE
18 WANTS YOU TO DO A LITTLE SPECULATION, A LITTLE
19 GUESS HERE AS TO WHETHER THE ROBBERIES HAD
20 OCCURRED OR NOT.

21 THE EVIDENCE THAT'S BEEN
22 PRESENTED IS NOT ENOUGH, EVEN TO GET OVER THAT
23 SLIGHT INFERENCE FOR THE PURPOSES OF THIS
24 HEARING, AND I WOULD ASK YOU, AT A MINIMUM, TO
25 DISMISS THE TWO ROBBERY COUNTS.

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APP0120

1 THE COURT: LET ME ASK YOU
2 THIS: THE POINT IS THERE, THAT THE PROSECUTOR
3 BROUGHT UP, WAS THE BULLET HOLES IN THE JACKET.

4 MR. KENNEDY: WELL, THERE'S A
5 QUESTION --

6 THE COURT: THAT WOULD INDICATE
7 TO ME THAT THAT WAS REMOVED AFTER THE
8 INDIVIDUAL HAD BEEN SHOT. THAT'S THE
9 INDICATION TO ME THAT THAT'S WHAT HAPPENED,
10 THAT HE HAD THE JACKET ON, THE INDIVIDUAL WAS
11 SHOT, THE BULLET WENT THROUGH THE JACKET, AND
12 THEN LATER ON THE JACKET WAS REMOVED.

13 MR. KENNEDY: I GUESS THE
14 QUESTION THEN IS: CAN YOU -- PERHAPS THE COURT
15 CAN LIGHTEN ME AS TO WHETHER OR NOT YOU CAN ROB
16 A DEAD PERSON?

17 SO IF THIS INDIVIDUAL IS DEAD,
18 AND THE JACKET IS REMOVED --

19 THE COURT: IT HAS BEEN DONE.

20 MR. KENNEDY: BUT THEN THE
21 QUESTION IS --

22 THE COURT: HOW MANY TIMES
23 AFTER A PERSON HAS BEEN SHOT, THAT THEY COME
24 AND ROB THEM? HOW ABOUT SOME OF THESE PEOPLE
25 IN A COUPLE OF THE BAR ROBBERIES THEY HAD,

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APP0121

1 WHERE THEY SHOT THEM AND THEN THEY CAME ALONG
2 AND EMPTIED OUT THEIR POCKETS?

3 MR. KENNEDY: WHAT WE'RE
4 MISSING HERE, THOUGH, YOUR HONOR, IS THERE'S NO
5 EVIDENCE PRESENTED AT THIS HEARING TO SUPPORT
6 THE TAKING OF PROPERTY, EITHER BY FORCE OR
7 VIOLENCE.

8 THE COURT: WELL, IT WAS IN THE
9 PRESENCE OF THE -- PUT IT THIS WAY: IT WAS IN
10 THE PRESENCE OF AN AREA OVER WHICH THE
11 DEFENDANT HAD CONTROL.

12 MR. KENNEDY: THE QUESTION NOW
13 IS DID THE DEFENDANT HAVE CONTROL THERE? AND
14 THAT'S THE BIG, OPEN QUESTION.

15 THE COURT: YOU KNOW, IT
16 DOESN'T TAKE MUCH AT THIS HEARING. I KNOW THAT
17 THE EVIDENCE IS NOT ALL THAT STRONG. I MEAN,
18 YOU MAY HAVE A GOOD ARGUMENT WHEN YOU GET TO
19 THE DISTRICT COURT.

20 BUT HE HAD THE JACKET, THERE
21 WAS A JACKET IN THE PREMISES THERE, OVER HIS
22 CONTROL, AND THE JACKET HAD BULLET HOLES IN IT.

23 NOW LET'S GO WITH MR. HAMILTON
24 ABOUT WHERE HIS BODY WAS FOUND AND THEY FOUND
25 ON TOP OF HIM LUMBER, LUMBER THAT WAS FOUND

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APP0122

SIMILAR TO A TYPE THAT WAS IN THE PLACE WHERE THEY WERE BUILDING THIS HUMIDOR. ALL RIGHT?

NOW I KNOW IT'S CIRCUMSTANTIAL, AND PROBABLY IT'S NOT A VERY STRONG CIRCUMSTANTIAL CASE. BUT I MEAN, I DON'T KNOW WHAT OTHER EVIDENCE THEY HAVE, IF THEY HAVE ANY. BUT I MEAN, FOR THE PURPOSES OF THIS HEARING, I THINK THERE'S SUFFICIENT EVIDENCE. AND IT DOESN'T TAKE MUCH, MERE EVIDENCE, REALLY, A SCINTILLA OF EVIDENCE IS ALL THAT'S NEEDED TO ESTABLISH PROBABLE CAUSE.

SO IT REALLY DOESN'T TAKE MUCH, VERSUS BEYOND A REASONABLE DOUBT.

MR. KANE: AND I AM NOT SAYING THAT ANY ONE OF THOSE THINGS BY ITSELF WOULD ESTABLISH PROBABLE CAUSE. BUT WHEN YOU'VE GOT THE CLOTHING THAT MATCHES, WHEN YOU'VE GOT THE LUMBER THAT MATCHES, WHEN YOU'VE GOT THE DEFENDANT SAYING --

THE COURT: THE TOTALITY OF CIRCUMSTANCES.

MR. KANE: WHEN YOU'VE GOT THE DEFENDANT SAYING - I KNOW NOTHING ABOUT THIS GUY, AND THEN HIS PHONE NUMBER IS FOUND IN THE GUY'S POCKET, AND WHEN YOU HAVE THE DEFENDANT

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APP0123

1 SAYING - I'LL COME BACK AND I WILL TALK TO YOU
2 LATER TONIGHT, AND THE NEXT TIME THEY SEE HIM
3 IS FIVE MONTHS LATER WHEN HE'S BEING EXTRADITED
4 FROM OUT OF STATE, THEN I THINK YOU'VE GOT
5 ENOUGH.

6 THE COURT: I'D SAY IT'S THE
7 TOTALITY OF CIRCUMSTANCES, YOU KNOW, IT IS
8 SUFFICIENT IF YOU PUT IT ALL TOGETHER.

9 NOW WHETHER OR NOT YOU'VE GOT
10 ENOUGH TO CONVICT, THAT'S ANOTHER THING. AND I
11 DON'T KNOW WHAT OTHER EVIDENCE THEY HAVE.

12 MR. KANE: IF THIS WAS A TRIAL,
13 WE WOULDN'T HAVE --

14 THE COURT: THAT'S RIGHT. SO,
15 LIKE I SAID, IT DOESN'T TAKE THAT MUCH FOR THE
16 PURPOSES OF THIS HEARING.

17 BUT THOUGH IT'S NOT VERY
18 STRONG; BUT, LIKE I SAID, IT DOESN'T TAKE MUCH,
19 AS THE SUPREME COURT SAID. IT'S MERE EVIDENCE,
20 AND IT REALLY DOESN'T TAKE MUCH. WHAT IT SAYS
21 IS PROBABLE, AND THAT'S WHAT THE DEFINITION IS
22 PROBABLE, FOR PROBABLE CAUSE?

23 BUT I THINK THE STATE HAS MET
24 THEIR BURDEN, AND I WILL GO AHEAD AND LET THE
25 JURY MAKE THE FINAL DETERMINATION. SO I DO

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APP0124

1 FIND THAT THE STATE HAS ESTABLISHED SUFFICIENT
2 PROBABLE CAUSE FOR THE PURPOSE OF THIS HEARING
3 TO DETERMINE THAT CRIMES HAVE BEEN COMMITTED,
4 AND THOSE ARE THE CRIMES OF: MURDER WITH THE
5 USE OF A DEADLY WEAPON IN COUNT 1; BURGLARY
6 WITH THE USE OF A DEADLY WEAPON IN COUNT 2;
7 ROBBERY WITH THE USE OF A DEADLY WEAPON IN
8 COUNT 3; ROBBERY WITH THE USE OF A DEADLY
9 WEAPON IN COUNT 4.

10 AND THERE IS REASONABLE CAUSE
11 TO BELIEVE THAT THE DEFENDANT, JOHN JOSEPH
12 SEKA, COMMITTED THESE CRIMES, I HEREBY ORDER
13 THE SAID DEFENDANT TO BE HELD TO ANSWER TO THE
14 SAID CHARGES IN THE EIGHTH JUDICIAL DISTRICT
15 COURT FOR THE STATE OF NEVADA, IN AND FOR THE
16 COUNTY OF CLARK.

17 THE CLERK: JULY THE 13TH, 9:00
18 A.M., DEPARTMENT 14.

19

20 MR. KENNEDY: MAY I ASK THE
21 COURT REPORTER HOW SOON WE WILL HAVE THE
22 PRELIMINARY HEARING TRANSCRIPT?

23 THE REPORTER: IN TWO WEEKS.

24 THE COURT: YES, IT GOES UP
25 WITH, THE TRANSCRIPT GOES UP WITH THE BINDOVER.

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APP0125

1 AND IT HAS TO BE THERE, AND IT GOES ON UP. AT
2 A PRELIMINARY HEARING, THE TRANSCRIPT HAS TO GO
3 UP WITH THE BINDOVER. AND YOU WILL GET A COPY;
4 THAT'S AUTOMATIC.

5 MR. KENNEDY: THAT'S A BETTER
6 DEAL THAN YOU GET FROM THE GRAND JURY.

7 THE COURT: I DON'T KNOW ABOUT
8 THAT. BUT WE'RE BOUND, BECAUSE AS SOON AS
9 THAT'S BOUND UP, THAT TRANSCRIPT GOES WITH IT.

10 OKAY?

11 MR. KENNEDY: THANK YOU, YOUR
12 HONOR.

13

14

15 (PROCEEDINGS CONCLUDED.)

16

17

18 ATTEST:

19

20 FULL, TRUE AND


21 ACCURATE TRANSCRIPT OF PROCEEDINGS.

22

23

24

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KRIS REMAKEL, CSR NO. 85, RPR

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APP0126

I N D E X

<u>PLAINTIFF'S WITNESSES</u>	<u>PAGE</u>
DR. GILES SHELDON GREEN	
DX BY MR. KANE	4
MICHAEL STANISH	
DX BY MR. KANE	10
CX BY MR. KENNEDY	13
PETER BORDEN	
DX BY MR. KANE	18
CX BY MR. KENNEDY	21
RICHARD NOGEES	
DX BY MR. KANE	26
CX BY MR. KENNEDY	37
RDX BY MR. KANE	45
ROBERT KROLL	
DX BY MR. KANE	47
CX BY MR. KENNEDY	51

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APP0127

I N D E X CONTINUEDPLAINTIFF'S WITNESSESPAGE

CARL BELL

DX BY MR. KANE 54

CX BY MR. KENNEDY 57

THOMAS CRAMER

DX BY MR. KANE 59

CX BY MR. KENNEDY 66

DAVID RUFFINO

DX BY MR. KANE 85

CX BY MR. KENNEDY 87

THOMAS THOWSEN

DX BY MR. KANE 90

CX BY MR. KENNEDY 104

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APP0128

EXHIBITS ADMITTED INTO EVIDENCEPLAINTIFF'S EXHIBIT NOS. PAGE

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APP0129

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ORIGINAL

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FILED

JUL 26 1 13 PM '99

William L. Langmuir
CLERK

1 NISD
2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 455-4711
8 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,
9 Plaintiff,

10 -vs-

11 JOHN JOSEPH SEKA
12 #1525324

13 Defendant.

Case No. C159915
Dept No. XIV
Docket T

14
15 NOTICE OF INTENT TO SEEK DEATH PENALTY

16 COMES NOW, the State of Nevada, through STEWART L. BELL, Clark County District
17 Attorney, by and through EDWARD R.J. KANE, Deputy District Attorney, pursuant to NRS
18 175.552 and NRS 200.033 and declares its intention to seek the death penalty at a penalty
19 hearing. Furthermore, the State of Nevada discloses that it will present evidence of the
20 following aggravating circumstances:

21 1. The murder was committed by a person who was previously convicted of a felony
22 involving the use or threat of violence to the person of another, to-wit: Robbery, in
23 Pennsylvania, in 1988. [See NRS 200.033(2)] The evidence of this aggravating circumstance
24 will consist of documentary proof and/or testimony concerning said prior conviction.

25 2. The murder was committed while the person was engaged in the commission of or an
26 attempt to commit any Robbery. [NRS 200.033(4)] The evidence of this aggravating
27 circumstance will consist of testimony and physical evidence arising out of the aggravated nature
28 of the offense itself. The defendant is charged with a count of robbery as to each victim. The

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1 bodies of the victims were found in separate desert locations. Neither victim had any personal
2 effects or cash on his person when found. Victim Eric Hamilton's bullet-riddled clothing was
3 discovered in a business next door to the business operated by the defendant. Victim Peter
4 Limanni's wallet, with all of his identification and credit cards, was found in the false ceiling of
5 the business operated by the defendant. The defendant was in desperate financial straits at the
6 time of the murders.

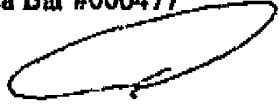
7 3. The murder was committed by a person, for himself or another, to receive money or
8 any other thing of monetary value. [NRS 200.033(6)] The evidence of this aggravating
9 circumstance will consist of testimony and physical evidence arising out of the aggravated nature
10 of the offense itself. See aggravator (2) above.

11 4. The murder was committed by a person who has, in the immediate proceeding, been
12 convicted of more than one offense of murder in the first or second degree. [NRS 200.033(12)].
13 Obviously, this aggravator does not come into existence until the jury returns its verdicts in this
14 case. Once those verdicts are returned, the State will prove this aggravator by such verdicts.

15 DATED this 23 day of July, 1999.

16 Respectfully submitted,

17 STEWART L. BELL
18 District Attorney
19 Nevada Bar #000477

20 BY 
21 EDWARD R.J. KANE
22 Deputy District Attorney
23 Nevada Bar #001438
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KIRK T. KENNEDY, ESQ.
ATTORNEY FOR DEFENDANT

BY Tik Kennedy P. R.
521 S. Sixth Street
Las Vegas, Nevada 89101

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COPY

DISTRICT COURT
CLARK COUNTY, NEVADA

* * * *

FILED IN OPEN COURT
FEB 13 2001 19

SHIRLEY B. PARRAGUIRRE, CLERK
BY JUDY NORMAN
DEPUTY

STATE OF NEVADA,)
)
Plaintiff,)
)
vs.)
)
JOHN JOSEPH SEKA,)
)
Defendant.)

Case No. C159915
Dept. XIV

VOLUME I
REPORTER'S TRANSCRIPT
OF
JURY TRIAL

BEFORE THE HONORABLE DONALD M. MOSLEY
DISTRICT JUDGE

Taken on Monday, February 12, 2001

At 1:15 p.m.

APPEARANCES:

For the State: EDWARD KANE, ESQ.
TIM FATTIG, ESQ.
Deputy District Attorneys

For the Defendant: KIRK T. KENNEDY, ESQ.

PETER J. CHRISTIANSEN, ESQ.
Deputy Public Defender

Reported by: Maureen Schorn, CCR No. 496, RPR

1 LAS VEGAS, NEVADA. MONDAY, FEBRUARY 12, 2001, 1:15 P.M.

2 * * * *

3

4 THE COURT: Case C159915, State of
5 Nevada versus John Joseph Seka. The record will reflect
6 the presence of the defendant; his counsel, Mr. Kennedy
7 and Mr. Christiansen; Mr. Kane and Mr. Fattig present for
8 the State.

