

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 2 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	
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/s/ Kaitlyn O'Hearn

An Employee of the Federal
Public Defender, District of
Nevada

DISTRICT COURT

CLARK COUNTY, **FILED IN OPEN COURT**
FEB 13 2001 19

THE STATE OF NEVADA,

SHIRLEY B. PARRAGUIRRE, CLERK
BY JUDY NORMAN

Plaintiff,)

DEPUTY

vs.)

No. C159915

Dept No: XIV

JOHN JOSEPH SEKA,

Defendant.)

 **COPY**REPORTER'S TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE DONALD M. MOSLEYVOLUME II

February 12, 2001

3:00 p.m.

Department XIV

APPEARANCES:For the State:

MR. EDWARD KANE

MR. TIM FATTIG

Deputy District Attorneys

For the Defendant:

MR. KIRK KENNEDY

MR. PETER CHRISTIANSEN

Attorneys-at-Law

Deputy Public Defender

Reported by:
Joseph A. D'Amato
Nevada CCR #17

1 THE COURT: Other questions, Mr. Kane?

2 MR. KANE: Yes.

3 Mr. Garvin, you know, I realize you're
4 being asked questions in a vacuum here. You don't have
5 any facts in front of you and the judge is going to give
6 you, should you get that far, a lot of instructions about
7 the factors that you bring to bear when you're
8 considering whether to impose the penalty of death or
9 life without the possibility of parole of or life with.

10 Do you understand that?

11 PROSPECTIVE JUROR GARVIN: Yes.

12 MR. KANE: You've already told the judge
13 you'll follow whatever instructions he gives you?

14 PROSPECTIVE JUROR GARVIN: Correct.

15 MR. KANE: He's going to give you an
16 instruction that says here is how you consider all these
17 factors and you have to consider them all and you have to
18 consider all three penalties.

19 In light of that are you still in doubt
20 about your ability to fairly consider them all?

21 PROSPECTIVE JUROR GARVIN: Like I said,
22 after going through a whole trial and we find the
23 individual guilt of murder, not robbery or whatever, but
24 murder, yeah, I would have a real hard time with that.

25 MR. KANE: You realize there is a whole

1 other hearing at which you're going to hear evidence
2 relating to the penalty in addition to the factual
3 evidence that you heard at trial.

4 Did you understand that part?

5 PROSPECTIVE JUROR GARVIN: Yeah.

6 MR. KANE: In other words, if you enter a
7 finding of guilty on First Degree Murder we're not going
8 to just turn around and say okay, now vote on the
9 penalty.

10 You'll hear additional evidence.

11 PROSPECTIVE JUROR GARVIN: I understand
12 that.

13 MR. KANE: But that doesn't change your
14 feeling?

15 PROSPECTIVE JUROR GARVIN: No.

16 MR. KANE: Nothing further.

17 THE COURT: Mr. Garvin, in the final
18 analysis, are you saying that if you find this Defendant
19 guilty of First Degree Murder then you could not fairly
20 consider anything but the death penalty?

21 Is that what you're saying?

22 PROSPECTIVE JUROR GARVIN: Yes.

23 THE COURT: I'm going to excuse you for
24 cause, sir. Thank you, very much.

25 MS. CLERK: Badge number 48, Timothy

1 Thomas, T-h-o-m-a-s.

2 THE COURT: Mr. Thomas, have you served as
3 a juror before?

4 PROSPECTIVE JUROR THOMAS: Yes.

5 THE COURT: How long ago was that, sir?

6 PROSPECTIVE JUROR THOMAS: Probably about
7 four years.

8 THE COURT: Here in Clark County?

9 PROSPECTIVE JUROR THOMAS: Yes.

10 THE COURT: Was it a civil or criminal
11 case?

12 PROSPECTIVE JUROR THOMAS: Civil.

13 THE COURT: Did reach a verdict?

14 PROSPECTIVE JUROR THOMAS: Yes

15 THE COURT: Were you the foreman of the
16 jury?

17 PROSPECTIVE JUROR THOMAS: No.

18 THE COURT: Do you think your prior jury
19 service will in any way inhibit your ability to fairly
20 serve on this jury?

21 PROSPECTIVE JUROR THOMAS: No.

22 THE COURT: Do you know of any reason at
23 all why you could not serve as a fair juror in this
24 particular case?

25 PROSPECTIVE JUROR THOMAS: No, sir.

1 THE COURT: Are you or any of your close
2 friends or relatives involved in law enforcement or have
3 you been in the past?

4 PROSPECTIVE JUROR THOMAS: I have a cousin
5 that's a sheriff.

6 THE COURT: Where is this?

7 PROSPECTIVE JUROR THOMAS: That's in North
8 Carolina.

9 THE COURT: How long has he or she been a
10 sheriff?

11 PROSPECTIVE JUROR THOMAS: Probably about
12 10 years.

13 THE COURT: Is it a man or woman?

14 PROSPECTIVE JUROR THOMAS: Man.

15 THE COURT: Have you discussed his work
16 with him?

17 PROSPECTIVE JUROR THOMAS: No, I haven't.

18 THE COURT: How often do you see this
19 person?

20 PROSPECTIVE JUROR THOMAS: Probably once
21 every two years.

22 THE COURT: Do you think when you would
23 next see him that you'd feel a compunction to explain or
24 justify your verdict to him?

25 PROSPECTIVE JUROR THOMAS: No, sir.

1 THE COURT: Do you think, notwithstanding
2 his occupation, that you could be a fair juror in this
3 matter?

4 PROSPECTIVE JUROR THOMAS: Yes.

5 THE COURT: Have you or close friends or
6 family members ever been the victim of crime?

7 PROSPECTIVE JUROR THOMAS: Yes.

8 THE COURT: Tell me about that, please.

9 PROSPECTIVE JUROR THOMAS: My house was
10 burglarized once.

11 THE COURT: Here in Clark County?

12 PROSPECTIVE JUROR THOMAS: Yes.

13 THE COURT: Was it reported?

14 PROSPECTIVE JUROR THOMAS: Yes.

15 THE COURT: Was anyone caught?

16 PROSPECTIVE JUROR THOMAS: No.

17 THE COURT: Do you feel the authorities
18 treated the matter appropriately, in other words,
19 investigated the matter as they should have?

20 PROSPECTIVE JUROR THOMAS: Yes.

21 THE COURT: Is there anything about the
22 incident that would affect your ability to fairly serve
23 as juror?

24 PROSPECTIVE JUROR THOMAS: No.

25 THE COURT: Will you follow all the

1 instructions of the Court on the law even though they may⁷
2 differ from your personal conceptions of what the law
3 ought to be?

4 PROSPECTIVE JUROR THOMAS: Yes.

5 THE COURT: A person who is accused of
6 committing a crime is presumed nobody innocent in a
7 criminal trial.

8 Do you understand and agree with that?

9 PROSPECTIVE JUROR THOMAS: Yes.

10 THE COURT: Are you aware that the
11 Defendant does not have to take the stand and testify or
12 offer any evidence if he chooses not to and you can still
13 find him not guilty?

14 That's because the burden is upon the
15 State to prove his guilt beyond a reasonable doubt.

16 PROSPECTIVE JUROR THOMAS: Yes.

17 THE COURT: Have you or close friends or
18 family members ever been involved in the criminal justice
19 process either in prosecuting a case or as a witness or
20 as a Defendant?

21 PROSPECTIVE JUROR THOMAS: No.

22 THE COURT: Do you know of any reason at
23 this point why you cannot serve as a fair juror in this
24 case?

25 PROSPECTIVE JUROR THOMAS: No.

1 THE COURT: Tell us of your employment,
2 marital status, number of children you may have and how
3 long you've lived in Clark County.

4 PROSPECTIVE JUROR THOMAS: I lived in
5 Clark County about twenty-one years. I have two
6 children, ages 25 and 22. I'm married. My wife is a
7 beautician.

8 THE COURT: Do you work?

9 PROSPECTIVE JUROR THOMAS: Yes.

10 I work at Indian Springs on the air base
11 there.

12 THE COURT: What do you do there?

13 PROSPECTIVE JUROR THOMAS: Facilities
14 maintenance coordinator.

15 THE COURT: How long have you been so
16 employed?

17 PROSPECTIVE JUROR THOMAS: About 13 years.

18 THE COURT: What other employment have you
19 had here in Clark County?

20 PROSPECTIVE JUROR THOMAS: I was in the
21 military, U.S. Air Force.

22 THE COURT: So you were stationed out here
23 at Nellis?

24 PROSPECTIVE JUROR THOMAS: Yes.

25 THE COURT: And what was your area of

1 responsibility in the Air Force?

2 PROSPECTIVE JUROR THOMAS: Feeding and
3 housing of military personnel.

4 THE COURT: What other work if any have
5 you had as an adult?

6 PROSPECTIVE JUROR THOMAS: That's about
7 it.

8 THE COURT: Where did you move from when
9 you came here?

10 PROSPECTIVE JUROR THOMAS: North Carolina.

11 THE COURT: Did you work there?

12 PROSPECTIVE JUROR THOMAS: No, sir.

13 From high school to the Air Force.

14 THE COURT: And is that where you're from,
15 North Carolina?

16 PROSPECTIVE JUROR THOMAS: Yes.

17 THE COURT: These two daughters of yours,
18 are they married?

19 PROSPECTIVE JUROR THOMAS: Sons.

20 THE COURT: Sons, I'm sorry.

21 PROSPECTIVE JUROR THOMAS: No. Both of
22 them are single.

23 THE COURT: Are either of your sons
24 involved in a law-related occupation?

25 PROSPECTIVE JUROR THOMAS: One is studying

1 the law.

2 THE COURT: He wants to be a lawyer?

3 PROSPECTIVE JUROR THOMAS: Yes.

4 THE COURT: Has he - - how far is he into
5 the process?

6 PROSPECTIVE JUROR THOMAS: Well, he's
7 working on a Master's Degree in International Law.

8 THE COURT: So do you know what his
9 interest is in ultimately, what he wants to do with his
10 law studies?

11 PROSPECTIVE JUROR THOMAS: No, sir.

12 THE COURT: You haven't had a chance to
13 discuss it with him?

14 PROSPECTIVE JUROR THOMAS: Not fully.

15 THE COURT: So he's in a traditional
16 college studying international law; that is what you're
17 saying?

18 PROSPECTIVE JUROR THOMAS: Yes.

19 THE COURT: As opposed to law school?

20 PROSPECTIVE JUROR THOMAS: Right.

21 THE COURT: Have you any prejudice as to
22 the nature of the charges in this case?

23 PROSPECTIVE JUROR THOMAS: No, sir.

24 THE COURT: Do you know any of the other
25 prospective jurors?

1 PROSPECTIVE JUROR THOMAS: No, sir.

2 THE COURT: Have you any racial prejudice?

3 PROSPECTIVE JUROR THOMAS: No, sir.

4 THE COURT: Do you understand that an
5 information is a mere accusation and not evidence, that
6 the Defendant is presumed to be innocent until proven
7 guilty and the State has the burden of proving the
8 Defendant's guilt beyond a reasonable doubt?

9 PROSPECTIVE JUROR THOMAS: Yes.

10 THE COURT: If were charged with offenses
11 similar to the ones in this case would you want 12
12 individuals such as yourself to be on your jury?

13 PROSPECTIVE JUROR THOMAS: Most
14 definitely.

15 THE COURT: Do you know of any reason at
16 all why you can't be completely fair and impartial in
17 hearing this case?

18 PROSPECTIVE JUROR THOMAS: No, sir.

19 THE COURT: Mr. Thomas, these proceedings
20 will be conducted in two segments. First, the jury will
21 determine if the Defendant is guilty. Punishment would
22 not be considered at that time.

23 Second, if the jury finds the Defendant
24 Guilty of First Degree Murder then the law of the State
25 requires the jury to set the punishment. I would set a

1 date for a hearing on the subject of punishment.

2 Do you understand?

3 PROSPECTIVE JUROR THOMAS: Yes.

4 THE COURT: In the State of Nevada there
5 are three possible forms of punishment a jury may
6 consider. Imposition of the death penalty, life in
7 prison without possibility of parole, life in prison or a
8 term of 50 years with the possibility of parole.

9 Do you understand that?

10 PROSPECTIVE JUROR THOMAS: Yes.

11 THE COURT: In your present state of mind
12 could you consider fairly all three possible forms of
13 punishment and select the one you feel is most
14 appropriate?

15 PROSPECTIVE JUROR THOMAS: Yes.

16 THE COURT: Questions from the State?

17 MR. KANE: Yes.

18 Same question, Mr. Thomas. The graphic
19 nature of some of the evidence, will that bother you one
20 way or the other?

21 PROSPECTIVE JUROR THOMAS: No.

22 MR. KANE: Nothing further, Your Honor.
23 Pass for cause.

24 THE COURT: Thank you.

25 Defense counsel?

1 MR. CHRISTIANSEN: One of the same
2 questions from our side is, as to the pictures, is there
3 anything, any emotions or anger that pictures - - and
4 they are going to be graphic - - would generate in you
5 that would cause you to lash out at Mr. Seka?

6 PROSPECTIVE JUROR THOMAS: No.

7 MR. CHRISTIANSEN: The judge has told you
8 this case is set to last about two weeks.

9 Is there anything that's going to cause
10 you to not be able to give us your full attention for two
11 weeks?

12 PROSPECTIVE JUROR THOMAS: No.

13 THE COURT: Your brother is a police
14 officer or sheriff?

15 PROSPECTIVE JUROR THOMAS: Cousin.

16 MR. CHRISTIANSEN: That's back in North
17 Carolina?

18 PROSPECTIVE JUROR THOMAS: Yes.

19 MR. CHRISTIANSEN: Police officers are
20 going to be called to testify in here. Is there anything
21 about your cousin being a police officer that's going to
22 cause you to give more or less credibility to a Metro
23 police officer that comes in here?

24 PROSPECTIVE JUROR THOMAS: No.

25 MR. CHRISTIANSEN: You'll judge them just

1 like you will a regular witness?

2 PROSPECTIVE JUROR THOMAS: I'll judge them
3 like I will everybody else.

4 MR. CHRISTIANSEN: The judge read you part
5 of the law that says Mr. Seka cannot be compelled to
6 testify. That means he doesn't have to get up and take
7 the stand and you can't hold it against him if he's so
8 advised.

9 Do you understand that?

10 PROSPECTIVE JUROR THOMAS: right.

11 MR. CHRISTIANSEN: You can't even discuss
12 that with other members of the jury. It has to be a
13 non-issue to you whether or not a Defendant testifies.

14 PROSPECTIVE JUROR THOMAS: Right.

15 MR. CHRISTIANSEN: All of us in our system
16 in this country are entitled to that consideration.

17 PROSPECTIVE JUROR THOMAS: Right.

18 MR. CHRISTIANSEN: Do you think you can
19 keep it out of your mind one way or another?

20 PROSPECTIVE JUROR THOMAS: Yes.

21 MR. CHRISTIANSEN: Judge Mosley also told
22 you that the Information, the charging sheet is just an
23 accusation.

24 I asked an earlier juror and now I'm
25 asking you, do you understand that this process, the jury

1 trial, is just the natural culmination of how our
2 Criminal Justice System works?

3 Somebody gets charged by the State, they
4 say they want a trial and we all get corraled into jury
5 selection, as in your case.

6 PROSPECTIVE JUROR THOMAS: Right.

7 MR. CHRISTIANSEN: Do you think that's an
8 important right?

9 PROSPECTIVE JUROR THOMAS: Yes.

10 MR. CHRISTIANSEN: And that's something
11 that you hold in high regard in our society?

12 PROSPECTIVE JUROR THOMAS: Yes.

13 MR. CHRISTIANSEN: Thank you, sir.

14 Pass for cause.

15 THE COURT: Thank you.

16 We're going to take a recess. Ladies and
17 Gentlemen, let me read to you an admonition which is
18 required by law to be said each time we recess.

19 (Whereupon, the Court admonished the
20 prospective jurors.)

21 THE COURT: Please understand that this
22 admonition is strictly adhered to. Should there be a
23 violation of that I would have to declare a mistrial and
24 everything we had done up to that point would be of
25 waste, so please understand it is very, very important.

1 I might also indicate to you that during
2 these proceedings we'll be working in close quarters.
3 There will be potential witnesses out in the hallway or
4 family members of the attorneys or parties or witnesses.

5 You never know who you're going to see out
6 there. So you might be privy to some conversation
7 between them which perhaps you shouldn't be. So it's a
8 little difficult, but I want you to give your very best
9 efforts to adhere to what's been said here.

10 It is so strictly adhered to that the
11 attorneys you may see tomorrow afternoon, you might say
12 good afternoon to them. They may well ignore you.

13 It's because of this admonition. They are
14 not being rude to you, but it is so important. We'll
15 take approximately 15 minutes, perhaps 20.

16 If you have to smoke, whatever, you might
17 make a quick run outside, but do be back here in
18 approximately 20 minutes. The bailiff will summon you at
19 the proper time.

20 Court is in recess.

21 (Brief recess taken.)

22 THE COURT: The continuation of C159915,
23 State versus John Joseph Seka. Let record reflect the
24 presence of the Defendant, Mr. Chriastensen and Mr.
25 Kennedy, defense counsel, Mr. Kane and Mr. Fattig for the

1 State.

2 Ms. Clerk, will you call the roll of the
3 prospective jurors, please?

4 (Whereupon, the clerk of the court called
5 the roll of the prospective jurors.)

6 MS. CLERK: Your Honor, the panel is
7 present.

8 THE COURT: Thank you. Ms. or Mrs.
9 Arebelo?

10 PROSPECTIVE JUROR AREBELO: My what?

11 THE COURT: Is it Ms. or Mrs?

12 PROSPECTIVE JUROR AREBELO: Well, it's Ms.
13 at the moment. I have a wedding ring on, yes.

14 THE COURT: Mrs. Arebelo, will you tell us
15 your employment, how many children you may have had and
16 how long you've been in Clark County?

17 PROSPECTIVE JUROR AREBELO: I'm currently
18 employed with an electrical contractor, three children,
19 one my own, two stepchildren.

20 My husband passed away two years ago and
21 I'm retired for 20 years with Nevada Power.

22 THE COURT: How long have you lived in
23 Clark County, total?

24 PROSPECTIVE JUROR AREBELO: Nearly all my
25 life, 50 years.

1 THE COURT: You have one child, natural
2 child and two stepchildren?

3 PROSPECTIVE JUROR AREBELO: Right.

4 THE COURT: Are they or their spouses
5 involved in a law-related occupation?

6 PROSPECTIVE JUROR AREBELO: No, they are
7 not.

8 THE COURT: You worked for Nevada Power in
9 what capacity?

10 PROSPECTIVE JUROR AREBELO: At the office
11 of the generating plants.

12 THE COURT: What other work have you had
13 as an adult?

14 PROSPECTIVE JUROR AREBELO: I've been a
15 beautician years ago.

16 THE COURT: Where are you from originally?

17 PROSPECTIVE JUROR AREBELO: Logandale,
18 born here.

19 THE COURT: I take it from the way you've
20 answered the questions you did take some time away from
21 Nevada at some point?

22 PROSPECTIVE JUROR AREBELO: Yes.

23 My husband when he retired, I retired with
24 him. We had six years before he passed away and then I
25 went back to work.

1 THE COURT: Did you travel pretty much
2 during that period?

3 PROSPECTIVE JUROR AREBELO: No. I did a
4 lot of volunteering.

5 THE COURT: Where did you live?

6 PROSPECTIVE JUROR AREBELO: Here.

7 THE COURT: All right. I thought maybe
8 you had left the state for a period of time.

9 PROSPECTIVE JUROR AREBELO: No.

10 THE COURT: What was your husband's
11 occupation?

12 PROSPECTIVE JUROR AREBELO: He was a
13 lineman and then an electrical contractor himself.

14 THE COURT: Have you any prejudice as to
15 the nature of the charges in this case?

16 PROSPECTIVE JUROR AREBELO: No.

17 THE COURT: Do you know any of the other
18 prospective jurors?

19 PROSPECTIVE JUROR AREBELO: No.

20 THE COURT: Have you any racial prejudice?

21 PROSPECTIVE JUROR AREBELO: No.

22 THE COURT: Do you understand that an
23 information is a mere accusation and not evidence, that
24 the Defendant is presumed to be innocent until proven
25 guilty and that the State has the burden of proving the

1 Defendant's guilt beyond a reasonable doubt?

2 PROSPECTIVE JUROR AREBELO: Do me a favor
3 and repeat that. I have not heard everything every time
4 you've said it.

5 I do not hear all that well.

6 THE COURT: Do you have a little
7 difficulty hearing?

8 PROSPECTIVE JUROR AREBELO: Yes, I do.

9 THE COURT: We might seat you some place
10 nearer a speaker at some point.

11 The question was do you understand that
12 the Information, which is the charging document, that
13 that Information is a mere accusation and not evidence,
14 that the Defendant is presumed to be innocent until
15 proven guilty and that the State has the burden of
16 proving the Defendant's guilt beyond a reasonable doubt?

17 PROSPECTIVE JUROR AREBELO: Yes.

18 THE COURT: Do you understand all that?

19 PROSPECTIVE JUROR AREBELO: Yes, I did.

20 THE COURT: If you were charged with
21 offenses similar to the ones that are alleged in this
22 case would you want 12 individuals such as yourself to be
23 on your jury?

24 PROSPECTIVE JUROR AREBELO: Yes.

25 THE COURT: Do you know of any reason at

1 all - -

2 PROSPECTIVE JUROR AREBELO: Other than my
3 hearing.

4 THE COURT: Do you know of any reason at
5 all why you cannot be completely fair and impartial in
6 hearing this matter?

7 PROSPECTIVE JUROR AREBELO: No, I don't.

8 THE COURT: Do you think your hearing is
9 such that you would miss any of the testimony?

10 PROSPECTIVE JUROR AREBELO: Personally, I
11 would not want me on my own trial if I was listening to
12 evidence.

13 THE COURT: Because you might miss some of
14 that which has been said?

15 PROSPECTIVE JUROR AREBELO: That's right.

16 If I can't discuss it with other people,
17 at that time, I'm not going to remember it maybe later on
18 in the other room.

19 THE COURT: I don't know if this makes any
20 difference, but you'll be allowed to take notes. We'll
21 give you a note pad and a pencil.

22 PROSPECTIVE JUROR AREBELO: But if you
23 don't hear it, you can't take a note.

24 THE COURT: Good point.

25 PROSPECTIVE JUROR AREBELO: I know.

1 THE COURT: Well, really it's a subjective
2 matter. If there's anything we can do to facilitate, we
3 will, but if you think you're going to misread part of
4 this - -

5 PROSPECTIVE JUROR AREBELO: I am hard of
6 hearing. One of these days I'll give in and get some
7 hearing aids.

8 Right now I do fine at work and I more or
9 less have had other things to do with my kids, to get
10 them, than to get me a hearing aid, but in this case - -

11 THE COURT: Counsel approach the bench,
12 please.

13 (Discussion off the record.)

14 THE COURT: Ms. Arebelo, I appreciate your
15 candor. I think that I will excuse you at this time. I
16 do want you to come back some time and be a juror for us,
17 won't you?

18 PROSPECTIVE JUROR AREBELO: I'd love to
19 serve.

20 MS. CLERK: Badge number 63, Laura
21 Williams, W-i-l-l-i-a-m-s.

22 THE COURT: Is it Ms. or Mrs. Williams?

23 PROSPECTIVE JUROR WILLIAMS: Ms.

24 THE COURT: Ms. Williams, have you served
25 as a juror before?

1 PROSPECTIVE JUROR WILLIAMS: No.

2 THE COURT: Is there any reason why you
3 could not serve as a fair juror in this particular trial?

4 PROSPECTIVE JUROR WILLIAMS: no.

5 THE COURT: Are you or any of your close
6 friends or relatives involved in law enforcement or have
7 you been in the past?

8 PROSPECTIVE JUROR WILLIAMS: Um, the best
9 man at my wedding, I'm divorced now, was Troy Wilson.
10 He's on the SWAT Team, but he was friends with my
11 ex-husband and I haven't seen him probably in like two
12 years.

13 THE COURT: Were you a good friend of his
14 at one point?

15 PROSPECTIVE JUROR WILLIAMS: During the
16 marriage we would go over there from time to time, maybe
17 a few times a year.

18 THE COURT: How long has it been since
19 you've seen him?

20 PROSPECTIVE JUROR WILLIAMS: Um, probably
21 about two years.

22 THE COURT: Do you intend to see him
23 again, do you think?

24 PROSPECTIVE JUROR WILLIAMS: I hope so,
25 but - -

1 THE COURT: I mean, is that likely do you
2 feel?

3 PROSPECTIVE JUROR WILLIAMS: Probably not.
4 I don't know.

5 THE COURT: Do you think your friendship
6 with him, at least in the past, would have any bearing on
7 the way you'd evaluate this trial?

8 PROSPECTIVE JUROR WILLIAMS: no.

9 THE COURT: Do you think you could be a
10 fair juror?

11 PROSPECTIVE JUROR WILLIAMS: Um-hum, yes.

12 THE COURT: Have you or a close friend or
13 family member ever been the victim of crime?

14 PROSPECTIVE JUROR WILLIAMS: No.

15 THE COURT: Will you follow all of the
16 instructions of the Court on the law even though they may
17 differ from your personal conception of what the law
18 ought to be?

19 PROSPECTIVE JUROR WILLIAMS: Yes.

20 THE COURT: A person accused of committing
21 a crime is presumed to be innocent in a criminal trial.

22 Do you understand and agree with that?

23 PROSPECTIVE JUROR WILLIAMS: Yes.

24 THE COURT: Are you aware that the
25 Defendant does not have the take the stand and testify or

1 offer any evidence if he chooses not to and you can still
2 find him not guilty?

3 That's because the burden of proof is on
4 the State to prove his guilt beyond a reasonable doubt.

5 PROSPECTIVE JUROR WILLIAMS: Yes.

6 THE COURT: Have you or a close friend or
7 family member ever been involved in the criminal justice
8 process?

9 PROSPECTIVE JUROR WILLIAMS: No.

10 THE COURT: Do you know of any reason at
11 this point why you can't serve as a fair juror in this
12 case?

13 PROSPECTIVE JUROR WILLIAMS: No.

14 THE COURT: Tell us how long you've lived
15 in Clark County, how many children you may have had
16 and what type of work you have done.

17 PROSPECTIVE JUROR WILLIAMS: I'm an
18 executive secretary to the president of the Golden
19 Nugget. I have lived in Clark County for 25 years.

20 I have a son seven year's old.

21 THE COURT: How long have you worked at
22 your current employment?

23 PROSPECTIVE JUROR WILLIAMS: Um, I've been
24 with the company for over eight years, but I've been in
25 this position for about five months.

1 THE COURT: What other work if any have
2 you had here in Clark County?

3 PROSPECTIVE JUROR WILLIAMS: I was a
4 cashier and a receptionist.

5 THE COURT: Where was this?

6 PROSPECTIVE JUROR WILLIAMS: I was a
7 cashier at the Mirage and I was a receptionist at Mission
8 Linen.

9 THE COURT: Where did move from when you
10 came here?

11 PROSPECTIVE JUROR WILLIAMS: Um, from
12 California.

13 THE COURT: Is that where you're from
14 originally?

15 PROSPECTIVE JUROR WILLIAMS: Yes. I was
16 born in California.

17 THE COURT: What city?

18 PROSPECTIVE JUROR WILLIAMS: Duarte.

19 THE COURT: Where is that?

20 PROSPECTIVE JUROR WILLIAMS: Monrovia,
21 near L. A.

22 THE COURT: Your husband was employed how
23 when you were married?

24 PROSPECTIVE JUROR WILLIAMS: He was a
25 truck driver for Silver State Recycling.

1 THE COURT: Have you any prejudice as to
2 the nature of the charges in this case?

3 PROSPECTIVE JUROR WILLIAMS: No.

4 THE COURT: Do you know any of the other
5 prospective jurors?

6 PROSPECTIVE JUROR WILLIAMS: No.

7 THE COURT: Have you any racial prejudice?

8 PROSPECTIVE JUROR WILLIAMS: No.

9 THE COURT: Do you understand that an
10 information is a mere accusation and not evidence, that
11 the Defendant is presumed to be innocent until proven
12 guilty and the State has the burden of proving the
13 Defendant's guilt beyond a reasonable doubt?

14 PROSPECTIVE JUROR WILLIAMS: Yes.

15 THE COURT: If you were charged with
16 offenses similar to the ones that are alleged in this
17 case would you want 12 individuals such as yourself to be
18 on your jury?

