juggling.

So that's in part why we can't just say, okay, here's a -- here they all are, listed in the same -- same order. So we will try to be as accommodating as we can with regard to that, but just so that everybody's clear that I don't -- I just don't want anybody standing up and saying, hey, they said they were going to call this person, this person, or this person, and they only called that guy, and then they brought somebody else in.

That's not what we will do but it could happen. But on -- in a general basis we will try to be accommodating.

THE COURT: Okay. And then the issue of he wants you to phrase your questions a certain way --

MR. STAUDAHER: No. We're --

THE COURT: -- so that it's simple.

MR. STAUDAHER: -- we're not going to change our questions around, and I don't think that this is a way to -- I don't want to have to be worried about how to structure my questions so that Dr. Desai can supposedly answer those because, as the Court's aware, it's our position that he's malingering and not really -- has the -- the impairment that he does.

THE COURT: All right. On -- you know, obviously the Court has to take into account the reported condition of Dr. Desai, but I also have to balance, you know, the proceedings,

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inconvenience to the jurors, and other things. And so I'm going to start with the 9:30 to 1:00. That simply is not a long enough trial day, and I think that, you know, I believe our estimate of six weeks was based on a full day, correct? Not on a partial day.

So we told these people six weeks into June. Well, if we go 9:30 to 1:00, now what does that mean? July? And so, you know, to me, I don't think we can change the game right now and have these partial days when jury selection was based on an assumption -- we told people, oh, well, typically we end by 5 and blah, blah, blah.

I don't think we can now change the scheduling when we've got our panel of jurors and gave them an estimate based on a full day, No. 1.

No. 2, you know, it's difficult to find people who can do six weeks or eight weeks. Well, now if you're talking about, you know, three months or something like that, I think it becomes further burdensome to them. So I would say no to the 9:30 to 1. We can start at 9:30, at your request, Mr. Wright. Some days, maybe we'll start at 10. You know, we'll go to a lunch break, and we can give you an hour and fifteen minutes or an hour and a half for lunch, and you're welcome, you know, I know you have to -- I don't know where your office is, but I know you have to walk back --

MR. WRIGHT: Across the street.

THE COURT: -- oh, okay. So you'd rather walk back to your office?

MR. WRIGHT: Yes.

THE COURT: Okay. I was going to say, you know, if we can accommodate you by letting you use the conference room, I'll make that accommodation or whatever to save time for you. I'm happy to do that. You know, normally we kick the lawyers out because that inconveniences my staff, but, you know, I'm not concerned with that so much, and -- but that again, is inconvenient to the Court staff, but I'll do that, you know, if that would help you, but you say no.

But, you know, we can start at 9:30, 10 some days, but I feel like we at least have to go to 4, possibly 5. But as it goes on, if it seems that that's really a long day, I mean, we'll -- we all get tired here. We all got tired through jury selection. Then we can modify that, but I'm not willing to not do essentially, full days on this.

MR. WRIGHT: Okay. Could --

THE COURT: And as I said, I mean, I think we -- you know, we picked a -- a jury based on the assumption of full days, and we'll see how, you know, maybe some days we'll take a Friday off, or we'll end early some days. And I think all of us, you know, myself, the staff, and the lawyers, you know, as the -- and the jurors, you know, they may want an afternoon off, and they may want a Friday off just to get things done in

their lives and we can certainly accommodate that, but I'm not going to make a hard and fast rule that every Friday is going to be off or every day is going to be 9:30 to 1.

So, you know, maybe on, you know, certain days, you know, if it's a particular witness from the prior day or something like that, you want to renew the motion, and as I said, you know, there may be times if -- however long this drags on, you know, if it's really, you know, that we may say to the jury, take -- we're going to take the Friday off or we're going to end early on some days. You know, certainly we're -- you know, we can be flexible in that regard, but as I just said, I'm not willing to make a hard and fast rule 9:30 to 1:30 every day.

MR. WRIGHT: Okay.

THE COURT: Or a 9:30 to --

MR. WRIGHT: Could --

THE COURT: -- 1 because I just don't --

MR. WRIGHT: -- could I respond on that --

THE COURT: -- think that's --

MR. WRIGHT: -- one --

THE COURT: -- sure.

MR. WRIGHT: -- as you go through them? All right. The -- he does not have the ability in my judgment to put in long days. The long days he put in -- by the final jurors on those days, his abilities were diminished and he -- I couldn't

even go back and talk to him at the office. He was tired and needed to go home. So now I'm supposed to go until 4 or 5:00, then go back, take him back after a full day in court, and sit with him and have this and then go over what's for the next day.

That's the whole purpose --

THE COURT: Well --

MR. WRIGHT: -- of shortened diminished hours because of his cognitive deficits and his inability to fully express himself without me pulling it out. I am not going -- I don't care to balance the inconvenience to the jurors against my client's health and his right to a full, fair trial. I don't want to kill myself, I don't want to kill him in trying this case.

I don't know how I can do 9:30 to 5, and then accomplish all I have to do with him. And I do treat every client -- I understand I -- I have the luxury of a lesser caseload and even the dummies I take time with and talk to them about everything. I mean, I interact. I don't jump in and make the decisions for them. I consult with them, I let them make the call on things.

THE COURT: Right.

MR. WRIGHT: And I know PDs don't always have the luxury of being able to do that, but I do it, and I don't know because for me with jury selection it was a test and it was

easier because each time it's just a juror, it's not recalling anything in the past or interacting and thinking and I could get it down. But I am truly concerned about his -- his capacity diminishes further by the end of a day. And so when he's mentally exhausted and the words are harder to put together and get out to me, then I'm supposed to go back and work with him about what happened and --

THE COURT: Okay. Well, first of all, Dummies is not a -- is not a word this Court uses.

MR. WRIGHT: I would -- that was just me talking about the --

THE COURT: All right. Well, secondly, you know, Mr. Wright, I mean, here's the thing. First of all, there is the whole -- we're not even touching on the issue of exaggeration and malingering and everything like that, but, you know, we told the jury through jury selection -- and I understand your -- your focus has to be 100 percent on your client and what's good for your client, and, you know, taking as much time as you can with your client and everything like that, but I have to be mindful too, that when we picked a jury, you know, we told them a certain period of time, and, you know, we may only have four alternates as it's turning out, you know, we're already contacting people who are coming up with new problems too, that we discussed in chambers, that they never mentioned really during jury selection.

And so that's troubling to me because what does that mean in a six or eight week trial if already two of these people, you know, one, we got a note from the doctor that I read to you in chambers, and the other one is now saying, well, she's not going to be covered by insurance if she, you know, serves as a juror.

So I have to be mindful that I need to get to the end of the day with 12 jurors who have heard all the evidence and who can deliberate on this, and all I'm saying is, you know, the time to me to have made some of these decisions was before jury selection.

I do not believe that for every single day we need to go to 9 -- from 9:30 to 1:00. What I'm telling you is if there are particularly important days -- and by "important" I mean, testimony that directly -- percipient witnesses who provide information that Dr. Desai may refute, may have personal knowledge about, witnesses that you've mentioned, those are the ones you're going to need the transcripts, then perhaps those days we can take a -- you know, we'll miss lunch and break earlier in the day or something like that.

But I'm not going to issue a blanket ruling that says every single day it's going to be 9:30 to 1:00 regardless of who's testifying and regardless of whether or not Dr. Desai is going to have to weigh in on the testimony or what have you. And so, you know -- and once the testimony is over, you

know, let's just say the first day is the CDC lady -- or man -- male or female who is going to testify about the scientific stuff, much of which you're already going to know what it is, and, you know, you -- to me, you know -- I mean, I've never been a defense attorney, you know, obviously you -- you know better than I do what your plan -- you know, what you need to do, but, you know, why do you need to go over that with Dr. Desai before the next day's witness who, let's say, is somebody else that he really doesn't have any personal knowledge about or ability?

To me, the better way to do this is to, you know, do it witness by witness. And what witnesses are the ones you're really going to need to prepare for, or what witnesses are the ones that you're really going to need a break for, not just to have some blanket thing that regardless of what we're doing that day, we're going to end at 1 p.m.? I mean, I'm just --

MR. WRIGHT: Okay. But --

THE COURT: -- not willing to -- to go there at this --

MR. WRIGHT: -- okay.

THE COURT: -- point.

MR. WRIGHT: Okay. Just --

THE COURT: And I -- you know, it's just --

MR. WRIGHT: -- my -- my response is he's just as exhausted at 1:00, regardless of what's going on in here,

okay? That has been my experience.

THE COURT: Well, we were --

MR. WRIGHT: And I --

THE COURT: -- you know, and frankly, Mr. Wright, we were -- I was exhausted. I think we were all exhausted through the jury selection process. I, myself, was absolutely exhausted as I told you folks at several bench conferences. I can't speak for the lawyers, but I would assume if -- if I was exhausted, you folks were probably exhausted. They were long and exhausting days.

MR. WRIGHT: But your mental faculties didn't diminish. You got brighter. He -- this doesn't happen with the -- he -- he sundowns, whatever you call -- whatever the medical term is, he gets worse as the day goes on. And so the time you're leaving me to work with him on the day and prepare for the next is when he's the least -- when he's exhausted and his cognitive deficits have become more severe.

That's -- that's what I'm telling you and why it needs to be a limited time. And fortunately we -- if it's an issue with the jury, we didn't excuse the hardships. We need more alternates then. I mean, if that's going to be an issue and the idea is we can't accommodate him -- and I didn't bring this up. I expected the case to be stopped by the Supreme Court. It was that simple with me, okay?

So did I bring up special accommodations and

everything? No. I thought the Supreme Court would grant our writ, and -- and so --

THE COURT: So --

MR. WRIGHT: -- then I go through --

THE COURT: -- well, they didn't, Mr. Wright. And, you know, you should have anticipated the possibility that they wouldn't grant the writ and that we would go forward. And, you know, I made -- I think I've been making it very clear since the, you know, nine months ago at the calendar call that I expected people to be getting ready, and when I made the ruling -- oh, I can't remember -- I think it was the calendar call day for this matter, you know, I said, we're going forward. And we started selecting a jury.

And what I'm hearing from you is, well, I -- you know, I was going through the motions, I was selecting a jury, but I didn't really think we would be empaneling a jury.

MR. WRIGHT: Correct.

THE COURT: Well, here we are --

MR. WRIGHT: So I --

THE COURT: -- and, you know, I'm not going to reopen the jury selection process and now call everybody back in and so, oh, well, okay, now if this takes until July can you -- can you folks do it?

MR. WRIGHT: I'm not --

THE COURT: Like I said, I'm willing to make

reasonable accommodations. I don't believe that reasonable accommodations are, as you've requested, going only from 9:30 to 1:00 every day, regardless of who the witnesses are, regardless of how many breaks we've taken during that particular day, regardless of whether or not the CDC expert or whoever the -- it is is someone who is basically testifying from their report, giving information that you already know, that is something Dr. Desai probably isn't going to be commenting on anyway. I don't see a reason to do that.

Now, you know, as this goes -- I mean, it's somewhat, you know, a flexible process. As this goes forward, you know, you can -- we can address this issue as things arise, as, you know, witnesses come up that you need more time with, then you can -- you can address the issue at that time. But as I said, I'm not just willing to say it's only going to be from 9:30 to 1.

Now, if we start and there are, you know, numerous difficulties or, you know, you can -- you come back in and renew your motion or something like that, we can revisit the issue. What I'm telling you is at --

MR. WRIGHT: Okay. I'm --

THE COURT: -- this point in time --

MR. WRIGHT: -- that's what I'm --

THE COURT: -- I am not willing to limit the trial days --

MR. WRIGHT: -- okay.

THE COURT: -- to four days a week as you've requested and limit the trial time to 9:30 to 1.

MR. WRIGHT: Okay. And I'm just objecting and saying, I disagree. And I thought the Supreme Court in denying the writ said, keep track of it and see how the accommodations go and --

THE COURT: Right. They said --

MR. WRIGHT: -- everything.

THE COURT: -- reasonable --

MR. WRIGHT: So I sat there, kept track of it, did everything --

THE COURT: And we allowed you to --

MR. WRIGHT: -- evaluated my --

THE COURT: -- do everything.

MR. WRIGHT: -- I understand you did, and I took all of that into consideration, eval'ed it -- evaluated my client and how I'm going to be forward with the case, presenting to the Court the problems that I now have, and I -- I sense I'm being criticized for not having brought it up sooner, the problems I have now experienced the last five days. I'm not clairvoyant. I am reporting what occurred and what I think the remedies are for it. And we do have other jurors available that -- it's not requalifying them, I'm saying, seat 10 alternates. We have enough.

If that's going to be a problem on getting him a fair trial, get enough jurors in the box.

THE COURT: Well, first of all, let me just make this clear. The Court is not suggesting that by going longer days initially I think Dr. Desai is not getting a fair trial. I think he will get a fair trial going longer days with shorter days as needed, depending on who the witnesses are and whether or not they're percipient witnesses and whether or not Dr. Desai has any knowledge relevant to what their testimony is.

But if he has no knowledge relevant to their testimony, I'm failing to appreciate why you would need a short day for those particular witnesses, other than the fact that Dr. Desai is getting tired.

MR. WRIGHT: But what -- for the non-percipient witnesses he's supposed to take naps in here?

THE COURT: No, that's not what I'm --

MR. WRIGHT: I'm talking about --

THE COURT: -- suggesting.

MR. WRIGHT: -- when I'm done with him, when we're done with the day and I have to go back and work with him, that he is mentally exhausted and the words don't -- are even more difficult to pull out of him.

THE COURT: Okay. He --

MR. WRIGHT: They're mixed up more.

THE COURT: -- okay. Mr. -- does the State wish -- I

mean, because if -- the scheduling obviously impacts the State and how the State's, you know, contemplated going forward on this. And so does the State have anything they'd like to add, or does the State want to weigh in in any way?

MR. STAUDAHER: Well, I mean, I -- to the extent that I think the Court has articulated, the accommodations, if there's a particular day or they run into an issue and they need a shorter day, we don't have an issue with that. I do agree that I don't want to see us have just a very truncated everyday schedule and then have fewer days during the week when we're actually -- this trial will never end.

With that -- and I don't have an issue with us starting later in the morning, if that's the best time that he has to work with his client, maybe they talk in the morning about the --

THE COURT: Right. That's what I was going to say. I was going to start at 9:00 and have endeavored and I've gotten volunteers among the judges who have agreed to handle my calendars and whatnot, you know, I was planning on starting at 9:00 or 9:30 every day, but you've just indicated that the morning is the best time, and I -- I assume you're somewhat of a morning person yourself, Mr. Wright?

So if you want to start at 10 a.m. and, you know, meet with your client for three hours prior to the start of trial, we can move the time to 10 from the 9:00 I had

envisioned. I'd be happy to do that -- happy to do that as well.

MR. WRIGHT: Well --

THE COURT: And that might help you more because now you've got him fresh in the morning?

MR. WRIGHT: -- I appreciate that. I'm just talking about the shortened amount of time in court. I -- I mean, really, whether it's 9:30, 10:30, I'm talking about at -- the longer it goes, and I -- I kept track of all that he said in the interviews of different jurors, the more simplistic and it -- he -- the -- he wasn't as good mentally the more tired he became. And he's going to be tired in this courtroom for a long day whether it's percipient, not percipient, or anything else, he's going to be equally exhausted is my point.

And so that's why I am just stressing the shortened period of time in the courtroom so that I can fully consult and work with him.

THE COURT: Anything else, State?

MR. STAUDAHER: No, Your Honor.

THE COURT: All right. Here's the deal. Monday we're starting at 9 a.m., you know, you haven't --

MR. WRIGHT: I understand that.

THE COURT: -- expressed whether -- whether you want -- you prefer the 9:30 start --

MR. WRIGHT: No, I --

THE COURT: -- or you'd rather have a 10 a.m. start or whatever. So, you know, as I said, if there are some days and some -- you know, the jurors may want the occasional Friday off as well, you know, they're going to get tired. So, you know, sometimes we may do a four-day week, but I'm not going to order that, you know, every week is a four-day week as you've requested, and I'm not going to order that we only have partial days. And, you know, it seems to be that - and I understand, I believe, Mr. Wright, that you're completely earnest in your representations to this Court, I believe that.

But, you know, there's been a pattern of trying to delay things, and now there's a request that even though we're going forward with the trial, well, we're going through with the trial, but take even longer, you know, now you want four-day weeks, and you want partial days and whatnot. So, you know, we can start at 9:30 or 10, we won't do the 9 a.m. start that the Court had envisioned. I said we'll give you over an hour for the lunch break. You know, you've indicated you'd rather walk across the street, taking up time for your lunch break, but the Court has indicated that at your choice we will make the court facilities, meaning the conference room or the courtroom itself open and available for you, even though that causes some, you know, difficulty or inconvenience for court staff. I've indicated we would do that.

The Court has indicated we would do that. The Court

has indicated we will take frequent breaks. As we have been doing and has been requested again. The Court is not willing to circumscribe the questions that the State may ask in any way, as you've requested. The State is free to question the witnesses however they want to, subject, of course, to the regular rules of evidence, you know. You can't use compound questions and things like that.

With respect to the daily transcripts. At this point in time, you know, you haven't indicated whether you want a written transcript, or you want the JAVS that the Court is willing --

MR. WRIGHT: Written.

THE COURT: -- to make available to you.

MR. WRIGHT: Written.

THE COURT: Okay.

MR. WRIGHT: I thought I -- I thought I did state that.

THE COURT: Okay. Well, there was talk about it, and then Ms. Stanish said, well, she was concerned, but then I didn't know if moving it. At this point in time I'm going to order that's going to be at the Defense expense, but that you can order partial daily transcripts, meaning, you can select the testimony that you want a transcript of, and that will be what the Court -- Court transcriber prepares for you.

All of these issues are flexible. As we go through

the case, if there are new issues arise or you want to revisit these issues, you're free to do so, but at the beginning of the case I'm not willing to -- to say, you know, we have to -- as I said, you know, only limit it to four days a week or whatever you -- ever. You know, honestly, I'm sure I'm going to be getting tired as the case goes on, and I may be happy to take a Friday off, or to end early on particular days. So you may not get much argument from me from my own, you know, self-interest.

But, you know, starting out right now, fresh -- you know, and again, I wanted to start today, but we accommodated again, you know, the Court has accommodated the two days requested, the Thursday and Friday before we even moved into opening statements. So I feel like I've been making a lot of accommodations, or pretty much doing everything that's been asked of the Court so far. You know, you wanted -- I wanted one -- I said I'd give you Thursday, I wanted to do openings today. Both sides said, No, we need another day, even though you've had, you know, months to do this. I said, Okay, fine. You can have the Friday then.

I gave you each -- this doesn't relate to Dr. Desai, but I gave you each a day off the first week of jury selection, so the lawyers would have time to file their briefs in the Supreme Court. Again, I know that doesn't concern Dr. Desai, but that was the Court's effort to help the lawyers out

so that they wouldn't have to stay up all night writing a brief and then show up in court the next morning. You know, so -- you know.

I've -- I think tried to do everything I can to both accommodate your client and accommodate the lawyers. But, you know, I'm not willing to, you know, do things that I don't feel are necessary, that I think are going to -- or that I absolutely believe are not necessary. I may have granted things that I thought were unnecessary, but I did -- allowed them anyway. So I want to make that clear. But --

MR. WRIGHT: I --

THE COURT: -- you know, and again, it's flexible --

MR. WRIGHT: -- I wasn't criticizing --

THE COURT: -- Mr. Wright -- it's flexible. You know, as this goes on, you know, we're looking at eight weeks here. So as this goes on, you know, you can keep saying, well, this issue came up or that issue came up or whatever, but, you know, to -- to begin, I'm not going to -- I'm not going to do this.

MR. WRIGHT: I wasn't criticizing the Court or complaining and I agree and appreciate the accommodations that have been afforded to counsel and our requests, and I wasn't being critical of that. I am just simply, having read the Supreme Court opinion, knowing now we -- where we now stand and everything, and I just call it accommodations. I mean,

but what I'm talking about is part carving out particular necessities to afford him, who is handicapped, and his position, these things that put him in a competent position.

And so those are the things that I'm talking about.

THE COURT: All right. You know -- again, you know, we can address these issues almost on a daily basis if we need to do that, but, you know, if the State becomes concerned that we're not making enough accommodations, certainly the State can say we're fine with ending at 1:30 or whatever. But again, you know, there's been a pattern of delays here, and to me, you know, now making short days, four days a week, it's just more -- more delays, not with the trial itself, but with getting to where we want to be, which is the jury deliberating, and, you know, hopefully reaching a verdict one way or the other, or telling us they can't reach a verdict, but some sort of, you know, conclusion, if you will, one way or the other.

And to do that in, you know, as little time as we can do given the situation. Given the situation.

MR. WRIGHT: I really do think I see this case going longer than we forecasted for the jury, so I do think the Court should seriously consider more alternates than we have because I don't want this to -- I don't want this to end --

THE COURT: No, I think --

MR. WRIGHT: -- for lack of alternates either. And

we happen to have some that we could do that with that isn't -- I mean, isn't any requalifying or anything else.

THE COURT: All right. And do -- what other issues do we have?

MR. SANTACROCE: Margaret? Or should I go?

THE COURT RECORDER: I'm sorry, I didn't hear that, Mr. Santacroce?

MR. WRIGHT: Go ahead.

THE COURT: I kind of forgot that wasn't the only thing.

MR. SANTACROCE: I have two issues, Your Honor.

THE COURT: Okay.

MR. SANTACROCE: My first is a motion in limine to strike the testimony of the CDC investigator, Dr. Schaefer, I believe her name was. We had a telephonic conversation with Mr. Lakeman on or about January 2008. The facts are this: The CDC investigator called Mr. Lakeman on the telephone sometime in January of 2008. She identified herself as an investigator from CDC and asked if he would talk to her? He was reluctant at first, but she promised him anonymity, and in fact, told him that his name would never be used, that he would be assigned a number, and that would only be referred to in any CDC reports by that number.

On that basis, Mr. Lakeman openly and freely spoke to the investigator. As it says in her testimony, he

cooperated -- he was cooperate -- cooperative with the investigator. Now, the State wants to use this testimony that he gave or this questioning he gave, which was not under oath, he was not advised of any criminal investigation because at that time I don't even believe there was any. He wasn't advised of any ramifications of talking to the CDC investigator, and was, in fact, promised anonymity.

Now the State wants to come in and use this testimony against him, and we believe that's highly prejudicial and should not be allowed in. It's not without law to back that up. In the Whistle-Blower Protection Act, there's two classes of people that are protected. The second class of person specifically says, those who are requested by a public body to participate in an investigation by that public body or in a court action, these people are protected from retaliation because

No. 1, the Act is to protect and protect against public safety. And in fact, the CDC investigator in question here specifically says, We give anonymity -- I think it was in her interview with the Metropolitan Police Department -- she says, We give anonymity or nobody would talk to us, and we have to protect the public safety, so we offer that anonymity.

Based on those factors, I believe that her testimony regarding any telephonic conversation with Mr. Lakeman should be stricken. If the Court is not inclined to do that, then

what we're specifically looking for is striking the language where she says that Mr. Lakeman said that he would deny that the conversation ever took place. We feel that that statement is highly prejudicial and it's more prejudicial than probative.

THE COURT: Does the State -- I would have appreciated this being in writing, but --

MR. SANTACROCE: Well --

THE COURT: -- State -- that's okay. State, do you wish to respond?

MR. STAUDAHER: Certainly. First of all, a CDC person -- this -- he was not charged criminally at that time. He wasn't in custody. It was a telephone conversation by -- by somebody investigating it from an epidemiologic standpoint. They have no standing in this state or this jurisdiction to grant immunity to anyone in any situation. He freely talked to them to -- regardless of whatever they said. Even police are allowed to make a ruse and --

THE COURT: That's what I --

MR. STAUDAHER: -- you know, that kind of thing.

THE COURT: -- was going to say. Government officials -- I mean, typically, it's the police or the -- well, I don't know, I'll just go with the police because I'm more familiar with those cases, but they lie to people all the time to get them to talk. I mean, that's like par for the

course almost.

MR. SANTACROCE: Well, do you want me to --

MR. STAUDAHER: And it's --

MR. SANTACROCE: -- respond to that?

THE COURT: Well, no, but, I mean, we all know it's true.

MR. SANTACROCE: But this isn't the police.

THE COURT: Right. This is -- well.

MR. SANTACROCE: This is protect the public safety on an epidemic outbreak of a contagious disease.

THE COURT: But let me ask you this --

MR. SANTACROCE: I've heard --

THE COURT: -- isn't the, you know, if anyone should be asserting that they don't want to have to testify or they don't want the information to come in against Mr. Lakeman, to me the issue of keeping the public discourse open regarding disease and infection and things like that, that should be the CDC's concern, not your concern. If, you know -- I mean, that's the whole point of that is that, of course you want people communicating with the CDC because that helps them in their public health goals. Something that --

MR. SANTACROCE: But --

THE COURT: -- you know, the prosecutor's office isn't necessarily concerned with at -- at this, you know, that's not the function of the prosecutor's --

MR. STAUDAHER: We are --

THE COURT: -- office.

MR. STAUDAHER: -- we are concerned with --

THE COURT: Right. What I wanted to say is that's not the -- the function of the DA's office to worry about public health issues.

MR. STAUDAHER: And again, this is a completely different ballgame than a standard epidemiologic investigation, looking into -- trying to find the root cause of an infection or something to protect the public. I mean, this is criminal activity, at least alleged by the State in this particular case and charged by the State in this particular case.

The Whistle-Blower statute -- and I haven't had a chance to review all -- all the law because we don't have any cites to that, but I suspect that -- that the reference that Mr. Santacroce is referring to is to protect the individual giving the information against retaliation from their employer or somebody that they're associated with, who may have influence over them. Not retaliation by a governmental entity who might bring charges against them for their own criminal acts that they're admitting to at the time.

There's no --

MR. SANTACROCE: That's absolutely --

MR. STAUDAHER: -- there's no basis --

MR. SANTACROCE: -- incorrect, by the way.

MR. STAUDAHER: -- there's no basis whatsoever for the assertion by Mr. Santacroce that the statements made by an investigator for an entity that does not have standing in this court, is not a police agency under the State of Nevada, or -- and associated with them that in any way needs to be suppressed, clearly is a problem.

The issue with regard to whether or not there's, you know, more prejudicial than probative, that analysis doesn't even come into play here. He made the statements, clearly they're prejudicial. The fact that he says and admits to the actions that he was questioned about, saying that he double-dipped, that he admitted to doing that, to taking a needle/syringe, going into a vial of propofol, going into a patient, going back into the vial of propofol, knowing the risk -- and his statement, actually, to the CDC was, yeah, I knew there was a risk, but I used negative pressure on the syringe to minimize the risk.

I mean, that shows his culpability in the acts that he admitted to the CDC person. Those statements are clearly relevant in this proceeding. Clearly relevant to his understanding, his knowledge, his culpability in the crimes that he's charged with, and clearly relevant and -- and probative to this Court and the jury in their determination as to his guilt or innocence.

There is nothing in that that would allow this statement to be suppressed. He made it. He -- he even said he would get up in the court and -- or not court, but he would deny it if he was ever confronted with it in the future. So if he wants to get up on the stand and deny it, he can certainly do that. But that is his ability or decision, not Mr. Santacroce's, getting this Court to intervene to -- to essentially suppress something that is truly relevant evidence in this case.

MR. SANTACROCE: He's right about the protection against retaliation from the employers, but there's a long line of cases that extend that protection forward. In Garrity v. New Jersey, police officers protected from post-shooting statements. Can't be used against them. There's other lines -- other cases that take this protection even further.

And in this particular case, this man gets called from the CDC by an investigator who says, you can tell me anything you want, it's anonymous, we're going to give you a number, you'll never be identified, so he openly tells them, even though he's -- he's not been advised of any kind of repercussions, what he did and he was very cooperative according to the CDC investigator.

And now, let's see, eight -- some four years later, this statement where he was advised it would be protected, is going to be used against him and misconstrue his words that he

would deny that the conversation ever took place in the future. That statement in and of itself without any kind -- taken out of context is more -- more prejudice than probative. It needs to be stricken. If the Court doesn't want to strike all of the testimony regarding the telephonic conversation, at least that statement should be stricken by the Court.

THE COURT: All right.

MR. STAUDAHER: The -- one last issue. I just want to make sure the Court is aware of this. This all came out at the grand jury. This testimony came out at the grand jury. There were notes taken by the CDC person, that -- those have been provided to the defense. This has been known for years. And here we are at the precipice of trial, bringing a motion in limine to suppress a statement that has been known and out there in the transcripts and is -- this person is going to testify who heard it. They will be subject to cross-examination. He can question to his heart's content about the context in which the question -- or the statement came in, as well as the entirety of the statement and how it -- how it even took place.

So it's not like this hasn't been out there.

THE COURT: All right. Anything else, Mr. Santacroce?

MR. SANTACROCE: No. Thank you, Your Honor.

THE COURT: All right. I'm going to deny the motion.

First of all, I think the -- as we pretty much all agree, the point of these statutes is to limit or preclude civil repercussions and retaliation by the employer. With respect to the probative versus prejudicial effect, I think the -- you know, the probative value outweighs the prejudicial, I mean, it -- you know, it's prejudicial, they wouldn't want to use it if it wasn't prejudicial.

But the probative value, you know, is -- goes to a knowledge of guilt and, you know, I think that that's probative. And again, you know, you can -- you know, if you think that the statement is taken out of context or doesn't mean what it sounds like it means or something like that, you can elicit that on cross-examination.

So, you know, the motion is denied for those reasons.

MR. SANTACROCE: Okay. I have one other issue.

THE COURT: All right.

MR. SANTACROCE: The second issue I have was the Court's ruling that it was going to allow the video deposition of Mr. Meana to be shown to the jury. Now, I filed an opposition -- a written opposition to that -- I wasn't here on the day it was argued, Mr. Wright argued it for me, but I've been advised by more learned counsel than myself that I need to place this on the record, so that's what I'm doing.

I'm formally objecting to the use of the video

deposition of Mr. Meana for these reasons: First of all, it violates the confrontation clause of the United States Constitution. Mr. Lakeman, and I as his counsel, didn't have an opportunity to cross-examine Mr. Meana. If the Court recalls, it was a video deposition where he was in a healthcare facility, we all assembled here in court, the State got to ask all of their questions that they wanted, and then they passed it off to the Defense.

Well, Mr. Wright started the cross-examination, went on for a few questions, and then we were advised by the healthcare facility that Mr. Meana could no longer go on. Now, at -- present at that time was also Attorney Cristalli, who represented Mathahs, myself, and Mr. Lakeman. Neither Mr. Cristalli nor myself had an opportunity to cross-examine Mr. Meana. And neither did Mr. Wright have the opportunity to fully examine Mr. Meana.

It is patently unfair and a violation of the Constitution and Confrontation Clause to allow that deposition to be shown to the jury when we had no opportunity to cross-examine. And for those reasons, we're asking the Court to reconsider its decision and not allow the video deposition of Mr. Meana to be presented to the jury.

THE COURT: Who would like to respond?

MS. WECKERLY: Your Honor, the Court's already made a ruling on this. In fact, we were seeking to admit several

statements. The Court excluded the, in my mind, the bulk of the request and let in this one narrow part of the State's motion. Certainly the questions that were asked by Mr. Wright covered what could have been testified to by Mr. Meana as to all the defendants because it was all about his treatment and -- and it wouldn't have been unique to Mr. Lakeman or Mr. Mathahs for that matter.

And also, the other -- the other sort of supporting testimony that will be presented through other doctors, they can certainly cross-examine that -- cross-examine those witnesses as to his medical condition before and after. And so it was just basic facts from Mr. Meana, and I think -- I would ask the Court not to reconsider its ruling at this point.

MR. SANTACROCE: Briefly, Your Honor. It's not the State's decision or call to say what and how I could cross-examine or what applies and satisfies my cross-examination. It's obviously -- obvious that Mr. Lakeman and Dr. Desai have some very different defenses in this case. And I didn't have an opportunity to cross-examine Mr. Meana as to the defenses that apply to Mr. Lakeman.

THE COURT: Mr. Wright?

MR. WRIGHT: I join in it, and I -- I didn't fully cross-examine him. I wasn't even halfway through. I never even got to the real issue in the case which was his election

to not undergo treatment, which is going to come into the causation. I never got to that. That was, like, in February or something.

THE COURT: All right. Well, some of that there may be ways you can bring that out through other witnesses. You can seek to have a stipulation or an instruction by the Court. You're instructed Mr. Meana did not seek treatment for hepatitis. You may be able to enter into a stipulation with the State on some of these issues.

So some of that may be addressed with the State and some of those concerns may be, like I said, we can deal with those other ways. You may be able to get that testimony in through other, you know, these sort of, what Ms. Weckerly calls supporting witnesses. And as I said, I think at the hearing, you know, everybody in this room knew that there was a time constraint, that Mr. Meana was in -- in poor shape, that we didn't know how long he'd last in the deposition.

And I think I said this at the last hearing, you know, you elected, Mr. Wright, how to proceed in your cross-examination. And if you spent a lot of time on cross-examination that, you know, you felt didn't get to the heart of the matter, that was your decision. So --

MR. WRIGHT: I --

THE COURT: -- right or wrong, I know you don't agree with that, but I think that's --

MR. WRIGHT: -- no, I did not know --

THE COURT: -- what I said --

MR. WRIGHT: -- you said everyone in this room knew he was going to pull -- elect --

THE COURT: No, I didn't say --

MR. WRIGHT: -- not to come back. I didn't. They said he was coming back. We took a recess. It was going to resume.

THE COURT: No, we all --

MR. WRIGHT: Then he voluntarily chose not to be cross-examined further. That's the record.

THE COURT: Well, I don't --

MR. WRIGHT: I had no idea that was ended when it ended.

THE COURT: -- I didn't -- okay. You try to put words in my mouth. I didn't say, We all knew it was going to end. I said, We all knew that there's, you know, timing issues, and that he was weak. We all knew that. We all knew the guy was dying. We all knew the guy wanted to go to the Philippines to die there. So, I mean, to say that this is, you know, I accept you were surprised it ended when it did, but, you know, everybody knew what the issues were with Mr. Meana.

And so, you know, and it's reasonable. You know, the guy is dying. He's going to get tired. I mean, we've

been talking how tired Dr. Desai is getting. I mean, hello, this guy is an -- I don't remember how old was he? 70-somethign? Or 60-something? He's an older man to begin with. He's dying of hepatitis. He's in this facility. You know, is it any big surprise that under, you know, extensive questioning the guy is going to get tired and maybe have to take a break, or maybe have to stop? We would all get tired under extensive questioning.

So to me, I mean, to say, oh, wow, this was a big surprise, I don't know how this could be such a big surprise. That's all I'm saying.

MR. SANTACROCE: Your Honor --

THE COURT: You're surprised, I accept your representation, but all I was saying, not about that particular day or when we broke that day --

MR. WRIGHT: It was continued.

THE COURT: -- or anything else, all I'm saying is well, we knew the guy was dying.

MR. WRIGHT: It was continued and we were coming back. And then we got a phone call saying his family decided they're -- he isn't going to do it anymore.

THE COURT: Well, I was surprised we didn't have another session, but as I understood it, you know, time was more of the essence that he -- my -- the way I understood all of this, what was -- I essentially presented to the court was

that Mr. Meana knew he was going to die, and he wanted to travel to the Philippines so that he could die in the Philippines. That's how I understood this. And what I understood was that it became apparent that his health was maybe in -- you know, he was in worse shape than what they thought, and they wanted to make sure he would be able to travel to the Philippines so that he could die there. That's how I understood this.

And not, oh, we don't want to finish the deposition or this or that, but the family was more concerned with prolonging his life as long as possible and making sure that he got to the Philippines where he wanted to die.

MR. SANTACROCE: Your Honor, if we all --

THE COURT: So that's how I --

MR. SANTACROCE: -- knew --

THE COURT: -- recollect this. The record is going to speak for itself, you know, we've been making extensive records on everything, you know, your memory, my memory, that's how I remember it.

MR. WRIGHT: Okay. Just -- the -- I'm -- I'm not arguing any of that, the record is what it is. I just don't know of an exception to the Confrontation clause that allows this in.

THE COURT: All right. Well, I've already ruled on it. I don't know that I have to make any additional record.

You know, if you're -- if it's such a violation of the Confrontation clause, then, you know, Dr. Desai's conviction or Mr. Lakeman's conviction if we ever get there, should be reversed. I don't see it that way, and I've already made numerous comments on this, and, you know, I would say this. Yes, Mr. Santacroce, you know, you have a separate right to cross-examine any witness on behalf of your client, but -- and again, the record will speak for itself, and if it ever gets to an appeal, certainly, hopefully, someone will do a very good job on this from -- you know, and really rely a lot on the record.

But if you look at the testimony, you can see, well, what would have been cross-examined here? And what would the questions have been? And, you know, it -- regardless of who you represent there are some -- only some questions you can ask because that's all the testimony was about. And I think what Ms. Weckerly is saying is if Mr. Wright covered those questions, then, you know, what else would have been asked by Mr. Santacroce or Mr. Cristalli. I think that's --

MR. SANTACROCE: How can they say --

THE COURT: -- that's the issue.

MR. SANTACROCE: -- okay. I'm not going to argue with the Court.

THE COURT: Well, like I said --

MR. SANTACROCE: The Court has made its decision.

THE COURT: -- you know, I'm not saying you can't make a record, but at the end of the day it's going to come down to what was the testimony of Mr. Meana, what was the cross-examination of Mr. Wright?

MR. SANTACROCE: I don't think that comes down to it at all.

THE COURT: Well.

MR. SANTACROCE: I think I have an inherent --

THE COURT: I said you do --

MR. SANTACROCE: -- unalienable right to cross-examine a witness on behalf of my client before any of that video comes in, regardless if I ask the same questions over and over again. The State is not clairvoyant. Mr. Wright and I are not on some mind connection where he's going to ask the same questions that I've asked. We have different defenses. We have different priorities.

I have a right to question and cross-examine a witness, and then have it to be used against me is unconscionable.

THE COURT: State?

MR. WRIGHT: It seems like they -- they could put the case on without it. I mean, their case -- just to --

THE COURT: Look, here's the --

MR. WRIGHT: -- just presume he had died. I mean, I don't understand the exception to the confrontation clause

under Crawford that exists. When -- when -- if they thought he was going to die they could have put it on sooner. They didn't. They chose when to seek to preserve his testimony. And then, we get accused of -- well, knowing it should have happened. But they can -- if he had died without any deposition.

The case still goes forward. All of the ways Ms. Weckerly suggested, the same things can be brought out. I just don't understand how under the right of confrontation it gets in.

THE COURT: State?

MS. WECKERLY: Your Honor, I -- I don't remember how many weeks ago we argued this. Mr. Santacroce not only didn't file an opposition at that time, he didn't show up for the hearing.

MR. SANTACROCE: I did file an opposition.

MS. WECKERLY: I didn't receive it. I mean, I --

MR. SANTACROCE: I filed it.

MS. WECKERLY: -- I just wonder why are we here arguing about this now? I understand the need to preserve a record, but I -- I just -- at some point we can't revisit every single ruling. The Court's made their ruling. The State is going to exclude, obviously, what was excluded by the Court, and we're comfortable with the Court's ruling and we're going to present the evidence according to the Court's issued

order.

MR. SANTACROCE: For the record, I did file a written opposition in this case --

THE COURT: Right. There was some --

MR. SANTACROCE: -- and this issue.

THE COURT: -- and the record speaks for itself, but I think that they hadn't been served and it was filed late or something like that. So that's where we are.

Any new issues?

MR. SANTACROCE: I'm done with mine.

THE COURT: Mr. Wright, any new issues?

MR. WRIGHT: No, Your Honor.

THE COURT: State, any new issues?

MR. STAUDAHER: Yes, Your Honor. And this is going to be, I hope, a very limited one. This goes back to the issue of the medical records from the Philippines. Subsequent to the Court's last ruling we went through an extensive process to get a ultracertified, if I may make such a statement --

THE COURT: From --

MR. STAUDAHER: -- record from the Philippines of the -- we went ahead and got a new death certificate, even though I think the Court had previously ruled that the other one was sufficient, could come in. We got the autopsy --

THE COURT: Well, I think what I had said last time

was I didn't think that the letter from some employee at maybe the Embassy, according to the return address on an envelope was sufficient from the United States --

MR. STAUDAHER: Yes.

THE COURT: -- to say that it was a State Department employee, when I think they worked for DOJ or something, and that's, I think, what I said, but --

MR. STAUDAHER: Well, we went beyond that --

THE COURT: -- okay. That's fine.

MR. STAUDAHER: -- and we've gotten all the different levels, the State Department and everybody to certify. We actually, before we even -- when we received the records we -- before we broke the seals on them, defense counsel collectively, I know they're having sort of a joint thing going on, Mr. Santacroce wasn't able to come over, but a representative of Mr. Wright's office was able to come over for both defense counsel to review the documents before they were essentially unsealed.

All of the broken seals and the certificates and the correspondence are all intact. Those were all scanned and Bates numbered and sent to the defense. We did not Bates number or alter the documents in any way of the ones that we did receive, but now we have certified copies of the medical records -- a complete copy of the medical records, which we did not have before. We have the autopsy report and the

related findings of -- laboratory reports of those, which are certified as well, as well as copies of the death certificate which are certified.

We intend to introduce those documents, but I know that the Court may want to see them, obviously, and check those out themselves. It's just an issue that I'm raising now, Defense Counsel came over yesterday and they reviewed those, as well. And they've been -- they've been -- they received them, so...

THE COURT: I guess the question, then, is does Defense Counsel have any objection -- not the previous argument, but objection, basically, on the State Department and whether or not they've now conform with the statute and the certified copies, whether, in fact, they're truly certified, and the authenticity of the documents. Is there going to be any objection on that?

MS. STANISH: No, Your Honor.

THE COURT: Okay.

MS. STANISH: It seemed to satisfy the foreign records --

MR. WRIGHT: Just on --

MS. STANISH: -- requirement.

MR. WRIGHT: -- on authentication.

MS. STANISH: On authentication, only, yes.

THE COURT: That's all I'm asking.

MS. STANISH: Yes.

THE COURT: I know you're keep -- I just -- we don't need to have reargument about whether or not they should admit the records because the Court's ruling was related to the authentication of the records. So that's why I'm asking any new objection on authentication? Have they addressed the Court's concern with the State Department and all of that stuff.

And that was the extent that your -- that was why your motion was granted in that -- on that issue.

So, Mr. Santacroce, were you fine with the form and the authentication of the documents?

MR. SANTACROCE: No objection --

THE COURT: Okay.

MR. SANTACROCE: -- authentication. I reserve all other objections as to relevancy, hearsay, confrontation issues.

THE COURT: Okay.

MR. STAUDAHER: Well, that -- that lends itself to the next issue, which is admission of those documents. We -- they are certified, custodian of records productions from each entity related to both the -- and all individual pages within the documents have their own special stamp and signature on them from the entity that provided them. In addition to the -- the letter that is the custodian of records letter, as

well as all the authentication documents that goes along with those.

So we believe there is a valid exception that allows us to put those in without having to --

THE COURT: Right.

MR. STAUDAHER: -- bring somebody from the Philippines to do so. And we're going to move for their admission under this point.

THE COURT: Any objection based, again, not on whether they should be admitted or not substantively, but on the authentication issue?

MR. SANTACROCE: Well, I'm not sure. Are we -- are we separating --

THE COURT: He's asking just to admit the records as kind of self-authenticating given the certified nature of the records and the fact that they've gone through the State Department?

MR. SANTACROCE: Well, then perhaps the Court can help me out here. I'm a -- I'm going to make objections as to hearsay within hearsay in those documents. I'm going to make objections as to my inability to cross-examine the people that made medical opinions as to the cause of his death. So if that relates to authenticity, then I have a problem.

THE COURT: No. I think what Mr. Staudaher -- what you're asking is can you just put the records in without

having a witness say, These are these records --

MR. STAUDAHER: That's correct.

THE COURT: -- is that what you're asking --

MR. STAUDAHER: That's correct.

THE COURT: -- to do?

MR. STAUDAHER: Yes. And we will supply them to the Court to look at beforehand if the Court wants to make a further review before making a ruling on that, but that's what we intend to do.

THE COURT: Okay.

MR. SANTACROCE: But are they going to have --

THE COURT: Now --

MR. SANTACROCE: -- a witness that's going to opine as to the cause of death and how they got there?

THE COURT: I told them they had to bring the coroner in.

MR. SANTACROCE: Okay.

MR. STAUDAHER: We have a -- we have a --

THE COURT: But I'm letting --

MR. STAUDAHER: -- I will --

THE COURT: -- the medical --

MR. STAUDAHER: -- tell the Court --

THE COURT: -- records in.

MR. STAUDAHER: -- yes. The medical -- the medical examiner is going to come in. The actual experts that are

involved in this case have been sent copies of those records. So to the extent that that affects or changes or alters in any way their previous -- you know, it's the standard thing that we have with --

THE COURT: Right.

MR. STAUDAHER: -- an expert. So the records need to come in because they're going to be part of the record, at least from our perspective, and we are going to have witnesses that will testify about them with the exception --

THE COURT: Right. And I'm letting --

MR. STAUDAHER: -- of the death certificate.

THE COURT: -- the medical records in, just like I would let the medical records in if they came from UMC. The fact that they're from the Philippines required additional steps with respect to the State Department and other things that you would have to have for foreign records. Other than that I'm letting them in as medical records, just like you would let in medical records from UMC or Summerlin Hospital or anyplace else.

So same way you would do it. Is that clear?

MR. STAUDAHER: That's clear.

THE COURT: All right.

MR. STAUDAHER: But we also have the two other records, the autopsy and related records, then, that went through that same process --

THE COURT: And those, though, are going to come in with a witness, correct?

MR. STAUDAHER: Correct.

THE COURT: Okay. So that's --

MR. STAUDAHER: And also --

THE COURT: -- a different issue.

MR. STAUDAHER: -- and also, the ones that would not necessarily come in through the witness would be the certified death certificates. I would -- I think the Court already ruled on that.

THE COURT: Right. I already said you could just introduce the certified --

MR. STAUDAHER: Does the Court wish us to bring --

THE COURT: -- death certificate.

MR. STAUDAHER: -- those over in advance to have the Court review them, and --

THE COURT: You can just give them to me on Monday.

MR. STAUDAHER: -- okay. Well, actually, we -- I think we're going to bring over some of these things --

THE COURT: All right.

MR. STAUDAHER: -- today.

THE COURT: Okay. All right. What else do you need to raise? Is that it?

MR. STAUDAHER: That's it. Do you have anything else?

THE COURT: Okay.

MR. STAUDAHER: No, we don't have anything else.

THE COURT: In terms of getting the exhibit --

MR. WRIGHT: Can I have one second?

THE COURT: Kenny will help you with how they do it.

THE MARSHAL: I can come in early on Monday and get it all set up.

THE COURT: Why don't we do it now? I mean, as soon as we're done -- after lunch, whenever you want. I don't care. That way there's no, if you get hit by a bus on the way to work, we'll have 35 chairs set up and we won't be running around at 9 a.m. saying, oh, my God, where are we going to put all these jurors?

THE MARSHAL: Yes, Judge.

MR. STAUDAHER: Oh, and just so the Court is aware, we addressed this with Counsel yesterday --

THE COURT: Of course, we would be so grief-stricken we wouldn't be able to do our work that day, but setting that aside.

MR. STAUDAHER: -- Robert Whitely, who is the lead detective in this case, may be coming in and sitting with us at times or in the court or not in the court. Counsel didn't seem to have an issue with him being in the courtroom, even though he is -- it's a potential --

THE COURT: He's going to be --

MR. STAUDAHER: -- for him --

THE COURT: -- a witness?

MR. STAUDAHER: -- he possibly could be.

THE COURT: Any objection to having him sitting in the courtroom?

MR. WRIGHT: No objection.

MR. SANTACROCE: Not from me.

THE COURT: Okay. Is that it? Do we need to do anything else? Okay.

Now, what's your intention with respect to the exhibits and premarking the exhibits and all of that?

MR. STAUDAHER: Well, I know Ms. Husted is not here, but I have spoken with your standing clerk this morning, and it's our intention to at least start that process so that it will be less taxing for her --

THE COURT: Okay. Have you --

MR. STAUDAHER: -- as well as the --

THE COURT: -- coordinated with her when she needs to be available to --

MR. STAUDAHER: -- no. I will do that --

THE COURT: -- receive these exhibits? Okay.

MR. STAUDAHER: -- but there's a lot --

THE COURT: When I'm --

MR. STAUDAHER: -- that we need to bring over, and I don't know if we want to bring it all over -- I don't know how

much space we have and how we can accommodate it, but I will tell the Court --

THE COURT: Okay.

MR. STAUDAHER: -- that based on what our -- we all met. All counsel met yesterday in -- over at our office, and we spent quite a lot of time going through the charts, the things that we were going to put in our PowerPoint we talked to them about --

THE COURT: Right.

MR. STAUDAHER: -- showed them copies of as the Court directed us to do. All of that information was shown and gone over, but we need to bring over the bulk of the materials, which are the -- there's summary documents, essentially they're going to come in, but then there's all the supporting documents for those summary documents, and those are in a number of boxes.

And so we're trying to limit the volume, but that is the bare minimum that we need to bring over and start getting marked, or at least have access to for both sides during the course of the trial. So we would like to coordinate that, but I don't know where we physically will house or locate that -- those materials.

THE COURT: Okay. Well, that's your coordinate with our court clerk, and then, just for the record, for their opening PowerPoint they -- or they showed you, correct, Mr.

Santacroce? Mr. Wright? Ms. Stanish?

MR. WRIGHT: Yes.

MR. SANTACROCE: Yep.

THE COURT: They showed you the exhibits they intend to use and there's no objection to the use of that -- those exhibits; is that correct?

MR. SANTACROCE: That's correct.

MR. WRIGHT: That's correct.

THE COURT: Okay.

MR. SANTACROCE: For demonstrative purposes.

MR. STAUDAHER: Yeah, there's -- there are a couple of things that we had talked about, for example, some pictures of -- you know, there was no propofol at the clinic when they -- when the search warrants were executed.

THE COURT: Right. So you're going to show it, just for demonstrative purpose --

MR. STAUDAHER: Exactly. And they don't --

THE COURT: -- and you're going to say --

MR. STAUDAHER: -- seem to have an issue with that.

THE COURT: -- this is just to give you an idea of what the vial would --

MR. STAUDAHER: Exactly.

THE COURT: -- look like, or something --

MR. STAUDAHER: So there's a couple --

THE COURT: -- like that?

MR. STAUDAHER: -- of items like that, but not very --

THE COURT: Okay.

MR. STAUDAHER: -- many.

MR. SANTACROCE: And we, likewise, have shared what we are going to use, and there was no objection --

MR. STAUDAHER: That's correct.

MR. SANTACROCE: -- I believe?

THE COURT: Okay. So, Mr. Staudaher, let's just briefly talk about scheduling. You have now revisited your clearly erroneous estimation of how long your --

MR. STAUDAHER: Yes, I have --

THE COURT: -- opening would take? And now what -- what do we think?

MR. STAUDAHER: I think it could be upwards of two hours, Your Honor.

THE COURT: All right. So that means two and a half hours. And then, so, Mr. Wright, you had said how long? Two hours? Okay. And then, Mr. Santacroce, you thought maybe 45 minutes to an hour?

MR. SANTACROCE: That's it, Your Honor.

THE COURT: Okay. Well, that's obviously, basically, over five hours just for that. And then I have to give them the admonition, we have to go through -- we have to eat lunch, we have to go through the jury selection process. So it's

quite obvious that's all we're going to get to Monday.

MR. STAUDAHER: So we will schedule -- start scheduling witnesses, then, for Tuesday?

THE COURT: Yeah, I mean, a minimum of five hours, just for the openings.

MR. STAUDAHER: Right. Do we have an idea --

THE COURT: A minimum.

MR. STAUDAHER: -- of what the schedule for the -- for the week is, so we can -- I mean, as far as start time, at least?

THE COURT: Well, I was ready to start at 9:00 every day. I'd like to start 9:30 on Tuesday.

MR. STAUDAHER: Okay.

THE COURT: I'll probably do my own civil calendar on Wednesday, and I haven't looked at it yet, so 9:30-10 for Wednesday. You know, seeing kind of -- again, we'll play it by ear because each day we'll tell the jury, you know, come back at this time or whatever. So, you know, a good day we look at, I would say six hours of trial. I mean, that's a lot, but six hours of actual trial time. We'll be way less than --

MR. WRIGHT: I renew my objections.

THE COURT: -- that. That's a really good day, you know what I'm saying? That's -- and as you've seen in jury selection, if I say a five-minute break, that means a

five-minute break in here or a ten-minute break, what have you. So we don't take long breaks, you know, unless you need them to confer with your client or whatever and we can take longer for lunch if you want. You know, I don't want to take two hours for lunch, but we can take more than an hour.

MR. STAUDAHER: Did you say 9:00 on Monday, though, to start --

THE COURT: Yeah. Monday --

MR. STAUDAHER: -- okay.

THE COURT: -- is 9. That's when the people have been told to come back. I'd like you guys here, basically, 8:45.

Okay. Nothing else for me?

MR. STAUDAHER: No.

MR. WRIGHT: No, ma'am.

MR. SANTACROCE: I have nothing else, Your Honor.

THE COURT: We -- all right.

(Court recessed for the evening at 12:33 p.m.)

ACKNOWLEDGMENT:

Pursuant to Rule 3C(d) of Nevada Rules of Appellate Procedure, this is a rough draft transcript expeditiously prepared, not proofread, corrected or certified to be an accurate transcript.

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DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA, Plaintiff, vs. DIPAK KANTILAL DESAI, RONALD E. LAKEMAN, Defendants.	)	CASE NO. C265107-1,2 CASE NO. C283381-1,2 DEPT NO. XXI **TRANSCRIPT OF PROCEEDING**

BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE

JURY TRIAL - DAY 8

MONDAY, MAY 6, 2013

APPEARANCES:

FOR THE STATE:	MICHAEL V. STAUDAHER, ESQ. PAMELA WECKERLY, ESQ. Chief Deputy District Attorneys
FOR DEFENDANT DESAI:	RICHARD A. WRIGHT, ESQ. MARGARET M. STANISH, ESQ.
FOR DEFENDANT LAKEMAN:	FREDERICK A. SANTACROCE, ESQ.

RECORDED BY JANIE OLSEN COURT RECORDER
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I N D E X

OPENING STATEMENT:

By Mr. Staudaher 82

LAS VEGAS, NEVADA, MONDAY, MAY 6, 2013, 9:23 A.M.

* * * * *

(Outside the presence of the panel of prospective jurors.)

THE COURT: All right. Good morning. Just an update on the other sort of prospective jurors, the 6 are all here. Of the 35 that we've already qualified 1 is missing, and so my JEA is contacting that missing person to see where they are, but we haven't heard from them this morning and whatnot.

So let's go ahead. And pursuant to our discussion in chambers and our agreement that we should have an additional alternate, let's call in the alternates beginning with Jayson Tomboc, Badge No. 454.

Good morning, Mr. Tomboc. When we were last here, you indicated some concern about missing work and being compensated for missing work; do you recall that?

PROSPECTIVE JUROR NO. 454: Yes.

THE COURT: And you were going to check with your employer and get back with us, but we never heard from you. Have you checked with your employer?

PROSPECTIVE JUROR NO. 454: I have.

THE COURT: And what was the result of that?

PROSPECTIVE JUROR NO. 454: They are compensating me for it.

THE COURT: Okay. Terrific. So there would be no financial difficulty with you serving; is that correct?

PROSPECTIVE JUROR NO. 454: Yes, ma'am.

THE COURT: All right. Thank you, sir. Anything from either side? Go ahead and give the microphone to -- or just leave

it there in the chair. Don't discuss what we've just discussed with the other prospective jurors and just go back out and have a seat in the hallway.

All right. It looks like Jayson Tomboc, Badge 454 can be added and become our 36th juror, and he will be added based on his badge number, Badge No. 454. So he becomes --

So, Kenny, we're going to have to add another chair. -- he would go between Joseph Sandifer and Deana

Safronov. May I see counsel up here.

(Off-record bench conference.)

THE COURT: All right. Kenny is also checking on the status of Mr. Wente who we have not heard from and has not appeared this morning. So as of right now we're back to 35 prospective jurors.

Also, in chambers I did make counsel aware that we had received a phone call from another one of our prospective jurors who has become pregnant or just learned of her pregnancy, and we all agreed that she would be given accommodations if she needed to visit the doctor or something like that if she were chosen.

Still no answer. All right. We'll go with Badge No.

353, Mr. Franco.

Good morning, Mr. Franco. Have a seat. When we last spoke, I believe you were going to check and see about how you would be compensated if you had to serve; is that correct?

PROSPECTIVE JUROR NO. 353: That is correct.

THE COURT: All right. And were you able -- we didn't hear back from you. Were you able to check, and do you have more information to share with us this morning?

PROSPECTIVE JUROR NO. 353: Yes, ma'am, I do have information on that. Since I am in a part-time status with the Clark County I don't qualify for being compensated.

THE COURT: All right. So you did check with your boss at Parks and Rec?

PROSPECTIVE JUROR NO. 353: Yes, I did.

THE COURT: And based on that, I guess that would be a -- you wouldn't be paid for the entire period?

PROSPECTIVE JUROR NO. 353: That is correct, just the minimum.

THE COURT: Okay. All right. And did you check about maybe substituting with some weekend work or anything like that?

PROSPECTIVE JUROR NO. 353: I talked about it, but then again our -- it all depends on if we have reservations, and that is, you know, on on-call basis. So again that's not guaranteed.

THE COURT: Okay. All right. Sir, thank you. Go ahead and put the microphone in the chair. Again, don't discuss what we've just discussed with anyone else, and please have a seat back out with the other jurors.

Counsel, approach, please.

(Off-record bench conference.)

THE COURT: Kenny, next up is Lisa Ruiz, Badge 441. Good morning, Ms. Ruiz.

PROSPECTIVE JUROR NO. 441: Good morning.

THE COURT: I wanted to follow-up with you today on the situation with your son coming from Japan on leave, and you weren't sure exactly when he would be --

PROSPECTIVE JUROR NO. 441: I still don't have a date.

THE COURT: Oh, you still don't know.

PROSPECTIVE JUROR NO. 441: I e-mailed him just to see if he was back, and so I still don't have anything.

THE COURT: Okay. Now -- and, again, what were your work hours?

PROSPECTIVE JUROR NO. 441: 7:30 to 4:30.

THE COURT: Okay. So either way, either you're going to be here as a juror potentially, or you're going to be at work when your son is here.

PROSPECTIVE JUROR NO. 441: With the exception of taking time off once I knew, but -- yeah.

THE COURT: Oh, okay. Well, and no word there, okay. Well, I am sorry to hear that. If you are selected and your son does come in and you need to leave early a day here or there, just try to let us know, okay?

PROSPECTIVE JUROR NO. 441: Okay.

THE COURT: All right. Again, don't discuss what's just transpired with anyone else, microphone in the chair, and just follow Kenny through the double doors.

PROSPECTIVE JUROR NO. 441: Okay.

THE COURT: Thank you, ma'am. Kenny, 633, Shirley Young. Ma'am, just have a seat up there again, please. I wanted to follow up on a few things. First of all, regarding your employment at the Palace Station I think there was some, I guess, confusion, uncertainty as to whether or not you would be compensated and how that would work with your employer. Have you had an opportunity to discuss that issue with your employer?

PROSPECTIVE JUROR NO. 633: No, not at this time.

THE COURT: Oh, so you still don't know?

PROSPECTIVE JUROR NO. 633: No, I don't know. I'm sorry.

THE COURT: Okay. So if you're selected, then I guess you'll find out.

PROSPECTIVE JUROR NO. 633: I guess I will.

THE COURT: Okay. So --

PROSPECTIVE JUROR NO. 633: I'm pretty sure I am, but this is my first time. So I don't know.

THE COURT: Okay. So after jury selection you didn't talk -- or the last time you were in here you didn't talk to anyone about it?

PROSPECTIVE JUROR NO. 633: Our HR department was closed on Friday.

THE COURT: Oh, okay. I'm assuming the policy would be the same at all Station Casinos. Is that --

PROSPECTIVE JUROR NO. 633: Yes.

THE COURT: Okay. And you just don't know what the policy is for Station Casinos?

PROSPECTIVE JUROR NO. 633: No. I'm sorry.

THE COURT: Okay. And then I also wanted to follow up about Dr. Patel. You didn't recall his first name; is that correct?

PROSPECTIVE JUROR NO. 633: Correct.

THE COURT: Okay. But do you think you would recognize the Dr. Patel that you're familiar with?

PROSPECTIVE JUROR NO. 633: Probably not. It's been too long.

THE COURT: Okay. Now, is there anything about the fact that you knew Dr. Patel at one -- you know, at one time that if you heard some testimony from him in this case that would cause you to either, you know, automatically believe or

disbelieve his testimony, or could you listen to it and consider it as you would the testimony of anyone else?

PROSPECTIVE JUROR NO. 633: I'd consider it as testimony.

THE COURT: Okay. Just like any -- anyone else?

PROSPECTIVE JUROR NO. 633: Anyone else, yes.

THE COURT: Okay. Does the State have any follow-up with Ms. -- I'm sorry --

MR. STAUDAHER: Young.

PROSPECTIVE JUROR NO. 633: Young.

THE COURT: -- with Ms. Young?

MR. STAUDAHER: No, Your Honor.

THE COURT: I was going to call you Ms. Brady, but I knew that was wrong.

Does the defense have any follow-up with Ms. Young?

MR. SANTACROCE: I just have one question.

THE COURT: Sure, Mr. Santacroce.

MR. SANTACROCE: Dr. Patel performed a colonoscopy on your husband?

PROSPECTIVE JUROR NO. 633: No. He had gone to Dr. Patel, and then he decided he wanted to go to an Asian doctor. My husband -- ex-husband was Asian. So he had an Asian doctor do it.

MR. SANTACROCE: Okay. And that was at Desert

Springs Hospital?

PROSPECTIVE JUROR NO. 633: Yes, it was.

MR. SANTACROCE: Thank you.

THE COURT: All right. Nothing else. Ma'am, in a minute I'm going to have you join the other prospective jurors in the hall. As before, you are not to discuss anything that's transpired. All right. Go ahead and follow Kenny through the double doors.

I'm asking Sharry to come in so that we can get an update on Mr. Wente. It's possible --

Was jury services going to call if he showed up downstairs, Kenny?

THE MARSHAL: No, Your Honor.

THE JEA: I have called him, and I did leave a message. I did call jury services to have them call me if he shows up.

THE COURT: Okay. So he hasn't shown up?

THE CLERK: Not that I know of. I didn't talk to anybody. I think they're pretty busy down there.

THE COURT: Okay. All right. Lawyers, here's what we can do. We can either substitute -- not in that number but where her number would fall -- Ms. Ruiz for Mr. Wente and go forward, or we can just keep Mr. Wente where he is kind of as the empty chair, assuming just something happened this morning and go through jury selection and consider him as one of the

36 even if he's not here yet.

MR. WRIGHT: I need to have a moment to confer.

THE COURT: Okay. I mean, I don't know how you, you know, want to do it.

Kenny, why don't you run down to jury services, see if he's back down there, line them up in numerical order, and we're going to have to add maybe --

THE MARSHAL: I already put another chair there.

THE COURT: Oh, you added a chair, okay.

(Pause in the proceedings.)

MR. WRIGHT: We're making Tomboc the final -- we're adding him to make us have six alternates; am I correct?

THE COURT: Correct. Right.

MR. WRIGHT: Okay.

THE COURT: Now, the issue is do we keep -- if Mr. Wente hasn't shown up, do we just kind of keep Mr. Wente as part of the list and just have an empty chair there for him hoping that, you know, he's not -- something horrible hasn't happened where he just forgot to show up, or, you know, if he is a juror, then he's going to be here, or do we substitute Ms. Ruiz and make her one of the 36. That's the issue right now.

Now, obviously if when Kenny goes downstairs he's down there, it's not a problem, but as of right now we haven't been able to find him.

Now, Sharry, when you called him initially to come in today, was he fine, or --

THE JEA: No, because I had to leave messages for him.

THE COURT: Okay.

THE JEA: So he is one that I had to leave a message for.

THE COURT: Sharry had to leave numerous messages for him before.

But you did finally speak to him?

THE JEA: (Shakes head no.)

THE COURT: Oh, you've never spoken to him?

THE JEA: Huh-uh. But the last message was to show up today.

THE COURT: Oh, okay. I thought you'd spoken to him.

THE JEA: No.

THE COURT: Okay. Well, maybe then we should substitute in Ms. Ruiz for him.

MS. WECKERLY: If there's been no real --

THE COURT: Yes, I misunderstood that.

MR. WRIGHT: I need to confer.

THE COURT: In that case I would say we can't count on Mr. Wente.

MS. WECKERLY: Unless he's down there.

THE COURT: My inclination is to substitute in Ms.

Ruiz for Mr. Wente in the number she falls, and then -- this doesn't concern you folks -- Court's going to issue a show cause order on Mr. Wente and whatever sanctions are imposed. Obviously that's not an issue for you guys.

But I thought Sharry had spoken to everybody in person to get their confirmation. Obviously she did really well because 34 of the 35 showed up, and all of the other people showed up today. So that would be what I -- my inclination is to do.

Yes?

MR. WRIGHT: Have we resolved the Pomykal, Mayo issue? I mean --

THE COURT: Well, basically, you know, to --

MR. WRIGHT: I mean, I thought you were, you know, like, going to question them about their --

THE COURT: Well, I -- okay. I can if that's what you'd like. I mean, Ms. Pomykal -- for the record -- she sent -- after she'd been through jury service -- selection indicated she could serve, indicated, I believe -- is she the one that's a fourth or fifth grade teacher where she deals with young children and what I would consider to be a fairly hectic, possibly stressful environment -- sent a letter from her physician saying that she suffers from MS and is unable to serve, and basically that was the first any of us ever heard of that.

To me that's not grounds -- I mean, I think, you know, if she'd brought the letter in at the outset, I think we probably would've agreed to excuse her; however, she went through the entire selection process, never mentioned this condition, never mentioned a problem with serving, and I think, you know -- I can't remember exactly with her -- but, you know, pretty much on both sides open-ended questions were asked, you know, well, is there anything, you know, you'd be worried about serving or -- you know. She didn't say anything, and I think once she got to where, oh, she actually might have to come in, now she comes up with this letter.

And, again, you know, she has a job that forces her to deal with young children in a daily environment in the public school system. So it's not like she's in one of these little schools, you know, with 10 kids. My inclination is not to excuse her, but certainly we can question her about it, and certainly we can take breaks, and I can tell her, look, if you're feeling symptomatic or you need a break or something like that, we can excuse her, or we can substitute 633 for her, but I wasn't inclined to excuse her.

The other woman --

MR. WRIGHT: Rhonaree Mayo.

THE COURT: Yes.

MR. WRIGHT: I wasn't suggesting on either that action be taken.

THE COURT: Okay.

MR. WRIGHT: I was simply asking --

THE COURT: If my intent was --

MR. WRIGHT: Okay.

THE COURT: I'm happy to question them again if anyone wants me to or feels that we should --

MR. WRIGHT: No.

THE COURT: -- but to my view, the time for them to have disclosed these situations were during jury selection, and I think both sides -- as I said before -- took steps to ask open-ended questions. You know, is there anything else you can think of, questions like that, and they didn't offer these things, and to me, you know, these other people that we've just brought in, we have left things up in the air with them, and so I don't know that we should be revisiting these because now they've come up with, you know, something that they didn't.

Again, if Ms. Pomykal is selected, I am certainly happy to tell her, look, you know, if you need a break, if you need to move around, something like that -- plus, we are having to make reasonable accommodations for Dr. Desai. So I think incumbent in those reasonable -- or included -- excuse me -- in those reasonable accommodations are things for the jury. They're going to get breaks. They're going to get early days. They're going to get late days. So I think by

considering the accommodations for Dr. Desai we are including accommodations for any jurors with sort of, I guess, special needs or health issues or anything like that.

Is the State comfortable with that?

MS. WECKERLY: Yes.

MR. STAUDAHER: Yes, Your Honor.

THE COURT: Is the defense, Mr. Wright, are you comfortable with that?

MR. WRIGHT: Yes.

THE COURT: Mr. Santacroce, are you comfortable with that?

MR. SANTACROCE: I think you've cleared it up because I was concerned. With all these people with accommodations, are we ever going to get done done with this thing? But I think if you incorporate those accommodations in with Dr. Desai, it shouldn't be a problem.

THE COURT: Right. I mean, as you know, I mean, my desire was to go 9 to 5 every day, but, you know, with the Dr. Desai situation, what Mr. Wright has said, I'm afraid we're not going to be able to do that. We certainly couldn't do it in jury selection.

So I think these jurors if they're selected -- I mean, that's something to keep in mind during your peremptory challenges. If, you know, the people that you feel you need to challenge, you know, maybe that's four or five people. You

have some extra challenges. I don't know. Maybe use those for these people that have some other difficulties that could maybe hinder the process a little bit. That's certainly up to you.

Anyway, so those would be the accommodations that they could make their arrangements during the time that -- I just feel that the other potential jurors who are left, I think that their hardships out we these other newly reported hardships from the people who made the cut of the first 35.

So I'm inclined to make Mr. Tomboc as he's already -- he's included as part of the 36. Ms. Ruiz is going to be included as part of the 36. Ms. Wiley -- and I think, you know, I don't know what weather Station Casinos compensates or not on the other gal, but --

MR. SANTACROCE: How about Franco, what did you decide on him?

THE COURT: Oh, I think he does have a hardship, Mr. Franco, because he's not being paid, and he's only a part-time parks and rec employee. Is everyone fine with that?

MR. WRIGHT: Let's wait until we get this thing set before we let anybody else go.

THE COURT: Oh, no. No. No one is being let go.

MR. WRIGHT: Oh, okay.

THE COURT: I mean, basically here's what I'm proposing. Adding Mr. Tomboc, 454 and he would be added

between, as I said, Mr. Sandifer and Ms. Safronov, adding Ms. Ruiz, Badge No. 441.

MR. STAUDAHER: She would be in front of Mr. Tomboc, correct?

THE COURT: And she would be before Mr. Tomboc, and since Mr. Wente apparently has not shown up he will be removed from the pile, and the Court will issue a show-cause order to him.

MR. WRIGHT: Could I have --

THE COURT: You may have a moment.

MR. WRIGHT: Thank you.

THE COURT: All right. So revise your lists, and then we're going to go forward. Does everyone -- do you guys have the form, or do you need it from us, the peremptory challenge form?

MR. SANTACROCE: I have one.

MR. STAUDAHER: We have a form.

MR. WRIGHT: I need another one. I've lost mine.

THE COURT: Okay. And you're going to use a shared form for the final?

MR. SANTACROCE: Yes.

THE COURT: And that'll be the court's Exhibit.

(Pause in the proceedings.)

THE COURT: All right. Ms. Stanish, you'd indicated what about Mr. Wente? The record wasn't on before.

MS. STANISH: Well, our preference would be to retain Mr. Wente as a panel member and to try to contact him at his employer. We do have the name of his school available, and as Your Honor mentioned before, we could keep the seat open for him.

THE COURT: And what's the basis for that request?

MS. STANISH: You know, Your Honor, we've already calculated our perempts. As you know, we only have nine between two of us. So that's our preference.

MR. WRIGHT: And he's qualified and competent and was going to be a juror, and we have no knowledge as to why he isn't here, and so we're just --

THE COURT: We don't have any knowledge as to why he isn't here, number one, but as you'll recall, I mean, Kenny got numbers from them before they came in. Before I excused each potential juror who had been passed for cause, I said, Make sure, you know, Kenny, Officer Hawkes, whatever has a telephone number where you can be reached. Make sure he has a good number for you because you may be called back. It is your duty to report when we tell you to.

And so he was aware that we would be trying to contact him, and he hasn't called back. Sharry has left numerous messages including when I finally told her the last message should be, you must respond or the Court may issue an order to show cause which can be followed by a bench warrant

for your arrest and still nothing, and so I don't know that the Court has an obligation to do some kind of investigation now looking up other potential numbers for Mr. Wente to include him in the group.

You know, we've passed another woman for cause, Ms. Ruiz who can certainly take -- take that place in there who had been passed for cause before, and, you know, she didn't have any more information. You know, I think we were all sympathetic about her son. He's, you know, returning from Japan. We want her to, you know -- he's in the service. We want her to spend time with him, but, you know, she didn't have any more information for us.

Additionally, Mr. Staudaher has pointed out that Mr. Wente was initially a no-show on the day that he was supposed to first come in, and he had to be contacted by jury services and told to come in, that he must report. So now we have a history of somebody who either wilfully doesn't follow directions or has some kind of hearing problem with following directions or has some kind of cognitive or memory problem with following directions.

As I said in chambers, I have one goal and one goal only in this trial, and that goal, the only goal I have really is to get to a point where it's submitted to 12 people who can go in the back and deliberate. That's it. What happens after that I have no interest in one way or the other.

But to me to take extraordinary measures to include Mr. Wente as part of our group when he has a history of not showing up when he's supposed to, when he hasn't shown up today, when we haven't received a call or anything like that, to me that just invites him not showing up again and us having to right away pull in the alternate or us delay the morning session because he's not here on time. You know, we start at 9:30, and he's not here at 10, and then we wait.

And I don't really think that's something the defense wants in view of the record that you've made that Dr. Desai gets tired as the day goes on. So I don't think we want to set ourselves up to have a 9:30 or a 9 o'clock start or whatever and everybody be waiting around for jurors who for whatever reason can't seem to follow direction and can't get here on time.

And as I said already, you know, is the error with my staff, or is the error with Mr. Wente? I have to think the error is with Mr. Wente when my staff, my JEA here was able to contact 40 people and get confirmations and get them all here to the place they were supposed to be at the time they were supposed to be here. 40 people versus one person, so who's the problem with, really? I mean, I think the proof is in the pudding so to speak on that question.

THE JEA: We have one more load coming up, but the rest are all out in the hallway.

THE COURT: Okay. Mr. Staudaher or Ms. Weckerly, what's the State's position on this?

MR. STAUDAHER: I think the Court addressed it very aptly, and I think the main issue at this point is that we don't have contact with him even though that's -- those are the numbers, the contact information he provided the Court as being the best contact information when he left here.

Despite whatever happened with him and why he didn't show up in the first place, at least at that point he was on notice that we were trying to get him. It was important. He needed to show up, and whatever information he provided to the Court should be good information, and if the Court has had numerous opportunities to try and contact him and still at this point in time does not have a contact with him, we don't need to send police ow or whatever to try and track down a potential juror.

I mean, this is an individual that shows he is not reliable at showing up. This process cannot be essentially stopped by one person.

THE COURT: Hijacked by one person. And, you know, I agree. He passed for cause. He seemed like he would be fine. He seemed like a responsible person to me based on his job and other factors, but he was told again and again a number where you may be reached, and, again, I don't think that there's any legal requirement that the Court take some kind of

extraordinary step to do its own investigation now and look up his school and call the principal.

And, you know, let's act this out in our minds. It's been, what, 81 -- okay, 32 years since I was a student at a Clark County public high school, but let's think about this. I'm sure it's not too different. You call the principal's office, right, and you get somebody, oh, you know, I'm Sharry in Judge Adair's chambers, and we're looking for Mr. Wente. May we speak with the principal or the vice principal or someone, and then they're going to send maybe somebody down the hall to find out where he is, and then, what, we're supposed to wait around for him to come and to call us.

I just think it's beyond what the obligations are to secure the attendance of a juror, and I think it -- it's a foreboding of problems to come, and, as I said, I don't want to be in a position where we're stuck waiting around or where we're right away having to call in an alternate.

And, Mr. Wright, I don't remember if it was a Friday or a prior day, but you expressed concern with only having five alternates, and over the weekend I began to become concerned about that, and we met in chambers this morning, and the Court agreed let's make another alternate. Let's make sure we get to the last day of this trial. We've got 12 breathing people who can go in the back and deliberate, and to me to start out now with one potential juror that we know is

questionable doesn't make a lot of sense to me and is just a further delay in the process.

MR. SANTACROCE: Just for the record, Your Honor, I'm joining in on that motion or request or whatever it was.

MR. WRIGHT: I wasn't suggesting sending out police and conducting an investigation.

THE COURT: No. I know and that's why --

MR. WRIGHT: What I asked for was we know he's an employee of Sunrise Mountain High School. We know he's a Clark County School District employee. We know from reading his questionnaire he's a responsible citizen. We know from hearing the diatribe from Mr. Staudaher that that's one of his peremptories he doesn't want to have to utilize.

This isn't just some fungible thing where we slide people in and out. He was brought in here, questioned, qualified, passed for cause, and I simply want to be certain of his unavailability. I don't know what numbers were given. I don't know all of the times he was told this and that. All I know is he isn't here at the present time. There may be a valid explanation for it, and that's all I was asking, attempt to contact him and leave the spot for him with someone else available until we are ready to start because maybe he'll come walking in the door.

THE COURT: Well, absolutely, Mr. Wright. If he comes walking in the door -- I mean, we've told jury services,

Contact us.

MR. WRIGHT: I'll call the high school. I'm happy to do it. Just give me a break, a recess. I've got my cell. I don't -- he's been disparaged here. I didn't get any of that out of the questioning that took place. He's a band teacher and a high school music teacher.

THE COURT: Well, first of all, Mr. Wright, I certainly didn't disparage him, and I think I said he appeared to be somebody who would make a good juror. He has appeared to be a very credible person. I don't remember if that was the word I used, but I just now said something to that effect. I said, From his answers he seemed to be somebody who would be a good juror.

But what I do know is the other things I said on the record. What I do know is he was told to leave a good number. What I do know is he's the one person out of 41 people who didn't manage to make it back today. What I do know is he didn't show up on the day he was initially supposed to show up. What I do know is that he was told, Please leave a number where we know you can be reached. And he wasn't reached, and he didn't return calls. He didn't answer messages. That's what I do know.

Now, did something -- I don't know. I hope -- like I said, I hope, God forbid, he hasn't been injured terribly, that he isn't in the hospital. I don't know. But all I'm

saying is I don't think it's the Court's obligation to research why he isn't here this morning.

Now, you suggest that that's a simple call to the school. So the best case scenario I guess would be he's in the band room, and, oh, I forgot to come in, or the worst case is he's not in the band room or the music room, whatever, and he's called in sick or hasn't shown up for work, and then that would suggest some horrible situation has occurred, but all I'm saying is I don't think that that's our obligation to take those extra steps to get him in here.

And I would agree with you. I think he -- you know, he's a band teacher. I mean, I vaguely remember him, and I think -- my impression was that he would make a good juror. So I'm somewhat surprised by this, but I do -- as I said, I do know these other things, and so, you know, that's just my feeling.

I don't care whether we have him or not. I mean, all I care about, as I said, is getting through the end of the day with people who show up on time so that we can move this thing forward as quickly as possible and as easily as possible for everyone concerned, everyone concerned in this.

MR. WRIGHT: Well, but my only reason -- I do care whether we have him or not because I look at who was exposed to publicity and who wasn't, and I have someone now who had -- came in with no opinion we had to get him to back up on and

set aside and rehabilitate and all of this, and now we're sliding in those that are different than he. So I do want him, and if by chance it is -- he's simply not available here, I want to give him every opportunity to be here because I wanted him as a juror.

THE COURT: Mr. Staudaher?

MR. STAUDAHER: I mean, I'll say I think the Court's described it. He did -- you know, this individual -- the only concern the State has is -- I mean, if he's here, he can serve. I don't have an issue with that, or we can go through the process and whittle it down, and whether he's part of the package or not at the end is another issue, but he's not here, and I think the Court is right.

What's the next step? If we have -- if tomorrow we seat all these jurors and we have one not show up including Mr. Wente, do we have to go through the process of calling the school and doing these things to try and find out where these people are? That's part of the issue about being -- about serving as a juror, and part of why the Court admonished these people to not talk to anybody about it and also to stay in communication with the Court because they might be called. So I'm just going to submit it on that, Your Honor.

THE COURT: All right. What was the name of the school that he worked at? Mr. Wright, what was the name of the school?

MR. WRIGHT: I'm sorry?

THE COURT: What was the name of the school?

MR. WRIGHT: Sunrise Mountain High School, Clark County School District.

THE COURT: All right. Kenny is still bringing up the jurors in the elevator. So we'll just be sort of at ease for a few minutes until they're all here.

(Pause in the proceedings.)

THE COURT: What I'm going to do is -- for everyone's memory, recollection -- is we are going to have -- when Denise calls the role, I'm going to ask them to stand up so you can jog your memories as to who everybody is. All right.

MR. WRIGHT: Thank you.

THE COURT: That's the best way I can think of to accommodate the concern about, you know, remembering who's who. Ms. Ruiz and Mr. Tomboc are being substituted in.

So, Kenny, make sure they're in numerical order, and then bring in just our 36.

(Panel of prospective jurors entering 10:22 a.m.)

THE COURT: All right. Court is now in session. The record should reflect the presence of the State through the Chief Deputy District Attorneys Mr. Staudaher and Ms. Weckerly, the presence of the defendant Dr. Desai along with his counsel Margaret Stanish and Richard Wright, the presence of the defendant Mr. Lakeman along with his counsel Mr.

Santacroce, the officers of the court and the 36 prospective jurors who have all been passed for cause.

Good morning, ladies and gentlemen. You are all back here today because as you know you've been through the process. We began this process two weeks ago today, and it took us a number of days of questioning numerous jurors, well over a hundred, to reach the point where we've qualified all of you.

We're going to now have a roll call, and as you can imagine because it's been such a lengthy process and, you know, some of you may have been questioned a couple weeks ago some of us might have a little bit of difficulty recollecting -- matching a face with your questionnaire. So when Ms. Husted our court clerk calls your name in the roll call, please stand when you answer present or here, and just face the attorneys so they can make sure they recognize you and remember you from the questioning that's taken place in the past.

Ms. Husted, would you please call the roll in numerical order.

THE CLERK: Yes, Your Honor.

(Roll called of panel of prospective jurors.)

THE COURT: All right. Ladies and gentlemen, thank you.

Does the State have the form for the peremptory

challenges?

MR. STAUDAHER: Yes, we do, Your Honor.

THE COURT: All right. The State may fill out its first challenge, and then pass that to the defense and so forth.

Ladies and gentlemen, what's going on right now is both sides are given nine peremptory challenges in this case. That is part of the process that is designed to ensure that each side has a completely fair and unbiased jury.

If you are excused pursuant to one of the challenges, please don't be offended in any way. It is as I just said simply part of the process designed to ensure that both sides are confident that they have a jury composed of 18 people who are completely open-minded and who have no bias or prejudice toward or against either side.

We're just going to keep all of you in the room as the attorneys pass the paper exercising their challenges back and forth so that if they need to be refreshed in their memories by looking at one of you to see, okay, yes this is the person who corresponds to this or that questionnaire, they'll be able to do that.

Once all of the challenges have been exercised or waived we'll take a quick recess, and then we'll be bringing all of you back in and announcing who has been excused and who has been selected as a juror in this case.

If you are one of the lucky ones who has been selected, what we'll then be doing is the Court takes about 15 or 20 minutes to give you some introductory instructions. At the conclusion of the trial, I give detailed instructions in writing, and those detailed instructions at the conclusion of the trial control your deliberations.

Following the initial instructions by the Court the attorneys will have the opportunity to make their opening statements, and that will probably take all of today, and then beginning tomorrow we will begin with the testimony from the witnesses.

In terms of scheduling, we'll probably begin each morning around 9:30, maybe 10 o'clock, and we always try to end by 5 p.m., and some days we may be ending earlier. I know some of you had to stay until 6 o'clock, maybe even later during the jury-selection process. The reason we stayed late on those days is because we try to make sure people don't have to take an extra day off of work just to come back for jury selection. So that's why we try to run those days late, but we try to end at least by 5 every day.

The reason for that is because -- as I'm sure you've read in the paper and have heard -- the County budget is very tight right now, and they don't want to pay overtime to the court -- these fine people right here -- the court staff. Obviously the Court does not get overtime, but we have been

encouraged very strongly by the County to make sure that we try to end by 5 as much as we can. So again that overtime for staff doesn't come into the County budget -- come out of the County budget I should say.

And for those of you who are not selected, obviously you'll be excused, and then you'll be free to leave just as soon as we complete this part of the process.

I want to thank all of you for your patience in this process. I know at a minimum each of you that's here today has had to take at least three days off to be here, the day to fill out the questionnaire, the day that you came in and we questioned you here in the courtroom and then of course today, and so I recognize even for those of you who are not going to be chosen there's already been some inconvenience, and I want to thank you.

But I'm sure you can all appreciate how important jury selection is to the process and how important it is that both sides feel confident that they've gone through the process, that they've, you know, adequately questioned people, that they've had an opportunity to adequately question people and that they finally at the end of the day have a jury that's composed of open-minded and neutral people.

And so, again, this is somewhat unusual because of the publicity and whatnot in the case that the process has taken a little bit longer than what we typically see, and like

I said, I know at a minimum each and every one of you has already had to devote -- you know, this is at least your third day. Some of you may have been here four days, and so thank you for that.

And some jurors come in one day, the trial lasts a day, and then the third day they deliberate and they're done. I can tell you that is pretty unusual. You know, this trial is obviously on the end of lengthy trials, but the average trial is at least a week. Many trials are longer, particularly civil trials in this jurisdiction which rarely last only a week.

The good news is you will get paid because now you've had to be here three days. I think that's the cutoff. Also, if you're selected, you won't have to park where you've been parking. You'll be able to park directly across the street once you're selected as a juror. So that should make things a little better.

When I'm driving home after a long day of trial or jury selection, you know, I'm always passing the people hiking back over to the big red thing, and I always feel bad for them because, you know, sometimes, we've gone late in the day because we try to do as many people as we can, and I always see, you know, people trudging, and they're all tired, and usually fortunately they're walking in groups which makes it a little bit, you know, safer being downtown and sometimes at

night.

I wish we had closer parking for people because I think that really is far especially for older people and maybe people with, you know, not severe disabilities where they're going to get to park closer, but, you know, milder disabilities, but it's kind of what we're left with with what was available downtown here.

I see some of you looking around there at the cameras. There may be cameras in here during the trial phase of this case. The media is never allowed to film members of the jury as they come and go or sit in the jury box. So don't be concerned about that in any way. If you are selected, you will never -- your image will never be captured on film. That is not allowed.

And sometimes you may note if you are selected and there are cameras, they actually point them up towards the ceiling so that I know they're not filming the jury. I know sometimes people worry about that. They don't want to be on TV. They don't want to have their image captured, but that's not a concern because we never allow the media to film or to take still photographs or anything like that of members of the jury.

You know, in Federal Court, they don't have cameras, and sometimes if you watch the news, you can see the court sketches, and sometimes they'll actually sketch the jurors.

To my knowledge we don't have anyone coming in to do sketches or anything like that. So it'll just be, you know, filming and possibly some stills, but I don't want anyone to be at all concerned. You won't be photographed or anything like that.

Some of you may want to be photographed. If that's the case, then that's just up to you.

Mr. Staudaher, what number are we on?

MR. STAUDAHER: I believe we are on the fifth strike for the State.

THE COURT: All right. Is that your sixth, Mr. Staudaher?

MR. STAUDAHER: This will be our sixth now.

MR. WRIGHT: We need to take a moment, Your Honor, after this.

THE COURT: We'll be taking a break.

MR. SANTACROCE: No. He means between perempts.

THE COURT: Oh. Well, go ahead State. Then I'll see counsel at the bench. I would tell jokes to fill up this dead time, but I could get in trouble. They probably wouldn't be very funny anyway.

I am looking around, and I see a few faces like, oh, I hope they pick me, and I see faces, oh, I hope they don't pick me.

I can tell you this -- and really almost to a person -- in the over 22 years that I've been a lawyer either as --

you know, working as a lawyer trying cases myself or now as a Judge, I've spoken literally to thousands of people who have served as jurors, and, you know, many of them didn't want to serve. They tried to come up with excuses and this and that.

And I can tell you really almost to a person, once people served and talked to them after the case is completely over, I can tell you almost to a person, you know, easily, confidently I can say 99 percent of them are happy that they had to -- that they had to do it, and they find it to be a very interesting and rewarding experience.

I can't say a hundred percent because every once in a while you get someone who says, you know, it was stressful, or it was difficult, or they aren't glad that they had to do it, but really, like I said, comfortably, 99 percent of the people who do it, they're glad that they had to do it, and they find it interesting, and they find it rewarding.

And I've even run into people that served as jurors on trials I did as a lawyer, you know, at, like, Walmart or whatever, and I am told I have a fairly distinctive voice, and they'll say, Are you Valerie Adair. I remember you. And I can -- I can tell you people still remember trials, you know, from decades ago that were jurors, and they say, still, decades later that's -- you know, I'm so glad I did it. That was one of the best things I've ever done. I've even had people, you know, say to me that was one of the most

significant things that I've ever done in my life and things like that.

So while I am looking at you now and I see some of you -- I'm just guessing here trying to read your minds based on your expressions -- are thinking oh, maybe they won't pick me. You know, if they do, it's certainly important. It's obviously a very significant part of our process, a significant part of one of our constitutional rights, but people do find it rewarding --

May I see counsel at the bench. -- although it can be challenging.

(Conference at the bench not recorded.)

THE COURT: Ladies and gentlemen, we're going to take a quick recess. We're going to take about 10 or so minutes for recess, and, you know, if you need to use the restroom or anything like that, that should give you enough time.

Before I excuse you I must admonish you. You are not to discuss anything relating to the case with each other or with anyone else. You're not to read, watch, listen to any reports of or commentaries on this case, any person or subject matter relating to this case, and you're not to form or express an opinion on the trial.

If you would all please stand and then just follow our bailiff Officer Hawkes through the double doors, we'll see you back here in about 10 or so minutes. We'll make it 11:10,

and everyone please remember where you're seated because you'll have to return to those seats.

(Panel of prospective jurors recessed 10:57 a.m.)

THE COURT: Mr. Santacroce -- Kenny, would you please just remain in the hallway to make sure nobody's talking to them and they're not doing anything they're not supposed to do.

All right. For the record, just a second before the break my JEA Sharry informed me that Mr. Wente was on the phone, and I directed her to find out where he was and what he had to say about why he didn't appear and everything like that. So we'll learn that. I'll put it on the record, but I think even if, you know, he's parking or whatever, I think we are too far along in the process to bring him in at this point.

Is there anyway we can finish the perempts on the paper without marching everybody back in, or do we need to bring them all back in?

MR. STAUDAHER: We don't need them.

THE COURT: Defense? Because I just really -- I, you know, had that fascinating talk about the parking. I just can't think of anything else to say.

MR. WRIGHT: No, we don't need them.

THE COURT: Okay. All right. So take -- if you need to use the restroom or whatever, take your break right now,

and then let's finish the forms so we can bring them all in, and they don't have to sit here in that uncomfortable silence. All right.

MR. WRIGHT: And before we go on with them, if we could figure out what happened with Mr. Wente --

THE COURT: Yes. I'm going to go right now. I'm going to take a very brief break myself, and then we'll learn from Sharry. I'll just have her come in and tell us.

MR. WRIGHT: Thank you, Your Honor.

(Proceedings recessed 10:59 a.m. to 11:11 a.m.)

(Outside the presence of the panel of prospective jurors.)

THE COURT: For the record, my JEA spoke with Mr. Wente who returned her call from today.

Correct?

THE JEA: Yes.

THE COURT: And claimed that he didn't receive the message --

THE JEA: Yes, that's correct.

THE COURT: -- telling him to show up. And then what did he say, that there had been a gas leak --

THE JEA: He just -- yeah. He said they evacuated, and he's a band teacher, and they're very busy, and he apologized, but he claimed he didn't -- he claimed he didn't get the message. So I don't know what to tell you.

THE COURT: And apparently said he didn't call back

this morning, I guess, because there was a gas leak at the school. So that's all we can --

Right, Sharry, that's really all you can add?

THE JEA: Yes.

THE COURT: All right. Has the defense exercised their sixth challenge on the form?

MR. SANTACROCE: Yes, we're just about to right now.

THE COURT: Kenny, they're going to fill out the rest of the form, and then we'll bring them all in.

THE MARSHAL: Okay.

MR. WRIGHT: I would request he be brought in to the pool.

THE COURT: Well, I think, you know, we've gone too far without --

MR. STAUDAHER: We've started striking.

THE COURT: -- without the -- without him being here. You know, a decision was made, and I think I have to stand by that decision. Also, I mean -- again, okay, today now there's a gas leak, and that's why he didn't return the call promptly, you know, when, you know, I'm assuming close to 9 o'clock. That's when court staff started calling him, and it was almost right before the break which was a couple minutes of 11. So I think that that may be indicative of further difficulties.

So Court stands by its decision, and, you know, you're already on your sixth challenge with who's here, and so

that request is denied.

MR. WRIGHT: Okay. He could come in and be the first alternate in the alternate pool, and we haven't completely exercised our challenges. It sounds like he has a valid explanation to me, and I presume his cell phone and everything is off when he's in school, and so --

THE COURT: Well, that would make sense for today, but that wouldn't make sense for why he didn't get the message for the other days, and I think there has to be -- I don't know what the State's position is on adding him as sort of the empty chair or making him another alternate, a first alternate or what have you, but I think at some point in time there has to be a certain amount of certainty.

And what's the State's position on that?

MS. WECKERLY: Your Honor, we started striking jurors with the people we had in front of us, and for -- you know, great now he calls in when we're halfway through the process. What, we'd have to wait until who knows when for him to show up. I mean, I don't know why he gets more accommodation than anybody else, and everybody else the Court has said could serve, and so we're fine with the Court's ruling, but we don't want to start back up again or start over and, you know, evaluate the pool with him in it.

THE COURT: Right. Again, I think there has to be some kind of certainty. You know, like I said, everybody else

managed to get here, and so it is what it is, but these other people were passed for cause as well.

MR. WRIGHT: But they weren't randomly in the same order. That was a drawn panel. This isn't just some bucket of water. This was a randomly selected jury panel that we followed randomly. He is for cause. He is available, and he is still here, and the peremptories haven't all been exercised, and he didn't have the bias that was rehabilitated as others, and so I simply object for the record because he's here and available, and we can select him.

THE COURT: Well, first of all, he, you know, may be available, but he's not here, meaning in the courthouse.

MR. WRIGHT: Well, we don't know.

THE COURT: In the courthouse.

MR. WRIGHT: I don't need to see him. I can --

THE COURT: Right.

MR. WRIGHT: Right. So we can go right ahead and put him in. I know what he looks like.

THE COURT: State -- Well, maybe the State doesn't know. I mean, again, I don't know why -- I understand you want to treat him specially because you feel that he's more unbiased or maybe, you know, a better juror for your client.

I think the record is what the record is, and I don't think -- you know, if mistakes were made in qualifying jurors for cause, then mistakes were made, and the Nevada Supreme

Court -- if we get there -- can deal with that, but I don't think that we need to somehow treat Mr. Wente differently than we would treat any other juror who, you know, didn't call, didn't show and called two hours after they were supposed to be here and an hour into the jury selection process or an hour into the exercise of the peremptory challenges.

In terms of the record and whatever legal obligation the Court may have other than what I -- you know, my sense is, does the State want to weigh in on that?

MR. STAUDAHER: No, Your Honor.

MS. WECKERLY: No, Your Honor. I mean, the Court has to -- this happens all the time.

THE COURT: Right.

MS. WECKERLY: People don't show up, and we can't --

THE COURT: Right.

MS. WECKERLY: We keep going. We don't wait for one person.

THE COURT: I'm sorry. Where are we?

MR. STAUDAHER: Eight.

THE COURT: Okay. We're talking about Mathahs, that he's still in there.

MS. WECKERLY: It is in there.

THE COURT: The clerk was concerned, but that's fine.

MR. STAUDAHER: Right. It should read just like that though.

THE COURT: I'm sorry?

MR. STAUDAHER: It should read just like that.

THE COURT: It does. It's, Defendants and Keith Mathahs.

THE COURT: What are you on?

MR. SANTACROCE: Last one.

MS. WECKERLY: We're on our ninth.

THE COURT: State, you've done your ninth?

MR. STAUDAHER: (Nods head.)

THE COURT: And so we are waiting on the defendant's ninth.

Has the ninth challenge been exercised?

MR. SANTACROCE: He's writing it down as we speak.

THE COURT: Okay. Then hand that to the State so they can see who it is.

You guys are writing the numbers and the names like I said to do?

MR. STAUDAHER: Yes, exactly like you said.

MR. WRIGHT: Yes.

THE COURT: Okay. Good.

MR. WRIGHT: That's why it takes me so long to find it.

THE COURT: No, it's okay.

MR. WRIGHT: No, I got it.

THE COURT: But otherwise it's going to be really

confusing for the court staff if we don't have the number and the name.

MR. WRIGHT: No, we've got it.

THE COURT: All right. Would you please show it to the State.

All right. For the record, it is now 11:35. Both sides have exercised their peremptory challenges.

MR. STAUDAHER: Does the court wish me to approach with the list?

THE COURT: Yes. Both sides have had an opportunity to see the nine -- We're on the record. -- have had an opportunity to see the nine challenges that were exercised by the other side, and does anyone have any challenges to the peremptory challenges exercised?

MR. SANTACROCE: Yes, Your Honor.

THE COURT: All right. Mr. Santacroce.

MR. SANTACROCE: Actually Ms. Stanish is going to make the argument.

THE COURT: All right. Ms. Stanish, go ahead.

MS. STANISH: Your Honor, beginning with Juror No. 458 whose race is African American, we assert a Batson challenge. With respect to -- do you want to just do them one at a time, or --

THE COURT: Okay. Is he the only African American excuse by the State?

MR. SANTACROCE: Yes.

THE COURT: All right. Well, I counted and I hate to do this, but I believe there were seven African Americans in the pool of 36, and there were seven African Americans and my understanding is the State has excused one African American out of those seven, and so in order to make a Batson challenge you need to show a pattern or practice.

MR. SANTACROCE: Well, we are not done.

THE COURT: Oh, I'm sorry. That's why I asked are there any other African Americans who have been excused.

THE COURT: All right.

MS. STANISH: Well --

THE COURT: Actually there are two. Valente-Libanotis, was she African American?

MR. STAUDAHER: Yes -- well, I don't know if she is or not.

MR. WRIGHT: Yes.

MR. STAUDAHER: I can't remember.

THE COURT: Wasn't she the one that had the fight with Mr. --

MS. WECKERLY: Yes.

MR. STAUDAHER: Yes, exactly.

THE COURT: So look at you here, defense. You made this whole big thing how you would have to exercise a challenge for her.

MR. WRIGHT: They did it first.

THE COURT: And they did it for you.

MR. STAUDAHER: Actually, we did it with our very last strike, Your Honor.

MR. WRIGHT: They did it. We didn't have to.

THE COURT: I know. They did it for you. There goes that issue right out the window.

MR. SANTACROCE: What issue is that?

THE COURT: The issue on -- that they wanted her excused for cause because you would have to -- the defense would have to exercise a challenge removing this woman who I should've excused for cause, and I said, No, I don't think she's a for cause challenge, and the the State actually excused her as their ninth challenge.

MR. SANTACROCE: Well, they did it before us, Your Honor. So that --

THE COURT: Well, so you didn't have to do it. So there goes that argument.

MR. SANTACROCE: No, it doesn't --

MR. WRIGHT: But I have five others that I --

THE COURT: Well, wait a minute. Mr. Santacroce, the record speaks for itself.

MR. SANTACROCE: Yes, I know.

THE COURT: They excused her as their ninth challenge. You guys objected to her, but you didn't have to

excuse her. So it is what it is.

MR. SANTACROCE: Right.

THE COURT: Now, she I believe was also may have been -- I think she was mixed race.

MR. SANTACROCE: Correct.

THE COURT: Can you look on your questionnaire. I think she checked African American and Caucasian.

MR. SANTACROCE: I think she was mixed.

THE COURT: By her own -- you know, by her own reporting.

So continue, Mr. Santacroce.

MR. SANTACROCE: Well, I'm not making the argument. Ms. Stanish is.

THE COURT: Oh, I'm sorry. Ms. Stanish, yes.

MS. STANISH: Moving to the other Batson challenges, Your Honor.

THE COURT: Okay.

MS. STANISH: As I understand it you are not going to require the State to voice a neutral ground for --

THE COURT: Well, I was about to make my ruling on that or to say, well, I only count one, but now I realize there's two, two out of seven, and then what's the -- finish your challenge.

MS. STANISH: Well, I have four --

THE COURT: I mean, are you making individual Batson

challenges, or you making an aggregate Batson challenge as to people of color generally, or what are you doing?

MS. STANISH: Your Honor, I have four peremptories that I'm challenging.

THE COURT: Okay. Go ahead.

MS. STANISH: With respect to Jurors 370 and 386, those two individuals were Hispanic.

THE COURT: I don't believe Mr. Archuletta was Hispanic. He was the young man who said he put on his form that he enjoyed -- his pastimes included drinking and smoking, and he indicated that he did that because he'd hoped he wouldn't be chosen, and I said, Well, the main issue is, is it true. Do you enjoy a drinking and smoking, and he said, Yes, he's fond of drinking and smoking.

And based on prior answers to his question, I assumed -- perhaps incorrectly -- smoking didn't necessarily -- wasn't necessarily limited to tobacco products. We'll just put that out there that way.

MS. WECKERLY: He acknowledged that.

THE COURT: In fact, he admitted that he had used marijuana in the past, referencing his appearance.

MR. WRIGHT: Judge, if I could object. Who's explaining the reason for the challenge, the Court or the State?

THE COURT: No. No. I'm making sure I know the

right person, and I don't remember that he was Hispanic, but let's look at his form and see what his reporting was.

MR. STAUDAHER: His reporting was that he was 75 percent white, 25 percent Latino.

THE COURT: Okay. All right. And then the other Latino gentleman would've been Badge No. 386, Mr. Figueroa. So that's two Hispanics, and I don't remember -- I counted possibly three in the total panel, but I could be mistaken there.

MS. STANISH: I didn't see any others, Your Honor, as far as Hispanics.

THE COURT: I think there were a couple of others, but I could be mistaken. I mean, I just don't have a recollection of the forms that well. So that's your Hispanic. And then your other two challenges, Ms. Stanish?

MS. STANISH: There were four altogether. So the last one would be Juror No. 650 who acknowledged that she was a lesbian.

THE COURT: Okay. So, first of all, let's begin with the African Americans. You've got two out of seven. I'm not sure that that qualifies as a pattern and practice.

However, State, would you like to State your race-neutral reasons for the two African Americans that you've excluded?

MS. WECKERLY: As to Mr. Sandifer, Your Honor, he --

when asked by Mr. Staudaher if he would find the defendants guilty if we prove the case beyond a reasonable doubt, it took three times for him to acknowledge that he would do that, and then he said, If it's absolutely proven, suggesting he had some higher standard in his mind than the reasonable-doubt standard.

I guess as to -- are they challenging Ms. Libanotis? The State -- you know, she was a potential appellate issue to be honest, and so we exercised a perempt.

As to African-Americans though, I would note that Ms. Cindy Ennon-Wilson, Mr. Mack Brown, Ms. Regyna Booker, Ms. Rachael Robinson and Mr. Amand Keller all appeared to be -- at least to me, I didn't check all the questionnaires -- but they all appear to be African American. So --

THE COURT: Visually.