9 Ms. Clerk, would you call the roll of our
10 prospective jurors, please.

11 THE CLERK: Richard Learn?

12 PROSPECTIVE JUROR LEARN: Here.

13 THE CLERK: Howard Starr?

14 PROSPECTIVE JUROR STARR: Here.

15 THE CLERK: Denise Michaelides?

16 PROSPECTIVE JUROR MICHAELIDES: Here.

17 THE CLERK: Georgina Corona?

18 PROSPECTIVE JUROR CORONA: Here.

19 THE CLERK: James Garvin?

20 PROSPECTIVE JUROR GARVIN: Here.

21 THE CLERK: Antonina Clark?

22 PROSPECTIVE JUROR CLARK: Here.

23 THE CLERK: Lupe Schoeb?

24 PROSPECTIVE JUROR SCHOEB: Here.

25 THE CLERK: Susan Arebalo?

1 PROSPECTIVE JUROR AREBALO: Here.
2 THE CLERK: Daniel Matty?
3 PROSPECTIVE JUROR MATTY: Here.
4 THE CLERK: Lorri Gray?
5 PROSPECTIVE JUROR GRAY: Here.
6 THE CLERK: Ty Lawrence?
7 PROSPECTIVE JUROR LAWRENCE: Here.
8 THE CLERK: Darcy Clinton?
9 PROSPECTIVE JUROR CLINTON: Here.
10 THE CLERK: Kevin Neal?
11 PROSPECTIVE JUROR NEAL: Here.
12 THE CLERK: Marian McCoy?
13 PROSPECTIVE JUROR MCCOY: Here.
14 THE CLERK: Gretchen King?
15 PROSPECTIVE JUROR KING: Here.
16 THE CLERK: Jamila Pierson?
17 PROSPECTIVE JUROR PIERSON: Here.
18 THE CLERK: Eric Koppel?
19 PROSPECTIVE JUROR KOPPEL: Here.
20 THE CLERK: Paul Brown?
21 PROSPECTIVE JUROR BROWN: Here.
22 THE CLERK: Carmelita Camacho?
23 PROSPECTIVE JUROR CAMACHO: Here.
24 THE CLERK: Melvin Nelson?
25 PROSPECTIVE JUROR NELSON: Here.

1 THE CLERK: Trudy Reeves?
2 PROSPECTIVE JUROR REEVES: Here.
3 THE CLERK: Bryce Hardy?
4 PROSPECTIVE JUROR HARDY: Here.
5 THE CLERK: Monta Hafen?
6 PROSPECTIVE JUROR HAFEN: Here.
7 THE CLERK: Timothy Thomas?
8 PROSPECTIVE JUROR THOMAS: Here.
9 THE CLERK: Barbara Kwiatkoski?
10 PROSPECTIVE JUROR KWIATKOSKI: Here.
11 THE CLERK: Cindy Weber?
12 PROSPECTIVE JUROR WEBER: Here.
13 THE CLERK: David Cacci
14 PROSPECTIVE JUROR CACCI: Here.
15 THE CLERK: Paul Kanala?
16 PROSPECTIVE JUROR KANALA: Here.
17 THE CLERK: Justin Carrington?
18 PROSPECTIVE JUROR CARRINGTON: Here.
19 THE CLERK: Patrick Carter?
20 PROSPECTIVE JUROR CARTER: Here.
21 THE CLERK: Jack Todd?
22 PROSPECTIVE JUROR TODD: Here.
23 THE CLERK: Mary Cuttrell?
24 PROSPECTIVE JUROR CUTTRELL: Here.
25 THE CLERK: Raquel Evanovich?

1 PROSPECTIVE JUROR EVANOVICH: Here.
2 THE CLERK: June Craig?
3 PROSPECTIVE JUROR CRAIG: Here.
4 THE CLERK: Michelle Pro?
5 PROSPECTIVE JUROR PRO: Here.
6 THE CLERK: Shari Custard?
7 PROSPECTIVE JUROR CUSTARD: Here.
8 THE CLERK: Eric Zuck?
9 PROSPECTIVE JUROR ZUCK: Here.
10 THE CLERK: Laura Williams?
11 PROSPECTIVE JUROR WILLIAMS: Here.
12 THE CLERK: Robert Defrank?
13 PROSPECTIVE JUROR DEFRANK: Here.
14 THE CLERK: Evelyn Kanipe?
15 PROSPECTIVE JUROR KANIPE: Here.
16 THE CLERK: Scott Saunders?
17 PROSPECTIVE JUROR SAUNDERS: Here.
18 THE CLERK: Daniel Brown?
19 PROSPECTIVE JUROR BROWN: Here.
20 THE CLERK: Linda Gilleard?
21 PROSPECTIVE JUROR GILLEARD: Here.
22 THE CLERK: Thaddeus Pridgen?
23 PROSPECTIVE JUROR PRIDGEN: Here.
24 THE CLERK: Violeta Viray?
25 PROSPECTIVE JUROR VIRAY: Here.

1 THE CLERK: Your Honor, the panel is
2 present.

3 THE COURT: Very good. Will State's
4 counsel introduce themselves and indicate the nature of
5 the charges in this case and list of witnesses you propose
6 calling.

7 MR. KANE: Thank you, Your Honor.

8 Good afternoon, ladies and gentlemen. My
9 name is Ed Kane. I'm a Deputy District Attorney. Tim
10 Fattig who is seated at the table with me is also a Deputy
11 District Attorney.

12 We will be presenting to you the evidence on
13 behalf of the State of Nevada in a case that's entitled
14 State of Nevada versus John Joseph Seka. The charges are
15 murder with use of a deadly weapon, and robbery with use
16 of a deadly weapon.

17 There are two separate homicides charged.
18 The first is the killing of Eric Hamilton with a firearm
19 and, again, these are only charges, killing Eric Hamilton
20 with a firearm between November the 10th and November the
21 16th of 1998.

22 The second is the murder of Peter Limanni,
23 L-i-m-a-n-n-i, with a firearm between November 5th and
24 December the 23rd, 1998. Counts III and IV are associated
25 robbery charges involving each of these same victims.

1 We'll be calling a number of witnesses, and
2 I'm going to read you a rather lengthy list. We may not
3 call all of these people, but the reason that you hear all
4 of their names is, so that when the judge asks you if you
5 know anyone connected with the case, you can keep these
6 names in mind. If any of them sound familiar, speak up
7 with the judge asks you.

8 The first group that I'm going to read you
9 are all police officers, and I'll tell you what part of
10 the Police Department they work in so you can know if they
11 might be people that are known to you:

12 David Welch from the crime lab; Thomas
13 Thowsen, T-h-o-w-s-e-n, from homicide; David Rufino from
14 the crime lab; Alan Cabrales from Patrol; Ken Hefner from
15 homicide; Randall McPhail from the crime lab; James
16 Buczek, B-u-c-z-e-k from homicide; Gary Reed from the
17 crime lab; David Lemaster from the crime lab; Torey
18 Johnson, a firearms expert; Robert Croll, a patrol
19 officer; Fred Boyd, a fingerprint expert with the crime
20 lab; Richard Nogues, N-o-g-u-e-s, a patrol officer; Vince
21 Roberts with the crime lab; and Jeff Smink S-m-i-n-k with
22 the crime lab.

23 In addition, we'll be calling a couple of
24 personnel from the San Bernardino County Police
25 Department. One of these bodies was found just over the

1 State line in California, and they assisted in the
2 investigation there:

3 Detective Ken Wolfe from the San Bernardino
4 Sheriff's Office Homicide Detail; Rick Houle, H-o-u-l-e, a
5 fingerprint technician in San Bernardino; and Steven
6 Trenkle, T-r-e-n-k-l-e, a Medical Doctor who is with the
7 San Bernardino County Coroner's Office; Dr. Gyles Sheldon
8 Green with the Clark County Coroner's Office will also
9 testify.

10 The remaining names that I'm going to read
11 to you are all nonpolice officers, but people who will be
12 giving some sort of information in connection with the
13 case:

14 Michael Stanish; Michael Cerda, C-e-r-d-a;
15 Jennifer Harrison; Takeo, T-a-k-e-o, last name Kato,
16 K-a-t-o; Carl Bell; Sharleen and Michelle Hamilton; Peter
17 Borden; Thomas Creamer, and that's spelled C-r-e-a-m-e-r;
18 Jeff Lowry; Steve Limanni; Diane Limanni Tomasovich; Peggy
19 Eichorn; and Rick Ferguson. Thank you.

20 THE COURT: Thank you, Mr. Kane.

21 Will Defense counsel introduce themselves,
22 please, and their client.

23 MR. KENNEDY: Thank you, Your Honor.

24 Ladies and gentlemen, my name is Kirk
25 Kennedy. I'm an attorney here in Las Vegas. This is my

1 client, Joe Seka.

2 MR. CHRISTIANSEN: My name is Pete
3 Christiansen. I'm a court-appointed attorney for
4 Mr. Seka.

5 THE COURT: Thank you, gentlemen.

6 Good afternoon, ladies and gentlemen. I'm
7 Judge Donald Mosley. You've been summoned to Department
8 XIV of the Eighth Judicial District Court to hear the
9 matter of State versus John Joseph Seka.

10 Did you have occasion to observe a film
11 that's typically shown? I will not repeat then what is
12 said there.

13 Ms. Clerk, will you swear our potential
14 jurors.

15 (Whereupon, the potential jurors
16 were sworn by the clerk.)

17 THE COURT: Ladies and gentlemen, I'm
18 going to begin the questioning process by inquiring of you
19 as a group, and we can begin somewhat informally. And by
20 that I mean, that should a question arise in your mind, or
21 you believe that perhaps some information should be
22 imparted to the Court as a result of a question I ask you,
23 you can do so.

24 If you raise your hand and if you call on
25 you, when I call on you, if you would rise and indicate

1 the number on your badge and your name, we can have
2 something of a discussion back and forth.

3 And so I want you to feel free in that
4 regard. The reasoning behind it is that is preferable not
5 to have you wait until halfway through the trial to
6 mention that perhaps you did recognize one of the names
7 that Mr. Kane read as a witness, or you did know something
8 about the case that should be discussed.

9 So we want to try to clear any confusion or
10 anything like that early on. So please feel free to
11 respond my questions. You will not have this luxury later
12 in the proceedings.

13 Are any of you acquainted with the defendant
14 in this case, John Joseph Seka in the sweater there?

15 Are any of you acquainted with Mr. Kirk
16 Kennedy, his attorney?

17 Would you stand, please, and give me your
18 name and number?

19 PROSPECTIVE JUROR MICHAELIDES: Badge
20 No. 23, Denise Michaelides, and I'm opposing counsel on a
21 civil matter with Mr. Kennedy.

22 THE COURT: You are an attorney?

23 PROSPECTIVE JUROR MICHAELIDES: Yes.

24 THE COURT: And you are on a civil case
25 with Mr. Kennedy?

1 PROSPECTIVE JUROR MICHAELIDES: Opposing
2 counsel.

3 THE COURT: Do you recognize --

4 MR. KENNEDY: Her and I have never
5 actually met. We spoke on the phone a week or two ago.
6 We have a civil case together. I'd like to keep her.

7 THE COURT: You've never met then? Is
8 that what you're saying?

9 PROSPECTIVE JUROR MICHAELIDES: We've
10 never met, Your Honor. It's a matter that's likely to
11 settle in the very near future.

12 THE COURT: Let me ask you this: I
13 will use this opportunity, Mrs. Michaelides, to make two
14 points. First of all, ladies and gentlemen, please do not
15 surmise that there is a correct answer to a question I
16 ask. Don't try to anticipate what you think I want to
17 hear because, honestly, there is no correct answer to
18 these questions. I just want a very candid response.

19 Secondly, I will on occasion, depending on
20 the circumstances, as I am about to in the case of
21 Mrs. Michaelides, ask you, can you be fair under whatever
22 circumstance we're discussing? In this instance, we have
23 two attorneys that are somewhat connected with each other
24 officially, but don't know each other.

25 What I'm asking you to do when I ask that

1 question, is to in your mind consider sitting here in the
2 week or two it may take to resolve this matter, hearing
3 the evidence, going together at some point to the room
4 behind me and deliberating, discussing matter, coming back
5 out and making a decision.

6 Can you do that fairly under whatever
7 circumstance is being presented? And it calls upon you to
8 do a little soul searching because, honestly, you are the
9 only ones that have the answers to that. The attorneys
10 and I don't know if you can really be fair.

11 So I guess what I'm asking you, Mrs.
12 Michaelides, do you feel comfortable or uncomfortable
13 under these circumstances?

14 PROSPECTIVE JUROR MICHAELIDES: I feel
15 comfortable to be candid, Your Honor. I came into the
16 case after another attorney had handled it. The only
17 contact I've had with Mr. Kennedy in writing or on the
18 telephone has been maybe a sum total of five minutes of
19 telephone conversations.

20 THE COURT: Now, let me ask you while I
21 have you here to discuss the matter, do you handle
22 criminal matters?

23 PROSPECTIVE JUROR MICHAELIDES: I do
24 not, Your Honor. I handle primarily large commercial
25 matters.

1 THE COURT: So do you feel you can be
2 fair in this case?

3 PROSPECTIVE JUROR MICHAELIDES: From
4 what I've heard so far, yes.

5 THE COURT: Anyone else that knows
6 Mr. Kennedy, perhaps?

7 Does anyone know Peter Christiansen?

8 Are any of you acquainted with either of
9 Deputy District Attorneys, Mr. Ed Kane, who addressed you,
10 and Mr. Tim Fattig?

11 Do any of you believe that you are
12 acquainted with any of the witnesses whose names were read
13 to you by Mr. Kane? And we can repeat that list and we
14 can give you something of a physical description. We can
15 ferret through this somewhat if you feel that any of those
16 names are familiar.

17 Would you stand, please, and give us your
18 name and number?

19 PROSPECTIVE JUROR GARVIN: Juror
20 No. 26, James Garvin. Officer Croll. I work for the
21 Street Department for the City of Las Vegas, and on
22 occasion he has investigated vehicle accidents which we've
23 had to go in and clean up after. That's the only
24 association I know of him.

25 THE COURT: And you've discussed

1 matters there at the scene with him on occasion?

2 PROSPECTIVE JUROR GARVIN: Yeah, just
3 typical question, what happened, and that type of thing as
4 we clean up oil spills, glasses, and stuff like that.

5 THE COURT: So you don't know him
6 socially?

7 PROSPECTIVE JUROR GARVIN: No.

8 THE COURT: Do you think if he were to
9 testify that you would evaluate his testimony any
10 differently than you would someone that you perhaps don't
11 know?

12 PROSPECTIVE JUROR GARVIN: Being a
13 police officer and knowing what he does, yeah, probably
14 take his word.

15 THE COURT: Let me ask you this: I'm
16 trying to determine your relationship with the person.
17 Would you interpret his testimony any differently you
18 would any other police officer?

19 PROSPECTIVE JUROR GARVIN: No, I don't
20 think so.

21 THE COURT: Is there anything about his
22 character that you're aware of that would cause you to
23 believe he's more likely to tell the truth, or perhaps not
24 tell the truth than anyone else in particular?

25 PROSPECTIVE JUROR GARVIN: No.

1 THE COURT: Do you think that should he
2 testify, you could render a fair decision in this case?

3 PROSPECTIVE JUROR GARVIN: Yes.

4 THE COURT: Do you see a problem at
5 all, sir?

6 PROSPECTIVE JUROR GARVIN: No.

7 THE COURT: Thank you, sir. Anyone
8 else? Yes, ma'am, your name and number please?

9 PROSPECTIVE JUROR: Juror No. 47, Monta
10 Hafen. We have a family acquaintance with Ken Hefler.

11 THE COURT: Is that an officer?

12 MR. KANE: It's Hefner with homicide,
13 Judge.

14 THE COURT: How long have you known
15 Officer Hefner?

16 PROSPECTIVE JUROR HAFEN: Oh; probably
17 20 years or more.

18 THE COURT: All right. And how do you
19 know this individual?

20 PROSPECTIVE JUROR HAFEN: He married
21 one of our neighbors' daughters.

22 THE COURT: And how often would you say
23 you see this person?

24 PROSPECTIVE JUROR HAFEN: I don't see
25 him real often. I see his wife a little bit, not often.

1 I see her father quite often.

2 THE COURT: So would it be weekly you
3 might see the father, or monthly?

4 PROSPECTIVE JUROR HAFEN: I see the
5 father weekly. The wife of Ken, I don't see her really
6 often, maybe once a week or something.

7 THE COURT: And Mr. Hefner himself, how
8 often do you see him?

9 PROSPECTIVE JUROR HAFEN: Not real
10 often, but I know him.

11 the court: Have you been out socially
12 with Officer Hefner?