19 PROSPECTIVE JUROR WILLIAMS: Yes.

20 THE COURT: Do you know of any reason at
21 all why you can't be complete fair and impartial in
22 hearing this matter?

23 PROSPECTIVE JUROR WILLIAMS: No.

24 THE COURT: Ms. Williams, these
25 proceedings will be conducted in two segments. First,

1 the jury will determine if the Defendant is guilty.

2 Punishment would not be considered at that time.

3 Second, if the jury finds the Defendant
4 Guilty of First Degree Murder then the law of the State
5 requires that the jury set the punishment. I would set a
6 date for a hearing on the subject of punishment.

7 Do you understand?

8 PROSPECTIVE JUROR WILLIAMS: Yes.

9 THE COURT: In the State of Nevada there
10 are three possible forms of punishment that the jury may
11 consider; the imposition of the death penalty, life in
12 prison without possibility of parole and life in prison
13 or a term of 50 years with the possibility of parole.

14 Do you understand that?

15 PROSPECTIVE JUROR WILLIAMS: Yes.

16 THE COURT: In your present state of mind
17 can you consider fairly all three possible forms of
18 punishment and select the one that you feel is most
19 appropriate?

20 PROSPECTIVE JUROR WILLIAMS: Yes.

21 THE COURT: Questions from the State?

22 MR. FATTIG: Good afternoon, Mrs.
23 Williams. If you're selected as a juror in this case
24 you'll take an oath to do equal and exact justice between
25 the State of Nevada and the Defendant in this case.

1 Do you think you'll be able to do that?

2 PROSPECTIVE JUROR WILLIAMS: Yes.

3 MR. FATTIG: If the State proves all the
4 essential elements, beyond a reasonable doubt, will you
5 be able to sit and return a verdict of guilty?

6 PROSPECTIVE JUROR WILLIAMS: Can you prove
7 that?

8 MR. FATTIG: If the State proves all of
9 the essential elements - - and you'll be told what those
10 elements are of the crimes, beyond a reasonable doubt,
11 which is our burden, can you accept that and would you be
12 able to return a verdict of guilty?

13 PROSPECTIVE JUROR WILLIAMS: Yes.

14 MR. FATTIG: Pass for cause, Your Honor.

15 THE COURT: Defense counsel?

16 MR. KENNEDY: Ms. Williams, you said you
17 had a former friend of your ex-husband who is on the Swat
18 Team; is that right?

19 PROSPECTIVE JUROR WILLIAMS: Yes.

20 MR. KENNEDY: This is a couple years ago?

21 PROSPECTIVE JUROR WILLIAMS: Yes.

22 MR. KENNEDY: Was this a close friend that
23 you did something with him and his family?

24 PROSPECTIVE JUROR WILLIAMS: Just we'd go
25 to his house for dinner or he would come over for dinner,

1 watch movies.

2 MR. KENNEDY: Would he talk about his work
3 on the Swat Team and how exciting it is and things like
4 that?

5 PROSPECTIVE JUROR WILLIAMS: Yes.

6 MR. KENNEDY: Would he talk about his
7 arrests or some of his investigations?

8 PROSPECTIVE JUROR WILLIAMS: Nothing in a
9 lot of detail, but he would tell us about, you know, what
10 happened if something was extraordinary.

11 MR. KENNEDY: Ms. Williams, do you believe
12 in an old concept known as an eye for an eye?

13 PROSPECTIVE JUROR WILLIAMS: Yes.

14 MR. KENNEDY: Do you believe that if
15 someone has committed murder that they, too, should
16 forfeit their life?

17 PROSPECTIVE JUROR WILLIAMS: Not
18 necessarily.

19 MR. KENNEDY: You see where I'm going with
20 that. You've heard some of these questions we've asked
21 of the previous jurors.

22 If you do find my client guilty of First
23 Degree Murder you are going to have an option in the
24 penalty range and we just want to know that - - it sounds
25 like what you're telling me here is that you're not

1 automatically going to assume if someone is convicted of
2 murder that they, too, should be put to death themselves.

3 PROSPECTIVE JUROR WILLIAMS: Right.

4 MR. KENNEDY: Is that truly how you feel?

5 PROSPECTIVE JUROR WILLIAMS: Um, um-hum.

6 MR. KENNEDY: Pass for cause.

7 THE COURT: Thank you.

8 Mr. Hardy, tell us please of your
9 employment, marital status, number of children you may
10 have and how long you've lived in Clark County.

11 PROSPECTIVE JUROR HARDY: I'm a school
12 teacher here in the Clark County School District. I'm
13 married. I have two children ages, one is almost four
14 and one is almost two, and then one more on the way.

15 I've lived here in Clark County most of my
16 life except for a couple years when I was a baby and a
17 few years when I was away for college.

18 THE COURT: All right. And what do you
19 teach?

20 PROSPECTIVE JUROR HARDY: I teach third
21 grade.

22 THE COURT: And have you worked at any
23 other profession since coming to Clark County.

24 PROSPECTIVE JUROR HARDY: No.

25 THE COURT: Where did you move from when

1 you came here?

2 PROSPECTIVE JUROR HARDY: When I was a
3 baby I lived up in Utah, but then I lived out in
4 Logandale.

5 THE COURT: Your family moved while you
6 were just very young?

7 PROSPECTIVE JUROR HARDY: Yes.

8 THE COURT: You've lived here with the
9 exception of college pretty much your entire life?

10 PROSPECTIVE JUROR HARDY: Yes.

11 THE COURT: Where did you go to college?

12 PROSPECTIVE JUROR HARDY: In Provo, Utah.

13 THE COURT: Were you ever in the military?

14 PROSPECTIVE JUROR HARDY: No.

15 THE COURT: And is your wife employed
16 outside the home?

17 PROSPECTIVE JUROR HARDY: No.

18 THE COURT: Has she been in the past?

19 PROSPECTIVE JUROR HARDY: No.

20 THE COURT: Have you done any other work
21 other than teaching as an adult?

22 PROSPECTIVE JUROR HARDY: I do a little
23 bit of construction work on my breaks from teaching and
24 do it just for myself.

25 THE COURT: On your breaks. Are you in a

1 year-round school?

2 PROSPECTIVE JUROR HARDY: I'm in a
3 year-round school, yes.

4 THE COURT: Have you any prejudice as to
5 the nature of the charges in this case?

6 PROSPECTIVE JUROR HARDY: No.

7 THE COURT: Do you know any of the other
8 prospective jurors?

9 PROSPECTIVE JUROR HARDY: No.

10 THE COURT: Have any racial prejudice?

11 PROSPECTIVE JUROR HARDY: No.

12 THE COURT: Do you understand that an
13 information is a mere accusation, and not evidence, that
14 the Defendant is presumed to be innocent until proven
15 guilty, and that the State has the burden of proving the
16 Defendant's guilt beyond a reasonable doubt?

17 PROSPECTIVE JUROR HARDY: Yes.

18 THE COURT: If you with were charged with
19 offenses similar to the ones that are alleged in this
20 case would you want 12 people on your jury that are
21 essentially as you are?

22 PROSPECTIVE JUROR HARDY: Yes.

23 THE COURT: Do you know of any reason at
24 all why you can't be completely fair and impartial in
25 hearing this case?

1 PROSPECTIVE JUROR HARDY: No.

2 THE COURT: Mr. Hardy, these proceedings
3 will be conducted in two segments. First, the jury will
4 determine if the Defendant is guilty. Punishment would
5 not be scheduled at that time.

6 Second, if the jury finds the Defendant
7 Guilty of First Degree Murder, then the law of the State
8 requires the jury to set the punishment. I would set a
9 date for a hearing on the subject of punishment.

10 Do you understand that?

11 PROSPECTIVE JUROR HARDY: Yes.

12 THE COURT: In the State of Nevada there
13 are three possible forms of punishment that the jury may
14 consider, the imposition of the death penalty, life in
15 prison without the possibility of parole, or life in
16 prison or a term of 50 years with the possibility of
17 parole.

18 Do you understand that?

19 PROSPECTIVE JUROR HARDY: Yes.

20 THE COURT: In your present state of mind
21 could you consider fairly all three possible forms of the
22 punishment and select the one you feel is most
23 appropriate?

24 PROSPECTIVE JUROR HARDY: To be honest, I
25 guess I philosophically believe that the death penalty is

1 appropriate in certain situations.

2 However, I've often asked myself could I
3 be the one to give that? And to be honest, I haven't
4 really come to a conclusion whether I could or couldn't,
5 but it would be very difficult for me.

6 THE COURT: Well, in the final analysis
7 the question has to be answered, can you fairly consider
8 the three possible forms of punishment, assuming we got
9 to the penalty phase of the hearing?

10 Would consider them fairly? In other
11 words, each of them being an option?

12 PROSPECTIVE JUROR HARDY: I guess I
13 believe I could consider it. Like I say, I don't know
14 when it comes right down to it, if I would, within
15 myself, be able to do that.

16 THE COURT: Questions from the State?

17 MR. KANE: My mom used to say "If all the
18 other kids jump off the roof are you going to?"

19 So I guess I've considered jumping off the
20 roof, but I can't conceive of a circumstance where I
21 could do it. That's really the question.

22 I think you heard the question I put to
23 one of the other jurors. If we got - - and we're several
24 steps from the line, but if we got to the point where a
25 verdict of death was concerned and the jury were polled

1 and we were to say to the jury "Is that your verdict?"
2 then the jury would say "Yes, that's my verdict," do you
3 think you could do that?

4 MR. CHRISTIANSEN: Object again on the
5 same grounds I did previously. The proper standard of
6 the law is he simply be able to consider it,
7 philosophically. He's never required to say "I could in
8 any situation impose it."

9 THE COURT: Mr. Chriastensen, I'm going to
10 acknowledge that objection a second time. It will be a
11 continuing objection.

12 I do not see the correlation between your
13 objection and the question that was asked. I'm going to
14 let the question be answered.

15 Go ahead, sir.

16 PROSPECTIVE JUROR HARDY: Once again, to
17 be honest, I believe that the death penalty is an
18 appropriate sentence, at times. And like I say, I've
19 asked myself that question, I mean different times
20 throughout my life. And to be honest, by nature, I'm
21 kind of finding myself being somewhat sympathetic, often,
22 and so I don't know.

23 I really don't know.

24 MR. KANE: Well, you heard the judge ask
25 the question, you know, if you were unfortunate enough to

1 be sitting in a position where the Defendant is would you
2 want 12 people like that on your jury?

3 PROSPECTIVE JUROR HARDY: Yes.

4 MR. KANE: If you were sitting where I am
5 and you're an advocate on behalf of the State and you're
6 looking for jurors to be fair and impartial would you
7 want 12 people like you sitting on the jury?

8 I'm not saying that that makes you a good
9 or bad person.

10 Do you understand what I'm asking?

11 PROSPECTIVE JUROR HARDY: Yeah. I realize
12 that. To be completely honest, if I was on this side I
13 would want me more than if I was on the other side.

14 MR. KANE: Challenge for cause, judge.

15 THE COURT: Yes.

16 MR. CHRISTIANSEN: May I ask questions,
17 Your Honor?

18 THE COURT: Yes.

19 MR. CHRISTIANSEN: Good afternoon, Mr.
20 Hardy. You told the judge right first off when he asked
21 you if there was anything about the penalties that
22 bothered you, that, philosophically, you can consider the
23 alternative forms as our Legislature has laid them out
24 and as he's read them to you, right?

25 PROSPECTIVE JUROR HARDY: Yes.

1 MR. CHRISTIANSEN: You've also told the
2 judge that you would follow the law as he will tell you
3 what the law is and you'll follow his instructions as to
4 what the law is even if the law doesn't comport with your
5 personal feelings, right?

6 PROSPECTIVE JUROR HARDY: Yes.

7 MR. CHRISTIANSEN: The law never requires
8 you to say "I can and I will put somebody to death." It
9 just requires that you be able to tell us that you can
10 fairly consider the death penalty as an option.

11 PROSPECTIVE JUROR HARDY: Yes.

12 MR. CHRISTIANSEN: That's what I'm asking
13 you. If you believe it philosophically, that there is a
14 case out there that warrants the death penalty, you then
15 can fairly consider it in this case, correct?

16 PROSPECTIVE JUROR HARDY: I suppose so,
17 yeah, yes.

18 MR. CHRISTIANSEN: Thank you. I'd object.

19 THE COURT: Now, Mr. Hardy, in that fair
20 consideration of the death penalty as an option I'm going
21 to follow up on Mr. Kane's questions.

22 And that is can you conceive of a
23 circumstance where you could impose the death penalty in
24 this setting, come back here from the jury room, having
25 deliberated, and each individual being asked if the death

1 penalty would be imposed, could you say yes, under any
2 circumstance that you can envision?

3 PROSPECTIVE JUROR HARDY: Like I say, it
4 would be difficult. There probably would be
5 circumstances where I could say yes, but it would be very
6 difficult for me.

7 THE COURT: Mr. Hardy will be allowed to
8 remain. Your motion for cause is denied.

9 Ms. or Mrs. McCoy?

10 PROSPECTIVE JUROR MCCOY: Mrs. McCoy.

11 I'm a widow. I've lived here seven years.

12 THE COURT: Just a moment, please.

13 Is there any reason that you know of that
14 you could not serve as a fair juror in this particular
15 case?

16 PROSPECTIVE JUROR MCCOY: No.

17 THE COURT: If you would tell us about
18 your employment, the number of children you may have and
19 how long you've lived in Clark County.

20 PROSPECTIVE JUROR MCCOY: I have lived in
21 Clark County seven years, work as a cashier at the
22 Goodwill Store and I've worked as a cashier at different
23 stores in here in Nevada.

24 THE COURT: Do you have children?

25 PROSPECTIVE JUROR MCCOY: I have four

1 children. Their ages are 38, 40, 44 and 47.

2 THE COURT: Are any of those children or
3 their spouses involved in a law-related occupation?

4 PROSPECTIVE JUROR McCOY: No.

5 THE COURT: Now, during the time that you
6 have lived here in Clark County you have worked as a
7 cashier, did you say?

8 PROSPECTIVE JUROR McCOY: Yes.

9 THE COURT: Anything else here in Clark
10 County?

11 PROSPECTIVE JUROR McCOY: No.

12 THE COURT: Where did you move from when
13 you came here?

14 PROSPECTIVE JUROR McCOY: California,
15 Bellflower.

16 THE COURT: How long did you work there?

17 PROSPECTIVE JUROR McCOY: Thirty years.

18 THE COURT: What did do you there?

19 PROSPECTIVE JUROR McCOY: I helped my
20 husband and I used to help him transport cars.

21 THE COURT: Did he have a used car lot or
22 a dealership or how was he in the business?

23 PROSPECTIVE JUROR McCOY: Well, he bought
24 cars from the dealers and he sold them to new dealers.

25 If you trade in your car he would buy that

1 and sell it to used car dealers, fix it up and sell it at
2 the auction to used car dealers. So we had to go get
3 them.

4 THE COURT: What other work if any had he
5 had?

6 PROSPECTIVE JUROR McCOY: He was in
7 construction, worked on the St. Lawrence Seaway and
8 basically - -

9 THE COURT: I'm sorry.

10 PROSPECTIVE JUROR McCOY: - - that's about
11 it.

12 THE COURT: What other work have you had
13 over the years, if any?

14 PROSPECTIVE JUROR McCOY: None, just
15 cashier.

16 THE COURT: Are you from the Bellflower
17 area originally?

18 PROSPECTIVE JUROR McCOY: No,
19 Pennsylvania.

20 THE COURT: Is that where you were born?

21 PROSPECTIVE JUROR McCOY: Yeah.

22 THE COURT: And raised there?

23 PROSPECTIVE JUROR McCOY: Yeah.

24 THE COURT: Where have you lived other
25 than Southern California or here?

1 PROSPECTIVE JUROR McCOY: Pennsylvania.

2 That was it.

3 THE COURT: That was it, okay.

4 Have you any prejudice as to the nature of
5 the charges in this case?

6 PROSPECTIVE JUROR McCOY: No.

7 THE COURT: Do you know any of the other
8 prospective jurors?

9 PROSPECTIVE JUROR McCOY: No.

10 THE COURT: Have you any racial prejudice?

11 PROSPECTIVE JUROR McCOY: No.

12 THE COURT: Do you understand that an
13 information is a mere accusation and not evidence, that
14 the Defendant is presumed to be innocent until proven
15 guilty and the State has the burden of proving the
16 Defendant's guilt beyond a reasonable doubt?

17 PROSPECTIVE JUROR McCOY: Yes.

18 THE COURT: If you were charged with
19 offenses similar to the ones that are alleged in this
20 case would you want 12 individuals such as yourself to be
21 on your jury?

22 PROSPECTIVE JUROR McCOY: Yes.

23 THE COURT: Do you know of any reason at
24 all why you can't be completely fair and impartial in
25 hearing this case?

1 PROSPECTIVE JUROR McCOY: No.

2 THE COURT: These proceedings will be
3 conducted in two segments. First, the jury will
4 determine if the Defendant is guilty. Punishment would
5 not be considered at that time.

6 Second, if the jury finds the Defendant
7 guilty of First Degree Murder the law of the State
8 requires the jury to set punishment. I would set a date
9 for a hearing on the subject of punishment.

10 Do you understand that?

11 PROSPECTIVE JUROR McCOY: Yes.

12 THE COURT: In the State of Nevada there
13 are three possible forms of punishment that the jury may
14 consider, the imposition of the death penalty, life in
15 prison without the possibility of parole or life in
16 prison or a term of 50 years with the possibility of
17 parole.

18 Do you understand that?

19 PROSPECTIVE JUROR McCOY: Um-hum.

20 THE COURT: In your present state of mind
21 could you consider fairly all three possible forms of
22 punishment and select the one you feel is most
23 appropriate?

24 PROSPECTIVE JUROR McCOY: I'm not too
25 sure. It would have to be proven, you know, really

1 proven for me to do that with the death penalty.

2 THE COURT: Do you think you could
3 consider that as a possibility?

4 PROSPECTIVE JUROR McCOY: Yes, I could
5 consider it. That's why I say it would have to be
6 serious circumstances.

7 THE COURT: Questions from the State?

8 MR. KANE: Just the usual thing about the
9 possibility of that graphic evidence that I've been
10 talking about.

11 Does that bother you one way or the other?

12 PROSPECTIVE JUROR McCOY: No. Hopefully,
13 it won't, no.

14 MR. KANE: If it would - -

15 PROSPECTIVE JUROR McCOY: No, I don't
16 think so.

17 MR. KANE: - - there's no harm in saying
18 so. We need to know that.

19 PROSPECTIVE JUROR McCOY: Yeah, I know.

20 THE COURT: Pass for cause?

21 MR. KANE: Yes.

22 THE COURT: Defense counsel?

23 MR. KENNEDY: Ms. McCoy, just so I'm
24 clear, of the three punishment options, life with the
25 possibility of parole, life without the possibility of

1 parole and death, it seems like maybe I didn't hear you
2 correctly.

3 You said you would consider death, but
4 only if it was really proven to you?

5 PROSPECTIVE JUROR MccOY: Yeah, because of
6 death it would have to be really proven that that was
7 appropriate.

8 MR. KENNEDY: Do you think the death
9 penalty is an appropriate form of punishment for a
10 murder?

11 PROSPECTIVE JUROR MccOY: Usually.

12 MR. KENNEDY: You do think it is?

13 PROSPECTIVE JUROR MccOY: Yeah.

14 MR. KENNEDY: But in your opinion, you
15 have to see some really strong evidence, for lack of a
16 better word, before you would vote for such a penalty?

17 PROSPECTIVE JUROR MccOY: Yeah - - well,
18 yes.

19 MR. KENNEDY: Pass for cause.

20 THE COURT: Thank you.

21 Mrs. Reeves, tell us please of your
22 employment, the number of children you may have and how
23 long you've lived in Clark County.

24 PROSPECTIVE JUROR REEVES: I'm a homemaker
25 and I've lived in Clark County for about 13 years. I

1 have a daughter 21.

2 THE COURT: Is she married?

3 PROSPECTIVE JUROR REEVES: No, she's not.

4 THE COURT: Is she involved in a
5 law-related occupation?

6 PROSPECTIVE JUROR REEVES: No.

7 THE COURT: Have you worked outside the
8 home at all?

9 PROSPECTIVE JUROR REEVES: Yes.

10 THE COURT: How so?

11 PROSPECTIVE JUROR REEVES: I had my own
12 housekeeping service business and I was a dental - - I
13 worked in dental assisting.

14 THE COURT: Dental assistant?

15 PROSPECTIVE JUROR REEVES: Um-hum.

16 THE COURT: Where did you move from when
17 you came here?

18 PROSPECTIVE JUROR REEVES: We moved here
19 from the L.A. area.

20 THE COURT: Is that where you worked as a
21 dental assistant?

22 PROSPECTIVE JUROR REEVES: Yes.

23 THE COURT: Any other work as an adult?

24 PROSPECTIVE JUROR REEVES: I helped my
25 husband in the chiropractic office, in his office.

1 THE COURT: Is that his trade, a
2 chiropractor?

3 PROSPECTIVE JUROR REEVES: Well, he was.
4 He is an airline pilot.

5 THE COURT: All right. But he's worked in
6 both capacities during the time you've known him?

7 PROSPECTIVE JUROR REEVES: Right. He's
8 retired from chiropractic.

9 THE COURT: Where are you from originally?

10 PROSPECTIVE JUROR REEVES: Richmond,
11 Indiana.

12 THE COURT: Have you any prejudice as to
13 the nature of the charges in this case?

14 PROSPECTIVE JUROR REEVES: No, sir.

15 THE COURT: Do you know any of the other
16 prospective jurors?

17 PROSPECTIVE JUROR REEVES: No.

18 THE COURT: Have you any racial prejudice?

19 PROSPECTIVE JUROR REEVES: No, I don't.

20 THE COURT: Do you understand that an
21 information is a mere accusation and not evidence, that
22 the Defendant is presumed to be innocent until proven
23 guilty and that the State has the burden of proving the
24 Defendant's guilt beyond a reasonable doubt?

25 PROSPECTIVE JUROR REEVES: Yes.

1 THE COURT: If you were charged with
2 offenses similar to the ones that are alleged this case
3 would you want 12 individuals such as yourself to be on
4 your jury?

5 PROSPECTIVE JUROR REEVES: Yes.

6 THE COURT: Do you know of any reason at
7 all why you could not be completely fair and impartial in
8 hearing this case?

9 PROSPECTIVE JUROR REEVES: No, I don't.

10 THE COURT: Mrs. Reeves, these proceedings
11 will be conducted in two segments. First, the jury will
12 determine if the Defendant is guilty. The punishment
13 would not be considered at that time.

14 Second, if the jury finds the Defendant
15 Guilty of First Degree Murder then the law of the State
16 requires the jury to set punishment. I would set a date
17 for a hearing on the subject of punishment.

18 Do you understand that?

19 PROSPECTIVE JUROR REEVES: Yes.

20 THE COURT: In the State of Nevada there
21 are three possible forms of punishment that the jury may
22 consider, the imposition of the death penalty, life in
23 prison without possibility of parole, or life in prison
24 or a term of 50 years with the possibility of parole.

25 Do you understand that?

1 PROSPECTIVE JUROR REEVES: Yes.

2 THE COURT: In your present state of mind
3 can you consider fairly all three possible forms of
4 punishment and select the one you feel is most
5 appropriate?

6 PROSPECTIVE JUROR REEVES: Yes.

7 THE COURT: Questions from the State?

8 MR. FATTIG: If you were sitting where I
9 am representing the people of Nevada would you want
10 someone like yourself to be a juror in your case?

11 PROSPECTIVE JUROR REEVES: Yes.

12 MR. FATTIG: Pass for cause.

13 THE COURT: Defense counsel?

14 MR. CHRISTIANSEN: Good afternoon, Mrs.
15 Reeves.

16 You've heard the question that I've posed
17 to most of the people who have gone before you about
18 envisioning a scenario where you've just convicted
19 somebody of two different First Degree Murders and then
20 being called upon, from your perspective, to fairly
21 consider a sentence of life with the possibility of
22 parole so somebody would get back out.

23 Is that something you can do?

24 PROSPECTIVE JUROR REEVES: Yes, I believe
25 so.

1 MR. CHRISTIANSEN: Is there such a
2 scenario out there in the realm of whatever you can
3 imagine that somebody that you would have just convicted
4 would maybe be entitled to come back into society after a
5 period of years?

6 PROSPECTIVE JUROR REEVES: Yes.

7 MR. CHRISTIANSEN: And the picture
8 question that Mr. Kane and myself have both asked,
9 there's going to be some pictures in this case.

10 Is there anything about seeing graphic
11 pictures that would cause you to be unable to set aside
12 whatever emotions it generates in you and be fair to both
13 sides?

14 PROSPECTIVE JUROR REEVES: I don't believe
15 so.

16 MR. CHRISTIANSEN: Thank you. I pass for
17 cause, Your Honor.

18 THE COURT: Thank you.

19 Mr. Carter, tell us please of your
20 employment, marital status, number of children you may
21 have and how long you've lived in Clark County.

22 PROSPECTIVE JUROR CARTER: I'm currently
23 employed at chief of security for the Western Hotel &
24 Casino, divorced for about seven years, one daughter,
25 nine years of age. I've been in Clark County for the

1 last nine years.

2 Prior to that I was in Michigan for two
3 years, back in Nevada for five years, back to Michigan
4 before that.

5 THE COURT: Are you from Michigan?

6 PROSPECTIVE JUROR CARTER: Yes.

7 THE COURT: And since coming to Las Vegas
8 this last time have you been solely with the one
9 employer?

10 PROSPECTIVE JUROR CARTER: No, sir.

11 Before I - - I was in security with an
12 alarm company, a contract security company. Since 1996,
13 I've been employed by the Western.

14 THE COURT: And when you were back in
15 Michigan - - you did say Michigan, right?

16 PROSPECTIVE JUROR CARTER: Correct.

17 THE COURT: This last time were you
18 employed there?

19 PROSPECTIVE JUROR CARTER: Yes. I was a
20 tow truck driver.

21 THE COURT: How long did you live there
22 that last time?

23 PROSPECTIVE JUROR CARTER: In Michigan?
24 About three years.

25 THE COURT; When you were in Las Vegas

1 before that, what was your employment?

2 PROSPECTIVE JUROR CARTER: Security.

3 THE COURT: Where?

4 PROSPECTIVE JUROR CARTER: Contract
5 security companies.

6 THE COURT: Have you worked as an adult in
7 any other field?

8 PROSPECTIVE JUROR CARTER: I was a driver
9 for an ambulance, tow truck driver and security.

10 THE COURT: What was your wife's
11 occupation at the time you were married, if she was
12 working outside the home?

13 PROSPECTIVE JUROR CARTER: She was a
14 cashier at a Thriftmart.

15 THE COURT: Were you ever in the military?

16 PROSPECTIVE JUROR CARTER: Yes.

17 THE COURT: What branch?

18 PROSPECTIVE JUROR CARTER: U.S. Army.

19 THE COURT: What was your area of
20 responsibility?

21 PROSPECTIVE JUROR CARTER: Basic soldier.

22 THE COURT: Have you any prejudice as to
23 the nature of the charges in this case?

24 PROSPECTIVE JUROR CARTER: No, sir.

25 THE COURT: Do you know any of the other

1 prospective jurors?

2 PROSPECTIVE JUROR CARTER: No, sir.

3 THE COURT: Have you any racial prejudice?

4 PROSPECTIVE JUROR CARTER: No, sir.

5 THE COURT: Do you understand that an
6 Information is a mere accusation, not evidence, that the
7 Defendant is presumed to be innocent until proven guilty
8 and the State has the burden of proving the Defendant's
9 guilt beyond a reasonable doubt?

10 PROSPECTIVE JUROR CARTER: Yes.

11 THE COURT: If you were charged with
12 offenses similar to the ones that are alleged in this
13 case would you want 12 individuals on your jury that are
14 essentially as you are?

15 PROSPECTIVE JUROR CARTER: Yes.

16 THE COURT: Do you know of any reason at
17 all why you couldn't be completely fair and impartial in
18 hearing this case?

19 PROSPECTIVE JUROR CARTER: No, sir.

20 THE COURT: These proceedings will be
21 conducted in two segments. First, the jury will
22 determine if the Defendant is guilty. Punishment would
23 not be considered at that time.

24 Second, if the jury finds the Defendant
25 Guilty of First Degree Murder then the law of this state

1 requires the jury to set the punishment. I would set a
2 date for a hearing on the subject of punishment.

3 Do you understand that?

4 PROSPECTIVE JUROR CARTER: Yes.

5 THE COURT: In the State of Nevada there
6 are three possible forms of punishment that the jury may
7 consider, the imposition of the death penalty, life in
8 prison without the possibility of parole or life in
9 prison with the possibility of parole or a 50-year year
10 term with that possibility.