MS. WECKERLY: Yes. So they'll be overrepresented on the panel as a matter of fact.

THE COURT: Right. I don't see -- again, I don't see a pattern of practice there.

You know, certainly as to Ms. Valente-Libanotis, there was a lot of argument about keeping her on for various reasons, and I don't need to reiterate those. I think that the record is more than complete on that, and so it makes sense that as their ninth challenge the State struck her, removing any potential appellate issue. So I don't find that

there is any kind of race discrimination going on based on their challenges.

Turning to the two Hispanics, Mr. Archuletta who self-identifies as 25 percent Hispanic and Mr. Figueroa -- and I don't recall if he identified as a hundred percent Hispanic or mixed race.

State? And I counted potentially three Hispanics, but I could be mistaken on that. Again, the record will speak for itself, but we may have to go back to the questionnaires.

MR. STAUDAHER: Which was the third, Your Honor?

MR. SANTACROCE: Figueroa.

THE COURT: Yes?

MR. STAUDAHER: I know that -- well, why don't we go down the list here. Which was the first one, Your Honor?

THE COURT: Mr. Archuletta. He was the young man --

MR. STAUDAHER: Mr. Archuletta, he lied on his questionnaire. I mean --

THE COURT: Well, I don't think he lied on his questionnaire because he said he did enjoy smoking and drinking.

MR. STAUDAHER: Well, I'm not talking about just that.

THE COURT: Oh.

MR. STAUDAHER: He said that he put things in his questionnaire that he really didn't espouse because he

believed that if he put those things there he would get essentially kicked, that he -- there was a number of issues related to him that I think were essentially showing that he at least wasn't forthcoming in his questionnaire whether it was a frank lie or omission or whatever. I mean, here he was more forthcoming, but those are certainly questions that we had, and it gave us concerned that he would be a good juror. So that was Mr. Archuletta.

MS. WECKERLY: He didn't show up either.

MR. STAUDAHER: Oh, and that was the other issue is he didn't show up one time or twice or whatever. It was the third time I think before he even actually showed up, and we didn't even know he was going to show up. He just appeared out of the blue.

THE COURT: He just appeared, right.

MR. STAUDAHER: So as far as Mr. Figueroa -- is that the right --

THE COURT: Right. It's your sixth challenge, Badge 386.

MR. STAUDAHER: One of the issues in the case from the State's perspective, Your Honor, is that we don't want a disproportionate number of young jurors on this panel, especially with relation to the types of evidence that is going to come in. Mr. Archuletta was one of those. We did let go of Ms. Curro I believe for the same reason,

inexperienced, young.

And Mr. Figueroa actually falls into that same category. He also in the way he answered -- and I know this is not captured on the record as far as the hard transcript -- but in the way he answered, his demeanor to us came across as not somebody who was antagonistic but just was -- had a laissez-faire sort of attitude in our estimation. In addition, the issue with him and -- it was just a feel.

It wasn't necessarily an issue of a frank thing that he said, but I noted that on almost nobody in my questioning did I mark down whether it was a plus, minus or something. He, I did do that for. I don't know what he said that prompted me to do that, but the things that we were concerned about with him was his attitude in the court, his young age and some of the issues that we believed might come up before the jury that we want to have a proportionate -- a proportionate amount of juror members who are in fact in our pool who are older if we can do so.

We also kept other Hispanics. One of them was Ms. Ruiz. She was just the last one that got added. We didn't strike her. So they're other minorities. There's Asian-Pacific individuals and mixed-race individuals on the jury. There is a large overpopulation of minorities represented on the jury. Whether one is struck for one reason or one for another we don't believe it looks like there is any

pattern to the strikes that we did, and we certainly can articulate, I think, valid reasons why we have struck those that we have struck.

THE COURT: All right. Again, I don't see a pattern here, but I also see that there's race-neutral reasons abundant as to Badge 370, Mr. Archuletta, and they have articulated race neutral reasons as to Mr. Figueroa, Badge 386 which are credible.

Finally, to their challenge that you struck Ms. Lisa Curro -- I believe Lisa Curro because she's a lesbian, identified herself as a lesbian during jury-selection process, that was done I believe in response to a question from the Court where the Court had said, Oh, your boyfriend, or identify what does he do. And then she said, Oh, it's a girl. And that was how I think she was identified as a -- I guess lesbian or bisexual or who knows.

MR. SANTACROCE: She said lesbian. She did say lesbian.

THE COURT: Okay. Oh, I don't recall her saying lesbian. I just remember her saying, It's a girl.

MR. SANTACROCE: No, she said it.

THE COURT: There was nothing in the questionnaire to indicate peoples' gender preferences, and so first of all, I don't know how we'd established a pattern and practice because that really --

MR. WRIGHT: There aren't any other --

THE COURT: Well, how do we know?

MR. STAUDAHER: Well, how do we know? That's the issue.

MR. WRIGHT: From my judging of reading all the questionnaires. You tell me which one is if you disagree.

THE COURT: Oh, please. We are not going to do that.

MR. STAUDAHER: Oh, come on. That's part of the issue of people that maybe don't want to come out of the -- there is not a way that you can definitively tell who is, and it's not a protected class, and we don't have an issue with being able to strike for one reason or another in that regard. We didn't even articulate or ask questions of any other juror members, and that was not even asked of her. I didn't even recall that she actually said that she was a lesbian.

THE COURT: I don't recall her saying that. She did say that her partner, who I think is in charge of something at the Chevrolet -- it was the Court's erroneous assumption that it was a man, and I said -- I either said, Your boyfriend, or I said, you know, what is his, does he contribute more to the income, the household income or something like that. And then she said, It's a girl. And then the Court said, Oh, sorry. And then I felt bad that I had said sorry because I didn't want her to think that that implied that I was making a judgment or something like that which I certainly wasn't.

And I remember the dialogue pretty clearly because my own feeling then was I hope she didn't think that I was making any kind of a judgment of her because I certainly wasn't, but I had made an erroneous assumption based on her answers to the questionnaire and really had engaged in some gender stereotyping regarding the job of her domestic partner, and I made the assumption that that was a man's job, the parts supervisor, something like that are typically male jobs.

Frankly --

MR. STAUDAHER: Let's be honest with --

THE COURT: -- I made a gender assumption that that would be a job that a man would have, and so I felt a little, oh, okay. I'm making gender assumptions here.

But again I don't know -- there was nothing to identify people by their sexual orientation on the questionnaires. There's one person. You say that's the only one. I don't know if that's the only one, if there are other lesbian, gay, bisexual people that were part of the panel. I have no idea.

You know, to the extent they've made it an issue -- again, I don't know how we could identify a pattern or practice here because I don't know who is and who isn't. Some of them it's obvious that their spouse would have been -- well, you know, if they say that they were married here, we can assume that they're married to someone of the opposite

sex. Obviously they could've been married in other states and married to a same-sex person. So, you know --

MR. STAUDAHER: Well, this girl also had a child, and that's the reason why she left high school early. That was her reason. She got to the end. She had a pregnancy. So, I mean, I don't know what her true gender is. That wasn't even entered into our mix of determining why or what we picked different people for.

It's not an issue that we believe is out there in the sense that if it was going to be an issue, then all of the juror members would have had to have been queried on that particular thing. We would've had to find out what their actual orientation was because I don't believe that just looking at somebody you can assume that they're gay, lesbian, bisexual, transgender, that you can just do that. If they come across and they want to express that, that's fine, but there's no pattern here because we just don't know who else is or is not of any particular orientation.

MS. STANISH: Your Honor.

THE COURT: Yes.

MS. STANISH: This juror did self-identify her sexual orientation. No one else did. This -- gay people are a cognizant group in our society. Our client is entitled to a fair cross-section of this society, and there is case law on this point. I mean, this is relatively new, but, you know,

the military accepts gays into the military --

THE COURT: Frankly, Ms. Stanish, if I thought a pattern of excusing lesbian and gay people, I would probably consider that worthy of a Batson challenge notwithstanding the state of law, and that, you know, isn't universally considered a protective -- protected class, but, you know, I agree with you. It is a cross-section of the community, and I would be concerned by that kind of -- because it's discrimination, and I would be concerned by that.

And, you know, if we look back at the case law, you know, people -- you know, part of it is not just your rights, but it's the rights of people to be jurors.

MS. STANISH: Exactly.

THE COURT: And so, you know, I would be deeply concerned by that if that was occurring because obviously people have a right to be jurors regardless of their sexual orientations; however, I can't say that I see a pattern or practice here. Because while she chose to self-identify in response to a question from the Court where I, you know, was confused about the gender of her partner, I don't think we can say who else may have been falling into that category. So I don't see a pattern and practice there by one person. So that's where we are on that.

If, you know, State, if you want to give your I guess orientation-neutral reason --

MS. STANISH: If I --

MR. WRIGHT: One out of one?

THE COURT: -- I guess that's how we would phrase it --

MS. STANISH: And, Your Honor, just -- even if it's just one person, if there happened to be just one African American, we can still make that Batson challenge. So we are doing it with respect to her.

THE COURT: Okay. And that's fine, Ms. Stanish. As I said, I don't see a pattern and practice here. I think that there's a problem because we didn't ask people to identify their sexual orientation. It just kind of came up by happenstance, and for some people, you know, that can be fluid throughout their lives. People can -- you know, obviously she had a child in high school. Many people are in marriages, and then, you know, in later years they decide to become, you know, a different orientation or whatever.

So I don't think we can make assumptions about some of these people because they were previously married to somebody of the opposite sex, and now they're divorced. Because I think for many people that's a fluid thing -- typically women -- in their lives.

Does the State want to -- just to protect the record -- state an orientation-neutral reason?

MR. STAUDAHER: Certainly, Your Honor. There were a

couple. Again, she was young. She didn't finish high school. That was another issue. She -- and I know the reason that she said she left high school was because of the pregnancy, but it still withstands that she's -- you know, 1984 was her year of her birth, and she didn't get a GED.

And she is working part-time at Star Nursery, and she even put down in her questionnaire that she felt that she could not serve for six weeks because she wouldn't get paid. She had rent and bills and so forth. Now, you did -- Your Honor did inquire as to whether her domestic partner could help with the bills, but there was nothing ever definitive in that. Yes, that person would step up, but they would have to talk about it is what I recall her saying.

In this particular instance, she was one who actually expressed that she had a hardship financially. She is in a position where she has a child that she has to take care of. She is making very little money. Anybody that is working part-time at a job and doesn't get paid when they're here for jury service and has bills and rents -- and rent and a child to take care of, we feel that there are plenty of jurors we let go for those very same reasons, that the Court allowed for hardship purposes.

So we believe that those are -- excuse me -- orientation-neutral reasons why we let her go.

MR. SANTACROCE: Your Honor, for the record, I need

to join in to those Batson motions as well as state for the record that five out of the nine challenges exercised by the State were minority challenges.

MR. STAUDAHER: Objection. There wasn't -- I don't consider her to be a minority unless you consider her orientation to put her in the minority. There may be actually a large number of transgender, gay, lesbian or bisexual individuals in the country. I don't know that anybody's ever surveyed it to see what percentage of the population it is.

MS. STANISH: It's 10 percent.

THE COURT: Well, you know, actually -- well, this is totally an aside -- but I had a bet with my law clerk, and I said 10 percent, and I actually looked it up on the Internet because I thought it would be 10 percent, and actually there is evidence out there -- to the extent you believe the Internet -- that it's actually lower than 10 percent, but I thought that it would be 10 percent, but apparently it's lower, but again you're relying on a lot of self-reporting and things like that. So it is what it is.

MS. STANISH: I think they're a minority group.

THE COURT: Well, again I think we've all made our record on everything with respect to that. I'm going to try to announce these people in the order of their number, lowest to highest who's going to be excuse so it's not obvious, oh, the State's excusing this person or that person.

As I'm looking at the list, 426, Ms. Safronov and then you put 426 for Jayson Tomboc. What is the correct number for Ms. Safronov?

MR. WRIGHT: 426 is Safronov. 434 is Jayson Tomboc.

THE COURT: Oh, shoot. I'm writing on the original.

MR. WRIGHT: It's all right. We agree on the record you can.

THE COURT: I'm writing the number -- I'm writing the -- I've just made a couple of notations on this so that I can read them off in numerical order.

MR. SANTACROCE: Jason Tomboc is 454.

THE COURT: All right. If anyone -- here's what we're going to do. If anyone needs to use the, you know, restroom or whatever, let's do it in the back right now.

And then we're going to bring them in. I'm going to excuse the ones that have been excused. I'm going to go into the admonition. Ms. Husted will read the indictment. We'll take our lunch break. At that point when we come back from lunch, the State will open. Depending on what time it is --

MS. STANISH: In connection with that, we still need to discuss the photograph of the grave because --

THE COURT: Yes. Right. We'll do that after we do this whole jury thing.

MS. STANISH: All right.

THE COURT: And we'll do that before we eat lunch.

We'll do that.

(Proceedings recessed 11:56 a.m. to 11:59 a.m.)

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

THE COURT: You can all be seated. All right. Court is now back in session. The record should reflect the presence of the State, the presence of the defendants and their counsel, the officers of the Court and the ladies and gentlemen of the prospective jury panel.

Ladies and gentlemen, during our somewhat lengthy break, all of the peremptory challenges have been exercised.

When I call your number, please stand. Badge No. 129, Cory Johnson; Badge No. 276, Darren Heller; Badge No. 291, Todd Nash; Badge No. 370, Charles Archuletta; Badge No. 378, Todd Hargett; Badge No. 385, Angela Valente-Libanotis; Badge No. 386, Xavier Figueroa; Badge No. 426, Deana Safronov; Badge No. 454, Jayson Tomboc; Badge No. 558 (sic), Joseph Sandifer; Badge No. 573, Philip Chavis; Badge No. 604, Lora Hendrickson; Badge 650, Lisa Curro; Badge No. 16 -- I'm sorry -- Badge No. 656, Tommie Woolley; Badge No. 723, Steven Brown; Badge No. 796, Lisa Manley; Badge No. 808, Sage Sidley -- Shadley.

MR. SANTACROCE: Your Honor, may we approach?

THE COURT: You may. Oh, I'm sorry. Badge No. 723, Steven Brown.

PROSPECTIVE JUROR NO. 723: That's right.

MR. SANTACROCE: May we approach, Your Honor?

THE COURT: Sure.

(Off-record bench conference.)

THE COURT: And finally, Badge No. 306, Edward Simpson.

All right. Ladies and gentlemen that are standing, I want to thank you very much for being here, your willingness to serve and being a part of this lengthy jury process. You are all excused at this point in time, those of you who are standing. Thank you again. Please go back down to the third floor and check out through jury services. You are excused.

(Remainder of panel of prospective jurors excused 12:04 p.m.)

THE COURT: All right. Ladies and gentlemen, it's been a long morning. Before we take our lunch break I am going to go through the few introductory remarks, and Ms. Husted will be reading the indictment for you.

Before we do that though, I'm going to have you -- well, we'll keep you where you are for right now, and then when we come back from the lunch break, Officer Hawkes will line you up in the correct number so that you can be seated in the correct jury chairs according to your number.

All right. If you would all please rise, the clerk will now administer the oath to the members of the jury.

(Jurors sworn.)

THE COURT: You may be seated. Thank you. All

right.

Ladies and gentlemen, you have been selected as the jury in this case, and I will now take a few minutes to talk to you about what to expect in the trial. My comments are intended to serve as an introduction to the trial. At the end of the trial I will give you more detailed instructions in writing, and those instructions will control your deliberations.

This is a criminal case brought by the State of Nevada against the defendants. The case is based on an Indictment. The clerk will now read the Indictment and state the pleas of the defendants.

Ms. Husted.

THE CLERK: Yes, Your Honor.

(Reading of Indictment not transcribed.)

THE COURT: All right. Thank you, Ms. Husted. Ladies and gentlemen, you should distinctly understand that the Indictment just read to you is simply a description of the charges made by the State against the defendants. It is not evidence of anything. It does not prove anything; therefore, the defendants start out with a clean slate. The defendants have pled not guilty and are presumed innocent.

This is a criminal case, and there are two basic rules you must keep in mind. First, a defendant is presumed innocent unless and until proved guilty beyond a reasonable

doubt. A defendant is not required to present any evidence or prove his innocence. The law never imposes upon a defendant in a criminal trial the burden of calling any witnesses or introducing any evidence. Second, to convict, the State must prove beyond a reasonable doubt that the crime was committed and that each defendant is the person who committed the crime.

It will be your duty to decide from the evidence to be presented whether the defendants are guilty or not guilty. You are the sole judges of the facts. You will decide what the facts are from the evidence which will be presented. The evidence will consist of testimony of witnesses and documents and other things received into evidence as exhibits.

You must apply the facts to the law which I shall give you and in that way reach your verdict. It is important that you perform your duty of determining the facts diligently and conscientiously for ordinarily there is no way of correcting on erroneous determination of facts by the jury.

You should not take anything I may say or do during the trial as indicating my opinion as to how you should decide the case or to influence you in any way in your determination of the facts. At times I may even ask questions of witnesses. If I do so, it is for the purpose of bringing out matters which should be brought out and not in any way to indicate my opinion about the facts or to indicate the weight or value you should give to the testimony of a witness.

There are two kinds of evidence, direct and circumstantial. Direct evidence is testimony about what the witness personally saw, heard or did. Circumstantial evidence is indirect evidence. It is proof of one or more facts from which one can find another fact.

By way of example, if you wake up -- excuse me -- in the morning and see the ground, the sidewalks and the streets are all wet and water is running down the gutters, you may find from those facts that it rain during the night. It is proof of one or more facts from which you can find another fact. Conversely, if you were awake during the night and saw the rain fall, that would be direct evidence which is something you personally saw.

You may consider both direct and circumstantial evidence in deciding this case. The law permits you to give equal weight or value to both, but it is for you to decide how much consideration to give to any evidence.

Certain things are not evidence, and you must not consider them as evidence in deciding the facts of this case. They include statements and arguments by the attorneys, questions and objections of the attorneys, testimony I instruct you to disregard and anything you may see or hear if the court is not in session even if what you see or hear is done or said by one of the parties or by one of the witnesses. Remember, evidence is sworn testimony from the witness stand

while court is in session and documents and other things received into evidence as exhibits.

There are certain rules of law which control what can be received into evidence. When a lawyer asks a question or offers an exhibit into evidence and the lawyer on the other side thinks it is not permitted by the rules, that lawyer may object. If I overrule the objection, the question may be answered or the exhibit received. If I sustain the objection, the question cannot be answered, and the exhibit cannot be received. Whenever I sustain an objection to a question, ignore the question, and do not guess or speculate as to what the answer might have been.

Sometimes I may order evidence stricken from the record and tell you to disregard or ignore such evidence. This means that when you are deciding the case you must not consider the evidence which I have told you to disregard. It is the duty of a lawyer to object to evidence which that lawyer believes may not be permitted under the rules. You should not be prejudiced in any way against the lawyer who makes objections on behalf of the party the lawyer represents.

Also, I may find it necessary to admonish a lawyer. If I do so, you should not be prejudiced towards the lawyer or client because I have found it necessary to admonish him or her.

You are not to concern yourself in any way with the

sentence which the defendants might receive if you should find them guilty. Your function is to decide whether the defendants are guilty or not guilty of the charges. If and only if you find a defendant guilty, then it becomes the duty of the Court to pronounce sentence.

At the end of the trial you will have to make your decision based on what you recall of the evidence. You will not have a written transcript to consult, and it is difficult and time-consuming for the court recorder to play back lengthy testimony; therefore, I urge you to pay close attention to the testimony as it is given.

If you wish, you may take notes to help you remember what witnesses said. If you do take notes, please keep them to yourself until you and your fellow jurors go to the jury room to decide the case. Do not let note taking distract you so that you do not hear other answers by witnesses. You should rely upon your own memory of what was said, and not be overly influenced by the notes of other jurors.

Do not make up your mind about what the verdict should be until after you've gone to the jury room to decide the case and you and your fellow jurors have discussed the evidence. It is important that you keep an open mind.

A juror may not declare to a fellow juror any facts relating to this case of which the juror has knowledge. If any juror discovers during the trial or after the jury has

retired that that juror or any other juror has personal knowledge of any fact in controversy in the case, that juror shall disclose that situation to me in the absence of the other jurors. This means that if you learn during the course of the trial that you have personal knowledge of any fact which is not presented by the evidence in the case, you must declare that fact to me. You communicate to the Court through one of the uniformed bailiffs.

During the course of this trial, the attorneys for both sides and all court personnel other than the bailiff are not permitted to converse with members of the jury. These individuals are not being antisocial. They are bound by ethics and the law not to talk to you. To do so might contaminate your verdict.

The trial will proceed in the following manner. The deputy district attorney will make an opening statement which is an outline to help you understand what the State expects to prove. Next, the defendant's attorney may but does not have to make an opening statement. Opening statements serve as an introduction to the evidence which the party making the statement intends to prove.

The State will then present its evidence, and counsel for the defendant may cross-examine the witnesses. Following the State's case, the defendants may present evidence, and the deputy district attorneys may cross-examine those witnesses;

however, as I have already said, a defendant is not obligated to present any evidence or to call any witnesses.

After all the evidence has been presented I will instruct you on the law. After the instructions on the law have been read to you each side has the opportunity to present oral argument. What is said in closing argument is not evidence. The arguments are designed to summarize and interpret the evidence. Since the State has the burden of proving the defendants guilty beyond a reasonable doubt, the State has the right to both open and close the closing arguments. After the arguments have been completed you will retire to deliberate on your verdict.

Jurors are now permitted to ask questions of the witnesses. You will be distributed notepads. If you have a question for one of the witnesses, I ask that you wait until the attorneys for both sides have had the opportunity to question the witness because very often one of the attorneys will ask your question. If not, please write it down using a full sheet of your notebook paper, and then get either my attention or the bailiff's attention, and the bailiff will retrieve the question from you.

Please do not be offended if I don't ask one of your questions. That doesn't mean it's not an interesting question or something like that, but the questions from the jurors are governed by the same rules of evidence which control what

questions the lawyers can ask. So your question may call for hearsay or some other type of inadmissible evidence, and for that reason I may not ask it.

That concludes my introductory remarks. May I see counsel at the bench, please.

(Off-record bench conference.)

THE COURT: All right. Ladies and gentlemen, in a moment we're going to take our lunch break. We'll be giving you an hour for the lunch break. That'll take us until 2:35.

Before I excuse you for the lunch break I must admonish you again that you're not to discuss the case or anything relating to the case with each other or with anyone else. Anyone else includes members of your family and your friends. You may of course tell them that you have been selected as a juror in a criminal jury trial and of course the estimated length of the trial, but please do not discuss anything else relating to this matter.

Additionally, you are not to read, watch or listen to any reports of or commentaries on this case, any person or subject matter relating to the case by any medium of information. Do not do any independent research by way of the Internet or any other medium. Do not engage in any social media commentary on the case by way of Twitter, Facebook or any other means of social media, and please do not form or express an opinion on the trial.

Additionally, you've all been given blue badges that identify you as Department 21 jurors. It is very important that you wear these badges when you are in and around the building so that people can recognize you as jurors and someone doesn't and never and lay talk about the case in your presence.

I'd like all of you now to please rise and follow our bailiff through the double doors. Any questions on where to meet after lunch or where to go for lunch or anything like that, please address Officer Hawkes in the hallway. We'll see you all back here it 2:35.

(Jury recessed 1:33 p.m.)

THE COURT: All right. Then we'll be in recess for lunch. The courtroom will be secured.

So, Attorneys, you can leave your things. For the cameras, I don't want to take responsibility for them. I can tell you the courtroom will be locked. So if you all feel safe leaving them set up, then that's fine with me.

MS. STANISH: Judge.

THE COURT: Yes?

MS. STANISH: Do you want to address the photograph?

THE COURT: Oh, yes. We have to address the photograph on the record before we take our lunch break. My understanding -- where's Mr. Wright? Oh.

My understanding is Mr. Santacroce as well as Ms.

Stanish, Mr. Wright want to make an objection to a proposed exhibit that the State intends to use in their PowerPoint; is that correct?

MR. SANTACROCE: That's correct.

MR. WRIGHT: Yes, Your Honor.

THE COURT: And that would be --

MR. STAUDAHER: You actually have it, Your Honor.

THE COURT: And for the record, that would be the photograph of Mr. Meana's gravestone.

MR. STAUDAHER: That's correct. It would be right at the end, near the end of it.

THE COURT: And the basis for the objection? It's not already obvious.

MR. SANTACROCE: Your Honor, there is no probative value whatsoever in that photograph. It's purely meant to inflame the passions of the jury. It's more prejudicial than probative. It merely shows a gravestone with a picture of a young Mr. Meana. So it has no relevance at all.

MR. WRIGHT: And there will be plenty of photos in fact through allowing in his deposition which is a videotaped deposition of him. There will be no confusion as to who he is. The death of Mr. Meana is not going to be disputed.

THE COURT: State -- I mean, I would note just what we are describing is a cross gravesite with a picture of young Mr. Meana. It's kind of a broad, like a distant shot showing

the ground, the gravesite generally.

Mr. Staudaher?

MR. STAUDAHER: Yes. I mean, it's not like there's any -- you know, it's not an autopsy photo or anything like that. It's just showing --

THE COURT: What's the probative value of Mr. Meana's gravestone?

MR. STAUDAHER: Well, it's not just a gravestone. It's a gravestone and the picture associated with it. It's not just his -- his marker so to speak. It shows the man that he used to be, and that's what this --

THE COURT: Is that what he looked like when he got this treatment though --

MR. STAUDAHER: No.

THE COURT: -- or is this a picture from --

MR. STAUDAHER: That's a picture -- obviously a younger picture. He was quite elderly when he succumbed to his illness, but we don't think it's necessarily objectionable from that standpoint. It's not something that does anything other than to show the culmination of what happened to him.

THE COURT: I don't know that it's all that probative, but I don't really know that it's all that prejudicial either. It's kind of a distant shot of a young Mr. Meana.

Can you put it up on your PowerPoint so I can see

what it's going to look like?

MR. STAUDAHER: Yes, Your Honor.

THE COURT: Because from this it's just like a little picture of a thing. Like I said, I don't think it's terribly probative of anything because, you know, whether he was buried with a cross on his grave or a marker on his grave or --

MR. STAUDAHER: It's up now.

THE COURT: I don't see that as terribly prejudicial. I mean, I think the State probably wants to introduce it as kind of a dramatic portrayal of Mr. Meana's death like you would maybe in a film or something.

MS. STANISH: This is not a film. It's a courtroom.

THE COURT: I understand.

MS. STANISH: It's just trying to inflame the jury.

MR. SANTACROCE: It's not a fine-arts project. We're not doing movies here, Your Honor. This is --

THE COURT: I didn't suggest that. I mean, what's -- I mean, what's really the probative value of this? If this was what Mr. Meana looked like during his life, I would say, yes, sure you're allowed to use the picture -- I mean, during the time that he suffered from this or became a patient or something, but --

MR. STAUDAHER: Well, I mean, it clearly indicates that he has died. I mean --

MR. WRIGHT: We'll stipulate.

MR. SANTACROCE: We stipulate.

MR. STAUDAHER: The issue is that he was buried, that was part of the reason why he -- you know, we've already had this argument about the fact --

THE COURT: So your point is that he's buried in the Philippines --

MR. STAUDAHER: In the Philippines, yes.

THE COURT: -- and that's why he left the country because he wanted so desperately to be buried in his homeland and to pass away in his homeland?

MR. STAUDAHER: Exactly. And, I mean --

MR. WRIGHT: Stipulate to that --

MR. STAUDAHER: -- that's part of what's been part of the argument here with regard to even allowing in his testimony.

MR. SANTACROCE: How does that show where he's buried?

MR. STAUDAHER: Well, the -- actually the person that would introduce this at trial would be obviously the daughter who was present and took the shot.

MR. SANTACROCE: She can testify that he's buried in the Philippines. We don't need a picture of a cross and a picture of a 20-something-year-old man when he died in his '70s.

THE COURT: Yes, I think it's a little -- I mean,

like I said, I don't think it's that probative of anything. You know, it's not gory or anything, and really from a distance in this shot -- you all say it's a military uniform -- I can't tell what he's wearing. It could be almost like a Boy Scout -- I mean, I really can't tell if it's a cadet-type uniform, a military uniform, you know --

MR. STAUDAHER: Well, I can certainly zoom in on just the name and the picture if that's what the Court would want.

THE COURT: Well, no, I think it's actually better the way it is, the broad shot that it's just a grave marker as opposed to really highlighting, oh, he's military, and that's why he was buried, you know, with this military uniform -- picture of him in a military uniform, which from a distance, the way I'm looking at it I can't really tell, you know -- tell what it is here.

All right. I don't think -- again, I don't think it's really probative of anything. I don't find that it's terribly prejudicial, but kind of weighing in both, I think the only point in introducing that is to create some kind of cinematic flair if you will which I don't blame you for wanting to do. I mean, that's good PowerPointing, but I don't really see the relevance of it. So if you can take it out -- again, I don't really see it as terribly prejudicial either, but I do think it's just part of, like, to create a cinematic -- cinematic flair, and I think it does that, but I don't know

that that's really appropriate for your opening statement.

MR. STAUDAHER: Is that -- is the Court ruling that it wouldn't come in at all in the trial or just in opening statements?

THE COURT: Well, I mean, if you can try to show -- or, you know, it somehow becomes -- listen, if they're making a big issue of the treatment and everything like that, it may be coming in then as to why he went to the Philippines and didn't get the treatment and all of that stuff. If, you know, that's going to be a big focus, then I think that's fair game for the State to say, look, this is him, and it looks like a military cemetery and that, you know, his daughter -- you know, this was where, you know, where he's buried, and I think then it's fair game to go there.

MR. STAUDAHER: Okay.

THE COURT: All right.

MR. STAUDAHER: Thank you.

THE COURT: Because that's part of the explanation. You know, it looks to me -- if you look back -- this is a military cemetery in the Philippines. He wanted to be buried there just like American military veterans want to be buried a lot of times and Veteran's cemeteries in this country. So then I think that could be part of the explanation.

MR. STAUDAHER: Okay.

THE COURT: And in that case -- but at this point,

you know, I'm kind of holding off on whether it's going to be admitted or not. All right.

MR. STAUDAHER: Fair enough, Your Honor.

THE COURT: All right. Then break and we'll see you back here.

(Proceedings recessed 1:42 p.m. to 2:42 p.m.)

(In the presence of the jury.)

THE COURT: All right. Court is now back in session. The record should reflect the presence of the State through the deputy district attorneys, the presence of the defendants and their counsel, the officers of the Court and the ladies and gentlemen of the jury.

And as I told you before at the break, the next step in the proceedings is the opening statements. So the State will make the first opening statement.

But before Mr. Staudaher proceeds, I neglected to tell you that at any time during the proceedings if you start to feel ill or you need a break, just raise your hand, and again get my attention or the bailiff's attention, and we'll make sure that we take a break. Sometimes I may go a little bit long, and it may be too long for some of you, particularly of some of you suffer from any kind of illness or something like that. So just make sure if you do need a break or you feel ill or something like that you do let us know.

All right. Kenny, what I'd like you to do -- it

doesn't matter if my view is obstructed, but make sure you can move the monitor so that the ladies and gentleman in the front --

THE MARSHAL: I was just going to ask. Can everybody see the TV good enough?

THE COURT: Everyone can see it all right? All right. Thank you.

Mr. Staudaher, you may now proceed.

MR. STAUDAHER: Thank you.

STATE'S OPENING STATEMENT

MR. STAUDAHER: Ladies and gentlemen, we've just gone through a long period of jury instruct -- or jury selection, and you are the members of the jury that are going to hear this case. And in this case, what you will hear in a moment, or not today, but tomorrow rather, is a central issue. And the central issue is this. It goes to the issue of a fundamental breach, a fundamental breach in a relationship.

A fundamental breach in one of the most intimate and important relationships that a person could ever have, beyond that of even spouses, girlfriends, significant others, whatever. This is a relationship between a doctor and a patient. It's sacrosanct.

In the situation where a patient finds themselves in need of care, in need of medical advice, in need of intervention, something beyond their control, they turn to a

healthcare professional that they trust. And that person is their doctor traditionally.

That trust is center and front of everything. The entire medical care system cannot exist if that trust is not in place. You cannot be put to sleep, go under the knife, have someone perform a procedure on you, get advice, take medications, change and alter the course of your life on the advice of an individual if you can't trust that that individual has your best interests at heart.

Now, in every person's life, every single one of us at some point, at some point in our life we will access the medical care system. And because every single person will access the medical care system at some point in their life, at the beginning, middle, end, combinations thereof, some more than others, it doesn't matter. Every one of you, every one of us in this country will need to rely on others in the form of medical advice at some point in our lives.

Now, as in all professions, there are good people, there are bad people; meaning that people are less trained or less important or less interested, and some who are trying to do the right thing. Doctors in this society sit on the top of the economic strata in most communities, whether it be a small town or a large city. And there's a reason for that. They have to undergo vast amounts of training, many, many years of putting their life on hold so to speak, so that they can get

the skills necessary to do what they need to do.

But that being said, there are good doctors and there are not so good doctors. This is not about a doctor who was not so good, who did something that was just a little careless, who performed malpractice. No. We're talking about something that went well beyond that.

The reason that you are here, the reason that this case is here, and the reason that those gentlemen are sitting at that table is because one thing; criminal acts occurred, criminal acts that transcended what would be normal malpractice.

Now, malpractice in the traditional sense is inadvertence, carelessness, something that happened to a patient, something untoward, something that wasn't so good. A sponge was left in. The operating room got things mixed up and they operated on the wrong limb. Medications were prescribed that shouldn't have been, patients were harmed as a result. This is not that. That is not what we're talking about today.

We're talking about what you will hear in this case goes on to criminal actions where the patient -- where the care of the patient was so secondary, was so down the list of priority that the patients were shortchanged, their care was compromised and they were harmed, and ultimately one died as a result of what happened at the clinic.

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Ladies and gentlemen, caregivers that perform their job in a professional manner, try to do the right thing and just make mistakes, there's the civil side for that. And you may even hear in this case as we go along that this should really be a civil case. I submit to you that after you hear all the evidence as it comes in, that this will be far from any civil case. It is a criminal case.

Now, the acts that we're talking about, although malpractice acts can cause harm and death as well, when you have a situation where you have somebody through -- well, engaging in a purposeful foreseeable act that they know could harm a patient, and their motivations are for other reasons. In this case you'll hear about the motivations.

But in that sense, those issues that drive a person to do what they do or not do what they do that causes harm to a patient in this case become criminal because of what? Money. You're going to hear this over and over again in this case, money, greed.

You'll hear some examples in a moment of some of the evidence that will be presented to you at trial. But suffice it to say that patient care was not part of the mix, that the individuals, the patients who went to Dr. Desai, to his clinic for the purpose of getting care. And in the surgical center that he had, it was an outpatient surgery center. They didn't do surgery, but they performed endoscopic procedures there.

And you'll hear about the types of procedures which predominated what they did there. They were upper endoscopies, and you'll hear the term "EGD," often where they stick a tube down into the mouth and down the throat, and colonoscopies, where they stick a tube in the other direction. Those are what they did there.

Now, the type and subset of population that came to the clinic were really two different types. They were people that had reached a certain age, typically 50 or older, who needed to have screening procedures to see if there was a way that they could get sort of a head start on potential cancer down the road. A screening.

These are people that didn't go to the clinic because they were sick or because they had to have some sort of intervention that only Dr. Desai could provide. These are people that put their trust in him, put their trust in the medical system, trusting that they would be treated as a patient. But that's not what you're going to hear in this particular case.

You're going to hear that those patients who went in for screening end up with hepatitis C, an infectious virus that affects one's liver. The term "hepatitis," hepa meaning liver, the itis is an inflammation of, it's an infection of the liver. You're going to hear that that virus, and we'll talk about that in a moment as well, is kind of a unique

virus. It's unique in the sense that it's from a family of viruses, but it's unique in how it does what it does to the human body.

And we have in this case a total of seven patients, seven individuals who came to the clinic on two separate days who ended up with a viral infection they can't get rid of that caused them sickness, pain, heartache, emotional upset, and ultimately for one, death. You'll see some of those people. You'll even see the person who died through a video deposition, or at least a partial one that was done before he -- at least a couple weeks before he died.

Now, the issue of greed, it's not just about money. It's not just about doing a procedure so that you can get the money. I mean, all doctors, all people want to make money. Nothing wrong with that. It's the free enterprise system. But when the medicine of business and the business of medicine get blurred, and it just becomes business, and patients are shortchanged as a result of that, that's where we have problems.

And in this case you are going to hear terms like cattle. They were run through the clinic like cattle. Literally there were so many patients going through the clinic, that were being pushed through the clinic at unbelievable rates, and you're going to see charts of just the two incident days as an example, but they're not an example.

They are the norm.

Day in, day out, patient in, patient out, as fast as they possibly could turn them over. Get them in, get them out, get them out the door. It didn't matter what the status was. It didn't matter what their conditions were. They moved patients. And why were they moving patients? Not for the patient's benefit, but for his benefit [indicating]. For his benefit, his pocket.

Now, every person that's going to come in here and testify, most of the clinic staff, they're going to be all levels; doctors, nurses, staff members, GI techs. Everybody that was associated with that clinic -- not everybody, but a good portion of them are going to come in here and talk to you. They're going to give testimony. And all of them will have a snapshot, a piece, a piece of what was going on at the clinic.

Nobody had the overarching view of what was happening except for one person, and he's sitting over at that table [indicating]. One person ran the show, from doctor to nurse to tech to supervisor to staff to clerical people. One person, one person only called the shots.

Now, in the process of pushing patients through, that wasn't all. If that would have been the end of it, maybe we wouldn't be here, maybe we would be here. But in the process of pushing patients through to maximize profit, to maximize

profit, to maximize profit, not only were the patients shortchanged because of the speed of the procedures, the number of procedures, how they were treated or not treated in the clinic, but the materials.

The very things that they were used -- that were used on them in their treatment, those items, those items, ladies and gentlemen, were shortchanged. KY Jelly, tape, alcohol pads, gowns, gloves, blankets -- or not blankets. No blankets, they're too expensive. Sheets, just time to clean between patients. That's the kind of thing that you're going to hear about.

Now, not only was there the limitation on the supplies, but because there was this pressure -- and one of the things you will hear over and over again is this overarching pressure, this atmosphere within that practice to run patients through. You're going to see some charts in a few minutes, some actual charts from the cases, where it was a situation where they had to move people through so fast they just started fabricating things on the record.

They couldn't write it down fast enough, so they had to do it in advance, before the patients are even dealt with sometimes. Or if they're being dealt with, we can't even take the time to look up at the clock to put down the right time, we just got to write in by a formula what the time should be.

So when the health district finally gets out to this

facility and they go through it, and they're looking at the records, record after record after record and it's not making any sense, none of it does.

And your medical records, ladies and gentlemen, there's a thing called HIPAA, the healthcare act talks about it. It prevents the -- it prevents your medical information from just being disseminated elsewhere. And in this case you're going to have access to medical records of all the patients that were there.

Now, the patients that were at the clinic who were not named in the indictment, all of their personal information is redacted, meaning it's been taken out or covered up. But you'll have the records to compare if you want to. And you'll hear about those patients, and you'll see a chart with all of the patients listed on it. But we protect that health information.

The Health Insurance Portability and Accountability Act of 1996, which is what that means, that's the act that allows people to have their health information protected, that was held more closely than was the patient's care in this facility.

Now, as far as the different terms that I heard -- I told you that you would hear about as far as how the clinic -- at least analogizing to how the clinic was run. Cattle, they were moved through there like cattle. It was an assembly

line, the patient load, the pressure of patients coming in and out over and on and around every aspect of the practice. Triple booking, double-booking patients.

This isn't an airline, ladies and gentlemen. This is a medical care facility, or was. The fact that these are the terms that the staff at the facility were using about what was going on at the clinic should give you some insight as to what was going on.

Now, what happened at the clinic. The clinic itself, it focused on patients kind of as a dollar source. But you're going to hear that after the events in question on those two days in the patients that reported or was reported to the health district, that it spawned a patient notification of residents in Clark County. 63,000 patients got letters, or they were tried -- they tried to contact them, the health district, Southern Nevada Health District.

63,000 patients, 3.4 percent of the population of Clark County. Translated into families where people are, that's 9.4 percent of the entire family population of Clark County had a family member that was involved or got letters in some way, was directly touched by what happened at that clinic. 63,000 patients were notified.

The hepatitis C outbreak that took place at the Endoscopy Center of Southern Nevada, that hepatitis outbreak was the largest such outbreak in U.S. history. The largest.

There had been 33, up to this point. And all the information I'm giving you is as of the date that the clinic closed, the end of the time period, so when all of this, all of these people had essentially the information that they did.

It's not five years down the road. It's back then. So back then, as of the date of this outbreak occurring, there had been 33 prior outbreaks of hepatitis B and hepatitis C in the country, 33. This outbreak eclipsed all others, meaning it was the largest of all others.

As a matter of fact, you will hear that not only was it the largest, but there were more patients involved in this, more patients exposed to the hepatitis C virus in this one single event at that clinic than in all 33 prior outbreaks combined. It was the large -- it resulted in the largest patient notification in U.S. history. It was a big deal.

Now some issues related to the transmission. I mean, how does it occur. I mean, the hepatitis C virus -- there's a number of different hepatitis viruses out there, and it's transmitted primarily through blood-to-blood contact. You have to come in contact technically with the blood. That's where it happens mostly. You'll hear that it also can be transmitted sexually, but usually not in a monogamous type of a relationship. It's usually multiple sexual partners.

So if you have a multiple -- even if you have an infected spouse, a significant other, and you don't even have

to use barrier protection. It's not even recommended if you stay in that relationship. There's a .6 percent per year risk of transmission in that situation. So sexual contact can actually facilitate an infection, but it's not a very efficient way of doing it.

And there are some other ways. But blood transfusions, blood-to-blood contact is primary and number one. And if you go back in history a little bit, you'll hear that in 1967 the hepatitis virus was actually discovered, that prior to 1970, if you got a blood transfusion in this country, 30 percent of the people, 30 percent of the people or 33 percent of the people would get hepatitis. Didn't know what it was.

Now, after the hepatitis -- and that was at the time the hepatitis B virus was discovered, they instituted a few years later screening mechanisms, screening mechanisms so that they could ensure that the blood supply would be better. And it went from -- and in instituting that, it went -- the percentage of infections or from -- caused from blood transfusions dropped from about 33 percent to about 10 percent.

Fast-forward in time to about 1973, hepatitis A was discovered. But hepatitis A is not blood borne. It's food borne. It's fecal/oral contamination. So that's really not the same issue.

But if we move forward in time even beyond that to, I believe it was 1989, the hepatitis C virus was discovered. And when the hepatitis C virus was discovered, within a couple of years, I think the very next year they had a screening test for that, and it dropped the blood-borne infections down to 1.1 percent.

In the following two years they came up with a secondary screening procedure, which essentially eliminated the risk. Right now in this country, at least back then in this country, the risk for transmission of hepatitis C from a person from a blood transfusion was one in 2 million units of blood transfused. Big change.

So hepatitis C is an important virus because it causes -- it's the single largest cause of blood-borne infection in the country. The country itself at that time, there were about 3.2 million Americans who were actually infected, and the issues related to that are as follows.

I mean, you hear about needle sticks. And for comparison, HIV, hepatitis B and hepatitis C, from a single exposure needle stick, the risk of transmission for HIV is about .3 percent. The risk for hepatitis C is about 3 percent. And for B it's about 30 percent. So it's not the most infectious agent, but it is the single largest infected -- or infectious communicable disease in the country.

One of the issues with that is the clinical

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presentation. You will hear, when these people get on the stand, these victims get on the stand and tell you what happened, that there's a standard kind of presentation. Not all the symptoms are there for every person.

But what you will hear is that the standard symptoms are jaundice, yellowing of the skin especially, or you'll hear the term "icterus," or icteric, meaning around the whites of the eyes, those get yellow, can get yellow. Those are usually some of the first symptoms.

Right upper abdominal quadrant pain, where the liver resides. Might have some nausea, some vomiting. General GI disturbance. Lethargy, you're not feeling well. You're sick. Clay-colored stools. Dark urine. Enough that you would go to your healthcare provider if you were having an acute infection.

Now, most of the people that get infected with hepatitis C don't exhibit symptoms. As a matter of fact, it's about 41 percent -- excuse me. It's about half or more of -- no, no. I'm sorry. 10 percent, less than 10 percent of actual infections result in acute disease. But of those that result in acute disease, about 41 percent of those cases require hospitalization.

Now, you'll hear that the vast majority of the people here required hospitalization. That's where they find out that it's going on. There's only one person that had an

asymptomatic presentation. It was discovered on screening after the fact. You'll hear from her. But the rest of them all ended up in the hospital. And of those you're going to hear that -- you know, that the virus has different types.

There's six different genotypes of the virus. Six. And they're designated one through six. And of each of those there's some subtypes, and they're usually designated by a letter. And in this country, in the United States, the number one subtype is 1A. All of these individuals have 1A, followed by 1B and 2B, at 58 percent and 21 percent and 13 percent respective.

Now, the onset of symptoms also is important, because after an infection, within two weeks to six months you will -- if you're going to get acute phase sort of symptoms, that's when it will happen. Average time is about seven weeks, and you'll hear that the patients fell near that range but a little bit more. The two transmission dates again, July 25th of 2007 and September 21st of 2007.

Now, of the people who get infected and have acute symptoms that know about it, 50 to 80 percent of those enter what's called a chronic phase, where they have virus in their body. It may or may not flare up at times, but it's a chronic infection. It can cause cirrhosis of the liver. It can cause other things.

And you'll hear that 20 percent of those individuals

get cirrhosis of the liver, and some go on to get cancer. But and typically you'll also hear that, you know, most people die of other things, even if they've got this and they get -- they eventually develop cirrhosis, they die of other things. Because it's usually a long process, maybe 30 years. That's not what happened in this case.

On the 21st of September 2007, because of viral load, meaning the number of viral particles in the body, because of the virulence, meaning how aggressive the virus was, on that day alone we have infections in six different people, and one of those resulted in the person getting cirrhosis within five years. Very unusual. It's reported, but it's not usual. Cirrhosis within five years and dead, that's what we have.

Now, Clark County talked about incidence of that. You're going to hear that in Clark County, Nevada, that the incidence of hepatitis C infections was about zero to four in a year. And hepatitis, because it's the number one communicable disease blood borne illness in the country that it is required by law that that be reported, be reported to the health district.

And the health district is charged by law with investigating cases like that and confirming them. If they confirm them, they have to report them to the Nevada State Health Division. So that little zero to -- zero to four a year, and the average in Clark County at the time was of 1.4

patients, 1.4 reported cases per year. So that's the backdrop, ladies and gentlemen.

So what happened in this case? Well, on December 4th of 2007, the health district is notified. It's not when the actual, you know, people are in the hospital, but the notification doesn't come to the health district. They're required, it's mandatory that people, doctors who observe, get a confirmed case report it. Now, do some people not do that? Clearly. But that's what the law says.

And in this case, on December 4th of 2007, an acute case of hepatitis C was reported to the health district. That person had no real risk factors except for two things. They had had a dental procedure done, so there was access to their blood system through the dental procedure, and they had had two endoscopic procedures performed, that person, at the Endoscopy Center of Southern Nevada, Case 1.

Now, the health district takes some time to actually investigate these. But during the process of investigating these, about two weeks later, on the 17th of December of 2007, what happens? Another case comes in. This individual had actually had a procedure done on the 25th of July, whereas the first individual had a procedure done on September 21st of 2007, both at the Endoscopy Center of Southern Nevada. That was essentially his only real risk factor.

So now they've got two cases that the common

denominator in the cases is that they had endoscopic procedures performed at an outpatient ambulatory care center. They get on the phone on January 2nd with the CDC to get some advice. The same day, the same day they get notified of yet a third infection.

So in a period of just a few weeks, the health district now has three cases reported to them of acute hepatitis C, patients in the hospital. At that point they're not asking the CDC for advice anymore. They're asking the CDC to help them, to come out. They formally requested assistance from the CDC.

Now, ladies and gentlemen, the CDC comes to town and as we said during your voir dire process where we were questioning you, the location where this clinic is, is over on -- it's 700 Shadow Lane. It's over by Valley Hospital and UMC. It's right over there. Well, at the time before the health district was closed because of whatever was going on with the building, the health district was actually located across the street and down just a little bit. So they were right there.

The CDC comes to town. They have a meeting at the health district. You'll hear Brian Labus tell you about this, what took place, and a few of them went over to start doing an investigation. They called, which was at the time the Bureau of Licensing and Certification, which licenses these types of

centers, and representatives from both entities came down there. They go over to the clinic.

The first three days they're in the clinic, ladies and gentlemen, all they're doing is looking at charts. They're not looking at any procedures. They're not looking at anything. So health district comes over, the CDC's over there, the BLC's over there, and clearly the staff knows that they're there.

They've been there for days looking at their charts, and now they're moving to the phase where they're going to look at actual procedures. Now the health district and the CDC personnel are actually physically sitting in the rooms watching the procedures take place and observing the staff.

And these breaches in what's called universal precautions that you will hear about were so engrained in the staff, that even knowing that they were under the microscope, that the CDC was in house, had been there for three days and now is going to observe them in a procedure, what happened? They did it in front of them. The CDC observed unsafe injection practices, which is what is believed to have caused the infections in this particular case directly. This isn't through a third party.

Now, Ronald Lakeman over there, he didn't work there on that day. He had moved away. But Mr. Lakeman was contacted by telephone because he had been on the records as

being a CRNA, a certified registered nurse anesthetist, on both days where the infections took place. They call him up on the phone, one of the CDC people, and they ask him about his technique.

They had already heard from the other people. They had observed it happening. They had questioned them. They have learned that it was pretty common practice, so they needed to confirm with Mr. Lakeman. He admits to it. He admits to what was called double-dipping, where you take a bottle --

MR. SANTACROCE: Your Honor, I'm going to object to that term, "double-dipping." There's no -- can we approach?

THE COURT: Sure.

(Off-record bench conference.)

THE COURT: That's overruled. Ladies and gentlemen, opening statements are just the attorneys' opportunity to tell you what they anticipate the evidence in this case is going to be. At the end of the day what will be important is your recollection of what the evidence actually is, which is the testimony and the exhibits.

Please continue, Mr. Staudaher.

MR. STAUDAHER: Well, they've got him on the phone and they ask him how he does the procedures. And by golly, it's exactly the way they just observed it, that there's a bottle of medication that is supposed to be a single use, and

you'll see an example of that. It's not the bottles that were there. It's just an example, in just a moment.

But he would take a needle/syringe combination, go into the bottle of medication, draw out medication, take that, put it into what was called a heplock, and you'll see some pictures of that too, into the vein, inject the patient, and then remove the needle, not remove the needle, but whatever, take it and go with the same syringe back into the same bottle and use it on the same patient. Then that bottle is then used on the next patient.

You'll hear from the CDC personnel, from the epidemiologists involved in this investigation that that bottle is considered contaminated at that point. So you've got Ronald Lakeman, Ronald Lakeman, the guy who's sitting over there admitting to that practice. Now, here's the important part that you'll hear, not just that that practice was taking place, but that he was aware of the risk of a transmission.

He said he was aware of the risk, but he instituted a procedure that he thought he minimized the risk, that he would use negative pressure on the syringe when he was going into the vials to minimize the risk of contamination and infection. He then added one last thing.

He told the CDC person who was talking to him, who you will hear on the witness stand, that not only was he aware of the risk and took measures to diminish that risk, but if

the CDC person ever told anybody about this and he was ever questioned about it, he would deny ever talking to them on the phone.

So they're at the clinic -- and there's two things here. The first one you had -- we'll go back to that for just one second. The Endoscopy Center of Southern Nevada was in that building. Right next door adjacent to it is part of a group that's separate, separate entities, was the Gastroenterology Center, the medicine side of the practice.

So that's the layout. The waiting rooms. And the reason that these pictures are shown, the waiting room is empty now. But during operations, especially in the morning, that's not the way that looked. You'll hear that it was very common, like every single day that they operated, that they would double and triple book patients. Patients would be packed into this waiting room standing room only.

Now, these are patients who have undergone a procedure, or are about ready to undergo a procedure that requires certain preparation. And that preparation involves the consuming of a large amount of fluid. If anybody has ever done this in the jury you would know that. But for those of you who haven't, you consume a large quantity of fluid which has some medicines and salts and things in it that makes you evacuate your bowels.

So the night before, you're supposed to drink this

solution and it causes you to spend most of your night sitting on the toilet. So these patients come in here not feeling particularly great. Some of them are diabetic. Some of them aren't doing so well. They haven't eaten. And they come and they sit here and they sit here and they sit here for hour after hour waiting to go back.

Why? Because that man can't be inconvenienced for one minute, one second. He doesn't want there to be a gap anywhere in that patient load, that there is never to be a room open when you can shove a patient in there for a procedure. So that room right there gets packed full and it stays full.

But if you're lucky enough to eventually get out of the room, you go to this place right here, which is where you would get what was called a heplock placed. And all that is, is it basically is a device that allows them to have access to your blood system. It goes into your veins like a little IV, and it allows you to put a needle in there or attach a syringe and administer some medication.

So there wouldn't be a waste of time in the procedure room, because they're really pumping them through you'll hear, they have this occur in a preop area. But that's where the actual heplocks are placed most of the time, with the exception of usually the first patient or two of the day.

And on the 25th of July of 2007, that's exactly what

happened when Ronald Lakeman was back in his procedure room. He was the CRNA that day. And the very first patient of the day, Mr. Sharrieff Ziyad, comes into the clinic and doesn't stop here. He goes from his getting prepared right back to the procedure room, and Mr. Lakeman is the one who puts in his heplock.

No nurse. No little flushes of saline, things you'll hear about later on. That's what happens. He's the one that puts it in there. There's no intervening source of anyone coming in and doing that for him. That patient, by the way, was a known hepatitis C carrier. It's on his chart. The clinic knew about it, and yet he's the very first patient of the day.

You will hear a nurse come in and testify that when she was at the clinic, she was one of the earlier ones, she came, she left, she came back, that she tried to institute a plan, a policy within the group to have patients like Mr. Sharrieff placed at the end of the calendar -- the calendar, end of the schedule rather.

End of the schedule, so that if there was a breach in the regularly used and practiced universal safety precautions, if there was some detriment, breach in that, that it wouldn't cause potential harm for other patients. When she came back to the clinic later on, you'll hear that that wasn't the case anymore. And you'll hear that the reason it wasn't the case

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essentially was because they don't have time to be doing that.

Now, the devices that we're talking about -- and these next series of four pictures that you're going to see are not items that were taken from the scene. They're demonstrative evidence presented to you to show you what we're talking about.

These are examples of IV catheter sites, of little angio caths, as they're called, angio meaning blood vessel, cath meaning catheter that goes into the blood vessel. And these are different sizes that are used to get access to somebody's blood system.

This is how it typically goes if it's in the top of the hand. You see them using a device like that to access a vein right here. Next one is actually in a vein. And this is an important point, because you'll see that there will be a flash of blood, and that's how they know they're in a vein. You'll hear that from these witnesses. What that means is there is -- there is blood there, patient blood.

This is a picture of just a series of different types of heplocks. The end here actually fits into the other end of that device, and that this is the port by which you can access it, puncture it with a needle and administer medication.

And the next picture you'll see is a combination thereof, with the catheter and a device plugged onto it,

screwed onto it, this portion. And that's how they would gain access to your blood system so they could give you repeated doses of medication.

This is back to the clinic. This is from the clinic. This is a typical endoscopy suite where they would do the procedures. The patient would be there, the nurse and the doctors. You'll see an overhead diagram of it in a little while -- you know, during the course of the trial, that will show you how the setup was.

But that's what the rooms looked like. After you got done in that procedure room, they came out to the recovery area. And you'll note that the orientation of the bed, the head of the bed away from the wall is the way all these beds are lined up.

Zayad, Sharrieff, he's the first patient of the day on the 25th of July 2007. He's a known hepatitis C carrier. He is known by the clinic. It's not just that he knows. They know. It's on his chart. Ron Lakeman's aware. Everybody's aware because it's on his record.

Now, Ziyad, Sharrieff and Michael Washington appear on the same day. And Mr. Washington is the second reported case that I told you about earlier. He's the one who comes in and he's the second reported case to the health district. He doesn't have hepatitis C. Well, yes, because that's a DMV photo of him. He does currently have hepatitis C. He's

positive for it. You'll hear from him probably tomorrow.

But this man got his hepatitis C from Mr. Sharrieff. Kenneth Rubino, this is a patient who is not -- didn't get infected by the clinic. He is a source patient of the infections on the 21st. He's one of the earlier patients. He wasn't the first patient of the day, but he was one of the earlier patients. He has his procedure.

A little tidbit that you'll hear, after he has his procedure there are 45 patients in the clinic that get treated after him. Statistically those patients, because he's the source patient and because there are other people that get infected after him in the unsafe injection practices that you'll hear about, those 45 patients had a 31 million times greater rate of contracting hepatitis C than the average person in the population just by virtue of the fact that they were at the clinic and he was before them.

He was a known carrier. He had it on his chart. He was being treated for hepatitis C by the clinic. When he came in for his procedure that day, he made sure that everybody knew, because he didn't want to cause any trouble, cause any infections. He did everything he possibly could to protect everybody else.

He even told -- and it wasn't Mr. Lakeman, it was Mr. Mathahs who was the other CRNA that day, he told him before he did the procedure. But it wasn't good enough,

because Stacey Hutchison, Rodolfo Meana, Patty Aspinwall, Gwendolyn Martin, Sonia Orellana, Carole Grueskin, all of them, all of them got hepatitis C matched to the virus from Kenneth Rubino.

So on the 25th you have Ziyad, Sharrieff giving it to Michael Washington -- not giving it directly, but the clinic through the use of the unsafe injection practices. And you'll hear about Kenneth Rubino infecting all of those people, or at least his blood infecting all of those people on that day.

Now, this is not from the clinic. When the police went and did -- executed their search warrants at the clinic, you'll hear that there was no propofol there anymore. They gave it back or something happened. It was gone. They couldn't even impound them. But this is a representation, a demonstrative piece of evidence that shows you what the bottles typically look like.

We don't even know if they were exactly those bottles. Propofol comes in a couple -- or has come over the years in a couple of different forms. Sometimes they're ampules, which means they're just completely glass enclosed with a scored neck, you snap it off. It's at atmospheric pressure. You draw the fluid out and you use it. Or in this case vials that had caps on them.

These are the types that at least -- at least that type of a setup is what is described as being used at the

clinic at that time. Now, this bottle in the middle, it says, "1 gram, 100 milliliter." No indication there was even a bottle that big there.

They did -- they used the 20s, 20 milliliter bottles and the 50 milliliter bottles. Once these were introduced, the 50 milliliter bottles, that's the ones that -- or that is the one that the CRNAs actually preferred, because they could get access to it more easily.

You will see on the bottle and the package insert, you're going to see a couple things. Single use patient only. Single use patient vials. It's on the labels. It's on the bottles. It's known by people who use the drug. The way they would take it out typically, out of a vial was they -- and again, this is not somebody at the clinic. This is another picture from another source just used as demonstrative evidence. A syringe with a needle, inserting it into the bottle, drawing out medication.

Now, you'll hear that one of the issues with this is that when you either put fluid into an enclosed container like that, put in air to get the fluid out or you just draw it out, you change the pressure inside that container. You either pressurize it or you essentially create a vacuum. So that if you withdraw fluid without putting air or something into it, what happens when the syringe needle goes in? It pulls what's ever into the needle into the bottle.

You do it the other way around, you pressurize it, whatever is in the bottle gets pushed down the needle into the syringe. Either way, that's the reason why you'll hear that you don't reuse syringes, you don't reuse propofol bottles or any bottles like that, that are marked for single use.

Here's what the health district came up with, what they believe based on their investigation was the mechanism by which the infections took place. That there was a clean needle, a clean vial of propofol that was -- had some medication drawn out of it, that that went into an infected patient. That virus from the infected patient got into the solution within the syringe itself.

Some individuals indicated or claimed that they removed the needles and replaced the needles before they went back into a new vial of propofol. As you'll see and from the studies that have been out there, you'll hear that even touching a bottle like that can cause -- or touching an infected patient with that, just touching, not drawing back and forth, can cause contamination of the solution inside.

So with an infected syringe even with the needle removed, putting a new needle, introducing virus into the new bottle, then taking a clean syringe, if you were going to use a clean syringe on a new patient, withdrawing that from the contaminated bottle and now using that on the next patient, that's one mechanism.

There are other mechanisms if you were to reuse the syringes on different patients, but the evidence you'll hear is less clear on that point. But there is no question that the bottle went from patient to patient.

Now, this is a preface to what you're about to see, the next two slides. After the investigation took place and Rodolfo Meana and Carole Grueskin and Michael Washington and Gwendolyn Martin, all of them, when all of them were essentially tested, they had to send -- and this isn't just them. This is everybody from those days.

There's 60-plus patients each day. All of them were tested and the samples were sent off to the CDC for analysis. And this is the number that was given to them by the CDC when they came in that corresponded to the patient. Those numbers you'll see on the next slides appear on what's called a phylogenetic chart, or a dendrogram of same nature, and it shows genetic relatedness.

And I'm not going to get into that with you here, because you're going to hear a person talk about that in more detail. But suffice it to say this is the identification, and the reason they're in different colors is because that's the way they appear on the next screen.

This is the dendrogram. This, all of these things up here are part of what's called the HANES study, HANES three participants. And that's, if I get it right, it's the

National Health and Nutrition Examination Study, and there's been a few of those in our nation's history, and this was the third one. And these participants where they used as sort of a control those patients who were known hepatitis C carriers, who were of the same genotype 1a, they tested this population against them to see how genetically related they were to other people.

Within the groups we see sort of a tree coming off, a branch. That means that the groups here are related to each other here and here. And the colors that you see designated here correspond to the colors on the previous screen. I'll go back to that and see -- I'll go back to that just so you can see it.

Now, this is the cluster from the 21st of September of 2007. This is the cluster from July 25th of 2007. What's interesting about this cluster, and we'll get to that right now, is that when they first -- the CDC first had the samples come in, the only sample they had was NV30. And NV30 was Michael Washington, so he is the infected patient on that day. He's the infected patient. They didn't have the source patient. They had just the infected patient.

But from this chart that they produced, they knew -- they predicted that there would be a person that would match and be in this area. They predicted it. And lo and behold, Sharrieff Ziyad fell within that category. When they put him

on the chart, he fell right there. It was exactly the way they expected it. It was a person that was related.

And you'll hear that the genetic relatedness of the viruses ranges from about 96 percent to 100 percent in these. Of the cluster on the 21st of September, again, this is source patient and infected patients all are clustered off of that.

Now, at the clinic, some of the things you're going to hear about are -- well, and that the health district looked into were other possible ways or sources of contamination that these people could have gotten infected. Could it have been the endoscopy scopes that were used. Could it have been a rogue nurse trying to infect people.

Could it have been saline flushes in that IV room, that they would put those IVs in sometimes and flush them with some saline, maybe somebody else contaminated it. They looked at all of those things. Not the same nurses. Not the same scopes. They weren't processed the same way, didn't have the same procedures necessarily.

But this picture depicts, and the next two depict the endoscopy scopes. They had 18 scopes at this facility. Six of those scopes were used for upper endoscopies. Twelve scopes were used for colonoscopies. They're different sizes, different lengths, that kind of thing.

But the reason these pictures are here is to show you not just what the scopes look like themselves -- those are the

tubes that go up into somebody's colon or down somebody's throat -- but this area down here. At the end of the day they would go through the normal cleaning process, and you'll hear about the cleaning process.

They would hang these scopes up at the end of the day to air dry for the next morning. You'll hear from a number of different people that, you know, sometimes they came in, in the morning and there's some fecal material down there drained out of the scopes that were supposedly clean. So that's one of the reasons why the CDC looks into this, is gosh, they're not getting adequately cleaned.

Because remember, these scopes don't just turn over once a day. There's 18 scopes total, 12 of them for colonoscopies. And on each of those incident days alone there's, I believe, 67 procedures done on one day and 64 procedures done on the next day. The average amount of -- or number of patients that were seen and treated at the clinic on a daily basis in 2007 was over 60. Sixty a day.

It takes approximately 20-plus minutes, depending on the cycle of the machine, 17. There's some cleaning before, but a half an hour or so to process the scopes. So each one of the scopes that were used were used multiple times throughout the day. None of the patients, by the way, had the same scope. It just talks to the cleanliness and the adequacy of the cleaning that was done.

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Because you know at the end of the day you'll hear if that's the case, that was probably the case all the way along the line when they were cleaning. You'll hear even that sometimes they would take a scope out, from one witness, and bring it into the room and they would notice it had some fecal material on it. It wasn't cleaned up well.

These devices here are called Medivators. There's two of them. They were at the clinic, and they could put a couple of scopes in those at once. And in those Medivators you'll hear what they would process the scopes, they would run solution through them. Before they put them in there they would go through a cleaning process.

But the people that were back here, some were trained better than others. Some were just pulled in off the front desk so to speak to come back there, get a little rudimentary training about how to clean things up, and they'd do it. Maybe they changed the solutions, maybe they didn't.

Sometimes there were people back there that were looking at the solutions, didn't even know how to do it or how they were to be tested. And there would be fecal material in the solutions that should be cleaned for the next scope, and they'd just dump it all in there. And that's important in a minute.

But here's another device, and this is from the -- this is not demonstrative. This was actually impounded. 60

ml syringe. 60 milliliters. It's a big syringe, and it's used to flush the scopes out during the procedures back in the procedure room. When the colonoscopy is taking place, sometimes the channels get lodged with fecal material [inaudible], and they need to be flushed out.

Well, what would happen is those syringes would get contaminated. They would get fecal material on them and in them. And you'll hear that cost cutting, don't waste anything. They've used the same scope the whole day on patient after patient after patient. Same thing with that, although to a lesser degree.

You'll hear that one of the things that Dr. Desai did was he wanted -- he wanted you to get the maximum you could out of everything. This is an example. This is a package of what's a biopsy forceps. A disposable biopsy forceps. See that? Disposable biopsy forceps, and it does say disposable. Single use only. Now, the issue with this is that these devices, like the snares and other things that were in the clinic, were such that they would be reused.

You'll even hear people like Jeff Krueger will come in here and tell you at one point that, you know, they had a talk with Desai about you can't do this, you can't reuse this stuff. This is single use only. It's been inside a patient. Yeah, there have been times in the past there were reusable snares and forceps and things like that. We don't have them.

Okay, okay, that's the way it will be. And then the next thing you hear is he's getting a call from some staff member who went around him -- where Desai went around him and is trying to get him to use the stuff again.

These are called Chux. They're non-absorbent pads. There's plastic on the one side. There's a paper barrier on the top. Those go underneath the patient to protect the -- everything around and underneath the patient from the stuff that comes out of the patient when a colonoscopy is being done.

Now, those cost -- and we'll get into some of the costs in just a moment. But those cost -- they got better prices as things went along, but around a penny or less apiece. He had his staff cut them in half to save money. Cut them in half.

These are called bite blocks. Now, for upper endoscopies, the EGDs that you'll hear about, in order to protect -- those scopes are very expensive, and people's teeth are very expensive, or can be if you knock one out. So you will hear that what they would do is they would take this bite block, which is disposable, they would take that bite block out and it would -- they would fit into your mouth, and then they would put the scope through it to do your procedure.

Now, the scope going through that device was meant to protect your teeth and meant to protect the scope. These

things are cheap, about a buck apiece or whatever. You'll see on the packaging it says single use only, single use. At the clinic, single use was not necessarily in the vernacular, because sometimes those things were used over and over and over again.

And they weren't just rinsed off and slapped into the next patient's mouth. They were thrown into the same soup that the scopes that came out of the last few patients' rear ends, be floating around in fecal -- fecal soup, so to speak, were used, and then those went through the processors and supposedly got cleaned for the next patient.

Syringes. These are 10 cc syringes. And when I say cc, 10 milliliter syringes. That's the syringe that was used during the procedures for the administration of the drug propofol. Just the back of it, but one thing that's important to note on the syringes, if it wasn't readily apparent to anybody, is that my gosh, those are single use only as well. Not supposed to reuse the plastic syringe, which cost about 7.4 cents apiece.

Now, this gives you an example of the reuse, and you'll see this. This is upper endoscopies performed on those bite blocks you just saw a moment ago. This is for all locations, all clinic locations. The Shadow Lane clinic -- you'll hear that there were two clinics that were operating, one at Shadow Lane where the two incidents occurred, and also

one at the Burnham facility where Desai didn't practice very much. He didn't actually physically go there very often.

This is how many bite blocks were used per the patient load that they had that had those kinds of procedures. And if we look at that, we can see at Shadow Lane there were 5,040 upper endoscopies performed, there were 2,250 bite blocks purchased and use -- well, purchased.

We don't know if they were all used. But purchased for that many patients. There is no way that they weren't being reused, despite the fact that you'll hear people say that that was the case. Shadow Lane, number of bite blocks, number of patients.

Here's one talking about the -- the propofol vials, remember we talked a little bit. You're going to hear about vials that moved from patient to patient, and the CDC actually saw that happen. Well, in this case -- this is a comparison of the two days, the two incident days.

You're going to see that of the patients that were there on July 25th of 2007, there were 65 patients at the clinic that day. Twenty bottles of propofol were checked out and used that day. On 9/21, there was 63 patients and 24 bottles of propofol were used, clearly not enough for one for each patient. Well, maybe that's just an isolated event, two days.

This chart shows you the way it was -- that same

information for an entire year, the entire year of 2007. You'll see the bottles of propofol, if we bring that in to blow this up a little bit, that at Shadow Lane there were 4,957 patients through Shadow Lane. Fourteen -- excuse me. I said four. It's 14. 14,957 patients in that year came through for procedures. That's how many vials of propofol they purchased and used, 67 -- or 6,764.

At Burnham you can see that it was a different ratio, but still, clearly more patients than bottles of propofol. The total, the grand total, even if there was some indication that there was massive movement of propofol or something between the clinics, which there will not be any evidence of, 23,576 patients between the two clinics, 11,844 bottles of propofol.

Syringes. Now, talk about reuse of materials. You're going to hear varying statements -- and again, ladies and gentlemen, you are going to be instructed at the end that you are the ones who make the determination as to the credibility of the witnesses that come before you. But those witnesses that come before you, you weigh what they say. And you're going to hear varying degrees of knowledge of what was going on.

One underlying thing that you will hear is that, yeah, things weren't going well, I really didn't like what I saw but I never did it, I didn't do it. One of those things

goes to the reuse of syringes. Everybody will talk about, or a lot of people will talk about the fact that propofol bottles went from patient to patient, but there will be nobody that says that a syringe went from patient to patient.

In fact, you'll have some people that will say that the syringes themselves, they used -- they would load a whole bunch of them up and they would use multiple syringes on patients. And you'll see in a moment that there were multiple doses of propofol per patient on a typical procedure.

So if that was the case and you were drawing them up, because remember, those 10 cc syringes, those 10 milliliter syringes can only contain 10 cc. And a lot of times they would draw up a single milliliter of lidocaine, an anesthetic agent, because propofol, when it goes in, it burns. So it would be even less.

So a comparison of how many syringes they had during that time, to see if they had multiple syringes per patient, it doesn't show that. Shadow Lane, this is the number of patients, this is the number of syringes. It's almost a 1/1 ratio. Now, at Burnham it was a little bit different. It was almost two syringes per patient.

The total still is not enough syringes to have even two per patient. In fact, the numbers show that at Shadow Lane, the number of patients they had was 14,957. They had 17,100 syringes used at that clinic. A little over a syringe

per patient.

Now, the information that you're going to see later on in charts comes from in part these propofol logs -- or not propofol logs, but these procedure log books. There was one for each day. There's three that will be particularly relevant for this case, and you'll see those. They're all sitting over there for the whole year.

But this is what we talked about earlier. You're going to hear these people come in and tell you about the atmosphere, the pressure, the relentless patient load, the moving of the patients through where you don't have time to put down even accurate information on the records.

There are about four sheets of paper related to an endoscopy procedure that were common to all of the charts that you're going to have over there to see. There was a -- when the patient comes in, a little sheet like this. Then when the patient has the pre-procedure assessment, then the post-procedure assessment you'll see these. And on them you're going to see that there are times missing.

On this one, the patient apparently comes in at about 9:35. The pre-procedure assessment time, and this one is 9:40, keep track of those in your mind as we go, 9:40 is the pre-procedure assessment before they go back and before they actually have the procedure.

The endoscopy nursing record, this is the one that

gets filled out when the patient is in the room by the nurse. In the room there's a nurse, there's a GI tech, there's a doctor and there's a patient, and a CRNA. Now, on this record you'll see that the start of the procedure was at 9:49, and the end time for the procedure was at 10:00 o'clock. Eleven minutes. Eleven minutes is how long the procedure lasted.

This is the record of the machine that they were connected to, and you'll see that that actually corresponds in this case. It's 9:49 to 10:00 o'clock, so 11 minutes. As that thing gets started, they roll in the door, they hook them up to the machine, it takes its first read.

And when the patient -- just before the patient rolls out of the door to the recovery room they take one last read, pull the paper off the chart, slap -- or off the machine, slap it on the chart and it goes. So that's how long the patient is in the room, 11 minutes.

In this one you'll see that we've got a post procedure time of 10:02. Now I want to go back and show you something. The end procedure time is 10:00 o'clock. You're going to hear that they used a formula to put times down. The times that are on the records, and one of the reasons why the health district had so much problem was because they don't make any sense.

Two minutes gets added to that time. And by golly, two minutes is what we see as the post procedure assessment

time. Then the formula was you take five minutes and add it to that time, and you get the time to DC the heplock, that thing that was in -- and DC means to remove. Well, gosh, that record is the same five minutes later. That was the same time that they would use for what was called the physician at bedside.

So you should see the same there, and by gosh, it's the same number. And you will hear that there was almost never any physician at the bedside. Not just Desai, but any of them. They didn't go out. That's what they would put down on the record.

And lo and behold, from the time that the doctor -- the DC of the heplock and the doctor at bedside, they would take 30 minutes and add it to that time to get the time of discharge, which would be in this case 10:37. In fact, the lady who wrote this up, she'll come in and tell you that she's not even sure any of that writing is hers on that record.

Now, when they were out in the recovery room area, after they'd hit the recovery room, this is the same patient by the way, hits the recovery room at 10:01. They're hooked up immediately, within one minute. That's the last read before they walk out the door. 10:37. 10:16.

In the room, the procedure is done on a computer. And you'll see that in this particular case, this is one of the patients, you can see who was present. This is Kenneth

Rubino. This is a source patient from the 21st of September. Let's see. There was Clifford Carrol. The nurse was Peggy Tagle. Keith Mathahs was the CRNA.

And then you'll see at the end, it's a two-page document, that the note was initiated at 9:50, and was even signed at 10:00. None of these notes make any -- none of these numbers match up, make any sense.

Now, what's even more disturbing is this. This is the anesthesia record, and this is where Keith Mathahs comes into play, as well as Dr. Desai. The insurance fraud that you're going to hear about, the theft in obtaining money under false pretenses. This is an anesthesia record, the time that you are -- not you, but the patient would be under anesthesia for the procedure.

Now, this is a medical record that future medical providers might rely on down the road, see how you responded and dealt with medication, meaning anesthesia. Anybody that's ever had a procedure where they have to be put to sleep, what's the first question that gets asked? Have you ever had any medication, have you ever been put to sleep, how did you respond, how long were you -- you know, was there any complications. This is the record.

You'll see that here, not only is there time, 9:45 to, in this case, we'll get to it, to 10:17, this whole time, which is in this case 32 minutes, but there are vital signs.

That's what these marks are telling you, heart rate, respiration, blood pressure. Vital signs, meaning you've got a live patient you're actually measuring these things on. In this case that's what we see.

And down below here, you're going to see some other things in a minute that we'll highlight, but now look at this. This is the actual time that is listed on this record, 9:45 to 10:17. And remember that. That's 32 minutes. Thirty-two minutes. Remember the procedure before was 11 minutes long. The anesthesia record says 32 minutes long.

This is the propofol that was given, 200 milligrams, four separate doses. That means if you're using one syringe, one syringe, and remember, 50 milligrams equals 5 cc, 5 milliliters. That means that there's five, ten, another 20 total cc given. One syringe means you have to go back into the bottle to do it or use a new syringe. If there's not enough syringes, you have to go back in the bottle. If you use that bottle for the next patient, you've got contamination.

This one is one, a different anesthesia record. That whole last series of documents came from one patient at the clinic and it was all the same, so you could see his progression. But this one is one that that man filled out. Not Desai, but Mr. Lakeman. Here's his signature. Same day were there one of the source patients, and look at this time.

You're going to see a theme, 9:55 to 10:26, 31 minutes.

Always over 30 minutes, that's what you'll hear. Again, the anesthesia record during that entire time showing vital signs. A live patient sitting on the table. In this case 150 milligrams and 10 milligrams, which is one -- 1 milliliter of lidocaine.

Now, the health district, when they went back and did their investigation, and I know this is very faint, but you'll see that there's kind of a bar graph area right in the middle. And this is time for procedure and the procedures, the number of procedures that were done. And you'll see that the time ranged from about 30 minutes to about 35 minutes, every single procedure.

Well, almost every single procedure. There were a few that were under that, there were a few that were a little bit longer, but they were all in that range. Procedure after procedure after procedure. It didn't matter if they were the short upper endoscopies or the longer colonoscopies.

This is illustrative of what we're talking about. This is from the health district report as well. It's a clock, ladies and gentlemen. It looks like a clock. The procedure start time is zero report -- on the report, followed by the nursing log. The first monitor read -- there's two monitors, one in the procedure room which was the tape with the actual -- which looked like a heart rhythm attached to it,

and the one that's out in the recovery room which is attached to the patient when they're ready to discharge them out of there.

Nursing monitor time, anesthesia start time, the nurse's login time in the report, the report end time, the monitor start time in the recovery, the physician at bedside supposedly, the monitor end time, which means that's when the patient's done and is getting ready to walk out the door.

And look at this. For some reason the patient is still under anesthesia for all that time. And the last vital sign on that record, on that anesthesia log is recorded clear over here. The patient's not even in the facility at that time.

This is what you're going to see as far as there's a chart like this for each day. I know it's really hard to see. And you're going to have a big blow-up. It'll be available to you back in the jury room and throughout the trial. This is from the 25th. And this line here, you're going to see some things, some things blown up, but this is we have the source patient, and then we have the infected patient, Michael Washington.

What's important about this chart that I want to emphasize to you now is this. That column is the anesthesia record that I told you about, or that you just saw you're going to see evidence of. You'll see them all. You'll have

access to all of them. That's what it says the procedure times were. Now, that's the top of the chart.

I couldn't get it all in there, so I blew up the bottom of the chart so you could see. And these are different CRNAs, meaning this is Ronald Lakeman. This is another CRNA -- no, actually, this is Lakeman and this is Hubbard, Linda Hubbard. So they're both doing the same thing.

Now, if we move over to the next column that will be displayed and blown up a little bit, you'll see that that is the log that came from the -- from that nurse's record which is, we believe, more accurate and close in time to what the actual monitor reads and so forth are. Right next to it, and then again, the bottom of the chart. This is probably closer to reality. And my point is look across. These aren't lined up exactly, but you can look across and get the same --

Now, this is the 21st. We're talking about two months later. Two months later, the 21st. Same column, this time with Pete Mathahs and Ronald Lakeman. You'll see quite a distinct pattern, two -- again, separated into two different CRNAs, then what we believe is more closer to reality.

This form here is sent out to every insurance company. It's called a HCFA 1500 form. It comes up there. HCFA, Health Insurance Claim Form 1500. The clinic would have to fill one of these out to send it off to the insurance company for reimbursement. Now, you'll hear from the

insurance people that if they knew that there was anything false on this form, anything that wasn't right, they wouldn't pay on the claim.

So if they submit -- it doesn't matter if they have a capitated rate where it's $100 for the procedure or not. If they submit a claim that is false in any way, the insurance company would not, does not have to pay the claim. So if there's false information here, you'll hear that not dollar one could leave the insurance company to go to the clinic.

And this one and the very next one are not only patients, but they're listed here for a specific reason, and I show you them here. Because there was a policy in place at the clinic that Desai implemented that -- and everybody knew about. Some people could understand why and some people didn't, but you'll hear that. That a particular insurance company called PacifiCare did not -- we couldn't have those patients back to back.

You don't have patients come through the clinic with PacifiCare patients back to back why? Well, this one here is for Rodolfo -- excuse me, is Rodolfo Meana's record from the 21st of September. You can see that the -- it was actually one that came from the endoscopy center, and it was Keith Mathahs. And then this form here shows you what was submitted as far as charges, 33 minutes, which we know is not accurate, or you will know based on the record.

It happened on the 21st. And here is something that only PacifiCare required. They require the actual start and stop time of the procedure be on the HCFA 1500 form. What is important about that, ladies and gentlemen, is that the reason you will hear that the PacifiCare patients are not back to back is because the times would overlap, and that if somebody saw that, it would be a red flag for the insurance company that maybe there was a problem with this clinic. So we don't put PacifiCare patients back to back.

The next form, this one is from Gwendolyn Martin. She's also a patient on the 21st, the Endoscopy Center, Keith Mathahs. Now, Keith Mathahs and Ronald Lakeman don't submit these forms, but they give that anesthesia record by which these forms are filled. You're going to hear something about anesthesia time.

You're going to hear that for an endoscopic procedure, the -- there were three charges that came from a colonoscopy at the clinic. One was the procedure -- or the facility charge you got a charge for, one was the doctor charge, and one was the anesthesia charge. And the anesthesia charge was related to that -- that anesthesia record that came in, got wherever it went.

It was submitted to the insurance companies for payment, different insurance companies. And that when those got submitted, typically the insurance companies would

start -- you'd start off with a base of five units, what was called five units that you'd get. And they pay anesthesia based on time. That's what's important. They pay anesthesia based on time.

So five units is what you would start off with to set up, get the case going or whatever. And then how much time the person was under anesthesia is how much time you'd actually get the bill -- how much money that they could get billed for. Well, time is set up in 15-minute increments, which means that if you go to 31 minutes or 32 minutes or 33 minutes, you get to go for three anesthesia units instead of one for an 8 to 10 or 12-minute procedure.

We look at this one again. This is another PacifiCare one. These are the two that were specific to the group that we have. Again, note it there, because on the other forms you won't see that. And the order didn't matter for those other forms.

Now, ladies and gentlemen, who's on the top of that organizational chart? Dipak Desai. And you'll hear that Dipak Desai, he controlled the practice completely. No one else controlled -- there may have been people who were supervisors of some of the lower staff, but he controlled everything. And when I talk to you about the complete laser-like focus on costs and saving money and cutting corners, Desai was the king.

He had Jeff Krueger get him a list or tell him what the absolute costs of doing a colonoscopy was as far as anything is concerned. You'll hear that things like the KY Jelly I talked to you about, that he would -- you'll hear that the KY Jelly -- and all of you, I hope, know what that is, but it's a lubricant.

It is squirted onto little four-by-four gauze pads, and that -- those big scopes that you saw are slathered in that, so that when they insert that into the patient's rectum and up through their colon, that it glides through, that it doesn't get hung up, it doesn't perforate somebody's bowel, cause a hole somewhere. That liberal use of that would probably be wanted and needed for most patients.

Desai was absolutely focused on things like limiting even that. Don't use too much KY Jelly. When he did colonoscopies, it was dime-sized little dollop for one of those big scopes. Don't use too much. Twenty-nine cents a tube. For an entire tube of KY Jelly, 29 cents, and he's limiting and giving people a hard time about using too much KY Jelly.

He was -- he was a master. He actually bragged about how fast he could do the procedures. Upper endoscopy between one and three minutes, on average a colonoscopy between five and seven minutes, ten minutes tops. These are screening procedures or procedures where you're trying to find out if

make it quicker.

Badge 723, Steven Brown.

Sir, go ahead and -- no, there in the jury box, please.

THE MARSHAL: There's a microphone sitting in that seat right there --

PROSPECTIVE JUROR NO. 723: What this?

THE MARSHAL: Where you're about to sit. Just speak into it --

THE COURT: That is a microphone, you're correct, though.

PROSPECTIVE JUROR NO. 723: Okay.

THE COURT: Good afternoon, sir. It says here in your questionnaire that you haven't seen or read or heard anything about this case; is that correct?

PROSPECTIVE JUROR NO. 723: Yeah, that's correct.

THE COURT: Okay. Do you watch the news or not really?

PROSPECTIVE JUROR NO. 723: I don't.

THE COURT: You don't? Okay. Do you read the newspaper at all?

PROSPECTIVE JUROR NO. 723: I actually do not.

THE COURT: Okay. And you would be able to serve?

PROSPECTIVE JUROR NO. 723: Yeah.

THE COURT: Okay. Thank you. You went in -- you're

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currently a student at CSN?

PROSPECTIVE JUROR NO. 723: Yes, I am.

THE COURT: And AAS Internet Working, what does that mean?

PROSPECTIVE JUROR NO. 723: I'm working on my Associates of Applied Science for Internet Working, so --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 723: -- a computer degree.

THE COURT: And what are you hoping -- what kind of job are you hoping to get with that, if you know?

PROSPECTIVE JUROR NO. 723: I would hope to -- I'm looking to go into, hopefully, Cisco, it's networking, it's basically routers and working on that.

THE COURT: Okay. Did you go to school here in Clark County?

PROSPECTIVE JUROR NO. 723: Yes, I did.

THE COURT: And where did you go to school?

PROSPECTIVE JUROR NO. 723: I went to Advanced --

THE COURT: High school?

PROSPECTIVE JUROR NO. 723: -- Advanced Technologies Academy.

THE COURT: Okay. And what did you study there? What was your focus or whatever they call it?

PROSPECTIVE JUROR NO. 723: It was networking as well.

THE COURT: Okay. Thank you.

PROSPECTIVE JUROR NO. 723: Yep.

THE COURT: Ms. Stanish, you may follow-up with Mr. Brown.

MS. STANISH: Thank you, Your Honor. You work for Bibs that Gib?

PROSPECTIVE JUROR NO. 723: Yes, that's correct.

MS. STANISH: And you're an auction manager. Can you speak really fast? Do you actually do the auctions?

PROSPECTIVE JUROR NO. 723: Well, what we do is we schedule -- it's an online auction, and so we basically just put a schedule together and it runs itself.

THE COURT: So you don't have to talk for the auction?

PROSPECTIVE JUROR NO. 723: No, we don't talk on any.

MS. STANISH: So it's for fundraiser, like, if KNPR wants --

PROSPECTIVE JUROR NO. 723: Yeah.

MS. STANISH: -- to raise money, they put items out for bid and people can bid online?

PROSPECTIVE JUROR NO. 723: Yeah, so, I mean, you can bid online and we donate half of our profits to feed kids around the world.

MS. STANISH: All right. And you worked there for

eight months and prior to that you worked at Walmart, it says a stocker, and then McDonalds as a manager, correct?

PROSPECTIVE JUROR NO. 723: Yes, that's correct.

MS. STANISH: And any other employment?

PROSPECTIVE JUROR NO. 723: I did have a seasonal job for -- it was a whole two months at Ross Dress for Less.

MS. STANISH: Okay. You born and raised here in Las Vegas?

PROSPECTIVE JUROR NO. 723: Pretty much. I was born in Cali, and I had moved here one year after and I've been here for the rest of my life.

MS. STANISH: I see. And you live with your parents and both parents are employed, right?

PROSPECTIVE JUROR NO. 723: Yes, that's correct.

MS. STANISH: And you -- it's kind of interesting, there's one question, No. 41, you were asked, Do you believe that sometimes mistakes are made, that they just happen, and that no one's at fault? First you answered, Yes, and crossed it out, and then you checked, No. Can you just explain that answer to me?

PROSPECTIVE JUROR NO. 723: Yes, well, that question I actually saw it and I had extra -- thought about it for a long time before I answered, and then I -- it was one where I thought I should have gone with my gut feeling and so I changed it back to my gut answer because rather than just --

you know, I was overthinking it, and so instead of overthinking it I just went with my original feeling.

MS. STANISH: Oh, now I'm curious what your overthought answer was?

PROSPECTIVE JUROR NO. 723: I was just -- I was honestly just thinking about the question, and I don't even -- that's why -- I wasn't, like, just kept -- for some reason that question, like, caught my mind. I'm not sure and I really had to think about it. Like, some of the questions I, you know, it was an easy answer, but that one was, like, you know, I had to think about it, rather than --

MS. STANISH: Right. Well, all right. What kind of T.V. shows do you like to watch?

PROSPECTIVE JUROR NO. 723: I usually just watch Netflix and I also watch TRU T.V., it's, like, cop shows and, like, things like that.

MS. STANISH: Do you like the -- the police shows and legal shows about, like, Law & Order kind of shows?

PROSPECTIVE JUROR NO. 723: Mostly it's like -- like the Bad Boys type of shows, like, the cops not -- I don't really much like Law & Order, like, as far as, like, the lawyers and things like that. I usually watch when the, like, they're chasing the bad guys, and, you know, stuff like that.

MS. STANISH: You don't like lawyer shows?

PROSPECTIVE JUROR NO. 723: Not usually.

MS. STANISH: You know, I don't either. All right. You heard a description of what this case is about earlier this morning --

PROSPECTIVE JUROR NO. 723: Yes.

MS. STANISH: -- many hours ago?

PROSPECTIVE JUROR NO. 723: Yes.

MS. STANISH: Is there anything about what you heard that causes you any hesitation to serve on this jury? Any concerns?

PROSPECTIVE JUROR NO. 723: I'd honestly have no problem serving it -- with it. I have -- this is actually the first time that I've heard, even what it was about like. I came this morning and I didn't even know what the case was.

MS. STANISH: So you've never heard -- it was all new to you? You've never heard --

PROSPECTIVE JUROR NO. 723: Yes.

MS. STANISH: -- anyone talk about it or saw it on T.V. or something?

PROSPECTIVE JUROR NO. 723: Yes.

MS. STANISH: All right. And, you know, if you do get selected for this jury, you're likely to be one of the younger jurors on the panel.

PROSPECTIVE JUROR NO. 723: Yes.

MS. STANISH: What's your feelings about having to look a retiree in the eye and disagree with them if you have

to?

PROSPECTIVE JUROR NO. 723: I mean, I've been a -- I've been a manager for two different companies and I've had to discipline people that are, you know, well, double my age and so, you know, I've done it before and, you know, think that my work experience would help me in that aspect.

MS. STANISH: All right. And Judge Adair earlier this morning explained to the panel some real basic Constitutional issues that I want to briefly review with you and get your -- your thoughts on them. The first one being that these two gentlemen are presumed to be innocent, even though they've been charged by the State of Nevada, they're presumed innocent. Is that a concept that you have feelings on one way or the other?

PROSPECTIVE JUROR NO. 723: Honestly, I don't have any opinion, like, I would have to hear it first because I don't -- that's -- this is a reason why I don't like to watch the news or any of those channels is because it's all, you know, to me, in my opinion, that's all trying to influence you to think a different way and I honestly don't like to watch those shows because of that.

MS. STANISH: Well, the other concept that's important to our justice system is the concept that the State of Nevada, the prosecutors over there, they have the burden of proof. They have to prove beyond a reasonable doubt that

these men are not innocent. And so that's going to be done by way of a lot of evidence and a lot of testimony that we anticipate will take about six weeks to present.

Is there anything about that fact that there's a burden of proof on the State that has to be satisfied before they can be found guilty that causes you any issues or what are your thoughts on that?

PROSPECTIVE JUROR NO. 723: I would say that I'm -- I'm not influenced either way, I would have to -- once again, I would have to see it first, you know, to make my opinion, but, I mean, I have -- when I was -- another reason why I've never even heard of this is I was, you know, 14 back in '07, and so, you know, like, I was still attending, I think it was high school or middle school back then, and so I'd have to see -- like I said, I -- honestly, it doesn't affect me either way, like, I would have to see it first, like, for myself.

MS. STANISH: It sounds like you grew up with this case, but you didn't -- but you didn't hear anything about it, just to be clear?

PROSPECTIVE JUROR NO. 723: Yes, I haven't, except for this morning when we came in here and we were told what it was.

MS. STANISH: All right. Is there -- do you want to be a juror?

PROSPECTIVE JUROR NO. 723: You know, yes, I do -- I

mean, I think it would be a great experience for me, like, you know, and I would like to, and at the same time, you know, it's -- it's one of those things where I would have to -- so I have mixed feelings, like, you know, I've heard that it can be fun and I've heard that it can be, you know, not so fun as well, and I think it would be a --

THE COURT: Are you having fun yet?

PROSPECTIVE JUROR NO. 723: -- well, not this morning.

MS. STANISH: Are you, Your Honor?

PROSPECTIVE JUROR NO. 723: Do you think we can get some other chairs, you know?

THE COURT: No comment from the Court.

MS. STANISH: Well, let's talk about that a bit more.

PROSPECTIVE JUROR NO. 723: Okay.

MS. STANISH: Because this is a case that's very important to the two individuals who are sitting here. It's their -- their life. And so you're going to be asked to sit in judgment of these two individuals. And so it's a heavy responsibility that jurors bear. And is there anything about your role and duty as a juror that you feel uncomfortable about?

PROSPECTIVE JUROR NO. 723: No, it -- I would not. I would say that for me, personally, it would be more of a experience. I think -- I think it would be a good experience

for me. It would be, you know, something I could take something out of it, you know?

THE COURT: And I can tell you this, I mean, with all kidding aside --

PROSPECTIVE JUROR NO. 723: Yes.

THE COURT: -- I've never had a juror tell me that it was fun, but I've spoken literally to thousands of people who did have to serve as a juror, both speaking to them as a Judge and before that as an attorney, and really, almost to a person, people do find it to be an interesting experience and a rewarding experience, although, like I said, I've yet to have a juror refer to it as a "fun" experience --

PROSPECTIVE JUROR NO. 723: Yeah.

THE COURT: -- because, you know, it's a serious thing --

PROSPECTIVE JUROR NO. 723: Yes.

THE COURT: -- and you're required to, you know, pay attention and diligently listen and really put a lot of, you know, thought and attentiveness into it. So -- Ms. Stanish?

MS. STANISH: And I'm not sure if we covered this. Is your employer aware that if you're selected as a juror that you could be absent from your workplace for about six weeks or more?

PROSPECTIVE JUROR NO. 723: I have not informed them as of yet.

MS. STANISH: And would that cause any hardship for you if you had to be away from your job for that long?

PROSPECTIVE JUROR NO. 723: I'm sure they'd be willing to understand as it's a -- it's a smaller company that I work for, it's, you know, one where we work with the owner every single day, and so, you know, I'm sure they would be willing to understand.

MS. STANISH: All right. And so will you be able to -- are they going to pay you while you're absent, do you think?

PROSPECTIVE JUROR NO. 723: I have not addressed that issue.

MS. STANISH: Are you an hourly or a salaried employee?

PROSPECTIVE JUROR NO. 723: I'm an hourly.

MS. STANISH: Okay. Anything I haven't asked you that we think -- you think we should know that would bear on your ability to serve as a fair juror?

PROSPECTIVE JUROR NO. 723: I don't believe so.

MS. STANISH: Okay. Thank you. No further questions, Your Honor.

THE COURT: All right. Mr. Santacroce?

MR. SANTACROCE: Thank you. Good afternoon, Mr. Brown. How you doing?

PROSPECTIVE JUROR NO. 723: Good afternoon.

MR. SANTACROCE: I just want to talk about a couple things with you. Let's talk about school first. Do you enjoy school?

PROSPECTIVE JUROR NO. 723: Yes, I do.

MR. SANTACROCE: Are you a good student?

PROSPECTIVE JUROR NO. 723: Yes.

MR. SANTACROCE: Do you find learning interesting?

PROSPECTIVE JUROR NO. 723: Yes.

MR. SANTACROCE: Okay. Your employment at McDonalds, your questionnaire said that you were a manager at McDonalds, correct?

PROSPECTIVE JUROR NO. 723: Yes.

MR. SANTACROCE: How long ago was that?

PROSPECTIVE JUROR NO. 723: It was -- I left there in 2011, is when I left. And I worked there since 2009.

MR. SANTACROCE: And how many people did you supervise?

PROSPECTIVE JUROR NO. 723: It was myself plus two people because I was on the overnight manager, and so I ran the store by myself.

MR. SANTACROCE: And as a manager what were you responsible for?

PROSPECTIVE JUROR NO. 723: I was responsible for handling the safe, counting down drawers, running the store if, you know, if the customer had a question, they would

usually want the manager, and, you know, I was that manager, I was the one that the two crew would go to -- you know, it was really small because it was overnight --

MR. SANTACROCE: Right.

PROSPECTIVE JUROR NO. 723: -- and we only had our drive-through open, and so, you know, everyone came to me with the questions, you know, and I had to answer them. So basically it was like I was running the store myself for an eight hour shift.

MR. SANTACROCE: So you were accountable for yourself and those other two employees, correct?

PROSPECTIVE JUROR NO. 723: Yes.

MR. SANTACROCE: And you -- who did you answer to?

PROSPECTIVE JUROR NO. 723: I answered to, actually, the store owner -- the store owner because it was a private operated one and also his store manager was my two that I mainly talked to.

MR. SANTACROCE: And during that time of employment were there any problems that you had with those employees that maybe the owner or your supervisor called you on?

PROSPECTIVE JUROR NO. 723: Yes, there was. Like, when I had disciplined someone it was an employee for being late, and I -- they -- my store manager, they came to me and said, you know, why did you talk with that tone with them, when, you know, I had just addressed them, you know, said, you

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know, why are you running late today and then I had actually written them up for, you know, for being late. And because it was a, like, they always would show up late, and so --

MR. SANTACROCE: So you would -- you sort of got scolded for something that you didn't even do, correct?

PROSPECTIVE JUROR NO. 723: Exactly.

MR. SANTACROCE: Somebody else did it, you got scolded for it?

PROSPECTIVE JUROR NO. 723: Yes.

MR. SANTACROCE: Okay. How did that feel?

PROSPECTIVE JUROR NO. 723: Seemed -- I mean, I would say -- I will admit that I was wrong in the way that, you know, I addressed them, you know, that -- it made me, like, I can help realize, myself, you know, what I need to fix about myself because, you know, maybe I shouldn't have addressed them that way and that wasn't apparent to me at the time when I talked to them.

MR. SANTACROCE: Good. Now, I want -- and keep -- keep what I just --

PROSPECTIVE JUROR NO. 723: Yeah.

MR. SANTACROCE: -- asked you in mind, okay?

PROSPECTIVE JUROR NO. 723: Okay.

MR. SANTACROCE: And then I want to go to your question No. 41.

PROSPECTIVE JUROR NO. 723: All right.

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MR. SANTACROCE: Where you had the real, sort of, conflict in answering this --

PROSPECTIVE JUROR NO. 723: Yeah.

MR. SANTACROCE: -- where it said, Do you believe that sometimes mistakes are made, that they just happen, and that no one is at fault? And you had a little bit of a struggle with that?

PROSPECTIVE JUROR NO. 723: Yes.

MR. SANTACROCE: And I want you to sort of verbalize to me what your thought processes were when you were answering that question?

PROSPECTIVE JUROR NO. 723: And can you just repeat the question for me one more time?

MR. SANTACROCE: Yes. It says, Do you believe that sometimes mistakes are made, that they just happen, and that no one is at fault? And that's the one where you had answered, yes, and scratched it out, and put, No.

PROSPECTIVE JUROR NO. 723: Yeah, okay. I think part of my problem on that was -- is my personal experience is that I have -- you know, I've been in management positions, and you know, some of them really got to me, like, it's thinking, you know, is someone -- is it always going to be someone's fault or is it sometimes, you know, is it maybe not their fault.

And, like, you know, you can't always say, well,

it's always this person's fault, like, you know, you're -- like, that's what I was thinking was, like, well, you know, they can't always be at fault because, you know, what if, like, example, I was, you know, I was blaming that person, when really the person to be blamed was me.

So, you know, really, like, they are not always at fault, like, you know --

MR. SANTACROCE: So would you agree that it's not always so black and white?

PROSPECTIVE JUROR NO. 723: Yes, exactly.

MR. SANTACROCE: Great. Now, I want to talk to you about TRU T.V. Specifically, what are some of the shows -- the names of some of the shows that you watch on TRU T.V.?

PROSPECTIVE JUROR NO. 723: The primary ones I watch is, like, Top 20 most shocking. It's --

MR. SANTACROCE: Oh, I've seen it.

PROSPECTIVE JUROR NO. 723: -- yeah. And I -- it's usually that type of show. There's another one where, like, there's commentators, I can't think of it -- the name of it right now. It's along the same lines of shows, you know, like, the Top 20 clips of, you know --

MR. SANTACROCE: And then they have people talking about it --

PROSPECTIVE JUROR NO. 723: -- yeah, exactly.

MR. SANTACROCE: -- and making fun of it and stuff

like that?

PROSPECTIVE JUROR NO. 723: Yeah, exactly.

MR. SANTACROCE: Okay. Any other thing on TRU T.V.?

PROSPECTIVE JUROR NO. 723: Honestly --

MR. SANTACROCE: You said -- talked about "Facing bad guys," what was that about?

PROSPECTIVE JUROR NO. 723: It's -- the other one I watch is Cops.

MR. SANTACROCE: Okay.

PROSPECTIVE JUROR NO. 723: It's where basically, you know, they show -- mainly it's, like, high-speed pursuit or something like that, you know, like, that's the type of show, you know, that I watch on there, and other than that it's, just, only -- like, Netflix, I usually, you know, primarily don't even watch T.V. that much, you know, other than at night when I'm going to bed.

MR. SANTACROCE: And what are some of your favorite movies?

PROSPECTIVE JUROR NO. 723: On -- that are on Netflix? I would say -- one that I really liked a lot was Act of Valor and that's one I watched a lot. You know, like me war-type movies and, you know, I like the scarier movies as well.

MR. SANTACROCE: Do you have, like, a desire to go into the military or anything like that?

PROSPECTIVE JUROR NO. 723: I actually do because it runs in my family.

MR. SANTACROCE: Do you have a desire to be a police officer?

PROSPECTIVE JUROR NO. 723: I would say I have a desire to be in the Air Force.

MR. SANTACROCE: In the Air Force?

PROSPECTIVE JUROR NO. 723: Not necessarily a police officer, but I would like to, you know, at least serve for sure.

MR. SANTACROCE: Serve --

PROSPECTIVE JUROR NO. 723: Like, in the --

MR. SANTACROCE: -- in the military?

PROSPECTIVE JUROR NO. 723: -- military, yes.

MR. SANTACROCE: And if you got in the Air Force what would you want to do?

PROSPECTIVE JUROR NO. 723: I was looking at Telecom, it's a -- basically, you know, with my computer background, I would help to maintain telecom, like, radios and computers and, you know, like, stuff like that.

MR. SANTACROCE: I think that's all I have for you.

PROSPECTIVE JUROR NO. 723: All right.

MR. SANTACROCE: Thank you very much. Appreciate your --

PROSPECTIVE JUROR NO. 723: Thank you.

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MR. SANTACROCE: -- honesty.

THE COURT: All right. Thank you. State? Ms. Weckerly?

MS. WECKERLY: Thank you. Just briefly.