13 PROSPECTIVE JUROR HAFEN: No, I have
14 not.

15 THE COURT: Do you think you can
16 maintain an objective view of this case notwithstanding
17 his testimony, or do you think it might cause you to be
18 biased one way or the other?

19 PROSPECTIVE JUROR HAFEN: No. I think
20 I can be fair.

21 THE COURT: Thank you very much.

22 Anyone else, please? Yes, sir?

23 PROSPECTIVE JUROR CARTER: 55, Ed
24 Carter. I am currently employed at the Western Hotel
25 Casino as head of security. I happen to know quite a few

1 Metro officers with the Downtown Area Command, and I met
2 Sergeant Wolfe of the San Bernardino County, a detective,
3 once about three years ago for five minutes.

4 THE COURT: And the officers that you
5 are acquainted with, were any of them listed as witnesses?

6 PROSPECTIVE JUROR CARTER: I'm not sure
7 of the names, sir. We deal with approximately five or six
8 different bodies; Metro Homicide, Metro detectives, and
9 street officers.

10 MR. KANE: Officers Croll and Nogues
11 work Downtown Area Command.

12 THE COURT: Those names are not
13 familiar to you?

14 PROSPECTIVE JUROR CARTER: Officer
15 Croll I do know by name, but only see him once in a while
16 when he's in the area.

17 THE COURT: If these individuals would
18 testify, some of the people that responded to your hotel,
19 do you think you could evaluate their testimony
20 objectively, or do you think you would have a tendency to
21 believe or disbelieve some of the things they might say by
22 virtue of your knowledge of them?

23 PROSPECTIVE JUROR CARTER: Objectively.

24 THE COURT: Now, this Detective Wolfe,
25 you say you know that person?

1 PROSPECTIVE JUROR CARTER: I met him
2 one time approximately two-and-a-half years ago for about
3 ten or fifteen minutes in another case.

4 THE COURT: The same thing with him, do
5 you think you could evaluate his testimony objectively, or
6 do you think not?

7 PROSPECTIVE JUROR CARTER: I think so,
8 sir. I only met him five minutes. I got some paperwork
9 for him, that's it.

10 THE COURT: Let me again seize upon an
11 opportunity here to make a point. When I asked you, as I
12 have, can you evaluate his testimony objectively, what
13 we're saying here in essence is this: Is there something
14 about a particular potential witness that you know about
15 that would tend to cause you to either give more credence
16 to his testimony or her testimony, because you think that
17 person is an honest person and your relationship with that
18 person suggests that he is honest, or she is?

19 Or the converse, maybe you know something
20 about the person that you just wouldn't believe anything
21 they say, kind of thing. See, we don't know that when you
22 first come into the courtroom. And so that's what I am
23 essentially asking, is there anything about this person
24 that would cause you to believe or disbelief, necessarily,
25 the testimony?

1 PROSPECTIVE JUROR CARTER: No, sir.

2 THE COURT: Can you be a fair juror?

3 PROSPECTIVE JUROR: Yes, sir.

4 THE COURT: Thank you, sir.

5 Anyone else? And, again, we can repeat the
6 names or give you whatever information we might have
7 available.

8 Mr. Kane, could I ask you to relate to the
9 jury just a short synopsis of what is alleged in the way
10 of when and where some of these things occurred? I'm
11 going ask you, ladies and gentlemen, if you think you read
12 or heard about this case before coming into court today,
13 and I have no idea of how many coverage in the media it
14 might have been given.

15 MR. KANE: Ladies and gentlemen, the
16 time frame that's involved here is November and December
17 of 1998. And, basically, what you'll hear along with the
18 opening statement later, Mr. Limanni, one of the victims
19 was in business with Mr. Seka, either as
20 employer/employee, or partners in a business that they
21 were putting together. And that was located at 1933
22 Western Avenue here in Las Vegas.

23 On November the 17th -- well, on November
24 the 16th a body is found in the desert outside of town
25 along Las Vegas Boulevard, and it's later identified as

1 Eric Hamilton who is a transient.

2 On November the 17th, police are called to
3 1929 Western Avenue, the business next door to the
4 business where Mr. Seka and Limanni were. They find
5 broken window, blood stains that's all eventually
6 identified to Mr. Hamilton.

7 In the meantime they try and contact
8 Mr. Limanni and he turns out to be missing. His body is
9 found on December the 23rd, 1998, again, in a shallow
10 grave alongside the highway, but this time just over the
11 state line into California.

12 And we will be presenting forensic evidence
13 in the form of blood and fingerprints to tie these two
14 homicides to the premises at 1933 Western Avenue. But,
15 again, the time frame is November/December of 1998.
16 You've heard the people involved. And the business that
17 Mr. Seka and Mr. Limanni were involved in was a business
18 called Cinergi, C-i-n-e-r-g-i, and it was HV/AC, heating,
19 ventilation and air conditioning installation and repair
20 company.

21 THE COURT: Thank you, Mr. Kane.

22 THE COURT: With that information,
23 ladies and gentlemen, realizing it's scant information, do
24 any of you feel that you may have read or heard about this
25 case before coming to court today? Anyone?

1 Is there anyone that believes that for
2 whatever reason you could not serve as a fair juror in
3 this particular case, and that you might be reassigned to
4 another trial currently being conducted? Anyone?

5 The next question I always preface by
6 indicating to you that there are statutorily provided
7 bases for excusal from jury duty, but they are very slim,
8 very particular, most of them antiquated. But there are
9 some bases for excusal.

10 Now, this trial will last two weeks,
11 programs just a little beyond two weeks. Would serving
12 that length of time be an undue burden to any one of you,
13 and that you think I might come within one of the very
14 limited bases for excusal that are statutorily provided?

15 Yes, ma'am?

16 PROSPECTIVE JUROR WEBER: Badge 50,
17 Cindy Weber. I'm a teacher at Nate Mack Elementary
18 School. I have autistic kids. I have kids that have
19 seizures, and I really can't afford to be away from the
20 class that long. They need my one-on-one attention, and I
21 think it would probably put the kids at risk with me being
22 away that long.

23 THE COURT: Well, do you have
24 substitute today?

25 PROSPECTIVE JUROR WEBER: Uh-huh.

1 THE COURT: Is there any reason why a
2 substitute wouldn't be available for the rest of the
3 period of time?

4 PROSPECTIVE JUROR WEBER: Right. She
5 can be available. I have a new aide that just came on
6 board today. It's her first day. She has no training for
7 seizures or anything.

8 THE COURT: Well, you have a nurse
9 there at the school, right?

10 PROSPECTIVE JUROR WEBER: Yes.

11 THE COURT: Miss Weber, employment
12 situations are not typically a basis for excusal, with the
13 exception of, certainly, a surgeon who is involved in
14 life-saving operations, or some of the things like a
15 locomotive engineer, to show you how antiquated they are.

16 But there really is no basis for a work
17 situation, so I'm going to have to ask you to remain.

18 Yes, sir, in the back?

19 PROSPECTIVE JUROR PRIDGEN: Badge 69.
20 My name is Thaddeus Pridgen.

21 THE COURT: Yes, sir?

22 PROSPECTIVE JUROR PRIDGEN: On
23 Wednesday the 14th, I have an appearance in traffic court.

24 THE COURT: I'll get you a continuance.

25 PROSPECTIVE JUROR PRIDGEN: If the

1 trial goes to the end of the month, my wife has to attend
2 a seminar in Washington DC for her job, and I will be a
3 single parent with my daughter.

4 THE COURT: When does your wife leave?

5 PROSPECTIVE JUROR PRIDGEN: She leaves
6 the 25th of February.

7 THE COURT: I can't absolutely
8 guarantee that we will be finished by the two weeks, it
9 might be just a little bit over that. Now, so everyone
10 understands, we will be conducting court between 1:00 and
11 5:00 as far as these trials are concerned. I have a
12 morning calendar that is just horrendous, and there's no
13 way we can bring you in earlier in most cases. So 1:00 to
14 5:00. Is your child in school?

15 PROSPECTIVE JUROR PRIDGEN: She's in
16 day care.

17 THE COURT: How old is your child?

18 PROSPECTIVE JUROR PRIDGEN: Six years
19 old.

20 THE COURT: Wouldn't she be in
21 kindergarten?

22 PROSPECTIVE JUROR PRIDGEN:
23 Kindergarten; yes sir. She didn't make the cut-off to go
24 to school.

25 THE COURT: So she's a half day

1 kindergarten and then goes --

2 PROSPECTIVE JUROR PRIDGEN: She's a
3 full day kindergarten school, day care.

4 THE COURT: When does she get out of
5 day care?

6 PROSPECTIVE JUROR PRIDGEN: She has to
7 be picked up by 6:00 or 6:30, sir.

8 THE COURT: Well, you could put her in
9 the morning, be here at 1:00 o'clock, and you get out by
10 5:00 to go and get her.

11 PROSPECTIVE JUROR PRIDGEN: No problem.

12 THE COURT: Thank you very much.

13 Anyone else?

14 PROSPECTIVE JUROR NEAL: Bade No. 36,
15 may name is Kevin Neal. I'm going to Alaska tomorrow.

16 THE COURT: You mean you think you're
17 going to Alaska.

18 PROSPECTIVE JUROR NEAL: I have a job
19 lined up on a fishing boat up there, and I was supposed to
20 go.

21 THE COURT: How long will you be gone?

22 PROSPECTIVE JUROR NEAL: Three months.

23 THE COURT: Counsel, approach the
24 bench, please.

25 (Whereupon, counsel conferred with the Court.)

1 THE COURT: When do you intend to be
2 back here, sir, roughly?

3 PROSPECTIVE JUROR NEAL: Roughly in
4 about three months.

5 THE COURT: So the 1st of May or so you
6 would be available?

7 PROSPECTIVE JUROR NEAL; Yes.

8 THE COURT: Let me explain something to
9 you and to all present. There is no, as I indicated, no
10 basis for excusal for employment. I have on occasion
11 deemed it proper, I suppose you could say, that I would
12 exercise what might be considered the inherent power of
13 the Court to administer these proceedings, and continue
14 jury service, in your instance it would be May or
15 thereabouts.

16 It's a kind of a gray area. I don't know if
17 I really have the authority to do it. I want you to know
18 that I don't do it often. But I want you, sir, to go down
19 to the Jury Commissioner and indicate to her that I have
20 continued your service past the three-month period.

21 Anyone else?

22 PROSPECTIVE JUROR GILLEARD: No. 68,
23 Gilleard. I'm a single parent, and my daughter is having
24 surgery on her right arm on February 23rd. I'm the only
25 family member in town. She's 17 years old, she was in an

1 automobile accident and is scheduled for about a month now
2 with Dr. Rosen to remove rods from her arm.

3 THE COURT: Does she live at home?

4 PROSPECTIVE JUROR GILLEARD: Uh-huh,
5 yes.

6 THE COURT: Counsel approach the bench,
7 please.

8 (Whereupon, counsel conferred with the Court.)

9 THE COURT: Ms. Gilleard, counsel and I
10 think we might continue your service. If you would
11 explain to the Jury Commissioner your situation and
12 arrange something thereafter. Good luck with your
13 daughter.

14 PROSPECTIVE JUROR GILLEARD: Thank you.

15 THE COURT: Is there another?

16 Yes, ma'am?

17 PROSPECTIVE JUROR AREBALO: No. 31,
18 Susan Arebalo. I am single and take care of my
19 89-year-old father. And even though I do work, I have
20 provisions at work that when he needs something at home I
21 can get off and go. And there's -- most of the time I run
22 home to feed him at lunchtime if I can't get someone else
23 to do it, or if there is something else that needs to be
24 taken care of.

25 THE COURT: Well, would being here

1 between 1:00 and 5:00, would that present a problem?

2 PROSPECTIVE JUROR AREBALO: I will do
3 what you want. I'm just telling you there's a problem
4 during the day at times.

5 THE COURT: Where does he live? How
6 far from the court house does your father live? He lives
7 with you, right? How far away is that?

8 PROSPECTIVE JUROR AREBALO: From here
9 about 20, 25 minutes.

10 THE COURT: We would be in session, as
11 I say, between 1:00 and 5:00, and we would take a break at
12 about 3:30, typically, where you could make a call. If it
13 will assist you, I will allow you to have my secretary's
14 number if there's some kind of urgency.

15 PROSPECTIVE JUROR AREBALO: I'll try
16 it.

17 THE COURT: Anyone else? Yes, sir?

18 PROSPECTIVE JUROR BROWN: Badge No. 67,
19 Daniel R. Brown.

20 THE COURT: Yes, sir?

21 PROSPECTIVE JUROR BROWN: I'm in the
22 last semester of a Master's Degree program at UNLV. My
23 class meets Wednesdays at 4:15 to about 6:30. It's
24 possible I can miss an hour of class for three weeks, as
25 long as I get a B or better in the class.

1 THE COURT: Well, obviously you can't
2 miss part of the court and what's going on here. Do you
3 suppose you could come in late those two Wednesdays?

4 PROSPECTIVE JUROR BROWN: As long as it
5 doesn't count against me.

6 THE COURT: I don't know how the
7 professor is going to look at it. I will certainly give
8 you confirmation to take to the professor that you are
9 here.

10 And just as an aside, there is definitely
11 law in the State of Nevada which prohibits an employer
12 from holding an employee in ill-repute, or in some way
13 disadvantage that person because of their jury service.

14 Now, this is a little different situation,
15 but I have no problem in accommodating as best I can. I
16 will confirm that you are here, and I will give you a copy
17 of that statute, if the instructor is interested. Thank
18 you, Mr. Brown.

19 Anything further?

20 Ms. Clerk, will you call 12 names.

21 THE CLERK: Badge No. 65, Evelyn
22 Kanipe, K-a-n-i-p-e; Badge No. 24, Georgina Corona,
23 C-o-r-o-n-a; Badge No. 64, Robert Defrank, D-e-f-r-a-n-k;
24 Badge No. 33, Lorri Gray, G-r-a-y; Badge No. 34, Ty
25 Lawrence, L-a-w-r-e-n-c-e; Badge No. 31, Susan Arebalo,

1 A-r-e-b-a-l-o; Badge No. 46, Bryce Hardy, H-a-r-d-y; Badge
2 No. 37, Marian McCoy, M-c-C-o-y; Badge No. 45, Trudy
3 Reeves, R-e-e-v-e-s; Badge No. 55, Patrick Carter,
4 C-a-r-t-e-r; Badge No. 47, Monta Hafen, H-a-f-e-n; Badge
5 No. 23, Denise Michaelides, M-i-c-h-a-e-l-i-d-e-s.

6 Your Honor, that's 12 prospective jurors.

7 THE COURT: Very well. Ladies and
8 gentlemen, you who have not been called, let me suggest
9 that you follow along in the questioning process as I
10 inquire of these individuals, because our procedures are
11 such that it's very likely some of you will be asked to
12 replace some of the individuals who have been initially
13 called. And should that occur, the questions I am asking
14 them would be asked of you, so you might consider how you
15 would respond.

16 Ladies and gentlemen, again, addressing you
17 has a group, have any of you served as a juror before?

18 Back row. Is it Miss or Mrs. Gray?

19 PROSPECTIVE JUROR GRAY: Mrs.

20 THE COURT: How long ago, Mrs. Gray,
21 was it that you served?

22 PROSPECTIVE JUROR GRAY: About three
23 years ago.

24 THE COURT: Was it here in Clark
25 County?

1 PROSPECTIVE JUROR GRAY: Yes.
2 THE COURT: Was it a civil or criminal
3 case?
4 PROSPECTIVE JUROR GRAY: Civil.
5 THE COURT: Did you reach a verdict?
6 PROSPECTIVE JUROR GRAY: Yes.
7 THE COURT: Were you the foreman of the
8 jury?
9 PROSPECTIVE JUROR GRAY: No.
10 THE COURT: On the back row, anyone
11 else? The front row. Is it Miss or Mrs. Reeves?
12 PROSPECTIVE JUROR REEVES: Mrs.
13 THE COURT: How long ago was it, ma'am,
14 that you served?
15 PROSPECTIVE JUROR REEVES: It was about
16 four years ago.
17 THE COURT: Here in Clark County?
18 PROSPECTIVE JUROR REEVES: Yes.
19 THE COURT: Was it a civil or criminal
20 case?
21 PROSPECTIVE JUROR REEVES: Civil.
22 THE COURT: Did you reach a verdict?
23 PROSPECTIVE JUROR REEVES: Yes, we did.
24 THE COURT: Were you the foreman of the
25 jury?