11 Do you understand that?

12 PROSPECTIVE JUROR CARTER: Yes.

13 THE COURT: In your present state of mind
14 could you consider fairly all three possible forms of
15 punishment and select the one you feel most appropriate?

16 PROSPECTIVE JUROR CARTER: Yes, I could.

17 THE COURT: Questions from the State?

18 MR. KANE: Just one.

19 Is there anything about the possibility of
20 graphic evidence that we've been talking about that would
21 bother you one way or the other?

22 PROSPECTIVE JUROR CARTER: No, sir.

23 MR. KANE: Pass for cause.

24 THE COURT: Defense counsel?

25 MR. KENNEDY: Mr. Carter, you told us,

1 earlier on - - you told the judge that you have someone
2 who is in your family who is with the DEA?

3 PROSPECTIVE JUROR CARTER: No, sir, a
4 friend.

5 MR. KENNEDY: Your friend is in the DEA
6 and your brother-in-law was a police officer back in
7 Michigan or he still is?

8 PROSPECTIVE JUROR CARTER: Yes.

9 MR. KENNEDY: Are you close to him or do
10 you talk to him on a regular basis?

11 PROSPECTIVE JUROR CARTER: No, sir.

12 I talk to him once every three years when
13 I go back that way.

14 MR. KENNEDY: Your friend who is in the
15 DEA, is he a close friend?

16 PROSPECTIVE JUROR CARTER: Yes.

17 MR. KENNEDY: Is that somebody you see on
18 a regular basis?

19 PROSPECTIVE JUROR CARTER: I see him once
20 every two or three years.

21 MR. KENNEDY: Is he still with the DEA?

22 PROSPECTIVE JUROR CARTER: Yes.

23 MR. KENNEDY: He's probably got a beard
24 and down in Columbia somewhere.

25 Now, you told us that you testified in

1 municipal court before; is that correct?

2 PROSPECTIVE JUROR CARTER: Correct.

3 MR. KENNEDY: And you're the Director of
4 Security at the Western Hotel?

5 PROSPECTIVE JUROR CARTER: Correct.

6 MR. KENNEDY: How many times have you
7 testified in municipal court?

8 PROSPECTIVE JUROR CARTER: Approximately
9 seven times.

10 MR. KENNEDY: Seven times.

11 Have you ever testified in the justice
12 court?

13 PROSPECTIVE JUROR CARTER: Not to my
14 knowledge.

15 MR. KENNEDY: And those cases in municipal
16 court, are those for people that you arrested there at
17 the hotel?

18 PROSPECTIVE JUROR CARTER: Cited.

19 MR. KENNEDY: Cited them.

20 For what type of crimes?

21 PROSPECTIVE JUROR CARTER: Criminal
22 trespass, disturbing the peace.

23 MR. KENNEDY: Were all those people for
24 the seven times you testified, were each of them
25 convicted after you gave testimony in those cases?

1 PROSPECTIVE JUROR CARTER: They were
2 fined. One was failure to appear again. The rest of
3 them just pled guilty.

4 MR. KENNEDY: Okay. How long were you a
5 soldier in the Army?

6 PROSPECTIVE JUROR CARTER: About three and
7 a half months active. Nine months inactive.

8 MR. KENNEDY: And you heard all these
9 questions about the death penalty.

10 Do you believe in the death penalty?

11 PROSPECTIVE JUROR CARTER: I believe there
12 should be a death penalty, yes.

13 MR. KENNEDY: Do you think it should apply
14 in every case where someone is convicted of a homicide?

15 PROSPECTIVE JUROR CARTER: No.

16 MR. KENNEDY: Does that mean you'll look
17 at something, each case on its own individual basis?

18 PROSPECTIVE JUROR CARTER: Correct.

19 MR. KENNEDY: Pass for cause.

20 THE COURT: Thank you.

21 Mrs. Hafen, tell us please of your
22 employment, number of children you may have and how long
23 you've lived in Clark County.

24 PROSPECTIVE JUROR HAFEN: I've been
25 married 46 years. I'm a native Nevadan.

1 I've lived in Lincoln County and Clark
2 County for just a few years while my husband was in the
3 military. Other than that we have been back in Clark
4 County since '61.

5 I have five children. Three live here in
6 - - two live here in Las Vegas; the rest are out of
7 state.

8 THE COURT: Okay.

9 Have you been employed outside the home?

10 PROSPECTIVE JUROR HAFEN: I'm a homemaker.

11 When we were first married I worked in
12 Rose DeLima Hospital in Reno, assistant medical
13 secretary.

14 THE COURT: Are any of your sons in the
15 legal profession or daughters?

16 PROSPECTIVE JUROR HAFEN: No.

17 THE COURT: And your husband is employed
18 how or has he been employed in the past?

19 PROSPECTIVE JUROR HAFEN: He's retired
20 now. Elementary school administrator for 30 years.

21 THE COURT: Have you any prejudice as to
22 the nature of the charges in this case?

23 PROSPECTIVE JUROR HAFEN: No.

24 THE COURT: Do you know any of the other
25 prospective jurors?

1 PROSPECTIVE JUROR HAFEN: No.

2 THE COURT: Have you any racial prejudice?

3 PROSPECTIVE JUROR HAFEN: No.

4 THE COURT: Do you understand that the
5 Information is a mere accusation and not evidence, that
6 the Defendant is presumed to be innocent until proven
7 guilty and that the State has the burden of proving the
8 Defendant's guilt beyond a reasonable doubt?

9 PROSPECTIVE JUROR HAFEN: Yes.

10 THE COURT: If you were charged with
11 offenses similar to the ones alleged in this case would
12 you want 12 individuals such as yourself to be on your
13 jury?

14 PROSPECTIVE JUROR HAFEN: Yes.

15 THE COURT: Do you know of any reason why
16 you couldn't be complete fair and impartial in hearing
17 this case?

18 PROSPECTIVE JUROR HAFEN: No.

19 I think hearing - - I think hearing what
20 we would be hearing and it would have to be proved to me,
21 you know.

22 THE COURT: What would have to be proved
23 to you?

24 PROSPECTIVE JUROR HAFEN: If the person
25 was guilty.

1 THE COURT: Okay.

2 Do you think you can be fair during that
3 process?

4 PROSPECTIVE JUROR HAFEN: Yes.

5 THE COURT: These proceedings will be
6 conducted in the segments. First, the jury will
7 determine if the Defendant is guilty. Punishment would
8 not be considered at that time.

9 Second, if the jury finds the Defendant
10 Guilty of First Degree Murder then the law of this state
11 requires the jury set the punishment. I would set a date
12 for a hearing on the subject of punishment.

13 Do you understand?

14 PROSPECTIVE JUROR HAFEN: Yes.

15 THE COURT: In the State of Nevada there
16 are three possible forms of punishment that the jury may
17 consider, the imposition of the death penalty, life in
18 prison without the possibility of parole or life in
19 prison with a term of 50 years with the possibility of
20 parole.

21 Do you understand that?

22 PROSPECTIVE JUROR HAFEN: Yes.

23 THE COURT: In your present state of mind
24 could consider fairly all three forms of punishment and
25 select the one you feel is most appropriate?

1 PROSPECTIVE JUROR HAFEN: Yes.

2 THE COURT: Questions from the State?

3 MR. FATTIG: You heard the questions about
4 the graphic photos. If you're selected as a juror, does
5 that cause you any concern?

6 PROSPECTIVE JUROR HAFEN: To be honest
7 with you, I have never looked at anything like that so I
8 don't know how it would affect me.

9 MR. FATTIG: Do you think that you would
10 be able to - - because it's going to be important for you
11 to look at those photos, if they are admitted into
12 evidence and you're selected as a juror, to look at them
13 and consider what evidentiary value they have in proving
14 the Defendant's guilt in this case.

15 Do you think you would be able to look at
16 them, set aside as much emotional impact they might have
17 upon you as possible and look at them for the evidentiary
18 value they have?

19 PROSPECTIVE JUROR HAFEN: Yes, probably.

20 MR. FATTIG: You'll try your best to do
21 that?

22 PROSPECTIVE JUROR HAFEN: Yes, yes.

23 MR. FATTIG: You mentioned that obviously
24 in order to find the Defendant Guilty it would have to be
25 proved to you. The judge will give you a set of

1 instructions and in those instructions will be a
2 definition for what we call a reasonable doubt.

3 Obviously, the burden in this case is the
4 State has to prove the elements of the crimes beyond a
5 reasonable doubt.

6 Do you think you'll have a problem
7 following the instructions that the judge gives you in
8 this case about reasonable doubt?

9 PROSPECTIVE JUROR HAFEN: I don't think
10 so.

11 MR. FATTIG: Do you think because of the
12 gravity of the charges you might hold the State to a
13 burden that's higher than that, beyond any doubt?

14 PROSPECTIVE JUROR HAFEN: Would you repeat
15 that again?

16 MR. FATTIG: Do you think that you might
17 have a problem, because I sense from you a concern about
18 that, in following the instructions that the judge will
19 give you about what a reasonable doubt is?

20 PROSPECTIVE JUROR HAFEN: No.

21 MR. FATTIG: You think you'll be able to
22 follow that?

23 PROSPECTIVE JUROR HAFEN: I think I could
24 follow that.

25 MR. FATTIG: You won't hold the State to

1 an impossible burden, then?

2 PROSPECTIVE JUROR HAFEN: No.

3 MR. FATTIG: Pass for cause.

4 THE COURT: Thank you.

5 Defense counsel?

6 MR. CHRISTIANSEN: Good afternoon, Mrs.

7 Hafen.

8 You mentioned when we were all out here in
9 the audience or you were in the audience that you know, I
10 think it was, Sargeant Hefner?

11 PROSPECTIVE JUROR HAFEN: Yes.

12 MR. CHRISTIANSEN: Sargeant Hefner was
13 read off by Mr. Kane as one of the potential witnesses in
14 this case.

15 PROSPECTIVE JUROR HAFEN: Yes.

16 MR. CHRISTIANSEN: He may very well come
17 in here and get up on the witness stand and take an oath
18 and testify.

19 Just because you know him would that cause
20 you to believe him moreso than any other witness?

21 PROSPECTIVE JUROR HAFEN: No.

22 MR. CHRISTIANSEN: You'll judge things he
23 says and answers he gives to maybe my questions with the
24 same credibility as any other witness that gets on that
25 stand?

1 PROSPECTIVE JUROR HAFEN: Yes.

2 MR. CHRISTIANSEN: I've asked the question
3 many times now about the three possible penalties, the
4 death penalty, life with and life without the possibility
5 of parole.

6 I just want to know that you can fairly
7 consider all three of those if we get to that stage of
8 the trial.

9 PROSPECTIVE JUROR HAFEN: If we get to
10 that stage, yes.

11 MR. CHRISTIANSEN: Everybody at this table
12 doesn't think we're getting to that stage; do you
13 understand that?

14 I just have to ask the question so we can
15 figure out if we can have fair and impartial jurors.

16 PROSPECTIVE JUROR HAFEN: Yes.

17 MR. CHRISTIANSEN: Thank you, ma'am.

18 Pass for cause, Your Honor.

19 THE COURT: Thank you.

20 Mrs. Michaelides, can you tell us of your
21 employment, how many children you may have and the number
22 of years you've been in Clark County?

23 PROSPECTIVE JUROR MICHAELIDES: I'm a
24 lawyer. I have one son who will be a year very soon and
25 I've lived in Clark County for six years.

1 THE COURT: How long have you been an
2 attorney?

3 PROSPECTIVE JUROR MICHAELIDES: Six and a
4 half years.

5 THE COURT: So you practice other than in
6 Nevada?

7 PROSPECTIVE JUROR MICHAELIDES: I was
8 admitted in Ohio where I went to law school and moved
9 here and began practicing here.

10 THE COURT: What kind of law do you
11 practice. Primarily?

12 PROSPECTIVE JUROR MICHAELIDES: Civil
13 litigation, mostly commercial matters.

14 THE COURT: And are you from Pennsylvania?

15 PROSPECTIVE JUROR MICHAELIDES: No.
16 Originally from Concord, Massachusetts.

17 THE COURT: You went to school where?

18 PROSPECTIVE JUROR MICHAELIDES: In Ohio.

19 THE COURT: Have you worked as an adult in
20 Ohio or otherwise?

21 PROSPECTIVE JUROR MICHAELIDES: I worked
22 as a law clerk all through law school in Ohio, before
23 that, following college, I worked in Washington, D.C. for
24 the National Association of Home Builders doing
25 educational programs for their members and worked for a

1 company that did office services for different law firms.

2 THE COURT: Your husband is an attorney?

3 PROSPECTIVE JUROR MICHAELIDES: Yes.

4 THE COURT: Has he worked at anything else
5 that you're aware of during the time you've known him?

6 PROSPECTIVE JUROR MICHAELIDES: In the
7 time I've known him, no.

8 THE COURT: He practices just a general
9 array of law; does he not?

10 PROSPECTIVE JUROR MICHAELIDES: Yes.

11 THE COURT: And you've had occasion to
12 discuss cases with him from time to time, I suppose; have
13 you not?

14 PROSPECTIVE JUROR MICHAELIDES: From time
15 to time, although we really try to be pretty careful
16 about ongoing matters.

17 THE COURT: Let me ask you, do you think
18 you could be able, willing and able to use the law that I
19 give you to apply to this situation as opposed to what
20 you obviously know from experience and in law school?

21 PROSPECTIVE JUROR MICHAELIDES: I think
22 so.

23 The last time I've really looked at any
24 law to do with the charges that have been outlined in
25 this case was law school, studying for the bar, and

1 really have never had occasion to look at the law in
2 Nevada so I would definitely be able to follow what was
3 given me in the courtroom.

4 THE COURT: Have you any prejudice as
5 nature of the charges in this case?

6 PROSPECTIVE JUROR MICHAELIDES: No.

7 THE COURT: Do you know any of the other
8 prospective jurors?

9 PROSPECTIVE JUROR MICHAELIDES: No.

10 THE COURT: Have you any racial prejudice?

11 PROSPECTIVE JUROR MICHAELIDES: No.

12 THE COURT: Do you understand that an
13 information is a mere accusation and not evidence, that
14 the Defendant is presumed to be innocent until proven
15 guilty and that the State has the burden of proving the
16 Defendant's guilt beyond a reasonable doubt?

17 PROSPECTIVE JUROR MICHAELIDES: Yes.

18 THE COURT: If you were charged with
19 offenses similar to the ones that are alleged in this
20 case would you want 12 individuals such as yourself on
21 the jury?

22 PROSPECTIVE JUROR MICHAELIDES: Yes.

23 THE COURT: Do you know of any reason at
24 all why you couldn't be completely fairly and impartial
25 in hearing this matter?

1 PROSPECTIVE JUROR MICHAELIDES: No.

2 THE COURT: These proceedings will be
3 conducted in two segments. First, the jury will
4 determine if the Defendant is guilty.

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 hearing for the punishment.

9 Do you understand that?

10 PROSPECTIVE JUROR MICHAELIDES: Yes.

11 THE COURT: There are three possible forms
12 of punishment the jury may consider, the death penalty,
13 life in prison without the possibility of parole or life
14 in prison or a term of 50 years with the possibility of
15 parole.

16 In your present state of mind could you
17 consider all three possible forms of punishment and
18 select the one you feel is most appropriate?

19 PROSPECTIVE JUROR MICHAELIDES: Yes.

20 THE COURT: Questions from the State?

21 MR. KANE: The usual about graphic
22 evidence. Anything about that cause you a problem?

23 PROSPECTIVE JUROR MICHAELIDES: I think it
24 would be disturbing, but I don't think it would affect my
25 judgment.

1 MR. KANE: The judge asked you a question
2 which I think fairly amounted to would being a lawyer
3 because you any problems in jury service.

4 I wanted to take that one step further.
5 You're not just a lawyer, you're a trial lawyer.

6 Do you think that would cause you any
7 difficulty as a juror?

8 PROSPECTIVE JUROR MICHAELIDES: I don't
9 think so. If this was a civil trial I might have a
10 different answer, but I don't think so in this setting.

11 I'm sure perhaps I'm looking at lawyers a
12 little bit more intensely than, and with a different
13 perspective perhaps than the other jurors are, you know,
14 maybe a bit more critical eye, but I don't think as far
15 as my judgment of what's brought before me, the evidence
16 that's brought before me at all that it's going to affect
17 that, no.

18 MR. KANE: I think you can see where I'm
19 going. You don't think you would be sitting there
20 thinking to yourself "Yes, they didn't do this and that I
21 sure would have."?

22 PROSPECTIVE JUROR MICHAELIDES: No.
23 Because obviously from my understanding of the law I know
24 there are certain things that come in and don't come in
25 and I will accept that and see what's in the courtroom

1 and judge that.

2 MR. KANE: Nothing further, judge. Pass
3 for cause.

4 THE COURT: Thank you. Defense counsel?

5 MR. KENNEDY: I guess you never thought
6 I'd get a chance to grill you like this - - and I won't.

7 You've heard all these questions and you
8 know what this case is about and you know that there is a
9 potential here for concern, that if a certain finding is
10 made my client could face death.

11 The death penalty itself, is that
12 something, if you find guilt, if you find guilt beyond a
13 reasonable doubt is the death penalty something that you
14 view as automatic, that if a person is found guilty of
15 First Degree Murder then they must die?

16 PROSPECTIVE JUROR MICHAELIDES: No, it's
17 not automatic.

18 MR. KENNEDY: Would you fairly consider
19 all the facts that are presented in this case before
20 making a final decision?

21 PROSPECTIVE JUROR MICHAELIDES: Yes.

22 MR. KENNEDY: Pass for cause.

23 THE COURT: Thank you.

24 Ladies and Gentlemen, we have come to a
25 point in the proceedings where counsel may exercise, in

1 turn, what is known as their peremptory challenges
2 whereby another individual would be selected to replace
3 you.

4 If you're challenged, please understand
5 that it does not mean you're ill-suited or unfit as a
6 juror. It merely means that another individual who would
7 take your place might be more receptive to their view of
8 the matter than perhaps you are. That's all it amounts
9 to.

10 The State may exercise its first
11 peremptory challenge.

12 MR. KANE: State would thank and excuse
13 Mr. Hardy, juror number seven.

14 THE COURT: You're excused.

15 MS. CLERK: Badge number 67, Daniel Brown,
16 B-r-o-w-n.

17 THE COURT: Mr. Brown, have you served as
18 a juror before?

19 PROSPECTIVE JUROR BROWN: Yes.

20 THE COURT: How long ago was that?

21 PROSPECTIVE JUROR BROWN: About 11, 12
22 years ago.

23 THE COURT: Here in Clark County?

24 PROSPECTIVE JUROR BROWN: In Denver.

25 THE COURT: Was it a civil or criminal

1 case?

2 PROSPECTIVE JUROR BROWN: It was a
3 criminal drunk driving case.

4 THE COURT: Without indicating what the
5 verdict was did you reach a verdict?

6 PROSPECTIVE JUROR BROWN: Yes.

7 THE COURT: Were you the foreman of the
8 jury?

9 PROSPECTIVE JUROR BROWN: Yes.

10 THE COURT: Do you think your prior jury
11 service would in any way inhibit your ability to fairly
12 serve on this jury?

13 PROSPECTIVE JUROR BROWN: No.

14 THE COURT: Do you know of any reason at
15 all why you couldn't fairly serve in this particular
16 case?

17 PROSPECTIVE JUROR BROWN: No.

18 THE COURT: Are you or any of your close
19 friends or relatives involved in law enforcement or have
20 you been in past?

21 PROSPECTIVE JUROR BROWN: My co-worker's
22 husband is a prominent homicide detective here in Las
23 Vegas.

24 THE COURT: Your co-worker's husband is?

25 PROSPECTIVE JUROR BROWN: Yes.

1 THE COURT: Who is that?

2 PROSPECTIVE JUROR BROWN: Sargeant
3 Manning.

4 THE COURT: Have you met Sargeant Manning?

5 PROSPECTIVE JUROR BROWN: Once, yes.

6 THE COURT; Just in passing or did you
7 have dinner?

8 PROSPECTIVE JUROR BROWN: We had a party
9 and he was there.

10 THE COURT: How long ago was that?

11 PROSPECTIVE JUROR BROWN: About two years
12 ago.

13 THE COURT: Do you think if he were to
14 testify you could evaluate his testimony objectively?

15 PROSPECTIVE JUROR BROWN: Yes.

16 THE COURT: Do you think under the
17 circumstances that you can be a fair juror?

18 PROSPECTIVE JUROR BROWN: Yes.

19 THE COURT: Have you or close friends or
20 family members ever been a victim of crime?

21 PROSPECTIVE JUROR BROWN: Um, nothing real
22 major, house burglary about 25 years ago, someone broke
23 into my wife's car and stole some food in the back seat.

24 THE COURT: Was any of this reported?

25 PROSPECTIVE JUROR BROWN: Yes.

1 THE COURT: Did the authorities act
2 appropriately, in your judgement?

3 PROSPECTIVE JUROR BROWN: Yes.

4 THE COURT: Would any of this have any
5 detrimental effect on your ability to fairly serve?

6 PROSPECTIVE JUROR BROWN: No.

7 THE COURT: Will you follow all of the
8 instructions of the Court on the law even though they may
9 differ from what your personal conceptions of what the
10 law ought to be?

11 PROSPECTIVE JUROR BROWN: Yes.

12 THE COURT: A person accused of committing
13 a crime is presumed to be innocent in a criminal matter.

14 Do you understand and agree with that?

15 PROSPECTIVE JUROR BROWN: Yes.

16 THE COURT: Are you aware that the
17 Defendant doesn't have to take the witness stand and
18 testify or offer any evidence if he chooses not to and
19 you can still find him not guilty in that the State has
20 the burden of proving his guilt beyond a reasonable
21 doubt?

22 PROSPECTIVE JUROR BROWN: Yeah.

23 THE COURT: Have you or a close friend or
24 family member ever been involved in the criminal justice
25 process either in prosecuting a case or as a witness or

1 Defendant?

2 PROSPECTIVE JUROR BROWN: No.

3 THE COURT: Do you know of any reason at
4 this point why you couldn't serve as fair juror at this
5 point?

6 PROSPECTIVE JUROR BROWN: No.

7 THE COURT: Tell us of your employment,
8 how many children you may have and how long you have
9 lived in Clark County.

10 PROSPECTIVE JUROR BROWN: I'm a second
11 grade teacher in Clark County. I've lived here for 10
12 years and I'm married.

13 THE COURT: How long have you been a
14 teacher?

15 PROSPECTIVE JUROR BROWN: About 11 years.

16 THE COURT: So you were teaching before
17 you came here?

18 PROSPECTIVE JUROR BROWN: Yes. I taught
19 one year in Florida.

20 THE COURT: And you teach exclusively
21 elementary school?

22 PROSPECTIVE JUROR BROWN: Yes.

23 THE COURT: Is your wife employed outside
24 the home?

25 PROSPECTIVE JUROR BROWN: Yes.

1 THE COURT: How so?

2 PROSPECTIVE JUROR BROWN: She's an
3 accountant for Hamada Restaurants.

4 THE COURT: Has that been the kind of work
5 she's done throughout the time you have known her?

6 PROSPECTIVE JUROR BROWN: She's had
7 various jobs.

8 THE COURT: I guess what I'm asking is is
9 accounting the kind of work she has done exclusively or
10 has she done other things?

11 PROSPECTIVE JUROR BROWN: She's done other
12 things.

13 THE COURT: For instance?

14 PROSPECTIVE JUROR BROWN: Worked in a dry
15 cleaner.

16 THE COURT: Did you indicate you have
17 children?

18 PROSPECTIVE JUROR BROWN: No, no children.

19 THE COURT: You moved from Florida before
20 coming here?

21 PROSPECTIVE JUROR BROWN: Yes.

22 THE COURT: What city?

23 PROSPECTIVE JUROR BROWN: We lived in Fort
24 Meyers for one year.

25 THE COURT: Were you working there?

1 PROSPECTIVE JUROR BROWN: Yes. I was a
2 first grade teacher.

3 THE COURT: And before Florida where did
4 you live?

5 PROSPECTIV JUROR BROWN: I grew up in
6 Colorado, in Denver.

7 THE COURT: Were you employed in Denver?

8 PROSPECTIVE JUROR BROWN: Yes, as a
9 teacher's assistant.

10 THE COURT: And that's where you're from
11 originally?

12 PROSPECTIVE JUROR BROWN: Yes.

13 THE COURT: Do you have any prejudice as
14 nature of the charges?

15 PROSPECTIVE JUROR BROWN: No.

16 THE COURT: Do you know any of the other
17 prospective jurors?

18 PROSPECTIVE JUROR BROWN: No, I don't.

19 THE COURT: Have you any racial prejudice?

20 PROSPECTIVE JUROR BROWN: No.

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 BROWN: 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 BROWN: Yes.

7 THE COURT: Do you know of any reason at
8 all why you can't be completely and impartial in hearing
9 this case?

10 PROSPECTIVE JUROR BROWN: No.

11 THE COURT: Mr. Brown, these proceedings
12 will be conducted in two phases. First, the jury will
13 determine if the Defendant is guilty. Punishment would
14 not be considered at that time.

15 Second, if the jury finds the Defendant
16 Guilty of First Degree Murder then the law of the State
17 requires the jury to set punishment. I would set a date
18 for a hearing on the subject of punishment.

19 Do you understand that?

20 PROSPECTIVE JUROR BROWN: Yes.

21 THE COURT: In the State of Nevada there
22 are three possible forms of punishment the jury may
23 consider, the imposition of the death penalty, life in
24 prison without possibility of parole or life in prison or
25 a term of 50 years with the possibility of parole.

1 Do you understand that?

2 PROSPECTIVE JUROR BROWN: Yes.

3 THE COURT: In your present state of mind
4 can you consider or could you consider fairly all three
5 possible forms of punishment and select the one you feel
6 is most appropriate?

7 PROSPECTIVE JUROR BROWN: Yes, I could.

8 THE COURT: Questions by the State?

9 MR. FATTIG: Sir, your prior jury
10 experience was that down in Florida?

11 PROSPECTIVE JUROR BROWN: In Denver.

12 MR. FATTIG: It was in Colorado?

13 PROSPECTIVE JUROR BROWN: Yes.

14 MR. FATTIG: You mentioned that was a
15 criminal case?

16 PROSPECTIVE JUROR BROWN: Yes.

17 MR. FATTIG: Was that generally a positive
18 experience or was it a negative experience?

19 PROSPECTIVE JUROR BROWN: Yes, it was very
20 positive.

21 MR. FATTIG: Very positive?

22 PROSPECTIVE JUROR BROWN: Yes.

23 MR. FATTIG: What sort of things did you
24 like about being on a jury?

25 PROSPECTIVE JUROR BROWN: I could feel the

1 framers of the Constitution in the jury room with us as
2 to actually looking up the evidence and making the
3 judgment on the evidence and the Judge's Orders.

4 MR. FATTIG: May I ask, you mentioned that
5 you were the foreman.

6 How did you end up being the foreman?

7 PROSPECTIVE JUROR BROWN: I got voted into
8 it.

9 MR. FATTIG: You didn't necessarily want
10 to be the foreman?

11 PROSPECTIVE JUROR BROWN: It didn't
12 matter.

13 MR. FATTIG: It didn't matter to you.
14 Was there anything negative about the
15 experience?

16 PROSPECTIVE JUROR BROWN: Only the fact
17 that we found the Defendant guilty on certain charges and
18 the judge had come in and told us that he had just got
19 out of jail on other charges and we were disillusioned,
20 as a jury, but the judge said that we weren't allowed to
21 know that and so we decided entirely based on the
22 evidence.

23 MR. FATTIG: But in the end you were happy
24 with the way things turned out?

25 PROSPECTIVE JUROR BROWN: Yes, yes.

1 MR. FATTIG: Pass for cause, Your Honor.

2 THE COURT: Defense counsel?

3 MR. CHRISTIANSEN: Good afternoon.

4 Mr. Brown, you said something about the
5 Denver case that after the fact the judge told you some
6 things that disillusioned the jury as a whole?

7 PROSPECTIVE JUROR BROWN: Yes.

8 MR. CHRISTIANSEN: My concern is is it
9 something about the Denver case that is going to have you
10 thinking the whole time this case is going on "Hey, I
11 know something this Judge Mosley is not telling me
12 something about" and you're going to go back into that
13 jury room tainted?

14 PROSPECTIVE JUROR BROWN: No.

15 MR. CHRISTIANSEN: Can you assure me that
16 you're going to deal with this case based upon what
17 happens in this courtroom?