PROSPECTIVE JUROR NO. 723: Yes.

MS. WECKERLY: How are you doing?

PROSPECTIVE JUROR NO. 723: I'm good. How are you?

MS. WECKERLY: Good. Thank you. One of the -- the things that, I think Ms. Stanish discussed with you was your ability to sort of judge other people. And some people for religious or even kind of philosophical beliefs are not comfortable doing that, but I -- I understood your answer to be that -- that that's something that you're able to do?

PROSPECTIVE JUROR NO. 723: Yes, that's right.

MS. WECKERLY: And you kind of -- you did it in your job when you were the supervisor at the McDonalds, correct?

PROSPECTIVE JUROR NO. 723: Yes.

MS. WECKERLY: And not that -- not to minimize that experience, obviously we're in a -- a much more --

PROSPECTIVE JUROR NO. 723: Yeah.

MS. WECKERLY: -- weighty situation here --

PROSPECTIVE JUROR NO. 723: Yes.

MS. WECKERLY: -- would you agree?

PROSPECTIVE JUROR NO. 723: Yes, I agree.

MS. WECKERLY: And you feel like you can still judge?

PROSPECTIVE JUROR NO. 723: Yes.

MS. WECKERLY: And one of the things I -- you may already be aware of this, but in juror -- jurors in this type of case are only deciding whether or not the State has proven the case beyond a reasonable doubt and it would be in the event of a guilty verdict, up to the Judge to impose the sentence. So all you're deciding is these are the facts they'll -- alleged, were they proven beyond a reasonable doubt? And you would be able to do that?

PROSPECTIVE JUROR NO. 723: Yes.

MS. WECKERLY: When you were called upon to discipline the employees that worked with you, I understand the one situation you thought maybe you used the wrong tone, were there other instances where you had to discipline someone besides that one?

PROSPECTIVE JUROR NO. 723: It's -- it's been a while and --

MS. WECKERLY: Yeah.

PROSPECTIVE JUROR NO. 723: -- not some -- I usually wouldn't be the one handling the disciplining because mainly I was, you know, I was the young one of the group and --

MS. WECKERLY: Right.

PROSPECTIVE JUROR NO. 723: -- normally, that would be handled by the store manager, and, you know, I only handled -- they were trying to make me handle that situation

so that I would have the experience --

MS. WECKERLY: Yeah.

PROSPECTIVE JUROR NO. 723: -- you know? Yeah, so --

MS. WECKERLY: It sounds like you've worked really, most of your life, once you were --

PROSPECTIVE JUROR NO. 723: Yes.

MS. WECKERLY: -- age eligible to work?

PROSPECTIVE JUROR NO. 723: Yes, that's -- the only reason I didn't work sooner was because, like, I couldn't get my work permit and so, you know, I really hit the pavement as soon as I was able to, and I started working at McDonalds when I was, I believe, 17 -- yeah, I was 17 --

MS. WECKERLY: Mm-hmm.

PROSPECTIVE JUROR NO. 723: -- I became manager as soon as I turned 18.

MS. WECKERLY: So you've worked hard?

PROSPECTIVE JUROR NO. 723: Yes.

MS. WECKERLY: Even -- I mean, you're very young, but you've worked hard and you seem like you are -- you are someone who is very motivated to work and get experience --

PROSPECTIVE JUROR NO. 723: Yes.

MS. WECKERLY: -- is that true?

PROSPECTIVE JUROR NO. 723: Yeah, that's correct. And, like, I'm a manager as well, currently.

MS. WECKERLY: Mm-hmm.

PROSPECTIVE JUROR NO. 723: It's an auction manager, so, you know, I'm in charge of -- I run our auctions and, you know, that decides our company, you know, we make X amount of dollars per day depending upon what I put up.

MS. WECKERLY: And -- and so certainly that's a different arena, but in that --

PROSPECTIVE JUROR NO. 723: Yes.

MS. WECKERLY: -- type of work you're a decision maker? You're decisive?

PROSPECTIVE JUROR NO. 723: Yes.

MS. WECKERLY: That seems like that's -- comes easily to you even though you're young?

PROSPECTIVE JUROR NO. 723: Yes.

MS. WECKERLY: How about -- how about attention to detail? How would you describe yourself with -- with that as the -- the issue? Are you pretty good with that?

PROSPECTIVE JUROR NO. 723: Yeah, so that's exactly what we have to do is, you know, we have to -- we actually take notes of does a picture make a difference in how much an item sells for and then, you know, we change our graphics based upon what our -- like, people, they'll bid on an item even more depending upon the picture. Sometimes it's not even the item, they'll say, oh, it's a new picture, you know, let's do that, and so --

MS. WECKERLY: So you're -- you're analyzing data and figuring out what's the best --

PROSPECTIVE JUROR NO. 723: Yes.

MS. WECKERLY: -- I guess, image -- I'm not a good computer --

PROSPECTIVE JUROR NO. 723: Yeah.

MS. WECKERLY: -- person, image to get the response you want?

PROSPECTIVE JUROR NO. 723: Yes, and we have to do that daily.

MS. WECKERLY: Okay. And -- and the bottom line and all we can ask is that you'll be fair to both sides in this case --

PROSPECTIVE JUROR NO. 723: Yes.

MS. WECKERLY: -- and it sounds like you'll be able to do that?

PROSPECTIVE JUROR NO. 723: Yes.

MS. WECKERLY: And no problem following instructions that the Judge gives you about what you're allowed to do and not do as a juror, as well as the instructions on the law? No problem?

PROSPECTIVE JUROR NO. 723: Yes, that's right.

MS. WECKERLY: Okay. Thank you. I'll pass for cause, Your Honor.

THE COURT: All right. Thank you. Mr. Brown, in a

moment I'm going to excuse you for today.

PROSPECTIVE JUROR NO. 723: Okay.

THE COURT: You may be selected as a juror in this case. So for that reason, the admonition that I've given several times today regarding discussing the case or anything relating to the case, reading, watching, listening to reports of or commentaries on any subject matter relating to the trial, and forming or expressing an opinion on the case is still in effect.

Additionally, you're not to discuss what's transpired in the courtroom, meaning, my questions, the attorneys' questions, and your answers; do you understand?

PROSPECTIVE JUROR NO. 723: Yes.

THE COURT: All right. Thank you, sir. Put the microphone in the chair --

PROSPECTIVE JUROR NO. 723: Okay.

THE COURT: -- and check out through the third floor, and make sure Officer Hawkes has a good number where we can reach you --

PROSPECTIVE JUROR NO. 723: Okay.

THE COURT: -- if you should be selected to serve.

PROSPECTIVE JUROR NO. 723: Okay. Thank you.

THE COURT: All right. Thank you, sir.

All right. The State had passed for cause. I heard nothing from the Defense. Does the Defense pass for cause or

challenge for cause?

MR. SANTACROCE: Pass.

MS. STANISH: Pass.

THE COURT: All right. He goes in the pile. And you need a moment with your client?

MR. WRIGHT: Yes.

THE COURT: Next up, let's do Ms. Enright, the postal worker who lives over 60 miles away.

MS. STANISH: Pahrump.

THE COURT: Is that where -- well, no, she couldn't live in Pahrump, it has to be Clark County.

MS. STANISH: Oh -- oh, you're right.

THE COURT: So I'm thinking --

MS. STANISH: It's probably --

THE COURT: -- but she could live in Laughlin.

MS. STANISH: -- Mesquite.

MR. SANTACROCE: Mesquite.

THE COURT: So --

MS. WECKERLY: 787?

THE COURT: -- we'll see.

Badge No. 787, Carol Enright. Oh, she lives in Logandale.

MS. STANISH: Yeah, Logandale.

THE COURT: That's excusable. And a justification for excusal, I guess would be the --

MS. WECKERLY: It's a long way.

THE COURT: -- the way to say that.

Ma'am, come on in and have a seat in the jury box.

THE MARSHAL: There's a handheld microphone setting on that second chair. Just speak into it when you talk, please.

THE COURT: Good afternoon.

PROSPECTIVE JUROR NO. 787: Hi.

THE COURT: Hi. I'm following up on your questionnaire. You live in Logandale?

PROSPECTIVE JUROR NO. 787: Yes.

THE COURT: Okay. And is it a difficulty or a hardship for you to travel every day from Logandale to here in Clark County?

PROSPECTIVE JUROR NO. 787: It is.

THE COURT: It is? Okay.

PROSPECTIVE JUROR NO. 787: Yeah, I have to pay more in gas than I get paid from you.

THE COURT: Can we cover additional -- I should know this.

PROSPECTIVE JUROR NO. 787: Well, I have a big Ford Excursion, so it eats a lot of gas.

THE COURT: Well, whose fault is that?

PROSPECTIVE JUROR NO. 787: Hey, I live out in a rural area.

THE COURT: Okay. So we --

PROSPECTIVE JUROR NO. 787: Come on, everybody drives trucks.

THE COURT: -- we compensate, I guess, for some mileage, but you're saying it's not enough to compensate you fully?

PROSPECTIVE JUROR NO. 787: And losing hours at work.

THE COURT: Let me ask you this. You work for the United States Postal Service?

PROSPECTIVE JUROR NO. 787: Mm-hmm.

THE COURT: Don't they pay you when you're serving as a juror?

PROSPECTIVE JUROR NO. 787: Nope.

THE COURT: They don't? Did you talk to anyone at the Post Office?

PROSPECTIVE JUROR NO. 787: My Postmaster.

THE COURT: You talked to your Postmaster, and did you ask him if they -- if you would be compensated?

PROSPECTIVE JUROR NO. 787: Yeah, and he said, no. I'm not a career, they don't hire career anymore, so I'm at six hours a day, so that's --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 787: -- they don't --

THE COURT: And --

PROSPECTIVE JUROR NO. 787: -- pay for it.

THE COURT: -- and they don't -- wow, that's surprising to me.

PROSPECTIVE JUROR NO. 787: That's what he said.

THE COURT: And you -- are you at -- are you -- do you work at the postal station, I guess?

PROSPECTIVE JUROR NO. 787: I work in Mesquite Post Office --

THE COURT: Okay. The --

PROSPECTIVE JUROR NO. 787: -- and Logandale Post Office --

THE COURT: -- okay.

PROSPECTIVE JUROR NO. 787: -- I work both post offices.

THE COURT: Okay. And you work six hours, is that during the day or the swing shift or what?

PROSPECTIVE JUROR NO. 787: Well, I work in the mornings from 7 to 10 --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 787: -- in Logandale and then I drive to Mesquite and work from 11 to 5.

THE COURT: Okay. And your postal -- postmaster said that you would not be paid if you're here?

PROSPECTIVE JUROR NO. 787: Correct.

THE COURT: All right. Ma'am, in view of that we're

going to go ahead and excuse you. Learned something new today about the postal service.

Ma'am, before I excuse you, however, I must advise you that you're not to discuss anything that's transpired in the courtroom with anybody else, meaning, my questions, your answers, and so forth; do you understand?

PROSPECTIVE JUROR NO. 787: Yes.

THE COURT: All right. Thank you, ma'am.

PROSPECTIVE JUROR NO. 787: Thank you.

THE COURT: Put the microphone in the chair, and you're free to go, but before you go, please check out through jury services.

PROSPECTIVE JUROR NO. 787: Is that where --

THE COURT: All right. Badge --

PROSPECTIVE JUROR NO. 787: -- I came in at?

THE MARSHAL: Yes, ma'am.

THE COURT: -- right. On the third floor.

PROSPECTIVE JUROR NO. 787: All right.

THE COURT: Badge No. 725, Aja Walker.

Ma'am, come on in and have a seat there in the jury box, please.

PROSPECTIVE JUROR NO. 725: Sorry.

THE COURT: It's all right. Good afternoon. I wanted to follow up on a couple of things in your questionnaire. You said that you've seen a couple of news

segments about the hepatitis C outbreak. Is there a particular station you watch for the local news or...

PROSPECTIVE JUROR NO. 725: I'm trying to think back to '07. It's mostly my mom watching the news in the morning, and --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 725: -- I'm getting ready for work and --

THE COURT: Okay. So the last time you recall seeing something was back in 2007?

PROSPECTIVE JUROR NO. 725: Yeah.

THE COURT: Okay. Do you think it's a fair statement that the news media often reports things either incompletely or inaccurately?

PROSPECTIVE JUROR NO. 725: Absolutely.

THE COURT: Okay. If you're selected to serve as a juror, do you understand, and would you be able to set aside anything you may remember hearing in the media or seeing in the media and base your verdict solely upon the evidence in this case?

PROSPECTIVE JUROR NO. 725: Oh, yeah. For sure.

THE COURT: Okay. No problem with doing that?

PROSPECTIVE JUROR NO. 725: No problem.

THE COURT: Okay. And then in the questionnaire it asks you if you've formed any opinion about Dipak Desai or

Ronald Lakeman and you said, no, these names are unfamiliar to me. Now, you heard some talk this morning --

PROSPECTIVE JUROR NO. 725: Yeah.

THE COURT: -- as to what the case was about -- obviously not evidence, just talk. Did that trigger any recollection in your mind that oh, yeah, I did hear about these people?

PROSPECTIVE JUROR NO. 725: No, it actually -- the -- when they said that the letters got sent out, I had never heard that --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 725: -- so I got a lot more information this morning than I even had before, so --

THE COURT: Okay. So there's nothing that would -- is there -- or let me ask you this. Is there anything that would preclude you from being completely fair and impartial to both sides if you're selected to serve?

PROSPECTIVE JUROR NO. 725: No.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 725: Not at all.

THE COURT: And so if you're selected as a juror, can you keep an open mind until you've heard all the evidence in the case, and base your verdict solely upon the evidence that's presented in the trial, meaning the testimony from the witness stand and the exhibits that are admitted?

PROSPECTIVE JUROR NO. 725: Yes.

THE COURT: All right. Thank you. Ms. Stanish, you may follow up with Ms. Walker.

MS. STANISH: Thank you, Your Honor.

Hi.

PROSPECTIVE JUROR NO. 725: Hi.

MS. STANISH: I'm just going to flip through your questionnaire here and just hit on a few here answers. You're engaged to be married?

PROSPECTIVE JUROR NO. 725: Yes.

MS. STANISH: When is your wedding?

PROSPECTIVE JUROR NO. 725: We don't have a date yet, we're just --

MS. STANISH: Don't set it during --

PROSPECTIVE JUROR NO. 725: Yeah.

MS. STANISH: -- the month of May or June.

PROSPECTIVE JUROR NO. 725: Okay.

MS. STANISH: Is there -- by the way, is there going to be any issue for you knowing that this trial will likely take the entire month of May and probably go into June a bit?

PROSPECTIVE JUROR NO. 725: No, not right now.

MS. STANISH: All right. And your current job, you're working at the Pearl Factory for almost two years, and it -- are you a salesperson?

PROSPECTIVE JUROR NO. 725: Yes.

MS. STANISH: All right. Is that where they're -- there's like a shell, and you got to pick the shell --

PROSPECTIVE JUROR NO. 725: Yes, that's the one you pick --

MS. STANISH: -- and pearl?

PROSPECTIVE JUROR NO. 725: -- the oyster.

MS. STANISH: I always wonder about those shells. All right. And before that you worked seven years as a -- a pre-K teacher?

PROSPECTIVE JUROR NO. 725: Yes.

MS. STANISH: What -- was that just like an assistant to a teacher, or what was that job? What did that involve?

PROSPECTIVE JUROR NO. 725: Well, it started out as an assistant and then I became a pre-K teacher and then I got moved into the office as more administrative?

MS. STANISH: And why did you leave that position?

PROSPECTIVE JUROR NO. 725: My dad got sick.

MS. STANISH: Oh, and --

PROSPECTIVE JUROR NO. 725: He ended up having his -- a third stroke, so...

MS. STANISH: -- wow. And you live at home with your parents; is that correct?

PROSPECTIVE JUROR NO. 725: Yeah, my mom lives -- currently lives with me and my fiance.

MS. STANISH: I see.

PROSPECTIVE JUROR NO. 725: My dad lives in Colorado.

MS. STANISH: Oh, all right. So you had to take off from your job to help take care of your dad?

PROSPECTIVE JUROR NO. 725: Yeah, it's just the nursing care was just too much money --

MS. STANISH: Sure.

PROSPECTIVE JUROR NO. 725: -- for our family to cover that, so I figured it would be better if I took care of him. At least I would know he was taken care of.

MS. STANISH: Correct. And how long ago was that?

PROSPECTIVE JUROR NO. 725: I'm going to say eight years ago.

MS. STANISH: Okay. So it's been a while?

PROSPECTIVE JUROR NO. 725: Yeah.

MS. STANISH: And I -- where did you graduate from high school, by the way?

PROSPECTIVE JUROR NO. 725: Desert Rose, here in town.

MS. STANISH: All right. And have you been in Vegas your whole life?

PROSPECTIVE JUROR NO. 725: No. I moved up here when I was 16 from Hawaii.

MS. STANISH: Hawaii, Las Vegas, which one is better? Yeah, that would be my guess. And what did -- and you studied

for one year at the --

PROSPECTIVE JUROR NO. 725: Yeah.

MS. STANISH: -- community college?

PROSPECTIVE JUROR NO. 725: Just general studies and early childhood education.

MS. STANISH: Do you see yourself going back to school and are --

PROSPECTIVE JUROR NO. 725: Yes.

MS. STANISH: -- what do you want to do?

PROSPECTIVE JUROR NO. 725: Probably study English and teach English, yeah.

MS. STANISH: Good. Have -- has anyone close to you or even you, yourself, had any negative experiences with anyone in the medical profession?

PROSPECTIVE JUROR NO. 725: No, actually, it's been great. I mean, my dad has had three major strokes and eleven mini strokes and he's still with us so --

MS. STANISH: Good.

PROSPECTIVE JUROR NO. 725: -- I mean, the advances are great.

MS. STANISH: Good. And your father was a security officer, I assume --

PROSPECTIVE JUROR NO. 725: Yeah.

MS. STANISH: -- he's not working anymore, or is he?

PROSPECTIVE JUROR NO. 725: No.

MS. STANISH: Okay. And where does your mom work?

PROSPECTIVE JUROR NO. 725: She works for a company called Telus. She works customer service for Netflix.

MS. STANISH: Oh, Netflix, yeah.

PROSPECTIVE JUROR NO. 725: Yeah, she works under Telus, though, but for Netflix.

MS. STANISH: All right. Does she answer the phones for people who have problems with their service?

PROSPECTIVE JUROR NO. 725: Yes. Or questions on how to start the program, stuff like that.

MS. STANISH: Okay. Does she -- do you know what side of the house she works on, the DVD or the streaming side?

PROSPECTIVE JUROR NO. 725: I don't.

MS. STANISH: Don't know?

PROSPECTIVE JUROR NO. 725: No.

MS. STANISH: All right. But she helps people with technical --

PROSPECTIVE JUROR NO. 725: Yeah.

MS. STANISH: -- problems? All right. And you say that your uncle and his partner are both HIV positive. Anything about that medical condition that has any bearing on your ability to sit in this kind of case?

PROSPECTIVE JUROR NO. 725: Not at all.

MS. STANISH: Okay. Because --

PROSPECTIVE JUROR NO. 725: I mean, they've been HIV

positive for most of my life that I've known, so...

MS. STANISH: And you -- are you close to your uncle?

PROSPECTIVE JUROR NO. 725: Yeah.

MS. STANISH: Good. And have you studied about HIV or infectious diseases on your own?

PROSPECTIVE JUROR NO. 725: Not in depth, just mostly talking to him and his experiences -- I mean, besides in health class and things like that.

MS. STANISH: All right. Have you studied any -- taken any medical-type courses?

PROSPECTIVE JUROR NO. 725: Nope, besides first aid and CPR and signs of illness, no.

MS. STANISH: Yeah, stick to English. Stick to English. And you spend your free time -- you like to sing and get lost in a good book?

PROSPECTIVE JUROR NO. 725: Yes.

MS. STANISH: What kind of books do you like reading?

PROSPECTIVE JUROR NO. 725: Oh, everything. Mystery, Pattersons, King, you know, all that --

MS. STANISH: You don't like --

PROSPECTIVE JUROR NO. 725: -- fun stuff.

MS. STANISH: -- police novels and lawyer books, do you?

PROSPECTIVE JUROR NO. 725: No, I like a lot of romance too.

MS. STANISH: All right. And let's see. You've never served on a jury, right?

PROSPECTIVE JUROR NO. 725: Never. I'm nervous.

MS. STANISH: And I -- I just want to talk to you briefly about some legal concepts that Judge Adair mentioned earlier this morning. One of which that is that these two gentlemen are presumed innocent.

PROSPECTIVE JUROR NO. 725: Absolutely.

MS. STANISH: Meaning, even though they were charged with those offenses that you learned about this morning, they are presumed innocent of those charges; do you understand that?

PROSPECTIVE JUROR NO. 725: Mm-hmm.

MS. STANISH: And is that something you can agree with?

PROSPECTIVE JUROR NO. 725: Yeah, that's --

MS. STANISH: All right.

PROSPECTIVE JUROR NO. 725: -- it's --

MS. STANISH: And then the other important concept that Judge Adair mentioned was that the State, the prosecutors over there, they carry the heavy burden of proving beyond a reasonable doubt that these two men are -- are guilty beyond a reasonable doubt. They have to overcome that presumption; do you understand that?

PROSPECTIVE JUROR NO. 725: Mm-hmm.

MS. STANISH: And then lastly, the Defense in our system of justice is not obligated to put on any evidence; do you understand that?

PROSPECTIVE JUROR NO. 725: Yes.

MS. STANISH: All right. Is there anything that I haven't asked you that you think has some bearing on your ability to serve as a fair juror in this case?

PROSPECTIVE JUROR NO. 725: Not that I can think of. I mean, I wrote it -- I think the last sentence on there was why, you know, and I think that's the reason why I -- I want to do this, I want to be a part of it because I would want someone like me who can keep everything aside and go with facts and look at, you know, take the whole thing -- it's the founding of our country, we got to take it serious, you know.

MS. STANISH: Okay. Thank you. And as far as, you know, if you are selected on this jury you're going to be one of the younger members of the jury, do you have any difficulty in sharing your opinions with people who may disagree with you?

PROSPECTIVE JUROR NO. 725: No.

MS. STANISH: Okay. Nothing further, Your Honor.

THE COURT: All right. Mr. Santacroce?

MR. SANTACROCE: Ms. Walker, I just want to say hi.

PROSPECTIVE JUROR NO. 725: Hi. I have nothing to ask you because your last answer touched my heart and I know

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you'll be fair and impartial. So nothing.

THE COURT: Pass for cause?

MR. SANTACROCE: Yep.

THE COURT: All right. Mr. Staudaher or Ms. Weckerly?

MR. STAUDAHER: Just a couple. You said that you went to -- what high school did you go to again?

PROSPECTIVE JUROR NO. 725: It's Desert Roosevelt High School.

MR. STAUDAHER: Where is that -- in Las Vegas?

PROSPECTIVE JUROR NO. 725: Yeah, it's -- it's in North Las Vegas.

MR. STAUDAHER: What was your favorite subject? I think you said English in your --

PROSPECTIVE JUROR NO. 725: Yes.

MR. STAUDAHER: -- thing. Is that the only subject that you really liked, or was it something else, too?

PROSPECTIVE JUROR NO. 725: Probably more the drama. I took a lot of theater. I love that.

MR. STAUDAHER: There's going to be -- the whole trial isn't going to necessarily have a bunch of technical information but there will be some of that that comes across. Is there anything -- and I know you've worked with -- in pre-K and -- and did some things along those lines, but is there anything about that that intimidates you or makes you

think that --

PROSPECTIVE JUROR NO. 725: Oh, not at all.

MR. STAUDAHER: -- it would be a problem for you?

PROSPECTIVE JUROR NO. 725: No, not at all.

MR. STAUDAHER: Okay. And we're not -- you know, clearly, if you didn't understand something you could write -- because you're going to get a chance to ask --

PROSPECTIVE JUROR NO. 725: Yeah.

MR. STAUDAHER: -- questions after we're all done, and if you didn't understand something, would you feel comfortable writing it down?

PROSPECTIVE JUROR NO. 725: I would want to. I want to -- you know, I would want to find out -- if I don't -- even with books, I'll look up the word if I don't quite know the meaning --

MR. STAUDAHER: Perfect.

PROSPECTIVE JUROR NO. 725: -- I would look it up.

MR. STAUDAHER: Okay. That being said, the State has the burden of proof in this case.

PROSPECTIVE JUROR NO. 725: Yes.

MR. STAUDAHER: And you accept that; is that correct?

PROSPECTIVE JUROR NO. 725: Yes.

MR. STAUDAHER: At the end of the trial, after all the evidence is submitted, the Judge is going to give you the law, that's kind of the framework by which you apply the facts

and then go back and render your verdict if you're on the jury, based on that okay?

PROSPECTIVE JUROR NO. 725: Mm-hmm.

MR. STAUDAHER: The State is obligated to prove each element of each crime beyond a reasonable doubt.

PROSPECTIVE JUROR NO. 725: Okay.

MR. STAUDAHER: That means the elements are the subparts of the crimes that we have to prove. If at the end of the trial in your mind you believe that the State has proven each part, each element of each crime beyond a reasonable doubt, can you come back with a guilty verdict?

PROSPECTIVE JUROR NO. 725: I can.

MR. STAUDAHER: Is there any reason philosophical, religious, or otherwise why that might be difficult?

PROSPECTIVE JUROR NO. 725: No, not at all.

MR. STAUDAHER: You won't have any -- any issue where, you know, I can't judge another person because I'm a Christian or something like that?

PROSPECTIVE JUROR NO. 725: No.

MR. STAUDAHER: Okay. And the flip side of that, if we didn't meet our burden would you have a problem voting not guilty?

PROSPECTIVE JUROR NO. 725: No.

MR. STAUDAHER: Pass for cause, Your Honor.

THE COURT: All right. Thank you. Ms. Walker, in a

moment I'm going to excuse you for today. However, you may be selected as a juror in this case. So make sure our bailiff, Kenny, has a phone number where you can be reached, and if we --

PROSPECTIVE JUROR NO. 725: Okay.

THE COURT: -- contact you then you must report to serve as a juror in the trial. For that reason the admonition that I've given several times today about discussing anything relating to the case, reading, watching, listening to any reports of or commentaries on any subject matter relating to the case and forming or expressing an opinion on the trial is still in effect.

Also, before I excuse you I must admonish you that you're not to discuss anything that's transpired in the courtroom with anyone else. That means, my questions, the attorneys' questions, and your answers; do you understand?

PROSPECTIVE JUROR NO. 725: I do.

THE COURT: All right. Thank you. If you'd place the microphone in the chair, and then just check out through the third floor before --

PROSPECTIVE JUROR NO. 725: Okay. With them.

THE COURT: -- you leave for today. All right. Thank you.

PROSPECTIVE JUROR NO. 725: Thank you.

THE COURT: And, Ms. Stanish, for the record, you

didn't indicate whether you passed for cause?

MS. STANISH: We'll pass for cause since his heart was touched.

THE COURT: I know, that was -- I wish everybody said that so we could --

MR. WRIGHT: Yeah, and everybody said it and you believe it. That's what I like.

THE COURT: Yeah. All right. Mr. Wright, you need a few moments with --

MR. WRIGHT: Yes.

THE COURT: -- your client?

Next up is going to be Catherine Goodson, she's the pet owner.

MS. WECKERLY: She was a no-show, I took -- on my thing.

THE COURT: Okay. How about Bhawna Provenzano, 1121. Did she show up?

Badge No. 1121, Provenzano.

Ma'am, come on in and have a seat there in the jury box, please.

THE MARSHAL: There's a handheld microphone on that seat. Just speak into the microphone when you talk, please.

THE COURT: I wanted to follow up -- good afternoon -- on some of your answers. You indicate this is a hardship for you due to your current situation at work, and you're the

manager of your department. Can you elaborate a little bit more on why this would be a hardship?

PROSPECTIVE JUROR NO. 1121: Yeah. So two things. So my husband stays at home, so that's -- I don't know if I put that on there. Second, I am the manager of our area.

THE COURT: Meaning, your husband is not employed?

PROSPECTIVE JUROR NO. 1121: He's not employed.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 1121: For my work situation, I am the manager of our area. We have two people that report to me, and so it would be a hardship to be gone for six weeks, which I think was the original question?

THE COURT: Right. You're the benefits manager at Zappos.com. What do they do -- I mean, I'm sure you must have to take a vacation every now and then. What does your company do when you're not there?

PROSPECTIVE JUROR NO. 1121: So I can't take a vacation for more than, like, a week at a time --

THE COURT: Really?

PROSPECTIVE JUROR NO. 1121: -- so six weeks, I think would be -- I don't know. I mean, I don't know. I haven't asked.

THE COURT: Did you talk -- that's what was my next question. Did you talk to anybody at your work about the possibility that you might have to serve in a lengthy trial?

PROSPECTIVE JUROR NO. 1121: I did. But it's against the law for them to say no.

THE COURT: Well, right, but -- that's true.

PROSPECTIVE JUROR NO. 1121: So they really wouldn't say --

THE COURT: And fortunately --

PROSPECTIVE JUROR NO. 1121: -- anything.

THE COURT: -- we're not, you know, hearing from people, oh, yes, my employer said, I can't discourage you, please, go and serve as a juror. Did they say anything regarding compensation or whether they'd have to bring in a temp to help pick up the slack or anything of that nature?

PROSPECTIVE JUROR NO. 1121: A temp probably couldn't do my job.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 1121: So that wouldn't be possible. As far as pay --

THE COURT: Yes?

PROSPECTIVE JUROR NO. 1121: -- they do pay for the first two weeks --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 1121: -- and then after that it would just be the $40 a day --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 1121: -- which, I think,

would prove to be more of a hardship for us --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 1121: -- just because my husband is not working right now.

THE COURT: And then -- I don't mean to pry, but how much do you make and are you compensated on a salary basis, or hourly?

PROSPECTIVE JUROR NO. 1121: I am compensated on a salary basis. I do make 85,000 --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 1121: -- a year.

THE COURT: But you would only be compensated for two weeks?

PROSPECTIVE JUROR NO. 1121: For two weeks if I didn't work at all --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 1121: -- after that.

THE COURT: Now, as a manager is this the kind of thing where you could maybe work in the evenings or weekends or something like that to, you know, kind of pick up the slack a little bit?

PROSPECTIVE JUROR NO. 1121: I could.

THE COURT: Okay. And then they would pay you according to -- how would they pay you? Let's just say you were able to squeeze in some weekends, some evening work, do

you know how they would --

PROSPECTIVE JUROR NO. 1121: I don't know for sure --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 1121: -- but I would think that I would get my full pay.

THE COURT: Okay. So that's something you would be able to do?

PROSPECTIVE JUROR NO. 1121: Yes.

THE COURT: Okay. And then also you mentioned travel, that you might have some trips coming up, can -- tell me about that.

PROSPECTIVE JUROR NO. 1121: So I have to go to Iowa or Idaho, one of those two --

MS. STANISH: One of those I states.

PROSPECTIVE JUROR NO. 1121: -- they're both the same in my mind. I have to go there on June 20.

THE COURT: I'm sure the people of Idaho and Iowa wouldn't say that.

PROSPECTIVE JUROR NO. 1121: So that's on June --

THE COURT: Okay. You have to go June 22?

PROSPECTIVE JUROR NO. 1121: -- June 20.

THE COURT: June 20?

PROSPECTIVE JUROR NO. 1121: Yeah. And then my husband is going to school right now, that's why he doesn't

work, and he goes to England and that's June 25.

THE COURT: Okay. All right. And how long is your trip June 20?

PROSPECTIVE JUROR NO. 1121: Two days.

THE COURT: Just two days?

PROSPECTIVE JUROR NO. 1121: Yeah.

THE COURT: And what -- I guess I can just look, June 20 would be a Thursday, so you're leaving Thursday, and then what -- Coming back over the weekend?

PROSPECTIVE JUROR NO. 11121: So I think I would leave on Wednesday because I have to be there on June 20.

THE COURT: And then fly back on Friday?

PROSPECTIVE JUROR NO. 11121: I would try and fly back on Thursday.

THE COURT: Okay. Because it's Idaho or Iowa and who needs to spend more than one day in Idaho or Iowa. And you said you -- the name Frank Nemick -- is that it -- sounds familiar but you're not really sure?

PROSPECTIVE JUROR NO. 11121: I think I recognize it from T.V. maybe.

THE COURT: Okay. Any -- he does, I believe, do some PSAs.

PROSPECTIVE JUROR NO. 11121: Oh.

THE COURT: Okay. Anything about, you know, if you heard from Frank Nemick as a -- as a witness as you sit here

right now, would you feel predisposed to believe or disbelieve or listen to his testimony any differently than you would anybody else's testimony?

PROSPECTIVE JUROR NO. 11121: Mmm-mm.

THE COURT: You have to answer --

PROSPECTIVE JUROR NO. 11121: I mean, no.

THE COURT: -- okay. But just for the record.

PROSPECTIVE JUROR NO. 11121: I mean, was that the -- no, I would not feel led by his answer.

THE COURT: Okay. Meaning, can you listen to it like you would anybody else's testimony --

PROSPECTIVE JUROR NO. 11121: Yeah.

THE COURT: -- with an open --

PROSPECTIVE JUROR NO. 11121: Yes.

THE COURT: -- mind? Okay. And then you said you heard about this case from the news, I know the provider reused needles and did not use sanitized needles. Where on the news did you learn about this case?

PROSPECTIVE JUROR NO. 11121: Probably FOX 5 --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 11121: -- because that's what I end up watching.

THE COURT: Okay. And are you a regular local news watcher or just sporadic or what?

PROSPECTIVE JUROR NO. 11121: I just watch the news,

so it doesn't really -- I mean, it's not always FOX 5 --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 11121: -- but yes, I watch the news every day.

THE COURT: Okay. And have you seen stories about this case or related matters, kind of consistently over time or was it more in the past that you saw something? More recently? What?

PROSPECTIVE JUROR NO. 11121: I mean, I think I watched it when it first was in the news. I don't think they've done anything in the news lately --

THE COURT: Okay. That you've --

PROSPECTIVE JUROR NO. 11121: -- that I've seen.

THE COURT: -- okay. Do you think it's a fair statement that the news media often reports things either inaccurately or incompletely?

PROSPECTIVE JUROR NO. 11121: Yes.

THE COURT: Okay. Now, if you're selected to serve as a juror, would you be able to set aside anything you may have seen or heard in the media and base -- base your verdict solely upon the evidence that's presented during this trial? Meaning, the testimony from the witnesses from the witness stand and the exhibits that are admitted into evidence?

PROSPECTIVE JUROR NO. 11121: I would do my best.

THE COURT: Okay. Well, you have some reluctance,

what's the reluctance?

PROSPECTIVE JUROR NO. 11121: I mean, I don't know if I could completely forget everything that I know about the case even if it's wrong.

THE COURT: Right. And obviously we can't erase your memory. But the question really is, you know, even if you're thinking, well, gee, I heard something about this, but there was no evidence about, you know, whatever that might be, you can't then say, oh, well, there was something about this or that and consider that. You have to kind of set it out of your mind, even though, obviously you can't, you know, erase your memory. Is that something you could do?

PROSPECTIVE JUROR NO. 11121: I could.

THE COURT: Okay. And then you -- your opinion you say, I feel as if they should have known better as a licensed physician and probably deserve to go to jail. How strong is that an opinion? I mean, as you sit here today, is that still your opinion?

PROSPECTIVE JUROR NO. 11121: I wouldn't that to be -- I wouldn't want that to be myself, if I was going to go and get a surgery I would want them to take all precautions necessary, and so I do feel strongly about that.

THE COURT: Okay. Well, there is one, you know, one question, I -- Dr. Desai, I don't believe practiced it, you know, would you -- would you choose him as a physician, that's

a different question than, you know, can you be a fair and impartial juror in this case, and as -- as you sit here -- well, first of all, do you understand that in our Constitutional system an accused is presumed innocent unless and until proved guilty beyond a reasonable doubt?

PROSPECTIVE JUROR NO. 11121: I do.

THE COURT: And, you know, we often talk about they're cloaked, almost like an imaginary cloak with the presumption of innocence, and in order to be found guilty that cloak has to be sort of stripped away. As you sit here and you look at them, do you see them as innocent until proven guilty, or do you see Mr. Lakeman and Dr. Desai as something else? Meaning, do you -- as you look at them, do you feel like, oh, well, they're -- they must be guilty or they must have done something wrong or -- do you understand my question?

PROSPECTIVE JUROR NO. 11121: I mean --

THE COURT: Because basically a juror, you know, has to set aside anything they may have seen or heard and kind of start at zero. And by that I mean, zero, you don't know anything about the case and whatever opinion you may have is the -- at the end of the day about these two men has to be based on the evidence.

PROSPECTIVE JUROR NO. 11121: I mean, I don't see it as -- them being -- as being innocent, just because I feel like what happened was not right --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 11121: -- so I don't -- I don't see it as being innocent.

THE COURT: Okay. State do you want to follow up on this issue?

MS. WECKERLY: Just briefly.

THE COURT: Okay.

MS. WECKERLY: And I'm not trying to -- to pick on you --

PROSPECTIVE JUROR NO. 11121: Yeah.

MS. WECKERLY: -- but what -- what's required of jurors, obviously some people are very, you know, avid readers of the newspaper --

PROSPECTIVE JUROR NO. 11121: Yeah.

MS. WECKERLY: -- or watch the news and stuff, but what's required of jurors is that they base their decision on what you hear in the courtroom, not -- not what you may have heard before, and as the Defense -- or as the defendants sit here now, there's been no evidence that you've heard, so they --

THE COURT: Just a lot of talking.

MS. WECKERLY: -- just a lot of talking, and so they would be presumed innocent. And so if you had to -- had to deliberate now you'd have to say they weren't guilty because literally you've heard no evidence. At the end of the trial,

if you were selected to be a juror you'd hear evidence and the Judge would instruct you on the -- the parts of the crime, meaning what we would have to prove in order for someone to find them guilty and then you'd have to impose the reasonable doubt burden on us, meaning, you know, did we prove those elements, not just a little bit, but beyond a reasonable doubt.

And if you were satisfied with that, then you would return a verdict of guilty. The flip side being if you were, like, well, you know, they didn't -- you know, they talked about that but they didn't quite prove it, you'd be required as a juror to follow your oath and return a verdict of not guilty. And all of that, of course, would be based on what you hear in the courtroom versus what you might have heard before you came here.

PROSPECTIVE JUROR NO. 11121: Right.

MS. WECKERLY: Can you do that?

PROSPECTIVE JUROR NO. 11121: I could do that.

MS. WECKERLY: And I -- I'm not sure exactly what you heard or didn't hear, but what -- what isn't allowed is not holding us to that beyond a reasonable doubt burden. And can you tell the court that you would hold us to our burden of proving it beyond a reasonable doubt?

PROSPECTIVE JUROR NO. 11121: Yes.

MS. WECKERLY: Okay. Meaning, if we fell short of

that that you would return a not guilty verdict?

PROSPECTIVE JUROR NO. 11121: That is correct.

MS. WECKERLY: Okay. Even though you kind of have a negative opinion right now?

PROSPECTIVE JUROR NO. 11121: I can put it to the side.

MS. WECKERLY: Okay. And -- and really, I mean, everyone comes -- comes into the courtroom -- some people have knowledge, some people don't, but to be a juror you have to be able to set that aside and -- and assure the Court that you can hold us to that burden, and I -- understanding that you -- you can do that?

PROSPECTIVE JUROR NO. 11121: I can.

MS. WECKERLY: And then you have to just be able to listen to the evidence and fairly evaluate it and then follow the Judge's instructions. Would you be able to do that?

PROSPECTIVE JUROR NO. 11121: Yes.

MS. WECKERLY: And if you think the elements are met, you know, your verdict would be one way. If you think the elements weren't proven your -- your verdict would be the other way. And you can follow what your, I guess, intellectual assessment is of the evidence. Can you do that?

PROSPECTIVE JUROR NO. 11121: Yes.

MS. WECKERLY: Thank you.

THE COURT: Ms. Stanish, you can question on this

issue.

MS. STANISH: I need to discuss with you in more detail what your exposure to the media has been in this case. I understand that you heard about it when the news first -- when the story first broke, shall we say, back in 2008 or so, does that sound correct?

PROSPECTIVE JUROR NO. 11121: That's correct.

MS. WECKERLY: And tell me what you heard at that time that you recall?

PROSPECTIVE JUROR NO. 11121: So, I mean, I think -- so I don't remember all the details of what I heard. I do know that my boss at that time, her husband got a letter and I don't know if it was from the Center, but I know that she was all up in arms about this whole thing.

THE COURT: Who got a letter?

PROSPECTIVE JUROR NO. 11121: My boss at that time.

THE COURT: Oh, your boss got a letter?

PROSPECTIVE JUROR NO. 11121: At that time --

THE COURT: Right.

PROSPECTIVE JUROR NO. 11121: -- well, her husband.

THE COURT: Okay. And when you --

PROSPECTIVE JUROR NO. 11121: And I worked with her and --

THE COURT: -- and she was all up in arms, meaning, upset?

PROSPECTIVE JUROR NO. 11121: -- she was upset.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 11121: So a lot of -- so then I started paying more attention --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 11121: -- at that time.

THE COURT: And then was everything okay with her husband?

PROSPECTIVE JUROR NO. 11121: Yes.

MS. STANISH: Do -- what place were you working --

PROSPECTIVE JUROR NO. 11121: Station Casinos, I was a corporate benefits manager there.

MS. STANISH: And what kind of relationship did you have with your boss?

PROSPECTIVE JUROR NO. 11121: It was just the two of us, so, I mean, we were close.

MS. STANISH: Close working relationship?

THE COURT: Did you socialize at all with her?

PROSPECTIVE JUROR NO. 11121: Yes.

THE COURT: And her husband too, or like you and your husband and --

PROSPECTIVE JUROR NO. 11121: I mean, like, birthday parties.

THE COURT: -- okay.

PROSPECTIVE JUROR NO. 11121: Yeah.

MS. STANISH: So you would socialize with her husband too in these -- at these functions? Birthday parties, what else?

PROSPECTIVE JUROR NO. 11121: Pretty much just birthday parties, baby showers, those kinds of things.

MS. STANISH: And when your boss's husband got that letter, did she express any concern to you about her health?

PROSPECTIVE JUROR NO. 11121: Well, she was mostly concerned about -- about her health at that time, just because I'm sure that -- because I remember she said that they had relations, and she was afraid that she was going to get it, hepatitis C, and so she also went to go get checked and at that point everything was fine.

MS. STANISH: And do you know whether they had to go back for retesting?

PROSPECTIVE JUROR NO. 11121: I don't know that.

MS. STANISH: Do you know whether either one of them became involved in civil litigation?

PROSPECTIVE JUROR NO. 11121: I don't -- I don't know that for sure, but I don't think so.

MS. STANISH: What's the time frame that you worked there? I mean, I think you heard --

PROSPECTIVE JUROR NO. 11121: Eight years.

MS. STANISH: -- eight years. And you left when?

PROSPECTIVE JUROR NO. 11121: 2010.

THE COURT: Is there anything about your co-worker's experience that would, you know, be in your mind or weigh into any decision you might make if you were selected as a juror in this case?

PROSPECTIVE JUROR NO. 11121: I mean, I don't know.

THE COURT: Okay. Let's say you sat on this -- do you still see this former, I guess, former co-worker?

PROSPECTIVE JUROR NO. 11121: I don't see her but, I mean, we talk occasionally.

THE COURT: You talk on the phone or -- okay.

PROSPECTIVE JUROR NO. 11121: Just through Facebook.

THE COURT: Oh, through Facebook?

PROSPECTIVE JUROR NO. 11121: She's -- yeah, she moved away.

THE COURT: If you were a juror in this case and you felt that the State hadn't proven its burden of proof and you voted not guilty, would you have any sort of reluctance to share this with your friend and former co-worker? You know, hey, sorry you -- you and your husband got those letter -- or your husband got that letter, but I sat on a jury and I voted not guilty. Is there anything about your relationship with her that would cause you any sort of reluctance or, you know, whatever?

PROSPECTIVE JUROR NO. 11121: I don't think I would tell her I was on this jury.

THE COURT: At all? Regardless of the verdict?

PROSPECTIVE JUROR NO. 11121: Probably, I would not.

THE COURT: Okay. So even if the jury had voted guilty, you still probably wouldn't tell her?

PROSPECTIVE JUROR NO. 11121: Oh, no -- yeah, I mean, I would not tell her.

THE COURT: Either way?

PROSPECTIVE JUROR NO. 11121: Yeah, I think I would feel bad.

THE COURT: What do you mean you would feel bad?

PROSPECTIVE JUROR NO. 11121: I mean, I -- just because they had an experience with it, so I think I just wouldn't say anything.

THE COURT: Okay. Well, let's say the jury came back guilty, would you share that information with your friend or --

PROSPECTIVE JUROR NO. 11121: Mmm-mm.

THE COURT: -- either way?

PROSPECTIVE JUROR NO. 11121: Yeah, either way.

THE COURT: Okay. Ms. Stanish, go on.

MS. STANISH: You know, even though you've had the law explained to you and you're agreeing that you can set things aside, I have to tell you I'm still concerned about some of your answers, so I want to continue to probe those, if you don't mind?

PROSPECTIVE JUROR NO. 11121: Sure.

MS. STANISH: And there is really no right or wrong answer here. It's really important for us to understand how you feel about this case given your experience, right? So I wanted to go back and understand the sources of your information and things that helped you form this opinion that you wrote on this questionnaire. And we -- we talked about your -- your boss who you socialize with and her husband and their statement to say that they were both very worried when they got this letter?

PROSPECTIVE JUROR NO. 11121: That's true.

MS. STANISH: And I -- you don't want to talk to them about this case, if you were selected and a verdict was returned, you didn't feel comfortable talking to them about this case?

PROSPECTIVE JUROR NO. 11121: I would not feel comfortable talking to them about the case, no.

MS. STANISH: Why?

PROSPECTIVE JUROR NO. 11121: Just because they had a personal involvement in it.

MS. STANISH: Do you feel like you've had some personal involvement in this case since you've had to, I guess, be a shoulder for your boss to cry on?

PROSPECTIVE JUROR NO. 11121: It was so long ago, and they got tested, and everything was fine so I don't know

if it's still an issue with them. I don't know why I would call her up and be like, oh, I'm on this jury --

MS. STANISH: When is the last --

PROSPECTIVE JUROR NO. 11121: -- let me tell you about it.

MS. STANISH: -- all right. When is the last time you spoke with her?

PROSPECTIVE JUROR NO. 11121: It was through Facebook. She's moved away, so maybe, like, two months ago.

MS. STANISH: Okay. And you -- so you -- periodically you communicate with her on Facebook?

PROSPECTIVE JUROR NO. 11121: Yeah, just periodically, like, how are the kids and that sort of thing.

MS. STANISH: In addition to your -- your boss is there anyone else that you know of that had personal experience with the medical clinics that are involved in this case?

PROSPECTIVE JUROR NO. 11121: No, no one --

MS. STANISH: Do you --

PROSPECTIVE JUROR NO. 11121: -- else.

MS. STANISH: -- you don't know anyone else who received a letter?

PROSPECTIVE JUROR NO. 11121: No one else.

MS. STANISH: All right. And let's go back to your exposure to the news because we only talked about the

beginning phase and you have a understanding of what the accusations are in this case. I mean, what you heard this morning was nothing new to you?

PROSPECTIVE JUROR NO. 11121: It was nothing new to me.

MS. STANISH: Right. And the -- did your -- your boss talk about any particular person in the clinic?

PROSPECTIVE JUROR NO. 11121: No.

MS. STANISH: Okay. Didn't name --

PROSPECTIVE JUROR NO. 11121: Just the name of the clinic.

MS. STANISH: -- okay. And did -- when you learned -- when your friend got this letter, you -- I think you mentioned that you followed the news much closer at that point in time?

PROSPECTIVE JUROR NO. 11121: At that point in time I did, but, I mean, if you were to ask me details, I would not remember any of the details. I just know that I remember watching it at that time, and that's --

MS. STANISH: Right.

PROSPECTIVE JUROR NO. 11121: -- about it.

MS. STANISH: It's just that when, you know, witnesses testify, you might have your memory jogged on something that you read or heard about some time ago, so I'm trying to get a good handle on the details of what you

learned.

PROSPECTIVE JUROR NO. 11121: And -- so you know how the news is, right?

MS. STANISH: Sure.

PROSPECTIVE JUROR NO. 11121: So the news will report on something for, like, boom, boom, boom, boom, boom, and then it will just stop, so at that time -- I mean, I probably watched it, I don't -- I watch the news regularly, not every single, like, day, but I watch it multiple times in a week.

MS. STANISH: Are you -- I assume you're Internet savvy?

PROSPECTIVE JUROR NO. 11121: Yes.

MS. STANISH: And do you -- do you use the Internet as a news source at all?

PROSPECTIVE JUROR NO. 11121: More than the T.V.

MS. STANISH: All right. And in this case -- well, what -- what Internet news stations do you follow or look into if there's something --

PROSPECTIVE JUROR NO. 11121: CNN.

MS. STANISH: -- you want to learn about? CNN? Do you -- in this case, given the experience with your -- your boss or friend, did you have -- did you get on the Internet and look anything up?

PROSPECTIVE JUROR NO. 11121: I didn't.

MS. STANISH: Did you see any news stations where you could just, you know, click on a video and see somebody talk about the case?

PROSPECTIVE JUROR NO. 11121: No.

MS. STANISH: So we've talked about the first part of the case when the news still broke and your friend got the letter, now I want to move a little further in time and talk to you about whether you've heard any news in connection with the various civil lawsuits that have been pursued in this matter?

PROSPECTIVE JUROR NO. 11121: I have not seen any news, the latest, except that something -- someone was awarded some millions of dollars to something, but that's the extent of the details that I know. So I have not been following it.

MS. STANISH: All right. You've just heard it in passing?

PROSPECTIVE JUROR NO. 11121: I -- I heard it in passing.

MS. STANISH: Okay. You're going to hear from, you know, I anticipate you're going to hear evidence from people who contracted hepatitis C, and given your experience with your friend and your knowledge of the case, do you think you are going to have difficulties putting aside these opinions that you've expressed in this form, the questionnaire, I mean?

PROSPECTIVE JUROR NO. 11121: I won't.

MS. STANISH: If you were on trial would you want someone like yourself as a juror?

PROSPECTIVE JUROR NO. 11121: I think so because I think that I could be fair -- I mean, I would want someone that was fair.

MS. STANISH: Would you want someone who fills out a questionnaire that voices opinions that are strong opinions against the named defendant?

PROSPECTIVE JUROR NO. 11121: Maybe not, but I was being honest.

MS. STANISH: No, and you know what? Please understand me I'm not -- I'm not trying to be judgmental here, and I'm not trying to put words in your mouth. I really want to know if you can set aside what appears to me to be strong opinions about my client. And so it's important for me for you to be honest.

PROSPECTIVE JUROR NO. 11121: Like I said, I would do my best, and that's just all I can say. I mean, I -- I don't have any opinions, like -- I mean, I have those opinions, yes, about the overall case, but, I mean, I haven't heard any details, so I don't -- I mean, that's all I know is what I heard about on the news. And that's an opinion that I formed a long time ago.

MS. STANISH: Right.

THE COURT: I guess the issue is this, we don't want

someone who has an opinion and then have a burden to, you know, change that opinion in order to start out fairly. What we want is someone who can set aside their opinion, or, you know, what they've heard and, you know, and approach it with an open mind to say, I haven't heard anything that's evidence, you know, all I've heard is -- or I've seen is, you know, is news reports which may or may not have gotten the facts correctly, you know, may be inaccurate, may be exaggerated, what have you.

Set that aside and say, I'm starting at zero here, and I'm going to wait and listen to everything and then see if I can go from zero, which is nothing, to proof beyond a reasonable doubt, you know, up here. And not basing it on any opinion and, you know, if -- if you hear stuff and you're not here to prove, you know, you're down here somewhere then that's not guilty.

Can you -- can you do that or not? I think that's the issue.

PROSPECTIVE JUROR NO. 11121: I can do that.

THE COURT: All right. Go on, Ms. Stanish.

MS. STANISH: Did you have any -- I see that your mom is a licensed practical nurse?

PROSPECTIVE JUROR NO. 11121: Yes.

MS. STANISH: Did you have any discussions with your mother about this case, or your friends that received one of

those letters from the Health District?

PROSPECTIVE JUROR NO. 11121: I didn't. They live in Michigan.

MS. STANISH: Your uncle is an anesthesiologist?

PROSPECTIVE JUROR NO. 11121: Yes.

MS. STANISH: Did you have any discussions with him about this case?

PROSPECTIVE JUROR NO. 11121: I didn't.

MS. STANISH: Pardon me?

PROSPECTIVE JUROR NO. 11121: I did not. They live -- he lives far away, so...

MS. STANISH: Where does he live?

PROSPECTIVE JUROR NO. 11121: New Orleans.

MS. STANISH: All right. And how about your aunt who is a -- in nuclear medicine?

PROSPECTIVE JUROR NO. 11121: She is and I haven't talked to her about it.

MS. STANISH: And what does your sister do at St. Johns Hospital?

PROSPECTIVE JUROR NO. 11121: She's a recruiter and she's going to school right now for physical therapy.

MS. STANISH: Okay. Did you have any discussions with her about this case?

PROSPECTIVE JUROR NO. 11121: No.

MS. STANISH: You have two little ones?

PROSPECTIVE JUROR NO. 11121: Yes.

MS. STANISH: And your husband is a stay-home dad sort of [inaudible]; is that correct?

PROSPECTIVE JUROR NO. 11121: He -- well, he didn't used to be.

MS. STANISH: Yeah, he didn't -- not by choice.

THE COURT: Is he looking for work right now?

PROSPECTIVE JUROR NO. 11121: So he's going to school for his --

THE COURT: Oh, I'm sorry.

PROSPECTIVE JUROR NO. 11121: -- doctorate.

THE COURT: For his what?

PROSPECTIVE JUROR NO. 11121: In -- for his doctorate in business.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 11121: So he's happy he's not working.

MS. STANISH: What kind of work did he used to do, did you say?

PROSPECTIVE JUROR NO. 11121: He's a CPA.

MS. STANISH: All right. Numbers guy. Why did you move from Michigan to Nevada in 2003?

PROSPECTIVE JUROR NO. 11121: Why?

MS. STANISH: Yeah.

PROSPECTIVE JUROR NO. 11121: I have no idea.

MS. STANISH: Pardon?

PROSPECTIVE JUROR NO. 11121: I have no idea.

MS. STANISH: No idea?

PROSPECTIVE JUROR NO. 11121: No. We actually -- I don't know. We picked, like, Arizona, California, Nevada, and a couple of other, like, warm states and then just settled on this one.

MS. STANISH: So you'd rather shovel heat than snow?

PROSPECTIVE JUROR NO. 11121: Yeah. I like it. I mean, we didn't think we'd be here that long.

MS. STANISH: No one ever does. It's like the Hotel California. Have you had any experience with medical professionals that you found to be negative? Or bad experiences with medical personnel is what I'm saying.

PROSPECTIVE JUROR NO. 11121: Just the billing people.

MS. STANISH: I mean, no one really is -- wants to go to a doctor, I assume --

MR. SANTACROCE: Just what? I didn't hear you.

PROSPECTIVE JUROR NO. 11121: Just the billing people.

MS. STANISH: Just the billing people?

MR. SANTACROCE: Billing people?

MS. STANISH: Okay. In what respect?

PROSPECTIVE JUROR NO. 11121: They don't ever get

the bills right.

MS. STANISH: Yeah, it's a bit complicated. Let's see. You say -- you kind of close this by saying, I really don't want to be on this jury due to the time commitment and being so shorthanded at work.

PROSPECTIVE JUROR NO. 11121: That is true.

MS. STANISH: Nothing further, Your Honor. Thank you.

THE COURT: All right. Thank you.

Mr. Santacroce?

MR. SANTACROCE: Thank you. Ms. Provenzano, I want to focus on your feelings and your opinions today, April 30, 2013, at 4:04 p.m., okay? And I know that you probably feel like you're being attacked here, but please, don't feel that way. We're probably going to go over some of the same things you've already gone over in a little different way.

Everybody that walks through that door has opinions and feelings and it's okay to have your feelings. We're not here to judge those feelings, we just need to know what they are and how you firmly believe, okay?

One of the things you said was that you wouldn't forget what you had heard on the news, even if it was wrong. So I want you to explain that to me.

PROSPECTIVE JUROR NO. 11121: I mean, you hear things on the news, and so you just -- you remember how you

remember it -- how they say it.

MR. SANTACROCE: And you remembered hearing on the news that the Clinic used dirty needles or reused dirty needles, correct?

PROSPECTIVE JUROR NO. 11121: I did hear that, yes.

MR. SANTACROCE: So that's something that you wouldn't forget?

PROSPECTIVE JUROR NO. 11121: I wouldn't forget it, but for the purposes of this, I could put my opinion aside.

MR. SANTACROCE: So would the defense attorneys have to prove to you that the Clinic didn't use dirty needles?

PROSPECTIVE JUROR NO. 11121: That's correct.

MR. SANTACROCE: Now, you made another statement. You said that, They should have known better and they deserve to go to jail?

PROSPECTIVE JUROR NO. 11121: I did.

MR. SANTACROCE: That's how you feel right now, April 30, 2013, at this date and time, correct?

PROSPECTIVE JUROR NO. 11121: I feel like a healthcare professional should know better, yes.

MR. SANTACROCE: And that they deserve to go to jail?

PROSPECTIVE JUROR NO. 11121: Well, or receive punishment, yes.

MR. SANTACROCE: And you also believe today, as you sit here, as you expressed earlier, that they are guilty?

PROSPECTIVE JUROR NO. 11121: If what you hear on the news is accurate and they used dirty needles intentionally, yes.

MR. SANTACROCE: So you're going into this process believing that these gentlemen are guilty right now, and not forgetting what you heard, and that they deserve some kind of punishment --

MS. WECKERLY: Your Honor, I --

MR. SANTACROCE: -- is that a fair and accurate statement?

MS. WECKERLY: -- I don't know if you want us to approach? I don't think that --

THE COURT: Yeah, I'm --

MS. WECKERLY: -- accurately reflects what she --

THE COURT: -- I'm not sure --

MS. WECKERLY: -- said.

THE COURT: -- I mean, basically, I think the issue is, you know, as you sit here today, right now, you haven't heard evidence, you haven't heard anything under oath, you don't know what the news media was basing -- or do -- you know, their stories on. Do you, as you sit here today, having no -- heard no evidence, I mean, do you believe, oh, they must be guilty and they should be punished? And, you know, I want to start this trial being -- having to be convinced otherwise that they're not guilty, or, you know, just in your own words,

what do you -- what do you think on that?

PROSPECTIVE JUROR NO. 11121: There's like --

THE COURT: What's your opinion?

PROSPECTIVE JUROR NO. 11121: -- five sides to every story, and the only thing that I've ever heard is from the news. So if the news is right, which they're not always right, but if it is then that's -- then that's what I would feel, but having heard no evidence, I mean, there's five sides to every story, so I don't know.

MR. SANTACROCE: And having no -- heard no evidence, you're basing your opinions on what you heard in the news, correct?

PROSPECTIVE JUROR NO. 11121: That's correct.

THE COURT: Counsel, approach.

(Off-record bench conference.)

MR. SANTACROCE: I have no other questions. Thank you, ma'am.

THE COURT: Thank you. Ms. Weckerly, do you have any additional questions for this perspective juror?

MS. WECKERLY: No. Thank you, Your Honor. We'll pass for cause.

THE COURT: All right. Ms. Provenzano, I'm going to excuse you for today. You may be chosen as a juror in this matter, so the prohibition about speaking about the case, reading, you know, listening to, watching anything relating to

the case, and forming or expressing an opinion is still in effect.

Also, please don't discuss anything that's transpired in the courtroom with anyone else because we don't want you to -- no, basically -- basically, what that means is our -- my questions, the lawyers questions, and your answers; do you understand?

PROSPECTIVE JUROR NO. 11121: Yes.

THE COURT: When you leave today, please check out through the third floor again.

PROSPECTIVE JUROR NO. 11121: Okay. Thank you.

THE COURT: All right. Thank you.

All right. Mr. Santacroce, we'll make our record later. I want to move through a few more jurors at this point. Let's go with Ms. Munford next, 786. Is she here today?

MR. WRIGHT: Can I have some time, please? I mean, we're passing this.

THE COURT: Well, can we wait, though, a couple minutes on -- I've got a few more that are likely --

MR. WRIGHT: No, because he mixes them up.

THE COURT: -- what's that?

MR. WRIGHT: He mixes them up. Therefore, no, I -- I don't --

THE COURT: Oh, okay. Go ahead and --

MR. WRIGHT: -- I don't do the ones --

THE COURT: -- no. No. No, that's fine. I'm just -- the next couple were probably people who were going to be excused, and so I didn't know if he would mix up people who were being excused, but if you need a -- because the next gal, I think, lives in Mesquite. So she's likely to be excused.

MR. WRIGHT: Okay.

THE COURT: But if that's still too confusing for your client, we can take a break now. That's where I was going with this. It's up to you, Mr. Wright. I mean, this gal from Mesquite probably will be excused, but if you need to take a break right now, that's fine.

MS. STANISH: Which one is that, Your Honor?

THE COURT: 786. I believe she's the one from Mesquite if -- unless I'm confused.

MR. STAUDAHER: Yes, that's what it says.

MR. WRIGHT: Okay. We'll take her.

THE COURT: All right. Get Ms. Munford.

Ma'am, come on in and have a seat in the jury box, please.

THE MARSHAL: And there's a handheld microphone in that chair that you can speak into and talk, please.

PROSPECTIVE JUROR NO. 786: Okay.

THE COURT: Good afternoon. I'm looking here at your questionnaire, and it says you're concerned about serving

because your husband works out of town and you have three children at home?

PROSPECTIVE JUROR NO. 786: That is true.

THE COURT: When is your husband out of town?

PROSPECTIVE JUROR NO. 786: Right now he's working down here. He works five days a week for a construction company and they're working in Eureka and Tonopah, sometimes Battle Mountain, so...

THE COURT: Okay. For how long -- when you say "down here," are you talking about Clark County or Vegas or what?

PROSPECTIVE JUROR NO. 786: He's in Vegas today.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 786: But they send them -- because they're doing big jobs all over, so --

THE COURT: Okay. Do you know, I guess, what he's going to be doing in the next couple of weeks?

PROSPECTIVE JUROR NO. 786: No.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 786: That's the -- makes me nervous. You know, I --

THE COURT: That's the problem.

PROSPECTIVE JUROR NO. 786: -- I live in Mesquite, so --

THE COURT: Oh, I see that. And it -- driving back and forth from Mesquite, is that a hardship for you?

PROSPECTIVE JUROR NO. 786: It's not my favorite.

THE COURT: Okay. Do you work at a school in Mesquite or --

PROSPECTIVE JUROR NO. 786: I do.

THE COURT: -- okay. So you normally aren't commuting back and forth to Las Vegas; is that fair?

PROSPECTIVE JUROR NO. 786: That's fair.

THE COURT: All right. I'm going to go ahead and excuse you based on the fact that you live so far away. And, ma'am, before I excuse you, please don't discuss anything that's transpired just now in the courtroom with anybody else, meaning, my questions and your responses and so forth; do you understand?

PROSPECTIVE JUROR NO. 786: I understand.

THE COURT: Okay. Place the microphone in the chair and just check out through the third floor, jury services, before you leave today, okay?

PROSPECTIVE JUROR NO. 786: Okay. Thank you.

THE COURT: Mr. Wright, if you want a moment to confer with your client now -- I knew she was going to be excused --

MR. WRIGHT: Thank you.

THE COURT: -- this last one, go ahead. And then next up we'll do Marisa Brager, 782. She's the student that has school Tuesdays through Thursday.

(Pause in the proceedings.)

THE COURT: All right. Next up is Badge No. 782, Marisa Brager.

Ma'am, come on in and have a seat in the jury box, please.

THE MARSHAL: Right this way.

THE COURT: Good afternoon.

PROSPECTIVE JUROR NO. 782: Hi.

THE COURT: I just wanted to follow up on your questionnaire. You said this would be a hardship for you to serve because you have school Tuesday through Thursday and you work full-time?

PROSPECTIVE JUROR NO. 782: Yes.

THE COURT: Where do you go to school?

PROSPECTIVE JUROR NO. 782: CSN.

THE COURT: And what are your, you know, class schedules Tuesday through Thursday?

PROSPECTIVE JUROR NO. 782: Tuesday morning 9:30 to 10:50 and then 3 -- every 3 weeks 2 to 4:50 on Tuesdays, Wednesday it's 7:30 to 10:30 and then, Thursday 9:30 to 10:50 and then work after that.

THE COURT: Okay. So you work at the salon during the day?

PROSPECTIVE JUROR NO. 782: Yes.

THE COURT: And how are you compensated?

PROSPECTIVE JUROR NO. 782: Hourly.

THE COURT: Hourly?

PROSPECTIVE JUROR NO. 782: Mm-hmm.

THE COURT: Okay. And do you know if your salon pays you if you're doing jury service?

PROSPECTIVE JUROR NO. 782: That I do not know.

THE COURT: Okay. So you didn't talk to anyone --

PROSPECTIVE JUROR NO. 782: No.

THE COURT: -- at your salon?

PROSPECTIVE JUROR NO. 782: No.

THE COURT: How much -- I don't mean to pry, but what do you make an hour?

PROSPECTIVE JUROR NO. 782: 15.

THE COURT: $15 an hour?

PROSPECTIVE JUROR NO. 782: Mm-hmm.

THE COURT: Okay. And who else is in your household that contributes financially?

PROSPECTIVE JUROR NO. 782: I live with my family, so -- yeah.

THE COURT: Okay. So you live with your parents still?

PROSPECTIVE JUROR NO. 782: Mm-hmm.

THE COURT: Okay. And your Tuesday through Thursday schedule, do you have final exams coming up --

PROSPECTIVE JUROR NO. 782: Yes.

THE COURT: -- or anything like that?

PROSPECTIVE JUROR NO. 782: Mid-May finals.

THE COURT: Oh, mid-May finals?

PROSPECTIVE JUROR NO. 782: Mm-hmm.

THE COURT: Okay. What are you -- what are you studying?

PROSPECTIVE JUROR NO. 782: Right now, just general science, and then -- studying for a Bachelors in nutrition at UNLV.

THE COURT: Okay. And you're going to switch to UNLV --

PROSPECTIVE JUROR NO. 782: Yes.

THE COURT: -- after you get your credits?

PROSPECTIVE JUROR NO. 782: Yes, ma'am.

THE COURT: Okay. Counsel, approach.

(Off-record bench conference.)

THE COURT: Ma'am, since you have exams coming up, we are going to go ahead and excuse --

PROSPECTIVE JUROR NO. 782: Okay.

THE COURT: -- you so you don't miss your final --

PROSPECTIVE JUROR NO. 782: Thank you.

THE COURT: -- exams. And one thing before I excuse you, I must admonish you not to discuss anything that's transpired in the courtroom with anyone else, meaning, of course, my questions, your answers, and so forth. Please

place the microphone in the chair, and then just check out through jury services on the third floor.

PROSPECTIVE JUROR NO. 782: Okay. Thank you.

THE COURT: All right. Thank you. Next up is Badge 1-1118, James Shaffer.

MS. WECKERLY: I thought he was a no-show.

THE COURT: He was a no-show. Okay. How about Jason Wilson, Badge No. 549? I think he was from another day, right?

MS. WECKERLY: Yeah -- yes.

THE COURT: James Wilson, Badge 549.

MS. WECKERLY: I think it's Jason.

THE COURT: Oh, yes, Jason. Him too.

MR. SANTACROCE: Who are we on?

THE COURT: Jason Wilson, 549. He was a no-show from a prior day.

Sir, come on in and have a seat there in the jury box, please?

THE MARSHAL: There's a handheld microphone in that third chair, just make sure you speak into it, please.

THE COURT: Good afternoon.

PROSPECTIVE JUROR NO. 549: How you doing?

THE COURT: Where were you the other day that you were supposed to show up?

PROSPECTIVE JUROR NO. 549: Unfortunately, I forgot

about this and I went to work. I was stuck out at the Air Force base and I couldn't get over here.

THE COURT: Okay. But they reached you by phone and told you you'd --

PROSPECTIVE JUROR NO. 549: Actually, I called in when I remembered, I was like, oh, wait, I needed to be here, and --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 549: -- I called your assistant and she said to be here first thing this morning for it.

THE COURT: Okay. So it wasn't that the tape was confusing, it was just that you forgot to call in?

PROSPECTIVE JUROR NO. 549: It -- I actually called in, I just forgot to come.

THE COURT: Okay. And then you said this would be a financial hardship. You're a service tech for Silver State Refrigeration?

PROSPECTIVE JUROR NO. 549: That's correct.

THE COURT: So what is that? You repair heating and cooling units?

PROSPECTIVE JUROR NO. 549: I'm actually a refrigeration technician.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 549: I do commercial

refrigeration, air conditioning, heating equipment. I'm the sole provider for my family, and --

THE COURT: Okay. How are you compensated at your job, meaning --

PROSPECTIVE JUROR NO. 549: Hourly.

THE COURT: -- hourly?

PROSPECTIVE JUROR NO. 549: Yeah.

THE COURT: Okay. Is it a -- is it, just, you show up and they pay you by the hour, or do they pay you according to what service calls you make?

PROSPECTIVE JUROR NO. 549: What calls I make. I only get paid per, it's like ticket time, if I work a job I get paid however many hours I work on that job, and then after I'm done with that job I move onto the next one.

THE COURT: Okay. When do you normally work?

PROSPECTIVE JUROR NO. 549: Like right now, fortunately I'm on call this weekend, I -- I work all the time. I mean, I've been clocking in between 60 and 80 hours a week.

THE COURT: Okay. And what do you make an hour, it's got to be a lot because I know when --

PROSPECTIVE JUROR NO. 549: I make $30 an hour.

THE COURT: -- how much do you make an hour?

PROSPECTIVE JUROR NO. 549: 30.

THE COURT: 30 bucks an hour -- $30 an hour. All

right. And your wife doesn't work?

PROSPECTIVE JUROR NO. 549: She does, but it's just as a fun and, like, get out of the house. She normally takes care of the kids, I've got three children --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 549: -- so this -- while they're at school she goes to Pizza Hut and she works, like, two hours a day, just to get out of the house.

THE COURT: Okay. And what does she do at the Pizza Hut?

PROSPECTIVE JUROR NO. 549: She's a prep cook.

THE COURT: Okay. May I see counsel at the bench?

(Off-record bench conference.)

THE COURT: Since you're the sole support for your family, I'm going to go ahead and excuse you. And before I do that, I must admonish you that you're not to discuss anything that's transpired in the courtroom with anyone else, meaning, my questions, your answers, and so forth; do you understand?

PROSPECTIVE JUROR NO. 549: Absolutely.

THE COURT: All right. Sir, place the microphone in the chair.

PROSPECTIVE JUROR NO. 549: Okay.

THE COURT: And then check back out through jury services.

PROSPECTIVE JUROR NO. 549: Okay.

THE COURT: -- before you leave today.

PROSPECTIVE JUROR NO. 549: So I need -- go back down to the third floor?

PROSPECTIVE JUROR NO.

THE COURT: Correct.

PROSPECTIVE JUROR NO. 549: All right. Thank you.

THE COURT: All right. Next up is Badge 734, John Torres. Is he here today?

THE MARSHAL: Yes.

THE COURT: All right.

Sir, just have a seat in the jury box, please. Good afternoon, sir. I wanted to follow up on a few things that you answered in your questionnaire. You indicated that you know Brunhilda Nosario [phonetic?]

PROSPECTIVE JUROR NO. 734: I'm not sure, but I think that's my friend's mother, maybe.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 734: It's an uncommon name, so I thought it might be her.

THE COURT: Okay. And this friend, how close are you to him or her?

PROSPECTIVE JUROR NO. 734: It would be her son, and I was in the military with him.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 734: I still know him now.

THE COURT: You still know him now? And is it just you've heard the mother's name, or you've actually met the mother at, you know?

PROSPECTIVE JUROR NO. 734: I've met the mother.

THE COURT: Okay. And what does this woman look like?

PROSPECTIVE JUROR NO. 734: Hispanic, older.

THE COURT: Okay. Older, meaning, like, 70? Or older, meaning 45?

PROSPECTIVE JUROR NO. 734: Late 50's.

THE COURT: Late 50's?

PROSPECTIVE JUROR NO. 734: 60's.

THE COURT: Okay. And do you know what the Brunhilda Nosario that you know does for a living?

PROSPECTIVE JUROR NO. 734: I don't know what his mother does for a living.

THE COURT: Okay. But it's a local -- a local woman?

PROSPECTIVE JUROR NO. 734: Yes.

THE COURT: Okay. Counsel, approach.

(Off-record bench conference.)

THE COURT: And then it also says -- do you know anyone who received a notification?

PROSPECTIVE JUROR NO. 734: I believe my father did.

THE COURT: You think your father did? Okay. And did he tell you about that, or why do you think that --

PROSPECTIVE JUROR NO. 734: He told me he got a letter and he has to go get checked for hepatitis or HIV, I'm not sure --

THE COURT: Okay. And --

PROSPECTIVE JUROR NO. 734: -- and I have a friend -- Jason Lujan told me the same.

THE COURT: -- okay. And do you know if your father's been checked yet?

PROSPECTIVE JUROR NO. 734: He didn't tell me, so I'm not sure if he didn't want to tell me or he got checked or --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 734: -- I just assumed it was all good because he didn't tell me anything.

THE COURT: Okay. Because you didn't hear anything else?

PROSPECTIVE JUROR NO. 734: Yeah.

THE COURT: And so do you believe your father was a patient at the Endoscopy Clinic?

PROSPECTIVE JUROR NO. 734: Yes.

THE COURT: Okay. And then you also say that you are familiar with this, that the Clinic gave people HIV and hepatitis C because of unclean conditions. What do you -- where did you get that information?

PROSPECTIVE JUROR NO. 734: I had -- well, after it

happened I saw it on T.V. and then I looked into it after my dad told me that he might be infected.

THE COURT: Okay. By "looked into it" did you do research on the --

PROSPECTIVE JUROR NO. 734: Yeah, like, Googled it and looked it up on the Internet.

THE COURT: Okay. And then your opinion that they cut corners to make money and get people sick, where did you get that idea?

PROSPECTIVE JUROR NO. 734: That's just my own assumption on when I -- the conclusion I came up with, the information that I found on the Internet.

THE COURT: Okay. Now, your father was a patient, he had to go through --

PROSPECTIVE JUROR NO. 734: I think he had a colonoscopy.

THE COURT: -- getting the letter and all of that? Could you set all that aside if you're selected as a juror? Do you feel like you'd still be thinking of your father and his experiences as of --

PROSPECTIVE JUROR NO. 734: I think it would be in the back of my mind the whole time.

THE COURT: -- okay. State, do you want to follow up on any of these things?

MS. WECKERLY: No, I'll submit it on this.

THE COURT: Okay. All right. Sir, we're going to go ahead and -- and excuse you at this point. Please don't discuss anything that's transpired in the courtroom with anyone else, meaning, my questions, your answers, and so forth. And go back and check out through the third floor. Okay?

PROSPECTIVE JUROR NO. 734: Thank you, ma'am.

THE COURT: Thank you, sir.

PROSPECTIVE JUROR NO. 734: Thank you very much.

THE COURT: Next up we're going to do Badge 754, Tristan Pierson.

THE CLERK: No-show.

THE COURT: Okay. How about Badge 793, Kathleen Butler?

MR. STAUDAHER: And, Your Honor, on the --

THE COURT: And that --

MR. STAUDAHER: -- on the record --

THE COURT: -- for the record is, I'm assuming the Defense was going to challenge him for cause as they've been doing other people who had family members?

MR. WRIGHT: Yes.

THE COURT: All right. Ma'am, come on in and have a seat there in the jury box, please.

THE MARSHAL: There's a handheld microphone over on that near chair, if you could speak into it when you talk,

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please?

PROSPECTIVE JUROR NO. 793: This?

THE MARSHAL: Nope, right behind you.

THE COURT: Oh, no, the handheld.

PROSPECTIVE JUROR NO. 793: Oh.

THE COURT: Good afternoon.

PROSPECTIVE JUROR NO. 793: Hi.

THE COURT: On your jury questionnaire, you indicate that it may be difficult for you to serve because you're supposed to babysit your grandkids in California --

PROSPECTIVE JUROR NO. 793: Yes.

THE COURT: -- the second or third week in May and that the issue was pending?

PROSPECTIVE JUROR NO. 793: Yes.

THE COURT: You've now -- it's been a couple weeks since you filled out the -- a few weeks -- since you filled out the questionnaire, do you have any more information on this babysitting need?

PROSPECTIVE JUROR NO. 793: Yes, in May I generally babysit for my daughter -- my two grandkids because her husband goes back to Cleveland in -- for two weeks because his sister has MS and she's really taken a turn for the worse. So I'm supposed to babysit the 12th through the 20th to the 24th possibly.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 793: But definitely the 12th to the 20th. But then this has been going on, so we're still waiting to hear.

THE COURT: Okay. Waiting to -- I'm sorry, waiting to hear what?

PROSPECTIVE JUROR NO. 793: If I have jury duty.

THE COURT: Okay. And she doesn't quite know what she'll do if that happens?

PROSPECTIVE JUROR NO. 793: No.

THE COURT: Okay. Now, you would need to babysit, why? Because your daughter works or --

PROSPECTIVE JUROR NO. 793: Oh, she works full-time and she travels for the University of San Francisco.

THE COURT: Okay. And so is that why you would need to babysit?

PROSPECTIVE JUROR NO. 793: Yes.

THE COURT: Okay. And does your son-in-law -- is he still planning to travel to visit the sister with MS?

PROSPECTIVE JUROR NO. 793: Yes.

THE COURT: Okay. And then if you did have to serve as a juror you're not sure what your daughter would do, meaning, she might have to what, not travel for work, or --

PROSPECTIVE JUROR NO. 793: He might have to stay home because she definitely has to travel for work.

THE COURT: -- okay. And does he work outside of the

home, too, or do the kids have daycare when they're both working? How does that --

PROSPECTIVE JUROR NO. 793: He got -- right now he's laid off.

THE COURT: -- okay. So he provides the child care?

PROSPECTIVE JUROR NO. 793: Right.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 793: And financially, they're a little tight, so they -- that's part of the problem with day care.

THE COURT: Okay. May I see counsel at the bench?

(Off-record bench conference.)

THE COURT: Ma'am, in view of your family situation, I'm going to go ahead and excuse you at this point.

PROSPECTIVE JUROR NO. 793: Okay.

THE COURT: And before I do, I must admonish you, don't discuss anything that's transpired in the courtroom with anyone else, meaning, my questions, your answers, and so forth --

PROSPECTIVE JUROR NO. 793: Okay.

THE COURT: -- do you understand?

PROSPECTIVE JUROR NO. 793: Yes.

THE COURT: All right. Thank you, ma'am. And before you leave today, please just check back out through jury services.

PROSPECTIVE JUROR NO. 793: Okay. Thank you.

THE COURT: All right. Thank you. Next up is Badge 796, Lisa Manley.

Ma'am, just have a seat in the jury box, please. You look worn out from sitting out in the hallway all day?

PROSPECTIVE JUROR NO. 796: I am, actually. I'm too old.

THE COURT: All right. I just wanted to follow up on some answers that you gave in your questionnaire. You say you don't remember details, but you heard something on the news about doctors reusing needles and you weren't even sure if it was the same clinic or doctors. Now that you've heard what the case is about, does that jar any memory for you?

PROSPECTIVE JUROR NO. 796: Yes.

THE COURT: Okay. What news station, if you remember, do you think you saw something about this?

PROSPECTIVE JUROR NO. 796: I really couldn't recall it, just at the gym sometimes -- I don't really watch the whole news --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 796: -- just at times, if you just flip past it at the gym.

THE COURT: Okay. So, like, you're on the treadmill and somebody else --

PROSPECTIVE JUROR NO. 796: Yes.

THE COURT: -- is watching --

PROSPECTIVE JUROR NO. 796: I never have read a complete article about it or watched a complete newscast about it.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 796: Just kind of in passing.

THE COURT: And is this something you think you saw a while ago?

PROSPECTIVE JUROR NO. 796: Yes.

THE COURT: Or not recently?

PROSPECTIVE JUROR NO. 796: Yeah, a long time ago. I thought it was something way in the past.

THE COURT: Okay. Way in the past? And you said you haven't formed any opinion; is that true?

PROSPECTIVE JUROR NO. 796: That's true.

THE COURT: And as you've heard the talk earlier this morning, is that still true you don't have any opinion?

PROSPECTIVE JUROR NO. 796: That really is true.

THE COURT: Okay. If -- do you think it's a fair statement that the news media often reports things either incompletely or inaccurately?

PROSPECTIVE JUROR NO. 796: Yes.

THE COURT: If you're selected as a juror and you remember something that you heard or saw in the news media, would you be able to set that aside and base your verdict

solely upon the evidence that's presented during the trial? And by "evidence" I mean testimony from the witness stand and the exhibits that are admitted, such as photographs and documents and things like that?

PROSPECTIVE JUROR NO. 796: Absolutely.

THE COURT: All right. Thank you. Ms. Stanish, you may follow up with Ms. Manley.

MS. STANISH: Thank you, Your Honor.

I understand that you've heard a few things here and there on this case, but doesn't sound like a lot of detail. Had you any discussions with anybody about this case?

PROSPECTIVE JUROR NO. 796: No, I -- it wasn't that interesting to me. It just wasn't something I had -- really had talked about to anyone, you know?

MS. STANISH: I understand. I notice that you had a -- your husband is a pharmacist and your best friend is a CNA in Pahrump, so I -- that's why I asked that question whether you had any conversations with people who know something about medicine, about this case?

PROSPECTIVE JUROR NO. 796: No.

THE COURT: All right. Have you had any personal experience that is -- a negative experience, I should say, with anybody in the medical profession?

PROSPECTIVE JUROR NO. 796: No.

MS. STANISH: Just bear with me, I'm flipping through

your questionnaire. It doesn't look like you know -- you have any knowledge or know of anybody who -- all these many, many people who were listed in the case, correct?

PROSPECTIVE JUROR NO. 796: Correct. I don't know any of them.

MS. STANISH: Thank you. They're taping this, though, we need to have an audible answer --

PROSPECTIVE JUROR NO. 796: Okay.

MS. STANISH: -- if you will.

PROSPECTIVE JUROR NO. 796: Sorry.

MS. STANISH: That's all right. This case is probably going to last through the month of May and into June. Does that present any issues for you?

PROSPECTIVE JUROR NO. 796: I'm a realtor and my issue is -- it comes as it comes, like, right now I can't tell and in -- summers are usually really busy for me and there's no doubt it's going to be probably -- might lose some commission or some business not being able to be available. Is this something, like -- is this something that would be all day, every single day for all those days? Is that how it works?

THE COURT: Typically it is. We try to end by 5, and then start times will probably be around -- sometime between 9 and 10, depending on the day.

PROSPECTIVE JUROR NO. 796: So, yeah, I mean, I'm --

it's not going to be, like, my most ideal situation to be somewhere for that many weeks, but I do have a profession that can work on the weekends and evenings, unfortunately.

MS. STANISH: Unfortunately?

PROSPECTIVE JUROR NO. 796: I'm just being honest.

MS. STANISH: Then, oh, thank you.

THE COURT: If only you weren't under oath.

PROSPECTIVE JUROR NO. 796: I know. I'm just being honest.

MS. STANISH: That's fine. Thank you.

THE COURT: That's why we put you under oath.

MS. STANISH: That's right. You were -- you have a background in bookkeeping?

PROSPECTIVE JUROR NO. 796: I do.

MS. STANISH: And could you describe that for us, just overview it?

PROSPECTIVE JUROR NO. 796: I just -- I, you know, got a job when I was 16 doing accounting, and I just kind of worked my way up to, like, office manager, doing, like, payroll, books, and accounts receivable, accounts -- all that kind of stuff, put my husband through college doing that, and then stayed home for a while being a stay-at-home mom, then went into real estate.

MS. STANISH: Looks like you have your hands full there, still do?

PROSPECTIVE JUROR NO. 796: Still have two boys at home.

MS. STANISH: Yeah. All right.

PROSPECTIVE JUROR NO. 796: And one granddaughter.

MS. STANISH: Very good. And you served on the federal grand jury?

PROSPECTIVE JUROR NO. 796: I did.

MS. STANISH: And that was about five or six years ago and you did so for six months?

PROSPECTIVE JUROR NO. 796: Correct.

MS. STANISH: What happened that you only served for six months?

PROSPECTIVE JUROR NO. 796: It was the -- you know how it was down the tier -- it was the last six months of their three-year term, and they just -- they bring you in at the beginning, and then as soon as people start dropping out of the federal grand jury they bring you in as a replacement. And so by the time I was called they just had six months left. And so I served the last six, but I -- when I originally came in it was at the beginning of the three years, but I was like an alternate, and they bring you in when they drop out.

So it got to me at the last six months. So it was like every Tuesday for six months. It was a long time.

MS. STANISH: All right. And that was over -- over six years? Do you know how long ago it was?

PROSPECTIVE JUROR NO. 796: You know, I'm bad at time, but I don't -- I would -- let's see. Maybe -- maybe five -- I don't know. I really couldn't tell in exact years, but probably more like five years.

MS. STANISH: Okay.

PROSPECTIVE JUROR NO. 796: With -- I don't think it's over six.

MS. STANISH: All right. And do you have any religious or philosophical beliefs that would factor into your ability to serve as a juror?

PROSPECTIVE JUROR NO. 796: No.

MS. STANISH: Nothing? Okay. Basically, you feel comfortable following what the Judge tells you as the --

PROSPECTIVE JUROR NO. 796: Oh, yes.

MS. STANISH: -- jury instructions? All right.

PROSPECTIVE JUROR NO. 796: Absolutely.

MS. STANISH: Is there anything that wasn't asked of you in the jury questionnaire or by me that you think we should know that would factor into your ability to serve fairly as a juror in this case?

PROSPECTIVE JUROR NO. 796: No.

MS. STANISH: You heard the Judge this morning discuss a couple of legal concepts, the first one being that these two individuals are considered -- are presumed to be innocent. Is that a concept that you can agree with?

PROSPECTIVE JUROR NO. 796: Yes.

MS. STANISH: And the second, kind of related concept is that the prosecutors -- the -- have the burden of proof beyond a reasonable doubt, which is different than when you were a grand juror and they only had to show, you know, probable cause. This is a reasonable doubt standard.

PROSPECTIVE JUROR NO. 796: Right.

MS. STANISH: So you understand the --

PROSPECTIVE JUROR NO. 796: I understand the difference.

MS. STANISH: -- sure. And do you understand that the State has to prove beyond a reasonable doubt that these men are guilty, they have to overcome that presumption of innocence?

PROSPECTIVE JUROR NO. 796: Yes.

MS. STANISH: And that the defendants -- us attorney types, we don't have to put on any evidence whatsoever, the burden entirely resides with the State?

PROSPECTIVE JUROR NO. 796: Right.

MS. STANISH: And can you agree to follow that? You wouldn't expect this defendants to put on any evidence?

PROSPECTIVE JUROR NO. 796: Evidence to prove that you're innocent, you mean?

MS. STANISH: Yeah.

PROSPECTIVE JUROR NO. 796: Right. That's --

they're -- they have to -- yeah, right, they're supposed to prove it, right?

MS. STANISH: You got it.

PROSPECTIVE JUROR NO. 796: Okay. I get that. I get that.

MS. STANISH: Okay. Great. I have nothing further, Your Honor. Thank you.

THE COURT: All right. Thank you.

Mr. Santacroce?

MR. SANTACROCE: Thank you. Good afternoon, Ms. Manley.

PROSPECTIVE JUROR NO. 796: Good afternoon.

MR. SANTACROCE: When did you serve on the federal grand jury?

PROSPECTIVE JUROR NO. 796: Really, it's around five years ago.

MR. SANTACROCE: Five years?

PROSPECTIVE JUROR NO. 796: I'm just assuming.

MR. SANTACROCE: Okay.

PROSPECTIVE JUROR NO. 796: I'm sorry. I just --

MR. SANTACROCE: And you were only on there for six months, right?

PROSPECTIVE JUROR NO. 796: For six -- yeah, the last six months of their term.

MR. SANTACROCE: And how many cases did you hear

during that six months?

PROSPECTIVE JUROR NO. 796: Every single Tuesday we heard several, so...

MR. SANTACROCE: Several each Tuesday?

PROSPECTIVE JUROR NO. 796: Yeah.

MR. SANTACROCE: Wow. How is it that you got picked to serve on the federal grand jury?

PROSPECTIVE JUROR NO. 796: You come in and there's a big roulette wheel --

MR. SANTACROCE: I'm sorry?

PROSPECTIVE JUROR NO. 796: -- you come in and there's, like, a big roulette wheel, Las Vegas style, literally, and they just drew our numbers out of that in a row, and just numbered us all in a row with these numbers. And they said --

MR. SANTACROCE: And that was it?

PROSPECTIVE JUROR NO. 796: -- the first this many -- this many and they -- you got -- and they asked us questions, you know, I can't remember but -- and then that's how they got on it, and then we -- I got as an alternate, thinking that -- because I was so far down in numbers I'd never ever be called.

MR. SANTACROCE: Just like today?

PROSPECTIVE JUROR NO. 796: Yeah. And then I was surprised that long after, you know, I -- you know, it was two

and a half years after that I had gone in there where they called and said your number is up, you get to come in.

MR. SANTACROCE: Wow.

PROSPECTIVE JUROR NO. 796: So that's the lucky thing I did.

MR. SANTACROCE: Lucky for you. Which realty company do you work for?

PROSPECTIVE JUROR NO. 796: It's called Newcastle Realty.

MR. SANTACROCE: And your husband is a pharmacist?

PROSPECTIVE JUROR NO. 796: He is.

MR. SANTACROCE: Did you ever get into a discussion with him about the product liability case that's sort of related to this?

PROSPECTIVE JUROR NO. 796: No.

MR. SANTACROCE: You know nothing about that?

PROSPECTIVE JUROR NO. 796: Product liability case?

MR. SANTACROCE: Yeah.

PROSPECTIVE JUROR NO. 796: No, we didn't. I don't know about that, I guess.

MR. SANTACROCE: Do you know anything about any of the civil cases that are related to the hepatitis C outbreak?

PROSPECTIVE JUROR NO. 796: Kind of embarrassing that I don't, I guess.

MR. SANTACROCE: No, I'm not -- I don't mean to -- I

don't mean to put you on the spot.

PROSPECTIVE JUROR NO. 796: I don't -- you know, the only thing I -- because I went in to the first thing that -- the little questionnaire that we had to fill out, I remember coming home and I saw on the front page of my newspaper because I get the newspaper -- I don't usually read it, my husband does -- and it said something about a jury awarded some money for some case, and so I thought, it might have to do with this, I better not read it, literally, and that's what -- all I know.

MR. SANTACROCE: Great. Have you ever served on a jury other than the federal grand jury before?

PROSPECTIVE JUROR NO. 796: No.

MR. SANTACROCE: And I think Ms. Stanish asked you all the questions about the presumption of innocence. As you sit here today, do you have any feelings as to whether Mr. Lakeman or Dr. Desai are guilty or innocent?

PROSPECTIVE JUROR NO. 796: No, I don't know.

MR. SANTACROCE: I don't have any further questions. Thank you.

THE COURT: All right. Thank you.

State? Ms. Weckerly?

MS. WECKERLY: Just briefly. I think I missed -- so I apologize, where you worked as a bookkeeper?

PROSPECTIVE JUROR NO. 796: There was a -- here in

Las Vegas because I've lived here my whole life, I was born here. It was a company called Sacon Construction. It was, like, a construction company.

MS. WECKERLY: Okay.

PROSPECTIVE JUROR NO. 796: Then in Albuquerque another place called Bradbury and Stamm in Albuquerque, New Mexico.

MS. WECKERLY: And the way I understood it is that was sort of self-taught, is that --

PROSPECTIVE JUROR NO. 796: They did, they taught me on the job, and I just learned it and then learned how to do all -- yes, I did not go to college for that, I just learned it from --

MS. WECKERLY: Okay.

PROSPECTIVE JUROR NO. 796: -- them teaching it to me.

MS. WECKERLY: And I assume you're pretty good with details to be able to catch on and do that type of work?

PROSPECTIVE JUROR NO. 796: Yes.

MS. WECKERLY: Okay.

PROSPECTIVE JUROR NO. 796: Because they made me the office manager by the time I was 18 and I was over there doing it.

MS. WECKERLY: So they give you a lot of responsibility --

PROSPECTIVE JUROR NO. 796: Yeah.

MS. WECKERLY: -- when you were young?

PROSPECTIVE JUROR NO. 796: Yes.

MS. WECKERLY: And when you were the office manager were you still doing bookkeeping-type tasks --

PROSPECTIVE JUROR NO. 796: Yes.

MS. WECKERLY: -- or -- and I assume in addition to other things?

PROSPECTIVE JUROR NO. 796: Right. Yeah, hiring, firing, managing the office, doing -- doing all the bookkeeping for the house.

MS. WECKERLY: As an 18 year old being in charge of hiring and firing, was that --

PROSPECTIVE JUROR NO. 796: That was -- I looked back and I made some errors. Just because I didn't know what I -- you know, that was kind of young to be put in that big -- and now I'm 46, so there's a big difference.

MS. WECKERLY: Yeah. I mean, was it -- was that hard for you or do you think it --

PROSPECTIVE JUROR NO. 796: No, I -- it wasn't really hard. I -- you know, I am the oldest of eight children. I've just kind of been more in charge a lot of times as far as that, so I haven't really been -- that wasn't really, like, daunting. I just kind of did it.

MS. WECKERLY: And as the oldest of eight, you

probably helped raise the --

PROSPECTIVE JUROR NO. 796: I did.

MS. WECKERLY: -- younger ones?

PROSPECTIVE JUROR NO. 796: I did.

MS. WECKERLY: The -- the last thing I wanted to ask you about was you moved kind of from -- from bookkeeping and then you were the stay-at-home mom, and then you work -- you work on your own, right? I mean, you're --

PROSPECTIVE JUROR NO. 796: I do.

MS. WECKERLY: -- you set your own hours and --

PROSPECTIVE JUROR NO. 796: I do.

MS. WECKERLY: -- do you like that better than working --

PROSPECTIVE JUROR NO. 796: I do. Absolutely.

MS. WECKERLY: -- is it because of being able to balance that with your family?

PROSPECTIVE JUROR NO. 796: I can. I can make whatever -- move that around, whatever I need. That's why I like real estate.

MS. WECKERLY: And that's worked out great for this too --

PROSPECTIVE JUROR NO. 796: It has.

MS. WECKERLY: -- right?

PROSPECTIVE JUROR NO. 796: For this -- yeah, I know.

MS. WECKERLY: But all sort of joking aside, you did indicate that you could give us your attention and maybe do your appointments on the weekend and --

PROSPECTIVE JUROR NO. 796: Yes.

MS. WECKERLY: -- yes. Reluctantly, yes.

THE COURT: Reluctant.

PROSPECTIVE JUROR NO. 796: Reluctantly. Make a note of that in the courtroom.

MS. WECKERLY: Yeah. It's in an audio and a typed transcript.

PROSPECTIVE JUROR NO. 796: Okay.

MS. WECKERLY: But you can -- you can --

PROSPECTIVE JUROR NO. 796: I would -- I would have to -- yes. I believe in our system enough to know that we just need to do our duty, but even though -- it really will cause me -- I will lose money over it, but, you know, whatever. That's beside the point.

MS. WECKERLY: Okay. I appreciate it. Thank you. Your Honor, I'll pass for cause.

THE COURT: All right, ma'am. Thank you. I'm going to excuse you for today, but you may be selected as a juror in this case. So for that reason the admonition still applies about not discussing the case, reading, watching, listening to any reports of or commentaries on any subject matter relating to the case, and forming or expressing an opinion on the case.

Additionally, please don't discuss what's transpired with anyone else, meaning, my questions, the lawyers questions, and your answers --

PROSPECTIVE JUROR NO. 796: Okay.

THE COURT: -- do you understand?

PROSPECTIVE JUROR NO. 796: I do.

THE COURT: And just check back out through jury services and if we contact you and tell you you've been selected, then you must report for service when we tell you to.

All right. Thank you, ma'am. Just follow Kenny from the courtroom.

PROSPECTIVE JUROR NO. 796: Thank you.

THE COURT: All right. For the record, are you passing for cause?

MR. WRIGHT: Yes.

MR. SANTACROCE: Yes.

THE COURT: Mr. Santacroce? All right. She goes in the pile. And, Mr. Wright, are you requesting some time to confer with your client, Dr. Desai?

MR. WRIGHT: Yes, Your Honor.

THE COURT: All right. We'll give you a few moments to confer privately in the vestibule area before we call in Badge 660, Karen Parnell.

THE CLERK: She was a no-show.

THE COURT: Oh.

MR. SANTACROCE: She was a no-show?

THE CLERK: Correct.

MS. WECKERLY: She's a no-show.

THE COURT: All right. What about -- who's left?

MS. STANISH: 726, 779 --

(Marshal confers with the Court.)

THE COURT: Badge No. 1-1114, Rebecca Robinson-Villafuerte.

We'll finish tomorrow, for sure. I thought we'd finish today, but I think we'll finish tomorrow, for sure.

Ma'am, have a seat in the jury box, please.

THE MARSHAL: There's a handheld microphone in that second chair. Just make sure you speak into it when you talk, please.

PROSPECTIVE JUROR NO. 1114: Okay.

THE COURT: Good afternoon, ma'am.

PROSPECTIVE JUROR NO. 1114: Good afternoon.

THE COURT: I want to follow-up on some of your answers here in the questionnaire. You said your mother, Gloria Robinson was a patient at the Endoscopy Center and she was part of a group who were screened for the reuse of instruments and needles. Did she receive one of the letters from the Health Department?

PROSPECTIVE JUROR NO. 1114: Yes, she did.

THE COURT: Okay. And I'm assuming -- did she discuss that with you when she received it?

PROSPECTIVE JUROR NO. 1114: Yes, my mother lived with me.

THE COURT: Okay. So you were --

MR. SANTACROCE: I didn't hear that. I'm sorry.

THE COURT: -- her mother lived with her.

MS. STANISH: Oh.

MR. SANTACROCE: Oh.

THE COURT: And, I'm sorry, but I see she passed away from brain cancer?

PROSPECTIVE JUROR NO. 1114: Yeah, she did.

THE COURT: Was she suffering from that when she was living with you or no?

PROSPECTIVE JUROR NO. 1114: She started with brain cancer March 2012.

THE COURT: Okay. And then how did she feel or how did she react to getting the letter from the Endoscopy Center?

PROSPECTIVE JUROR NO. 1114: Was very upset.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 1114: It was very grueling for our entire family.

THE COURT: It was a grueling time for your entire family?

PROSPECTIVE JUROR NO. 1114: Yes, it was.

THE COURT: And so would you say that that was personally upsetting for you as well?

PROSPECTIVE JUROR NO. 1114: Yes, it was.

THE COURT: Okay. State, submit it?

MR. STAUDAHER: Yes, Your Honor.

THE COURT: All right. Ma'am, in view of the fact that you've had a personal impact that was emotional for you, I'm going to go ahead and excuse you. Before I do that, sorry you've been here all day, but it's part of the process.

PROSPECTIVE JUROR NO. 1114: Thank you, Your Honor.

THE COURT: Before I excuse you, though, I must admonish you not to discuss anything that's transpired in the courtroom with anyone else, meaning, my questions, your answers, and so forth.

All right. Thank you, ma'am.

PROSPECTIVE JUROR NO. 1114: Yes, Your Honor.

THE COURT: Please place the microphone in the chair, and before you leave today, check out through the third floor.

PROSPECTIVE JUROR NO. 1114: Thank you.

THE COURT: Okay. Thank you. Next up, we'll go with Badge No. 809, Karie Lynn Holquin.

Good afternoon, ma'am. If you'd just have a seat, please, up here in the jury box?

THE MARSHAL: There's a handheld microphone on that second chair, if you could just speak into it when you talk,

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I'd appreciate it.

THE COURT: Good afternoon, ma'am. I want to follow up on some of your answers in the questionnaire. On these list of potential witnesses you've indicated that you've heard of a number of them, John Eckert, Frank Farris, Sarah Gaskell, et cetera. How is it that you've heard of so many of these people?

PROSPECTIVE JUROR NO. 809: The doctor for whom I worked in La Jolla, California, Dr. Craig Dever, was consulted before the defendants opened their practice about the place of the building and procedures.

THE COURT: Okay. What do you mean "the place of the building and procedures."

PROSPECTIVE JUROR NO. 809: On Shadow Lane, Las Vegas.

THE COURT: Okay. And what, exactly, kind of advice or opinion did your doctor give?

PROSPECTIVE JUROR NO. 809: He put them in touch with some of the employees who worked in the back office --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 809: -- and they explained our office procedures to them.

THE COURT: Meaning, like, billing practices and things like that?

PROSPECTIVE JUROR NO. 809: Yes, and back office

procedures.

THE COURT: Okay. And these are just, what, employees that contacted your doctor, or how have you heard of these names?

PROSPECTIVE JUROR NO. 809: I heard of those names while they were discussing assisting the defendants in opening their practice in Las Vegas.

THE COURT: Okay. And then it says you've heard about a possibility in the hep C outbreak by word of mouth while vacationing with some Lakes Crossing Center employees, and then it looks like in 1980?

PROSPECTIVE JUROR NO. 809: Yes, Your Honor.

THE COURT: You heard about this in 1980?

PROSPECTIVE JUROR NO. 809: Yes, Your Honor.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 809: I am not friends with them any longer. I went with a neighbor of mine.

THE COURT: Okay. Obviously 1980 is long before the hepatitis C outbreak that -- that we're talking about in this case. Are you sure it's the same Center that you heard something about, or --

PROSPECTIVE JUROR NO. 809: I could be mistaken, Your Honor.

THE COURT: -- okay. And these Lakes Crossing Center employees, what did they tell you?

PROSPECTIVE JUROR NO. 809: It was so long ago, I just remember them discussing hepatitis C.

THE COURT: Okay. Why did you think when you were filling out the questionnaire that it was related to this case?

PROSPECTIVE JUROR NO. 809: I thought I recognized the names from then.

THE COURT: Okay. And who do you know at Lakes Crossing?

PROSPECTIVE JUROR NO. 809: I have been there twice.

THE COURT: Oh, you've been there twice as a patient?

PROSPECTIVE JUROR NO. 809: Yes, Your Honor.

THE COURT: Oh. Oh, okay. Was that -- okay. I see. May I see Counsel at the bench?

(Off-record bench conference.)

THE COURT: Ma'am, since you may know or know of some of the witnesses in this case, we're going to go ahead and excuse you at this time. Before I do, I must admonish you not to discuss anything relating to the case with -- I'm sorry, wrong admonition.

You're not to discuss anything that's transpired in the courtroom with anyone else, meaning, my questions and your answers; do you understand?

PROSPECTIVE JUROR NO. 809: Yes, Your Honor.

THE COURT: All right. Thank you. Please place the

microphone in the chair and check back out through jury services. Thank you, ma'am.