1 PROSPECTIVE JUROR REEVES: No, I
2 wasn't.

3 THE COURT: Mr. Carter?

4 PROSPECTIVE JUROR CARTER: About ten
5 years ago, sir, criminal case. I was an alternate there.

6 THE COURT: So you heard the case but
7 you didn't go into the jury room to deliberate; is that
8 right?

9 PROSPECTIVE JUROR CARTER: Right.

10 THE COURT: Anyone else? Those three
11 of you who responded, do you think that your past jury
12 service would in any way inhibit your ability to fairly
13 serve on this jury?

14 For the record, the response is to the
15 negative.

16 Again, returning to the group, are you or
17 any of your close friends or relatives involved in law
18 enforcement, or have you been in the past. Mr. Carter?

19 PROSPECTIVE JUROR CARTER: My
20 brother-in-law is a police officer in Michigan. The
21 godfather of my daughter is a close friend of mine, he is
22 DEA.

23 THE COURT: How long have you known
24 him?

25 PROSPECTIVE JUROR CARTER:

1 Approximately 20 years now.

2 THE COURT: And did you used to live
3 back there?

4 PROSPECTIVE JUROR CARTER: Yes, sir.

5 THE COURT: So did you see him quite
6 often when you lived back there?

7 PROSPECTIVE JUROR CARTER: Yes, sir.

8 THE COURT: Did you have occasion to
9 discuss his work with him?

10 PROSPECTIVE JUROR CARTER: Very rarely.

11 THE COURT: How long has it been since
12 you have seen him?

13 PROSPECTIVE JUROR CARTER: About a
14 year-and-a-half now.

15 THE COURT: And I take it you will see
16 him in the future?

17 PROSPECTIVE JUROR CARTER: Yes, sir.

18 THE COURT: When you would next see
19 him, do you think you would feel a compunction to explain
20 or justify your verdict to him?

21 PROSPECTIVE JUROR CARTER: No, sir.

22 THE COURT: Do you think his work and
23 what you know of it and your relationship to him would
24 affect your view this have case at all?

25 PROSPECTIVE JUROR CARTER: No, sir.

1 THE COURT: Do you believe, candidly,
2 that you can be a fair juror, sir?

3 PROSPECTIVE JUROR CARTER: Yes, sir.

4 THE COURT: And is it Miss or
5 Mrs. Kanipe?

6 PROSPECTIVE JUROR KANIPE: Mrs.

7 THE COURT: Tell me, Mrs. Kanipe.

8 PROSPECTIVE JUROR KANIPE: I was
9 married to a Sheriff's Deputy in Illinois for 27 years.

10 THE COURT: And did you have occasion
11 to discuss his work with him?

12 PROSPECTIVE JUROR KANIPE: Off and on.

13 THE COURT: Was this a large city?

14 PROSPECTIVE JUROR KANIPE: No. I was
15 just a small town, a thousand people maybe.

16 THE COURT: You say you were married to
17 him?

18 PROSPECTIVE JUROR KANIPE: Yes.

19 THE COURT: You no longer are?

20 PROSPECTIVE JUROR KANIPE: No longer.

21 THE COURT: Do you think your
22 relationship with this man would affect your view of this
23 case, ma'am?

24 PROSPECTIVE JUROR KANIPE: No, I don't
25 believe so.

1 THE COURT: Do you think you can be a
2 fair juror?

3 PROSPECTIVE JUROR KANIPE: I believe.

4 THE COURT: Anyone else?

5 Mrs. Michaelides?

6 PROSPECTIVE JUROR MICHAELIDES: My
7 cousin by marriage is a sergeant, I believe, on Metro.
8 And my next door neighbor is a beat officer with Metro,
9 and I don't think that would in any way affect my ability
10 to be objective.

11 THE COURT: How often do you see these
12 individuals?

13 PROSPECTIVE JUROR MICHAELIDES: My next
14 door neighbor, probably three or four times a week. The
15 cousin by marriage, probably once a month.

16 THE COURT: When I say see, in the case
17 of the neighbor you can see when the car goes, and I guess
18 that's see.

19 PROSPECTIVE JUROR MICHAELIDES: We talk
20 fairly frequently.

21 THE COURT: Have you been to each
22 other's homes for dinner or things like that?

23 PROSPECTIVE JUROR MICHAELIDES: Yes.

24 THE COURT: When you would next see
25 that person, or the other for that matter, do you think

1 you would feel a compunction to explain or justify your
2 verdict to him?

3 PROSPECTIVE JUROR MICHAELIDES: No.

4 THE COURT: Do you think you can be a
5 fair juror?

6 PROSPECTIVE JUROR MICHAELIDES: Yes.

7 THE COURT: Anyone else? Mrs. Hafen?

8 PROSPECTIVE JUROR HAFEN: Yes.

9 THE COURT: Tell us, please.

10 PROSPECTIVE JUROR HAFEN: I know
11 several police officers with Metro, as well as with North
12 Las Vegas.

13 THE COURT: How do you know these
14 people?

15 PROSPECTIVE JUROR HAFEN: Through the
16 church.

17 THE COURT: Now, you mentioned the
18 other person that you knew. Taking these individuals
19 collectively, have you been in their homes, say, for
20 dinner, and their in yours?

21 PROSPECTIVE JUROR HAFEN: No.

22 THE COURT: Do you just see them at
23 church?

24 PROSPECTIVE JUROR HAFEN: I do.

25 THE COURT: And when you would next see

1 them you might discuss your jury service. Would that be
2 likely?

3 PROSPECTIVE JUROR HAFEN: I don't
4 really see them that often.

5 THE COURT: Well, I guess what I am
6 envisioning is, before or after church you don't typically
7 engage in conversation with them?

8 PROSPECTIVE JUROR HAFEN: No.

9 THE COURT: Do you think that the fact
10 that you go to church with these individuals will affect
11 you in any way in your evaluation of this case?

12 PROSPECTIVE JUROR HAFEN: No, I don't.

13 THE COURT: Honestly, do you think you
14 can be a fair juror?

15 PROSPECTIVE JUROR HAFEN: Yes.

16 THE COURT: Anyone else involved in law
17 enforcement in any way?

18 Have you or a close friend or family member
19 ever been a victim of crime? That includes household
20 burglaries, things of this nature.

21 In the back row, Mr. Defrank?

22 PROSPECTIVE JUROR DEFRANK: I work for
23 a slot company in Las Vegas, and I've been robbed twice.

24 THE COURT: What kind of weapons or
25 weapon

1 PROSPECTIVE JUROR DEFRANK:
2 Semiautomatic gun.
3 THE COURT: So both times with the gun?
4 PROSPECTIVE JUROR DEFRANK: Both times.
5 THE COURT: Were you harmed?
6 PROSPECTIVE JUROR DEFRANK: No.
7 THE COURT: Money was taken?
8 PROSPECTIVE JUROR DEFRANK: Yes.
9 THE COURT: And it was reported, I take
10 it, in each instance?
11 PROSPECTIVE JUROR DEFRANK: Oh, yes.
12 THE COURT: Was anyone caught?
13 PROSPECTIVE JUROR DEFRANK: Not that
14 I'm aware of.
15 THE COURT: Do you think those
16 occasions would in any way affect your ability to fairly
17 evaluate this case?
18 PROSPECTIVE JUROR DEFRANK: No, of
19 course, not.
20 THE COURT: You are aware that there is
21 a robbery alleged; is that right?
22 MR. KANE: Yes, Judge.
23 THE COURT: You are aware that two of
24 the charges are robbery?
25 PROSPECTIVE JUROR DEFRANK: I am aware

1 of that.

2 THE COURT: But notwithstanding, you
3 think you can fairly evaluate the facts of that which has
4 been suggested in this case?

5 PROSPECTIVE JUROR DEFRANK: I feel I
6 can.

7 THE COURT: Back row? Mrs. Gray?

8 PROSPECTIVE JUROR GRAY: As a child I
9 experienced abuse from my stepfather that eventually went
10 to a court setting.

11 THE COURT: Do you think that the
12 matter was handled appropriately by the authorities?

13 PROSPECTIVE JUROR GRAY: As best as it
14 could be handled, yeah.

15 THE COURT: Is there anything about the
16 event that would affect your view of this case?"

17 PROSPECTIVE JUROR GRAY: No, I don't
18 believe so.

19 THE COURT: Mr. Lawrence, tell us,
20 please.

21 PROSPECTIVE JUROR LAWRENCE: Yes. My
22 sister works at a bar that was robbed.

23 THE COURT: How long ago?

24 PROSPECTIVE JUROR LAWRENCE: It was
25 about two months ago, Your Honor.

1 THE COURT: You did have occasion to
2 discuss it with her, I take it?

3 PROSPECTIVE JUROR LAWRENCE: She
4 discussed it with me, yes.

5 THE COURT: Was it armed robbery?

6 PROSPECTIVE JUROR LAWRENCE: Yes, sir.

7 THE COURT: Was she actually held at
8 gunpoint?

9 PROSPECTIVE JUROR LAWRENCE: No.
10 Actually, she wasn't. She met them as they were -- she
11 was going out of the door as they were coming in, and she
12 called the police from outside.

13 THE COURT: Were these perpetrators of
14 the robbery caught?

15 PROSPECTIVE JUROR LAWRENCE: One of
16 them was, yes.

17 THE COURT: Do you think this event
18 would affect your view of this case?

19 PROSPECTIVE JUROR LAWRENCE: No, sir.

20 THE COURT: Do you think you can be a
21 fair juror, all things considered?

22 PROSPECTIVE JUROR LAWRENCE: Yes, sir.

23 THE COURT: Back row, anyone else?

24 Front row?

25 MR. KANE: Your Honor, might we

1 approach before your next question?

2 THE COURT: You may.

3 (Whereupon, counsel conferred with the Court.)

4 THE COURT: Mr. Lawrence, what was the
5 name of the bar?

6 PROSPECTIVE JUROR LAWRENCE: It was the
7 New 25 Club by the main gate of Nellis Air Force Base.

8 THE COURT: Well, Mr. Lawrence, I'm
9 told by counsel, coincidentally, that the counsel you see
10 here are essentially the attorneys that are going to be
11 handling the case that you're talking about with your
12 sister involved, and so it's just one of those things.

13 They think that because of the appearance,
14 and I agree, the appearance of possible impropriety, and
15 this is no reflection on you, please understand that. But
16 because of the circumstances, this is the case, and it
17 turns out it is, that you mentioned the bar. We had
18 stipulated that you would be excused in this matter.

19 So thank you very much, sir. And, again,
20 this is no reflection on you, believe me.

21 THE CLERK: Badge No. 26, James Garvin,
22 G-a-r-v-i-n.

23 THE COURT: Mr. Garvin, have you served
24 as a juror before?

25 PROSPECTIVE JUROR GARVIN: No.

1 THE COURT: Are you or any of your
2 close friends or relatives involved in law enforcement, or
3 have you been in the past?

4 PROSPECTIVE JUROR GARVIN: No.

5 THE COURT: Have you or a friend or a
6 family member ever been a victim of crime?

7 PROSPECTIVE JUROR GARVIN: Yes.

8 THE COURT: Tell me about that, please.

9 PROSPECTIVE JUROR GARVIN: About five
10 years ago I had my car -- they stole the wheels off my car
11 that was parked in the driveway one night.

12 THE COURT: Was it reported?

13 PROSPECTIVE JUROR GARVIN: Yes, it was.

14 THE COURT: Was anyone caught?

15 PROSPECTIVE JUROR GARVIN: Not to my
16 knowledge.

17 THE COURT: That was here in Clark
18 County?

19 PROSPECTIVE JUROR GARVIN: Yes, it was.

20 THE COURT: Do you think the
21 authorities handled the matter appropriately, or perhaps
22 not?

23 PROSPECTIVE JUROR GARVIN: They didn't
24 seem to think it was costly enough to report, other than
25 just for reporting over the phone.

1 THE COURT: Do you think that event
2 would in any way reflect on your ability to fairly serve
3 as a juror?

4 PROSPECTIVE JUROR GARVIN: No.

5 THE COURT: Can you be a fair juror,
6 sir?

7 PROSPECTIVE JUROR GARVIN: Yes.

8 THE COURT: Anyone else a victim of
9 crime? Ms. Reeves?

10 PROSPECTIVE JUROR REEVES: We had our
11 van stolen.

12 THE COURT: How long ago was that?

13 PROSPECTIVE JUROR REEVES: Probably
14 about five years ago.

15 THE COURT: Here in Clark County?

16 PROSPECTIVE JUROR REEVES: Yes.

17 THE COURT: Was it reported?

18 PROSPECTIVE JUROR REEVES: It was
19 reported and it was found.

20 THE COURT: Was anyone caught?

21 PROSPECTIVE JUROR REEVES: Not that I'm
22 aware of.

23 THE COURT: Do you think the
24 authorities treated the matter appropriately?

25 PROSPECTIVE JUROR REEVES: Yes, I do.

1 THE COURT: Anything about that that
2 would have any effect on your service as a juror?

3 PROSPECTIVE JUROR REEVES: No.

4 THE COURT: The next question, ladies
5 and gentlemen, contemplate what are known as jury
6 instructions, which is a rather lengthy group documents
7 that I will read to you near close of the case that will
8 give to you the law that you should apply to the case.

9 And the question very candidly is this:
10 Will you follow all the instructions of the Court on the
11 law, even though they may differ from your personal
12 conceptions of what the law ought to be?

13 Does anyone feel that they would have a
14 tendency to supply what they think would be a more
15 appropriate law, and not follow the law that I give you?
16 Please feel free to express that if you feel that.

17 The record will indicate there's no
18 response.

19 A person who is accused of committing a
20 crime is presumed to be innocent in a criminal trial. Do
21 each of you understand and agree with that?

22 Does anyone not?

23 THE COURT: Are you aware that the
24 defendant does not have to take the stand and testify or
25 offer any evidence if he chooses not to, and you can still

1 find him not guilty? That's because the burden is upon
2 the State to prove his guilt beyond a reasonable doubt.

3 Does everyone understand that? Ms. Arebalo?

4 PROSPECTIVE JUROR AREBALO: I just need
5 to let you know I can only hear half of what you're
6 saying?

7 THE COURT: I'm sorry. I will speak
8 up.

9 Ms. Arebalo and all present, are you aware
10 the defendant does not have to take the stand and testify
11 or offer any evidence if he chooses not to, and you can
12 still find him not guilty? That's because the burden is
13 upon the State to prove his guilt beyond a reasonable
14 doubt.

15 Does everyone understand and agree with
16 that? Does anyone not?

17 Have you or a close friend or family member
18 ever been involved in the criminal justice process, either
19 in prosecuting a case, or as a witness. Or as a
20 defendant? In the back, Mrs. Gray?

21 PROSPECTIVE JUROR GRAY: It was the
22 situation I told you about earlier.

23 THE COURT: You testified in that
24 matter?

25 PROSPECTIVE JUROR GRAY: My entire

1 family testified.

2 THE COURT: How hold were you at the
3 time you testified?

4 PROSPECTIVE JUROR GRAY: I was 14.

5 THE COURT: Is there anything else to
6 be said in that regard, ma'am?

7 PROSPECTIVE JUROR GRAY: No.

8 THE COURT: Ms. Reeves?

9 PROSPECTIVE JUROR REEVES: I was in a
10 car accident and I had to testify.

11 THE COURT: Was that a criminal matter?

12 PROSPECTIVE JUROR REEVES: No.

13 THE COURT: The question contemplates
14 criminal matters, but I appreciate you bringing it to
15 mind. Mr. Carter?

16 PROSPECTIVE JUROR CARTER: In my line
17 of work I testified against trespassers.

18 THE COURT: So have you testified on
19 occasion?

20 PROSPECTIVE JUROR CARTER: Yes, sir.

21 THE COURT: Would it be in Municipal
22 Court, or over here in District Court?

23 PROSPECTIVE JUROR CARTER: It was
24 municipal.

25 THE COURT: Anyone else?

1 Those of you who have responded, the three
2 of you, do you think the fact that you have had some
3 experience in that regard, would it affect your view of
4 this case?