18 PROSPECTIVE JUROR BROWN: Yes.

19 MR. CHRISTIANSEN: You're not going to be
20 worried about or having a bad impression, I guess you
21 got, after the last case you served as a juror?

22 PROSPECTIVE JUROR BROWN: No.

23 MR. CHRISTIANSEN: You've heard my
24 question ad nauseum to everybody about the three possible
25 penalties and your ability to fairly consider all three

1 of them?

2 PROSPECTIVE JUROR BROWN: Yes.

3 MR. CHRISTIANSEN: Can you envision a
4 scenario in a case where you have just convicted somebody
5 of two separate First Degree Murder charges, where you
6 would believe that letting that person back into society,
7 after a period of years of confinement, would be the
8 appropriate punishment?

9 PROSPECTIVE JUROR BROWN: Yes.

10 MR. CHRISTIANSEN: Okay. And flip the
11 coin the other way.

12 Do you believe that in every case where
13 you find First Degree Murder that death is the
14 appropriate punishment?

15 PROSPECTIVE JUROR BROWN: Yes.

16 MR. CHRISTIANSEN: In every case where you
17 find a First Degree Murder you find death is the proper
18 punishment?

19 PROSPECTIVE JUROR BROWN: No.

20 MR. CHRISTIANSEN: I'm confused.

21 I wanted to make sure you'll consider all
22 the evidence and you won't go to death or life or life
23 without, automatically.

24 PROSPECTIVE JUROR BROWN: No.

25 MR. CHRISTIANSEN: If the judge tells you

1 you have to consider them fairly you'll follow his
2 instructions in that regard?

3 PROSPECTIVE JUROR BROWN: Yes.

4 MR. CHRISTIANSEN: You mentioned you knew
5 Sargeant Manning through a co-worker.

6 PROSPECTIVE JUROR BROWN: Yes.

7 MR. CHRISTIANSEN: Sargeant Manning is one
8 of the higher ups in homicide, according to what you
9 know, correct?

10 PROSPECTIVE JUROR BROWN: Yes.

11 MR. CHRISTIANSEN: Is there going - -
12 there are going to be homicide detectives in this case
13 that will take the stand and testify.

14 PROSPECTIVE JUROR BROWN: Yes.

15 MR. CHRISTIANSEN: Is there anything about
16 your relationship with Sargeant Manning that's going to
17 give you more credibility to the homicide detectives that
18 come in here and testify?

19 PROSPECTIVE JUROR BROWN: No.

20 MR. CHRISTIANSEN: Will you judge them by
21 the same standards you would judge a lay witness?

22 PROSPECTIVE JUROR BROWN: Yes.

23 MR. CHRISTIANSEN: Pass for cause.

24 THE COURT: Approach the bench, counsel,
25 please.

(Discussion off the record.)

THE COURT: The defense's first peremptory challenge, please.

MR. KENNEDY: Your Honor, the defense would thank and excuse juror number 56, Mr. Jack Todd.

THE COURT: Mr. Todd, thank you, very much. You're excused.

MS. CLERK: Badge number 53, Paul Kanala, K-a-n-a-l-a.

THE COURT: Mr. Kanala, do you pronounce your name Kanala, sir.

PROSPECTIVE JUROR KANALA: Yes.

THE COURT: Mr. Kanala, have you served as a juror before?

PROSPECTIVE JUROR KANALA: No, I have not.

THE COURT: Is there any reason why you could not serve as a fair juror in this particular case?

PROSPECTIVE JUROR KANALA: No, there's not.

THE COURT: Are you or any of your close friends or relatives involved in law enforcement or have you been in the past?

PROSPECTIVE JUROR KANALA: No.

1 THE COURT: Have you or a close friend or
2 family member ever been the victim of crime?

3 PROSPECTIVE JUROR KANALA: No.

4 THE COURT: Will you follow all of the
5 instructions of the Court on the law even though they may
6 differ from what your personal conception of what the law
7 ought to be?

8 PROSPECTIVE JUROR KANALA: Yes.

9 THE COURT: A person accused of committing
10 a crime is to be presumed innocent in a criminal trial.

11 Do you understand and agree with that?

12 PROSPECTIVE JUROR KANALA: Yet.

13 THE COURT: Are you aware that the
14 Defendant doesn't have to take the witness stand and
15 testify and that's because the burden is upon the State
16 to prove his guilt beyond a reasonable doubt?

17 PROSPECTIVE JUROR KANALA: Yes, I do.

18 THE COURT: Have you or close friends or
19 family members ever been involved in the criminal justice
20 process either in prosecuting a case or as a witness or
21 as a Defendant?

22 PROSPECTIVE JUROR KANALA: No.

23 THE COURT: Again, do you know of any
24 reason why you couldn't serve as a fair juror in this
25 case?

1 PROSPECTIVE JUROR KANALA: No, I don't.

2 THE COURT: Tell us of your employment,
3 marital status, number of children you may have and how
4 long you have lived in Clark County.

5 PROSPECTIVE JUROR KANALA: Been in Clark
6 County for four years and I've been working at the Sierra
7 Health Services as an information security analyst and I
8 would have one daughter who is eight months.

9 THE COURT: Okay. Are you currently
10 married?

11 PROSPECTIVE JUROR KANALA: Yes.

12 THE COURT: And have you worked at your
13 current employment the entire time you've lived here in
14 Las Vegas?

15 PROSPECTIVE JUROR KANALA: Yes.

16 THE COURT: Is your wife employed outside
17 the home?

18 PROSPECTIVE JUROR KANALA: She's a
19 teacher.

20 THE COURT: What does she teach?

21 PROSPECTIVE JUROR KANALA: Second grade.

22 THE COURT: And has that been the kind of
23 work she's done throughout the time you have known her?

24 PROSPECTIVE JUROR KANALA: Yes.

25 THE COURT: Where did you move from?

1 PROSPECTIVE JUROR KANALA: Woodbridge,
2 Virginia.

3 THE COURT: Your employment there?

4 PROSPECTIVE JUROR KANALA: I worked for
5 the Department of Defense in education activity.

6 THE COURT: Was this document security,
7 that kind of thing?

8 PROSPECTIVE JUROR KANALA: No, it was
9 simply as a technician.

10 THE COURT: What other work if any as an
11 adult?

12 PROSPECTIVE JUROR KANALA: I worked at the
13 Department of Defense at another position as an office
14 automation assistant and that's it's.

15 THE COURT: Where are you from originally?

16 PROSPECTIVE JUROR KANALA: Virginia.

17 THE COURT: Were you ever in the military?

18 PROSPECTIVE JUROR KANALA: No, I wasn't.

19 THE COURT: Have you any prejudice as
20 nature of the charges in this case?

21 PROSPECTIVE JUROR KANALA: No, I don't.

22 THE COURT: Do you know any of the other
23 prospective jurors?

24 PROSPECTIVE JUROR KANALA: No.

25 THE COURT: Do you have any racial

1 prejudice?

2 PROSPECTIVE JUROR KANALA: No.

3 THE COURT: Do you understand that an
4 Information is a mere accusation and not evidence and
5 that the Defendant is presumed to be innocent until
6 proven guilty and the State has the burden of proving the
7 Defendant's guilt beyond a reasonable doubt?

8 PROSPECTIVE JUROR KANALA: Yes.

9 THE COURT; if you were charged with
10 offenses similar to the ones involved in this case would
11 you want 12 jurors essentially as you are?

12 PROSPECTIVE JUROR KANALA: Yes.

13 THE COURT: Do you know of any reason at
14 all why you can't be completely fair and impartial?

15 PROSPECTIVE JUROR KANALA: No.

16 THE COURT: These proceedings will be
17 conducted in two segments. First, the jury will
18 determine if the Defendant is guilty. Punishment would
19 not be considered at that time.

20 Second, if the jury finds the Defendant
21 Guilty of First Degree Murder then the law of the State
22 requires the jury to set the punishment. I would set a
23 date for a hearing on the subject of punishment.

24 Do you understand?

25 PROSPECTIVE JUROR KANALA: Yes.

1 THE COURT: In the State of Nevada there
2 are three possible forms of punishment that the jury may
3 consider, the imposition of the death penalty, life in
4 prison without possibility of parole, life imprisonment
5 or a term of 50 years with the possibility of parole.

6 Do you understand that?

7 PROSPECTIVE JUROR KANALA: Yes, I do.

8 THE COURT: In your present state of mind
9 could consider fairly all three possible forms of
10 punishment and select the one you feel is most
11 appropriate?

12 PROSPECTIVE JUROR KANALA: Yes.

13 THE COURT: Questions from the State?

14 MR. KANE: Just the usual.

15 Anything about possibly graphic evidence
16 being introduced that would cause you any concern one way
17 or the other?

18 PROSPECTIVE JUROR KANALA: No, it
19 shouldn't bother me.

20 MR. KANE: No other questions. Pass for
21 cause.

22 THE COURT: Mr. Kennedy?

23 MR. KENNEDY: Mr. Kanala, do you have any
24 personal opinions regarding the death penalty?

25 PROSPECTIVE JUROR KANALA: No. I have a

1 minor in criminal justice from college, but I have no
2 opinions one way or the other.

3 MR. KENNEDY: That minor in criminal
4 justice, was that - - what did you have?

5 What do you discuss and what are you
6 learning in there?

7 Is it all law enforcement focused?

8 PROSPECTIVE JUROR KANALA: Little bit.
9 There was some corrections and just some theory and
10 courts.

11 MR. KENNEDY: Do you believe that the
12 death penalty is an appropriate punishment for someone
13 convicted of First Degree Murder?

14 PROSPECTIVE JUROR KANALA: Under some
15 circumstances.

16 MR. KENNEDY: Okay. Pass for cause.

17 THE COURT: Thank you. The prosecution's
18 second peremptory challenge.

19 MR. KANE: State would challenge thank and
20 excuse, seat number two, badge number 204.

21 THE COURT: Thank you, very much, ma'am.
22 You're excused.

23 MS. CLERK: Badge 54, Justin Carrington,
24 C-a-r-r-i-n-g-t-o-n.

25 THE COURT: Mr. Carrington, have you

1 served as a juror before?

2 PROSPECTIVE JUROR CARRINGTON: No, I
3 haven't.

4 THE COURT: Is there any reason at all
5 that you could not serve as a fair juror in this
6 particular case?

7 PROSPECTIVE JUROR CARRINGTON: No.

8 THE COURT: Are you or any of your close
9 friends or relatives involved in law enforcement or have
10 they been in the past?

11 PROSPECTIVE JUROR CARRINGTON: My father.

12 THE COURT: How so?

13 PROSPECTIVE JUROR CARRINGTON: He's
14 retired from the Nye County Sheriff's Department.

15 THE COURT: How long did he work in that
16 capacity?

17 PROSPECTIVE JUROR CARRINGTON: Six, seven
18 years.

19 THE COURT; Did you live at home during
20 that period?

21 PROSPECTIVE JUROR CARRINGTON: No.

22 THE COURT: Have you had occasion to
23 discuss his work with him?

24 PROSPECTIVE JUROR CARRINGTON: No.

25 THE COURT: Your father is retired at this

1 time?

2 PROSPECTIVE JUROR CARRINGTON: Yes.

3 THE COURT: You two live separately?

4 PROSPECTIVE JUROR CARRINGTON: Yes.

5 THE COURT: How often do you see him?

6 PROSPECTIVE JUROR CARRINGTON: Once every
7 two or three years.

8 THE COURT: Do you think his prior
9 experience in law enforcement would have any bearing on
10 your view of this case?

11 PROSPECTIVE JUROR CARRINGTON: No.

12 THE COURT: Do you think you can view the
13 case objectively?

14 PROSPECTIVE JUROR CARRINGTON: Yes.

15 THE COURT: In essence, can you be fair,
16 sir?

17 PROSPECTIVE JUROR CARRINGTON: Yes.

18 THE COURT: Have you or a close friend or
19 family member ever been the victim of crime?

20 PROSPECTIVE JUROR CARRINGTON: Yes.

21 THE COURT: Tell me about that, please.

22 PROSPECTIVE JUROR CARRINGTON: Myself,
23 when I was young.

24 THE COURT: What happened?

25 PROSPECTIVE JUROR CARRINGTON: It was a

1 molestation case.

2 THE COURT: So you were essentially how
3 old?

4 PROSPECTIVE JUROR CARRINGTON: Five, six.

5 THE COURT: Was anyone accused and
6 prosecuted of that?

7 PROSPECTIVE JUROR CARRINGTON: Yes.

8 THE COURT: And do you think the system,
9 whoever was in charge of the matter handled it
10 appropriately?

11 PROSPECTIVE JUROR CARRINGTON: To the best
12 of my recollection, yes.

13 THE COURT: Anything about that situation
14 that would have any bearing on your view of this case?

15 PROSPECTIVE JUROR CARRINGTON: No.

16 THE COURT: Will you follow all of the
17 instructions of the Court on the law even though they may
18 differ from your personal conception of what the law
19 ought to be?

20 PROSPECTIVE JUROR CARRINGTON: Yes.

21 THE COURT: A person accused of committing
22 a crime is presumed to be innocent in a criminal trial.

23 Do you understand and agree with that?

24 PROSPECTIVE JUROR CARRINGTON: Yes.

25 THE COURT: Are you aware that the

1 Defendant doesn't have to take the stand and testify nor
2 offer any evidence if he chooses not to and you can still
3 find him not guilty and that's because the burden is upon
4 the State to prove his guilt beyond a reasonable doubt?

5 PROSPECTIVE JUROR CARRINGTON: Yes.

6 THE COURT: Have you or close friends or
7 family members ever been involved in the criminal justice
8 process either in prosecuting a case or as a witness or
9 Defendant?

10 You mentioned the situation when you were
11 young.

12 Anything else?

13 PROSPECTIVE JUROR CARRINGTON: No.

14 THE COURT: Do you know of any reason at
15 this point why you couldn't serve as fair juror?

16 PROSPECTIVE JUROR CARRINGTON: No.

17 THE COURT: Tell us something of your
18 employment, marital status us, number of children and how
19 long you've lived in Clark County.

20 PROSPECTIVE JUROR CARRINGTON: I've lived
21 in Las Vegas the majority of my life. I'm currently
22 employed as a gaming technician and I have been for a
23 little over a year.

24 Before that I was in construction. I'm
25 divorced. I recently moved back to Las Vegas about two

1 years now. From there I lived in Salt Lake which I was
2 in construction at that time.

3 THE COURT: All right. You say you're a
4 gaming technician; is that right?

5 PROSPECTIVE JUROR CARRINGTON: Yes.

6 THE COURT: What is that?

7 PROSPECTIVE JUROR CARRINGTON: Basically
8 repair.

9 THE COURT: Mechanic, electronic machines?

10 PROSPECTIVE JUROR CARRINGTON: Yes, gaming
11 machines.

12 THE COURT: Has that been the work you've
13 done exclusively since returning to Las Vegas?

14 PROSPECTIVE JUROR CARRINGTON: No. I was
15 in construction for about six months, and then I got into
16 gaming technician.

17 THE COURT: What sort of construction do
18 you do?

19 PROSPECTIVE JUROR CARRINGTON: Concrete.

20 THE COURT: And when you moved to Salt
21 Lake you were in construction as well?

22 PROSPECTIVE JUROR CARRINGTON: Yeah,
23 concrete.

24 THE COURT: What other work if any have
25 you done as an adult?

1 PROSPECTIVE JUROR CARRINGTON: Let's see,
2 I've run a printing press, I did printing for several
3 years, construction. That's just about it.

4 THE COURT: Were you ever in the military?

5 PROSPECTIVE JUROR CARRINGTON: No.

6 THE COURT: What was your wife's
7 occupation when you were married?

8 PROSPECTIVE JUROR CARRINGTON: She was a
9 regional manager of a storage facility.

10 THE COURT: Any other work on her part
11 during the time you knew her?

12 PROSPECTIVE JUROR CARRINGTON: No.

13 THE COURT: Where are you from originally,
14 here in Nevada?

15 PROSPECTIVE JUROR CARRINGTON: No. I was
16 born in Illinois.

17 THE COURT: And moved here when you were
18 very young?

19 PROSPECTIVE JUROR CARRINGTON: Yes.

20 THE COURT: Have you any prejudice as to
21 the nature of the charges in this case?

22 PROSPECTIVE JUROR CARRINGTON: No.

23 THE COURT: Do you know any of the other
24 prospective jurors?

25 PROSPECTIVE JUROR CARRINGTON: No.

1 THE COURT: Have you any racial prejudice?

2 PROSPECTIVE JUROR CARRINGTON: 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 the State has the burden of proving the
7 Defendant's guilt beyond a reasonable doubt?

8 PROSPECTIVE JUROR CARRINGTON: Yes.

9 THE COURT: If you were charged with
10 offenses similar to the ones alleged in this case would
11 you want 12 individuals such as yourself to be on your
12 jury.

13 PROSPECTIVE JUROR CARRINGTON: Yes.

14 THE COURT: Do you know of any reason at
15 all why you can't be completely fair and impartial in
16 hearing this matter?

17 PROSPECTIVE JUROR CARRINGTON: No.

18 THE COURT: Mr. Carrington, these
19 proceedings will be conducted in two segments. First,
20 the jury will determine if the Defendant is guilty.
21 Punishment would not be considered at that time.

22 Second, if the jury finds the Defendant
23 guilty of First Degree Murder then the law of the State
24 requires the jury to set the punishment.

25 I'll set a date for a hearing on the

1 subject of punishment.

2 Do you understand?

3 PROSPECTIVE JUROR CARRINGTON: Yes.

4 THE COURT: In the State of Nevada there
5 are three possible forms of punishment the jury may
6 consider, the imposition of the death penalty, life in
7 prison without the possibility of parole, life in prison
8 or a term of 50 years with the possibility of parole.

9 Do you understand that?

10 PROSPECTIVE JUROR CARRINGTON: Yes.

11 THE COURT: In your present state of mind
12 can you consider fairly all three possible forms of
13 punishment and select the one you feel is most
14 appropriate?

15 PROSPECTIVE JUROR CARRINGTON: Yes.

16 THE COURT: Questions from the State?

17 MR. FATTIG: Sir you heard the questions
18 earlier about the graphic photos. If you're picked as a
19 juror does that cause you any concern one way or the
20 other?

21 PROSPECTIVE JUROR CARRINGTON: No.

22 MR. FATTIG: Pass for cause.

23 THE COURT: Thank you. Defense counsel?

24 MR. CHRISTIANSEN: You've heard my
25 questions to other jurors regarding your ability to

1 fairly consider all three possible penalties that the
2 judge has explained to you.

3 Do you remember the question I posed to
4 everybody else?

5 PROSPECTIVE JUROR CARRINGTON: Yes.

6 MR. CHRISTIANSEN: Do you have any problem
7 being able to consider all three of those?

8 PROSPECTIVE JUROR CARRINGTON: No, I have
9 no problem.

10 MR. CHRISTIANSEN: Do you believe every
11 time somebody is convicted of First Degree Murder they
12 should get the death penalty automatically?

13 PROSPECTIVE JUROR CARRINGTON: I believe
14 it has to do with the trial.

15 MR. CHRISTIANSEN: You'll listen to what
16 goes on in this courtroom and make the determination if
17 we get through that other proceeding what the judge has
18 explained to you?

19 PROSPECTIVE JUROR CARRINGTON: Yes.

20 MR. CHRISTIANSEN: Can you envision a
21 scenario where you've just convicted somebody of two
22 separate murders, First Degree Murders, and then when you
23 were called upon to consider fairly the option of letting
24 that person back out into society after a period of
25 incarceration; do you think you can do that?

1 PROSPECTIVE JUROR CARRINGTON: Yes.

2 MR. CHRISTIANSEN: I'll pass for cause,
3 Your Honor.

4 THE COURT: Thank you, counsel.

5 Defense counsel's second peremptory
6 challenge.

7 MR. KENNEDY: The defense would thank and
8 excuse Mr. DeFrank.

9 THE COURT: Mr. DeFrank, thank you, very
10 much. You're excused.

11 MS. CLERK: Badge number 21, Richard
12 Learn, L-e-a-r-n.

13 THE COURT: Counsel, I think we'll adjourn
14 at this point and let the jury get a little ahead of the
15 traffic situation.

16 Is that satisfactory?

17 We'll begin with Mr. Learn tomorrow.

18 Let me read to you the admonition as is
19 required by law.

20 (Whereupon, the Court admonished the
21 prospective panel of jurors.)

22 THE COURT: Ladies and Gentlemen, a couple
23 of things I want to remind you. This applies to all of
24 us, not just the individuals seated here.

25 Let me implore you, if I might, to pay

1 particular attention to this when you get home. It's
2 very natural that your family and friends will ask you
3 what happened in Court today.

4 You don't come to court every day. It's
5 something that's likely to concern them.

6 Please refrain from discussing it with
7 them. Number one, it's very definitely the law and
8 perhaps more importantly it is just fair.

9 If you were the Defendant or the
10 prosecutor you would want a decision made based upon
11 what's happened in Court, not what someone's son or
12 daughter or neighbor might think in just idle
13 conversation. If you think about that, I think you'll
14 see that's absolutely fair.

15 Soon you can discuss it.

16 Please be back here at 1:00 o'clock
17 tomorrow punctually, because if we don't all show up,
18 particularly those present here, but routinely if we're
19 not all assembled we can't begin.

20 Of course, that means everyone has come
21 and we're waiting for one person. Try to start promptly
22 at 1:00 o'clock.

23 Counsel if there's anything to discuss
24 before we start court meet me in chambers so we can get
25 that done. With that said, everyone have a nice evening.

Court is adjourned.

ATTETS that this is a true and complete transcript of the
proceedings held, DATED this 13th day of February 2001.


J. A. D'AMATO CCR #017

1 **COPY**

DISTRICT COURT

2 CLARK COUNTY, NEVADA

3 * * * * FILED IN OPEN COURT
FEB 14 2001

19

4 SHIRLEY B. PARRAGUIRRE, CLERK

5 BY JUDY NORMAN

DEPUTY

6 STATE OF NEVADA,

7 Plaintiff,

8 vs.

9 JOHN JOSEPH SEKA,

10 Defendant.

) Case No. C159915

) Dept. XIV

11 VOLUME I

12 REPORTER'S TRANSCRIPT
13 OF
14 JURY TRIAL

15 BEFORE THE HONORABLE DONALD M. MOSLEY

16 DISTRICT JUDGE

17 Taken on Tuesday, February 13, 2001

18 At 1:00 p.m.

19 **APPEARANCES:**

20 For the State:

EDWARD KANE, ESQ.

TIM FATTIG, ESQ.

Deputy District Attorneys

21 For the Defendant:

KIRK T. KENNEDY, ESQ.

PETER J. CHRISTIANSEN, ESQ.

Deputy Public Defender

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

23 MAUREEN SCHORN, CCR NO. 496, RPR

24 APP0340

1 LAS VEGAS, NEVADA. TUESDAY, FEBRUARY 13, 2001, 1:00 P.M.

2 * * * *

3

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

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

11 THE CLERK: Paul Kanala?

12 PROSPECTIVE JUROR KANALA: Here.

13 THE CLERK: Justin Carrington?

14 PROSPECTIVE JUROR CARRINGTON: Here.

15 THE CLERK: Richard Learn?

16 PROSPECTIVE JUROR LEARN: Here.

17 THE CLERK: Lorri Gray?

18 PROSPECTIVE JUROR GRAY: Here.

19 THE CLERK: Timothy Thomas?

20 PROSPECTIVE JUROR THOMAS: HERE.

21 THE CLERK: Laura Williams?

22 PROSPECTIVE JUROR WILLIAMS: Here.

23 THE CLERK: Daniel Brown?

24 PROSPECTIVE JUROR BROWN: Here.

25 THE CLERK: Marian McCoy?

1 PROSPECTIVE JUROR MCCOY: HERE.
2 THE CLERK: Trudy Reeves?
3 PROSPECTIVE JUROR REEVES: Here.
4 THE CLERK: Patrick Carter?
5 PROSPECTIVE JUROR CARTER: Here.
6 THE CLERK: Monta Hafen?
7 PROSPECTIVE JUROR HAFEN: Here.
8 THE CLERK: Denise Michaelides?
9 PROSPECTIVE JUROR MICHAELIDES: Here.
10 THE CLERK: Howard Starr?
11 PROSPECTIVE JUROR STARR: Here.
12 THE CLERK: Antonia Clark?
13 PROSPECTIVE JUROR CLARK: Here.
14 THE CLERK: Lupe Schoeb?
15 PROSPECTIVE JUROR SCHOEB: Here.
16 THE CLERK: Daniel Matty?
17 PROSPECTIVE JUROR MATTY: Here.
18 THE CLERK: Darcy Clinton?
19 PROSPECTIVE JUROR CLINTON: Here.
20 THE CLERK: Gretchen King?
21 PROSPECTIVE JUROR KING: Here.
22 THE CLERK: Jamila Pierson?
23 PROSPECTIVE JUROR PIERSON: Here.
24 THE CLERK: Eric Koppel?
25 PROSPECTIVE JUROR KOPPEL: Here.

1 THE CLERK: Paul Brown?
2 PROSPECTIVE JUROR BROWN: Here.
3 THE CLERK: Carmelita Camacho?
4 PROSPECTIVE JUROR CAMACHO: Here.
5 THE CLERK: Melvin Nelson?
6 PROSPECTIVE JUROR NELSON: Here.
7 THE CLERK: Barbara Kwiatkoski?
8 PROSPECTIVE JUROR KWIATKOSKI: Here.
9 THE CLERK: Cindy Weber?
10 PROSPECTIVE JUROR WEBER: Here.
11 THE CLERK: David Cacci?
12 PROSPECTIVE JUROR CACCI: Here.
13 THE CLERK: Mary Cuttrell?
14 PROSPECTIVE JUROR CUTTRELL: Here.
15 THE CLERK: Raquel Evanovich?
16 PROSPECTIVE JUROR EVANOVICH: Here.
17 THE CLERK: June Craig?
18 PROSPECTIVE JUROR CRAIG: (No
19 response.)
20 THE CLERK: Michelle Pro?
21 PROSPECTIVE JUROR PRO: Here.
22 THE CLERK: Shari Custard?
23 PROSPECTIVE JUROR CUSTARD: (No
24 response.)
25 THE CLERK: Eric Zuck?

1 PROSPECTIVE JUROR ZUCK: Here.

2 THE CLERK: Scott Saunders?

3 PROSPECTIVE JUROR SAUNDERS: Here.

4 THE CLERK: Thadeus Pridgen?

5 PROSPECTIVE JUROR PRIDGEN: Here.

6 THE CLERK: Violetta Varay?

7 PROSPECTIVE JUROR VARAY: Here.

8 THE CLERK: Your Honor, the panel is
9 present with the exception of Badge No. 59, June Craig,
10 and Badge No. 61, Shari Custard. June is here, so we're
11 only missing 61, Shari Custard.

12 THE COURT: We'll proceed. If that
13 name is drawn then, of course, we'll have to make a
14 determination.

15 Mr. Learn, have you served as a juror
16 before?

17 PROSPECTIVE JUROR LEARN: No, sir.

18 THE COURT: Is there any reason at all
19 that you know of why you could not serve as a fair juror
20 in this case?

21 PROSPECTIVE JUROR LEARN: No, sir.

22 THE COURT: Are you or any of your
23 close friends or relatives involved in law enforcement, or
24 have you been in the past?

25 PROSPECTIVE JUROR LEARN: I was in a

1 work situation where a co-worker was married to a Metro
2 officer. And I did meet him socially, but I haven't had
3 any contact with him in the last two years.

4 THE COURT: What length of time did you
5 have contact?

6 PROSPECTIVE JUROR LEARN: For about two
7 years, and it was about on a monthly basis.

8 THE COURT: Did you have occasion to
9 ask him about his work or anything of that nature?

10 PROSPECTIVE JUROR LEARN: Yes, I did.

11 THE COURT: You don't see the person
12 any longer?

13 PROSPECTIVE JUROR LEARN: No, sir.

14 THE COURT: Do you think your
15 involvement with that situation would have an impact on
16 your ability to fairly serve as a juror?

17 PROSPECTIVE JUROR LEARN: No, sir.

18 THE COURT: Do you believe you can be a
19 fair juror in this matter?

20 PROSPECTIVE JUROR LEARN: Yes, sir.

21 THE COURT: Have you or a close friend
22 or family member ever been a victim of crime?

23 PROSPECTIVE JUROR LEARN: No, sir.

24 THE COURT: Will you follow all the
25 instructions of the Court on the law, even though they may

1 differ from your person conceptions of what the law ought
2 to be?

