

IN THE SUPREME COURT OF THE STATE OF NEVADA

RAEKWON ROBERTSON,

Appellant,

v.

THE STATE OF NEVADA,

Respondent.

Electronically Filed
Feb 08 2024 10:40 AM
Elizabeth A. Brown
Clerk of Supreme Court

CASE NO: 87811

APPELLANT'S APPENDIX

Volume 2

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ALPHABETICAL INDEX TO APPELLANT'S APPENDIX

<u>Vol</u>	<u>Pleading</u>	<u>Page</u>
1	Amended Superseding Indictment	109
8	Appellant's Opening Brief	1795
8	Appellant's Reply Brief	1862
1	Court Minutes – February 13, 2018	15
1	Court Minutes – December 19, 2018	70
7	Court Minutes – March 12, 2020	1574
7	Court Minutes – December 22, 2020	1623
7	Court Minutes – June 2, 2022	1637
7	Court Minutes – July 7, 2022	1640
8	Court Minutes – September 14, 2023	1886
7	Guilty Plea Agreement	1577
8	Exhibits in Support of Evidentiary Hearing	1890
1	Indictment	1
7	Judgment of Conviction	1600
7	Memorandum of Points and Authorities	1617
7	Motion for Appointment of Counsel	1632
7	Notice of Appeal	1604
8	Notice of Appeal	1793
8	Notice of Appeal	1976
8	Notice of Entry of Findings of Fact, Conclusions of Law and Order	1768
8	Notice of Hearing	1884
8	Order Affirming in Part, Reversing in Part and Remanding	1876
7	Order Appointing Counsel	1638
8	Order for Audiovisual Appearance of Inmate	1887
8	Order Regarding Evidentiary Hearing	1968
7	Petition for Writ of Habeas Corpus (Post-Conviction)	1606
7	Petition for Writ of Habeas Corpus (Post-Conviction)	1624
1	Recorder's Transcript – January 9, 2018	7
1	Recorder's Transcript – April 5, 2018	16
1	Recorder's Transcript – May 3, 2018	29
1	Recorder's Transcript – June 6, 2018	46
1	Recorder's Transcript – June 14, 2018	52
1	Recorder's Transcript – September 5, 2018	62
1	Recorder's Transcript – December 5, 2018	67
1	Recorder's Transcript – January 2, 2019	72
1	Recorder's Transcript – April 17, 2019	78

1	Recorder's Transcript – May 15, 2019	82
1	Recorder's Transcript – August 21, 2019	87
1	Recorder's Transcript – November 5, 2019	91
1	Recorder's Transcript – December 18, 2019	100
1	Recorder's Transcript – January 15, 2020	103
1	Recorder's Transcript – February 11, 2020, Trial Day 1	113
2	Recorder's Transcript – February 12, 2020, Trial Day 2	288
3	Recorder's Transcript – February 13, 2020, Trial Day 3	611
4	Recorder's Transcript – February 14, 2020, Trial Day 4	875
5	Recorder's Transcript – February 18, 2020, Trial Day 5	1140
6	Recorder's Transcript – February 19, 2020, Trial Day 6	1344
7	Recorder's Transcript – February 20, 2020, Trial Day 7	1559
7	Recorder's Transcript – February 24, 2020, Trial Day 8	1563
7	Recorder's Transcript – June 11, 2020	1586
8	Recorder's Transcript – November 17, 2022	1763
8	Recorder's Transcript – November 3, 2023, Evidentiary Hearing	1934
8	Respondent's Answering Brief	1826
8	Response to Petition for Writ of Habeas Corpus	1741
7	Second Amended Superseding Indictment	1575
1	Superseding Indictment	23
7	Supplemental Petition for Writ of Habeas Corpus (with Exhibits)	1641
7	Verdict	1572

1 MR. PESCI: Well, see, that's why I bring it up,
2 right? No, it's a legitimate point. No, seriously, because
3 you don't get to, right? During trial, during the sessions,
4 you don't. You get to when you go out. She's in charge of
5 whatever you get to do, right? But normally, it's when you
6 get out, you can get on your phone. You can't research, can't
7 do things like that, but if you got to call home and say, hey,
8 we're trying to coordinate. But we do. Like, the attorneys
9 can, and it's -- I mean, I was on it earlier because I'm
10 trying to set up witnesses for tomorrow. Those are the kinds
11 of things. Anybody have any problems with that, or problems
12 with the fact that you can't when we can? Anybody? Okay, all
13 right. Thank you very much.

14 Could you hand the microphone to your left? All
15 right. Mr. Casucci, your badge number?

16 PROSPECTIVE JUROR NO. 409: 409.

17 MR. PESCI: Thank you. You said you -- you said you
18 manage the poker room?

19 PROSPECTIVE JUROR NO. 409: I do. I run the poker
20 room at the Golden Nugget.

21 MR. PESCI: What does that entail? It's just
22 curiosity.

23 PROSPECTIVE JUROR NO. 409: I'm the shift manager in
24 the room, so I operate the games, run the games. If there's a
25 dispute on the games, I take care of it.

1 MR. PESCI: Okay. Do you supervise -- how many
2 people do you supervise?

3 PROSPECTIVE JUROR NO. 409: 15 at a time.

4 MR. PESCI: Okay. And on any given night, or
5 overall?

6 PROSPECTIVE JUROR NO. 409: I work the day shift,
7 and there's usually 15 dealers scheduled, and I coordinate the
8 dealers.

9 MR. PESCI: Do you ever have to work through any
10 disputes among those 15?

11 PROSPECTIVE JUROR NO. 409: Yeah.

12 MR. PESCI: Okay.

13 PROSPECTIVE JUROR NO. 409: Absolutely.

14 MR. PESCI: How do you go about that? What's your
15 -- what's your approach?

16 PROSPECTIVE JUROR NO. 409: I try and put myself in
17 everyone else's position, and try and be as fair as possible.
18 And I was a dealer once myself, so I've worked up my way
19 through the casino world, and I've been on the other side, so
20 I understand how it is. So I try and put myself in the other
21 person's position.

22 MR. PESCI: So you try to see their perspective.
23 And then, sometimes, however, are there conflicts such that it
24 can't be resolved just on what they tell you? Do you have to
25 make a judgment call between two points?

1 PROSPECTIVE JUROR NO. 409: Yes, I do have to make a
2 judgment call at times, and especially on the games itself,
3 not so much the employees. The employees --

4 MR. PESCI: Okay.

5 PROSPECTIVE JUROR NO. 409: -- then I would -- if
6 need be, I would go to HR or something like that. But if
7 there's a dispute on a game, then I do have the final say-so,
8 and I have to reason -- you know, listen to the facts and --

9 MR. PESCI: So would that be between maybe a dealer
10 and a patron or a customer?

11 PROSPECTIVE JUROR NO. 409: More between a player
12 and a player.

13 MR. PESCI: I'm sorry, I used the wrong words. A
14 player?

15 PROSPECTIVE JUROR NO. 409: Yeah.

16 MR. PESCI: Okay. And then, sometimes, can you come
17 to a decision, even though there might be conflicts of what
18 you're being told?

19 PROSPECTIVE JUROR NO. 409: Yes, there is. There's
20 times I can reason through, read between the lines of what I'm
21 -- what I'm hearing, and --

22 MR. PESCI: Gotcha. So you feel you're capable of
23 doing that kind of a thing?

24 PROSPECTIVE JUROR NO. 409: Absolutely.

25 MR. PESCI: All right, thank you very much. If you

1 could pass the microphone over two to Ms. Newcome. And I
2 apologize, I don't have your badge number written down.

3 PROSPECTIVE JUROR NO. 417: 417.

4 MR. PESCI: Thank you very much. Ma'am, you've
5 served on a jury before, and it was a criminal case, and there
6 was a verdict, correct?

7 PROSPECTIVE JUROR NO. 417: Yes.

8 MR. PESCI: All right. For all those that served on
9 a jury before, I'm going to probably ask you -- we're not
10 asking what the verdict is; just that you came to a verdict.
11 Was that here in Las Vegas?

12 PROSPECTIVE JUROR NO. 417: Yes.

13 MR. PESCI: Was it -- do you remember if it was in
14 this building?

15 PROSPECTIVE JUROR NO. 417: I think so.

16 MR. PESCI: Well, let me put it this way. I
17 apologize. How long ago was it? Because we used to be
18 further up the street, but that's just been --

19 PROSPECTIVE JUROR NO. 417: Yeah, because it doesn't
20 look the same.

21 MR. PESCI: Right.

22 PROSPECTIVE JUROR NO. 417: So that's why I was
23 trying -- I've been here forever. It may not have been in
24 this building.

25 MR. PESCI: That's okay. But --

1 PROSPECTIVE JUROR NO. 417: It's probably at least,
2 let's see, ten years ago maybe, or maybe even a little more.

3 MR. PESCI: All right. But do you remember, was it
4 the District Attorney's office, or was it the federal
5 government?

6 PROSPECTIVE JUROR NO. 417: No, I don't remember.

7 MR. PESCI: That's okay. And then, you remember you
8 went to a verdict, right? You actually went and --

9 PROSPECTIVE JUROR NO. 417: Yes.

10 MR. PESCI: -- deliberated? Do you remember
11 instructions being given to you by the Court?

12 PROSPECTIVE JUROR NO. 417: Yes.

13 MR. PESCI: It was ten years ago. Fair to say you
14 probably don't remember all those instructions?

15 PROSPECTIVE JUROR NO. 417: I took really good
16 notes. I still remember.

17 MR. PESCI: But if something pops back into your
18 mind, are you willing to accept the concept that the Court's
19 going to give you the instructions in this case, and those are
20 the only instructions you can use?

21 PROSPECTIVE JUROR NO. 417: For sure.

22 MR. PESCI: Okay, all right. Do you think you could
23 be fair to both sides in this case?

24 PROSPECTIVE JUROR NO. 417: I absolutely can.

25 MR. PESCI: All right, thank you very much, ma'am.

1 PROSPECTIVE JUROR NO. 417: You're welcome.

2 MR. PESCI: Could we pass the microphone over just
3 one to Mr. Bryan? Your badge number?

4 PROSPECTIVE JUROR NO. 420: 420.

5 MR. PESCI: Thank you very much. Maybe I wrote this
6 wrong. You studied biology, but you're a pilot?

7 PROSPECTIVE JUROR NO. 420: That's correct.

8 MR. PESCI: All right, how did that work?

9 PROSPECTIVE JUROR NO. 420: Well, when I got close
10 to graduating, I didn't really like my job prospects. So I
11 joined the Navy, and went to the Aviation Officer Candidate
12 School in Pensacola, and became a Navy pilot, and then I got
13 out and became an airline pilot.

14 MR. PESCI: How long were you in the Navy?

15 PROSPECTIVE JUROR NO. 420: About eight years, I
16 think, active duty, then another two on reserve.

17 MR. PESCI: Okay. In that time -- and that's part
18 of the reason why I asked. Did you ever have to serve in a
19 court-martial proceeding?

20 PROSPECTIVE JUROR NO. 420: No.

21 MR. PESCI: Okay. So never any experience with a
22 criminal or a court proceeding?

23 PROSPECTIVE JUROR NO. 420: No.

24 MR. PESCI: Okay. All right, thank you very much,
25 sir. Can you be fair to both sides?

1 PROSPECTIVE JUROR NO. 420: Yes.

2 MR. PESCI: Thank you very much. Could you pass the
3 microphone over one to Mr. Devargas, and your badge number?

4 PROSPECTIVE JUROR NO. 429: 429.

5 MR. PESCI: 429, thank you. Sir, you are a photo
6 journalist for the Las Vegas Sun. Are you assigned to a
7 specific -- is it division, or what's the right term?

8 PROSPECTIVE JUROR NO. 429: It's general news,
9 breaking news.

10 MR. PESCI: Okay.

11 PROSPECTIVE JUROR NO. 429: Yeah, I cover all sorts
12 of things from press events, to crime, to various news stories
13 throughout the --

14 MR. PESCI: Okay.

15 PROSPECTIVE JUROR NO. 429: -- Valley.

16 MR. PESCI: That was the point I wanted to focus on,
17 crime stories. Do you ever cover crime stories?

18 PROSPECTIVE JUROR NO. 429: Yes.

19 MR. PESCI: All right, here in this courthouse?

20 PROSPECTIVE JUROR NO. 429: Yes, I have. I've been
21 in the courtroom on several trials --

22 MR. PESCI: Okay.

23 PROSPECTIVE JUROR NO. 429: -- photographing and
24 documenting what's going on for the court case.

25 MR. PESCI: How long have you been doing this?

1 PROSPECTIVE JUROR NO. 429: Since 2010.

2 MR. PESCI: All right. And then, do you recall
3 anything about this case in the news, without any specifics if
4 you do?

5 PROSPECTIVE JUROR NO. 429: There are some things
6 that -- I mean, this -- you know, the -- yeah, there are --
7 it's a pretty big case.

8 MR. PESCI: All right.

9 PROSPECTIVE JUROR NO. 429: Yeah, there are some
10 details that I've worked with -- there's numerous journalists
11 in our company that are covering it already.

12 MR. PESCI: Okay. So do you think maybe your
13 company or your newspaper might have covered this particular
14 incident?

15 PROSPECTIVE JUROR NO. 429: I'm pretty sure they --
16 yeah, I know they have.

17 MR. PESCI: Do you know if you were involved in any
18 way, shape, or form in that?

19 PROSPECTIVE JUROR NO. 429: No. I know initially
20 images were supplied, like mugshots, things like that, of the
21 defendants. So I wasn't on the scene --

22 MR. PESCI: Okay.

23 PROSPECTIVE JUROR NO. 429: -- for this particular
24 one.

25 MR. PESCI: That's where I was going next --

1 PROSPECTIVE JUROR NO. 429: Yeah.

2 MR. PESCI: -- as far as if you ever went to a
3 scene. And can I interrupt you for just one second?

4 PROSPECTIVE JUROR NO. 429: Yes.

5 MR. PESCI: Judge, could we approach?

6 THE COURT: Sure.

7 (Bench conference)

8 MR. PESCI: Judge, I wanted to follow up, but I
9 didn't want to do it in front of everybody else. What I'm
10 concerned --

11 THE COURT: Yeah. Do you want me to excuse them --

12 MR. PESCI: Yeah.

13 THE COURT: -- and just do it outside the presence?

14 MR. RUGGEROLI: Thank you.

15 THE COURT: Okay.

16 (End of bench conference)

17 THE COURT: All right. At this time, Mr. Devargas,
18 I'm going to ask you to stay in the courtroom. I'm going to
19 excuse the panel for a short recess.

20 During this recess, you're admonished not to talk or
21 converse amongst yourselves or with anyone else on any subject
22 connected with this trial, or read, watch, or listen to any
23 report of or commentary on the trial, or any person connected
24 with this trial, by any medium of information, including,
25 without limitation, newspapers, television, the internet, or

1 radio, or form or express any opinion on any subject connected
2 with this trial until the case is finally submitted to you.

3 Officer Hawkes will let you know when we're ready,
4 and you can come back in. Thank you very much.

5 THE MARSHAL: Thank you. All rise for the exiting
6 panel.

7 (Outside the presence of the prospective jurors)

8 (Within the presence of Prospective Juror No. 429)

9 THE COURT: Okay. The record will reflect that the
10 hearing is taking place outside the presence of the jury panel
11 with the exception of Christopher Devargas, Badge number 0429.
12 Mr. Pesci, you may continue with your voir dire.

13 MR. PESCI: Thank you, Judge. I was just asking if
14 I should put this in a position, because I felt like I was
15 kind of going in and out sometimes. So where would you like
16 me -- want me to just clip it here?

17 THE COURT RECORDER: If it will clip.

18 MR. PESCI: Yeah, not so much. No. We'll try that
19 and see. Just one second, sir. Sorry.

20 (Pause in the proceedings)

21 MR. PESCI: Does that work? Okay, thank you.

22 THE COURT: Thank you.

23 MR. PESCI: May I proceed, Your Honor?

24 THE COURT: Yes, thank you.

25 MR. PESCI: Okay. Sir, I apologize.

1 PROSPECTIVE JUROR NO. 429: Yeah.

2 MR. PESCI: We wanted to ask some follow-ups, or I

3 did, and --

4 PROSPECTIVE JUROR NO. 429: Okay.

5 MR. PESCI: -- some specific answers, we don't

6 necessarily want everyone to hear.

7 PROSPECTIVE JUROR NO. 429: Yeah, I understand that.

8 MR. PESCI: So that's why. So there's --

9 PROSPECTIVE JUROR NO. 429: Okay.

10 MR. PESCI: -- nothing you said that was wrong.

11 PROSPECTIVE JUROR NO. 429: Yeah.

12 MR. PESCI: It was just to try to get that. So if I

13 heard you correctly, you saw some photographs associated with

14 this case that you recall?

15 PROSPECTIVE JUROR NO. 429: Yes.

16 MR. PESCI: But you don't think you had anything to

17 do with it?

18 PROSPECTIVE JUROR NO. 429: No. I know for a fact I

19 wasn't called to be at the scene to take any photos.

20 MR. PESCI: Okay.

21 PROSPECTIVE JUROR NO. 429: I know initially there

22 were photos that were -- they were provided. Usually, if we

23 don't have a photographer to be there on the scene or

24 whatever, Metro will usually send the provided photos to all

25 of the news outlets, and that's what happened. I wasn't there

1 on this particular incident.

2 MR. PESCI: So if I'm understanding, Metro provided
3 to your newspaper --

4 PROSPECTIVE JUROR NO. 429: Yes.

5 MR. PESCI: -- some photographs?

6 PROSPECTIVE JUROR NO. 429: Yes.

7 MR. PESCI: Okay. And then, did you have any
8 interactions with those photographs or stories, if there were
9 any, written about this case?

10 PROSPECTIVE JUROR NO. 429: No, not with the stories
11 directly, but I work in the newsroom with the writers that
12 were writing those stories.

13 MR. PESCI: Okay.

14 PROSPECTIVE JUROR NO. 429: So it's -- it's very
15 common for -- you know, to talk about things that are going on
16 in the newsroom, especially when it pertains to stuff we could
17 be covering in the next few weeks or ongoing.

18 MR. PESCI: Absolutely, makes sense. That's why
19 we're trying to follow up, right?

20 PROSPECTIVE JUROR NO. 429: Yeah.

21 MR. PESCI: So do you recall if you had any of these
22 types of conversations about this particular case?

23 PROSPECTIVE JUROR NO. 429: It was quite a few years
24 ago.

25 MR. PESCI: So it's August of 2017.

1 PROSPECTIVE JUROR NO. 429: 2017. Yeah, I know that
2 was -- I mean, not specifics. I mean, it would -- usually,
3 anything that we talk about, I mean, we receive the same kind
4 of statements that the police would put out as far as facts on
5 things that they found; who, what, where, when, why, and all
6 that.

7 MR. PESCI: As you sit here today, any of those
8 facts you recall being exposed to or reading any of those on
9 this case?

10 PROSPECTIVE JUROR NO. 429: Yeah, no. I had --
11 because, you know, I always have to kind of read what it is
12 that we're doing. There are -- yeah, there are details about
13 allegations and things that were published in the story --

14 MR. PESCI: Okay.

15 PROSPECTIVE JUROR NO. 429: -- based off of the
16 facts that we were --

17 MR. PESCI: Given?

18 PROSPECTIVE JUROR NO. 429: -- given on our
19 reporting.

20 MR. PESCI: Do you think that would affect your
21 ability in this case? And here's why I'm asking that
22 question: because the only thing you can -- you, if you're a
23 juror --

24 PROSPECTIVE JUROR NO. 429: Um-hum.

25 MR. PESCI: -- and your fellow jurors, can make a

1 decision on is the testimony that comes from the witness stand
2 and the evidence in this case.

3 PROSPECTIVE JUROR NO. 429: Yeah.

4 MR. PESCI: And so, if you saw, or heard, or were
5 exposed to something else, you have to completely disregard
6 that and only make a decision based on this evidence.

7 PROSPECTIVE JUROR NO. 429: Yes, no, I --

8 MR. PESCI: Is that something you think you could
9 do?

10 PROSPECTIVE JUROR NO. 429: Yeah, I understand. And
11 also too, with -- you know, with our reporting and everything,
12 we don't -- we're not producing opinion pieces on what we
13 think could have happened or what happened. I mean, we report
14 on facts that were provided to us.

15 MR. PESCI: Right.

16 PROSPECTIVE JUROR NO. 429: So I'm assuming that a
17 lot of the facts that I'm going to be hearing here are -- you
18 know, they're not opinions on what were -- what was going to
19 happen. It's all basically the facts and details.

20 MR. PESCI: And so, those facts and details, will
21 you be able to disregard those and set those aside, and just
22 make your decision based on this case?

23 PROSPECTIVE JUROR NO. 429: Yeah, I'm open to hear
24 from start to finish the facts provided to me to make a
25 decision based off of that.

1 MR. PESCI: All right. And I think you said you
2 served in the Army in college?

3 PROSPECTIVE JUROR NO. 429: I served in the Army
4 when I graduated from high school --

5 MR. PESCI: Okay.

6 PROSPECTIVE JUROR NO. 429: -- for four years.

7 MR. PESCI: Same question as the other veteran. Did
8 you ever serve in a court-martial in any way?

9 PROSPECTIVE JUROR NO. 429: No.

10 MR. PESCI: Okay. And Judge, just because
11 everybody's already out, should we turn it over to them to ask
12 about the media questions?

13 THE COURT: I want to ask him a couple questions --

14 MR. PESCI: Okay, sorry.

15 THE COURT: -- and I'll see if the defense does.
16 You understand, if you're selected to serve on this panel,
17 that you cannot communicate with anyone about the facts and
18 circumstances of this case, including your fellow jurors,
19 until you go back to deliberate upon your verdict? Do you
20 understand that?

21 PROSPECTIVE JUROR NO. 429: Yes. I do understand
22 that.

23 THE COURT: So if you were to go back to the
24 newsroom or work, you would not be able to talk about this
25 case. You understand that?

1 PROSPECTIVE JUROR NO. 429: Yes, I do understand.

2 THE COURT: You could tell your friends, your fellow
3 coworkers, and your family that you were a juror in a criminal
4 case, but you could not tell them anything else about this
5 case. Do you understand that?

6 PROSPECTIVE JUROR NO. 429: Yes, I do.

7 THE COURT: And you understood -- you understand you
8 can't do any independent research about this case?

9 PROSPECTIVE JUROR NO. 429: Yes, I do understand
10 that.

11 THE COURT: And we don't have to worry about you
12 doing any of that?

13 PROSPECTIVE JUROR NO. 429: No.

14 THE COURT: Okay. Mr. Sanft, do you have any voir
15 dire?

16 MR. SANFT: Yes, Your Honor.

17 THE COURT: Go ahead.

18 MR. SANFT: Mr. Devargas, just --

19 PROSPECTIVE JUROR NO. 429: Yes.

20 MR. SANFT: -- a couple quick questions. What do
21 you recall specifically about what you believe this case is
22 about?

23 PROSPECTIVE JUROR NO. 429: I recall -- I know there
24 was -- there was -- a robbery. I know it had aspects to do
25 with social media. Yeah, the details, I mean, it's -- like I

1 said, it was quite a while ago, a few years ago. I don't know
2 the exact details.

3 MR. SANFT: All right. And at the time when you
4 were working as a photo journalist, that was specifically for
5 the Sun?

6 PROSPECTIVE JUROR NO. 429: Yes.

7 MR. SANFT: And your title at that particular point,
8 were you just one of the beat photo journalists, or did you
9 have a supervisory position over other photo journalists at
10 the Sun?

11 PROSPECTIVE JUROR NO. 429: No, I'm one of the
12 staff. Yeah, I'm not a supervisor position. I'm one of the
13 beat photographers.

14 MR. SANFT: Okay.

15 PROSPECTIVE JUROR NO. 429: Yeah.

16 MR. SANFT: And during the time that you have been
17 working for the Sun, did you at any point ever appear in court
18 to take pictures on this case?

19 PROSPECTIVE JUROR NO. 429: Not on this case.

20 MR. SANFT: Okay, but would it be fair to say that
21 it would be one of the things potentially you could have done
22 as a beat photographer for --

23 PROSPECTIVE JUROR NO. 429: Oh, yeah. Yeah, and
24 I've done it for other cases; arraignments, and hearings, and
25 other cases like that, I have.

1 MR. SANFT: Okay, I have no further questions.
2 PROSPECTIVE JUROR NO. 429: Okay.
3 MR. SANFT: Thank you, Your Honor.
4 THE COURT: Mr. Ruggeroli?
5 MR. RUGGEROLI: Thank you, Judge. Good afternoon,
6 Mr. Devargas. Right now, assuming that nobody else has the
7 experience and had the opportunity to view the materials that
8 you're talking about --
9 PROSPECTIVE JUROR NO. 429: Um-hum.
10 MR. RUGGEROLI: -- you would agree that you are very
11 much in a different position than every single other
12 prospective juror on this panel, correct?
13 PROSPECTIVE JUROR NO. 429: I would say a slight --
14 yeah, a slight difference.
15 MR. RUGGEROLI: Because you're familiar, at least
16 generally speaking, with specific information that was
17 provided from Metro to your news organization, correct?
18 PROSPECTIVE JUROR NO. 429: Yes, but only
19 information that was also published to the public. So what I
20 saw and what was reported on is the same thing that anybody
21 reading the newspaper would have seen --
22 MR. RUGGEROLI: Okay.
23 PROSPECTIVE JUROR NO. 429: -- or read.
24 MR. RUGGEROLI: And I'm glad you're going to clarify
25 that, if you wouldn't mind. Are there things that you might

1 have seen from Metro that got filtered by an editor or some
2 other person within a news organization that did not make it
3 into what was provided to the general public in the papers?

4 PROSPECTIVE JUROR NO. 429: No, nothing that I have
5 -- I've seen.

6 MR. RUGGEROLI: But you are familiar with some
7 specifics that you did learn on the job?

8 PROSPECTIVE JUROR NO. 429: Yes.

9 MR. RUGGEROLI: Okay. These photographs that you
10 said that you saw, you viewed -- what are they, like pool
11 photos?

12 PROSPECTIVE JUROR NO. 429: Yeah, usually the same
13 thing -- they'll -- booking photos. Yeah, usually -- I
14 believe, on these ones, I think that's all we really had were
15 bookings of the defendants. Booking images.

16 MR. RUGGEROLI: And you also mentioned social media.
17 So you have some understanding of some information regarding
18 that as well?

19 PROSPECTIVE JUROR NO. 429: Yeah, of the overall
20 story of what was involved.

21 MR. RUGGEROLI: So it is fair to say that, coming
22 into this case, you've already got some understanding about
23 the allegations in the case?

24 PROSPECTIVE JUROR NO. 429: Like I said, it would be
25 as much as anybody who read the stories that we put on. It's

1 just, I have a little more exposure to it because I'm
2 surrounded by the people that write those stories, and we talk
3 about what we're doing from day to day, and it might be
4 something that I might have to jump in and cover on. So I --
5 we all are kind of up to speed on what -- what's going on
6 throughout the week.

7 MR. RUGGEROLI: You mentioned that this, to you, is
8 not a subject of opinion; it was more a fact-based
9 presentation or article?

10 PROSPECTIVE JUROR NO. 429: Yeah. It was basically
11 going off the police report; going off any briefings that
12 Metro might have done to update. I don't even remember how
13 long we covered this for. I know there was at least maybe two
14 or three, and we had two or three different stories published
15 on it, at least two different reporters that currently
16 actually aren't with the Sun anymore, but. So it's something
17 we talked about, along with other outlets in the city.

18 MR. RUGGEROLI: Okay. When you say "we," does that
19 include you?

20 PROSPECTIVE JUROR NO. 429: I say "we" as the
21 organization of the Las Vegas Sun.

22 MR. RUGGEROLI: And would you agree that, when you
23 say "we," it could be applied to -- you would agree that you
24 feel that the facts that were presented by your corporation,
25 the company, the "we" would stand behind the truth of those

1 facts?

2 PROSPECTIVE JUROR NO. 429: Yeah, I mean, I'd like
3 to say we are an honest -- yeah, honest news organization that
4 sticks to the code of journalism.

5 MR. RUGGEROLI: Would you also agree with me then
6 that the whole point of this trial though is very different,
7 because you would be asked to set aside everything you've
8 already professionally adopted as fact --

9 PROSPECTIVE JUROR NO. 429: Yeah.

10 MR. RUGGEROLI: -- in order to re-judge what you've
11 already personally, as an employee, made a commitment to
12 standing behind? Do you understand my concern?

13 PROSPECTIVE JUROR NO. 429: Yes, no, I do understand
14 your concern there.

15 MR. RUGGEROLI: If you were Mr. Wheeler, would you
16 be comfortable having 12 people like you sitting in judgment
17 of you on this trial?

18 PROSPECTIVE JUROR NO. 429: No, yeah, I could
19 understand the concern, and wondering if I'm coming in here
20 with already a predetermined, you know --

21 MR. RUGGEROLI: About the facts?

22 PROSPECTIVE JUROR NO. 429: -- opinion about the
23 facts and everything.

24 MR. RUGGEROLI: Right.

25 PROSPECTIVE JUROR NO. 429: Yeah.

1 MR. RUGGEROLI: Do you think that you'd be better
2 served on a civil jury or something that isn't -- something
3 that really came within your proximity in this particular
4 unique position that you have?

5 PROSPECTIVE JUROR NO. 429: No, I mean, like I said,
6 I understand the concern, and I understand where there are --
7 there could be a potential for a conflict of interest, as you
8 see it.

9 MR. RUGGEROLI: Let me ask you this. Some of the
10 information that you might remember at a later point during
11 this trial might not be admissible evidence in the trial. And
12 because of that, do you think that you can commit to being
13 able to say, I won't -- I will block everything out of my
14 head, even if I realize it during the trial that, oh my gosh,
15 there's this fact, and now we're deliberating, and it wasn't
16 brought up, and you know, somebody's saying something from the
17 stand, but I remember that that wasn't what was stated based
18 on the materials that were in the paper?

19 PROSPECTIVE JUROR NO. 429: Yeah. Like I said, I
20 could understand your concern, but I'm -- I can say, you know,
21 that I -- I will stick to the facts and stay with whatever is
22 presented here in this courtroom. I know from here is where
23 everything kind of starts as far as presentation of fact and
24 development of opinion on this.

25 MR. RUGGEROLI: Thank you, Judge. I have no

1 questions right now.

2 THE COURT: Okay. We can bring the panel back in.

3 MR. PESCI: Judge, I apologize. Can I just jump in

4 really fast before we do that?

5 THE COURT: Yeah, absolutely.

6 MR. PESCI: There was one of the jurors that I

7 wanted to ask questions about that I think would be better

8 outside the presence of everybody else. So when this

9 gentleman steps out, can I --

10 THE COURT: Sure.

11 MR. PESCI: -- can I ask about that?

12 THE COURT: Sure. Mr. Devargas, if you just don't

13 mind going outside --

14 PROSPECTIVE JUROR NO. 429: Sure.

15 THE COURT: -- and joining your other jurors. I

16 just ask that you don't discuss with your fellow jurors

17 anything that we've discussed in here, and if anyone insists

18 on speaking to you about what we talked about outside their

19 presence, can you please make that fact known to me by

20 contacting the Marshal immediately?

21 PROSPECTIVE JUROR NO. 429: Yes, absolutely.

22 THE COURT: Thank you, and thank you very much for

23 being here and answering our questions. If you don't mind

24 stepping out, Officer Hawkes will let you know when we are

25 ready. Who --

1 MR. RUGGEROLI: Judge, prior to the next witness,
2 may I make a record?

3 (Outside the presence of Prospective Juror No. 429)

4 THE COURT: Okay. The record will reflect that Mr.
5 Devargas has left the courtroom, and this hearing is
6 continuing to take place outside the presence of the jury
7 panel.

8 MR. RUGGEROLI: Thank you, Your Honor. If I may, I
9 don't know logistically if this would be the time to move to
10 strike for cause. I would like --

11 THE COURT: Go ahead.

12 MR. RUGGEROLI: -- to address that. Thank you, Your
13 Honor. Judge, he certainly did not say, "I can't be fair."
14 He definitely said that he will do everything he can to follow
15 the law and put the information that he has received on the
16 side. But Judge, I think this is a unique situation where
17 we've got an individual that has special access. And although
18 he believes right now that everything he saw was just what was
19 already put in the paper, I think it's very possible that the
20 pool photos were not all included, and that he would have had
21 access to things that puts him in a --

22 THE COURT: He doesn't even appear to me to have a
23 good grasp of the facts in this matter.

24 MR. RUGGEROLI: Well, we didn't go --

25 THE COURT: I mean, I'm not sure he actually does --

1 MR. RUGGEROLI: Yeah.

2 THE COURT: -- recall anything.

3 MR. RUGGEROLI: I didn't want to ask him
4 specifically, you know, did you -- do you know that there are
5 other allegations of other unrelated cases. So we didn't go
6 into specifics intentionally.

7 THE COURT: Yeah, but he was asked, and he didn't
8 give a lot of information about what he knew. I'm not
9 convinced he even knows anything about this case.

10 MR. RUGGEROLI: Yeah. So I'd just move to strike
11 him for cause. I don't think, given this special knowledge,
12 he's similarly situated. And because of the uniqueness of
13 having access to information that I would say I don't think
14 the general public has, he should not be a part of this jury,
15 and I've made my record then, Judge.

16 MR. PESCI: Judge, he repeatedly said that he
17 doesn't remember anything specific. He kept talking about
18 specifics; he doesn't remember that. He says that he doesn't
19 know any more than anybody else who reads the newspaper, and
20 he has unequivocally told Your Honor that he will make his
21 decision based on the evidence in this case and not something
22 that he might have heard or saw before, so we object.

23 THE COURT: Mr. Sanft, I just wonder if you want to
24 join in, or if you have a position.

25 MR. SANFT: I'll join in with Mr. Ruggeroli on this

1 issue. But just for the record, I did ask him specifically as
2 to what he recalled specifically on this case, and the answer
3 he gave was -- could have applied in any case; that it was
4 something to do with a robbery and there was social media
5 involved.

6 THE COURT: Right.

7 MR. SANFT: I mean --

8 THE COURT: And that's about the gist of what I got.

9 MR. SANFT: Right. So I don't know necessarily if
10 he would have been -- if he had specific information on this
11 case. My concern was -- initially was that somehow he called
12 back and said, hey, can you run this name or that name of
13 these individuals that were here, and found out some
14 information from his friends over at the Sun, and then had
15 that information in his head, but I don't know if he did or
16 not.

17 I just think, out of an abundance of caution -- and
18 the reason why I'm joining with Mr. Ruggeroli is because of
19 the fact that he does have access that other people
20 necessarily wouldn't necessarily have with regards to details
21 of stuff that they did during the course of their
22 investigation, or maybe made court appearances where they were
23 here. I don't remember the media being here for any of those,
24 but that would be the reason why I would join in with Mr.
25 Ruggeroli on this issue.

1 THE COURT: Okay. At this time, I'm going to deny
2 the challenge for cause. Who is the next person you want to
3 bring in?

4 MR. PESCI: Judge, I was going to ask your opinion.
5 477, Mr. Bandics, he said at one point that he thought he
6 might have seen the defendants before, and I just don't know
7 where on earth that could go.

8 THE COURT: Okay.

9 MR. PESCI: And so I thought it might not be good to
10 do that in front of everybody.

11 THE COURT: Okay, Mr. Bandics.

12 MR. PESCI: I don't know defense counsel's position.

13 MR. SANFT: We would agree with that, Your Honor,
14 and ask for the same thing as well.

15 THE COURT: Okay. Will you bring in Mr. Bandics?
16 And he is Badge number 0477, Cavan Bandics.

17 (Within the presence of Prospective Juror No. 477)

18 THE MARSHAL: You can just go straight ahead to the
19 podium.

20 THE COURT: Okay. The record will reflect that Mr.
21 Cavan Bandics -- you can go right there to the podium -- is
22 present in the courtroom, and that this hearing is taking
23 place outside the presence of the other jurors.

24 Mr. Bandics, you indicated to me when I was
25 questioning you earlier that you may recognize one or both of

1 the defendants?

2 PROSPECTIVE JUROR NO. 477: Yes, that's correct.

3 THE COURT: Okay. Do you recognize one; do you

4 recognize both?

5 PROSPECTIVE JUROR NO. 477: I think both.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NO. 477: Yeah.

8 THE COURT: And where do you think you recognize

9 them from?

10 PROSPECTIVE JUROR NO. 477: I think school.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR NO. 477: I went to Foothill High

13 School.

14 THE COURT: Okay. And you believe that they both

15 attended your high school?

16 PROSPECTIVE JUROR NO. 477: Yeah, I think so. Yeah.

17 THE COURT: Okay, but you're not really sure?

18 PROSPECTIVE JUROR NO. 477: Yeah, because, I mean,

19 there's a lot of kids, so I don't remember everyone.

20 THE COURT: Sure, like thousands, probably --

21 PROSPECTIVE JUROR NO. 477: Yeah.

22 THE COURT: -- right?

23 PROSPECTIVE JUROR NO. 477: Yeah.

24 THE COURT: Okay. When did you graduate?

25 PROSPECTIVE JUROR NO. 477: I'm 23 right now, and I

1 graduated when I was 18, so.

2 THE COURT: Do you remember what year?

3 PROSPECTIVE JUROR NO. 477: 2014, I think.

4 THE COURT: 2014? Okay, but even if it was true
5 that you recognize one or both from being in your high school,
6 would that affect your ability in any way to be a fair and
7 impartial juror?