5 For the record, the three indicate to the
6 negative.

7 At this point, is there any reason that you
8 feel you would be unable to serve as a fair juror in this
9 particular case?

10 Let me begin my individual questioning with
11 Mrs. Kanipe. Mr. Kanipe, will you tell us, please, of
12 your employment, the number of children you may have, and
13 how long you've lived in Clark County?

14 PROSPECTIVE JUROR KANIPE: I'm retired
15 I have three children, and I've lived Inn Clark County 15
16 years.

17 THE COURT: All. Right and the
18 approximately ages of your children?

19 PROSPECTIVE JUROR KANIPE: 44, 42, 32.

20 THE COURT: Are any of your children or
21 their spouses involved in a law-related occupation?

22 PROSPECTIVE JUROR KANIPE: No, sir.

23 THE COURT: Now, you are required from
24 what?

25 PROSPECTIVE JUROR KANIPE: Kmart.

1 THE COURT: How long did you work for
2 Kmart?
3 PROSPECTIVE JUROR KANIPE: Nine years.
4 THE COURT: Any other employment here
5 in Clark County?
6 PROSPECTIVE JUROR KANIPE: No.
7 THE COURT: Where did you move from
8 when the came here?
9 PROSPECTIVE JUROR KANIPE: Flora,
10 Illinois.
11 THE COURT: And were you employed
12 there?
13 PROSPECTIVE JUROR KANIPE: Yes; in a
14 nursing home.
15 THE COURT: How long did you work in
16 the nursing home?
17 PROSPECTIVE JUROR KANIPE: Ten years.
18 THE COURT: Any other work as an adult?
19 PROSPECTIVE JUROR KANIPE: Waitress,
20 nursing homes, odds and ends.
21 THE COURT: Where are you from
22 originally?
23 PROSPECTIVE JUROR KANIPE: Toledo,
24 Ohio.
25 THE COURT: And your husband at the

1 time of your marriage was involved in what type of
2 occupation?

3 PROSPECTIVE JUROR KANIPE: My first
4 husband was the law officer. My second husband is a cab
5 driver.

6 THE COURT: The next question,
7 Mrs. Kanipe, deserves a little explanation because it's a
8 difficult question to understand, I think. The question
9 is: Have you any prejudice as to the nature of the
10 charges in this case?

11 And I always give a little example of what
12 that means. Let's assume for discussion purposes that we
13 have a charge of possession of marijuana. Let's say you
14 were a jury and we have a charge of possession of
15 marijuana, and you're an individual who believes that
16 perhaps marijuana should be legalized. You've heard that
17 argument made?

18 PROSPECTIVE JUROR KANIPE: Yes.

19 THE COURT: So if you believed that
20 marijuana should be legalized and you're here to pronounce
21 judgment on someone eventually that is charged with
22 possession of marijuana, you can see that the nature of
23 the charge might well have some bearing on your decision.

24 Do you follow that so far?

25 PROSPECTIVE JUROR KANIPE: Yes.

1 THE COURT: On the other end of the
2 spectrum, we might have one of these situations where we
3 have a little infant that's down in the dumpsters, and is
4 something that's just so appalling that you're going to
5 strike a blow for justice.

6 And so you might be inclined to find someone
7 guilty just because of the nature of the charge, because
8 you're so inflamed that a child would be treated in such a
9 manner. Do you follow that?

10 PROSPECTIVE JUROR KANIPE: Yes, sir.

11 THE COURT: So the question -- and I
12 might tell you as you heard the Prosecutor indicate, there
13 are two charges of robbery and two charges of murder here.

14 The question is, do you have any prejudice
15 as to the nature of those charges?

16 PROSPECTIVE JUROR KANIPE: No.

17 THE COURT: Do you know any of the
18 other prospective jurors?

19 PROSPECTIVE JUROR KANIPE: No.

20 THE COURT: Have you any racial
21 prejudice?

22 PROSPECTIVE JUROR KANIPE: No.

23 THE COURT: Do you understand that the
24 information -- and I should tell you the information is
25 what we call the document that the charges are typed on,

1 the actual document is called an Information -- that that
2 Information is merely an accusation and not evidence of
3 that which it contains; that the defendant is presumed to
4 be innocent until proven guilty, and that the State has a
5 burden of proving the defendant's guilt beyond a
6 reasonable doubt. Do you understand all that?

7 PROSPECTIVE JUROR KANIPE: Yes.

8 THE COURT: If you were charged with
9 offenses similar to the ones that are alleged in this
10 case, would you want 12 individuals such as yourself to be
11 on your jury?

12 PROSPECTIVE JUROR KANIPE: I believe.

13 THE COURT: Do you know of any reason
14 at all why you cannot be completely fair and completely
15 impartial hearing this case?

16 PROSPECTIVE JUROR KANIPE: No.

17 THE COURT: Mrs. Kanipe, this is a
18 capital case, and by that I mean the Prosecution is
19 seeking as a possible punishment the death penalty; do you
20 understand?

21 PROSPECTIVE JUROR KANIPE: Yes.

22 THE COURT: These proceedings will be
23 conducted in two segments. First, the jury will determine
24 if the defendant is guilty. Punishment would not be
25 considered at that time.

1 Second, if the jury finds the defendant
2 guilty of first degree murder, then the law of this state
3 requires that the jury set the punishment. I would set a
4 date for a hearing on the subject of punishment; do you
5 understand that?

6 PROSPECTIVE JUROR KANIPE: Yes.

7 THE COURT: In the State of Nevada
8 there are three possible forms of punishment that the jury
9 may consider; the imposition of the death penalty, life
10 imprisonment without the possibility of parole, or life
11 imprisonment or a term of 50 years in prison with the
12 possibility of parole; do you understand that?

13 PROSPECTIVE JUROR KANIPE: Yes.

14 THE COURT: In your present state of
15 mind, could you consider fairly all three possible forms
16 of punishment and select one that you feel is most
17 appropriate?

18 PROSPECTIVE JUROR KANIPE: I don't know
19 if I can handle the death penalty.

20 THE COURT: Well, is there a religion
21 or other reason why you would not consider it?

22 PROSPECTIVE JUROR KANIPE: No. Just no
23 reason.

24 THE COURT: As a juror, you would be
25 required to consider the possibility of each of those

1 three forms of punishment; do you understand?

2 PROSPECTIVE JUROR KANIPE: Yes.

3 THE COURT: Now, really, the question
4 is not so much will it be easy. You realize it's a
5 serious question, nothing is supposed to be easy about it.
6 We don't suggest that. The question is, can you consider
7 the three possible forms?

8 PROSPECTIVE JUROR KANIPE: Like I say,
9 I don't think I could handle to give somebody the death
10 penalty.

11 THE COURT: Are there any questions
12 from the Defense, or from the State, for that matter?

13 MR. CHRISTIANSEN: Judge, just briefly,
14 if I might. Ms. Kanipe, the judge has explained to you
15 that you would be able to fairly consider. He's asked you
16 could you fairly consider all three possible forms.
17 There's no requirement that says you, to be a fair and
18 impartial juror, have to say you're going to give somebody
19 the death penalty; do you understand?

20 PROSPECTIVE JUROR KANIPE: Yes.

21 MR. CHRISTIANSEN: All the judge and
22 all of us here are trying to determine is, whether you can
23 follow the law as our legislature set it forth and said
24 can you consider these forms as options. And that's what
25 we're trying to find out here, is whether the death

1 penalty in some case where the facts are so egregious or
2 so appalling that that could be something you could
3 consider the death penalty?

4 PROSPECTIVE JUROR KANIPE: I would
5 consider.

6 MR. CHRISTIANSEN: The law never
7 compels you to impose it, and I want you to understand
8 that. What the judge is trying to figure out is, is there
9 a case that you could consider it?

10 PROSPECTIVE JUROR KANIPE: I could
11 consider it, yes, but I wouldn't guarantee I could impose
12 it.

13 MR. CHRISTIANSEN: Nobody wants you to
14 go through that, ma'am. Thank you.

15 THE COURT: Are there questions from
16 the State here?

17 MR. KANE: You understand that we're
18 not asking you to guarantee that you're going to impose
19 it, but just if you would be able to; understand?

20 PROSPECTIVE JUROR KANIPE: Yes.

21 MR. KANE: And as I understood your
22 response, you have a doubt about your ability to be able
23 to do that, correct?

24 PROSPECTIVE JUROR KANIPE: Yes.

25 MR. KANE: Let me tell you that if the

1 jury returns a verdict of guilty, and if the jury were to
2 return a verdict of guilty in this case and in the penalty
3 phase return a verdict of death, you would be polled; in
4 other words, the judge would say to you: Is that your
5 verdict, that death penalty, and you would have to look at
6 the defendant and say: Yes, it is.

7 Are there any circumstances under which you
8 could do that?

9 MR. CHRISTIANSEN: Judge, objection.
10 That's improper. It calls upon her to make a
11 determination that she would impose the death penalty.
12 The law is very clear that she merely needs to say she can
13 consider it as an option.

14 THE COURT: Well, she just indicated
15 she could not.

16 MR. KANE: That's true, Judge. And the
17 answer to the last question was no.

18 THE COURT: The question was, under any
19 circumstances could you stand and indicate and announce in
20 open court the death penalty, and she said no, I believe.

21 MR. CHRISTIANSEN: But, Your Honor,
22 she's not ever compelled to announce a death penalty in
23 any case. The law is that she consider it, and she said
24 to me that she could consider it, but she just can't
25 guarantee she could ever impose it.

1 That is not cause under Leonard versus
2 State, a brand new decision.

3 MR. KANE: I'll rely on the totality of
4 the answers, Judge.

5 THE COURT: Well, the two are not
6 necessarily the same thing. Granted, she did respond to
7 you, Mr. Christiansen, that she could consider. Mr. Kane
8 brought the matter a little bit closer to bare here, and
9 he pointed out that she would have to stand and announce
10 with the defendant present the death penalty.

11 The question was: Under any circumstances
12 could do you that? And I believe she said no. Is that
13 your response to that, ma'am?

14 PROSPECTIVE JUROR KANIPE: Right.

15 THE COURT: So you don't see any
16 circumstance that you could possibly find someone guilty
17 and then come into court and announce that decision?

18 PROSPECTIVE JUROR KANIPE: No.

19 THE COURT: We will excuse you for
20 cause, Mrs. Kanipe. Thank you very much.

21 MR. CHRISTIANSEN: Just so the record
22 is clear, that's over Defense's objection.

23 THE COURT: Understood.

24 THE CLERK: Badge 56, Jack Todd,
25 T-o-d-d.

1 THE COURT: Mr. Todd, I'm going to
2 embrace the procedure where I'm going to ask as a first
3 question, is there any reason why you could not sit as a
4 fair juror in this particular case, understanding it is a
5 capital case?

6 And we will just resolve this issue of the
7 possibility of the death penalty early on. So if you feel
8 strongly one way or the other, this would be the time to
9 announce it.

10 PROSPECTIVE JUROR TODD: No.

11 THE COURT: You don't see any reason
12 why you could not serve as a fair juror in this case at
13 this point?

14 PROSPECTIVE JUROR TODD: No, I don't.

15 THE COURT: Have you ever served as a
16 juror before, sir?

17 PROSPECTIVE JUROR TODD: No.

18 THE COURT: Are you or any of your
19 close friends or relatives involved law enforcement, or
20 have you been in the past?

21 PROSPECTIVE JUROR TODD: My brother was
22 a California Highway Patrolman before he died. My best
23 friend is retired LAPD. And a good friend of mine is a
24 detective in the robbery in the {TKPWHEUGS/} Pacific
25 Division in Los Angeles.

1 THE COURT: Now, the two individuals in
2 Los Angeles, do you see them occasionally?

3 PROSPECTIVE JUROR TODD: Probably ten
4 times a year.

5 THE COURT: You have discussed, I
6 assume, their work with them on occasion; is that correct?

7 PROSPECTIVE JUROR TODD: On occasion.

8 THE COURT: When you think you would
9 see them next, do you believe you would feel a compunction
10 to explain or justify your verdict to them?

11 PROSPECTIVE JUROR TODD: No.

12 THE COURT: Do you think their
13 employment would have any bearing on your view of this
14 case, sir?

15 PROSPECTIVE JUROR TODD: I don't think
16 so.

17 THE COURT: Do you think you can be a
18 fair juror, sir?

19 PROSPECTIVE JUROR TODD: Yes.

20 THE COURT: Have you or a close friend
21 or family member ever been a victim of crime?

22 PROSPECTIVE JUROR TODD: No.

23 THE COURT: Will you follow all the
24 instructions of the Court on the law, even though they may
25 differ from your personal conceptions of what the law

1 ought to be?

2 PROSPECTIVE JUROR TODD: Yes.

3 THE COURT: A person who is accused of
4 committing a crime is presumed to be innocent in a
5 criminal trial. Do you understand and agree with that?

6 PROSPECTIVE JUROR TODD: Yes.

7 THE COURT: Are you aware that the
8 defendant does not have to take the stand and testify or
9 offer any evidence if he chooses not to, and you can still
10 find him not guilty? That's because the burden is upon
11 the State to prove his guilt beyond a reasonable doubt.

12 PROSPECTIVE JUROR TODD: Yes.

13 THE COURT: Have you or a close friend
14 of family member ever been involved in the criminal
15 justice process, either in prosecuting a case, or as a
16 witness, or as a defendant?

17 PROSPECTIVE JUROR TODD: When I worked
18 in California I was a superintendent of a printing
19 company. We were robbed about five times, and I had to go
20 and testify against a juvenile offender.

21 THE COURT: Were you present at the
22 time of the robberies?

23 PROSPECTIVE JUROR TODD: No.

24 THE COURT: When you say rob, we're
25 talking about walking in with a weapon?

1 PROSPECTIVE JUROR TODD: They came
2 through the skylights.

3 THE COURT: Well, there's a burglary
4 and then there's a robbery. Did he sneak in at night and
5 steal things?

6 PROSPECTIVE JUROR TODD: Yes.

7 THE COURT: That could be a burglary.
8 He didn't come in with a gun and say: Give me your money?

9 PROSPECTIVE JUROR TODD: They came in
10 the front door with guns to the front office and robbed
11 it, but I was in the back.

12 THE COURT: That was the robbery. And
13 the other four instances --

14 PROSPECTIVE JUROR TODD: They were
15 burglary.

16 THE COURT: In any case, you testified
17 and I take it some people were caught at some point?

18 PROSPECTIVE JUROR TODD: Uh-huh.

19 THE COURT: Yes?

20 PROSPECTIVE JUROR TODD: Yes.

21 THE COURT: Do you think the
22 authorities treated the matters appropriately?

23 PROSPECTIVE JUROR TODD: No.

24 THE COURT: In what way?

25 PROSPECTIVE JUROR TODD: Well, it was

1 the same individual four times, and they just slapped his
2 hand and let him go.

3 THE COURT: The same individual >was he
4 an ex-employee, or something of this nature?

5 PROSPECTIVE JUROR TODD: No. He was a
6 13, 14-year-old child or juvenile.

7 THE COURT: Would the incident in any
8 way affect your view of this case?

9 PROSPECTIVE JUROR TODD: No.

10 THE COURT: Do you think you can be a
11 fair juror, sir?

12 PROSPECTIVE JUROR TODD: Yes.

13 THE COURT: Do you know of any reason
14 at this point why could you not serve as a fair juror in
15 this case?

16 PROSPECTIVE JUROR TODD: No."

17 THE COURT: Will you tell us of your
18 current employment, your marital status, the number of
19 children you may have, and how long you've lived in Clark
20 County?