3 PROSPECTIVE JUROR LEARN: Yes, sir.

4 THE COURT: A person who is accused of
5 committing a crime is presumed to be innocent in a
6 criminal trial. Do you understand and agree with that?

7 PROSPECTIVE JUROR LEARN: Yes, sir

8 THE COURT: Are you aware that the
9 defendant does not have to take the stand and testify or
10 offer any evidence if he chooses not to, and you can still
11 find him not guilty? That's because the burden is upon
12 the State to prove his guilt beyond a reasonable doubt.

13 PROSPECTIVE JUROR LEARN: Yes, sir.

14 THE COURT: Have you or a close friend
15 or family member ever been involved in the criminal
16 justice process, either in prosecuting a case, or as a
17 witness, or as a defendant?

18 PROSPECTIVE JUROR LEARN: No, sir.

19 THE COURT: At this point, again, do
20 you know of any reason why you could not serve as a fair
21 juror in this case?

22 PROSPECTIVE JUROR LEARN: No, sir.

23 THE COURT: Would you tell us of your
24 employment, your marital status, the number of children
25 you may have, and how long you've lived in Clark County.

1 PROSPECTIVE JUROR LEARN: I'm employed
2 by the United States Army. I'm attached to the Sixth
3 Recruiting Brigade in North Las Vegas. I'm the soldier
4 and family assistance program manager. I am married. I
5 have two grown children from a previous marriage, two
6 daughters aged 26 and 30.

7 I've lived in Clark County for about
8 four-and-a-half years, and then I took a temporary job in
9 New Mexico for five months. I returned here approximately
10 a year ago to my present employment.

11 THE COURT: So you've lived in Las
12 Vegas approximately five years?

13 PROSPECTIVE JUROR LEARN: Yes, sir.

14 THE COURT: And have you been involved
15 with your current employment the entire time you've lived
16 in Las Vegas?

17 PROSPECTIVE JUROR LEARN: No, sir.

18 THE COURT: What other employment in
19 Las Vegas have you had, please?

20 PROSPECTIVE JUROR LEARN: I worked for
21 Leavitt's Furniture as customer service rep. I worked for
22 American Express Financial Advisors as a financial
23 adviser. I worked for a contract security company that
24 provided security for Nevada Power.

25 I worked for Bally's Casino as a security

1 officer. I worked for Las Vegas, City of Las Vegas Fire
2 Services as a communications specialist as a 911
3 dispatcher. I worked for the Social Security
4 Administration for a year. And the temporary employment
5 in New Mexico with the Air Force, and then my current
6 employment.

7 THE COURT: So those employment
8 experiences you've had in Las Vegas have been over a
9 five-year period, essentially?

10 PROSPECTIVE JUROR LEARN: Yes, sir.

11 THE COURT: And what did you do in New
12 Mexico?

13 PROSPECTIVE JUROR LEARN: I worked for
14 the Air Force. I was relocation manager for the Air Force
15 base.

16 THE COURT: Before moving to Las Vegas
17 where did you live?

18 PROSPECTIVE JUROR LEARN: I spent 27
19 years in the Navy. I lived in a variety of places.

20 THE COURT: All right. And where are
21 from originally?

22 PROSPECTIVE JUROR LEARN: Originally
23 from Spokane, Washington.

24 THE COURT: What other work, if any,
25 have you had as an adult?

1 PROSPECTIVE JUROR LEARN: Just the 27
2 years of the Navy career.

3 THE COURT: You have been married
4 twice?

5 PROSPECTIVE JUROR LEARN: Yes, sir.

6 THE COURT: Your first wife's
7 occupation if she worked outside the home?

8 PROSPECTIVE JUROR LEARN: She worked as
9 a bank teller.

10 THE COURT: And your current wife's
11 occupation?

12 PROSPECTIVE JUROR LEARN: She worked as
13 a customer service rep for the telephone company.

14 THE COURT: But no longer does so?

15 PROSPECTIVE JUROR LEARN: No longer.

16 THE COURT: Are either of your children
17 or their spouses involved in a law-related occupation?

18 PROSPECTIVE JUROR LEARN: No, sir.

19 THE COURT: Have you any prejudice as
20 to the nature of the charge in this case?

21 PROSPECTIVE JUROR LEARN: No, sir.

22 THE COURT: Do you any of the other
23 prospective jurors?

24 PROSPECTIVE JUROR LEARN: No, I do not.

25 THE COURT: Have you any racial

1 prejudice?

2 PROSPECTIVE JUROR LEARN: No, sir.

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 LEARN: Yes, sir.

9 THE COURT: If you were charged with
10 offenses similar to the ones that are alleged in this
11 case, would you want 12 individuals such as yourself to be
12 on your jury?

13 PROSPECTIVE JUROR LEARN: Yes, sir.

14 THE COURT: Do you know of any reason
15 at all why you cannot be completely fair and completely
16 impartial this hearing this case?

17 PROSPECTIVE JUROR LEARN: No, sir.

18 THE COURT: Mr. Learn, these
19 proceedings will be conducted in two segments. First, the
20 jury will determine if the defendant is guilty.
21 Punishment would not be considered at that time.

22 Second, if the jury finds the defendant
23 guilty of first degree murder, then the law of this state
24 requires that the jury set the punishment. I would set a
25 date for a hearing on the subject of punishment; do you

1 understand?

2 PROSPECTIVE JUROR LEARN: Yes, sir.

3 THE COURT: In the State of Nevada
4 there are three possible forms of punishment that the jury
5 may consider; the imposition of the death penalty, life
6 imprisonment without the possibility of parole, or life
7 imprisonment or a term of 50 years in prison with the
8 possibility of parole; do you understand that?

9 PROSPECTIVE JUROR LEARN: Yes, sir.

10 THE COURT: In your present state of
11 mind, could you consider fairly all three possible forms
12 of punishment and select one that you feel is most
13 appropriate?

14 PROSPECTIVE JUROR LEARN: Honestly, I
15 think I would have a little problem with the death
16 penalty.

17 THE COURT: Do you think you could
18 consider that as an option?

19 PROSPECTIVE JUROR LEARN: I could
20 consider it, yes.

21 THE COURT: Are there questions from
22 the State?

23 MR. KANE: Consider it or impose it,
24 Mr. Learn?

25 PROSPECTIVE JUROR LEARN: Consider it.

1 Where I would have problems, I'm not sure I could impose
2 it.

3 MR. KANE: As you sit here, can you
4 envision yourself actually voting for that and coming back
5 here into the courtroom and saying it out loud.

6 MR. CHRISTIANSEN: Objection, Your
7 Honor, the same as yesterday.

8 THE COURT: Understood. Proceed.

9 PROSPECTIVE JUROR LEARN: No, sir. I
10 can't envision that.

11 MR. KANE: Under any circumstances?

12 PROSPECTIVE JUROR LEARN: No, sir.

13 MR. KANE: Challenge for cause, Your
14 Honor.

15 THE COURT: Questions?

16 MR. KENNEDY: Object to cause.

17 THE COURT: Do you have any questions?

18 MR. KENNEDY: No questions.

19 THE COURT: The potential juror,
20 Mr. Learn, will be excused for cause. Thank you, sir.

21 THE CLERK: Is Juror 61, Shari Custard,
22 now present?

23 PROSPECTIVE JUROR CUSTARD: Present.

24 THE COURT: Acknowledged. Proceed,
25 please.

1 THE CLERK: Badge No. 50, Cindy Weber,
2 W-e-b-e-r.

3 THE COURT: Is it Miss or Mrs. Weber?

4 PROSPECTIVE JUROR WEBER: Mrs.

5 THE COURT: Mrs. Weber and for those
6 present, when I asked the initial question, is there any
7 reason why you could not serve as a fair juror in this
8 case, that contemplates, among other things, whether or
9 not you would have an absolute opinion against considering
10 the death penalty as one of the options.

11 So if you have that kind of mind-set, we
12 might as well get it resolved at the outset.

13 PROSPECTIVE JUROR WEBER: I don't think
14 I could.

15 THE COURT: Let me ask the question for
16 the record. Is there any reason why you feel you could
17 not serve as a fair juror in this case, Mrs. Weber?

18 PROSPECTIVE JUROR WEBER: I don't
19 believe in the death penalty.

20 THE COURT: Under any circumstances?

21 PROSPECTIVE JUROR WEBER: No. I don't
22 believe under any circumstances.

23 THE COURT: Are there questions from
24 Defense counsel?

25 MR. KENNEDY: No questions, Your Honor.

1 THE COURT: The State?

2 MR. KANE: No, Your Honor. Challenge
3 for cause.

4 THE COURT: You're excused then.

5 THE CLERK: Badge No. 40, Eric Koppel,
6 K-o-p-p-e-l.

7 THE COURT: Mr. Koppel, is there any
8 reason that you could not serve as a fair juror in this
9 particular case?

10 PROSPECTIVE JUROR KOPPEL: I'm going to
11 save the Court some time. I have a problem putting
12 someone to death. I can't see doing that.

13 THE COURT: Under any circumstances?

14 PROSPECTIVE JUROR KOPPEL: Not under
15 any circumstances. I just can't see that. I'm sorry.

16 THE COURT: Are there any questions
17 from counsel?

18 MR. CHRISTIANSEN: I do, Judge.

19 Mr. Koppel; is that right?

20 PROSPECTIVE JUROR KOPPEL: Yes.

21 MR. KENNEDY: Mr. Koppel, the question
22 isn't can you put somebody to death. As you heard me say
23 yesterday, the law never requires any jury under any
24 circumstances to impose the death penalty.

25 The issue is, can you fairly consider the

1 death penalty as an option, not can you do it, but can you
2 consider it? And that's what I am asking you, can you
3 consider as an option that in some case, the most
4 horrendous case around, it would be an option to you?

5 And I'm just looking for an honest answer.
6 I'm not trying to beat you up.

7 PROSPECTIVE JUROR KOPPEL: I have a
8 problem wanting to put someone to death. I don't feel
9 it's right. I don't want to sit on a panel with that
10 option hanging in my mind.

11 MR. CHRISTIANSEN: I don't think
12 anybody believes that taking somebody else's life is an
13 easy thing. So having a problem with it and not being
14 able to fairly consider it, to me are two different
15 things. If you're telling me you can't fairly consider
16 it, if you can simply give me an answer to that question.

17 PROSPECTIVE JUROR KOPPEL: No, I
18 couldn't consider it.

19 MR. CHRISTIANSEN: Thank you, sir. I
20 appreciate that.

21 THE COURT: Anything further?

22 MR. KANE: No, Your Honor. We
23 challenge for cause.

24 THE COURT: Mr. Koppel, thank you very
25 much, sir. You're excused.

1 PROSPECTIVE JUROR KOPPEL: You're
2 welcome, Your Honor.

3 THE CLERK: Badge No. 22, Howard Starr,
4 S-t-a-r-r.

5 THE COURT: Mr. Starr, is there any
6 reason that you know of why you could not serve as a fair
7 juror in this case??

8 PROSPECTIVE JUROR STARR: I'm deciding
9 right now about that and putting someone TO death. If
10 they take a life, I'm debating whether it deserves their
11 own life, outside of certain circumstances, drunk driving
12 and such as that. That's what I'm deciding right now.

13 THE COURT: Well, as it was referred to
14 yesterday by counsel, there is a format or a set of
15 requirements that would be explained to you when I read
16 the jury instructions, if we get that far, as to the
17 penalty phase.

18 The question is: Are you willing to
19 consider all three possible forms of punishment? And in
20 my judgment, are you willing to actually make a
21 determination of death if the situation would warrant?

22 Now, that's not suggesting in any way that
23 you have to do so, but you have to be, in my judgment and
24 in my rulings in this case so reflects, you have to be
25 able to envision some possibility of actually imposing the

1 death penalty. But there's nothing that takes the
2 discretion away from you.

3 So what is your view of that?

4 PROSPECTIVE JUROR STARR: Like I said,
5 I have no problem imposing the death penalty. The problem
6 would come into play, depending upon the circumstances,
7 obviously, of the case. If it's not like a drunk driving
8 where it was an accident and they incurred murder, then I
9 might consider the death penalty in all cases on all.

10 THE COURT: Well, I think you can
11 probably understand my reluctance to get involved in what
12 if this is the circumstance, and it's not something you
13 can do.

14 What I need for you to tell me is your
15 subjective view in this matter, again, as I told
16 prospective jurors yesterday, envisioning the process;
17 going through the trial, making a determination as to
18 guilt or innocence.

19 And if there is a determination of guilt as
20 to first degree murder then, of course, there's another
21 rather short hearing, actually, compared to the trial, on
22 the issue of guilt, going into the jury room and
23 deliberating that issue, or I should say punishment, and
24 then if there is a circumstance that would warrant your
25 willingness to find for the death penalty.

1 If there is no way that that could ever
2 occur in your mind then, of course, you could not serve as
3 a juror in a capital case, because you could not fairly
4 consider the three possible forms of punishment.

5 PROSPECTIVE JUROR STARR: I could
6 consider three forms.

7 THE COURT: Have you ever served as a
8 juror before, sir?

9 PROSPECTIVE JUROR STARR: No.

10 THE COURT: Are you or any of your
11 close friends or relatives involved in law enforcement, or
12 have you been in the past?

13 PROSPECTIVE JUROR STARR: No.

14 THE COURT: Have you or a close friend
15 or family member ever been a victim of crime?

16 PROSPECTIVE JUROR STARR: No.

17 THE COURT: Will you follow all the
18 instructions of the Court on the law, even though they may
19 differ from your personal conceptions of what the law
20 ought to be?

21 THE DEFENDANT: Yes.

22 THE COURT: A person who is accused of
23 a committing a crime is presumed to be innocent in a
24 criminal trial. Do you understand and agree with that?

25 PROSPECTIVE JUROR STARR: Yes.

1 THE COURT: Are you aware that the
2 defendant does not have to take the stand and testify or
3 offer any evidence if he chooses not to, and you can still
4 find him not guilty? That's because the burden is upon
5 the State to prove his guilt beyond a reasonable doubt.

6 PROSPECTIVE JUROR STARR: Yes.

7 THE COURT: Have you or a close friend
8 or family member ever been involved in the criminal
9 justice process, either in prosecuting a case, or as a
10 witness, or as a defendant?

11 PROSPECTIVE JUROR STARR: No.

12 THE COURT: Do you know of any reason
13 at this point why you could not serve as a fair juror in
14 this case?

15 PROSPECTIVE JUROR STARR: No.

16 THE COURT: Will you tell us of your
17 employment, your marital status, the number of children
18 you may have, and how long you've lived in Clark County?

19 PROSPECTIVE JUROR STARR: I work for
20 Southern Wine and Spirits in their executive management.
21 I'm single, and I have no kids. I've lived in Clark
22 County approximately seven years.

23 THE COURT: Have you been with your
24 current employer the entire seven years?

25 PROSPECTIVE JUROR STARR: Yes.

1 THE COURT: Have you been married in
2 the past?

3 PROSPECTIVE JUROR STARR: No.

4 THE COURT: And where did you move from
5 when you came here?

6 PROSPECTIVE JUROR STARR: Miami.

7 THE COURT: Florida?

8 PROSPECTIVE JUROR STARR: Miami,
9 Florida.

10 THE COURT: Were you employed there?

11 PROSPECTIVE JUROR STARR: Yes.

12 THE COURT: How so?

13 PROSPECTIVE JUROR STARR: CPA,
14 accountant.

15 THE COURT: Are you a Certified Public
16 Accountant?

17 PROSPECTIVE JUROR STARR: Yes.

18 THE COURT: What other work as an adult
19 have you had. If any?

20 PROSPECTIVE JUROR STARR: I'm actually
21 in the sales end of Southern Wine and Spirits, so I no
22 longer do accounting. Also, I've run several clubs down
23 in Miami.

24 THE COURT: Currently you do?

25 PROSPECTIVE JUROR STARR: No.

1 THE COURT: You did in the past?

2 PROSPECTIVE JUROR STARR: Did.

3 THE COURT: When you say clubs, what do
4 you mean?

5 PROSPECTIVE JUROR STARR: Night clubs.

6 THE COURT: Were you ever in the
7 military?

8 PROSPECTIVE JUROR STARR: No.

9 THE COURT: Where are you from
10 originally?

11 PROSPECTIVE JUROR STARR: Originally,
12 New York, but pretty much my whole life down in Florida.

13 THE COURT: Essentially grew up in
14 Florida?

15 PROSPECTIVE JUROR STARR: Yes.

16 THE COURT: Have you any prejudice as
17 to the nature of the charges in this case?

18 PROSPECTIVE JUROR STARR: No.

19 THE COURT: Do you know any of the
20 other prospective jurors?

21 PROSPECTIVE JUROR STARR: No.

22 THE COURT: Have you any racial
23 prejudice?

24 PROSPECTIVE JUROR STARR: No.

25 THE COURT: Do you understand that an

1 Information is a mere accusation and not evidence, that
2 the Defendant is presumed to be innocent until proven
3 guilty, and that the State has the burden of proving the
4 defendant's guilt beyond a reasonable doubt?

5 PROSPECTIVE JUROR STARR: Yes.

6 THE COURT: If you were charged with
7 offenses similar to the ones that are alleged in this
8 case, would you want 12 individuals such as yourself to be
9 on your jury?

10 PROSPECTIVE JUROR STARR: No.

11 THE COURT: Why is that?

12 PROSPECTIVE JUROR STARR: Because at
13 the present time I'm still deciding on what I would do if
14 the plaintiff -- defendant was actually found guilty. If
15 I could decipher between life in prison, the death, or a
16 possibility of parole. If I could decide the other two
17 besides the death penalty.

18 MR. CHRISTIANSEN: Your Honor, may we
19 approach quickly?

20 THE COURT: Yes, you may.

21 (Whereupon, counsel conferred with the Court.)

22 THE COURT: Well, Mr. Starr, first of
23 all, the question was, would you want 12 jurors such as
24 yourself? What that implies is, do you think you would be
25 treated fairly by 12 individuals such as yourself if you

1 were a defendant? What's the answer to that question?

2 PROSPECTIVE JUROR STARR: Yes.

3 THE COURT: Now, back to this matter of
4 penalty. You say that you are vacillating between the
5 various possibilities?

6 PROSPECTIVE JUROR STARR: Right.

7 THE COURT: That is something that you
8 all, every juror will have to do if we reach the stage of
9 a penalty phase. So that doesn't make you unusual or in
10 any way deficient, I suppose.

11 PROSPECTIVE JUROR STARR: I agree.

12 THE COURT: But we're back to this
13 issue, do you think you can consider the three possible
14 forms of punishment?

15 PROSPECTIVE JUROR STARR: Yes.

16 THE COURT: Do you see a problem with
17 that?

18 PROSPECTIVE JUROR STARR: No.

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 STARR: No.

23 THE COURT: And let me go through
24 basically what I just went through for the record so you
25 can consider and give me a response, if you would.

1 Mr. Star, 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, do you not?

10 PROSPECTIVE JUROR STARR: 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 STARR: Yes, sir.

18 THE COURT: In your present state of
19 mind, could you consider fairly all three possible forms
20 of punishment and select one that you feel is most
21 appropriate?

22 PROSPECTIVE JUROR STARR: Yes.

23 THE COURT: Questions from the State?

24 MR. KANE: Just the same one I've asked
25 everybody. Does the possibility of hearing or seeing

1 pictures of graphic evidence cause you any concern?

2 PROSPECTIVE JUROR STARR: No.

3 MR. KANE: Pass for cause, Your Honor.

4 MR. CHRISTIANSEN: Mr. Starr, as I
5 understand, it you're the flip side of the two people that
6 sat in that chair before you. Am I getting your position
7 correct?

8 PROSPECTIVE JUROR STARR: Right.

9 MR. CHRISTIANSEN: The two people
10 before you said they could never give the death penalty,
11 and you're expressing some concern about your ability,
12 absent a scenario where there's an accidental death, of
13 giving life with or life without as penalties?

14 PROSPECTIVE JUROR STARR: Correct.

15 MR. CHRISTIANSEN: I can tell you the
16 facts in this case are not going to be put forward by the
17 State that these two gentlemen died accidentally. These
18 are first degree, premeditated, malice aforethought
19 murders, intentional acts alleged by the State, and that's
20 what they're going to attempt to show over the next couple
21 of weeks.

22 In light of that, and if we get to a point
23 where the jury has unanimously decided guilt, could you
24 then envision a scenario where you would say -- you would
25 look over to a person and say: Hey, I've just convicted

1 you of the two most heinous crimes in our system. Now,
2 sir, or madam, I'm going to impose a sentence that after a
3 period of incarceration you would be allowed back into
4 society?

5 PROSPECTIVE JUROR STARR: No.

6 MR. CHRISTIANSEN: And you're being
7 candid. You just don't think that's fair?

8 PROSPECTIVE JUROR STARR: Right.

9 MR. CHRISTIANSEN: And your personal
10 opinion is that you just could never do that?

11 PROSPECTIVE JUROR STARR: Yes. To
12 release him, yes.

13 MR. CHRISTIANSEN: Thank you, Judge. I
14 move for cause.

15 THE COURT: Are there questions?

16 MR. KANE: If I could, I don't want to
17 get into arguing the case, but I want to correct something
18 that counsel said. We've got these murders charged as
19 premeditated murder, or felony murder. Do you know what
20 felony murder is?

21 PROSPECTIVE JUROR STARR: Explain.

22 MR. KANE: Well, I'll explain it
23 briefly, but understand the judge is the one who gives you
24 the law. Felony murder is, basically, a death occurs in
25 the course of certain designated felonies, one of them

1 being robbery.

2 PROSPECTIVE JUROR STARR: Right.

3 MR. KANE: Does it matter if the death
4 is intentional, premeditated, or even accidental? That's
5 still first degree murder. In a situation like that,
6 could you consider less than the death penalty if you
7 decided that's what happened?

8 PROSPECTIVE JUROR STARR: Yes.

9 MR. KANE: Nothing further, Judge.
10 Propose to challenge.

11 THE COURT: Response?

12 MR. CHRISTIANSEN: Sir, I don't think
13 Mr. Kane is trying to say that there's going to be
14 allegations that somebody got accidentally shot four,
15 eight or ten times. The facts in this case are that there
16 are multiple gun shot wounds to two different people who
17 are both dead.

18 Given facts of that nature, whether it's
19 felony murder rule or premeditated malice aforethought,
20 those are still the two most serious crimes in our system.
21 Could you look at a person convicted on first degree
22 murder with use of a deadly weapon and say: Madam or sir,
23 you can get back out into society in 40 years, or after a
24 fixed period of time?

25 PROSPECTIVE JUROR STARR: No.

1 MR. KENNEDY: Thank you. Move for
2 cause.

3 MR. KANE: Submitted, Your Honor.

4 THE COURT: Mr. Starr will be excused
5 for cause. Thank you very much.

6 THE CLERK: Badge No. 35, Darcy
7 Clinton, C-l-i-n-t-o-n.

8 THE COURT: Is it Miss or
9 Mrs. Clinton?

10 PROSPECTIVE JUROR CLINTON: Mrs.

11 THE COURT: Mrs. Clinton, have you
12 served as a juror before?

13 PROSPECTIVE JUROR CLINTON: No.

14 THE COURT: Is there any reason that
15 you can think of why you could not serve as a fair juror
16 in this case?

17 PROSPECTIVE JUROR CLINTON: Well, I
18 want to take a shortcut here and tell you that I believe
19 exactly like Mr. Stars, as far as if it's premeditated,
20 multiple gunshots; yes, I would go for the death penalty.

21 THE COURT: No possibility of any other
22 penalty?

23 PROSPECTIVE JUROR CLINTON: No. I
24 don't believe anybody taking two peoples' lives should be
25 able to go back out into society.

1 THE COURT: Questions from counsel?

2 MR. KANE: No, Your Honor.

3 MR. KENNEDY: No, Your Honor.

4 THE COURT: Thank you for your candor,
5 Ms. Clinton. You are excused.

6 THE CLERK: Badge No. 30, Lupe Schoeb,
7 S-c-h-o-e-b.

8 THE COURT: Is it Miss or Mrs. Schoeb?

9 PROSPECTIVE JUROR SCHOEB: Mrs.

10 THE COURT: Mrs. Schoeb, is there any
11 reason that you can think of why you could not serve as a
12 fair juror in this case?

13 PROSPECTIVE JUROR SCHOEB: Yes.

14 THE COURT: What would that be?

15 PROSPECTIVE JUROR SCHOEB: My
16 sister-in-law was a victim and she was shot and left for
17 dead in a ditch, and it kind of touches bases with me.

18 THE COURT: Do you think the cause of
19 that situation that you could not fairly evaluate the
20 evidence in this case?

21 PROSPECTIVE JUROR SCHOEB: Yes.

22 THE COURT: Do you understand that
23 death would have nothing to do with this case; is that
24 true?

25 PROSPECTIVE JUROR SCHOEB: Yes. But

1 they never did find who did it, so it would
2 probably -- I don't know if I could use the best judgment.

3 THE COURT: And in the final analysis,
4 do you feel by virtue of what you've said, you could not
5 be a fair juror?

6 PROSPECTIVE JUROR SCHOEB: Right.

7 THE COURT: Questions from counsel?

8 MR. KENNEDY: No questions.

9 MR. KANE: No, Your Honor.

10 THE COURT: Thank you, ma'am.

11 THE CLERK: Badge No. 28, Antonia
12 Clark, C-l-a-r-k.

13 THE COURT: Is it Miss or Mrs. Clark?

14 PROSPECTIVE JUROR CLARK: Mrs.

15 THE COURT: Mrs. Clark, do you know of
16 any reason why you could not serve as a fair juror in this
17 particular case?

18 PROSPECTIVE JUROR CLARK: No, sir.

19 THE COURT: Have you served as a juror
20 before?

21 PROSPECTIVE JUROR CLARK: Yes, I have.

22 THE COURT: How long ago, ma'am?

23 PROSPECTIVE JUROR CLARK: About 12
24 years ago in Massachusetts.

25 THE COURT: Was it a civil or criminal

1 case?

2 PROSPECTIVE JUROR CLARK: It was a
3 criminal drunk case.

4 THE COURT: Without indicating what the
5 verdict was, did you reach a verdict?

6 PROSPECTIVE JUROR CLARK: No, we
7 didn't.

8 THE COURT: Was it the proverbial hung
9 jury situation?

10 PROSPECTIVE JUROR CLARK: No. It was a
11 plea bargain.

12 THE COURT: In the midst of trial?

13 PROSPECTIVE JUROR CLARK: No; before it
14 even started.

15 THE COURT: So you didn't deliberate?

16 PROSPECTIVE JUROR CLARK: No.

17 THE COURT: Do you think that
18 experience would in any way negatively reflect upon your
19 ability to fairly serve on this jury?

20 PROSPECTIVE JUROR CLARK: No, sir.

21 THE COURT: Are you or any of your
22 close friends or relatives involved in law enforcement, or
23 have you been in the past?

24 PROSPECTIVE JUROR CLARK: No.

25 THE COURT: Have you or a close friend

1 or family member ever been a victim of crime?

2 PROSPECTIVE JUROR CLARK: No.

3 THE COURT: Will you follow all the
4 instructions of the Court on the law, even though they may
5 differ from your personal conceptions of what the law
6 ought to be?

7 PROSPECTIVE JUROR CLARK: Yes.

8 THE COURT: A person who is accused of
9 committing a crime is presumed to be innocent in a
10 criminal trial. Do you understand and agree with that?

11 PROSPECTIVE JUROR CLARK: Yes.

12 THE COURT: Are you aware that the
13 defendant does not have to take the stand and testify or
14 offer any evidence if he chooses not to, and you can still
15 find him not guilty? That's because the burden is upon
16 the State to prove his guilt beyond a reasonable doubt.

17 PROSPECTIVE JUROR CLARK: Yes.

18 THE COURT: Have you or a close friend
19 or family member ever been involved in the criminal
20 justice process, either in prosecuting a case, or as a
21 witness, or as a defendant?

22 PROSPECTIVE JUROR CLARK: No.

23 THE COURT: Do you know of any reason
24 at this point why you could to the serve as a fair juror?

25 PROSPECTIVE JUROR CLARK: No.

1 THE COURT: Will you tell us, please,
2 of your employment, the number of children you may have,
3 and how long you've lived in Clark County?

4 PROSPECTIVE JUROR CLARK: I work at the
5 Review Journal as assistant supervisor in the business
6 office. I've lived in Clark County for about nine years
7 now. I'm married, have two grown children, and come from
8 Massachusetts.