8 PROSPECTIVE JUROR NO. 477: No, I don't think it
9 would.

10 THE COURT: Okay. Do you ever remember talking to
11 either one of them, or having a class with either one of them?

12 PROSPECTIVE JUROR NO. 477: No, I don't think so.

13 THE COURT: Okay. Does the State have any follow
14 up?

15 MR. PESCI: No, thank you.

16 THE COURT: Mr. Sanft?

17 MR. SANFT: Just one question, Your Honor.

18 THE COURT: You bet.

19 MR. SANFT: Sir, what -- what is it that makes you
20 think that you recognize my client, Mr. Robertson, who's over
21 here to the left?

22 PROSPECTIVE JUROR NO. 477: Just their faces. Just
23 feel like I've seen them before.

24 MR. SANFT: Okay.

25 PROSPECTIVE JUROR NO. 477: That's the only thing.

1 MR. SANFT: All right. Anything -- like, anything
2 that stands out in terms of extracurricular activities, or
3 classes, or anything like that that may trigger this in your
4 head?

5 PROSPECTIVE JUROR NO. 477: I mean, no, I wasn't
6 much into extracurricular, so the only thing I could think of
7 is school.

8 MR. SANFT: Okay, thank you. No further questions,
9 Your Honor.

10 THE COURT: Mr. Ruggeroli?

11 MR. RUGGEROLI: Thank you, Judge. Just briefly.
12 Mr. Bandics?

13 PROSPECTIVE JUROR NO. 477: Yeah.

14 MR. RUGGEROLI: Was that experience -- would that
15 have been limited to high school, or you think you may have
16 seen my client, Mr. Wheeler, at some point after high school?

17 PROSPECTIVE JUROR NO. 477: I mean, maybe, because
18 I've lived here all my life. So, I mean, this -- in a way,
19 this town's kind of small in the sense that, I mean, I --
20 sometimes I see other high school kids all the time just
21 around the city just randomly, so.

22 MR. RUGGEROLI: What part of town, if you wouldn't
23 mind telling me major cross-streets, would you say?

24 PROSPECTIVE JUROR NO. 477: I mean --

25 THE COURT: What part of town do you live in, is

1 what I think he's asking.

2 PROSPECTIVE JUROR NO. 477: I live in Henderson

3 right now.

4 MR. RUGGEROLI: Okay.

5 THE COURT: Okay.

6 MR. RUGGEROLI: You're just trying to be helpful,

7 "Hey, I might know these gentlemen or --

8 PROSPECTIVE JUROR NO. 477: Yeah.

9 MR. RUGGEROLI: -- one or the other"; is that right?

10 PROSPECTIVE JUROR NO. 477: Yes.

11 MR. RUGGEROLI: But there's nothing in terms of a

12 memory that you have that's either a really positive memory or

13 really negative memory specifically?

14 PROSPECTIVE JUROR NO. 477: No, just --

15 MR. RUGGEROLI: Okay.

16 PROSPECTIVE JUROR NO. 477: -- nervous.

17 MR. RUGGEROLI: You're just trying to be helpful, "I

18 might know them"?

19 PROSPECTIVE JUROR NO. 477: Yeah.

20 MR. RUGGEROLI: But you also may be mistaken?

21 PROSPECTIVE JUROR NO. 477: Yeah.

22 MR. RUGGEROLI: Okay.

23 PROSPECTIVE JUROR NO. 477: I could be, because --

24 MR. RUGGEROLI: Okay.

25 PROSPECTIVE JUROR NO. 477: Yeah, I'd say.

1 MR. RUGGEROLI: Thank you, Judge. I have nothing
2 further.

3 THE COURT: Okay. Mr. Bandics, thank you very much.
4 If you don't mind stepping outside.

5 PROSPECTIVE JUROR NO. 477: Okay.

6 (Outside the presence of Prospective Juror No. 477)

7 THE COURT: Okay. The record will reflect that Mr.
8 Bandics has left the courtroom. Any objection to him
9 continuing with us?

10 MR. PESCI: Not from the State.

11 MR. SANFT: No, Your Honor.

12 MR. RUGGEROLI: No, Your Honor.

13 THE COURT: Okay. It's 5:00 o'clock, so what I
14 think I'll do is we'll bring the panel back in, and there's
15 some I'm going to excuse for the evening and -- so we can --
16 we can start at 8:30?

17 MR. SANFT: Yes, Your Honor.

18 MR. RUGGEROLI: Yes, Your Honor, I'm --

19 THE COURT: Really? Everybody will be okay?

20 MR. RUGGEROLI: My cases are being covered, so I
21 should be here at 8:30, Judge.

22 THE COURT: Okay.

23 MR. RUGGEROLI: Thank you.

24 THE COURT: No, that's awesome. Okay.

25 THE MARSHAL: Do you want me to read them the

1 admonishment in the hallway, or --

2 THE COURT: Well, no, I was just going to have you
3 bring them all in --

4 THE MARSHAL: Okay.

5 THE COURT: -- because I'm going to read names, I'm
6 going to -- I won't make them come back tomorrow.

7 (Pause in the proceedings)

8 THE MARSHAL: All rise for the entering jury,
9 please. Jurors.

10 (Within the presence of the prospective jurors)

11 THE COURT: State stipulates to the presence of the
12 panel?

13 MR. PESCI: Yes, Your Honor.

14 THE COURT: And the defense?

15 MR. SANFT: Yes, Your Honor.

16 THE COURT: Mr. Ruggeroli?

17 MR. RUGGEROLI: Yes, Your Honor.

18 THE MARSHAL: Please be seated.

19 THE COURT: Thank you. Thank you very much. At
20 this time, ladies and gentlemen, we are going to conclude for
21 the evening. I just need to give you further instructions so
22 you'll know what to do tomorrow.

23 I'm going to ask, unless I call your name -- I'm
24 going to read a list of names. Unless I call your name, you
25 need to be here tomorrow morning at 8:30. You can come

1 straight up to the 14th floor, at which time, Officer Hawkes
2 will greet you, and he will bring you in for us to continue
3 with our voir dire.

4 I'm going to read some names. If your name is read,
5 if you just don't mind staying after I excuse the panel. Ana
6 Carias, Samantha Levine, Sang Lee, Austin Pan, Francis Gamboa,
7 Dennis Rorabaugh, Kristine Gallardo, Sophie Champion, Luis
8 Ovalles, Dawn Nerdin, Selene Moreno, Joseph Campling, Valerie
9 Musial, Drew McCarthy, and Priscilla Schonacher. Other than
10 that, we will be in recess until tomorrow morning at 8:30.

11 During this recess, you're admonished not to talk or
12 converse amongst yourselves or with anyone else on any subject
13 connected with this trial, or read, watch, or listen to any
14 report of or commentary on the trial, or any person connected
15 with this trial, by any medium of information, including,
16 without limitation, newspapers, television, the internet, or
17 radio, or form or express any opinion on any subject connected
18 with this trial until the case is finally submitted to you.

19 Thank you very much, and we're in recess.

20 THE MARSHAL: Thank you. All rise for the exiting
21 jury, please. Jurors.

22 THE COURT: Officer Hawkes, you have the microphone?

23 THE MARSHAL: Yes, ma'am.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NO. 596: Excuse me, Judge. If

1 your name was called, what do you do?

2 THE COURT: Just hang out here --

3 PROSPECTIVE JUROR NO. 596: Okay.

4 THE COURT: -- just for a moment.

5 PROSPECTIVE JUROR NO. 596: If your name wasn't

6 called, you got to be here tomorrow?

7 THE COURT: That's correct; I called your name

8 though.

9 (Outside the presence of the prospective jurors)

10 THE COURT: All right. At this time, Ana Carias,

11 you're excused. Okay. Samantha Levine, you're excused. Mr.

12 Lee, Sang Lee, you're excused. Austin Pan, you're excused.

13 Francis Gamboa, you're excused. Dennis Rorabaugh, you're

14 excused. Kristine Gallardo? Kristine Gallardo, you're

15 excused. Sophie Champion, you're excused. Luis Ovalles?

16 Luis Ovalles, you're excused. Dawn Nerdin? Ms. Nerdin,

17 you're excused.

18 PROSPECTIVE JUROR NO. 538: Thank you.

19 THE COURT: Selene Moreno, you're excused. Joseph

20 Campling? Joseph Campling, you're excused. Valerie Musial,

21 you're excused. Mr. McCarthy, you're excused. And

22 Priscilla --

23 PROSPECTIVE JUROR NO. 597: Schonacher.

24 THE COURT: Schonacher. Sorry, I had a hard time --

25 PROSPECTIVE JUROR NO. 597: No, you're fine

1 (indiscernible).

2 THE COURT: -- reading my own handwriting. Thank
3 you.

4 (Pause in the proceedings)

5 MR. BROOKS: Your Honor?

6 THE COURT: See you tomorrow morning.

7 MR. BROOKS: Judge?

8 THE COURT: Yeah, yeah.

9 MR. BROOKS: Did you write the absent note for the
10 lady who has an exam tomorrow?

11 THE COURT: I mean, I'm -- she didn't stay. I'm
12 happy to do it. Will you go out and ask Hawkes? Hawkes?

13 THE MARSHAL: Yes, ma'am.

14 THE COURT: Remember there was that juror that had
15 an exam tomorrow and she wondered if I would give her an
16 excuse?

17 THE MARSHAL: Oh, she's long gone. She didn't even
18 say anything.

19 THE COURT: Okay. Well, we just have to remember
20 tomorrow if she --

21 THE MARSHAL: Yes, ma'am.

22 THE COURT: -- needs something so I can provide that
23 to her.

24 THE MARSHAL: I'll remind Pam in the morning.

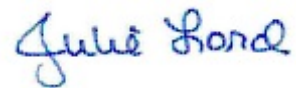
25 THE COURT: Okay, thank you.

1
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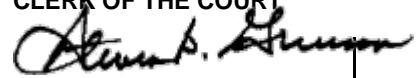
(Court recessed at 5:06 P.M., until Wednesday,
February 12, 2020, at 9:15 A.M.)

* * * * *

ATTEST: I hereby certify that I have truly and correctly
transcribed the audio/visual proceedings in the above-entitled
case to the best of my ability.



JULIE LORD, TRANSCRIBER
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RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,)	CASE NO. C-17-328587-2
)	CASE NO. C-17-328587-3
Plaintiff,)	
)	DEPT. NO. XII
v.)	
)	
RAEKWON SETREY ROBERTSON,)	
a/k/a RAEKWON ROBERTSON,)	
AND DAVONTAE AMARRI WHEELER,)	
)	
Defendants.)	

BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

WEDNESDAY, FEBRUARY 12, 2020

RECORDER'S TRANSCRIPT OF PROCEEDINGS:
JURY TRIAL - DAY 2

APPEARANCES:

FOR THE STATE:	GIANCARLO PESCI, ESQ. Chief Deputy District Attorney
	PARKER P. BROOKS, ESQ. Deputy District Attorney
FOR DEFENDANT ROBERTSON:	MICHAEL W. SANFT, ESQ.
FOR DEFENDANT WHEELER:	JAMES J. RUGGEROLI, ESQ.

RECORDED BY: SARA RICHARDSON, COURT RECORDER
TRANSCRIBED BY: VERBATIM DIGITAL REPORTING, LLC

1 LAS VEGAS, NEVADA, WEDNESDAY, FEBRUARY 12, 2020, 9:15 A.M.

2 (Outside the presence of the prospective jurors)

3 THE MARSHAL: Come to order. Court is now in
4 session.

5 THE COURT: Okay. The record will reflect that the
6 hearing is taking place outside --

7 THE MARSHAL: Thank you, everyone. Please be
8 seated.

9 THE COURT: -- the presence of the jury panel. We
10 do have a full panel here now, but I was told there's
11 something outside the presence.

12 MR. RUGGEROLI: Yes, Your Honor.

13 Judge, we're going to move to strike the venire
14 panel based on the underrepresentation of African-Americans.

15 THE COURT: After a full day of selection?

16 MR. RUGGEROLI: Well, Judge, at the end of
17 yesterday, I did speak to my client. I'm not aware of a
18 strict timeliness provision, but I am bringing this to the
19 Court's attention this morning --

20 THE COURT: Okay.

21 MR. RUGGEROLI: -- after doing some research. It is
22 accurate, of course, that we were provided with the jury list.
23 The list indicates that there are three African-Americans, but
24 I believe that there are only two present on the panel because
25 one did not appear.

1 So there are 60 prospective jurors as a part of the
2 panel as a whole. Had there been three African-Americans, it
3 would have been 5 percent. So we're down to two; it's below
4 that. And so, based on the Buchanan v. State, Judge, the
5 Court in Nevada though has already ruled that African-
6 Americans are a distinct group.

7 THE COURT: They're a distinct group.

8 MR. RUGGEROLI: Correct. And in this particular
9 instance, Judge, 2 out of 60 is a sufficient enough number
10 that we are arguing that it was under-representative.

11 THE COURT: Okay.

12 MR. RUGGEROLI: As far as the third prong --

13 THE COURT: And so have you -- and you understand,
14 in determining that, the test that our Supreme Court uses?

15 MR. RUGGEROLI: For the --

16 THE COURT: The comparative disparity and the
17 distinctive -- the distinct -- I think it's a comparative
18 analysis. Yes.

19 MR. RUGGEROLI: Yeah.

20 THE COURT: The comparative disparity.

21 MR. RUGGEROLI: To calculate the absolute and
22 comparative disparities, Judge.

23 THE COURT: There you go.

24 MR. RUGGEROLI: I don't have the exact numbers. I
25 would just point out, in the Morgan case -- and that's 416

1 P.3d 212; it's a 2018 Nevada Supreme Court opinion. In that
2 case, the panel was 45 members, there were three African-
3 Americans. The Court in that case calculated a comparative
4 disparity of 43.2 percent.

5 In this particular instance, because we've only got
6 2 of 60 -- and again, I didn't do the math -- I verified with
7 Mr. Wheeler this morning, and I made the State aware that we
8 were going to raise this issue. I believe that Mr. Sanft is
9 going to join as well.

10 But based on that analysis, Judge, I do think the
11 numbers would comport with the standard of being collectively
12 of 50 percent or more, and so we would have
13 underrepresentation based on those numbers, Judge.

14 MR. PESCI: Sure. Mr. Sanft, are you joining?

15 MR. SANFT: Yes, I'm joining, Your Honor.

16 THE COURT: Okay.

17 MR. PESCI: Okay. Your Honor, first and foremost,
18 what you pointed out at the very beginning is absolutely
19 essential. This is a day late and a dollar short, and here's
20 why: what are we going to do to address this now?

21 We have, by my count, released 17 people, none of
22 which have been objected to by the defense, including one
23 individual who didn't even step in the courtroom, which is I
24 think Miles Ealy, Badge number 533, who, when you look at it,
25 he lists race, "Other race"; ethnicity, "Non-Hispanic Latino."

1 We don't know what he is. He never even walked in the room
2 because, as I understand it, he had pink eye.

3 THE COURT: That's correct.

4 MR. PESCI: Right. So if you're going to make an
5 objection like this, you have to do it in a timely fashion so
6 we have everybody here to be able to do these calculations.
7 How do we do the calculations when 17 people out of the 60
8 have been taken out, and 17 that no one from the defense
9 objected to? So the numbers are all askew now because we
10 don't even know.

11 He talked about how, per the information we got from
12 the Jury Commissioner, there are three African-Americans. He
13 says that he saw two, so are we presupposing then the race of
14 an individual? We don't know for sure. Some people will
15 identify as one thing, and they won't as another. We don't
16 know.

17 That's the quandary of this. I'm just going to say
18 on the record -- it will haunt me later on in front of the
19 Supreme Court -- that's the craziness of this Batson challenge
20 analysis, is that we're supposed to look into the crowd and
21 assess ethnicity, which, by the way, we're not supposed to
22 consider when we're making these decisions, and then figure
23 out, okay, is this person African-American? Are they
24 Hispanic? Are they Polynesian? What are they?

25 And then we've been in court, Your Honor, where

1 we've had people from the defense asking Your Honor to ask the
2 jurors, right?

3 THE COURT: Yeah, and I won't do it.

4 MR. PESCI: Exactly, right. And then, guess what.
5 You remember in that case when you said that, but you provided
6 the opportunity for the defense? Not the ones here. They
7 wouldn't ask. They wouldn't ask, right? Because no one wants
8 to tick people off and say, what are you? Understandably,
9 people don't react well when these kinds of questions are
10 asked.

11 So going back to it, I don't know how we can do the
12 third prong that we've been told to do via the case law,
13 because 17 people are no longer in this. What were they? We
14 don't know for sure, right? And so this is late, it's
15 untimely. It needs to be done at the front end of this. And
16 the comparative analysis also, we're going to -- I'm going to
17 turn over to Mr. Brooks.

18 THE COURT: I mean, can we do that analysis based on
19 the paperwork that we got?

20 MR. PESCI: Well, I don't know, because like the
21 individual that I just said that had the pink eye, he put --

22 THE COURT: Right.

23 MR. PESCI: -- "Other" and "Unknown." So without
24 him being present to be able to ask those questions -- and
25 thankfully, I'm very grateful that we don't have pink eye in

1 the courtroom right now.

2 THE COURT: Right.

3 MR. PESCI: But we don't have him to be able to do
4 that. And I've argued in other cases when they argued
5 structural error that we should just bring jurors back, and
6 the Supreme Court told me, no, you can't do that. So I really
7 don't know how we're supposed to recreate it since they told
8 us you couldn't in other cases.

9 MR. BROOKS: So, Judge, I don't know how first you
10 go from three to two, even though the sheet says three. And
11 so you've randomly chosen -- Mr. Ruggeroli's randomly chosen
12 Mr. Ealy, who lists "Other," and then somehow --

13 MR. RUGGEROLI: Judge, I object. It's a female. We
14 have --

15 MR. BROOKS: Oh.

16 MR. RUGGEROLI: I'm not randomly, but the jury list
17 itself says that there are a total of three; two female, one
18 male. So that's not accurate --

19 MR. BROOKS: So --

20 MR. RUGGEROLI: -- that I'm randomly selecting a
21 male.

22 MR. BROOKS: Okay, sorry, I thought that was Mr.
23 Ealy. But moreover, you can't use 60 as the number that we're
24 doing this analysis on because 12 are listed as "Other." And
25 if you see on United States v. Hernandez-Estrada, other courts

1 have held that courts should avoid distorting the numbers, and
2 anyone whose racial identification is unknown should be
3 excluded from the calculation.

4 So right here, you have a motion that's brought in
5 front of you by someone who hasn't done the calculations and
6 just wants to use the 60, when really, 48 needs to be used.
7 You've been provided no numbers as far as the most recent
8 census. So let's assume that African-Americans in the most
9 recent census was approximately 12.8. Let's round that --

10 THE COURT: Well, was it? Is that the accurate
11 number?

12 MR. BROOKS: Well, the defense hasn't actually made
13 this argument, but I'm --

14 THE COURT: Right. I mean, I believe they have to
15 make a prima facie showing. That is correct.

16 MR. BROOKS: And so, let's say they were to actually
17 use 12.8, which would have been the number.

18 THE COURT: Okay.

19 MR. BROOKS: 12.8 then out of 48 should have come to
20 about 6.2, but you can't have 2.24 humans, so let's put that
21 at 7. There were three. 3 divided by 7, when doing the
22 absolute disparity analysis, would get us to approximately 42
23 percent, which is under 50. And just to clarify what I did
24 there, essentially, I took 7, subtracted 3, which is what we
25 had, got an absolute disparity of 3.24. And then, when I had

1 that, did the division by the number that we should have had.
2 So I mean, that's kind of what I've done here on a backhand
3 calculation.

4 THE COURT: Okay. So basically, you're contending
5 they haven't met the second prong; they haven't made a prima
6 facie showing?

7 MR. BROOKS: I mean, I think the biggest issue is
8 Mr. Pesci's comment, which is it's a day late, but I'm trying
9 to do this analysis just real quickly with the limited stuff
10 we have. I would have taken more time, had I known. So
11 that's all I wanted to add with regard to that.

12 THE COURT: Okay, because it's my concern that you
13 haven't made a prima facie showing.

14 MR. RUGGEROLI: Yeah. Just briefly --

15 THE COURT: I mean, we have Morgan; we have the
16 Valentine case.

17 MR. RUGGEROLI: Yeah. Just briefly, Judge. In the
18 Morgan case, I don't believe that stands for the proposition
19 that there is a timeliness requirement at all. I didn't hear
20 the State provide you with any authority. That's just an
21 argument. I think it makes sense, but it's --

22 THE COURT: Well, of course it makes sense --

23 MR. RUGGEROLI: But it's --

24 THE COURT: -- so we don't spend a day and waste
25 everybody's time picking a jury if the Court -- if it's a

1 righteous challenge, you know? So can you challenge the
2 cross-section after we have a jury impaneled --

3 MR. RUGGEROLI: Well --

4 THE COURT: -- and we've already gone to trial? I
5 mean, it doesn't make sense.

6 MR. RUGGEROLI: We don't have that though. What we
7 have is, in the Morgan case, it was 45 panel members, and at
8 that time, Clark County apparently had 11.8 percent African-
9 Americans. I do think it's higher, over 12 percent, at this
10 point. There were three people -- three African-Americans on
11 that panel, and that, the Court held, was not sufficient
12 enough. I don't have the exact number for the disparity, but
13 in this particular case, because it's 60 -- we use the 60
14 number for the panel that is present. That's the group that
15 we're selecting from. Out of this panel --

16 THE COURT: Even though there's 12 people that have
17 said, "Other"?

18 MR. RUGGEROLI: Okay, I'm looking specifically at
19 African-American because that's the distinctive group. And so
20 based on --

21 THE COURT: Right, but those 12 people that say
22 "Other," I mean, we don't know their race, correct?

23 MR. RUGGEROLI: I agree with that. I am specifying
24 this specifically to African-Americans because that is the
25 group that the court, especially in Morgan, has said, "We're

1 recognizing this as a distinct group." If there were three on
2 this panel -- and I don't think that there are. I think that
3 there's only two, because it's -- this Race Report that we've
4 been provided says that two were female, and one were male.
5 So I'm just looking at the numbers, and I don't believe that
6 there are two females out of the 60.

7 If there had been three, it was only 5 percent of
8 this panel. So our argument, Judge, is that this is an
9 important issue. Of course it causes frustrations, but this
10 particular portion of the law --

11 THE COURT: Listen, I don't have any problem. I get
12 these challenges all the time.

13 MR. RUGGEROLI: Yes.

14 THE COURT: But I've never had one after a day of
15 jury selection.

16 MR. RUGGEROLI: I understand. I do think in the
17 Morgan case -- and I was just trying to look back to make
18 sure. But I think that they went -- they may have raised the
19 issue the first day, but they didn't finalize their argument,
20 and I think it did go into the second day.

21 Nevertheless, I'm not aware of a specific timeliness
22 provision that requires us to make the motion the moment the
23 panel comes in. In a perfect world, I would have preferred to
24 raise this sooner, but Judge, here's where we're at today and
25 this is the record that we're making. So we are moving to

1 strike based on the under --

2 THE COURT: But you haven't done any of the
3 calculations for me to even make a determination. You haven't
4 done the comparative disparity, the absolute disparity,
5 because according to the State, you haven't made a prima facie
6 showing. So I'll give you an opportunity to do that.

7 MR. RUGGEROLI: Okay.

8 THE COURT: But I believe that you have to comply --

9 MR. RUGGEROLI: Even if the number were 3 out of
10 60, the percentage is 5 percent, and that's not enough to
11 represent the collective whole of our community, which should
12 be 12 or more percent.

13 THE COURT: So what's the absolute disparity?

14 MR. RUGGEROLI: I don't have that --

15 THE COURT: I mean, I'm just --

16 MR. RUGGEROLI: I know.

17 THE COURT: -- being honest, I'm not a math person.

18 MR. RUGGEROLI: Correct, and that's one of the --

19 THE COURT: I'm just not.

20 MR. RUGGEROLI: I agree, and neither am I, Judge. I
21 would just say that it's enough over the mark that 5 percent
22 would be greater than the 50 percent disparity.

23 THE COURT: Okay, and then how about the third step?
24 I mean, are you contending you're entitled to an evidentiary
25 hearing? I mean, what are your allegations as to the

1 underrepresentation is due to systematic exclusion of the
2 group in jury selection?

3 MR. RUGGEROLI: That this is a particular issue that
4 the Clerk -- I don't have something that I can say, this is
5 exactly what they did. I can tell you that, systematically
6 speaking, overall, there should be policies and procedures in
7 place that don't lead to where we're at, where there is
8 underrepresentation.

9 And when you add all of the cases together, I would
10 argue that this is a problem that is recurring enough to where
11 it is systematic. There should be something in place. It
12 wouldn't be the defense's burden to establish what that policy
13 is, what that procedure actually is --

14 THE COURT: Well, you have to make allegations to
15 entitle you to an evidentiary hearing.

16 MR. RUGGEROLI: Well, I'm saying that the notion of
17 systematic is based on this issue coming up repetitively in
18 jury pools in this county that are underrepresentative. It's
19 just -- I'm saying that it basically is something that Your
20 Honor can take notice of.

21 THE COURT: Okay, and are you familiar with the
22 Valentine case that came out in December?

23 MR. RUGGEROLI: Judge, I did not reference that.

24 THE COURT: Okay, because I'm just -- it doesn't
25 appear to me as though -- I mean, it sounds like you're making

1 general allegations and nothing specific.

2 MR. PESCI: The tough thing -- if I could, Your
3 Honor -- is that, as you pointed out, Valentine is the most
4 recent conversation about this, and it's really nebulous as to
5 what is a prima facie case. What they said was -- in that
6 case, I believe they said it was -- did they say it was not?
7 I can't remember. But like, the problem is, we don't know for
8 sure what is a prima facie case and what isn't.

9 So I appreciate what you just said, which is, what's
10 your remedy; what are you asking for? And so, I feel like
11 you're providing him that remedy, and I'm not sure if they're
12 taking it, because to me, the remedy per that case is we get
13 the Jury Commissioner in here and you have to ask questions,
14 assuming he actually made the prima facie case, which the
15 State's not conceding, right? So is that the remedy that's
16 requested?

17 THE COURT: That's what I'm asking.

18 MR. RUGGEROLI: Yes, Judge.

19 THE COURT: You're requesting an evidentiary
20 hearing?

21 MR. RUGGEROLI: Here's the thing.

22 THE COURT: I mean, this is why you should do it in
23 the beginning, because now I have a jury panel out there --

24 MR. RUGGEROLI: I understand.

25 THE COURT: -- that's now going to sit, and I have

1 to get the Jury Commissioner up here.

2 MR. RUGGEROLI: Correct.

3 THE COURT: So if that's what you're asking --

4 MR. RUGGEROLI: It is.

5 THE COURT: Get the Jury Commissioner up. Let me
6 know when she's here.

7 THE MARSHAL: Yes, ma'am.

8 THE CLERK: I'll e-mail her. Well, do you want me
9 to call? I'll call.

10 THE MARSHAL: Do you want me to call her?

11 THE CLERK: I'll call.

12 (Off the record at 9:30 A.M. until 9:49 A.M.)

13 (Outside the presence of the prospective jurors)

14 THE MARSHAL: Please come to order. Court is now
15 back in session.

16 THE COURT: Okay. The record will reflect that the
17 hearing is continuing to take place outside the presence of
18 the jury panel.

19 So I had a few minutes to do these calculations, and
20 I used the entire jury panel, 60. And in the Morgan case,
21 they used 11.8 percent. Since no one has told me what it is
22 in Clark County, I'm going to use 12 percent. So I come up
23 with an absolute disparity of 7 percent, and a comparative
24 disparity of 58.33 percent.

25 However, the third prong is that the

1 underrepresentation is due to systemic exclusion of the group
2 in jury selection process, and I haven't heard any allegations
3 as to that.

4 MR. RUGGEROLI: Thank you, Judge. Your Honor,
5 Valentine references Evans, which references Duren, D-u-r-e-n,
6 vs. Missouri. That's a United State Supreme Court case. The
7 Duren court explained that, quote, "Systematic exclusion means
8 underrepresentation inherent in the particular jury selection
9 process utilized."

10 Because -- and I greatly appreciate Your Honor doing
11 those numbers and an absolute disparity test. We are good
12 with that 58 percent disparity. The Court has found that
13 anything over 50 percent is a prima facie showing, and because
14 of that, we would argue that that shifts the burden to the
15 State at this point to show that the jury selection process --

16 THE COURT: Okay, but again, in Valentine, they said
17 you get an evidentiary hearing if you set forth specific facts
18 that are not belied by the record, which requires us to expand
19 the record.

20 MR. RUGGEROLI: Agreed. So I think that the burden
21 though has now shifted to the State to establish that the jury
22 selection process is not inherently --

23 THE COURT: Okay. You understand you have to meet
24 the three prongs?

25 MR. RUGGEROLI: Yes.

1 THE COURT: The third prong is that this
2 underrepresentation is due to systematic exclusion of the
3 group in the jury selection process, and I haven't heard any
4 allegations or theories of how that happens in Clark County.

5 MR. RUGGEROLI: But -- and I just want to make sure
6 that we're -- that I'm following the proper line of inquiry
7 based on Valentine.

8 THE COURT: I mean, because clearly, that's where
9 it's going to --

10 MR. RUGGEROLI: Right.

11 THE COURT: -- to lie.

12 MR. RUGGEROLI: I just believe that --

13 THE COURT: I mean, I believe the first two prongs,
14 you have met.

15 MR. RUGGEROLI: Right. And so what I would say is
16 that, in Valentine, it clarifies that, once we establish that
17 prima facie violation, which is Prong 2, then the burden
18 shifts to the government to show that the disparity is
19 justified. And --

20 THE COURT: Okay. Again, I think you have to make
21 allegations. I'm just going to let you call the Jury
22 Commissioner.

23 MR. RUGGEROLI: Okay.

24 THE COURT: And I don't know, Mr. Pesci, did you
25 want to --

1 MR. PESCI: I just want to make a record. I'm not
2 sure if he's done. I'll wait until he's done.

3 MR. RUGGEROLI: If you'd like me to call the Jury
4 Commissioner, then I will follow through with the questioning
5 now.

6 THE COURT: Okay. Mr. Pesci?

7 MR. PESCI: Judge, so thank you very much for doing
8 those numbers. Again, we're objecting, not to you or that
9 calculation, Your Honor; to the concept of doing it a day late
10 and a dollar short, right? Because you just said that you
11 utilized the number 60 --

12 THE COURT: Yeah.

13 MR. PESCI: -- which is where we get these numbers
14 of 7 percent absolute and 58 percent comparative, right? The
15 State's argument -- and I do concede that I don't know of a
16 case on point; but if there isn't, there should be, which is
17 this should be done at the front end. This should be done so
18 that we have a proper number to work with, because we've got a
19 number of 60, because that's the number that originally came
20 in, but actually not, and 17 have been kicked, and there are
21 12 in an "Other" category.

22 THE COURT: Well, actually, it was 59 because I let
23 that one juror go. So I probably -- I probably should have
24 used the number 59 instead of 60.

25 MR. PESCI: I don't think it will skew it below the

1 50 though.

2 THE COURT: Right.

3 MR. PESCI: I agree with you. But that's a perfect
4 example, and I wanted to highlight that, because that
5 individual didn't come into the courtroom, and that individual
6 checked "Other," and then didn't check anything else. We
7 don't know what that person is; African-American, Hispanic.
8 We just don't know. That's the inherent problem; it's got
9 nothing to do with the commissioner. Someone comes in, they
10 can just check nothing, they can check what they identify
11 with, they can check whatever.

12 And so we're making an objection for the record,
13 Your Honor, as far as this being late, because it skews the
14 numbers. There could be numbers that we could dig deeper into
15 when we had everybody here to change that 60, to change that
16 12 percent, to change -- not the 12 percent, but change who
17 actually identifies or who is African-American.

18 Shifting away from that, as you've pointed out, has
19 there been a prima facie showing? You know, when you look at
20 the actual case, which, you know, I understand why the Court
21 does it, but it's also a little maddening, because it says
22 here, "Although this Court has not articulated" -- this is
23 from Valentine.

24 THE COURT: Right.

25 MR. PESCI: "Has not articulated the circumstances

1 in which a district court should hold an evidentiary hearing
2 when presented with a fair cross-section challenge, it has
3 done so in other contexts." So then it talks about these
4 other contexts, and it says that -- and in this particular
5 case, there was a specific allegation in Valentine.

6 THE COURT: Right.

7 MR. PESCI: And the allegation was, as I understand
8 it, that, you know what, there's too many summonses going to
9 places that it shouldn't be.

10 THE COURT: That's correct.

11 MR. PESCI: Like, there should be more in some other
12 location. Now, for the record, I don't think they've met
13 that, not even close. They haven't even alleged that. I'm
14 giving them that from the case itself. There's been no
15 specificity; therefore, they haven't met that burden.

16 But Judge, I don't want to risk it. I don't want to
17 risk it. The Jury Commissioner is here, which is wonderful
18 that she can come so quickly. I'm extremely grateful. I'd
19 rather go forward. But by going forward, the State is not
20 conceding that they've met their burden, because they haven't.

21 THE COURT: Right. I mean, that's my concern. I
22 think there's been general allegations. And again, in the
23 Valentine case, where they said an evidentiary hearing was
24 appropriate, there were two distinctive theories about why we
25 got this underrepresentation of African-Americans in the jury

1 selection process.

2 But I'm going to allow you to call the Jury
3 Commissioner. I'm very, very grateful that she came up here
4 so quickly. So you can call her to the stand.

5 MR. RUGGEROLI: Please. Yes. Thank you, Your
6 Honor.

7 THE CLERK: Can you please raise your right hand?

8 MARIAH WITT, DEFENSE'S WITNESS, SWORN

9 THE CLERK: You may be seated. Please state and
10 spell your first and last name for the record.

11 THE WITNESS: Mariah Witt. M-a-r-i-a-h, W-i-t-t.

12 MR. RUGGEROLI: Thank you, Your Honor.

13 THE COURT: Go ahead.

14 (Testimony outside the presence of the jury panel.)

15 DIRECT EXAMINATION

16 BY MR. RUGGEROLI:

17 Q Good morning, Ms. Witt.

18 A Good morning.

19 Q Could you tell us how you're employed, please?

20 A I'm the Jury Commissioner for the Eighth Judicial
21 District Court.

22 Q Thank you. Is it within your purview to be very
23 familiar with the laws as it relates to jury selection; in
24 particular, regarding African-American individuals from the
25 community?

1 A I don't believe the law specifically addresses race
2 or ethnicity. It states a fair cross-section -- or, excuse
3 me, random selection. I'm sorry. That's what is addressed in
4 the law.

5 Q And so you're familiar with the procedures that the
6 -- your office uses to send out summons to bring people in to
7 serve as jurors?

8 A Yes.

9 Q And could you just briefly describe how that
10 operates, and whether or not -- just explain quickly how the
11 process generally works.

12 A Okay. Well, we summon jurors six weeks in advance,
13 so we don't really know what our schedule's going to look
14 like. So we have come up with kind of a determination, based
15 on our volume, what we -- the number of people we need to
16 summon.

17 So six weeks in advance, I summon jurors. I create
18 a pool for every day of the week, or one of my staff, and it's
19 6,300 jurors a week in advance. And you just simply put in
20 the date; the number required on that given date. And on
21 Mondays, it's 2,000; Tuesdays, 1,500; Wednesdays and Thursdays
22 are 1,000; Fridays are 800. So we do that six weeks in
23 advance every week, so by -- each of those pools are created
24 in advance. And I simply put in the date, and the number
25 required for that date, and create the pool that way.

1 Q How does the selection of where to send the summons
2 to -- how is that process dictated? What formula is used?

3 A Well, it's in the jury management system. The jury
4 management system randomly selects jurors from our master
5 list.

6 Q And is that master list based on population and zip
7 code, or just zip code, or how is the jury list --

8 A It's composed of the four sources that are required
9 under NRS.

10 Q Okay, and what are those?

11 A That would be Nevada DMV, Nevada Energy, voter
12 rolls, and the list from the Department of Employment,
13 Training, and Rehabilitation.

14 Q When you compile the prospective juror list for an
15 individual case like this one --

16 A Um-hum.

17 Q -- your office has started including a Race Report;
18 is that correct?

19 A The Race Report -- yes. We -- that's created after
20 the pool has been created, and on the day that they come in, I
21 create that report.

22 Q So the day for a particular trial?

23 A Yes. On the day that they appear, that's when I run
24 it, because there's nothing in it prior to that, because --

25 Q Do you know -- I apologize for interrupting.

1 A No, that's fine.

2 Q Do you know when your office began utilizing the
3 Race Reports and adding those as a portion of the jury
4 selection lists -- prospective jury lists?

5 A Do you mean the ones that we are now sending with
6 the paperwork --

7 Q Yes.

8 A -- or are you just talking about when we
9 systematically started running these reports?

10 Q First, when you started including the lists for each
11 trial and included that within the prospective panel.

12 A Well, we did it with our new jury management system.
13 In our old jury management system, it didn't really have that
14 capability. So in 2016, March of 2016, those -- we started
15 running those reports by case.

16 Q And it's fair to say that the emphasis -- this was a
17 change. It put an emphasis on race that hadn't previously
18 been there many years ago; is that correct?

19 A It was requested by management at the direction of
20 some of the various parties, so it became something that we
21 added.

22 Q And you're aware that there is an emphasis on having
23 a fair cross-section of the community for the jury pool
24 generally?

25 A I understand. Yes.

1 Q That's accurate though, correct?

2 A Yes.

3 Q What policies or procedures do you have to ensure,
4 for instance -- and let me -- let me step back a second. Is
5 it -- are you familiar with the -- and I'm paying attention,
6 in this particular instance, really to the African-American
7 community.

8 As far as the Eighth Judicial District Court and
9 this jurisdiction, are you familiar with how many African-
10 Americans comprise our general community?