21 PROSPECTIVE JUROR TODD: I'm retired.
22 I've been married 38 years. I have three daughters, and
23 lived in Clark County ten years.

24 THE COURT: Have you worked here in
25 Clark County?

1 PROSPECTIVE JUROR TODD: I ran a
2 bowling supply store for ten years.

3 THE COURT: Here in Clark County?

4 PROSPECTIVE JUROR TODD: Yes.

5 THE COURT: And are your daughters or
6 their spouses involved in a law-related occupation?

7 PROSPECTIVE JUROR TODD: No.

8 THE COURT: Where did you move from ten
9 years ago?

10 PROSPECTIVE JUROR TODD: Los Angeles,
11 Simi Valley, California.

12 THE COURT: How long did you live
13 there?

14 PROSPECTIVE JUROR TODD: Thirty-five
15 years.

16 THE COURT: And your employment there?

17 PROSPECTIVE JUROR TODD: I was a
18 superintendent of a printing company for 23 years, and
19 then ran my own bowling supply business for ten.

20 THE COURT: Here in Clark County?

21 PROSPECTIVE JUROR TODD: Well, I had it
22 there ten years in Simi Valley first.

23 THE COURT: And then you came and
24 worked for one here?

25 PROSPECTIVE JUROR TODD: No. Actually,

1 it was my business and I moved it here.

2 THE COURT: Where are you from

3 originally?

4 PROSPECTIVE JUROR TODD: California.

5 THE COURT: Southern California?

6 PROSPECTIVE JUROR TODD: Uh-huh.

7 THE COURT: Any other work as an adult?

8 PROSPECTIVE JUROR TODD: No.

9 THE COURT: Has your wife worked

10 outside the home?

11 PROSPECTIVE JUROR TODD: She was a

12 teacher's aide.

13 THE COURT: Were you ever in the

14 military?

15 PROSPECTIVE JUROR TODD: Yes, sir.

16 THE COURT: What branch?

17 PROSPECTIVE JUROR TODD: Navy.

18 THE COURT: Your area of

19 responsibility?

20 PROSPECTIVE JUROR TODD: I was in

21 training end of it.

22 THE COURT: Were you on board a ship?

23 PROSPECTIVE JUROR TODD: Tendered.

24 THE COURT: Have you any prejudice as

25 to the nature of the charges in this case?

1 PROSPECTIVE JUROR TODD: No.

2 THE COURT: Do you know any of the
3 other prospective jurors?

4 PROSPECTIVE JUROR TODD: No.

5 THE COURT: Have you any racial
6 prejudice?

7 PROSPECTIVE JUROR TODD: No

8 THE COURT: Do you understand that an
9 information is a mere accusation and not evidence, that
10 the Defendant is presumed to be innocent until proven
11 guilty, and that the State has the burden of proving the
12 defendant's guilt beyond a reasonable doubt?

13 PROSPECTIVE JUROR TODD: Yes.

14 THE COURT: Mr. Todd, if you were
15 charged with offenses similar to the ones that are alleged
16 in this case, would you want 12 individuals such as
17 yourself to be on your jury?

18 PROSPECTIVE JUROR TODD: Yes.

19 THE COURT: Do you know of any reason
20 at all why you cannot be completely fair and completely
21 impartial in hearing this case?

22 PROSPECTIVE JUROR TODD: No.

23 THE COURT: These proceedings will be
24 conducted in two segments. First, the jury will determine
25 if the defendant is guilty. Punishment would not be

1 considered at that time.

2 Second, if the jury finds the defendant
3 guilty of first degree murder, then the law of this state
4 requires that the jury set the punishment. I would set a
5 date for a hearing on the subject of punishment; do you
6 understand?

7 PROSPECTIVE JUROR TODD: Yes.

8 THE COURT: In the State of Nevada
9 there are three possible forms of punishment that the jury
10 may consider; the imposition of the death penalty, life
11 imprisonment without the possibility of parole, or life
12 imprisonment or 50 years in prison with the possibility of
13 parole; do you understand that?

14 PROSPECTIVE JUROR TODD: Yes.

15 THE COURT: In your present state of
16 mind, could you consider fairly all three possible forms
17 of punishment and select the one that you feel is most
18 appropriate?

19 PROSPECTIVE JUROR TODD: Yes.

20 THE COURT: Does the State have
21 questions?

22 MR. KANE: Just one. And I'll ask each
23 of the jurors this question or a similar question, so
24 please listen to it and I'll ask it in a little more
25 detail this first time.

1 The judge has asked you about prejudice
2 about the nature of the charges. What I want to ask you
3 about is evidence. Some of the evidence in this case is
4 going to be somewhat grizzly; photographs and/or
5 descriptions of a body in a shallow grave, and it's not
6 going to be very pleasant.

7 Is there anything about that that would
8 affect you to such a degree that it would affect your
9 ability to be a fair and impartial juror?

10 PROSPECTIVE JUROR TODD: I don't think
11 so.

12 MR. KANE: Nothing further. Pass for
13 cause, Your Honor.

14 THE COURT: Thank you.

15 Mr. Christiansen?

16 MR. CHRISTIANSEN: Just briefly. Good
17 afternoon, Mr. Todd. Mr. Todd, I want to follow up with
18 the question the judge asked you about being able to
19 consider the penalties that the legislature set out
20 fairly. Do you remember that question?

21 PROSPECTIVE JUROR TODD: Yes.

22 MR. CHRISTIANSEN: What we're doing now
23 is trying to get a jury that's qualified to hear a capital
24 case, so we have to ask you questions about the portion of
25 the case we may never get to, which is the penalty

1 portion; do you understand that?

2 PROSPECTIVE JUROR TODD: Yes.

3 MR. CHRISTIANSEN: We're not conceding
4 anything by asking you these questions, but we're trying
5 to make sure that everybody can consider the options, as
6 Judge Mosley has told you.

7 In this case there's a double homicide, or
8 two separate homicides. And I want to know, is there a
9 situation in your mind that you can envision where you've
10 just convicted somebody of two separate first-degree
11 murders, the most serious crime in our system, and that
12 you can then -- then you're asked to fairly consider the
13 three options as given by Judge Mosley, and you can
14 envision a situation where you would say: This individual
15 who I've just convicted should be entitled to be released
16 back into society after a term of years, and the term is
17 life with the possibility of parole, or a term of 50 years
18 with the possibility of parole?

19 PROSPECTIVE JUROR TODD: Yes.

20 MR. CHRISTIANSEN: You can see a
21 situation such as that?

22 PROSPECTIVE JUROR TODD: Yes.

23 MR. CHRISTIANSEN: Another question
24 that was asked of you by Judge Mosley is, the Information,
25 the charging document is nothing more than a document, and

1 you said you understood that.

2 Do you understand that this is simply the
3 natural culmination of our criminal process, somebody is
4 charged, they say they're not guilty, and they're entitled
5 to a a jury trial?

6 PROSPECTIVE JUROR TODD: Yes.

7 MR. CHRISTIANSEN: Do you think that's
8 an important right that we all have as citizens?

9 PROSPECTIVE JUROR TODD: Yes.

10 MR. CHRISTIANSEN: Mr. Kane asked you a
11 question about the pictures, and you said that nothing
12 about some grizzly photos causes you concern as you sit
13 here today; is that accurate?

14 PROSPECTIVE JUROR TODD: Yes.

15 MR. CHRISTIANSEN: Do you understand
16 from our perspective, if you're going to be shown some
17 fairly gruesome photographs and it's going to cause some
18 emotional problems for you, the only person that could
19 suffer because of those emotional problems would be John
20 Seka, my client.

21 So I need you to assure us that whatever
22 emotions, pictures that you are going to see may stir up
23 in you, you can leave them outside and follow the law as
24 Judge Mosley gives it to you in here. Can you do that?

25 PROSPECTIVE JUROR TODD: Yes.

1 MR. CHRISTIANSEN: Thank you. I pass
2 for cause, Your Honor.

3 THE COURT: Thank you.

4 Is it Miss or Mrs. Corona?

5 PROSPECTIVE JUROR CORONA: Miss.

6 THE COURT: Miss Corona, will you tell
7 us, please, of your employment, the number of children you
8 may have from a previous marriage, and how long you've
9 lived in Clark County?

10 PROSPECTIVE JUROR CORONA: I'm
11 self-employed. I have no children, and I lived here for
12 six years.

13 THE COURT: What kind of employment do
14 you have?

15 PROSPECTIVE JUROR CORONA: I baby-sit.

16 THE COURT: At your home, or do you go
17 places, or how does it work?

18 PROSPECTIVE JUROR CORONA: I go to the
19 baby-sitter's mom's house and I stay there.

20 THE COURT: So you go to someone's home
21 and baby-sit their child while they're at work, or
22 whatever it might be?

23 PROSPECTIVE JUROR CORONA: Yes.

24 THE COURT: Is this a full-time
25 situation?

1 PROSPECTIVE JUROR CORONA: Yes.

2 THE COURT: Have you worked at anything
3 else in the six years you've lived here?

4 PROSPECTIVE JUROR CORONA: I worked at
5 Nellis Air Force Base for the summer while I was attending
6 school, high school. And I worked, actually, on one of
7 the casinos.

8 THE COURT: You've worked in casinos?

9 PROSPECTIVE JUROR CORONA: Yes.

10 THE COURT: What you have done in
11 casinos?

12 THE COURT: In one of the stores, in
13 one of the gift shops.

14 THE COURT: And where did you come from
15 when you moved here?

16 PROSPECTIVE JUROR CORONA: California.

17 THE COURT: What city?

18 PROSPECTIVE JUROR CORONA: San Fernando
19 Valley.

20 THE COURT: And did you work there at
21 all?

22 PROSPECTIVE JUROR CORONA: No, I did
23 not.

24 THE COURT: How old are you, if I might
25 ask?

1 PROSPECTIVE JUROR CORONA: Twenty years
2 old.

3 THE COURT: I only ask if someone
4 appears particularly young or particularly old. Do you
5 have any brothers or sisters?

6 PROSPECTIVE JUROR CORONA: Yes, I do.

7 THE COURT: And are any of those
8 individuals or your parents involved in law-related
9 occupation?

10 PROSPECTIVE JUROR CORONA: No, they
11 don't.

12 THE COURT: And are you from the
13 southern part of California initially? Is that where you
14 were born?

15 PROSPECTIVE JUROR CORONA: Yes.

16 THE COURT: And you're out of school
17 now I take it?

18 PROSPECTIVE JUROR CORONA: Yes.

19 THE COURT: Have you any prejudice as
20 to the nature of the charges in this case?

21 PROSPECTIVE JUROR CORONA: No.

22 THE COURT: Do you know any of the
23 other potential jurors?

24 PROSPECTIVE JUROR CORONA: No.

25 THE COURT: Have you any racial

1 prejudice?

2 PROSPECTIVE JUROR CORONA: Yes.

3 THE COURT: You do? In what regard?

4 PROSPECTIVE JUROR CORONA: As what
5 background?

6 THE COURT: Do you have any racial
7 prejudice?

8 PROSPECTIVE JUROR CORONA: Yes.

9 THE COURT: Tell me, please.

10 PROSPECTIVE JUROR CORONA: Towards
11 black people, and I don't mind background pretty much,
12 yes.

13 THE COURT: Well, are any of your
14 prejudices such that you could not serve as a fair juror
15 in this case, do you feel?

16 PROSPECTIVE JUROR CORONA: Not at all.

17 THE COURT: I don't know who is going
18 to testify. There may be some minorities testify. Can
19 you evaluate their testimony fairly, do you think?

20 PROSPECTIVE JUROR CORONA: Yes.

21 THE COURT: Do you understand that an
22 information is a mere accusation and not evidence, that
23 the Defendant is presumed to be innocent until proven
24 guilty, and that the State has the burden of proving the
25 defendant's guilt beyond a reasonable doubt?

1 PROSPECTIVE JUROR CORONA: Yes

2 THE COURT: If you were charged with
3 offenses similar to the ones that are alleged in this
4 case, would you want 12 individuals such as yourself to be
5 on your jury?

6 PROSPECTIVE JUROR CORONA: Yes.

7 THE COURT: Do you know of any reason
8 at all why you could not be completely fair and completely
9 impartial in hearing this matter?

10 PROSPECTIVE JUROR CORONA: Not at all.

11 THE COURT: Ms. Corona, these
12 proceedings will be conducted in two segments. First, the
13 jury will determine if the defendant is guilty.
14 Punishment would not be considered at that time.

15 Second, if the jury finds the defendant
16 guilty of first degree murder, then the law of this state
17 requires that the jury set the punishment. I would set a
18 date for a hearing on the subject of punishment; do you
19 understand?

20 PROSPECTIVE JUROR CORONA: Yes.

21 THE COURT: In the State of Nevada
22 there are three possible forms of punishment that the jury
23 may consider; the imposition of the death penalty, life
24 imprisonment without the possibility of parole, or life
25 imprisonment or 50 years in prison with the possibility of

1 parole; do you understand that?

2 PROSPECTIVE JUROR CORONA: Yes.

3 THE COURT: In your present state of
4 mind, can you consider fairly all three possible forms of
5 punishment and select the one that you feel is most
6 appropriate?

7 PROSPECTIVE JUROR CORONA: That all
8 three of them?

9 THE COURT: Can you consider all three
10 of those forms of punishment fairly, do you feel?

11 PROSPECTIVE JUROR CORONA: Yes.

12 THE COURT: Are there questions from
13 the State?

14 MR. FATTIG: Ma'am, Ms. Corona, good
15 afternoon. What brought you from California to Las Vegas?

16 PROSPECTIVE JUROR CORONA: Actually, I
17 was under age and I was living with my dad, and my dad had
18 to move from California to right here to Las Vegas for a
19 better employment.

20 MR. FATTIG: Do you still live with
21 your father now?

22 PROSPECTIVE JUROR CORONA: Yes. I'm
23 about to move in the next couple of days to Tropicana and
24 Sandhill.

25 MR. FATTIG: Is there anything about

1 seeing graphic photos in this case, would that cause you
2 to be -- prevent you from being fair and impartial --

3 PROSPECTIVE JUROR CORONA: Not at all.

4 MR. FATTIG: -- when it comes to the
5 deliberations?

6 PROSPECTIVE JUROR CORONA: Not at all.

7 MR. FATTIG: Pass for cause, Your
8 Honor.

9 THE COURT: Thank you. Defense
10 counsel?

11 MR. CHRISTIANSEN: Thank you, Judge.

12 Good afternoon, Ms. Corona. The judge asked you a
13 question about your age, and he said he asks it of very
14 young people and very old people. Is there anything about
15 the nature of this case that causes you concern with your
16 age?

17 PROSPECTIVE JUROR CORONA: No. I have
18 no problem.

19 MR. CHRISTIANSEN: And do you
20 understand that if there is a penalty phase, you're going
21 to be called upon to decide whether somebody lives or
22 dies?

23 PROSPECTIVE JUROR CORONA: I understand
24 that.

25 MR. CHRISTIANSEN: Is that something

1 you think you can do at 20 years old?

2 PROSPECTIVE JUROR CORONA: Yes.

3 MR. CHRISTIANSEN: What are you going
4 to do if you were the one person that votes the different
5 way than all 11 other people --

6 THE COURT: Excuse me. Counsel,
7 approach the bench, please.

8 (Whereupon, counsel conferred with the Court.)

9 THE COURT: You may proceed, counsel.

10 MR. CHRISTIANSEN: Thank you, Your
11 Honor.

12 Ms. Corona, I'll phrase it a little
13 differently. Will you stick by your personal convictions,
14 even though they may not be the majority of the other
15 persons on the jury's convictions?

16 PROSPECTIVE JUROR CORONA: Yes.

17 MR. CHRISTIANSEN: I pass for cause,
18 Your Honor. Thank you.

19 THE COURT: Mr. Defrank, will you tell
20 us, please, sir, of your employment, your marital status,
21 the number of children you may have, and how long you've
22 lived in Clark County?

23 PROSPECTIVE JUROR DEFRANK: I am an
24 electronic technician. I am single, three children, all
25 adults. And I've been in Clark County about seven years.