9 THE COURT: Are your children or their
10 spouses involved in a law-related employment?

11 PROSPECTIVE JUROR CLARK: No.

12 THE COURT: How long have you been with
13 your current employer?

14 PROSPECTIVE JUROR CLARK: I've been
15 there nine years.

16 THE COURT: The entire time you've
17 lived here in Las Vegas?

18 PROSPECTIVE JUROR CLARK: Yes.

19 THE COURT: And were you employed in
20 Massachusetts?

21 PROSPECTIVE JUROR CLARK: Yes, I was.
22 I worked for a company for 17 years; ten years as a
23 secretary, and then seven years as a buyer.

24 THE COURT: And what company would that
25 be?

1 PROSPECTIVE JUROR CLARK: It was
2 Whiting and Davis Company. It was a manufacturing
3 company.

4 THE COURT: In what city in
5 Massachusetts?

6 PROSPECTIVE JUROR CLARK: Plainville.

7 THE COURT: And are you from that area
8 originally?

9 PROSPECTIVE JUROR CLARK: Yes, I am.

10 THE COURT: Any other work as an adult?

11 PROSPECTIVE JUROR CLARK: No. That's
12 it.

13 THE COURT: Is your husband employed?

14 PROSPECTIVE JUROR CLARK: Yes, he is.
15 He's currently working at Binion's Horseshoe as a slot
16 foreman. And prior to that in Massachusetts he worked for
17 Hertz Car Rental.

18 THE COURT: Have you any prejudice as
19 to the nature of the charges in this case?

20 PROSPECTIVE JUROR CLARK: No.

21 THE COURT: Do you know any of the
22 other prospective jurors?

23 PROSPECTIVE JUROR CLARK: No, I don't.

24 THE COURT: Have you any racial
25 prejudice?

1 PROSPECTIVE JUROR CLARK: No

2 THE COURT: Do you understand that an
3 Information is a mere accusation and not evidence, that
4 the Defendant is presumed to be innocent until proven
5 guilty, and that the State has the burden of proving the
6 defendant's guilt beyond a reasonable doubt?

7 PROSPECTIVE JUROR CLARK: 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 CLARK: Yes, I would.

13 THE COURT: Do you know of any reason
14 at all why you could not be completely fair and completely
15 impartial in hearing that case?

16 PROSPECTIVE JUROR CLARK: No.

17 THE COURT: Mrs. Clark, these
18 proceedings will be conducted in two segments. First, the
19 jury will determine if the defendant is guilty.
20 Punishment would not be considered at that time.

21 Second, if the jury finds the defendant
22 guilty of first degree murder, then the law of this state
23 requires that the jury set the punishment. I would set a
24 date for a hearing on the subject of punishment; do you
25 understand?

1 PROSPECTIVE JUROR CLARK: Yes.

2 THE COURT: In the State of Nevada
3 there are three possible forms of punishment that the jury
4 may consider; the imposition of the death penalty, life
5 imprisonment without the possibility of parole, or life
6 imprisonment or a term of 50 years in prison with the
7 possibility of parole; do you understand that?

8 PROSPECTIVE JUROR CLARK: Yes.

9 THE COURT: In your present state of
10 mind, could you consider fairly all three possible forms
11 of punishment and select the one that you feel is most
12 appropriate?

13 PROSPECTIVE JUROR CLARK: Yes, I could.

14 THE COURT: Questions from the State?

15 MR. KANE: Same question I've asked
16 everyone. Is there anything about the possibility of
17 viewing or hearing any graphic evidence that would cause
18 you a problem?

19 PROSPECTIVE JUROR CLARK: No.

20 MR. KANE: And, I'm sorry, I didn't
21 catch -- what is your job at the Review Journal?

22 PROSPECTIVE JUROR CLARK: I'm an
23 assistant supervisor in the business office.

24 MR. KANE: So you're not involved in
25 news gathering?

1 PROSPECTIVE JUROR CLARK: Not at all.

2 MR. KANE: So it's not a situation
3 where you might have come across some information about
4 this case and remember it in the middle of the case?

5 PROSPECTIVE JUROR CLARK: Not at all,
6 sir.

7 MR. KANE: Nothing further, Judge.
8 Pass for cause.

9 THE COURT: Defense counsel?

10 MR. KENNEDY: Ms Clark, on that note,
11 how long have you been with the RJ again?

12 PROSPECTIVE JUROR CLARK: About nine
13 years.

14 MR. KENNEDY: And were you always in
15 this position in the business office?

16 PROSPECTIVE JUROR CLARK: Yes, I am.

17 MR. KENNEDY: The death penalty, are
18 you for it or against it?

19 PROSPECTIVE JUROR CLARK: Depending on
20 the situation.

21 MR. KENNEDY: So in light of that
22 answer, if you are given a choice if my client is found
23 guilty, that you would consider all those choices?

24 PROSPECTIVE JUROR CLARK: I would
25 consider all the choices.

1 MR. KENNEDY: Pass for cause.

2 THE COURT: Thank you.

3 The Prosecution's third peremptory
4 challenge?

5 MR. KANE: Your Honor, the State would
6 thank and excuse Mrs. Michaelides, Juror No. 12, Badge
7 No. 023.

8 THE COURT: Mrs. Michaelides, thank you
9 very much.

10 THE CLERK: Badge 57, Mary Cuttrell
11 C-u-t-t-r-e-l-l.

12 THE COURT: Is it Miss or Mrs.?

13 PROSPECTIVE JUROR CUTTRELL: Mrs.

14 THE COURT: Mrs. Cuttrell, do you know
15 of any reason why you could not serve as a fair juror in
16 this case?

17 PROSPECTIVE JUROR CUTTRELL: No, I
18 don't think so. I'm not sure about if -- it's more the
19 death penalty. If he's found guilty, I don't know if I
20 would be willing to let someone have parole at any time.

21 THE COURT: Well, the question is, is
22 that a possibility? In other words, would you consider
23 that as one of the three possible forms of punishment?

24 PROSPECTIVE JUROR CUTTRELL: No. Not
25 if he was found guilty, no.

1 THE COURT: Are there questions?

2 MR. KANE: No, Your Honor.

3 MR. KENNEDY: No questions, Your Honor.

4 THE COURT: Mrs. Cuttrell, thank you
5 very much. You're excused.

6 THE CLERK: Badge 49, Barbara
7 Kwiatkoski, K-w-i-a-t-k-o-s-k-i.

8 THE COURT: Is it Miss or Mrs.?

9 PROSPECTIVE JUROR KWIATKOSKI: Mrs.

10 THE COURT: Mrs. Kwiatkoski, do you
11 know of any reason why you couldn't serve as a fair juror
12 in this particular case?

13 PROSPECTIVE JUROR KWIATKOSKI: No, sir.

14 THE COURT: Have you served as a juror
15 before?

16 PROSPECTIVE JUROR KWIATKOSKI: Yes; in
17 a civil case in Michigan, a paternity case.

18 THE COURT: How long ago was that?

19 PROSPECTIVE JUROR KWIATKOSKI: About 18
20 years ago.

21 THE COURT: Did you reach a verdict?

22 PROSPECTIVE JUROR KWIATKOSKI: It was
23 settled out of court.

24 THE COURT: Do you think that
25 experience would in any way reflect negatively upon your

1 ability to fairly serve on this jury?

2 PROSPECTIVE JUROR KWIATKOSKI: No, sir.

3 THE COURT: Are you or any of your
4 close friends or relatives involved in law enforcement, or
5 have you been in the past?

6 PROSPECTIVE JUROR KWIATKOSKI: I have a
7 relative that is a police in Hartland Woods, but I haven't
8 seen him since his wedding, so that's a good 20 years ago.

9 THE COURT: He is an in-law then? Is
10 that what you're saying?

11 PROSPECTIVE JUROR KWIATKOSKI: He's a
12 cousin, second cousin.

13 THE COURT: Do you recall discussing
14 his work with him back years ago?

15 PROSPECTIVE JUROR KWIATKOSKI: No, sir.
16 I saw him at the wedding, and that was it.

17 THE COURT: Do you think his profession
18 would have any bearing on your view of this case?

19 PROSPECTIVE JUROR KWIATKOSKI: No, sir.

20 THE COURT: Can you be a fair juror, do
21 you believe?

22 PROSPECTIVE JUROR KWIATKOSKI: Yes.

23 THE COURT: Have you or a close friend
24 or family member ever been a victim of crime?

25 PROSPECTIVE JUROR KWIATKOSKI: No, sir.

1 THE COURT: Will you follow all the
2 instructions of the Court on the law, even though they may
3 differ from your personal conceptions of what the law
4 ought to be?

5 PROSPECTIVE JUROR KWIATKOSKI: Yes, I
6 will.

7 THE COURT: A person who is accused of
8 committing a crime is presumed to be innocent in a
9 criminal trial. Do you understand and agree with that?

10 PROSPECTIVE JUROR KWIATKOSKI: Yes, I
11 do.

12 THE COURT: Are you aware that the
13 defendant does not have to take the stand and testify or
14 offer any evidence if he chooses not to, and you can still
15 find him not guilty? That's because the burden is upon
16 the State to prove his guilt beyond a reasonable doubt.

17 PROSPECTIVE JUROR KWIATKOSKI: Yes,
18 sir.

19 THE COURT: Have you or a close friend
20 or family member ever been involved in the criminal
21 justice process, either in prosecuting a case, or a
22 witness, or as a defendant?

23 PROSPECTIVE JUROR KWIATKOSKI: Yes,
24 sir.

25 THE COURT: Tell me about that.

1 PROSPECTIVE JUROR KWIATKOSKI: A
2 relative, brother, who spent many years in prison.

3 THE COURT: This was a brother?

4 PROSPECTIVE JUROR KWIATKOSKI: A
5 brother; yes, sir.

6 THE COURT: And where was this?

7 PROSPECTIVE JUROR KWIATKOSKI: In
8 Michigan.

9 THE COURT: And do you recall the
10 offense that he committed?

11 PROSPECTIVE JUROR KWIATKOSKI: Several
12 times. From '69 he was in incarcerated. I think he
13 visited every prison in Michigan.

14 THE COURT: For various charges over
15 the years?

16 PROSPECTIVE JUROR KWIATKOSKI: Yes,
17 sir.

18 THE COURT: What kind of charges are we
19 talking about?

20 PROSPECTIVE JUROR KWIATKOSKI: Robbery,
21 break and entry, rape. That I think covers it.

22 THE COURT: Is he an older or younger
23 brother?

24 PROSPECTIVE JUROR KWIATKOSKI: Older.

25 THE COURT: So are we started when he

1 was 16?

2 PROSPECTIVE JUROR KWIATKOSKI: Started
3 at 16, and I haven't seen him since 1980 when our last
4 parent died.

5 THE COURT: So all began years ago in
6 the '50s?

7 PROSPECTIVE JUROR KWIATKOSKI: Yes.
8 He's 75 right now.

9 THE COURT: Is he currently in prison?

10 PROSPECTIVE JUROR KWIATKOSKI: No. He
11 was released in '95.

12 THE COURT: Did you live in Michigan
13 during these years that he was being incarcerated?

14 PROSPECTIVE JUROR KWIATKOSKI: Yes, I
15 did, sir.

16 THE COURT: Were you aware of any of
17 the offenses that were charged personally?

18 PROSPECTIVE JUROR KWIATKOSKI: No, sir.

19 THE COURT: Did you observe anything of
20 that nature?

21 PROSPECTIVE JUROR KWIATKOSKI: No, I
22 didn't.

23 THE COURT: What was your sense at that
24 time as to whether or not he was being treated fairly or
25 not?

1 PROSPECTIVE JUROR KWIATKOSKI: Yes. He
2 was being treated fairly.

3 THE COURT: You haven't seen him since
4 1990?

5 PROSPECTIVE JUROR KWIATKOSKI: Since
6 1908 when our mother died. That was the last time I saw
7 him, or had any contact with him whatsoever.

8 THE COURT: Is he your full brother?

9 PROSPECTIVE JUROR KWIATKOSKI: Yes,
10 sir.

11 THE COURT: Do you think his
12 involvement with the criminal justice system and all that
13 would have any bearing on your view of this case either
14 way?

15 PROSPECTIVE JUROR KWIATKOSKI: No, sir,
16 I don't.

17 THE COURT: Do you think, all things
18 considered, you can be a fair juror?

19 PROSPECTIVE JUROR KWIATKOSKI: Yes, I
20 would.

21 THE COURT: Do you know of any reason
22 at this point why you could not be completely fair in this
23 matter?

24 PROSPECTIVE JUROR KWIATKOSKI: No, I
25 don't.

1 THE COURT: Tell us, please, of your
2 employment, the number of children you may have, and how
3 long you've lived in Clark County?

4 PROSPECTIVE JUROR KWIATKOSKI: I have
5 no children, but I have four stepchildren. I've been in
6 Clark County going on nine years. the rest of my life has
7 been spent in Michigan. I taught at the Country School
8 for two years.

9 THE COURT: Are you currently married?

10 PROSPECTIVE JUROR KWIATKOSKI: Yes,
11 sir. I married my husband, second husband in 1976. It
12 was a year after he retired from the military.

13 THE COURT: You have four stepchildren?

14 PROSPECTIVE JUROR KWIATKOSKI: Yes.
15 They're all married and living away from here.

16 THE COURT: Are any of those children
17 or their spouses involved in a law-related occupation?

18 PROSPECTIVE JUROR KWIATKOSKI: No, sir.

19 THE COURT: Since coming to Las Vegas
20 have you worked?

21 PROSPECTIVE JUROR KWIATKOSKI: No, sir.

22 THE COURT: Has your husband worked
23 here in Las Vegas?

24 PROSPECTIVE JUROR KWIATKOSKI: No, sir.

25 THE COURT: And you came from Michigan?

1 PROSPECTIVE JUROR KWIATKOSKI: Yes.

2 THE COURT: What city?

3 PROSPECTIVE JUROR KWIATKOSKI: Well, I
4 was born and raised in Shabbona, Michigan, and worked for
5 General Motors in Warren, Michigan.

6 THE COURT: What did you do for General
7 Motors?

8 PROSPECTIVE JUROR KWIATKOSKI: I
9 retired from General Motors after 31 years. I was in
10 records and work order control.

11 THE COURT: Any other work as an adult?

12 PROSPECTIVE JUROR KWIATKOSKI: I worked
13 for A and P. I taught school for two-and-a-half years.

14 THE COURT: What is A and P?

15 PROSPECTIVE JUROR KWIATKOSKI: A and P
16 is a grocery store, sir, a chain of grocery stores.

17 THE COURT: So you were a clerk, or
18 something of that nature?

19 PROSPECTIVE JUROR KWIATKOSKI: I was a
20 clerk and assistant bookkeeper there.

21 THE COURT: And you taught school, I
22 think you said earlier, a country school?

23 PROSPECTIVE JUROR KWIATKOSKI: Yes. It
24 was a one-room school house.

25 THE COURT: And you taught a variety of

1 subjects?

2 PROSPECTIVE JUROR KWIATKOSKI: Only
3 elementary through eighth grade.

4 THE COURT: Now, you indicated a first
5 husband. Is that individual employed?

6 PROSPECTIVE JUROR KWIATKOSKI: Yes. He
7 was employed with the A and P grocery chain. He was
8 manager of the store. I was divorced after three years
9 with him.

10 THE COURT: Have you any prejudice as
11 to the nature of the charges in this case?

12 PROSPECTIVE JUROR KWIATKOSKI: No, I
13 don't, sir.

14 THE COURT: Do you know any of the
15 other prospective jurors?

16 PROSPECTIVE JUROR KWIATKOSKI: No, I
17 don't.

18 THE COURT: Have you any racial
19 prejudice?

20 PROSPECTIVE JUROR KWIATKOSKI: No, I
21 don't.

22 THE COURT: Do you understand that an
23 information is a mere accusation and not evidence, that
24 the Defendant is presumed to be innocent until proven
25 guilty, and that the State has the burden of proving the

1 defendant's guilt beyond a reasonable doubt?

2 PROSPECTIVE JUROR KWIATKOSKI: Yes, I
3 do.

4 THE COURT: If you were charged with
5 offenses similar to the ones that are alleged in this
6 case, would you want 12 individuals such as yourself to be
7 on your jury?

8 PROSPECTIVE JUROR KWIATKOSKI: Yes, I
9 would.

10 THE COURT: Do you know of any reason
11 at all why you cannot be completely fair and completely
12 impartial in hearing this case?

13 PROSPECTIVE JUROR KWIATKOSKI: No, I
14 don't.

15 THE COURT: These proceedings will be
16 conducted in two segments. First, the jury will determine
17 if the defendant is guilty. Punishment would not be
18 considered at that time.

19 Second, if the jury finds the defendant
20 guilty of first degree murder, then the law of this state
21 requires that the jury set the punishment. I would set a
22 date for a hearing on the subject of punishment; do you
23 understand?

24 PROSPECTIVE JUROR KWIATKOSKI: Yes,
25 sir.

1 THE COURT: In the State of Nevada
2 there are three possible forms of punishment that the jury
3 may consider; the imposition of the death penalty, life
4 imprisonment without the possibility of parole, or life
5 imprisonment or a term of 50 years in prison with the
6 possibility of parole; do you understand that?

7 PROSPECTIVE JUROR KWIATKOSKI: Yes, I
8 do.

9 THE COURT: In your present state of
10 mind, could you consider fairly all three possible forms
11 of punishment and select the one you feel is most
12 appropriate?

13 PROSPECTIVE JUROR KWIATKOSKI: Yes, I
14 could.

15 THE COURT: Are there questions from
16 the State?

17 MR. FATTIG: Good afternoon, ma'am.
18 You heard the question about the photos and the grizzly
19 nature. Does that cause you any concern?

20 PROSPECTIVE JUROR KWIATKOSKI: It would
21 be disturbing, but I could face it, yes. I could handle
22 it.

23 MR. FATTIG: Thank you. Pass for
24 cause.

25 THE COURT: Defense counsel?

1 MR. KENNEDY: Mrs. Kwiatkoski, your
2 present husband you married in '76, he was a military
3 retiree?

4 PROSPECTIVE JUROR KWIATKOSKI: Yes, he
5 was.

6 MR. KENNEDY: What branch of the
7 military was he in?

8 PROSPECTIVE JUROR KWIATKOSKI: He was
9 Air Force.

10 MR. KENNEDY: Do you know what he did?

11 PROSPECTIVE JUROR KWIATKOSKI: Yes. He
12 was mostly military police at that time.

13 MR. KENNEDY: Was he a military police
14 officer?

15 PROSPECTIVE JUROR KWIATKOSKI: Well, he
16 was retired as major. He was a chief in the military
17 police, yes.

18 MR. KENNEDY: In '76 was he still in
19 the Air Force at that time?

20 PROSPECTIVE JUROR KWIATKOSKI: No, sir.
21 He retired in '75.

22 MR. KENNEDY: Did you know him at the
23 time in '75?

24 PROSPECTIVE JUROR KWIATKOSKI: We had
25 gone to school together, but never saw each other until

1 1975.

2 MR. KENNEDY: Since after all these
3 years have passed, have you ever spoken to him about his
4 work as a military police officer?

5 PROSPECTIVE JUROR KWIATKOSKI:
6 Occasionally he will bring -- if we're watching the
7 history channel and something occurs he was familiar with,
8 but he never discussed anything prior to that. If it's
9 light, he'll tell me, but if it's not, he won't.

10 MR. KENNEDY: Do you believe if someone
11 is convicted of first degree murder that they should
12 forfeit their own life?

13 PROSPECTIVE JUROR KWIATKOSKI: Pardon
14 me?

15 MR. KENNEDY: If someone is convicted
16 of first degree murder, the charges that we have here,
17 should their life also be taken?

18 PROSPECTIVE JUROR KWIATKOSKI: It would
19 depend on the circumstances.

20 MR. KENNEDY: So you're willing to look
21 at different factors and different circumstances in making
22 that decision?

23 PROSPECTIVE JUROR KWIATKOSKI: Yes.

24 MR. KENNEDY: Pass for cause.

25 THE COURT: Thank you. Defense

1 counsel's third peremptory challenge?

2 MR. KENNEDY: Your Honor, the Defense
3 would thank and excuse Juror No. 33, Ms. Gray.

4 THE COURT: Ms. Gray, thank you very
5 much, ma'am.

6 THE CLERK: Badge No. 52, David Cacci,
7 C-a-c-c-i.

8 THE COURT: Mr. Cacci, do you know of
9 my reason why you could not serve as a fair juror in this
10 case?

11 PROSPECTIVE JUROR CACCI: Yes.

12 THE COURT: What would that be?

13 PROSPECTIVE JUROR CACCI: I have
14 problems with considering the death penalty. And having
15 said that, I also have problems with granting parole if
16 someone is convicted of murder, even if it's after 40 or
17 50 years.

18 THE COURT: So under no circumstances
19 could you consider either of those alternatives? Is that
20 what you're saying?

21 PROSPECTIVE JUROR CACCI: No, I could
22 not.

23 THE COURT: Are there questions by
24 counsel?

25 MR. KANE: No, Your Honor.

1 MR. CHRISTIANSEN: No, sir.

2 THE COURT: Sir, you're excused.

3 THE CLERK: Badge No. 32, Daniel Matty,
4 M-a-t-t-y.

5 THE COURT: Mr. Matty, do you know of
6 any reason why could you not serve as a fair juror in this
7 particular case?

8 PROSPECTIVE JUROR MATTY: No.

9 THE COURT: Have you served as a juror
10 before?

11 PROSPECTIVE JUROR MATTY: No, sir.

12 THE COURT: Are you or any of your
13 close friends or relatives involved in law enforcement, or
14 have you been in the past?

15 PROSPECTIVE JUROR MATTY: There's three
16 people that you know. One is my fiancée's father. He's a
17 law officer in a small town in Wisconsin. My next door
18 neighbor, he's a Metro police officer, not involved in
19 this case. And then my uncle is or was an officer in a
20 small village in Arkansas.

21 THE COURT: All right. Have you
22 discussed the work environment or the case assignment of
23 any of these officers, or all, perhaps?

24 PROSPECTIVE JUROR MATTY: My next door
25 neighbor, we talk about his work quite a bit.

1 THE COURT: How long have you known
2 him?

3 PROSPECTIVE JUROR MATTY: About a year.

4 THE COURT: And your fiancée's father,
5 how long have you known him?

6 PROSPECTIVE JUROR MATTY: About eight
7 years now.

8 THE COURT: Do you discuss his work
9 with him?

10 PROSPECTIVE JUROR MATTY: No. He
11 really doesn't talk about his work.

12 THE COURT: How often have you seen
13 him?

14 PROSPECTIVE JUROR MATTY: About five
15 times a year in the past five years. And quite regularly
16 before that the first two years.

17 THE COURT: And the individual that was
18 the sheriff in Arkansas, do you still see that person?

19 PROSPECTIVE JUROR MATTY: I see him
20 once every couple years, and talk to him very rarely.

21 THE COURT: When you would next see any
22 of these individuals, do you think you would feel a
23 compunction to explain or justify your verdict to them?

24 PROSPECTIVE JUROR MATTY: No, sir.

25 THE COURT: Do you think you can

1 maintain an objective view of this case, notwithstanding
2 the fact that you are acquainted with these individuals?

3 PROSPECTIVE JUROR MATTY: Yes, sir.

4 THE COURT: Do you believe you can be a
5 fair juror?

6 PROSPECTIVE JUROR MATTY: Yes, sir.

7 THE COURT: Have you or a close friend
8 or family member ever been a victim of crime?

9 PROSPECTIVE JUROR MATTY: My cousins.

10 THE COURT: Tell me about that, please.

11 PROSPECTIVE JUROR MATTY: I believe he
12 was convicted of armed robbery.

13 THE COURT: Well, have you been a
14 victim of crime?

15 PROSPECTIVE JUROR MATTY: No. I'm
16 sorry.

17 THE COURT: You or your family or
18 friends?

19 PROSPECTIVE JUROR MATTY: No.

20 THE COURT: We'll get around to the
21 other. Will you follow all the instructions of the Court
22 on the law, even though they may differ from your personal
23 conceptions of what the law ought to be?

24 PROSPECTIVE JUROR MATTY: Yes.

25 THE COURT: A person who is accused of

1 committing a crime is presumed to be innocent in a
2 criminal trial. Do you understand and agree with that?

3 PROSPECTIVE JUROR MATTY: Yes.

4 THE COURT: Are you aware that the
5 defendant does not have to take the stand and testify or
6 offer any evidence if he chooses not to, and you can still
7 find him not guilty? That's because the burden is upon
8 the State to prove his guilt beyond a reasonable doubt.

9 PROSPECTIVE JUROR MATTY: Yes.

10 THE COURT: Have you or a close friend
11 or family member ever been involved in the criminal
12 justice process, either in prosecuting a case, or as a
13 witness, or as a defendant?

14 PROSPECTIVE JUROR MATTY: My cousin.

15 THE COURT: Tell me about that.

16 PROSPECTIVE JUROR MATTY: I believe he
17 was convicted of armed robbery, I'm not totally sure. I'm
18 not real familiar with the case.

19 THE COURT: Was this back in Michigan.

20 PROSPECTIVE JUROR MATTY: No; in
21 Wisconsin.

22 THE COURT: You just heard this?

23 PROSPECTIVE JUROR MATTY: I was
24 probably about 13 at the time, so all I know is that there
25 was -- I don't know how much detail you want me to go

1 into. A bunch of his friends from college were involved
2 in it.

3 THE COURT: Was that robbery?

4 PROSPECTIVE JUROR MATTY: Yes.

5 THE COURT: Knowing what you know of
6 it, or knew at the time, did you have a sense that he was
7 treated fairly, or perhaps not?

8 PROSPECTIVE JUROR MATTY: Yes.

9 THE COURT: Is there anything about the
10 incident that would negatively reflect on your ability to
11 fairly serve as a juror?

12 PROSPECTIVE JUROR MATTY: No.

13 THE COURT: Do you know of any reason
14 at this point why you could not serve as a fair juror in
15 this case?

16 PROSPECTIVE JUROR MATTY: No.

17 THE COURT: Would you tell us of your
18 employment, your marital status, the number of children
19 you may have, and how long you've lived in Clark County.

20 PROSPECTIVE JUROR MATTY: I work for an
21 airline. I'm single. I have no children. I've been in
22 Clark County for about four-and-a-half years.

23 THE COURT: What airline do you work
24 for?

25 PROSPECTIVE JUROR MATTY: National.

1 THE COURT: And what do you do there?

2 PROSPECTIVE JUROR MATTY: I am a
3 computer analyst.

4 THE COURT: Has that been your
5 employment exclusively since coming to Las Vegas?

6 PROSPECTIVE JUROR MATTY: No.

7 THE COURT: What other work have you
8 had?

9 PROSPECTIVE JUROR MATTY: I also worked
10 for America West Airlines, and I worked for the MGM for a
11 short period of time in convention services.

12 THE COURT: And as far as your service
13 in the airlines has been computer oriented?

14 PROSPECTIVE JUROR MATTY: The first
15 four years were on the ramp throwing bags.

16 THE COURT: Ticket agent?

17 PROSPECTIVE JUROR MATTY: No; ground
18 personnel in bags and cargo.

19 THE COURT: And you moved from where in
20 coming here?

21 PROSPECTIVE JUROR MATTY: Linden,
22 Wisconsin.

23 THE COURT: And what was your
24 employment there?

25 PROSPECTIVE JUROR MATTY: I worked in

1 the printing industry for about six years as a truck
2 driver. And prior to that I was in farming.

3 THE COURT: Were you from there
4 originally?

5 PROSPECTIVE JUROR MATTY: Yes.

6 THE COURT: The farming situation, is
7 that your family's farm?

8 PROSPECTIVE JUROR MATTY: My stepfather
9 always worked for someone, so it was the farm we lived on.

10 THE COURT: Were you ever in the
11 military?

12 PROSPECTIVE JUROR MATTY: No.

13 THE COURT: Have you ever been married?

14 PROSPECTIVE JUROR MATTY: No.

15 THE COURT: Have you any prejudice as
16 to the nature of the charges in this case?

17 PROSPECTIVE JUROR MATTY: No.

18 THE COURT: Do you know any of the
19 other prospective jurors?

20 PROSPECTIVE JUROR MATTY: No.

21 THE COURT: Have you any racial
22 prejudice?

23 PROSPECTIVE JUROR MATTY: No.

24 THE COURT: Do you understand that an
25 Information is a mere accusation and not evidence, that

1 the Defendant is presumed to be innocent until proven
2 guilty, and that the State has the burden of proving the
3 defendant's guilt beyond a reasonable doubt?

4 PROSPECTIVE JUROR MATTY: Yes.

5 THE COURT: If you were charged with
6 offenses similar to the ones that are alleged in this
7 case, would you want 12 individuals such as yourself to be
8 on your jury?