11 A Based on the US Census, approximately 13 percent.

12 Q And that's of today?

13 A No, I think that's as of the last census --

14 Q Okay.

15 A -- which I think the most recent was 2018.

16 Q All right. Do you --

17 THE COURT: And you said 13 percent?

18 THE WITNESS: That was my understanding. I'd have
19 to look at my notes --

20 THE COURT: Okay.

21 THE WITNESS: -- to be sure, but --

22 THE COURT: Right. So you don't know?

23 THE WITNESS: I don't know for certain.

24 THE COURT: Okay.

25 BY MR. RUGGEROLI:

1 Q Do you have any reason to dispute it's at least 12
2 percent?

3 A At least -- I'm sorry?

4 Q Do you have any reason that you would not agree that
5 that percentage is at least 12 percent?

6 A The only thing I can say is that it's possible it
7 could be less, because I know the census includes everyone,
8 including non-citizens and people that are underage. So I
9 couldn't tell you for sure.

10 Q What policies and procedures does your office have
11 in place, if any, to make sure that an average jury pool is
12 comprised of approximately 12 to 13 percent African-Americans?

13 A I use a jury management system that randomly selects
14 jurors.

15 Q And are you familiar with any requirements that you
16 have to meet, other than the Race Report, to -- I mean, have
17 you actually testified in a hearing like this since 2018?

18 A Yes.

19 Q Okay. So you're familiar with the questions at
20 issue?

21 THE COURT: Didn't you see how quick she got up
22 here?

23 MR. RUGGEROLI: Yes.

24 BY MR. RUGGEROLI:

25 Q You're familiar with these questions, and so you've

1 answered a lot of these questions in the past. Do you believe
2 that you've done everything that needs to be done to ensure
3 that a fair cross-section and a representation of the African-
4 American community is present in your jury pool?

5 A Yes. We randomly select jurors, which is what the
6 law requires.

7 Q Okay, but if you're randomly selecting, then there
8 is no safeguard to make sure that at least a certain
9 percentage of African-Americans is present in a particular
10 pool; is that correct?

11 THE COURT: The law doesn't require that.

12 MR. RUGGEROLI: I'm just asking her though.

13 THE WITNESS: That's correct. I mean, if I were to
14 specifically select, that would not be random. If I were to
15 specifically call people in based on race or ethnicity, that
16 would not be random, and that's what the law requires of me.

17 MR. RUGGEROLI: Court's indulgence.

18 BY MR. RUGGEROLI:

19 Q If that standard of randomness is collectively
20 referenced though, isn't it also true that you will
21 potentially have a system as a whole that consistently results
22 in underrepresentation of the African-American community?

23 A No, I don't believe that to be the case.

24 Q And that's based on randomness, or is that based on
25 policy and procedures that you utilize that make sure that a

1 certain percentage are included?

2 A It's based on randomness. There are days that
3 numbers are higher, and days that it's lower, because it's
4 random.

5 MR. RUGGEROLI: Okay. Judge, thank you. I have no
6 other questions.

7 THE COURT: Mr. Sanft, do you have any questions?

8 MR. SANFT: No, Your Honor.

9 THE COURT: Mr. Pesci?

10 MR. PESCI: I apologize.

11 CROSS-EXAMINATION

12 BY MR. PESCI:

13 Q Ma'am, thank you for being here.

14 A You're welcome.

15 Q Few questions. Would you agree with me that the
16 four sources that you've just described is what statute has
17 mandated as far as the pools to grab from?

18 A Yes.

19 Q Okay. Would you agree with me -- and I apologize,
20 ma'am. How long ago did you start this job?

21 A November 2012.

22 Q All right. Do you have some knowledge about the
23 methodology prior to you getting there?

24 A Not -- what they did to --

25 Q Yes.

1 A Not really, not exactly.

2 Q All right. I'm going to ask some questions, and
3 maybe you don't know the answers, but --

4 A Okay.

5 Q -- do -- are you aware or have you ever heard about
6 in the past the jury pool would be pulled from just voter
7 registration?

8 A No.

9 Q Okay. Would you agree with me that it has been
10 expanded as far as where to grab the pool from?

11 A Yes.

12 Q So the DMV is one of those sources, correct?

13 A Correct.

14 Q That was utilized in this case?

15 A Yes.

16 Q And that includes, not just someone who has a
17 license, but someone who has an ID card?

18 A Yes.

19 Q You would agree with me that everyone in Clark
20 County, whether they're a driver or not, should at least have
21 an ID card?

22 A Most likely. I mean, not everybody, but the
23 majority should, yes.

24 Q Okay, but we can be comfortable with the fact that
25 we're getting more in this net -- we're trying to catch all

1 these people in this net -- when we have not just a driver,
2 not just a license-holder, but just an ID card?

3 A Yes.

4 Q And both of those sources are what you pull from?

5 A Yes.

6 Q And I should say, they come from the same thing,
7 DMV, but they --

8 A Right.

9 Q -- utilize those two categories?

10 A Yes.

11 Q Okay. And then, if we shift to NV Energy, you would
12 agree that that's a source where a power bill comes from?

13 A Yes.

14 Q So I don't have to be a homeowner in order to have
15 an NV Energy power bill?

16 A Correct.

17 Q So you would agree that, in this pool, we're
18 reaching out and we're getting people who are not even
19 homeowners; we're trying to get people who could just be
20 renting?

21 A Correct.

22 Q So we're not discriminating against people who have
23 less money, because, I mean, everyone's got power. If you
24 don't have power, you can't live somewhere. So we're getting
25 everybody, not just landowners?

1 A Correct.

2 Q And we're getting everybody from the DMV, not just
3 actual license-holders, but also the ID?

4 A Correct.

5 Q All right. And then, we do actually shift and also
6 include voters; is that correct?

7 A Yes.

8 Q So anybody -- you know, in this political age,
9 there's lots of people motivated to vote, the voter
10 registration's really high, so it's another area where lots
11 and lots of people are pulled from?

12 A Yes.

13 Q Okay. And then, the last section -- and the last
14 time we talked about this, the State of Nevada, as I
15 understood it, hadn't yet provided you -- and I'm going to use
16 the wrong term, but I mean, I would say unemployment data.
17 What's the right term that you said?

18 A The list from the Department of Employment,
19 Training, and Rehabilitation.

20 Q Okay, the Department of Employment, Training, and
21 Rehabilitation. Okay. Does that include people that are
22 seeking unemployment?

23 A Yes.

24 Q Okay. And now -- because before, you were prevented
25 from doing that because the state wasn't giving you the data?

1 A Correct.

2 Q Now, you have the data?

3 A Yes.

4 Q So the pool that we have in this courtroom also
5 includes everybody in Clark County who has sought unemployment
6 benefits?

7 A Correct.

8 Q All right. So would you agree with me that there
9 was nothing systemic in your efforts to exclude anybody?

10 A Yes.

11 Q You're trying to include everyone?

12 A Yes.

13 Q Okay. And then, there's kind of a shift in kind of
14 the logic here, but it will tie back in. Ma'am, how many
15 summons do you send out -- I think you told me you do it six
16 weeks out. Like, a batch of how many do you send out?

17 A Well, we do them weekly, so 6,300 every week.

18 Q Okay.

19 A Yes.

20 Q I'm betting you don't have a number, but I'm still
21 going to ask. I apologize.

22 A Okay.

23 Q If you send out 6,300 for the week, that means 6,300
24 people should show up on Monday?

25 A No.

1 Q Okay, that's what I'm trying to get to. I'm trying
2 to figure out, do you have a number -- do you have an idea,
3 like, for Monday of this week -- was that the 10th? February
4 10th?

5 A Um-hum.

6 Q Okay. February 10th, all the prior summonses that
7 went out, how many people actually showed up on their summons?

8 A For Monday? I don't have the numbers for Monday in
9 front of me.

10 Q Okay.

11 A So I couldn't tell you for sure, but I'd say 2- or
12 300, I think.

13 Q Let's talk in generalities, right?

14 A Okay.

15 Q Do you have a percentage, whatever number that is,
16 where people, they just don't show up?

17 A Yes.

18 Q Okay. And do you have any idea, just generally,
19 kind of systemically, about what a percentage is of
20 non-showers; people who you sent it out and they just don't
21 come?

22 A About 20 percent.

23 Q So about 20 percent of the people just choose not to
24 fulfill their civic duty?

25 A Correct.

1 Q Okay, and there's really nothing you can do about
2 that, is there?

3 A Well, we do re-summon jurors 60 days out.

4 Q All right.

5 A That is the method that the National Center for
6 State Courts recommends is the most effective means of getting
7 jurors in here.

8 Q You beat me to --

9 THE COURT: So when they -- so when they don't show
10 up, then you -- 60 days later, you send them a new one?

11 THE WITNESS: Automatic process. Yes, ma'am.

12 THE COURT: Oh, okay.

13 BY MR. PESCI:

14 Q You beat me to it, right? You're so consistent in
15 trying to get to everybody, when they choose not to come, you
16 send them another summons to say, no, no, no, come on in,
17 you're supposed to do this?

18 A Yes.

19 Q And yet, still, some people don't show?

20 A Correct.

21 Q Okay. Now, not in this case, but in another case,
22 some defendant argued, well, you're really systematically
23 excluding people because you're not going out there and
24 arresting them and bringing them to court. Do you have the
25 capacity to arrest somebody for not showing for their summons?

1 A I do not.

2 Q Right. Does a court, potentially?

3 A Yes.

4 Q All right. Do you have a system or a methodology in
5 place where you try to get the people that no-show to come to
6 court, other than what you just said as far as sending another
7 summons?

8 A No.

9 Q Okay. So by not having that -- and you would agree
10 with me, one of the options would be to bring someone in for a
11 show cause hearing, correct?

12 A Correct.

13 Q And if someone comes in for a show cause hearing, in
14 front of this judge, they have to explain why they didn't
15 come?

16 A Yes.

17 Q Or any judge. And would you agree with me that,
18 potentially, contempt is a sanction that could be imposed?

19 A Yes.

20 Q All right. I don't know, I'm just kind of guessing
21 here. I'm assuming you really don't want to be in the
22 business of holding people in contempt in that process?

23 A Well, it's not my decision. I take my direction
24 from the Court.

25 Q Right, right, and I apologize. What I'm saying is,

1 you don't have a system currently to set up Orders to Show
2 Cause?

3 A Well, we actually do --

4 Q Oh, you do? Okay.

5 A -- if it's requested by the judge in a specific
6 instance.

7 Q Right.

8 A Like, so if somebody doesn't show up from a panel,
9 we'll ask if the judge wishes to do --

10 Q Okay.

11 A -- an Order to Show Cause.

12 Q All right. So do you then give data to the judges
13 on each pool that comes up, saying, hey, look, these ten
14 people didn't show?

15 A No, not the entire pool. We only request it at the
16 panel level. So if the judge has a panel of people that we've
17 been -- that's been assigned to that case, and those people
18 don't show, then we ask if she would like to -- in this case,
19 she -- would like to issue an Order to Show Cause.

20 Q So then a judge could, in theory, order these jurors
21 to come to court after they've previously, at least once, and
22 probably twice, not come to court on a summons?

23 A When I'm saying that, Order to Show Cause for your
24 case, that doesn't necessarily mean they failed to appear
25 before.

1 Q Okay.

2 A That would just mean somebody that was on this case,
3 assigned to this case --

4 Q Right.

5 A -- did not return. Those are the instances in which
6 we deal with Orders to Show Cause.

7 Q Okay, all right. So I mean, you're not -- by not
8 bringing people in after they've refused to come, you're not
9 purposely trying to exclude anybody, are you?

10 A No.

11 Q And do you think, from your position, would it be
12 less inducive to the average citizen to come to jury duty if
13 they thought they could be arrested if they don't?

14 A I don't know.

15 Q Right, yeah. So that's not really a focal point of
16 yours as far as trying to catch the net of people who don't
17 show?

18 A No.

19 Q All right. And by not catching them, you're not
20 trying to exclude certain people?

21 A No.

22 Q Those people have been invited once, twice, and
23 maybe even more than that?

24 A Yes.

25 Q Okay. Now, shifting gears, right? Then if we go

1 back to the system, as I understood it, the system sends out
2 this randomly based on these four sources, right? Do you have
3 any idea how many people of a specific ethnicity live in a
4 specific zip code?

5 A No.

6 Q Is there a source that you know of that could
7 possibly give you that information?

8 A Not specifically that I know of.

9 Q Right. So how on earth could you be held to a
10 standard of having to figure that out when you don't even know
11 of a system that exists to give you that information?

12 A I couldn't.

13 Q Right. And if there were one, right, would you
14 utilize it?

15 A I would follow the direction of the court, whatever
16 they ask me to do.

17 Q You wouldn't be trying to specifically and
18 systematically exclude people?

19 A No.

20 Q Would you agree with me that members of the
21 community -- in this particular case, the allegation is
22 African-Americans -- live everywhere in the Valley?

23 A Yes.

24 Q In fact, one of these defendants lives in Spring
25 Valley. Were summonses sent to Spring Valley?

1 A I couldn't tell you without -- I mean, I don't know.
2 Q Okay.
3 A Without looking at the pool, and looking at the
4 individual records, I don't know --
5 Q But --
6 A -- if that particular pool had people from that zip
7 code.
8 Q Some have argued -- nobody here. Some have argued
9 that, you know, there should be even more summonses sent to,
10 let's say the northeast or North Las Vegas, right? You would
11 agree with me, however, that there are members of every
12 different ethnicity all over this Valley?
13 A Yes.
14 Q And so, by sending the summons to every zip code,
15 you're not trying to systematically exclude anyone?
16 A Well, it doesn't necessarily go to every zip code
17 every time.
18 Q Okay.
19 A But we do -- but all zip codes are included in the
20 master list.
21 Q And there's nothing you programmed into the system
22 saying, hey, system, make sure you don't send it to North Las
23 Vegas or the northeast part of town?
24 A No.
25 Q And there's nothing that you're doing to try to

1 exclude, in this particular case, African-Americans from
2 serving on this jury?

3 A No.

4 MR. PESCI: I'll pass the witness. Thank you.

5 THE COURT: Any redirect?

6 MR. RUGGEROLI: I just want to clarify very quickly.

7 REDIRECT EXAMINATION

8 BY MR. RUGGEROLI:

9 Q Your requirements and the four sources are contained
10 -- are you familiar -- I just want to make sure. It's NRS
11 6.045; does that sound right?

12 A Yes, um-hum.

13 Q Okay. Also, pursuant to Section 5, part of the
14 requirement is that you do keep a record of the name,
15 occupation, address, and race of the trial juror selected. So
16 race is a specific aspect that you are to note and have a
17 record of; is that correct?

18 A Yes.

19 MR. RUGGEROLI: Judge, I have nothing further.
20 Thank you.

21 THE COURT: Okay, but I just want to make sure I'm
22 clear. But that record is made from the juror themselves?
23 You don't -- you don't determine what someone's race is,
24 correct?

25 THE WITNESS: That's correct, ma'am, it's

1 self-reported.

2 THE COURT: Right. And they're asked -- I think
3 when they first call in to do jury duty --

4 THE WITNESS: Yes, or online.

5 THE COURT: -- they're asked that? Okay.

6 THE WITNESS: Yeah, on the phone or online. It's
7 self-reported.

8 THE COURT: Anything else?

9 MR. RUGGEROLI: No, Judge, thank you.

10 THE COURT: Anything else?

11 MR. PESCI: Yes, I apologize. In that regard -- may
12 I approach the witness?

13 THE COURT: You may.

14 MR. PESCI: Okay.

15 RECROSS-EXAMINATION

16 BY MR. PESCI:

17 Q So in the data that we received from you, ma'am --

18 A Yes.

19 Q -- would you agree -- let's see. Badge number 533,
20 Miles Ealy, under "Race" -- because you have two categories.
21 You have "Race" and "Ethnicity," right?

22 A Yes, yes.

23 Q "Race," wrote, "Other race," correct?

24 A Um-hum.

25 Q "Ethnicity: Not Hispanic or Latino"?

1 A Yes.

2 Q So we know nothing about this person, do we, as far
3 as race or ethnicity?

4 A We just know they're not Hispanic.

5 Q Yeah, well-said.

6 A Right.

7 Q And this is self-reporting? There's nothing you can
8 do about this; this is just if someone chooses to fill it in?

9 A Correct.

10 Q And people can choose just literally not to fill it
11 in?

12 A Correct, but the system's designed -- excuse me --
13 to force them to answer it.

14 Q Can they finish if they don't answer it?

15 A It is possible, but we do have it set up so that
16 they have to answer that information in order to complete the
17 process of confirming that they'll be coming in.

18 Q Okay. And ostensibly, that's so that you could
19 probably be able to say, hey, we've got a good representation
20 of everybody because we're figuring out exactly who's coming
21 in?

22 A Yes, to assist in the selection process.

23 Q Not to systematically exclude, but to actually try
24 to bring even more people in of all races and all ethnicities?

25 A Yes.

1 MR. PESCI: Court's indulgence. Pass the witness.

2 THE COURT: I just want to make --

3 MR. RUGGEROLI: Okay, just one follow up.

4 THE COURT: You bet, you bet.

5 FURTHER REDIRECT EXAMINATION

6 BY MR. RUGGEROLI:

7 Q The Race Report that is included that has those
8 percentage that Mr. Pesci just had you review, why are those
9 even included?

10 A I'm -- I'm not sure I'm following you.

11 Q You were just shown the Race Report for this
12 particular case.

13 A I was shown the Bio Form, sir.

14 Q Okay. You're familiar with the Race Report as well?

15 A Yes.

16 Q And why are those even included?

17 A Because management asked me to start including them
18 with the paperwork when I -- when I run them, because we've --
19 we have had these challenges before, so we're just providing
20 them --

21 Q And you would --

22 A -- now in criminal cases.

23 Q You would agree that, in this particular case, that
24 -- you mentioned that Clark County percentage of African-
25 Americans is approximately 12 to 13 percent; you would agree

1 with that?

2 A Yes.

3 Q And in this particular case, if it's 7 percent, then
4 the African-American community in this case is
5 underrepresented, generally speaking?

6 A Yes.

7 MR. RUGGEROLI: Thank you. Nothing further.

8 THE COURT: Okay. Anything else?

9 MR. PESCI: No, thank you, Your Honor.

10 THE COURT: Okay. Thank you very much --

11 THE WITNESS: You're welcome.

12 THE COURT: -- for your testimony, and thank you for
13 always coming up so quickly.

14 THE WITNESS: You're welcome.

15 THE COURT: I really do appreciate it. Have a good
16 day.

17 THE WITNESS: You, too.

18 THE COURT: Okay. Mr. Ruggeroli, I'll hear from
19 you.

20 MR. RUGGEROLI: Judge, I'll address the timeliness
21 issue first. Judge, I --

22 THE COURT: Well, clearly, I gave you a hearing.

23 MR. RUGGEROLI: Oh, yes, absolutely, but I of course
24 have to answer this. So number one, I think the State
25 concedes that they don't have authority on a timeliness

1 requirement. It obviously makes sense; however, a lot of
2 these issues get brought up on post-conviction, and so what
3 we're not doing is having this, you know, remanded in that
4 context and coming back.

5 I did not delay this for any undue purposes. This
6 was brought to my attention yesterday. We're given the lists
7 as the prospective venire is brought in, and as Your Honor
8 knows, there's an awful lot going on in those moments, and
9 race and the racial component of the venire is a factor, but
10 it's not the only thing that a defense attorney is thinking
11 about at the time.

12 Given the totality of everything that developed
13 yesterday, at the end of the day -- and it's really one
14 half-a-day. We started at 1:00 o'clock yesterday, broke at
15 approximately 5:00, and this is the first issue I'm raising
16 the next morning. I brought it to the Court's attention
17 without any purpose for undue delay, and I am making a record
18 because this is an important right. Our society is evolving,
19 we're becoming more sensitive to racial issues.

20 When our foundational documents indicate that an
21 individual -- every individual has a right to a jury trial by
22 their peers, and a client is African-American, and they're
23 looking at a panel that has 2 out of 60, it needs to be
24 addressed. And I greatly appreciate Your Honor giving us this
25 opportunity, because it is important, and you gave us the

1 evidentiary hearing --

2 THE COURT: Three.

3 MR. RUGGEROLI: -- to do that.

4 THE COURT: I mean, you know, the Race Report says
5 three. I know --

6 MR. RUGGEROLI: I -- I --

7 THE COURT: -- you keep saying two.

8 MR. RUGGEROLI: Right. I believe that one of the
9 females did not appear, but I'll just say that, going based on
10 the Race Report, it is -- it does say 3 out of 60. That is
11 still significant enough that I think that we needed to make
12 this record in good faith to challenge the panel as --

13 THE COURT: Well, I do -- I think you met the first
14 two prongs.

15 MR. RUGGEROLI: Thank you.

16 THE COURT: My issue is with the third prong, that
17 this underrepresentation is due to systematic exclusion of the
18 group in the jury selection process.

19 MR. RUGGEROLI: And a lot of these issues that have
20 come up in Morgan and Valentine, there was an awful lot of
21 research that was capable of being done, so I can't piggyback
22 on those actual issues. I would just say that more needs to
23 be done in order to eliminate this issue systematically. The
24 State brought up an alternative. Maybe it is something that
25 should be considered, because we need to have people that are

1 present.

2 If somebody is trying to avoid being on a jury
3 panel, I know that courts are generally not impressed when
4 they raise issues that are obviously designed to just try and
5 get them out of their service. Now, those are for people that
6 just show up. So people that don't even show up, I'd say that
7 the State, and the Jury Commissioner's office in particular,
8 the courts, they need to have a better policy in place.

9 Right now, I would just argue that the systematic
10 nature is that, collectively, African-Americans are
11 underrepresented. And relying on randomness, which is what I
12 gather is her policy, we follow the statute --

13 THE COURT: No, it is the law.

14 MR. RUGGEROLI: We follow the statute; we rely on
15 randomness to come up with these numbers. I would just argue
16 that it's not enough. And for this Court's ruling, I think I
17 know how you would likely rule. But for the future, perhaps
18 higher courts or the legislature will decide that something
19 drastically more needs to be done to make sure that we don't
20 have systematic underrepresentation of this community.

21 THE COURT: Okay. Mr. Pesci?

22 MR. PESCI: Thank you.

23 THE COURT: I don't know if you want to respond.

24 MR. PESCI: The State did not propose an
25 alternative. It was one of the two arguments in Valentine.

1 THE COURT: Right.

2 MR. PESCI: The State was trying to, with the Jury
3 Commissioner, from the State's perspective, point out how
4 ridiculous that is. It's not to this defense attorney; it was
5 done in the other one, right?

6 So if I'm to understand this correctly, we should be
7 bringing people in with contempt charges, potentially a fine,
8 and/or jail time. In the day and age of criminal justice
9 reform, when we're saying that certain crimes, actual crimes
10 shouldn't be pursued, or we should give them to some sort of a
11 diversionary court, or we should definitely go with probation,
12 we're going to now hook people up and potentially arrest them?
13 We should systemically do that?

14 What do you think would be the reaction of
15 individuals in different groups when they see people that may
16 fit into this particular group, African-Americans, being
17 arrested or potentially held in contempt because they didn't
18 show up, right? That's just how foolish that argument is,
19 again, not by this defense counsel, but which was alleged in
20 this other case. But I just want to point that out, the
21 underlying foolishness of that concept, right?

22 But it would be interesting. And I want to say
23 this, because it needs to be, and we'll probably have to deal
24 with this later. What do we know as far as those people who
25 no-show, how that would change the numbers? How interesting

1 would that be, right? If the people who no-show actually
2 showed, would the numbers be different? Automatically, they
3 would be, one way or the other, but we don't know if they're
4 African-American, if they're Hispanic, if they're Caucasian,
5 which is my point, to say these numbers are so problematic,
6 because it's a moving target, and it's a target that's not
7 even definite.

8 You've pointed out to defense counsel that he keeps
9 referring to it as two African-Americans, but the data we
10 received from the Jury Commissioner who just testified is
11 three. Why are we just defaulting to two? Because -- and
12 respectfully, I'm saying this. I think he looked at the pool
13 and said, I think I see two African-Americans, right? So
14 we've got some Caucasian people saying, I think this person's
15 African-American or I think this person's not.

16 See the foolishness in this? This is why this has
17 become so crazy, right? And people can identify as one thing
18 or another thing. And if they choose not to identify, the
19 Jury Commissioner herself said they can still get through the
20 questionnaire, her questionnaire, without doing that.

21 So we're making suppositions on people, one, that
22 don't even come; and two, when they come, we're not exactly
23 sure, because a third person identified as African-American.
24 Defense counsel's opinion is he only sees two. Right? That's
25 why this is so dangerous. That's why there's such a flaw to

1 the whole Batson analysis, because of this concept of being
2 able to say who is or isn't, and I think that's extremely
3 problematic.

4 Shifting away from that, we have evidence, and it's
5 updated evidence. We don't have to rely on a transcript,
6 which the Valentine court said don't do.

7 THE COURT: Right.

8 MR. PESCI: She testified all four forms: the DMV,
9 the Energy, voter registration, and unemployment. What other
10 source is there? I mean, honestly, where on earth are we
11 supposed to get some other source?

12 And specifically, the allegation that was at least
13 made prima facie per Valentine, which was not here, was this
14 concept of using a system that would send summons to certain
15 zip codes that have certain percentages of certain
16 ethnicities.

17 THE COURT: Well, I think the allegations were that
18 our Jury Commissioner was sending the same amount to every zip
19 code without considering the ethnic makeup of the zip codes.

20 MR. PESCI: Right.

21 THE COURT: I mean, that --

22 MR. PESCI: And how --

23 THE COURT: -- appeared to be what the allegation
24 was.

25 MR. PESCI: In the case, yes.

1 THE COURT: Right.

2 MR. PESCI: And my question to her, and to you, and
3 to -- you know, really, to the Supreme Court, is, how are we
4 going to do that? What database exists to do that?

5 THE COURT: Well, we know it's not true based on her
6 testimony today.

7 MR. PESCI: Right. That just shows how this is
8 craziness. There is no effort by this woman or by the jury
9 commission system to systematically exclude individuals, which
10 is why this motion should be denied.

11 THE COURT: Anything else? Mr. Sanft, do you want
12 to add anything?

13 MR. SANFT: No, Your Honor.

14 THE COURT: Mr. Ruggeroli, anything else?

15 MR. RUGGEROLI: No, Your Honor. Thank you.

16 THE COURT: Okay. All right. At this time, the
17 Court's going to deny the Motion to Strike the jury venire. I
18 do believe that there was a showing as to the first two
19 prongs; however, as to the third prong, there's been no
20 evidence that this underrepresentation is due to systematic
21 exclusion of the group in the jury selection process.

22 So anything else before we bring them in?

23 MR. PESCI: Not from the State.

24 MR. SANFT: No, Your Honor.

25 MR. RUGGEROLI: No, Your Honor.

1 THE COURT: Okay, we can bring them in. Hopefully,
2 we didn't lose them.

3 (Pause in the proceedings)

4 MR. RUGGEROLI: Judge, there is something that's
5 very quick.

6 THE COURT: Yeah, go ahead.

7 MR. RUGGEROLI: Can we have the jurors to the left
8 side of the panel stand? I know it's a little inconvenient,
9 but we can't see who's talking when there are questions to the
10 left side because the lectern's in the way. Is that something
11 that can be accommodated with the questioning?

12 THE COURT: Okay, I'm sorry. The lectern's getting
13 in your way of seeing?

14 MR. RUGGEROLI: I can't see any of the jurors from a
15 certain portion on, so I'm not -- Mr. Pesci is very good about
16 having them read their --

17 THE COURT: Well, you want to get up, and, I mean --

18 MR. RUGGEROLI: Okay.

19 THE COURT: Position yourself where you can see. I
20 mean, you're entitled to see them.

21 MR. RUGGEROLI: Thank you, Judge.

22 THE COURT: But I mean, do you want me to have them
23 move the lectern? Is that --

24 MR. RUGGEROLI: No, no, I was just going to see if
25 perhaps they could stand when they're answering questions.

1 THE COURT: Oh, you want me to --
2 MR. PESCI: Is it this one?
3 THE COURT: I can have them stand.
4 MR. RUGGEROLI: It's both.
5 THE COURT: Yeah, I can have the jurors stand.
6 MR. RUGGEROLI: Would that be all right?
7 MR. PESCI: I'd submit it to the Court.
8 THE COURT: No problem. I can have them stand.
9 MR. RUGGEROLI: Thank you very much, Judge.
10 THE COURT: Um-hum.
11 THE MARSHAL: All rise for the entering jury,
12 please. Jurors.
13 (Within the presence of the prospective jurors)
14 THE MARSHAL: Thank you, everyone. Please be
15 seated.
16 THE COURT: Does the State stipulate to the presence
17 of the panel?
18 MR. PESCI: Yes, Your Honor.
19 THE COURT: Mr. Sanft?
20 MR. SANFT: Yes, Your Honor. Thank you.
21 THE COURT: Mr. Ruggeroli?
22 MR. RUGGEROLI: Yes, Your Honor.
23 THE COURT: Okay. Good morning, ladies and
24 gentlemen. Welcome back. Thank you very much for coming
25 back. I do apologize for the delay, and I do appreciate your

1 courtesy in waiting for us. Mr. Pesci?

2 MR. PESCI: Thank you, Your Honor.

3 THE COURT: You may address the panel.

4 MR. PESCI: Yes. Microphone. So can we hand it
5 down to Ms. Hernandez in Seat 7, who I believe would be Badge
6 430?

7 PROSPECTIVE JUROR NO. 430: Yes.

8 MR. PESCI: Okay. Are you picking me up?

9 THE COURT RECORDER: I am.

10 MR. PESCI: Okay. Thank you, everybody, for coming
11 back today. Appreciate you being here. Just want to kind of
12 follow up on some specific questions, and then some group
13 questions again.

14 Ma'am, I wanted to ask you, you said that you worked
15 as a host. What -- was that The Cosmo?

16 PROSPECTIVE JUROR NO. 430: Yes.

17 MR. PESCI: Okay, and what specifically do you do
18 there?

19 PROSPECTIVE JUROR NO. 430: I work front desk. I
20 sell tables for guests and bottle service.

21 MR. PESCI: Okay, and how long have you been doing
22 that?

23 PROSPECTIVE JUROR NO. 430: I've been doing that for
24 a year.

25 MR. PESCI: For a year? Okay.

1 PROSPECTIVE JUROR NO. 430: Um-hum.

2 MR. PESCI: Did you have a different line of work
3 before that?

4 PROSPECTIVE JUROR NO. 430: I worked events inside
5 the Springs Preserve with the Water District.

6 MR. PESCI: Okay. I want to ask you a question, and
7 then we'll kind of push it out to everybody else. Do you have
8 any difficulty or problem if -- when we present this testimony
9 in this case, if it comes a little bit out of order in the
10 sense that, you know, the crime -- the alleged crime starts
11 here, and the information kind of proceeds? Sometimes,
12 because of witnesses' schedules, we have to take people out of
13 order. Do you have any problem with kind of tracking the
14 information, even if it's somewhat out of order?

15 PROSPECTIVE JUROR NO. 430: No, I think I'm really
16 good at following up.

17 MR. PESCI: All right, awesome. Kind of pushing
18 that out to everybody else. Would anybody have any difficulty
19 kind of tracking the evidence if we have to call people out of
20 order because of their schedules and different things in their
21 schedules? No answer from anyone, for the record. All right.

22 A specific question to you, and then we'll kind of
23 push it out to the whole group. In this particular case,
24 there's an individual who was charged who's entered into a
25 negotiation and is going to testify. That's what we expect to

1 happen. So one defendant's going to testify against other
2 defendants. What are your thoughts or feelings about that
3 kind of a situation?

4 PROSPECTIVE JUROR NO. 430: This is new for me, this
5 is my first time being here, so I really don't -- I've never
6 been in a situation like this. And I -- since I don't have
7 any details, I can't really give my opinion yet.

8 MR. PESCI: Okay, and that's fine. And we can't get
9 into too many details, but I believe, from both sides, this is
10 a question of interest for the panel -- for the parties, is
11 this concept. Some people feel really strongly one way or the
12 other.

13 And the real big question is, would it affect your
14 ability to be fair and impartial -- this is to everybody now
15 -- if you hear from a defendant who's testifying against other
16 defendants?

17 We've got a hand. Going to pass it forward. Thank
18 you very much. So, Laurie? Is that how --

19 PROSPECTIVE JUROR NO. 513: Yeah, Laurie.

20 MR. PESCI: And your badge number?

21 PROSPECTIVE JUROR NO. 513: 513.

22 MR. PESCI: 513. All right.

23 PROSPECTIVE JUROR NO. 513: I suppose if there is
24 some type of deal involved, that I would have problems
25 listening to that person, yeah.

1 MR. PESCI: Okay. And when you say problems, the
2 deal, as you mentioned, would be something that you would know
3 about, right? You would get specific information about what
4 the deal is, based on the negotiation that was struck.

5 The problems that you would have, would that make it
6 such that you could not be fair and impartial?

7 PROSPECTIVE JUROR NO. 513: Yes.

8 MR. PESCI: All right. And how would it make you
9 that you could not be fair and impartial?

10 PROSPECTIVE JUROR NO. 513: I feel that the witness
11 would be saying certain things because of the deal that was
12 involved.

13 MR. PESCI: Gotcha. In fact, you'll get information
14 about that. In fact, the Court's going to instruct about how
15 to consider a co-defendant's testimony, and how you consider
16 it differently from other individuals.

17 So considering that, that the Court would give you
18 some instructions on that, do you think that you could
19 consider it, or is it something you'd just say, I just won't
20 listen to it; it won't be a part of my process?

21 PROSPECTIVE JUROR NO. 513: I would have to listen
22 to the full information of the deal that was offered.

23 MR. PESCI: Perfect. And you know, to have some
24 degree of suspicion is totally fine, right?

25 PROSPECTIVE JUROR NO. 513: Um-hum, yeah.

1 MR. PESCI: It's understandable.
2 PROSPECTIVE JUROR NO. 513: Of course.
3 MR. PESCI: And what we're trying to figure out is
4 will you disregard everything else just because of that? Or
5 are you willing to, with that suspicion, look at all the other
6 evidence, and say, well, let's see how it fits into the whole
7 story?
8 PROSPECTIVE JUROR NO. 513: The second one, yeah.
9 I'm willing to listen to the evidence.
10 MR. PESCI: Okay.
11 PROSPECTIVE JUROR NO. 513: Yeah.
12 MR. PESCI: But it's appropriate, as you're saying,
13 is that it gives you pause?
14 PROSPECTIVE JUROR NO. 513: I am very highly
15 suspicious, yeah.
16 MR. PESCI: Understood, understood. Anybody else
17 feel that way? Is there any more that you wanted to say? I
18 apologize. All right.
19 There's a gentleman in the -- so, Judge, I think
20 we're turning to Mr. Randall. And Mr. Randall, I apologize,
21 your badge number?
22 PROSPECTIVE JUROR NO. 557: It's 557.
23 MR. PESCI: 557?
24 THE COURT: Do you mind -- if you don't mind
25 standing up.

1 PROSPECTIVE JUROR NO. 557: Sure.

2 THE COURT: In fact, if all of you will stand up
3 when you're responding, that may be helpful so everyone can
4 see you and hear you.

5 MR. PESCI: Sorry.

6 PROSPECTIVE JUROR NO. 557: No problem. Yeah, I
7 mean, it was just similar. It just gives me pause a little
8 bit to hear that there's, you know, somebody that's being a
9 witness that's being offered a deal. But I mean, I think what
10 you said to the other gentleman makes sense to me, that once
11 we understand what the deal is and kind of see the whole
12 picture, I think that's fine with me.

13 MR. PESCI: Okay, so you're willing to listen?

14 PROSPECTIVE JUROR NO. 557: Yeah.

15 MR. PESCI: Okay. Do you think you can be fair to
16 both sides?

17 PROSPECTIVE JUROR NO. 557: I do.

18 MR. PESCI: Wonderful. Thank you very much.
19 Anybody else wanted to answer anything about that? Judge, I
20 think we're going to Mr. McGinty, Badge number --

21 PROSPECTIVE JUROR NO. 410: 410.

22 MR. PESCI: -- 410.

23 PROSPECTIVE JUROR NO. 410: McGinty. Yes, thank
24 you. With my experience with both expert witnesses and a
25 co-defendant that may be testifying against, I have some

1 problems with the validity of it. And so it gives pause to --
2 from my perspective. And what -- when I've worked with other
3 attorneys and expert witnesses, kind of knowing the
4 backgrounds, yeah, I've got a certain amount of problem with
5 the validity.

6 MR. PESCI: Okay. So when you say "problem," are
7 you saying that you are closed completely from ascertaining
8 and assessing that information, or are you willing to look at
9 -- even with a suspect eye, look at it and assess it?

10 PROSPECTIVE JUROR NO. 410: I'll look at it, but
11 I'll always know that there's an ends to the means of why
12 they're in that seat.

13 MR. PESCI: Okay, appreciate that. Anybody else
14 have any comments on that, that particular issue? Okay.
15 Could you pass it down to your right?

16 Ms. Hernandez, are you okay if we move on? All
17 right.

18 Ms. Amoroso, what is your badge number, ma'am?

19 PROSPECTIVE JUROR NO. 437: It's 03 -- 0437.

20 MR. PESCI: Okay, and I apologize. Unfortunately --
21 could you stand?

22 PROSPECTIVE JUROR NO. 437: Okay.

23 MR. PESCI: I think the Court's asking us -- okay.

24 PROSPECTIVE JUROR NO. 437: 0437.

25 MR. PESCI: Okay. And then, you're working as a

1 busser, correct, ma'am?

2 PROSPECTIVE JUROR NO. 437: Yes.

3 MR. PESCI: Where is that?

4 PROSPECTIVE JUROR NO. 437: In Golden Nugget.

5 MR. PESCI: Okay. And then, in the Golden Nugget,

6 do you have any interactions with police officers often in

7 your job?