For the record, she was excused pursuant to stipulation at the bench, and I believe that was for several reasons.

MS. WECKERLY: That's correct.

MR. STAUDAHER: Yes, Your Honor.

MR. SANTACROCE: That's accurate.

MR. WRIGHT: Yes.

THE COURT: All right. Thank you. Next up Badge No. 806, Danny Jones.

Sir, if you'd just have a seat there in the jury box, please?

THE MARSHAL: And there's a handheld microphone, just speak into it when you talk, please.

PROSPECTIVE JUROR NO. 806: Okay.

THE MARSHAL: Thank you.

THE COURT: Good afternoon, sir. I wanted to follow up on some of your answers. You say here you haven't heard anything about this case; is that correct?

PROSPECTIVE JUROR NO. 806: No, I really haven't. Just a little bit on the news, but never paid much attention to it.

THE COURT: Okay. And is that -- do you remember seeing it on a particular news station or --

PROSPECTIVE JUROR NO. 806: I don't watch the news unless I hear something I want to watch.

THE COURT: Okay. Do you recall what you heard on the news?

PROSPECTIVE JUROR NO. 806: Just that there was a case going on about the Endoscopy Center, that's really about it.

THE COURT: Okay. And it says you work at UMC Hospital in plant operations?

PROSPECTIVE JUROR NO. 806: Yeah, I'm an electrician. I do maintenance for the hospital.

THE COURT: Okay. But you haven't heard anything at work, you know, nobody around the office cooler talking about this case or anything like that?

PROSPECTIVE JUROR NO. 806: No, as far as I know, it hasn't affected anyone there, so...

THE COURT: Okay. And you don't recognize Mr. Lakeman or Dr. Desai from, you know, seeing them at UMC or anything like that?

PROSPECTIVE JUROR NO. 806: No.

THE COURT: Okay. Do you think it's a fair statement that sometimes or even often the news reports things either inaccurately or incompletely?

PROSPECTIVE JUROR NO. 806: Yes.

THE COURT: Okay. If you were selected as a juror,

and if you were to remember something you heard as -- on the news or saw in the paper, would you be able to set that aside and base your verdict solely upon the evidence in this case?

PROSPECTIVE JUROR NO. 806: Yes.

THE COURT: All right. Thank you.

Ms. Stanish, you may follow up.

MS. STANISH: Thank you, Your Honor.

Good afternoon.

PROSPECTIVE JUROR NO. 806: How you doing.

MS. STANISH: You're one of the last survivors out there, I think?

PROSPECTIVE JUROR NO. 806: Yeah, we're getting to be pretty thin out there.

MS. STANISH: Just, I want to clarify a few things in your questionnaire. What is it your wife does for a living?

PROSPECTIVE JUROR NO. 806: She's a medical dosimetrist.

MS. STANISH: What is that?

PROSPECTIVE JUROR NO. 806: She is the person -- okay. She works for -- works for cancer patients, that the doctor prescribes the amount of radiation that they want to have for the patient to be treated, she's the one that produces the plan of how many -- what rate they're going to get and how long it's going to be.

MS. STANISH: And where does she work?

PROSPECTIVE JUROR NO. 806: Urology Specialist Group right now. She works for the cancer part of that.

MS. STANISH: So is that something to do with gastrology or it's just --

PROSPECTIVE JUROR NO. 806: No, they -- they treat, like, prostate -- prostate cancer --

MS. STANISH: Okay. It's just certain type of cancers they deal with?

PROSPECTIVE JUROR NO. 806: -- yeah. She used to work for Nevada Cancer Institute and Nevada Cancer Center which closed up.

MS. STANISH: Right. Unfortunately.

PROSPECTIVE JUROR NO. 806: Right.

MS. STANISH: Have you had any discussions with your wife about this case at all?

PROSPECTIVE JUROR NO. 806: No.

THE COURT: All right.

PROSPECTIVE JUROR NO. 806: I don't talk about anything medical with her at all.

MS. STANISH: She doesn't talk to you anything electrical?

PROSPECTIVE JUROR NO. 806: No.

MS. STANISH: All right. And are you -- where are you from, by the way?

PROSPECTIVE JUROR NO. 806: I was born in Baltimore.

I lived in Florida for 12 years and been out here since '99.

MS. STANISH: And your mother was a nurse?

PROSPECTIVE JUROR NO. 806: She still is.

MS. STANISH: All right. Where does she work?

PROSPECTIVE JUROR NO. 806: In Martin County, Florida.

MS. STANISH: And you've never been on a jury; is that correct?

PROSPECTIVE JUROR NO. 806: Never served on a jury, I've been here -- I'm called every two years, so --

MS. STANISH: Yeah, what's with that?

PROSPECTIVE JUROR NO. 806: I don't know. They got my name. It's common, I guess.

MS. STANISH: Seems like it. And have you or anyone close to you had in -- had any negative experiences with anybody in the medical profession?

PROSPECTIVE JUROR NO. 806: No.

MS. STANISH: And earlier this morning, if you can remember that far back, at about 10:00-ish, Judge Adair mentioned some legal concepts that I want to quickly review with you. The first one is the presumption of innocence, that these two gentlemen are presumed to be innocent as they sit here, even though you've heard charges against them.

PROSPECTIVE JUROR NO. 806: Correct.

MS. STANISH: Can you accept and agree with that

concept that as you sit there you consider them innocent?

PROSPECTIVE JUROR NO. 806: Yeah. Yes.

MS. STANISH: Fair enough. And a related concept, that it's up to the government, the government bears the burden of proving beyond a reasonable doubt that they are guilty, that they have to overcome that presumption of the innocence beyond a reasonable doubt?

PROSPECTIVE JUROR NO. 806: Yes.

MS. STANISH: And do you understand that the defense does not carry any burden whatsoever as far as proving that they're innocent because of this presumption?

PROSPECTIVE JUROR NO. 806: Yes.

MS. STANISH: All right. Thank you. I have nothing further, Your Honor.

THE COURT: All right. Thank you.

Mr. Santacroce?

MR. SANTACROCE: Hi.

PROSPECTIVE JUROR NO. 806: How you doing?

MR. SANTACROCE: How you doing? You said that you heard a little something about this on the news, but didn't pay much attention to it or something like that; is that correct?

PROSPECTIVE JUROR NO. 806: Yes. I remember hearing a little bit about it on the news, but I don't pay attention to it if it doesn't impact me or my family.

MR. SANTACROCE: And you -- you never had a discussion about this with your wife, correct?

PROSPECTIVE JUROR NO. 806: No, never.

MR. SANTACROCE: Your wife works at Urology Specialists?

PROSPECTIVE JUROR NO. 806: Yes.

MR. SANTACROCE: Who are the doctors that are there that she works with?

PROSPECTIVE JUROR NO. 806: A Dr. Becker.

MR. SANTACROCE: Dr. Becker?

PROSPECTIVE JUROR NO. 806: Becker.

MR. SANTACROCE: Any other doctors?

PROSPECTIVE JUROR NO. 806: Not that I know of. He's the doctor, she's -- works under.

MR. SANTACROCE: Do you know if she works with any CRNAs?

PROSPECTIVE JUROR NO. 806: That -- break that down for me.

THE COURT: Nurse anesthetists.

MR. SANTACROCE: Nurse anesthetists.

PROSPECTIVE JUROR NO. 806: No, not that I know of. Everything is done -- treated inside as far as, no, I -- like I said, I don't ask her much any questions of what she does as far as that goes.

MR. SANTACROCE: Have you been to this urology

specialists?

PROSPECTIVE JUROR NO. 806: I've been to the office, but just outside the office.

MR. SANTACROCE: Okay.

PROSPECTIVE JUROR NO. 806: It's at Mountain View Hospital. It's kind of connected to it.

MR. SANTACROCE: So you don't have any kind of familiarity with the -- the -- the floor plan of the facility itself?

PROSPECTIVE JUROR NO. 806: No, I've walked inside, just to the reception area, and told her I was there, and that's about it. Yeah.

MR. SANTACROCE: Do you ever go to any Christmas parties or office parties with her there?

PROSPECTIVE JUROR NO. 806: No, I haven't.

MR. SANTACROCE: How long have you been married?

PROSPECTIVE JUROR NO. 806: 25 -- 24 years.

MR. SANTACROCE: And Ms. Stanish went over some of the legal principles that we all hold dear. Do you have any preconceived ideas or opinions about this case or with the two gentlemen that sit here before you?

PROSPECTIVE JUROR NO. 806: No, but I don't really know much about it, you know?

MR. SANTACROCE: And you can be fair and impartial?

PROSPECTIVE JUROR NO. 806: Yes.

MR. SANTACROCE: Open minded?

PROSPECTIVE JUROR NO. 806: Yes.

MR. SANTACROCE: I don't have any further questions. Thank you.

THE COURT: All right. Thank you.

Ms. Weckerly?

MS. WECKERLY: Just briefly. How are you?

PROSPECTIVE JUROR NO. 806: Pretty good. You?

MS. WECKERLY: Good. Thank you. Are you the only person that does your job at UMC?

PROSPECTIVE JUROR NO. 806: Oh, no. There's 40 of us.

MS. WECKERLY: Okay. So if you're here with us for six weeks, I mean, it's probably not your first choice of things to do, but everything would be okay at your work?

PROSPECTIVE JUROR NO. 806: Yeah, everything is fine.

MS. WECKERLY: And are you compensated because it's county?

PROSPECTIVE JUROR NO. 806: Yes.

MS. WECKERLY: Okay. So you -- I mean, again, not your favorite?

PROSPECTIVE JUROR NO. 806: It's no -- it's no hardship on me.

MS. WECKERLY: Okay.

PROSPECTIVE JUROR NO. 806: As far as that goes. I work, basically, Monday -- I work Tuesday through Saturday, so as far as me being out during the week, it's --

MS. WECKERLY: You can do it?

PROSPECTIVE JUROR NO. 806: -- no hardship on them.

MS. WECKERLY: Okay. Your job duties, you said, maintain hospital EQ?

PROSPECTIVE JUROR NO. 806: That's equipment. Sorry.

MS. WECKERLY: That's the equipment? Okay.

PROSPECTIVE JUROR NO. 806: Yeah.

MS. WECKERLY: And is that work pretty technical?

PROSPECTIVE JUROR NO. 806: Yeah. I -- it can be and not be. I do anything from running electrical circuits because I'm an electrician by trade --

MS. WECKERLY: Right.

PROSPECTIVE JUROR NO. 806: -- all the way down to repairing electronics, so...

MS. WECKERLY: And did you -- to work at UMC, you said you're an electrician by trade, did you have to learn, sort of specific things for their equipment or their needs on the job?

PROSPECTIVE JUROR NO. 806: Yes.

MS. WECKERLY: And you're able to pick that up just fine, I'm sure?

PROSPECTIVE JUROR NO. 806: Yes.

MS. WECKERLY: Are you a pretty detail-oriented person?

PROSPECTIVE JUROR NO. 806: Pretty much. I have never had to go back on my jobs or anything like that. We have inspections and my work passes. So if it's -- you know, I keep -- if it's there, I do what it's -- needs to be done.

MS. WECKERLY: So far so good.

PROSPECTIVE JUROR NO. 806: Right.

MS. WECKERLY: You're -- you have three daughters, right?

PROSPECTIVE JUROR NO. 806: Yes.

MS. WECKERLY: Do they live with you?

PROSPECTIVE JUROR NO. 806: No. My one oldest one, she's married, got two grandkids and my middle one is second year in Reno, and my smallest one -- or youngest one is a sophomore in high school.

MS. WECKERLY: Okay. So got them in a couple different places --

PROSPECTIVE JUROR NO. 806: Yes.

MS. WECKERLY: -- they're at different stages of life? In the -- at the end of this trial, if you're selected to be a juror, you'll be called upon to evaluate the evidence you heard in the case. Do you have any philosophical or religious concerns or reservations about judging the actions

of somebody else?

PROSPECTIVE JUROR NO. 806: No.

MS. WECKERLY: And in light of that, if you feel at the end of the case that we've proven the charges beyond a reasonable doubt, would you have any misgivings or a problem with coming in and announcing a guilty verdict?

PROSPECTIVE JUROR NO. 806: No.

MS. WECKERLY: Converse of that, if we didn't prove it would you be able to come in with a not guilty verdict?

PROSPECTIVE JUROR NO. 806: Yes.

MS. WECKERLY: Thank you, sir.

Your Honor, we'll pass for cause.

THE COURT: All right. Thank you. Mr. Jones, in a moment I'm going to excuse you for today. You may be selected as a juror in this case, so for that reason the admonition about speaking about the case, reading, writing, listening to any reports of or commentaries relating to the case, and forming or expressing an opinion on the case is still in effect.

Additionally, I must admonish you that you're not to discuss anything that's transpired in the courtroom with anyone else, meaning, my questions, the lawyers questions, and your answers; do you understand all that?

PROSPECTIVE JUROR NO. 806: Yes.

THE COURT: All right. Thank you, sir. Please make

sure our bailiff has a good number where you can be reached should we contact you and tell you you need to report for service and you are excused for today. Check back out through jury services on the third floor.

PROSPECTIVE JUROR NO. 806: Okay.

THE COURT: All right. Thank you, sir.

PROSPECTIVE JUROR NO. 806: Thank you.

THE COURT: Kenny, next up is Change -- I'm sorry, Sage Shadley, Badge No. 808.

MR. WRIGHT: Need a moment, Your Honor.

THE COURT: Oh.

(Pause in the proceedings.)

THE COURT: Come on in and just have a seat up there in the jury box, please.

THE MARSHAL: There's a handheld microphone in that third chair. All I ask is that you speak into it when you talk.

PROSPECTIVE JUROR NO. 808: Okay.

THE COURT: Good afternoon.

THE MARSHAL: Right next to you. Nope.

THE COURT: It says here on your questionnaire, the -- that you haven't read or heard or seen anything about this case in the news; is that true? Is that correct?

PROSPECTIVE JUROR NO. 808: Yes, that's correct.

THE COURT: Okay. So the first you learned or heard

anything was pretty much today?

PROSPECTIVE JUROR NO. 808: Yeah.

MR. STAUDAHER: Okay. And you work at the Port-a-Subs for the past month. Do you get paid if you're going to -- if you serve as a juror by your employer; do you know?

PROSPECTIVE JUROR NO. 808: I don't work there anymore, actually.

THE COURT: Oh, what are you doing now?

PROSPECTIVE JUROR NO. 808: I'm not working.

THE COURT: All right. You live at home?

PROSPECTIVE JUROR NO. 808: Yeah.

THE COURT: With your parents?

PROSPECTIVE JUROR NO. 808: Yeah.

THE COURT: Okay. So you have nothing but time to serve as a juror?

PROSPECTIVE JUROR NO. 808: Yeah.

THE COURT: All right. And you seem very young, how old are you?

PROSPECTIVE JUROR NO. 808: I'm 22.

THE COURT: 22, okay. Now, you -- if you're selected you may be one of the younger members of the jury. If you go back in the jury room, and some of the older jurors disagree with your point of view, will you be able to, you know, argue your point and try to persuade them to see things the way you

see it -- see them?

PROSPECTIVE JUROR NO. 808: Yes.

THE COURT: Okay. Conversely, if you have a point of view, and the other jurors convince you that that point of view is wrong, will you -- and you're convinced it's wrong, would you be able to change your mind then and -- and go with what they say?

PROSPECTIVE JUROR NO. 808: Yes.

THE COURT: All right. Ms. Stanish, you may follow up with Ms. Shadley.

MS. STANISH: Hi, how you doing?

PROSPECTIVE JUROR NO. 808: Good. How are you?

MS. STANISH: Good. Been a long day for you out there in the hallway?

PROSPECTIVE JUROR NO. 808: Yeah.

MS. STANISH: All right. Well, thanks for hanging in there. I'm just flipping through your questionnaire real quick, see if I have any specific questions for you. What high school did you go to?

PROSPECTIVE JUROR NO. 808: Desert Pines.

MS. STANISH: How did you do in high school?

PROSPECTIVE JUROR NO. 808: I did good.

MS. STANISH: What class did you like the best?

PROSPECTIVE JUROR NO. 808: English.

MS. STANISH: Very good. What are your plans for the

future? Sounds like a job interview, doesn't it?

PROSPECTIVE JUROR NO. 808: I'm -- actually, in a few months, I'm actually planning to go to school for computers, to do a computer database administrator.

MS. STANISH: Okay. And when is that going to begin?

PROSPECTIVE JUROR NO. 808: I haven't decided yet because I got called for jury duty, I didn't want to start and then not be able to get the coursework done or anything, so, yeah.

MS. STANISH: All right. Because this -- this is probably going to go through the month of May and into the month of June.

PROSPECTIVE JUROR NO. 808: Yeah.

MS. STANISH: And that -- that will work for you is what --

PROSPECTIVE JUROR NO. 808: Yeah.

MS. STANISH: -- what you're saying? All right. And what's your dad do for a living?

PROSPECTIVE JUROR NO. 808: My dad is a flagger. He works for a day labor place.

MS. STANISH: All right. So does he work every day, or it's just as --

PROSPECTIVE JUROR NO. 808: He works every day.

MS. STANISH: -- oh, okay. I wasn't sure if it meant, just, as the job is --

PROSPECTIVE JUROR NO. 808: Yeah.

MS. STANISH: -- available? He works every day?

PROSPECTIVE JUROR NO. 808: Yeah.

MS. STANISH: Okay. You got brothers or sisters?

PROSPECTIVE JUROR NO. 808: I have two brothers.

MS. STANISH: And are they -- are you the oldest?

PROSPECTIVE JUROR NO. 808: Yeah.

MS. STANISH: There you go. You say you like to read, what kind of books do you like to read?

PROSPECTIVE JUROR NO. 808: I like to read fantasy books.

MS. STANISH: And any other kind of books?

PROSPECTIVE JUROR NO. 808: Not really.

MS. STANISH: All right. And what else do you do with your spare time?

PROSPECTIVE JUROR NO. 808: I like to go on the computer, and then I like to read on the computer.

MS. STANISH: What kind of things are you -- interest you on the computer?

PROSPECTIVE JUROR NO. 808: Mainly, I just go on Facebook, and I, like, play games and stuff on there.

MS. STANISH: This case is going to -- I anticipate is going to involve a number of -- a lot of witnesses and a lot of -- potentially a lot of technical information, medical information. Do you -- because you're one of the, likely,

younger members of the panel is -- is it -- do you find anything intimidating about that?

PROSPECTIVE JUROR NO. 808: No, I don't really find it intimidating.

MS. STANISH: Okay. You think you can pay attention and understand the evidence and listen carefully?

PROSPECTIVE JUROR NO. 808: Yes.

MS. STANISH: All right. Are you a little nervous?

PROSPECTIVE JUROR NO. 808: Yeah, I am.

MS. STANISH: Yeah. And the -- let me -- let me talk to you about a few concepts that Judge Adair mentioned earlier this morning, if you can remember that far back?

PROSPECTIVE JUROR NO. 808: Okay.

MS. STANISH: Remember her talking about the concept of someone being presumed innocent?

PROSPECTIVE JUROR NO. 808: Yes.

MS. STANISH: Okay. What did -- did you -- what does that mean to you?

PROSPECTIVE JUROR NO. 808: That means that someone -- that you think someone is automatically innocent, based on not knowing all the information.

MS. STANISH: And they're -- that means you -- these men, right now, as they sit here, are presumed innocent, not guilty?

PROSPECTIVE JUROR NO. 808: Yeah.

MS. STANISH: You get that?

PROSPECTIVE JUROR NO. 808: Yeah.

MS. STANISH: All right. And then the other important concept that Judge Adair mentioned was the burden of proof, that the prosecutors over there, they have the burden of proving beyond a reasonable doubt that they -- these gentlemen are guilty, overcome that presumption of innocence. Did you understand that?

PROSPECTIVE JUROR NO. 808: Yeah.

MS. STANISH: And do you also understand that the Defense side of the courtroom, we don't have to put on any evidence whatsoever?

PROSPECTIVE JUROR NO. 808: Yes.

MS. STANISH: Okay. And do you know why?

PROSPECTIVE JUROR NO. 808: Because you're innocent until proven guilty?

MS. STANISH: Right. Okay. You get that. Now, do you have -- do you know anyone who had any difficulties with anyone in the medical profession?

PROSPECTIVE JUROR NO. 808: No.

MS. STANISH: As you sit there right now, if somebody who is close to you was on trial, would you want someone like yourself, with your experience and such, would you want someone like yourself on the jury?

PROSPECTIVE JUROR NO. 808: Yes.

MS. STANISH: Okay. And why is that?

PROSPECTIVE JUROR NO. 808: Because I'm open-minded and --

THE COURT: It's hard having to talk publicly like this isn't it?

PROSPECTIVE JUROR NO. 808: Yeah.

THE COURT: Yeah, we're lawyers, so that's what we do every day and we're used to it, but you know, I think sometimes we forget that, you know, regular non-lawyer people, you know, maybe aren't that used to it. Do you want to be a juror?

PROSPECTIVE JUROR NO. 808: I think it would be an experience, yeah.

THE COURT: Okay. Ms. Stanish, sorry to interrupt you. Go on.

MS. STANISH: Thank you, Your Honor. Are you nervous about being a juror?

PROSPECTIVE JUROR NO. 808: Yes.

MS. STANISH: And what exactly makes you nervous about that role?

PROSPECTIVE JUROR NO. 808: Probably because it's new and I haven't done it before.

MS. STANISH: Is there anything that I haven't asked you that you think we should know about you and your ability to serve as a juror?

PROSPECTIVE JUROR NO. 808: No, not that I can think of.

MS. STANISH: Nothing further, Your Honor.

THE COURT: Thank you. Mr. Santacroce?

MR. SANTACROCE: Thank you. Hello, Ms. Shadley, how are you?

PROSPECTIVE JUROR NO. 808: Good.

MR. SANTACROCE: I'm just going to take a few minutes to try to get to know you a little bit.

PROSPECTIVE JUROR NO. 808: Okay.

MR. SANTACROCE: I don't want you to feel pressured, it's just -- you tell me what you feel, what you believe. There's no right or wrong answers, okay?

PROSPECTIVE JUROR NO. 808: Okay.

MR. SANTACROCE: In high school, did you belong to any clubs or anything of that nature?

PROSPECTIVE JUROR NO. 808: I was in the drama club.

MR. SANTACROCE: And -- well, what do you do for your -- in your spare time now?

PROSPECTIVE JUROR NO. 808: Just reading really. I read a lot.

MR. SANTACROCE: And what's the most recent book you read?

PROSPECTIVE JUROR NO. 808: Magic.

MR. SANTACROCE: What was that about?

PROSPECTIVE JUROR NO. 808: It's about a magic wizard that is actually a princess.

MR. SANTACROCE: And you have a brother and sister, correct?

PROSPECTIVE JUROR NO. 808: I have two brothers.

MR. SANTACROCE: Two brothers?

PROSPECTIVE JUROR NO. 808: Yeah.

MR. SANTACROCE: And they're younger than you?

PROSPECTIVE JUROR NO. 808: Yes, they are.

MR. SANTACROCE: You live with your mom and dad?

PROSPECTIVE JUROR NO. 808: Yes.

MR. SANTACROCE: And you worked at Port-a-Subs you said?

PROSPECTIVE JUROR NO. 808: Yeah.

MR. SANTACROCE: And you only worked there for one month?

PROSPECTIVE JUROR NO. 808: Yeah.

MR. SANTACROCE: And why is that?

PROSPECTIVE JUROR NO. 808: They actually put me as on-call and then they just stopped calling me, and then they said they didn't have any more work for me because it was getting slow.

MR. SANTACROCE: And what part of town do you live in?

PROSPECTIVE JUROR NO. 808: The East part -- East

side of town.

MR. SANTACROCE: Ms. Stanish and the Judge all talked to you about some of the legal concepts that you're going to be confronted with in this case. As you sit here today, do you think -- just because Mr. Lakeman and Dr. Desai are being tried for something that they're probably -- that they're guilty?

PROSPECTIVE JUROR NO. 808: No.

MR. SANTACROCE: And you'll give them a fair shot?

PROSPECTIVE JUROR NO. 808: Yeah.

MR. SANTACROCE: You'll be unbiased?

PROSPECTIVE JUROR NO. 808: Yes, I will be unbiased.

MR. SANTACROCE: And you'll listen carefully to all of the evidence?

PROSPECTIVE JUROR NO. 808: Yes.

MR. SANTACROCE: And if you come to a conclusion you'll hold strong to that conclusion?

PROSPECTIVE JUROR NO. 808: Yes.

MR. SANTACROCE: And you'll put forth your opinions in the jury room?

PROSPECTIVE JUROR NO. 808: Yes.

MR. SANTACROCE: With all vigor?

PROSPECTIVE JUROR NO. 808: Yes.

MR. SANTACROCE: Okay. And you don't have any hesitation about that?

PROSPECTIVE JUROR NO. 808: No.

MR. SANTACROCE: Okay. I have no further questions. Thank you, ma'am.

THE COURT: Thank you.

Mr. Staudaher?

MR. STAUDAHER: Yes, just a couple. High school, you mentioned that English was an area you were interested in, right?

PROSPECTIVE JUROR NO. 808: Yes.

MR. STAUDAHER: Did you have any other areas, science? Was that ever something you liked or didn't like or mathematics, anything like that?

PROSPECTIVE JUROR NO. 808: Science, I liked also.

MR. STAUDAHER: Okay. And what particular classes? Biology, chemistry, what was it?

PROSPECTIVE JUROR NO. 808: I like biology.

MR. STAUDAHER: Okay. Ever take chemistry?

PROSPECTIVE JUROR NO. 808: Yeah. I don't think I did, actually.

MR. STAUDAHER: Okay. But biology, you liked?

PROSPECTIVE JUROR NO. 808: Yes.

MR. STAUDAHER: You said that you -- you read books. What are some of the authors that you like to read?

PROSPECTIVE JUROR NO. 808: I don't really remember the authors, I can remember the name of the books.

MR. STAUDAHER: You ever read any Terry Goodkind?

PROSPECTIVE JUROR NO. 808: No.

MR. STAUDAHER: Okay. At the end of the trial, if you were selected as a juror -- and we ask this question of every single juror, so it's not -- we're not singling you out in any -- any way, special or whatever, but we have to have an answer to the question. And so, before I ask it, I want you to tell me if it in any way -- when I ask it you don't answer it, you'll let me know -- or you don't understand it, you'll let me know, okay?

PROSPECTIVE JUROR NO. 808: Okay.

MR. STAUDAHER: The Judge is going to -- at the end of the trial, if you're a juror, is going to give you the law, and that's what you use as your framework to apply the facts and the evidence as it comes in at trial.

The evidence is everything you hear in court, after you're sworn and we start presenting the case, testimony of the witnesses, physical evidence, pictures, documents, whatever they are. That's the evidence that you have to work with. So that -- any -- and I know you said you didn't hear anything outside the courtroom, but if you had none of that would be evidence in the case. You can only base your verdict on what is presented here. Are you okay with that?

PROSPECTIVE JUROR NO. 808: Yes.

MR. STAUDAHER: At the end of the trial you'd have to

take those -- that evidence and apply it to the facts or the -- excuse me, to the law given to you by the Judge, you said it's something you think you could do?

PROSPECTIVE JUROR NO. 808: Yes.

MR. STAUDAHER: The State bears the entire burden in this case. The defense doesn't have to prove anything. We're the ones who have to prove the defendant's guilty beyond a reasonable doubt in your mind before you can come back with a guilty verdict; do you understand that?

PROSPECTIVE JUROR NO. 808: Yes.

MR. STAUDAHER: If at the end of the trial, and each one of the charges that are out there have subparts, they have like elements or pieces and the State has to prove those parts beyond a reasonable doubt, if the State has, in your mind, done that, has proven the essential elements of the crimes charged beyond a reasonable doubt at the end of the trial can you come back with a guilty verdict?

PROSPECTIVE JUROR NO. 808: Yes.

MR. STAUDAHER: Do you have any reason, philosophical, religious, anything, that would cause you to have any difficulty doing that?

PROSPECTIVE JUROR NO. 808: No.

MR. STAUDAHER: Conversely, if we don't make that -- that sort of burden, if we don't in your mind, you know, we just didn't do it, would you be able to come back with a not

guilty verdict?

PROSPECTIVE JUROR NO. 808: Yes.

MR. STAUDAHER: Pass for cause, Your Honor.

THE COURT: All right. Thank you. Ms. Shadley, I'm going to excuse you for today, but you may be selected as a juror in this case. So for that reason the admonition about discussing the case, reading, watching, listening to any reports of or commentaries on any subject matter relating to the case, informing or expressing an opinion on the case is still in effect; do you understand that?

PROSPECTIVE JUROR NO. 808: Yes, I do.

THE COURT: Additionally, I must admonish you not to discuss what's transpired in the courtroom with anyone else, by that I mean my questions, lawyers questions, and your answers; do you understand?

PROSPECTIVE JUROR NO. 808: Yes.

THE COURT: All right. Thank you. You're excused for today. Check out through the third floor, and you must be available if we contact you and tell you to report back for jury service?

PROSPECTIVE JUROR NO. 808: Okay. Thank you.

THE COURT: All right. Thank you.

MR. WRIGHT: Approach the bench?

THE COURT: Sure.

(Off-record bench conference.)

THE COURT: On the record, Ms. Stanish, Mr. Wright, do you pass that last juror for cause?

MR. WRIGHT: Yes.

THE COURT: Mr. Santacroce, do you pass that last juror for cause?

MR. SANTACROCE: Yes.

THE COURT: All right. And, Mr. Wright, you needed a brief recess?

MR. WRIGHT: Be right back.

THE COURT: Okay.

(Pause in the proceedings.)

THE COURT: Mr. Wright, let's do Badge No. 803, Colleen Clayton next.

Ma'am, come on in and just have a seat up there in the jury box.

THE MARSHAL: There's a handheld mike at the top of that third chair, if you'd just speak into it when you talk, please?

PROSPECTIVE JUROR NO. 803: Okay.

THE COURT: Good -- still barely, maybe afternoon. Almost good evening. I apologize that you've had to wait around all day. This can be a very lengthy process.

I wanted to follow up on some of your answers in the questionnaire. You're concerned about serving because if you don't get paid you won't be able to pay your mortgage, and

that would obviously be a problem. Have you checked with your employer The Mandalay Bay to see if they would compensate you for jury service?

PROSPECTIVE JUROR NO. 803: I have not.

THE COURT: You haven't?

PROSPECTIVE JUROR NO. 803: I just assumed that companies didn't.

THE COURT: Did not? Well, what we've learned is that some companies do and some companies don't. So you don't know at this point?

PROSPECTIVE JUROR NO. 803: I don't. I haven't asked.

THE COURT: Okay. Are you a salaried employee?

PROSPECTIVE JUROR NO. 803: Salary and gratuity.

THE COURT: Okay. And you're the banquet director?

PROSPECTIVE JUROR NO. 803: Correct.

THE COURT: Well, that sounds like a pretty good job to me at The Mandalay Bay.

PROSPECTIVE JUROR NO. 803: It's good. Pretty busy.

THE COURT: What do you get -- what do you get compensated?

PROSPECTIVE JUROR NO. 803: What do I?

THE COURT: Yeah.

PROSPECTIVE JUROR NO. 803: At -- annually or --

THE COURT: Right.

PROSPECTIVE JUROR NO. 803: 163 --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 803: -- last year.

THE COURT: And that's your salary regardless of --

PROSPECTIVE JUROR NO. 803: That's with gratuity, salary and gratuity.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 803: The gratuities go on the paycheck.

THE COURT: And how do the gratuities work?

PROSPECTIVE JUROR NO. 803: When a group comes in they charge the group 21 percent, and then the management team gets a percentage of that and it gets put on the paycheck.

THE COURT: Okay. Is that regardless of, you know, say you're on vacation and a group comes in, would you still receive your 21 percent gratuity?

PROSPECTIVE JUROR NO. 803: Correct.

THE COURT: Okay. And who else is in your household?

PROSPECTIVE JUROR NO. 803: My husband.

THE COURT: And what does he do?

PROSPECTIVE JUROR NO. 803: He's a casino manager at the Golden Gate.

THE COURT: Okay. And what does he make a year?

PROSPECTIVE JUROR NO. 803: It's about 36 -- 37,000.

THE COURT: Okay. So you're the primary breadwinner

in your family?

PROSPECTIVE JUROR NO. 803: Correct.

THE COURT: Okay. And to find out if you're compensated or not for being here, who would you check with?

PROSPECTIVE JUROR NO. 803: I guess my boss first, and then maybe she would check with our vice president, then --

THE COURT: Okay. And your --

PROSPECTIVE JUROR NO. 803: -- go up the chain.

THE COURT: -- boss is -- what's her title?

PROSPECTIVE JUROR NO. 803: She's the executive director of banquets.

THE COURT: Okay. And let me ask you this: So is it like you're the vice president of the banquets or there's several directors of banquets or --

PROSPECTIVE JUROR NO. 803: We have a vice president that oversees banquets, catering, conference services, and then for the actual department there's my boss and myself that actually oversee the entire department.

THE COURT: Okay. And then it says that you've heard news reports on television, unsafe practices, reusing syringes, and you've got an opinion, It doesn't sound like there were systems in place to assure the safety of patients. Is there a particular station that you recall seeing something about this case on?

PROSPECTIVE JUROR NO. 803: I watch Channel 8.

THE COURT: Okay. And was it something you saw a long time ago, recently, or have you seen several or a number of reports over time?

PROSPECTIVE JUROR NO. 803: Primarily a long time ago, I guess when it first happened.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 803: And then I think I saw something last week, it didn't really go into any detail, I think it just mentioned that this was starting.

THE COURT: Okay. And let me ask you this: Do you think it's a fair statement that the news media reports things inaccurately or incompletely sometimes?

PROSPECTIVE JUROR NO. 803: I'm sure they do.

THE COURT: Okay. If you were selected to serve as a juror, would you be able to set aside anything you may have seen or heard in the media, and base your verdict solely upon the evidence that's presented during this trial?

PROSPECTIVE JUROR NO. 803: I'd like to say that I think I could --

THE COURT: Right.

PROSPECTIVE JUROR NO. 803: -- but I've heard quite a bit on this particular case and it was a little unsettling because I feel like when you go to the doctor, whatever kind of doctor that is, you should come out of there at the very

least better than when you went in.

THE COURT: Right. And I don't think that that's an unusual opinion. The issue is more, you know, whether or not you can set aside that opinion and, you know, look at these defendants, and, you know, consider them innocent unless and until proven guilty in a court of law, meaning, here in this room. And, you know, can you do that, or do you think, no, you've heard too much information and, you know, you were already sort of biased against the Defense?

PROSPECTIVE JUROR NO. 803: I'm not 100 percent sure, honestly. I'd like to think I could, but I'm not 100 percent sure that I could.

THE COURT: Okay. May I see counsel up here?

(Off-record bench conference.)

THE COURT: Okay. We're going to go ahead and excuse you at this point in time. We're at -- what we're talking about up here is you're making more money than a lot of -- a lot of us here in this room, so it's somewhat difficult to see you as a hardship case. You do make more than what is set by the legislature for a District Court Judge. You may be interested in knowing that.

In any event, thank you for being here. I'm sorry that it's been such a long day. Please don't discuss anything that's transpired in the courtroom with anybody else, meaning, my questions, and your answers and so forth.

PROSPECTIVE JUROR NO. 803: Okay.

THE COURT: All right. Thank you, ma'am, you're excused.

Next up is Mr. Archuletta, Badge No. 370.

MS. STANISH: I'm so dumb.

THE COURT: I'm sorry?

MS. STANISH: I'm so dumb, is she [inaudible?]

THE COURT: No, she's gone.

MS. STANISH: Okay.

THE COURT: Mr. Archuletta, have a seat there in the jury box.

THE MARSHAL: Right this way, please. There's a handheld microphone in that fourth chair over there, just speak into it when you talk, please.

THE COURT: Good afternoon. What happened to you on the day you were supposed to show up?

PROSPECTIVE JUROR NO. 370: I was just being done. I -- it slid my mind and I had to recertify for lifeguard certification, so that's what --

THE COURT: Up close with the microphone.

PROSPECTIVE JUROR NO. 370: -- I was -- I was just being dumb and irresponsible. I forgot.

THE COURT: All right. Well, you're on.

PROSPECTIVE JUROR NO. 370: Was that -- was that why I was the last person, or that was just by --

THE COURT: Yes, it is why.

PROSPECTIVE JUROR NO. 370: -- okay.

MR. WRIGHT: Payback.

PROSPECTIVE JUROR NO. 370: Sorry, guys.

THE COURT: It's all right. But I'm, you know, that's -- I guess it's hard to hide that you were the last person.

Now, you've heard talk this morning about what the case is about. Did that trigger any recollection in your mind that you've seen or heard anything about this on the media? Because when you filled out the questionnaire, you said, no, you didn't recollect anything --

PROSPECTIVE JUROR NO. 370: Yeah.

THE COURT: -- about this case.

PROSPECTIVE JUROR NO. 370: When he was saying that, I -- I definitely -- I wasn't sure if it was the same thing, but I feel like I've -- maybe I've seen, like a commercial or two that was, like, do you know anyone or -- that's close to you who has been affected by hepatitis C?

THE COURT: Like one of those things the civil P.I. lawyers --

PROSPECTIVE JUROR NO. 370: Something like that.

THE COURT: -- went on T.V.?

PROSPECTIVE JUROR NO. 370: I've probably seen something like that.

THE COURT: Okay. I don't know if there were ads like that on -- in connection with any of the civil cases or not --

PROSPECTIVE JUROR NO. 370: That -- yeah --

THE COURT: -- but --

PROSPECTIVE JUROR NO. 370: -- and it was probably, like, a couple of years ago, if --

THE COURT: -- okay. But no news reports or --

PROSPECTIVE JUROR NO. 370: -- no.

THE COURT: -- anything like that?

PROSPECTIVE JUROR NO. 370: No.

THE COURT: Okay. And you work as a lifeguard at the Excalibur and you've been doing that for a year?

PROSPECTIVE JUROR NO. 370: Yes.

THE COURT: Okay. And then I -- obviously you work daytime --

PROSPECTIVE JUROR NO. 370: Yeah.

THE COURT: -- there at the Excalibur? Okay. But you would be able to serve as a juror in this case, correct?

PROSPECTIVE JUROR NO. 370: Yes.

THE COURT: It wouldn't be a hardship or anything like that for you. Okay. Where did you go to high school?

PROSPECTIVE JUROR NO. 370: Las Vegas Academy.

THE COURT: Okay. And is that where it's performing arts as well as international studies?

PROSPECTIVE JUROR NO. 370: Yes.

THE COURT: And what was your area of, I guess, study?

PROSPECTIVE JUROR NO. 370: I kind of changed -- I was -- I did theater in middle school, and then I started to not like it, so I changed to -- Reinach [phonetic] guitar and the jazz guitars my senior year.

THE COURT: Okay. All right. Thank you.

PROSPECTIVE JUROR NO. 370: Okay.

THE COURT: That concludes my questions. Ms. Stanish, would you like to follow up with Mr. Archuletta?

MS. STANISH: Thank you. Hi.

PROSPECTIVE JUROR NO. 370: Hey.

MS. STANISH: I have to say, though, the way you did that television announcement, I think you have a future in T.V.

THE COURT: Maybe you should go back to the drama --

MS. STANISH: Yeah.

THE COURT: -- and drop the guitar.

MS. STANISH: Yeah, you sounded just like an advertisement. Other than that advertisement, you don't recall hearing anything about this case?

PROSPECTIVE JUROR NO. 370: No.

MS. STANISH: And you've never discussed this case with anybody?

PROSPECTIVE JUROR NO. 370: No.

MS. STANISH: All right. I'm just going to flip through your questionnaire and hit on a few questions --

PROSPECTIVE JUROR NO. 370: Yeah.

MS. STANISH: -- that I'd like to have some clarification on, if you don't mind? The first one is the question about whether you have any religious or philosophical beliefs that would make it difficult for you to be a juror? And you answered, I tend to look at the ethical side of things, and have little concern for legality.

PROSPECTIVE JUROR NO. 370: I realize how pompous that came off. I guess, not -- not as much, kind of -- I kind of believe, like, every solution breeds another set of problems. I'll make an example, like, at the pool that I work at, they have us do security, and there was a problem with kids bringing in alcohol, and I felt like they have rules that they have us enforce, and they got to a point where we don't allow anyone to have water and I just think that not allowing people to have -- bring in water from outside -- I guess, little concern for legality was -- wasn't exactly -- honestly, I phrased it that way in hopes that you would look at that, like, he wouldn't be fit to be a good juror, but --

MR. SANTACROCE: It backfired.

MS. STANISH: It backfired.

PROSPECTIVE JUROR NO. 370: Yeah, sorry of that.

THE COURT: Unfortunately for you, 500 other people answered things like that --

PROSPECTIVE JUROR NO. 370: Yeah.

THE COURT: -- and so --

PROSPECTIVE JUROR NO. 370: But I can't --

MS. STANISH: We -- I don't really look at it as pompous, my --

PROSPECTIVE JUROR NO. 270: Yeah.

MS. STANISH: -- my concern was, you know, there's rules of law --

PROSPECTIVE JUROR NO. 370: Yeah.

MS. STANISH: -- that govern these proceedings --

PROSPECTIVE JUROR NO. 370: Yeah.

MS. STANISH: -- and the Judge talked about a couple of them this morning, if you can remember those from 10:00?

PROSPECTIVE JUROR NO. 370: Yeah.

MS. STANISH: And the rules are -- the legality is that --

PROSPECTIVE JUROR NO. 370: Yeah.

MS. STANISH: -- these men are presumed innocent --

PROSPECTIVE JUROR NO. 370: Yeah.

MS. STANISH: -- right now, as they sit here. Can -- can you agree with that?

PROSPECTIVE JUROR NO. 370: Yes.

MS. STANISH: All right. And the other golden rule

that the Judge touched on this morning was that the prosecutors over there, they have the burden of proving beyond a reasonable doubt that these men are not innocent. They have to overcome the presumption of innocence. Is that something that you agree --

PROSPECTIVE JUROR NO. 370: Yes.

MS. STANISH: -- with? And you understand it?

PROSPECTIVE JUROR NO. 370: Yeah.

MS. STANISH: And the -- probably the -- kind of a related legal concept is the fact that the defense doesn't have to present any evidence whatsoever, it's all on them. Do you understand that?

PROSPECTIVE JUROR NO. 370: I understand.

MS. STANISH: All right. And by the way, my concern was that -- is -- on the way you answered that question is, just, whether you understood that ethics and law--

PROSPECTIVE JUROR NO. 370: Yeah.

MS. STANISH: -- are not always the same thing.

PROSPECTIVE JUROR NO. 370: Yeah, I understand that.

MS. STANISH: But you would follow the law in this matter --

PROSPECTIVE JUROR NO. 370: Yeah.

MS. STANISH: -- as Judge Adair explains it to you later on, should you be selected. You good with that?

PROSPECTIVE JUROR NO. 370: Yes, ma'am.

MS. STANISH: All righty. Did you have any -- did you work prior to working at the Excalibur?

PROSPECTIVE JUROR NO. 370: I didn't have, like, a serious job, but I kind of worked at a small guitar store and gave lessons a little bit, but that wasn't the regular income. So I would say that the Excalibur is my first job.

MS. STANISH: All righty. Electric or acoustic?

PROSPECTIVE JUROR NO. 370: It's the same thing.

MS. STANISH: Is it? Gee, you -- I'm sorry to read this, that your grandmother was a nurse, and she died due to excessive radiation exposure. When did that occur?

PROSPECTIVE JUROR NO. 370: That was when I was, like, two --

MS. STANISH: Oh, all right.

PROSPECTIVE JUROR NO. 370: -- or that's what my mom and dad told me --

MS. STANISH: I see.

PROSPECTIVE JUROR NO. 370: -- but I don't know, though.

THE COURT: So you really don't have any memory of your grandmother?

PROSPECTIVE JUROR NO. 370: No.

THE COURT: All right.

MS. STANISH: Oh, I see, you're a Jazz guitarist? Great. Your dad is an airline pilot and mom works at Palms

Mortuary?

PROSPECTIVE JUROR NO. 370: Yeah.

MS. STANISH: An interesting combination.

PROSPECTIVE JUROR NO. 370: Yeah.

MS. STANISH: All right. You've lived in Las Vegas your whole life?

PROSPECTIVE JUROR NO. 370: Yes.

MS. STANISH: All right. I have nothing further, Your Honor. Pass for cause.

THE COURT: All right. Thank you.

Mr. Santacroce?

MR. SANTACROCE: Good evening, Mr. Archuletta. Have you been sufficiently punished so that we can count on you to be on time if you're chosen for -- as a juror?

PROSPECTIVE JUROR NO. 370: Yes, sir.

MR. SANTACROCE: Great. I'm intrigued by your statement that you tend to look at the ethical side, rather than the legal side, and I accept your explanation for it. I'm -- I guess I'm asking you, do you think that because of the legal side, it gets carried too far, and then it infringes on rights of people?

PROSPECTIVE JUROR NO. 370: Not -- not all the time. I don't think most of the time that's how it is. I would just say, in that -- that example, that -- there are certain examples I feel that way, but I don't think that's how it is

most of the time. And I don't think -- that's now how I see it with this case.

MR. SANTACROCE: Well, Mr. Staudaher brought up an example today of marijuana, you know, we have a law that sort of allows you to have some marijuana, but we have a -- no place you can buy it at. So do you -- do you feel like there's some problem there ethically and legally?

PROSPECTIVE JUROR NO. 370: No, I mean, I think anyone looking at me can probably guess that I have partaken in --

MR. SANTACROCE: I wouldn't --

PROSPECTIVE JUROR NO. 370: -- that before.

MR. SANTACROCE: -- I wouldn't have guessed that, but go ahead.

PROSPECTIVE JUROR NO. 370: But that's not --

THE COURT: We try not to engage --

PROSPECTIVE JUROR NO. 370: -- that's not --

THE COURT: -- in stereotyping --

PROSPECTIVE JUROR NO. 370: -- really, like, something that I -- that I feel passionately about and the legality of -- I think there's other issues that are a lot more important than that. That's not something I'm really passionate about.

MR. SANTACROCE: Okay. Good. And just like we don't want people coming to serve on the jury intoxicated --

PROSPECTIVE JUROR NO. 370: Of course.

MR. SANTACROCE: -- we don't want them toasted or burnt either, right?

PROSPECTIVE JUROR NO. 370: Of course.

MR. SANTACROCE: Okay. Good. Now, your dad, you said was an airline pilot, who does he fly for?

PROSPECTIVE JUROR NO. 307: United Airlines.

MR. SANTACROCE: And what does your mom do at Palm Mortuary?

PROSPECTIVE JUROR NO. 370: She doesn't work there anymore. She got a new job, I am trying to think of -- it was through a friend and I don't know what the company's name is, but he is a -- he's a carpenter, and I'm not too sure about what she's doing because she just switched to that job. At Palm Mortuary -- she was only there for a year, so I -- I can't -- she -- I just heard her complain a lot about it, but I -- I don't know exactly what she did.

MR. SANTACROCE: All right. Do you have any brothers or sisters?

PROSPECTIVE JUROR NO. 370: No.

MR. SANTACROCE: Only child?

PROSPECTIVE JUROR NO. 370: Yes.

MR. SANTACROCE: I guess so. Stupid question on my part, sorry.

PROSPECTIVE JUROR NO. 370: I'm not -- I'm not mad.

MR. SANTACROCE: You're a Jazz guitarist, do you play in any groups.

PROSPECTIVE JUROR NO. 370: Yes.

MR. SANTACROCE: Do you have any things -- I mean, do you play at night when you play? I'll -- when you have some sort of gigs going on?

PROSPECTIVE JUROR NO. 370: Yeah, there's a group I practice with, and -- but we don't -- we don't have gigs. It's just -- I'm -- I'm just learning how to play Jazz, mostly.

MR. SANTACROCE: I guess the most important thing that we need to ask you is if you could be fair and impartial on this case.

PROSPECTIVE JUROR NO. 370: Mm-hmm.

MR. SANTACROCE: Can you -- is that a "yes?"

PROSPECTIVE JUROR NO. 370: Yes.

MR. SANTACROCE: You can give both sides a fair hearing?

PROSPECTIVE JUROR NO. 370: Yes, sir.

MR. SANTACROCE: You can give Mr. Lakeman and Dr. Desai a fair hearing?

PROSPECTIVE JUROR NO. 370: Yes, sir.

MR. SANTACROCE: And you can give the prosecutors a fair hearing?

PROSPECTIVE JUROR NO. 370: Yes.

MR. SANTACROCE: You'll withhold any judgment until all the evidence is in?

PROSPECTIVE JUROR NO. 370: Yes, sir.

MR. SANTACROCE: And as these gentlemen sit here today, do you have any opinion of them?

PROSPECTIVE JUROR NO. 370: No.

MR. SANTACROCE: No further questions. Thanks.

THE COURT: All right. Thank you.

Mr. Staudaher, you may -- well, follow up.

MR. STAUDAHER: Thank you, Your Honor.

You mentioned in your questionnaire that you filled out that you had an interest -- you got a little training in the psychology, you have an interest in Jung and Freud?

PROSPECTIVE JUROR NO. 370: Mm-hmm.

MR. STAUDAHER: Can you tell us what your interest is and what you meant by that?

PROSPECTIVE JUROR NO. 370: What, my interest in Jung and Freud? I don't -- I don't know if you guys are -- it's just the -- Freud's idea of the -- of the Freudian try on the itty goat superego. That -- I've -- that plays to my thought every day, and then I just admire Jung for expanding into consciousness with talking about psychology.

I don't know if -- is there a -- is --

MR. STAUDAHER: Just -- just a general question.

PROSPECTIVE JUROR NO. 370: -- yeah. Yeah, I -- I

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guess I'm not sure how to elaborate more on that.

MR. STAUDAHER: Did you ever do any -- I mean, beside -- was this just some psychology classes that you took and that were just -- you were kind of interested in that subject or this subject when you were going through it, or did you actually do any further study in those areas?

PROSPECTIVE JUROR NO. 370: Yeah, I've only taken a couple classes, and there's an Erickson, one of Freud's students -- about the life-cycle, that I've read that's interesting to me, but I -- I'm not -- I don't have a degree -- or I'm not planning on getting a degree in psychology.

MR. STAUDAHER: Okay.

PROSPECTIVE JUROR NO. 370: It's just --

MR. STAUDAHER: Now, you -- you're 20 years old, right?

PROSPECTIVE JUROR NO. 370: Yes.

MR. STAUDAHER: You graduated when -- when you -- how old were you when you graduated from high school?

PROSPECTIVE JUROR NO. 370: 17. In 2010.

MR. STAUDAHER: You have on your -- on your form that you have some business, technical framing in addition to high school?

PROSPECTIVE JUROR NO. 370: There's a -- no, business of music and -- and recording, not --

MR. STAUDAHER: Well, it was just a category. I

didn't know what it -- what it meant --

PROSPECTIVE JUROR NO. 370: Yeah.

MR. STAUDAHER: -- but that's what you're talking about?

PROSPECTIVE JUROR NO. 370: Yeah.

MR. STAUDAHER: Where did you -- well, was this a formalized training program, or did you apprentice with somebody?

PROSPECTIVE JUROR NO. 370: On, no, at CSN, and then, I took some recording class in high school. But at CSN I'm getting a business of music, there's a certificate there that I'm getting, and then, I'm planning on pursuing music after that.

MR. STAUDAHER: So you're a current student at CSN?

PROSPECTIVE JUROR NO. 370: Yes, but I've only been taking a lesson for the past year.

MR. STAUDAHER: Are you in classes right now?

PROSPECTIVE JUROR NO. 370: I take one -- one -- a one-lesson class this semester.

THE COURT: What's that -- you mean -- is that, like, a playing class or an academic class?

PROSPECTIVE JUROR NO. 370: It's --

THE COURT: When I say "playing," I mean, playing an instrument.

PROSPECTIVE JUROR NO. 370: Yeah, it's -- it's

literally just a guitar lesson.

THE COURT: Okay. So it's --

PROSPECTIVE JUROR NO. 370: But it's --

THE COURT: -- it's not, like, an academic theory --

PROSPECTIVE JUROR NO. 370: -- no.

THE COURT: -- of music, anything like that?

PROSPECTIVE JUROR NO. 370: No.

THE COURT: Okay.

MR. STAUDAHER: I just -- I just didn't want to have you have finals coming up or something --

PROSPECTIVE JUROR NO. 370: Yeah.

MR. STAUDAHER: -- and have this be a problem for you --

PROSPECTIVE JUROR NO. 370: Yes.

MR. STAUDAHER: -- but there's nothing like that that's going to be an issue here?

PROSPECTIVE JUROR NO. 370: No.

MR. STAUDAHER: This isn't meant to be an odd question for you, but because you answered it this way, I just wanted you to -- I mean, you put it down here, as far as things that you like to do in your spare time: Play the guitar, read, browse the Internet, drink, and smoke. I mean, you -- typically, a person might or might not put down drinking and smoking as a pastime thing that they like to do. Is there a particular reason, like the first thing that you

talked about where you --

PROSPECTIVE JUROR NO. 370: That was kind of hopes that you wouldn't see me fit to be on the jury, to be honest.

MR. STAUDAHER: Is it -- that's where I was going.

PROSPECTIVE JUROR NO. 370: Yeah.

MR. STAUDAHER: Were you -- is that something you kind of included kind of just to -- well, they're not going to like that, so they won't -- they won't pick me?

PROSPECTIVE JUROR NO. 370: Not -- not -- I don't know, I guess it would, yeah, I made -- maybe you'd consider that and make me not, I don't know.

THE COURT: Well --

PROSPECTIVE JUROR NO. 370: I don't know what I'm --

THE COURT: -- the issue isn't whether we would consider that, the issue is is that a truthful statement? You know, did you fill that out truthfully -- and if you enjoy drinking and smoking, you, you know, that's okay. Many people do.

PROSPECTIVE JUROR NO. 370: Yeah.

THE COURT: Is -- when you said that, was a that being truthful that that's something that you enjoy doing? And, like I said, you know, that -- there's nothing wrong with that.

PROSPECTIVE JUROR NO. 370: It's not something I do every day, but it's something I enjoy doing.

THE COURT: Okay.

MR. STAUDAHER: Because where I'm going with this is that at -- this is a serious thing --

PROSPECTIVE JUROR NO. 370: Yes.

MR. STAUDAHER: -- I mean, somebody -- they've got two individuals here that are going to be on trial for various charges and we, the State, are going to prosecute them and there's a potential that they could go to prison for this.

PROSPECTIVE JUROR NO. 370: Yes.

MR. STAUDAHER: At the end -- right now, so that everybody -- since you've heard no evidence in the case, if somebody asked you to come back and render a verdict right now, you'd have to come back with not guilty; is that fair? Because you've heard nothing at this point.

PROSPECTIVE JUROR NO. 370: Yes.

MR. STAUDAHER: Okay. At the end of the trial, if you were a juror, however, the Judge is going to give you the law, it's kind of your instructions, your roadmap as to how, you know, you're supposed to apply the facts and the evidence as it came in, and the evidence is everything you hear in court, see in court, deal in -- deal with in court, specifically the physical evidence, the testimony, all that kind of stuff.

At the end of the trial, if you, in your mind -- if the State has proven the essential elements, all the subparts

of the -- of each charge beyond a reasonable doubt in your mind, can you come back with a guilty verdict?

PROSPECTIVE JUROR NO. 370: If I'm convinced that the evidence leans that way.

MR. STAUDAHER: And that's what I'm saying --

PROSPECTIVE JUROR NO. 370: Yeah.

MR. STAUDAHER: -- we have a burden of proof, the Sate has the only burden in this case. Defense doesn't have any burden at all.

PROSPECTIVE JUROR NO. 370: Okay.

MR. STAUDAHER: We have to make the proof in your mind, and the Judge will give you an instruction on what reasonable doubt means, all that kind of stuff, but if at the end of the trial we've proven the essential elements of the crimes charged beyond a reasonable doubt, can you come back with a guilty verdict?

PROSPECTIVE JUROR NO. 370: Yes, sir.

MR. STAUDAHER: Do you have any reason philosophical, religious, any reason whatsoever why that might be difficult for you to do?

PROSPECTIVE JUROR NO. 370: No.

MR. STAUDAHER: So nothing that says, you know what, I can't stand in judgment of somebody because of my, you know, my -- my philosophical beliefs or my religious, any reason whatsoever why that might be difficult for you to do?

PROSPECTIVE JUROR NO. 370: No.

MR. STAUDAHER: So nothing that says, you know what, I can't stand in judgment of somebody because of my, you know, my philosophical beliefs or my religious beliefs or anything like that?

PROSPECTIVE JUROR NO. 370: No.

MR. STAUDAHER: Conversely, if at the end of the trial we haven't done that, haven't in your mind met our burden, could you come back with a not guilty verdict?

PROSPECTIVE JUROR NO. 370: Yes, sir.

MR. STAUDAHER: Pass for cause, Your Honor.

THE COURT: All right. Thank you.

Mr. Archuletta, we're going to go ahead and excuse you for this evening. You may be selected as a juror in this case, and so the prohibition, the admonition I've been giving of -- repeatedly, about discussing the case, reading, watching, listening to any reports of or commentaries on any subject matter relating to the case, and forming or expressing an opinion on the trial are still in effect; do you understand that?

PROSPECTIVE JUROR NO. 370: Yes.

THE COURT: Okay. Also, I must admonish you not to discuss anything that's transpired in the courtroom with anyone else. By that I mean, my questions, the attorneys' questions, your answers, and so forth; do you understand?

PROSPECTIVE JUROR NO. 370: Yes.

THE COURT: All right. Make sure our Bailiff, Officer Hawkes has a good number where you can be reached. If we contact you and tell you you're a member of the jury, then you must report at the time we tell you. All right? Do you understand?

PROSPECTIVE JUROR NO. 370: Yes.

THE COURT: Just as a motivation not to be forgetful, you know, failure to show up will issue -- will result in an order to show cause, which can include a monetary sanction.

PROSPECTIVE JUROR NO. 370: Okay.

THE COURT: And then failure -- if -- you know, continued failure to show up can result in a bench warrant for your arrest.

PROSPECTIVE JUROR NO. 370: Okay.

THE COURT: So, you know, we do -- there was some lightheartedness in your questioning today, but I don't want you to think that this isn't a serious proceeding --

PROSPECTIVE JUROR NO. 370: I understand.

THE COURT: -- and that there won't be ramifications if you're chosen for your failure not to appear. Do you understand all of that?

PROSPECTIVE JUROR NO. 370: Yes.

THE COURT: All right. Thank you, sir. Please place the microphone in the chair. Officer Hawkes will direct you

from the courtroom.

PROSPECTIVE JUROR NO. 370: Okay.

THE COURT: All right. And, Mr. Santacroce, do you pass Mr. Archuletta for cause?

MR. SANTACROCE: Yeah, I don't think I have a basis to challenge him.

THE COURT: All right. Would that be a yes?

MR. SANTACROCE: Yes.

THE COURT: All right. And you, Ms. Stanish, had already passed for cause --

MS. STANISH: Correct.

THE COURT: -- so we'll go ahead and take our evening recess. Argument regarding the two for-cause challenges from the Defense will be made tomorrow morning. I don't, unfortunately, have the jury coming in until 10 tomorrow because I thought we'd have more left over for today. So why don't we all plan to be here at 9:45, so we can do the for-cause challenges on the record in that case.

There won't be anything else in here tomorrow, so you all can leave your stuff.

MS. STANISH: Thank you.

MR. SANTACROCE: Can you give me the numbers for tomorrow, please?

THE COURT: Oh --

THE CLERK: Yes, I can do that.

THE COURT: -- Ms. Husted will do that.

THE CLERK: It's going to be -- I don't know when I'll be able to.

THE MARSHAL: The next 25, right?

THE CLERK: Yeah, I just don't remember where I left off when I got it from jury services.

MS. STANISH: You should have asked her, Is that what she wants is 25.

THE MARSHAL: 1135, that's what she asked for.

MS. WECKERLY: Yeah, it's 01-1135.

THE MARSHAL: Yeah, 1135 --

THE CLERK: Right.

THE MARSHAL: -- will be the start.

THE CLERK: 1248 will be the next --

THE MARSHAL: 6 -- yeah, 1248 should be the last.

MS. WECKERLY: Thank you.

MR. WRIGHT: 1135 to 1248.

(Court recessed for the evening at 6:01 p.m.)

ACKNOWLEDGMENT:

Pursuant to Rule 3C(d) of Nevada Rules of Appellate Procedure, this is a rough draft transcript expeditiously prepared, not proofread, corrected or certified to be an accurate transcript.

KIMBERLY LAWSON
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DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA, Plaintiff, vs. DIPAK KANTILAL DESAI, RONALD E. LAKEMAN, Defendants.	CASE NO. C265107-1,2 CASE NO. C283381-1,2 DEPT NO. XXI **TRANSCRIPT OF PROCEEDING**

BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE

JURY TRIAL - DAY 7

FRIDAY, MAY 3, 2013

APPEARANCES:

FOR THE STATE:	MICHAEL V. STAUDAHER, ESQ. PAMELA WECKERLY, ESQ. Chief Deputy District Attorneys
FOR DEFENDANT DESAI:	RICHARD A. WRIGHT, ESQ. MARGARET M. STANISH, ESQ.
FOR DEFENDANT LAKEMAN:	FREDERICK A. SANTACROCE, ESQ.

RECORDED BY JANIE OLSEN COURT RECORDER
TRANSCRIBED BY: KARR Reporting, Inc.

UNCERTIFIED ROUGH DRAFT

LAS VEGAS, NEVADA, FRIDAY, MAY 3, 2013, 10:48 A.M.

* * * * *

(Outside the presence of the prospective jury panel.)

THE MARSHAL: All rise. Department 21 is now in session. The Honorable Judge Valerie Adair presiding.

THE COURT: All right. Good morning.

THE MARSHAL: Thank you. You may be seated.

THE COURT: Before we move into the pretrial motions and other things, I wanted to place on the record some changes regarding the jury selection that the Court decided to make in view of Mr. Wright's comments when we concluded on Wednesday that he felt that he would like to actually see the jurors in order to sort of jar his memory as to who was who.

After we concluded, I thought about it for a little bit and then I had a conference call with all of the attorneys wherein I proposed that we bring all 35 people back on Monday and go through the roll and seat them in numerical order so that everyone could see them, and then pass back and forth the sheet for the preempts in the presence, but obviously without them knowing what -- what people were doing, so that the lawyers could look at them.

And, Mr. Wright, you indicated you would prefer doing the jury selection in that manner; is that correct?

MR. WRIGHT: Yes, Your Honor.

THE COURT: And then, Mr. Santacroce, you indicated

that you were fine with doing the jury selection in that matter, and I don't recall if you preferred it or --

MR. SANTACROCE: Yeah, I would agree.

THE COURT: Okay. And State was fine with that, correct?

MR. STAUDAHER: Yes, Your Honor.

THE COURT: All right. So in view of that we have been contacting the 35 people, meaning my staff and -- and telling them to report. My JEA has managed to reach all 35 of them, and they all know that they have to be here Monday at 9:00. So that's where we are on that. I've discussed in more detail the jury selection process regarding the form and how it will go back and forth and the time to make objections and Batson challenges, things like that, and in chambers and -- my understanding is both sides are fine with the proposed manner of jury selection now that the jurors are actually coming in.

Is that correct, Mr. Wright?

MR. WRIGHT: Yes, Your Honor.

THE COURT: Is that correct, Mr. Santacroce?

MR. SANTACROCE: Yes.

THE COURT: Is that correct, Mr. Staudaher?

MR. STAUDAHER: Yes.

THE COURT: All right. Does anyone -- before we move on to another topic, does anyone have any questions regarding how we're going to pick the final 16 or 17 members of our

jury?

MR. SANTACROCE: No, Your Honor.

MR. STAUDAHER: Not for the State.

THE COURT: All right.

MR. WRIGHT: No questions.

THE COURT: All right. That was, I think, the only housekeeping, and you've all been given copies of the forms that will -- or the form, you know, you'll just use one back and forth -- that will be used for the exercise of the preemptory challenges. So have that with you.

All right. I think that was the only thing the Court wanted to place on the record regarding jury selection.

Ms. Stanish?

MS. STANISH: Your Honor, if I may. We moved last time we were in court for additional peremptories as well as continued voir dire, and we would like to supplement that motion with copies of media reports relating to this case. So I've already served this on the parties, if I -- and gave a copy to the clerk that we may file this in open court, Your Honor.

THE COURT: All right.

MS. STANISH: It was for you to --

THE COURT: That's fine.

MS. STANISH: -- consider that -- the media in light of your decision.

MR. SANTACROCE: And to the extent --

THE COURT: Mr. Santacroce?

MR. SANTACROCE: -- thank you. To the extent I haven't done so before, I'm going to join in that motion and the supplement.

THE COURT: All right. State?

MR. STAUDAHER: We'll submit it, Your Honor.

MS. STANISH: Well, and I -- I -- I'm sorry, there are -- I did mean to correct my -- the record because I erred when I identified one of the jurors that we identified for cause, and I corrected it in this supplement. We did not challenge for cause Juror No. 249. So there were four that we did challenge for cause, based on pretrial publicity and expressed bias.

THE COURT: Okay.

MS. STANISH: Okay?

THE COURT: State, is that correct?

MR. STAUDAHER: That is correct, Your Honor.

THE COURT: All right. What's next?

MR. WRIGHT: Yes, Your Honor, I'm going -- this is going to do with accommodations I'm going to be requesting. And I'd first like to report to the Court my experiences during five days of jury selection, Monday, Tuesday, we had Wednesday, Thursday off, then Friday, then Monday, Tuesday, Wednesday of this week.

THE COURT: Correct.

MR. WRIGHT: The -- the Court accommodated my requests for Dr. Desai to allow me any time we reached a juror who we most likely would be keeping, they weren't immediately excused, accommodated me so that I could take Mr. -- Dr. Desai into the private, what do you call that, anteroom?

THE COURT: The -- yeah, I call it the vestibule --

MR. WRIGHT: Okay.

THE COURT: -- but just for the record because this won't be immediately apparent in the written transcript, so everybody knows what we're talking about, there is, like, a vestibule area between the doorway leading directly into the courtroom and then the doorway leading to the outer hall, and then, in that area is a private room containing a conference table and some chairs that is separated by a, obviously, a door which may be closed, so all conversations that occur in the room are private and other than, I think there might be a small window in the door, like all of the other doors, there are no windows or anything like that, so whatever goes on in the room is pretty much private.

Is that --

MR. WRIGHT: Yes.

THE COURT: -- is a correct description of the room?

MR. WRIGHT: Yes, it's a --

THE COURT: Okay.

MR. WRIGHT: -- private conference room right off the court, and so I was allowed to use it any time we got to a passed for cause or for-cause challenges denied --

THE COURT: Right.

MR. WRIGHT: -- I was allowed to go with Dr. Desai and Margaret Stanish and myself and talk to Dr. Desai and get his observations and input on each individual juror. And my experience has been that he is observant and -- on each individual juror, when I talk to him after -- right then, after each individual juror -- he was comprehending it, understanding it, knew everything except their physical description. And that's because he does not look at them, and because -- and these are my words, these aren't medical terminology. I don't know aphasia from short-term amnesia or anything else, but essentially, he listens and can absorb it better, rather than doing two things at once, like, listening and/or writing or something.

He's at his optimum by simply listening and taking it in. And so, therefore, I would talk to him and he was best in the morning because we had long days and the -- he -- my observations are he -- he took it all in and understood, and then, I'm in there saying, what do you think of this juror? Get -- tell me what you think of them, your observations.

THE COURT: Right.

MR. WRIGHT: And he is -- the problem isn't his --

we're getting out verbally his -- his -- what he wants to get out. It is labored. It takes time, but it gets there, and sometimes it's almost like pantomime and there are words that are mixed up, like, double-negatives and things where I miscommunicated with him, but communicated with him and I believe got it straight.

THE COURT: Right. So you believe, you know, yes, he likes the, you know, guy that worked at parks and recreation --

MR. WRIGHT: Correct.

THE COURT: -- but he didn't like the gal that -- you know, just as -- by way of example, the gal who worked at the Palace Station or what have you, you felt that you understood that?

MR. WRIGHT: Correct.

THE COURT: Okay.

MR. WRIGHT: And when I talked to them -- at the end of each time, he knew it -- by the time I would ask him at the end of the day -- because I was testing him on this -- I would say tell me about -- and I'd use a juror's name who we had heard earlier in the morning, and he couldn't recall it. And even when I told him what they are, the wheelchair guy, or this guy or that guy, he didn't have the same recollection he did have, and he mixed them up.

However, I did have, and took down all that -- that

he had already --

THE COURT: His contemporaneous impressions?

MR. WRIGHT: -- correct. And the -- so for each of those it worked out. As it went on he -- he got more, and I think it was tired, and it became more simplistic and using incorrect words backwards, like, if I say one to five, I must have told him fifty times, one, I love a one, I can't stand a five. I was ranking them one to five on jurors, and he -- he -- if he really loved them, it was a five for him. I'd say, no, and go over it.

But that I could work through because I understood what he was -- where we were mixed up on it.

THE COURT: Right. For example, if he said one, you could say, you mean you really hate him, and if he said, no, that guy was great, or, you know, something --

MR. WRIGHT: Right. He --

THE COURT: -- then you'd say, oh, no, that's a five or however.

MR. WRIGHT: -- right. And he would mix up bias and no bias, and I'd, just, finally go with thumbs up or thumbs down type of a thing. But he was comprehending and understanding. I would point out that that doesn't entail -- I mean, jury selection is one thing, it doesn't entail memory of events long past and what we're going to do in the trial. His -- he would know what he wants to say and have problems

in -- and I'm talking about his presentation to me that I am observing -- he would have problems in finding the word and getting it out, and we would guess at it.

Like, finally we -- we ended up for an analytical person would be, you know, one, two, three, four, five, type thing was the easiest way to explain it. And so that -- that's how we progressed through jury selection. Moving into the trial, I gave the Court a copy of -- or I gave the Court a cite to People versus Phillips 16 New York 3rd 510, a 2011 opinion, and I -- I am requesting -- and in that case a person had aphasiac -- paraphasiac condition from stroke caused -- I'll just call it brain damage, as opposed to the -- distinguishing between what the brain damage was, and I am requesting accommodations that -- they were all enclosed in a footnote in there in the opinion, and the first one was that the trial be held four days per week.

Secondly, with the exception of jury selection and any other reasons of special necessity, the trial will be conducted each day from 9:30 a.m. until 1 p.m., so that counsel and defendant may confer with each other in the afternoon.

I am going to have to be -- at the end of the court day, not only conferring with him slowly and laboriously about what happened, but also conferring about what's coming up on the next day. So it's just not telling -- getting -- as the

Court knows -- any -- any prep as what went on today and what's going on tomorrow.

And additionally, the third one, the Court will be willing to take frequent breaks in the proceedings as needed to enable the defendant and his counsel to confer. I mean, the Court has already accommodated every request that I had made during jury deliberation --

THE COURT: Selection.

MR. WRIGHT: -- select -- I'm sorry, yes, selection.

Fourth, the Court will afford the defendant a recess after the direct testimony of each prosecution witness to enable counsel to confer with the defendant about the witness's direct testimony.

I think there will be many technical witnesses that that would not be necessary. I mean, I don't view that as -- this --

THE COURT: So are you talking about percipient witnesses? Maybe an employee at the clinic or something --

MR. WRIGHT: Correct.

THE COURT: -- like that?

MR. WRIGHT: Right. Obviously, like, a CDC person or truly even a victim who was treated by a different doctor, I don't -- I don't need any --

THE COURT: Right. So if somebody's testimony is, I was referred to the clinic by my physician, Dr. whatever, and

I don't remember who my certified nurse anesthetist was, but I was treated by Dr. whatever, and then, I later learned that I had hepatitis or -- or something --

MR. WRIGHT: Right.

THE COURT: -- to that effect, that wouldn't involve Dr. Desai. Conversely, if a patient came in and said, yes, I directly remember Dr. Desai, he came in and talked to me before the procedure --

MR. WRIGHT: Correct. And I --

THE COURT: -- what have you. So essentially, what you're requesting is a recess after direct testimony for any percipient witness that had direct contact with Dr. Desai, or information directly relating to his conduct at the clinic; is that --

MR. WRIGHT: Yes.

THE COURT: -- fair? Okay.

MR. WRIGHT: And the fifth one in here has already been accomplished. In accordance with the Court's direction, the prosecution has provided open-file policy -- open-file discovery and all Rosario material, whatever that is in New York, I don't know, to the --

THE COURT: Probably, like, Brady material or something.

MR. WRIGHT: -- yeah. To the defense well in advance. That -- I mean, we have open-file -- more -- more

than open-file discovery, more than I want.

Sixth, the attorneys will make their best efforts to structure their questions of witnesses to elicit short, unlayered responses, while avoiding leading questions to the greatest extent possible.

Seventh, the defendant and counsel have been furnished a copy of the videotape of the incident. Well, that doesn't apply here, but I mean, that offense was caught on video as an --

THE COURT: Right.

MR. WRIGHT: -- attempt --

THE COURT: And any exhibits you've been given and all of that, so...

MR. WRIGHT: Correct. Let's see. Ninth, the parties are instructed, should the defendant choose to testify, attorneys should restate their -- we can address his testimony --

THE COURT: I'm sorry --

MR. WRIGHT: -- if it comes to that.

THE COURT: -- oh, that's way down the -- way --

MR. WRIGHT: Right.

THE COURT: -- down the road.

MR. WRIGHT: The parties may obtain daily copies of expedited transcripts at their own expense. The Court will make the court reporter --

THE COURT: And have you requested dailies on this, Janie?

MR. WRIGHT: I -- I have not, yet. And the -- because I -- I need to know the expense and whether it will be shared and everything else because I don't have the -- it depends on how expensive it is, and if it's too expensive, I will ask the Court to do it. I don't know what it costs for dailies.

THE COURT: Yeah, I don't know what it costs either.

THE COURT RECORDER: 7.50 for an original and one.

THE COURT: 750?

THE COURT RECORDER: $7.50 a page.

THE COURT: 7.50 a page --

THE COURT RECORDER: For an 0 and 1.

THE COURT: For an original and then one copy is what it costs. Now --

MR. WRIGHT: What's -- so what's that mean if the State gets one?

THE COURT RECORDER: Then it's 9.50 a page for an 0 and 2.

MR. WRIGHT: Okay. So does that mean it's 4 something each?

THE COURT: Janie, let's just say -- take a capital murder case, what do the -- which we have to do dailies, although the State pays -- I mean, the -- that's covered by

the county, do you know what those would run? I mean, I think we've had --

THE COURT RECORDER: Well, if we go all day, generally it runs about, roughly 200 pages for just an 0 and 2 for -- if there's just two parties, it's 9.50 times, say, 200 pages a day, so that's what it comes each.

MR. WRIGHT: So it's, like --

THE COURT RECORDER: And if Mr. Santacroce wants a copy, then it's an 0 and 3 and that would be 11.50 a page.

THE COURT: Well, but you guys can make your own --

MR. WRIGHT: Okay. So if it's --

THE COURT: -- they don't like you to make your own copies, but realistically, if you got a copy for yourself, I mean, it's always one copy, that's the system, but we wouldn't -- I mean, if you got them and you made a Xerox and gave it to Mr. Santacroce so he could look at it, that's up to you.

MR. WRIGHT: But if I -- does -- and if I get it the State gets it. I'm just trying to figure out if we cut it -- I don't want to pay more than the State pays.

THE COURT: Right. Well -- are they -- the dailies are filed?

THE COURT RECORDER: They are filed.

THE COURT: See, the dailies are filed with the -- they're filed, so they become part of the record. So that --

even if the State doesn't get a copy, once it's on the computer, anybody can get it. Once it's in Odyssey, in a way that's accessible by the lawyers, obviously, the -- the public can't get it -- anybody can go -- just like if you've filed the preliminary hearing transcript is filed then with the clerk of the court, you can access that on Odyssey and print it out.

So the dailies are actually official transcripts. So any time an official transcript is prepared, the court recorder files that with the clerk, and it becomes part of the record in the case.

The other thing you could do is, Janie, we have to have something set up because obviously my court recorder cannot be expected to sit in here, you know, for eight hours or seven hours, or whatever the case may be, and then stay up all night typing a daily. So, you know, if you request dailies every day, then we have somebody set up to do them. If you sporadically request a transcript, we will try to accommodate you, understanding, as I just said, I'm not going to direct my court recorder to work an eight-hour day and then stay up until midnight or one in the morning typing your transcript. I mean, that's just not fair to her.

MR. WRIGHT: I understand.

THE COURT: So --

MR. WRIGHT: So is that --

THE COURT: -- you know, one thing you can do is this, if you would like a daily turnover of particular testimony we can try to accommodate that, you would be billed out at the, whatever the rate for dailies is, and we just wouldn't necessarily have somebody in place, so we'd have to send it out and see who could do it.

THE COURT RECORDER: I've checked into it and there's somebody that -- I thought he might want that -- and there is somebody standing by that she can take daily copies --

MR. WRIGHT: Okay. So it's --

THE COURT RECORDER: -- whenever you want.

THE COURT: All right. So you can do partial dailies. I would be willing -- typically we don't order that, but to make accommodations in this case, the Court would be willing to accommodate you with partial dailies, meaning, let's say there's testimony from the gal at the CDC or whomever, and you don't feel that that's something that you need a daily of, okay, then we won't -- don't ask for that, you know, but if you have a testimony from an employee from the endoscopy center and you feel that that's something you need a transcript of, then obviously you can request the transcript of that and then the copy is available for the State and Mr. Santacroce as well.

Now, if I order that for -- for you, the only thing

I would have to add is then, of course, if the State wants a daily of a -- or a partial daily of another witness for their closing or whatever, then I have to also accommodate the State and order that daily or partial daily. But I can order -- we can order partial dailies, that's fine.

MR. WRIGHT: Okay.

THE COURT: I'll let you do that.

MR. WRIGHT: So if we -- if it's --

THE COURT: And that's cheaper, obviously.

MR. WRIGHT: -- and if it's -- if it was just dailies, as I understand it, it's about $2,000 a day, 9.50 times 200?

THE COURT RECORDER: Right.

MR. WRIGHT: Okay. And that -- and that would all be paid by the defense? Okay. And none by the State?

THE COURT: Right.

MR. WRIGHT: Well, can I make it that it not be -- how do I get it and they don't get it?

THE COURT RECORDER: Can I -- can I weigh in on this?

THE COURT: Well, no. Janie can only weigh in on the rules.

THE COURT RECORDER: And that's what I was going to say, is that it's --

THE COURT: Oh, okay.

THE COURT RECORDER: -- the rule says that -- actually, you should be able to get it and the State should not be able to get it unless they pay for it, which would -- they would then have to pay the 2.50 per page, instead of the 7.50. But if you wanted to split that, which we do all the time --

MR. WRIGHT: Right. That's what I'm trying to do.

THE COURT RECORDER: -- but they'd have to agree to it and want it.

THE COURT: Right. We can't order it. And again, once it's part of the public record --

MR. WRIGHT: Okay.

THE COURT: -- once it's part of the record with the clerk's office, then anybody --

MR. WRIGHT: Okay.

THE COURT: -- can get it.

MR. WRIGHT: Okay.

THE COURT: Once it's filed with the clerk's office.

MR. WRIGHT: What say the State?

MS. WECKERLY: Yeah, I don't think we can --

MR. STAUDAHER: Well, I don't think we want to obligate our office to $30,000 or so of transcripts for the case. I mean, that's what we're talking about if it was a monthlong trial and it was $1,000 a pop for a day --

THE COURT: Right.

MR. STAUDAHER: -- and I don't know that we -- we're going to need or want, necessarily, daily transcripts --

THE COURT: Right. Like I said, though, if the State requested daily of somebody that they wanted the transcript to be used in their PowerPoint at closing or something like that --

MR. STAUDAHER: And I'm sorry for sitting down, Your Honor.

THE COURT: -- then you guys get the copy of whatever it is that they requested. So, you know, I know sometimes the State likes to -- particularly in capital cases where you have the transcript anyway, you know, they like to put the quotes in their closing PowerPoints, you know, if you're going to do that then you have to buy the transcript.

MR. STAUDAHER: Sure.

THE COURT: And then the Defense gets a copy of whatever it is you guys ordered.

MR. STAUDAHER: Sure. I mean, we -- I don't have an issue with if there's individual people, either us, if there's somebody that we want --

THE COURT: Right.

MR. STAUDAHER: -- doing that, but I -- I can just tell the Court right now, there's no way I'm going to be able to --

THE COURT: Yeah, Mr. Staudaher, I mean --

MR. WRIGHT: Okay.

THE COURT: -- fairly --

MR. WRIGHT: Okay.

THE COURT: -- he can't bind his office for a $30,000 commitment without talking, either to Mr. Lawley or Mr. Wolfson, I'm assuming, or somebody in his office with the authority to say, go ahead and bind the office.

MR. WRIGHT: Okay. Well --

THE COURT: Fair, Mr. Staudaher?

MR. STAUDAHER: That's fair.

THE COURT: I mean --

MR. STAUDAHER: But I don't, also, have any issue with -- if there is a particular witness that they want or that we want that -- respectively, I would -- if we got one, I would produce it to the Defense. So that's not an issue if there's a witness that comes up that they are particularly interested in. But as far as full daily transcripts, I'm not going to be able to -- or Ms. Weckerly are not even going to have the time to go through them, realistically.

Maybe if the -- on the individual witnesses or specific portions of testimony. But it wouldn't be a -- something that we would require or need for this particular case.

MR. WRIGHT: Okay. Well, my view is -- I appreciate it, and I was just asking. My view is the -- the Court should

accommodate him and provide it because he is handicapped, the same as if he was in here and couldn't speak a given language, he doesn't pay for his interpreter.

THE COURT: Right.

MR. WRIGHT: If he has rare -- if he has a disability or you're looking to accommodate him so that we can try him, and despite of his diminished capacity, I think it is the State's obligation to do that. So that's my request.

THE COURT: Okay. I'm going to consider the issue of the transcripts.

MR. WRIGHT: Okay.

THE COURT: What you need to do, Mr. Wright, is figure out, realistically, you know, what transcripts you're going to be wanting, you know. Because if Dr. Desai isn't going to really need to comment on some of these experts and some of these other -- regardless of who pays for it -- because these are going out. That's what -- here's the -- here's the thing.

These are not typed in house, and so these are basically people who are sort of subcontractors, if you will, with the courts, who then, you know, not even -- who then type these transcripts. So they're under no -- we have to pay them, in other words. So this is actually currency, you know, hard money that has to come from somebody's budget. It's either going to come from, you know, the Defense side, it's

either going to have to come out of the District Attorney's budget, or it's going to have to come out of the district court budget.

Now, you know, occasional transcripts here and there can probably be typed in house. But if you're talking about a substantial portion of the dailies or complete dailies, they're going to have to go out. And so, you know, if the Court is going to pay for that, which I'm not saying the Court is going to pay for it, but what I'm saying is somebody has to pay for it.

It's not like I can just direct court recorders and there's a million sitting around that are already on the county payroll that we can then say, hey, you need to type this daily. So whoever is going to be typing it, like I said, it's kind of an independent contractor idea, and then we have to pay that person to do it.

So just so you understand, it's actually -- would then be a cost either out -- out of -- if you're not paying it, it's either coming out of the District Attorney's Office budget or it's coming out of the District Court budget. Just so --

MR. STAUDAHER: Your Honor --

THE COURT: -- just so you know how that works.

MR. STAUDAHER: -- may I make a suggestion? I think the Court actually addressed this as an accommodation before,

or at least the opportunity for accommodation. If -- one of the main issues is the fact of remembering witnesses, what they said, how they acted, if they came across the evidence that was presented, that kind of thing. The Court has already indicated that because the JAVS system is active in this courtroom, that at the end of the day for the whole day or particular witnesses that that disc could be burned or that --

THE COURT: Yeah, that's something I'm also considering --

MR. STAUDAHER: -- and certainly --

THE COURT: -- Mr. Staudaher.

MR. STAUDAHER: -- that would be maybe even more effective than having Mr. -- or Dr. Desai try to read transcripts, if that's indeed -- if he has legitimate, you know, issues. So that's another suggestion, and that wouldn't cost anybody anything, except for the cost of the disc to burn it.

THE COURT: It does cost.

MR. STAUDAHER: Well --

THE COURT: I mean --

MR. STAUDAHER: -- I don't know.

THE COURT: -- here's the other thing, Mr. Wright, where I was going with that whole thing about it's coming out of somebody's budget, either district court's budget or -- or whoever's budget it's coming out of. The bottom line is, even

if I were to order some kind of dailies as a reasonable accommodation, you know, if -- if it's witnesses, you know, who he doesn't need to read because they're expert witnesses or they're witnesses who are basically just saying I was treated by another physician or something like that, let's not waste anybody's money getting those.

So I would ask you to limit your request to those witnesses that Dr. Desai actually needs to review and consider their testimony, and can offer you something meaningful or comment -- you know, comment on or whatever, that you need for your defense. Not witnesses he's not even going to be commenting on because then that's just a waste of money either for you or the State or -- or the Court.

MR. WRIGHT: That sounds reasonable.

THE COURT: Okay.

MR. WRIGHT: And my only caveat is I'm envisioning cross-examination and so if it's all of a sudden cross-examination about something that I don't have and haven't gone over him with again, towards the end of the trial, I mean, then it's problematic. I mean, that's my own -- what I --

THE COURT: Let me ask you this. I know, you know, you -- just by nature of who you are, you tend to do a lot of fraud defendants and high end -- what I'll call kind of high-end defendants because, I mean, the ones I know you from

when I was at the DA's office, you know, relatively sophisticated people, and I think that probably relates to your reputation in the community and the likely cost of your services, but I do know that you have -- I can remember from years back you've done some murder cases and other things, and I can just comment based on my own experience, both as a prosecutor and as a Judge, that the average defendant in some of the more violent crimes, you know, homicides, robberies, things of that nature, certain thefts, tend to be or often are of very low intelligence.

You know, there are many cases through capital cases -- I would say the majority of capital cases, when you get to a penalty phase, there is abundant evidence of low IQ, special programming in schools, you know, special education, things like that, if it's not outright low IQ, behavioral issues, learning disabilities, attention deficits, hyperactivity, difficulty paying attention, and just in talking to them throughout the trial process, obviously it's often just even apparent to the Court, you know -- and when I say, Talking to the defendants, as you know, a lot of times, you know, they pipe up from the in-custodies when we're here on the calendars, they don't like their lawyer, they want this, they want to know why they're not -- you know, it's pretty evident a lot of these people are of -- of pretty low IQ.

And as I said, that's always presented during the penalty phase, and that -- and we all know that there have been statistical analyses done on, you know, defendants and incarceration rates of people of low IQ, and -- and, you know, capital -- how many times a death penalty is sought against those people.

And so my question to you is -- and maybe you don't have a lot of experience with this because of the nature, as I said, of who you are and how expensive you are, quite frankly, because most people who are of low IQ -- or -- and are committing violent crimes are also of low economic means, and their families are of -- of very limited economic means.

So the reality is they don't have the ability to hire you. And so my question to you is I'm just wondering, what do you do with those people because, I mean, you know, most of them you could show them -- I mean, they can barely read. So, I mean, to show them a transcript, they're not even going to be able to read it. And you mentioned, you know, well, he -- Dr. Desai can't say that this person is analytical or not.

If I took 10 defendants out of those boxes on a -- on a calendar and I said to them, All right. Well, do you think this is an analytical person or not, they wouldn't -- they wouldn't be able to -- to really opine on that because I don't think they'd have the -- now, some of them are quite

smart regardless of the kinds of crime, and maybe have had limited opportunities, other things, but my -- my question, I guess, to you is what kind of -- if you've even had this experience?

How do you accommodate these people of such low intelligence that I -- you know, I mean, I think you could take a month with them, and I don't know --

MR. WRIGHT: I talk to them in --

THE COURT: -- yeah, I am --

MR. WRIGHT: -- in their own language.

THE COURT: -- I'm just wondering if you've even had that experience?

MR. WRIGHT: Yes, I have. And I talk to them in a language that they're used to. And so, rather than analytical. I mean, there are -- almost everyone, even the dummies, they normally commit dumb crimes. I mean, violent crimes and things. This happens to be a smart crime. I mean, sophisticated, for lack of a better word, and the -- this has to do with the Wilson test and the Wilson factors.

I mean, this is a case in which it's going to be relevant what happened and then what was the risk -- if this was the unsafe practice and was that perceived or not by the individuals, what did they know, when did they know, and was it perceived as a serious risk. All that requires interaction with my client, dumb or smart.

So, I mean, this Taylor case --

THE COURT: Yeah, I mean, all I --

MR. WRIGHT: -- was simple. It was a knifing caught on video of the guy's wife in the -- in the lobby.

THE COURT: -- yeah --

MR. WRIGHT: There wasn't going to be factual disputes on it.

THE COURT: -- right. But I'm just saying that, you know, a lot of these defendants, quite frankly, you know, they couldn't weigh in in any sort of a meaningful way in jury selection because they just don't have the sophistication, and they don't have the, you know, basically, intelligence, and they don't have the -- I mean, it's -- you know, intellectual IQ is something that's often talked about, but social IQ is also a big factor in these kinds of cases.

MR. WRIGHT: Well --

THE COURT: And they don't have the social IQ even to weigh in, and so I'm just commenting that, you know --

MR. WRIGHT: -- well, I --

THE COURT: -- to me, I mean, we're executing people in this country that, to me, can't meaningfully assist in a -- I'm not saying I'm not going to make reasonable accommodations, but, you know, I -- I just have to just add my own editorial --

MS. STANISH: You know, Your Honor --

THE COURT: -- here and I'm sorry I'm talking too long, but, you know, I've sat through so many capital cases where you have a defendant that just kind of sits there and the lawyers go about their business and there's relatively very little interaction. And I understand this is a more sophisticated kind of a case and -- and this and that, but I'm just maybe thinking out loud here, and just wondering, you know, we're all focusing, oh, well, Dr. Desai has had these strokes and his cognition is limited and this and that, but you have so many criminal defendants in this country facing much more severe penalties that, you know, just by nature of birth and other things.

MS. STANISH: Yeah --

THE COURT: So I'm thinking --

MS. STANISH: -- I want --

THE COURT: -- out loud.

MS. STANISH: -- okay. And thinking out loud, Your Honor, as well, in my research on this issue of accommodation, some jurisdictions, mostly in the East, accommodate people like that. They have rehabilitative specialists who sit next to these people who are of low intelligence and help facilitate the attorney with them.

So, I mean, just because the --

THE COURT: Yeah.

MS. STANISH: -- the bar is so low because of,

perhaps, funding and -- and volume of cases --

THE COURT: Yeah, I --

MS. STANISH: -- doesn't mean we want to drop --

THE COURT: -- I can only --

MS. STANISH: -- the bar.

THE COURT: -- I can only comment on what my observations are in this jurisdiction, over 22 years and that's my observation --

MS. STANISH: But it -- the --

THE COURT: -- but be that as it may --

MR. WRIGHT: Okay. I --

THE COURT: -- you know, the Court has endeavored to make reasonable accommodations, as you recognized through the jury selection. The Court will continue to try to make reasonable accommodations throughout the trial phase. But, you know, the Court can't make all accommodations, and I don't think I'm required to. But we'll make reasonable accommodations and I'll, you know, do my best to -- to do that.

So --

MR. WRIGHT: Okay.

THE COURT: -- the last thing was the issue of the transcripts. We're kind of --

MR. WRIGHT: Right.

THE COURT: -- still considering that. You're going

to determine what transcripts you're actually going to need. I did note that when Mr. Staudaher was mentioning the fact, we can give you a JAVS recording. Ms. Stanish, you were kind of nodding, like, that wouldn't work or something --

MS. STANISH: I'm not sure --

THE COURT: -- like that?

MS. STANISH: -- it would because some -- depending on how you can navigate through it, it can take a -- I -- a lot of time to try to get to the right spot in a, you know, four-hour testimony or what have you --

THE COURT: Yeah. It's just like playing any other disc. You have the thing where you push play, and then the thing on the bottom, and you can drag your cursor to the time that you want to -- so, you know, that's a little bit dependent on your own note-taking and, you know, if you write down the time that the -- or near the time the comment was made, or the testimony was given that you want to look at, you can drag your cursor to -- or your -- drag the little arrow to that time.

So you don't have to sit there and listen to all four hours or whatever.

MR. WRIGHT: Okay. Well, I -- I'd just comment that that -- utilizing that method of doing it, I -- I mean, would require me asking for even shorter court days because I -- I'm going to at the end of each day -- I mean, talk to him about

what happened during the day, and then additionally, what's going to happen tomorrow. Aside from him -- me having him updated from transcripts and things.

My request is partial daily transcripts at -- and at the expense of the court. I mean, this is the request I am making because he is of diminished capacity and he's handicapped and needs to be accommodated.

MS. STANISH: And if I could make a suggestion in that regard. The District Attorney has been trying to project for us, at least in groups, what their witnesses may be, so we may be able to in advance identify witnesses that need to be transcribed and maybe the -- the Clark County staff could augment, rather than -- contracting it out to save money?

No, it --

THE COURT: It's just we --

MS. STANISH: -- won't work?

THE COURT: -- don't have -- I mean, I think there's three gals, right, Janie?

MS. STANISH: No floaters?

THE COURT: Transcribers for all district court that's -- that just work on transcription. That's all of the departments. How many? What 34 departments or whatever? And so they -- you can't -- we are not allowed to direct one gal just to do the dailies. And obviously, you know, typically, the old fashioned way where you had the court reporter, there

were two court reporters who did it, so that one gal would take off and do her dailies for that day, and then you'd have a new gal come in.

Now that we have the court recorder system, we have to farm it out because we don't have the -- we just don't have the staffing -- the capability to do it. That's the -- and -- that's as simply as I can --

MR. WRIGHT: Okay.

THE COURT: -- say it.

MR. WRIGHT: And my -- the final request Margaret touched on is I'm going to -- I mean, they have been telling us the fashion in which it's going to go, you know, as blocks of witnesses, but I am going to need to know the witnesses for the next day on each -- each given day to -- to be able to discuss with -- after talking with Dr. Desai about what happened today. What -- what is coming up tomorrow.

And so I -- that's -- and -- I mean, I had already talked to them about that because I've got over 100 boxes, and I just need to know which witnesses are coming up, but additionally, I simply need to know it for Dr. Desai.

So those are all the requests that I make.

THE COURT: All right. Does the State want to respond to these -- just one by one, and then I'll go over -- go over all of them?

MR. STAUDAHER: Oh, as far as all of these are

concerned?

THE COURT: Yeah.

MR. STAUDAHER: Your Honor, we feel that we are in a little bit of a -- I can respond to some of them, but I think for -- for a number of the things that he went through as far as a list of -- for about shorter days or fewer days or whatever, I mean, we're just going to have to submit that to the Court because I don't think that we can weigh in on limiting his accommodation, at least from the State's perspective.

But as far as the question regarding the witness list or the witnesses. To the extent that we can -- we can provide that as it -- as we go, we will certainly endeavor to do that. But -- but the problem is that sometimes we have to switch our order up at even the last minute, or a witness that we -- we give them, we ended up making -- may not be able to call that witness for some reason.

So with that -- with that knowledge that it -- it's not set in stone as to these witnesses per se, but we will on a daily basis try and give them a head's up as to who we think we're going to be calling for the next day. It also depends on how far we get in a particular day with certain witnesses and how that might alter their schedules and when they can come in. Because it's a very dynamic thing from our side. We've got a lot of people and a lot of schedules we're

questionnaire, you said that you had heard something about this case on the TV news. Is there a particular station that you like to watch for the local news?

PROSPECTIVE JUROR NO. 641: I actually watch all of them.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 641: Like I don't have a specific one.

THE COURT: Okay. And then do you recall seeing something recently or in the past or have you kind of been seeing various stories over time or what?

PROSPECTIVE JUROR NO. 641: Yeah.

THE COURT: Which one?

PROSPECTIVE JUROR NO. 641: All.

THE COURT: So over time?

PROSPECTIVE JUROR NO. 641: Yeah.

THE COURT: All right. And then it says not following the proper procedure. Can you tell me in more detail what you remember seeing about this case or the endoscopy clinic or anything that -- that -- relating to this matter that you saw on television?

PROSPECTIVE JUROR NO. 641: Like reusing the same needles.

THE COURT: Okay. Anything else that you can remember? And that's fine if you don't, I mean --

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PROSPECTIVE JUROR NO. 641: That's just the main one, you know, not following protocol.

THE COURT: Okay. And then where it asks you if you formed an opinion you started writing something and then you crossed it out. Why did you do that?

PROSPECTIVE JUROR NO. 641: Oh, I don't know. I'm not sure.

THE COURT: Okay. Because it looks like you wrote no, and then you scribbled out over that. Do you remember doing that?

PROSPECTIVE JUROR NO. 641: No, not really.

THE COURT: Okay. Well, as you sit here today let me just ask you the question. Have you formed an opinion about Dr. Desai or about Mr. Lakeman based on what you've seen on TV?

PROSPECTIVE JUROR NO. 641: I would say yeah.

THE COURT: Okay. And what is your opinion?

PROSPECTIVE JUROR NO. 641: I think as a, you know, professional you have to trust that they know what they're doing, and I would consider, I guess, since you should know I would consider it guilty, I guess. You know what I mean?

THE COURT: Okay. Just based on what you remember sort of this one thing from the TV news?

PROSPECTIVE JUROR NO. 641: Yeah.

THE COURT: All right. State, do you want to follow

up on this issue with Mr. Parbo?

MS. WECKERLY: Well, can we approach, Your Honor?

THE COURT: Sure.

(Off-record bench conference.)

THE COURT: All right. Mr. Parbo, we're going to go ahead and excuse you at this point in time. You're probably not the best juror for this particular kind of case, but you may be summoned again to serve on another type of a case that you would be more suited for and you haven't seen anything in the news about. Okay?

PROSPECTIVE JUROR NO. 641: Okay.

THE COURT: And, sir, before I excuse you for today I must admonish you that you're not to discuss anything that's transpired in the courtroom with anyone else today, meaning my questions to you and your answers and so forth. Do you understand?

PROSPECTIVE JUROR NO. 641: Yes.

THE COURT: Okay. Put the microphone in the chair, follow the bailiff through the doors, and check out through jury services when you leave. And you're free to go.

PROSPECTIVE JUROR NO. 641: What floor is that?

THE COURT: Third floor.

PROSPECTIVE JUROR NO. 641: Okay. Thank you.

(Outside the presence of Prospective Juror No. 641.)

THE COURT: For the record, both sides stipulated to

excuse him based on his statement that he couldn't be -- that he had already formed an opinion of guilt and I think also in part with his attitude clearly not wanting to be here, being not very, in my view, respectful. Does that fairly summarize what happened at the bench?

MR. SANTACROCE: Yes, Your Honor.

MR. WRIGHT: Yes, Your Honor.

MS. WECKERLY: Yes.

THE COURT: All right. Everyone said yes. All right. We're going to go ahead, then, and -- there's nobody else left -- take our recess. We're going to be back at 9:00 a.m. Although I had said we have six and five people, that's when I was angry. And when I --

MS. STANISH: Now you're tired.

THE COURT: Now I'm really tired at people not showing up. And so I had some perspective after I ate lunch and we now have it 40 people, 40 new people will be coming tomorrow.

MR. SANTACROCE: Coming from what number to what number?

THE COURT: Denise will tell you. I think tomorrow we should have our 35 or 36.

THE CLERK: Number 649 through 1133.

THE COURT: And then just to clarify how I'd like to do the final selection. Basically, when we're done, you know,

a couple of these people were held in abeyance. They'll probably be excused for hardship. I think we had about four left for hardship that had been held in abeyance, a couple for causes held in abeyance that may be excused.

When we get our 35, basically I will read off who the 35 are, and then if anyone feels like they need to put something else on the record that's not already been done, they can do that. Ms. Husted will prepare a list of the 35 names. All lawyers, and we'll give also to the parties, will be given a copy of the 35 names. The perempts will be done publicly, obviously not in front of the jurors, but publicly in an open courtroom.

I think the easiest way for us to do it, as well as to make clear any Batson or other issues, is for the State to publicly say, okay, we're going to excuse, you know, No. 276, Mr. Jones. And then that name will be crossed off everybody's list. And then the defense will decide however you're going to do it, whether you're going to agree on all of them or break them up -- obviously I don't care, that's up to you -- you know, defense will excuse No. 284 or whatever. That person will be crossed off the list, and then, you know, the State can excuse their -- their second and so forth like that.

Basically in that way if there is a Batson or some other issue, that'll be immediately apparent to the Court as well as the lawyers, and that can then be challenged

immediately. If I just give you the list to pass back and forth, it won't be as obvious who -- who challenged who and there won't be the same kind of public record made of how the challenges were done, and so that is why I would like to have it so that you actually read off your challenge publicly.

And that way, like I said, there is a record of it. If there is some kind of Batson issue or something to that effect it's obvious as opposed to passing the list and then it's not obvious and it's confusing for potential appellate review. So that's how we're going to be doing it. So that's all for today. Anyone have anything else they need to place on the record?

MR. STAUDAHER: I just want to talk about logistics if I may, Your Honor, for a moment. Provided we get, as the Court thinks, through jury selection tomorrow and we go through that process of whittling down to our real jury, there are a number of issues related to the evidence that we need to work out as far as getting it over here.

I don't know if we -- we sort of broached the subject initially about any stipulations so we can avoid some of the folderol, but we'd like to work through that. It may be that we need for issues in general that have come up, as well as all of the evidence and getting everything in maybe a day to do that.

THE COURT: Right. Probably what I'm thinking is,

assuming we get -- we may not get enough people tomorrow. It looks like we should have enough by tomorrow, but I'm assuming if we do it's going to be 5:00 or after 5:00. So at that point we'll take our break. We'll -- the Court and my staff will make the list of the 35. It'll be then publicly placed on the record Wednesday morning. We'll go through the process Wednesday morning of, you know, the back and forth, who's going to be selected.

Once we have that, court staff will contact those people and I think then tell them to report Thursday, which then should give you all day Wednesday. If we still have to select a jury Wednesday morning, then you probably would have Thursday off because the whole selection thing is going to be Wednesday, then, afternoon and we still have to call everybody and tell them who is coming and tell them who is excused and do all of that. So --

MS. WECKERLY: Okay. But one of -- one of those days.

THE COURT: Right. So it's going to be one of those days and, you know, people have to be given reasonable time. And then that should give you guys enough time to do whatever you need to do, and then we can -- you know, if we need to then put anything on the record, we'd be able to do that then. So does that work for everybody?

MR. STAUDAHER: Yes, Your Honor.

MS. WECKERLY: Yes.

MR. SANTACROCE: Yes.

MR. WRIGHT: Yes.

THE COURT: All right. You can ask them, Denise.

THE CLERK: Can I do that?

THE COURT: It's just us.

THE CLERK: Okay. Are you going to have books with exhibits or what?

THE COURT: Just individual exhibits like usual?

MR. STAUDAHER: Yeah, it's not going to be books of exhibits for each juror. It'll be -- because there's so -- there's a lot of stuff.

THE COURT: Yeah, just like you usually do. I never use the books, but --

THE CLERK: Okay.