9 PROSPECTIVE JUROR MATTY: Yes, I would.

10 THE COURT: Do you know any reason at
11 all why you could not be completely fair and completely
12 impartial in this hearing that case?

13 PROSPECTIVE JUROR MATTY: No.

14 THE COURT: Mr. Matty, these
15 proceedings will be conducted in two segments. First, the
16 jury will determine if the defendant is guilty.
17 Punishment would not be considered at that time.

18 Second, if the jury finds the defendant
19 guilty of first degree murder, then the law of this state
20 requires that the jury set the punishment. I would set a
21 date for a hearing on the subject of punishment; do you
22 understand?

23 PROSPECTIVE JUROR MATTY: Yes.

24 THE COURT: In the State of Nevada
25 there are three possible forms of punishment that the jury

1 may consider; the imposition of the death penalty, life
2 imprisonment without the possibility of parole, or life
3 imprisonment or a term of 50 years in prison with the
4 possibility of parole; do you understand that?

5 PROSPECTIVE JUROR MATTY: Yes.

6 THE COURT: In your present state of
7 mind, could you consider fairly all three possible forms
8 of punishment and select the one that you feel is most
9 appropriate?

10 PROSPECTIVE JUROR MATTY: Yes.

11 THE COURT: Questions from the State,
12 please?

13 MR. KANE: Any problems with that
14 graphic type of evidence that we've been discussing?

15 PROSPECTIVE JUROR MATTY: No.

16 MR. KANE: Nothing further. Pass for
17 cause, Judge.

18 THE COURT: Counsel?

19 MR. CHRISTIANSEN: Mr. Matty, the same
20 question I've asked everybody else. Can you envision a
21 situation in which you've just convicted somebody of first
22 degree murder by way of the felony murder rule or
23 premeditation or malice aforethought where you could say
24 to that person: Hey, after a fixed period of time of
25 incarceration, you should be allowed back out in society

1 and sentence him accordingly?

2 PROSPECTIVE JUROR MATTY: Yes.

3 MR. CHRISTIANSEN: You would take that
4 into consideration with all the factors and the law the
5 judge gives you during the penalty phase, if we get there?

6 PROSPECTIVE JUROR MATTY: Yes.

7 MR. CHRISTIANSEN: And you're not
8 presuming we're going to get to a penalty phase just
9 because I'm asking you about it, right? You understand
10 that I have to do that so we can find out if people can
11 fairly consider everything.

12 PROSPECTIVE JUROR MATTY: Yes.

13 MR. CHRISTIANSEN: Thank you, sir. I
14 pass for cause.

15 THE COURT: Thank you. The
16 Prosecution's fourth peremptory challenge?

17 MR. KANE: The State would thank and
18 excuse Mr. Carrington in Seat No. 2, Badge 054.

19 THE COURT: Mr. Carrington, thank you
20 very much, sir.

21 THE CLERK: Badge No. 59, June Craig,
22 C-r-a-i-g.

23 THE COURT: Is it Miss or
24 Mrs. Craig?

25 PROSPECTIVE JUROR CRAIG: Miss.

1 THE COURT: Miss Craig, do you know of
2 any reason at all why you could not serve as a fair juror
3 in this particular matter?

4 PROSPECTIVE JUROR CRAIG: No.

5 THE COURT: Have you served as a juror
6 before?

7 PROSPECTIVE JUROR CRAIG: No.

8 THE COURT: Are you or any of your
9 close friends or relatives involved in law enforcement, or
10 have you been in the past?

11 PROSPECTIVE JUROR CRAIG: No.

12 THE COURT: Have you or a close friend
13 or family member ever been a victim of crime?

14 PROSPECTIVE JUROR CRAIG: No.

15 THE COURT: Will you follow all the
16 instructions of the Court on the law, even though they may
17 differ from your personal conceptions of what the law
18 ought to be?

19 PROSPECTIVE JUROR CRAIG: Yes.

20 THE COURT: A person who is accused of
21 committing a crime is presumed to be innocent in a
22 criminal trial. Do you understand and agree with that?

23 PROSPECTIVE JUROR CRAIG: Yes.

24 THE COURT: Are you aware that the
25 defendant does not have to take the stand and testify or

1 offer any evidence if he chooses not to, and you can still
2 find him not guilty? That's because the burden is upon
3 the State to prove his guilt beyond a reasonable doubt.

4 Do you understand that?

5 PROSPECTIVE JUROR CRAIG: Yes.

6 THE COURT: Have you or a close friend
7 or family member ever been involved in the criminal
8 justice process, either in prosecuting a case, or as a
9 witness, or as a defendant?

10 PROSPECTIVE JUROR CRAIG: No.

11 THE COURT: Do you know of any reason
12 at this point why you could not serve as a fair juror in
13 this case?

14 PROSPECTIVE JUROR CRAIG: No.

15 THE COURT: Will you tell us of your
16 employment, the number children you may have had from a
17 previous marriage, and how long you've lived in Clark
18 County?

19 PROSPECTIVE JUROR CRAIG: I work for
20 the State of Nevada. I have three kids.

21 THE COURT: What do you do? What kind
22 of work?

23 PROSPECTIVE JUROR CRAIG: I'm an
24 eligibility worker for the welfare system.

25 THE COURT: So you work in the Welfare

1 Department, essentially?

2 PROSPECTIVE JUROR CRAIG: Yes.

3 THE COURT: And the ages of your
4 children, roughly?

5 PROSPECTIVE JUROR CRAIG: Seventeen, 14
6 and 9.

7 THE COURT: And how long have you lived
8 in Clark County?

9 PROSPECTIVE JUROR CRAIG: On and off
10 since my parents retired.

11 THE COURT: Which is when?

12 PROSPECTIVE JUROR CRAIG: On and off
13 since '74.

14 THE COURT: Have you been married in
15 the past?

16 PROSPECTIVE JUROR CRAIG: Yes.

17 THE COURT: And your husband's
18 occupation?

19 PROSPECTIVE JUROR CRAIG: He's military
20 retired, and a probation officer for the State of
21 Colorado.

22 THE COURT: Was he working as a
23 probation officer during the time you were married?

24 PROSPECTIVE JUROR CRAIG: Yes.

25 THE COURT: Did you have occasion to

1 discuss his work with him?

2 PROSPECTIVE JUROR CRAIG: No, not
3 really. He worked with teenage boys.

4 THE COURT: He was in the juvenile
5 system?

6 PROSPECTIVE JUROR CRAIG: Yes.

7 THE COURT: Do you think his work in
8 any way would influence you as a juror, ma'am?

9 PROSPECTIVE JUROR CRAIG: No.

10 THE COURT: Do you think you can be a
11 fair juror?

12 PROSPECTIVE JUROR CRAIG: Yes.

13 THE COURT: Now, what other kinds of
14 work have you had as an adult?

15 PROSPECTIVE JUROR CRAIG: I was cashier
16 and an accountant. My major, really, is accounting,
17 business.

18 THE COURT: Have you worked as an
19 accountant in some fashion?

20 PROSPECTIVE JUROR CRAIG: Yes; here in
21 Las Vegas.

22 THE COURT: And what other businesses
23 or entities have you been employed with?

24 PROSPECTIVE JUROR CRAIG: That's really
25 about it.

1 THE COURT: You worked as accountant or
2 in bookkeeping with some company?

3 PROSPECTIVE JUROR CRAIG: Accounts
4 receivable for Union Premiums. They used to be on
5 Maryland Parkway.

6 THE COURT: Any other work as an adult
7 that comes to mind?

8 PROSPECTIVE JUROR CRAIG: I ran the
9 deli in Vons.

10 THE COURT: Now, when you came here in
11 the early '70s, you moved from where?

12 PROSPECTIVE JUROR CRAIG: My father was
13 military. He was retiring.

14 THE COURT: So you moved a lot of
15 places with your family; is that right?

16 PROSPECTIVE JUROR CRAIG: Right.

17 THE COURT: Where are from you
18 originally, ma'am?

19 PROSPECTIVE JUROR CRAIG: I was born in
20 Oklahoma.

21 THE COURT: What city?

22 PROSPECTIVE JUROR CRAIG: Oklahoma
23 City, Oklahoma.

24 THE COURT: Have you any prejudice as
25 to the nature of the charges in this case?

1 PROSPECTIVE JUROR CRAIG: No.

2 THE COURT: Do you know any of the
3 other prospective jurors?

4 PROSPECTIVE JUROR CRAIG: No.

5 THE COURT: Have you any racial
6 prejudice?

7 PROSPECTIVE JUROR CRAIG: 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 Do you understand all that?

14 PROSPECTIVE JUROR CRAIG: Yes.

15 THE COURT: If you were charged with
16 offenses similar to the ones that are alleged in this
17 case, would you want 12 individuals such as yourself to be
18 on your jury?

19 PROSPECTIVE JUROR CRAIG: Yes.

20 THE COURT: Do you know of any reason
21 at all why you could not be completely fair and completely
22 impartial this hearing this case?

23 PROSPECTIVE JUROR CRAIG: No.

24 THE COURT: Miss Craig, these
25 proceedings will be conducted in two segments. First, the

1 jury will determine if the defendant is guilty.

2 Punishment would not be considered at that time.

3 Second, if the jury finds the defendant
4 guilty of first degree murder, then the law of this state
5 requires that the jury set the punishment. I would set a
6 date for a hearing on the subject of punishment; do you
7 understand?

8 PROSPECTIVE JUROR CRAIG: Yes.

9 THE COURT: In the State of Nevada
10 there are three possible forms of punishment that the jury
11 may consider; the imposition of the death penalty, life
12 imprisonment without the possibility of parole, or life
13 imprisonment or a term of 50 years in prison with the
14 possibility of parole; do you understand that?

15 PROSPECTIVE JUROR CRAIG: Yes.

16 THE COURT: In your present state of
17 mind, could you consider fairly all three possible forms
18 of punishment and select one that you feel is most
19 appropriate?

20 PROSPECTIVE JUROR CRAIG: Yes.

21 THE COURT: Questions from the State?

22 MR. FATTIG: Ma'am, the question on the
23 graphic photos, does that cause you any concern?

24 PROSPECTIVE JUROR CRAIG: No.

25 MR. FATTIG: Pass for cause, Your

1 Honor.

2 THE COURT: Thank you. Defense

3 counsel?

4 MR. KENNEDY: Ms. Craig, if someone

5 commits murder, should they be killed as well?

6 PROSPECTIVE JUROR CRAIG: Excuse me?

7 MR. KENNEDY: If someone commits

8 murder, should they be killed as well?

9 PROSPECTIVE JUROR CRAIG: I don't know.

10 MR. KENNEDY: You've heard all the

11 questioning, you've been here the last couple of days, and

12 you understand, as the judge explained, that if you reach

13 the penalty phase there are three different options.

14 When you say, "I don't know," does that mean

15 you're just unsure what you would do in that circumstance?

16 PROSPECTIVE JUROR CRAIG: Correct. I

17 would have to wait. I couldn't make any kind --

18 MR. KENNEDY: Wait until you hear all

19 the evidence?

20 PROSPECTIVE JUROR CRAIG: And what he

21 would tell me to do.

22 MR. KENNEDY: Pass for cause.

23 THE COURT: The Defense's fourth

24 peremptory challenge?

25 MR. KENNEDY: Yes, Your Honor. The

1 Defense would thank and excuse Juror No. 55, Mr. Carter.

2 THE COURT: Mr. Carter, thank you very
3 much, sir.

4 THE CLERK: Badge No. 66, Scott
5 Saunders, S-a-u-n-d-e-r-s.

6 THE COURT: Mr. Saunders, do you know
7 of any reason why you could not serve as a fair juror in
8 this case?

9 PROSPECTIVE JUROR SAUNDERS: No.

10 THE COURT: Have you served as a juror
11 before?

12 PROSPECTIVE JUROR SAUNDERS: No.

13 THE COURT: Are you or any of your
14 close friends or relatives involved in law enforcement, or
15 have you been in the past?

16 PROSPECTIVE JUROR SAUNDERS: No.

17 THE COURT: Have you or a close friend
18 or family member ever been a victim of crime?

19 PROSPECTIVE JUROR SAUNDERS: No.

20 THE COURT: Will you follow all the
21 instructions of the Court on the law, even though they may
22 differ from your personal conceptions of what the law
23 ought to be?

24 PROSPECTIVE JUROR SAUNDERS: Yes.

25 THE COURT: A person who is accused of

1 committing a crime is presumed to be innocent in a
2 criminal trial. Do you understand and agree with that
3 statement?

4 PROSPECTIVE JUROR SAUNDERS: Yes.

5 THE COURT: Are you aware that the
6 defendant does not have to take the stand and testify or
7 offer any evidence if he chooses not to, and you can still
8 find him not guilty? That's because the burden is upon
9 the State to prove his guilt beyond a reasonable doubt.

10 PROSPECTIVE JUROR SAUNDERS: Yes.

11 THE COURT: Have you or a close friend
12 or family member ever been involved in the criminal
13 justice process, either in prosecuting a case, or as a
14 witness, or as a defendant?

15 PROSPECTIVE JUROR SAUNDERS: No.

16 THE COURT: Do you know of any reason
17 at this point why you could not serve as a fair juror?

18 PROSPECTIVE JUROR SAUNDERS: No.

19 THE COURT: Would you tell us of your
20 employment, your marital status, the number of children
21 you may have, and how long you've lived in Clark County?

22 PROSPECTIVE JUROR SAUNDERS: I've lived
23 in Clark County for nine months. I work at a software
24 company, and I'm single.

25 THE COURT: No children?

1 PROSPECTIVE JUROR SAUNDERS: No.

2 THE COURT: Have you ever been in the
3 military?

4 PROSPECTIVE JUROR SAUNDERS: No.

5 THE COURT: How long have you been with
6 your current employer?

7 PROSPECTIVE JUROR SAUNDERS: Nine
8 months.

9 THE COURT: And you moved from where
10 when you came here?

11 PROSPECTIVE JUROR SAUNDERS: Seattle.

12 THE COURT: Were you employed there?

13 PROSPECTIVE JUROR SAUNDERS: Yes; for a
14 year for another software company. And previous to that I
15 was in Phoenix for six years.

16 THE COURT: And employed how?

17 PROSPECTIVE JUROR SAUNDERS: With a
18 hospitality headquarters, I guess. The headquarters of a
19 hospitality company.

20 THE COURT: What do you mean by a
21 hospitality company?

22 PROSPECTIVE JUROR SAUNDERS: It's a
23 hotel chain, but it was a corporate job, it wasn't in a
24 hotel.

25 THE COURT: So it was promoting hotels?

1 PROSPECTIVE JUROR SAUNDERS: Exactly.

2 THE COURT: Are you from Phoenix?

3 PROSPECTIVE JUROR SAUNDERS: No. I'm
4 from New York originally.

5 THE COURT: You grew up in New York?

6 PROSPECTIVE JUROR SAUNDERS: Yes.

7 THE COURT: Any other work as an
8 adult?

9 PROSPECTIVE JUROR SAUNDERS: Just
10 bartending through college, that kind of stuff.

11 THE COURT: Have you any prejudice as
12 to the nature of the charges in this case?

13 PROSPECTIVE JUROR SAUNDERS: No.

14 THE COURT: Do you know any of the
15 other prospective jurors?

16 PROSPECTIVE JUROR SAUNDERS: No.

17 THE COURT: Have you any racial
18 prejudice?

19 PROSPECTIVE JUROR SAUNDERS: No.

20 THE COURT: Do you understand that an
21 information is a mere accusation and not evidence, that
22 the Defendant is presumed to be innocent until proven
23 guilty, and that the State has the burden of proving the
24 defendant's guilt beyond a reasonable doubt?

25 PROSPECTIVE JUROR SAUNDERS: Yes.

1 THE COURT: If you were charged with
2 offenses similar to the ones that are alleged in this
3 case, would you want 12 individuals such as yourself to be
4 on your jury?

5 PROSPECTIVE JUROR SAUNDERS: Yes.

6 THE COURT: Do you know of any reason
7 at all why you could not be completely fair and completely
8 impartial in hearing this matter?

9 PROSPECTIVE JUROR SAUNDERS: No.

10 THE COURT: These proceedings will be
11 conducted in two segments. First, the jury will determine
12 if the defendant is guilty. Punishment would not be
13 considered at that time.

14 Second, if the jury finds the defendant
15 guilty of first degree murder, then the law of this state
16 requires that the jury set the punishment. I would set a
17 date for a hearing on the subject of punishment; do you
18 understand?

19 PROSPECTIVE JUROR SAUNDERS: Yes.

20 THE COURT: In the State of Nevada
21 there are three possible forms of punishment that the jury
22 may consider; the imposition of the death penalty, life
23 imprisonment without the possibility of parole, or life
24 imprisonment or a term of 50 years in prison with the
25 possibility of parole; do you understand that?

1 PROSPECTIVE JUROR SAUNDERS: Yes.

2 THE COURT: In your present state of
3 mind, could you consider fairly all three possible forms
4 of punishment and the select the one that you feel is the
5 most appropriate?

6 PROSPECTIVE JUROR SAUNDERS: Yes.

7 THE COURT: Are there questions from
8 the State?

9 MR. KANE: Just the question I've asked
10 everyone. Any problems with any graphic kind of evidence
11 we've been talking about?

12 PROSPECTIVE JUROR SAUNDERS: No.

13 MR. KANE: Nothing further. Pass for
14 cause, Judge.

15 THE COURT: Thank you. Counsel?

16 MR. CHRISTIANSEN: My question is the
17 same, Mr. Saunders. Any problems of envisioning a
18 scenario after a trial phase, if the finding was of guilt
19 for two separate murders, that you could give somebody the
20 possibility of reentering society?

21 PROSPECTIVE JUROR SAUNDERS: Yeah.
22 That would be a possibility.

23 MR. CHRISTIANSEN: Something you could
24 fairly consider with the other options the judge has laid
25 out for you?

1 PROSPECTIVE JUROR SAUNDERS: Yes.

2 MR. CHRISTIANSEN: Nothing further,
3 Judge. Pass for cause.

4 THE COURT: The State's fifth
5 peremptory challenge?

6 MR. KANE: Your Honor, we would thank
7 and excuse Mrs. McCoy in Seat No. 8, Badge No. 037.

8 THE COURT: Thank you very much, ma'am.

9 THE CLERK: Badge No. 61, Shari
10 Custard, C-u-s-t-a-r-d.

11 THE COURT: Is it Miss or
12 Mrs. Custard?

13 PROSPECTIVE JUROR CUSTARD: Miss.

14 THE COURT: Mrs. Custard, do you know
15 of any reason why you could not serve as a fair juror in
16 this particular case?

17 PROSPECTIVE JUROR CUSTARD: No.

18 THE COURT: Have you served as a juror
19 before?

20 PROSPECTIVE JUROR CUSTARD: No.

21 THE COURT: Are you or any of your
22 close friends or relatives involved in law enforcement, or
23 have you been in the past?

24 PROSPECTIVE JUROR CUSTARD: No.

25 THE COURT: Have you or a close friend

1 or family member ever been a victim of crime.

2 PROSPECTIVE JUROR CUSTARD: Yes.

3 THE COURT: Tell me about that.

4 PROSPECTIVE JUROR CUSTARD: It was a
5 domestic violence.

6 THE COURT: Were you the victim?

7 PROSPECTIVE JUROR CUSTARD: Yes.

8 THE COURT: How long ago was this?

9 PROSPECTIVE JUROR CUSTARD: In December
10 of '99.

11 THE COURT: Here in Clark County?

12 PROSPECTIVE JUROR CUSTARD: Yes.

13 THE COURT: Was it reported?

14 PROSPECTIVE JUROR CUSTARD: Yes.

15 THE COURT: Was someone prosecuted in
16 the matter?

17 PROSPECTIVE JUROR CUSTARD: Yes.

18 THE COURT: Do you think that the
19 situation was handled appropriately, or perhaps not?

20 PROSPECTIVE JUROR CUSTARD: Yes.

21 THE COURT: Is there anything about
22 that occurrence that would influence you as a juror in
23 this matter, do you feel?

24 PROSPECTIVE JUROR CUSTARD: No.

25 THE COURT: Can you be a fair juror,

1 ma'am?

2 PROSPECTIVE JUROR CUSTARD: Yes.

3 THE COURT: Will you follow all the
4 instructions of the Court on the law, even though they may
5 differ from your personal conceptions of what the law
6 ought to be?

7 PROSPECTIVE JUROR CUSTARD: I will.

8 THE COURT: A person who is accused of
9 committing a crime is presumed to be innocent in a
10 criminal trial. Do you understand and agree with that?

11 PROSPECTIVE JUROR CUSTARD: Yes.

12 THE COURT: Are you aware that the
13 defendant does not have to take the stand and testify or
14 offer any evidence if he chooses not to, and you can still
15 find him not guilty? That's because the burden is upon
16 the State to prove his guilt beyond a reasonable doubt.

17 PROSPECTIVE JUROR CUSTARD: Yes.

18 THE COURT: Have you or a close friend
19 or family member ever been involved in the criminal
20 justice process, either in prosecuting a case. Or as a
21 witness, or as a defendant?

22 PROSPECTIVE JUROR CUSTARD: No.

23 THE COURT: Do you know of any reason
24 at this point why you could not serve as a fair juror?

25 PROSPECTIVE JUROR CUSTARD: No.

1 THE COURT: Would you tell us, please,
2 of your employment, the number of children you may have
3 from a previous marriage, and how you've lived in Clark
4 County?

5 PROSPECTIVE JUROR CUSTARD: I'm
6 employed by BANK of America as a customer care supervisor
7 for the last 18 months. I moved to Clark County in 1978
8 from St. Louis, Missouri out of high school. And I went
9 to cement mason school, I went to --

10 THE COURT: Are you married, ma'am, or
11 have you been married in the past?

12 PROSPECTIVE JUROR CUSTARD: I've been
13 married twice.

14 THE COURT: Do you have any children?

15 PROSPECTIVE JUROR CUSTARD: I have five
16 children.

17 THE COURT: Their ages, roughly?

18 PROSPECTIVE JUROR CUSTARD: 23, 19, 17,
19 10 and 11.

20 THE COURT: Are any of the older
21 children or their spouses involved in a law-related
22 occupation?

23 PROSPECTIVE JUROR CUSTARD: No.

24 THE COURT: Your husband's occupation
25 has been?

1 PROSPECTIVE JUROR CUSTARD: He was Air
2 Force.

3 THE COURT: One of your husbands was in
4 the Air Force?

5 PROSPECTIVE JUROR CUSTARD: Yes. The
6 other one was an electronics technician.

7 THE COURT: And you're not currently
8 married?

9 PROSPECTIVE JUROR CUSTARD: No.

10 THE COURT: And you say you are from
11 St. Louis?

12 PROSPECTIVE JUROR CUSTARD: Yes.

13 THE COURT: And you moved from
14 St. Louis to here; is that right?

15 PROSPECTIVE JUROR CUSTARD: Yes; in
16 1978.

17 THE COURT: What work as an adult,
18 other than what you've mentioned, have you had?

19 PROSPECTIVE JUROR CUSTARD: Mostly
20 casino experience the last 20 years.

21 THE COURT: What did you do in casinos?

22 PROSPECTIVE JUROR CUSTARD: I was in
23 the slot defendant; change, cashier.

24 THE COURT: Have you any prejudice as
25 to the nature of the charges in this case?

1 PROSPECTIVE JUROR CUSTARD: No.

2 THE COURT: Do you know any of the
3 other prospective jurors?

4 PROSPECTIVE JUROR CUSTARD: No.

5 THE COURT: Have you any racial
6 prejudice?

7 PROSPECTIVE JUROR CUSTARD: No.

8 THE COURT: Are you aware that the
9 defendant does not have to take the stand and testify or
10 offer any evidence if he chooses not to, and you can still
11 find him not guilty? That's because the burden is upon
12 the State to prove his guilt beyond a reasonable doubt.

13 PROSPECTIVE JUROR CUSTARD: Yes.

14 THE COURT: If you were charged with
15 offenses similar to the ones that are alleged in this
16 case, would you want 12 individuals such as yourself to be
17 on your jury?

18 PROSPECTIVE JUROR CUSTARD: Yes.

19 THE COURT: Do you know of any reason
20 at all why you could not be completely fair and completely
21 impartial in hearing this case?

22 PROSPECTIVE JUROR CUSTARD: No.

23 THE COURT: Ms. Custard, these
24 proceedings will be conducted in two segments. First, the
25 jury will determine if the defendant is guilty.

1 Punishment would not be 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 CUSTARD: 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 a term of 50 years in prison with the
13 possibility of parole; do you understand that?

14 PROSPECTIVE JUROR CUSTARD: Yes, I do.

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 CUSTARD: Yes.

20 THE COURT: Questions from the State?

21 MR. FATTIG: Good afternoon, ma'am?

22 PROSPECTIVE JUROR CUSTARD: Hi.

23 MR. FATTIG: The incident you mentioned
24 to the judge back in the summer of '99, domestic violence,
25 did you ever have to actually come and testify in court?

1 PROSPECTIVE JUROR CUSTARD: No.

2 MR. FATTIG: Did the case negotiate
3 before you had to?

4 PROSPECTIVE JUROR CUSTARD: Yes.

5 MR. FATTIG: And, again, you thought
6 the system worked itself out fairly?

7 PROSPECTIVE JUROR CUSTARD: Yes, I do.

8 MR. FATTIG: May I ask what your older
9 children do now? Do they live here in town?

10 PROSPECTIVE JUROR CUSTARD: They both
11 work for Bank of America.

12 MR. FATTIG: Here in town?

13 PROSPECTIVE JUROR CUSTARD: Yes.

14 MR. FATTIG: And the question on the
15 graphic photos, anything about that cause you any concern?

16 PROSPECTIVE JUROR CUSTARD: No.

17 MR. FATTIG: Thank you. Pass for
18 cause.

19 THE COURT: Thank you. Defense
20 counsel?

21 MR. KENNEDY: Ms. Custard, how do you
22 feel about the death penalty? Do you feel it's an
23 appropriate form of punishment for somebody that commits
24 murder?

25 PROSPECTIVE JUROR CUSTARD: In

1 instances, yes.

2 MR. KENNEDY: In certain cases?

3 PROSPECTIVE JUROR CUSTARD: Yes.

4 MR. KENNEDY: Pass for cause.

5 THE COURT: Thank you. Defense
6 counsel's fifth peremptory challenge?

7 MR. KENNEDY: Your Honor, the Defense
8 would thank and excuse Juror No. 32, Mr. Matty.

9 THE COURT: Mr. Matty, thank you very
10 much, sir. You are excused.

11 THE CLERK: Badge No. 39, Jamila
12 Pierson, P-i-e-r-s-o-n.

13 THE COURT: Is it Miss or
14 Mrs. Pierson?

15 PROSPECTIVE JUROR PIERSON: Mrs.

16 THE COURT: Mrs. Pierson, do you know
17 of any reason why you could not serve as a fair juror in
18 this particular case?

19 PROSPECTIVE JUROR PIERSON: No.

20 THE COURT: Have you served as a juror
21 before?

22 PROSPECTIVE JUROR PIERSON: No.

23 THE COURT: Are you or any of your
24 close friends or relatives involved in law enforcement, or
25 have you been in the past?

1 PROSPECTIVE JUROR PIERSON: Yes.

2 THE COURT: Tell me about that, please.

3 PROSPECTIVE JUROR PIERSON: My mother
4 is a retired corrections officer. Two of my very close
5 family friends that are more like aunts and uncles are
6 also retired corrections officers. I have two uncles that
7 are police officers in Washington.

8 THE COURT: In Washington State or
9 Washington DC?

10 PROSPECTIVE JUROR PIERSON: Washington
11 DC.

12 THE COURT: Concerning the matter of
13 the corrections officers, is that locally that they
14 worked?

15 PROSPECTIVE JUROR PIERSON: When I
16 lived in Tucson, Arizona, my mother was a corrections
17 officer there.

18 THE COURT: And the other two?

19 PROSPECTIVE JUROR PIERSON: The other
20 two were prior here in Nevada.

21 THE COURT: Do you have occasion to
22 discuss their work with them?

23 PROSPECTIVE JUROR PIERSON: Not often,
24 because I was younger when they were doing it, so...

25 THE COURT: Does your mother live here

1 in town?

2 PROSPECTIVE JUROR PIERSON: Yes, she
3 does.

4 THE COURT: And the other two
5 individuals you mentioned, do they live here as well?

6 PROSPECTIVE JUROR PIERSON: Yes.

7 THE COURT: When you would next see any
8 of these individuals, do you would feel a compunction to
9 explain or justify your verdict to them?