8 PROSPECTIVE JUROR NO. 437: No.

9 MR. PESCI: Okay. So you don't have any kind of

10 feelings one way or the other for the police based on your job

11 experience?

12 PROSPECTIVE JUROR NO. 437: No.

13 MR. PESCI: Okay. All right, thank you very much,

14 ma'am. If you could pass the mic just one over.

15 Ms. Graham?

16 PROSPECTIVE JUROR NO. 451: Yes.

17 MR. PESCI: Badge number --

18 PROSPECTIVE JUROR NO. 451: 45 --

19 MR. PESCI: -- 451?

20 PROSPECTIVE JUROR NO. 451: Yes, 451.

21 MR. PESCI: Thank you for standing. So, ma'am,

22 you're a fourth grade school teacher; is that correct?

23 PROSPECTIVE JUROR NO. 451: Yes.

24 MR. PESCI: All right. And then, how long have you

25 done that?

1 PROSPECTIVE JUROR NO. 451: A long time. 16 years
2 or more.

3 MR. PESCI: Fourth grade the whole time, or?

4 PROSPECTIVE JUROR NO. 451: No, I've done first,
5 second, third, special education. Just most recently, been in
6 fourth grade about six years.

7 MR. PESCI: Okay. And kind of a similar question
8 that I asked Mr. Casucci. Do you have situations with kids
9 where sometimes they're each alleging something different?

10 PROSPECTIVE JUROR NO. 451: All the time.

11 MR. PESCI: Right. I would assume that that would
12 happen on a daily basis?

13 PROSPECTIVE JUROR NO. 451: Daily basis.

14 MR. PESCI: Do you have to sometimes kind of make a
15 decision, even though you have conflicting information?

16 PROSPECTIVE JUROR NO. 451: Yes.

17 MR. PESCI: Are you comfortable with making a
18 decision that way?

19 PROSPECTIVE JUROR NO. 451: Yes.

20 MR. PESCI: What is it that makes you feel
21 comfortable? How do you approach it?

22 PROSPECTIVE JUROR NO. 451: Well, experience, having
23 done it so many times. It's different because it's kids, you
24 know? I kind of know the psychology of children, and I can
25 kind of, just from my experience, tell. Each side has got an

1 element of truth, and we kind of meet in the middle. And
2 then, as the adult in the room, I have to make the decision
3 which way we're going to go, just so that conflict doesn't
4 keep happening, and we can put an end to it, and everybody
5 moves on.

6 MR. PESCI: And are you comfortable doing that, even
7 though you might not have every bit of information out there
8 in the universe?

9 PROSPECTIVE JUROR NO. 451: I think so. Does it
10 make me right? I don't know, but I'm comfortable doing it.

11 MR. PESCI: As far as making that decision?

12 PROSPECTIVE JUROR NO. 451: Yeah.

13 MR. PESCI: Okay. Real quick, before you sit down.

14 PROSPECTIVE JUROR NO. 451: Sure.

15 MR. PESCI: You served as a foreperson on a jury?

16 PROSPECTIVE JUROR NO. 451: Yes, civil.

17 MR. PESCI: Civil?

18 PROSPECTIVE JUROR NO. 451: Um-hum.

19 MR. PESCI: Do you recall if it was here in this
20 building?

21 PROSPECTIVE JUROR NO. 451: It was, just a couple
22 doors down.

23 MR. PESCI: How long ago?

24 PROSPECTIVE JUROR NO. 451: Over two years ago.

25 MR. PESCI: Okay.

1 PROSPECTIVE JUROR NO. 451: Maybe two-and-a-half.
2 MR. PESCI: And since it went to a verdict, you were
3 given instructions about the standard of proof for that civil
4 case, right?
5 PROSPECTIVE JUROR NO. 451: Yes.
6 MR. PESCI: All right. So in a criminal case, it's
7 a different standard.
8 PROSPECTIVE JUROR NO. 451: Right.
9 MR. PESCI: So it's proof beyond a reasonable doubt.
10 And the Judge is going to instruct us exactly what that is,
11 but would you be able to follow that standard as opposed to
12 what you did in the civil case?
13 PROSPECTIVE JUROR NO. 451: Oh, yeah, because I
14 don't even remember what that was.
15 MR. PESCI: That's perfect. All right.
16 PROSPECTIVE JUROR NO. 451: Yes.
17 MR. PESCI: Thank you very much, ma'am. Could you
18 hand the microphone over just one?
19 Ma'am, how are you?
20 PROSPECTIVE JUROR NO. 461: I'm great, thanks.
21 MR. PESCI: Ms. Quinn, 461?
22 PROSPECTIVE JUROR NO. 461: 461.
23 MR. PESCI: All right, thank you. Now, I was trying
24 to remember, was it you were the travel agent, or was it your
25 spouse?

1 PROSPECTIVE JUROR NO. 461: Me.

2 MR. PESCI: Okay, you?

3 PROSPECTIVE JUROR NO. 461: Corporate travel agent,
4 yes.

5 MR. PESCI: All right. And how much are you being
6 affected by being here as far as the travel and the work?

7 PROSPECTIVE JUROR NO. 461: Oh, I'm covered. I'm
8 good.

9 MR. PESCI: Okay. All right, so someone else was
10 able to cover that?

11 PROSPECTIVE JUROR NO. 461: Yes, absolutely.

12 MR. PESCI: Okay.

13 PROSPECTIVE JUROR NO. 461: Um-hum.

14 MR. PESCI: A question kind of to you, and then
15 we'll push it out to everybody else, as I've done earlier.

16 You know, there are rules, very specific rules in
17 the courtroom of what we can and can't do. Right now is one
18 of the rare times we can speak to you. When we're not in this
19 phase, we -- we, all the attorneys -- we literally can't speak
20 to you, right? It's a rule. We might seem like total jerks
21 because we don't open the door for you. You ask us what
22 time's court starting, and we're not talking to you because
23 the Court has said we cannot do that. Are you okay with that
24 concept?

25 PROSPECTIVE JUROR NO. 461: Um-hum. Yes,

1 absolutely.

2 MR. PESCI: How about everybody else?

3 MEMBERS OF THE PROSPECTIVE JURY PANEL: Yes.

4 MR. PESCI: All right. So please, if you want the
5 door open and you're expecting it, or you're just like, "What
6 time," we can't talk to you at all. And if you do, we kind of
7 have to report it, and then all that goes from there. But
8 some people are uncomfortable with that, right? Because it's
9 kind of antisocial, but it's just we're trying to follow the
10 rules that we have to do. Is that okay with everybody?

11 PROSPECTIVE JUROR NO. 461: Yes.

12 MR. PESCI: All right. Thank you very much, ma'am.
13 If you could pass the microphone over one.

14 Ms. Estrella, how are you?

15 PROSPECTIVE JUROR NO. 462: Good, how are you?

16 MR. PESCI: Good, thank you. 462 is your badge
17 number?

18 PROSPECTIVE JUROR NO. 462: Yes.

19 MR. PESCI: All right, thank you. Can you see with
20 everybody standing?

21 MR. RUGGEROLI: Yes, thank you.

22 MR. PESCI: Okay. So, ma'am, you are a student with
23 CSN, but you're not currently enrolled?

24 PROSPECTIVE JUROR NO. 462: I am currently enrolled.

25 MR. PESCI: Okay, I misunderstood. I apologize. I

1 thought you were not in -- you're not full-time right now?
2 PROSPECTIVE JUROR NO. 462: Yes.
3 MR. PESCI: Okay.
4 PROSPECTIVE JUROR NO. 462: I'm not full-time, but I
5 am enrolled (indiscernible).
6 MR. PESCI: Are you missing class this week?
7 PROSPECTIVE JUROR NO. 462: I have school today.
8 MR. PESCI: Right.
9 PROSPECTIVE JUROR NO. 462: Yeah, but --
10 MR. PESCI: Okay, that's what I was trying to get
11 to. I think we've got another student here as well. You had
12 an exam today, right, ma'am? All right, we're going to get to
13 you in just a second. So is your schoolwork being affected by
14 this?
15 PROSPECTIVE JUROR NO. 462: No, I can balance my
16 schoolwork and between here, too.
17 MR. PESCI: All right. What days are class?
18 PROSPECTIVE JUROR NO. 462: It's Monday and
19 Wednesday.
20 MR. PESCI: Monday and Wednesday. What hours?
21 PROSPECTIVE JUROR NO. 462: 6:00 to 10:30.
22 MR. PESCI: So 6:00 P.M. --
23 PROSPECTIVE JUROR NO. 462: Yes.
24 MR. PESCI: -- to 10:30? Okay, all right.
25 PROSPECTIVE JUROR NO. 462: Yeah.

1 MR. PESCI: So if you come here during the day,
2 you're not going to miss any classes?

3 PROSPECTIVE JUROR NO. 462: Yes.

4 MR. PESCI: All right, but you're missing a class
5 today, you said?

6 PROSPECTIVE JUROR NO. 462: No, I -- I can go right
7 after the court and --

8 MR. PESCI: Are you good time-wise if we end at 5:00
9 -- because normally, the Court will have us end at 5:00 -- to
10 make it to school on time?

11 PROSPECTIVE JUROR NO. 462: Yes, I can make it to
12 school by 6:00.

13 MR. PESCI: Okay, perfect. What are you studying?

14 PROSPECTIVE JUROR NO. 462: I am studying bachelor's
15 of medical lab scientist.

16 MR. PESCI: What do you want to do with that?

17 PROSPECTIVE JUROR NO. 462: I want to, like, be in
18 the lab and examine the blood, because I also took phlebotomy,
19 so I already have like a little bit experience in that, too.

20 MR. PESCI: All right, wonderful. Thank you so
21 much. Could you pass the microphone up? And then we're going
22 to send it down the row, all the way over.

23 And actually, Mr. -- hold on. Mr. O'Brien, we
24 pretty much spoke to you yesterday. Do you have anything you
25 wanted to add? Kind of, you're the gunsmith, and all those

1 things?

2 PROSPECTIVE JUROR NO. 464: Not if you don't.

3 MR. PESCI: Okay. All right, perfect. Could you

4 hand it over one?

5 All right. Ms. Newell, Badge number 468?

6 PROSPECTIVE JUROR NO. 468: 468.

7 MR. PESCI: Okay, thank you, ma'am. So if I heard

8 correctly, you have a test today?

9 PROSPECTIVE JUROR NO. 468: Yes.

10 MR. PESCI: Okay. What's going on with that?

11 PROSPECTIVE JUROR NO. 468: I don't know. My

12 professor didn't e-mail me back, but I'm pretty sure she'll

13 excuse it, and I'll just make it up in office hours.

14 MR. PESCI: Okay. Do you think you will be able to

15 do that?

16 PROSPECTIVE JUROR NO. 468: Um-hum.

17 MR. PESCI: Okay. Is that a yes?

18 PROSPECTIVE JUROR NO. 468: That's a yes.

19 MR. PESCI: Yeah, I apologize. That's that silly

20 thing we have to do on the record. It's not really silly, but

21 it's uncomfortable sometimes. So the test is today?

22 PROSPECTIVE JUROR NO. 468: The test is today.

23 MR. PESCI: Okay. And you haven't heard back yet

24 from the professor if she or he will let you make it up?

25 PROSPECTIVE JUROR NO. 468: No.

1 MR. PESCI: Okay. What days of the week are you in
2 class?
3 PROSPECTIVE JUROR NO. 468: Monday and Wednesday.
4 MR. PESCI: And are you full-time right now?
5 PROSPECTIVE JUROR NO. 468: Um-hum.
6 MR. PESCI: And that's a yes?
7 PROSPECTIVE JUROR NO. 468: Yes.
8 MR. PESCI: Sorry.
9 PROSPECTIVE JUROR NO. 468: Sorry, yes.
10 MR. PESCI: No, no, sorry. So Monday and Wednesday,
11 what are your hours?
12 PROSPECTIVE JUROR NO. 468: 11:30 to 12:45.
13 MR. PESCI: Okay.
14 PROSPECTIVE JUROR NO. 468: And then the rest of my
15 classes are online.
16 MR. PESCI: Are online?
17 PROSPECTIVE JUROR NO. 468: Um-hum.
18 MR. PESCI: All right. But as far as Mondays and
19 Wednesdays, when we're in trial, you're going to be missing
20 class?
21 PROSPECTIVE JUROR NO. 468: Yeah.
22 MR. PESCI: Okay. Do you have any other tests on
23 the short horizon?
24 PROSPECTIVE JUROR NO. 468: No, not until February
25 23rd.

1 MR. PESCI: Okay. Is it going to affect your
2 schooling, in essence, by missing potentially the next two
3 weeks of school?

4 PROSPECTIVE JUROR NO. 468: No.

5 MR. PESCI: Okay. And then, if I heard correctly,
6 you said you're doing criminal justice?

7 PROSPECTIVE JUROR NO. 468: Yeah.

8 MR. PESCI: All right. Tell us, what is it you're
9 studying, and what do you want to do?

10 PROSPECTIVE JUROR NO. 468: I want to be a criminal
11 justice attorney.

12 MR. PESCI: Okay. And is there a specific type of
13 attorney, like the prosecution or the defense?

14 PROSPECTIVE JUROR NO. 468: Defense.

15 MR. PESCI: The defense? Okay. And then, so do you
16 want to, from here, go on to law school?

17 PROSPECTIVE JUROR NO. 468: Yeah.

18 MR. PESCI: Okay. Have you looked at different law
19 schools?

20 PROSPECTIVE JUROR NO. 468: Yeah, I'm looking at
21 William Boyd, or if -- I want to move to Atlanta, but I'm not
22 sure.

23 MR. PESCI: Okay. Have you spoken to any attorneys
24 about it?

25 PROSPECTIVE JUROR NO. 468: No, not yet.

1 MR. PESCI: Most of us say, don't go.
2 PROSPECTIVE JUROR NO. 468: Okay.
3 MR. PESCI: Just kidding. So you would like to
4 maybe go here or in Atlanta?
5 PROSPECTIVE JUROR NO. 468: Um-hum, yes.
6 MR. PESCI: All right, and how far off are you from
7 applying to law school?
8 PROSPECTIVE JUROR NO. 468: This is my third year at
9 UNLV, so a year-and-a-half, about.
10 MR. PESCI: All right. Have you looked into the
11 LSAT yet, the test to take it?
12 PROSPECTIVE JUROR NO. 468: No, not yet.
13 MR. PESCI: (Indiscernible). Not really.
14 Okay. Ma'am, anything that we discussed about
15 witnesses coming out of order, or a co-defendant testifying,
16 or anything like that would affect your ability to be fair and
17 impartial?
18 PROSPECTIVE JUROR NO. 468: No.
19 MR. PESCI: All right, thank you very much, ma'am.
20 If you could pass it over.
21 Mr. Rodriguez?
22 PROSPECTIVE JUROR NO. 475: 475.
23 MR. PESCI: Thank you. Sir, you served in the Navy,
24 correct?
25 PROSPECTIVE JUROR NO. 475: Yes, sir.

1 MR. PESCI: Did you ever have to do anything with a
2 court-martial?

3 PROSPECTIVE JUROR NO. 475: No.

4 MR. PESCI: Okay. And then, you talked about how
5 sometimes it might be hard to kind of follow and connect the
6 dots; is that correct?

7 PROSPECTIVE JUROR NO. 475: Yes.

8 MR. PESCI: All right. How's it been going so far;
9 yesterday, today?

10 PROSPECTIVE JUROR NO. 475: I'm okay.

11 MR. PESCI: Okay.

12 PROSPECTIVE JUROR NO. 475: It's pretty simple
13 stuff.

14 MR. PESCI: All right. You've been able to kind of
15 track what we're asking and following us?

16 PROSPECTIVE JUROR NO. 475: Yeah.

17 MR. PESCI: All right. It will be a little bit more
18 entertaining once we get started, right? There will be
19 witnesses; it won't be just us talking. If you have any
20 difficulty in following along, will you let us know?

21 PROSPECTIVE JUROR NO. 475: Sure.

22 MR. PESCI: Will you alert the court or the Marshal
23 and let us know so that we can try to address it?

24 PROSPECTIVE JUROR NO. 475: Um-hum.

25 MR. PESCI: And is that a yes?

1 PROSPECTIVE JUROR NO. 475: Yes.
2 MR. PESCI: All right. Any problem with that?
3 PROSPECTIVE JUROR NO. 475: No.
4 MR. PESCI: Okay, thank you very much, sir. If you
5 could pass it over.
6 Mr. -- I pronounce it Bandics?
7 PROSPECTIVE JUROR NO. 477: Yeah, that's right.
8 MR. PESCI: Okay.
9 PROSPECTIVE JUROR NO. 477: 477.
10 MR. PESCI: Thank you very much. Now, you talked
11 about how you're a service technician with Door and Glass?
12 PROSPECTIVE JUROR NO. 477: Yes, that's right.
13 MR. PESCI: Okay. So do you respond to people's
14 homes?
15 PROSPECTIVE JUROR NO. 477: No, it's all -- it's
16 mostly stores.
17 MR. PESCI: Stores?
18 PROSPECTIVE JUROR NO. 477: Yeah.
19 MR. PESCI: Are you involved in like the installing?
20 PROSPECTIVE JUROR NO. 477: Installing and repairs.
21 MR. PESCI: Okay, and how long have you been doing
22 that?
23 PROSPECTIVE JUROR NO. 477: For about four or five
24 months, but I've been with this company for about -- almost a
25 year, so a year in April.

1 MR. PESCI: What did you do before this portion of
2 the work of installing?

3 PROSPECTIVE JUROR NO. 477: Glazing, which is
4 installing glass in storefronts for stores.

5 MR. PESCI: Are you on a team of people, or are you
6 by yourself when you're doing these jobs?

7 PROSPECTIVE JUROR NO. 477: It depends. For the
8 glazing, you're usually with two to three other guys. Just
9 depends on the job. And then, for the door side, usually have
10 a partner with you. But I'm pretty new, so once I get up
11 there, they'll start sending me out by myself.

12 MR. PESCI: Okay. And so, working with others,
13 you're able to do that? If you're on a jury, you'll be
14 working with others in your deliberation process. Any
15 problems --

16 PROSPECTIVE JUROR NO. 477: Yeah.

17 MR. PESCI: -- with that?

18 PROSPECTIVE JUROR NO. 477: No, no problems.

19 MR. PESCI: All right, thank you very much, sir.

20 If you could pass the microphone over one to Mr.
21 Salazar.

22 PROSPECTIVE JUROR NO. 482: 482.

23 MR. PESCI: Thank you, Mr. Salazar. Okay, so you
24 are an armed guard driver with Loomis; is that correct?

25 PROSPECTIVE JUROR NO. 482: Correct.

1 MR. PESCI: And how long have you been doing that?
2 PROSPECTIVE JUROR NO. 482: A few months.
3 MR. PESCI: Did you have to go to any special
4 training for that?
5 PROSPECTIVE JUROR NO. 482: Just the -- like the
6 armed guard class. That was it.
7 MR. PESCI: Okay. Is it training about firearms?
8 PROSPECTIVE JUROR NO. 482: Yeah.
9 MR. PESCI: Okay. Did you have a firearm before
10 that job?
11 PROSPECTIVE JUROR NO. 482: Yes.
12 MR. PESCI: Okay. And in that training, did you
13 deal or interact with the police at all?
14 PROSPECTIVE JUROR NO. 482: No.
15 MR. PESCI: And then, setting aside training, but
16 the actual job, do you have much interaction with the police?
17 PROSPECTIVE JUROR NO. 482: I wave "hi" sometimes.
18 That's it.
19 MR. PESCI: All right. So you haven't had any
20 situations where the police have responded to a scene --
21 PROSPECTIVE JUROR NO. 482: No.
22 MR. PESCI: -- that you were on, or something of
23 that nature?
24 PROSPECTIVE JUROR NO. 482: No, not at all.
25 MR. PESCI: All right. So there wouldn't be

1 anything about police officers that you're going to treat them
2 better or worse based on any life experience?

3 PROSPECTIVE JUROR NO. 482: No.

4 MR. PESCI: Okay, thank you very much. If you could
5 pass the microphone.

6 Okay, Ms. Cook?

7 PROSPECTIVE JUROR NO. 483: Yes, 483.

8 MR. PESCI: Yes, thank you very much. So, ma'am,
9 teacher in the fifth grade?

10 PROSPECTIVE JUROR NO. 483: Yes.

11 MR. PESCI: How long have you been doing that?

12 PROSPECTIVE JUROR NO. 483: Just for a little over a
13 year.

14 MR. PESCI: A little over a year?

15 PROSPECTIVE JUROR NO. 483: Yeah.

16 MR. PESCI: Did you do -- or did you teach before
17 that, or were you doing a different profession?

18 PROSPECTIVE JUROR NO. 483: I was just a substitute
19 teacher prior to that.

20 MR. PESCI: Okay.

21 PROSPECTIVE JUROR NO. 483: And then, yeah, I
22 finished my student teaching last year, so.

23 MR. PESCI: All right, wonderful.

24 Similar to the questions to the other teachers, do
25 you ever have to resolve conflict between students?

1 PROSPECTIVE JUROR NO. 483: Yes. Like she said,
2 daily.

3 MR. PESCI: And sometimes, do they have just
4 completely different versions of the events?

5 PROSPECTIVE JUROR NO. 483: Correct.

6 MR. PESCI: And are you able to kind of assess that
7 and make a determination what you think occurred based on all
8 the information?

9 PROSPECTIVE JUROR NO. 483: Yes.

10 MR. PESCI: Any problems doing that?

11 PROSPECTIVE JUROR NO. 483: No.

12 MR. PESCI: Okay. And you served on a jury before,
13 correct?

14 PROSPECTIVE JUROR NO. 483: Yeah. Like I said, it
15 was civil, and it was settled --

16 MR. PESCI: Civil, and it settled?

17 PROSPECTIVE JUROR NO. 483: -- almost immediately.

18 MR. PESCI: So the question I wanted to get to is
19 did -- did you say almost immediately?

20 PROSPECTIVE JUROR NO. 483: Yeah, like by the time
21 we returned the next day.

22 MR. PESCI: Okay. So did any witnesses get on the
23 stand?

24 PROSPECTIVE JUROR NO. 483: No.

25 MR. PESCI: All right, that's where I was trying to

1 go, to figure out if you actually heard or assessed people's
2 testimony.

3 PROSPECTIVE JUROR NO. 483: No.

4 MR. PESCI: Okay. Do you have any problems doing
5 that, having witnesses come in and making assessments based on
6 their testimony, their evidence?

7 PROSPECTIVE JUROR NO. 483: No.

8 MR. PESCI: Do you think you could be fair to both
9 sides?

10 PROSPECTIVE JUROR NO. 483: I can.

11 MR. PESCI: All right, thank you very much, ma'am.

12 PROSPECTIVE JUROR NO. 483: Thank you.

13 MR. PESCI: If you could pass the microphone over.
14 Ms. Young, you got grilled yesterday, right? Anything you
15 want to add?

16 PROSPECTIVE JUROR NO. 485: No.

17 MR. PESCI: Okay, if you want to pass the mic. All
18 right. I mean, if you want to talk, we can.

19 PROSPECTIVE JUROR NO. 485: No.

20 MR. PESCI: All right. Mr. -- do I pronounce it
21 Deperio?

22 PROSPECTIVE JUROR NO. 488: Yes, 488.

23 MR. PESCI: Thank you very much. We're asking this
24 of all the people on juries before. Yours was a criminal
25 case?

1 PROSPECTIVE JUROR NO. 488: Yes.

2 MR. PESCI: And when was it?

3 PROSPECTIVE JUROR NO. 488: I don't exactly remember

4 the --

5 MR. PESCI: It's okay.

6 PROSPECTIVE JUROR NO. 488: -- the year. It's been

7 a while.

8 MR. PESCI: Was it here?

9 PROSPECTIVE JUROR NO. 488: Yes.

10 MR. PESCI: All right. Do you remember if it was

11 the District Attorney's Office, or the City Attorney's Office?

12 PROSPECTIVE JUROR NO. 488: I don't remember.

13 MR. PESCI: Okay, that's all right. Don't tell us

14 what the verdict was, but you came to a verdict?

15 PROSPECTIVE JUROR NO. 488: Yes.

16 MR. PESCI: So you want back in the deliberation

17 room and talked it out with your fellow jurors?

18 PROSPECTIVE JUROR NO. 488: Yes.

19 MR. PESCI: How did you like that experience?

20 PROSPECTIVE JUROR NO. 488: I didn't really like it

21 because -- this is just me. You know, I'm a very quiet

22 person, so I didn't really get to engage with the other jurors

23 as far as like conversing, or talking about what just

24 happened, or the testimony, or whatnot.

25 MR. PESCI: Okay. So did you feel you didn't get to

1 say what you wanted to say?

2 PROSPECTIVE JUROR NO. 488: I mean, I did come up
3 with, you know, my own opinion, like, my conclusion.

4 MR. PESCI: Uh-huh.

5 PROSPECTIVE JUROR NO. 488: But -- and everybody
6 else basically did, you know, have the same conclusion on the
7 case.

8 MR. PESCI: Okay. Do you feel that you would have
9 like the personality such, if you were to be chosen, to be
10 able to make your opinion known to your other jurors?

11 PROSPECTIVE JUROR NO. 488: I can try.

12 MR. PESCI: Okay.

13 PROSPECTIVE JUROR NO. 488: It will be difficult
14 though. I just --

15 MR. PESCI: You're saying because of just your
16 nature?

17 PROSPECTIVE JUROR NO. 488: I'm just a quiet person,
18 yeah.

19 MR. PESCI: Okay. It wasn't that the jurors told
20 you, we don't want to hear from you?

21 PROSPECTIVE JUROR NO. 488: No, no, no, it's not
22 that.

23 MR. PESCI: Okay. So you're saying that you're not
24 as talkative maybe as some other people?

25 PROSPECTIVE JUROR NO. 488: Right, yeah.

1 MR. PESCI: Okay. But anything about that
2 experience that would affect your ability to be fair and
3 impartial?
4 PROSPECTIVE JUROR NO. 488: No.
5 MR. PESCI: All right, thank you very much.
6 Mr. Castro, how are you?
7 PROSPECTIVE JUROR NO. 490: I'm good, how are you?
8 MR. PESCI: Good, thank you. 490?
9 PROSPECTIVE JUROR NO. 490: 490.
10 MR. PESCI: 490. And I'm going to see if I'm
11 blocking anybody.
12 MR. RUGGEROLI: I can see. Thank you.
13 MR. PESCI: Okay. We just all want to be able to
14 see.
15 So when you said you're a software engineer, what
16 exactly do you do?
17 PROSPECTIVE JUROR NO. 490: I troubleshoot -- we
18 troubleshoot applications and fix when you find --
19 MR. PESCI: For a particular product, or for a
20 certain company?
21 PROSPECTIVE JUROR NO. 490: For the company.
22 MR. PESCI: Okay, so the company that you work for?
23 PROSPECTIVE JUROR NO. 490: Yes.
24 MR. PESCI: All right, kind of like IT for the
25 company?

1 PROSPECTIVE JUROR NO. 490: Yes.

2 MR. PESCI: All right, all right. I understand that
3 a little bit better now. I apologize. Any reason that you
4 could not sit in judgment of another human being?

5 PROSPECTIVE JUROR NO. 490: No reason.

6 MR. PESCI: Could you follow the law, even if you
7 don't necessarily agree with it?

8 PROSPECTIVE JUROR NO. 490: Yes.

9 MR. PESCI: Thank you very much, sir. If we could
10 pass it forward, and then we'll go all the way down.
11 I think we're going to Ms. Segura?

12 PROSPECTIVE JUROR NO. 496: Yes.

13 MR. PESCI: Correct? And she's Badge, I believe,
14 496.

15 PROSPECTIVE JUROR NO. 496: That's correct.

16 MR. PESCI: All right, thank you, ma'am. You work
17 at Valley Hospital?

18 PROSPECTIVE JUROR NO. 496: I do.

19 MR. PESCI: And then, the Court talked to you.
20 You've been able to find out that you're okay to be here as
21 far as work goes?

22 PROSPECTIVE JUROR NO. 496: Yes, I am.

23 MR. PESCI: Okay. And in Valley Hospital, are you
24 in like the emergency room area, or where is it that you are?

25 PROSPECTIVE JUROR NO. 496: I'm on a med-surg floor,

1 so it's 3 Tower, but people who get admitted into the hospital
2 from the emergency room come to us first unless they're
3 critical.

4 MR. PESCI: Okay, and that's what I was trying to
5 figure out, because if you're like in the emergency room, you
6 might deal with police officers bringing somebody in or the
7 paramedics bringing somebody in.

8 PROSPECTIVE JUROR NO. 496: No, we don't deal with
9 that.

10 MR. PESCI: So you get -- your part in the process
11 is after they've come up, and they've been sent to a surgery?

12 PROSPECTIVE JUROR NO. 496: That's correct.

13 MR. PESCI: Okay. You may hear some medical
14 testimony in this case from a coroner. You're able to bring
15 your common sense and your own experience to the courtroom,
16 but the evidence has to be from the actual witness stand. Are
17 you okay with that concept?

18 PROSPECTIVE JUROR NO. 496: Yes.

19 MR. PESCI: You can use your common sense, your own
20 training and experience, but it's based off of what you'll
21 hear from the witness stand. Is that okay with you?

22 PROSPECTIVE JUROR NO. 496: Yes.

23 MR. PESCI: Any problems with that?

24 PROSPECTIVE JUROR NO. 496: No.

25 MR. PESCI: All right. Any of the other questions

1 that we spoke of that you wanted to share some thoughts or
2 feelings?

3 PROSPECTIVE JUROR NO. 496: No.

4 MR. PESCI: Are you happy to pass the mic?

5 PROSPECTIVE JUROR NO. 496: Yep.

6 MR. PESCI: All right, pass it on. Mr. Laurie?

7 PROSPECTIVE JUROR NO. 513: Yeah.

8 MR. PESCI: We talked yesterday and today. So how's
9 the travel from Mesquite? How's that --

10 PROSPECTIVE JUROR NO. 513: Long.

11 MR. PESCI: Laughlin or Mesquite? I --

12 PROSPECTIVE JUROR NO. 513: Mesquite.

13 MR. PESCI: Mesquite?

14 PROSPECTIVE JUROR NO. 513: Yeah.

15 MR. PESCI: Have you been able to work that out?

16 PROSPECTIVE JUROR NO. 513: I think so. I'll be
17 able to handle it.

18 MR. PESCI: Okay. One thing I wanted to ask you,
19 there's a statement that you made yesterday. You said you
20 made an assumption about the case. Is that based on our
21 conversations here, or from something outside of the
22 courtroom?

23 PROSPECTIVE JUROR NO. 513: Something outside of the
24 courtroom.

25 MR. PESCI: Okay. Hold on one second.

1 PROSPECTIVE JUROR NO. 513: Sure, I understand.
2 MR. PESCI: Can we approach, Your Honor?
3 THE COURT: Sure.
4 (Bench conference)
5 MR. PESCI: I don't know what that's based on, and I
6 don't want to ask in front of everybody. Should we bring him
7 up here?
8 THE COURT: We can bring him up here.
9 MR. PESCI: How do you want to do that?
10 THE COURT: We can --
11 MR. SANFT: Yeah.
12 MR. PESCI: Okay.
13 THE COURT: -- just tell him to come up here.
14 (End of bench conference)
15 THE COURT: Okay. Do you mind just coming up here?
16 If you can leave the microphone on the chair.
17 (Bench conference)
18 (Prospective Juror No. 513 is present at Bench Conference.)
19 THE COURT: Okay. The record will reflect that Mr.
20 Laurie is present at the bench with all four lawyers. What
21 was that assumption based on?
22 PROSPECTIVE JUROR NO. 513: I have -- I have some
23 females at my work that are very into social media.
24 THE COURT: Okay.
25 PROSPECTIVE JUROR NO. 513: And the only reason I

1 remember it is because I have a doctor that's named Mr.
2 Wheeler --

3 THE COURT: Okay.

4 PROSPECTIVE JUROR NO. 513: -- and I remember them
5 bringing this up, and I made a connection.

6 THE COURT: So you made an assumption, or a
7 connection between --

8 PROSPECTIVE JUROR NO. 513: A connection.

9 THE COURT: Okay, between something the women at
10 your work talked about?

11 PROSPECTIVE JUROR NO. 513: Correct.

12 THE COURT: That they got off of social media?

13 PROSPECTIVE JUROR NO. 513: Correct.

14 THE COURT: Okay. And you know what I'm going to
15 ask you, right? Will you be able to set that aside and judge
16 this case based solely on the evidence that you see and hear
17 in the courtroom, and not what the ladies at work talked
18 about?

19 PROSPECTIVE JUROR NO. 513: Solely on the evidence
20 here in this courtroom? I think it would -- I think it would
21 be difficult to -- to separate from what I've heard and read.

22 THE COURT: And what have you heard?

23 PROSPECTIVE JUROR NO. 513: They -- am I allowed to
24 talk freely?

25 MR. PESCI: Yeah, you're doing great.

1 PROSPECTIVE JUROR NO. 513: Am I allowed to talk --
2 okay.
3 THE COURT: Yeah, of course.
4 PROSPECTIVE JUROR NO. 513: It was --
5 MR. PESCI: You did nothing wrong.
6 PROSPECTIVE JUROR NO. 513: It was -- sure.
7 MR. PESCI: We're just -- we just wanted you to tell
8 us --
9 THE COURT: Yeah, you're fine.
10 PROSPECTIVE JUROR NO. 513: I know about the
11 Facebook posts that were made from -- they know about the
12 newspaper and the connection between that and Facebook.
13 They're on social media a lot, and they brought it up to me.
14 THE COURT: Okay, the women at work?
15 PROSPECTIVE JUROR NO. 513: Yes.
16 THE COURT: Okay. What did they say?
17 PROSPECTIVE JUROR NO. 513: About these kids that
18 have committed the crime. And I'm trying not to -- they
19 committed a crime in Las Vegas, they talked about, because we
20 work at a Dollar General --
21 THE COURT: Uh-huh.
22 PROSPECTIVE JUROR NO. 513: -- and I guess it was
23 linked. We're always concerned.
24 THE COURT: I'm sorry, guess it was what?
25 PROSPECTIVE JUROR NO. 513: It was linked to a

1 convenience store robbery, I guess, so we're always concerned
2 about robberies in the area. I'm always looking on
3 newspapers. So they -- we know about that -- she knew about
4 it.

5 THE COURT: Okay. And when did you have this
6 conversation with the people at work?

7 PROSPECTIVE JUROR NO. 513: I -- just a little while
8 back, maybe a couple weeks ago.

9 THE COURT: Oh, just a couple weeks ago?

10 PROSPECTIVE JUROR NO. 513: Yeah.

11 THE COURT: All right. Have you told us everything
12 that you learned?

13 PROSPECTIVE JUROR NO. 513: Pretty much. No, I've
14 read the newspaper and the Las Vegas Times after they brought
15 that to my attention.

16 THE COURT: Las Vegas Times? What's that?

17 PROSPECTIVE JUROR NO. 513: Yes, it's in Las --
18 what's -- I don't know, it's the --

19 THE COURT: Is that a newspaper?

20 PROSPECTIVE JUROR NO. 513: -- local newspaper here
21 in town.

22 THE COURT: Well, called Las Vegas Times?

23 PROSPECTIVE JUROR NO. 513: I don't know, it's just
24 Las Vegas Something, right?

25 THE COURT: Okay, well, Review Journal?

1 PROSPECTIVE JUROR NO. 513: Sure.

2 THE COURT: Is that what you meant?

3 PROSPECTIVE JUROR NO. 513: Yeah.

4 THE COURT: Okay, all right. And again, I'm going
5 to ask you, will you be able to set aside anything that you've
6 heard at work or read in the newspaper, and judge this case
7 based solely on the evidence that you hear in the courtroom?

8 PROSPECTIVE JUROR NO. 513: Yes, I could do that,
9 sure.

10 THE COURT: Okay, because you understand how it
11 would be unfair --

12 PROSPECTIVE JUROR NO. 513: Yeah, immediately, yeah.

13 THE COURT: -- to have jurors relying on what --
14 first of all, you can't rely on what you hear in the media.

15 PROSPECTIVE JUROR NO. 513: Sure. Oh, no, I
16 understand.

17 THE COURT: I mean, can we agree on that?

18 PROSPECTIVE JUROR NO. 513: Yeah.

19 THE COURT: I mean, it's not always correct.

20 PROSPECTIVE JUROR NO. 513: Sure, yeah.

21 THE COURT: Okay. We want you to rely on the
22 evidence as it comes out in the courtroom. Do you --

23 PROSPECTIVE JUROR NO. 513: Of course.

24 THE COURT: -- understand that? And you also
25 understand that you can't talk about this case with anyone,

1 including --

2 PROSPECTIVE JUROR NO. 513: Of course, I haven't.

3 THE COURT: -- the women at your work, unless and

4 until you are discharged as a juror?

5 PROSPECTIVE JUROR NO. 513: Sure, yeah.

6 THE COURT: Then you can talk about it.

7 PROSPECTIVE JUROR NO. 513: I understand.

8 THE COURT: You can tell them you're a juror in a

9 criminal case; I don't even want you to tell them what

10 criminal case it is.

11 PROSPECTIVE JUROR NO. 513: No, yeah --

12 THE COURT: Do you understand that?

13 PROSPECTIVE JUROR NO. 513: Yeah, I even told my

14 mother, and --

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NO. 513: So, yeah.

17 THE COURT: And you'll comply with that?

18 PROSPECTIVE JUROR NO. 513: Sure.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR NO. 513: Yes.

21 THE COURT: At some point, you can talk about the

22 case if you want to, but not until you are discharged as a

23 juror. Do you understand that?

24 PROSPECTIVE JUROR NO. 513: Like I said, the only

25 reason I made the assumption is because my doctor was named

1 Wheeler --

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NO. 513: -- and I remember

4 reading in the newspaper article about the Wheeler.