THE COURT: Okay. So then the other thing is this is the only thing we have in here. Tomorrow we'll start at 9:00, so you guys can leave your stuff if you want to. However you want to leave that.

MS. WECKERLY: Thank you.

(Court recessed for the evening at 4:29 p.m.)

ACKNOWLEDGMENT:

Pursuant to Rule 3C(d) of Nevada Rules of Appellate Procedure, this is a rough draft transcript expeditiously prepared, not proofread, corrected or certified to be an accurate transcript.

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DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA, Plaintiff, vs. DIPAK KANTILAL DESAI, RONALD E. LAKEMAN, Defendants.	CASE NO. C265107-1,2 CASE NO. C283381-1,2 DEPT NO. XXI **TRANSCRIPT OF PROCEEDING**

BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE

JURY TRIAL - DAY 5

TUESDAY, APRIL 30, 2013

APPEARANCES:

FOR THE STATE:	MICHAEL V. STAUDAHER, ESQ. PAMELA WECKERLY, ESQ. Chief Deputy District Attorneys
FOR DEFENDANT DESAI:	RICHARD A. WRIGHT, ESQ. MARGARET M. STANISH, ESQ.
FOR DEFENDANT LAKEMAN:	FREDERICK A. SANTACROCE, ESQ.

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TRANSCRIBED BY: KARR Reporting, Inc.

UNCERTIFIED ROUGH DRAFT

LAS VEGAS, NEVADA, TUESDAY, APRIL 30, 2013, 9:17 A.M.

* * * * *

(Outside the presence of the prospective jury panel.)

MR. STAUDAHER: I'll give the Court a head's up to something. We want to make -- ask the marshal when he gets back up here if he had any information that came to him from any source yesterday about any problem or communications or statements made by any of the jurors -- potential jurors that were here yesterday.

Where this is going is --

THE COURT: I know where it's going because I forgot to --

MR. STAUDAHER: -- you do?

THE COURT: -- mention it, and he did --

MR. STAUDAHER: Oh.

THE COURT: -- inform the Court. I think I know where it's going. I believe he was on the elevator, and I'll have him make a full statement --

MR. STAUDAHER: Okay.

THE COURT: -- I found this out late yesterday. Thank you for --

MR. STAUDAHER: I just wanted, out of --

THE COURT: -- thank you for --

MR. STAUDAHER: -- to be disclosed saying --

THE COURT: -- reminding me because I had meant to

bring it to everyone's attention, and then, we were so -- well, I speak for myself, but I assume everyone as well, it was such a long day yesterday --

MR. STAUDAHER: Yes.

THE COURT: -- we were tired, and I forgot, but thank you because I did mean to bring it to everyone's attention.

Why don't you tell me what you know, or I'll tell you what --

MR. STAUDAHER: Well, I was just getting on -- I was getting on the elevator today to go up to my office when I arrived this morning, and a deputy from our office was on the elevator with me, and I'm talking with yet another deputy about some unrelated thing to this case, and he just mentions, did you -- did the Marshal talk to you about the two jurors yesterday who got on the elevator and said something about hey, you know, that he believed they were kind of joking around, but he got -- they got on the elevator with other potential jurors and said, hey, everybody, not guilty. Not guilty. Something to that effect.

MS. STANISH: Yeah.

MR. STAUDAHER: And he thought they were just joking around, but he felt it was important for him to inform. So I -- when I heard that, I felt that it was important to at least make sure -- because I don't want there to be any issue with jurors -- so we informed Counsel, and now we're informing

the Court.

THE COURT: Right. It -- what I had learned from my Marshal was, I believe it's Mr. Tinale [phonetic] --

MR. STAUDAHER: Yes.

THE COURT: -- was the deputy who was on the elevator, and apparently there were two jurors, not our -- not our perspective jurors, two jurors from another department. Obviously I need to inform the Court about -- that is a separate issue with that Court's jurors, but for purposes of this we're concerned with our perspective jurors.

And the bailiff's impression was that they were joking and they said something like, Not guilty, Not guilty. I don't believe there would be any way for those jurors from another department to have any clue as to where our jurors were going, what case it was, or anything like that.

The bailiff's impression was that they were joking, but we can flesh this out a little bit -- a little bit more.

MR. STAUDAHER: Okay.

MR. WRIGHT: Are we starting with the -- the new batch?

THE COURT: Yeah, we're starting with the new batch, and it's starting with No. 649, Arsen --

MR. SANTACROCE: Your Honor, you had several that you were considering for hardships, and --

THE COURT: Right. What I'm going to --

MR. SANTACROCE: -- some of those are on this list that your clerk had printed up.

THE COURT: Okay. Well, that actually was -- that's not the formal official list. I guess somebody asked her for that to sort of help them. She asked me, I said, That's fine if you want to give them your list. I have no problem with that. That's not the formal official list.

What I'm going to do is I'm going to go through everything, and then, you know, go through who of the first day, I think should be hardships. I'm still kind of also holding the guy from the Clark County School District in abeyance. Remember, that's their chief or co-chief financial officer or whatever.

MR. SANTACROCE: The accounting guy, yeah.

THE COURT: Accounting guy. So -- but yeah, that -- those are just the people who have not been excused yet, so that's what that list is. Everybody who I've actually told, You don't need to come back, you're a hardship, you're a for cause, whatever, those people are not on the list.

THE COURT:

THE COURT: Well, we have to pass --

MR. SANTACROCE: -- so we can get to the next --

THE COURT: -- a total of 35. That's the minimum number we can pass. Now, when we pass 35, that's 9 pre-empts aside. If I give 10, now obviously we have to pass 37 people.

So...

Yesterday -- do you remember a Cynthia Zambrano, what the issue was with her?

MR. SANTACROCE: Yes --

THE COURT: Badge 140?

MR. SANTACROCE: -- I do.

MS. STANISH: She had expressed opinions of bias and presumption of guilt issues.

MR. SANTACROCE: I believe she was the -- was the the cocktail waitress that worked at the Jubilee show or something?

THE COURT: Was she -- was that who that was?

MR. SANTACROCE: I think so.

MS. STANISH: No.

THE COURT: No?

MR. SANTACROCE: No?

MS. STANISH: No.

THE COURT: Because I didn't -- all right. Here are the ones that are absolutely good to go, and if I -- my piles got messed up and I say something that contradicts any of your lists, please, immediately bring that to my attention. These are in no particular order, okay?

Badge No. 306, Edward Simpson.

304, Mack Brown.

291, Todd Nash.

For Rachel Robinson, 224, I put, Possible hardship, HOA Manager. She was the young gal, so I'm going to hold her in abeyance.

221, Laforest Gregory.

130, Melenda Pomykal.

129, Cory Johnson.

126, Bryan Wente.

249, Cindy Ennon-Wilson.

222 [sic], Lora Hendrickson.

898 -- or, I'm sorry --

-- 573, Philip Chavis.

485, Regyna Trotter.

458, Joseph Sandifer.

441 -- oh, this was the lady who [inaudible.]

426, Deana Safronov.

Probably 397, James McIntosh, who is the school district guy.

386, Xavier Figueroa.

378, Todd Hargett.

374, Jared Billotte. He was the Air Force guy that was looking for a job, but then we kind of decided it's probably unlikely and he would let us know if he got anything.

And then the much debated Badge 385, Angela Valente-Libanotis.

And 276, Darren Heller, I believe made it through.

MS. WECKERLY: Wait, we don't have 222.

MR. SANTACROCE: Who was 222?

THE COURT: Well, maybe that was --

MS. STANISH: Yes, that --

THE COURT: -- a mistake. Okay. 222.

THE CLERK: I don't even see the number.

THE COURT: I could have read the wrong thing.

THE CLERK: Well, Jennifer --

THE COURT: Who did I just say?

THE CLERK: Lora -- Lora Hendrickson.

THE COURT: Yeah, I don't have that in the -- do you guys have it?

THE CLERK: Oh, Lora Hendrickson, Badge --

THE COURT: Yeah, she was --

THE CLERK: -- 604.

THE COURT: -- right. She was -- wasn't she the gal who had lived all over the world?

MR. SANTACROCE: Right. She was a French --

THE COURT: Right.

MR. SANTACROCE: -- girl.

THE COURT: She had been a nanny or whatever.

MR. SANTACROCE: Right.

THE COURT: She had lived everywhere?

MR. STAUDAHER: That's --

THE COURT: Yeah.

MR. STAUDAHER: She's 604?

MS. WECKERLY: Right.

MR. SANTACROCE: She's 604, not 222.

THE COURT: I may have read the wrong number. Okay. So --

MR. STAUDAHER: How many -- how many do we have?

THE COURT: Okay. We have 19 real good ones. Well, I'll just make some decisions.

MS. WECKERLY: Is that -- okay.

MR. STAUDAHER: Which ones were the ones that were the partial -- or we were still holding in abeyance --

THE COURT: Okay.

MR. STAUDAHER: -- of that list because I have more than 19 on this.

THE COURT: Lisa Ruiz, 441. Her -- I wrote, Possible hardship. Her -- her son may be coming back in -- from Japan, the service in mid-May.

MR. STAUDAHER: And 224 also.

THE COURT: I wrote 454, Jayson Tomboc. He was missing work at $10 an hour, but he was going to check with his work and see if they were going to compensate him.

I wrote, On 538, Finaray Habil [phonetic]. I think she was okay. I wrote, May have a contact with new job with training issues, but let's put her in the approved pile because I think she was okay.

MR. STAUDAHER: And which one was that?

MR. SANTACROCE: 538.

THE COURT: 538. She had -- the one -- she was the young Asian gal, she had just gotten married and her mom was --

MR. STAUDAHER: Oh, yeah, she was --

THE COURT: -- also working at the new place. Okay. We'll put her in the approved pile.

Let's also include 224, Rachael Robinson. She was the HOA manager that was worried about meetings and stuff like that, but I -- well, let's put her in --

MS. STANISH: Which pile are you putting her in?

THE CLERK: You called -- called her earlier --

THE COURT: The approved. That she's included in the 35.

THE CLERK: Earlier you said, Hardships.

THE COURT: Well, I said, Possible hardship.

THE CLERK: Okay.

THE COURT: I'm not -- this is, like, informal.

THE CLERK: She's 224, though, right?

THE COURT: Right.

THE CLERK: Yes.

THE COURT: 153, Miguel Perez, he was going to check with his supervisor. I wrote, Possible financial hardship. And then, I also wrote, 6/6 to 6/15. Does anyone know what

that --

MS. WECKERLY: I think he had -- is he the guy going to Disneyland?

THE COURT: Yeah. We should -- let's go ahead and excuse Miguel Perez. He had the trip and -- everybody okay with that to excuse him for hardship?

MR. SANTACROCE: Yes.

MS. STANISH: What's his number again, Your Honor?

MR. WRIGHT: What's his name?

MR. SANTACROCE: 153.

THE COURT: Miguel Perez. He worked paycheck to paycheck, and then he had a trip scheduled from June 6, to June 15.

MS. STANISH: He's right here.

MR. WRIGHT: Let me find him.

MS. STANISH: At 153.

THE COURT: Everybody okay with excusing him for hardship?

MR. SANTACROCE: I am.

MR. WRIGHT: Yes.

MS. STANISH: Yes.

THE COURT: Okay. Moving on so --

MR. STAUDAHER: Just wait a second.

THE COURT: All right. 241, Joselyn Blanche, I wrote, Severe hardship.

Do you remember which one she was? I'm going to excuse her because I wrote, Severe hardship.

MR. WRIGHT: Are we doing that?

THE COURT: Yeah, I mean --

MR. WRIGHT: I mean, this is --

THE COURT: -- I'm just -- these were the ones I kind of held in abeyance --

MR. WRIGHT: Okay.

THE COURT: -- but I'm -- I'm just --

MR. WRIGHT: So, like, Miguel Perez, I can scratch now?

THE COURT: Yeah. I mean --

MR. WRIGHT: Okay.

MS. WECKERLY: She was the one who --

MR. SANTACROCE: Joselyn Blanche, we can scratch?

THE COURT: Yeah.

MR. STAUDAHER: Yes, right. So that one is going to go, right?

MS. WECKERLY: She's definitely excused, 241?

THE COURT: Yeah. Does anyone remember who she was? I just wrote, Severe --

MR. STAUDAHER: Well, she was the one who worked for the podiatrist.

MS. WECKERLY: That angry podiatrist, and she kind of was cheerful --

MR. STAUDAHER: She bought a new house, couldn't make her monthly mortgage payments is what she said when we --

THE COURT: Right. So I -- I think she's good. 253, Urana Wiley. Does anyone remember who that is?

MR. SANTACROCE: Yes.

THE COURT: Which one was she?

MR. STAUDAHER: She built websites.

MR. SANTACROCE: She built those convention websites.

THE COURT: Oh, and this was the one, her job wouldn't let her come in on the weekends or whatever?

MR. SANTACROCE: Right.

MS. WECKERLY: She had short, brown -- yeah.

THE COURT: Yeah. No, I remember now. And I said, can you check and we sent her out to check or something, and they said, now -- I wrote, Good hardship on her, so I think she's probably a hardship.

MR. STAUDAHER: So are we eliminating her?

THE COURT: Right. 298, Valery Lazarbe. Does anyone -- she was -- isn't she the young girl that --

MR. SANTACROCE: She was going to --

THE COURT: -- started crying --

MR. SANTACROCE: -- yeah, she's --

THE COURT: -- and her husband works at the Juice Bar?

MR. SANTACROCE: -- she was a young girl all tatted

up.

MR. STAUDAHER: Works at --

MR. SANTACROCE: She had tattoos on her --

THE COURT: Right. But wasn't she the one her husband had worked at the juice place?

MR. STAUDAHER: No, it's a bar. She would -- he's a cook at a bar.

MS. WECKERLY: Isn't she the --

MR. STAUDAHER: She worked at Tropical Smoothie since she was here, since she was 10 or something. You said, Borderline hardship on her because she was a hair assistant?

MS. WECKERLY: She was the hair assistant, you know --

THE COURT: Right. She made $80. And her husband, remember, he was -- also worked at Tropical Smoothie, right, but then he cut his time back because she had the hair job at $80 a shift and --

MR. SANTACROCE: And she started --

MS. WECKERLY: She had a young child.

THE COURT: -- and they lived with the parents part time, half the time with her parents.

MR. SANTACROCE: Right.

THE COURT: I think she qualifies as a hardship.

MR. SANTACROCE: Okay.

THE COURT: She cried.

MS. STANISH: She did.

THE COURT: Okay. A guy we're still going to hold in abeyance, Christopher Franco, 353. He worked part-time, remember, at the Parks and Rec, and he wasn't sure if he was going to get paid or not. We all figured he wasn't, but he didn't seem to know that. So I'm going to put him still in the possibles.

Does anyone remember who Shirley Young was? Oh, she was the one from yesterday, possible conflict with Dr. Patel.

MR. SANTACROCE: Right. Last one, I think, of the day.

THE COURT: She's in abeyance.

MR. SANTACROCE: She was second to last.

THE COURT: Does anyone remember -- oh, we started with this. What was Cynthia Zambrano's for-cause challenge?

MR. SANTACROCE: She said that he was guilty on her questionnaire.

THE COURT: Does anyone remember anything else?

MR. STAUDAHER: I don't -- no, she had no opinion about Lakeman --

MR. SANTACROCE: Well --

MR. STAUDAHER: -- and she was -- she followed the case on the news, that was the one negative thing for her, had two endoscopic procedures approximately five years ago was the most recent. She was passed for cause. She watched Channel

13.

MR. SANTACROCE: She's the one that said, I hope I could. Maybe I could.

THE COURT: Oh, right. She was a little heavyset?

MR. SANTACROCE: Yes.

THE COURT: And she had kind of longer hair --

MR. SANTACROCE: Right.

THE COURT: -- that was, like, pulled back, and it was kind of -- kind of Margaret's hair color?

MR. SANTACROCE: Exactly.

THE COURT: A little --

MR. SANTACROCE: Well --

THE COURT: -- actually, this is a great -- we've been talking us, up here --

MR. WRIGHT: She said she's --

THE COURT: -- this is a great haircut for you.

MS. STANISH: It's, like, you know, they only film the back of my head, so I had to make sure that was okay.

THE COURT: Now, it's really --

MS. STANISH: Thank you.

THE COURT: You know, back-office talk was all about Margaret's new hair style and --

MS. STANISH: Well, thank you.

THE COURT: -- and we met with approval.

MR. WRIGHT: Zambarano said you could change my mind

if the evidence shows different than what I know.

THE COURT: Okay.

MR. WRIGHT: That's the kind I like.

THE COURT: All right. So we've got --

MR. SANTACROCE: Did you make --

THE COURT: -- totally pass ones --

MR. SANTACROCE: -- did you just --

THE COURT: -- on our list, one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one.

MR. STAUDAHER: And would it be possible for you to just go over those numbers one more time, so I make sure I have the right ones, and the totally --

THE COURT: Okay. And then at the --

MR. STAUDAHER: -- of the totally passed ones.

THE COURT: -- very end we'll be making up a list. It will be all nice --

MR. STAUDAHER: Sure.

THE COURT: -- and in numerical order and everything like that. So we're not going to expect you to rely on your own little scratched up -- so in the back, we will make a nice orderly list.

MR. SANTACROCE: I don't mean to belabor this, but what did you decide on Zambarano?

THE COURT: I'm just -- I'm likely to excuse her, but I'm -- I haven't included --

MR. WRIGHT: Not yet.

MS. STANISH: She's in abeyance.

THE COURT: I like to make you guys suffer.

MR. SANTACROCE: You are.

MS. STANISH: You -- that's --

THE COURT: And I'm likely to excuse Contreras, also, for cause. He was the one that the wife was a patient and she had to get tested and he said he wasn't that upset, he was calming to her. Other than that, he seemed like a really good juror to me, so I was reluctant to have to excuse him, but I think he does meet a for-cause. All right.

So 224, Rachael Robinson.

538, I'm not sure how to say this, Finaray Habil or Fonair Mayo [phonetic].

276, Darren Heller.

306, Edward Simpson.

304, Mack Brown.

291, Todd Nash.

221, Laforest Gregory.

130, Melenda Pomykal.

129, Cory Johnson.

126, Bryan Wente.

249, Cindy Ennon-Wilson.

222 -- oh, I'm sorry.

MS. STANISH: Nope. Nope.

THE COURT: 604 -- she had her numbers wrong.

604, Lora Hendrickson.

573, Philip Chavis.

485, Regyna Trotter.

458, Joseph Sandifer.

426, Deana Safronov.

397, James McIntosh.

386, Xavier Figueroa.

378, Todd Hargett.

374, Jared Billotte.

385, Angela Valente-Libanotis.

Those were the definite keepers. And every -- did I count that correctly, 22 names?

MS. WECKERLY: 21.

MR. STAUDAHER: 21.

THE COURT: You count 21?

MS. STANISH: Mine is off too.

THE COURT: 14 to go.

MR. SANTACROCE: We're getting there.

MS. STANISH: I won't tell you the number I got. I got 23.

THE COURT: All right. Let's do this again. One --

MS. STANISH: Well, you did it in a different order

than the first time, and I thought I missed some.

THE COURT: -- two -- well, I'm thinking -- three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one. Mr. Staudaher wins the prize. I'm getting to do this for another.

Yes?

THE MARSHAL: We kicked some people, can we -- what --

THE COURT: You don't worry about that. We'll do it later. Don't -- you don't need to worry about that right now.

THE MARSHAL: Okay.

THE COURT: We'll do all that.

MS. STANISH: Is it --

THE COURT: It's just to help the lawyers.

THE MARSHAL: Okay. I'll just --

THE COURT: We'll handle all of that --

THE MARSHAL: -- scratch my list off.

THE COURT: -- in chambers.

THE MARSHAL: Okay. Let's see. Archuletta showed up today. He's on page 3.

THE COURT: Oh, Mr. Archuletta decided --

THE MARSHAL: Badge No. 370.

THE COURT: -- to show up? Well, I think he would be a very reliable juror.

THE MARSHAL: I'm giving you who's here and who's not.

THE CLERK: Okay.

MR. WRIGHT: What number is Archuletta?

THE MARSHAL: 370, Mr. Wright.

THE COURT: 370.

THE MARSHAL: He's on page 3. The top of page 3. He was a no-show the last few days, and he actually showed up, so he's here. And then another no-show was 549, Mr. Jason Wilson.

THE CLERK: He's here?

THE MARSHAL: Yep.

THE CLERK: Okay.

THE COURT: Oh, another no-show is here today?

THE MARSHAL: Yes, ma'am.

THE COURT: You know what? They can sit until the end of the day. I'm sorry.

THE MARSHAL: Yeah. Thank you.

THE CLERK: I just need to know who they are.

THE MARSHAL: Oh, okay.

MS. STANISH: We better hope they don't have an --

THE COURT: 549 showed up.

THE MARSHAL: Yep, those --

THE CLERK: That's it?

THE MARSHAL: -- that's it.

THE CLERK: Okay. Thank you.

THE MARSHAL: For the no-shows.

THE CLERK: Well, was there two or one?

THE MARSHAL: There was just two.

THE CLERK: Okay. Now with the new list --

THE MARSHAL: Where did we stop? Who was supposed to be at the end --

THE CLERK: We started at 649.

THE MARSHAL: Who was the end, though? Who should have been the end?

THE CLERK: The end was Jerett Edwards.

THE MARSHAL: Okay. So it's -- 649 didn't show up.

THE CLERK: Oh, goodness. Okay. Okay.

THE MARSHAL: 652 did not show.

660 did not show.

664 did not show.

703 did not show.

728 did not show.

745 did not show.

754 did not show.

THE CLERK: Okay.

THE MARSHAL: And 1118 did not show.

And 1133 did not show.

THE COURT: I say we stay until we get the next 14. We stay as late as we have to. All night if possible.

MR. SANTACROCE: We might run out of -- we might run out of a pool here, unless you can call some more in.

MS. STANISH: And, you know, Your Honor, what I might suggest because I think we have, what, over 40 people sitting out there --

THE COURT: Well, now, we don't really because a lot of people --

MS. STANISH: -- all I'm suggesting is that, you know, maybe cut it in half, and some of those -- another half can sit in the comfort of the jury room instead of on the -- the very heated hallway and steel benches. It just might be more comfortable for them, rather than spending eight hours in the hallway, spend part of it in the jury room. Don't --

THE COURT: That makes it harder for us, though.

MS. STANISH: Does it? At least in the afternoon.

THE COURT: Because we only -- unfortunately we only have one bailiff --

MS. STANISH: Yeah.

THE COURT: -- and so it's kind of up to the bailiff, but it makes it harder for the staff. But that's a -- and I --

MS. STANISH: I just thought --

THE COURT: -- a good suggestion --

MS. STANISH: -- split them in half --

THE COURT: -- for them --

MS. STANISH: -- so -- because we know --

THE COURT: -- yeah.

MS. STANISH: -- we're not going to get to the last half.

THE COURT: Yeah, we don't go in order either. That was the other problem. If we were -- I mean, we can go in order today, I don't really care --

MS. STANISH: It's up to you. It's just a suggestion.

THE COURT: -- but in the past we weren't going in order. So it's kind of hard to split them, and say, okay, you people can sit in comfort and you other people sit here. But I don't care. I'll -- we kind of leave it up to the bailiff --

MS. STANISH: Okay.

THE COURT: -- because he's the one that has to keep them. We might -- I mean, that's actually a good idea with 40 people, but if we do that then we have to go -- we have to go in order.

MS. STANISH: I don't mind going in order.

THE COURT: Or we can take the back 10 and -- or the back 15 and let them sit downstairs.

MS. WECKERLY: Yeah, whatever the --

MR. STAUDAHER: Yeah, I don't --

MS. WECKERLY: -- preference is it's fine with us.

THE COURT: All right. You know -- you can bring them in.

THE MARSHAL: I'm going to bring them -- yeah, all in first.

Ladies and gentlemen, please rise for the prospective jury.

(Prospective jury panel entering at 9:42 a.m.)

THE COURT: All right. Court is now in session. This is the time for case -- everyone may be seated -- this is the time for Case No. C265107, Plaintiff, State of Nevada versus Dipak Desai and Ronald Lakeman, Defendants.

Let the record reflect the presence of the State through the Chief Deputy District Attorneys, Michael Staudaher and Pam Weckerly, the presence of the Defendant, Dipak Desai, along with his attorneys, Rick Wright and Margaret Stanish, the presence of the Defendant, Ronald Lakeman, along with his attorney, Frederick Santacroce, the officers of the court, and the ladies and gentlemen of the partial prospective jury panel.

Good morning, ladies and gentlemen. You are in Department 21 of the Eighth Judicial District Court for the State of Nevada. My name is Valerie Adair and I am the presiding Judge. As you know, you have been summoned here today to potentially serve as jurors in a criminal jury trial.

I know all of you have filled out questionnaires.

The purpose of today is for the Court, as well as the lawyers, to follow up with all of you individually on some of your answers to the questionnaires.

In a moment counsel for the State will introduce themselves to you, and they will tell you briefly the nature of the State's case.

Mr. Staudaher?

MR. STAUDAHER: Thank you, Your Honor.

Ladies and gentlemen, my name is Michael Staudaher, and this is Pamela Weckerly. We are Deputy District Attorneys prosecuting the case of State of Nevada versus Dipak Kantilala Desai and Ronald Ernest Lakeman.

This case involves various charges which I'll give to you in just a moment, but the events in question took place primarily over two incident days back in 2007. July 25th of 2007 and August 21st of 2007. However, the time period in question and the events leading up to those two days you'll hear about is much more expansive than that, covering a number of years around those dates.

You'll hear various witnesses and have various pieces of evidence come in at the time of trial, but it -- suffice it to say that it pertains to a hepatitis C outbreak which occurred back in 2007 at the Endoscopy Center of Southern Nevada which was a -- had a companion clinic, the Gastroenterology Center of Southern Nevada. A medical clinic

as well as a procedural clinic that were housed in the same general area.

The location is over here near UMC hospital and Valley Hospital, specifically at 700 Shadow Lane. That facility was run by Dipak Desai, as well as some other individuals, but he was the one who was the primary owner and facilitator at that location. He is a physician, a gastroenterologist, and the other individual that I mentioned, Ronald Lakeman, is a certified nurse anesthetist. Someone who puts people to sleep, essentially, for those procedures.

You will hear, if you are chosen, evidence related to that. There's a number of witnesses that will be available in -- to testify, and not all of them will testify. Some of them will, obviously, but there is a long list that you had in your jury questionnaires that you went through to see if you were familiar with any of those persons. I won't go through those now.

At the -- at the time that this was an outbreak, subsequent to the outbreak there were -- the Health District here locally, with the CDC, in conjunction, did an investigation. Subsequent to that there were approximately 63,000 people in the Nevada area -- southern Nevada area -- that were notified of a potential exposure to the hepatitis C virus. That is the information that you will be presented at the time of trial if you're -- if you're selected and chosen

as a juror.

Thank you.

THE COURT: All right. Thank you, Mr. Staudaher.

In a moment, counsel for the Defense will introduce themselves to you, along with their clients. An accused in a criminal case is never required to present any evidence, or to call any witnesses.

Ms. Stanish? Mr. Wright?

MR. WRIGHT: Thank you.

My name is Richard Wright. I'm an attorney here in Las Vegas. I'm defending Dr. Dipak Desai, along with my partner Margaret Stanish. This is the physician Dipak Desai. He used to practice medicine here in Las Vegas.

Now, this case is a criminal prosecution of Dr. Desai and the accusation is basically criminal malpractice. Now, I'll explain it to you as a criminal case because this case has had a lot of publicity over the last five years and a lot of notoriety, and there has been civil litigation that has taken place where patients -- those who got notification or those who contracted hepatitis C sued physicians, healthcare providers, manufacturers, distributors -- those civil suits took place, there was a great deal of media attention. But this is purely the criminal case.

And when we get to jury selection -- I'm talking about this because we want to question each of you

individually to find out if you have heard anything about this case, if you have any loved ones, friends, that were involved in any way because, like, 6 percent of the population of Clark County got letters saying, Go get a blood test to see if you got hepatitis C or something else. So this affected a great number of people.

And so we need to know -- and we'll ask you about the publicity and what you've heard and whether or not you've formed any opinions based upon the publicity that has taken place because there are a number of news stories. The actual incidents when there was a transmission of hepatitis C were in July and September of 2007. And then when hepatitis C became known and reported, that's what we call the hepatitis outbreak, these two clusters of hepatitis emanating out of this clinic.

And then was the notification of the 63,000 people after investigations took place. So that -- that's basically what the case is about, and that's what we'll be questioning you about to see if you can bee fair, impartial, open-minded in hearing this criminal case.

Thank you.

THE COURT: All right. Thank you, Mr. Wright.

Mr. Santacroce?

MR. SANTACROCE: Thank you, Your Honor.

Good morning, ladies and gentlemen. I certainly

thank you for coming today. I know that it might be an inconvenience for some of you, but it's a very important service that you're doing today.

My name is Frederick Santacroce. I'm a criminal defense attorney here in Las Vegas. This is my client Ronald Lakeman. Mr. Lakeman is a certified registered nurse anesthetist, often referred to as a CRNA. He is not a doctor, but was employed by the Endoscopy Center of Southern Nevada, Dr. Desai's clinic, at the times that Mr. Staudaher mentioned to you.

Today what's going to happen, in a few minutes some of you -- or all of you will be called in individually. You'll be questioned about your questionnaires. All we're trying to do, as Mr. Wright said, is to find a fair and impartial jury that will give these two gentlemen a fair hearing.

Some of the questions may seem personal. Be assured, it's not our intent to embarrass anybody, we're simply trying to find out what you feel, what you believe, if you come in here with any preconceived ideas or notions.

It's your time, actually, to tell us about yourselves. It's your time to tell us if you think this will be a hardship for you. It's your time to tell us if you have any feelings about the case, if you've heard about it in the news media, and what you think about it.

So once again, we thank you, and we'll be getting started shortly. For some of you it's going to be a long day. We appreciate your patience, and we thank you for that in advance.

THE COURT: All right. Thank you, Mr. Santacroce.

Ladies and gentlemen, in a moment the clerk will call the roll of the panel of prospective jurors. When your name is called, please answer, Present or here. Please be aware that everything that is said during these proceedings is recorded. The lady at the end here in the striped blouse is Ms. Janie Olson. She is our official court recorder. It is Ms. Olson's job to make sure that everything is accurately recorded and a transcript is prepared thereafter. I tell you this because when you're speaking, please make sure you speak up clearly so that we can make sure that we record you.

Ms. Husted, our court clerk will now call the roll of the panel of prospective jurors for today.

THE CLERK: Yes, Your Honor.

(Clerk calls roll.)

THE CLERK: And that's it.

THE COURT: All right. Is there anyone whose name was not called?

All right. Ladies and gentlemen, the questioning of the jury at the beginning of the case is done under oath. If you would all please rise so that the clerk can administer the

oath.

(Clerk swears prospective jury panel.)

THE CLERK: Thank you.

THE COURT: Ladies and gentlemen, we are about to commence examination of prospective jurors in this case. During this process you will be asked questions bearing on your ability to sit as fair and impartial jurors. The Court, the lawyers, the defendants, and everyone involved in this case are all deeply interested in having this matter tried by a jury composed of open-minded people who are completely neutral and who have no bias or prejudice toward or against either side.

In order for us to accomplish this it is necessary for me to ask you some questions, the attorneys will also be given the opportunity to ask you some questions. Please understand that it is not our desire to pry unnecessarily into your personal lives, although the questioning can at times become quite personal. Our only objective is to ascertain whether there is any reason why any of you cannot sit as completely fair and impartial jurors in this case.

It is important that you know the significance of full, complete, and honest answers to all of the questions we are about to ask you. I caution you not to try to hide or withhold anything touching upon your qualifications, which may tend to contaminate your verdict.

All right. I'm going to ask a couple of general questions of all of you while you're seated in the room. If you wish to respond to any of the questions I'm about to ask in the affirmative, please raise your hand, and then when I call on you state your name and your badge number. Following that we'll be doing individual voir dire of each of you here in the courtroom.

We're going to try to inconvenience you as little as possible, but obviously, you know, it's a very important part of our process -- of our trial process -- and it can take some time. Once we're done questioning you you will be excused for the day. So you, you know, as soon as we're through with your questioning then you can leave for today. Unfortunately for those of you who won't be questioned until the end of the day it may be a long day.

Is there anyone who believes they may know or be acquainted with either of the Deputy District Attorneys, either Ms. Pam Weckerly or Mr. Michael Staudaher? Does anyone think they may know them? All right.

Does anyone believe they may know or be acquainted with any of the defense attorneys, either Ms. Margaret Stanish, Mr. Richard Wright, or Mr. Frederick Santacroce? All right. No one.

Now, you've had the opportunity to see the defendants, Dr. Dipak Desai and Mr. Ronald Lakeman here. Does

anyone think they may recognize either of the defendants from their personal lives or their business lives?

Yes, ma'am? Your name and badge number, please.

PROSPECTIVE JUROR NO. 809: Karie Holguin, Badge No. 01-0809.

THE COURT: And which defendant do you think you recognize?

PROSPECTIVE JUROR NO. 809: Both --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 809: -- from --

THE COURT: We'll follow up on that in a moment.

PROSPECTIVE JUROR NO. 809: -- okay.

THE COURT: And yes, ma'am?

PROSPECTIVE JUROR NO. 114: I'm Rebecca Robinson-Villafuerte, Badge No. 01114. And both.

THE COURT: All right. Anyone else? Even if it's just they, you know, are a customer at a restaurant that you work at or you see them at the barber shop. Anything like that.

All right. For the record, that's no one else.

All right. Ladies and gentlemen, in a moment, I'm going to have you all follow the bailiff, Officer Kenny Hawkes through the double doors back into the hallway.

Before I do that, I must admonish you that you're not to discuss anything relating to the case with each other

or with anyone else. Anyone else includes members of your family and your friends. You may of course tell them that you are participating in jury selection in a criminal jury trial, but please do not discuss anything else relating to this matter.

Additionally, you are not to read, watch, or listen to any reports of or commentaries on this case, any person or subject matter relating to the case by any medium of information. Do not do any independent research by way of the Internet or any other medium. You are not to engage in any social media, like Facebook or Twitter concerning the trial, the process relating to the trial, the case, or anything like that.

Additionally, you are instructed that you are not to form or express an opinion on the trial. Finally, court personnel -- other than the uniformed bailiff -- the defendants, and the attorneys, are all precluded by the rules of ethics from speaking directly with members of the jury and the prospective jurors. It would be a violation of ethics for them to do so. So should you see one of these individuals in the hallway or the elevator or something like that during a break, please do not think that they are being unfriendly or antisocial, they are simply precluded from speaking directly with you. To do so could contaminate your verdict.

Having said that, I'd like all of you to please rise

and follow Officer Hawkes through the double doors.

THE MARSHAL: Ladies and gentlemen, please rise for the prospective jury. Okay. Come on out.

(Prospective jury panel recessed at 10:01 a.m.)

THE COURT: All right. Why don't we just start at the top with Badge No. 656, Tommie Sue Woolley. 656, Tommie Sue Woolley.

MR. STAUDAHER: Did 650 not show up, Your Honor?

THE COURT: I -- 652 apparently didn't show up and 649.

MR. STAUDAHER: But 650?

MS. STANISH: 650?

MS. WECKERLY: But 650?

THE COURT: I don't know what I did with 650.

Ma'am, just have a seat there anywhere in the jury box that would be comfortable for you. Good morning.

PROSPECTIVE JUROR NO. 656: Good morning.

THE COURT: I just wanted to follow up on your questionnaire. It says here that you'd heard something about the case on the news, but you didn't know much about it. Is that on the T.V. news?

PROSPECTIVE JUROR NO. 656: No, it's just on the radio.

THE COURT: On the radio? Okay. Is there a particular -- do you listen to A.M. radio or --

PROSPECTIVE JUROR NO. 656: Yes, I do.

THE COURT: Okay. And do you recall what you heard about this case?

PROSPECTIVE JUROR NO. 656: Just that it was going to trial, it wasn't going to trial, was going to trial, wasn't going to trial.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 656: That's basically it, really.

THE COURT: Okay. And that -- was that a recent report?

PROSPECTIVE JUROR NO. 656: Oh, it's just been ongoing, you know?

THE COURT: Okay.

PROSPECTIVE JUROR NO. 656: Yeah.

THE COURT: All right. Do you think it's a fair statement that sometimes the news media reports things either incompletely or inaccurately?

PROSPECTIVE JUROR NO. 656: Yes, I do.

THE COURT: Okay. Now, if you're selected to serve as a juror, would you be able to set aside anything you may remember having heard in the media and base your verdict in this case solely upon the evidence which is the --

PROSPECTIVE JUROR NO. 656: Yes, I would.

THE COURT: -- testimony in court and the exhibits?

All right.

PROSPECTIVE JUROR NO. 656: Yeah.

THE COURT: Thank you. Who would like to follow up? Ms. Stanish, would you --

MS. STANISH: Thank you.

THE COURT: -- like to follow up?

MS. STANISH: Thank you, Your Honor.

Good morning.

PROSPECTIVE JUROR NO. 656: Good morning.

MS. STANISH: Boy, first one up. You're lucky.

THE COURT: Well, you get to go home --

MS. STANISH: I can't tell you how lucky --

THE COURT: -- early today.

MS. STANISH: -- you are.

PROSPECTIVE JUROR NO. 656: That's true, right.

MS. STANISH: You're very lucky. Ms. Woolley, I see -- I wanted to chat with you some more about your exposure to this case. It sounds like it's -- you listen to A.M. radio?

PROSPECTIVE JUROR NO. 656: That's correct.

MS. STANISH: Is that one of those talk shows --

PROSPECTIVE JUROR NO. 656: Yeah.

MS. STANISH: -- where people call in and voice opinions?

PROSPECTIVE JUROR NO. 656: No, it's just -- I listen in the morning, and it's basically just the news that's

going on, sports, what's going on around the world, what's going on locally. It's just --

MS. STANISH: Can you --

PROSPECTIVE JUROR NO. 656: -- chatter.

MS. STANISH: -- can you recall how -- how long have you heard about this story on A.M. radio?

PROSPECTIVE JUROR NO. 656: Oh, gosh. Probably, you know, like I say, it's just kind of, like, okay, the trials on, the trials off, the trials on, the trials off, and I haven't really paid attention to it to be honest with you.

MS. STANISH: All right. Were -- did you have -- did you -- you heard the attorneys describe this case a moment ago?

PROSPECTIVE JUROR NO. 656: Right.

MS. STANISH: Do -- did any of those facts sound familiar to you based on your exposure to the radio or any other news source?

PROSPECTIVE JUROR NO. 656: No, actually. I wasn't familiar with any of that information.

MS. STANISH: And how long have you lived in Clark County, ma'am?

PROSPECTIVE JUROR NO. 656: I moved here in June of '97.

MS. STANISH: Okay. You've been here a long time then.

PROSPECTIVE JUROR NO. 656: 16 years, yeah.

MS. STANISH: And you've worked at Southwest Gas for most of that time?

PROSPECTIVE JUROR NO. 656: Yes, ma'am. I came to work for Southwest Gas here.

MS. STANISH: And what do you do there?

PROSPECTIVE JUROR NO. 656: I'm -- I work in information technology, work with servers, you know, systems, just computers-type stuff.

MS. STANISH: So tech type --

PROSPECTIVE JUROR NO. 656: Yes.

MS. STANISH: Have you -- I see that your brother was a nurse or is a nurse?

PROSPECTIVE JUROR NO. 656: He was an LPN.

MS. STANISH: Okay. Have you had any discussions about this case with anybody?

PROSPECTIVE JUROR NO. 656: No, I have not.

MS. STANISH: Have you had any discussions about the -- getting -- being a juror?

PROSPECTIVE JUROR NO. 656: Being a juror?

MS. STANISH: Yeah.

PROSPECTIVE JUROR NO. 656: Well, honestly, the only discussion I've had with my peers is that I may be in to work tomorrow, I may not be. I may be in to work tomorrow --

MS. STANISH: Okay.

PROSPECTIVE JUROR NO. 656: -- I may not be. And that's been, like, six times now, so...

THE COURT: Was that -- let me ask you -- I'm sorry to interrupt you, Ms. Stanish. Basically we tried to do it this way for jury service --

PROSPECTIVE JUROR NO. 656: Sure.

THE COURT: -- because otherwise you have, you know, 350 people show up and sit around for two weeks while we go through each person. Was that more convenient for you, having to check in each day or -- I'm just curious for the process because we did it this way hoping, again, that people wouldn't have to take off a week of work just to sit downstairs while we went through -- this is our fifth day.

PROSPECTIVE JUROR NO. 656: Well, I mean, yes, I would rather check in every day than have to come and sit for seven days.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 656: So it's convenient in that way, but to try and remember to call in every night, that's -- that's been a challenge, but --

THE COURT: Okay. And what about with your work? Were you able to go to work on the days, then, that you didn't have to report in?

PROSPECTIVE JUROR NO. 656: Yes, absolutely.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 656: I did. Yeah.

THE COURT: Thank you. I -- I mean, I'm just curious for the future --

PROSPECTIVE JUROR NO. 656: Yeah, it was -- it was fine.

THE COURT: -- right. And this is a new method that we were doing in this case. So -- I'm sorry, Ms. Stanish, go ahead.

MS. STANISH: I forgive you. All right.

I'm just flipping through your --

PROSPECTIVE JUROR NO. 656: Okay. No problem.

MS. STANISH: -- questionnaire. So bear with me, I --

PROSPECTIVE JUROR NO. 656: No, not a problem.

MS. STANISH: -- I'm sorry. Have you ever had any experience with any medical professional that left you with a negative impression?

PROSPECTIVE JUROR NO. 656: No, I have not.

MS. STANISH: Anybody close to you have difficulties with someone in the medical profession?

PROSPECTIVE JUROR NO. 656: No, I haven't.

MS. STANISH: I see you were with Rebuilding Together. You paint a house this weekend?

PROSPECTIVE JUROR NO. 656: Actually, we put down tile at the Boys and Girls Club.

MS. STANISH: Great.

PROSPECTIVE JUROR NO. 656: Yeah.

MS. STANISH: How long have you volunteered there?

PROSPECTIVE JUROR NO. 656: Actually, I'm on the volunteer committee for Southwest Gas, so we do, like, four projects a year, so -- this was one of them, so I've done Rebuilding Together for a few years.

MS. STANISH: And I see that you got to sit on a criminal jury trial --

PROSPECTIVE JUROR NO. 656: Yeah.

MS. STANISH: -- but it didn't reach a verdict, the fellow -- I assume it was a fellow --

PROSPECTIVE JUROR NO. 656: Yes.

MS. STANISH: -- pled -- ended up pleading guilty?

PROSPECTIVE JUROR NO. 656: Yes.

MS. STANISH: Did you -- did you have any negative or positive feelings one way or the other about being a juror?

PROSPECTIVE JUROR NO. 656: I thought it was an interesting experience, and I didn't -- I actually thought it was a good experience, it was nice to be able to participate and, you know -- in that process, so it was fine.

MS. STANISH: You heard what Judge Adair said earlier today, just about the burden of proof in this case?

PROSPECTIVE JUROR NO. 656: Right.

MS. STANISH: That it's up to the State of Nevada to

prove beyond a reasonable doubt that these two gentlemen are guilty of the various offenses that you heard about. Is that a concept that you will accept and follow?

PROSPECTIVE JUROR NO. 656: Absolutely.

MS. STANISH: And let's see -- pass for cause, Your Honor.

THE COURT: All right. Thank you.

Mr. Santacroce?

MR. SANTACROCE: Thank you, Your Honor.

Good morning, Ms. Woolley.

PROSPECTIVE JUROR NO. 656: Good morning.

MR. SANTACROCE: I just want to ask you a few questions --

PROSPECTIVE JUROR NO. 656: Okay.

MR. SANTACROCE: -- to try to get to know you a little bit and see how you feel about this. This trial is expected to last between six and eight weeks. Does that cause you any hardship or burden?

PROSPECTIVE JUROR NO. 656: Well, I have a project going on at work that's -- that's -- it will cause some issues there, but I have team -- it's a team, so the team will be able to pick up the slack. It's not that big a deal.

MR. SANTACROCE: I want to be very clear about the hardship issue because it's important that you're going to give this trial your full and devoted attention for six to

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eight weeks and if there's any problem with that, in other words, if you're going to be worried about work issues or if this project is going to get done, then we need to know about that.

PROSPECTIVE JUROR NO. 656: Well, I think it's more important that a person get a fair trial with unbiased jurors than it is to -- to upgrade an email system. That's just my thoughts.

MR. SANTACROCE: Great. And can you tell me a little bit about what you do for Southwest Gas?

PROSPECTIVE JUROR NO. 656: Yeah. I work in information technology, it's in the computer network field. I work with the servers. My primary responsibility is the messaging systems -- email messages, mobile device, messaging. I do -- mostly that, server stuff, just -- just computer stuff.

MR. SANTACROCE: So is that communications between employees and then --

PROSPECTIVE JUROR NO. 656: Yes, it is.

MR. SANTACROCE: -- and the company?

PROSPECTIVE JUROR NO. 656: Yeah.

MR. SANTACROCE: Now, you were born in New Mexico; is that correct?

PROSPECTIVE JUROR NO. 656: I was.

MR. SANTACROCE: And when -- you've lived a variety

of other places, correct?

PROSPECTIVE JUROR NO. 656: Yes, that's true.

MR. SANTACROCE: And you came to Clark County about 15 years ago?

PROSPECTIVE JUROR NO. 656: Mm-hmm.

MR. SANTACROCE: I was curious about what your parents did. You said they were retired.

PROSPECTIVE JUROR NO. 656: My parents are costumers.

MR. SANTACROCE: What -- what is that? I was intrigued --

PROSPECTIVE JUROR NO. 656: They --

MR. SANTACROCE: -- by that.

PROSPECTIVE JUROR NO. 656: -- well, they work in -- my mother's worked in film in New Mexico and then decided she wanted to go to California and work in film out there, so my family moved out there, and at that time I moved to Tucson to go to work for IBM. So they moved out to California and then became costumers in the theaters -- there are several theaters out there, the -- the Pantages, the -- several theaters out there, and so they work backstage putting -- dressing people, laundering clothes, that kind of stuff, so...

MR. SANTACROCE: SO that bug never bit you?

PROSPECTIVE JUROR NO. 656: No. I had that early in high school and I was done with it.

MR. SANTACROCE: Okay. Great. Do you have any philosophical or religious beliefs that would hinder you in rendering a fair and impartial decision?

PROSPECTIVE JUROR NO. 656: No, I do not.

MR. SANTACROCE: And you understand that the two men who sit here today are presumed innocent?

PROSPECTIVE JUROR NO. 656: Absolutely.

MR. SANTACROCE: Do you have any problem with that?

PROSPECTIVE JUROR NO. 656: No, I do not.

MR. SANTACROCE: Do you understand that there's two men on trial here, not one?

PROSPECTIVE JUROR NO. 656: Yes, I -- I do.

MR. SANTACROCE: And you understand that the State has the burden of proving beyond a reasonable doubt each and every element of the crime?

PROSPECTIVE JUROR NO. 656: I do.

MR. SANTACROCE: And you will hold the State to that burden?

PROSPECTIVE JUROR NO. 656: Yes, sir.

MR. SANTACROCE: And that applies to each one of those men individually, and you --

PROSPECTIVE JUROR NO. 656: Yes, sir.

MR. SANTACROCE: -- you're able to look at the evidence fair and impartially?

PROSPECTIVE JUROR NO. 656: Yes, sir.

MR. SANTACROCE: Thank you, ma'am.

PROSPECTIVE JUROR NO. 656: You're welcome.

MR. SANTACROCE: No further questions, Your Honor. I pass --

THE COURT: Pass for cause?

MR. SANTACROCE: -- yes.

THE COURT: Thank you. State, you may question this prospective juror.

MR. STAUDAHER: Just a few follow up, Your Honor. I notice in your background, beside the job you do that you went to -- had general studies at a couple of different universities --

PROSPECTIVE JUROR NO. 656: Right.

MR. STAUDAHER: -- and then electronics at one called TVI?

PROSPECTIVE JUROR NO. 656: Yeah.

MR. STAUDAHER: What is TVI?

PROSPECTIVE JUROR NO. 656: Technical Vocational Institute.

MR. STAUDAHER: Is that in New Mexico?

PROSPECTIVE JUROR NO. 656: It is. It's a -- what they used to call, it's a -- it's a trade school, basically. So I went to school at the university for various things, and then I found out that I really liked fixing electronics more than I liked the stuff I was studying at the university so I

went for that.

MR. STAUDAHER: Okay. So was -- but that was in between two university stints, wasn't it?

PROSPECTIVE JUROR NO. 656: Actually -- so I went to University of New Mexico, then I went to TVI, I got a diploma in electronics and was hired by IBM in Tucson --

MR. STAUDAHER: Okay.

PROSPECTIVE JUROR NO. 656: -- so I'm the kind of person who likes to keep learning, so I went back -- so I went to University of Arizona just to pick up some classes in -- I think it was in accounting.

MR. STAUDAHER: So you've got a little bit of an accounting background or a numbers background?

PROSPECTIVE JUROR NO. 656: Yeah, like, one semester.

MR. STAUDAHER: Okay.

PROSPECTIVE JUROR NO. 656: It wasn't my forte.

MR. STAUDAHER: So you decided the IT area was more along the lines of, like, what you like to do?

PROSPECTIVE JUROR NO. 656: Yeah. It kept building, I kept getting promotions into different areas, and it just -- it started to become something that I -- I felt I could do well in.

MR. STAUDAHER: Yeah, but -- the -- the TVI training that you did, did you get an Associate's degree or certificate

or what was it you got from there?

PROSPECTIVE JUROR NO. 656: They didn't offer the Associate's certificate, they just offered the electronics diploma. It wasn't until after I left that they offered an --

MR. STAUDAHER: They changed --

PROSPECTIVE JUROR NO. 656: -- Associates.

MR. STAUDAHER: -- that?

PROSPECTIVE JUROR NO. 656: Yeah.

MR. STAUDAHER: At the universities did you ever end up with a -- a terminal degree or anything related to that?

PROSPECTIVE JUROR NO. 656: No, I do not have a --

MR. STAUDAHER: Okay.

PROSPECTIVE JUROR NO. 656: -- a professional degree.

MR. STAUDAHER: Coming this -- to town and working at Southwest, was that your first employment here?

PROSPECTIVE JUROR NO. 656: Yes, it was. I came as a contractor, and then after two weeks I was offered a permanent job to start in January.

MR. STAUDAHER: So they must have liked what you did if they offered you --

PROSPECTIVE JUROR NO. 656: Apparently --

MR. STAUDAHER: -- that in two weeks?

PROSPECTIVE JUROR NO. 656: -- yeah.

MR. STAUDAHER: Okay. You had -- and just from what

you said, the -- the cursory little things about the timing, case on, case off, this particular case --

PROSPECTIVE JUROR NO. 656: Yeah.

MR. STAUDAHER: -- that you heard in the news, anything about that at all that would impact you in this case, as far as you being able to be a fair and impartial juror?

PROSPECTIVE JUROR NO. 656: No, sir.

MR. STAUDAHER: At the end of the trial are -- the Judge is going to give the law to you, it's kind of the -- the roadmap, the instructions that you have to have to follow and all the evidence that comes in is the information you apply to the law.

PROSPECTIVE JUROR NO. 656: Right.

MR. STAUDAHER: Do you feel like you're somebody that could do that?

PROSPECTIVE JUROR NO. 656: Yes, I do.

MR. STAUDAHER: When you were in that prior trial, the criminal trial that you were in, and I know that the person pled guilty, how far in the process did you get before that was sort of shut down?

PROSPECTIVE JUROR NO. 656: We actually got quite a ways through. We were dismissed for the day, then the next morning there was a bomb scare, so they cleared us out, and then when we went back to regroup they said that he had pled and they weren't going to continue with the trial.

MR. STAUDAHER: Was this something where you -- I mean, where the trial -- the trial presentation was over and you were deliberating at that point?

PROSPECTIVE JUROR NO. 656: No, it wasn't completely over.

MR. STAUDAHER: So you -- you hadn't ever gotten to that point where you --

PROSPECTIVE JUROR NO. 656: That's correct.

MR. STAUDAHER: -- were given the case to start talking about it?

PROSPECTIVE JUROR NO. 656: Right. That's true.

MR. STAUDAHER: If you were in this -- chosen as a juror in this case, and you're back in the jury room and there's a disruptive juror or a juror that just refuses to participate, turns their back on you and sits in the corner and reads a novel or something and will not participate, is that something you would feel comfortable bringing to the Judge's attention through the marshal if that was to be the case?

PROSPECTIVE JUROR NO. 656: If that was -- if we were told that we needed to -- to bring those kind of things forward, I would.

MR. STAUDAHER: Well, and part of --

PROSPECTIVE JUROR NO. 656: But I didn't --

MR. STAUDAHER: -- part of the --

PROSPECTIVE JUROR NO. 656: -- I don't know.

MR. STAUDAHER: -- process when you deliberate, and, you know, we can't be part of -- of what --

PROSPECTIVE JUROR NO. 656: Right.

MR. STAUDAHER: -- actually goes on in there, is that everybody participate.

PROSPECTIVE JUROR NO. 656: Right.

MR. STAUDAHER: You can't do that if somebody's not -- refusing to do it.

PROSPECTIVE JUROR NO. 656: Well, I would encourage them to come to the table, and if I felt like they were just -- they were not participating -- they were just not participating, then, yeah, I'd bring that forward.

MR. STAUDAHER: Okay. At the end of the trial, if you're selected, you know that the State has the burden of proof, that we have to prove the essential elements of the crimes charged beyond a reasonable doubt?

PROSPECTIVE JUROR NO. 656: Yes, I do.

MR. STAUDAHER: And essential elements are the subparts of each one of the charges that are levied in this case.

PROSPECTIVE JUROR NO. 656: Okay.

MR. STAUDAHER: If in your mind, at the conclusion of the trial, the State has met its burden, has proven to you beyond a reasonable doubt each and every element of the crimes

charged, could you come back with a guilty verdict?

PROSPECTIVE JUROR NO. 656: Yes, I could.

MR. STAUDAHER: Any problem -- I know you were asked about your philosophical, religious things, but anything in your makeup, religion, philosophy, other issues that would make it difficult for you to do that?

PROSPECTIVE JUROR NO. 656: No, sir.

MR. STAUDAHER: Pass for cause, Your Honor.

THE COURT: All right. Thank you. Ma'am, I'm about to excuse you for the --

PROSPECTIVE JUROR NO. 656: Okay.

THE COURT: -- rest of today; however, you may be selected as a juror in this case. For that reason I must admonish you or remind you of the admonition I read earlier not to discuss anything relating to the case, read, watch, listen to any reports of or commentaries on any subject matter relating to the case, not to do any independent research and not to form or express an opinion on the trial.

PROSPECTIVE JUROR NO. 656: Okay.

THE COURT: Additionally, you are admonished that you're not to discuss anything that's transpired in the courtroom with anyone else. Meaning, my questions, the attorneys' questions, your answers, and so forth --

PROSPECTIVE JUROR NO. 656: Okay.

THE COURT: -- do you understand?

PROSPECTIVE JUROR NO. 656: Yes, I do.

THE COURT: All right. Make sure Officer Hawkes has a phone number where you can be reached because if you are selected then you'll be called and you must report then when we tell you to.

PROSPECTIVE JUROR NO. 656: Okay. So --

THE COURT: All right.

PROSPECTIVE JUROR NO. 656: -- at the beginning -- I'm going to be out of town the rest of the week, so they wanted me to let you know about that.

THE COURT: Oh, okay. When are you leaving town?

PROSPECTIVE JUROR NO. 656: Tomorrow.

THE COURT: And where are you going?

PROSPECTIVE JUROR NO. 656: To Provo, Utah.

THE COURT: Okay. And the purpose of your trip?

PROSPECTIVE JUROR NO. 656: Women's conference. Just twenty of the thousands of my -- twenty-thousand of my favorite friends are going to meet together and just -- it's just a women's conference.

THE COURT: Is it a -- I mean --

PROSPECTIVE JUROR NO. 656: For workshops and just, like --

THE COURT: -- is it a religious --

PROSPECTIVE JUROR NO. 656: -- yes, ma'am, it is.

THE COURT: -- women's conference or it's --

PROSPECTIVE JUROR NO. 656: Yeah.

THE COURT: -- not professional? Okay.

PROSPECTIVE JUROR NO. 656: That's correct.

THE COURT: And are you driving to Provo --

PROSPECTIVE JUROR NO. 656: Yes.

THE COURT: -- or are you flying?

PROSPECTIVE JUROR NO. 656: We're driving.

THE COURT: Okay. And then when would you be returning?

PROSPECTIVE JUROR NO. 656: Sunday evening.

THE COURT: Okay. Is this a recent --

PROSPECTIVE JUROR NO. 656: I --

THE COURT: -- commitment because on your questionnaire you said that you had no problem with serving beginning on April 22?

PROSPECTIVE JUROR NO. 656: Yeah, and I apologize for that. I really didn't think that I would be -- I don't know what the word is.

THE COURT: Selected?

PROSPECTIVE JUROR NO. 656: Well, keep going and keep going and keep going. I didn't really -- I thought it -- there would be the -- a decision would be made already. But I do --

THE COURT: What do you mean a decision would be made?

PROSPECTIVE JUROR NO. 656: As far as, like, the jurors or, like, I don't know. I just thought that the jurors would be selected by then.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 656: But I did --

THE COURT: Well, I -- let me make sure I --

PROSPECTIVE JUROR NO. 656: -- okay.

THE COURT: -- understand. Are you saying that when you filled out the questionnaire you hadn't committed to the conference?

PROSPECTIVE JUROR NO. 656: No, I was committed. I just --

THE COURT: Okay. Then --

PROSPECTIVE JUROR NO. 656: -- really thought the jury selection would happen before then because I didn't know that it would be --

THE COURT: Okay. I guess what I'm not understanding is, if you had committed to the conference, why you checked "No" on your form, as opposed to "Yes" on your form because you didn't know, I guess, where you would be in the selection process. Is that --

PROSPECTIVE JUROR NO. 656: That's correct.

THE COURT: So I'm -- I'm just wondering why you didn't check "Yes" on your form?

PROSPECTIVE JUROR NO. 656: You want a -- to be

honest with you --

THE COURT: Yeah.

PROSPECTIVE JUROR NO. 656: -- I just didn't think it would get that far.

THE COURT: Okay. So you didn't --

PROSPECTIVE JUROR NO. 656: Yeah.

THE COURT: -- what do you mean, It would get that far?

PROSPECTIVE JUROR NO. 656: That I would get selected.

THE COURT: Okay. Why is that?

PROSPECTIVE JUROR NO. 656: Because when I sat in the room with 300 people that day, I just assumed that you only needed 12 and it was not going to be a big deal.

THE COURT: Well, how did you know where in the -- where in the selection you would be?

PROSPECTIVE JUROR NO. 656: I didn't.

THE COURT: Do you see what I'm saying? I mean, you might have been the very first juror we called in Monday last week, and --

PROSPECTIVE JUROR NO. 656: You're right.

THE COURT: -- no, I'm just wondering. I just want to -- the reason I'm asking is it's more a process question. I'm curious what they're telling you folks down there at jury services. Did you know where you were in the number of people

that filled out questionnaires, meaning, did you know, hey, I'm the, you know, 70th --

PROSPECTIVE JUROR NO. 656: Well --

THE COURT: -- person?

PROSPECTIVE JUROR NO. 656: -- no. We were told that -- something along the lines of this questionnaire is going out to 500 people, so when you think you're 1 of 500, you're not really concerned about actually being chosen.

THE COURT: Okay. So you show up and they say, This questionnaire is going out to 500 people, and then did they tell you anything else?

PROSPECTIVE JUROR NO. 656: Yeah, don't discuss it with anybody, but --

THE COURT: Okay. Well, that's good.

PROSPECTIVE JUROR NO. 656: -- other than that --

THE COURT: That's the same thing --

PROSPECTIVE JUROR NO. 656: -- that's --

THE COURT: -- okay.

PROSPECTIVE JUROR NO. 656: -- yeah.

THE COURT: Here's the deal. I can't -- you know, some people are excused for hardship --

PROSPECTIVE JUROR NO. 656: Right.

THE COURT: -- you know, for example, if you're, you know, having surgery or, you know, you're a sole provider of 10 children and you -- you know, you're on food stamps and you

don't have any money to afford a babysitter. Unfortunately, the women's conference that you're attending is not considered a hardship.

PROSPECTIVE JUROR NO. 656: Okay.

THE COURT: So I can't excuse you to attend the women's conference. What I will say is you have to provide -- go ahead and go --

PROSPECTIVE JUROR NO. 656: Okay.

THE COURT: -- since you're driving. Do you have a cell phone? Is that --

PROSPECTIVE JUROR NO. 656: I do --

THE COURT: -- okay.

PROSPECTIVE JUROR NO. 656: -- and -- and I also have proof that I signed up in March.

THE COURT: No, I believe you.

PROSPECTIVE JUROR NO. 656: I don't know that it makes a difference. Okay.

THE COURT: Yeah. No, I believe you.

PROSPECTIVE JUROR NO. 656: Yeah.

THE COURT: But basically, you know, everyone has interruptions with their lives --

PROSPECTIVE JUROR NO. 656: Sure.

THE COURT: -- to serve, you know, they may have to get additional child care, they may have elder care issues in their family, they have to miss work, they won't be making

their tip income, they won't be making their full wages, things like that.

PROSPECTIVE JUROR NO. 656: Right.

THE COURT: Maybe they're missing a test at school, you know, certain things are true hardships and we excuse people for those. Unfortunately, I'm not sure that the women's conference --

PROSPECTIVE JUROR NO. 656: Right.

THE COURT: -- would --

PROSPECTIVE JUROR NO. 656: I understand.

THE COURT: -- would qualify as that.

PROSPECTIVE JUROR NO. 656: I understand.

THE COURT: And so what I'm saying is go ahead and go.

PROSPECTIVE JUROR NO. 656: Okay.

THE COURT: And give a cell number where you can be reached in Utah --

PROSPECTIVE JUROR NO. 656: Yeah.

THE COURT: -- enjoy the conference --

PROSPECTIVE JUROR NO. 656: I gave the --

THE COURT: -- focus on --

PROSPECTIVE JUROR NO. 656: -- marshal my -- my cell --

THE COURT: -- focus on --

PROSPECTIVE JUROR NO. 656: -- number.

THE COURT: -- focus on the workshops or whatever.

PROSPECTIVE JUROR NO. 656: Okay.

THE COURT: Whatever at the conference, but if you are selected, you may be told that you have to leave and drive back. We understand Provo, Utah is way up north in Utah and it's probably, what, a six-hour drive?

PROSPECTIVE JUROR NO. 656: Yeah.

THE COURT: So we -- I would understand, obviously -- we'll be all -- be aware of that --

PROSPECTIVE JUROR NO. 656: Okay.

THE COURT: -- that will be part of our consideration, and if you do have to come back, I understand it's a full day drive?

PROSPECTIVE JUROR NO. 656: Yeah. Okay.

THE COURT: So I won't -- you know, you won't be called and told, all right, it's 8 a.m., we expect you to report at 10 a.m. or anything like that. Like I said, we understand it's about a six-hour drive. You know, if you have kids in the car and you have to stop over and over again, it could take longer. So we're aware of that.

Thank you for bringing that to our attention. You know, I wish we could excuse everybody who has hardship, but unfortunately, you know, we'd have two people --

PROSPECTIVE JUROR NO. 656: Yeah. No, I totally understand.

THE COURT: -- as jurors.

PROSPECTIVE JUROR NO. 656: Yep.

THE COURT: So thank you. And again, don't discuss our discussions and questions and anything like that.

PROSPECTIVE JUROR NO. 656: Okay.

THE COURT: But again, you're free to go ahead and leave for your conference.

PROSPECTIVE JUROR NO. 656: Okay. Thank you so much.

THE COURT: All right. Thank you.

PROSPECTIVE JUROR NO. 656: Okay.

THE COURT: Microphone in the chair and follow Kenny through the double doors.

MR. WRIGHT: Can I have a brief moment to speak with my --

THE COURT: Sure.

MR. SANTACROCE: I'm going to make a challenge for cause, Your Honor. I know you --

THE COURT: I thought you passed her for cause?

MR. SANTACROCE: -- well, I did until this little incident occurred after we --

THE COURT: Yeah, but that doesn't go to her fairness, that goes to -- here's the deal. Had she disclosed this ahead of time, I would have -- we probably all would have agreed to excuse her, but to me that doesn't constitute really

a hardship. I don't know. I mean, if everyone wants to stipulate to it, but we spent all this time questioning her, at the very end she tells us, oh, by the way I'm attending this church conference and, you know, it's going to be through the end of the week, plus, you know, we've already agreed to take a day off for everybody to get ready on the exhibits and everything like that, so that would give her a full day to drive back from -- from Provo.

I don't -- I mean, if you guys want to stipulate, I'm just -- you know, why didn't she disclose that initially? Why didn't she check that off on her questionnaire?

MR. SANTACROCE: Well, that's my concern. And if I may just make a brief record? She was placed under oath when she filled out the questionnaire. She deliberately and intentionally omitted that fact. She knew that that -- as she -- as she said, she had this planned since March and I'm a little leery and skeptical of people that omit significant information from a sworn jury questionnaire.

In addition to that, it's a possibility this trial may start on Friday, and she's going to be on her way to Provo, Utah. So for those reasons I'm going to move to excuse her.

THE COURT: Did she say she was leaving today or tomorrow?

MS. WECKERLY: It was tomorrow.

MS. STANISH: Tomorrow.

MR. STAUDAHER: Tomorrow.

THE COURT: Tomorrow?

MS. STANISH: And it sounded like she was driving with other people, and, you know, my assumption is that --

THE COURT: I assumed it was her husband, frankly, but --

MS. STANISH: Oh, she's single.

MR. SANTACROCE: She's not married.

THE COURT: Oh --

MS. STANISH: And it's a --

THE COURT: -- that's right.

MS. STANISH: -- woman's conference, I --

THE COURT: Right.

MS. STANISH: -- you know, I understand in the LDS religion they have these annual conferences as a matter of fellowship and such.

THE COURT: Well, other LDS people I know are managing to show up for -- for work --

MS. STANISH: Right.

THE COURT: -- to be here.

MS. STANISH: I -- yeah, I --

THE COURT: I mean, it's not like the only conference LDS people in Nevada are able to attend, I mean -- I'm sorry. I'm just irritated we spent all that time with her. She

seemed like she would be a good juror, you know, she seemed completely unbiased, didn't know anything, and then at the 11th hour to say, oh, well, by the way -- what's the State's position on her?

MR. STAUDAHER: Your Honor, we're going to submit it. I mean, if the Court want -- feels that -- I mean, they're -- we have a possibility of starting on Monday, so I mean, that's -- that wouldn't be an issue for her, but if in fact we start earlier, she would have to obviously come back.

So if the Defense is clearly wanting her off for some reason -- I mean, I thought she was fair and impartial but --

THE COURT: All right. Well, I'll just hold it in abeyance, so to speak. I mean, I just -- like I said --

MR. STAUDAHER: We won't have to decide today, though --

THE COURT: -- we wasted 20 minutes with her --

MR. STAUDAHER: -- on that.

THE COURT: -- and then -- you know, and other than this, I thought she would be a good juror because she did seem completely open-minded and unbiased and everything like that.

All right. Let's move on to Badge No. 664, Leroy Schuchardt, whatever.

MR. STAUDAHER: Oh, Your Honor, do we need the break?

MR. WRIGHT: Yep.

THE COURT: Oh, I'm sorry. Take your break. I apologize.

THE CLERK: 664 was a no show.

THE COURT: Oh, he's a no show? What are they telling these people in jury services?

MS. WECKERLY: Wouldn't we be on 661 anyway?

THE COURT: You know, don't call in. There's 500 people, you really won't have to be a juror. Is Maria Alvarez, 761, here?

THE CLERK: Yes.

THE COURT: I'm going to do her next. She's a divorced mom with four children. She gets food stamps.

(Court recessed from 10:29 a.m. to 10:34 a.m.)

THE COURT: She's a divorced mom with four kids, and she is receiving food stamp assistance.

MS. STANISH: And it looks like she has some language issues.

THE COURT: Oh, she does?

MS. STANISH: Yeah.

THE COURT: I'm not getting that. She filled -- unless she didn't fill this out?

MR. STAUDAHER: She filled out her questionnaire in quite a lot of detail in English --

THE COURT: Yeah, that --

MR. STAUDAHER: -- but she then said she had some

problems with the English language.

MS. WECKERLY: Yeah, No. 5.

MR. STAUDAHER: So I'm not exactly sure how -- how significant that is.

THE COURT: Go ahead and get her. Thanks.

Yeah. That's why I'm looking at it. She filled everything out. Her mother is a cancer --

Ma'am, just have a seat in the jury box, please.

PROSPECTIVE JUROR NO. 761: Okay.

THE COURT: Just anywhere you'd be comfortable.

THE MARSHAL: Just make sure you speak into the microphone, please.

THE COURT: You can sit down.

PROSPECTIVE JUROR NO. 761: Oh, thank you.

THE COURT: I just wanted to follow-up on some of your answers here in the questionnaire. You indicated that you were concerned about serving in this case because you're a divorced mom with four children, and you work at the same apartment complex. Is that where you live?

PROSPECTIVE JUROR NO. 761: Yes, I do. I'm the only leasing agent in that complex, and it's --

THE COURT: Okay. And you live there also?

PROSPECTIVE JUROR NO. 761: Yes, I do.

THE COURT: Okay. And how are you compensated for your job?

PROSPECTIVE JUROR NO. 761: Well, my manager -- not right now, the previous date, but my manager told me if I get selected, only two weeks they pay.

THE COURT: They only pay for two weeks?

PROSPECTIVE JUROR NO. 761: For two weeks.

THE COURT: And then it says here you receive food stamp assistance?

PROSPECTIVE JUROR NO. 761: Yes, I do.

THE COURT: Okay. Are you -- in your home you have four kids, your mother lives with you, and does she get -- I'm assuming she would get Social Security or no?

PROSPECTIVE JUROR NO. 761: No. No, she doesn't.

THE COURT: Is that because she's a more recent immigrant maybe?

PROSPECTIVE JUROR NO. 761: Yeah, she's --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 761: -- resident only.

THE COURT: Okay. And your four children -- does anyone else live in your household?

PROSPECTIVE JUROR NO. 761: No, anyone --

THE COURT: Just --

PROSPECTIVE JUROR NO. 761: -- else.

THE COURT: -- just you, your four kids? How old are your kids?

PROSPECTIVE JUROR NO. 761: 14, 9, and two 6 year

old --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 761: -- twins.

THE COURT: And the ex-husband, does he provide you with child support?

PROSPECTIVE JUROR NO. 761: Yes. He's unemployed but I do.

THE COURT: Oh, he's currently unemployed?

PROSPECTIVE JUROR NO. 761: Mm-hmm.

THE COURT: Okay. And how much do you -- do you get paid hourly or do you --

PROSPECTIVE JUROR NO. 761: Hourly.

THE COURT: -- and what do you make an hour?

PROSPECTIVE JUROR NO. 761: $11.

THE COURT: $11? All right.

Counsel, approach.

(Off-record bench conference.)

THE COURT: Ma'am, we're going to go ahead and excuse you. It looks like this might be a financial hardship for you to serve.

PROSPECTIVE JUROR NO. 761: Thank you.

THE COURT: Before I excuse you, I must admonish you, though, you're not to discuss what's transpired in the courtroom with anyone else. By that I mean, my questions, your answers, and so forth. Do you --

PROSPECTIVE JUROR NO. 761: Absolutely.

THE COURT: -- understand?

PROSPECTIVE JUROR NO. 761: Yes.

THE COURT: All right.

PROSPECTIVE JUROR NO. 761: Thank you.

THE COURT: Put the microphone in the chair and just follow the bailiff from the courtroom.

PROSPECTIVE JUROR NO. 761: Thank you.

THE COURT: All right. Next up is 733, Vicki Carstens. She has a concern with picking up her kids at 5:00, so I'm going to follow up with family members and, you know, whether she can pay to have them there longer or whatever. Because most daycares stay open until at least 6.

Ma'am, come on in and have a seat in the jury box, please.

THE MARSHAL: And just make sure you speak into the microphone for me, please.

PROSPECTIVE JUROR NO. 733: Okay.

THE MARSHAL: Thank you.

THE COURT: Good morning.

PROSPECTIVE JUROR NO. 733: Good morning.

THE COURT: I wanted to follow-up on some of your answers here in the questionnaire. And you said that you were concerned about serving as a juror because you have to pick your two grandchildren up from daycare; is that right?

PROSPECTIVE JUROR NO. 733: Yes.

THE COURT: Do your grandchildren live with you?

PROSPECTIVE JUROR NO. 733: Well, it's a long story. My daughter is in a Sober Living home --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 733: -- and so the kids are in a daycare system and she doesn't have a car and so I get off work and I pick them up by 5 so that I can get them back to her house.

THE COURT: Okay. What time does the daycare close?

PROSPECTIVE JUROR NO. 733: 5:30.

THE COURT: It closes at 5:30?

PROSPECTIVE JUROR NO. 733: Yeah.

THE COURT: What daycare do -- are they in?

PROSPECTIVE JUROR NO. 733: It's called Thai Christian Daycare on Simmons.

THE COURT: Okay. And if you don't pick them up by 5:30, what happens?

PROSPECTIVE JUROR NO. 733: They charge you.

THE COURT: Oh, they charge you. So it's not like they call CPS or the police --

PROSPECTIVE JUROR NO. 733: Oh, God --

THE COURT: -- or anything?

PROSPECTIVE JUROR NO. 733: -- I hope not.

THE COURT: Okay. And then why do you have to get

them to Sober Living by 5:30 or to her home by --

PROSPECTIVE JUROR NO. 733: Well --

THE COURT: -- 5:30 or what -- I'm not grasping --

PROSPECTIVE JUROR NO. 733: -- well, I get off at 4:30.

THE COURT: -- okay.

PROSPECTIVE JUROR NO. 733: So I get them by 5, so that I can get them to her house because she's in this program for drug abuse and so I'm the only transportation.

THE COURT: Do they stay with her overnight or do they --

PROSPECTIVE JUROR NO. 733: Yes.

THE COURT: -- okay. And does she live at the sober living or is that a --

PROSPECTIVE JUROR NO. 733: Yes.

THE COURT: -- day program?

PROSPECTIVE JUROR NO. 733: No. She's at a Sober Living home.

THE COURT: Okay. So her children are allowed to stay with her at the Sober Living home?

PROSPECTIVE JUROR NO. 733: Right.

THE COURT: Okay. I wasn't familiar with that. Is that a court-ordered program?

PROSPECTIVE JUROR NO. 733: All About Kids.

THE COURT: No, the --

PROSPECTIVE JUROR NO. 733: That's what it's called.

THE COURT: -- okay. Was --

PROSPECTIVE JUROR NO. 733: Because they had taken her children away from her --

THE COURT: -- okay.

PROSPECTIVE JUROR NO. 733: -- and then I had custody of them for six months.

THE COURT: Okay. And was that through the family court they had taken --

PROSPECTIVE JUROR NO. 733: Yes.

THE COURT: -- her children?

PROSPECTIVE JUROR NO. 733: Yeah.

THE COURT: Okay. And -- now, we try to end by 5 every day, so you might be a little bit late picking up your grandkids, but would that help you as long as you're out of here by 5?

PROSPECTIVE JUROR NO. 733: Yeah.

THE COURT: Okay. And then it says you work at the Water District. Is that a salaried job?

PROSPECTIVE JUROR NO. 733: No, hourly.

THE COURT: Hourly? Okay. And do they compensate you for jury service?

PROSPECTIVE JUROR NO. 733: Yes.

THE COURT: Okay. They do. All right. And it says you had heard some general information on T.V. Is there a

particular T.V. station you like to watch for the news?

PROSPECTIVE JUROR NO. 733: Usually it's 13.

THE COURT: Okay. Do you recall what you've heard about this case on T.V.?

PROSPECTIVE JUROR NO. 733: Well, I have to say my ex-boss was a part of the class-action lawsuit, and I had heard from him about the case and my belief, personally, just to tell you is I believe God above judges, and if I had to pick and choose I would say they're guilty. And that's my honest answer to that.

THE COURT: Okay. Why -- here it says, If -- Have you formed any opinion and if so what is your opinion, you wrote, No?

PROSPECTIVE JUROR NO. 733: Well, I didn't -- you know, I've been thinking about it for 30 days while I've been calling in every night so...

THE COURT: Yeah. You know, I mean, here's the deal. We could have made all 400 of you come in every single day and sit --

PROSPECTIVE JUROR NO. 733: Right.

THE COURT: -- so the reason we did it is to make it less convenient -- less inconvenient, excuse me, for the jurors to call in and that -- that way you don't have to --

PROSPECTIVE JUROR NO. 733: Right.

THE COURT: -- take off work, you -- you know, you

don't have to sit here for weeks on end while we're talking and interviewing jurors. So that's why we did it that way, hoping it was more convenient.

PROSPECTIVE JUROR NO. 733: Right.

THE COURT: I mean, was that helpful to you or -- it sounds like, you know, you feel inconvenienced because you had to call in, but like I said, you know, it doesn't bother us if 400 people are sitting downstairs --

PROSPECTIVE JUROR NO. 733: Right.

THE COURT: -- it was just because we didn't want people to waste their time.

PROSPECTIVE JUROR NO. 733: Right. I understand that.

THE COURT: All right. And so you've been thinking about this for 30 days because it's -- you know, you knew you might be called in, and in thinking about it for 30 days, what, I guess, changed or -- or what happened?

PROSPECTIVE JUROR NO. 733: My religious belief, first of all. And I'm not here to judge anyone. And I don't really think I could -- I don't know. I just have too many formed opinions now. And I don't think that's fair to them.

THE COURT: I'll see counsel at the bench.

(Off-record bench conference.)

THE COURT: Ma'am, it's obvious that you don't want to serve in this case and you have some issues with serving

and that's fine. So we're going to go ahead and excuse you at this point. I must admonish you, however, you're not to discuss what's transpired in the court, and by that I mean my questions, your answers, and our --

PROSPECTIVE JUROR NO. 733: Right.

THE COURT: -- discussion. Do you understand?

PROSPECTIVE JUROR NO. 733: Yeah.

THE COURT: Please place the microphone in the chair and follow the bailiff through the double doors.

PROSPECTIVE JUROR NO. 733: Thank you.

THE COURT: 661, Stephen Herman is next.

MS. STANISH: You don't have Lisa Curro?

THE COURT: You know, I pulled a few out of order --

MS. STANISH: Because she was right on the top for us. So you're not missing someone.

THE COURT: Ms. Stanish, I'm just going to let you start in with Mr. Herman about --

MS. STANISH: All right.

THE COURT: -- his income and whatnot.

Sir, just have a seat there, please, in the jury box. Anywhere you would be comfortable. I did want to follow up. You indicate that you're concerned about surveying because you're your family's primary income source?

PROSPECTIVE JUROR NO. 661: Yes, that's true.

THE COURT: Okay. And who again is in your

household?

PROSPECTIVE JUROR NO. 661: My wife, my two daughters, and my daughter -- my older daughter's family.

THE COURT: Okay. So your two younger daughters --

PROSPECTIVE JUROR NO. 661: No, I'm sorry. I have a younger daughter, then my oldest daughter has her family living with us.

THE COURT: Okay. So you -- is that grandkids and her --

PROSPECTIVE JUROR NO. 661: One grandchild, yes, and her husband.

THE COURT: And her husband. Okay. Do they work?

PROSPECTIVE JUROR NO. 661: My daughter works.

THE COURT: And what about the husband?

PROSPECTIVE JUROR NO. 661: No, he doesn't work.

THE COURT: Is he looking for work or sick or...

PROSPECTIVE JUROR NO. 661: I -- yeah, we think he's looking for work.

THE COURT: Hopefully --

PROSPECTIVE JUROR NO. 661: We hope.

THE COURT: -- right? And then does your wife work?

PROSPECTIVE JUROR NO. 661: Yeah, she does. She works at --

THE COURT: You sound like a very patient father-in-law, I've just got -- just got to say.

PROSPECTIVE JUROR NO. 661: Thank you. It's a trial, let me tell you. Yeah, my wife works, actually, at Mesa Grill.

THE COURT: Okay. And what does she do there?

PROSPECTIVE JUROR NO. 661: She's a server.

THE COURT: A food server? Okay. And then how are you compensated by your employer? Are you salaried or hourly?

PROSPECTIVE JUROR NO. 661: Yeah, salary.

THE COURT: Okay. And then how does it work if you serve as a juror? They just don't pay your salary for that period of time?

PROSPECTIVE JUROR NO. 661: No, they will. They'll pay my salary. But I also work on commission and I -- I run a -- basically my own division within the company. I service the hospitality industry here in Las Vegas --

THE COURT: Okay. And what does that entail?

PROSPECTIVE JUROR NO. 661: Quotations, outside sales.

THE COURT: Okay. And when do you normally work? I mean, what days and what --

PROSPECTIVE JUROR NO. 661: I work -- actually, it's Monday through Friday.

THE COURT: -- okay. Is it the kind of thing where you could meet with your clients on the weekends or --

PROSPECTIVE JUROR NO. 661: No, my clients -- no.

THE COURT: All right. Thank you.

Ms. Stanish, you may follow up.

MS. STANISH: Good morning, sir.

PROSPECTIVE JUROR NO. 661: Good morning.

MS. STANISH: I'm sure you understand that what we're looking for are people who come into the courtroom and are willing to serve on the jury who have no preconceived notions one way or the other, or I should say, they are of the mind that these gentlemen are presumed to be innocent.

So of course it causes me concern about some of the things that you candidly disclosed on your questionnaire and I do appreciate your candor, but I need to discuss those -- some of these statements you've made.

PROSPECTIVE JUROR NO. 661: Certainly.

MS. STANISH: Let's start with the media -- your exposure to the media in this case. Would you please describe that for us in some detail?

PROSPECTIVE JUROR NO. 661: As far as the local media is concerned, it's mostly talk radio. You know, I listen primarily to KXNT and KDON and listen to comments made on the radio station by different people that have, you know, had some -- I mean, the news commentators, the newscasters, things like that.

MS. STANISH: And when you say the A.M. radio, are those the shows where people call in and voice their opinions?

PROSPECTIVE JUROR NO. 661: Yes.

MS. STANISH: Do you call in on those shows?

PROSPECTIVE JUROR NO. 661: Not really -- not -- I don't interact that way much, no.

MS. STANISH: And could you estimate for us how long you've been hearing about the various stories about this case?

PROSPECTIVE JUROR NO. 661: Oh, I think since it started, and off and on, I -- it was primarily, I guess, when it started, and then occasionally, you know, there'll be something that hits the radio regarding the status of the case, the current status of the case, things like that.

MS. STANISH: So is it a fair statement to say that your exposure to this case has been frequent and steady over the years?

PROSPECTIVE JUROR NO. 661: Steady, I wouldn't say frequent, necessarily, but, you know, I -- it's just a matter of whenever I hear something on the -- on the radio, primarily.

MS. STANISH: And based on what you've heard, it sounds like you've heard some facts about the case as to what supposedly occurred at the clinics?

PROSPECTIVE JUROR NO. 661: That's true.

MS. STANISH: And what's your understanding of what's occurred?

PROSPECTIVE JUROR NO. 661: My understanding is that

there were incidences where procedures were put in place that caused employees to reuse needles and so forth that had been used previously. They -- my opinion or what I know is that -- or what I've heard, rather, is that corners were cut to -- for -- for profit's sake, that things were done very quickly to get clients in and out so that as many people could be run through the clinic as possible.

I've heard basically that it was -- there was an attempt to make a lot of money.

MS. STANISH: And I understand a lot of what you're hearing is from the commentary, the -- well, I don't want to call them DJs, commentary people, but did you hear any interviews with government officials?

PROSPECTIVE JUROR NO. 661: No, I haven't.

MS. STANISH: Okay. Aside from -- I see you also looked at -- had some exposure to the printed media, can you describe that for us in detail?

PROSPECTIVE JUROR NO. 661: Occasionally, I -- I don't read the paper often, actually, but there have -- there -- there have been a couple articles I have read regarding the case or regarding the situation there

MS. STANISH: Now, you started to broach your opinion but let's talk about that now.

PROSPECTIVE JUROR NO. 661: Sure.

MS. STANISH: You said here that you have indeed

formed an opinion about this case regarding Dr. Desai and Mr. Lakeman, and you wrote that they are arrogant, greedy, and careless. I would ask you to elaborate on that but it's pretty clear, but is there anything else you can tell us?

PROSPECTIVE JUROR NO. 661: Well, no. I mean, that's -- that's -- you know, I've done business for many, many years here in Las Vegas and I know people that like to cut corners and make a lot of money and don't care who they hurt in the process of doing that and I think that's what's happened here.

MS. STANISH: Is it a fair statement that you cannot put these views aside?

PROSPECTIVE JUROR NO. 661: Put them aside?

THE COURT: Yeah. I mean, basically, I think Ms. Stanish's question is this, if you're selected to serve as a juror you're required to base your verdict solely upon the evidence that's presented during the trial.

PROSPECTIVE JUROR NO. 661: I can follow instructions.

THE COURT: And, you know, that means the testimony and the exhibits and not to base any verdict upon anything you may have heard in the media or any preexisting opinion, you know, and if you remember, hey, I heard something on talk radio about this but I didn't see any evidence of that, you can't, of course, consider that, or you can't consider some

DJs opinion or a co-worker's opinion or anything like that. Do you understand that?

PROSPECTIVE JUROR NO. 661: No, I haven't -- I haven't seen any evidence --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 661: -- one way or the other. It's just it's all been, you know, like I say, media opinion. My wife has served Dr. Desai on occasion, but I don't think that's really -- you know, she hasn't expressed her opinion other than he seems like a nice guy and he tips well.

THE COURT: Okay. So your wife doesn't have anything against him --

PROSPECTIVE JUROR NO. 661: No.

THE COURT: -- you know, he wasn't -- didn't not tip her or anything like that?

PROSPECTIVE JUROR NO. 661: No. No, nothing --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 661: -- like that.

THE COURT: And then if you are selected, obviously, you can't talk about this with your wife --

PROSPECTIVE JUROR NO. 661: Right.

THE COURT: -- and she can't talk to you should Dr. Desai come into the restaurant or something like that.

PROSPECTIVE JUROR NO. 661: Sure.

THE COURT: Okay. Also, would you then be able to

set aside anything you may have heard in the media and base your verdict solely upon the evidence in the case?

PROSPECTIVE JUROR NO. 661: I believe I could do that, yes.

THE COURT: All right. Thank you. Ms. Stanish?

MS. STANISH: In addition to the media, it sounds like you've had some discussion, at least with your wife in this case and perhaps with other people, but let's start with your wife. Tell -- when did you start discussing Dr. Desai with your wife?

PROSPECTIVE JUROR NO. 661: Just -- again, you know, she would come in -- she would come home and mention that she had served -- or she had served the guy that, you know, that ran the clinic, that's in question or that was in trouble.

MS. STANISH: And does -- did she share your -- does she share your opinion that Dr. Desai is arrogant, greedy, and careless?

PROSPECTIVE JUROR NO. 661: I -- she probably does. I mean, we've discussed it. We've -- again, we -- we had a business together in Las Vegas and we've run across people that are exactly as I described and, you know --

THE COURT: Did your wife get that opinion from serving him --

PROSPECTIVE JUROR NO. 661: I'd have to say --

THE COURT: -- or --

PROSPECTIVE JUROR NO. 661: -- no.

THE COURT: -- it was from the media?

PROSPECTIVE JUROR NO. 661: Yeah.

THE COURT: Okay. Let me ask you this. When was the last -- or most recent time your wife served Dr. Desai?

PROSPECTIVE JUROR NO. 661: I really -- I don't know. There's another gentleman, I think, that -- well, I can't -- I don't know if he's here today or not, but he also serves Dr. Desai and they talk and she mentioned that -- that he was in the restaurant recently. I don't know exactly when that was. But again, you know, nothing unfavorable about those experiences.

THE COURT: Recently within the last month, or -- or within six months or --

PROSPECTIVE JUROR NO. 661: I got the impression it was within the last month, yeah.

THE COURT: Within the last month?

PROSPECTIVE JUROR NO. 661: She didn't tell me --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 661: -- exactly, but --

THE COURT: And your wife reported, hey, Dr. Desai was in the restaurant within the -- when she came home? Something like that?

PROSPECTIVE JUROR NO. 661: Yeah, it's just in casual conversation.

THE COURT: Okay. And I'm assuming the reason you're talking about Dr. Desai at all is because you both seen or --

PROSPECTIVE JUROR NO. 661: Right. The media exposure and the -- and the infamy, if you will.

THE COURT: Okay. All right.

PROSPECTIVE JUROR NO. 661: Yeah.

THE COURT: And let me just follow-up with one other thing. How, I guess, regular of a customer was Dr. Desai?

PROSPECTIVE JUROR NO. 661: I really can't speak to that. I mean, she's mentioned it on, I think, three different occasions, but I -- you know, other than that, I don't have the details --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 661: -- to answer that question properly.

THE COURT: And finally, let me ask you this. Other than the tipping, and she said he was a good tipper?

PROSPECTIVE JUROR NO. 661: Yeah.

THE COURT: Anything else -- anything else about, you know --

PROSPECTIVE JUROR NO. 661: Absolutely nothing else.

THE COURT: -- Dr. Desai --

PROSPECTIVE JUROR NO. 661: Not -- just that he was --

THE COURT: -- finicky eater? Anything like --

nothing else?

PROSPECTIVE JUROR NO. 661: -- no, he -- just that he was a nice man, and that he tipped well.

THE COURT: Okay. All right. Ms. Stanish, go on.

MS. STANISH: I'm not sure I understood something you said. I -- I thought I heard you say that there's another person here that served Dr. Desai. Are you talking about another juror -- potential juror?

PROSPECTIVE JUROR NO. 661: Potential, yes. And when I was heading over here today, one of the other servers at a restaurant had to come to jury service today, and she's all, oh, I wonder if he's on the -- is he -- is he on the list of people serving as well, or being questioned today as well, and that was really the extent of the conversation.

THE COURT: Now, you obviously saw everybody that's here today --

PROSPECTIVE JUROR NO. 661: Yeah.

THE COURT: -- is that server one of the jurors in this case?

PROSPECTIVE JUROR NO. 661: I don't know.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 661: I don't know the man she was talking about.

THE COURT: Okay. So it's possible he is part of this group?

PROSPECTIVE JUROR NO. 661: Possible.

THE COURT: Okay.

MS. STANISH: And that -- that's a woman you talked to or a man, about being a server in the -- to Dr. Desai?

PROSPECTIVE JUROR NO. 661: Well, no, I -- it's a man.

MS. STANISH: Okay. Another man? It -- was there any other discussion about the case besides -- what else did you talk about with that --

PROSPECTIVE JUROR NO. 661: No, that was it. I just, you know, told her I was headed down to -- I had jury service today, and she says, oh, yeah, one of the other guys in my restaurant has to go for jury service. I wonder if he's on the same -- you know, if -- on the same trial, and that was it.

MS. STANISH: Okay. You say when you discuss your religious and philosophical belief that you are a staunch conservative and believe in strict adherence to legal -- I can't -- can you read that? Legal --

THE COURT: Legal, biblical, and moral --

MS. STANISH: Okay.

THE COURT: -- commandments; is that what you wrote?

PROSPECTIVE JUROR NO. 661: Yes.

MS. STANISH: We, of course, here are governed by the law of the State of Nevada, which will be described to you by

Judge Adair eventually, if you're selected for this jury. And sometimes the law and morality don't match up. Something that may be deemed immoral is not considered a violation of the law.

Does -- given your philosophical beliefs that you expressed here, is that going to cause you any issues?

PROSPECTIVE JUROR NO. 661: Well, issues? I have issues with a lot of things, but I -- I do obey the law and I respect the law and I will, again, follow instructions.

MS. STANISH: Do you have disagreements with certain laws?

PROSPECTIVE JUROR NO. 661: Well, yes, in general. I mean, there's -- yeah, I have disagreements with certain laws.

MS. STANISH: If you disagree with the laws that Judge Adair will eventually describe to you, what's going to be your reaction?

PROSPECTIVE JUROR NO. 661: Again, I obey the law. I may disagree, but I obey the law.

MS. STANISH: If you were on trial in this matter or any other matter and a juror filled out a questionnaire calling you arrogant, greedy, and careless, do you feel like y9ou would be getting a fair trial from that individual?

MR. STAUDAHER: Objection, Your Honor.

THE COURT: Yeah, that's sustained. Rephrase your

question, Ms. Stanish.

MS. STANISH: You understand that fairness is important to the legal system, and impartial jurors, correct?

PROSPECTIVE JUROR NO. 661: Certainly.

MS. STANISH: And given your responses here, I mean, you -- you filled out this questionnaire under oath.

PROSPECTIVE JUROR NO. 661: Right.

MS. STANISH: You have said that you formed an opinion under oath that these two individuals are arrogant, greedy, and careless. So I'm troubled as I sit here that -- that you feel like you can ignore that opinion that you swore to under oath.

So my question, and I want to just be, you know, very blunt with you, can you fairly judge these men based only on the evidence?

PROSPECTIVE JUROR NO. 661: I believe that I can -- again, yes, I do. I mean, I -- I believe that I can follow the instructions of the Court, I believe I can listen to the evidence, and form a right judgment based on the facts that are presented and the facts that are -- we are allowed to decide upon.

MS. STANISH: Now, when you answered that question it took you a while to formulate your thoughts and you were somewhat hesitant. Can you explain why you --

PROSPECTIVE JUROR NO. 661: Well, I mean, based on

what I said I think that there's a certain amount of weight that will -- I don't know. I like being a -- a pretty black and white person, you know, I mean, things are right or wrong, but there's -- there's weights that determine right and wrong in many situations. And again, I feel -- or I think that -- I've never been in this, you know, type of situation before, but I believe that facts are presented and decisions are made based upon those facts. And we are -- as a juror I would be -- I would have the responsibility of understanding -- listening to the facts, understanding what the facts are, and making a decision based upon what the Court instructs.

Can I do that? Yes, I can. Do I have those opinions that I expressed to you? Yes, I do. How that affects the outcome of whatever decision is made here, I can't say. I mean, I -- I think in any situation there's a certain amount of subjectivity. You know what my subjectivity is at this point.

MS. STANISH: Yeah, and I -- I really do appreciate your candor. That's important for us to understand your opinions and what's going to -- what kind of weight you're going to assign to your opinions.

PROSPECTIVE JUROR NO. 661: Right.

MS. STANISH: Versus what kind of weight you're going to assign to the evidence. You know, you heard -- you've been hearing about this case on the radio and in the news for a few

years now.

PROSPECTIVE JUROR NO. 661: Sure.

MS. STANISH: And you've also heard the attorneys just basic overview of the case. Is the fact that these two men are under indictment, have you formed an opinion based on the -- the fact that they're indicted as to their guilt or innocence?

PROSPECTIVE JUROR NO. 661: An opinion -- I mean, people are indicted for a reason, you know. I mean, my opinion is that that -- there's probably a good reason why they're sitting in this courtroom and the -- the decision has to be made whether guilty or innocent, and that's a process that, you know, is part of the legal system, and it's my job to be part of that system. And again, I think I can perform that duty properly. But, yeah, I mean, there's a reason they're here.

MS. STANISH: And I -- I know the Judge had mentioned this earlier that, you know, in the criminal justice system people who are charged are presumed to be innocent.

PROSPECTIVE JUROR NO. 661: Right.

MS. STANISH: And given your moral beliefs and your beliefs that things are black and white, do you have any feelings one way or the other about this principal of the presumption of innocence?

PROSPECTIVE JUROR NO. 661: Oh, no, I believe that

the presumption of innocence is absolutely necessary in our -- in our judicial system.

MS. STANISH: Why is that?

PROSPECTIVE JUROR NO. 661: Well, because we are free people, and we are absolutely entitled to a jury of our peers, and you can't have that -- the system doesn't work -- the system breaks down if there isn't a presumption of innocence, if a person doesn't have the right to come before his peers and -- and be heard.

MS. STANISH: And do you understand that the defendants do not have to put on any evidence in this case?

PROSPECTIVE JUROR NO. 661: No, I mean --

MS. STANISH: Well, let me explain it a bit. I think the Judge mentioned it, but it's somewhat tied into the presumption of innocence, but it deals with the burden of proof. The weight of the evidence is on the State of Nevada and not on the Defendants. So my question is, if the Defense does not put on any evidence, would you have any issues with that?

PROSPECTIVE JUROR NO. 661: Issues? I mean, I can't possibly understand why they wouldn't -- why somebody wouldn't defend themselves against the charges made against them, but -- I mean, as far as issues are concerned, again, I think it, you know, goes back to the instruction of the Court, and these -- any -- everybody deserves a fair trial, and somebody

has to sit in that trial and help make decisions based upon the evidence presented and -- or whatever is, you know, whoever presents what, you know, what is going to be tried by the jury or by the Judge.

MS. STANISH: You know --

PROSPECTIVE JUROR NO. 661: And so, again, I mean, how the procedure works is really part of the court proceedings. I mean, whether Dr. Desai and the other gentleman plan on put -- or whether you plan on putting a defense forward, I mean, that's -- that's your business. It's our business at -- or my business as a juror to make a decision based on what's presented in the court.

MS. STANISH: This trial is going to last for probably six weeks or so, through the month of May and into the month of June. You talked about that you are the primary revenue maker for your family.

PROSPECTIVE JUROR NO. 661: Sure.

MS. STANISH: Is the fact that this trial is going to last that long, does that present any issues to you?

PROSPECTIVE JUROR NO. 661: I do have a -- an appointment with my daughter at a college in Iowa on May 16 and 17 and 18 and 19, two days are a weekend, two days are weekdays. We're going back to look at the college for her. She's being recruited and I'm supposed to go back with her, and --

MS. STANISH: Is there someone else who can go with her?

PROSPECTIVE JUROR NO. 661: I suppose it's possible we can make those arrangements, but I got -- I have plane tickets that I can't change, but other than that, I mean --

THE COURT: Was your wife scheduled to go or were you and your daughter?

PROSPECTIVE JUROR NO. 661: No, I'm -- my daughter and myself are scheduled to go.

THE COURT: Okay. So it might be possible that the airline would change it to your wife, you just don't know?

PROSPECTIVE JUROR NO. 661: I don't know. Probably --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 661: -- they -- they might cooperate, yeah.

THE COURT: Okay. And then -- sometimes the airlines, I know, if there's, like, a legal thing, if somebody has a subpoena or something like that --

PROSPECTIVE JUROR NO. 661: Sure.

THE COURT: -- they may accommodate that. I obviously don't know the policy of your airline, although I've heard of other cases where people had subpoenas and they were able to utilize that to have other arrangements. Obviously jury service would be the same or similar --

PROSPECTIVE JUROR NO. 661: Sure.

THE COURT: -- to a subpoena. What airline --

PROSPECTIVE JUROR NO. 661: It's Allegiant.

THE COURT: -- Allegiant? All right. Thank you.

MS. STANISH: Did -- I see that your sister-in-law is a ER nurse. Have you had any discussions with your sister-in-law about this case?

PROSPECTIVE JUROR NO. 661: No, we haven't.

MS. STANISH: Have you had any --

PROSPECTIVE JUROR NO. 661: She's back in Columbus, Ohio.

MS. STANISH: -- oh, okay. Have you had any discussions with any -- anybody else regarding this case?

PROSPECTIVE JUROR NO. 661: No.

MS. STANISH: Okay. I'm just kind of flipping through your --

PROSPECTIVE JUROR NO. 661: Sure.

MS. STANISH: -- questionnaire to see if there's anything else I've missed, so bear with me. You've been in Clark County, is that 41 years I see?

PROSPECTIVE JUROR NO. 661: Yes.

MS. STANISH: And it looks like you were the victim of a robbery that left you unconscious. Was that individual apprehended?

PROSPECTIVE JUROR NO. 661: No, was not.

MS. STANISH: And I -- do -- have you personally had negative experiences with anyone in the medical profession?

PROSPECTIVE JUROR NO. 661: Not that I -- well, personal? My mother was -- had her life ruined, yeah, she did, by --

THE COURT: Had a what?

PROSPECTIVE JUROR NO. 661: -- by -- she was left unattended after surgery and experienced ischemia and yeah, had permanent brain damage which we're still dealing with to this day.

MS. STANISH: How long ago did that occur?

PROSPECTIVE JUROR NO. 661: It was about 12 years ago.

MS. STANISH: And what -- she was left unattended?

PROSPECTIVE JUROR NO. 661: Yes.

MS. STANISH: And that's --

PROSPECTIVE JUROR NO. 661: For about an hour and a half.

MS. STANISH: -- does that mean, like, the -- her vitals weren't checked or she wasn't --

PROSPECTIVE JUROR NO. 661: Right. Her vitals --

MS. STANISH: -- receiving something?

PROSPECTIVE JUROR NO. 661: -- weren't checked and her breathing had diminished to the point where she wasn't getting enough oxygen to her brain, and she suffered permanent

brain damage.

MS. STANISH: Where did that occur?

PROSPECTIVE JUROR NO. 661: At Rose Dominican.

MS. STANISH: The one in --

THE COURT: Are you pursuing any --

MS. STANISH: -- Henderson, or the new one?

PROSPECTIVE JUROR NO. 661: The new one.

MS. STANISH: The -- there's actually two new ones now, there's that --

PROSPECTIVE JUROR NO. 661: Oh, I'm sorry, it's the one in --

MS. STANISH: -- St. Martin --

PROSPECTIVE JUROR NO. 661: -- Henderson. The one in Green Valley, I guess, would be more appropriate. Green Valley Parkway, I think it is.

MS. STANISH: Do you have any caretaking ability for your mother?

PROSPECTIVE JUROR NO. 661: No. We have her in a home, but I visit frequently.

MS. STANISH: And it -- so aside from your mother, any other negative experiences with the medical profession?

PROSPECTIVE JUROR NO. 661: No.

MS. STANISH: Is there anything about that incident with your mother that would influence you as a juror in this matter that involves medical care?

PROSPECTIVE JUROR NO. 661: I don't know that there's any parallel that can be drawn. I mean, the person that neglected to look in on my mother was given charge to do that every 15 minutes. It was the charge nurse that night. And he went about doing other things and admitted that that's what he did.

MS. STANISH: Was there a lawsuit that -- was --

PROSPECTIVE JUROR NO. 661: There was and -- and she's being taken care of by the hospital.

MS. STANISH: So I assume it was settled?

PROSPECTIVE JUROR NO. 661: Yeah, it was settled a long time ago.

MS. STANISH: And could -- and you've been involved in two lawsuits. One that looks like a business dispute?

PROSPECTIVE JUROR NO. 661: Both were.

MS. STANISH: Okay. Both were? And were -- were those litigated or did they get settled?

PROSPECTIVE JUROR NO. 661: Both were settled.

MS. STANISH: Without litigation?

PROSPECTIVE JUROR NO. 661: Right.

MS. STANISH: Do you know anybody who received a notice from the Health District regarding this matter? Remember we -- you were told earlier that the Health District had sent out notifications for people to get tested. Do you know anyone who received such a letter?

PROSPECTIVE JUROR NO. 661: I do not.

MS. STANISH: You've never served on a jury?

PROSPECTIVE JUROR NO. 661: Never.