10 PROSPECTIVE JUROR PIERSON: No.

11 THE COURT: Do you think that their
12 work and the others that you mentioned would have an
13 influence on you as a juror here?

14 PROSPECTIVE JUROR PIERSON: No.

15 THE COURT: Do you think you can be a
16 fair juror?

17 PROSPECTIVE JUROR PIERSON: Yes.

18 THE COURT: Have you or a close friend
19 or family member ever been a victim of crime?

20 PROSPECTIVE JUROR PIERSON: No.

21 THE COURT: Will you follow all the
22 instructions of the Court on the law, even though they may
23 differ from your personal conceptions of what the law
24 ought to be?

25 PROSPECTIVE JUROR PIERSON: Yes.

1 THE COURT: A person who is accused of
2 committing a crime is presumed to be innocent in a
3 criminal trial. Do you understand and agree with that?

4 PROSPECTIVE JUROR PIERSON: Yes.

5 THE COURT: Are you aware that the
6 defendant does not have to take the stand and testify or
7 offer any evidence if he chooses not to, and you can still
8 find him not guilty? That's because the burden is upon
9 the State to prove his guilt beyond a reasonable doubt.

10 PROSPECTIVE JUROR PIERSON: Yes.

11 THE COURT: Have you or a close friend
12 or family member ever been involved in the criminal
13 justice process, either in prosecuting a case, or as a
14 witness, or as a defendant?

15 PROSPECTIVE JUROR PIERSON: Yes.

16 THE COURT: Tell me about that, please.

17 PROSPECTIVE JUROR PIERSON: I have a
18 cousin or, actually, it's my husband's cousin that is
19 awaiting trial right now.

20 THE COURT: And in this system?

21 PROSPECTIVE JUROR PIERSON: I believe
22 so. We don't know all the details just, basically, that
23 it is premeditated murder.

24 THE COURT: And where is this
25 individual in the proceedings? Has he entered a plea? Or

1 is he about to go to trial? Or just what, exactly?

2 PROSPECTIVE JUROR PIERSON: All we know
3 at this point is that he was arrested. We don't know
4 whether he's in the process of trial or what, just,
5 basically, that he was arrested.

6 THE COURT: And he's related to your
7 husband?

8 PROSPECTIVE JUROR PIERSON: Yes.

9 THE COURT: In what manner?

10 PROSPECTIVE JUROR PIERSON: He is his
11 first cousin.

12 THE COURT: Based on what little
13 information you actually have, I suppose, do you have
14 sense of whether or not he's being treated fairly, or not?

15 PROSPECTIVE JUROR PIERSON: I don't
16 know all the details, so I'm really unsure of -- I know
17 that he was arrested, and there's possible connections.
18 So I would say at this point, if there was connections,
19 then he is possibly being treated correctly.

20 THE COURT: When you say connections,
21 between the victim and himself?

22 PROSPECTIVE JUROR PIERSON: Correct.

23 THE COURT: Well, I realize you don't
24 know all the facts. I guess what I'm asking you, do you
25 have a sense as to whether or not thus far he has been

1 treated fairly?

2 PROSPECTIVE JUROR PIERSON: Thus far,
3 yes, I would say that he's being treated correctly.

4 THE COURT: Is there anything about
5 that situation that would impact your ability to fairly
6 serve as a juror here?

7 PROSPECTIVE JUROR PIERSON: No.

8 THE COURT: Do you know of any reason
9 at this point why you could not serve as a fair juror?

10 PROSPECTIVE JUROR PIERSON: No.

11 THE COURT: Will you tell us, please,
12 of your employment, the number of children you may have
13 had from a previous marriage, and how long you've lived in
14 Clark County?

15 PROSPECTIVE JUROR PIERSON: I'm
16 employed as a status board operator in housekeeping. We,
17 basically, give calls to house persons to deliver items to
18 guests.

19 THE COURT: What hotel is this?

20 PROSPECTIVE JUROR PIERSON: At Mandalay
21 Bay. And I've been with them for two years. Prior to
22 that, I was a supervisor of housekeeping at Sunrise
23 Hospital. And I've lived here for about five years. My
24 husband is a bartender, and I have one child, nine months.

25 THE COURT: Has your husband been

1 employed in any industry or trade other than his current
2 since the time you've known him?

3 PROSPECTIVE JUROR PIERSON: He was also
4 a cook.

5 THE COURT: And where did you move from
6 when you came here?

7 PROSPECTIVE JUROR PIERSON: Tucson,
8 Arizona.

9 THE COURT: Were you employed there?

10 PROSPECTIVE JUROR PIERSON: No.

11 THE COURT: Is that where you're
12 from?

13 PROSPECTIVE JUROR PIERSON: Right.

14 THE COURT: Any other work as an adult
15 that you have not mentioned?

16 PROSPECTIVE JUROR PIERSON: No.

17 THE COURT: And you've been married
18 only one time?

19 PROSPECTIVE JUROR PIERSON: Correct.

20 THE COURT: Have you any prejudice as
21 to the nature of the charges in this case?

22 PROSPECTIVE JUROR PIERSON: No.

23 THE COURT: Do you know any of the
24 other prospective jurors?

25 PROSPECTIVE JUROR PIERSON: No.

1 THE COURT: Have you any racial
2 prejudice?

3 PROSPECTIVE JUROR PIERSON: No.

4 THE COURT: Do you understand that an
5 information is a mere accusation and not evidence, that
6 the Defendant is presumed to be innocent until proven
7 guilty, and that the State has the burden of proving the
8 defendant's guilt beyond a reasonable doubt?

9 PROSPECTIVE JUROR PIERSON: Yes.

10 THE COURT: If you were charged with
11 offense similar to the ones that are alleged in this case
12 would you want the 12 individuals such as yourself to be
13 on your jury?

14 PROSPECTIVE JUROR PIERSON: Yes.

15 THE COURT: Do you know of any reason
16 at all why you could not be completely fair and completely
17 impartial in hearing this matter?

18 PROSPECTIVE JUROR PIERSON: No.

19 THE COURT: Mrs. Pierson, these
20 proceedings will be conducted in two segments. First, the
21 jury will determine if the defendant is guilty.
22 Punishment would not be considered at that time.

23 Second, if the jury finds the defendant
24 guilty of first degree murder, then the law of this state
25 requires that the jury set the punishment. I would set a

1 date for a hearing on the subject of punishment; do you
2 understand?

3 PROSPECTIVE JUROR PIERSON: Yes, I do.

4 THE COURT: In the State of Nevada
5 there are three possible forms of punishment that the jury
6 may consider; the imposition of the death penalty, life
7 imprisonment without the possibility of parole, or life
8 imprisonment or a term of 50 years in prison with the
9 possibility of parole; do you understand that?

10 PROSPECTIVE JUROR PIERSON: Yes, I do.

11 THE COURT: In your present state of
12 mind, could you consider fairly all three possible forms
13 of punishment and select the one that you feel is most
14 appropriate?

15 PROSPECTIVE JUROR PIERSON: Yes, I
16 could.

17 THE COURT: Are there questions from
18 the State?

19 MR. KANE: May we approach, Your Honor?

20 THE COURT: You may.

21 (Whereupon, counsel conferred with the Court.)

22 THE COURT: Ms. Pierson, you mentioned
23 this individual who is being charged with a crime in this
24 facility. What's the name of this person?

25 PROSPECTIVE JUROR PIERSON: Vincent

1 Pender.

2 MR. KANE: I only have one question,
3 ma'am, the same one I've asked everybody. Anything about
4 hearing or seeing graphic photographs that would bother
5 you in serving as a juror?

6 PROSPECTIVE JUROR PIERSON: No.

7 MR. KANE: Nothing further. Pass for
8 cause.

9 THE COURT: Counsel?

10 MR. CHRISTIANSEN: Ms. Pierson, my
11 question is the same as everybody else has received as
12 well. Would you be able to fairly consider all three of
13 the possible penalties the judge has explained to you,
14 even in light of the serious nature of the charges in this
15 case?

16 PROSPECTIVE JUROR PIERSON: I would
17 fairly consider them, yes.

18 MR. CHRISTIANSEN: Thank you very much.

19 THE COURT: Pass for cause?

20 MR. CHRISTIANSEN: Yes, sir.

21 THE COURT: The Prosecution's sixth
22 peremptory challenge?

23 MR. KANE: the State would waive that
24 challenge, Your Honor.

25 THE COURT: Defense's sixth?

1 MR. CHRISTIANSEN: Court's indulgence.
2 THE COURT: Good enough.
3 MR. KENNEDY: Your Honor, the Defense
4 will waive its sixth peremptory challenge.
5 THE COURT: The Prosecution's seventh?
6 MR. KANE: Waived, Your Honor.
7 THE COURT: Seventh for the Defense?
8 MR. KENNEDY: Your Honor, the Defense
9 would waive its seventh.
10 THE COURT: Very good. The eighth and
11 last for the Prosecution?
12 MR. KANE: Waived, Your Honor.
13 THE COURT: Thank you. Defense
14 counsel?
15 MR. KENNEDY: Waived as well.
16 THE COURT: Thank you.
17 Ms. Clerk, would you swear our jury.
18 (Whereupon the jury was sworn by the clerk.)
19 THE COURT: Ms. Clerk, would you call
20 two names to serve as alternates.
21 THE CLERK: Badge No. 60, Michelle Pro,
22 P-r-o; Badge No. 62, Eric Zuck, Z-u-c-k.
23 THE COURT: Is it Miss or Mrs. Pro?
24 PROSPECTIVE JUROR PRO: Mrs.
25 THE COURT: I'm going to ask you

1 questions simultaneously at the beginning, at least. Do
2 either of you have any reason why you could not serve as a
3 fair juror in this case, Mrs. Pro?

4 PROSPECTIVE JUROR PRO: No.

5 THE COURT: Mr. Zuck?

6 PROSPECTIVE JUROR ZUCK: No.

7 THE COURT: Have either of you served
8 as jurors before, Mrs. Pro?

9 PROSPECTIVE JUROR PRO: No.

10 PROSPECTIVE JUROR PIERSON: Yes, sir.

11 THE COURT: When did you serve as a
12 juror?

13 PROSPECTIVE JUROR ZUCK: About 12 years
14 ago.

15 THE COURT: Was it here in Clark
16 County?

17 PROSPECTIVE JUROR ZUCK: No, sir. It
18 was in Indiana.

19 THE COURT: Was it a civil or criminal
20 case?

21 PROSPECTIVE JUROR ZUCK: Civil.

22 THE COURT: Did you reach a verdict?

23 PROSPECTIVE JUROR ZUCK: Yes, sir.

24 THE COURT: Were you the foreman of the
25 jury?

1 PROSPECTIVE JUROR ZUCK: Yes, sir.

2 THE COURT: Do you think your prior
3 jury service would in any way inhibit your ability to
4 fairly serve on this jury?

5 PROSPECTIVE JUROR ZUCK: No, sir.

6 THE COURT: Are you or any of your
7 close friends or relatives involved in law enforcement, or
8 have you been in the past? Mrs. Pro?

9 PROSPECTIVE JUROR PRO: No.

10 THE COURT: Mr. Zuck?

11 PROSPECTIVE JUROR ZUCK: No, sir.

12 THE COURT: Have you or a close friend
13 or family member ever been a victim of crime? Mrs. Pro?

14 PROSPECTIVE JUROR PRO: No, sir.

15 THE COURT: Mr. Zuck?

16 PROSPECTIVE JUROR ZUCK: No.

17 THE COURT: Will you follow all the
18 instructions of the Court on the law, even though they may
19 differ from your personal conceptions of what the law
20 ought to be? Mrs. Pro?

21 PROSPECTIVE JUROR PRO: Yes.

22 THE COURT: Mr. Zuck?

23 PROSPECTIVE JUROR ZUCK: Yes.

24 THE COURT: A person who is accused of
25 committing a crime is presumed to be innocent in a

1 criminal trial. Do you understand and agree with that
2 statement, Mrs. Pro?

3 PROSPECTIVE JUROR PRO: Yes.

4 THE COURT: Mr. Zuck?

5 PROSPECTIVE JUROR ZUCK: Yes, sir.

6 THE COURT: Are you aware that the
7 defendant does not have to take the stand and testify or
8 offer any evidence if he chooses not to, and you can still
9 find him not guilty? That's because the burden is upon
10 the State to prove his guilt beyond a reasonable doubt.

11 Mrs. Pro?

12 PROSPECTIVE JUROR PRO: Yes.

13 THE COURT: Mr. Zuck?

14 PROSPECTIVE JUROR ZUCK: Yes.

15 THE COURT: Have you or a close friend
16 or family member ever been involved in the criminal
17 justice process, either in prosecuting a case, or as a
18 witness, or as a defendant? Mrs. Pro?

19 PROSPECTIVE JUROR PRO: Yes, I was.

20 THE COURT: Tell me about that, please.

21 PROSPECTIVE JUROR PRO: Probably seven
22 or eight years ago I was human resources director at Lady
23 Luck Casino downtown, and a woman there was murdered. And
24 her husband was accused of the murder, and I had to
25 testify about the conversation he had with me immediately

1 following to her death when he came in to work to get her
2 insurance check.

3 THE COURT: You testified in a court
4 here in this building, I take it?

5 PROSPECTIVE JUROR PIERSON: Yes.

6 THE COURT: And without asking any
7 particulars, was the matter resolved in a fair manner in
8 your judgement?

9 PROSPECTIVE JUROR PIERSON: Yes.

10 THE COURT: Do you think your
11 testifying in that case would have any bearing on your
12 view of this matter?

13 PROSPECTIVE JUROR PIERSON: No, sir.

14 THE COURT: Do you think you can be a
15 fair juror, ma'am?

16 PROSPECTIVE JUROR PIERSON: Absolutely.

17 THE COURT: Mr. Zuck, your response to
18 that question?

19 PROSPECTIVE JUROR ZUCK: I've never
20 been involved in that; no, sir.

21 THE COURT: At this point, do you know
22 any reason why you could not serve as a fair juror in this
23 matter, Mrs. Pro?

24 PROSPECTIVE JUROR PRO: No.

25 THE COURT: Mr. Zuck?

1 PROSPECTIVE JUROR ZUCK: No, sir.

2 THE COURT: Beginning with you,
3 Mrs. Pro, would you tell us, please, of your employment,
4 the number of children you may have, and how long you've
5 lived in Clark County?

6 PROSPECTIVE JUROR PRO: Yes. I'm
7 currently a teacher at Area Technical Trade Center. I
8 teach high school and juniors about hotel operations.
9 I've been there for three years. Prior to that, I was
10 human resource director at Texas Station, and Lady Luck
11 Casino Hotel.

12 I've been in Las Vegas for 11 years. I am
13 married, have three grown step kids, all out of the home.

14 THE COURT: Are any of the stepchildren
15 or their spouses involved in a law-related occupation?

16 PROSPECTIVE JUROR PRO: No, they are
17 not.

18 THE COURT: And you moved from where
19 when you came here?

20 PROSPECTIVE JUROR PRO: I was born and
21 raised in Wisconsin, and then I moved to Rockford,
22 Illinois, worked there for ten years, worked in human
23 resources at Ingersol Milling Machine Company, and then we
24 moved here.

25 THE COURT: Any occupation or

1 employment that you've not made mention of as an adult?

2 PROSPECTIVE JUROR PIERSON: No. Well,
3 I was finishing my degree at UNLV, actually, I worked in
4 the book store.

5 THE COURT: Your husband's occupation?

6 PROSPECTIVE JUROR PIERSON: He is the
7 human resource director now at Lady Luck Casino Hotel.

8 THE COURT: What other work, if any,
9 has he had?

10 PROSPECTIVE JUROR PIERSON: He was the
11 human resource director at Palace Station Casino Hotel.
12 And prior to that he was at the Rio. He opened that place
13 up.

14 THE COURT: Have you any prejudice as
15 to the nature of the charge in this case?

16 PROSPECTIVE JUROR PIERSON: No, sir.

17 THE COURT: Do you know any of the
18 now-jurors, or other prospective jurors?

19 PROSPECTIVE JUROR PIERSON: No.

20 THE COURT: Have you any racial
21 prejudice?

22 PROSPECTIVE JUROR PIERSON: No.

23 THE COURT: Do you understand that an
24 information is a mere accusation and not evidence, that
25 the Defendant is presumed to be innocent until proven

1 guilty, and that the State has the burden of proving the
2 defendant's guilt beyond a reasonable doubt?

3 PROSPECTIVE JUROR PIERSON: Yes, sir.

4 THE COURT: If you were charged with
5 offenses similar to the ones that are alleged in this
6 case, would you want 12 individuals such as yourself to be
7 on your jury?

8 PROSPECTIVE JUROR PIERSON: Yes, I
9 would.

10 THE COURT: Do you know of any reason
11 at all why you could not be completely fair and completely
12 impartial in hearing this case?

13 PROSPECTIVE JUROR PIERSON: No.

14 THE COURT: These proceedings will be
15 conducted in two segments. First, the jury will determine
16 if the defendant is guilty. Punishment would not be
17 considered at that time.

18 Second, if the jury finds the defendant
19 guilty of first degree murder, then the law of this state
20 requires that the jury set the punishment. I would set a
21 date for a hearing on the subject of punishment; do you
22 understand?

23 PROSPECTIVE JUROR PIERSON: Yes.

24 THE COURT: In the State of Nevada
25 there are three possible forms of punishment that the jury

1 may consider; the imposition of the death penalty, life
2 imprisonment without the possibility of parole, or life
3 imprisonment or a term of 50 years in prison with the
4 possibility of parole; do you understand that?

5 PROSPECTIVE JUROR PIERSON: Yes, I do.

6 THE COURT: In your present state of
7 mind, could you consider fairly all three possible forms
8 of punishment and select the one that you feel is most
9 appropriate?

10 PROSPECTIVE JUROR PIERSON: Yes.

11 THE COURT: And if I might, Mr. Zuck,
12 I'd like to inquire of your employment, your marital
13 status, the number of children you may have, and how long
14 you've been in Clark County?

15 PROSPECTIVE JUROR ZUCK: For the past
16 two-and-a-half years I've been working at the Sands Expo
17 Convention Center. I am a security captain on the day
18 shift. My wife and I have been married for 19 years. We
19 moved to Las Vegas two-and-a-half years ago. I have two
20 grown stepchildren, a 17-year-old son and a 25-year-old
21 daughter.

22 THE COURT: All right. Are either of
23 those children or their spouses involved in a law-related
24 occupation?

25 PROSPECTIVE JUROR ZUCK: No, sir.

1 THE COURT: Do you have any particular
2 training in security work?

3 PROSPECTIVE JUROR ZUCK: No; on-the-job
4 straining.

5 THE COURT: Have you ever had to arrest
6 anyone?

7 PROSPECTIVE JUROR ZUCK: No, sir.

8 THE COURT: Do you carry a gun?

9 PROSPECTIVE JUROR ZUCK: No, sir.

10 THE COURT: What other work, if any, in
11 Clark County have you had?

12 PROSPECTIVE JUROR ZUCK: None.

13 THE COURT: And where did you move from
14 when you moved here?

15 PROSPECTIVE JUROR ZUCK: Birmingham,
16 Alabama.

17 THE COURT: Were you employed there?

18 PROSPECTIVE JUROR ZUCK: Yes, sir.

19 THE COURT: How so?

20 PROSPECTIVE JUROR ZUCK: I worked in
21 security for a while. I also delivered hospital equipment
22 for a home health company.

23 THE COURT: Are you from that area
24 originally?

25 PROSPECTIVE JUROR ZUCK: No, sir; my

1 wife is. I'm originally from Indiana.

2 THE COURT: What other work, if any,
3 have had as an adult?

4 PROSPECTIVE JUROR ZUCK: I spent
5 twelve-and-a-half years in the Merchant Marines.

6 THE COURT: Aboard ship?

7 PROSPECTIVE JUROR ZUCK: Yes, sir.

8 THE COURT: And your wife's
9 occupation?

10 PROSPECTIVE JUROR ZUCK: Presently she
11 is a leasing consultant for an apartment complex. She has
12 worked here in Las Vegas as a bank teller, and also as a
13 receptionist for a veterinary clinic.

14 THE COURT: Have you any prejudice as
15 to the nature of the charges in this case?

16 PROSPECTIVE JUROR ZUCK: No, sir.

17 THE COURT: Do you know any of the
18 other jurors or prospective jurors?

19 PROSPECTIVE JUROR ZUCK: No, sir.

20 THE COURT: Have you any racial
21 prejudice?

22 PROSPECTIVE JUROR ZUCK: No, sir.

23 THE COURT: Do you understand that an
24 information is a mere accusation and not evidence, that
25 the Defendant is presumed to be innocent until proven

1 guilty, and that the State has the burden of proving the
2 defendant's guilt beyond a reasonable doubt?

3 PROSPECTIVE JUROR ZUCK: Yes, sir.

4 THE COURT: Mr. Zuck, if you were
5 charged with offenses similar to the ones that are alleged
6 in this case, would you want 12 individuals such as
7 yourself to be on your jury?

8 PROSPECTIVE JUROR ZUCK: Yes, I would.

9 THE COURT: Do you know of any reason
10 at all why you could not be completely fair and completely
11 impartial in hearing this case?

12 PROSPECTIVE JUROR ZUCK: No, sir.

13 THE COURT: These proceedings will be
14 conducted in two segments. First, the jury will determine
15 if the defendant is guilty. Punishment would not be
16 considered at that time.

17 Second, if the jury finds the defendant
18 guilty of first degree murder, then the law of this state
19 requires that the jury set the punishment. I would set a
20 date for a hearing on the subject of punishment; do you
21 understand?

22 PROSPECTIVE JUROR ZUCK: Yes, sir.

23 THE COURT: In the State of Nevada
24 there are three possible forms of punishment that the jury
25 may consider; the imposition of the death penalty, life

1 imprisonment without the possibility of parole, or life
2 imprisonment or a term of 50 years in prison with the
3 possibility of parole; do you understand that?

4 PROSPECTIVE JUROR ZUCK: Yes, sir.

5 THE COURT: In your present state of
6 mind, could you consider fairly all three possible forms
7 of punishment and select the one that you feel is most
8 appropriate?

9 PROSPECTIVE JUROR ZUCK: Yes, I could.

10 THE COURT: Are there questions from
11 the State as to either prospective jurors?

12 MR. KANE: Mrs. Pro, same question I've
13 asked anybody. Any problem with graphic photographs or
14 things of that nature?

15 PROSPECTIVE JUROR PRO: No, sir.

16 MR. KANE: Mr. Zuck?

17 PROSPECTIVE JUROR ZUCK: No.

18 MR. KANE: Nothing further. Pass both
19 for cause, Your Honor.

20 THE COURT: Very good. Thank you.

21 Defense counsel?

22 MR. KENNEDY: Mrs. Pro, are you related
23 in any way to the US Federal judge, Phillip Pro?

24 PROSPECTIVE JUROR ZUCK: No, I'm not.

25 MR. KENNEDY: I guess you get asked

1 that --

2 PROSPECTIVE JUROR PRO: All the time.

3 MR. KENNEDY: Do you have any problems
4 with the death penalty as a form of punishment?

5 PROSPECTIVE JUROR PRO: I have problems
6 with it just as a normal person would. It would have to
7 be a very deserving case for me to vote for it but,
8 certainly, I believe that there are times that it is
9 called for, yes.

10 MR. KENNEDY: Mr. Zuck, same question?

11 PROSPECTIVE JUROR ZUCK: I don't have
12 any problem making a decision on it; no, sir.

13 MR. KENNEDY: Pass for cause as to
14 both.

15 THE COURT: Very good. Does the State
16 wish to exercise a peremptory challenge?

17 MR. KANE: Waived, Your Honor.

18 THE COURT: Thank you. Defense
19 counsel?

20 MR. KENNEDY: Waived as well.

21 THE COURT: Ms. Clerk, would you swear
22 in our two alternates.

23 (Whereupon the alternates were sworn by the clerk.)

24 THE COURT: Ladies and gentlemen, you
25 who have not been called, let me express my appreciation

1 for your willingness to be here and go through this. We
2 know that it is quite a burden to everyone. You upstairs,
3 downstairs, wait, and it's quite an ordeal.

4 As you can see, we cannot anticipate just
5 how many people we need. So you come and you sit and you
6 wait and you go through all this. But without your
7 willingness to serve, you can see we also could not have
8 jury trials.

9 So I want you to understand we sincerely
10 appreciate your willingness to come here. We try to
11 minimize the negative aspect of what you go through, but
12 there's just so much that can be done.

13 I would ask you to report to the jury
14 commissioner downstairs, and they will make arrangements
15 to muster you out a service here. Thank you very much.

16 Yes, sir?

17 PROSPECTIVE JUROR: I just want to say
18 thank you for the opportunity to come and at least
19 somewhat participate in this.

20 THE COURT: Well, I might add, you're
21 always welcome to come as spectators, and you can come
22 back with us here and watch the trial if you want to.
23 You're absolutely welcome.

24 Counsel, approach, please.

25 (Whereupon, counsel conferred with the Court.)

1 THE COURT: Ms. Clerk, will you read
2 aloud the Information. And does counsel waive the reading
3 of the list of witnesses attached to that document?

4 MR. KANE: Yes, Your Honor.

5 MR. KENNEDY: We do, Your Honor.

6 THE CLERK: "Filed June 30th,
7 8:45 a.m., '99, Shirley B. Parriguirre, Clerk; District
8 Court, Clark County, Nevada, The State of Nevada versus
9 John Joseph Seka, Case No. C159915, Department No. XIV.

10 "Information: State of Nevada, County of
11 Clark, Stewart L. Bell, District Attorney within and for
12 the County of Clark, State of Nevada in the name and by
13 the authority of the State of Nevada informs the Court:

14 "That John Joseph Seka, the Defendant above
15 named, having committed the crime of murder with use of a
16 deadly weapon, (Felony - NRS 200.010, 200.030, 193.165)
17 and robbery with use of a deadly weapon (Felony - NRS
18 200.380, 193.165, on or between November 5th and December
19 23rd, 1998, within the County of Clark, State of Nevada,
20 contrary to the form, force and effect of statutes in such
21 cases made and provided, and against the peace and dignity
22 of the State of Nevada.

23 "Count I: Murder with use of a deadly
24 weapon (open murder), did on or between November 10th,
25 1998, and November 16th, 1998, then and there willfully,

1 feloniously, without authority of law, and with
2 premeditation and deliberation and/or during the
3 perpetration or attempted perpetration of robbery, and
4 with malice aforethought, kill Eric Hamilton, a human
5 being, by shooting at and into the head and/or body of the
6 Eric Hamilton with a deadly weapon, to wit; a firearm.

7 "Count II: Murder with use of a deadly
8 weapon, (open murder), did on or between November 5th,
9 1998, and December 23rd, 1998, then and there willfully,
10 feloniously, and without authority of law, and with
11 premeditation and deliberation and/or during the
12 perpetration or attempted perpetration of robbery and with
13 malice aforethought, kill Peter Limanni, a human being, by
14 shooting at and into the head and/or body of the said
15 Peter Limanni, with the deadly weapon, to wit; a firearm.

16 "Count III: Robbery with use of a deadly
17 weapon, did on or between November 10, 1998, and November
18 16th, 1998, then and there willfully, unlawfully and
19 feloniously take personal property, to wit; lawful money
20 of the United States and/or personal property from the
21 person of Eric Hamilton, or in his presence by means of
22 force or violence, or fear of injury to, and without the
23 consent and against the will of the said Eric Hamilton,
24 said Defendant using a deadly weapon, to wit; a firearm ,
25 during the commission of said crime.

1 "Count IV: Robbery with use of a deadly
2 weapon. Did on or about November 5th, 1998 and December
3 23rd, 1998, then and there willfully, unlawfully and
4 feloniously take personal property, to wit; lawful money
5 of the United States, and/or personal property from the
6 person of Peter Limanni, or in his presence by means of
7 force or violence or fear of injure to, and without the
8 consent, and against the will of the said Peter Limanni,
9 said Defendant using a deadly weapon, to wit; a firearm,
10 during the commission of said crime.

11 "Stewart L. Bell, District Attorney, by
12 Edward Kane, Deputy District Attorney."

13 To which the defendant has entered pleas of
14 not guilty.

15 THE COURT: Thank you, Ms. Clerk.

16
17 (Whereupon, continued proceedings were
18 reported by Joseph D'Amato.)

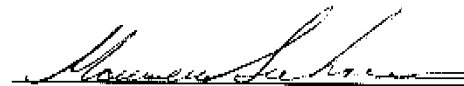
19
20 ATTEST: Full, true and accurate transcript of
21 proceedings.

22

23

24

25


MAUREEN SCHORN, CCR NO. 496, RPR