5 THE COURT: Okay, so you just made a connection --

6 PROSPECTIVE JUROR NO. 513: I did immediately, yes.

7 THE COURT: -- that this is the case the women at --

8 PROSPECTIVE JUROR NO. 513: Correct.

9 THE COURT: -- work must have been talking about?

10 PROSPECTIVE JUROR NO. 513: Yes.

11 THE COURT: Okay, and just a couple weeks ago?

12 PROSPECTIVE JUROR NO. 513: I'm not sure.

13 THE COURT: Why were they talking about it a couple

14 weeks ago?

15 PROSPECTIVE JUROR NO. 513: I don't know. It was

16 something on Facebook that she read.

17 THE COURT: Okay. All right, anything else from the

18 State?

19 MR. PESCI: No from the State.

20 MR. RUGGEROLI: Did you --

21 THE COURT: Mr. Ruggeroli? Mr. Sanft?

22 MR. RUGGEROLI: Did you happen to speak with any of

23 the other prospective jurors about any of that at all?

24 PROSPECTIVE JUROR NO. 513: No, not at all, no.

25 Because I knew immediately what was -- it was -- yeah.

1 THE COURT: Mr. Sanft?
2 MR. SANFT: No questions, Your Honor.
3 THE COURT: Okay. Thank you for coming up here --
4 PROSPECTIVE JUROR NO. 513: Sure.
5 THE COURT: -- and answering our questions. Thank
6 you.
7 MR. PESCI: Thank you, Your Honor.
8 THE COURT: Thank you.
9 (End of bench conference)
10 THE COURT: Okay, you may proceed.
11 MR. PESCI: All right. Thank you very much, sir.
12 Appreciate it. Would you mind handing the microphone over
13 one? Ms. Moreno?
14 PROSPECTIVE JUROR NO. 520: Yes, 520.
15 MR. PESCI: Thank you. How are you?
16 PROSPECTIVE JUROR NO. 520: I'm good.
17 MR. PESCI: And you work in payroll?
18 PROSPECTIVE JUROR NO. 520: Yes, I've been working
19 in payroll since 2013.
20 MR. PESCI: Okay. Any problems with your work as
21 far as you being here to serve on the jury?
22 PROSPECTIVE JUROR NO. 520: No.
23 MR. PESCI: So you won't have any issues with work
24 that way?
25 PROSPECTIVE JUROR NO. 520: No.

1 MR. PESCI: Okay. Some of the questions that we've
2 asked as far as taking witnesses out of order, or maybe,
3 somebody that's not here, but a co-defendant testifying, would
4 that affect your ability to be fair or impartial in this case?

5 PROSPECTIVE JUROR NO. 520: No.

6 MR. PESCI: Okay. And could you apply the law, even
7 if you don't necessarily agree with all of it?

8 PROSPECTIVE JUROR NO. 520: Yes.

9 MR. PESCI: All right, thank you very much, ma'am.
10 Pass the microphone.

11 Ms. Perez-Haywood?

12 PROSPECTIVE JUROR NO. 521: Yes.

13 MR. PESCI: Okay, and Badge 521?

14 PROSPECTIVE JUROR NO. 521: 521.

15 MR. PESCI: All right, thank you. Middle school
16 teacher. I've got to ask all the teachers, right? How long
17 have you been doing that?

18 PROSPECTIVE JUROR NO. 521: About eight years.

19 MR. PESCI: Okay. And middle school -- I mean,
20 maybe I'm wrong. At least my kids have been going through
21 middle school; that's like the hardest.

22 PROSPECTIVE JUROR NO. 521: Yes, it's challenging.

23 MR. PESCI: There's a lot of butting heads among
24 students.

25 PROSPECTIVE JUROR NO. 521: Yeah, it's challenging.

1 Yeah.

2 MR. PESCI: Okay. How do you deal with that

3 challenge?

4 PROSPECTIVE JUROR NO. 521: I love my job.

5 MR. PESCI: Okay.

6 PROSPECTIVE JUROR NO. 521: Yeah. I like working

7 with people and the students, passing the knowledge. I like

8 it.

9 MR. PESCI: Well, good. Are you able to kind of

10 resolve conflicts when they sometimes have them?

11 PROSPECTIVE JUROR NO. 521: Yes, sometimes. Yes.

12 MR. PESCI: And do you think that you could do that

13 in this kind of a case? So listen to the evidence; if there

14 maybe is a conflict, then kind of assess what you think

15 occurred?

16 PROSPECTIVE JUROR NO. 521: Yes.

17 MR. PESCI: All right. Do you think you can be fair

18 to both sides?

19 PROSPECTIVE JUROR NO. 521: Definitely.

20 MR. PESCI: All right, thank you very much, ma'am.

21 All right. Ms. Mendoza, you are Badge number --

22 PROSPECTIVE JUROR NO. 524: 524.

23 MR. PESCI: 524. All right, thank you very much.

24 You've been in Vegas, you said, for ten years, correct?

25 PROSPECTIVE JUROR NO. 524: Yes.

1 MR. PESCI: Where were you before that?

2 PROSPECTIVE JUROR NO. 524: Kind of back and forth

3 between California and New Mexico for a couple years, and

4 then, 2009, we settled here.

5 MR. PESCI: Okay. And then, if I've understood

6 correctly, you're going to school, but not right now?

7 PROSPECTIVE JUROR NO. 524: Yeah.

8 MR. PESCI: Okay. What were you studying?

9 PROSPECTIVE JUROR NO. 524: Education.

10 MR. PESCI: What would you like to do with that?

11 PROSPECTIVE JUROR NO. 524: I'd like to teach

12 history.

13 MR. PESCI: Okay, even with what you're hearing from

14 the other teachers?

15 PROSPECTIVE JUROR NO. 524: Yes.

16 MR. PESCI: All right. Any reason why you couldn't

17 be fair and impartial --

18 PROSPECTIVE JUROR NO. 524: No.

19 MR. PESCI: -- to both sides?

20 PROSPECTIVE JUROR NO. 524: No.

21 MR. PESCI: All right, thank you very much. If we

22 could pass the mic. Mr. -- how do I pronounce it?

23 PROSPECTIVE JUROR NO. 561: Alex. Alex -- Alex

24 Keang.

25 MR. PESCI: Keang? Okay, thank you. And then,

1 you're Badge number 5 --

2 PROSPECTIVE JUROR NO. 561: 561.

3 MR. PESCI: 561, okay. And then, you came here from

4 Vegas quite some time ago. You moved here, what, in '91?

5 PROSPECTIVE JUROR NO. 561: Yeah, I came here in

6 1991. Yeah.

7 MR. PESCI: Where did you come from?

8 PROSPECTIVE JUROR NO. 561: I come from California.

9 MR. PESCI: Okay. And then, you're working as a

10 dealer where? Which casino?

11 PROSPECTIVE JUROR NO. 561: I work as a dealer at

12 New York-New York.

13 MR. PESCI: The New York-New York?

14 PROSPECTIVE JUROR NO. 561: Yeah.

15 MR. PESCI: How long have you been there?

16 PROSPECTIVE JUROR NO. 561: I've been there since

17 2005.

18 MR. PESCI: 2005? Okay. Have you ever had an

19 occasion while you were at work to have to interact with the

20 police? Have they been called out to an issue while you were

21 working?

22 PROSPECTIVE JUROR NO. 561: I saw -- we have a lot

23 of security at -- in the casino. So when something problem,

24 you know, the casino -- the security just take care of that,

25 or the floorman, you know, they take care of that, but not a

1 dealer. We have to stay on the table; we cannot move
2 anywhere.

3 MR. PESCI: So there are kind of rules about how
4 you're supposed to handle it based on New York-New York's
5 policies?

6 PROSPECTIVE JUROR NO. 561: Yes.

7 MR. PESCI: Okay, and then the hotel security
8 normally deals with it?

9 PROSPECTIVE JUROR NO. 561: Yeah, the hotel
10 security, they would (indiscernible) that problem, yeah.

11 MR. PESCI: Okay. Any interactions with Metro, the
12 police department?

13 PROSPECTIVE JUROR NO. 561: They have Metro, they
14 have security, and they have police, too. Everything, yeah.

15 MR. PESCI: Okay. Any reason that experience with
16 Metro would affect your ability to be fair and impartial to
17 either side?

18 PROSPECTIVE JUROR NO. 561: No.

19 MR. PESCI: Thank you very much, sir.

20 If you could pass the microphone over.

21 Widdison, correct?

22 PROSPECTIVE JUROR NO. 540: It's Staci McCarthy.

23 MR. PESCI: Oh, gosh. I just moved over one. I
24 apologize. Ms. McCarthy, I apologize. And your badge number?

25 PROSPECTIVE JUROR NO. 540: 540.

1 MR. PESCI: All right, and your son, he's cut loose,
2 right?
3 PROSPECTIVE JUROR NO. 540: He's not here today, no.
4 MR. PESCI: So there's no more mom and dad time?
5 PROSPECTIVE JUROR NO. 540: Right.
6 MR. PESCI: I mean, I'm sorry, son and mom?
7 PROSPECTIVE JUROR NO. 540: No.
8 MR. PESCI: Okay. Is he back to work?
9 PROSPECTIVE JUROR NO. 540: Yes.
10 MR. PESCI: Okay. You have a master's in education,
11 but you retired from teaching, correct?
12 PROSPECTIVE JUROR NO. 540: Yes.
13 MR. PESCI: All right, and how long did you teach?
14 PROSPECTIVE JUROR NO. 540: 27 years.
15 MR. PESCI: 27 years. And then, what ages or what
16 levels?
17 PROSPECTIVE JUROR NO. 540: Mostly middle school,
18 but I taught elementary for 12 years, and then middle school
19 for 15.
20 MR. PESCI: All right. Resolving conflicts with
21 students, how did you go about that?
22 PROSPECTIVE JUROR NO. 540: Same thing. Listen to
23 both sides, hear their side to the story, talk to them, talk
24 it out.
25 MR. PESCI: Okay. Do you feel you're skilled at

1 that?

2 PROSPECTIVE JUROR NO. 540: Yes.

3 MR. PESCI: Could you apply those skills here?

4 PROSPECTIVE JUROR NO. 540: Yes.

5 MR. PESCI: All right. Kind of want to shift to

6 your grand jury time. I apologize, I'm going to stand in the

7 middle here. That was a full year?

8 PROSPECTIVE JUROR NO. 540: Yes.

9 MR. PESCI: Okay, and was that the federal grand

10 jury here in Las Vegas?

11 PROSPECTIVE JUROR NO. 540: Right.

12 MR. PESCI: Okay. There's a different standard of

13 proof that needs to be put forth for a grand jury versus a

14 trial. Are you okay with that concept?

15 PROSPECTIVE JUROR NO. 540: Yes.

16 MR. PESCI: You would agree with me that the

17 standard for a grand jury is a lower standard?

18 PROSPECTIVE JUROR NO. 540: Right.

19 MR. PESCI: All right. And the Court's going to

20 give you a very specific explanation of proof beyond a

21 reasonable doubt, but are you okay to hold the State of Nevada

22 to that burden --

23 PROSPECTIVE JUROR NO. 540: Yes.

24 MR. PESCI: -- which is different than what you did

25 for that year? Okay. Anything about that experience that

1 would make you partial for one side or the other?

2 PROSPECTIVE JUROR NO. 540: No.

3 MR. PESCI: Some people might say, hey, you were
4 finding probable cause for a year for the government; are you
5 really someone that should be determining whether someone
6 committed a crime?

7 PROSPECTIVE JUROR NO. 540: I don't think that would
8 affect me.

9 MR. PESCI: Okay. You can still assess the evidence
10 and determine whether or not we make our case?

11 PROSPECTIVE JUROR NO. 540: Right.

12 MR. PESCI: Okay. Anything else on the other
13 questions that you wanted to answer?

14 PROSPECTIVE JUROR NO. 540: No.

15 MR. PESCI: All right, thank you very much, ma'am.
16 Okay, this is Mr. Widdison. I apologize.

17 PROSPECTIVE JUROR NO. 541: Yes, sir. 541.

18 MR. PESCI: 541. Thank you very much. All right,
19 so I am just perplexed by this. You got robbed at gunpoint in
20 Switzerland?

21 PROSPECTIVE JUROR NO. 541: In Switzerland.
22 Lausanne, Switzerland.

23 MR. PESCI: How did they not know you didn't have
24 any money?

25 PROSPECTIVE JUROR NO. 541: That's a really good

1 question.

2 MR. PESCI: Right?

3 PROSPECTIVE JUROR NO. 541: They must not have been
4 casing us very long.

5 MR. PESCI: I was just going to say, if they spent
6 just five minutes casing you, they'd know you didn't have any
7 money.

8 PROSPECTIVE JUROR NO. 541: They didn't get much, I
9 can tell you that.

10 MR. PESCI: All right. Joking aside, did you have
11 to make a police report?

12 PROSPECTIVE JUROR NO. 541: We did. They came over,
13 they sent over three officers, and they didn't do much.

14 MR. PESCI: Yeah.

15 PROSPECTIVE JUROR NO. 541: When I wrote home, I
16 remember I said, they sent over Huey, Dewey, and Louie,
17 because they had no -- they just came in and said, well,
18 you're still alive.

19 MR. PESCI: Okay.

20 PROSPECTIVE JUROR NO. 541: And that was really the
21 goal of what they just -- well, you're okay, it's all right.

22 MR. PESCI: So that's kind of where I wanted to go,
23 is I was trying to figure out if you ever had to go to court
24 based on that case.

25 PROSPECTIVE JUROR NO. 541: No, not at all. There

1 was no contact or anything after that at all.

2 MR. PESCI: All right, so you didn't have to take a
3 witness stand?

4 PROSPECTIVE JUROR NO. 541: Never.

5 MR. PESCI: All right. But unfortunately, that was
6 not the only time you were victimized, correct?

7 PROSPECTIVE JUROR NO. 541: Correct.

8 MR. PESCI: There was a burglary of your home?

9 PROSPECTIVE JUROR NO. 541: Yep, in North Las Vegas.

10 MR. PESCI: In North Las Vegas? Okay. Was anybody
11 caught?

12 PROSPECTIVE JUROR NO. 541: No.

13 MR. PESCI: All right. Did the police even respond?

14 PROSPECTIVE JUROR NO. 541: Yes, they did. They
15 were there when I got home.

16 MR. PESCI: They police got there before you?

17 PROSPECTIVE JUROR NO. 541: Yes.

18 MR. PESCI: Okay. Did they dust for prints?

19 PROSPECTIVE JUROR NO. 541: They did.

20 MR. PESCI: And then, just nothing ever came from
21 it?

22 PROSPECTIVE JUROR NO. 541: Nothing. Nothing came
23 up.

24 MR. PESCI: You know, the criminal justice system,
25 did it fail you? Do you feel like something more should have

1 been done?

2 PROSPECTIVE JUROR NO. 541: No, I think they did

3 what they could.

4 MR. PESCI: Okay. You wouldn't hold that against

5 the police or the prosecution?

6 PROSPECTIVE JUROR NO. 541: Not at all.

7 MR. PESCI: All right. The fact, however, that

8 you've been the victim of a crime before, and specifically a

9 robbery, an armed robbery, can you still be fair and impartial

10 in this case?

11 PROSPECTIVE JUROR NO. 541: Yes, I can.

12 MR. PESCI: All right. Would you agree that that

13 situation in Switzerland, or even the burglaries here in North

14 Las Vegas have nothing to do with these specific facts?

15 PROSPECTIVE JUROR NO. 541: I agree.

16 MR. PESCI: Okay. You can be fair and impartial to

17 both sides?

18 PROSPECTIVE JUROR NO. 541: Yes, I can.

19 MR. PESCI: All right. And then, you have an

20 accounting degree, the certified --

21 PROSPECTIVE JUROR NO. 541: I do. Certified manager

22 accountant.

23 MR. PESCI: All right, for the non-accountants --

24 PROSPECTIVE JUROR NO. 541: Explain what that means.

25 MR. PESCI: Yeah, thank you.

1 PROSPECTIVE JUROR NO. 541: So the best way to
2 explain it is a CPA does the public accounting part of it,
3 like on your taxes, and the reporting for SEC, that kind of
4 stuff. A CMA does it for inside the business to benefit the
5 bosses and the managers.

6 MR. PESCI: Gotcha. Okay. Do you ever have an
7 account not add up?

8 PROSPECTIVE JUROR NO. 541: It happens.

9 MR. PESCI: All right. As much as this sounds
10 weird, are you okay with that, that sometimes --

11 PROSPECTIVE JUROR NO. 541: No, it drives me crazy.

12 MR. PESCI: That's where I was trying to go, right?

13 PROSPECTIVE JUROR NO. 541: Yeah.

14 MR. PESCI: So if every little piece doesn't add up,
15 is it going to drive you crazy?

16 PROSPECTIVE JUROR NO. 541: I -- well, if it's a
17 number, then it drives me crazy; but this wouldn't bother me,
18 no.

19 MR. PESCI: All right, so --

20 PROSPECTIVE JUROR NO. 541: And I know what you
21 mean.

22 MR. PESCI: Outside of a number count, like, you
23 might get this piece of evidence, but just -- you just don't
24 have this piece over here, but we have this piece over there.
25 Are you okay with that, or do you want every single piece?

1 PROSPECTIVE JUROR NO. 541: Well, you want every
2 single piece, but sometimes you're not going to get it.

3 MR. PESCI: That's a really good point. Are you
4 able or do you think you can make a decision without every
5 single piece?

6 PROSPECTIVE JUROR NO. 541: I think so, yes.

7 MR. PESCI: All right, thank you very much, sir.
8 If you could pass the microphone over to Mr. Kubota?

9 PROSPECTIVE JUROR NO. 546: Kubota.

10 MR. PESCI: Okay.

11 PROSPECTIVE JUROR NO. 546: John Kubota, 546.

12 MR. PESCI: Thank you very much. All right.
13 Unfortunately, you've been in a courtroom before?

14 PROSPECTIVE JUROR NO. 546: A few times.

15 MR. PESCI: If I've heard you correctly, were you
16 actually on the witness stand?

17 PROSPECTIVE JUROR NO. 546: No.

18 MR. PESCI: Oh, never called as a witness?

19 PROSPECTIVE JUROR NO. 546: We never went to court.
20 It was always through the -- we gave depositions, and never
21 got past depositions and such.

22 MR. PESCI: All right. Were you present when some
23 of the depositions were held? I'm going to try to make it
24 simple.

25 PROSPECTIVE JUROR NO. 546: Yes. I -- well, I could

1 be, but I wasn't always there, because too many other --
2 MR. PESCI: Too many times?
3 PROSPECTIVE JUROR NO. 546: Right.
4 MR. PESCI: Okay. In that -- and this is where I
5 wanted to go with this. Did you assess the witnesses based on
6 what they said?
7 PROSPECTIVE JUROR NO. 546: Well, yes, but they were
8 just saying, we've reviewed these calculations, and we've
9 reviewed this. And that's why I say, the judge always said,
10 well, nobody ever said you did anything wrong, but you're
11 still guilty.
12 MR. PESCI: Okay. And that concept, I assume,
13 doesn't sit well with you?
14 PROSPECTIVE JUROR NO. 546: Doesn't sit well.
15 MR. PESCI: Okay. Are you okay then with the
16 concept of somebody being held responsible, even though they
17 didn't do every act in the process?
18 PROSPECTIVE JUROR NO. 546: Every -- they --
19 MR. PESCI: So if Mr. -- Parker Brooks and I, we're
20 the DAs in this case.
21 PROSPECTIVE JUROR NO. 546: Right.
22 MR. PESCI: We're both involved in this. Right now,
23 he's just sitting there, right?
24 PROSPECTIVE JUROR NO. 546: Right.
25 MR. PESCI: He hasn't really added a lot to this

1 process, has he?

2 PROSPECTIVE JUROR NO. 546: He's looked pretty.

3 Look at that smile.

4 THE COURT: He will.

5 MR. PESCI: Joking. I'm joking, but on purpose,

6 right?

7 PROSPECTIVE JUROR NO. 546: Right.

8 MR. PESCI: He's here with me; he is attached to me.

9 PROSPECTIVE JUROR NO. 546: Right.

10 MR. PESCI: We're the prosecutors, so he's on the

11 hook for what's going on in here, even though, right now, he's

12 not talking.

13 PROSPECTIVE JUROR NO. 546: Right. He's supposed to

14 be, if nothing else, learning as to how you approach it, and

15 how you ask questions, and where you go with --

16 MR. PESCI: He's got witnesses, believe me.

17 PROSPECTIVE JUROR NO. 546: Right.

18 MR. PESCI: He's going to take some witnesses. So

19 are we okay with the concept of, like, we might be both held

20 to a standard, even though we didn't do the exact same thing?

21 PROSPECTIVE JUROR NO. 546: Oh, yeah.

22 MR. PESCI: Okay. Because, like, differentiating

23 that versus what you've experienced, which was like, look, I

24 didn't do this, but I'm being held responsible; you don't like

25 that concept?

1 PROSPECTIVE JUROR NO. 546: Right.

2 MR. PESCI: But you're open to the idea, assuming we
3 prove it, like, hey, if Person A did this, and Person B did
4 this, they're both responsible?

5 PROSPECTIVE JUROR NO. 546: Yeah.

6 MR. PESCI: Okay, all right. That was the main
7 focus. Now, are you retired now?

8 PROSPECTIVE JUROR NO. 546: No.

9 MR. PESCI: Okay, you're still working?

10 PROSPECTIVE JUROR NO. 546: Still have two kids in
11 high school. I got five, six years to go.

12 MR. PESCI: Understood. Totally get that. All
13 right, anything as far as the other things that we talked
14 about that you wanted to share?

15 PROSPECTIVE JUROR NO. 546: Oh. As I'm watching how
16 much -- how long this takes, and you brought up the subject
17 takes until next week, the end of next week, I am supposed to
18 make a presentation, I believe it's in Ely; and Monday the
19 24th, I'm due in court in Fort Collins, Colorado.

20 MR. PESCI: Okay. The presentation in Ely, what day
21 is that?

22 PROSPECTIVE JUROR NO. 546: It's the 20th.

23 MR. PESCI: So let's see. So is that Thursday?

24 PROSPECTIVE JUROR NO. 546: It's next Thursday.

25 MR. PESCI: Thursday? Okay.

1 PROSPECTIVE JUROR NO. 546: My birthday's the 21st,
2 so.
3 MR. PESCI: Oh, don't want to be in court that day?
4 PROSPECTIVE JUROR NO. 546: No.
5 MR. PESCI: All right. So the 21st, you have a
6 potential conflict?
7 PROSPECTIVE JUROR NO. 546: 20th.
8 MR. PESCI: 20th?
9 PROSPECTIVE JUROR NO. 546: And the 24th for sure.
10 MR. PESCI: Okay, all right. Thank you.
11 PROSPECTIVE JUROR NO. 546: I just got my lawyer's
12 notice that we are scheduled for the 24th, Fort Collins.
13 MR. PESCI: Okay. All right, thank you very much,
14 sir. If you could pass the microphone over.
15 Okay. Trying to find your badge number, Ms. Bell.
16 554?
17 PROSPECTIVE JUROR NO. 554: Yeah, 554.
18 MR. PESCI: Thank you so much for being here.
19 You've got two kids, correct?
20 PROSPECTIVE JUROR NO. 554: Correct.
21 MR. PESCI: All right. And if I remember correctly,
22 they're of age where they can work, correct?
23 PROSPECTIVE JUROR NO. 554: Correct.
24 MR. PESCI: And what do they do again? I apologize.
25 PROSPECTIVE JUROR NO. 554: One's a dental

1 assistant, and one works for Wells Fargo.

2 MR. PESCI: Is that here in Las Vegas?

3 PROSPECTIVE JUROR NO. 554: Yes, here in Las Vegas.

4 MR. PESCI: Okay. When they were younger, did they

5 ever have any disputes?

6 PROSPECTIVE JUROR NO. 554: My oldest did, yes.

7 MR. PESCI: All right. With each other?

8 PROSPECTIVE JUROR NO. 554: Yes.

9 MR. PESCI: Right.

10 PROSPECTIVE JUROR NO. 554: They didn't even talk

11 until after high school.

12 MR. PESCI: Did you have to kind of work with them

13 on that?

14 PROSPECTIVE JUROR NO. 554: Yes, yes.

15 MR. PESCI: Did you sometimes have to resolve

16 conflicts or allegations that they both made?

17 PROSPECTIVE JUROR NO. 554: Yes.

18 MR. PESCI: Do you feel you're in a position, based

19 on your experience, to do that kind of thing?

20 PROSPECTIVE JUROR NO. 554: Yes.

21 MR. PESCI: Could you do that in this case?

22 PROSPECTIVE JUROR NO. 554: Yes.

23 MR. PESCI: Anything about sitting in judgment of

24 another human being that would prevent you from serving?

25 PROSPECTIVE JUROR NO. 554: No.

1 MR. PESCI: Okay, kind of paused for a second there.
2 PROSPECTIVE JUROR NO. 554: I just don't like it.
3 MR. PESCI: Okay. That's understandable, right?
4 PROSPECTIVE JUROR NO. 554: Yeah.
5 MR. PESCI: The question is though, if you're
6 selected, there's a responsibility to assess the facts, right?
7 Is that something you think you could do?
8 PROSPECTIVE JUROR NO. 554: Yes.
9 MR. PESCI: All right, thank you so much, ma'am.
10 PROSPECTIVE JUROR NO. 554: I do have a conflict.
11 MR. PESCI: Okay.
12 PROSPECTIVE JUROR NO. 554: On the 21st, I have
13 airplane tickets to Salt Lake to take my grand baby to a
14 gymnastics tournament.
15 MR. PESCI: Yes. Yeah, I remember.
16 PROSPECTIVE JUROR NO. 554: So will we -- I'm just
17 hoping we'll be done by then.
18 MR. PESCI: So we've got some conflicts at the end
19 of the week next week?
20 PROSPECTIVE JUROR NO. 554: Right, right.
21 MR. PESCI: All right, thank you so much, ma'am. Is
22 it all right if I grab the mic, Your Honor?
23 THE COURT: Absolutely.
24 MR. PESCI: Okay. See, Parker's going to do
25 something.

1 PROSPECTIVE JUROR NO. 556: 556.

2 MR. PESCI: Look at that, right to it. Thank you

3 very much. And last name?

4 PROSPECTIVE JUROR NO. 556: Delgadillo.

5 MR. PESCI: For the record. Thank you. All right,

6 sir. You've been in Las Vegas for the past 16 years?

7 PROSPECTIVE JUROR NO. 556: Yes, sir.

8 MR. PESCI: Okay, and I apologize. I was trying to

9 figure out -- you said your wife worked at the Mirage, did you

10 say Workforce?

11 PROSPECTIVE JUROR NO. 556: Workforce, yes.

12 MR. PESCI: What does that mean?

13 PROSPECTIVE JUROR NO. 556: So like, that's who you

14 call when you want to call in. She gives you the point,

15 because they go by points, and she gets somebody to cover the

16 shift that's an on-call person.

17 MR. PESCI: Okay, all right. Makes sense now, okay.

18 And then, what you're doing now is roadside assistance,

19 correct?

20 PROSPECTIVE JUROR NO. 556: Yes, sir.

21 MR. PESCI: And in that capacity, have you ever

22 dealt with either Highway Patrol or Metro in maybe some car --

23 PROSPECTIVE JUROR NO. 556: Not at all, no.

24 MR. PESCI: No interactions with them in their job?

25 PROSPECTIVE JUROR NO. 556: No.

1 MR. PESCI: Okay. All right. Any reason why you
2 couldn't be fair and impartial to either side?

3 PROSPECTIVE JUROR NO. 556: Not at all.

4 MR. PESCI: Any reason why you couldn't make a
5 judgment about another person, about whether they did or
6 didn't do something?

7 PROSPECTIVE JUROR NO. 556: No.

8 MR. PESCI: Okay. Thank you very much, sir.

9 PROSPECTIVE JUROR NO. 556: Thank you.

10 MR. PESCI: Pass it on to Mr. Randall.

11 PROSPECTIVE JUROR NO. 557: Yeah. 557.

12 MR. PESCI: Thank you. You said it's a small --
13 your -- could you tell me your business again? Small computer
14 software?

15 PROSPECTIVE JUROR NO. 557: Sure. It's -- it's a
16 small company. It's just me, in effect. It's an LLC. I
17 actually work with a company that's based in Geneva that sell
18 corporate treasury solutions to major corporations, and I'm
19 their representative in the US, selling to US corporations.

20 MR. PESCI: Okay.

21 PROSPECTIVE JUROR NO. 557: So they have about 15
22 people, and I'm the only person that works for them in the US.

23 MR. PESCI: How long have you been doing that?

24 PROSPECTIVE JUROR NO. 557: I've been doing that for
25 four years now.

1 MR. PESCI: Here in Vegas?

2 PROSPECTIVE JUROR NO. 557: No. Before here -- I've
3 been in Vegas two-and-a-half years. Before that, I was in
4 Washington State for two years.

5 MR. PESCI: Okay. How are you enjoying that
6 contrast between Washington State and Las Vegas?

7 PROSPECTIVE JUROR NO. 557: Well, before Washington
8 State, I was in California. And so Washington State was just
9 -- I'm sorry if anyone lives there, but -- or lived here. But
10 it was very rainy, very gray, and very depressing, so it's
11 nice to be back south again.

12 MR. PESCI: So you enjoy the sun more?

13 PROSPECTIVE JUROR NO. 557: Absolutely.

14 MR. PESCI: All right. You mentioned earlier about
15 concerns or feelings based on potentially a co-defendant
16 testifying. If I've understood correctly, you said you might
17 have some suspicion, but you're willing to listen?

18 PROSPECTIVE JUROR NO. 557: Absolutely, yeah.

19 MR. PESCI: You're not closed off to it?

20 PROSPECTIVE JUROR NO. 557: Not closed off. You
21 know, always a little bit suspicious of that kind of thing,
22 but --

23 MR. PESCI: Sure.

24 PROSPECTIVE JUROR NO. 557: -- you know, willing to
25 see. I have an open mind to all the evidence.

1 MR. PESCI: Gotcha. All right. Anything else as
2 far as concerns with serving?
3 PROSPECTIVE JUROR NO. 557: No, not at all.
4 MR. PESCI: Do you think you can be fair to both
5 sides?
6 PROSPECTIVE JUROR NO. 557: I do, sir.
7 MR. PESCI: Thank you very much.
8 PROSPECTIVE JUROR NO. 557: Thank you.
9 MR. PESCI: Your Honor, may we approach?
10 THE COURT: Yes.
11 (Bench conference)
12 MR. PESCI: So, Judge, I wanted to -- Giancarlo
13 Pesci for the State. I wanted to make a challenge for cause
14 for Ms. Young.
15 THE COURT: Which one is she?
16 MR. SANFT: Which one is that?
17 MR. PESCI: She's in Seat 18, and --
18 THE COURT: Seat 18?
19 MR. PESCI: -- she's Badge number 485. She's the
20 individual who, on multiple occasions, became very emotional
21 during the process of explaining her brother-in-law's case and
22 the situation. And she indicated that it would give her pause
23 to, in essence, do her job.
24 She said that she didn't necessarily disagree with
25 the law, but she disagreed with the punishment, and she even

1 made the comment about how maybe he should just be put on
2 probation. I'm concerned, the State's concerned, that her
3 emotions will substantially -- or potentially substantially
4 impair her ability to fulfill her duty as a juror, and based
5 on that, we're making a challenge for cause.

6 THE COURT: Any objection?

7 MR. SANFT: Do you have an objection to it?

8 MR. RUGGEROLI: Yeah.

9 MR. SANFT: Well, I think I should have an
10 opportunity to traverse a little bit more about that issue as
11 to why she was emotional. I think she was more emotional
12 because of the fact that it's a family member who obviously
13 needed help and exhibited this type of behavior. I think that
14 she was asked yesterday whether or not she could be fair and
15 impartial, and I think she said yes.

16 MR. PESCI: Mr. Sanft, I apologize, and also Mr.
17 Ruggeroli. Obviously, they have the right to that. I just
18 didn't want to pass the panel, and tell you I was passing it
19 for cause, when in fact --

20 THE COURT: Okay.

21 MR. PESCI: -- I do have a cause challenge.

22 THE COURT: Okay.

23 MR. PESCI: And so --

24 MR. SANFT: You want to --

25 THE COURT: I mean, I will allow you to --

1 MR. PESCI: I'm not trying to short-circuit it at
2 all.
3 THE COURT: I will allow you to --
4 MR. SANFT: We could just reserve that until the
5 end.
6 THE COURT: -- traverse Ms. Young --
7 MR. SANFT: Okay.
8 MR. PESCI: Right.
9 THE COURT: -- if you'd like to, and then I can just
10 hold him off on the challenge for cause.
11 MR. SANFT: Yes, ma'am.
12 MR. PESCI: And then, I'm just a little concerned
13 Ms. Newell is missing a test.
14 THE COURT: With who?
15 MR. PESCI: Ms. Newell is missing a test, but --
16 THE COURT: I know, but she told me yesterday --
17 MR. PESCI: Yeah.
18 THE COURT: I mean, and I'll give her whatever she
19 wants me to. It's undergrad.
20 MR. PESCI: I was actually going to ask if you could
21 mention that.
22 THE COURT: Yeah, I will.
23 MR. PESCI: So it doesn't appear that we were trying
24 to suck up, but like --
25 MR. SANFT: Yeah.

1 THE COURT: Yeah, of course.
2 MR. PESCI: Okay, thank you.
3 THE COURT: Okay, all right.
4 MR. SANFT: Oh, by the way, just one more. What
5 about the grandma that's going to Salt Lake for her daughter's
6 thing?
7 MR. PESCI: It's the 21st.
8 MR. SANFT: I mean, can we --
9 THE COURT: Yeah.
10 MR. SANFT: -- just do that now, and just --
11 THE COURT: Well, do you think we'll be done?
12 MR. PESCI: I hope so. Depends on --
13 THE COURT: Yeah, kind of hoping we'll just be done.
14 MR. SANFT: Well, what if they're still in
15 deliberation by the end of Thursday? I mean, that's the
16 problem.
17 THE COURT: Then we'll keep them --
18 MR. SANFT: But grandma --
19 THE COURT: -- until they reach a verdict.
20 MR. SANFT: But she's got to go to Salt Lake for her
21 granddaughter.
22 THE COURT: I know, I'm just --
23 MR. PESCI: Maybe you could ask her when she comes
24 back --
25 THE COURT: I'm just hoping that we'll be --

1 MR. PESCI: -- how long the trip is.
2 MR. SANFT: Okay.
3 THE COURT: I'm just hoping that we'll be done.
4 MR. SANFT: Okay.
5 THE COURT: Okay?
6 MR. PESCI: 21st is Thursday, right?
7 THE COURT: Pardon?
8 MR. PESCI: The 21st is Thursday?
9 THE COURT: The 21st is --
10 MR. RUGGEROLI: Isn't it Friday?
11 THE COURT: -- a Friday.
12 MR. PESCI: It's Friday? Okay.
13 THE COURT: Okay, here's the thing I'm concerned
14 about. That gentleman said he wanted to be in Ely on
15 Thursday. Like, if we're not done, he's not going.
16 MR. SANFT: I know.
17 THE COURT: So I don't know if you want to --
18 MR. SANFT: Can we just --
19 THE COURT: -- follow up with that.
20 MR. SANFT: I mean, is it all right if we just agree
21 right now to strike, and just put people in there now, so we
22 don't have to deal with that later and waste time? I mean, I
23 don't --
24 THE COURT: Well, who do you want to strike?
25 MR. SANFT: What if we just did -- like, the

1 gentleman that needs to go to Fort Collins, and then the
2 grandma. I feel bad for grandma.

3 THE COURT: Number 19?

4 MR. PESCI: I know, Judge. I think --

5 THE COURT: Which one is he?

6 MR. PESCI: He's Mr. Kubota, he's Seat 29.

7 THE COURT: Yeah.

8 MR. PESCI: He's Badge --

9 THE COURT: I really like him.

10 MR. SANFT: I like him, too.

11 MR. PESCI: He's Badge number 546.

12 MR. SANFT: I think he'd be really good.

13 THE COURT: I think he'd be a great juror.

14 MR. SANFT: Yeah.

15 THE COURT: I mean, here's the deal --

16 MR. SANFT: He'd be smart.

17 THE COURT: -- he won't be going on Thursday if
18 we're not done.

19 MR. PESCI: I'm more concerned with him because
20 that's Thursday. If I understand, Ms. Bell, I think, is
21 Friday.

22 THE COURT: Uh-huh.

23 MR. PESCI: So maybe you could follow up with when
24 she's flying, but I think that's Friday, and I really expect
25 this to be done by next Friday.

1 THE COURT: Okay. Well, I can talk to Mr. Kubota.
2 MR. SANFT: And I think he'd be one of the
3 alternates anyhow, so necessarily, he won't even be on --
4 THE COURT: Well, it just depends on how you guys
5 exercise your challenges.
6 MR. PESCI: Right. Well, I agree with you. He's
7 probably not going to make it to the 12.
8 MR. SANFT: Yeah, (indiscernible).
9 MR. PESCI: And on that note, are we going to do two
10 alternates?
11 THE COURT: Um-hum.
12 MR. PESCI: And then --
13 THE COURT: Yeah, so 14.
14 MR. SANFT: Okay.
15 MR. PESCI: Okay, perfect.
16 THE COURT: 14 jurors. All right, I'll follow up --
17 MR. PESCI: Thank you.
18 THE COURT: -- with Kubota.
19 (End of bench conference)
20 THE COURT: All right. Ms. Newell, I just want to
21 make sure you know that I'm happy to give you a letter. I
22 remembered, and you were -- we went looking for you yesterday,
23 and you were already gone. So if you want that letter today,
24 I'm happy to provide it so you can give it to your professor,
25 because I don't want you to have any issues because you didn't

1 take that test today.