MS. STANISH: Do you want to serve on this jury?

PROSPECTIVE JUROR NO. 661: I -- I'm curious. I'm curious, and again, I believe that it's my duty as a citizen of this country to be available when people need my service.

MS. STANISH: You were in the Air Force for, what? A tour of duty?

PROSPECTIVE JUROR NO. 661: Four years, yes.

MS. STANISH: E3? Where were you stationed?

PROSPECTIVE JUROR NO. 661: Primarily at Nellis.

MS. STANISH: What did you do?

PROSPECTIVE JUROR NO. 661: I was a ground radio electronic communication equipment repairman.

MS. STANISH: No further questions, Your Honor.

THE COURT: All right. Thank you, Ms. Stanish.

Mr. Santacroce?

MR. SANTACROCE: Thank you, Your Honor.

Good morning, Mr. Herman.

PROSPECTIVE JUROR NO. 661: Good morning.

MR. SANTACROCE: I'm going to try Ms. Stanish's question a little bit differently. If you were sitting in that chair right there, and a prospective juror came in and said under oath that they had formed an opinion that you were

arrogant, greedy, and careless, would you want that person as a juror?

PROSPECTIVE JUROR NO. 661: I would not.

MR. SANTACROCE: Now, you said that you have staunch conservative values and adhere to Biblical and moral rules or regulations, correct? I'm paraphrasing.

PROSPECTIVE JUROR NO. 661: I should say I try.

MR. SANTACROCE: Okay. My question to you is, if the Judge gave you a legal instruction that conflicted with those Bible and moral principals that you hold so dearly, which one would take precedent?

PROSPECTIVE JUROR NO. 661: Well, the Bible -- one of the major instructions -- or one instruction -- one of the instructions I respect most in the Bible is that we are to obey the superiors that God has put in place and -- in our society. So that would be the overriding consideration.

MR. SANTACROCE: Pay unto Caesar Caesar's and God unto God?

PROSPECTIVE JUROR NO. 661: No, that you were to -- to obey and follow the rules that are made by the authorities that he's placed over us in this society we live in.

MR. SANTACROCE: So you haven't answered my question. I'm asking you which one would take precedent, your --

MR. STAUDAHER: Objection, Your Honor.

THE COURT: Yeah --

MR. STAUDAHER: I believe he fully --

THE COURT: -- I --

MR. STAUDAHER: -- answered that question.

THE COURT: -- I'm going to sustain that.

MR. SANTACROCE: Are you telling me you would adhere to the legal principles?

PROSPECTIVE JUROR NO. 661: I would.

MR. SANTACROCE: And you're also telling me that you would set aside these strongly held opinions that you have about Dr. Desai and Mr. Lakeman, and you could be fair and unbiased?

PROSPECTIVE JUROR NO. 661: Yes, I could.

MR. SANTACROCE: I believe you put on your questionnaire that you had a relative that worked as a claim's adjustor?

PROSPECTIVE JUROR NO. 661: My mother-in-law.

MR. SANTACROCE: And who did she work for?

PROSPECTIVE JUROR NO. 661: She -- I don't know the exact name of the insurance company in some little town called Packwood back in Iowa.

MR. SANTACROCE: Okay. And do you know what she does or did?

PROSPECTIVE JUROR NO. 661: She -- she did that. She just worked for -- mostly in -- it's a farming community, a small farming community, and she adjusted farm -- farmer's

claims for, you know, different crop failures and building fires and things like that.

MR. SANTACROCE: Did you have any -- I mean, have you had a discussion about her line of work? I mean, there's going to be some allegations and there's some charges here about theft and fraud and some allegations of overbilling or underbilling, have you -- do you have any feelings about that? Have you discussed any of that stuff with her?

PROSPECTIVE JUROR NO. 661: No, just that she always tried to be fair and that, you know, she could always read people when they were trying to get by with something and that's about it.

MR. SANTACROCE: Your daughter participates in sports and it sounds like she's pretty talented. What does -- what sports does she --

PROSPECTIVE JUROR NO. 661: She plays volleyball.

MR. SANTACROCE: And you accompany her, I'm sure, to these various events --

PROSPECTIVE JUROR NO. 661: Oh, yeah --

MR. SANTACROCE: -- in sporting --

PROSPECTIVE JUROR NO. 661: -- we do.

MR. SANTACROCE: And you're going on this trip on the middle of May to visit school, any other trips you planned with her to visit schools?

PROSPECTIVE JUROR NO. 661: Not yet, that's the --

that's the first -- she's at a junior high school and she isn't even allowed to be recruited until later this year, until after volleyball season, so...

I mean, she's not allowed to sign, let me put it that way. She's allowed to talk to people, but --

MR. SANTACROCE: What did you do in the Air Force?

PROSPECTIVE JUROR NO. 661: I was a electronics communications person, ground to air radio.

MR. SANTACROCE: And stationed primarily -- primarily out of Dallas, correct?

PROSPECTIVE JUROR NO. 661: Mm-hmm.

MR. SANTACROCE: What was your experience like in the Air Force? Enjoyable? Unenjoyable?

PROSPECTIVE JUROR NO. 661: It was -- it was okay. I mean --

MR. SANTACROCE: Couldn't wait to get out, or...

PROSPECTIVE JUROR NO. 661: Well, I just -- yeah, I -- I was young, I was 19 when I came here and I like Las Vegas and -- I was a little disappointed because my career field at the time was very much overmanned and it was the in the Vietnam War and it was just, you know, there wasn't a lot of respect for people in the military, so I just served my four years and went on about my life.

MR. SANTACROCE: Are you familiar with the UCMJ?

PROSPECTIVE JUROR NO. 661: I am.

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MR. SANTACROCE: Do you have any personal experience with the UCMJ?

PROSPECTIVE JUROR NO. 661: No.

MR. SANTACROCE: Now, tell me about these previous lawsuits that you had -- previous lawsuits --

PROSPECTIVE JUROR NO. 661: I --

MR. SANTACROCE: -- primarily business, I think you said?

PROSPECTIVE JUROR NO. 661: -- they were business lawsuits, yes. I was -- I was one of two owners of a company and I had a -- an employment agreement and under the terms of the employment -- not employment, I'm sorry, the buyout agreement, if either of the principals -- either of the owners met their demise, the other owner was supposed to be the recipient of the life trust policy and become owner of the company.

The lady and gentleman -- wife and husband who I was partners with, her husband passed away unexpectedly, and I had to sue for my rights as an owner of the company.

MR. SANTACROCE: And were those jury trials or bench trials?

PROSPECTIVE JUROR NO. 661: They -- it never went to trial.

MR. SANTACROCE: Okay.

PROSPECTIVE JUROR NO. 661: We went before the judge

on occasion -- on two occasions, but it was settled before it went to jury -- before it -- before it went to trial.

MR. SANTACROCE: So none of those lawsuits went to trial?

PROSPECTIVE JUROR NO. 661: No.

MR. SANTACROCE: Okay.

PROSPECTIVE JUROR NO. 661: No.

MR. SANTACROCE: You made a comment that you believe that the fact that Mr. Lakeman and Dr. Desai are sitting here, that there's some basis or reasoning -- reason for that?

PROSPECTIVE JUROR NO. 661: Right.

MR. SANTACROCE: Can you explain that more to me? What do you feel about that?

PROSPECTIVE JUROR NO. 661: Well, I mean, it's pretty simple. I mean, nobody wants to come in before -- to come into court unless there's -- unless they've been accused of something or unless there's a reason why they're being challenged. I mean --

MR. SANTACROCE: So the fact that they've been indicted and charged, you feel like there's some sort of culpability or guilt as they sit here today?

PROSPECTIVE JUROR NO. 661: I'm just saying --

MR. STAUDAHER: Objection, Your Honor. That's -- that --

THE COURT: Yeah. Let me -- let me ask this: Do you

understand that everyone who faces a jury trial, criminal jury trial for a -- in this state at the felony level has either been indicted -- is either under indictment or information that there's already been some preliminary proceedings; do you understand that?

PROSPECTIVE JUROR NO. 661: There's cause for this --

THE COURT: Right.

PROSPECTIVE JUROR NO. 661: -- yeah.

THE COURT: So that it's not unique that Dr. Desai and Mr. Lakeman are under indictment. That's part of the procedure --

PROSPECTIVE JUROR NO. 661: Right.

THE COURT: -- in -- in our state; do you understand that?

PROSPECTIVE JUROR NO. 661: Yes, I do.

THE COURT: All right. Maybe that clarifies it.

MR. SANTACROCE: I guess what I'm asking you is do you have any predisposition as to their guilt or innocent as they sit here today?

PROSPECTIVE JUROR NO. 661: I believe I've stated my opinion. I'm -- based on information that I've heard in various media outlets, but again, I also stated that everyone deserves a fair trial, and they deserve jurors that can be impartial, so...

MR. SANTACROCE: Okay. But I meant --

THE COURT: Do you -- do you understand in our system that even though there's been a, you know, you said a cause determination, that that doesn't remove the cloak or the presumption of innocence --

PROSPECTIVE JUROR NO. 661: Right.

THE COURT: -- that when you get to trial, that -- you know, that -- that's not part of your consideration, that they're still fully cloaked with the presumption of innocence. And in order to be found guilty that cloak has to be stripped away --

PROSPECTIVE JUROR NO. 661: With evidence and -- yeah.

THE COURT: -- with evidence and not just any evidence, but evidence beyond a reasonable doubt. It's not slight or marginal or what we have in a civil case, preponderance of the evidence, it's the highest legal standard that we have; do you understand that?

PROSPECTIVE JUROR NO. 661: Yes, I do.

THE COURT: And do you have any problem, as you sit here today, with recognizing that -- not withstanding an indictment or anything else, both Dr. Desai and Mr. Lakeman are fully cloaked with that presumption of innocence?

PROSPECTIVE JUROR NO. 661: I do. And I believe everybody -- defense and prosecution and jurors and judge has

a duty, an obligation, to present their case and see who comes -- see who wins, basically.

THE COURT: All right. Go on, Mr. Santacroce.

MR. SANTACROCE: My question is: Do you have any predisposition as to their guilt or innocence as they sit here today?

MR. STAUDAHER: Objection. I think that's been asked and answered, and I think --

THE COURT: Yeah, I think he --

MR. SANTACROCE: I don't think I've --

MR. STAUDAHER: -- he's --

MR. SANTACROCE: -- heard an answer.

MR. STAUDAHER: -- well --

THE COURT: Well -- all right. First of all, I'll see counsel at the bench.

(Off-record bench conference.)

THE COURT: You'll have to bear with us. This is our fifth day of questioning, so we are all getting a little worn out, I think.

PROSPECTIVE JUROR NO. 661: This is tedious, without a doubt.

THE COURT: All right. Mr. Santacroce, you may proceed with your questioning.

MR. SANTACROCE: Mr. Herman, do you presently have a feeling as to the guilt or innocence of Dr. Desai and Mr.

Lakeman?

PROSPECTIVE JUROR NO. 661: I have a feeling, yes.

MR. SANTACROCE: What is that?

PROSPECTIVE JUROR NO. 661: My feeling is that they did what they were accused of.

THE COURT: And that's based on just the media?

PROSPECTIVE JUROR NO. 661: That -- right. That's based on the things I've heard.

THE COURT: All right. State, would you like to question on that?

MR. STAUDAHER: Yes, Your Honor. That being said, and I think you've said this over and over again, but it -- we just need to be clear on it. You would follow the instructions of the Court, and it -- part of what that will be is that they are presumed innocent until the State proves otherwise. Do you -- do you hold to that as being something that you could follow?

PROSPECTIVE JUROR NO. 661: I hold to that, I understand that, that is my duty, and I can follow my --

THE COURT: Let me -- let me ask you this in your own words. I mean, on the one hand, you say, yes, you accept that they're innocent until proven guilty and you'd hold the State to the burden. On the other hand, you say, well, I do have an opinion that they're probably guilty. Can you just tell me in your own words how you can reconcile those two statements or

really what you mean?

PROSPECTIVE JUROR NO. 661: It's --

THE COURT: Because me trying to say it, what you -- what I think you mean, or Mr. Staudaher or Mr. Santacroce, we just want to know what you really mean, and there's no right or wrong answers. The -- well, I say this all the time, but the only wrong answer is an -- not an honest answer because really, all we want is your true feelings and opinions, you know, you don't have to answer any particular way, but just tell me in your own words, you know, how -- how you can reconcile or, you know, if you can, your view that, well, maybe they did something wrong because I've heard these things in the media, with your statement, well, I can -- I can still hold the State to their burden, and I, you know, as I sit there I can look at them as innocent as -- until proven -- unless and until proven guilty.

PROSPECTIVE JUROR NO. 661: In my mind it's the difference between being objective and subjective. This isn't about me. This is about my duty as a citizen. In that sense, I can be objective, okay? And when -- when you asked me to fill out the questionnaire, when you're asking me these questions, my subjective opinion is one thing compared to my objective duty, which is another thing. And that's why I can make that -- I can draw that line.

THE COURT: Okay. Any other questions, Mr.

Staudaher?

MR. STAUDAHER: Yes, just a few.

THE COURT: All right.

MR. SANTACROCE: I wasn't done, Your Honor.

THE COURT: Oh, I'm sorry.

MR. SANTACROCE: Given the fact that you hold these opinions as you sit here today, am I going to have to prove to you that Mr. Lakeman is not guilty as charged?

PROSPECTIVE JUROR NO. 661: I would naturally assume that's what you would do, or try to do.

MR. SANTACROCE: Okay. I don't want you to assume what I would do or try to do. I'm asking you in your mind, as you sit here, am I going to have to prove that Mr. Lakeman is not guilty of these things?

PROSPECTIVE JUROR NO. 661: Okay. Based on the charge that I understand sitting here, he is not guilty until proven guilty, therefore, to answer your question, I -- I am assuming that, you know, as the play -- or as this process proceeds, that's what you would do, but, no, in regards to his innocence, if he doesn't say anything or you don't say anything, the man is innocent until the prosecutor proves that he's not innocent.

MR. SANTACROCE: Okay. Earlier you had mentioned that you had -- when I asked you if there was a conflict between legal -- legal instruction and Biblical instruction

which one would you choose? And you said that you would -- you're, I guess, subservient to the legal authorities; is that correct?

PROSPECTIVE JUROR NO. 661: Right. The Biblical -- my Biblical viewpoint is that I am to serve the people who govern our society, and --

MR. SANTACROCE: And who are those people in this courtroom?

PROSPECTIVE JUROR NO. 661: The Judge, the -- the law.

MR. SANTACROCE: Okay. The Judge. Anybody else?

PROSPECTIVE JUROR NO. 661: As far as who I'm bound to obey in that --

MR. SANTACROCE: Yes.

PROSPECTIVE JUROR NO. 661: -- in that charge? Again, I -- it's the law enforced by the State.

MR. SANTACROCE: So it would be the Judge, would it be the District Attorneys?

PROSPECTIVE JUROR NO. 661: In what regard? I'm not sure I follow.

MR. SANTACROCE: I'm telling -- if you were given an instruction that conflicted with your Biblical principal?

PROSPECTIVE JUROR NO. 661: Instruction such as?

MR. SANTACROCE: Legal instructions.

MR. STAUDAHER: Objection. Asked and answered --

THE COURT: That's sustained.

MR. STAUDAHER: -- multiple times.

THE COURT: May I see Counsel up here.

(Off-record bench conference.)

MR. SANTACROCE: I appreciate your honesty.

PROSPECTIVE JUROR NO. 661: You're welcome.

MR. STAUDAHER: You said that you had some discussions with your wife at some point in the past, and she had indicated that she had served Dr. Desai at Mesa Grill?

PROSPECTIVE JUROR NO. 661: Right.

MR. STAUDAHER: How long has your wife worked at Mesa Grill?

PROSPECTIVE JUROR NO. 661: I think it's been about five years.

MR. STAUDAHER: So she's been there for a while. Was this more recently -- I mean, within the past few months, past year, roughly, that you recall?

PROSPECTIVE JUROR NO. 661: I miss -- I can't answer that question accurately. I would assume it's been within the past couple of years.

MR. STAUDAHER: Okay. And the -- you said that there were a number of times that he was there, correct?

PROSPECTIVE JUROR NO. 661: Right.

MR. STAUDAHER: You said there was another individual that also served him that -- that also had made -- had

discussions with your wife --

PROSPECTIVE JUROR NO. 661: Right.

MR. STAUDAHER: -- and then your wife talked to you --

PROSPECTIVE JUROR NO. 661: Right.

MR. STAUDAHER: -- is that fair?

PROSPECTIVE JUROR NO. 661: That's fair.

MR. STAUDAHER: With regard to any of that, I mean, assume that that information that comes to you is just like the other things you've mentioned, that you will just listen to what evidence is presented in court, and make your verdict -- or base your verdict on that alone; is that fair?

PROSPECTIVE JUROR NO. 661: Yes, that's fair. I mean, the conversations were -- with my wife were just casual and had nothing to do with the case.

MR. STAUDAHER: At the end of the -- end of the trial, the State is going to -- presented its case, if you were selected as a juror, all the evidence, whatever that is, is going to be presented, and that's what you have to work with, you would accept that?

PROSPECTIVE JUROR NO. 661: Yes.

MR. STAUDAHER: The Judge is going to give you the instructions of the law which you said you would follow and adhere to regardless of your own personal belief?

PROSPECTIVE JUROR NO. 661: Yes.

MR. STAUDAHER: And that means that -- and I'm going to give you an example, let's say that you thought marijuana should be legalized, and this was a drug case and somebody was on trial for using marijuana. And you personally believe that it should not be illegal, but the Judge gave you an instruction that said it was illegal and you had to find that based on the facts, could you follow the law?

PROSPECTIVE JUROR NO. 661: Absolutely.

MR. STAUDAHER: Okay. And is that the same kind of thing here, that you have maybe some personal beliefs, but that you will not let those interfere with your decisions in this case, as far as applying the facts to the law as given you?

PROSPECTIVE JUROR NO. 661: I will not let that interfere.

MR. STAUDAHER: If at the end of the trial -- and the State has the requirement, the entire burden in this case. The Defense has no burden. They could polish their nails, they could sleep, read magazines. They don't have to do anything. The presumption of innocence is with them, and the burden of proof is with the State.

PROSPECTIVE JUROR NO. 661: I understand.

MR. STAUDAHER: Do you accept that?

PROSPECTIVE JUROR NO. 661: I accept that.

MR. STAUDAHER: If at the end of the trial the State

has proven the essential elements, and that's what we're required to do, the subparts of each one of the charges beyond a reasonable doubt in your mind, can you come back with a guilty verdict?

PROSPECTIVE JUROR NO. 661: I can.

MR. STAUDAHER: Is there any philosophical, religious -- I know we've talked about the religious -- religious or any other reason why you could not do that?

PROSPECTIVE JUROR NO. 661: No.

MR. STAUDAHER: The converse, if at the end of the trial we haven't done it in your mind, but you've heard some stuff on the outside, you had a few gut feelings you talked about, but if at the end of the trial we haven't met our burden in your mind, would you come back with a not guilty verdict?

PROSPECTIVE JUROR NO. 661: I would.

MR. STAUDAHER: I pass for cause, Your Honor.

THE COURT: All right. Thank you. Mr. Herman, we're going to go ahead and excuse you for today. You may be selected, so the admonition regarding discussing the case, reading, watch, listening to reports of or commentaries and forming or expressing an opinion is still in effect.

If your wife tries to talk to you about Dr. Desai, don't let her.

PROSPECTIVE JUROR NO. 661: Okay.

THE COURT: Also, I must admonish you that you're not to discuss anything that's transpired in the courtroom with anyone else, meaning, my questions, the attorney's questions, your answers, and our discussions. Do you understand that?

PROSPECTIVE JUROR NO. 661: I do.

THE COURT: All right. Sir, thank you. Place the microphone in the chair and you're free to leave today. Just make sure you check back out through the jury services on the third floor --

PROSPECTIVE JUROR NO. 661: Thank you.

THE COURT: -- I forgot to tell the other ones.

THE MARSHAL: I told them.

THE COURT: Oh, thanks, Kenny.

Let's go ahead and take a two-minute break. Obviously --

MR. WRIGHT: Oh -- I want to make a --

THE COURT: No, I know.

MR. WRIGHT: -- oh.

THE COURT: I still need, you know, I still need a break, Mr. Wright.

MR. WRIGHT: Oh, I'm sorry. I thought you were telling me to take a break with my --

THE COURT: No. No, I --

MR. WRIGHT: -- client.

THE COURT: -- I need a two --

MR. WRIGHT: Excuse me.

THE COURT: -- minute break.

MR. WRIGHT: Sorry.

THE COURT: For you folks, if you need a break, can take one too. I -- obviously the defense, as you indicated at the bench, is going to make a for-cause challenge. I assume the State is going to oppose that?

MR. STAUDAHER: Yes.

THE COURT: Let's not get into a lot of long discourse at this point in time. Let's try to move through a few more, so we can take a lunch break and let some more people go before the lunch break. Understanding -- I made some notes, and I'm sure you all did too. We can argue about Mr. Herman later, okay?

And let's just take a quick -- let's call it a "nature break." And then we'll reconvene.

Next up is Ms. Curro, Badge 650. She works as a cashier at Star Nursery. I think she's probably going to be a hardship.

(Court recessed from 11:39 a.m. to 11:49 a.m.)

THE COURT: All right. Lisa Curro, Badge 650.

Ma'am, come on in and just have a seat in the jury box, anywhere that you would be comfortable.

THE MARSHAL: And just make sure you speak into the microphone.

PROSPECTIVE JUROR NO. 650: Okay.

THE COURT: Good morning.

PROSPECTIVE JUROR NO. 650: Good morning.

THE COURT: I wanted to follow up on some answers in your questionnaire, and you expressed concern about serving because your bills and rent wouldn't be paid. And you work at Star Nursery as a cashier; is that right?

PROSPECTIVE JUROR NO. 650: Yes, that's correct.

THE COURT: Okay. What -- when do you work? What hours and what days?

PROSPECTIVE JUROR NO. 650: It varies, but right now, only, like, two days a week.

THE COURT: You're only two days a week?

PROSPECTIVE JUROR NO. 650: Mm-hmm.

THE COURT: And what days are those?

PROSPECTIVE JUROR NO. 650: It just varies.

THE COURT: Okay. Are you on call or how does that work?

PROSPECTIVE JUROR NO. 650: The schedule gets made on Friday, so I have to find out every Friday.

THE COURT: Okay. Do you ever work on the weekends, Saturday and Sunday?

PROSPECTIVE JUROR NO. 650: Yes.

THE COURT: Okay. So obviously, if you served and you worked Saturday and Sunday, that wouldn't be a hardship

for you, correct?

PROSPECTIVE JUROR NO. 650: Right.

THE COURT: Okay. And is your husband the primary family breadwinner?

PROSPECTIVE JUROR NO. 650: I'm not married.

THE COURT: Oh, I'm sorry. I thought it said -- I don't mean to pry, and as I said, you know, sometimes we can get a little bit personal, how are you able to, I guess, support yourself working only two days a week at Star Nursery?

PROSPECTIVE JUROR NO. 650: They just cut my hours recently, so -- but I do have a significant other and we split the bills.

THE COURT: Okay. And he -- that's what I saw -- he's the part's manager?

PROSPECTIVE JUROR NO. 650: I'm gay, so it's a girl.

THE COURT: Oh, I'm sorry.

PROSPECTIVE JUROR NO. 650: That's okay.

THE COURT: Okay. She's the part's manager?

PROSPECTIVE JUROR NO. 650: Yes.

THE COURT: And where does she work?

PROSPECTIVE JUROR NO. 650: Prestige.

THE COURT: Okay. And basically you both contribute to the household?

PROSPECTIVE JUROR NO. 650: Yes.

THE COURT: Okay. And when did -- when were your

hours cut at the Star Nursery?

PROSPECTIVE JUROR NO. 650: Just two weeks ago.

THE COURT: Okay. And again, I don't mean to pry, but why were they cut?

PROSPECTIVE JUROR NO. 650: We're not busy right now, it's not busy season.

THE COURT: Oh, because it's hot --

PROSPECTIVE JUROR NO. 650: Yeah, it's too --

THE COURT: -- and people have already --

PROSPECTIVE JUROR NO. 650: -- hot.

THE COURT: -- planted and done what they're supposed to do?

PROSPECTIVE JUROR NO. 650: Mm-hmm.

THE COURT: Okay. Is that kind of a -- if you know -- what's going to be the situation throughout the summer? Meaning, it will probably only be two days a week?

PROSPECTIVE JUROR NO. 650: We usually pick back up, probably about June, so...

THE COURT: Okay. And then do you intend to just stay with Star Nursery and hope that you get more days, or are you looking for other work to supplement what you're making at Star Nursery?

PROSPECTIVE JUROR NO. 650: I'm looking for another job currently.

THE COURT: Okay. And what type of work are you

looking for?

PROSPECTIVE JUROR NO. 650: Right now, anything. I'm open.

THE COURT: Okay. All right. Thank you.

Ms. Stanish or Mr. Santacroce, would you like to follow-up?

MS. STANISH: Thank you, Your Honor.

Good morning.

PROSPECTIVE JUROR NO. 650: Good morning.

MS. STANISH: I'm just going to kind of go in the order of your questionnaire, and I -- this -- just to tag on what the Judge has already discussed with you, this trial is probably going to last through the month of May and into June. Will that present any financial hardship, or any other issue for you?

PROSPECTIVE JUROR NO. 650: It may because my significant other would have to carry my weight that I can't, like, from my earnings.;

MS. STANISH: How old are your kids?

PROSPECTIVE JUROR NO. 650: Eleven and six.

MS. STANISH: There was a question that reads, Do you have any religious or philosophical beliefs that would make it difficult for you to be a juror? And you answered, Yes, and stated that, I believe in God and he will take care of everything. Could you please elaborate on that statement and

how it would make it difficult for you to serve as a juror?

PROSPECTIVE JUROR NO. 650: Sure. I just believe everything happens for a reason, and if God brings you to it he'll bring you through it.

MS. STANISH: There's no coincidences.

THE COURT: Let me ask you this. The function of a juror is to listen to the evidence, and then discuss the evidence with the fellow -- with your fellow jurors in the jury deliberation room and make a determination after you've been instructed on the law if the State has proven the defendant's guilt beyond a reasonable doubt, based solely on the evidence that's presented in the case.

Would you be able to do that, notwithstanding your religious views?

PROSPECTIVE JUROR NO. 650: Sure.

THE COURT: Okay. Thank you.

Ms. Stanish, go on.

MS. STANISH: There's a lot of empty pages. It doesn't look like you knew any potential witnesses --

PROSPECTIVE JUROR NO. 650: No.

MS. STANISH: -- correct? All right. Now I'm at the part of your questionnaire that talks about your exposure to any news in this case. You said that you just heard about the outbreak and nothing more. First off, could you describe for us what you listen to -- where do you get your news?

PROSPECTIVE JUROR NO. 650: T.V. People talk.

MS. STANISH: And -- you've been in Las Vegas for how long?

PROSPECTIVE JUROR NO. 650: Born and raised.

MS. STANISH: Born and raised. And can you estimate for me how long you heard about this case in the news or talked about it with other people?

PROSPECTIVE JUROR NO. 650: Just sporadically here and there past -- throughout the past couple of years.

MS. STANISH: Couple years --

PROSPECTIVE JUROR NO. 650: Nothing --

MS. STANISH: -- or more than a couple years?

PROSPECTIVE JUROR NO. 650: -- probably more than a couple. Probably since it happened.

MS. STANISH: I'm sorry?

PROSPECTIVE JUROR NO. 650: Since it happened.

MS. STANISH: Yeah, so it's about 2008-ish or so?

PROSPECTIVE JUROR NO. 650: Right.

MS. STANISH: Okay. And what kind of information did you receive from the news or from other people regarding this case?

PROSPECTIVE JUROR NO. 650: Nothing more than, just that it happened, and there was constantly more and more people getting involved in it.

MS. STANISH: Would -- could you be more specific

about what you heard occurred?

PROSPECTIVE JUROR NO. 650: I'm sorry?

MS. STANISH: Could you be more specific, please, on what you understood occurred?

PROSPECTIVE JUROR NO. 650: Just that something malfunctioned at the practice, and it was happening to more and more people.

MS. STANISH: And you stated that you also talked to people about this case. Can you -- you tell us who you had discussions with about this case?

PROSPECTIVE JUROR NO. 650: Just co-workers, they would bring it up. I mean, nothing serious about it.

MS. STANISH: Do you mean the workers at Stars?

PROSPECTIVE JUROR NO. 650: No.

MS. STANISH: Well, where?

PROSPECTIVE JUROR NO. 650: When I worked at Fiesta.

MS. STANISH: I'm sorry?

PROSPECTIVE JUROR NO. 650: At Fiesta Casino.

MS. STANISH: Oh, okay. And was there anything about what you've heard about this case that you've formed an opinion about this matter as to whether or not these two gentlemen are guilty or not?

PROSPECTIVE JUROR NO. 650: No.

MS. STANISH: And where does your partner work?

PROSPECTIVE JUROR NO. 650: At Prestige.

MS. STANISH: Prestige?

PROSPECTIVE JUROR NO. 650: Chrysler, it's in --

MS. STANISH: Oh, okay. I know what you --

PROSPECTIVE JUROR NO. 650: -- Centennial.

MS. STANISH: -- all righty. It says here that you -- you have less than a high school -- in education, when did you leave high school, what grade?

PROSPECTIVE JUROR NO. 650: I finished 12th grade, but I didn't have all my credits, due to pregnancy in high school.

MS. STANISH: I see. Okay. So you did finish --

PROSPECTIVE JUROR NO. 650: Well, I finished -- I was there until the end of the school year --

MS. STANISH: -- I see.

PROSPECTIVE JUROR NO. 650: -- just lack of credits.

MS. STANISH: Understood. Have you ever served on a jury?

PROSPECTIVE JUROR NO. 650: No.

MS. STANISH: No? You've heard a description of this case and you have some information about it from various news sources and discussion. Is there anything about this case as you understand it, as you sit here, that creates any concern for you as a -- to serve as a juror?

PROSPECTIVE JUROR NO. 650: No, it doesn't.

MS. STANISH: Have you had any negative experience

with anybody in the medical profession?

PROSPECTIVE JUROR NO. 650: No.

MS. STANISH: Anyone close to you?

PROSPECTIVE JUROR NO. 650: No.

MS. STANISH: I pass for cause, Your Honor.

THE COURT: All right. Thank you.

Mr. Santacroce?

MR. SANTACROCE: Thank you. Good morning, Ms. Curro.

PROSPECTIVE JUROR NO. 650: Good morning.

MR. SANTACROCE: I just have a few questions for you. I'm really concerned about your financial situation in the sense that this trial is going to be a long time, I mean, it's going to go for six to eight weeks, and we need your undivided attention during that time period. I guess what I'm asking you is does -- is your significant other, do you think, is willing to take on that responsibility and meet those financial burdens that you have?

PROSPECTIVE JUROR NO. 650: I know she's willing to, I don't know if her job is willing to give her the extra hours, though.

MR. SANTACROCE: So that could be a problem for you?

PROSPECTIVE JUROR NO. 650: Yes.

MR. SANTACROCE: And with regard to the two children that you have, is there any kind of support you're getting for them?

PROSPECTIVE JUROR NO. 650: No, I have joint custody, so it's week on, week off.

MR. SANTACROCE: So it -- and there's no child support --

PROSPECTIVE JUROR NO. 650: No.

MR. SANTACROCE: -- either way?

PROSPECTIVE JUROR NO. 650: No.

MR. SANTACROCE: And do you rent or own a home?

PROSPECTIVE JUROR NO. 650: My girlfriend owns.

MR. SANTACROCE: Do you contribute to that? Do you pay part of the mortgage --

PROSPECTIVE JUROR NO. 650: Yes --

MR. SANTACROCE: -- utilities --

PROSPECTIVE JUROR NO. 650: -- half.

MR. SANTACROCE: You divide everything in half?

PROSPECTIVE JUROR NO. 650: Mm-hmm.

MR. SANTACROCE: And are you able to make it on two days a week, your half?

PROSPECTIVE JUROR NO. 650: Yes.

MR. SANTACROCE: I don't suppose that leaves much for recreation or entertainment?

PROSPECTIVE JUROR NO. 650: No.

MR. SANTACROCE: What do you like to do in your spare time?

PROSPECTIVE JUROR NO. 650: Take the kids to the

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park.

MR. SANTACROCE: Anything else?

PROSPECTIVE JUROR NO. 650: Sightseeing, they're always building new --

MR. SANTACROCE: I'm sorry?

PROSPECTIVE JUROR NO. 650: They're always building new things out here --

MR. SANTACROCE: That's for --

PROSPECTIVE JUROR NO. 650: -- new things to see.

MR. SANTACROCE: -- for sure. Now, you previously worked at the Stratosphere and the Fiesta?

PROSPECTIVE JUROR NO. 650: Yes.

MR. SANTACROCE: The Fiesta, which one?

PROSPECTIVE JUROR NO. 650: Rancho.

MR. SANTACROCE: And what did you do for the Stratosphere?

PROSPECTIVE JUROR NO. 650: I was sport's book and then I went to table games.

MR. SANTACROCE: So you were a dealer?

PROSPECTIVE JUROR NO. 650: Yes.

MR. SANTACROCE: And how about Fiesta?

PROSPECTIVE JUROR NO. 650: The same, dealer.

MR. SANTACROCE: Is that something that you are not considering doing again, or why did you leave that field?

PROSPECTIVE JUROR NO. 650: I'm looking into it.

MR. SANTACROCE: Okay. So was there a reason you went from there to Star Nursery?

PROSPECTIVE JUROR NO. 650: Yeah. There was a lot of negativity dealing with the people at the table games.

THE COURT: Meaning the customers or your --

PROSPECTIVE JUROR NO. 650: Yes.

THE COURT: -- pit bosses, or --

PROSPECTIVE JUROR NO. 650: The customers.

THE COURT: Okay.

MR. SANTACROCE: So you didn't want to deal with that anymore?

PROSPECTIVE JUROR NO. 650: No.

MR. SANTACROCE: And do you feel that you can be fair and impartial to both sides in this case?

PROSPECTIVE JUROR NO. 650: Yes.

MR. SANTACROCE: Do you come into this courtroom with any preconceived ideas as to the guilt or innocence of Mr. Lakeman or Dr. Desai?

PROSPECTIVE JUROR NO. 650: I do not.

MR. SANTACROCE: You understand in our system of justice the Defense doesn't have to do anything, right?

PROSPECTIVE JUROR NO. 650: Mm-hmm.

MR. SANTACROCE: Puts -- the burden is on the State to prove each and every element of the crime beyond a reasonable doubt?

PROSPECTIVE JUROR NO. 650: Yes, I do.

MR. SANTACROCE: And you'd be willing to hold the State to that burden?

PROSPECTIVE JUROR NO. 650: Yes.

MR. SANTACROCE: And Defense really doesn't have to do anything, if they don't want to; you understand that?

PROSPECTIVE JUROR NO. 650: I do.

MR. SANTACROCE: Do you have any preconceived ideas as to the fact that they're sitting here today whether they're guilty or innocent?

PROSPECTIVE JUROR NO. 650: I do not.

MR. SANTACROCE: Thank you. I have no further questions. Thank you.

THE COURT: All right.

PROSPECTIVE JUROR NO. 650: Thank you.

THE COURT: Mr. Staudaher?

MR. STAUDAHER: Yes, just a -- just a couple, Your Honor.

Again, I know you've been asked this a couple of times regarding your work and the financial burden issue, but when the Judge asked you if it was possible for you to do some of your hours on the weekend, do you know if -- if you're -- if they're flexible on the days of the week you work or the times of day that you work, as opposed to, just, you can only get this many hours a week?

PROSPECTIVE JUROR NO. 650: They only give me so many hours a week.

MR. STAUDAHER: Is there -- is it a possibility that you could get them to let you work on the weekend if you needed to?

PROSPECTIVE JUROR NO. 650: There is.

MR. STAUDAHER: Okay. Is -- do you -- is that something you think would be hard, or do you think it's likely that that would happen?

PROSPECTIVE JUROR NO. 650: No, it's likely. I would just --

MR. STAUDAHER: Okay. Because that -- I would assume that's one of the more busy times, the weekends?

PROSPECTIVE JUROR NO. 650: Yeah.

MR. STAUDAHER: Okay. With regard to your -- going back to the education thing, you said you left -- you got all the way through school, you just didn't have enough credits to get your diploma, correct?

PROSPECTIVE JUROR NO. 650: Mm-hmm.

MR. STAUDAHER: There's going to be some evidence that, if you were selected, that's going to come in in this case that might be a little -- I mean, I assume you went through the regular classes at high school, science classes, things like that, math, and so forth. Any issues with being able to focus on and understand that kind of material --

PROSPECTIVE JUROR NO. 650: No.

MR. STAUDAHER: -- as it might come in? And the last question bookends what the -- Mr. Santacroce just asked you, which was the State's burden. We have the burden of proof in this case, and you said you understood that, fair?

PROSPECTIVE JUROR NO. 650: Yes.

MR. STAUDAHER: If at the end of the trial we have, in your mind, proven all of the essential elements, all the subparts of the charges beyond a reasonable doubt, can you come back with a guilty verdict?

PROSPECTIVE JUROR NO. 650: Yes.

MR. STAUDAHER: Is there any reason philosophical, religious, or otherwise why that might be difficult for you to do?

PROSPECTIVE JUROR NO. 650: No, there's not.

MR. STAUDAHER: And I want to make sure we're on -- we're clear on that because you mention a couple things in here about, you know, you put your trust in God and God will get you through it and -- and all that, and it's -- and I'm not trying to disparage that in any way, but I just want to make sure that there's not some sort of religious, sort of belief, or moral stand that you have that would interfere with your ability to judge in a case like this?

PROSPECTIVE JUROR NO. 650: No, there's not.

MR. STAUDAHER: Okay. I pass for cause, Your Honor.

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THE COURT: All right. Ma'am, in a moment I'm going to excuse you for today. You may be selected as a juror, so make sure Kenny, our bailiff, has a number where you can be reached.

Additionally, I must remind you of the admonition not to discuss the case, read, watch, listen to any reports of or commentaries on any subject matter relating to the case or form or express an opinion on the trial. Additionally, please do not discuss with anyone what has transpired in the courtroom, meaning, my questions, the attorneys' questions, your answers, and so forth; do you understand?

PROSPECTIVE JUROR NO. 650: I do.

THE COURT: All right. Thank you, ma'am, and you're free to leave today.

PROSPECTIVE JUROR NO. 650: Thank you.

THE COURT: Mr. Santacroce, you didn't pass for cause?

MR. SANTACROCE: I pass for cause.

THE COURT: All right. She's passed for cause. She'll go in the pile. She said it was likely that she could get the weekend work at Star Nursery, so I don't think she qualifies as a hardship. Plus, her partner, I think, probably makes a fairly decent income as a part's manager at a dealership. So she will go in the pile as -- of our 35.

All right. Did you need a moment, Mr. Wright? Or

can we do one more and then break for lunch?

MR. WRIGHT: I'd like a moment, please.

THE COURT: All right. We'll call a man, so that will make it easier to just -- you need a moment?

MR. WRIGHT: Yes.

THE COURT: All right.

(Pause in the proceedings.)

THE COURT: All right. Next up is going to be Badge 668, Yelene Cazares.

Ma'am, come on in and have a seat, please, in the jury box.

THE MARSHAL: Right this way, ma'am.

PROSPECTIVE JUROR NO. 668: Oh, sorry.

THE MARSHAL: No, you're okay.

THE COURT: Good afternoon.

PROSPECTIVE JUROR NO. 668: Good afternoon.

THE COURT: I wanted to follow-up on some answers you gave in your questionnaire. You say that it -- you're -- it would be a hardship for you, but you also checked it wouldn't be a hardship for you to serve.

PROSPECTIVE JUROR NO. 668: Okay.

THE COURT: Would it be a hardship for you to serve as a juror in this case?

PROSPECTIVE JUROR NO. 668: Because my English is not very well.

THE COURT: Oh, okay.

PROSPECTIVE JUROR NO. 668: Yeah.

THE COURT: And you work as a janitor?

PROSPECTIVE JUROR NO. 668: Yeah.

THE COURT: Okay. How long have you been in the United States?

PROSPECTIVE JUROR NO. 668: Almost 18 -- I have [inaudible] when 18 years old.

THE COURT: 18 -- you moved here when you were 18? And -- is that "yes" for the record?

PROSPECTIVE JUROR NO. 668: No, I -- 18 years over here in United States.

THE COURT: Okay. Did you attend any school in the United States?

PROSPECTIVE JUROR NO. 668: No.

THE COURT: Okay. Did you attend -- where are you from originally?

PROSPECTIVE JUROR NO. 668: From Mexico.

THE COURT: And did you go to -- you went to school in Mexico?

PROSPECTIVE JUROR NO. 668: Yeah.

THE COURT: For how long?

PROSPECTIVE JUROR NO. 668: I go -- finish the high school.

THE COURT: Okay. Did you take any English classes

in Mexico?

PROSPECTIVE JUROR NO. 668: No.

THE COURT: And then what about when you moved here to the United States?

PROSPECTIVE JUROR NO. 668: And in the school in Mexico, I no got it too much. And here I never --

THE COURT: You never took, like, an English class or anything?

PROSPECTIVE JUROR NO. 668: Yeah.

THE COURT: How did you learn some -- how did you learn some English?

PROSPECTIVE JUROR NO. 668: When my -- when my daughter starts in the school, I have when the -- the homework.

THE COURT: With the homework? Okay.

PROSPECTIVE JUROR NO. 668: Yeah, it's -- it's a little, yeah --

THE COURT: A little?

PROSPECTIVE JUROR NO. 668: -- not too much.

THE COURT: Okay. Counsel, approach.

(Off-record bench conference.)

THE COURT: Ms. Cazares, thank you for being here today. We're going to go ahead and excuse you as a juror. And don't talk about anything that's gone on in the courtroom with anybody else, meaning my questions and your answers,

okay?

PROSPECTIVE JUROR NO. 668: Thank you.

THE COURT: Microphone in the chair and just check out through jury services on the third floor.

PROSPECTIVE JUROR NO. 668: Okay.

THE COURT: Let's go with Julie -- well. Let's go with Benigno Oridaniza -- Oridaniza.

MS. STANISH: What number?

THE COURT: 690.

MS. STANISH: And just -- just for the record, we stipulated that --

THE COURT: Oh, thank you, Ms. Stanish.

MS. STANISH: -- 668 was a language difficulty.

THE COURT: Issue, yeah. Correct, State?

MS. WECKERLY: Yes.

MR. STAUDAHER: Yes, Your Honor.

THE COURT: All right. Kenny, Benigno Oridaniza.

MS. STANISH: What number is that?

MR. WRIGHT: 690, I think. 690.

MS. STANISH: 690? Yes.

(Pause in the proceedings.)

THE COURT: I'm trying to find one that's likely to be -- why don't you call Zachary Hardy, Badge 697? I'm looking for a fast one before lunch.

MR. STAUDAHER: Which one, now, Your Honor? Sorry.

THE COURT: 697, Zachary Hardy.

MS. STANISH: Was 690 not -- a no-show?

THE COURT: He's -- he may be in the bathroom --

MS. STANISH: Oh, okay.

THE COURT: -- or he got something to drink. I don't know.

MS. STANISH: So 697?

THE COURT: Yeah. Come on in and have a seat in the jury box.

And, Mr. Hardy, good afternoon.

PROSPECTIVE JUROR NO. 697: Hi.

THE COURT: I want to follow-up on your questionnaire. You said you were concerned about serving as a juror because you'd not be able to work and support your family.

PROSPECTIVE JUROR NO. 697: Yes.

THE COURT: Is that right? And what do you do?

PROSPECTIVE JUROR NO. 697: I work at P.F. Chang's. I'm a server there.

THE COURT: And, you know, what shifts do you work, and what -- what days?

PROSPECTIVE JUROR NO. 697: I work Monday through Friday from 10 to 5.

THE COURT: Okay. So you work the day shift?

PROSPECTIVE JUROR NO. 697: Yeah.

THE COURT: And they don't pay you at all for jury service? Or how does that work for them?

PROSPECTIVE JUROR NO. 697: No, just -- I don't get paid for jury service.

THE COURT: Nothing. Because obviously you don't make your tips, but --

PROSPECTIVE JUROR NO. 697: Yeah.

THE COURT: -- when you say a back waiter, is that the guy that gives the take-out food, or do you -- what does that mean?

PROSPECTIVE JUROR NO. 697: I run the food in the back, I do takeout, and I expo, and then, I help the servers out.

THE COURT: Okay. Did you ask your employer if they would pay you for jury service?

PROSPECTIVE JUROR NO. 697: Yes, and they said no.

THE COURT: Okay. How much do you normally -- are you an hourly worker or --

PROSPECTIVE JUROR NO. 697: Yeah, I make minimum plus tips, so --

THE COURT: And what is -- what does that typically come up -- up -- out to a day?

PROSPECTIVE JUROR NO. 697: It usually comes to, like, 16 an hour. So --

THE COURT: Okay. And then you said you support your

family, and who's -- who is in your family?

PROSPECTIVE JUROR NO. 697: It's mainly just my fiancee. She's a full-time student at the moment, so --

THE COURT: Okay. And do you -- you live together?

PROSPECTIVE JUROR NO. 697: Yeah.

THE COURT: Okay. And she's a full-time student where?

PROSPECTIVE JUROR NO. 697: UNLV.

THE COURT: Okay. Did you talk to your employer about possibly getting another shift or working weekends or anything like that if you're selected to serve?

PROSPECTIVE JUROR NO. 697: At the moment, with everybody else's school schedule, they're all set to work the weekends because they can't really work the week, so I can't.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 697: I talked to them, they said no.

THE COURT: All right. Counsel, approach.

(Off-record bench conference.)

THE COURT: -- in this case at this time. Before I let you go, I must admonish you that you're not to discuss anything that's transpired in the court with anyone else.

PROSPECTIVE JUROR NO. 697: All right.

THE COURT: By anyone else, I mean, your family, friends, anyone -- that includes my questions and your answers

and so forth; do you understand?

PROSPECTIVE JUROR NO. 697: Yes.

THE COURT: All right. Thank you, sir. Put the microphone in the chair --

PROSPECTIVE JUROR NO. 697: Thank you.

THE COURT: -- and you can check back out through jury services on the third floor.

Maybe we should, just, take our lunch break. Kenny, bring everybody in.

(Prospective jury panel entering at 12:18 p.m.)

THE COURT: All right. Ladies and gentlemen, unfortunately, that was as far as we were able to get this morning. We're going to go ahead and take our lunch break now. We'll be in recess for lunch until 1:20.

Before I excuse you for lunch, I must remind you of the admonition not to discuss the case or anything relating to the case, not to read, watch, or listen to any reports of or commentaries on this case, any person or subject matter relating to the case. Do not do any independent research, and please do not form or express an opinion on the case.

Please follow our bailiff, Officer Hawkes through the double doors. Any questions regarding where to meet after lunch, where to go for lunch, things of that nature, you may address Officer Hawkes out in the hallway.

THE MARSHAL: All right. Ladies and gentlemen,

follow me.

THE COURT: We're in recess.

(Prospective jury panel recessed at 12:19 p.m.)

THE COURT: All right. We'll go ahead and take our lunch break. And once again, the courtroom will be locked and you can leave your stuff spread out.

(Court recessed from 12:20 p.m. to 1:28 p.m.)

(Outside the presence of the prospective jury panel.)

THE COURT: Let's go with -- how about Badge 690. He was, apparently in the rest room last time. I'm going to -- Mr. Oridaniza.

THE CLERK: I thought he was through.

THE COURT: No, he -- we tried to get him, but he was in the bathroom, so we went with Zachary Hardy. That was the last guy, the young guy, who --

MS. WECKERLY: P.F. Chang's.

THE COURT: -- I'm sorry?

MS. WECKERLY: P.F. Chang's.

THE COURT: Right.

THE CLERK: So we excused Zachary Hardy?

THE COURT: Right. Maybe he drove to California, but I thought he was set -- sir, come on in and have a seat there in the jury box, please.

THE MARSHAL: And just make sure you speak into the microphone.

THE COURT: Any one. Wherever you're comfortable. Good afternoon. I wanted to follow-up a little bit on your questionnaire. Did you leave for California and are you back -- I -- or did you just not take your trip?

PROSPECTIVE JUROR NO. 690: No, it was only a day trip.

THE COURT: Okay. So you already went?

PROSPECTIVE JUROR NO. 690: Yeah.

THE COURT: Okay. Good. Good. I'm glad you were able to do that. And that was the only thing that you were -- would preclude you from serving as a juror?

PROSPECTIVE JUROR NO. 690: Oh, do I have to talk in the --

THE COURT: I'm sorry?

PROSPECTIVE JUROR NO. 690: -- do I have to talk in the mike?

THE COURT: You're able to serve as a juror then, correct?

PROSPECTIVE JUROR NO. 690: Yes.

THE COURT: Okay. Let me ask you this: You say here that you never -- you haven't heard anything about this case prior to coming into court or prior to coming to fill out the questionnaire?

PROSPECTIVE JUROR NO. 690: No.

THE COURT: Okay. And you work for the Strip Liquor

as a cashier. Do they pay you for jury service, do you know?

PROSPECTIVE JUROR NO. 690: No.

THE COURT: No, you don't know, or no, they don't pay you?

PROSPECTIVE JUROR NO. 690: No, they don't pay me.

THE COURT: Okay. Did you talk to your boss if you had to work as a juror?

PROSPECTIVE JUROR NO. 690: No, I haven't.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 690: I barely make any money over there.

THE COURT: Yeah. Which -- what hours and stuff do you work?

PROSPECTIVE JUROR NO. 690: My hours vary --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 690: -- depending on the day or whatever hours she wants to give me. I don't have a set schedule.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 690: And it's -- yeah.

THE COURT: Do you work days, evenings, weekends?

PROSPECTIVE JUROR NO. 690: Majority of the time I work nights and weekends.

THE COURT: Nights and weekends. And when you say "Nights" what do you mean, like, 6 to, like, the -- like,

what --

PROSPECTIVE JUROR NO. 690: From -- on Friday and Saturday I work from 5 to 1 --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 690: -- and then, from -- on Sundays I work 12 -- or 4 to 12.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 690: Wednesdays and Thursdays are the days that I don't know --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 690: -- because usually it varies from if I work in the morning or if I work in the evening.

THE COURT: Okay. And how -- how is that determined? Do you know whether or not you'll be called into work in the daytime or work in the evening?

PROSPECTIVE JUROR NO. 690: The only way I'll know is if I check the schedule before -- before I leave --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 690: -- for the next week.

THE COURT: Is -- and how much do you make? Are you paid hourly, or --

PROSPECTIVE JUROR NO. 690: I'm paid hourly. I only make minimum wage --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 690: -- 8.25.

THE COURT: Okay. And then in your household who do you live with?

PROSPECTIVE JUROR NO. 690: I live with my mother.

THE COURT: Okay. And you don't have any kids or anything like that?

PROSPECTIVE JUROR NO. 690: I do, actually. I have a three month old --

THE COURT: Okay. And does --

PROSPECTIVE JUROR NO. 690: -- son.

THE COURT: -- the -- does your baby live with you?

PROSPECTIVE JUROR NO. 690: Yes.

THE COURT: Okay. And then the mother of the child lives with you as well?

PROSPECTIVE JUROR NO. 690: Yes, ma'am.

THE COURT: And what does she do? She stays home?

PROSPECTIVE JUROR NO. 690: She's a stay-at-home.

THE COURT: Stay-at-home mom? And then your mom -- does your mom work outside of the home?

PROSPECTIVE JUROR NO. 690: She does, yes.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 690: She works for Bellagio.

THE COURT: Okay. Now, if you -- so your normal shift does include Saturdays and Sundays, correct?

PROSPECTIVE JUROR NO. 690: Yes, ma'am.

THE COURT: Okay. And then, if you were selected to serve you could probably work Friday night, Saturday, and Sunday. So three of the five days. Would that help you out?

PROSPECTIVE JUROR NO. 690: Yes and no.

THE COURT: Okay. Why no? Just because you're missing two days still?

PROSPECTIVE JUROR NO. 690: Yeah, and making 8.25 is -- that actually -- it --

THE COURT: Yeah.

PROSPECTIVE JUROR NO. 690: -- it will cut my check out a lot.

THE COURT: Yeah. Do you contribute to the household expenses?

PROSPECTIVE JUROR NO. 690: I want to say yes.

THE COURT: Okay. What do you pay for?

PROSPECTIVE JUROR NO. 690: I pay for, of course, my bills, like my cell phone and stuff like that. I also give my mom 100 to 150 for, you know, just to help out with whatever I can.

THE COURT: Like groceries and that sort of thing?

PROSPECTIVE JUROR NO. 690: Yes.

THE COURT: Okay. Counsel, approach.

(Off-record bench conference.)

THE COURT: How do you say your last name? Oridaniza?

PROSPECTIVE JUROR NO. 690: Oridaniza.

THE COURT: Say it again?

PROSPECTIVE JUROR NO. 690: O-rid-a-neez-a.

THE COURT: Oh, I was all backward. Well, thanks for being here. I'm going to go ahead and excuse you at this point, but before I do, I must advise you, you're not to discuss anything that's transpired in the courtroom with anybody else, and that means my questions, your answers and so forth.

All right? Sir, thank you. Check out through jury services. Next up --

PROSPECTIVE JUROR NO. 690: Have a good day.

THE COURT: -- is Badge 672, Ms. -- I can't pronounce her name either. Ms. Dhondt? She may be a hardship. Although, if she's the executive assistant -- oh, urban development.

Ma'am, come on in and have a seat there in the jury box, please.

PROSPECTIVE JUROR NO. 672: Anywhere? Here?

THE COURT: Anywhere is fine. Good afternoon. I wanted to follow up on a few things in your questionnaire.

PROSPECTIVE JUROR NO. 672: Okay.

THE COURT: You expressed concern about serving as a juror because you're the sole provider for your family?

PROSPECTIVE JUROR NO. 672: Yes.

THE COURT: And you work at Urban Development. Is that a private company?

PROSPECTIVE JUROR NO. 672: Privately owned, yes.

THE COURT: Right. That's what I mean --

PROSPECTIVE JUROR NO. 672: Yes.

THE COURT: -- it's not, like, part of HUD or anything like that?

PROSPECTIVE JUROR NO. 672: No.

THE COURT: Okay. Did -- how are you compensated? Do you get a salary? Are you an hourly worker?

PROSPECTIVE JUROR NO. 672: Hourly.

THE COURT: Hourly? Okay. What do you make an hour?

PROSPECTIVE JUROR NO. 672: 20 an hour.

THE COURT: 20 an hour, okay. That's good. And then, did you talk to your boss about whether or not you'd be serving? I mean, did you tell --

PROSPECTIVE JUROR NO. 672: I mean, I --

THE COURT: -- did you tell your boss you -- you filled out a questionnaire and you might have to serve as a juror?

PROSPECTIVE JUROR NO. 672: Yes.

THE COURT: Okay. Did you talk to them about whether or not they'd compensate you either in whole or in part for jury service?

PROSPECTIVE JUROR NO. 672: No.

THE COURT: Okay. Do you know whether they will or not or --

PROSPECTIVE JUROR NO. 672: Highly doubtful.

THE COURT: Okay. And why do you think that?

PROSPECTIVE JUROR NO. 672: It's a private company. Most private companies don't.

THE COURT: You'd be surprised. We're learning a lot about what companies do and don't. How big is your company? How many, like, employees? I think you filled that out?

PROSPECTIVE JUROR NO. 672: That's debatable. They own about 10 to 15 different entities and -- and all sorts of development property management casinos, so --

THE COURT: Okay. And your household, you have a teenage daughter?

PROSPECTIVE JUROR NO. 672: Yes.

THE COURT: And who else is in your household?

PROSPECTIVE JUROR NO. 672: Just me and my daughter.

THE COURT: Okay. And you said she also has some issues with depression right now?

PROSPECTIVE JUROR NO. 672: Yes.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 672: She's in counseling and she's had to go to a treatment center for a period of time. So me being around is fairly critical.

THE COURT: Okay. Is she still going to school?

PROSPECTIVE JUROR NO. 672: Mm-hmm.

THE COURT: Is that yes?

PROSPECTIVE JUROR NO. 672: Yes.

THE COURT: For the record.

PROSPECTIVE JUROR NO. 672: Sorry.

THE COURT: Now, what hours and days do you normally work in your job?

PROSPECTIVE JUROR NO. 672: I work Monday through Friday from 8:30 to 5.

THE COURT: And is this like an office setting?

PROSPECTIVE JUROR NO. 672: Yes.

THE COURT: Okay. Counsel, approach.

(Off-record bench conference.)

THE COURT: All right. Ms. Dhondt, we're going to go ahead and excuse you. Please don't discuss anything that's transpired in the courtroom with anyone else. That, of course, means my questions, your answers and so forth. Thank you.

PROSPECTIVE JUROR NO. 672: Okay.

THE COURT: You may check out through jury services.

PROSPECTIVE JUROR NO. 672: Okay. Go back down to the third floor?

THE COURT: Yeah. And just check out.

PROSPECTIVE JUROR NO. 672: Okay.

THE COURT: Okay. Thanks. You're free to leave.

Let's go with Badge No. 703, Tyniesha Roberson.

THE MARSHAL: She's a no-show, Your Honor.

THE COURT: All right. Now we're cooking with gas.

Let's go with Scott Freebairn -- Freebairn, Badge No. 704.

Sir, just have a seat anywhere there in the jury box that you'd be comfortable in. You'll see a microphone there on one of those chairs.

THE MARSHAL: And just make sure you speak into the microphone, please.

THE COURT: Good afternoon, sir. I wanted to follow-up on some of your answers in the questionnaire. You indicated that you didn't have any problems with serving in terms of hardship or anything like that at your work?

PROSPECTIVE JUROR NO. 704: I mean, it's not going to kill me, but yeah, I mean --

THE COURT: Yeah. I mean, most people would prefer not to --

PROSPECTIVE JUROR NO. 704: Yeah, I really --

THE COURT: -- serve.

PROSPECTIVE JUROR NO. 704: -- don't want to. I do have things to do, but --

THE COURT: Okay. Except, once they do it most people are happy they had to do it. Let me ask you this. You say you've heard about the case in the Review Journal and the

local news television. Is there a particular station that you typically watch for local news?

PROSPECTIVE JUROR NO. 704: I try and watch as much as I can, so 3, 5, 8 --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 704: -- 13.

THE COURT: So all of them. And then you also read the Review Journal. Do you read that online, or do you read the old fashioned paper version?

PROSPECTIVE JUROR NO. 704: The old fashioned paper.

THE COURT: Okay. And have you followed this story in the media, or is it kind of you see it sporadically, kind of randomly --

PROSPECTIVE JUROR NO. 704: I don't follow it on a daily basis, but I am aware of everything that's been going on up to date with it, so --

THE COURT: Okay. Are you a regular reader of the RJ? Like a daily, do you --

PROSPECTIVE JUROR NO. 704: Yes.

THE COURT: -- have a subscription? Okay. And then, can you tell us basically what you recall seeing about this matter or the endoscopy clinic, anything related to it in the media?

PROSPECTIVE JUROR NO. 704: What I do know is several patients were infected by the Desai clinic.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 704: And I -- well, do you want me to go into my own personal view of it?

THE COURT: We'll get there. Now --

PROSPECTIVE JUROR NO. 704: Okay.

THE COURT: -- eventually. But what do you remember? Is that all you kind of remember seeing or hearing?

PROSPECTIVE JUROR NO. 704: I'm familiar with the pharmaceutical end of it, you know, the pharmaceutical company part of it, and the patients and the --

THE COURT: Okay. Meaning the case against the pharmaceutical --

PROSPECTIVE JUROR NO. 704: Yeah.

THE COURT: -- company?

PROSPECTIVE JUROR NO. 704: Yeah, the one --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 704: That was just --

THE COURT: Okay. And then -- now we're going to get to your opinion. You say, yes, gross negligent on Dr. Desai's part. What is that based on?

PROSPECTIVE JUROR NO. 704: I just think it was the whole clinic, you know, he was the owner of the clinic, or, you know, the -- he's as responsible as anybody that was actually doing it if he was or wasn't I think. You know, you're supposed to be responsible for what's going on and your

people underneath you, and I --

THE COURT: Kind of the buck stops with the owner --

PROSPECTIVE JUROR NO. 704: Yeah, I think --

THE COURT: -- sort of thing?

PROSPECTIVE JUROR NO. 704: -- they're all -- I think they're all guilty, so --

THE COURT: Okay. Let me ask you this: Do you think it's true that sometimes the media, or even often, reports things either incompletely or inaccurately?

PROSPECTIVE JUROR NO. 704: Yeah, but I think it's so widely spread now, and there's so much -- so many hands in everybody's cookie jar, so to speak, that, you know, it's -- there are lies and truths, but I think the truth is coming out more and more these days because you can't hide as much as you used to be able to, so --

THE COURT: Are you talking about in general, or in the -- in respect to this case?

PROSPECTIVE JUROR NO. 704: I'm just saying in general, yeah.

THE COURT: Okay. Because there's kind of a camera on every cell phone --

PROSPECTIVE JUROR NO. 704: Yeah.

THE COURT: -- kind of idea?

PROSPECTIVE JUROR NO. 704: The -- yeah, you can't really hide anymore, so --

THE COURT: Okay. Let me ask you this. If you're selected to serve as a juror in this case, do you understand that you would have to base your verdict on the evidence that's presented during the trial? The testimony from the witness stand and the documents and exhibits that -- exhibits including documents, photos, things like that that are admitted into evidence.

Would you be able to do that? Would you be able to set aside anything you might remember seeing or hearing in the media and base your verdict solely upon the evidence in this case?

PROSPECTIVE JUROR NO. 704: Probably not.

THE COURT: Okay. And why not?

PROSPECTIVE JUROR NO. 704: I'm just -- I just think that there's been too much hot -- how do I put this? I'm really biased towards that they're the guilt -- their party, that the Desai --

THE COURT: Okay. State --

PROSPECTIVE JUROR NO. 704: -- party is guilty, so --

THE COURT: -- do you want to traverse on this issue?

MS. WECKERLY: No, Your Honor.

THE COURT: Submit it?

MS. WECKERLY: Yes.

THE COURT: Challenge?

MR. SANTACROCE: Submit it.

THE COURT: All right. Sir -- Mr. Freebairn, is that how you say your name?

PROSPECTIVE JUROR NO. 704: Yes.

THE COURT: You are excused at this time. Before I excuse you I must admonish you, do not discuss anything that's transpired in the court with anyone else. By that I mean my questions, your answers, and our discussion; do you understand?

PROSPECTIVE JUROR NO. 704: Yes.

THE COURT: Thank you, sir. Check out through the third floor.

708, Grant Abitria.

Sir, come on in and have a seat in the jury box, please.

THE MARSHAL: There's a microphone sitting on one of those chairs. Just make sure you speak into it, please.

PROSPECTIVE JUROR NO. 708: Okay.

THE MARSHAL: Thank you, sir.

THE COURT: Good afternoon. I wanted to follow up on a couple of your answers here on the questionnaire.

PROSPECTIVE JUROR NO. 708: Okay.

THE COURT: When it says, Is there anything that could affect your ability to be fair and impartial, you say, I'm a registered nurse by trade, and familiar with the Desai

case. How is that you're familiar with the Desai case?

PROSPECTIVE JUROR NO. 708: My wife used to work for the Southern Nevada Health District when the events happened, and she is actually -- was one of the personnel involved in testing those samples.

THE COURT: Oh, okay.

PROSPECTIVE JUROR NO. 708: But she's not practicing anymore. This happened after we had our child, and after July of that -- of 2007 she decided to stay home and take care of our -- our little boy.

THE COURT: Okay. So -- but she was involved, what, at the time the letters went out and all of that?

PROSPECTIVE JUROR NO. 708: I believe the letters went out later from what I've heard from the -- the statements earlier, so -- but she was involved in the preliminary testing of the samples. My wife's background is a molecular biologist, so she's the one who is determining if the strain of the infectious agent is coming from the same source.

THE COURT: I see. Okay. Submitted?

MS. WECKERLY: Yes.

MR. SANTACROCE: Yes.

THE COURT: All right. Sir, we're --

MS. STANISH: Your Honor --

THE COURT: -- going to go ahead and --

MS. STANISH: -- can we clarify -- is your wife's

name the same as yours?

PROSPECTIVE JUROR NO. 708: Yes.

MS. STANISH: Okay. Thank you. Was it --

THE COURT: Submitted?

MS. STANISH: -- was it at the time?

PROSPECTIVE JUROR NO. 708: Yes.

MS. STANISH: Okay. Thanks.

THE COURT: All right.

PROSPECTIVE JUROR NO. 708: I know she's not on the roster anymore because she left the Health District --

THE COURT: But she was involved at the time?

PROSPECTIVE JUROR NO. 708: Correct.

THE COURT: Okay. All right. Sir, we're going to go ahead and excuse you at this point. Before I do, I must admonish you that you're not to discuss anything that's transpired in the court with anyone else. By that, I mean, my questions, your answers, our discussion; do you understand, sir?

PROSPECTIVE JUROR NO. 708: Thank you. Yes, I do.

THE COURT: All right. Thank you.

PROSPECTIVE JUROR NO. 708: Thank you very much.

THE COURT: You're free to leave. Check out through the third floor.

PROSPECTIVE JUROR NO. 708: Thank you.

THE COURT: Badge 710. And for the record, I'm

assuming there would have been a for-cause challenge because his wife actually worked on testing samples?

MR. SANTACROCE: Correct, Your Honor.

MS. STANISH: Yes.

THE COURT: All right.

MR. WRIGHT: Yes.

THE COURT: And actually, Mr. Santacroce sort of indicated nonverbally, the same --

MR. SANTACROCE: You mean when I fell on the floor?

MS. STANISH: When your jaw --

THE COURT: Well, you know, it is a --

MS. STANISH: -- hit the floor.

THE COURT: -- it's still a small town.

MS. STANISH: It's true. That's why everyone hears everything on the --

THE COURT: All right. Sir, come on in and have a seat in the jury box, please. Right over there.

Good afternoon, Mr. Mai.

PROSPECTIVE JUROR NO. 710: How are you?

THE COURT: Good. And it says here you haven't heard anything about this case at all; is that correct?

PROSPECTIVE JUROR NO. 710: That's correct.

THE COURT: Okay. And you work as a dealer --

PROSPECTIVE JUROR NO. 710: That's correct.

THE COURT: -- at the Venetian, and we understand

from other jurors that they will pay you for jury service; is that right?

PROSPECTIVE JUROR NO. 710: Pretty much, yes.

THE COURT: Okay. I don't have any questions. Ms. Stanish, would you like to question Mr. Mai?

MS. STANISH: Thank you. Is Mai how you say your last name?

PROSPECTIVE JUROR NO. 710: Kenny Mai, yes.

MS. STANISH: Mai, okay. And how long have you lived in Las Vegas, sir?

PROSPECTIVE JUROR NO. 710: Pretty much, like, 20 years.

MS. STANISH: 20 years? I'm just flipping through your questionnaire, see if there's anything we need to follow up on, all right? So bear with me. Have you heard anything about this case, you know, based on what you heard this morning from the attorneys described in the case, does it sound familiar to you?

PROSPECTIVE JUROR NO. 710: Not at all.

MS. STANISH: You went to -- you have a bachelor's degree in computer science from New York?

PROSPECTIVE JUROR NO. 710: Yes.

MS. STANISH: And before working at the Venetian, what did you do?

PROSPECTIVE JUROR NO. 710: Owned business.

MS. STANISH: You owned your own business?

PROSPECTIVE JUROR NO. 710: Working for somebody else.

MS. STANISH: And what kind of business was that, sir?

PROSPECTIVE JUROR NO. 710: It's like cellular service.

MS. STANISH: And does your wife work?

PROSPECTIVE JUROR NO. 710: She is --

MS. STANISH: What does she do?

PROSPECTIVE JUROR NO. 710: -- she's a food server.

MS. STANISH: And where were you born?

PROSPECTIVE JUROR NO. 710: Mainland, China.

MS. STANISH: How long have you been in the States?

PROSPECTIVE JUROR NO. 710: In Nevada?

MS. STANISH: Pardon me?

PROSPECTIVE JUROR NO. 710: Nevada, it would be --

THE COURT: No, in the United States, in the country.

PROSPECTIVE JUROR NO. 710: United States since '87.

THE COURT: And looking at the -- that you graduated from college in '93, so you must have gone to high school, too, in the United States?

PROSPECTIVE JUROR NO. 710: No.

THE COURT: No, so you came as an adult?

PROSPECTIVE JUROR NO. 710: Correct.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 710: It's like 19 years old.

THE COURT: Oh. I'm assuming you finished high school in China?

PROSPECTIVE JUROR NO. 710: That's correct.

THE COURT: Okay.

MS. STANISH: And you studied English oversees?

PROSPECTIVE JUROR NO. 710: A little bit over there, pretty much over here.

MS. STANISH: How did you learn English here, was it kind of learn by doing, or did you actually take a course?

PROSPECTIVE JUROR NO. 710: We started with, like a bilingual classes.

MS. STANISH: What kind of classes?

PROSPECTIVE JUROR NO. 710: Bilingual.

MS. STANISH: Oh, okay. And then I assume you became a naturalized citizen?

PROSPECTIVE JUROR NO. 710: And within five years.

MS. STANISH: Oh, five years ago?

PROSPECTIVE JUROR NO. 710: Yeah.

MS. STANISH: Oh, congratulations. Do you -- you checked that you watch a number of T.V. stations, news channels. Are you a regular watcher of the T.V. news?

PROSPECTIVE JUROR NO. 710: No, only sports.

MS. STANISH: Only sports. Good. We anticipate that

this trial is going to last about six weeks and it's going to involve a lot of technical medical evidence, written documents, and a lot of testimony. Do -- do you feel that there will be anything about the volume of evidence and the length of the trial that's going to cause you any concern on your ability to serve?

PROSPECTIVE JUROR NO. 710: Maybe I'm not -- I'm not too familiar with all the medical terms --

THE COURT: Yeah, that -- I mean --

PROSPECTIVE JUROR NO. 710: -- maybe got a hard time understanding it.

THE COURT: Basically, I think probably the average American isn't too familiar -- by average I mean, you know, people who have grown up speaking English their whole lives. You probably aren't too familiar with medical terms either, so I'm sure that the witnesses will define them. And if you are a juror and somebody uses a word you don't understand, you can right down a question, and then we ask the question of the -- of the witness.

So if somebody uses, maybe a technical term, I assume, probably, like I sai, you know, most native English speakers don't understand a lot of medical terms. so probably most of those of those would just be defined anyway.

I'm sorry, Ms. Stanish, for the interruption.

MS. STANISH: Thank you. And aside from medical -- I

mean, I see you went to college, so my assumption is you're able to read and speak English pretty good. But I don't want to assume that, I want to --

PROSPECTIVE JUROR NO. 710: I would say okay.

MS. STANISH: -- I want to understand if you're -- if you feel uncomfortable with your -- if you feel that there is a language barrier -- aside from medical terms as the Judge said could be, you know, explained more. Do you feel comfortable listening to testimony --

PROSPECTIVE JUROR NO. 710: I think I'm okay with that.

MS. STANISH: -- okay. You're all right with that. Okay.

THE COURT: Did you grow up speaking Cantonese?

PROSPECTIVE JUROR NO. 710: Cantonese is the first language.

THE COURT: Okay.

MS. STANISH: And you've never served on a jury before, correct?

PROSPECTIVE JUROR NO. 710: I was picked one time, it's like three years ago, but only for one day, then I was dismissed.

MS. STANISH: Oh, I -- yeah, I missed that. You were -- in 2008 you -- you were actually on the jury, or did you say you were dismissed as a juror?

PROSPECTIVE JUROR NO. 710: I was come to the court, and then for a day, then I don't need to come in no more, like, it's the second day I come in at this time --

MS. STANISH: So you didn't listen to evidence or witnesses?

PROSPECTIVE JUROR NO. 710: -- no. No. No.

MS. STANISH: All right. Do you have any training in the legal system whatsoever?

PROSPECTIVE JUROR NO. 710: I don't.

MS. STANISH: All right. And you heard this morning, Judge Adair explained a few very basic concepts to our criminal justice system, one of them being that these two gentlemen are presumed innocent under our system of law as they sit here right now. And do -- do you agree with that concept and agree that as a juror that you will follow it, that you will presume that they are innocent right now?

PROSPECTIVE JUROR NO. 710: You have to look at the facts how the whole thing is going.

MS. STANISH: I'm sorry.

PROSPECTIVE JUROR NO. 710: I think I need to look at how the whole thing before go any further.

MS. STANISH: You have to look at the evidence, you mean?

PROSPECTIVE JUROR NO. 710: Correct.

MS. STANISH: All right. And the -- the other

important concept is the State of Nevada, the prosecutors have the burden of proving beyond a reasonable doubt that they are guilty. They have to overcome, beyond a reasonable doubt, the presumption of innocence. Is that a concept that you can agree with as you sit here now?

PROSPECTIVE JUROR NO. 710: It all depends what the evidence shows, then I have to make a decision --

THE COURT: I think the question is that the State has the burden of proving the defendant's guilt beyond a reasonable doubt, and what that means is if the State presents evidence and after you listen to it and you go in the back with the rest of the jury and you all talk about it and you look over the exhibits, what have you, do you think, you know what, there was some evidence here of their guilt, but they didn't prove it beyond a reasonable doubt.

What that means is then the defendants are entitled to a verdict of not guilty; do you understand that? So even if you hear some evidence, but it doesn't convince you beyond a reasonable doubt, then you have to vote not guilty. Do you understand what I'm saying?

PROSPECTIVE JUROR NO. 710: Kind of.

THE COURT: Okay. What -- where -- what don't you understand?

PROSPECTIVE JUROR NO. 710: What you're saying is that they have to have enough support --

THE COURT: I'm sorry? Basically, the defendants don't have to do anything. They can just sit there all day, you know, brushing their hair -- not that we'd allow that -- or, you know, reading magazines, and the State has the entire burden in this case. They don't have to do anything. Do you agree with that?

PROSPECTIVE JUROR NO. 710: Yes.

THE COURT: Okay. And what -- let's say you hear the evidence, and you think, well, there was some evidence of guilt, but they didn't convince me beyond a reasonable doubt, how would you vote, guilty or not guilty?

PROSPECTIVE JUROR NO. 710: Not guilty.

THE COURT: Okay. Ms. Stanish?

MS. STANISH: Just a few more things because I want to make sure you're comfortable and we're comfortable with your ability to interact with other jurors. Is it -- when the Judge is speaking to you is she -- are you able to understand what she's saying? Is she -- are you absorbing it? Is she going too fast?

PROSPECTIVE JUROR NO. 710: I think what she's saying -- I think what she's saying is that in order to prove a defendant is guilty, right? So the prosecutor has to prove they have the facts. Is that what I mean?

THE COURT: I'll see counsel up here.

(Off-the record bench conference.)

THE COURT: Mr. Mai?

PROSPECTIVE JUROR NO. 710: Yes.

THE COURT: Thank you very much for being here today. We're going to go ahead and excuse you at this time. But before I excuse you and dismiss you, I must advise you that you are not to discuss anything that's gone on in the court with anybody else. That means my questions, Ms. Stanish's questions, your answers, and so forth; do you understand?

PROSPECTIVE JUROR NO. 710: Yes.

THE COURT: All right, sir. If you could put the microphone in the chair, go back and check out on the third floor.

PROSPECTIVE JUROR NO. 710: Thank you.

THE COURT: Thank you, sir. Next up will be Badge 714, Rahul Chandra. And before Kenny brings -- this person's sister worked at the Endoscopy Center for a short period. So I don't know if the State is going to challenge for cause on that. I'm going to ask a few questions, and then if you guys want to approach, we'll see.

MS. STANISH: And then, Your Honor, for the record Badge 710 was a stipulated for-cause --

THE COURT: Yes, was a stipulated -- apparently there were some nuances in the language that didn't seem to be grasped regarding reasonable doubt and --

MS. STANISH: That's correct.

THE COURT: -- Sir, have a seat in the box, please. Jury box, wherever you want -- yeah.

THE MARSHAL: There's the microphone, and I'd just ask that you speak into it, please.

PROSPECTIVE JUROR NO. 714: Here?

THE MARSHAL: The -- sitting on the chair next to you.

PROSPECTIVE JUROR NO. 714: Oh.

THE COURT: Good afternoon, sir. I wanted to follow-up on some of your answers here in the questionnaire.

PROSPECTIVE JUROR NO. 714: Okay.

THE COURT: You indicated, I think your sister worked at the Endoscopy Center for a short period?

PROSPECTIVE JUROR NO. 714: She did.

THE COURT: Your sister's name is what?

PROSPECTIVE JUROR NO. 714: It's Payal -- Payal Kumar.

THE COURT: And what's her first name?

PROSPECTIVE JUROR NO. 714: It's P-A-Y-A-L.

THE COURT: And Kumar, K-U-M-A-R?

PROSPECTIVE JUROR NO. 714: Yes.

THE COURT: Okay. And what did she do at the Endoscopy Center?

PROSPECTIVE JUROR NO. 714: Just front desk, check in, check out.

THE COURT: Okay. And how long was she there?

PROSPECTIVE JUROR NO. 714: Four months, I think.

THE COURT: Only four months?

PROSPECTIVE JUROR NO. 714: Yeah, it was short.

THE COURT: Why was she there such a short period of time?

PROSPECTIVE JUROR NO. 714: She left one job, and then they closed down.

THE COURT: Okay. So she was right there when everything happened, so to speak?

PROSPECTIVE JUROR NO. 714: Kind of. She went to work one day and then she said everybody was just running out of the building with papers and stuff and then she came home.

THE COURT: Okay. And was that the end of it?

PROSPECTIVE JUROR NO. 714: Yeah.

THE COURT: Okay. I'll see counsel at the bench.

(Off-record bench conference.)

THE COURT: All right, sir. Since your sister worked at the Center, we're going to go ahead and excuse you at this time.

PROSPECTIVE JUROR NO. 714: Okay.

THE COURT: Before I do, I must advise you that you're not to discuss anything that's transpired in the court with anyone else.

PROSPECTIVE JUROR NO. 714: Right.

THE COURT: And that means, my questions, your answers, and so forth.

PROSPECTIVE JUROR NO. 714: Okay.

THE COURT: All right, sir? Thank you very much.

PROSPECTIVE JUROR NO. 714: Thank you.

THE COURT: Go back and check out through jury services on the third floor.

All right. He was stipulated to be excused because essentially his sister would be a witness to them running out, possibly with, I don't know, boxes and --

MS. STANISH: I think she was talking about Metro walking out with garbage bags with the records.

THE COURT: Oh, I was assuming it was the -- okay. Sir, I'm sorry. Have a seat.

THE MARSHAL: Right this way, sir. Sir?

MR. SANTACROCE: Who is this?

THE MARSHAL: There's a microphone sitting on that chair --

THE COURT: Who is this?

THE MARSHAL: -- just speak into it for me when you talk.

THE COURT: All right. Mr. Rodriguez?

PROSPECTIVE JUROR NO. 716: Yes.

THE COURT: Good afternoon to you, sir.

PROSPECTIVE JUROR NO. 716: Good afternoon.

THE COURT: And you indicated you're fine with serving as a juror in this case?

PROSPECTIVE JUROR NO. 716: A little because I speak a little English.

THE COURT: Okay. Where are you from?

PROSPECTIVE JUROR NO. 716: I'm from Cuba.

THE COURT: And you're a custodian with the Clark County School District?

PROSPECTIVE JUROR NO. 716: Yes.

THE COURT: How long have you lived in the United States?

PROSPECTIVE JUROR NO. 716: Been 15 years.

THE COURT: And did you learn English here, or did you take English in Cuba?

PROSPECTIVE JUROR NO. 716: I take a little English in Cuba, I study here only 1 years.

THE COURT: Okay. Did you take a class or anything here, or did you kind of just pick it up by watching T.V. and -- I don't know -- talking to people?

PROSPECTIVE JUROR NO. 716: Yeah.

THE COURT: No?

PROSPECTIVE JUROR NO. 716: No.

THE COURT: Okay. Counsel, approach.

PROSPECTIVE JUROR NO. 716: Okay.

(Off-record bench conference.)

THE COURT: About your language abilities, we're going to go ahead and excuse you at this point. Don't talk about what's gone on in the courtroom with anybody else, meaning, my questions to you and your answers and so forth. All right, sir? Thank you. Check out through the third floor.

PROSPECTIVE JUROR NO. 716: Thank you.

THE COURT: All right. Next up is Badge 718, Margaret Sutko. Oh, on the last -- the person, Mr. Chandra, I assumed he was talking about the employees running out the door with boxes of things. You're assuming he was talking about Metro?

MS. STANISH: Assume nothing.

MR. STAUDAHER: I don't think Metro actually ran out the door --

MS. WECKERLY: They don't run.

MR. STAUDAHER: -- so --

MS. STANISH: Right. I --

THE COURT: Yeah. So I assumed -- that's why I laughed. I assumed he was talking about the employees running out with information, whatever. Either way, his sister was an employee and witness to something. Yeah, I've never seen Metro run either.

MR. STAUDAHER: I mean, Your Honor, just so on the record on that particular one is, I didn't hear if the Defense

wanted --

THE COURT: We stipulated on Mr. Rodriguez to excuse for language.

MR. STAUDAHER: -- okay.

THE COURT: Ma'am, have a seat in the box there, anywhere you're comfortable.

PROSPECTIVE JUROR NO. 718: Thank you.

THE MARSHAL: There's a microphone in that third chair, all I ask is you speak into it when you talk.

PROSPECTIVE JUROR NO. 718: Okay.

THE MARSHAL: Thank you.

THE COURT: Good afternoon to you.

PROSPECTIVE JUROR NO. 718: Hello. Good afternoon.

THE COURT: You say here on your questionnaire that you did hear about this case, general T.V. news reports at the time of the incident, plus occasional news updates. Have you seen anything recently about the case?

PROSPECTIVE JUROR NO. 718: No, I'm not a big follower of T.V. news or the -- the newspapers.

THE COURT: Okay. Is there a particular news station that you watch for the local news?

PROSPECTIVE JUROR NO. 718: Channel 8, usually --

THE COURT: Channel 8?

PROSPECTIVE JUROR NO. 718: -- in the morning when I'm --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 718: -- getting ready for work.

THE COURT: And you don't read -- or do you occasionally read the Review Journal or --

PROSPECTIVE JUROR NO. 718: No.

THE COURT: No? Okay. And what do you recall hearing about this case in the media and then on the news?

PROSPECTIVE JUROR NO. 718: Mainly when it first happened that there was a -- like, was mentioned this morning an outbreak of the hepatitis C, and that it might have been connected to a clinic.

THE COURT: Okay. And do you think it's a fair statement that often the media reports things either inaccurately or incompletely?

PROSPECTIVE JUROR NO. 718: Absolutely.

THE COURT: Okay. Now, if you're selected to serve as a juror, and you, you know, recall hearing something in the news media or seeing something, would you be able to put that out of your head, and base your verdict solely upon the evidence that's presented during this trial, and that's the testimony of the witnesses from the stand and the exhibits that are admitted, such as --

PROSPECTIVE JUROR NO. 718: I believe so.

THE COURT: -- all right. Thank you. And you say

here you haven't formed any opinion about Dipak Desai or Ronald Lakeman; is that correct?

PROSPECTIVE JUROR NO. 718: I don't know enough to form an opinion, that's correct.

THE COURT: All right. So if you're selected as a juror, can you promise me that you'll keep an open mind and be completely impartial and unbiased until you hear the evidence in this case?

PROSPECTIVE JUROR NO. 718: Yes.

THE COURT: All right. Thank you, ma'am.

Ms. Stanish, you may follow up with -- is it Sutko or Suitko?

PROSPECTIVE JUROR NO. 718: Sutko.

THE COURT: Sutko -- with Ms. Sutko.

MS. STANISH: Thank you, Your Honor.

Ms. Sutko, I'm just going to flip through your questionnaire and just hone in on a few question -- I want to get some clarification and the Judge has already started with the -- of course, what's an important question for the Defense is whether you've been influenced by any media. And as I understand it, you listen to the T.V. news every morning, pretty much, while you're getting ready for work?

PROSPECTIVE JUROR NO. 718: Pretty much. It's kind of white noise.

MS. STANISH: White noise? And you've heard about

this case in the beginning, so are --

PROSPECTIVE JUROR NO. 718: Yes.

MS. STANISH: -- it was back in, like, 2008 or so when it was first announced that there was a --

PROSPECTIVE JUROR NO. 718: I don't remember the date, but yeah, when it first came to light in the news media.

MS. STANISH: Okay. And then after it first came to light, did you -- were you exposed to other news reports on the case?

PROSPECTIVE JUROR NO. 718: You know, it's possible and probable that I heard the name, but I'm doing other things in the morning, so I don't focus on what I'm hearing versus what I'm doing.

MS. STANISH: All righty. And you work at the City of North Las Vegas --

PROSPECTIVE JUROR NO. 718: I do.

MS. STANISH: -- as an administrative assistant?

PROSPECTIVE JUROR NO. 718: Actually, I just got a promotion.

MS. STANISH: Oh, good.

PROSPECTIVE JUROR NO. 718: Thank you.

MS. STANISH: What do you do?

PROSPECTIVE JUROR NO. 718: I'm the professional standards coordinator.

MS. STANISH: And what is that?

PROSPECTIVE JUROR NO. 718: That's in the police department, and I keep track of and do the physical revising of policies and procedures and push those documents out to employees, so they are knowledgeable about what the policies and the procedures of the department are.

MS. STANISH: And are you talking about for the police officers themselves?

PROSPECTIVE JUROR NO. 718: I'm talking for every employee of the police department.

MS. STANISH: So some examples of what kind of policies and procedures are you referring to?

PROSPECTIVE JUROR NO. 718: All police department policies and all police department procedures.

MS. STANISH: So use of force, taking leave, administrative matters, as well as how to carry out your job?

PROSPECTIVE JUROR NO. 718: Basically, it's a clerical job that has a fancy name. But when a policy or procedure needs to be changed to meet what's actually happening, for instance, how to book an inmate at the detention center, when those procedures change, someone, anyone, can submit through their chain of command, the revision to the procedure when it's approved by the chief of police, it comes to me, I make the physical revisions to the document, send it through to make sure I've gotten it right, all the way up the chain of command again, and then

disseminate it to each and every employee in the department.

MS. STANISH: All right. And you've held that position for how long?

PROSPECTIVE JUROR NO. 718: Three weeks.

MS. STANISH: Wow. It sounds like you know what it's all about, all righty.

PROSPECTIVE JUROR NO. 718: It's -- yeah.

MS. STANISH: What was your position prior to that because you wrote --

PROSPECTIVE JUROR NO. 718: Senior office assistant.

MS. STANISH: -- okay. And was that within the police -- North Las Vegas Police Department?

PROSPECTIVE JUROR NO. 718: It was.

MS. STANISH: All right. And what did that involve?

PROSPECTIVE JUROR NO. 718: Frequent work with spreadsheets and PowerPoint presentations for what is known as the resource management department -- not actually, it's the administrative services command. Resource management is a division within that command. There are seven divisions. Performance measurement data, proofreading evaluations, making sure all the managers were on the same page as far as when meetings are -- that type of work.

MS. STANISH: All righty. I see in -- your list of prior employment you worked for 23 years only, at Katten --

PROSPECTIVE JUROR NO. 718: Katten, Muchin & Zavis.

MS. STANISH: -- what is that?

PROSPECTIVE JUROR NO. 718: It started out as a law firm called Borge and Pitt which was a municipal bond boutique law firm, that's all they practiced.

MS. STANISH: Where is it located?

PROSPECTIVE JUROR NO. 718: It was located in Chicago, and it was merged with Katten, Muchin & Zavis, which is a huge law firm in Chicago, but they didn't have a municipal bond division.

MS. STANISH: So when did you leave the Windy City?

PROSPECTIVE JUROR NO. 718: I came here in the year 2000.

MS. STANISH: And you worked for the State of Nevada for two weeks?

PROSPECTIVE JUROR NO. 718: Yeah.

MS. STANISH: What happened? Hated it?

PROSPECTIVE JUROR NO. 718: I hated it. Yeah, it -- yeah. It was in the worker's comp legal department and I -- it wasn't my cup of tea.

MS. STANISH: It didn't take you too long to figure that out.

PROSPECTIVE JUROR NO. 718: No, one day, but they asked me to give them two-weeks notice.

MS. STANISH: That's hilarious. And then from there where did you go?

PROSPECTIVE JUROR NO. 718: From there I worked some side employment until I could find full-time employment and that was at the Stratosphere.

MS. STANISH: That was for one year and you --

PROSPECTIVE JUROR NO. 718: Yeah, I worked for the CFO, and the Stratosphere at that time -- I don't know about it now -- was connected with Arizona Charlies and they -- they merged their financial division, and I had the least seniority among executive secretaries, so I walked.

MS. STANISH: All right. Have you ever had any -- oh, actually, I, just, think I answered my question. I was going to ask you if you ever had any negative experience with any medical professionals --

PROSPECTIVE JUROR NO. 718: Yes, I have.

MS. STANISH: -- and I do see that you had a medical malpractice suit that you filed against your OB-GYN after the birth of your son. Could you elaborate on that, and I'm sorry if I'm probing into a personal area.

PROSPECTIVE JUROR NO. 718: There were several mitigating circumstances. The major cause of my filing the complaint was -- I don't know if any of you know what an episiotomy is?

MS. STANISH: Mm-hmm.

PROSPECTIVE JUROR NO. 718: Okay. There are degrees of episiotomy.

THE COURT: The men might not, but --

PROSPECTIVE JUROR NO. 718: It's when --

THE COURT: -- Mr. Staudaher --

PROSPECTIVE JUROR NO. 718: -- it's when the OB-GYN --

MS. WECKERLY: He knows.

PROSPECTIVE JUROR NO. 718: -- okay. Good.

THE COURT: No, I know, Mr. -- anyway.

PROSPECTIVE JUROR NO. 718: This was a fourth-degree episiotomy, which is the most severe. Sorry.

MS. STANISH: That's all right.

THE COURT: It's still emotional for you, it seems like?

PROSPECTIVE JUROR NO. 718: Wait. Normally when they give you an episiotomy the physician cuts down and to the side to accommodate the child being born. I don't know if he was tired, I don't know what happened, but he didn't do the little side cut, so he cut straight down -- thank you -- and my son who is still quite attached to me, wouldn't come out, so they used forceps. Well, when he put the forceps in to grab my son's head it ripped all the way down -- yeah. It -- yeah. I had a medical malpractice suit against him.

THE COURT: And did it go to trial, or did it resolve?

PROSPECTIVE JUROR NO. 718: No, it settled.

THE COURT: It settled? Okay. Go on, Ms. Stanish.

PROSPECTIVE JUROR NO. 718: Yeah, it is -- it is still --

MS. STANISH: Yikes.

PROSPECTIVE JUROR NO. 718: -- painful to remember.

MS. STANISH: Yikes.

PROSPECTIVE JUROR NO. 718: Not physically --

MS. STANISH: Any --

PROSPECTIVE JUROR NO. 718: -- but emotionally.

MS. STANISH: -- any other negative experiences with people in the medical profession?

PROSPECTIVE JUROR NO. 718: No.

MS. STANISH: As you know from what you've heard this morning, and perhaps on the news a bit, this case is, as Mr. Wright explained, somewhat like a criminal malpractice case, somewhat. That experience that you had, that painful experience that you had with this doctor, is that going to influence you in any way if you are selected to serve on this jury?

PROSPECTIVE JUROR NO. 718: No, I don't think so.

MS. STANISH: Do you have any general opinions one way or the other about people and the medical professionals, particularly doctors?

PROSPECTIVE JUROR NO. 718: No. If I have a physical problem, I go to a doctor.

MS. STANISH: Okay.

PROSPECTIVE JUROR NO. 718: They know what they're doing, most of the time.

MS. STANISH: What's your son do?

PROSPECTIVE JUROR NO. 718: He's looking for work right now, but he likes warehouse work.

MS. STANISH: Is he in the --

PROSPECTIVE JUROR NO. 718: He's --

MS. STANISH: -- the Vegas area?

PROSPECTIVE JUROR NO. 718: -- mm-hmm.

MS. STANISH: Good. Pass for cause, Your Honor.

THE COURT: All right. Thank you, Ms. Stanish.

Mr. Santacroce?

MR. SANTACROCE: Thank you. Good afternoon.

PROSPECTIVE JUROR NO. 718: Hello.

MR. SANTACROCE: In 1980 you served on a jury; is that correct?

PROSPECTIVE JUROR NO. 718: It was about then, yes. A dim memory right now.

MR. SANTACROCE: Okay. And that was in Chicago?

PROSPECTIVE JUROR NO. 718: Yes.

MR. SANTACROCE: And it was a civil case?

PROSPECTIVE JUROR NO. 718: Yes.

MR. SANTACROCE: And you reached a verdict?

PROSPECTIVE JUROR NO. 718: Yes.

MR. SANTACROCE: You have on your questionnaire, If civil what was the outcome of the case, you put "No cause," what does that mean?

PROSPECTIVE JUROR NO. 718: That means that the person who filed the claim had no cause to file the claim.

MR. SANTACROCE: Oh, okay. And that was a positive experience for you?

PROSPECTIVE JUROR NO. 718: Yes.

MR. SANTACROCE: You realize there's a difference between a civil trial and a criminal trial, correct?

PROSPECTIVE JUROR NO. 718: I presume there is, yes.

MR. SANTACROCE: And that has to do with the burden of proof.

PROSPECTIVE JUROR NO. 718: Yes.

MR. SANTACROCE: In a civil case it's a less of a burden. In a criminal case the State has to prove each and every element beyond a reasonable doubt.

PROSPECTIVE JUROR NO. 718: I understand.

MR. SANTACROCE: And you're familiar with that concept?

PROSPECTIVE JUROR NO. 718: I am.

MR. SANTACROCE: And you'd be willing to hold the State to that burden?

PROSPECTIVE JUROR NO. 718: Absolutely, if that's the law.

MR. SANTACROCE: I just want to talk a little bit about your employment. The City of North Las Vegas Police Department you work for, correct?

PROSPECTIVE JUROR NO. 718: Yes.

MR. SANTACROCE: Is your office actually in the police department?

PROSPECTIVE JUROR NO. 718: Yes.

MR. SANTACROCE: So you interact with police officers on a daily basis?

PROSPECTIVE JUROR NO. 718: No, sometimes I don't see a police officer every day.

MR. SANTACROCE: Okay. But your office is in the police department?

PROSPECTIVE JUROR NO. 718: It's in the building, yes.

MR. SANTACROCE: Okay. You do interact with police officers from time to time?

PROSPECTIVE JUROR NO. 718: Absolutely.

MR. SANTACROCE: With regard to these policy changes that you are involved in making, can you give me an example of something? Like some policy that recently had to be changed?

PROSPECTIVE JUROR NO. 718: Policy, not so much. Procedures, frequently. For instance, as I mentioned a little while ago, our detention center physically closed the North Las Vegas building and we now run our detention services out

of Las Vegas and Mojave. So the procedures for booking an inmate, for checking in his property, for making sure medical is there when they need them, for taking them for meals, all of those procedures changed to adapt to the new facility, to the different surroundings.

MR. SANTACROCE: Are you responsible for writing those?

PROSPECTIVE JUROR NO. 718: No, absolutely not. As I said, someone who is involved -- it doesn't matter who -- as long as it's approved up their chain of command, a person who knows what existing procedure is and what it needs to be changed to will create a form as to what the procedure needs to be now, they send it up through their chain of command, once the chain of command has approved it, it comes to me and I do the clerical work, typing it in, showing where the revisions are, what's changed, how it was changed, who changed it, and then I send it back up the chain of command to make sure they still agree with it, and then it's disseminated out to all PD employees.

So virtually I'm -- I'm a clerk keeping track of all this stuff.

MR. SANTACROCE: Is there going to be a policy change with regard to traffic ticket quotas in North Las Vegas?

PROSPECTIVE JUROR NO. 718: There are none.

MR. SANTACROCE: No, I watched the news and they said

it was, so --

PROSPECTIVE JUROR NO. 718: Well, you see that goes back to the question --

THE COURT: There you go.

PROSPECTIVE JUROR NO. 718: -- do you believe the news all the time.

MR. SANTACROCE: So you can't believe everything you hear on the news, right?

PROSPECTIVE JUROR NO. 718: Exactly.

MR. SANTACROCE: Good. Now there may be some police officers testify in this case, do you -- would you be giving those police officers extra weight, extra credibility simply because they're police officers and you work with them?

PROSPECTIVE JUROR NO. 718: No.

MR. SANTACROCE: And I think Ms. Stanish already asked you, you have no negative view of doctors in general, correct?

PROSPECTIVE JUROR NO. 718: No, absolutely not.

MR. SANTACROCE: As these two men sit here today, do you have any preconceived ideas as to whether or not they're guilty or innocent?

PROSPECTIVE JUROR NO. 718: I can't possibly make a judgment, I don't have enough information.

MR. SANTACROCE: Do you think the fact that they've been indicted and sit here today and facing these charges have

any inference to you as to their guilt or innocence?

PROSPECTIVE JUROR NO. 718: No.

MR. SANTACROCE: Okay. I have no further questions.

THE COURT: All right. State?

MR. STAUDAHER: Just a couple. They've asked a whole bunch, so I only have just a couple for you. I noticed that you had, at least in the places that you've been before, that -- Spain was one of those -- you lived there for three years?

PROSPECTIVE JUROR NO. 718: Yes.

MR. STAUDAHER: What was -- what drew you over there and what, you know, and then obviously came back.

PROSPECTIVE JUROR NO. 718: The man I was married to was in the -- in the Navy, and was stationed in Rota, Spain, and I got to go there and live for three years on a Navy base. It was fun.

MR. STAUDAHER: I was going to say, I'll bet you had some good food and things over there.

PROSPECTIVE JUROR NO. 718: A lot of good things.

MR. STAUDAHER: I want to just touch one -- one last item with you -- the whole issue with the OB-GYN and the lawsuit and your son. Did you -- is your son okay as a result of that?

PROSPECTIVE JUROR NO. 718: Oh, he's fine.

MR. STAUDAHER: So there was no issue with any injury to him --

PROSPECTIVE JUROR NO. 718: Absolutely not.

MR. STAUDAHER: -- it was injury to you?

PROSPECTIVE JUROR NO. 718: It was my physical injury.

MR. STAUDAHER: Okay. And the last thing, you've had -- you've heard from them already that it's the State's burden to prove the case?

PROSPECTIVE JUROR NO. 718: Mm-hmm.

MR. STAUDAHER: Any problem with that?

PROSPECTIVE JUROR NO. 718: Nope.

MR. STAUDAHER: State at the end, after all the evidence comes in and the Judge gives you the law, if at the end of the trial you feel the State has proven all of the subparts, all the essential elements of each crime beyond a reasonable doubt do you have a problem with coming back with a guilty verdict?

PROSPECTIVE JUROR NO. 718: No. As long as all criteria is met, and I'm satisfied with the proof.

MR. STAUDAHER: Any reason, religious or otherwise, why that might be difficult for you to do?

PROSPECTIVE JUROR NO. 718: Nope.

MR. STAUDAHER: Pass for cause, Your Honor.

THE COURT: All right. Thank you. Ms. Sutko?

PROSPECTIVE JUROR NO. 718: Sutko.

THE COURT: I'm going to go ahead and excuse you for

today, but you may be selected as a juror in this case.

PROSPECTIVE JUROR NO. 718: Okay.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 718: And I'd be notified --

THE COURT: Yes, you would be notified by Kenny, our bailiff, or my secretary.

PROSPECTIVE JUROR NO. 718: Okay.

THE COURT: Don't leave yet.

PROSPECTIVE JUROR NO. 718: Sorry.

THE COURT: So make sure he has a good number where you can be reached, and then if we contact you you would be expected to report when we begin the trial.

PROSPECTIVE JUROR NO. 718: Okay.

THE COURT: For that reason, the admonition that I gave earlier about discussing the case, reading, watching, seeing any reports of or commentaries, et cetera, is still in effect. Also, I must admonish you not to discuss anything that's transpired in the courtroom with anybody else, meaning, my questions, the lawyers' questions, or our discussions. Do you understand, ma'am?

PROSPECTIVE JUROR NO. 718: Absolutely, I do.

THE COURT: All right. Thank you. You're excused for today. And just check out through the third floor.

PROSPECTIVE JUROR NO. 718: Okay.

THE COURT: All right?

PROSPECTIVE JUROR NO. 718: Thank you.

THE COURT: Thank you, ma'am. Mr. Santacroce --

MR. SANTACROCE: Did I say something?

THE COURT: -- do you pass for cause?

MR. SANTACROCE: No, I didn't pass for cause.

THE COURT: I know. So if you're going to challenge for cause, state your reason.

MR. SANTACROCE: She works for the police department. I think there's an apparent conflict of interest with that, of -- of and in itself. I know she said all the right things, and I'm not going to belabor the point, I'm just saying.

THE COURT: Yeah. As you know, that's not a for-cause reason. I mean, I understand you're protecting the record, but people can -- you know, she's not a police officer, even if she were she could still serve, but, you know, she indicated she wouldn't give a police officer's testimony any more weight and can be fair and impartial. So she goes in the pile.

And, Mr. Wright, we'll give you a moment, and then we'll call --

MR. STAUDAHER: Your Honor, just for the --

THE COURT: -- I was going to call --

MR. STAUDAHER: -- just for the record --

THE COURT: -- this gal, Sandra Tessier who works for the endodontist next.

MS. STANISH: Can we just --

MR. STAUDAHER: -- okay. I just want to put one thing on the record --

THE COURT: Oh.

MR. STAUDAHER: -- related to that. It -- the department is North Las Vegas that she works for, this is Metro, and we only have probably two witnesses out of the whole bunch that are going to be Metro officers or related to it. Just --

THE COURT: All right. Well, even if you had 100 witnesses I'd still --

MR. STAUDAHER: -- okay.

MS. STANISH: Judge, what's the number of that --

THE COURT: -- I still would have passed her for cause. Yes?

MS. STANISH: -- I'm sorry. What's the badge number of the next one?

THE COURT: 1116, Sandra Tessier. I think she's the gal that works for the endodontist and says people are not getting their root canals because she's here.

(Pause in the proceedings.)

THE COURT: Badge No. 1116, Sandra Tessier.

Ma'am, come on in and have a seat in the jury box, please.

THE MARSHAL: There's a microphone up on that seat.

Just speak into it for me when you talk, please.

PROSPECTIVE JUROR NO. 1116: Oh, okay.

THE MARSHAL: Okay?

THE COURT: Good afternoon. I wanted to follow-up on some of your answers in your questionnaire. First of all, you indicate that you're concerned about serving because you work for a busy endodontic practice and, I guess, you're assisting in the procedures; is that right?

PROSPECTIVE JUROR NO. 1116: Yes.

THE COURT: How many other -- I almost said "gals" -- how many other employees do the same thing you do at that practice?

PROSPECTIVE JUROR NO. 1116: Well, I -- there's two doctors in my practice and I work with one and so does another girl. We have two per doctor.

THE COURT: Two per doctor?

PROSPECTIVE JUROR NO. 1116: Right.