1 THE COURT: And you work for a slot
2 route?

3 PROSPECTIVE JUROR DEFRANK: It's a slot
4 company, yes.

5 THE COURT: So you work on the machines
6 and take the drop?

7 PROSPECTIVE JUROR DEFRANK: No. Mostly
8 I just adjust the machines. I handle very little money
9 now. In the past I, of course, started as a technician.
10 I am now a supervisor, and my main job is we repair the
11 machines.

12 THE COURT: Is this the kind of work
13 you've done the entire time you've lived here in Clark
14 County?

15 PROSPECTIVE JUROR DEFRANK: Except for
16 the first six months I was in security.

17 THE COURT: Were you trained in any way
18 for security, or was it just a job that you got?

19 PROSPECTIVE JUROR DEFRANK: I was 22
20 years in the army, but I've been in electronics all my
21 life.

22 THE COURT: Were you married any part
23 of the time you lived here in Clark County?

24 PROSPECTIVE JUROR DEFRANK: Yes. Just
25 a little over a year I got divorced after coming into

1 Clark County.

2 THE COURT: And had your wife worked
3 outside the home at all?

4 PROSPECTIVE JUROR DEFRANK: Yes.

5 THE COURT: In what manner?

6 PROSPECTIVE JUROR DEFRANK:
7 Bookkeeping.

8 THE COURT: And you moved from where in
9 coming here?

10 THE COURT: El Paso, Texas; Las Cruces,
11 New Mexico area.

12 THE COURT: How long did you live
13 there?

14 PROSPECTIVE JUROR DEFRANK: Thirty
15 years.

16 THE COURT: And your occupation there?

17 THE COURT: Defense electronics, radars
18 and electronic warfare.

19 THE COURT: Is that the time you were
20 in the military?

21 PROSPECTIVE JUROR DEFRANK: And
22 afterwards.

23 THE COURT: What branch of the military
24 were you in?

25 PROSPECTIVE JUROR DEFRANK: Army.

1 THE COURT: And you were involved with
2 radar and that sort of thing?

3 PROSPECTIVE JUROR DEFRANK: Yes.

4 THE COURT: Any other work as an adult?

5 PROSPECTIVE JUROR DEFRANK: No.

6 THE COURT: Where are you from
7 originally, sir?

8 PROSPECTIVE JUROR DEFRANK: Pittsburg,
9 Pennsylvania.

10 THE COURT: Did you move from there to
11 Las Cruces?

12 PROSPECTIVE JUROR DEFRANK: Through the
13 army. I enlisted in the army in Pittsburg, and from there
14 through basic training in South Carolina, and then Fort
15 Nix, Texas, El Paso most of my career.

16 THE COURT: And you indicated you have
17 children?

18 PROSPECTIVE JUROR DEFRANK: Yes.

19 THE COURT: And their ages roughly?

20 PROSPECTIVE JUROR DEFRANK: Forty-one,
21 39 and 32.

22 THE COURT: Are any of your children or
23 their spouses involved in a law-related occupation?

24 PROSPECTIVE JUROR DEFRANK: No. May I
25 correct that? I think my daughter's husband works as a

1 counselor in a possibly a halfway house, people who are
2 between incarceration and freedom.

3 He did, I'm not sure that he's still doing
4 that now. He may not be. I'm not positive of that.
5 That's in Salt Lake City though.

6 THE COURT: He would not have been a
7 commissioned officer or a police officer?

8 PROSPECTIVE JUROR DEFRANK: No.

9 THE COURT: Have you any prejudice as
10 to the nature of the charges in this case?

11 PROSPECTIVE JUROR DEFRANK: No.

12 THE COURT: Do you know any of the
13 other prospective jurors?

14 PROSPECTIVE JUROR DEFRANK: No, I
15 don't.

16 THE COURT: Have you any racial
17 prejudice?

18 PROSPECTIVE JUROR DEFRANK: I've lived
19 30 years on the Mexican border, Your Honor, and I can't
20 deny that. Honestly, I can't.

21 THE COURT: Do you have any prejudice
22 as you think might obstruct or affect in any way your
23 ability to fairly serve as a juror?

24 PROSPECTIVE JUROR DEFRANK: No.

25 THE COURT: If there were an individual

1 to testified, for instance, that was of Hispanic descent,
2 do you think you could receive that testimony as you would
3 anyone else's?

4 PROSPECTIVE JUROR DEFRANK: Yes, I can.

5 THE COURT: Do you understand that an
6 Information is a mere accusation and not evidence, that
7 the Defendant is presumed to be innocent until proven
8 guilty, and that the State has the burden of proving the
9 defendant's guilt beyond a reasonable doubt?

10 PROSPECTIVE JUROR DEFRANK: Yes, I
11 understand.

12 THE COURT: If you were charged with
13 offenses similar to the ones that are alleged in this
14 case, would you want 12 individuals such as yourself to be
15 on your jury?

16 PROSPECTIVE JUROR DEFRANK: Yes.

17 THE COURT: Do you know of any reason
18 at all why you could not be completely fair and completely
19 impartial in hearing this matter?

20 PROSPECTIVE JUROR DEFRANK: No, I do
21 not.

22 THE COURT: Mr. DeFrank, these
23 proceedings will be conducted in two segments. First, the
24 jury will determine if the defendant is guilty.
25 Punishment would not be considered at that time.

1 Second, if the jury finds the defendant
2 guilty of first degree murder, then the law of this state
3 requires that the jury set the punishment. I would set a
4 date for a hearing on the subject of punishment; do you
5 understand?

6 PROSPECTIVE JUROR DEFRANK: Yes.

7 THE COURT: In the State of Nevada
8 there are three possible forms of punishment that the jury
9 may consider; the imposition of the death penalty, life
10 imprisonment without the possibility of parole, or life
11 imprisonment or a term of 50 years in prison with the
12 possibility of parole; do you understand that?

13 PROSPECTIVE JUROR DEFRANK: I do.

14 THE COURT: In your present state of
15 mind, could you consider fairly all three possible forms
16 of punishment and select the one that you feel is most
17 appropriate?

18 PROSPECTIVE JUROR DEFRANK: Yes, I can.

19 THE COURT: Are there questions from
20 the State?

21 MR. KANE: I just want to ask you that
22 photograph question, but I don't think I made myself clear
23 the first time, so let me just try and be clear. The
24 Defense attorney asked a question of a prior juror that
25 said if you're bothered by grizzly photographs, that can

1 only hurt the defendant, and I don't agree with that.

2 If we show you photographs that are not
3 pleasant to look at, we're going to be showing them to you
4 for a reason, because we think they prove something and
5 you want to look at them. So if you can't look at, them
6 hurts our case.

7 If you look at them and you're just so
8 disgusted by them that you can't be fair, that's hurts the
9 Defendant's case. So it's an issue that can cut both
10 ways. And I want you to understand when I ask, that's
11 what I'm asking about.

12 Is there anything about looking at
13 photographs like that, that won't be any fun to look at,
14 that's going to make it difficult for you to be fair in
15 either direction, either to our side or the Defense side?

16 PROSPECTIVE JUROR DEFRANK: No.

17 MR. KANE: Nothing further, Judge.

18 THE COURT: Pass for cause?

19 MR. KANE: Pass for cause.

20 THE COURT: Thank you. Defense
21 counsel?

22 MR. KENNEDY: Mr. Defrank, you told us
23 earlier that you were once a victim of crime. You were
24 robbed on the slot route here in Las Vegas; is that
25 correct?

1 PROSPECTIVE JUROR DEFRANK: Yes.

2 MR. KENNEDY: How long ago was that?

3 PROSPECTIVE JUROR DEFRANK: The last
4 one was about three-and-a-half to four years. The one
5 before that, it's been a little over six.

6 MR. KENNEDY: And so you were actually
7 a victim twice. In both cases were you approached by
8 someone with a handgun?

9 PROSPECTIVE JUROR DEFRANK: Yes.

10 MR. KENNEDY: Were there any other
11 individuals around you when this occurred, or was it just
12 you one-on-one with this assailant?

13 PROSPECTIVE JUROR DEFRANK: The first
14 one was one individual. The second one there were two
15 individuals involved. There was nobody else around.

16 MR. KENNEDY: And in both of those
17 crimes, in either one were you harmed in any way?

18 PROSPECTIVE JUROR DEFRANK: No. I was
19 not harmed.

20 MR. KENNEDY: Did you report this to
21 the police?

22 PROSPECTIVE JUROR DEFRANK: Oh, yes.

23 MR. KENNEDY: Did you complete a
24 witness statement, things of that type to the police?

25 PROSPECTIVE JUROR DEFRANK: Yes.

1 MR. KENNEDY: Were you ever called upon
2 to testify in either one of those cases at a preliminary
3 hearing?

4 PROSPECTIVE JUROR DEFRANK: No.

5 MR. KENNEDY: Do you know if either one
6 of those cases were resolved?

7 PROSPECTIVE JUROR DEFRANK: I never
8 heard if they were resolved.

9 MR. KENNEDY: In your 22 years in the
10 army, did you have any special training in firearms other
11 than normal?

12 PROSPECTIVE JUROR DEFRANK: No special
13 training, just the normal rifle.

14 MR. KENNEDY: And your specialty was
15 defense electronics?

16 PROSPECTIVE JUROR DEFRANK: Radars and
17 later on electronic warfare.

18 MR. KENNEDY: So were you required to
19 have any supplemental firearms training or go through
20 courses?

21 PROSPECTIVE JUROR DEFRANK: No.

22 MR. KENNEDY: Pass four cause, Judge.

23 THE COURT: Thank you.

24 Mrs. Gray, will you tell us, please, of your
25 employment, the number of children you may have, and how

1 long you've lived in Clark County?

2 PROSPECTIVE JUROR GRAY: I've worked
3 with the Bureau of Reclamation out in Boulder City for 19
4 years. I've been here in the valley for 20 years, except
5 for the last two years I was in Washington DC working for
6 the Bureau of Reclamation. I have an eight-year-old and a
7 13-year-old, son both sons.

8 THE COURT: You are currently married;
9 is that correct?

10 PROSPECTIVE JUROR GRAY: I'm married,
11 yes.

12 THE COURT: And are you currently
13 working still with the Bureau of Reclamation?

14 PROSPECTIVE JUROR GRAY: Yes.

15 THE COURT: What do you do there?

16 PROSPECTIVE JUROR GRAY: I'm the
17 assistant regional director currently, so I do anything
18 that anybody needs done, put out fires, direct people.

19 THE COURT: You were back in
20 Washington. Was that a special assignment?

21 PROSPECTIVE JUROR GRAY: Yes.

22 THE COURT: What was that all about?

23 PROSPECTIVE JUROR GRAY: I was a
24 liaison between the Commissioner's office in Washington
25 and the regional offices in Boulder City. So I worked

1 with congress, and worked on the budget, those types of
2 things.

3 THE COURT: And your husband's
4 occupation?

5 PROSPECTIVE JUROR GRAY: He is a
6 carpenter.

7 THE COURT: And has that been the kind
8 of work he's done throughout the time you've known him?

9 PROSPECTIVE JUROR GRAY: Yes.

10 THE COURT: Where did you move from
11 when you came here?

12 PROSPECTIVE JUROR GRAY: Cortez,
13 Colorado.

14 THE COURT: Is that where you are from
15 originally?

16 PROSPECTIVE JUROR GRAY: Yes.

17 THE COURT: Any other work as an adult?

18 PROSPECTIVE JUROR GRAY: No.

19 THE COURT: Have you any prejudice as
20 to the nature of the charges in this case?

21 PROSPECTIVE JUROR GRAY: No.

22 THE COURT: Do you know any of the
23 other prospective jurors?

24 PROSPECTIVE JUROR GRAY: No.

25 THE COURT: Have you any racial

1 prejudice?

2 PROSPECTIVE JUROR GRAY: No.

3 THE COURT: Do you understand that an
4 information is a mere accusation and not evidence, that
5 the Defendant is presumed to be innocent until proven
6 guilty, and that the State has the burden of proving the
7 defendant's guilt beyond a reasonable doubt?

8 PROSPECTIVE JUROR GRAY: Yes

9 THE COURT: Ms. Gray, if you were
10 charged with offenses similar to the ones that are alleged
11 in this case, would you want 12 individuals such as
12 yourself to be on your jury?

13 PROSPECTIVE JUROR GRAY: Yes.

14 THE COURT: Do you know of any reason
15 at all why you cannot be completely fair and completely
16 impartial in hearing this case?

17 PROSPECTIVE JUROR GRAY: I struggle a
18 little bit, frankly, with the fact that I know people do
19 things, and because of the burden of the law they walk
20 free just, because of my own personal experience. But I
21 think I can set that aside and do a good job, do the right
22 thing here.

23 THE COURT: In the final analysis, let
24 me suggest this to you for you to consider. We come to
25 this courtroom, all of us with, our own backgrounds, our

1 own views of things. That's why we have 12 jurors, so
2 that there's a combining the various views.

3 If we didn't need that, I could take care of
4 all the decisions and we wouldn't need the input of 12
5 jurors. And it is considered, certainly, advantageous.

6 In the final analysis, based on your history
7 and what you know of your own personality, can you be fair
8 in the process of making a determination? That's really
9 what this all amounts to.

10 PROSPECTIVE JUROR GRAY: I think I can.

11 THE COURT: These proceedings will be
12 conducted in two segments. First, the jury will determine
13 if the defendant is guilty. Punishment would not be
14 considered at that time.

15 Second, if the jury finds the defendant
16 guilty of first degree murder, then the law of this state
17 requires that the jury set the punishment. I would set a
18 date for a hearing on the subject of punishment; do you
19 understand?

20 PROSPECTIVE JUROR GRAY: Yes.

21 THE COURT: In the State of Nevada
22 there are three possible forms of punishment that the jury
23 may consider; the imposition of the death penalty, life
24 imprisonment without the possibility of parole, or life
25 imprisonment or a term of 50 years in prison with the

1 possibility of parole; do you understand that?

2 PROSPECTIVE JUROR GRAY: Yes.

3 THE COURT: In your present state of
4 mind, could you consider fairly all three possible forms
5 of punishment and select the one that you feel is most
6 appropriate?

7 PROSPECTIVE JUROR GRAY: Yes.

8 THE COURT: Questions from the State?

9 MR. FATTIG: Thank you.

10 Good afternoon, ma'am. You are an assistant
11 regional director with the Bureau of Reclamation?

12 PROSPECTIVE JUROR GRAY: Correct.

13 THE COURT: How many people do you
14 oversee as part of that job?

15 PROSPECTIVE JUROR GRAY: Directly I
16 have about 30 people that report to me. Indirectly we
17 have 950 in the region.

18 MR. FATTIG: And how long have you been
19 the assistant regional director?

20 PROSPECTIVE JUROR GRAY: Just under a
21 year.

22 MR. FATTIG: And I take it you were
23 promoted to that job?

24 PROSPECTIVE JUROR GRAY: Correct.

25 MR. FATTIG: What sort of things have

1 you done in the past for the Bureau of Reclamation?

2 PROSPECTIVE JUROR GRAY: I've served as
3 the regional training officer. I've served as the
4 organizational development internal consultant. I've
5 served as the group manager who, basically, had
6 responsibility for employee and labor relations.

7 MR. FATTIG: So is it fair to say
8 you've been moving up the ranks doing different things?

9 PROSPECTIVE JUROR GRAY: Correct.

10 MR. FATTIG: Pass for cause, Your
11 Honor.

12 THE COURT: Thank you. Defense
13 counsel?

14 MR. CHRISTIANSEN: Thank you, Your
15 Honor.

16 Good afternoon. Ms. Gray, you've heard
17 questions asked previous of the three jurors before you
18 about the possibilities of punishments in this case. And
19 you understand to an extent I'm putting the cart before
20 the horse asking you questions about penalties before
21 we've even made a decision as to whether we're going to
22 get to that phase.

23 Do you envision a scenario where you have
24 convicted somebody of two separate first-degree murders,
25 the most serious crime in our system, and the situation is

1 such that that person you would decide should be allowed
2 back into society some day, life with the possibility of
3 parole; do you understand that?