2 PROSPECTIVE JUROR NO. 468: Okay, thank you.

3 THE COURT: Do you want it today?

4 PROSPECTIVE JUROR NO. 468: Yes, please.

5 THE COURT: Okay, then I'll make sure it's done, and
6 Officer Hawkes will provide it to you.

7 And then, Mr. Kubota, I have a concern -- where's
8 that microphone at? Okay. I just have a concern, because you
9 indicated on voir dire from the District Attorney that you had
10 plans to be in Ely on next Thursday --

11 PROSPECTIVE JUROR NO. 546: Yes.

12 THE COURT: -- February 20th?

13 PROSPECTIVE JUROR NO. 546: Yes.

14 THE COURT: Okay. And you understand that if you're
15 selected to serve on this jury panel and we're not done by
16 then, that would be a problem? I would tell you, you can't go
17 to Ely, you got to stay here because we're still in trial.

18 PROSPECTIVE JUROR NO. 546: Right.

19 THE COURT: How would that affect you?

20 PROSPECTIVE JUROR NO. 546: I believe it's just
21 meeting with a city council, so it's --

22 THE COURT: Okay.

23 PROSPECTIVE JUROR NO. 546: We'd just have to make
24 it later in the --

25 THE COURT: Okay, so it wouldn't be --

1 PROSPECTIVE JUROR NO. 546: -- schedule, but.
2 THE COURT: -- like the end of the world if you
3 weren't there next Thursday?
4 PROSPECTIVE JUROR NO. 546: Right.
5 THE COURT: Okay.
6 PROSPECTIVE JUROR NO. 546: Now, the one in Fort
7 Collins, that one is. It's a million dollar lawsuit and such.
8 THE COURT: Right, the -- you have to be in court,
9 and that's --
10 PROSPECTIVE JUROR NO. 546: Right.
11 THE COURT: -- the following Monday, correct?
12 PROSPECTIVE JUROR NO. 546: Right, correct.
13 THE COURT: I think you said the 24th?
14 PROSPECTIVE JUROR NO. 546: 24th.
15 THE COURT: Okay, yeah. I believe that we'll have
16 no issues, but if we did and you were on the panel, I would
17 allow you to leave.
18 PROSPECTIVE JUROR NO. 546: Thank you.
19 THE COURT: Okay? But thank you. Thank you very
20 much. And is the State going to pass the panel?
21 MR. PESCI: Based on the representations at the
22 bench, yes, Your Honor.
23 THE COURT: Okay. All right, Mr. Sanft, do you want
24 to -- I don't know -- I don't care who goes first. Mr. Sanft,
25 you can go first.

1 MR. SANFT: Yes, Your Honor. Thank you.

2 THE COURT: You can have a seat though. Mr. Sanft
3 will grab the microphone, and he'll hand it to whichever juror
4 he wants to start off.

5 MR. SANFT: All right.

6 Good morning. My name's Michael Sanft, again. I
7 represent Raekwon Robertson, who's seated here to my right,
8 wearing the red shirt.

9 Let me just ask questions here of all of you as a
10 whole first. This is a case involving accusations that have
11 been made, charges that have been made against my client, Mr.
12 Robertson, and the other co-defendants on this case.

13 Does anyone here have an issue with the idea that
14 you have to evaluate each person separately with regards to
15 the charges? Meaning that, just because the two of them are
16 sitting there at defense counsel table doesn't mean that
17 they're both equally responsible or criminally responsible for
18 any of the charges that have been charged against them. Does
19 anyone have a problem with that? Uniform no response. Okay.

20 Let me put it this way. Has anyone ever heard of
21 the term, where there's smoke, there's fire?

22 MEMBERS OF THE PROSPECTIVE JURY PANEL: Yes.

23 MR. SANFT: Okay. Now, believe it or not, I've been
24 doing this for a minute, and there's been times when I've had
25 entire panels say no, which is strange. Okay.

1 Well, let me ask you this. When I say that there's
2 smoke, there's fire, does anyone here not understand how that
3 could be applicable with the idea of Mr. Robertson sitting
4 over there at defense counsel table? Did I not ask the right
5 question?

6 All right, let me try this again. All right. I'm
7 just going to pick on somebody, how's that? And I will pick
8 on the first juror that I see looking directly at me, which
9 means everyone's going to look away.

10 But Ms. Bruer?

11 PROSPECTIVE JUROR NO. 019: Yes.

12 MR. SANFT: And this is Juror number --

13 PROSPECTIVE JUROR NO. 019: 019.

14 MR. SANFT: Thank you, and I'll just get the
15 microphone over to you. Thank you. Question?

16 PROSPECTIVE JUROR NO. 019: Well, I understand the
17 concept, where there's smoke, there's fire, but just because
18 one of them did it does not necessarily mean that the other
19 one was involved or did it. I'd have to have more evidence.

20 MR. SANFT: Okay, thank you. I appreciate that.
21 Let me ask you -- I'm going to follow up with this
22 (indiscernible).

23 PROSPECTIVE JUROR NO. 019: Okay.

24 MR. SANFT: Now, the mere fact that Mr. Robertson's
25 sitting over here, does anyone besides -- including yourself,

1 Ms. Bruer, feel that, well, he must have done something;
2 otherwise, why would he be sitting over here at this table?
3 Does anyone have that kind of feeling?
4 PROSPECTIVE JUROR NO. 409: Yes.
5 MR. SANFT: Okay. And I'm going to ask you --
6 PROSPECTIVE JUROR NO. 019: No, I don't.
7 MR. SANFT: Oh, okay. Thank you, Ms. Bruer.
8 PROSPECTIVE JUROR NO. 019: I think I'd have to see
9 real evidence.
10 MR. SANFT: Okay, thank you, and I appreciate that.
11 Mr. Casucci?
12 PROSPECTIVE JUROR NO. 409: Hi. Vito Casucci, 409.
13 MR. SANFT: Were you the one that said "Yes"
14 emphatically? I heard somebody say yes. Oh. All right, and
15 that's Mr. --
16 PROSPECTIVE JUROR NO. 410: McGinty, 410.
17 MR. SANFT: McGinty, yes. It was very emphatic.
18 Why -- can you --
19 PROSPECTIVE JUROR NO. 410: Well, to be to this
20 point, let's face it, to be sitting in that chair, then
21 there's got to be some considerable evidence that provokes the
22 defendants to be sitting here, so.
23 MR. SANFT: Okay. And I think the State had asked
24 this question earlier, I believe of Ms. -- Ms. McCarthy, about
25 the different standards of proof, right? I'm going to ask Ms.

1 McCarthy some questions about being on a grand jury, which is
2 what's called probable cause. Now, just to let you know,
3 probable just means you can charge someone with a crime; it
4 doesn't mean they're guilty beyond a reasonable doubt. Do you
5 understand the difference?

6 PROSPECTIVE JUROR NO. 410: Yes.

7 MR. SANFT: Okay. And if you were selected as a
8 juror in this case, you understand that you would have to hold
9 the State of Nevada to its burden of proving to you each
10 element of each crime beyond a reasonable doubt? Do you
11 understand that?

12 PROSPECTIVE JUROR NO. 410: I understand it. I do
13 not believe that that is always the case, and with that, it is
14 circumstantial to what is presented in each case. But I think
15 that proving beyond a reasonable doubt is lost sometimes in
16 the system, and people go with either the pressure of the --
17 the jurors, or somebody makes a speech, or a pitch, or you've
18 got a slick attorney. And so, you know, people are persuasive
19 and are persuaded, people are gullible by human nature, and
20 so, no, I don't really believe that that's always the case.

21 MR. SANFT: Okay. So, and are you saying that,
22 because of the fact it's -- as a matter of human nature, we
23 are all susceptible to subjective things -- subjective issues
24 as much as objective issues like facts, right?

25 PROSPECTIVE JUROR NO. 410: Yeah. Most of society's

1 not capable of processing really the facts. They go with
2 their instincts and consider that a fact.

3 MR. SANFT: Well, and just tell me if you agree with
4 me on this position. It would be fair, of course, that if the
5 criminal justice system was a computer, and you just put in
6 certain facts into a computer, and it would spit out a result,
7 that that's really, on one level, a computer, right? That's
8 not human beings?

9 PROSPECTIVE JUROR NO. 410: Who put it in, and what
10 data was put, where'd the data come from, who did the coding.

11 MR. SANFT: Okay, you're being way too smart for me
12 right now. I'm just saying as a basic premise, right?

13 PROSPECTIVE JUROR NO. 410: Sure.

14 MR. SANFT: All right. But once again, you're going
15 to be expected to bring your everyday experience. That's one
16 of the reasons why we have juries is, you as an individual,
17 your background, your history, those things are important in
18 weighing evidence to make a determination whether the State of
19 Nevada has proven its case beyond a reasonable doubt. Are you
20 okay with that idea?

21 PROSPECTIVE JUROR NO. 410: Yes.

22 MR. SANFT: Okay. So, and I guess in the one level,
23 with jury verdicts and so forth, if you're selected as one of
24 the 12, and you're back into the deliberation process, and
25 you're arguing with your juror -- fellow jurors on what the

1 facts are and whether or not the State has proven its case
2 beyond a reasonable doubt, that it is messy, are you okay with
3 this idea that when you go back there, there may be two other,
4 three other people that disagree with what you believe you
5 heard during the course of the a trial? Are you going to be
6 okay with that idea?

7 PROSPECTIVE JUROR NO. 410: No.

8 MR. SANFT: Okay, and why is that?

9 PROSPECTIVE JUROR NO. 410: Once I have my opinion,
10 I'll stick to it.

11 MR. SANFT: Okay, and that's fair. And I appreciate
12 that, because it sounds that you would be the type of person
13 that, if you believe something, you would stick by what you
14 believe, right?

15 PROSPECTIVE JUROR NO. 410: Always.

16 MR. SANFT: Now, as you sit here right now though,
17 do you -- have you already formulated an opinion as to this
18 case?

19 PROSPECTIVE JUROR NO. 410: An opinion, or -- no.

20 MR. SANFT: You have not? Okay. And when do you
21 believe you're going to form an opinion on this case?

22 PROSPECTIVE JUROR NO. 410: I think that's a vague
23 question. It would depend on the process and what happens
24 through the process of the trial; what's presented, who's up
25 there, who's got the best lines, so.

1 THE COURT: Who's got the best what?
2 PROSPECTIVE JUROR NO. 410: Lines.
3 THE COURT: What does that mean?
4 PROSPECTIVE JUROR NO. 410: Who's been trained the
5 best on the stand, and who's got the best --
6 MR. SANFT: I would say --
7 PROSPECTIVE JUROR NO. 410: -- vocabulary.
8 MR. SANFT: -- just persuaded, but just whoever
9 persuades you one way or the other, right?
10 PROSPECTIVE JUROR NO. 410: Yeah. Who's most
11 believable, and do I really believe them.
12 MR. SANFT: Okay. Now, during the time that you --
13 if you're selected as a juror in this case, would you be the
14 type of juror -- because the process will go as follows. If
15 you're picked, then you're going to hear what's called opening
16 statements between -- well, the State of Nevada will tell you
17 what they believe the evidence is going to show, and then the
18 defense might get up, and they might say -- they don't have
19 to, but they can get up and say what they believe the evidence
20 will show.
21 Are you the type of person that, once you hear the
22 opening from the State, say, okay, I'm done here, and then
23 spend --
24 PROSPECTIVE JUROR NO. 410: No.
25 MR. SANFT: -- the rest of the time sitting around,

1 just waiting for the end of this thing to be over? Would you
2 be that type of juror?

3 PROSPECTIVE JUROR NO. 410: No to your first
4 question, but waiting for it to get over, yes.

5 MR. SANFT: Okay. And with regards to waiting for
6 it to get over -- and once again, I just want to make sure
7 that we are picking good jurors for this panel. Waiting to
8 get over. Would you be the type of person that would sit
9 there and just completely zone out the rest of the time you're
10 here because of the fact that you're just waiting for this
11 thing to be over?

12 PROSPECTIVE JUROR NO. 410: Full transparency. It's
13 very distracting with everything that goes on with my daily
14 routine and daily life, but yeah, it would be extremely
15 distracting, so.

16 MR. SANFT: Okay.

17 PROSPECTIVE JUROR NO. 410: Knowing that, as soon as
18 I turn on my phone, I've got to get outside, and catch up, and
19 respond, and make decisions. And so, yeah, it's -- this is
20 problematic for me.

21 MR. SANFT: All right. And with that being said,
22 would you consider yourself to be the type of juror that would
23 be appropriate for this kind of case here today?

24 PROSPECTIVE JUROR NO. 410: In another day, another
25 time, yes.

1 MR. SANFT: But for this particular --

2 PROSPECTIVE JUROR NO. 410: Today, this week, no.

3 MR. SANFT: All right. And so, the last question
4 then is that would you be the type of juror that could be
5 considered to be fair and impartial if you were selected to be
6 a juror on this case?

7 PROSPECTIVE JUROR NO. 410: Of course.

8 MR. SANFT: But it's just a matter of your other
9 obligations that would cause you to not devote 100 percent
10 attention and focus on this case?

11 PROSPECTIVE JUROR NO. 410: Yeah. If -- you know,
12 if I find something that rubs me wrong, then I could begrudge
13 that.

14 MR. SANFT: Okay, I appreciate that. Thank you for
15 sharing with us. Anyone else felt during the time that I've
16 spoken here with Mr. McGinty that there's something that
17 triggers in their mind that they would like to raise their
18 hand over? I'm not scaring anyone, am I? Okay. Thank you, I
19 appreciate that. That's a uniform no response, by the way, on
20 that, for the record.

21 Let me ask you this. Now, we're talking -- the
22 charges that we're talking about in this case are very serious
23 charges. In fact, they're probably the most serious charges
24 that anyone could ever face, the idea of they're accused of
25 killing someone else. Does anyone not believe that? Okay.

1 Now, during the time that we're spending together,
2 there's been times when we're able to chuckle, and smile, and
3 there is a certain levity when we are sitting here as a group.
4 Does anyone have a problem with that; that, as human beings,
5 we can have some levity, even amongst something as serious as
6 a murder trial? Does anyone have any issue with that? All
7 right, Mr. -- I apologize here.

8 PROSPECTIVE JUROR NO. 513: 513, Michael Laurie.

9 MR. SANFT: You already know the process. Thank
10 you, Mr. Laurie.

11 PROSPECTIVE JUROR NO. 513: No, yeah, I -- yesterday
12 when I was here, I had a moment where there was some laughter
13 and smiling, and I felt it was a little unnecessary.

14 MR. SANFT: Okay. Now, during the time that you
15 spend here with us, if you're selected as a juror, there may
16 be times where, if you're in the hallway, and I'm walking down
17 the hallway, and I may be smiling or laughing. Would that be
18 something that would tell you that somehow I'm not taking this
19 seriously?

20 PROSPECTIVE JUROR NO. 513: No, only in the
21 courtroom.

22 MR. SANFT: Okay, because I do have a sense of
23 humor.

24 PROSPECTIVE JUROR NO. 513: Um-hum, I hope so.

25 MR. SANFT: And I -- yeah. Getting into this job,

1 sometimes you have to have a sense of humor --

2 PROSPECTIVE JUROR NO. 513: Sure.

3 MR. SANFT: -- right? But just to let you know,

4 would you have any issue if any of us here in the courtroom

5 during the time period that we spend together, if there's a

6 chuckle on something that isn't a serious portion to the case,

7 but say something that happens, would you be the type of

8 person that would hold that against anybody?

9 PROSPECTIVE JUROR NO. 513: Not relating to the

10 case, no, I wouldn't hold it against you.

11 MR. SANFT: Thank you, I appreciate it. Let me ask

12 you a few questions, since you're holding the mic --

13 PROSPECTIVE JUROR NO. 513: Sure.

14 MR. SANFT: -- and standing up there. You live in

15 Mesquite?

16 PROSPECTIVE JUROR NO. 513: Correct.

17 MR. SANFT: Right? And you're making efforts to

18 come down every day from Mesquite to here?

19 PROSPECTIVE JUROR NO. 513: Yeah.

20 MR. SANFT: You're not driving?

21 PROSPECTIVE JUROR NO. 513: I am today, yes.

22 MR. SANFT: Okay.

23 PROSPECTIVE JUROR NO. 513: Today, yes, sir.

24 MR. SANFT: Okay. So during the time, if you're

25 selected as a juror in this case, would you be able to

1 continue to do that in order for you to be here?

2 PROSPECTIVE JUROR NO. 513: For next week, three or
3 four days, correct, I could do that.

4 MR. SANFT: Okay. And if you were to be taking the
5 shuttle and so forth, are you -- would you be paying that?

6 PROSPECTIVE JUROR NO. 513: I would, yeah. If I
7 have to take the shuttle, yeah, it would be coming out of my
8 pocket and it would be expensive.

9 MR. SANFT: Okay. Well, I appreciate you making the
10 effort to be here.

11 PROSPECTIVE JUROR NO. 513: Sure, I understand.

12 MR. SANFT: Thank you. Let me see if I had any
13 other questions for you. Nope, that's it. Thank you so much.
14 I appreciate it.

15 PROSPECTIVE JUROR NO. 513: Sure.

16 MR. SANFT: All right. Ms. Young? I know, you're
17 sitting there so quiet, too. For those of you who are
18 teachers, and those of you who give lectures, you can look out
19 at an audience and kind of know who does not want to be
20 picked. And just to let you know, I do not get that sense at
21 all from you.

22 PROSPECTIVE JUROR NO. 485: Oh, okay.

23 MR. SANFT: All right. But Ms. Young, this is --

24 PROSPECTIVE JUROR NO. 485: Yes.

25 MR. SANFT: -- badge number --

1 PROSPECTIVE JUROR NO. 485: 485.
2 MR. SANFT: 485. We had some very sensitive
3 discussion with you yesterday --
4 PROSPECTIVE JUROR NO. 485: Yes.
5 MR. SANFT: -- about your family member?
6 PROSPECTIVE JUROR NO. 485: Yes.
7 MR. SANFT: And I think there was some discussion as
8 to your emotional reaction to what had happened with your
9 brother-in-law?
10 PROSPECTIVE JUROR NO. 485: Yes. Sorry, I'm just
11 sensitive.
12 MR. SANFT: That's fine. And just to let you know,
13 in all honesty, not to be humorous about this, this is a safe
14 place.
15 PROSPECTIVE JUROR NO. 485: Okay.
16 MR. SANFT: And the reason why I say that is because
17 you're not being held in judgment for anything.
18 PROSPECTIVE JUROR NO. 485: Okay.
19 MR. SANFT: We're just trying to find people that
20 can be the best jurors on this case.
21 With regards to your brother-in-law, how close were
22 you to him?
23 PROSPECTIVE JUROR NO. 485: Very close. I've been
24 with my husband for 21 years, since we were 90 -- excuse me,
25 19. So I've known him since he was in the eighth grade, my

1 brother-in-law.

2 MR. SANFT: All right. And I'm assuming that you
3 were aware of any potential problems that he had in his life
4 personally that --

5 PROSPECTIVE JUROR NO. 485: Yes.

6 MR. SANFT: -- probably led him to the point where
7 he was there in federal court?

8 PROSPECTIVE JUROR NO. 485: Yes.

9 MR. SANFT: Okay. Now, because that happened, and
10 because he was sentenced, my guess is that you probably were
11 feeling like he should have gotten something other than what
12 he received in --

13 PROSPECTIVE JUROR NO. 485: Yes.

14 MR. SANFT: All right. Now, you do understand that
15 he pled and took responsibility --

16 PROSPECTIVE JUROR NO. 485: Yes.

17 MR. SANFT: -- for what had happened with his case?

18 PROSPECTIVE JUROR NO. 485: Yes.

19 MR. SANFT: All right, and that this -- that was
20 federal court; this is state court?

21 PROSPECTIVE JUROR NO. 485: Yes.

22 MR. SANFT: All right. Is there anything at all
23 that would preclude you from being a fair and impartial juror
24 in this case, knowing that -- what happened with your
25 brother-in-law and what he was sentenced to in the federal

1 case?

2 PROSPECTIVE JUROR NO. 485: No.

3 MR. SANFT: Okay. Now, once again, we would love
4 for you to serve as a juror, but we want to make sure that
5 you'd be fair and impartial, meaning that you wouldn't do
6 something because you're thinking that these people over here
7 are not good people, or both people over here are not good
8 people. Is there anything at all that would tell us that you
9 wouldn't be an appropriate juror for this case?

10 PROSPECTIVE JUROR NO. 485: Well, my thing is I was
11 born and raised in Hawaii, so I was -- I was taught that we
12 always look at people and look at the good in them. That's,
13 like, my opinion on it. I would look at it that way. I just
14 think everybody has a good side to them, you know? They might
15 have did something that brought them to where they are today,
16 but I still look at, you know, the good points of them.

17 MR. SANFT: Okay.

18 PROSPECTIVE JUROR NO. 485: Yeah. I want to believe
19 that everybody is good, you know?

20 MR. SANFT: And would it be fair to say that what
21 you're talking about is like the spirit of Aloha, right?

22 PROSPECTIVE JUROR NO. 485: Yeah.

23 MR. SANFT: The idea that we all are friends, we're
24 all --

25 PROSPECTIVE JUROR NO. 485: Yes.

1 MR. SANFT: -- brothers and sisters on some level,
2 right?

3 PROSPECTIVE JUROR NO. 485: Yes.

4 MR. SANFT: Now, with that being said though, would
5 it be fair to say though that if someone does something that's
6 not correct or right, that even though you might have a spirit
7 of Aloha towards that person, they still have to be held
8 accountable and responsible for whatever it is they chose to
9 do on their own?

10 PROSPECTIVE JUROR NO. 485: Yes.

11 MR. SANFT: Okay. And that would include -- like,
12 say for instance, in this case, if you're selected as a juror,
13 even though you might feel something towards the people that
14 would be participating in this case --

15 PROSPECTIVE JUROR NO. 485: Um-hum.

16 MR. SANFT: -- that you would still hold the people
17 accountable for what they did or did not do, right?

18 PROSPECTIVE JUROR NO. 485: Yes.

19 MR. SANFT: Okay. And as a result, if the State of
20 Nevada is presenting evidence in this case, you wouldn't
21 necessarily just hold it against the State of Nevada and say,
22 well, it's the State of Nevada, and I'm just going to
23 disregard everything they say --

24 PROSPECTIVE JUROR NO. 485: No.

25 MR. SANFT: -- would you? Okay.

1 PROSPECTIVE JUROR NO. 485: No.

2 MR. SANFT: Thank you, I appreciate that.

3 PROSPECTIVE JUROR NO. 485: Thank you.

4 MR. SANFT: Now, let me ask the group here as a

5 whole, does anyone else know anyone else in the panel? I know

6 we had Ms. McCarthy, right? And her son. Anyone else here

7 know anyone from church, from work, from racket ball club,

8 something, golf?

9 PROSPECTIVE JUROR NO. 554: There was a guy

10 yesterday I worked with.

11 MR. SANFT: Okay.

12 THE COURT: Need you to state your name and badge

13 number.

14 PROSPECTIVE JUROR NO. 554: Oh, I'm sorry.

15 MR. SANFT: Yes.

16 PROSPECTIVE JUROR NO. 554: Roberta Bell, 554. But

17 he's not here today.

18 MR. SANFT: Okay.

19 PROSPECTIVE JUROR NO. 554: So.

20 MR. SANFT: Anybody else?

21 PROSPECTIVE JUROR NO. 554: No.

22 MR. SANFT: All right. Thank you, I appreciate

23 that.

24 PROSPECTIVE JUROR NO. 554: Um-hum.

25 MR. SANFT: In addition to that, when -- if you're

1 selected as a juror in this case, you will have an opportunity
2 to listen to the testimony of professionals, people that will
3 come forward and testify who do this on a regular basis;
4 police officers, crime scene analysts, that kind of thing.

5 Does anyone here have a problem with holding police
6 officers, crime scene analysts to their specific standard of
7 performance? Does anyone know what I mean?

8 PROSPECTIVE JUROR NO. 546: No.

9 PROSPECTIVE JUROR NO. 541: No.

10 MR. SANFT: Okay, let me ask you this. You are
11 Mr. --

12 PROSPECTIVE JUROR NO. 541: Widdison.

13 MR. SANFT: Widdison. And if you could just pass
14 the microphone over. And just for your --

15 PROSPECTIVE JUROR NO. 541: 541.

16 MR. SANFT: Thank you, I appreciate it.

17 Now, as a person who does internal accounting --
18 let's put it that way.

19 PROSPECTIVE JUROR NO. 541: That works.

20 MR. SANFT: Internal accounting for Deseret
21 Industries?

22 PROSPECTIVE JUROR NO. 541: That's correct.

23 MR. SANFT: You have certain expectations in your
24 job?

25 PROSPECTIVE JUROR NO. 541: Absolutely.

1 MR. SANFT: That you're held accountable to?

2 PROSPECTIVE JUROR NO. 541: Yes, sir.

3 MR. SANFT: So if you don't do your -- or the
4 expectations or the standard of performance in your case,
5 potentially you can get fired, you can demoted, you can get
6 all kinds of stuff, right?

7 PROSPECTIVE JUROR NO. 541: Absolutely, yes.

8 MR. SANFT: Okay. Now, would it be fair to say
9 that, as someone who does internal accounting, your standard
10 performance would be different from someone who's a pilot or
11 teacher?

12 PROSPECTIVE JUROR NO. 541: Of course, yes.

13 MR. SANFT: Okay. But if a pilot or a teacher were
14 to get up on the stand and testify, and it was established
15 that they had a certain standard performance they had to meet,
16 and they didn't meet that standard performance, would you be
17 able to hold them accountable for that?

18 PROSPECTIVE JUROR NO. 541: You're talking at their
19 -- at their job?

20 MR. SANFT: At their job.

21 PROSPECTIVE JUROR NO. 541: I'd have to understand
22 the whole 360 about it before I could form an opinion on it.
23 That would be hard just to say. I guess I'm not quite
24 understanding what you mean. I'm sorry.

25 MR. SANFT: You are such an accountant.

1 PROSPECTIVE JUROR NO. 541: I just -- I'm
2 analytical, I'm sorry. I'm hyper-analytical; it's just what I
3 do.

4 MR. SANFT: Well, let me ask you this, and that's
5 exactly what it is. If you understand -- it's all right,
6 there's no wrong answer. But if you understand what the
7 standard performance is --

8 PROSPECTIVE JUROR NO. 541: Uh-huh.

9 MR. SANFT: -- could you hold someone accountable to
10 that specific standard performance?

11 PROSPECTIVE JUROR NO. 541: If we're told to, yes.

12 MR. SANFT: Okay.

13 PROSPECTIVE JUROR NO. 541: Yes, I can.

14 MR. SANFT: Thank you. That's it.

15 PROSPECTIVE JUROR NO. 541: Okay.

16 MR. SANFT: I appreciate it. Since you've got the
17 microphone, let me ask you a couple more questions here.

18 PROSPECTIVE JUROR NO. 541: Okey-doke.

19 MR. SANFT: Sorry about that.

20 PROSPECTIVE JUROR NO. 541: That's okay.

21 MR. SANFT: Now, in Switzerland --

22 PROSPECTIVE JUROR NO. 541: Yes.

23 MR. SANFT: -- you said you were there on a church
24 mission?

25 PROSPECTIVE JUROR NO. 541: Yes.

1 MR. SANFT: What languages did you speak there?
2 PROSPECTIVE JUROR NO. 541: Just French.
3 MR. SANFT: No German or --
4 PROSPECTIVE JUROR NO. 541: No.
5 MR. SANFT: -- anything else?
6 PROSPECTIVE JUROR NO. 541: No.
7 MR. SANFT: All right. And when the situation
8 happened where you were robbed --
9 PROSPECTIVE JUROR NO. 541: Um-hum.
10 MR. SANFT: Do you -- is that a yes?
11 PROSPECTIVE JUROR NO. 541: Yes, yes, sorry.
12 MR. SANFT: Do you remember -- do you still remember
13 that situation?
14 PROSPECTIVE JUROR NO. 541: I do.
15 MR. SANFT: Okay. Was it during the day, or at
16 night?
17 PROSPECTIVE JUROR NO. 541: It was at night.
18 MR. SANFT: Okay. And was it outside proselytizing,
19 or was it inside your --
20 PROSPECTIVE JUROR NO. 541: No, we were inside
21 asleep. It was middle of the night.
22 MR. SANFT: Okay, so someone broke in and --
23 PROSPECTIVE JUROR NO. 541: They broke in the patio
24 door, um-hum.
25 MR. SANFT: Okay. Now, when the State had asked you

1 if the police report was filed, there was a police report that
2 was filed?

3 PROSPECTIVE JUROR NO. 541: Well, they -- I have to
4 assume so, because the police came. I never saw anything in
5 writing.

6 MR. SANFT: I see.

7 PROSPECTIVE JUROR NO. 541: But they came and wrote
8 stuff up.

9 MR. SANFT: Were you able to describe the individual
10 that was responsible?

11 PROSPECTIVE JUROR NO. 541: No, didn't see any of
12 them.

13 MR. SANFT: There was more than one person?

14 PROSPECTIVE JUROR NO. 541: Oh, yeah. We were both
15 held down; plus, one person was going through the apartment.

16 MR. SANFT: I see. Okay. And -- but you gave as
17 much information as you could to --

18 PROSPECTIVE JUROR NO. 541: Yes, sir.

19 MR. SANFT: -- the police officer that arrived?

20 PROSPECTIVE JUROR NO. 541: Yes.

21 MR. SANFT: But nothing ever happened as a result of
22 that?

23 PROSPECTIVE JUROR NO. 541: Not at all.

24 MR. SANFT: Okay, thank you.

25 PROSPECTIVE JUROR NO. 541: Um-hum.

1 MR. SANFT: Now, to the panel as a whole, has anyone
2 here ever read the Choose Your Own Adventure books? That's
3 how I got myself through law school, by the way, is Choose
4 Your Own Adventure. Anyone ever done that same thing?

5 PROSPECTIVE JUROR NO. 513: Yes.

6 MR. SANFT: Okay. And I just want to make sure
7 we're clear because -- for those of us who may be a little bit
8 younger that they don't understand what those books are.

9 The idea is that you had a book that wasn't
10 necessarily, you agree, from page 1 to page 100.

11 It would be, you'd read one portion, and then there
12 would be a choice at the bottom as to what you should choose
13 because of what happened on that page. And you would choose,
14 you know, go left, it would be on page 40; and then go right
15 would be on page 68. That's the kind of books I'm talking
16 about, okay?

17 Does anyone here believe that they're the type of
18 person that wants to just get to the end of the book already?
19 Has anyone ever done that, besides myself? No? All right,
20 that's -- okay.

21 Once again, here we go. This is Mr. McGinty on
22 number 410. I'm sorry, I apologize.

23 PROSPECTIVE JUROR NO. 410: McGinty, 410.

24 MR. SANFT: Yeah. You just want to get to the end
25 of the book?

1 PROSPECTIVE JUROR NO. 410: Today, yes. Yeah.
2 Typically, yeah.
3 MR. SANFT: Okay.
4 PROSPECTIVE JUROR NO. 410: You know, there's --
5 there's times where, yes, I feel like it's a waste of my time,
6 and it may not interest me, it may not be relevant to what's
7 going on. So yeah, I have those moments, but.
8 MR. SANFT: Okay, I appreciate that. Anybody else?
9 How come Mr. McGinty feels like he's the only person standing
10 on the line right now?
11 PROSPECTIVE JUROR NO. 513: Choose Your Own
12 Adventure book?
13 MR. SANFT: Yeah, and --
14 PROSPECTIVE JUROR NO. 513: You ruin it by
15 (indiscernible).
16 MR. SANFT: And I apologize. Mr. Laurie is badge
17 number --
18 PROSPECTIVE JUROR NO. 513: 410 (sic).
19 MR. SANFT: Okay. Anyone else besides Mr. McGinty
20 and Mr. Laurie? I think -- yeah, we'll just -- well, you can
21 just hold onto that for a second.
22 Mr. Devargas, if I could just pass the microphone
23 back over to you. Juror number 429. Photographer for the
24 Sun?
25 PROSPECTIVE JUROR NO. 429: Yes, correct.

1 MR. SANFT: All right. Did you go to school for
2 that?

3 PROSPECTIVE JUROR NO. 429: Yes.

4 MR. SANFT: Where did you go for that?

5 PROSPECTIVE JUROR NO. 429: CSN.

6 MR. SANFT: All right. And the -- did you ever do
7 any photography in high school?

8 PROSPECTIVE JUROR NO. 429: No.

9 MR. SANFT: So how did you become a photo
10 journalist?

11 PROSPECTIVE JUROR NO. 429: Initially, when I got
12 out of the Army, I went to school for graphic design. Halfway
13 through, I got bored with just sitting at a computer,
14 designing logos and brochures. Took a Photo 101 class just to
15 kind of spice it up; fell in love with photography.

16 MR. SANFT: I see.

17 PROSPECTIVE JUROR NO. 429: Um-hum.

18 MR. SANFT: And would it be fair to say that photo
19 journalism is a different type of photography versus say
20 fashion shoots or landscape photography, that kind of thing?

21 PROSPECTIVE JUROR NO. 429: Yes, that's correct.

22 MR. SANFT: All right. What would be the main
23 difference between say photo journalism versus some of those
24 other photography that we know to talk of?

25 PROSPECTIVE JUROR NO. 429: So, for commercial, it's

1 more you're creating an image. You're setting everything up;
2 the lighting, the model. You're creating a final image.

3 For photo journalism, you're capturing an image off
4 of real life that's happening then and there. There's no
5 stepping back and recreating a moment; you have to capture it
6 then and there. If you miss it, it's gone and over with.

7 MR. SANFT: Now --

8 PROSPECTIVE JUROR NO. 429: No interference as well,
9 either.

10 MR. SANFT: Okay. So you are aware of what's called
11 post-production?

12 PROSPECTIVE JUROR NO. 429: Yes.

13 MR. SANFT: Meaning that once you take an image,
14 photographers will sometimes download it into a computer, and
15 then they'll run Photoshop to clean up the image, or change
16 the image, or do something like that?

17 PROSPECTIVE JUROR NO. 429: Yes, that's correct.

18 MR. SANFT: What you're describing to us would tell
19 me that you don't use Photoshop?

20 PROSPECTIVE JUROR NO. 429: In photo journalism,
21 there is a small amount of Photoshop you could do; adjustments
22 to lighting. Maybe like, for example, in this courtroom, it's
23 very dark. I might brighten the image just because there's
24 not a lot of light in here. That's acceptable under the
25 standards of journalism.

1 MR. SANFT: I see.

2 PROSPECTIVE JUROR NO. 429: But I cannot manipulate
3 anything in the image. I can't retouch something out, bring a
4 person out of a photo, or change the background. All those
5 are completely off-limits in photo journalism.

6 MR. SANFT: Okay. If you're selected as a juror in
7 this case, would you be the type of person that would consider
8 this case based upon -- do you want the facts; do you want
9 color? I mean, how would that work for you if you were
10 selected as a juror in this case?

11 PROSPECTIVE JUROR NO. 429: It's based upon facts.
12 I want to know exactly what's going on and base my decision
13 off of that. I'm not trying to create a story in my head, or
14 think of what I assume is going to happen or has happened.

15 MR. SANFT: Okay, thank you. I appreciate that.
16 Thank you for sharing with us.

17 To the group as a whole, has everyone here -- has
18 everyone here been to school of some sort, whether it's
19 elementary school, high school, college, post-grad? Is that a
20 uniform yes? Anyone that would say no to that question?

21 MEMBERS OF THE PROSPECTIVE JURY PANEL: Yes.

22 MR. SANFT: Okay. Let me ask you this. If you're
23 selected as a juror in this case, does anyone here just absorb
24 information just by listening? Meaning, if you're selected as
25 a juror in this case, if I were to look over and see you, and

1 you're just with your arms folded and not taking a single
2 note, would that be a fair way of us describing how you
3 process information in this case? Would anyone be that type
4 of juror? All right, and this is Mr. --

5 PROSPECTIVE JUROR NO. 513: Laurie, 410 (sic).

6 MR. SANFT: Thank you. If I can just get the
7 microphone down to you. How do you do that?

8 PROSPECTIVE JUROR NO. 513: How do I do it? Just
9 like you said, just with my arms crossed and listen.

10 MR. SANFT: Okay. So if you're here with us, and
11 you're here until next Wednesday, for instance, and there's
12 been, you know, testimony from different witnesses, would you
13 be able to go back into the deliberation room and discuss
14 specifically details of the testimony of one person, another
15 person, with --

16 PROSPECTIVE JUROR NO. 513: Sure, yeah. I've never
17 been on a jury before, so I would probably take notes, but I'm
18 known for just listening a lot, yes.

19 MR. SANFT: Okay, and I appreciate that. Thank you.

20 PROSPECTIVE JUROR NO. 513: Sure.

21 MR. SANFT: Does anyone else have that same ability
22 as Mr. Laurie? Uniform no response.

23 Let me say this, and I want to make sure we're
24 clear. During the time that we spend together, if you are
25 selected as a juror on this case, you could take notes any

1 which way you want. I'm just -- I just want to know how
2 people do it.

3 And the reason why that's important is because of
4 this. You understand that the State of Nevada has to prove
5 its case to you beyond a reasonable doubt, we've talked a
6 little bit about that, but they have to prove each element of
7 each crime beyond a reasonable doubt. Does anyone understand
8 that idea? Meaning that if they prove to you one or two of
9 the elements of a crime, they have to prove all of them beyond
10 a reasonable doubt, not just one or two. Does anyone have any
11 issue with that? Uniform no response.