THE COURT: Okay. And do you both assist? Is it just one assistant per patient?

PROSPECTIVE JUROR NO. 1116: We both -- yeah, we both assist either, you know, alternating --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 1116: -- with the patients.

THE COURT: Okay. Because -- so you're not both there at the same time with a single patient?

PROSPECTIVE JUROR NO. 1116: No.

THE COURT: Okay. Now --

PROSPECTIVE JUROR NO. 1116: Well, if there's a surgery, then yes, both of us are in the surgery.

THE COURT: Okay. Now, for surgeries those would be done not at the office or do they actually do those at the office?

PROSPECTIVE JUROR NO. 1116: We're -- they're done in our office.

THE COURT: Okay. Now, what happens when you go on vacation or you're out sick or something like --

PROSPECTIVE JUROR NO. 1116: We take our vacation when our doctor takes his vacation.

THE COURT: -- okay. So did you discuss with your doctor the possibility that you would have to serve as a juror?

PROSPECTIVE JUROR NO. 1116: Yes.

THE COURT: And what was his response?

PROSPECTIVE JUROR NO. 1116: Not much really.

THE COURT: Mm-hmm.

PROSPECTIVE JUROR NO. 1116: What could he say?

THE COURT: Right. I mean, if you do have to serve, how would he cover? Just, the other gal would have to work doubly hard?

PROSPECTIVE JUROR NO. 1116: Exactly.

THE COURT: Okay. Is there some reason that you and the second gal alternate between, you know --

PROSPECTIVE JUROR NO. 1116: Because when one room -- after we do one procedure in one room, that room is being cleaned while we do this other procedure with the other patient in the other room.

THE COURT: Okay. And did you have -- I'm assuming that you were scheduled to assist your doctor today; is that correct?

PROSPECTIVE JUROR NO. 1116: Mm-hmm.

THE COURT: You have to --

PROSPECTIVE JUROR NO. 1116: Yes.

THE COURT: -- answer yes or no.

PROSPECTIVE JUROR NO. 1116: Yes.

THE COURT: And do you know what -- what he's doing? I mean, is the other gal just working or did he have to cut patients or --

PROSPECTIVE JUROR NO. 1116: Well, they would definitely have to reduce the patient load, but she would also be going back from room -- one room to the other, so she's taking up the slack of not -- me not being there.

THE COURT: Okay. And you said you were only allowed to take vacation when your doctor takes his vacation?

PROSPECTIVE JUROR NO. 1116: Yes.

THE COURT: Okay. And I'm assuming this is a normal

dental practice Monday through Friday, 8 -- 7 --

PROSPECTIVE JUROR NO. 1116: Right.

THE COURT: -- or so --

PROSPECTIVE JUROR NO. 1116: Yes.

THE COURT: Counsel, approach.

(Off-record bench conference.)

THE COURT: Okay. We're going to go ahead and excuse you at this point. Before I do that, I must admonish you not to discuss anything that's transpired in the courtroom with anyone else. That includes, of course, my questions, your answers, and so forth. Please place your microphone in the chair, and check back out through jury services.

PROSPECTIVE JUROR NO. 1116: Thank you.

THE COURT: Basically, for the record, it was stipulated to at the bench that she could be excused for hardship as well as some of her answers indicated there might be other problems with this juror; is that correct?

MS. WECKERLY: Yes.

MR. SANTACROCE: Yes.

MR. WRIGHT: Yes.

THE COURT: All right. Let's move on to Lepetia Lui.

MR. SANTACROCE: What number?

THE MARSHAL: She was a no-show, Judge.

THE CLERK: No-show.

THE COURT: Oh, she's a no-show? Well, that will

I've got to get a colonoscopy.

THE COURT: Right. Like --

PROSPECTIVE JUROR NO. 502: Right.

THE COURT: -- I guess who wants to have that, right?

PROSPECTIVE JUROR NO. 502: Who wants to have that. Yeah.

THE COURT: It says that you saw -- it looks like you've really learned a lot about this in newspapers, radio, TV, and the Internet.

PROSPECTIVE JUROR NO. 502: Uh-huh.

THE COURT: Did you do independent research on this case or Dr. Desai or the endoscopy clinic?

PROSPECTIVE JUROR NO. 502: No, it was just, you know, MSN homepage, that kind of thing --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 502: -- or local stuff for the Review Journal.

THE COURT: Okay. Do you regularly read the RJ?

PROSPECTIVE JUROR NO. 502: I used to a lot.

THE COURT: Okay. Did you read it online or did you actually get the print paper?

PROSPECTIVE JUROR NO. 502: Well, back then I was in room service at -- I was the room service bar, so I didn't do much all day, but I read the newspaper every day.

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THE COURT: Okay. So that was actually the physical paper; correct?

PROSPECTIVE JUROR NO. 502: Yeah.

THE COURT: Okay. And then what TV station do you watch?

PROSPECTIVE JUROR NO. 502: I stick mainly to the cable news channels.

THE COURT: Okay. Do you think it's fair that the media reports things either incorrectly or incompletely sometimes?

PROSPECTIVE JUROR NO. 502: Sure.

THE COURT: Okay. You seem to have expressed a pretty strong opinion here. If you're selected as a juror, can you set aside what you heard in the media and listen to the evidence with an open mind and base your verdict on -- on the evidence or do you think --

PROSPECTIVE JUROR NO. 502: Possibly.

THE COURT: Okay. When you say possibly, what do you mean?

PROSPECTIVE JUROR NO. 502: I could possibly set that aside.

THE COURT: Okay. Well, I mean, there's some reluctance, so if you would explain in your own words, you know, what your reluctance is, why -- you know, why you think possibly, what -- what you think you might have difficulty

with, if you understand my questions.

PROSPECTIVE JUROR NO. 502: Well, I guess no, then. I mean, I could be impartial --

THE COURT: Uh-huh.

PROSPECTIVE JUROR NO. 502: -- but I've also heard and read things that I don't agree with.

THE COURT: Okay. Meaning what?

PROSPECTIVE JUROR NO. 502: Well, I mean, the cross contamination, things like that.

THE COURT: Okay. So you don't agree with the --

PROSPECTIVE JUROR NO. 502: Right.

THE COURT: -- what you've read or heard went on at the clinic?

PROSPECTIVE JUROR NO. 502: Yes.

THE COURT: Okay. To the extent that that is true, that would not be something that you would agree with people doing or physicians doing or professionals doing?

PROSPECTIVE JUROR NO. 502: Correct.

THE COURT: Okay. And I think that's probably fair for most people. The issue is, though, whether you can set all that aside and base your verdict upon the evidence in this case, meaning testimony under oath from the witness stand and the exhibits that are actually admitted into evidence, and that would be things like photographs and documents and other things like that. And if you remember something in the media,

you know, something you heard on a news report but that's not proven here or there's no evidence about that, you can't consider what you heard in the media. You can only consider what's presented during the trial of the case. Do you understand what I mean?

So, you know, if you hear something in the trial and in the media you heard something different or something more than that but there's nothing about that in the trial, you can't go back and think about what you heard in the media. Do you think you could do that or -- and, you know, just in your -- your own assessment.

PROSPECTIVE JUROR NO. 502: I don't think so.

THE COURT: Okay. State and defense, may I see counsel at the bench.

(Off-record bench conference.)

THE COURT: All right. Sir, at this time we're going to go ahead and excuse you. Before I let you leave, though, I must admonish you that you're not to discuss what's transpired in this courtroom with anyone else. And by that I mean my questions, your answers, our discussion. Do you understand, sir?

PROSPECTIVE JUROR NO. 502: Sure.

THE COURT: All right. Thank you. Put the microphone in the chair and just check out through jury services. All right?

PROSPECTIVE JUROR NO. 502: Level 3?

THE COURT: Back on the third floor.

PROSPECTIVE JUROR NO. 502: Thank you.

THE COURT: Thank you, sir. All right.

(Outside the presence of Prospective Juror No. 502.)

Next up, Badge 510, Heather Burke.

THE MARSHAL: That's a no-show, Your Honor.

THE COURT: Okay, Timothy Bacome, 512.

Did you need something, Mr. Santacroce?

MR. SANTACROCE: I just need to know if he was excused for a hardship or for cause?

THE COURT: Well, for cause and -- mainly for cause. Ms. Weckerly indicated that given the fact that -- I'm assuming that -- plus he was a little bit of a hardship. I'm assuming the defense was going to challenge him for cause.

MR. WRIGHT: Yes.

THE COURT: Okay. Ms. Weckerly indicated at the bench she didn't want to try to rehabilitate him because he was a bit -- you know, his father had actually been a patient at the clinic, so we excused him for cause. That was essentially stipulated to by the State based on all of his answers.

MR. SANTACROCE: Thank you.

THE COURT: Okay. Is that fair, Ms. Weckerly, a fair summation? I guess so.

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512, Bacome.

MS. WECKERLY: That's correct, Your Honor.

MR. STAUDAHER: I'm sorry, Your Honor. I'm sorry. I was engaging Ms. Weckerly.

THE COURT: That's okay.

MS. WECKERLY: I heard what you said, though.

THE COURT: If you don't answer, then that means yes.

MS. WECKERLY: I actually heard you, and that is true.

(Inside the presence of Prospective Juror No. 512.)

THE COURT: Good morning, sir.

PROSPECTIVE JUROR NO. 512: Good morning.

THE COURT: I wanted to follow up on some of your answers here in the questionnaire. You indicated that you were concerned about serving because you work nights and you're also caring for an elderly relative.

PROSPECTIVE JUROR NO. 512: Yes.

THE COURT: Who is the relative and --

PROSPECTIVE JUROR NO. 512: He's like my father-in-law.

THE COURT: Okay. So your wife's father --

PROSPECTIVE JUROR NO. 512: Yeah.

THE COURT: -- or your girlfriend.

PROSPECTIVE JUROR NO. 512: We're not technically

married, but we've been together for 14 years.

THE COURT: Okay. So your domestic partner's father.

PROSPECTIVE JUROR NO. 512: Yes.

THE COURT: And does the father live with you and your --

PROSPECTIVE JUROR NO. 512: He does.

THE COURT: Okay. And then how is it that you're providing care for this person?

PROSPECTIVE JUROR NO. 512: He's got dementia.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 512: And we don't trust him to cook for himself, so I cook his meals for him to make sure that he doesn't get himself into trouble --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 512: -- and burn the apartment down, basically.

THE COURT: That's understandable. Is he -- does he suffer from dementia to an extent that you don't feel safe leaving him alone in the apartment or can you leave him for short periods of time or how does that work?

PROSPECTIVE JUROR NO. 512: We usually don't. We work opposite shifts kind of for that reason. It's convenient.

THE COURT: Okay. So your girlfriend works days and

you're there during the day.

PROSPECTIVE JUROR NO. 512: We're both there during the day.

THE COURT: Oh, okay.

PROSPECTIVE JUROR NO. 512: She works like a swing, and I work nights.

THE COURT: Okay. So by nights you mean grave.

PROSPECTIVE JUROR NO. 512: Yeah, grave. Yes.

THE COURT: Okay. I was thinking swing. So what hours do you normally work?

PROSPECTIVE JUROR NO. 512: 11:00 at night to 6:00 in the morning is my normal shift.

THE COURT: Okay. And let's see, you're a security officer at the Eureka?

PROSPECTIVE JUROR NO. 512: Yes.

THE COURT: And you've been doing that for eight months?

PROSPECTIVE JUROR NO. 512: Yes.

THE COURT: Okay. What did you do before that?

PROSPECTIVE JUROR NO. 512: I worked at Paris Casino as a drop -- team lead as a drop -- on the drop and counting.

THE COURT: Oh, okay. In the cage?

PROSPECTIVE JUROR NO. 512: No, in the count room.

THE COURT: Or do you collect the money and then --

PROSPECTIVE JUROR NO. 512: We pull the machines and

then counted the funds.

THE COURT: Okay. Have you -- at the Eureka, have you discussed with your employer if you're going to serve as a juror in this case whether or not they'd be compensating you or how that would work?

PROSPECTIVE JUROR NO. 512: I haven't discussed that, no.

THE COURT: Okay. So you don't actually know what the policy is at Eureka at this point?

PROSPECTIVE JUROR NO. 512: No, I don't. I could find out, but --

THE COURT: Okay. Now, if you were going to be compensated, or at least compensated for part of your wages, that would obviously help you; correct?

PROSPECTIVE JUROR NO. 512: Yes.

THE COURT: Okay. And I don't mean to pry, but how much do you normally make?

PROSPECTIVE JUROR NO. 512: I make $10 an hour.

THE COURT: Okay. And then in your household it's your girlfriend, her father, and you. Anybody else?

PROSPECTIVE JUROR NO. 512: No, just our cats.

THE COURT: Just your cats?

PROSPECTIVE JUROR NO. 512: We have three pets.

THE COURT: Oh, okay. And what does your girlfriend do for work?

PROSPECTIVE JUROR NO. 512: She works as a cage cashier at MGM Grand.

THE COURT: Okay. And does your father-in-law contribute to the household income through social security, benefits, or a pension or something like that?

PROSPECTIVE JUROR NO. 512: He does. He gives us 440 a month.

THE COURT: Okay. Did you tell your employer or your supervisor that you had to be at jury duty or because this isn't the day you didn't tell them or --

PROSPECTIVE JUROR NO. 512: I did privy them to that information, yes.

THE COURT: Okay. And did they -- they didn't tell you anything about --

PROSPECTIVE JUROR NO. 512: Just they said to go. If you've got to go, you go and --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 512: -- we'll work it out later, I think, you know, was basically what their response is.

THE COURT: Okay. You know, your employer is not allowed to retaliate against you or, you know, fire you or give your job to somebody else if you serve.

PROSPECTIVE JUROR NO. 512: Uh-huh.

THE COURT: I unfortunately can't make them pay you,

so I really don't know what the policy of the Eureka Casino is on that issue. Now, you've heard about this case in the media; is that correct? You say print and news media.

PROSPECTIVE JUROR NO. 512: That is correct.

THE COURT: So by print, would that be the RJ or the Internet?

PROSPECTIVE JUROR NO. 512: The RJ, the paper.

THE COURT: Okay. Do you read it on the Internet, or do you read the actual physical --

PROSPECTIVE JUROR NO. 512: No, I'm an old school. I read paper.

THE COURT: Right.

PROSPECTIVE JUROR NO. 512: I actually physically read. I don't like the Internet so I don't put much belief in it.

THE COURT: Okay. Is this a story you followed in the news, or is it just kind of more hit and miss that you --

PROSPECTIVE JUROR NO. 512: Back when it hit, I did follow it quite a bit. It was interesting that something could happen on that massive a scale and it just kind of boggled my mind --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 512: -- that so many people could be affected.

THE COURT: Okay. And then in the news media is

there a particular station that you watch?

PROSPECTIVE JUROR NO. 512: A lot of FOX news and CBS news.

THE COURT: Okay. So for local news do you watch FOX 5 or do you watch Channel 8?

PROSPECTIVE JUROR NO. 512: FOX 5.

THE COURT: Okay. Now, do you think it's a fair statement that sometimes the media reports things either inaccurately or incompletely?

PROSPECTIVE JUROR NO. 512: That is very fair.

THE COURT: Okay. If you're selected as a juror in this case, would you be able to set aside anything you may have read or heard or seen in the media and base your verdict solely upon the evidence in the case, meaning the testimony from the witness stand under oath and the exhibits that are admitted into evidence, photos, documents, things like that?

PROSPECTIVE JUROR NO. 512: Well, I generally have a distaste for the legal process. I really think it's broken.

THE COURT: Okay. How so?

PROSPECTIVE JUROR NO. 512: Because I think it's become a lottery system and people use it in cases that it's not -- in a way it's not meant to be used.

THE COURT: Okay. Are you talking about civil cases? When you say a lottery system, what do you mean?

PROSPECTIVE JUROR NO. 512: Well, I think everybody

gets compensated for it, judges, attorneys, everybody is -- it's all about the money.

THE COURT: Right. Well, you understand this is a full-time job as a judge, just like my court staff. And the lawyers, they work full time. So are you suggesting that we shouldn't be compensated for full-time work, or what are you suggesting?

PROSPECTIVE JUROR NO. 512: Well, and another thing, $40 a day for a juror? That's minimum -- that's less than minimum wage.

THE COURT: Right. Yeah, I agree with you there. Unfortunately, that's not set by the District Court, that amount. Now, when you say it's a lottery system, are you talking moirabout plaintiffs in -- in civil cases, you know, they're hurt, maybe it's a little fender bender, and then they think I'm going to file a lawsuit and maybe make a million dollars, is that what you're talking about?

PROSPECTIVE JUROR NO. 512: Yes, that could be what I'm talking about.

THE COURT: Okay. You understand this isn't a civil case. This isn't about somebody suing somebody else and asking for money. This is a criminal case just like any other criminal case in terms of it's prosecuted by the State of Nevada against defendants who have been charged with committing criminal offenses. Do you understand that?

PROSPECTIVE JUROR NO. 512: I understand the difference.

THE COURT: Okay. Now, are you opposed with -- opposed to criminal cases? I mean, you know, let's say a robbery case or sexual assault case or, you know, theft case, stealing. I mean, do you not believe that -- that there should be a criminal process, a criminal judicial process?

PROSPECTIVE JUROR NO. 512: I think that we are entitled to a speedy trial, not a backroom deal. I don't like the plea bargain system that a lot of things are being pled down.

THE COURT: Okay. Well, obviously, that's not what's going on here because this is a trial.

PROSPECTIVE JUROR NO. 512: Uh-huh.

THE COURT: So I guess I'm not really clear on what your concern would be because this -- this is the trial system and all we're looking for are jurors who can be fair and impartial and listen to the evidence and base their verdict on the evidence, not something their neighbor told them, not something they read in the paper, you know, not because it's Tuesday and it's sunny outside, but solely upon the evidence in the case. That's what we're looking for is just fair and impartial people.

PROSPECTIVE JUROR NO. 512: The facts.

THE COURT: Yeah, that are going to look at the

evidence that's presented in this courtroom. You know, again, not something they heard their neighbor's cousin may have said or, you know, something their co-workers chit-chatted about. Do you think you could do that? Could you be that -- one of those fair and impartial people who listens to the evidence and keeps an open mind? Because that's what we want to -- that's what we want. It's that simply.

PROSPECTIVE JUROR NO. 512: I'm an opinionated person, if that -- if that matters. I am strong -- I have a very strong opinion.

THE COURT: Okay. And what is -- is -- you already have an opinion?

PROSPECTIVE JUROR NO. 512: I do have an opinion of this case.

THE COURT: Okay. And is that something you could set aside or no?

PROSPECTIVE JUROR NO. 512: I don't believe so.

THE COURT: All right. Counsel approach.

MR. WRIGHT: Could I ask, is that the opinion you wrote in your questionnaire?

PROSPECTIVE JUROR NO. 512: Yes. I just have a disdain for doctors, to be honest with you.

MR. WRIGHT: Okay.

(Off-record bench conference.)

THE COURT: Sir, we're going to excuse you from this

proceeding. Obviously, you may be called to serve in a different case that doesn't involve doctors. You need to go back down and check out through jury services. And I must advise you that you're not to discuss anything that's transpired in the courtroom with anyone else, that means my questions, your answers, our discussions. Okay?

PROSPECTIVE JUROR NO. 512: Okay.

THE COURT: Microphone in the chair, and go back and check out through the third floor.

(Outside the presence of Prospective Juror No. 512.)

THE COURT: All right. Next up is 517, Joseph Burke.

Oh, for the record, he was challenged for cause. That was stipulated to by the State and excused for cause.

MS. WECKERLY: That's correct.

MR. STAUDAHER: Correct.

MR. WRIGHT: Yes.

(Inside the presence of Prospective Juror No. 517.)

THE COURT: Sir, just have a seat there in the jury box, anywhere you feel comfortable. Good morning.

PROSPECTIVE JUROR NO. 517: Good morning.

THE COURT: I want to follow up on something you said in your questionnaire. You're concerned about serving as a juror because your wife has many scheduled balance treatments. I'm not familiar with that, so can you explain to

me a little bit more what that means?

PROSPECTIVE JUROR NO. 517: What that means, Judge, is we were on a cruise about three years ago, and when we got off the cruise my wife had sea legs is what they called it.

THE COURT: And they never went away?

PROSPECTIVE JUROR NO. 517: They never went away.

THE COURT: Really? So now these balance treatments, when do you take her and how often are they and --

PROSPECTIVE JUROR NO. 517: Well, they were over last Friday.

THE COURT: Oh, they are. Okay.

PROSPECTIVE JUROR NO. 517: Two months.

THE COURT: And did it work?

PROSPECTIVE JUROR NO. 517: No.

THE COURT: All right. So she's still, what, is she wobbly or --

PROSPECTIVE JUROR NO. 517: Well, she -- she's learned to control it a little better, but it's still there.

THE COURT: Okay. I've never heard of that. That's interesting.

PROSPECTIVE JUROR NO. 517: Yes.

THE COURT: Is she able to operate a motor vehicle with this condition?

PROSPECTIVE JUROR NO. 517: No, she hasn't.

THE COURT: Okay. But her treatments are over and

then, what, is she going to follow up with the physician and see if they can recommend something else? Or maybe she just has to live on a boat.

PROSPECTIVE JUROR NO. 517: I'm afraid we couldn't afford that.

THE COURT: And then, let's see, it says that you have heard about this case over the Internet, the Las Vegas Review Journal website, and that's how you get your information on the RJ is from the website?

PROSPECTIVE JUROR NO. 517: Yes.

THE COURT: And the TV news, is there a particular station that you like to watch?

PROSPECTIVE JUROR NO. 517: FOX news.

THE COURT: Okay. So for local news that would be Channel 5?

PROSPECTIVE JUROR NO. 517: No, I don't watch --

THE COURT: Oh, you have cable.

PROSPECTIVE JUROR NO. 517: Cable.

THE COURT: Okay. Do you watch the local news on FOX?

PROSPECTIVE JUROR NO. 517: No.

THE COURT: Just the national?

PROSPECTIVE JUROR NO. 517: Just the cable.

THE COURT: Okay. All right. And do you recall what you've seen or heard about this case in the news?

PROSPECTIVE JUROR NO. 517: Well, on the Review Journal I read about the case in general as it was described by both sides.

THE COURT: Okay. Is this something that you've been following up over time or is this more something you've, you know, read about recently or in the past or have you continued to read stories about this case?

PROSPECTIVE JUROR NO. 517: No, it just happened to be in the news and it struck my interest.

THE COURT: Why is that?

PROSPECTIVE JUROR NO. 517: Well, it's a local case.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 517: And it just seemed to be something a local Las Vegas citizen would read.

THE COURT: Okay. All right. That's fair. Do you think it's a fair statement that sometimes the media gets things wrong, they report things either incompletely or incorrectly all together?

PROSPECTIVE JUROR NO. 517: Oh, yes.

THE COURT: Okay. Now, if you're selected to serve as a juror in this case, would you be able to set aside anything you may have heard or seen in the media and base your verdict solely upon the evidence in the case, and by evidence I mean the sworn testimony from the witness stand under oath and the exhibits that are admitted into evidence. And

exhibits are things like documents and photographs.

PROSPECTIVE JUROR NO. 517: I'm -- I'm afraid I wouldn't.

THE COURT: Okay. Why not?

PROSPECTIVE JUROR NO. 517: Because I think I've drawn -- by reading about the case, I think I've drawn some conclusions.

THE COURT: And those conclusions are?

PROSPECTIVE JUROR NO. 517: Well, they're --

THE COURT: I mean, you write here Dipak Desai and his associates are guilty for gross negligence. Is that what you're talking about?

PROSPECTIVE JUROR NO. 517: Yes.

THE COURT: Okay. State, would you like to follow up on this prospective juror on this -- on this issue?

MR. STAUDAHER: On that issue? Well, there's one other one. It's my understanding --

THE COURT: Okay.

MR. STAUDAHER: -- that this individual knows Ms. Stanish, as well.

THE COURT: Oh, I'm sorry.

MR. STAUDAHER: I wanted to follow up on that, as well.

THE COURT: And how do you know Ms. Stanish?

PROSPECTIVE JUROR NO. 517: She -- she defended our

pastor, Monsignor Kevin McAuliffe.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 517: McAuliffe, I should say.

THE COURT: And what kind of charges were those?

PROSPECTIVE JUROR NO. 517: I believe it had to do with taking church funds.

THE COURT: Okay. And how is it that you recognize Ms. Stanish? Did you come to court and watch the proceedings or did you see her on TV or what?

PROSPECTIVE JUROR NO. 517: There had been a campaign to write letters, and my wife and I wrote a letter expressing our opinion for leniency and probation for Monsignor McAuliffe.

THE COURT: Okay. To the judge at sentencing?

PROSPECTIVE JUROR NO. 517: Well, we sent a letter to Margaret's office, and it was, I trust, to -- I forget what his name was. Judge McNeil?

MS. STANISH: Judge Mahan.

THE COURT: Oh, Judge Mahan in Federal Court.

PROSPECTIVE JUROR NO. 517: Right.

THE COURT: Okay. So let me see counsel at the bench.

(Off-record bench conference.)

THE COURT: Sir, based on all of that, you know, Ms. Stanish and all of those things, we'll go ahead and excuse

you, okay, as a juror. But before I excuse you I must admonish you that you're not to discuss anything that's transpired in the courtroom with anyone else, that means my questions and your answers and our discussions. Do you understand?

PROSPECTIVE JUROR NO. 517: How about my wife?

THE COURT: It includes your wife. Isn't she a person?

MR. STAUDAHER: Your Honor, there's another Burke. I don't know if they're related.

THE COURT: Is your wife also a prospective juror in this case?

PROSPECTIVE JUROR NO. 517: No.

THE COURT: Okay. Well, there's -- we've had husbands and wives before in the same pool.

PROSPECTIVE JUROR NO. 517: No kidding?

THE COURT: Yeah, so we just need to make sure. All right, sir. Microphone --

PROSPECTIVE JUROR NO. 517: I'm excused, huh? Oh, okay. Thank you.

THE COURT: Microphone in the chair. It was that Ms. Stanish connection that did it.

PROSPECTIVE JUROR NO. 517: Okay.

THE COURT: Microphone in the chair and check out through the third floor.

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PROSPECTIVE JUROR NO. 517: Okay. Thank you very much.

THE COURT: All right. Thank you, sir.

(Outside the presence of Prospective Juror No. 517.)

THE COURT: All right. Just for the record, he was challenged for cause, correct, based on his preexisting opinion from the media. And, State, you chose not to traverse on that --

MR. STAUDAHER: That's correct, Your Honor.

THE COURT: -- and stipulated. So he was a for cause excuse.

Next up, 454, Jayson Tomboc. This guy hasn't heard anything.

MR. STAUDAHER: I was going to say, Your Honor, I'm officially discouraged at this point.

MS. WECKERLY: This is the --

MR. STAUDAHER: This is the turn.

MS. WECKERLY: I think we've moved into the non-problems.

THE COURT: Right. For a while.

(Inside the presence of Prospective Juror No. 454.)

THE COURT: Mr. Tomboc, come on in and have a seat somewhere in the jury box. Good morning to you.

PROSPECTIVE JUROR NO. 454: Good morning.

THE COURT: And it says here you haven't read, seen,

or heard anything about this case in the media; is that correct?

PROSPECTIVE JUROR NO. 454: Yes.

THE COURT: Okay. Who would like to go first for the defense to follow up with Mr. Tomboc on his questionnaire?

MS. STANISH: I guess I'll go.

THE COURT: All right. Ms. Stanish.

MS. STANISH: Good morning, sir. How are you?

PROSPECTIVE JUROR NO. 454: Good. You?

MS. STANISH: Good. Thank you. You heard the description about this case this morning from the State and Mr. Wright here. Is there anything you heard this morning based on the case description that causes you any concern about your ability to serve as a fair juror in this matter?

PROSPECTIVE JUROR NO. 454: No, not really.

MS. STANISH: All right. And have you had -- have you or anybody close to you experienced anything negative occurring when visiting a medical professional of any type?

PROSPECTIVE JUROR NO. 454: No.

MS. STANISH: Okay. Did you get your citizenship after serving in the military? Is that what happened?

PROSPECTIVE JUROR NO. 454: I got it during --

MS. STANISH: I see.

PROSPECTIVE JUROR NO. 454: -- my service.

MS. STANISH: Great. Just a few things. In this

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case we have two people who are charged, and in our system of government everybody is presumed innocent until proven guilty. Do you have an opinion about that presumption of innocence as you sit here today?

PROSPECTIVE JUROR NO. 454: No, not really.

MS. STANISH: Do you believe that you can listen to the evidence and decide the evidence based on the evidence and not emotion or anything that you hear outside of this courtroom?

PROSPECTIVE JUROR NO. 454: Yes, I believe so.

MS. STANISH: This trial is -- in the questionnaire it says it's going to last six weeks from the date of April 22nd. It's possibly it's going to last longer than that, through the month of May and into the month of June. Will that cause you any difficulty as you sit here today?

PROSPECTIVE JUROR NO. 454: Actually, yeah, because my wife doesn't really drive and I'm the only way of her transport, getting to work and from there, and my work also.

MS. STANISH: Is your wife working?

PROSPECTIVE JUROR NO. 454: Yes.

MS. STANISH: If you are off work for several weeks serving as a juror if you're selected, will that cause any hardship on your family?

PROSPECTIVE JUROR NO. 454: Somewhat, yes.

MS. STANISH: Can you explain that to us, please?

PROSPECTIVE JUROR NO. 454: Just our bills since we need both of us to pay off our debts and cars -- car loan.

MS. STANISH: Is your employer aware that you've been called to jury duty?

PROSPECTIVE JUROR NO. 454: Yes, they are.

MS. STANISH: Are they going to pay you while you're serving, or no?

PROSPECTIVE JUROR NO. 454: I don't believe so.

THE COURT: You work for CDW. What is that?

PROSPECTIVE JUROR NO. 454: That's technology service and distribution, ma'am.

THE COURT: And you're a configuration technician?

PROSPECTIVE JUROR NO. 454: Yes.

THE COURT: What does that -- what does that mean? What do you do?

PROSPECTIVE JUROR NO. 454: We configure computers and servers and such, any technology that companies need.

THE COURT: Okay. How much do you normally make?

PROSPECTIVE JUROR NO. 454: 13.23 per hour.

THE COURT: Okay. And then you say you have one car and you have to drive your wife to and from work?

PROSPECTIVE JUROR NO. 454: Yes, ma'am.

THE COURT: What hours does she work?

PROSPECTIVE JUROR NO. 454: She works from 9:00 to 5:30.

THE COURT: Okay. And where does she work?

PROSPECTIVE JUROR NO. 454: Shelter Insurance.

THE COURT: And she's an agent or secretary or what does she do?

PROSPECTIVE JUROR NO. 454: She's, I believe, the call center rep.

THE COURT: Okay. So like when people call in and say, oh, my goodness, my car was just rear-ended, she's the gal that answers the phone?

PROSPECTIVE JUROR NO. 454: Yes, ma'am.

THE COURT: Okay. Now, if we start after 9:00 and get out by 5:00, would that help you in terms of at least getting your wife to and from work?

PROSPECTIVE JUROR NO. 454: Yeah.

THE COURT: Okay. All right. Go on, Ms. Stanish. Sorry for the interruption.

MS. STANISH: You heard Mr. Staudaher describe the charges he read from a document. That's the charging document, what's called the indictment. Do you understand that just because these two gentlemen are charged in a criminal indictment they are presumed innocent?

PROSPECTIVE JUROR NO. 454: Yes.

MS. STANISH: And what that means is that you come into this courtroom with a blank slate that the government has to prove, the State of Nevada has to prove beyond a reasonable

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doubt that these two individuals are guilty. Do you understand that?

PROSPECTIVE JUROR NO. 454: Yes, ma'am.

MS. STANISH: And would you agree that if the government fails to prove beyond a reasonable doubt, if they are unable to carry that burden, would you be capable of returning a verdict of not guilty?

PROSPECTIVE JUROR NO. 454: Yes.

MS. STANISH: Pass for cause, Your Honor.

THE COURT: All right. Thank you.

Mr. Santacroce.

MR. SANTACROCE: Thank you.

Good morning, Mr. Tomboc. How are you today?

PROSPECTIVE JUROR NO. 454: Good. You, sir?

MR. SANTACROCE: Good. Thank you. When were you discharged from the Army?

PROSPECTIVE JUROR NO. 454: 2010, June.

MR. SANTACROCE: And what did you do in the Army?

PROSPECTIVE JUROR NO. 454: I was a transportational coordinator and logistics.

MR. SANTACROCE: What does that mean?

PROSPECTIVE JUROR NO. 454: Logistics, we move personnel from one point to another.

MR. SANTACROCE: And did you enter the Army from the Philippines or were you in this country first?

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PROSPECTIVE JUROR NO. 454: I was already in this country.

MR. SANTACROCE: And when did you come to this country?

PROSPECTIVE JUROR NO. 454: '99, I believe.

MR. SANTACROCE: I guess how old were you is my question.

PROSPECTIVE JUROR NO. 454: Seven.

MR. SANTACROCE: Okay. So you went to school here and everything?

PROSPECTIVE JUROR NO. 454: Yes.

MR. SANTACROCE: Do you ever get back to the Philippines?

PROSPECTIVE JUROR NO. 454: Not that often. The last one I went to was last year, actually.

MR. SANTACROCE: Do you have family still there?

PROSPECTIVE JUROR NO. 454: Yes.

MR. SANTACROCE: Where were you stationed in the Army?

PROSPECTIVE JUROR NO. 454: I was in South Korea first, and then Fort Lewis. That was my last duty station.

MR. SANTACROCE: And you said you received your citizenship while you were in the Army?

PROSPECTIVE JUROR NO. 454: Yes, sir.

MR. SANTACROCE: What was your experience like in

the Army? Was it a good experience or a bad experience?

PROSPECTIVE JUROR NO. 454: It was great. I liked it.

MR. SANTACROCE: Were you ever in -- are you familiar with the Uniform Code of Military Justice?

PROSPECTIVE JUROR NO. 454: Yes, sir.

MR. SANTACROCE: And did you ever serve on any kind of disciplinary committee or anything of that nature?

PROSPECTIVE JUROR NO. 454: No, sir.

MR. SANTACROCE: Were you ever disciplined through that system? PROSPECTIVE JUROR NO. 454: No, sir.

MR. SANTACROCE: You understand our system here is a little bit different than that?

PROSPECTIVE JUROR NO. 454: Yes, sir.

MR. SANTACROCE: And you understand that the two gentlemen that sit here before you are presumed innocent; correct?

PROSPECTIVE JUROR NO. 454: Yes.

MR. SANTACROCE: And your questionnaire here says that you didn't hear anything about this case whatsoever?

PROSPECTIVE JUROR NO. 454: Yes.

MR. SANTACROCE: When -- when did you get back to Las Vegas?

PROSPECTIVE JUROR NO. 454: 2010 when I was discharged from it.

MR. SANTACROCE: Now, I just wanted to ask you a few more questions about your financial situation and your transportation issue. On your questionnaire you said that your wife worked for Vegas.com. That changed?

PROSPECTIVE JUROR NO. 454: Yes, when I came in and filled that out, she was working for Vegas.com, but then she got hired on at Shelter Insurance.

MR. SANTACROCE: And what did she did for Vegas.com?

PROSPECTIVE JUROR NO. 454: Concierge.

MR. SANTACROCE: So she would set up shows for people and things of that nature?

PROSPECTIVE JUROR NO. 454: Sell tickets for shows.

MR. SANTACROCE: Sell tickets for shows?

PROSPECTIVE JUROR NO. 454: Yes.

MR. SANTACROCE: And at Shelter Insurance, she's only been there for a short time?

PROSPECTIVE JUROR NO. 454: Two weeks.

MR. SANTACROCE: So the transportation issue, you have one vehicle; correct?

PROSPECTIVE JUROR NO. 454: Yes.

MR. SANTACROCE: And what time do you start work?

PROSPECTIVE JUROR NO. 454: I start work from 12:00 to 9:30.

MR. SANTACROCE: 12:00 in the afternoon to 9:30 at night?

PROSPECTIVE JUROR NO. 454: Yes.

MR. SANTACROCE: And you don't know if your employer is going to compensate you or not?

PROSPECTIVE JUROR NO. 454: Yes.

MR. SANTACROCE: And your wife's schedule is 9:00 until 5:00?

PROSPECTIVE JUROR NO. 454: Yes.

MR. SANTACROCE: So if we started before 9:00 or got out of court after 5:00, would that pose a problem to you?

PROSPECTIVE JUROR NO. 454: Most likely.

MR. SANTACROCE: Is that something you can deal with and arrange and get around, or is it going to be a real hardship?

PROSPECTIVE JUROR NO. 454: It's going to be pretty hard since I've got to find somebody that would be able to drop her off and --

THE COURT: We won't be starting before 9:00, so that, at least -- and typically we try to end by 5:00.

PROSPECTIVE JUROR NO. 454: Okay.

MR. SANTACROCE: Can you be fair and open-minded?

PROSPECTIVE JUROR NO. 454: Yes.

MR. SANTACROCE: Can you be unbiased?

PROSPECTIVE JUROR NO. 454: Yes.

MR. SANTACROCE: Can you give these two gentlemen a fair hearing and a fair trial?

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PROSPECTIVE JUROR NO. 454: Yes.

MR. SANTACROCE: Will you hold the State to their burden of proving each and every element beyond a reasonable doubt?

PROSPECTIVE JUROR NO. 454: Yes.

MR. SANTACROCE: You understand that never changes?

PROSPECTIVE JUROR NO. 454: Yes.

MR. SANTACROCE: The defense doesn't have to do anything, do you understand that?

PROSPECTIVE JUROR NO. 454: Yes.

MR. SANTACROCE: We don't have to call any witnesses, we don't have to do anything, do you understand that?

PROSPECTIVE JUROR NO. 454: Yes.

MR. SANTACROCE: And if we did nothing and the State wasn't able to prove their case beyond a reasonable doubt, what would you do?

PROSPECTIVE JUROR NO. 454: Not guilty.

MR. SANTACROCE: Pass for cause.

THE COURT: All right.

MR. WRIGHT: Can we approach?

THE COURT: You may.

(Off-record bench conference.)

THE COURT: All right. Ms. Weckerly or Mr. Staudaher, do you have any questions --

MS. WECKERLY: Just --

THE COURT: -- for Mr. Tomboc?

MS. WECKERLY: Just briefly, Your Honor.

How are you, sir?

PROSPECTIVE JUROR NO. 454: I'm good.

MS. WECKERLY: In the work that you do now, are you working by yourself or do you work with a team?

PROSPECTIVE JUROR NO. 454: Well, we work as a team, but we do by rows. We have our different quota to meet and such.

MS. WECKERLY: So you're probably -- are you -- obviously with a -- you're at a computer by yourself figuring things out?

PROSPECTIVE JUROR NO. 454: No, we have orders come in and we have to configure each individual order as they come in.

MS. WECKERLY: I see. And then when you're done you go to the next one?

PROSPECTIVE JUROR NO. 454: Yes.

MS. WECKERLY: Okay. So that's the team, whoever finishes picks up the next piece of work?

PROSPECTIVE JUROR NO. 454: Yes.

MS. WECKERLY: When you were with -- when you were in the Army, that, I would imagine, was working with a bunch of people.

PROSPECTIVE JUROR NO. 454: Yes, ma'am.

MS. WECKERLY: And the logistics of all that, were you required to have a lot of attention to detail?

PROSPECTIVE JUROR NO. 454: Yes, ma'am.

MS. WECKERLY: So you're probably someone who is good with numbers?

PROSPECTIVE JUROR NO. 454: You could say so.

MS. WECKERLY: Would you describe yourself as analytical?

PROSPECTIVE JUROR NO. 454: Yes.

MS. WECKERLY: Defense counsel asked you about the different burdens in the case, or the constitutional burdens, and you seem like you have a really good understanding of that. Do you have any religious or philosophical concerns or reservations about judging someone else's actions?

PROSPECTIVE JUROR NO. 454: No.

MS. WECKERLY: Great.

Your Honor, the State will pass for cause.

Thank you, sir.

THE COURT: All right. Everyone passes for cause.

All right. Mr. Tombcc, I'm going to excuse you for the day in a moment. I am going to instruct you to check with your employer and find out what their policy is regarding compensation, if they compensate you, if it's partial compensation. We're going to give you a card for our bailiff

that you need to get back in touch with him. Okay? All right.

You still may be selected as a juror in this case, so the admonition regarding discussing the case and doing anything else relating to the case, you know, independent research, reading news stories or listening to the news, anything relating to the case is still in effect. Do you understand?

PROSPECTIVE JUROR NO. 454: Yes, ma'am.

THE COURT: All right. Additionally, you're not to discuss anything that's transpired in the courtroom, meaning my questions, the lawyers' questions, your answers, and our discussions with anyone else. Do you understand?

PROSPECTIVE JUROR NO. 454: Yes, ma'am.

THE COURT: All right. Put the microphone in the chair and follow the bailiff through the double doors and then he can give you a card where you can reach us and make sure he has a good phone number for you. All right. Thank you, sir.

MR. WRIGHT: Court's indulgence, please.

(Outside the presence of Prospective Juror No. 454.)

MS. WECKERLY: May I step out of the courtroom while they're --

THE COURT: Sure.

(Pause in the proceedings.)

THE COURT: All right. Are we ready?

MR. WRIGHT: Yes. Thank you.

THE COURT: Let's bring in 458, Sandifer.

(Inside the presence of Prospective Juror No. 458.)

THE COURT: Sir, just have a seat anywhere there in the jury box. And it says here, sir, that you haven't heard anything about this case in the media; is that correct?

PROSPECTIVE JUROR NO. 458: Yes, ma'am.

THE COURT: So when you came in and filled your questionnaire out it was all new to you?

PROSPECTIVE JUROR NO. 458: Yes, ma'am.

THE COURT: All right. Let's see. Who would like to go first? Ms. Stanish?

MS. STANISH: Good morning, sir.

PROSPECTIVE JUROR NO. 458: Good morning.

MS. STANISH: I want to just run through a few things in your questionnaire and have you clarify them for me. There was a question about whether any of your family members had any training in various fields, medicine and such, and you put medical psychology, MOP, DOP, and LOP. Can you just explain to me what kind of -- if there's anyone in your family who has had any medical or legal experience?

PROSPECTIVE JUROR NO. 458: Well, it's just people that went to school a little bit. My wife, she went to college for about three months and I have a couple cousins that are RN nurses.

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MS. STANISH: And you yourself went to community college as I understand it?

PROSPECTIVE JUROR NO. 458: Tech, ITT.

MS. STANISH: What kind of --

PROSPECTIVE JUROR NO. 458: ITT Tech.

MS. STANISH: Okay. And what do you currently do for a living?

PROSPECTIVE JUROR NO. 458: Right now I'm an account manager for Rent-a-Center.

MS. STANISH: And as I understand it, that's in collections; is that correct?

PROSPECTIVE JUROR NO. 458: Uh-huh. Yes, ma'am, pretty much. That's what my part of the job consists of, but I pretty much do everything.

MS. STANISH: And I'm guessing you don't get a lot of sleep since you have a ten week old baby in the house.

PROSPECTIVE JUROR NO. 458: No, ma'am, I don't.

MS. STANISH: And then a three year old and a six year old. Is your wife currently working?

PROSPECTIVE JUROR NO. 458: Yes, ma'am.

MS. STANISH: All right. This case is -- in the questionnaire it was stated that this case might last six weeks beginning on April 22nd. It's likely to last longer than that. It'll probably last the whole month of May and into June. Does that create any problems for you?

PROSPECTIVE JUROR NO. 458: No, ma'am.

MS. STANISH: No financial issues?

PROSPECTIVE JUROR NO. 458: I hope not. I'd like to serve to go ahead and get it over with, but --

THE COURT: Did you talk to your boss about the fact that you might have to serve as a juror?

PROSPECTIVE JUROR NO. 458: Yes. From what I told by another employee as far as pay, the company will reimburse anything that -- well, it will cover what you guys don't cover basically.

THE COURT: Okay. Great.

MS. STANISH: Okay. So subtract $40.

PROSPECTIVE JUROR NO. 458: Yeah.

MS. STANISH: All right.

THE COURT: Terrific. And you'd like to be a juror?

PROSPECTIVE JUROR NO. 458: Yeah, I wouldn't mind just to get it out of the way. I know I end up getting called again if I don't serve this time, so I might as well go ahead and get it out of the way.

THE COURT: Okay.

MS. STANISH: Is there any other reason why you want to serve?

PROSPECTIVE JUROR NO. 458: No.

MS. STANISH: Okay. I understand from your questionnaire that you don't really know anything about this

case because you don't really follow the news; is that correct?

PROSPECTIVE JUROR NO. 458: Yes, ma'am.

MS. STANISH: This morning you heard Mr. Wright and Mr. Staudaher describe this case. Did anything you heard sound familiar to you?

PROSPECTIVE JUROR NO. 458: No, ma'am.

MS. STANISH: All right. You know, obviously this case involves some procedures that took place in a medical clinic, and I see that you -- your mother had some kind of lawsuit due to a problem with a drug, something to that effect.

PROSPECTIVE JUROR NO. 458: Yes, ma'am. Actually, I wasn't around during the time that -- I guess it was some kind of weight loss pill and they had to -- they had a recall on it, I guess, I don't know. But they had a -- what is it called, a settlement for all of the people that were taking it during the time that it was issued out amongst people and she was one of the people involved in that. It was right about now, maybe about 14 years ago, so --

MS. STANISH: Did that result in any kind of lawsuit or legal settlement?

PROSPECTIVE JUROR NO. 458: Yes, ma'am, they did settle with her.

MS. STANISH: Is there anything about that

experience with your mother that you think would have an impact on your ability to serve fairly in this case?

PROSPECTIVE JUROR NO. 458: No, ma'am, because I -- to my knowledge I don't think that it harmed her in any kind of way like too serious or anything. She's not having any health issues or anything like that, so I don't think it'll affect anything towards that.

MS. STANISH: Probably the last question I want to discuss with you on your questionnaire. There was a question do you believe that sometimes mistakes are made, that they just happen and that no one is at fault, and you answered, no, every act has a reaction, nothing just happens, and someone or something is always at fault.

You're going to receive instructions from Judge Adair about the particular offenses that were described earlier this morning, and there's a thing called elements. It's like the ingredients of the crime that under the law you have to be convinced beyond a reasonable doubt that every element of that -- those offenses are proven beyond a reasonable doubt by the State of Nevada. Do you understand that?

PROSPECTIVE JUROR NO. 458: Yes, ma'am.

MS. STANISH: Do you -- you've probably heard this sometime in your past that everyone is presumed to be innocent in our legal system until the State proves beyond a reasonable

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doubt that they're guilty. Do you understand and respect that presumption that these two men, as they sit here today, are innocent?

PROSPECTIVE JUROR NO. 458: Yes, ma'am.

MS. STANISH: And do you understand that us, the defense attorneys here, we don't have to tell the other side of the story or present evidence, it is totally up to the State of Nevada to prove these allegations beyond a reasonable doubt. Do you understand that?

PROSPECTIVE JUROR NO. 458: Yes, ma'am.

MS. STANISH: Okay. Thank you, sir.

Pass for cause, Your Honor.

THE COURT: Thank you.

Mr. Santacroce.

MR. SANTACROCE: Thank you.

Good morning, Mr. Sandifer.

PROSPECTIVE JUROR NO. 458: Good morning.

MR. SANTACROCE: Thanks -- thanks for coming today. I wanted to follow up on Ms. Stanish's last question about your answer on Question 41 where you said every act has a reaction, nothing just happens, and someone or something is always at fault. Can you tell me what you meant by that?

PROSPECTIVE JUROR NO. 458: Well, basically depending on the situation every -- there's always an act to cause a reaction to something. It doesn't just happen for a

reason.

MR. SANTACROCE: And do you think that someone is at fault that they necessarily have to be punished for a mistake?

PROSPECTIVE JUROR NO. 458: Well, no, not necessarily. It depends on if they're responsible for the act.

MR. SANTACROCE: Okay. And you understand that this is a criminal case, not a civil case; correct?

PROSPECTIVE JUROR NO. 458: Yes.

MR. SANTACROCE: So you -- the jury wouldn't be awarding any moneys to victims. This is just to determine the guilt or innocence of these two men here today.

PROSPECTIVE JUROR NO. 458: Yes.

MR. SANTACROCE: Do you understand that? How long have you been a Clark County resident?

PROSPECTIVE JUROR NO. 458: Off and on, if I were to add the years up together, about seven years.

MR. SANTACROCE: So you came for a period of time, then you left? Is that a yes.

PROSPECTIVE JUROR NO. 458: Yes.

MR. SANTACROCE: You have to answer because this --

PROSPECTIVE JUROR NO. 458: I'm sorry.

MR. SANTACROCE: -- is recorded, okay. Where did you -- where did you live in the interim between coming here, leaving, and coming back?

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PROSPECTIVE JUROR NO. 458: Well, when I first initially got here I lived on the east side, then I left. Mainly just on the east side. I've never --

MR. SANTACROCE: Where did you leave when you left, which city?

PROSPECTIVE JUROR NO. 458: Phoenix, Arizona, and I also went to Indianapolis.

MR. SANTACROCE: And were you working in those cities?

PROSPECTIVE JUROR NO. 458: Yes.

MR. SANTACROCE: And what did you do in those cities?

PROSPECTIVE JUROR NO. 458: Actually, I worked for Rent-a-Center, the same company.

MR. SANTACROCE: The same company. So you've been with them for quite some time.

PROSPECTIVE JUROR NO. 458: Yes.

MR. SANTACROCE: And you are in collections?

PROSPECTIVE JUROR NO. 458: Yes.

MR. SANTACROCE: So tell me what that entails. What does you day consist of?

PROSPECTIVE JUROR NO. 458: Mainly phone calls, trying to get customers to pay or return merchandise, sometimes service calls, deliveries, and sometimes sales.

MR. SANTACROCE: So would you say the majority of

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your time is spent on the phone trying to get customers to pay?

PROSPECTIVE JUROR NO. 458: Majority of the time, yes, and then the other majority is home visits.

MR. SANTACROCE: I'm sorry? I didn't hear that.

PROSPECTIVE JUROR NO. 458: Home visits.

MR. SANTACROCE: What does that mean?

PROSPECTIVE JUROR NO. 458: Basically going to knock on their door to see if everything is going okay with them and if they need help with a payment or an extension of somewhat, and try to offer my services to them or have them return the merchandise.

MR. SANTACROCE: So it must be kind of a tough job for you in this economy that we find ourselves in today, huh?

PROSPECTIVE JUROR NO. 458: Yes, it is.

MR. SANTACROCE: What happens if people don't pay?

PROSPECTIVE JUROR NO. 458: In most cases we go through corporate stages dealing with civil matter, basically constable or anything that we can do civil to get the merchandise back, and a lot of times we don't get it back.

MR. SANTACROCE: Are you involved in that court process?

PROSPECTIVE JUROR NO. 458: I haven't been. Usually a store manager will go to court on some customers, but we haven't really been doing that either, so --

MR. SANTACROCE: Have you been involved with the actual repossession of the furniture?

PROSPECTIVE JUROR NO. 458: Yes.

MR. SANTACROCE: And how many has that -- have you been involved with that?

PROSPECTIVE JUROR NO. 458: Almost every time that it takes place. It just depends up on what the customer is going through.

MR. SANTACROCE: So when that happens and you have to go reposes furniture, do you and someone else take the truck over there and knock on the door?

PROSPECTIVE JUROR NO. 458: Not unless it's a one-man job. Sometimes the customers agree to return the merchandise. But sometimes we have a constable go over there and serve them demand letters, they're just willing to give it back and we'll go over and pick it up. If it's a TV or a washer or dryer, in most cases those are one-man jobs, but a living room set or a bedroom set requires two people.

MR. SANTACROCE: So I'd imagine that's kind of a tough -- tough thing for you to have to do is take someone's furniture back; correct?

PROSPECTIVE JUROR NO. 458: Yes, it is, especially when they put so much money into it.

MR. SANTACROCE: You see these shows on TV like Repo Man and all that stuff? Do you ever watch those shows?

PROSPECTIVE JUROR NO. 458: Sometimes, yeah.

MR. SANTACROCE: Okay. Is real life anything like that?

PROSPECTIVE JUROR NO. 458: In some cases. I've been threatened. I've had to call civil -- civil assistance and have a police officer come over and talk to the customer, and in some cases almost arrest a customer for threats.

MR. SANTACROCE: Has anybody threatened you with harm or hit you or tried to hit you or anything?

PROSPECTIVE JUROR NO. 458: I've been threatened, but never assaulted.

MR. SANTACROCE: Bottom line is, I guess, do you like your job?

PROSPECTIVE JUROR NO. 458: It has its perks, but then again I can use something better.

MR. SANTACROCE: What would you like to be doing?

PROSPECTIVE JUROR NO. 458: I went to school for drafting and design, so I'd rather be doing something in that field, but with the economy the way that it is I'm kind of scared to change over and try to find something else. This job is so secure.

MR. SANTACROCE: So drafting and design, you said?

PROSPECTIVE JUROR NO. 458: Yes.

MR. SANTACROCE: And what kinds of things would you be drafting and designing?

PROSPECTIVE JUROR NO. 458: Maybe civil, get my civil architect.

MR. SANTACROCE: Architecture, so houses, apartments, offices, things like that?

PROSPECTIVE JUROR NO. 458: Yes.

MR. SANTACROCE: So you have an analytical mind?

PROSPECTIVE JUROR NO. 458: Yes.

MR. SANTACROCE: This case is going to be presenting a lot of medical testimony.

PROSPECTIVE JUROR NO. 458: Okay.

MR. SANTACROCE: Is that something you can deal with?

PROSPECTIVE JUROR NO. 458: Sure.

MR. SANTACROCE: And you'll be able to connect the dots, or if the State doesn't connect the dots you'll recognize that?

PROSPECTIVE JUROR NO. 458: Yes, I'll be able to recognize that.

MR. SANTACROCE: Okay. Thank you, sir. I have no more questions.

THE COURT: Pass for cause?

MR. SANTACROCE: Yes.

THE COURT: All right. Thank you.

Mr. Staudaher.

MR. STAUDAHER: Yes, just -- just a few. I was

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going to follow up on the ITT Tech that you went to. You said you were -- did you actually get a certificate or a degree or something?

PROSPECTIVE JUROR NO. 458: I have an associates.

MR. STAUDAHER: And I saw that you -- it looked like you may have actually used that at a place called Patton & Patton Waterjet.

PROSPECTIVE JUROR NO. 458: Patton & Patton, yes. That was one of the first jobs that I had when I first got to Las Vegas, but it didn't turn out so good. So I was there for about maybe three months, four months.

MR. STAUDAHER: And then after that is when you went to the Rent-a-Center?

PROSPECTIVE JUROR NO. 458: Then there was a couple of jobs after that. I didn't move -- after I left Las Vegas and moved to Phoenix is when I actually got the job at Rent-a-Center.

MR. STAUDAHER: And then you transferred back here?

PROSPECTIVE JUROR NO. 458: And then I transferred back here.

MR. STAUDAHER: Okay. At the job that you have, I mean, are you -- I know that you said you're assistant manager at the --

PROSPECTIVE JUROR NO. 458: Yes.

MR. STAUDAHER: -- at the store? I assume that

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means that you have some other employees that you work with?

PROSPECTIVE JUROR NO. 458: Yes.

MR. STAUDAHER: Do you have people that are above you in the store also?

PROSPECTIVE JUROR NO. 458: Yes, I have a lead sales assistant and then a store manager.

MR. STAUDAHER: So there's two people above you.

PROSPECTIVE JUROR NO. 458: Yes.

MR. STAUDAHER: And then you have some employees below you?

PROSPECTIVE JUROR NO. 458: Two customer account representatives under me.

MR. STAUDAHER: Every any issues with the dynamics of that? I mean, you know, you got one supervisor that comes in, everybody is on edge, and one that comes in and everybody is relaxed and calm, anything like that?

PROSPECTIVE JUROR NO. 458: Not unless it's the district manager or the regional manager.

MR. STAUDAHER: Do you have to deal with them on a regular basis?

PROSPECTIVE JUROR NO. 458: More the district than the regional because he has to come in and do his -- his normal monthly audits and whatnot.

MR. STAUDAHER: When he's in the store, how do you -- how differently do you act -- or not you personally, but

the store personnel act as opposed to when the person isn't there?

PROSPECTIVE JUROR NO. 458: No differently, actually. We all pretty much get along with each other because we see each other a lot. Even if I have to go to another store to pick up merchandise because we transfer merchandise from store to store, I still may run into that district manager and sometimes even the regional.

MR. STAUDAHER: As you were already kind of asked, you know, State has the burden in this case. We have to present the evidence for the jurors who are -- who are selected to listen to, and then they get the law given to them by the Judge at the end and they put those two together and figure out if we met our burden. Do you understand how that works?

PROSPECTIVE JUROR NO. 458: Yes.

MR. STAUDAHER: Each and every charge has, as Ms. Stanish said, certain elements or parts to it, and we're required to prove each part beyond a reasonable doubt to the jurors before they can come back with a guilty verdict. Do you agree with that?

PROSPECTIVE JUROR NO. 458: Yes.

MR. STAUDAHER: If the State at the end of the trial in your mind has done that for every charge that we have proffered to you that you believe we've proven beyond a

reasonable doubt, that means each and every element that we've proven, if you think in your mind we've done that at the end of the case, can you come back with a guilty verdict?

PROSPECTIVE JUROR NO. 458: Yes, I'll be able to come back with a guilty verdict if you have fully proven the case.

MR. STAUDAHER: Okay. You kind of hesitated. And that was a long question, so I'm going to kind of make sure I have this correct. We are required to prove the elements of the crimes beyond a reasonable doubt.

PROSPECTIVE JUROR NO. 458: Okay.

MR. STAUDAHER: If in your mind at the end of the case we've done that, we've proven those elements beyond a reasonable doubt in your mind, can you come back with a guilty verdict?

PROSPECTIVE JUROR NO. 458: Yes.

MR. STAUDAHER: Do you have any reason, philosophical, religious, any reason at all why that might be difficult for you to do?

PROSPECTIVE JUROR NO. 458: No.

MR. STAUDAHER: To kind of stand where you're judging someone else, essentially, or at least their actions?

PROSPECTIVE JUROR NO. 458: I wouldn't have a problem with it at all.

MR. STAUDAHER: You had mentioned that there were

some issues sometimes with people that you work with, meaning customers who don't pay their bills or don't give back the stuff that you rent to them, things like that.

PROSPECTIVE JUROR NO. 458: Okay.

MR. STAUDAHER: You said that there was -- it kind of deals -- does it then move to the corporate side where they have to do the constable thing and the civil lawsuits and all that stuff?

PROSPECTIVE JUROR NO. 458: Actually, that all goes -- it doesn't go back to the corporate office until it's been charged off. So from the time -- from the time that they go past due, 60 days after that is when it goes back to corporate. I'm not sure what corporate does with the accounts after the 60 days they go past due, but within the 60 days of them being past due, all legal procedures are done within the store.

MR. STAUDAHER: Are you involved in that process at all?

PROSPECTIVE JUROR NO. 458: I do the constable work. Basically it's involved with the collections and whatnot. I haven't had a chance to actually send out the summons or anything like that for us retrieving the merchandise and having them actually in civil court. I haven't done that yet.

MR. STAUDAHER: Have you gone to court sometimes when there have been lawsuits for, say, some of the bigger

items that have been taken?

PROSPECTIVE JUROR NO. 458: No.

MR. STAUDAHER: So you've never been involved with any of that?

PROSPECTIVE JUROR NO. 458: No.

MR. STAUDAHER: Your Honor, I pass for cause.

THE COURT: All right. Thank you.

Mr. Tomboc, in a moment I'm going -- I'm sorry, Sandifer. I hit the wrong one. In a moment I'm going to go ahead and excuse you for today, but you still may be called as a juror once we're through questioning everybody, but you don't need to hang around while we do that. So for that reason, the admonition about discussing the case with anybody else, reading, watching, listening to any reports of, commentaries on any person or subject matter relating to the case or doing any independent research is all still in effect.

Additionally, you're advised that you're not to discuss what's transpired in the courtroom with anyone else. By that I mean my questions, the questions from the lawyers, your answers, and our discussions. Do you understand, sir?

PROSPECTIVE JUROR NO. 458: Yes, ma'am.

THE COURT: All right. Make sure our bailiff has a phone number where you may be reached should you be called back to serve as a juror in this case, and just today before you leave right now just check out through jury services on

the third floor.

PROSPECTIVE JUROR NO. 458: Okay, then.

THE COURT: All right, sir. Thank you.

PROSPECTIVE JUROR NO. 458: Thank you, ma'am.

MR. WRIGHT: Court's indulgence.

THE COURT: That's fine.

(Outside the presence of Prospective Juror No. 458.)

(Pause in the proceedings.)

THE COURT: All right. We'll do one more, and then we'll break for lunch. Next up is Prasanna -- something or other.

(Inside the presence of Prospective Juror No. 472.)

THE COURT: Sir, come on in and have a seat there somewhere in the jury box. Good morning.

PROSPECTIVE JUROR NO. 472: Good morning.

THE COURT: Would you say your last name for me again?

PROSPECTIVE JUROR NO. 472: Wijekularatne.

THE COURT: And you're from Sri Lanka originally?

PROSPECTIVE JUROR NO. 472: Yeah, I'm from Sri Lanka.

THE COURT: How long have you lived in the United States?

PROSPECTIVE JUROR NO. 472: 12 years.

THE COURT: 12 years?

PROSPECTIVE JUROR NO. 472: Yeah.

THE COURT: And what do you do, again, for a living?

PROSPECTIVE JUROR NO. 472: Actually, I'm working for the kitchen worker.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 472: And as a porter.

THE COURT: Okay. So you're a casino porter and a kitchen worker? PROSPECTIVE JUROR NO. 472: Yes.

THE COURT: Okay. And you're working at the Mandalay Bay right now?

PROSPECTIVE JUROR NO. 472: That's right.

THE COURT: Do they pay you for jury service?

PROSPECTIVE JUROR NO. 472: Yeah, because actually my schedule is 6:00 p.m. to 2:00 a.m. I don't know. 6:00 p.m. --

THE COURT: To 2:00 a.m.?

PROSPECTIVE JUROR NO. 472: 2:00 a.m.

THE COURT: So are you planning on going to work if you're a juror?

PROSPECTIVE JUROR NO. 472: I don't know. They said -- I called my president [unintelligible], then they call, you can stay home today.

THE COURT: Okay. What about if you serve for six weeks? Are they going to pay you or -- or not, do you know?

PROSPECTIVE JUROR NO. 472: Say again?

THE COURT: If you serve for the six weeks of this trial, will your boss pay you for -- with the Mandalay Bay pay you, or are you going to be out of money?

PROSPECTIVE JUROR NO. 472: I don't know. I don't ask for the --

THE COURT: You didn't ask? Okay. Counsel approach.

(Off-record bench conference.)

THE COURT: Sir, due to the concerns about your work, we're going to go ahead and excuse you, okay. Don't talk about what's transpired or gone on in the courtroom with anybody else. All right?

PROSPECTIVE JUROR NO. 472: Okay. Actually, madam -- actually, my English is no good because I'm studying in my language, you know.

THE COURT: Right.

PROSPECTIVE JUROR NO. 472: Someone -- I don't know.

THE COURT: Right. I understand. And then put the microphone in the chair and check out back through jury services on the third floor.

PROSPECTIVE JUROR NO. 472: Third floor?

THE COURT: Third floor. All right. Thank you. Follow the bailiff.

PROSPECTIVE JUROR NO. 472: Right now?

THE COURT: Right now. You're done.

PROSPECTIVE JUROR NO. 472: I'm done?

THE COURT: You're done. You can go home. You can go to work tonight.

PROSPECTIVE JUROR NO. 472: Okay. Thank you.

THE COURT: Thank you.

(Outside the presence of Prospective Juror No. 472.)

THE COURT: All right. And for the record --

Kenny, shut the door, please.

For the record, he was stipulated to be excused at the bench because of evident language difficulties; correct? Both sides?

MS. WECKERLY: That's correct.

MR. WRIGHT: Yes.

MR. SANTACROCE: Yes.

THE COURT: And then also he probably would not be paid for work and we don't want somebody working from 6:00 to 2:00 a.m. and then showing up at 9:00 a.m. for jury service, so he was excused. I'm going to have Kenny bring the other people in and then we'll go to lunch.

Kenny, bring the rest of them in. Well, I don't know. Let's just do one more. Let's do 485, Regyna Trotter.

(Inside the presence of Prospective Juror No. 485.)

THE COURT: Ma'am, come on in and have a seat in the jury box there. Good morning.

PROSPECTIVE JUROR NO. 485: Good morning.

THE COURT: You indicated here that you would be able to serve as a juror in this case; is that correct?

PROSPECTIVE JUROR NO. 485: Yes.

THE COURT: Okay. And then, let me see, you haven't heard anything about the case in the news or anything like that?

PROSPECTIVE JUROR NO. 485: No.

THE COURT: All right. Thank you. Who would like to go first? Ms. Stanish, would you like to go first?

MS. STANISH: Good morning, or about good afternoon.

PROSPECTIVE JUROR NO. 485: Good afternoon.

MS. STANISH: This trial is anticipated to take the entire month of may and perhaps go into the month of June. And I see that you've been working for two months at your current job.

PROSPECTIVE JUROR NO. 485: Yes.

MS. STANISH: Okay. Given the length of the trial and your new job, is there any -- is this going to present a financial hardship for you to serve on this jury for six or more weeks?

PROSPECTIVE JUROR NO. 485: No.

MS. STANISH: Okay. Is your employer aware that you're in the jury selection process?

PROSPECTIVE JUROR NO. 485: Yes.

MS. STANISH: And can you describe for us what you

do at Telus. What kind of business is that?

PROSPECTIVE JUROR NO. 485: It's a call center. I work for Netflix.

MS. STANISH: Oh, all right. And before that were you at Lowe's?

PROSPECTIVE JUROR NO. 485: Yes. Oh, no. That was back when I was in high school.

MS. STANISH: Oh, okay. I wasn't sure. You listed the jobs you had, I just wasn't sure which -- which one came first. You were at, I assume, Sitel Corporation before that; is that correct?

PROSPECTIVE JUROR NO. 485: Before that I was with -- before that I was not employed. I was a housewife.

MS. STANISH: I see. And did you -- you say you graduated from high school. What high school did you graduate from?

PROSPECTIVE JUROR NO. 485: Cheyenne.

MS. STANISH: And then you went to community college?

PROSPECTIVE JUROR NO. 485: No.

MS. STANISH: Oh, I see that you checked it off. Did you just take some classes there? Oh, I'm sorry. It's your spouse. I misread it. Your spouse went to community college.

PROSPECTIVE JUROR NO. 485: He went to ITT Tech.

MS. STANISH: I see. Have you or anybody close to you have any negative experience with anybody in the medical profession?

PROSPECTIVE JUROR NO. 485: With negative?

MS. STANISH: Do you have -- have you had a bad experience with the medical profession at all ever?

PROSPECTIVE JUROR NO. 485: No.

MS. STANISH: Anybody close to you?

PROSPECTIVE JUROR NO. 485: No.

MS. STANISH: You heard the attorneys give descriptions of this case this morning. Was there anything about what you heard that causes you concern about your ability to serve fairly as a juror if selected?

PROSPECTIVE JUROR NO. 485: No.

MS. STANISH: You heard Mr. Staudaher review the charges and Mr. Wright also describe them. Do you understand that these are merely charges and that as these two men sit here right now they are presumed to be innocent in our legal system? Do you understand that?

PROSPECTIVE JUROR NO. 485: Yes, I do.

MS. STANISH: Do you agree with that constitutional principle that people who are accused of a crime are presumed innocent until proven guilty?

PROSPECTIVE JUROR NO. 485: Yes, they are.

MS. STANISH: And just to clarify something, you

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know how you always hear there's two sides to every story? In this system the State of Nevada has to tell the story and has to tell the story so that it convinces you beyond a reasonable doubt that these two men are guilty of the offenses charged beyond a reasonable doubt, and that we as the defense, we are not obligated to put on evidence or we can just sit here and not tell our side of the story. Do you -- do you see what I'm saying?

PROSPECTIVE JUROR NO. 485: Yes.

MS. STANISH: And do you -- would you agree that you would put the burden and keep the burden with the government throughout the trial to prove beyond a reasonable doubt their case?

PROSPECTIVE JUROR NO. 485: That I would what? I'm sorry.

MS. STANISH: That you would hold the government to its obligation to prove this case beyond a reasonable doubt.

PROSPECTIVE JUROR NO. 485: Yes.

MS. STANISH: If they don't, if they fail to do that, would you return a verdict of not guilty?

PROSPECTIVE JUROR NO. 485: Yes.

MS. STANISH: Pass for cause.

THE COURT: All right. Thank you.

Mr. Santacroce.

MR. SANTACROCE: Thank you.

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Good afternoon, Ms. Trotter.

PROSPECTIVE JUROR NO. 485: Good afternoon.

MR. SANTACROCE: I also have you as Booker. Is that your maiden name?

PROSPECTIVE JUROR NO. 485: Yes.

MR. SANTACROCE: You're not related to Gary Booker, are you?

PROSPECTIVE JUROR NO. 485: Gary?

MR. SANTACROCE: Booker. You don't know the name?

PROSPECTIVE JUROR NO. 485: No.

MR. SANTACROCE: Great. You're one of those rare few that were born and raised in Las Vegas, huh?

PROSPECTIVE JUROR NO. 485: Yes.

MR. SANTACROCE: Was that good for you, a good experience?

PROSPECTIVE JUROR NO. 485: Yes.

MR. SANTACROCE: Pretty good?

PROSPECTIVE JUROR NO. 485: Uh-huh.

MR. SANTACROCE: Okay. And you have four children?

PROSPECTIVE JUROR NO. 485: Yes.

MR. SANTACROCE: You've never served on a jury before; correct?

PROSPECTIVE JUROR NO. 485: No, I haven't.

MR. SANTACROCE: You're familiar with our system of justice?

PROSPECTIVE JUROR NO. 485: Yes, I am.

MR. SANTACROCE: Do you think it's a good system, bad system, what's your feelings about that?

PROSPECTIVE JUROR NO. 485: I've never served on one, so, yes, I -- yes, it's a good system.

MR. SANTACROCE: How about the medical profession? What's your feelings about the medical profession?

PROSPECTIVE JUROR NO. 485: I mean, I've had four kids, so, I mean, they all --

THE COURT: They all -- everything went fine with them?

PROSPECTIVE JUROR NO. 485: Yeah, everything. Everything went fine with all of them.

MR. SANTACROCE: How would you finish this sentence? Doctors are what?

PROSPECTIVE JUROR NO. 485: Doctors are great people.

MR. SANTACROCE: Tell me a little bit about your job.

PROSPECTIVE JUROR NO. 485: Customers call in to either ask me how to fix their problem or to set up -- to try to set up service with us.

MR. SANTACROCE: So in other words, if I get a disc and it doesn't work, you're the person I would talk to?

PROSPECTIVE JUROR NO. 485: Actually, no, I would

transfer you.

THE COURT: Say please hold the line.

MR. SANTACROCE: And then I get transferred again and again.

PROSPECTIVE JUROR NO. 485: No, just to the DVD department.

MR. SANTACROCE: Okay. So what specifically is your department?

PROSPECTIVE JUROR NO. 485: Streaming.

MR. SANTACROCE: Okay. You're going to have to educate me.

PROSPECTIVE JUROR NO. 485: Streaming is on a device like a blue-ray player, a gaming device --

MR. SANTACROCE: Oh, okay.

PROSPECTIVE JUROR NO. 485: -- like a smart TV.

MR. SANTACROCE: So you're kind of an expert in that area?

PROSPECTIVE JUROR NO. 485: Yes.

MR. SANTACROCE: So you're creative, analytical, all of those things?

PROSPECTIVE JUROR NO. 485: Yes.

MR. SANTACROCE: Okay. And I guess your job is pretty much dealing with satisfied people when you're done with them?

PROSPECTIVE JUROR NO. 485: Yes.

MR. SANTACROCE: You say that you -- one -- one of your characteristics is that you're outspoken.

PROSPECTIVE JUROR NO. 485: Yes, I am.

MR. SANTACROCE: So you have no problem giving your opinion?

PROSPECTIVE JUROR NO. 485: No, I don't.

MR. SANTACROCE: If you were in a jury room and you were the only one with the opinion, either guilty or innocent, it doesn't matter which one, would you speak about that, be outspoken about that?

PROSPECTIVE JUROR NO. 485: Repeat the question, sir.

MR. SANTACROCE: Sure. If you're in the jury room and you're going to be one of 12 other -- 11 other people and the other 11 people have a different viewpoint of this case than you did, how would you feel about that?

PROSPECTIVE JUROR NO. 485: I would state my opinion about it. I mean, we all have our say so, our opinions about different things, and we're all going to express it. So I'm going to express my feelings about how I feel about it and -- as we all would.

MR. SANTACROCE: All right. And you'd try to convince the others to your side?

PROSPECTIVE JUROR NO. 485: I would, you know, just point out, you know, different facts about different things

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that we all probably heard.

MR. SANTACROCE: Okay. And -- okay, that's fine. I wanted to ask you about more of your answers on your questionnaire. It says do you believe that sometimes mistakes are made, that they just happen and that no one is at fault? And you wrote I believe mistakes happen just once, but if it occurs over and over again, it's no longer a mistake. Can you tell me a little bit about what you feel about that or how you feel about that?

PROSPECTIVE JUROR NO. 485: Well, say if someone cheated and you go -- you cheat one time, say, on a test or something or with someone. So, okay, yeah, that may have been a mistake or, you know, you felt at that time that you couldn't do it or you couldn't handle the situation. So, you know, you just did it at that time. Then the next time you felt, hey, well, I passed that time, so let me go ahead and do it again. You know, that time you -- you knew what you were doing at that time so you kept doing it over and over and over and over. So you knew what you were doing.

MR. SANTACROCE: So that wouldn't be a mistake.

PROSPECTIVE JUROR NO. 485: Right. It's not a mistake.

MR. SANTACROCE: Do you think all mistakes should be punished?

PROSPECTIVE JUROR NO. 485: Should --

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MR. SANTACROCE: Should be punished?

PROSPECTIVE JUROR NO. 485: All mistakes?

MR. SANTACROCE: Yes.

PROSPECTIVE JUROR NO. 485: Yes.

MR. SANTACROCE: What if they were honest mistakes?

PROSPECTIVE JUROR NO. 485: Honest mistakes? No.

MR. SANTACROCE: I think that's all I have. Thank you very much for your honesty. I appreciate it.

THE COURT: Pass for cause?

MR. SANTACROCE: Yes.

THE COURT: Thank you.

Mr. Staudaher.

MR. STAUDAHER: A couple questions. I noticed on your work history it said you worked at HealthSouth Rehab for awhile.

PROSPECTIVE JUROR NO. 485: Yes.

MR. STAUDAHER: As a receptionist?

PROSPECTIVE JUROR NO. 485: Yes.

MR. STAUDAHER: As -- can you explain -- I mean, I know what a receptionist typically does, but did you have interactions with patients and staff and all that or did you answer the phone, what kinds of things did you do?

PROSPECTIVE JUROR NO. 485: Answer the phone and just like filing, faxing. Did I have interaction with the patients? No.

MR. STAUDAHER: So did you do paperwork for HealthSouth as well as answering the phones?

PROSPECTIVE JUROR NO. 485: The filling and faxing, putting in information like billing, like this was certain -- like codes, yes.

MR. STAUDAHER: So you had to put coding or billing information into the computer as one of your jobs?

PROSPECTIVE JUROR NO. 485: Yes, it was different -- different like -- it was a certain part of coding. It wasn't like certain aspects of what the other billing would normally do.

MR. STAUDAHER: So you would get -- would you get something to, obviously, have to see, look down on a piece of paper that had information on it that you would then do something with the coding and put it into the computer, is that how it worked?

PROSPECTIVE JUROR NO. 485: This was like years ago, so --

MR. STAUDAHER: And I don't -- and I apologize for asking you, kind of dredge up something you did in the past, but did you have some sort of experience with that process in the past?

PROSPECTIVE JUROR NO. 485: It was an aspect of just like putting like a number in there. It wasn't like as in like writing anything. Just like a number.

MR. STAUDAHER: Okay. So you just took information and put it in?

PROSPECTIVE JUROR NO. 485: Right.

MR. STAUDAHER: And you had to -- I mean, somebody gave that to you initially. You didn't make the information?

PROSPECTIVE JUROR NO. 485: Right.

MR. STAUDAHER: And I'm sorry we went back so far in time there for that. Where did you go to high school? You said you went to high school locally here in town?

PROSPECTIVE JUROR NO. 485: Cheyenne.

MR. STAUDAHER: And you have four children, huh?

PROSPECTIVE JUROR NO. 485: Yes.

MR. STAUDAHER: Boy, do they keep you busy?

PROSPECTIVE JUROR NO. 485: Yes.

MR. STAUDAHER: I assume that you have to spend a lot of time with your children. This isn't going to be a problem for you as far as coordinating with your kids?

PROSPECTIVE JUROR NO. 485: No.

MR. STAUDAHER: You said, let's see, you take customer service calls for Netflix?

PROSPECTIVE JUROR NO. 485: Yes.

MR. STAUDAHER: And we asked you -- you're basically working in the streaming department, if I understand you correctly; right?

PROSPECTIVE JUROR NO. 485: Yes.

MR. STAUDAHER: Do you actually tell people how to work their devices over the phone and get accounts set up and work through problems, or do you dish that off to someone else?

PROSPECTIVE JUROR NO. 485: No, I show them how to -- well, tell them how to on the phone. Either they need to learn how to log into it or if they're -- if it won't set up to the Internet, show -- show them how to set it up. And then -- excuse me. My throat is dry. Set it up to the Internet and then connect it.

MR. STAUDAHER: Okay. Do you get a lot of calls on a regular shift?

PROSPECTIVE JUROR NO. 485: Yes.

MR. STAUDAHER: So I assume that that means you're basically on the phone the whole time doing what you just described?

PROSPECTIVE JUROR NO. 485: Yes. Well, breaks and lunches.

MR. STAUDAHER: I'm sorry?

PROSPECTIVE JUROR NO. 485: Breaks and lunches.

MR. STAUDAHER: Sure. Not when you're -- I wouldn't think they would make you do it when you're at lunch, would they?

PROSPECTIVE JUROR NO. 485: No.

MR. STAUDAHER: Okay. When you're actually, you

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know, there working, do you have people that you supervise as part of your job?

PROSPECTIVE JUROR NO. 485: No.

MR. STAUDAHER: Do you have supervisors that watch over sometimes your monitor what you're doing?

PROSPECTIVE JUROR NO. 485: Yes.

MR. STAUDAHER: You know, occasionally, and I don't know if this happens and that's why I'm asking it with your company, but I've been on the phone with companies and you'll hear the little spiel that says this phone may be recorded for quality assurance and training purposes, that kind of thing, does Netflix do the same thing?

PROSPECTIVE JUROR NO. 485: Yes.

MR. STAUDAHER: Do you sometimes have supervisors actually on the phone listening to how you're dealing with a customer?

PROSPECTIVE JUROR NO. 485: Yes, they do.

MR. STAUDAHER: Do you every have somebody kind of critique your approach or how you dealt with situations? I mean, do you even know that they're on the phone?

PROSPECTIVE JUROR NO. 485: They tell us after we're done when we like do a coaching like once a month or once a week.

MR. STAUDAHER: Is that somebody that you know is in the facility, or is it just somebody that remotely monitors

you? I'm talking about the supervisor that would listen in.

PROSPECTIVE JUROR NO. 485: Somebody we know that's in the facility.

MR. STAUDAHER: Okay. Are there certain supervisors where if you know they're working that day you're kind of on your toes a little more or a little more relaxed with others, that kind of thing as far as how they have their supervising sort of philosophy?

PROSPECTIVE JUROR NO. 485: Somebody we know that's on our toes.

MR. STAUDAHER: Yeah, so if somebody -- let's talk about that person for just a moment. You've got one of those supervisors there that you've got to be, you know, on your game that day, does it make you a little more nervous or tense when you're doing your job?

PROSPECTIVE JUROR NO. 485: Yes.

MR. STAUDAHER: Your Honor, pass for cause.

THE COURT: All right. Thank you.

Ms. Trotter, thank you. You may be selected to be a juror in this case, however, I am going to excuse you for today. You don't need to hang around while we question everybody else. Make sure that Kenny, our bailiff, has a number where you may be reached because if you are selected, we will be contacting you and telling you when to report for jury service. For that reason --

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PROSPECTIVE JUROR NO. 485: Sorry.

THE COURT: We're not done yet. For that reason the admonition about discussing the case, reading, watching, listening to anything relating to the case is still in effect. Additionally, I must admonish you that you're not to discuss anything that's transpired in the courtroom with anyone else. By that I mean, you know, my questions, the lawyers' questions, your answers, and so forth. Do you understand?

PROSPECTIVE JUROR NO. 485: Uh-huh.

THE COURT: All right. Thank you. Before you leave today just check out through jury services on the third floor.

PROSPECTIVE JUROR NO. 485: Okay.

THE COURT: All right. Thank you. Microphone in the chair and follow Kenny through the double doors.

Bring them all in. We'll take our lunch break.

(Outside the presence of Prospective Juror No. 485.)

(Inside the presence of the prospective jury panel.)

THE COURT: All right. Ladies and gentlemen, in a moment we're going to take our lunch break. We'll be in recess for the lunch break until 1:30. Before the lunch break, I must admonish you again that you're not to discuss the case or anything relating to the case with each other or with anyone else. You're not to read, watch, or listen to any reports of or commentaries on this case, any person or subject matter relating to the case by any medium of information. Do

not do any independent research. Please don't form or express an opinion on the trial.

As you've seen from the other potential jurors who have been questioned, once we're done questioning you, you are excused for the day. So, you know, we'll try to get through everyone as quickly as we can. Obviously, you know, we weren't able to finish before we needed to take a lunch break. So, ladies and gentlemen, please follow the bailiff through the double doors. Any questions about where to go or where to meet after lunch, please address the bailiff in the hallway.

(Outside the presence of the prospective jury panel.)

THE COURT: All right. You folks can keep your belongings spread out. The courtroom will be locked, and we need everyone to exit the courtroom because, obviously, my staff gets to take a lunch break. But like I said, it's fine if you leave your papers spread about.

(Court recessed at 12:20 p.m., until 1:30 p.m.)

THE COURT: All right. Everybody ready? Next we'll do Lynne Oliver, Badge 547.

(Inside the presence of Prospective Juror No. 547.)

THE COURT: Ma'am, come on in and have a seat in the box just anywhere you would be comfortable. Good afternoon. I wanted to follow up on your questionnaire here. And you expressed concern about serving because you're not going to be paid at your job; is that right?

PROSPECTIVE JUROR NO. 547: Correct.

THE COURT: Okay. And you work for a plumbing -- a plumber --

PROSPECTIVE JUROR NO. 547: Yes.

THE COURT: -- plumbing company?

PROSPECTIVE JUROR NO. 547: Yes.

THE COURT: Okay. And when do you normally work?

PROSPECTIVE JUROR NO. 547: Monday through Friday, 7:00 to 5:00.

THE COURT: 7:00 to 5:00 during the day?

PROSPECTIVE JUROR NO. 547: Yes.

THE COURT: And how are you compensated? Do you get a salary or is it --

PROSPECTIVE JUROR NO. 547: It's hourly.

THE COURT: It's hourly?

PROSPECTIVE JUROR NO. 547: Yes.

THE COURT: And do you mind me asking what do you make an hour?

PROSPECTIVE JUROR NO. 547: I make $13 an hour.

THE COURT: How much?

PROSPECTIVE JUROR NO. 547: 13.

THE COURT: 13 an hour. And who else is in your household?

PROSPECTIVE JUROR NO. 547: My husband.

THE COURT: And what does he do?

PROSPECTIVE JUROR NO. 547: He is a bus driver.

THE COURT: For the Cat bus or the --

PROSPECTIVE JUROR NO. 547: Yeah.

THE COURT: -- school bus?

PROSPECTIVE JUROR NO. 547: Cat bus.

THE COURT: Cat bus. Okay. Did you talk to your employer about whether or not they pay you if you --

PROSPECTIVE JUROR NO. 547: Yes, I did.

THE COURT: And what did they say?

PROSPECTIVE JUROR NO. 547: No.

THE COURT: All right. Submitted?

MR. SANTACROCE: Yes.

MR. WRIGHT: Yes.

MR. STAUDAHER: Yes, Your Honor.

THE COURT: All right. Ma'am, I'm going to go ahead and excuse you at this point. Before I do, I must admonish you that you're not to discuss anything that's transpired in the courtroom, meaning my questions, your answers, our discussion, with anybody else. Do you understand?

PROSPECTIVE JUROR NO. 547: Yes.

THE COURT: All right. Put the microphone in the chair and check out through jury services on the third floor.

PROSPECTIVE JUROR NO. 547: Okay. Thank you.

THE COURT: All right. Kenny, next up is 549, Jason Wilson.

MS. WECKERLY: I thought he was a no-show.

THE COURT: Oh, was he?

THE CLERK: Yeah, no-show.

(Outside the presence of Prospective Juror No. 547.)

THE COURT: All right. 578, a no-show. 583, Cheryl Ashe.

(Inside the presence of Prospective Juror No. 547.)

THE COURT: Ma'am, have a seat in the jury box there, please, anywhere. And I wanted to follow up on your questionnaire, ma'am. You indicate that you're concerned about serving because you'll be missing work and you're the only paycheck?

PROSPECTIVE JUROR NO. 583: Yes.

THE COURT: Okay. And you work at UMC --

PROSPECTIVE JUROR NO. 583: Yes.

THE COURT: -- where you're a nurse?

PROSPECTIVE JUROR NO. 583: Yes.

THE COURT: Okay. How are you compensated? Is it hourly or salary or what?

PROSPECTIVE JUROR NO. 583: Hourly.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 583: And I just found out, Your Honor, that I had surgery on April 11th for a thyroid mass, and I found out on the 19th I have cancer.

THE COURT: Oh, I'm sorry.

PROSPECTIVE JUROR NO. 583: And I have -- I'm scheduled already for surgery again on June 20th.

THE COURT: Okay. Any objection?

MS. WECKERLY: No.

MR. WRIGHT: No.

MR. SANTACROCE: No.

THE COURT: All right. Ma'am, in view of all of that we're going to go ahead and excuse you. I'm sorry about your diagnosis.

PROSPECTIVE JUROR NO. 583: Thank you.

THE COURT: Before I excuse you, though, I must admonish you that you're not to discuss anything that's transpired just now in the courtroom, meaning my questions and your answers and so forth.

PROSPECTIVE JUROR NO. 583: Okay.

THE COURT: Thank you. Put the --

PROSPECTIVE JUROR NO. 583: Thank you.

THE COURT: -- microphone in the chair and just check back out through jury services.

PROSPECTIVE JUROR NO. 583: Thank you.

(Outside the presence of Prospective Juror No. 583.)

THE COURT: 603, Margaret Rock.

THE MARSHAL: No-show, Your Honor.

THE COURT: 518, Scott Hale.

(Inside the presence of Prospective Juror No. 518.)

THE COURT: Sir, if you'd just have a seat in the jury box, please, anywhere that you would be comfortable. All right. I just want to follow up on your questionnaire. You said that you would be able to serve as a juror in terms of missing work and all of that; is that correct?

PROSPECTIVE JUROR NO. 518: Yes. Actually, I'm just working part time right now. The only conflict I would have, would the court be through by 5:00 each day?

THE COURT: We try to end by 5:00. Occasionally it could go longer, but we try to end by 5:00. One reason is the County doesn't have any money to pay overtime for the staff, so -- although, I don't get overtime, of course -- we've been instructed not to go too far past 5:00. What's your conflict if we don't end right at 5:00?

PROSPECTIVE JUROR NO. 518: Just the next two weeks I'm doing a play at UNLV --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 518: -- and we have no understudies.

THE COURT: Oh, okay. Is that in the Judy Bayley Theater?

PROSPECTIVE JUROR NO. 518: Yes.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 518: So I have to be there by 6:00 each night.

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THE COURT: Okay. Well, if you're selected, just make sure you remind us about that. And then after the run of the play you're free to stay after 6:00?

PROSPECTIVE JUROR NO. 518: Correct.

THE COURT: Okay. Like I said, the only time we would work late is, let's say, we're in the middle of an expert witness or somebody who is, you know, expensive --

PROSPECTIVE JUROR NO. 518: Okay.

THE COURT: -- and so we might. But just make us aware of that. And I -- now I have to ask, what are you playing?

PROSPECTIVE JUROR NO. 518: We're doing -- it's probably a play you've never heard of. It's called Urinetown.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 518: And I play --

THE COURT: I'm assuming that starts with a Y and not a U.

PROSPECTIVE JUROR NO. 518: No, it's a U.

THE COURT: Oh, okay.

PROSPECTIVE JUROR NO. 518: It's a very offbeat musical and I play Old Man Strong.

THE COURT: All right. And let's see, you indicate here that you've read about this case in the RJ and online. When you say the RJ, do you read the RJ online or do you read the actual physical paper or what?

PROSPECTIVE JUROR NO. 518: Usually I read the physical paper.

THE COURT: Okay. Now, what have you seen online about this? Is that other news sources or bloggers --

PROSPECTIVE JUROR NO. 518: Yeah.

THE COURT: -- or what?

PROSPECTIVE JUROR NO. 518: Just, you know, from -- from local television stations or, you know, I get updates on my phone and computer.

THE COURT: Okay. Do you have any special interest in following this -- this case or the story regarding the endoscopy center?

PROSPECTIVE JUROR NO. 518: No, not at all.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 518: There was just so much in the press about it it was hard not to read about it.

THE COURT: Okay. Now, do you think it's a fair statement that the press often reports things either incompletely or inaccurately?

PROSPECTIVE JUROR NO. 518: Oh, sure.

THE COURT: Okay. Now, if you're selected to serve as a juror, would you be able to sort of put aside anything that you've read or seen or heard in the media and base your verdict solely upon the evidence that's presented in the trial? And by evidence I mean the sworn testimony coming from

the witness stand and the exhibits that are admitted like photographs, documents, and things like that?

PROSPECTIVE JUROR NO. 518: I certainly would try. It is hard in this case only because there was so much written about it and so much on the news, but I would try my best, yes.

THE COURT: Okay. You know, and by that I mean, you know, let's say you think you read something in the paper and there's no evidence about that or you don't hear anything about that. You can't say, wow, I read something in the paper, I'm going to consider that or -- do you understand? You have to --

PROSPECTIVE JUROR NO. 518: I understand.

THE COURT: -- put that out of your head and only pay attention to, if you will, the evidence, what actually is presented here in the courtroom.

PROSPECTIVE JUROR NO. 518: Sure, I understand.

THE COURT: Okay. Now, when you say, well, I'll try, is there any -- I detect some reticence that -- and, you know, there is no right or wrong answer. We just want, you know, an open, honest, expression of your -- of your feelings here.

PROSPECTIVE JUROR NO. 518: I know. It's so hard to -- I mean, normally I would say there's -- there's no doubt in my mind, I could put aside everything I've read, but it's just

in my head that things, you know, went so wrong at the clinic that I just feel that there is a guilty. But -- but I definitely would do my best to, you know, go by the rules of the Court.

THE COURT: Okay. Now, you understand that -- that, you know, this is a criminal case and there have been civil cases and those were against different parties and a different burden, a very low burden of proof. And so what's gone on so far, you know, is completely different and, I'll say, largely unrelated to what this case and, you know, what's happening here. Do you understand that?

PROSPECTIVE JUROR NO. 518: I do understand that, yes.

THE COURT: Okay. Can I see counsel at the bench?

(Off-record bench conference.)

THE COURT: All right. That's all I have to ask you. Ms. Weckerly for the State is now going to ask you some questions.

PROSPECTIVE JUROR NO. 518: Okay. Thanks.

MS. WECKERLY: How are you?

PROSPECTIVE JUROR NO. 518: I'm good. Thank you.

MS. WECKERLY: I really don't mean to put you on the spot, sir, but in terms of what you read in the media, do you remember specifically what the content was?

PROSPECTIVE JUROR NO. 518: You know, I wish I

could. Honestly, I do not remember. It was just so much, you know, day after day after day in the paper and --

MS. WECKERLY: Uh-huh.

PROSPECTIVE JUROR NO. 518: -- I -- I can't give you any -- I wouldn't be able to give you any, you know, facts about it really.

MS. WECKERLY: And I'm not trying to minimize what you just said, but with sort of non-specific recollection, why -- why wouldn't you be able to put that aside, do you think? Do you know what I'm saying?

PROSPECTIVE JUROR NO. 518: I know what you're saying. I'm not saying I can't. I'm saying I would, you know -- I would just do my best to do what my duty is as a juror.

MS. WECKERLY: And we know you'd be conscientious and that's what we want people to do. And jury selection is a little bit awkward in that we're asking you, you know, commit to being able to do that before you've heard, you know, too much about the evidence in the case or really more than the list of charges.

PROSPECTIVE JUROR NO. 518: Right.

MS. WECKERLY: And, you know, I will -- we just need to know if you really think you can do it or not. If you can't, then, you know, that's your answer and that's fine. If you can, that's great.

PROSPECTIVE JUROR NO. 518: I don't know how to

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answer that. I mean, you know, I just wanted to be honest with the Court and say that I have read about it and that's the way I felt, but I would hope I would be able to be a jury person, also.

MS. WECKERLY: Okay.

PROSPECTIVE JUROR NO. 518: I don't know how else to answer it.

MS. WECKERLY: Do you have -- but you have honestly some concerns about your ability to do that?

PROSPECTIVE JUROR NO. 518: Only maybe like in this particular case.

MS. WECKERLY: Yes.

PROSPECTIVE JUROR NO. 518: If it was something I never heard of, yeah.

MS. WECKERLY: Okay. Just in this case.

I'll submit it, Your Honor.

THE COURT: All right. We're going to go ahead, then, Mr. Hale and excuse you from this proceeding. Before I excuse you I must admonish you that you're not to discuss anything that's transpired in the courtroom with anyone else, meaning my questions, Ms. Weckerly's questions, and your answers. Do you understand?

PROSPECTIVE JUROR NO. 518: I do. Thank you.

THE COURT: All right. Good luck with your show.

PROSPECTIVE JUROR NO. 518: Thank you so much.

THE COURT: Thank you, sir. Put the microphone down in the chair and check out through jury services on the third floor.

PROSPECTIVE JUROR NO. 518: Okay. Thank you.

(Outside the presence of Prospective Juror No. 518.)

THE COURT: And for the record, at the bench Mr. Wright had indicated he would be making a for cause challenge against Mr. Hale if Ms. Weckerly could not sort of rehabilitate him on the media issue. So he was -- he really couldn't commit to being open-minded, so he was excused for cause.

Correct, Mr. Wright?

MR. WRIGHT: Yes.

THE COURT: All right.

MS. WECKERLY: Correct.

THE COURT: Next up is Badge No. 647, Teri Walsh.

(Inside the presence of Prospective Juror No. 647.)

THE COURT: Good afternoon, Ms. Walsh.

PROSPECTIVE JUROR NO. 647: Hi.

THE COURT: Hi. You on your form, I want to follow up, you indicated that your concerned about serving because you won't be at your job and covering for your job would be very difficult. Can you elaborate on that for me, please?

PROSPECTIVE JUROR NO. 647: I'm a lactation consultant at Summerlin Hospital. I'm the only one there is.

THE COURT: Okay. And so how does that work? With new moms do you go in and talk to them at the hospital and then --

PROSPECTIVE JUROR NO. 647: I visit all the new moms and babies and help them with any issues that they have with breastfeeding.

THE COURT: Okay. Now, obviously, sometimes you have a day off or you may take a vacation here and there, do those moms just not get to breastfeed or what -- what happens there?

PROSPECTIVE JUROR NO. 647: You know, there are -- there are some that cover, but it's really difficult. I mean, I took this job a year ago and I've taken like three days off since then, so --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 647: Yeah.

THE COURT: Because I know isn't Summerlin Hospital part of the --

PROSPECTIVE JUROR NO. 647: Valley Hospital.

THE COURT: -- Valley Hospital system? Okay. And that's a relatively large system. Now, did you discuss the fact that you might be a juror?

PROSPECTIVE JUROR NO. 647: Yes, they know.

THE COURT: Okay. And did they say anything like that they would try --

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PROSPECTIVE JUROR NO. 647: You've got to do what you've got to do.

THE COURT: Okay. And are you compensated if you are -- if you miss work?

PROSPECTIVE JUROR NO. 647: Yes.

THE COURT: Okay. Because you're a salaried employee?

PROSPECTIVE JUROR NO. 647: Yes.

THE COURT: Okay. What -- what hours do you normally work?

PROSPECTIVE JUROR NO. 647: I work Monday through Friday.

THE COURT: Day or swing or --

PROSPECTIVE JUROR NO. 647: My hours are varied. Monday I work 8:00 to 4:30, Tuesday I work 1:30 to 10:00 at night, Wednesday I work the same, Thursday and Friday I work during the day.

THE COURT: Okay. And then you said you've seen coverage of this case through the TV, newspapers, and Internet. By newspapers are you talking about the review journal?

PROSPECTIVE JUROR NO. 647: Yes.

THE COURT: Okay. And what have you seen on the Internet?

PROSPECTIVE JUROR NO. 647: Just on the different

news -- news things that I do. I have Channel 8 on my iPad. I read it all the time.

THE COURT: Okay. And then is that the same local news broadcast that you watch?

PROSPECTIVE JUROR NO. 647: Yes.

THE COURT: Channel 8 news?

PROSPECTIVE JUROR NO. 647: Yes.

THE COURT: Okay. Do you recall what you've seen about the case, what you can remember learning about -- or I shouldn't say learning because it's not always accurate, but what you've heard about the case through the media or the situation at the endoscopy clinic?

PROSPECTIVE JUROR NO. 647: Just about the outbreak of hepatitis C, the reusing of needles, things like that.

THE COURT: Okay. Do you accept the statement or do you think it's true that often the media reports things either incompletely or inaccurately?

PROSPECTIVE JUROR NO. 647: Sometimes.

THE COURT: Okay. Now, if you were selected as a juror, would you be able to set aside, you know, kind of put it out of your mind, so to speak, anything you, you know, remember seeing on Channel 8 or anything you remember reading and base your verdict solely upon the evidence that's presented during this trial?

PROSPECTIVE JUROR NO. 647: I might be able to do

that, but I can't. My personal experience in -- in the office.

THE COURT: Okay. What do you mean your personal experience? Just being trained as a nurse?

PROSPECTIVE JUROR NO. 647: No, my husband saw Dr. Desai --

THE COURT: Oh, I'm sorry.

PROSPECTIVE JUROR NO. 647: -- as a patient.

THE COURT: I missed that in your -- in your question. I apologize.

PROSPECTIVE JUROR NO. 647: Yeah.

THE COURT: Okay. So he saw Dr. Desai and you accompanied him for his procedure; is that right?

PROSPECTIVE JUROR NO. 647: Yes.

THE COURT: Okay. And then did he get one of the letters from the Health Department?

PROSPECTIVE JUROR NO. 647: He got a letter because he was scheduled to go to a different doctor, but to that clinic.

THE COURT: Okay. And so you're saying, what, that that experience you feel, what, biased or --

PROSPECTIVE JUROR NO. 647: Yes, very.

THE COURT: Okay. Submitted?

MR. STAUDAHER: Yes, Your Honor.

MR. WRIGHT: Yes.

THE COURT: All right. Ma'am, we're going to go ahead and excuse you from this proceeding. I do need to admonish you, however, you're not to discuss anything that's transpired in the courtroom with anyone else, by that I mean my questions, your answers, our discussion. Do you understand?

PROSPECTIVE JUROR NO. 647: Yes, ma'am.

THE COURT: All right. Notepads -- I'm sorry. Microphone in the chair and check back out through jury services.

PROSPECTIVE JUROR NO. 647: Thank you.

THE COURT: All right. Thank you, ma'am.

PROSPECTIVE JUROR NO. 647: You're welcome.

(Outside the presence of Prospective Juror No. 647.)

THE COURT: For the record, to the extent it's not already obvious, she was excused for cause based on her husband being a patient. All right.

Correct, both sides?

MR. STAUDAHER: Yes, Your Honor.

MR. WRIGHT: Yes.

THE COURT: All right. Next up Badge 534, Cherri Epstein. She's the pharmaceutical rep.

(Inside the presence of Prospective Juror No. 534.)

THE COURT: Ma'am, if you'd just have a seat there in the jury box, please. Good afternoon. I just wanted to

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follow up on some things in your questionnaire. You were concerned about serving as a juror because you won't be fully compensated at your job; is that right?

PROSPECTIVE JUROR NO. 534: Yes. Do you want me to expound on that?

THE COURT: Yeah, I do. That was my --

PROSPECTIVE JUROR NO. 534: Okay.

THE COURT: -- next question. Can you -- can you explain?

PROSPECTIVE JUROR NO. 534: One of the reasons is because I just started with the company and we just launched our product. And the majority of our compensation for our bonus is how often and how frequently and how many scripts we get the physicians to write. And if I'm not out in the field for five, six weeks, that kind of puts a little damper on what my bonus will end up being.

THE COURT: Okay. And what's the new product?

PROSPECTIVE JUROR NO. 534: It's called Vascepa.

THE COURT: What is it?

PROSPECTIVE JUROR NO. 534: It's to lower very high triglycerides. It's a ultra pure fish oil --

THE COURT: Oh, okay.

PROSPECTIVE JUROR NO. 534: -- is what it is.

THE COURT: So it's like Lovaza or one of those?

PROSPECTIVE JUROR NO. 534: It is. Exactly. We're

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the only two on the market.

THE COURT: So why should doctors switch from -- I was going to let you practice. Why --

PROSPECTIVE JUROR NO. 534: Is my boss here?

THE COURT: -- should they switch from Lovaza to -- to this other. So basically --

PROSPECTIVE JUROR NO. 534: I can tell you.

THE COURT: -- you go -- you go out there and then it's monitored according to how many scripts for your new triglyceride lowering medication are written. And how is that -- how is that broken up? Do you get a certain -- certain physicians or a certain part of Clark County that you visit or what?

PROSPECTIVE JUROR NO. 534: Both. I have all of North Las Vegas, Summerlin, Pahrump, Mesquite, St. George. So it depends on how -- in those -- in that physician pool how many of those physicians I can get to write. Plus they do give me physicians that they want me to call on, and then I can kind of prospect, as well, on who I think might write.

THE COURT: Okay. And then can you explain for me what percentage of your compensation is normally based on bonus, and what percentage of your, I guess, annual compensation is salaried or --

PROSPECTIVE JUROR NO. 534: Yeah. I have not been bonused yet because it's the very -- we just launched January

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28th. But whoever is --

THE COURT: Are you only bonused on this new fish oil product, or are you bonused on other drugs, or is this the only drug your company has?

PROSPECTIVE JUROR NO. 534: It's the only drug the company has.

THE COURT: Oh, okay.

PROSPECTIVE JUROR NO. 534: Yeah. So I get the base salary, and then right now our bonuses are set where we get a certain dollar amount per script. So it's not how much you can make it grow, but it's actually how much you get per individual script. The percentage -- well, let's see. I'm trying to figure out maybe 30 percent. I mean, it's not -- it's not the lion's share, but it's an opportunity to --

THE COURT: Increase your income.