4 PROSPECTIVE JUROR GRAY: No. I lost
5 you on that question.

6 MR. CHRISTIANSEN: I'm sorry. It's
7 sort of a long, convoluted questions. To talk about the
8 penalty phase, we have to presume that there was finding
9 of guilt on first degree murder; do you understand that?

10 PROSPECTIVE JUROR GRAY: Uh-huh.

11 MR. CHRISTIANSEN: There are three
12 possibly penalties and you have to, to be a juror, be able
13 to fairly consider all three penalties. So my question
14 is, if you had a situation where you just convicted
15 somebody beyond a reasonable doubt of first degree murder,
16 two different murders, is there ever a scenario that
17 you're going to look at that person, as Mr. Kane says, and
18 say: You sir, are entitled to get parolled out of prison
19 and back into our society after a period of years?

20 PROSPECTIVE JUROR GRAY: Would I
21 consider that?

22 MR. CHRISTIANSEN: Would you consider
23 it fairly?

24 PROSPECTIVE JUROR GRAY: Yes.

25 MR. CHRISTIANSEN: Is there a situation

1 where somebody would be due parole after a period of
2 years, even though you convicted him of first degree
3 murder twice?

4 PROSPECTIVE JUROR GRAY: I don't know
5 the answer to that. I struggle with that a little bit.

6 MR. CHRISTIANSEN: Some people believe
7 that if you're convicted of murder you should never get
8 out of prison, or that you should get the death penalty,
9 one or the other.

10 In order to sit as a juror in a capital
11 case, you have to envision, tell us you can envision a
12 scenario where you would allow somebody to be released, or
13 sentence him to a sentence in which after a period of time
14 they would be released back into society. That's the
15 third possible option.

16 I'm asking you, could you do that in a case
17 where, presumptively, you've just convicted a gentleman of
18 two separate murders?

19 PROSPECTIVE JUROR GRAY: I think so.

20 MR. CHRISTIANSEN: You were a victim of
21 a crime, it sounds like, when you were younger?

22 PROSPECTIVE JUROR GRAY: Uh-huh.

23 MR. CHRISTIANSEN: And you expressed to
24 Judge Mosley some concerns because of your personal
25 background of people getting off because the burden of the

1 State can't be met.

2 PROSPECTIVE JUROR GRAY: Right.

3 MR. CHRISTIANSEN: Do you understand
4 that that's sort of the way our system is set up so that
5 the State has to meet burdens, and Defense lawyers and
6 defendants don't really have to do anything affirmatively
7 to prove things to you?

8 PROSPECTIVE JUROR GRAY: Yeah. The
9 difference between the heart and the head. I understand,
10 sure.

11 MR. CHRISTIANSEN: It's pretty natural
12 if you were a victim of a crime, I think, to not like
13 certain aspects of the system.

14 PROSPECTIVE JUROR GRAY: Uh-huh.

15 MR. CHRISTIANSEN: My concern,
16 obviously, is that you're going to be asked to hold the
17 State to that burden, and it's the highest burden in our
18 legal system. And because of your background, and it's
19 obviously not your fault bad things happened when you were
20 younger, that you're not going to be able to hold the
21 State to that burden.

22 That's my concern. I just want to know if
23 you think you can do that?

24 PROSPECTIVE JUROR GRAY: I think I can.

25 MR. CHRISTIANSEN: Can you judge this

1 case based upon evidence that comes from people that get
2 up on that stand and testify?

3 PROSPECTIVE JUROR GRAY: Uh-huh.

4 MR. CHRISTIANSEN: You have to say yes
5 or no because she's typing it.

6 PROSPECTIVE JUROR GRAY: Yes.

7 MR. CHRISTIANSEN: Can you leave
8 everything about your other case -- I apologize, I hope
9 you don't feel like I'm beating you up about your past
10 case -- can you leave that outside at the doors and come
11 in here and focus on what happens in this courtroom?

12 PROSPECTIVE JUROR GRAY: I will most
13 certainly do my best. I believe I can.

14 MR. CHRISTIANSEN: If you were sitting
15 over here next to me, or somebody you knew was sitting
16 next to me, would you want somebody with your disposition
17 on the jury?

18 PROSPECTIVE JUROR GRAY: Yeah.

19 MR. CHRISTIANSEN: Thank you,
20 Mrs. Gray. I pass for cause, Your Honor.

21 THE COURT: Thank you.

22 Mr. Garvin, sir, will you tell us of your
23 employment, your marital status, the number of children
24 you may have, and how long you've lived in Clark County?

25 PROSPECTIVE JUROR GARVIN: I currently

1 work for the City of Las Vegas in the Streets Department
2 for the last six years. I am married. I have three sons,
3 all grown. I have lived in Clark County 15 years.

4 THE COURT: What work other than your
5 current employment have you had since coming here?

6 PROSPECTIVE JUROR GARVIN: Prior that I
7 worked for Silver State Recycling as a document
8 destruction supervisor over there. And then 14 months
9 prior to that I worked at EGG Energy Measurements on Losee
10 Road as a supervisor of a sheet metal shop. Prior to that
11 I was in the United States Air Force.

12 THE COURT: Is your wife employed
13 outside the home?

14 PROSPECTIVE JUROR GARVIN: Yes. She
15 works at Nellis air Force Base Commissary.

16 THE COURT: Any other work on her
17 part over the years?

18 PROSPECTIVE JUROR GARVIN: No.

19 THE COURT: Your three children or
20 their spouses, are they involved in a law-related
21 occupation?

22 PROSPECTIVE JUROR GARVIN: Well, my
23 youngest son is a security guard for Quest Security at the
24 social security office on Decatur. Other than that, no.
25 My other son is in the military, army. Oh, excuse me. My

1 oldest son is a prison guard in Abilene, Texas.

2 THE COURT: How long has he been
3 involved in that kind of work?

4 PROSPECTIVE JUROR GARVIN: Last seven
5 or eight years.

6 THE COURT: Have you had occasion to
7 discuss his work with him?

8 PROSPECTIVE JUROR GARVIN: Yes. He's
9 come a couple times to visit.

10 THE COURT: How often do you see him?

11 PROSPECTIVE JUROR GARVIN: The last
12 time I saw him was two years ago. Prior to that, about
13 every couple years he comes to visit, or we go down.

14 THE COURT: Do you think when you would
15 next see him you would feel a compunction to explain or
16 justify your verdict to him?

17 PROSPECTIVE JUROR GARVIN: No.

18 THE COURT: Do you think his employment
19 would have any bearing on your view of this case?

20 PROSPECTIVE JUROR GARVIN: No.

21 THE COURT: Do you think you can be a
22 fair juror, sir?

23 PROSPECTIVE JUROR GARVIN: I think,
24 yes.

25 THE COURT: What branch of the service

1 were you in?

2 PROSPECTIVE JUROR GARVIN: United
3 States Air Force.

4 THE COURT: And you area of
5 responsibility?

6 PROSPECTIVE JUROR GARVIN: My last duty
7 assignment was fabrication branch of the battalion on the
8 test range of the Stealth fighter.

9 THE COURT: Were you a civilian
10 employer at that time?

11 PROSPECTIVE JUROR GARVIN: No. I was
12 military. I'm retired senior master sergeant.

13 THE COURT: All right. So you were
14 involved in building or designing this jet fighter? Is
15 that what you're saying?

16 PROSPECTIVE JUROR GARVIN: Maintaining
17 it while it was under a classified operation.

18 THE COURT: Where are you from
19 originally, sir?

20 PROSPECTIVE JUROR GARVIN: Eerie,
21 Pennsylvania.

22 THE COURT: And did you live there
23 until you joined the Air Force?

24 PROSPECTIVE JUROR GARVIN: Yes; which I
25 joined when I was 18.

1 THE COURT: Have you any prejudice as
2 to the nature of the charge in this case?

3 PROSPECTIVE JUROR GARVIN: No.

4 THE COURT: Do you know any of the
5 other prospective jurors?

6 PROSPECTIVE JUROR GARVIN: No.

7 THE COURT: Have you any racial
8 prejudice?

9 PROSPECTIVE JUROR GARVIN: No.

10 THE COURT: Do you understand that an
11 information is a mere accusation and not evidence, that
12 the Defendant is presumed to be innocent until proven
13 guilty, and that the State has the burden of proving the
14 defendant's guilt beyond a reasonable doubt?

15 PROSPECTIVE JUROR GARVIN: I
16 understand.

17 THE COURT: Mr. Garvin, if you were
18 charged with offenses similar to the ones that are alleged
19 in this case, would you want 12 individuals such as
20 yourself to be on your jury?

21 PROSPECTIVE JUROR GARVIN: Yes.

22 THE COURT: Do you know of any reason
23 at all why you could not be completely fair and completely
24 impartial in hearing this case?

25 PROSPECTIVE JUROR GARVIN: No.

1 THE COURT: These proceedings will be
2 conducted in two segments. First, the jury will determine
3 if the defendant is guilty. Punishment would not be
4 considered at that time.

5 Second, if the jury finds the defendant
6 guilty of first degree murder, then the law of this state
7 requires that the jury set the punishment. I would set a
8 date for a hearing on the subject of punishment; do you
9 understand?

10 PROSPECTIVE JUROR GARVIN: Yes.

11 THE COURT: In the State of Nevada
12 there are three possible forms of punishment that the jury
13 may consider; the imposition of the death penalty, life
14 imprisonment without the possibility of parole, or life
15 imprisonment or a term of 50 years in prison with the
16 possibility of parole; do you understand that?

17 PROSPECTIVE JUROR GARVIN: Yes.

18 THE COURT: In your present state of
19 mind, could you consider fairly all three possible forms
20 of punishment and select the one that you feel is most
21 appropriate?

22 PROSPECTIVE JUROR GARVIN: Yes.

23 THE COURT: Are there questions from
24 the State?

25 MR. KANE: Just two. One is the

1 question about the photographic evidence that I've asked
2 everybody. Anything about that bother you one way or the
3 other?

4 PROSPECTIVE JUROR GARVIN: No, sir.

5 MR. KANE: Was I correct, did I read
6 you right when you were talking about your larceny of your
7 wheels off your car. I got the impression you felt the
8 police kind of gave you the once over lightly treatment?

9 PROSPECTIVE JUROR GARVIN: Yes.

10 MR. KANE: I can't say that that
11 argument will be made in this case, but I've heard it made
12 before, that the police didn't do A, B and C, that the
13 police jumped to the easy conclusion and didn't follow the
14 investigation the way they should.

15 If an argument like that is made in this
16 case, are you going to automatically assume that that's
17 correct because you had a bad experience with that larceny
18 case?

19 PROSPECTIVE JUROR GARVIN: No, I don't
20 think so.

21 MR. KANE: So I understand that the one
22 doesn't have anything to do with the other?

23 PROSPECTIVE JUROR GARVIN: Yeah, I
24 understand.

25 MR. KANE: Nothing further. Pass for

1 work?

2 PROSPECTIVE JUROR GARVIN: Yes, he
3 does.

4 MR. KENNEDY: Does he talk to you about
5 some of the inmates that are in that prison?

6 PROSPECTIVE JUROR GARVIN: Yes,
7 occasionally.

8 MR. KENNEDY: Is your son -- would you
9 say he's critical of some of the inmates in the prison,
10 that they're all crying that they're innocent and they got
11 framed or set up?

12 PROSPECTIVE JUROR GARVIN: Well, he
13 said that they said that. If you talk to him on the
14 phone, he said that they all claim that they're innocent.

15 MR. KENNEDY: Do you believe that there
16 are some people in prison that are innocent?

17 PROSPECTIVE JUROR GARVIN: Very few, I
18 believe. But, yeah, probably.

19 MR. KENNEDY: I believe you said your
20 other son is a security guard. How old is he?

21 PROSPECTIVE JUROR GARVIN: He's 25.

22 MR. KENNEDY: And he just started that?

23 PROSPECTIVE JUROR GARVIN: Yes. He
24 just got out of the army himself.

25 MR. KENNEDY: And what did he do in the

1 army?

2 PROSPECTIVE JUROR GARVIN: He was a
3 chemical weapons expert at Fort Bragg, Kansas.

4 MR. KENNEDY: You were in the Air
5 Force. Did you have any weapons training in the Air
6 Force?

7 PROSPECTIVE JUROR GARVIN: 216
8 training, yes.

9 MR. KENNEDY: Basic training?

10 PROSPECTIVE JUROR GARVIN: Yeah. Well,
11 just you had to requalify because it was contingent going
12 in, we always had to requalify anyway.

13 MR. KENNEDY: But your work was
14 more -- maybe I didn't hear correctly. The work you did
15 in the Air Force was more as a technician, or mechanical?

16 PROSPECTIVE JUROR GARVIN: Well,
17 fabrication. My main job was air frame repair, which is
18 an elaborate name for sheet metal work on the air craft.
19 And then through the motions I became the superintendent
20 of six different shops that fabricated parts, repaired
21 parts, et cetera, for aircraft.

22 MR. KENNEDY: And that line of work was
23 your consistent work while you were in the Air Force; is
24 that correct?

25 MR. KENNEDY: Yes. And I believe you

1 told us when you were sitting out here in the audience
2 that you had a prior, I guess, run-ins with an Officer
3 Croll at Metro?

4 PROSPECTIVE JUROR GARVIN: Yes.

5 MR. KENNEDY: That's because you work
6 for the City?

7 PROSPECTIVE JUROR GARVIN: Yes.

8 MR. KENNEDY: And how frequently was
9 that?

10 PROSPECTIVE JUROR GARVIN: Just once or
11 twice, basically, to do with accidents. Because the City
12 would be responsible for cleaning up oil spills and stuff
13 like that from the accident. Just everyday talk and what
14 happened.

15 MR. KENNEDY: So if there's an auto
16 accident on third and Bridge, you may be called out to
17 help clean up the scene?

18 PROSPECTIVE JUROR GARVIN: A street
19 employee, yes.

20 MR. KENNEDY: And Officer Croll may be
21 out there working that scene, and that's how you would
22 talk with him?

23 PROSPECTIVE JUROR GARVIN: Yes.

24 MR. KENNEDY: Would you ever talk with
25 him about the accident itself, or whatever he is

1 investigating, would you ask him details?

2 PROSPECTIVE JUROR GARVIN: Not
3 investigating it necessarily, just more the question would
4 be sometimes we don't get it until after they move the
5 vehicles, we're kind of trying to find out how many
6 vehicles there are, and how many we've got to clean up.

7 MR. KENNEDY: So to sum it up, you
8 really don't get into the details of why he was there?

9 PROSPECTIVE JUROR GARVIN: Yes. We try
10 not to get into their business. They've got enough to do.

11 MR. KENNEDY: You've heard some of the
12 questions asked by my co-counsel of the other members of
13 the panel regarding that. The big question, if you make
14 it through this trial and if there's a finding of guilt of
15 our client, whether you'd be able to sit there in the
16 penalty phase and determine whether he should be able to
17 get out at some point in time, or spend the rest of his
18 life in jail, or be killed, do you think that's a decision
19 you can fairly make?

20 PROSPECTIVE JUROR GARVIN: It would be
21 very difficult.

22 MR. KENNEDY: Very difficult to put him
23 out after a period of years, or difficult to let him sit
24 in prison, or difficult to have him put to death by the
25 State?

1 PROSPECTIVE JUROR GARVIN: I feel if we
2 sat there and convict him of two murders, he should face
3 death.

4 MR. KENNEDY: So are you telling me
5 then that if you do find him guilty of first degree
6 murder, that in your own mind, that the penalty in your
7 mind is death?

8 PROSPECTIVE JUROR GARVIN: Yes.

9 MR. KENNEDY: So you will not fairly
10 give consideration to sending him to prison?

11 PROSPECTIVE JUROR GARVIN: I will give
12 it consideration. I don't know how fair I will be after
13 just going through what we just went through, considering
14 the fact that we just found him guilty.

15 MR. KENNEDY: All right. So just leave
16 it there. If you find him guilty then you will vote for
17 death?

18 PROSPECTIVE JUROR GARVIN: I would.

19 MR. KENNEDY: Your Honor, may we
20 approach?

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