12 And let me ask it this way. Well, actually, yes.
13 Mr. --

14 PROSPECTIVE JUROR NO. 546: Kubota. Well, I came
15 prepared. I got my notebook right here.

16 MR. SANFT: Thank you, I appreciate it.

17 PROSPECTIVE JUROR NO. 546: But as I understand it,
18 there's three charges against each person. Do we have to
19 divide the decision? Can we say "Yes" on one, and "No" on two
20 and three, or do we have to be "Yes" on all three of them,
21 or --

22 MR. SANFT: Well, here's the thing. I'm going to
23 just shortchange this right now. There are going to be jury
24 instructions that are going to be read to you by the Court.
25 The Judge will advise you and tell you what the law in the

1 State of Nevada specifically on that issue. So in terms of --
2 what we're doing here today is each individual is charged
3 specifically with the crimes that they're charged with, but
4 they're charged individually.

5 PROSPECTIVE JUROR NO. 546: Okay.

6 MR. SANFT: So you have to hold each one of them
7 individually to that standard of beyond a reasonable doubt.

8 PROSPECTIVE JUROR NO. 546: So if there are three
9 charges on each of the two people, then we're doing first
10 person, 1, 2, and 3 --

11 MR. SANFT: Correct.

12 PROSPECTIVE JUROR NO. 546: -- second person, 1, 2,
13 and 3?

14 MR. SANFT: Yes, exactly. Whatever charges they're
15 charged with, you're going to hold each one individually
16 accountable.

17 UNKNOWN MALE SPEAKER: So there's six different
18 charges, right?

19 PROSPECTIVE JUROR NO. 546: Right, that's what I'm
20 saying.

21 MR. SANFT: Yeah.

22 THE COURT: No, there's only three charges.

23 UNKNOWN MALE SPEAKER: Well, but --

24 THE COURT: But I will --

25 PROSPECTIVE JUROR NO. 546: On two people.

1 MR. SANFT: Two different people.

2 THE COURT: Right, but -- and I will instruct you,
3 and yes, I will instruct you that you are to consider each
4 count and each defendant separately.

5 PROSPECTIVE JUROR NO. 546: Yeah, so that's the six.
6 Each individual --

7 THE COURT: Okay.

8 PROSPECTIVE JUROR NO. 546: -- has three charges.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NO. 546: Okay.

11 MR. SANFT: That's it. Anything else?

12 PROSPECTIVE JUROR NO. 546: No.

13 MR. SANFT: Okay, thank you. Going back to the
14 group as a whole. Now, you do understand that the burden
15 relies -- is strictly on the State of Nevada. Does anyone
16 have a problem with the idea that I could sit down, take the
17 hair out of my bun, and sit there and play on the computer the
18 rest of the time that we spend together, but the State of
19 Nevada would still have to prove its case to you beyond a
20 reasonable doubt? Does anyone have a problem with that
21 concept?

22 And I -- once again, I don't want to be frivolous
23 about this, but the idea is that -- does anyone here believe
24 that they would be expecting something from me during the
25 course of the trial?

1 PROSPECTIVE JUROR NO. 557: Sure.

2 MR. SANFT: Thank you. Let's see here. This is --

3 PROSPECTIVE JUROR NO. 557: 557, Randall.

4 MR. SANFT: Thank you. I appreciate it, Mr.

5 Randall.

6 PROSPECTIVE JUROR NO. 557: Yeah. I guess I was
7 wholly expecting to -- I would expect to see some kind of
8 defense, whether you're just cross-examining the witnesses
9 that are coming to the court, or something, but you would be
10 just not sitting there.

11 MR. SANFT: But why would that be -- why is it that
12 you would expect that?

13 PROSPECTIVE JUROR NO. 557: Well, I mean, if people
14 are here being tried for something, it would seem like you're
15 not doing your job, for example, if you weren't doing
16 something. I would expect you to at least question, argue,
17 discuss charges.

18 MR. SANFT: Well, let me -- and that's fair. I
19 appreciate that, because I'm sure that people feel that way,
20 but let me ask you this. You do understand that the State of
21 Nevada is the one here that's responsible of proving to you
22 that they've satisfied their burden beyond a reasonable doubt,
23 right?

24 PROSPECTIVE JUROR NO. 557: Yes.

25 MR. SANFT: Say for instance they put up a witness

1 up on the stand and it just doesn't feel like they did. Would
2 you still expect the defense attorney to get up and say
3 something if the person or the evidence that they provided to
4 you just didn't rise to that level?

5 PROSPECTIVE JUROR NO. 557: Not necessarily for any
6 one witness, but over the course of the trial, it would
7 intrigue me a little bit if you weren't to do something.

8 MR. SANFT: Okay, thank you.

9 PROSPECTIVE JUROR NO. 557: So I mean, I could see
10 you not necessarily questioning every witness that comes up
11 here, but if you were to not -- clearly, something.

12 MR. SANFT: Okay, I appreciate that. Thank you.
13 Anyone else that would share that same opinion? And --

14 PROSPECTIVE JUROR NO. 451: Sort of.

15 MR. SANFT: Were you stretching, or were --

16 PROSPECTIVE JUROR NO. 451: No, no, I was --

17 MR. SANFT: Okay. And I'm sorry, this is --

18 PROSPECTIVE JUROR NO. 451: Graham.

19 MR. SANFT: Ms. Graham, Badge number 451.

20 PROSPECTIVE JUROR NO. 451: 451, correct. I kind of
21 understand what he's saying in the standpoint that we're all
22 human, and we have expectations of lawyers, defense and
23 District Attorneys. So you would expect that, if you've been
24 hired, you're going to at least make some effort to do a job.

25 On the other hand, I understand what you're saying,

1 that it is up to the District Attorney to prove their case.
2 They are the ones that have initiated this case. You're kind
3 of here de facto because a case has been brought against
4 clients.

5 So would it bother me per se if you just sat back
6 and did nothing? Not necessarily, you know, if they're
7 presenting their case. However, if they've presented their
8 case and met their burden of proof, I would expect that you
9 would, you know, fight for your clients, or stand up at that
10 point, and, you know, interact, so.

11 MR. SANFT: Thank you. Let me ask -- oh, before you
12 turn it over --

13 PROSPECTIVE JUROR NO. 451: Okay.

14 MR. SANFT: -- Ms. Graham, just hold onto it. Now
15 you're in the hot seat. Now, make sure we're clear though.
16 You -- have you ever watched a lawyer movie before?

17 PROSPECTIVE JUROR NO. 451: Yes, I have. Many.

18 MR. SANFT: Oh, you were shaking your head like you
19 were going to say no.

20 PROSPECTIVE JUROR NO. 451: Many, many, many.

21 MR. SANFT: Okay. And would it be fair to say that
22 what we see on TV in terms of movies and so forth depicting
23 what happens in courtrooms is not real life?

24 PROSPECTIVE JUROR NO. 451: Probably not even close.

25 MR. SANFT: Okay. Are you going to be the type of

1 juror that says that, hey, it seems like these guys all got
2 along, like, you know, we got along during the course of a
3 trial, and expect the fireworks, the yelling, the screaming --

4 PROSPECTIVE JUROR NO. 451: No.

5 MR. SANFT: -- the throwing of the pens, like
6 getting up and tearing off, something, right?

7 PROSPECTIVE JUROR NO. 451: No, no, no. And
8 honestly, that might turn me off a little bit more if there
9 was. You know, we're all civil. And just because you're
10 having a trial, and there's this side against that side, it
11 doesn't mean that it's, you know, WWF in the courtroom.

12 MR. SANFT: Right, and I appreciate that. Thank
13 you. Does anyone else have any opinion with regards to that
14 question? Mr. Kubota?

15 PROSPECTIVE JUROR NO. 546: I have given expert
16 witness in cases, too, and I know I sometimes leave out some
17 information because my client wants me to make it seem like
18 it's the other guy's fault. I would expect you to know enough
19 to say, well, he gave a good testimony, and he gave a lot of
20 the right information, but did you leave this out? Did you --
21 did you give the spin to it this way and not that way to get
22 the persuasion that they want? I would expect you to show up
23 and bring out the rest of the story.

24 MR. SANFT: So I actually have to do something on
25 this case is what you're saying?

1 PROSPECTIVE JUROR NO. 546: He's paying you, or
2 we're paying you, the State's paying you, so one or the other.
3 If someone's paying you, they should watch it.

4 MR. SANFT: I appreciate that. Thank you. One
5 other question, since Mr. Kubota was saying, has anyone ever
6 testified under oath in either a deposition or during the
7 course of some type of court proceeding before? Outside of
8 Mr. Kubota, uniform no response. Thank you, appreciate that.

9 In addition to that, does anyone here have any
10 problem with lawyers? No? I know you were going to raise
11 your hand. But just like, say, just overall, the idea that we
12 have lawyers. You know, there's always that lawyer joke. I
13 don't know which one I'm talking about, but you know, there's
14 a ton of them about lawyers. But does anyone have a problem
15 with the fact that there are lawyers involved in this kind of
16 thing, this case that we're doing, this courtroom, this whole
17 thing, the system? Anyone have any issues with that? No?
18 Uniform no response.

19 PROSPECTIVE JUROR NO. 546: Am I allowed?

20 MR. SANFT: Yeah, sure. And just, Mr. Kubota, if
21 you'd just say your name again and number.

22 PROSPECTIVE JUROR NO. 546: My name's John Kubota,
23 and I'm 546.

24 MR. SANFT: Thank you.

25 PROSPECTIVE JUROR NO. 546: Well, my sister's a very

1 good lawyer too in LA, and she gives me lots of grief that I
2 can't dump on lawyers all the time. But you're supposed to
3 know the subject of what you're dealing with. I mean, I deal
4 with lawyers in construction defect who have no understanding
5 of what construction is, and they're getting paid how much a
6 day?

7 You're a criminal lawyer, so you may have a better
8 -- it may be easier to be understood and have a feel for the
9 kind of information that they deal with, but lawyers are
10 overpaid for, usually, what they know. They're doing more
11 presentation. My sister's a very good lawyer because she's a
12 very good actress, and she talks to the jury better than she
13 talks to anyone else, and that's why she lost her first case
14 at the age of 63 or something like that.

15 So the idea is, you have to know your material, you
16 have to know -- talk to the people. Her husband is a lawyer
17 too, and my mother listened to him make a presentation on an
18 accounting case, and she said he just talked right over the
19 jury the whole time, and they presented all this information,
20 and the jury looked at him and says, not guilty.

21 You got to talk to the people, too. Yours is -- you
22 have to know what you're doing, you have to talk -- know the
23 people you're talking to, all sorts of stuff, and I don't
24 always see it that way.

25 MR. SANFT: Well, let me ask you this. If you're

1 selected as a juror on this case, you're going to be
2 instructed that the words that I say, the words that the State
3 says is not evidence in the case; that the evidence comes
4 from --

5 PROSPECTIVE JUROR NO. 546: Right.

6 MR. SANFT: -- the exhibits we present and the
7 testimony of these witnesses.

8 PROSPECTIVE JUROR NO. 546: Right.

9 MR. SANFT: So I could be the most eloquent person
10 in the world, but that doesn't necessarily take away from the
11 fact that the evidence will be what the evidence is, right?

12 PROSPECTIVE JUROR NO. 546: But you have to make
13 sure that the evidence is presented in a way people can
14 understand it, and you make sure that all of the evidence is
15 presented, not just the certain spin, and not a certain
16 portion of it that seems to be good for what somebody wants.

17 MR. SANFT: Sure. Now, would that be something that
18 you could hold that sort of expectation of performance with
19 both myself as well as the State of Nevada? Could you hold us
20 both to the standard of --

21 PROSPECTIVE JUROR NO. 546: Oh, yeah, you're both
22 lawyers.

23 MR. SANFT: -- making sure we do our case? Okay,
24 thank you. I appreciate that. Anyone else have any opinions
25 with regards to that question? Okay.

1 One other question here real quick. With regards to
2 this case, it's a murder case, and there will be pictures that
3 will be shown to you of the person who passed, who died in
4 this case. Does anyone here have any problems with looking at
5 that kind of photography if you're selected as a juror in this
6 case?

7 All right, Ms. Young, and this is Badge number --
8 PROSPECTIVE JUROR NO. 485: 485.

9 MR. SANFT: Okay. Let me just cut to the chase,
10 because I'm sure everyone here would probably agree with you,
11 but could that prevent you from being a fair and impartial
12 juror in this case if you saw pictures of the crime scene or
13 whatever it is that we're going to see in this case?

14 PROSPECTIVE JUROR NO. 485: Yes.

15 MR. SANFT: Why?

16 PROSPECTIVE JUROR NO. 485: It would probably scare
17 me, just, you know, having to see that kind of stuff.

18 MR. SANFT: Okay. But if you were to see a picture
19 like that that would scare you or make you feel uncomfortable,
20 would that automatically tell you, okay, I can no longer be
21 fair and impartial --

22 PROSPECTIVE JUROR NO. 485: No.

23 MR. SANFT: -- and be done with it? Okay. Could
24 you still hold the State of Nevada to its burden upon seeing
25 the photographs in this case that may be uncomfortable for

1 you?

2 PROSPECTIVE JUROR NO. 485: Yes.

3 MR. SANFT: Okay. Is there anyone else that would
4 have a difference of opinion with Ms. Young with regard to
5 this question? Thank you, Ms. Young.

6 PROSPECTIVE JUROR NO. 485: Thank you.

7 MR. SANFT: Someone else raised their hand, I
8 thought. And just --

9 PROSPECTIVE JUROR NO. 554: Roberta, 554.

10 MR. SANFT: Okay.

11 PROSPECTIVE JUROR NO. 554: Yeah, I would just feel
12 uncomfortable looking at the pictures. I've seen somebody
13 come out of a -- from a drowning, you know, like eight hours
14 later, and it's still in my mind.

15 MR. SANFT: Now, once again, the question -- the
16 more important question that we have with regard to this is
17 could you still be fair and impartial if you did see a
18 photograph like that in the middle of a trial?

19 PROSPECTIVE JUROR NO. 554: Yeah.

20 MR. SANFT: Okay.

21 PROSPECTIVE JUROR NO. 554: But I just feel
22 uncomfortable.

23 MR. SANFT: Right. And I -- and just to let you
24 know -- anyone here would not feel uncomfortable; be okay with
25 the idea of seeing photographs like this during the course of

1 a trial? All right, and if you could just -- thank you very
2 much, ma'am. Appreciate it.

3 PROSPECTIVE JUROR NO. 482: Salazar, 482.

4 MR. SANFT: Thank you.

5 PROSPECTIVE JUROR NO. 482: And so what was the
6 question again, so I can make sure I --

7 MR. SANFT: Well, I just want to make sure, would
8 you be the type of person who would be just completely okay
9 with the idea of --

10 PROSPECTIVE JUROR NO. 482: Yeah.

11 MR. SANFT: -- seeing these photographs?

12 PROSPECTIVE JUROR NO. 482: Yeah, because, you know,
13 if we're not here analyzing the pictures closely, we can't
14 really be good jurors and, like, that. You know, the legal
15 system wouldn't work if we're not here to do our job.

16 MR. SANFT: Okay, and I appreciate that. Now, let
17 me ask you this though. Obviously, someone passed, someone
18 died. Would it be fair to say that most people would feel
19 something about that; that that shouldn't happen, right?

20 PROSPECTIVE JUROR NO. 482: Yeah.

21 MR. SANFT: Okay. Would you be the type of person
22 that would be colored by that? Meaning that you would look at
23 it and you would think, okay, well, someone passed, and as a
24 result, someone needs to be held responsible; and Mr.
25 Robertson is over here, and he's been charged with a crime, so

1 he should just be responsible for that? Would you be that
2 type of juror or have that type of reaction?

3 PROSPECTIVE JUROR NO. 482: No, not at all.

4 MR. SANFT: Okay, even though we know that this is a
5 horrible thing that happened, right?

6 PROSPECTIVE JUROR NO. 482: Yeah.

7 MR. SANFT: Okay.

8 PROSPECTIVE JUROR NO. 482: Yeah. Unless the
9 evidence pointed to him, I'm not going to just blame him just
10 on getting emotional.

11 MR. SANFT: Thank you, appreciate that. A couple
12 more questions here. Mr. O'Brien? This is Badge number 464?

13 PROSPECTIVE JUROR NO. 464: Correct, 464.

14 MR. SANFT: All right. We've had some discussion
15 about your inclinations about, say, you believe in law
16 enforcement?

17 PROSPECTIVE JUROR NO. 464: Sure.

18 MR. SANFT: Okay. Would you be the type of person
19 that we would want on this jury if I was -- if I was a defense
20 attorney?

21 PROSPECTIVE JUROR NO. 464: I believe I can be fair
22 and impartial.

23 MR. SANFT: Okay, meaning that even though you know
24 other police officers and you work with people like that in
25 the law enforcement area, that you could still be fair and

1 impartial in this case?

2 PROSPECTIVE JUROR NO. 464: Sure.

3 MR. SANFT: Okay. Now, during the time that we
4 spend here together, you may hear police officers testify
5 during the course of this case that may not have done things
6 according to their standard performance. Could you hold
7 police officers to their specific standard performance in this
8 case?

9 PROSPECTIVE JUROR NO. 464: 100 percent.

10 MR. SANFT: Okay, thank you. I appreciate that.

11 And then, finally, if I could turn the microphone
12 over to Rodriguez, 475. Sir, you were in the Navy?

13 PROSPECTIVE JUROR NO. 475: Yes, that's correct.

14 MR. SANFT: What was your MOS?

15 PROSPECTIVE JUROR NO. 475: AD.

16 MR. SANFT: What is that?

17 PROSPECTIVE JUROR NO. 475: Aviation Machinist's
18 Mate.

19 MR. SANFT: And you were doing that for --

20 PROSPECTIVE JUROR NO. 475: Work on aircraft.

21 MR. SANFT: I see. Was that on a ship, or was that
22 -- okay.

23 PROSPECTIVE JUROR NO. 475: I belonged to squadrons,
24 and we do it on carriers.

25 MR. SANFT: Okay.

1 PROSPECTIVE JUROR NO. 475: Part of an air wing.
2 MR. SANFT: And is that what you did the entire time
3 you were in the Navy?
4 PROSPECTIVE JUROR NO. 475: Um-hum.
5 MR. SANFT: Is that a yes?
6 PROSPECTIVE JUROR NO. 475: Yes.
7 MR. SANFT: And the -- how long were you in the Navy
8 for? Because I --
9 PROSPECTIVE JUROR NO. 475: 22 years.
10 MR. SANFT: And then, when you retired, then you
11 went and worked --
12 PROSPECTIVE JUROR NO. 475: For Cox Communications.
13 MR. SANFT: Okay, and doing -- what did you do for
14 them specifically?
15 PROSPECTIVE JUROR NO. 475: Internet and video
16 services, things like that.
17 MR. SANFT: Okay. Let me ask you just one question
18 here. Is -- I think you had answered this before, but can you
19 be fair to both sides --
20 PROSPECTIVE JUROR NO. 475: Yes.
21 MR. SANFT: -- if you're picked as a juror in this
22 case?
23 PROSPECTIVE JUROR NO. 475: Um-hum.
24 MR. SANFT: Is that a yes?
25 PROSPECTIVE JUROR NO. 475: Yes.

1 MR. SANFT: And I'm sorry we keep saying that, but
2 this is -- a record has to be made, and so "um-hum" doesn't
3 translate good for the record.

4 PROSPECTIVE JUROR NO. 475: H-m-m.

5 MR. SANFT: Right, exactly. It doesn't -- it's
6 like, what is this? But let me ask you this. When you say --
7 when we ask the question "Can you be fair to both sides," what
8 does that mean to you?

9 PROSPECTIVE JUROR NO. 475: Fair to both sides?
10 I'll have to evaluate all the information that's presented and
11 see where the facts are facts, and things like that, and I
12 don't know. I've never been in that position before, so.

13 MR. SANFT: All right, and I appreciate that,
14 because I think a lot of us here have never been in this
15 position before, mostly.

16 But let me ask you this one last question. You were
17 in the military. The question was asked earlier about whether
18 or not you had ever been on a court-martial or been part of
19 that type of proceeding.

20 PROSPECTIVE JUROR NO. 475: I haven't.

21 MR. SANFT: Okay. Had you at any point during your
22 career ever been in a position where you had to report
23 something; something that happened, you know, that you saw
24 other people doing or anything like that while you were in the
25 military?

1 PROSPECTIVE JUROR NO. 475: No.

2 MR. SANFT: Thank you, I appreciate that.

3 PROSPECTIVE JUROR NO. 475: Okay.

4 MR. SANFT: Your Honor, I have no further questions.

5 THE COURT: Okay. Mr. Ruggeroli?

6 MR. RUGGEROLI: Judge, logistically, what time will

7 we be going to? I don't know if --

8 THE COURT: How much time do you need?

9 MR. RUGGEROLI: It will be a little while.

10 THE COURT: Okay, well, you can start. You can

11 start.

12 MR. SANFT: And Your Honor, do I -- do I pass for

13 cause now, or should I wait?

14 THE COURT: Did you pass -- did you pass for cause?

15 MR. SANFT: I'll pass for cause, Your Honor.

16 THE COURT: Okay, thank you.

17 MR. SANFT: Thank you.

18 MR. RUGGEROLI: Judge, could I just inquire? We may

19 need a bathroom break, and I --

20 THE COURT: Okay.

21 MR. RUGGEROLI: Just in case.

22 THE COURT: Okay. All right. At this time, ladies

23 and gentlemen, we're going to recess.

24 During this recess, you're admonished not to talk or

25 converse amongst yourselves or with anyone else on any subject

1 connected with this trial, or read, watch, or listen to any
2 report of or commentary on the trial, or any person connected
3 with this trial, by any medium of information, including,
4 without limitation, newspapers, television, the internet, or
5 radio, or form or express any opinion on any subject connected
6 with this trial until the case is finally submitted to you.

7 We'll be in recess until 1:30. Thank you.

8 THE MARSHAL: Thank you. All rise for the exiting
9 jury. Jurors, please.

10 (Court recessed at 12:13 P.M. until 1:33 P.M.)

11 (Outside the presence of the prospective jurors)

12 THE MARSHAL: All rise for the entering jury,
13 please.

14 (Within the presence of the prospective jurors)

15 THE COURT: Does the State stipulate to the presence
16 of the panel?

17 MR. PESCI: Yes, Your Honor.

18 THE COURT: Mr. Sanft?

19 MR. SANFT: Yes, Your Honor.

20 THE COURT: Mr. Ruggeroli?

21 MR. RUGGEROLI: Yes, Your Honor.

22 THE COURT: Okay, you may begin your voir dire.

23 MR. RUGGEROLI: Thank you, Your Honor.

24 Good afternoon, ladies and gentlemen. My name is
25 James Ruggeroli. I represent only Mr. Wheeler. He is present

1 at the far end of that table in the blue shirt.

2 I appreciate your patience. I know you've been
3 asked a lot of questions. There are some things that I need
4 to follow up on though, because Mr. Sanft talked a little bit
5 about this, but we do not represent the individuals together;
6 we represent them separately. So I'd like to start with Mr.
7 Kubota. Your badge number, sir?

8 THE MARSHAL: Hang on a second, the microphone's not
9 on yet.

10 PROSPECTIVE JUROR NO. 546: Okay. I'm 546.

11 MR. RUGGEROLI: Thank you, Mr. Kubota. You had some
12 questions earlier about the differences in terms of verdicts
13 for each individual and each count.

14 PROSPECTIVE JUROR NO. 546: Right.

15 MR. RUGGEROLI: This is a little different, and I
16 wanted to touch on a couple of things, and I thought you'd be
17 a good person to start with. When I say that I only represent
18 Mr. Wheeler, do you understand that I don't have any
19 obligation to prove that a crime occurred or that anyone in
20 particular committed that crime? Does that make sense to you?

21 PROSPECTIVE JUROR NO. 546: Well, only partly,
22 because we're because a crime was committed.

23 THE COURT: Okay, it's because that is the State of
24 Nevada's burden.

25 PROSPECTIVE JUROR NO. 546: Right.

1 THE COURT: The State of Nevada is the only party
2 that has a burden in this action. The State of Nevada has the
3 burden to prove that what they've alleged happened by proof
4 beyond a reasonable doubt.

5 PROSPECTIVE JUROR NO. 546: Right.

6 THE COURT: And the defense does not have -- in our
7 constitutional system, they do not have a burden during a
8 criminal trial. Do you understand that?

9 PROSPECTIVE JUROR NO. 546: Yeah.

10 THE COURT: Okay, and you're okay with that?

11 PROSPECTIVE JUROR NO. 546: Yeah.

12 MR. RUGGEROLI: So when I say that my job -- and
13 you've got a lot of experience, because you've been a
14 litigant --

15 PROSPECTIVE JUROR NO. 546: Yeah.

16 MR. RUGGEROLI: -- many times, correct?

17 PROSPECTIVE JUROR NO. 546: Yeah.

18 MR. RUGGEROLI: You've also been an expert witness?

19 PROSPECTIVE JUROR NO. 546: Right.

20 MR. RUGGEROLI: What capacity would that have been
21 in?

22 PROSPECTIVE JUROR NO. 546: Like, maybe the first
23 one I did was somebody's house was remodeled, and part of it
24 collapsed. And I went in and said, okay, this is what
25 happened, this is how it was built, this is how it should have

1 been built, they missed this part, they missed that part, and
2 I said, that's why it had problems.

3 MR. RUGGEROLI: Okay. You've never served as a
4 juror though?

5 PROSPECTIVE JUROR NO. 546: No.

6 MR. RUGGEROLI: Okay. Do you think your experience,
7 having been an expert, and also having been a litigant many
8 times, will have any impact on your service as a juror?

9 PROSPECTIVE JUROR NO. 546: I'll have a lot more
10 questions; a lot more wanting to know than people who haven't
11 been through this process a couple of times, I think.

12 MR. RUGGEROLI: Right. And that's one of the
13 reasons why I wanted to start with this question, just to
14 clarify it. And so, the Judge will instruct you on the law.
15 She gets to tell you, here's what the law says, and then it
16 would be your obligation to follow it. But as a starting
17 point, I wanted to see if you're comfortable with the idea of
18 separating me in terms of your mind from the parties that are
19 at the table that I'm actually sitting at. You understand?
20 And that's what I'm getting at --

21 PROSPECTIVE JUROR NO. 546: Right.

22 MR. RUGGEROLI: -- in terms of my question.

23 PROSPECTIVE JUROR NO. 546: Right. You've got two
24 defendants sitting at one table. You're representing one, and
25 the other lawyer's defending the other. And what the

1 prosecutor's going to try to say is they were both there, they
2 both did this. And you'll try to say, well, you know, it
3 wasn't my guy, he wasn't in that area, something like that, so
4 he couldn't have been involved in the act. His fingerprints
5 or his footprints may show up here and there, but I mean, he
6 was there middle of the day too, so, yeah.

7 MR. RUGGEROLI: Right. And then also though, I
8 don't have any responsibility to try and do the prosecutor's
9 job --

10 PROSPECTIVE JUROR NO. 546: Right.

11 MR. RUGGEROLI: -- of saying, here's who did this.

12 PROSPECTIVE JUROR NO. 546: Right.

13 MR. RUGGEROLI: And --

14 PROSPECTIVE JUROR NO. 546: And you're not trying to
15 say, well, it's his fault, not my guy's fault.

16 MR. RUGGEROLI: Right. Okay. You have a sister
17 that's actually a lawyer?

18 PROSPECTIVE JUROR NO. 546: Yes.

19 MR. RUGGEROLI: And I wanted to follow up, because
20 you made an interesting explanation of some of what she does.
21 You referred to her as an actress?

22 PROSPECTIVE JUROR NO. 546: Yes.

23 MR. RUGGEROLI: Okay. And so, because you've never
24 served on a jury, you may have some preconceptions about what
25 lawyers and what their roles are? I think that's fair to say.

1 PROSPECTIVE JUROR NO. 546: Yes.

2 MR. RUGGEROLI: As a juror, are you okay sitting in
3 the ultimate position though and trying to put those
4 preconceptions aside to look at -- the focus not on the
5 lawyers, but the focus on the individual witnesses that
6 actually get up and testify?

7 PROSPECTIVE JUROR NO. 546: What I'm worried about
8 is I'm going to sit there and say, why didn't he ask this, why
9 didn't he do this? I mean, if he'd have just taken one more
10 question or two, and gone just another step or two, I mean --

11 THE COURT: Okay, and you understand jurors are
12 permitted to ask questions of witnesses?

13 PROSPECTIVE JUROR NO. 546: Really?

14 THE COURT: Really.

15 PROSPECTIVE JUROR NO. 546: In the middle of the
16 court, we raise our hands and --

17 THE COURT: Yeah. Well, I'll tell you what the
18 procedure is.

19 PROSPECTIVE JUROR NO. 546: Okay.

20 THE COURT: I usually allow you to do it after both
21 sides has had an opportunity to question that witness. And at
22 that time, if you have a question, yes, I will take the
23 question, I'll review it, and determine if it's appropriate;
24 and if I think it's appropriate, I'll ask the question.

25 PROSPECTIVE JUROR NO. 546: I wasn't aware.

1 MR. RUGGEROLI: Okay. Just in terms of those
2 aspects, do you have anything else that you wanted to add as
3 far as preconceptions based on your experience?

4 PROSPECTIVE JUROR NO. 546: Well, I've been debating
5 this one between me and myself here. We just had a number of
6 Republican senators stand up in front of the TV and say, yeah,
7 Trump did this, and it was wrong, but it wasn't bad. And gee,
8 I don't think I'm going to convict him, even though he said he
9 did it; even though they said, yeah, well, it was bad, but it
10 wasn't that bad. And the wording of the law that defines what
11 he was supposed to and not supposed to do is kind of fuzzy, so
12 we're going to not convict him. I mean, this is from the
13 Senate on down --

14 THE COURT: Okay, and you know what, I don't want to
15 delve all out into that, but you understand that was a
16 constitutional --

17 PROSPECTIVE JUROR NO. 546: Right, well, this --

18 THE COURT: -- trial. It was not a criminal trial.
19 They don't have to follow the rules of criminal procedure or
20 criminal laws. I mean, it was a constitutional act.

21 PROSPECTIVE JUROR NO. 546: But all of the laws are
22 supposed to be followed in the Constitution.

23 THE COURT: I agree.

24 PROSPECTIVE JUROR NO. 546: And they just said, well
25 -- rule of law kind of went out the window, and I said, what?

1 THE COURT: Okay. I just don't think that's --
2 PROSPECTIVE JUROR NO. 546: Yeah.
3 THE COURT: -- a good example.
4 PROSPECTIVE JUROR NO. 546: Okay.
5 THE COURT: You understand, that's not a good
6 example of what we should do, and what a -- and it wasn't
7 really a trial either.
8 PROSPECTIVE JUROR NO. 546: Right.
9 THE COURT: Right?
10 PROSPECTIVE JUROR NO. 546: Well, in theory, it was
11 sort of. I mean, they had a judge, they had -- they all had
12 to do an oath that they will do -- just like when we came in
13 here and I --
14 THE COURT: Yeah.
15 PROSPECTIVE JUROR NO. 546: -- promised to listen.
16 Yeah, yeah, yeah.
17 THE COURT: Impartial justice.
18 PROSPECTIVE JUROR NO. 546: Everything is similar.
19 It may not have been exactly the same, but the idea of rule of
20 law was put to test.
21 MR. RUGGEROLI: So in this trial, if you get
22 selected as a juror, you've been given some very minimal
23 allegations about what this case is about, right?
24 PROSPECTIVE JUROR NO. 546: Murder.
25 MR. RUGGEROLI: You haven't heard any actual

1 evidence yet?

2 PROSPECTIVE JUROR NO. 546: Correct.

3 MR. RUGGEROLI: You have a vast wealth of experience
4 and opinions about a number of things based on your career,
5 your experiences as an expert, and things like that. As a
6 juror though, will you listen to the evidence in this case to
7 see if the State has done their job?

8 PROSPECTIVE JUROR NO. 546: Yes.

9 MR. RUGGEROLI: And then, am I going to be held to a
10 unreachable standard? Because you probably had a lot of very
11 expensive lawyers on your teams over the years, and you've got
12 a lot of questions that you hope will be followed up on, but
13 will you do your job as a juror --

14 PROSPECTIVE JUROR NO. 546: Yes.

15 MR. RUGGEROLI: -- and pay attention, and evaluate
16 the credibility of these witnesses in this particular case?

17 PROSPECTIVE JUROR NO. 546: And I will ask my extra
18 questions if I think that you missed a few questions --

19 MR. RUGGEROLI: Right.

20 PROSPECTIVE JUROR NO. 546: -- you could have asked
21 a little further in-depth into this questioning.

22 MR. RUGGEROLI: Thank you, sir. I'm going to ask to
23 pass the microphone, if you wouldn't mind. I'll take it,
24 thank you.

25 Mr. Randall, going to come to you, if that's okay.

1 Could you state your badge number, please?

2 PROSPECTIVE JUROR NO. 557: Sure. 557, Colin
3 Randall.

4 MR. RUGGEROLI: Thank you, sir. Mr. Randall, I
5 wanted to go to you because you made a statement -- and I
6 think you were, like everybody, really just trying to give us
7 information so that we can know a little bit more about you --
8 regarding the idea of a co-defendant or a former co-defendant
9 testifying. Do you remember that?

10 PROSPECTIVE JUROR NO. 557: I do, yes.

11 MR. RUGGEROLI: And you had, I think it's fair to
12 say, some potential reservations that caused you to volunteer?

13 PROSPECTIVE JUROR NO. 557: Sure. I mean, I think
14 the example you mentioned is the fact that there's a third
15 person who's potentially going to be a witness or whatever,
16 and even your client is possibly going to be a witness, and --
17 but maybe get a deal out of it, too.

18 MR. RUGGEROLI: Right. But the notion that somebody
19 may have been charged and now has reached some type of an
20 agreement, you did have some concern?

21 PROSPECTIVE JUROR NO. 557: Well, it certainly gives
22 me pause, because you just wonder what motivations there are,
23 and you know, without having a picture of what the whole crime
24 was and what -- you know, what went on, it's really difficult
25 to say. But it just gives me pause. It's kind of -- it's

1 just not --

2 MR. RUGGEROLI: Right.

3 PROSPECTIVE JUROR NO. 557: You know.

4 MR. RUGGEROLI: At this point, because you haven't
5 heard anything, it is difficult to say. Will you listen to
6 the evidence that's presented if you're selected as a juror,
7 and do your job as a jury member?

8 PROSPECTIVE JUROR NO. 557: Yes, absolutely. I
9 mean --

10 MR. RUGGEROLI: In that context? And I apologize
11 for interrupting.

12 PROSPECTIVE JUROR NO. 557: Yeah, I'm sorry. I was
13 just saying it gave me pause. It kind of -- it's not
14 something I've, you know, come across too often, other than
15 seeing it on TV once in a while. But being a jury member,
16 yes, I'd, you know, be willing to hear all the discussions and
17 make a judgment based on what we see.

18 MR. RUGGEROLI: So as a potential juror, what do you
19 think a good juror would do when a witness gets on the stand?
20 And even in a situation where a former co-defendant is
21 testifying, what would a good juror do in sitting in judgment
22 on that witness?

23 PROSPECTIVE JUROR NO. 557: Well, I mean, I think
24 you'd want to keep an open mind and really be prepared to
25 listen to what they're saying and what's being discussed in

1 the court. And you know --

2 MR. RUGGEROLI: Do you think you can do that?

3 PROSPECTIVE JUROR NO. 557: I do, yes.

4 MR. RUGGEROLI: Okay. I do want to pass the
5 microphone, if we could, to Mr. O'Brien, please.

6 PROSPECTIVE JUROR NO. 464: Thank you. 464, Jeff
7 O'Brien.

8 MR. RUGGEROLI: Thank you, sir. I wanted to segue
9 from asking the last question about a co-defendant testifying,
10 and being a good juror, and doing the things that a good juror
11 would do. I wanted to follow up because you had made some
12 statements early on about you have a lot of experience with
13 police officers; you've got contracts and things like that. I
14 do want to go over it a little bit again though.

15 If an officer testifies, the idea of your experience
16 -- and there's not a right or wrong answer. It's just, how do
17 you view things? Because of your particular friendship with
18 people and things of that nature that are officers, are you
19 going to listen to a police officer and just take it at pure
20 face value? And I'm asking for an honest answer, not one that
21 you think we may want.

22 You mentioned this on your own, and we greatly
23 appreciate that. But if an officer gets up, are you going to
24 tip the scales because he's an officer, and give him more of
25 the benefit of the doubt than an average witness?

1 PROSPECTIVE JUROR NO. 464: I just want to say, I
2 think the context of the question was that, would you give
3 more or less credence to the honesty of their answer.

4 MR. RUGGEROLI: Okay.

5 PROSPECTIVE JUROR NO. 464: And I stated that I
6 probably would, because I know a lot of them, and I have no
7 reason to think that they would lie to me.

8 MR. RUGGEROLI: Right. Now, these are going to be
9 individuals that you don't know. You didn't --

10 PROSPECTIVE JUROR NO. 464: Probably, yeah.

11 MR. RUGGEROLI: Well, did you recognize any of the
12 names that were --

13 PROSPECTIVE JUROR NO. 464: Negative, no.

14 MR. RUGGEROLI: Okay. So these are officers, and
15 you would agree with me that there's a lot of really good
16 officers, and then there are some that might not have been
17 able to observe certain things. Part of your job as a juror
18 and being a good juror is to take each one individually.
19 Would you agree with that?

20 PROSPECTIVE JUROR NO. 464: And be impartial about
21 it, correct.

22 MR. RUGGEROLI: Okay. And so, just because you're
23 an officer, would you agree that doesn't automatically make
24 you super perceptive?

25 PROSPECTIVE JUROR NO. 464: No, of course not.

1 MR. RUGGEROLI: Or super honest?

2 PROSPECTIVE JUROR NO. 464: No, and they're not
3 great shots either.

4 MR. RUGGEROLI: Okay. So based on what you said,
5 you'd be willing to listen to the officers' testimony and
6 serve as a good juror; not just take it at face value, but
7 analyze it independently?

8 PROSPECTIVE JUROR NO. 464: Certainly.

9 MR. RUGGEROLI: Okay. I did want to follow up with
10 you, since you have the microphone, and you do have the
11 experience with the firearms. Are you familiar with the open
12 carry law?

13 PROSPECTIVE JUROR NO. 464: I am.

14 MR. RUGGEROLI: Do you have any particular feelings
15 or views about open carry?

16 PROSPECTIVE JUROR NO. 464: I'm all for it.

17 MR. RUGGEROLI: Okay. When I say open carry, not
18 everybody on the panel may understand what we're talking
19 about. So what would that mean to you in a firearms context?

20 PROSPECTIVE JUROR NO. 464: It means that you can be
21 out in public with a firearm in full display without suffering
22 any penalties.

23 MR. RUGGEROLI: Okay. And is it your understanding
24 that, for the most part, that is legal?

25 PROSPECTIVE JUROR NO. 464: Yes.

1 MR. RUGGEROLI: All right, and do you have any views
2 about that being a positive or negative right?

3 PROSPECTIVE JUROR NO. 464: I think that it's
4 awesome.

5 MR. RUGGEROLI: Okay. Does anybody -- and now I'm
6 going to open it up. I haven't done that yet. But does
7 anybody else have any views about open carry law in particular
8 that is the same, but really different than what he just
9 expressed? Nobody? Okay, sir, please. If I could start with
10 right behind you --

11 PROSPECTIVE JUROR NO. 410: McGinty, 410.

12 MR. RUGGEROLI: Yes, thank you.

13 PROSPECTIVE JUROR NO. 410: So I find it a rather
14 antiquated law and something that has not really changed with
15 the environment and what's gone on through society, and as
16 we've evolved, the law has not evolved, right?

17 Prime example, in a pizza shop a few weeks ago, an
18 individual comes in with a 9 on the outside of his clothing,
19 and just shirt tucked in. He was just a -- he wasn't a
20 model-looking citizen, so yeah, there's a perception. It was
21 like he was inviting something, and that's the problem I have
22 with it today, is it's probably not appropriate to have an
23 open carry to -- in most situations.

24 MR. RUGGEROLI: Okay, and just to follow up on that.
25 Were you actually present?

1 PROSPECTIVE JUROR NO. 410: Yeah.

2 MR. RUGGEROLI: Okay, so this is something that you
3 observed and saw, and you had --

4 PROSPECTIVE JUROR NO. 410: Correct, yes.

5 MR. RUGGEROLI: And you had a feeling about that?

6 PROSPECTIVE JUROR NO. 410: Yes.

7 MR. RUGGEROLI: All right.

8 PROSPECTIVE JUROR NO. 410: Very much so.

9 MR. RUGGEROLI: And I appreciate you sharing that
10 with us. There was another hand, I think it was right in
11 front of you. Could you give us your badge number?

12 PROSPECTIVE JUROR NO. 475: 475.

13 MR. RUGGEROLI: Yes, sir.

14 PROSPECTIVE JUROR NO. 475: I disagree with open
15 carrying because not everybody has a stable mind, and it's
16 easy for somebody to like get in an argument, and be angry,
17 and pull out their guns.

18 MR. RUGGEROLI: Okay. Have you been in a situation
19 where you saw somebody open carry?

20 PROSPECTIVE JUROR NO. 475: No.

21 MR. RUGGEROLI: No? Okay, I appreciate that. Thank
22 you. Could we hand the microphone down to Ms. O'Brien?

23 PROSPECTIVE JUROR NO. 483: Ms. O'Brien?

24 MR. RUGGEROLI: Oh, I'm sorry, it's Ms. Cook.

25 PROSPECTIVE JUROR NO. 483: Yeah.

1 MR. RUGGEROLI: Correct. I apologize. Your badge
2 number, please? Thank you, Ms. Cook.

3 PROSPECTIVE JUROR NO. 483: Lisa Cook, 483.

4 MR. RUGGEROLI: I ask that you would answer some
5 questions, because you've mentioned that your husband is
6 involved in the shooting range, and I think that one of your
7 stepsons is also involved?

8 PROSPECTIVE JUROR NO. 483: Correct.

9 MR. RUGGEROLI: Can you tell me a little bit about
10 the shooting range and what that is?

11 PROSPECTIVE JUROR NO. 483: They -- they build
12 shooting ranges.

13 MR. RUGGEROLI: Oh.

14 PROSPECTIVE JUROR NO. 483: It's modular shooting
15 ranges in North Las Vegas --

16 MR. RUGGEROLI: Okay.

17 PROSPECTIVE JUROR NO. 483: -- for all over, across
18 the world, and for the military and law enforcement and such.

19 MR. RUGGEROLI: All right. Are you familiar with
20 open carry?

21 PROSPECTIVE JUROR NO. 483: I am.

22 MR. RUGGEROLI: And do you have a view about that?

23 PROSPECTIVE JUROR NO. 483: I'm for it.

24 MR. RUGGEROLI: Okay. Have you ever been in public
25 when somebody was open carry that you observed?

1 PROSPECTIVE JUROR NO. 483: Yes.

2 MR. RUGGEROLI: Besides family members?

3 PROSPECTIVE JUROR NO. 483: Yes.

4 MR. RUGGEROLI: Okay. What was your reaction?

5 PROSPECTIVE JUROR NO. 483: Neither. I mean, you

6 know, it didn't affect me either way, because -- yeah.

7 MR. RUGGEROLI: All right, thank you.

8 PROSPECTIVE JUROR NO. 483: Um-hum.

9 MR. RUGGEROLI: Was there anybody else that I may

10 have missed that had feelings about open carry or firearms?

11 And I'm seeing no responses. Thank you.

12 If we could go back to Mr. McGinty, please. Thank

13 you. Badge number again?

14 PROSPECTIVE JUROR NO. 410: McGinty, 410.

15 MR. RUGGEROLI: Mr. McGinty, I know you -- we've

16 talked a lot, but that's one of the reasons why I wanted to go

17 to you again, because I know that you're sharing with us, and

18 if that leads to some participation, that would be greatly

19 appreciated.

20 I would like to ask about your view because of some

21 of the answers that you gave previously about the concept of

22 somebody electing not to testify at trial. Do you have any

23 particular view about that?

24 PROSPECTIVE JUROR NO. 410: Somebody electing not to

25 testify?

1 MR. RUGGEROLI: Right.

2 PROSPECTIVE JUROR NO. 410: As a -- a defendant, or?

3 MR. RUGGEROLI: Right.

4 PROSPECTIVE JUROR NO. 410: Okay. No, I see the

5 rationale behind that. Not everyone's going to be perceived

6 and come across in a positive light or the right light that

7 they want to, so I have no problem with that.

8 MR. RUGGEROLI: So that right that we all share, and

9 that's an individual right that each individual has, you

10 believe in that right to not testify if you choose not to do

11 so if you were accused?

12 PROSPECTIVE JUROR NO. 410: Absolutely.

13 MR. RUGGEROLI: Now, you did make some other

14 statements that -- and that's one of the reasons why I was

15 asking you is because I think you mentioned you've served as

16 an expert witness as well?

17 PROSPECTIVE JUROR NO. 410: No, I --

18 MR. RUGGEROLI: No?

19 PROSPECTIVE JUROR NO. 410: I know expert witnesses.

20 MR. RUGGEROLI: Okay. You would agree that there

21 may be a number of potential reasons why an attorney may

22 advise a particular individual not to testify, even apart from

23 the concept of whether or not they committed the alleged

24 crime?

25 PROSPECTIVE JUROR NO. 410: Absolutely.

1 MR. RUGGEROLI: Okay, and you personally have no
2 problem with that?

3 PROSPECTIVE JUROR NO. 410: I do not.

4 MR. RUGGEROLI: Okay. Now, I do want to open it up
5 to the panel as well, if there are any volunteers, this right
6 that we have. Does anybody have a different feeling about
7 that right, where, hey, somebody should get on the stand, and
8 I'm not going to be okay with it if they don't? Does anybody
9 have that feeling? I see no responses. Okay, thank you.

10 If we could hand it to Mr. Deperio, and I believe
11 he's down here.

12 PROSPECTIVE JUROR NO. 488: 488.

13 MR. RUGGEROLI: Mr. Deperio, I wanted to follow up
14 because you mentioned that you have served as a juror in the
15 past?

16 PROSPECTIVE JUROR NO. 488: Yes.

17 MR. RUGGEROLI: And you mentioned that, in that
18 case, you might not have felt like you had the opportunity to
19 fully express yourself; is that accurate?

20 PROSPECTIVE JUROR NO. 488: Yeah.

21 MR. RUGGEROLI: If you're -- now, you've had that
22 experience, and so you know more than the average potential
23 juror that doesn't, obviously.

24 PROSPECTIVE JUROR NO. 488: Yes.

25 MR. RUGGEROLI: Do you think that you'd be more

1 inclined, if you're selected for this jury, to go in the back
2 and be more assertive?

3 PROSPECTIVE JUROR NO. 488: I mean, that's just the
4 nature of my personality to be quiet all the time, so --

5 MR. RUGGEROLI: Right.

6 PROSPECTIVE JUROR NO. 488: -- probably not.

7 MR. RUGGEROLI: Right. Now, you were able
8 internally to listen to all the evidence in that case?

9 PROSPECTIVE JUROR NO. 488: Yes.

10 MR. RUGGEROLI: Do you think you -- you'd do that in
11 this case as well?

12 PROSPECTIVE JUROR NO. 488: Yes.

13 MR. RUGGEROLI: Some people, as you're mentioning,
14 are just naturally more quiet and reserved?

15 PROSPECTIVE JUROR NO. 488: Yes.

16 MR. RUGGEROLI: And you're one of those individuals?

17 PROSPECTIVE JUROR NO. 488: Yes.

18 MR. RUGGEROLI: Nothing wrong with that. Do you
19 think though that you -- now, in that case, I don't know if
20 they did anything in particular. But in this case, even if
21 you don't have the kind of fortitude to maybe be real
22 assertive if you have an opinion that goes against the
23 majority, but if you see it differently than the majority of
24 the other jurors, does your quietness mean that you might not
25 be assertive and go with the majority simply because, or?

1 PROSPECTIVE JUROR NO. 488: Yes, I think so.

2 MR. RUGGEROLI: That you would be likely to follow
3 with the majority?

4 PROSPECTIVE JUROR NO. 488: No, I'm not saying that,
5 but maybe -- like I said, I think it's a disadvantage because
6 I'm not able to converse, and engage, and you know,
7 participate in the --

8 MR. RUGGEROLI: Debate?

9 PROSPECTIVE JUROR NO. 488: -- what's going on.
10 Yeah.

11 MR. RUGGEROLI: Yeah.

12 PROSPECTIVE JUROR NO. 488: And prove, you know, if
13 I want the opposite, you know.

14 MR. RUGGEROLI: Right.

15 PROSPECTIVE JUROR NO. 488: So.

16 MR. RUGGEROLI: And that's why I wanted to ask you
17 about that, because again, I do want to open this up to
18 others. There's nothing wrong with that. People are
19 different, and sometimes you might have seen something
20 different than everybody else because you're paying attention
21 in a different way.

22 But what I'd like to know is if anybody actually
23 feels the same way, and again, there's nothing wrong with
24 that. But is there anybody that is a bit more reserved, a bit
25 more quiet that would have a tendency to kind of go with the

1 flow of the majority if they're selected on a jury? Anybody?

2 Yes, sir. Could we pass it down to Mr. Rodriguez?

3 Thank you, sir. Badge --

4 PROSPECTIVE JUROR NO. 475: 475.

5 MR. RUGGEROLI: Yes, sir. So could you elaborate on
6 that, please?

7 PROSPECTIVE JUROR NO. 475: Pretty much what he
8 said. There's nothing else (indiscernible), probably because
9 I kind of -- my thinking, my brain is kind of slower than
10 everybody else.

11 MR. RUGGEROLI: Okay.

12 PROSPECTIVE JUROR NO. 475: So when there's a
13 discussion, I kind of can't follow up, can't follow -- I can't
14 keep up with the conversation, so I just step back.

15 MR. RUGGEROLI: All right. We've had a lot going on
16 over the last two days in here. How about the things that
17 have been discussed, the questions and answers? Have you --
18 have you been able to --

19 PROSPECTIVE JUROR NO. 475: Yes, yeah.

20 MR. RUGGEROLI: Okay. Well, you're just trying to
21 give us information right now, and I appreciate that. Thank
22 you. Does anybody else feel similar?

23 All right, could we go back to Ms. -- the microphone
24 to Ms. Graham, please?

25 PROSPECTIVE JUROR NO. 451: 451.

1 THE MARSHAL: Hang on, ma'am.
2 THE COURT: Yeah, I mean --
3 THE MARSHAL: Can we get that phone turned off?
4 THE COURT: Is there --
5 PROSPECTIVE JUROR NO. 546: Yeah, I'm turning it
6 off.
7 THE COURT: Okay.
8 PROSPECTIVE JUROR NO. 546: I'm trying.
9 THE COURT: All right, doesn't seem to be working.
10 PROSPECTIVE JUROR NO. 546: There.
11 THE COURT: Thank you.
12 MR. RUGGEROLI: Okay.
13 PROSPECTIVE JUROR NO. 546: Sorry.
14 MR. RUGGEROLI: Ms. Graham?
15 PROSPECTIVE JUROR NO. 451: Yeah.
16 MR. RUGGEROLI: I wanted to ask you, because you
17 made an interesting statement about kind of the demeanor of
18 some of the attorneys, and I think your statement was, we're
19 all civil. Do you recall that?
20 PROSPECTIVE JUROR NO. 451: Yes.
21 MR. RUGGEROLI: Something to that effect.
22 PROSPECTIVE JUROR NO. 451: Okay.
23 MR. RUGGEROLI: You know that during this trial,
24 there might be times where an attorney needs to make an
25 objection?

1 PROSPECTIVE JUROR NO. 451: Um-hum.

2 MR. RUGGEROLI: And there may be a sympathetic
3 witness on the stand, it may be an officer. But if a lawyer
4 needs to object and do things that may not seem polite in
5 everyday society, are you okay with that, that the lawyers
6 need to do their job?

7 PROSPECTIVE JUROR NO. 451: Yes, of course, because
8 I see it as that is the job of the lawyers, so it is part of
9 society. It might not be -- that's what they're supposed to
10 do. Does that make sense? So, whereas if you're outside, not
11 doing your lawyer job, it might be seen as rude; but in a
12 courtroom, that's what happens, so it's not rude.

13 MR. RUGGEROLI: Right. And you had made that
14 statement. I think that's a perfect fulfillment of the
15 context of the nature of the conduct.

16 PROSPECTIVE JUROR NO. 451: Um-hum.

17 MR. RUGGEROLI: And so, I am appreciative of you
18 filling in on that.

19 Does anybody else not agree with that though? Is it
20 -- does anybody have any feelings that if one of us is overly
21 loud or potentially rude, what would be rude in a different
22 context, is anybody going to potentially hold it against my
23 client if I do that? And there's no response. Thank you.

24 If we could hand it to Mr. Salazar. Thank you. Mr.
25 Salazar?

1 PROSPECTIVE JUROR NO. 482: 482.

2 MR. RUGGEROLI: Thank you, sir. So, Mr. Salazar,
3 what makes a good juror?

4 PROSPECTIVE JUROR NO. 482: They have to look at the
5 facts without bias. Like, earlier, when I was asked, if you
6 see a graphic image, are you going to like shy away or be
7 emotional? Like, no, you have to put all that aside and just
8 look at the facts, don't let anything else intervene.

9 MR. RUGGEROLI: Okay. What other traits do you
10 think a good juror has?

11 PROSPECTIVE JUROR NO. 482: You have to, you know,
12 pay attention. Like, like you said, if you have a question,
13 like, you feel like something's left out, speak up. And then,
14 at the very end, like, participate in the debates.

15 MR. RUGGEROLI: And you've never served as a juror
16 before?

17 PROSPECTIVE JUROR NO. 482: No, sir.

18 MR. RUGGEROLI: Do you believe you'd be a good
19 juror?

20 PROSPECTIVE JUROR NO. 482: Yes, sir.

21 MR. RUGGEROLI: Because of those traits?

22 PROSPECTIVE JUROR NO. 482: Yes, sir.

23 MR. RUGGEROLI: Is there anything else about you,
24 your background or your experience that you think I should
25 know to decide if you're going to be a good juror?

1 PROSPECTIVE JUROR NO. 482: No, sir.

2 MR. RUGGEROLI: Okay, thank you. If we could hand
3 it up to Ms. Bruer. She's up top.

4 PROSPECTIVE JUROR NO. 019: Barbara Bruer, 019.

5 MR. RUGGEROLI: Bruer, I apologize.

6 Good afternoon. So I'm going to follow up on that,
7 and it's going to be with pretty much the rest of the panel.
8 Everyone is very important. If I don't ask any particular one
9 of you a question, it's not because you're not; it's just
10 you've been here quite a long time. There are going to be
11 some things I'd like to follow up on. Generally speaking
12 though, you've been paying attention of the questions that
13 have been asked and answered?

14 PROSPECTIVE JUROR NO. 019: Yes.

15 MR. RUGGEROLI: This notion of what it would be --
16 what it would take to be a good juror, do you think you would
17 be a good juror?

18 PROSPECTIVE JUROR NO. 019: Yes.

19 MR. RUGGEROLI: Why is that?

20 PROSPECTIVE JUROR NO. 019: I have strong attention
21 skills, like I pay attention to detail. And pretty good
22 intuition, like reading body language and small words and
23 hints that can indicate if somebody's being truthful.

24 MR. RUGGEROLI: Excellent. Do you have anything in
25 your background that causes you hesitation about being a good

1 juror on this particular jury --

2 PROSPECTIVE JUROR NO. 019: No.

3 MR. RUGGEROLI: -- in this particular case?

4 PROSPECTIVE JUROR NO. 019: No.

5 MR. RUGGEROLI: Okay, thank you. If you could hand

6 the microphone right next to you.

7 PROSPECTIVE JUROR NO. 409: Vito Casucci, 409.

8 MR. RUGGEROLI: Good afternoon, Mr. Casucci.

9 PROSPECTIVE JUROR NO. 409: Good afternoon.

10 MR. RUGGEROLI: There was -- there was some

11 questions that I believe you asked about this notion of

12 burden. Do you recall being asked, or was that a different --

13 I'm going to come back to another panel member on that one.

14 You were asked though about making decisions in the

15 poker room, and sometimes there are disputes?

16 PROSPECTIVE JUROR NO. 409: Right.

17 MR. RUGGEROLI: Sometimes you've got to decide which

18 player may have played the hand properly, or a lot of

19 different circumstances?

20 PROSPECTIVE JUROR NO. 409: In the casino world that

21 I live in, someone has to win, someone has to lose, and I have

22 to make the decision on the spot.

23 MR. RUGGEROLI: Right.

24 PROSPECTIVE JUROR NO. 409: That's not the forum

25 that we're in today. I think the forum that we're in today is

1 they are presumed innocent until proven guilty, and it's their
2 job to prove that they are guilty; and if they can't do that,
3 then they would be considered to be innocent in the eyes of
4 the law.

5 MR. RUGGEROLI: Right.

6 PROSPECTIVE JUROR NO. 409: That's the way I feel.

7 MR. RUGGEROLI: When you say, "their job," you mean
8 the prosecutors?

9 PROSPECTIVE JUROR NO. 409: The prosecutors' job,
10 yes.

11 MR. RUGGEROLI: Excellent. So that's something that
12 I think you agree makes a good juror; that you would do that?

13 PROSPECTIVE JUROR NO. 409: Yes.

14 MR. RUGGEROLI: Is there anything else about you
15 that I should know in making a determination of whether or not
16 you would be a good juror?

17 PROSPECTIVE JUROR NO. 409: I consider myself to be
18 a good listener. And also, once we get into the deliberation
19 part of it, I don't think I would be overwhelming with other
20 people, I don't think I would be influenced by other people, I
21 think we would just reason together on what we've all heard,
22 and come to an agreement.

23 MR. RUGGEROLI: Very good. Thank you, sir. If you
24 could pass it right next to you, please. I'll be quick this
25 time.

1 PROSPECTIVE JUROR NO. 410: McGinty, 410.

2 MR. RUGGEROLI: Thank you, sir. Mr. McGinty, are
3 you able to look at Mr. Wheeler and --

4 PROSPECTIVE JUROR NO. 410: Yes.

5 MR. RUGGEROLI: -- tell me right now that you are
6 able to view him as being presumed innocent? And you're
7 hesitating, which is fine, and this is why I'm asking.
8 Because we can't skip to the back of the book in this process.

9 PROSPECTIVE JUROR NO. 410: Yeah. You're asking do
10 I have maybe a preconceived notion? Do I -- do I read him in
11 a certain way?

12 MR. RUGGEROLI: Well --

13 PROSPECTIVE JUROR NO. 410: And yeah, I read both of
14 them differently.

15 MR. RUGGEROLI: Okay.

16 PROSPECTIVE JUROR NO. 410: And --

17 MR. RUGGEROLI: Let me ask you this so that I can
18 clarify the question to help you. The notion of when anybody
19 walks in, they're presumed innocent at this point --

20 PROSPECTIVE JUROR NO. 410: Correct.

21 MR. RUGGEROLI: -- you agree with that?

22 PROSPECTIVE JUROR NO. 410: Absolutely.

23 MR. RUGGEROLI: But I did ask it specifically to the
24 individual that this is about from my point of view.

25 PROSPECTIVE JUROR NO. 410: How about this? Do I

1 understand that both individuals are presumed innocent until
2 otherwise? Yes, absolutely.

3 MR. RUGGEROLI: Okay. Have you ever got a speeding
4 ticket that you thought the officer made a mistake about?

5 PROSPECTIVE JUROR NO. 410: No. I think he
6 shouldn't have wrote it, but yeah.

7 MR. RUGGEROLI: Okay. But the reason why I ask you
8 that is because if officers always gave tickets the right way,
9 and nobody was ever innocent, and everybody was always guilty,
10 there wouldn't be that presumption of innocence, and everybody
11 would just have to pay their tickets, take their points, get
12 no reductions. You would agree with that, right?

13 PROSPECTIVE JUROR NO. 410: Correct.

14 MR. RUGGEROLI: So we have a formalized procedure in
15 place, and I don't want you to just give me what sounds like
16 the political answer about that individual right there in the
17 blue shirt with the dark tie. If you can't say that, right
18 now, you can look at him and presume that he's innocent, then
19 I think that there might be other juries that you're better
20 on, and there's no -- there's nothing wrong with that.

21 So when I ask you, is there anything that would
22 cause you to hesitate, I would just like you to be honest, and
23 that's all we can ask from any of you.

24 PROSPECTIVE JUROR NO. 410: With all due respect, I
25 don't know that me stating this out loud is fair to the other

1 members of the panel.

2 MR. RUGGEROLI: Okay.

3 PROSPECTIVE JUROR NO. 410: I don't want to cloud a
4 good pool of jurors for you.

5 MR. RUGGEROLI: Okay. Without getting into those
6 specifics, do you really think that you can listen to all the
7 evidence and be fair to Mr. Wheeler?

8 PROSPECTIVE JUROR NO. 410: Well, sure. Absolutely.

9 MR. RUGGEROLI: Okay. Should I want you on this
10 jury though? If you were me, you're Mr. Defense Lawyer for
11 Mr. Wheeler, I have a suspicion you would probably not want
12 somebody like that on your jury if you were me.

13 PROSPECTIVE JUROR NO. 410: Looking at the current
14 situation and -- yeah, no, I wouldn't.

15 MR. RUGGEROLI: Thank you, sir. That's all I ask.
16 Okay, if you could just hand the microphone down. Hello.

17 PROSPECTIVE JUROR NO. 417: Hello.

18 MR. RUGGEROLI: Could you state your name and badge
19 number, please?

20 PROSPECTIVE JUROR NO. 417: Mary Newcome, 417. Yes.

21 MR. RUGGEROLI: Would you mind standing?

22 THE COURT: I would prefer if the attorneys, when
23 they're -- if you have a current challenge, you would approach
24 the bench and make it.

25 MR. RUGGEROLI: Okay, thank you, Judge.

1 THE COURT: Okay.

2 MR. RUGGEROLI: I would like to do that then.

3 THE COURT: Okay.

4 MR. RUGGEROLI: Thank you.

5 (Bench conference)

6 THE COURT: I mean, I don't know what in the world

7 he was going to say that he didn't want to --

8 MR. RUGGEROLI: Sure.

9 THE COURT: I don't know.

10 MR. RUGGEROLI: I didn't want to go into it either.

11 THE COURT: I know, I got that. But I mean, if you

12 want me to excuse the panel and you can question him.

13 MR. RUGGEROLI: I think it's -- do you feel the

14 same? It's -- because he didn't want to discuss it, he might

15 have a --

16 THE COURT: Well, yeah, of course.

17 MR. RUGGEROLI: Okay.

18 THE COURT: But I'm just saying, if you want --

19 MR. RUGGEROLI: If that's okay.

20 THE COURT: Yeah.

21 MR. PESCI: Do you want to bring him up here instead

22 of kicking everybody out, or what do you prefer?

23 THE COURT: I mean, we can try that.

24 MR. RUGGEROLI: I'm happy with whatever the Court

25 wants.

1 MR. PESCI: Yeah, whatever you want, Judge.

2 THE COURT: Maybe we should take a break, because I

3 worry about --

4 MR. RUGGEROLI: Okay.

5 MR. PESCI: Sounds good.

6 MR. RUGGEROLI: Thank you, Judge.

7 THE COURT: -- what he might say.

8 MR. RUGGEROLI: I appreciate it.

9 THE COURT: Okay.

10 (End of bench conference)

11 THE COURT: All right. At this time, ladies and

12 gentlemen, we're going to take a recess.

13 During this recess, you're admonished not to talk or

14 converse amongst yourselves or with anyone else on any subject

15 connected with this trial, or read, watch, or listen to any

16 report of or commentary on the trial, or any person connected

17 with this trial, by any medium of information, including,

18 without limitation, newspapers, television, the internet, or

19 radio, or form or express any opinion on any subject connected

20 with this trial until the case is finally submitted to you.

21 Mr. McGinty, if you would stay in. The rest of the

22 jurors, you are excused.

23 THE MARSHAL: Thank you. All rise for the exiting

24 jury, please. Jurors.

25 THE COURT: Mr. McGinty -- okay, I just wanted to

1 make sure you -- thank you, sir.

2 (Outside the presence of the prospective jurors)

3 (Within the presence of Prospective Juror No. 410)

4 THE COURT: You can come up to the podium, Mr.
5 McGinty.

6 Okay. The record will reflect that this hearing is
7 taking place outside the presence of the jury panel, with the
8 exception -- I have Juror number 3, Mr. McGinty present in the
9 courtroom.

10 PROSPECTIVE JUROR NO. 410: Correct.

11 THE COURT: Okay. You indicated -- defense counsel
12 was asking you some questions, and you made a statement that
13 you didn't think it was fair to say what you were going to say
14 in front of the whole panel. So --

15 PROSPECTIVE JUROR NO. 410: Right.

16 THE COURT: -- go ahead.

17 PROSPECTIVE JUROR NO. 410: Again, relevance, I'm
18 not sure, but I'll state it. So if I was -- and I don't
19 remember your name, sorry -- but in his seat, the defense
20 lawyer's seat and position, I would probably have coached my
21 defendant a little differently in posture and expression.
22 That's it. Just how you would -- how you're coming across to
23 the room.

24 THE COURT: Okay. So have you made opinions or
25 formed any opinions based on the defendant's posture and

1 expressions?

2 PROSPECTIVE JUROR NO. 410: Of course, same as you
3 have for me. I mean, that's --

4 THE COURT: Pardon?

5 PROSPECTIVE JUROR NO. 410: I said, same as
6 everybody has for me. Same thing, right? It's -- well all
7 have. It's human nature to make some first impression.

8 THE COURT: Okay, so what are those conclusions that
9 you've reached?

10 PROSPECTIVE JUROR NO. 410: Conclusions? I didn't
11 say conclusion.

12 THE COURT: Well, you --

13 PROSPECTIVE JUROR NO. 410: What opinions.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NO. 410: Yeah, opinions, right?
16 First impressions are somewhat off-putting for Mr. Wheeler,
17 and I don't know the other defendant's name, but he's
18 certainly more relaxed. And so, could be personality
19 differences, but who knows?

20 THE COURT: Okay, relaxed and off-putting?

21 PROSPECTIVE JUROR NO. 410: Off-putting, yeah.

22 THE COURT: Okay. The fact that you have formed
23 these opinions already, would they interfere with your ability
24 to sit as a fair and impartial juror?

25 PROSPECTIVE JUROR NO. 410: I don't -- as long as

1 the evidence was presented correctly or -- I mean, yeah. Do I
2 -- do one of the defendants, in my mind initially, first
3 impression, lean on the side -- maybe not the most favorable
4 side? Probably so, but it can be brought back, just like any
5 negotiations or --

6 THE COURT: Okay, but that's --

7 PROSPECTIVE JUROR NO. 410: -- any situation.

8 THE COURT: I mean, that's not what we do in here.

9 PROSPECTIVE JUROR NO. 410: I understand.

10 THE COURT: Okay?

11 PROSPECTIVE JUROR NO. 410: Well, you're asking me;
12 I'm telling you the truth, so.

13 THE COURT: And I appreciate that, but you
14 understand, you know, we judge cases and reach verdicts and
15 conclusions based on the evidence, and not based upon any
16 opinion that we form that somebody --

17 PROSPECTIVE JUROR NO. 410: Absolutely.

18 THE COURT: -- is off-putting, or we don't like
19 their expression or do --

20 PROSPECTIVE JUROR NO. 410: Understand.

21 THE COURT: -- like their expression.

22 PROSPECTIVE JUROR NO. 410: Understand.

23 THE COURT: Do you understand that?

24 PROSPECTIVE JUROR NO. 410: Absolutely.

25 THE COURT: Okay, so do we have to worry about that

1 with you?

2 PROSPECTIVE JUROR NO. 410: Do you have to worry
3 about me formulating a fair and honest conclusion, opinion, or
4 -- no. It would ultimately be based on the evidence and
5 what's presented by the DA, so.

6 THE COURT: Okay. So can you set aside any opinions
7 that you've developed and base this case solely on the
8 evidence that you hear in the courtroom?

9 PROSPECTIVE JUROR NO. 410: Why, certainly.

10 THE COURT: Okay. I don't know. Mr. Ruggeroli, do
11 you have any follow up?

12 MR. RUGGEROLI: If I could.

13 PROSPECTIVE JUROR NO. 410: Sure.

14 MR. RUGGEROLI: Thank you, sir. And you're not in
15 trouble, anything like that. I greatly appreciate your
16 candor. I think you're being fair in explaining this, but it
17 sounds like there is a starting point that we've already
18 reached. And would it be fair to say that I am probably going
19 to have to do something to overcome somewhat of a
20 preconception that you've already formed about Mr. Wheeler?

21 PROSPECTIVE JUROR NO. 410: That is a great way to
22 present that question, and the answer is yes.

23 MR. RUGGEROLI: Okay. And because of that, you
24 might be inclined to hold me to a burden of establishing
25 innocence rather than exclusively holding the State to prove

1 beyond a reasonable doubt his guilt?

2 PROSPECTIVE JUROR NO. 410: It would be a -- it
3 would be a 10th of a 100th of a percentage, yeah, sure. But
4 there is, yeah.

5 MR. RUGGEROLI: Thank you.

6 PROSPECTIVE JUROR NO. 410: I don't know what that
7 is. Yeah.

8 MR. RUGGEROLI: Okay. Thank you, Judge. I have
9 nothing further.

10 THE COURT: Anything else?

11 MR. RUGGEROLI: No, Your Honor.

12 THE COURT: All right.

13 MR. PESCI: Could I?

14 THE COURT: Sure.

15 MR. PESCI: So, sir, if, as the prosecution, we
16 present our case, and you feel that we have fallen short,
17 separate and distinct from any impression that you got from
18 Mr. Wheeler, from me, from the Judge, from anybody, could you
19 return a verdict of not guilty if we don't prove the case to
20 you?

21 PROSPECTIVE JUROR NO. 410: If I think that your --
22 the presentation of the case, the evidence before us was weak
23 and poorly presented, or just weak in general -- let's say
24 it's just weak, right?

25 MR. PESCI: Okay.

1 PROSPECTIVE JUROR NO. 410: Yeah, absolutely.

2 MR. PESCI: All right, and that's really kind of
3 what this boils down to.

4 PROSPECTIVE JUROR NO. 410: Yeah.

5 MR. PESCI: And we appreciate your honesty, because
6 if I'm understanding you correctly, you're saying you got an
7 impression from one defendant, and a different impression from
8 the other. Would it be safe to say you've got an impression
9 from me?

10 PROSPECTIVE JUROR NO. 410: As we all do, right?

11 MR. PESCI: Yes, of course. And my co-counsel?

12 PROSPECTIVE JUROR NO. 410: Absolutely.

13 MR. PESCI: All right. Let's assume -- hopefully
14 it's not this way -- it's a negative impression for one of us
15 or both of us, right? Notwithstanding that impression, if we
16 bring the evidence in and we prove to you, hey, he did it,
17 could you come back with a guilty verdict?

18 PROSPECTIVE JUROR NO. 410: Yeah, of course. Sure.

19 MR. PESCI: So I guess what I'm trying to say is the
20 impression isn't the basis of your decision, is it?

21 PROSPECTIVE JUROR NO. 410: No, no. Absolutely not.

22 MR. PESCI: Will it be the evidence?

23 PROSPECTIVE JUROR NO. 410: The evidence, correct.

24 MR. PESCI: Thank you very much, sir.

25 THE COURT: Okay. Anything else?

1 MR. RUGGEROLI: Just one follow up.
2 THE COURT: Okay.
3 PROSPECTIVE JUROR NO. 410: Sure.
4 MR. RUGGEROLI: Would it be fair to say though that,
5 based on your observations, you've already established a sense
6 of presumption of guilt of something connected to this case?
7 PROSPECTIVE JUROR NO. 410: Well, that --
8 MR. PESCI: Well, Judge, I apologize.
9 PROSPECTIVE JUROR NO. 410: That may be --
10 MR. PESCI: I'm going to interrupt. I apologize.
11 THE COURT: Right.
12 MR. PESCI: One second.
13 PROSPECTIVE JUROR NO. 410: Yeah.
14 MR. PESCI: There's a difference between the
15 original question he was asked, which --
16 THE COURT: Right.
17 MR. PESCI: -- was an impression, which was not
18 about guilt.
19 THE COURT: You're correct.
20 MR. PESCI: It was an impression, so --
21 THE COURT: So I would just ask you to rephrase it.
22 MR. RUGGEROLI: It is a different question. Okay.
23 We'll stick with that then, because the original question was
24 that are you able to look at him and presume that he's
25 innocent right now. So I won't -- I won't ask you the

1 inverse. I'll ask it again. Have you already formed an
2 opinion that you're not presuming that he's innocent right
3 now?

4 PROSPECTIVE JUROR NO. 410: I have not. Maybe to
5 help, if I may, with the question, have I -- or could I have
6 come to a conclusion that Mr. Wheeler at some point in his
7 life is probably guilty of something based on his demeanor?
8 Yeah, I could.

9 MR. RUGGEROLI: Okay. And I just --

10 PROSPECTIVE JUROR NO. 410: Completely different
11 than this gentleman here.

12 MR. RUGGEROLI: One last --

13 THE COURT: I'm sorry, and what was that?

14 PROSPECTIVE JUROR NO. 410: Completely different
15 than this gentleman here, the other defendant. But go ahead.

16 MR. RUGGEROLI: Judge, if I may, just one last
17 question.

18 THE COURT: Um-hum.

19 MR. RUGGEROLI: You've not heard any evidence, and
20 Mr. Pesci asked you, if they do not prove their case, that you
21 could acquit. If the case was concluded now though with no
22 evidence, would you be able to acquit?

23 MR. PESCI: Judge, I'm going to --

24 PROSPECTIVE JUROR NO. 410: I wouldn't --

25 MR. PESCI: I apologize, just one second.

1 PROSPECTIVE JUROR NO. 410: I wouldn't make a
2 decision, there's no way --

3 MR. PESCI: I'm sorry, one second. I object to
4 that, Your Honor, because it's asking to form an opinion on a
5 case that hasn't been presented. That's why I can't --

6 THE COURT: Right, you're asking him about a
7 hypothetical, so.

8 MR. RUGGEROLI: Thank you, Judge. I have nothing
9 further.

10 THE COURT: Okay. Sir, if you don't mind going
11 outside with the rest of the panel. Don't discuss with the
12 rest of the panel members anything that we've discussed in
13 here, please.

14 THE MARSHAL: Sh, sh, sh, sh, sh.

15 (Outside the presence of Prospective Juror No. 410)

16 THE COURT: What was that?

17 THE MARSHAL: She started to say something to him.

18 MR. RUGGEROLI: Thank you, Your Honor.

19 THE COURT: Mr. Ruggeroli?

20 MR. RUGGEROLI: I appreciate that. Judge, I am
21 going to move to strike. I know that he has wavered on a
22 couple of different things. When it comes down to it though,
23 I think that he admitted that he's formed an opinion based on
24 my client's posture, demeanor in court, things that are not
25 part of evidence at all.

CERTIFICATE OF SERVICE

I hereby certify and affirm that this document was filed electronically with the Nevada Supreme Court on February 8, 2024. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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Chief Deputy District Attorney

/s/ Steven S. Owens
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