PROSPECTIVE JUROR NO. 534: -- increase my income.

THE COURT: And then this is the only drug that your company markets?

PROSPECTIVE JUROR NO. 534: Yes.

THE COURT: And do you work for any other drug companies or just this one?

PROSPECTIVE JUROR NO. 534: Just this one.

THE COURT: And then why is your -- I'm just curious. Why is your drug better than Lovaza?

PROSPECTIVE JUROR NO. 534: I'll tell you. Well,

number one, it is an ultra pure fish oil, but bottom line, when you look at Lovaza and you look at Vascepa, even though there are no head to head studies, I mean, I'm not saying that at all, but when you look at their studies and you look at our studies, with Vascepa, which is what I have, you're going to get the same decrease in the total triglycerides, but you're not going to get an increase in the LDL. And that's huge. So when -- when the physician is trying to manage a patient's lipids, the last thing they want to do is see an increase in their LDL. Lovaza does that. It's right in their package insert. We do not.

THE COURT: Okay. And you said here that you have called on Dr. Desai. I'm assuming this is for another company as a pharmaceutical company?

PROSPECTIVE JUROR NO. 534: Yes, it was for a different company.

THE COURT: But that you would still be fair?

PROSPECTIVE JUROR NO. 534: I think I would be fair. I mean -- I mean, obviously, I mean, I liked Dr. Desai. I don't know if he's still -- yeah, he's still in here. I liked Dr. Desai very much. I mean, when I called on him we had a great relationship. But what I mean by that is it's not a case about whether I like him, it's a case about whether there was anything done wrong. So I feel like I could be impartial that way.

THE COURT: So you could set aside -- now, I mean, is it that you saw -- I mean, what was your -- when I say relationship, obviously, professional.

PROSPECTIVE JUROR NO. 534: Of course.

THE COURT: I mean, did you see Dr. Desai frequently or did you only meet him twice or was he some -- someone that, you know, you called on weekly or can you just kind of expand upon what you're relationship was with him?

PROSPECTIVE JUROR NO. 534: Sure. I called on his office for a period of about two years, and during that time if I averaged it out it would probably be once a month, I would say, to his office over a two-year period.

THE COURT: And you said you liked him and you got along well with him and --

PROSPECTIVE JUROR NO. 534: Yes.

THE COURT: Okay. And so you saw him once a month for a two-year period?

PROSPECTIVE JUROR NO. 534: Correct.

THE COURT: In his office?

PROSPECTIVE JUROR NO. 534: Yes.

THE COURT: And would that have been the endoscopy center?

PROSPECTIVE JUROR NO. 534: The one on Shadow.

THE COURT: Okay. Now, you know, I know when I'm sitting in the doctor's waiting room I see the people, the

pharmacy reps, and they normally go in the back, they have a relationship sometimes with the receptionist and other people in the office. Was that -- was it like that for you?

PROSPECTIVE JUROR NO. 534: Yes.

THE COURT: I mean, did you -- okay. Did you know any of the nurse anesthetists?

PROSPECTIVE JUROR NO. 534: I don't believe I did. If I knew them, I didn't know what their job was.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 534: And with that particular office -- some offices you have better relationships than others. That particular office it was -- it was cordial, but I didn't -- you know, we didn't sit and talk and laugh. It was business.

THE COURT: Okay. May I see counsel at the bench.

(Off-record bench conference.)

THE COURT: Ma'am, we're going to go ahead and excuse you at this point. Before I release you from today I need to advise you that you're not to discuss anything that's transpired in the courtroom with anyone else, meaning my questions, your answers and so forth. Do you understand?

PROSPECTIVE JUROR NO. 534: Yes.

THE COURT: All right. Please check back out through jury services.

PROSPECTIVE JUROR NO. 534: Thank you.

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(Outside the presence of Prospective Juror No. 534.)

THE COURT: Next is 536, Norma Medina.

MS. WECKERLY: I thought she was a no-show, Your Honor.

THE COURT: Oh. We'll be done early today. And obviously, for the record, Ms. Epstein was excused because she had had contact and knew Dr. Desai as well as other physicians who may be witnesses in this case or were employees there at the time.

MR. STAUDAHER: That's correct, Your Honor.

THE COURT: Correct?

MR. WRIGHT: Yes.

MR. STAUDAHER: Yes, Your Honor.

THE COURT: How about Rhonaree Habil, Badge 538.

THE MARSHAL: I have Badge No. 538 Rhonaree Mayo.

THE COURT: Okay. Yeah. That's correct. That was -- she was formerly known as that.

(Inside the presence of Prospective Juror No. 538.)

THE COURT: Ma'am, go ahead and have a seat in the jury box wherever you would like. And good afternoon.

PROSPECTIVE JUROR NO. 538: Good afternoon.

THE COURT: It says here you don't recall reading, seeing, or hearing anything about this case in the media; is that correct?

PROSPECTIVE JUROR NO. 538: Correct.

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THE COURT: Okay. And you would be able to serve. It says you work at Nordstrom?

PROSPECTIVE JUROR NO. 538: Yes, I currently do. In between the time I filled out the questionnaire and now I have just recently been hired for a new job, however, and I will be quitting Nordstrom. I'm putting in my two weeks tomorrow.

THE COURT: And where will you be working?

PROSPECTIVE JUROR NO. 538: For Commerce TMP. It's actually down the street on Carson Street.

THE COURT: Okay. What do they do?

PROSPECTIVE JUROR NO. 538: Commercial real estate and property management.

THE COURT: Okay. And what are you going to be doing for them?

PROSPECTIVE JUROR NO. 538: Administrative assistant.

THE COURT: Okay. Now, have you -- and you probably haven't, but did you talk to anyone at your new employer to tell them, hey, I might be selected to be a juror in this upcoming case?

PROSPECTIVE JUROR NO. 538: Not yet. My mother works for the company and she told me on the side that I had gotten the job, but I'm still actually waiting for the official offer call.

THE COURT: Okay. Now, what does your mother do for

that company?

PROSPECTIVE JUROR NO. 538: My mother is a financial controller.

THE COURT: Okay. Now, if you were selected to serve as a juror, and this goes through May and possibly into June, you understand you wouldn't be able to start your job right then. Would that have some kind of impact for you at your new job or do you know?

PROSPECTIVE JUROR NO. 538: I'm not sure, to be honest.

THE COURT: Okay. Is this the kind of job, and maybe you don't know, where you'd have to have somebody train you, maybe somebody who is leaving the job train you, or is it kind of you already know how to do the job and you just --

PROSPECTIVE JUROR NO. 538: A little bit of everything. I will be assisting, you know, with faxing, follow up emails. So some of it is self-explanatory, but the exact programs that they use I will have to be trained on.

THE COURT: Okay. And when you interviewed, did they -- they didn't tell you, oh, so and so who is leaving the job will be training you or --

PROSPECTIVE JUROR NO. 538: No.

THE COURT: -- anything like that? Okay. All right. Thank you.

State. I'm sorry, defense, you can follow up.

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MS. STANISH: What name do you go by, Habil or Mayo?

PROSPECTIVE JUROR NO. 538: Between the time of the questionnaire and today I was married. I got married. So my name has just recently been officially changed to Rhonaree Habil.

MS. STANISH: Congratulations.

PROSPECTIVE JUROR NO. 538: Thank you. Or, no, I take it back, I was married already, but --

THE COURT: But you hadn't --

PROSPECTIVE JUROR NO. 538: -- I hadn't changed it --

THE COURT: -- had a legal name change.

PROSPECTIVE JUROR NO. 538: -- with Social Security yet, yeah.

MS. STANISH: All right. How long have you lived in Las Vegas?

PROSPECTIVE JUROR NO. 538: Three years.

MS. STANISH: And where -- where were you before that?

PROSPECTIVE JUROR NO. 538: Southern California, Orange County.

MS. STANISH: Is that where you were born?

PROSPECTIVE JUROR NO. 538: I was born in Los Angeles.

MS. STANISH: And have you heard any information

about this case in the press or elsewhere?

PROSPECTIVE JUROR NO. 538: I just recently heard about it. Not through any media, but through word of mouth. A family member had spoken about it. I don't know any details about it, to be honest, except what was in the questionnaire and has been spoken today.

MS. STANISH: All right. And so some -- a family member -- did -- after you filled out this form they talked to you about it?

PROSPECTIVE JUROR NO. 538: Yeah, we were just talking about, you know, cases that had been going on. Well, we -- it started with the Maserati case. They were just, you know, briefly talking about the news and stuff like that, and she had mentioned that there was another, you know, incident and this had come up.

MS. STANISH: Is that person aware that you were -- you got this questionnaire?

PROSPECTIVE JUROR NO. 538: No.

MS. STANISH: Okay. Good.

PROSPECTIVE JUROR NO. 538: I know, the coincidence. You should have seen my face.

MS. STANISH: But you kept a poker face; right?

PROSPECTIVE JUROR NO. 538: Of course.

MS. STANISH: All right. You have two aunts that are in the medical field in the VA. And that's located where?

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Where do they work?

PROSPECTIVE JUROR NO. 538: One of them is my mother -- well, both of them are my mother's sisters. One of them is based in San Diego. She works with surgeons. I'm not sure exactly what she does, but she does work for the DA -- or VA along with her husband. I don't know what he does either. My mom's other sister is based here at the VA here, and she works with, I think, psychologists. She works in the -- the mental social cases.

MS. STANISH: Okay. Have you or anybody close to you had any negative experiences with anybody in the medical profession?

PROSPECTIVE JUROR NO. 538: Yes. I -- again, along in this family conversation she had mentioned that a family friend of mine who I'm very close to, his dad was actually a patient at this clinic. She said that he did have to be tested. He didn't come back positive with anything, but that's all I know.

THE COURT: But you never talked to your friend about his father or --

PROSPECTIVE JUROR NO. 538: No.

THE COURT: -- the father directly?

PROSPECTIVE JUROR NO. 538: No.

THE COURT: Okay.

MS. STANISH: Obviously you know what this case is

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about --

PROSPECTIVE JUROR NO. 538: Now I know --

MS. STANISH: -- now after hearing --

PROSPECTIVE JUROR NO. 538: -- more extent. Yeah.

MS. STANISH: Sure. IS there anything about that contact with that friend? And by the way, the person who had this conversation with you --

PROSPECTIVE JUROR NO. 538: My aunt.

MS. STANISH: It's your aunt. One of the aunts who works for the VA?

PROSPECTIVE JUROR NO. 538: At the VA.

MS. STANISH: Oh, okay.

PROSPECTIVE JUROR NO. 538: Yes.

MS. STANISH: And so did -- you know, did your aunt talk to you about the facts of the case as far as what had been reported in the press?

PROSPECTIVE JUROR NO. 538: I don't know if what she said was reported through the press or word of mouth. She had mentioned that it had something to do with the -- the cleanliness of the clinic, and that's all I know.

MS. STANISH: Did she talk to you at all about issues with cleanliness or --

PROSPECTIVE JUROR NO. 538: Yeah.

MS. STANISH: -- procedures in the VA hospitals?

PROSPECTIVE JUROR NO. 538: No.

MS. STANISH: But she talked to you about it in connection with the clinic that's involved in this case?

PROSPECTIVE JUROR NO. 538: Yeah, because a family friend's dad was a patient and that's how he came up into the conversation.

MS. STANISH: You know what's important to us on the defense side is that we have people who can be fair and just decide the case based on the evidence and stay true to the evidence and not be influenced by other people on the outside. Is there anything about this conversation or your relationship with your aunt that would cause you to feel pressure one way or the other on how to respond to the evidence in this case?

PROSPECTIVE JUROR NO. 538: I personally don't feel so. I mean, in the interest of open honesty, that's why I don't feel uncomfortable telling you that I had heard this information and want you know everything, but I understand that if I were selected that I would be making my decision and I would be debating solely based on the evidence presented in court.

MS. STANISH: And there's -- there's a few other principles I want to make sure I understand your feelings about, some certain constitutional principles.

PROSPECTIVE JUROR NO. 538: Okay.

MS. STANISH: You know, in addition to just deciding this case based on the evidence presented only, there is a

presumption that despite those charges that you heard described this morning, these two men are presumed to be innocent.

PROSPECTIVE JUROR NO. 538: Uh-huh.

MS. STANISH: Is that a concept that you agree with one way or the -- or have difficulties with?

PROSPECTIVE JUROR NO. 538: No. I fully understand and agree with innocent until proven guilty.

MS. STANISH: And part of that principle means that the State of Nevada, the prosecutors over there, they have to prove beyond a reasonable doubt that these men are guilty of the crimes charged and that the defense, they have no burden of proof whatsoever. It's all on the State. If the State does not prove this beyond a reasonable doubt, would you return a not guilty verdict?

PROSPECTIVE JUROR NO. 538: Yes.

MS. STANISH: Okay. I think that's -- that's all I have. Pass for cause, Your Honor.

THE COURT: All right. Mr. Santacroce.

MR. SANTACROCE: Thank you, Your Honor.

Good afternoon, Ms. Habil. Thank you for being so patient today. We appreciate it.

PROSPECTIVE JUROR NO. 538: No problem.

MR. SANTACROCE: I just want to ask you a couple of questions about your questionnaire here. In Question 4 it was

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asked do you have an religious or philosophical beliefs that would make it difficult for you to be a juror. And you put in here I have religious beliefs, but I don't feel that it hinders my analytical or logical viewpoints. And I want to explore that a little bit more. Those religious beliefs that you have, do they impact upon you serving as a juror in this case?

PROSPECTIVE JUROR NO. 538: I don't feel so. I have a faith in God, but even according to that, everything, you know, is based on fact and I understand that, as well.

MR. SANTACROCE: So those religious beliefs don't prohibit you from serving as a juror or rendering a verdict in this case?

PROSPECTIVE JUROR NO. 538: No.

MR. SANTACROCE: Another question, Question 15, it asked if you have any members or close friends that ever worked for an insurance company in the field of insurance or claims and you put yes, but I'm not sure who that was. Who -- who was it that did that job?

PROSPECTIVE JUROR NO. 538: That works for insurance?

MR. SANTACROCE: Yes.

PROSPECTIVE JUROR NO. 538: My uncle works for insurance, but it's more automobile, home -- like home insurance, I believe. I'm not sure on the details exactly

what he does. I just know he's in the insurance business.

MR. SANTACROCE: And do you ever have discussions with your uncle about what he does?

PROSPECTIVE JUROR NO. 538: No. If anything the only time I contacted him was years ago and it was to get a quote on my car insurance.

MR. SANTACROCE: And you were born in Torrance, California; is that correct?

PROSPECTIVE JUROR NO. 538: Yes, sir.

MR. SANTACROCE: You've been in Clark County for three years?

PROSPECTIVE JUROR NO. 538: Yes, sir.

MR. SANTACROCE: And what brought you to Clark County?

PROSPECTIVE JUROR NO. 538: My boyfriend, now husband.

MR. SANTACROCE: And I apologize if you've already been asked this, but what does he do?

PROSPECTIVE JUROR NO. 538: He is currently an agent for Airline Terminal Services. They work as a third-party contractor for Allegiant Airlines.

MR. SANTACROCE: And can you be more specific as to what his job entails?

PROSPECTIVE JUROR NO. 538: Yeah. He's a gate agent.

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MR. SANTACROCE: So he checks people in?

PROSPECTIVE JUROR NO. 538: So he checks the tickets, makes sure everybody gets boarded properly. He makes sure that everybody leaves the plane and --

MR. SANTACROCE: Okay.

PROSPECTIVE JUROR NO. 538: -- that flights go in and out smoothly.

MR. SANTACROCE: And where was he born?

PROSPECTIVE JUROR NO. 538: He was born in, I believe, Torrance, California, as well. Same hospital I was.

MR. SANTACROCE: Okay. And you said in your spare time you like to read.

PROSPECTIVE JUROR NO. 538: Yes, sir.

MR. SANTACROCE: And what do you like to read?

PROSPECTIVE JUROR NO. 538: Lord of the Rings is my favorite trilogy of all time.

MR. SANTACROCE: You've never served on a jury before; correct?

PROSPECTIVE JUROR NO. 538: Correct.

MR. SANTACROCE: And Ms. Stanish went over some of the legal principles that are involved. You have no problem with that; right?

PROSPECTIVE JUROR NO. 538: Right.

MR. SANTACROCE: And as you sit here today, do you have any preconceived notions or ideas as to the guilt or

innocence of these two men?

PROSPECTIVE JUROR NO. 538: No.

MR. SANTACROCE: You'd be fair and unbiased?

PROSPECTIVE JUROR NO. 538: Yes.

MR. SANTACROCE: You'd give us a fair hearing on this?

PROSPECTIVE JUROR NO. 538: Yes.

MR. SANTACROCE: Okay. Thank you. No further questions.

Pass for cause.

THE COURT: All right. Thank you, Mr. Santacroce.

Mr. Staudaher.

MR. STAUDAHER: Just a couple of minor ones. It says you have a BA in accounting; is that right?

PROSPECTIVE JUROR NO. 538: I'm working towards a BA in accounting.

MR. STAUDAHER: Okay. Because you're -- so you're currently in school?

PROSPECTIVE JUROR NO. 538: Yes, I am currently a student.

MR. STAUDAHER: At Nevada State College?

PROSPECTIVE JUROR NO. 538: Yes.

MR. STAUDAHER: Is there any issue with your classes that --

PROSPECTIVE JUROR NO. 538: No.

MR. STAUDAHER: -- would affect you here?

PROSPECTIVE JUROR NO. 538: I was enrolled last semester. I am not this current semester.

MR. STAUDAHER: Okay. So you could do this. It's not like you've got finals that are --

PROSPECTIVE JUROR NO. 538: Yeah, no.

MR. STAUDAHER: -- coming up or papers or anything like that? So is it -- are you getting just your general education requirements out of the way or have you done any of your actual accounting classes yet?

PROSPECTIVE JUROR NO. 538: I'm pretty much done with my general eds. I had just recently switched majors from nursing to accounting, so I'm starting from scratch at the beginning with the business and accounting courses.

MR. STAUDAHER: Have you had any actual financial classes yet, though? What I'm --

PROSPECTIVE JUROR NO. 538: No.

MR. STAUDAHER: -- talking about that is anything to do with numbers, mathematics, analysis, anything along those lines.

PROSPECTIVE JUROR NO. 538: I took college algebra, and that's as far as it got.

MR. STAUDAHER: Not that there's going -- there's not going to be any heavy math.

PROSPECTIVE JUROR NO. 538: Yeah, no.

THE COURT: We're not going to ask the jurors to calculate any extensive math equations or anything.

MR. STAUDAHER: But as far as your -- you said nursing was what you started at. How far did you get in that program?

PROSPECTIVE JUROR NO. 538: I didn't get into the program yet. I was doing prerequisites. I only took anatomy, physiology, microbiology, just the introductory courses. I didn't even really get -- I didn't even apply for the program yet.

MR. STAUDAHER: Did you like microbiology?

PROSPECTIVE JUROR NO. 538: No.

MR. STAUDAHER: You didn't? Okay. With regard to your -- you said no news or anything, but that one question about the -- the family --

PROSPECTIVE JUROR NO. 538: Yeah.

MR. STAUDAHER: -- was it a family member thing?

PROSPECTIVE JUROR NO. 538: Yeah, the family conversation.

MR. STAUDAHER: Nothing about that that's going to be a problem here?

PROSPECTIVE JUROR NO. 538: No.

MR. STAUDAHER: Okay. And you -- and we appreciate you being honest with all of that. And you were asked a question by Ms. Stanish, you know, if we don't meet our

burden, if we don't prove the case, you'll be able to come back with a not guilty verdict.

PROSPECTIVE JUROR NO. 538: Correct.

MR. STAUDAHER: And that's what we would expect you to do. But the converse of that, if we were at the end of the trial, each one of the charges has with it subparts that are called elements, different pieces that we have to prove. We are required to prove those elements beyond a reasonable doubt. If at the end of the trial, after reviewing all of the evidence in the case, hearing all of the testimony, the law given to you by the Judge, you feel -- you feel that we have met that burden, we have proved each and every element of the crimes charged beyond a reasonable doubt, would you be able to come back with a guilty verdict?

PROSPECTIVE JUROR NO. 538: Yes.

MR. STAUDAHER: Do you have any -- you said one issue of religion you didn't think would apply; correct? But do you have any other religious, philosophical, other belief that might make it difficult -- difficult for you to do that?

PROSPECTIVE JUROR NO. 538: No.

MR. STAUDAHER: Any issue about passing judgment on someone in the sense of, you know, making a judgment about somebody's actions that would be a problem?

PROSPECTIVE JUROR NO. 538: No.

MR. STAUDAHER: Pass for cause, Your Honor.

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THE COURT: All right. Thank you.

Ma'am, we are going to excuse you for today while we continue questioning the jurors. You may be selected as a juror in this case.

PROSPECTIVE JUROR NO. 538: Okay.

THE COURT: So for that reason the prohibition about discussing the case, reading, watching, listening to any reports of or commentaries on the case, person or subject matter relating to the case, and forming or expressing an opinion on the case is still in effect.

Additionally, you are not to discuss what has transpired in the courtroom with anyone else. That means my questions, the lawyers' questions, and your answers. Do you understand?

PROSPECTIVE JUROR NO. 538: Understood.

THE COURT: All right. Make sure Kenny, our bailiff, has a good number where we can reach you so that you can report back if you are selected, and then please place your microphone in the chair and check back out -- check out through jury services on the third floor today.

PROSPECTIVE JUROR NO. 538: Thank you.

THE COURT: All right. Thank you.

(Outside the presence of Prospective Juror No. 538.)

THE COURT: Kenny, next 539, Denise Plourd. Oh, she's not here; right?

THE CLERK: Right.

MR. WRIGHT: Court's indulgence.

THE COURT: She's not here, so it was the wrong one.

MS. STANISH: Your Honor?

THE COURT: Yeah.

MS. STANISH: Court's indulgence for a break.

THE COURT: Oh, I'm sorry. I forgot.

MS. STANISH: Thank you.

(Pause in the proceedings.)

THE COURT: Are we ready?

MR. WRIGHT: Yes.

THE COURT: 560, Lance Clemons.

MR. STAUDAHER: What number, Your Honor, again?

THE COURT: 560, Lance Clemons.

MS. WECKERLY: Have you heard the recording? Just because of the number of people that are no-shows.

THE COURT: No, I haven't listened to it. I'm going to listen to it.

MS. WECKERLY: I'm just curious.

THE COURT: I know. I think there must be -- I think one issue is they're confusing badge numbers and juror ID.

(Inside the presence of Prospective Juror No. 560.)

THE COURT: Sir, just have a seat there, please, in the jury box. Good afternoon, Mr. Clemons. I wanted to

follow up on some of your answers here. You indicated that you're concerned about serving as a juror in this case because you work for a hospice company and you're preparing for a survey and you're a compliance officer. Can you explain that a little bit more for me?

PROSPECTIVE JUROR NO. 560: Yes. I am a compliance officer so, you know, basically my job is to find any discrepancies with any type of dealings with doctors, nurses, any of our supplies. I heavily deal with the State and also with Medicare and Medicaid regulations.

THE COURT: Okay. That's what I was going to ask you about. So are you -- are you basically like kind of auditing your company to make sure --

PROSPECTIVE JUROR NO. 560: Every day, yep.

THE COURT: -- they're in compliance with Medicare and Medicaid regulations?

PROSPECTIVE JUROR NO. 560: That's correct.

THE COURT: And I'm not that familiar with what those regulations are, so can you kind of tell me what types of things you're looking for to make sure that your company is doing everything that they're supposed to do?

PROSPECTIVE JUROR NO. 560: It's a wide scale, actually. It's anything from, you know, signatures, it's anywhere from any billings issues, from that standpoint.

THE COURT: Like overbilling Medicaid or under

billing or what?

PROSPECTIVE JUROR NO. 560: Correct. Yeah, actually both --

THE COURT: Right.

PROSPECTIVE JUROR NO. 560: -- believe or not. Yeah. So, I mean, it's kind of a wide scale of -- we go through a thing that's called conditions of participation and we basically look into those and correlate that with whatever paperwork needs to be dealt with. So there's -- it's either -- basically it's black or white. You're either in compliance or you're not in compliance, and so basically that's where I stand.

THE COURT: Okay. Now, you said you're -- how many people are doing this same job?

PROSPECTIVE JUROR NO. 560: Two.

THE COURT: You can one other guy?

PROSPECTIVE JUROR NO. 560: Correct.

THE COURT: Is he your boss or --

PROSPECTIVE JUROR NO. 560: He is, actually. Yep. He's the director of compliance and quality and I'm right underneath him.

THE COURT: And is there just one hospice location that you --

PROSPECTIVE JUROR NO. 560: There's two.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 560: Uh-huh.

THE COURT: So are you kind of corporate, you're doing both locations?

PROSPECTIVE JUROR NO. 560: That's correct. We have one location in Nye County, which is in Pahrump, and one here in Las Vegas.

THE COURT: Okay. And then you mention a survey.

PROSPECTIVE JUROR NO. 560: That's correct. We have JCAHO Joint Commission is actually coming in and that's something that we're prepping for. So from now until August basically all we're doing is going through records, going through charts, patient charts, and making sure everything is up to date.

THE COURT: Okay. And so if you served, let's say, six weeks in this trial, how would that impact, I guess, your company being ready for this survey?

PROSPECTIVE JUROR NO. 560: In my personal opinion, they'd probably have to hire somebody within that time.

THE COURT: Okay. Just like a temporary person? Because they --

PROSPECTIVE JUROR NO. 560: I'm not quite sure what exactly they would do. Again, that would be up to them.

THE COURT: Right.

PROSPECTIVE JUROR NO. 560: But in my personal opinion I think they would have to hire somebody temporary for

that.

THE COURT: Okay. And that's just because, what, it's too much work for one person?

PROSPECTIVE JUROR NO. 560: Absolutely. Yep.

THE COURT: Okay. Now, when you came in and filled out the questionnaire and had to come back today, did you discuss with your boss that you might have to serve as a juror in this case?

PROSPECTIVE JUROR NO. 560: At first they did say that the case would be six to eight weeks, so I did explain that, but that's as far as I went on that.

THE COURT: Okay. Did your -- what was your boss's response? I mean, did he say, boy, try to get out of that or, you know, this is really going to hurt us or, I mean, what was his response to that?

PROSPECTIVE JUROR NO. 560: Actually, in a joking way he kind of said I hope not because we have a JCAHO survey coming up.

THE COURT: Okay. And then let me -- is JCAHO -- is that like a private company you hire to do the --

PROSPECTIVE JUROR NO. 560: Yeah, it is. So it's basically how we get our Medicare dollars. And so they come in and do a survey --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 560: -- and based on that

survey is -- is where a lot of our funding is getting funneled through.

THE COURT: Now, what hours -- days and hours do you normally work?

PROSPECTIVE JUROR NO. 560: Generally I'm 8:00 to 4:00.

THE COURT: Monday through Friday?

PROSPECTIVE JUROR NO. 560: That's correct.

THE COURT: Now, if you were selected to serve is this the kind of thing where you could go in on the weekends, maybe work at night a little bit in the evening hours?

PROSPECTIVE JUROR NO. 560: You know what, I'm not sure. That's something that I would have to talk to them about.

THE COURT: Okay. I mean, there's no reason you wouldn't have access to your office; correct?

PROSPECTIVE JUROR NO. 560: No.

THE COURT: I mean, I'm sure that's not --

PROSPECTIVE JUROR NO. 560: I'd worry about my family life a little bit after that, but --

THE COURT: Right. And I was just going to say --

PROSPECTIVE JUROR NO. 560: Sure.

THE COURT: -- I'm sure that's not what you would love to do, to sit here for a week and then go in on the weekends, but is that something that might be possible?

PROSPECTIVE JUROR NO. 560: I guess. I mean, that's -- that's kind of one of those things. From a financial standpoint, I don't think so. I don't know -- I think they only pay me for five days on jury duty.

THE COURT: Okay. And how are you compensated in your job?

PROSPECTIVE JUROR NO. 560: I'm salaried.

THE COURT: You're salaried?

PROSPECTIVE JUROR NO. 560: That's correct.

THE COURT: Okay. So if you miss work, do you know how that -- I mean, let's say you do the five days, but it's another, you know, four weeks or five weeks after that, how -- do you know would they just take away from your salary, you wouldn't get paid for that?

PROSPECTIVE JUROR NO. 560: I think I just wouldn't get paid for that.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 560: Yeah.

THE COURT: May I see counsel at the bench.

(Off-record bench conference.)

THE COURT: Sir, let me ask you this. You said that you --

PROSPECTIVE JUROR NO. 560: Yes.

THE COURT: -- thought you were only paid for five days.

PROSPECTIVE JUROR NO. 560: Yes.

THE COURT: Why do you think it's five days?

PROSPECTIVE JUROR NO. 560: Basically it's in our handbook.

THE COURT: Oh, it's in your handbook.

PROSPECTIVE JUROR NO. 560: That's correct.

THE COURT: Okay. You didn't ask your boss, hey, would I get paid more than the five days?

PROSPECTIVE JUROR NO. 560: I did not, no.

THE COURT: Okay. And then tell me about who's in your household. You said you have kids?

PROSPECTIVE JUROR NO. 560: I do. I have two kids, one five months and one three.

THE COURT: And then you -- is your wife in the picture or --

PROSPECTIVE JUROR NO. 560: Yes.

THE COURT: -- mother of the children?

PROSPECTIVE JUROR NO. 560: Yes, she is.

THE COURT: And does she work outside of the home?

PROSPECTIVE JUROR NO. 560: She does, yes.

THE COURT: What does she do?

PROSPECTIVE JUROR NO. 560: She's a high school counselor.

THE COURT: Okay. And then I don't mean to pry, but what's your weekly income?

PROSPECTIVE JUROR NO. 560: Weekly income?

THE COURT: Or biweekly.

PROSPECTIVE JUROR NO. 560: Biweekly it's -- I get paid $52,000 a year, so it comes to about $1900 biweekly.

THE COURT: So you just looked in the employee handbook, but you didn't really follow up on that?

PROSPECTIVE JUROR NO. 560: That's correct.

THE COURT: All right. I'm going to go ahead and excuse you from service because it sounds like it would be a hardship for you. Before I excuse you, you are admonished that you're not to discuss anything that's transpired in the courtroom with anyone else. That means my questions, your answers, our discussion and so forth. Do you understand?

PROSPECTIVE JUROR NO. 560: Absolutely, Your Honor.

THE COURT: All right. Sir, put the microphone in the chair and you need to check out through the third floor with jury services.

PROSPECTIVE JUROR NO. 560: Thank you.

THE COURT: All right. Thank you.

(Outside the presence of Prospective Juror No. 560.)

THE COURT: All right. I excused him for hardship over the objection of the State. I don't know what the -- what was the defense's position at the bench?

MR. WRIGHT: I agreed that it was financial hardship.

THE COURT: Yeah, it was a financial hardship, and also it sounded to me like it was a hardship to his business because they were preparing this survey that was coming up. And, you know, maybe he could have done some of this on the weekends, but looking at the combined factor of the hardship to his company and then his own private financial hardship, just guessing at what a high school counselor might make, it seems like he's probably responsible for a significant, maybe 50 percent or so, 40 percent, whatever, of their household income. So he was excused for hardship.

All right. Next up is Badge No. 573, Mr. Chavis.

(Inside the presence of Prospective Juror No. 573.)

THE COURT: Sir, just have a seat anywhere there in the jury box, please. Good afternoon, sir. Are you -- do you have -- are you hard of hearing?

PROSPECTIVE JUROR NO. 573: I didn't understand what you said.

THE COURT: Oh, I said good afternoon.

PROSPECTIVE JUROR NO. 573: Good afternoon, ma'am.

THE COURT: All right. Where are you from originally?

PROSPECTIVE JUROR NO. 573: Columbia, South Carolina.

THE COURT: Okay. And it says here on your questionnaire that you know there was information on TV, but

you really haven't formed an opinion; is that correct?

PROSPECTIVE JUROR NO. 573: Absolutely. Yes, ma'am.

THE COURT: Okay. And do you recall what you saw on TV or when you saw something on TV about the case or parties, the endoscopy center?

PROSPECTIVE JUROR NO. 573 it's been awhile.

THE COURT: It's been awhile.

PROSPECTIVE JUROR NO. 573: I didn't follow it.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 573: It's been a long time.

THE COURT: All right. Now, if you're selected to serve and you remember something in the media that you may have heard or seen, can you set that aside and base your verdict solely upon the evidence in this case?

PROSPECTIVE JUROR NO. 573: Yes, ma'am, absolutely.

THE COURT: All right. Thank you.

Defense, you may follow up with Mr. Chavis.

MS. STANISH: Is it Chavez or Chavis?

PROSPECTIVE JUROR NO. 573: Chavis.

MS. STANISH: Chavis.

PROSPECTIVE JUROR NO. 573: The name is French. You're correct.

MS. STANISH: You've been at your job for six months, or at least when you filled out this form you worked at your job for six months?

PROSPECTIVE JUROR NO. 573: Which job, ma'am?

MS. STANISH: The job you currently have.

PROSPECTIVE JUROR NO. 573: I don't have a job, ma'am.

MS. STANISH: Oh, maybe I'm --

PROSPECTIVE JUROR NO. 573: I'm retired.

MS. STANISH: -- misreading this. Okay.

THE COURT: So your last job was in security?

PROSPECTIVE JUROR NO. 573: That's correct.

THE COURT: And was that for the U.S. Air Force?

PROSPECTIVE JUROR NO. 573: No, ma'am.

THE COURT: Oh, that was for the El Cortez?

PROSPECTIVE JUROR NO. 573: Yes, ma'am.

THE COURT: Okay.

MS. STANISH: All right. So you are retired. You're not working right now.

THE COURT: Absolutely.

MS. STANISH: And you were in the Air Force? Did you retire out of the Air Force?

PROSPECTIVE JUROR NO. 573: Yes, ma'am.

MS. STANISH: What did you do there, sir?

PROSPECTIVE JUROR NO. 573: Well, I was a parachute rigger, and a fabric, leather, and rubber --

MR. WRIGHT: What? I'm sorry.

MS. STANISH: A parachute rigger.

THE COURT: Does that mean --

MS. STANISH: You two, you can't hear.

PROSPECTIVE JUROR NO. 573: I packed parachutes.

MR. WRIGHT: I got it.

THE COURT: So you better do a good job at that job; right?

PROSPECTIVE JUROR NO. 573: I didn't understand.

THE COURT: You know what, maybe we'll give you the -- we'll give you -- it might be our tones, but we'll give you the headphones. That might help you.

PROSPECTIVE JUROR NO. 573: Okay. Maybe that will help.

THE COURT: All right. Ms. Stanish, go on.

MS. STANISH: You feel like you're on an airplane now?

PROSPECTIVE JUROR NO. 573: Absolutely.

MS. STANISH: Do you hear me better? Does that make a difference?

PROSPECTIVE JUROR NO. 573: Yes, ma'am, it does.

MS. STANISH: Oh, good. Good. Do you have a hearing problem?

PROSPECTIVE JUROR NO. 573: No. Not normally, no.

THE COURT: Not until today.

MS. STANISH: All right. Not until us. Perfect. What was your rating when you were in the Air Force?

PROSPECTIVE JUROR NO. 573: An E-6.

MS. STANISH: And were you -- what is that, technical sergeant?

PROSPECTIVE JUROR NO. 573: Yes, ma'am.

MS. STANISH: All right. You said you saw some information on this case on television, but you didn't really follow the story?

PROSPECTIVE JUROR NO. 573: That's correct.

MS. STANISH: I had a concern on one of the questions you answered that your wife had received a notification of possible exposure and was checked and found to be all right.

PROSPECTIVE JUROR NO. 573: That is correct.

MS. STANISH: So she was actually a patient of the clinic?

PROSPECTIVE JUROR NO. 573: My ex-wife. Yes, ma'am.

MS. STANISH: Oh, your ex-wife. Okay. And do you remember when about this -- were you still married when she got that notice?

PROSPECTIVE JUROR NO. 573: Yes, ma'am.

MS. STANISH: And did you discuss it with her, I assume?

PROSPECTIVE JUROR NO. 573: No.

MS. STANISH: No you didn't?

PROSPECTIVE JUROR NO. 573: Huh-uh.

MS. STANISH: Did she -- did she go to a doctor and get tested?

PROSPECTIVE JUROR NO. 573: Yes, ma'am.

MS. STANISH: When she -- when she went for the procedure, did you accompany her?

PROSPECTIVE JUROR NO. 573: Uh-huh. Yes, ma'am.

MS. STANISH: So you actually went to one of the clinics?

PROSPECTIVE JUROR NO. 573: Uh-huh.

MS. STANISH: And you waited for her?

PROSPECTIVE JUROR NO. 573: Uh-huh.

MS. STANISH: About how long were you in the clinic, do you remember?

PROSPECTIVE JUROR NO. 573: If my memory serves me correctly, about an hour and a half, two hours.

MS. STANISH: And do you -- did you know anything about the people that treated her or were involved in the treatment?

PROSPECTIVE JUROR NO. 573: No, ma'am.

MS. STANISH: And did you have discussions with her about her procedure?

PROSPECTIVE JUROR NO. 573: No.

MS. STANISH: When you got the notification or after you got the notification did you learn more about hepatitis C?

PROSPECTIVE JUROR NO. 573: No.

MS. STANISH: Did you have any concerns for yourself on whether or not you were infected?

PROSPECTIVE JUROR NO. 573: No, ma'am.

MS. STANISH: Did you recently get divorced?

PROSPECTIVE JUROR NO. 573: Yes, ma'am, I did.

MS. STANISH: Okay. Well, you've heard what this case is about from this morning; correct?

PROSPECTIVE JUROR NO. 573: Yes, ma'am.

MS. STANISH: Is there anything about your experience with your ex-wife being treated at this facility as well as getting a notice that is going to influence your view of this case?

PROSPECTIVE JUROR NO. 573: No, ma'am, I don't think so.

MS. STANISH: Do you think you can -- you come to this courtroom with no opinion, you're a clean slate?

PROSPECTIVE JUROR NO. 573: Yes, ma'am, that's correct.

MS. STANISH: And let me just discuss with you, sir, a few legal principles. That you've heard the charges that are pending against these two gentlemen, but despite the fact that they're charged, they as they sit here today are considered innocent, presumed innocent. And do you agree with that concept in our law that people who are charged are presumed innocent?

PROSPECTIVE JUROR NO. 573: Yes, ma'am.

MS. STANISH: And do you understand that the State of Nevada would have to prove beyond a reasonable doubt that these men are guilty, and if they don't prove that you must return a verdict of not guilty?

PROSPECTIVE JUROR NO. 573: Yes, ma'am.

MS. STANISH: Have you yourself, sir, had any negative experience with anybody in the medical profession?

PROSPECTIVE JUROR NO. 573: No, ma'am, I can't say as I have.

MS. STANISH: Anyone close to you?

PROSPECTIVE JUROR NO. 573: No, ma'am.

MS. STANISH: Is there anything that you think we should know about you that would factor into your ability to serve as a fair juror in this case?

PROSPECTIVE JUROR NO. 573: No, ma'am.

MS. STANISH: No further questions, Your Honor.

THE COURT: All right. Mr. Santacroce.

MR. SANTACROCE: Thank you, Your Honor.

Good afternoon, sir. Thank you for your patience today. I just have a few questions for you. How long were you in the Air Force?

PROSPECTIVE JUROR NO. 573: About 21 years, sir.

MR. SANTACROCE: And where in those 21 years, I'm going to assume a lot of places, but where were you stationed

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during that time period?

PROSPECTIVE JUROR NO. 573: Southeast Asia, Vietnam, Thailand, Laos, Cambodia, Burma.

MR. SANTACROCE: Philippines?

PROSPECTIVE JUROR NO. 573: Philippines, yes, sir.

MR. SANTACROCE: And how long were you in the Philippines?

PROSPECTIVE JUROR NO. 573: I'd say approximately two years.

MR. SANTACROCE: And of all of those places you've served, what was your favorite place to be? I'm sure not in Vietnam, but other than that?

PROSPECTIVE JUROR NO. 573: Laos or Cambodia?

MR. SANTACROCE: You enjoyed those places?

PROSPECTIVE JUROR NO. 573: Yes, sir.

MR. SANTACROCE: And where did you retire -- separate from, which city?

PROSPECTIVE JUROR NO. 573: Altus, Oklahoma.

MR. SANTACROCE: And when did you come to Las Vegas?

PROSPECTIVE JUROR NO. 573: In -- '80 -- I'm not 100 percent sure exactly on the date.

MR. SANTACROCE: Give or take. It's not that critical.

PROSPECTIVE JUROR NO. 573: '85.

MR. SANTACROCE: In the '80s, the middle '80s you

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would say?

PROSPECTIVE JUROR NO. 573: Yes.

MR. SANTACROCE: Okay. And where did you go to work at that time period?

PROSPECTIVE JUROR NO. 573: Pinkerton Security.

MR. SANTACROCE: So you worked as a security officer?

PROSPECTIVE JUROR NO. 573: Uh-huh.

MR. SANTACROCE: Has your post-military life been primarily security work?

PROSPECTIVE JUROR NO. 573: Yes, sir.

MR. SANTACROCE: And other than Pinkerton, where else have you worked for security?

PROSPECTIVE JUROR NO. 573: El Cortez.

MR. SANTACROCE: How long were you at El Cortez?

PROSPECTIVE JUROR NO. 573: Give or take approximately six months.

MR. SANTACROCE: And in all that security work did you have occasion to detain people for the police arrive -- so the police could arrive?

PROSPECTIVE JUROR NO. 573: Yes, sir, I did.

MR. SANTACROCE: And were you ever called to testify in any criminal cases?

PROSPECTIVE JUROR NO. 573: No, sir, I wasn't.

MR. SANTACROCE: Were you called upon to write out

any reports as a result of those security incidents?

PROSPECTIVE JUROR NO. 573: We had to write reports, yes, on everything that we did, sir.

MR. SANTACROCE: But other than that, you had no contact with the justice system in your particular field of work?

PROSPECTIVE JUROR NO. 573: Absolutely not.

MR. SANTACROCE: Did you have any contact with the justice system in the Air Force?

PROSPECTIVE JUROR NO. 573: No, sir.

MR. SANTACROCE: And you understand it's two different systems of justice?

PROSPECTIVE JUROR NO. 573: Absolutely.

MR. SANTACROCE: And you are aware of the UCMJ?

PROSPECTIVE JUROR NO. 573: Yes, sir.

MR. SANTACROCE: And you never sat on any kind of disciplinary panel?

PROSPECTIVE JUROR NO. 573: No, sir.

MR. SANTACROCE: Did you know of anyone that was disciplined in the military, any close friends or --

PROSPECTIVE JUROR NO. 573: No, sir.

MR. SANTACROCE: Have you ever sat on a jury post your Air Force life?

PROSPECTIVE JUROR NO. 573: No, sir.

MR. SANTACROCE: Do you want to sit and serve on

this jury?

PROSPECTIVE JUROR NO. 573: Absolutely.

MR. SANTACROCE: And why?

PROSPECTIVE JUROR NO. 573: Just to do my civic duty, sir.

MR. SANTACROCE: As you sit here today do you have any kind of bias, favoritism for the prosecutors or the defense?

PROSPECTIVE JUROR NO. 573: Absolutely not.

MR. SANTACROCE: So you would treat everybody fair and equal?

PROSPECTIVE JUROR NO. 573: Yes, sir.

MR. SANTACROCE: You would keep an open mind?

PROSPECTIVE JUROR NO. 573: Yes, sir.

MR. SANTACROCE: There's going to probably be lots of medical testimony in this case, lots of doctors are going to testify. What's your opinion of doctors overall?

PROSPECTIVE JUROR NO. 573: Actually, I haven't made any opinion of any doctors, sir.

MR. SANTACROCE: I have no further questions.

THE COURT: All right. Thank you.

State.

MS. WECKERLY: Just a couple questions. How are you sir? Good? On your questionnaire you indicated that you had training in psychology, risk management, manufacturing of

products, and labeling of products.

PROSPECTIVE JUROR NO. 573: Yes, ma'am.

MS. WECKERLY: Can you describe what sort of training that was, or was that in the military?

PROSPECTIVE JUROR NO. 573: That was military, ma'am.

MS. WECKERLY: All of that was military?

PROSPECTIVE JUROR NO. 573: Yes, ma'am.

MS. WECKERLY: That type of trying you had, did it give you -- well, you probably started out with it, but did it give you a good attention to detail?

PROSPECTIVE JUROR NO. 573: Absolutely. Yes, ma'am.

MS. WECKERLY: Would you consider yourself still a detail oriented person?

PROSPECTIVE JUROR NO. 573: Yes, ma'am.

MS. WECKERLY: Are you pretty good with numbers?

PROSPECTIVE JUROR NO. 573: Not as good --

MS. WECKERLY: Not as good?

PROSPECTIVE JUROR NO. 573: -- as I used to be, no.

MS. WECKERLY: Okay. But you are good with details?

PROSPECTIVE JUROR NO. 573: Yes, ma'am.

MS. WECKERLY: How about would you consider yourself a logical person?

PROSPECTIVE JUROR NO. 573: I would. Yes, ma'am.

MS. WECKERLY: And one of your -- one of your jobs,

it may have been when you were in the military, it wasn't clear to me from your questionnaire, that you also had training in managing -- you put managing of my co-workers.

PROSPECTIVE JUROR NO. 573: That was in the military, ma'am.

MS. WECKERLY: Okay. And when -- how many people were you in charge of?

PROSPECTIVE JUROR NO. 573: 180 people.

MS. WECKERLY: Okay. Well, in that -- in that capacity, maybe not formerly, but were you ever called upon to discipline someone or tell them they were doing something the wrong way?

PROSPECTIVE JUROR NO. 573: Yes, ma'am.

MS. WECKERLY: Frequently, not frequently?

PROSPECTIVE JUROR NO. 573: Not -- not -- it wasn't an everyday experience. It was just something that you pull them on the side and, hey, you didn't something wrong, we need to change your attitude, that sort of thing.

MS. WECKERLY: And so it was your responsibility to deal with those 180 people underneath you?

PROSPECTIVE JUROR NO. 573: Subordinates, yes, ma'am.

MS. WECKERLY: And I assume you had -- you had to report to someone, too.

PROSPECTIVE JUROR NO. 573: Absolutely. Yes, ma'am.

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MS. WECKERLY: Okay. And your responsibilities were for making sure your group did things correctly?

PROSPECTIVE JUROR NO. 573: That's right.

MS. WECKERLY: And it goes up the chain of command?

PROSPECTIVE JUROR NO. 573: Yes, ma'am.

MS. WECKERLY: You mentioned that your wife had the procedure done at the clinic, but it sounds to me like you don't have much of a recollection of the details of that.

PROSPECTIVE JUROR NO. 573: No, I didn't go with her the first time.

MS. WECKERLY: Uh-huh. For the appointment?

PROSPECTIVE JUROR NO. 573: I wasn't with her when she had the procedure done.

MS. WECKERLY: Okay.

PROSPECTIVE JUROR NO. 573: Only when I went with her the second time to get checked.

MS. WECKERLY: I see. So you never went to -- when she got the endoscopy or colonoscopy?

PROSPECTIVE JUROR NO. 573: No.

MS. WECKERLY: Okay. So you weren't in that facility?

PROSPECTIVE JUROR NO. 573: I was not in that facility, no.

MS. WECKERLY: Okay. So obviously you wouldn't recognize any of the employees or anything like that?

PROSPECTIVE JUROR NO. 573: Absolutely not.

MS. WECKERLY: And it sounds like that experience that she had, or your ex-wife had, wouldn't have any bearing on your ability to be fair to both sides in this case?

PROSPECTIVE JUROR NO. 573: Absolutely not.

MS. WECKERLY: Just one last question, sir, if you'll bear with me. If at the end of this case it's your belief that the State has proven these two defendants guilty beyond a reasonable doubt, would you be able to come in and announce a guilty verdict?

PROSPECTIVE JUROR NO. 573: Absolutely. Yes, ma'am.

MS. WECKERLY: Thank you, sir.

The State will pass for cause, Your Honor.

THE COURT: All right. Thank you.

And, sir, when you say you went with your wife on the follow up, do you recall where you went for that?

PROSPECTIVE JUROR NO. 573: No, ma'am, I don't remember.

THE COURT: Did you go in the back when she saw a doctor, or did you sit in the waiting room or --

PROSPECTIVE JUROR NO. 573: I sat in the parking lot in the car.

THE COURT: Oh, so you didn't even go in the building?

PROSPECTIVE JUROR NO. 573: Absolutely not.

THE COURT: Okay. So you just waited in your car the whole time?

PROSPECTIVE JUROR NO. 573: Yes, ma'am. I'm not allowed to smoke in the building.

THE COURT: So you stayed outside smoking. So you wouldn't even recognize the receptionist or anybody from that building?

PROSPECTIVE JUROR NO. 573: No, ma'am, I wouldn't.

THE COURT: Okay. And I don't mean to pry, but are you and your wife, ex-wife, are you still friendly, do you still talk to each other, or not --

PROSPECTIVE JUROR NO. 573: Every now and then I call her on the phone and we do have a conversation. Yes, ma'am.

THE COURT: Okay. But it's not like a -- when you say every now and again, like every few months or --

PROSPECTIVE JUROR NO. 573: Every week or two.

THE COURT: Okay. All right. But she never really discussed her experiences or anything like that with you?

PROSPECTIVE JUROR NO. 573: No, ma'am.

THE COURT: All right.

MR. WRIGHT: Are you remarried?

PROSPECTIVE JUROR NO. 573: Yes, sir, I am.

MR. WRIGHT: Okay. What does your new wife do?

PROSPECTIVE JUROR NO. 573: My new wife, what kind

of work does she do?

MR. WRIGHT: Yes, sir.

PROSPECTIVE JUROR NO. 573: Okay. She works at the Riviera and she does timeshares.

MR. WRIGHT: And your previous wife, what was her --

PROSPECTIVE JUROR NO. 573: She was a -- she was a housekeeper. And where was the last place that she worked? I don't remember exactly, but -- Golden Nugget.

MR. WRIGHT: Okay. Thank you, sir.

THE COURT: All right. Thank you, sir. Sir, I'm about to excuse you for today, but you may be selected as a juror in this case. For that reason, make sure that the bailiff has a good number where you can be reached if we call you back to serve.

Also, the admonition about discussing anything relating to the case, reading, watching, listening to any reports of or commentaries on the case, person or subject matter relating to the case, and forming or expressing an opinion on the case is still in effect.

Also, I must admonish you you are not to discuss anything that's transpired in the courtroom with anyone else. That means my questions, the lawyers' question, your responses and so forth. Do you understand, sir?

PROSPECTIVE JUROR NO. 573: Absolutely. Yes, ma'am.

THE COURT: All right. Sir, thank you. You are

excused for today, but, again, you may be called to serve. And go back down and check out through jury services on the third floor. All right. Thank you.

(Outside the presence of Prospective Juror No. 573.)

THE COURT: All right. Neither -- did you pass for cause?

MR. WRIGHT: I challenge him for cause because of a family member being a patient.

THE COURT: I'll hear from the State.

MR. SANTACROCE: I join in that, too.

MS. WECKERLY: Your Honor, my understanding was that he didn't even go in the building. He certainly had zero emotional affect when he was discussing the whole encounter and didn't have any real recollection of it. He said over and over again without seeming like he had an agenda that it had no impact on him and wouldn't have any impact on his ability to be fair, and it was his ex-wife --

THE COURT: Right.

MS. WECKERLY: -- not a family member.

THE COURT: Yeah, it's his ex-wife. You know, I think he never went in either to the Shadow Lane office or the other office, even. He sat in the car smoking. He seemed to have no real recollection about anything. And unlike the other people who had family members who were affected, he did not express any emotional impact to anybody as a result of all

of this, especially to himself. He seemed really kind of indifferent about the whole thing.

And, again, you know, we have to assume a level of honesty when we place these potential jurors under oath. You know, typically I've been excusing them, but, again, they went -- people who, you know, have been -- were more emotionally impacted. I think this person can be fair and impartial. He repeatedly said that and I think, you know -- I mean, how concerned was this guy about what had happened? He sat in the car smoking. I mean, he didn't even, you know, go in with his wife. It clearly wasn't a big thing in their -- in their lives. It didn't appear to be. So I think he's okay.

Do you need a moment, Mr. Wright?

MR. WRIGHT: Yes, please.

THE COURT: All right. And then we'll move on to Frank Allen, Badge No. 602.

(Pause in the proceedings.)

THE COURT: All right. Is everyone ready?

MR. SANTACROCE: Can I ask you --

MR. WRIGHT: Yes.

MR. SANTACROCE: -- a question, Your Honor --

THE COURT: Sure.

MR. SANTACROCE: -- about the perempts that we have? I thought in chambers you had discussed the possibility of giving the defense a couple of extras, but --

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THE COURT: Well, I didn't say a couple of extra. I said possibly one extra, that way they could be evenly divided five and five. If I gave you two extra, now we're back at another odd number.

MR. SANTACROCE: No, no, I just didn't know if it was ten or nine or what.

THE COURT: Yeah, the -- it's nine including the alternates for the defense side. So the only reason I would give you another one, which I didn't say I would do, would be to make it an even number so that, you know, however you divide it you could divide it five and five.

MR. SANTACROCE: And when can we expect that -- I mean, we need to know that if you're going to give us the extra one or not.

THE COURT: Well, we need to know before we start the perempts.

MR. SANTACROCE: Right.

THE COURT: I mean, it doesn't really matter, I don't think, for this part. Because somebody either passes for cause or they don't pass for cause regardless if you had one perempt. I mean, it's going to be the same. So we'll have argument on it, you know, whenever we take our next break.

MR. SANTACROCE: Okay.

THE COURT: And I said also, just to make it clear,

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that if I -- I'm sorry I'm standing, but it's so hard to sit like this all day. The State, then, of course, has to be given an additional one if we give the defense an additional one.

Does the State have any strong feeling one way or the other?

MS. WECKERLY: No. No, as long as we get the same amount.

THE COURT: Yeah, which of course you would.

MS. WECKERLY: Okay. So, no.

THE COURT: I mean, if the defense is going to request an additional perempt since the State doesn't really care -- but then now we have to qualify 36 people instead of 35 people.

MR. WRIGHT: We do request another one.

THE COURT: Well, here's --

MR. WRIGHT: I've got to use one because my co-counsel got in a scrap with a lady in the jury box.

THE COURT: Well, except, whose fault was that? I mean -- I mean, if that's the standard he's going to fight with everybody and then we'll be up to like 30 perempts a side.

MR. SANTACROCE: No, it's not in my nature.

THE COURT: All right. Next up is 602, Frank Allen. Basically, let's see how we go in qualifying people.

I mean, if we're really scraping to get 35, then I'm probably not going to give another peremptt. If it looks like tomorrow we have a bunch of people who could serve, then maybe. But, you know, if it's really tight, you know, we're getting to the end tomorrow and we're still not getting 35 people, then I'm not going to give another peremptt. You know, I'm not going to open a whole new day of jury selection just to add a peremptt.

(Inside the presence of Prospective Juror No. 602.)

THE COURT: Mr. Allen, just have a seat there in the jury box, please, sir. Good afternoon.

PROSPECTIVE JUROR NO. 602: How are you, Your Honor.

THE COURT: I'm looking here at your questionnaire and you were concerned about serving because you're concerned that this would interfere with medical treatment?

PROSPECTIVE JUROR NO. 602: Yes, Your Honor.

THE COURT: And can you elaborate on that for me?

PROSPECTIVE JUROR NO. 602: I have extremely high blood pressure.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 602: I take five different medications.

THE COURT: Five blood pressure medications?

PROSPECTIVE JUROR NO. 602: Yes, ma'am.

THE COURT: Okay. And do you have some doctor visits scheduled, or are you just afraid that your blood

pressure may go up if you're --

PROSPECTIVE JUROR NO. 602: No, ma'am. I -- this is embarrassing.

THE COURT: It's okay. I mean, like I said, we have to ask personal questions --

PROSPECTIVE JUROR NO. 602: Yes. Yes.

THE COURT: -- to get to the bottom of things.

PROSPECTIVE JUROR NO. 602: Yes. I have regular trips to the bathroom and --

THE COURT: Because you're on a diuretic?

PROSPECTIVE JUROR NO. 602: Right. Yes, ma'am. It kind of makes me drowsy every now and then. I go off in la-la land for a little while.

THE COURT: Okay. Do you mind me asking what drugs you're taking for your blood pressure?

PROSPECTIVE JUROR NO. 602: I --

THE COURT: Oh, you came prepared.

PROSPECTIVE JUROR NO. 602: I keep them with me, yes.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 602: I think I have it.

THE COURT: That's smart.

PROSPECTIVE JUROR NO. 602: In case I'm found on the side of the road somewhere. Your Honor, can I give this to you?

THE COURT: Well, we have to share it with everyone --

PROSPECTIVE JUROR NO. 602: Okay.

THE COURT: -- because, you know, I don't get to know information that the lawyers in the case don't --

PROSPECTIVE JUROR NO. 602: Okay.

THE COURT: -- don't get to know.

PROSPECTIVE JUROR NO. 602: Do you want me to read it off?

THE COURT: Yeah, if you would.

PROSPECTIVE JUROR NO. 602: Okay. Hydralazine, 50 milligrams twice a day; Benicar, 40 milligram once a day; Clonidine, .3 milligrams twice a day.

THE COURT: Is that the one that make you drowsy?

PROSPECTIVE JUROR NO. 602: Yes, ma'am.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 602: And Bystolic, 20 milligrams once a day. And I can't say this, Lastedylaphine (phonetic).

THE COURT: Okay.

PROSPECTIVE JUROR NO. 602: 20 milligrams once a day.

THE COURT: Okay. Now, if you're selected as a juror, you know, obviously, we can take bathroom breaks and if you need to go to the bathroom just signal and we'll give you

a break. Would that help you out with your condition?

PROSPECTIVE JUROR NO. 602: Yes, ma'am.

THE COURT: Okay. And then your other -- it was the bathroom breaks and you were concerned sometimes you get drowsy.

PROSPECTIVE JUROR NO. 602: Yes.

THE COURT: So that's something that's interfered with your daily life or just --

PROSPECTIVE JUROR NO. 602: A little bit with my daily life. I have a doctor's note for my job, you know, because most jobs is two 15 and a 30. But if you've got to run back and forth the bathroom, you know, so --

THE COURT: Okay. All right. Well, we can make accommodations for you if you are selected. Let me ask you this. You said it would be difficult to be a juror because you will not judge anyone, exclamation point.

PROSPECTIVE JUROR NO. 602: Yes, ma'am.

THE COURT: Okay. Can you expound upon that for me?

PROSPECTIVE JUROR NO. 602: Yes, ma'am. I had a weird near death experience in 2011, and this is going to sound really crazy, okay.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 602: But this is crazy. I never told anyone this. I saw Christ, okay. And it's weird. I can't explain it, but there's certain things that I would

have done in the past that I can't do now.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 602: I don't know how to explain it.

THE COURT: Okay. Well, let me -- let me ask you this. If you're selected as a juror, the function of the jury and your function as a juror would be to listen to the evidence that's presented during the trial, meaning the testimony from the witness stand and look at the exhibits, then you go in the back and you discuss everything with your fellow jurors. And then you make a determination as to whether the State has proved the defendants' guilt of the charges beyond a reasonable doubt or not.

And then, you know, if you think in your heart and your mind after listening to everything and considering it, you think they've proven the defendants' guilt beyond a reasonable doubt, then, you know, you raise your hand and vote guilty. If you think they haven't, then you vote not guilty. And, you know, sometimes people think that the jurors on this type of a case have to impose a punishment if they find somebody guilty. That is not the function of a jury. If and only if the jury finds someone guilty, then it becomes my job to pronounce sentence.

Now, knowing that, that that's what the role of the jury is, would you be able to be a juror and, you know, since

your role is limited to considering the evidence and making a determination if the State has proven the defendant's guilt beyond a reasonable doubt. And, you know, I mean, just your honest -- honest answer.

PROSPECTIVE JUROR NO. 602: Honestly, in the past I think I would have been able to do it with no problem, but in my heart now I feel like I'm still passing judgment on another person, and that's what I have a problem with.

THE COURT: All right. Let me ask you in practical terms. Let's say, you know, notwithstanding your best efforts you're chosen as a juror and you come to trial and you listen and, you know, you go in the back, what would you do? I mean, would you -- you know, push comes to shove, would you be able to vote guilty or not guilty or how would you -- how would you deal with that?

PROSPECTIVE JUROR NO. 602: I think it's a moral hard spot. I don't -- I think that would be asking me to put my morals on the line, Your Honor. That's --

THE COURT: Okay. And it says also you're familiar with Dr. Patel. You checked that. How do you know Dr. Patel?

PROSPECTIVE JUROR NO. 602: Yes, ma'am. I knew two Dr. Patels. I don't know which one you're talking about, but --

THE COURT: What type -- what type of doctor was the Dr. Patel you knew?

PROSPECTIVE JUROR NO. 602: One Dr. Patel was with the VA.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 602: He was an elderly gentleman. And the other Dr. Patel was the surgeon who did the surgery on me in 2011.

THE COURT: What kind of surgery?

PROSPECTIVE JUROR NO. 602: I had oscular [sic] colon problems.

THE COURT: Oscular what?

PROSPECTIVE JUROR NO. 602: Colon problems.

THE COURT: Oh, it was a colon issue.

PROSPECTIVE JUROR NO. 602: Colon. Colon issue, yes.

THE COURT: All right. Counsel approach.

(Off-record bench conference.)

THE COURT: Sir, because of your medical situation and some other things, your personal beliefs, we're going to go ahead and excuse you, okay.

PROSPECTIVE JUROR NO. 602: Okay.

THE COURT: Basically I must advise you, though, that you're not to discuss anything that's transpired in the courtroom with anyone else. By that I mean my questions, your answers, and so forth. Okay?

PROSPECTIVE JUROR NO. 602: Yes, ma'am.

THE COURT: Thank you, sir. Put the microphone in the chair and follow the bailiff through the double doors.

(Outside the presence of Prospective Juror No. 602.)

THE COURT: And for the record, at the bench both sides agreed to excuse Mr. Allen; is that correct?

MR. STAUDAHER: That's correct, Your Honor.

MR. WRIGHT: Yes.

MR. SANTACROCE: Yes.

THE COURT: Because of his, I guess, personal philosophical beliefs and other -- it sounds like probably the same Dr. Patel, too.

MR. STAUDAHER: It is.

THE COURT: If so, that was --

MR. STAUDAHER: Right.

THE COURT: -- another issue.

All right. Badge No. 604, Lora Hendrickson.

(Inside the presence of Prospective Juror No. 604.)

THE COURT: Ma'am, just have a seat in the jury box, please. Anywhere is fine. Good afternoon.

PROSPECTIVE JUROR NO. 604: Hi.

THE COURT: I wanted to follow up on your questionnaire. It says here that you haven't heard anything about this case in the media, television, newspaper; is that correct?

PROSPECTIVE JUROR NO. 604: That's correct.

THE COURT: Okay. Do you normally watch the news on TV or not so much?

PROSPECTIVE JUROR NO. 604: No, I don't watch TV?

THE COURT: Okay. Not at all?

PROSPECTIVE JUROR NO. 604: Not at all.

THE COURT: So no drama shows, comedies, nothing?

PROSPECTIVE JUROR NO. 604: I watch Netflix on the computer.

THE COURT: Okay. So mainly movies?

PROSPECTIVE JUROR NO. 604: Movies, yeah.

THE COURT: Okay. What kind of movies do you like?

PROSPECTIVE JUROR NO. 604: Foreign movies.

THE COURT: Horror movies?

PROSPECTIVE JUROR NO. 604: No, foreign.

THE COURT: Oh, foreign movies. Okay.

PROSPECTIVE JUROR NO. 604: Yeah, French.

THE COURT: All right. I rent so many foreign movies. My husband and I say they must think we're fluent in all these different languages. That concludes my questions.

Ms. Stanish, would you like to follow up on Ms. Hendrickson?

MS. STANISH: Thank you, Your Honor.

How long have you lived here in Las Vegas?

PROSPECTIVE JUROR NO. 604: Since 2005.

MS. STANISH: And before that you were in

Washington?

PROSPECTIVE JUROR NO. 604: No. Actually before that I was in Hawaii.

MS. STANISH: All right. And let me make sure I'm not misreading something here.

PROSPECTIVE JUROR NO. 604: I've lived a lot of places.

MS. STANISH: Oh, okay. So you've bounced around a bit?

PROSPECTIVE JUROR NO. 604: Uh-huh.

MS. STANISH: And at some point you did reside in Washington?

PROSPECTIVE JUROR NO. 604: I went to college in Washington State.

MS. STANISH: And when you were there you worked for the Washington Attorney General's office?

PROSPECTIVE JUROR NO. 604: That's correct.

MS. STANISH: And what did you do in that capacity?

PROSPECTIVE JUROR NO. 604: I answered phones. I had a work study program with the college, so I got -- you know, with financial aid. It was my job was at the Attorney General's office so I answered phones and I worked in the consumer complaint division.

MS. STANISH: So you got to listen to people complain?

PROSPECTIVE JUROR NO. 604: Yeah, and referred people.

MS. STANISH: All right. You heard the description of this case this morning. Was there anything about this case when you heard the facts that were described --

Your head is in my way. I've got to stand up.

MR. WRIGHT: I'll take it off.

MS. STANISH: Would you take off your head?

Was there anything that sounded familiar about this case once you learned what the facts were?

PROSPECTIVE JUROR NO. 604: No.

MS. STANISH: So you hadn't -- you're just a Netflix kind of gal, you haven't watched any news or anything like that?

PROSPECTIVE JUROR NO. 604: Huh-uh.

MS. STANISH: Have you had any negative experience with anybody in the medical profession?

PROSPECTIVE JUROR NO. 604: Have I had any negative experience?

MS. STANISH: Correct.

PROSPECTIVE JUROR NO. 604: I've had two knee surgeries, so I don't -- I don't -- I mean, I think surgery in general is, you know, an interesting experience.

MS. STANISH: It's not fun.

PROSPECTIVE JUROR NO. 604: Yeah.

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MS. STANISH: But you don't have any animosity towards anybody in the medical profession?

PROSPECTIVE JUROR NO. 604: That's correct.

MS. STANISH: Okay. Anybody close to you have any negative experiences with the medical profession?

PROSPECTIVE JUROR NO. 604: No.

MS. STANISH: All right. And when you worked for the AG, even though it was part time, was part of that -- is there -- was that function, any part of it, related to criminal prosecution for consumer deceptive trade or anything like that?

PROSPECTIVE JUROR NO. 604: No. I just took in -- like so if someone -- I just took in complaints if someone wanted to complain. Kind of like the Better Business Bureau, if someone wanted to make a complaint about a company to put it on file. I did a lot of filing.

MS. STANISH: All right. And currently you're working doing what?

PROSPECTIVE JUROR NO. 604: I currently -- that's a good question. I work at Walter P. Moore, it's an engineering firm.

MS. STANISH: A what?

PROSPECTIVE JUROR NO. 604: An engineering firm. So I manage accounting for three offices, now eight offices, and I do the marketing for one office. And I own my own company,

so I do a lot.

MS. STANISH: You do do a lot. This case is probably going to last through the month of May and into June. Is there anything that would prevent you from giving your full attention and time during this trial?

PROSPECTIVE JUROR NO. 604: Actually, no.

MS. STANISH: No financial hardship that would be caused by it?

PROSPECTIVE JUROR NO. 604: No, my company pays for two weeks of jury duty, and our HR lady said that they'd work something out. But I'm kind of transitioning out of my job and more into my company, so it would be a good opportunity for me to have like a break, like kind of a vacation.

MS. STANISH: You need a break, and this would be a vacation? Let me tell you.

THE COURT: Oh, you're definitely excused. No, I'm kidding. That was a joke. Actually, most people -- I'll tell you this. I've spoken literally to thousands of people who have served as jurors, and I can tell you easily 99 percent of them find it to be really interesting and rewarding --

PROSPECTIVE JUROR NO. 604: Right.

THE COURT: -- once they -- once they do it.

MS. STANISH: But it's not like being on the beach.

PROSPECTIVE JUROR NO. 604: No.

MS. STANISH: All right. Do you have -- let me just

ask you about some legal concepts that we hold true in our -- our justice system. The first one being that these two gentlemen are presumed innocent. And basically what that means is they come into this courtroom with a clean slate. And for them to be found guilty, the State of Nevada will have to prove beyond a reasonable doubt that they're guilty. As you sit here, do you have any preconceptions about these men's guilt or innocence one way or the other?

PROSPECTIVE JUROR NO. 604: No.

MS. STANISH: They're presumed innocent, you can agree to that?

PROSPECTIVE JUROR NO. 604: I can agree to that? Sure.

MS. STANISH: All right. Do you understand that the State has to -- bears the burden of proof in this --

PROSPECTIVE JUROR NO. 604: Okay, yes.

MS. STANISH: -- case. That's what I really --

PROSPECTIVE JUROR NO. 604: Yes.

MS. STANISH: -- mean. We as defense attorneys, we can just sit here and not put on a lick of evidence. It's all up to the State to prove beyond a reasonable doubt that these men are guilty.

PROSPECTIVE JUROR NO. 604: Okay.

MS. STANISH: You understand that?

PROSPECTIVE JUROR NO. 604: Yes.

MS. STANISH: And will you agree to follow the rules that if the State does not prove them guilty beyond a reasonable doubt that you will return a verdict of not guilty if the State does not meet its burden?

PROSPECTIVE JUROR NO. 604: Yes.

MS. STANISH: Is there anything about your personal experience or any opinions you have where you do not think you can be fair in this case?

PROSPECTIVE JUROR NO. 604: No.

MS. STANISH: You can be fair?

PROSPECTIVE JUROR NO. 604: Uh-huh.

MS. STANISH: Pass for cause, Your Honor.

THE COURT: All right. Thank you.

Mr. Santacroce.

MR. SANTACROCE: Thank you, Your Honor.

Good afternoon, Ms. Hendrickson.

PROSPECTIVE JUROR NO. 604: Hi.

MR. SANTACROCE: For some reason I don't have a questionnaire on your, but -- so I'm just going to take a few minutes to try to get to know you a little bit --

PROSPECTIVE JUROR NO. 604: Okay.

MR. SANTACROCE: -- better, okay. When did you work for the Washington Attorney's General office?

PROSPECTIVE JUROR NO. 604: That's a good question. It was -- when was 9/11?

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MR. SANTACROCE: 2001.

PROSPECTIVE JUROR NO. 604: 2001, right after that.

MR. SANTACROCE: And you were in school at that time?

PROSPECTIVE JUROR NO. 604: Yes.

MR. SANTACROCE: And where did you go to school?

PROSPECTIVE JUROR NO. 604: Pacific Lutheran University in Tacoma, Washington. I'm originally from Mississippi, so it was a long way away.

MR. SANTACROCE: Yeah, for sure, in many ways. So from Washington, where did you go after that?

PROSPECTIVE JUROR NO. 604: I went to Paris, France.

MR. SANTACROCE: And how long were you there?

PROSPECTIVE JUROR NO. 604: I was there for two years.

MR. SANTACROCE: Studying or just living the good life?

PROSPECTIVE JUROR NO. 604: I did a study abroad program, I speak French, and then I returned for a year as a nanny.

MR. SANTACROCE: Are you French?

PROSPECTIVE JUROR NO. 604: No.

MR. SANTACROCE: Okay. And where did you work as a nanny?

PROSPECTIVE JUROR NO. 604: For some French people.

MR. SANTACROCE: And you drank French wine and ate French food? What city and state was that?

PROSPECTIVE JUROR NO. 604: In Paris, France.

MR. SANTACROCE: Nice. You live the life I can only dream about. And now you're working at an engineering firm in Clark County. What brought --

PROSPECTIVE JUROR NO. 604: That's correct.

MR. SANTACROCE: -- you to Clark County?

PROSPECTIVE JUROR NO. 604: I needed to pay off my student loans, so I needed to get a job.

MR. SANTACROCE: So it was a job opportunity?

PROSPECTIVE JUROR NO. 604: Right.

MR. SANTACROCE: And did you go to work directly for this engineering firm?

PROSPECTIVE JUROR NO. 604: I got hired from a -- I just went to a temp agency and I got hired from them and just worked my way up in the company.

MR. SANTACROCE: I believe you said that you do accounting for eight offices and manage one office; is that correct?

PROSPECTIVE JUROR NO. 604: Well, it's kind of funny because I just -- I was managing the whole west coast division, so San Francisco, Los Angeles, and Las Vegas, and then someone just quit, so they gave me all of her five offices. But we're in that weird transition phase, so jury

duty falls in the middle of that. Yeah, so -- yeah.

MR. SANTACROCE: What does it entail to do the accounting for eight offices? It seems like a mind boggling task. Do you have other people under you that work for you?

PROSPECTIVE JUROR NO. 604: Well, we have different divisions, so I do structural engineering, and then the other office is structural diagnostic, so it has to do with -- structural engineering is about the design of new buildings, and structural diagnostics is the design of -- it's like renovating existing buildings and stuff.

MR. SANTACROCE: Okay.

PROSPECTIVE JUROR NO. 604: So, you know, accounting for -- you know, I'm sure you're familiar with accounting, but --

MR. SANTACROCE: Not really.

PROSPECTIVE JUROR NO. 604: No?

MR. SANTACROCE: I'm a lawyer.

PROSPECTIVE JUROR NO. 604: It's, you know, we're on GAAP --

MR. SANTACROCE: Okay.

PROSPECTIVE JUROR NO. 604: -- so generally accepted accounting practices. So we -- you know, I help project managers to make sure that they're projects don't go over budget. I help them with our contracts, we get insurance certificates, all of that. But it's really tedious I'm

actually not an accountant. I'm more of a creative person, so --

MR. SANTACROCE: There may be some accounting people here testifying in this case.

PROSPECTIVE JUROR NO. 604: Okay.

MR. SANTACROCE: Are you going to apply what you know to the testimony that they give? In other words, let's say, for example, they did some accounting, but they didn't follow GAAP. Okay? It wasn't like -- they didn't follow any general accounting principles.

PROSPECTIVE JUROR NO. 604: Well, GAAP is for -- it's cash -- cash accounting versus accrual accounting. We're on an accrual basis at my company, so it would depend upon -- I guess I understand different accounting practices and different finance practices as applied to different companies. So a lot of companies, like small businesses are on the cash basis system versus accrual.

MR. SANTACROCE: And let's say --

PROSPECTIVE JUROR NO. 604: But I work for a corporation, so they're on the accrual system.

MR. SANTACROCE: Well, let's say that you found a flaw in some accounting method by a witness that testified in this trial.

PROSPECTIVE JUROR NO. 604: Uh-huh.

MR. SANTACROCE: Would you then -- and then you went

back to the deliberation room. Would you explain that to the other jurors that there was an error in this person's testimony, that you found a problem with it, you can't buy it? Would you try to convince the other people in the jury to that sort of thinking?

PROSPECTIVE JUROR NO. 604: Am I supposed to do that?

MR. SANTACROCE: I just need an answer.

PROSPECTIVE JUROR NO. 604: Well, as a juror I don't know what I'm supposed to do.

MR. SANTACROCE: Okay.

THE COURT: Well, let's just say that there is, you know -- essentially you can bring in your life experiences, but you can't substitute your own expertise for that of the witnesses. You have to, you know, essentially base your verdict on the testimony in the case. And what I think Mr. Santacroce is driving at, we don't want, you know, the jury to have its own expert back there, you know, saying, oh, you know, this is really how you do it, let me draw this up there. Do you understand?

MR. SANTACROCE: Right.

THE COURT: So, you know, depending -- you know, would you endeavor to, I guess, follow the instructions and --

PROSPECTIVE JUROR NO. 604: Yes, I would endeavor to follow the instructions.

THE COURT: All right.

MR. SANTACROCE: You would follow all the instructions. Let me ask you about one of the questions on the questionnaire, and, again, I don't have your answer so you can just tell me how you feel about that. One of the questions says do you believe that sometimes mistakes are made, that they just happen, and that no one is at fault? How did you answer that?

PROSPECTIVE JUROR NO. 604: I said everyone is fallible.

MR. SANTACROCE: Everyone is fallible. Okay. I don't think I have any other questions.

THE COURT: All right. Thank you. Pass for cause?

MR. SANTACROCE: Yes.

THE COURT: Mr. Staudaher.

MR. STAUDAHER: Just a -- just a couple. You ended up in Las Vegas because you needed to pay off some student loans it sounds --

PROSPECTIVE JUROR NO. 604: Correct.

MR. SANTACROCE: -- like; right? But I must say --

PROSPECTIVE JUROR NO. 604: I've lived --

MR. STAUDAHER: -- that you're --

PROSPECTIVE JUROR NO. 604: -- a lot of places.

MR. STAUDAHER: When you say that, that's true. I mean, I -- that's quite a diverse batch of locations you've

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lived in. You started out in the northwest.

PROSPECTIVE JUROR NO. 604: No, I'm originally from Mississippi.

MR. STAUDAHER: Oh, originally? I thought you were born up in Seattle.

PROSPECTIVE JUROR NO. 604: I was born in Spokane, and then my family moved to Mississippi. And then I got a scholarship and I went back to Washington State for college.

MR. STAUDAHER: So you've been to Honduras and Hawaii and France and all these different places. Were most of those --

PROSPECTIVE JUROR NO. 604: And Brazil and Peru, yeah.

MR. STAUDAHER: Well, even some more, then. Were most of those because of school related things where you were training or just wanted to travel, do things like that?

PROSPECTIVE JUROR NO. 604: All of the above. I think -- well, I wanted to learn another language, and so Paris gave me that opportunity. And then I didn't want to go into the real world for awhile, so I went to Honduras and was a teacher, and then I was on a cruise ship for awhile. I have my merchant mariner's license, so that gave me the opportunity to travel through the Panama Canal and Hawaii, and then end up in Las Vegas.

MR. STAUDAHER: Now, you said a moment ago that you

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think you're more creative or you --

PROSPECTIVE JUROR NO. 604: Yes.

MR. STAUDAHER: -- have a creative side. And actually your business is moving toward a creative -- at least it appears based on this production company and what you do making videos and things like that. That seems to be far removed from analytical, accounting, sort of numbers --

PROSPECTIVE JUROR NO. 604: Correct.

MR. STAUDAHER: -- type of career. How did you move from one to the other?

PROSPECTIVE JUROR NO. 604: Boredom. No, I -- that's a good question. I think I just can't be tied to a desk and I've had a desk job for seven years and that's given me like valuable training on how to run a company. And then I -- I -- you know, I think I've always had both sides of the brain, you know. I can create and I actually -- my undergraduate degree is in math. I started out in computer science, but I dropped that and I did -- I got a degree in math and theatre. So I think I've always had both sides of the brain and it's just finding something that I like to do.

MR. STAUDAHER: Fair enough.

PROSPECTIVE JUROR NO. 604: And my boyfriend actually does video services and stuff, and so we found something that we can do together.

MR. STAUDAHER: So it's going to be a joint

business?

PROSPECTIVE JUROR NO. 604: It is.

MR. STAUDAHER: Okay. At the end of this case, if you are chosen as a juror you're going to get law given to you by the Judge. Those are instructions, essentially, by which you operate. And the evidence is going to be what comes in at the time of trial, the witness's testimony, physical documents and pictures, whatever -- whatever it is. At the end of the case, that evidence the State will proffer to try and prove our case beyond a reasonable doubt. If at the end of the case when you've heard all of the evidence come in and you look at the charges that are there, and there's subparts to those that are called elements, if we have proven in your mind every element of each crime beyond a reasonable doubt, can you come back with a guilty verdict?

PROSPECTIVE JUROR NO. 604: Yes.

MR. STAUDAHER: Conversely, if we don't do that, I assume you would come back with a not guilty verdict?

PROSPECTIVE JUROR NO. 604: Yes.

MR. STAUDAHER: Is there any philosophical, religious, or other reason why that might be difficult for you to do?

PROSPECTIVE JUROR NO. 604: No.

MR. STAUDAHER: Your Honor, pass for cause.

THE COURT: All right. Thank you.

Ms. Hendrickson, in a moment I'm going to excuse you for today. You may be selected as a juror in this case, so you need to make sure that Kenny, our bailiff, has a phone number where you can be reached if we contact you and tell you you have to come in for the trial in this matter.

For that reason, the prohibition about speaking about anything relating to the case, reading, watching, listening to any reports of or commentaries, any person or subject matter relating to the case and forming or expressing an opinion on the trial is still in effect. Additionally, you are advised that you're not to discuss what's transpired in the courtroom with anyone else. And by transpired I mean, obviously our questions and your answers and so forth. All right. Thank you.

PROSPECTIVE JUROR NO. 604: Thank you.

THE COURT: And before you leave today check out through jury services on the third floor.

PROSPECTIVE JUROR NO. 604: Okay. Thank you.

(Outside the presence of Prospective Juror No. 604.)

THE COURT: All right. Next up is Jordan Espinosa.

MR. WRIGHT: Court's indulgence, please.

THE COURT: Oh, all right.

(Pause in the proceedings.)

THE COURT: We haven't gotten anything official. We got a call from the news that they denied the writ and then we

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check --

MR. STAUDAHER: Do you want me to forward it to you?

THE COURT: Do you have the order?

MR. STAUDAHER: Yeah, I've got it right here.

THE COURT: Oh, yeah. Would you?

MR. STAUDAHER: Yeah.

THE COURT: Did you folks get the order, too?

MR. WRIGHT: No.

MS. STANISH: He just -- he just told us.

MR. WRIGHT: Is it long?

MR. STAUDAHER: It's fairly long. It's eight pages.

THE COURT: Okay. Well, that's fine. Can you send it to me because we were calling upstairs to see if they --

MR. STAUDAHER: Who do you -- who do you want me to send it to? Can I send it to your JEA?

THE COURT: No, send it to me.

MR. STAUDAHER: Okay. One second.

THE COURT: Or just send it to Sharry. That's fine.

MR. STAUDAHER: Okay.

THE COURT: Because I'm not on my email. Who was the dissenter?

MS. WECKERLY: Cherry. Or was it Parraguirre and Gibbons are the two?

MR. STAUDAHER: I just sent it, so you might want to let her know. I didn't title it. I just sent it over there.

THE COURT: Thanks. And did you send it to them? Are you guys on your laptops? No.

MR. STAUDAHER: I didn't see a laptop, so I can -- I can forward it to them, as well.

MS. STANISH: We'll get it when we get to the office.

THE COURT: We'll print it out and give it to you.

MS. STANISH: All right.

THE COURT: Espinosa, 627.

(Inside the presence of Prospective Juror No. 627.)

THE COURT: Sir, have a seat there, please, in the jury box. Good afternoon, sir.

PROSPECTIVE JUROR NO. 627: Good afternoon.

THE COURT: I wanted to follow up on some of your responses here in your questionnaire. You indicated that you were concerned about being fair and impartial because your wife works for a hospital and she knew him.

PROSPECTIVE JUROR NO. 627: Yes.

THE COURT: How --

PROSPECTIVE JUROR NO. 627: Well, she -- she didn't know him, but she knows about him because she worked with other people that do work in the medical field that actually knows.

THE COURT: Okay. And you know this because, what, she came home and talked to you about it or --

PROSPECTIVE JUROR NO. 627: Well, she -- yes. She worked in the medical field ever since she was 18, so she knows a lot of doctors and she worked at Sunrise and St. Rose and, what do you call it, UMC. And so she knows, I guess, by word of -- word of mouth.

THE COURT: Okay. But she never --

PROSPECTIVE JUROR NO. 627: Oh, no.

THE COURT: -- knew Dr. Desai.

PROSPECTIVE JUROR NO. 627: She never knew Dr. Desai.

THE COURT: Okay. And did she ever know Mr. Lakeman?

PROSPECTIVE JUROR NO. 627: No, no.

THE COURT: Okay. What about other doctors that worked at that clinic? Did she ever know any of the other doctors?

PROSPECTIVE JUROR NO. 627: I don't know. She hasn't said too much about that.

THE COURT: Okay. Tell me what you're wife has told you that she's kind of heard as hospital scuttlebutt or what have you.

PROSPECTIVE JUROR NO. 627: She -- she don't -- not as much as what we see on TV. She -- you know, what -- because like what I said, she works in the medical field so she knows a lot about people, you know, getting injections,

you know, and she worked -- she used to work in the OR also until she had her arm amputated from just, you know, a work incident. So she does know a lot of stuff within the medical field.

THE COURT: And we're less interested in what your wife --

PROSPECTIVE JUROR NO. 627: Oh, yeah, yeah.

THE COURT: -- knows because --

PROSPECTIVE JUROR NO. 627: I'm sorry. Yeah.

THE COURT: -- if you're selected to serve you're not allowed to talk to your wife about --

PROSPECTIVE JUROR NO. 627: Exactly, yes.

THE COURT: -- any of this.

PROSPECTIVE JUROR NO. 627: Yes, I know. I understand.

THE COURT: And she's not allowed to talk to you --

PROSPECTIVE JUROR NO. 627: Yes.

THE COURT: -- so you would have to say, you know --

PROSPECTIVE JUROR NO. 627: But other than that, no, she don't -- whatever she just keeps to herself.

THE COURT: Okay. So what I want to know is what has your wife discussed with you about Dr. Desai or the endoscopy clinic or the hepatitis C outbreak or any of the things that are involved in this case?

PROSPECTIVE JUROR NO. 627: Just mainly what we see

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on TV.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 627: Yeah.

THE COURT: And can you tell me what it is that that entails, what you've seen?

PROSPECTIVE JUROR NO. 627: Well, you know, she tell me what he did was wrong and that kind of stuff that, you know, usually when you do use something you need to put it in the, you know, hazardous container and, you know, it just -- certain small things. I mean, not -- she -- she don't talk to me a lot about, you know -- just small certain things that what he should have been -- what he should have done.

THE COURT: Okay. So it's your wife's opinion that he did --

PROSPECTIVE JUROR NO. 627: Yes.

THE COURT: -- something wrong?

PROSPECTIVE JUROR NO. 627: Well, and my opinion he did do something wrong.

THE COURT: Okay. And is your opinion based on your wife's opinion or did you --

PROSPECTIVE JUROR NO. 627: No. No, it's based on mine because I do go -- I get my blood drawn every week --

THE COURT: Okay.

PROSPECTIVE JUROR NO. 627: -- because I have a blood condition. So I -- I am always constantly paying

attention to what they're doing and I'm up front. And if a person is, you know, knowing what they did, that's wrong.

THE COURT: Okay. Now, have you formed an opinion, such an opinion that he's done some -- Dr. Desai has done something wrong or they did something wrong at the clinic that would preclude you from keeping an open mind and basing a verdict in this case if you're selected solely on the evidence in this case, meaning you have to set aside what your wife said.

PROSPECTIVE JUROR NO. 627: Uh-huh.

THE COURT: Because that's all based on, again, hospital, you know, scuttlebutt and hearsay and all that kind of stuff. And you have to set aside what, you know, you may have heard or seen in the news and you would have to base your verdict solely upon the evidence in the case, meaning the testimony from the witnesses from the stand and the exhibits that are admitted into evidence.

PROSPECTIVE JUROR NO. 627: I think what he done was wrong.

THE COURT: Okay.

PROSPECTIVE JUROR NO. 627: And I -- I have my own, you know, opinion of what -- what -- you know, what should happen to him.

THE COURT: Okay. State, do you want to traverse?

MS. WECKERLY: No, Your Honor. Thank you.

THE COURT: Submitted?

MR. SANTACROCE: Yes.

MR. WRIGHT: Yes.

THE COURT: All right. Mr. Espinosa, we're going to excuse you at this time. Before I do, I must admonish you not to discuss anything that's transpired in the courtroom with anyone else.

PROSPECTIVE JUROR NO. 627: Yes.

THE COURT: And by that, obviously, I mean my questions, your answers, and so forth. All right. You're excused. Check out through the third floor, please.

(Outside the presence of Prospective Juror No. 627.)

THE COURT: And for the record, Mr. Espinosa, I'm assuming the defense was going to challenge for cause.

MR. SANTACROCE: Yes, Your Honor.

MR. WRIGHT: Yes.

MS. STANISH: Correct.

THE COURT: He was excused because he said he couldn't set aside what he had learned from his wife and his own opinions and whatnot. Next up is Badge 633, Ms. Young.

(Inside the presence of Prospective Juror No. 633.)

THE COURT: Good afternoon, ma'am.

PROSPECTIVE JUROR NO. 633: Good afternoon.

THE COURT: Now, I think you had indicated on your questionnaire that you had seen something in the media, the TV

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and the newspaper, relating to this case; is that correct?

PROSPECTIVE JUROR NO. 633: Yes, it is.

THE COURT: And the newspaper, do you mean the Las Vegas Review Journal?

PROSPECTIVE JUROR NO. 633: Yes, I do.

THE COURT: Do you read that just the old fashioned paper form or do you read it online?

PROSPECTIVE JUROR NO. 633: The old fashioned paper form.

THE COURT: Okay. And then the TV, the TV news, what -- is there a particular station you watch or --

PROSPECTIVE JUROR NO. 633: Normally Channel 5.

THE COURT: Channel 5. Okay. And do you recall have you seen various stories over time or did you just see something recently or something long in the past, can you tell me?

PROSPECTIVE JUROR NO. 633: I would say over time.

THE COURT: Okay. And do you recall what you've seen about -- or what you've seen relating to this case?

PROSPECTIVE JUROR NO. 633: They had some of the complainants on there. They showed the doctor. You know, it's been awhile, so I really can't tell you. I can't pinpoint it.

THE COURT: All right. And you said, though, you've not formed an opinion based on --

PROSPECTIVE JUROR NO. 633: Not really.

THE COURT: -- any of that; is that correct?

PROSPECTIVE JUROR NO. 633: Correct.

THE COURT: Okay. Now, do you think it's a fair statement that the media often reports things either incompletely or incorrectly?

PROSPECTIVE JUROR NO. 633: Yes, I agree with that.

THE COURT: Okay. Now, if you're selected to serve as a juror, do you understand that you would have to base your verdict solely upon the evidence presented during the trial, meaning the testimony from the witness stand and the exhibits such as photos and documents and things like that that are admitted into evidence?

PROSPECTIVE JUROR NO. 633: Yes, I do.

THE COURT: Okay. Would you be able to do that? Could you set aside anything you remember seeing or hearing in the media and just base your verdict on the evidence?

PROSPECTIVE JUROR NO. 633: I believe I could.

THE COURT: All right. Because you might think, oh, I think I heard something about this or that, but there may be no evidence about that so you would not be able to consider something you think, oh, gee, I may have read this in the RJ or whatever. Can you do that?

PROSPECTIVE JUROR NO. 633: Yes, ma'am.

THE COURT: All right. Thank you.

Who would like to follow up first for the defense?

MS. STANISH: Good afternoon, Ms. Young. I wanted to follow up first on your exposure in the TV news to this case. Aside from the television, did you discuss this case with anybody?

THE COURT: I don't really think I did. I mean, I -- it comes up at work once in awhile when we're talking at lunch or something, you know, but not much.

MS. STANISH: Do you -- I think you heard earlier this morning that there were notifications sent out to numerous people in the community to, you know, get tested for hep C. Did you know anybody who received any of those notices?

PROSPECTIVE JUROR NO. 633: No.

MS. STANISH: And have you followed this story since you've -- well, let me ask you. Do you recall when you first started seeing things about this story?

PROSPECTIVE JUROR NO. 633: It was at the beginning. I really -- I don't watch a whole lot of news, so it's sporadic.

MS. STANISH: And did you follow the story as it progressed over the years?

PROSPECTIVE JUROR NO. 633: Not really.

MS. STANISH: You heard the description about the very basic facts or charges in this case. Is there anything

about what you heard this morning as far as the description of this case that causes you some hesitation to serve on this jury if you're selected?

PROSPECTIVE JUROR NO. 633: No, not really.

MS. STANISH: Okay. Do you think you can look at these two men here today and adhere to the principle that they are presumed innocent?

PROSPECTIVE JUROR NO. 633: Yes, ma'am.

MS. STANISH: Just double checking to see if you checked off -- oh, you did. I thought so. You say -- you indicated that you know Dr. Patel.

PROSPECTIVE JUROR NO. 633: Yes. Dr. Patel worked with my ex-husband on matters.

MS. STANISH: And what did your ex-husband do?

PROSPECTIVE JUROR NO. 633: He's deceased.

MS. STANISH: Okay. And what kind of -- did -- what kind of work did your husband do that he would have had contact with Dr. Patel?

PROSPECTIVE JUROR NO. 633: He's retired. He was retired. He had medical issues.

MS. STANISH: Okay.

PROSPECTIVE JUROR NO. 633: A lot of medical issues.

MS. STANISH: Now, there's more than one Dr. Patel in this town.

PROSPECTIVE JUROR NO. 633: And it could be someone

else. I wasn't sure, so I just circled it.

MS. STANISH: Were your husband's issues involving gastro issues?

PROSPECTIVE JUROR NO. 633: Not really, no.

MS. STANISH: Colon?

PROSPECTIVE JUROR NO. 633: He had some colon things, yes.

MS. STANISH: Okay. Did he see Dr. Patel relating to colon things?

PROSPECTIVE JUROR NO. 633: I believe he did.

MS. STANISH: And when -- when you would -- would you take your husband to see Dr. Patel?

PROSPECTIVE JUROR NO. 633: Yes.

MS. STANISH: And about how long ago was that?

PROSPECTIVE JUROR NO. 633: I'd say eight or nine years ago.

MS. STANISH: Okay. And I hate to pry, but can you tell us what was the cause of your husband's death?

PROSPECTIVE JUROR NO. 633: He had a heart attack.

MS. STANISH: I'm sorry.

PROSPECTIVE JUROR NO. 633: That's okay.

THE COURT: And when you would take your husband to see Dr. Patel, did you go in the back into the examination room, you know, when he talks to the doctor or did you wait out in the waiting room?

PROSPECTIVE JUROR NO. 633: I would go in when he talked to the doctor because he had some memory things that were going on, so I wanted to know what was happening.

THE COURT: Okay. So you actually were familiar with Dr. Patel?

PROSPECTIVE JUROR NO. 633: Uh-huh.

THE COURT: You have to answer out loud yes or no.

PROSPECTIVE JUROR NO. 633: Yes. Sorry.

THE COURT: Okay. And how many times would you say you saw Dr. Patel?

PROSPECTIVE JUROR NO. 633: Two or three.

THE COURT: Okay. And did you form any opinion about Dr. Patel and the care he provided to your husband?

PROSPECTIVE JUROR NO. 633: Not really.

THE COURT: Okay. Counsel approach.

(Off-record bench conference.)

THE COURT: Sorry for the interruption.

Ms. Stanish, you may proceed.

MS. STANISH: Do you recall where Dr. Patel's office was located?

PROSPECTIVE JUROR NO. 633: No, I'm not very good at locations. I'm sorry.

MS. STANISH: That's all right. Was it near the UMC area, if you recall?

PROSPECTIVE JUROR NO. 633: I don't recall.

MS. STANISH: Did Dr. Patel give your husband a colonoscopy?

PROSPECTIVE JUROR NO. 633: No, he -- we went to another doctor after that and he performed the colonoscopy.

MS. STANISH: I see. Is there anything about your husband's condition as it deals with gastro issues that would make it difficult for you to serve as a juror if selected in this case?

PROSPECTIVE JUROR NO. 633: No.

MS. STANISH: What's your overall impression of medical professionals?

PROSPECTIVE JUROR NO. 633: In this town?

MS. STANISH: Yes.

PROSPECTIVE JUROR NO. 633: Average. I come from California, and I think we have much better doctors in California.

MS. STANISH: Have you yourself had any negative experience with medical professionals?

PROSPECTIVE JUROR NO. 633: No.

MS. STANISH: Do you have any religious of philosophical beliefs that would make it difficult for you to serve in this case?

PROSPECTIVE JUROR NO. 633: I don't believe so.

MS. STANISH: And this case is probably going to last through the month of May and into June. Does that

present any issues for you?

PROSPECTIVE JUROR NO. 633: Maybe with my employer.

MS. STANISH: How so?

PROSPECTIVE JUROR NO. 633: I'm in the sales department and I do have a quota to meet, and if I don't meet that I probably wouldn't have a job.

MS. STANISH: Do you get -- will you get paid by your employer while you're serving?

PROSPECTIVE JUROR NO. 633: The difference between what I get here and my salary, yes.

MS. STANISH: I have nothing further, Your Honor.

THE COURT: All right. Thank you.

Mr. Santacroce.

MR. SANTACROCE: Thank you.

Good afternoon, Ms. Young.

PROSPECTIVE JUROR NO. 633: Good afternoon.

MR. SANTACROCE: You work for the Palace Station; is that correct?

PROSPECTIVE JUROR NO. 633: Yes.

MR. SANTACROCE: And what do you do for them?

PROSPECTIVE JUROR NO. 633: I'm a sales manager.

MR. SANTACROCE: And can you tell me what that entails?

PROSPECTIVE JUROR NO. 633: We sell meeting space and rent rooms to groups that are coming in for family

reunions, parties, that type of thing.

MR. SANTACROCE: And what -- what is the quota that you have to meet?

PROSPECTIVE JUROR NO. 633: My personal quota?

MR. SANTACROCE: Yeah.

PROSPECTIVE JUROR NO. 633: My personal quota is $500,000 for this year.

MR. SANTACROCE: For the year?

PROSPECTIVE JUROR NO. 633: Uh-huh.

MR. SANTACROCE: Okay. And do they evaluate you monthly or something?

PROSPECTIVE JUROR NO. 633: They do it monthly and quarterly.

MR. SANTACROCE: Do you know if the Palace Station is going to pay you for being -- for the time you missed work if you're selected to serve on the jury?

PROSPECTIVE JUROR NO. 633: I don't know for the full time. I didn't ask anyone. I don't know if we have a limit.

MR. SANTACROCE: I guess what I'm asking you is this going to cause you a financial hardship if you serve on this jury?

PROSPECTIVE JUROR NO. 633: It may.

MR. SANTACROCE: Okay. Well, let's move on to some other questions. You said that your husband had a

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colonoscopy.

PROSPECTIVE JUROR NO. 633: Uh-huh.

MR. SANTACROCE: And do you know the doctor that performed that?

PROSPECTIVE JUROR NO. 633: No. My husband was Asian and preferred to have an Asian doctor work on him.

MR. SANTACROCE: Did you accompany him for the colonoscopy?

PROSPECTIVE JUROR NO. 633: Yes, I did.

MR. SANTACROCE: And do you know where it was located?

PROSPECTIVE JUROR NO. 633: He had it done at Desert Springs Hospital.

MR. SANTACROCE: Now, I think you mentioned that you watch Channel 5 news; is that correct?

PROSPECTIVE JUROR NO. 633: Yes.

MR. SANTACROCE: Are you familiar with a segment that they have on there called the Rant?

PROSPECTIVE JUROR NO. 633: I very seldom watch it. I'm aware of it, yes.

MR. SANTACROCE: Have you ever heard anything on the Rant talking about Dr. Desai and the endoscopy clinic and what should be done with him?

PROSPECTIVE JUROR NO. 633: No.

MR. SANTACROCE: Your questionnaire says that --

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well, it asks you have you been exposed to any information through the media, and then it says if yes, how were you exposed to the information and generally what information were you provided with? And you answered TV, newspaper, defendant's office reused needles causing patients to get HIV. Is that your understanding of this case?

PROSPECTIVE JUROR NO. 633: Yes.

MR. SANTACROCE: And with that understanding, do you have some preconceived ideas as to the guilt or innocence of Dr. Desai and Ronald Lakeman?

PROSPECTIVE JUROR NO. 633: No.

MR. SANTACROCE: One of the questions asked you what you like to do in your spare time, and I believe that you said do church activities. Can you be more specific as to what those activities are?

PROSPECTIVE JUROR NO. 633: Yes, I go to Relief Society. I work with the children in our church.

MR. SANTACROCE: What is Relief Society?

PROSPECTIVE JUROR NO. 633: It's where the women of the church get together and we do different things for -- how do I say, for different needy people.

MR. SANTACROCE: Underprivileged people in general?

PROSPECTIVE JUROR NO. 633: Yes.

MR. SANTACROCE: And what does your work regarding the children consist of?

PROSPECTIVE JUROR NO. 633: I help teach them in primary every Sunday.

MR. SANTACROCE: Like Sunday school?

PROSPECTIVE JUROR NO. 633: Uh-huh.

MR. SANTACROCE: Have you ever served on a jury before?

PROSPECTIVE JUROR NO. 633: Yes.

MR. SANTACROCE: Because it's -- it's not checked on your questionnaire. Was that just an oversight or --

PROSPECTIVE JUROR NO. 633: I had served in California.

MR. SANTACROCE: Okay. And how long ago was that?

PROSPECTIVE JUROR NO. 633: Let's see, probably 14 years ago.

MR. SANTACROCE: Do you recall if it was a criminal or civil case?

PROSPECTIVE JUROR NO. 633: Criminal.

MR. SANTACROCE: And without telling me what the verdict was, did the jury reach a verdict?

PROSPECTIVE JUROR NO. 633: Yes, they did.

MR. SANTACROCE: And were you the foreperson on that jury?

PROSPECTIVE JUROR NO. 633: No.

MR. SANTACROCE: Were you satisfied with the verdict?

PROSPECTIVE JUROR NO. 633: Absolutely.

MR. SANTACROCE: Were you satisfied with the process?

PROSPECTIVE JUROR NO. 633: Most of the time.

MR. SANTACROCE: What were some of the things you weren't satisfied with?

PROSPECTIVE JUROR NO. 633: I think it took too long.

MR. SANTACROCE: Okay. And that frustrated you?

PROSPECTIVE JUROR NO. 633: It was a little frustrating the length and time it took.

MR. SANTACROCE: How are you going to feel about this trial going anywhere from six weeks to two months?

PROSPECTIVE JUROR NO. 633: Probably the same way, a little --

MR. SANTACROCE: And is that frustration going to affect your decision or how you deliberate in this matter?

PROSPECTIVE JUROR NO. 633: I would hope not.

MR. SANTACROCE: I would hope not either, but I need a more definite answer. Would it or wouldn't it?

PROSPECTIVE JUROR NO. 633: No.

MR. SANTACROCE: It will not?

PROSPECTIVE JUROR NO. 633: No, I don't think so.

MR. SANTACROCE: Was your frustration with the system -- and your -- I believe your words was because you

thought it took too long. Had you reached in your mind a decision before all the evidence was in, is that why you thought it took too long?

PROSPECTIVE JUROR NO. 633: No. No, it just -- it -- it carried on. There were a lot of questions by some of the jurors and we had to have notes reread and that type of thing so it took awhile.

MR. SANTACROCE: Was it anything that the defense attorneys did that frustrated you in that process?

PROSPECTIVE JUROR NO. 633: I don't think so. It was just, you know, a lot of repeat things because we had jurors that didn't understand a lot of the process.

MR. SANTACROCE: Okay. You understand that two men are trial here; correct?

PROSPECTIVE JUROR NO. 633: Yes, I do.

MR. SANTACROCE: And so it's going to be maybe some repetition and two defense lawyers are going to have to question the witnesses. Is that going to frustrate you?

PROSPECTIVE JUROR NO. 633: I have to be honest. Yes, probably. Yes. Yes.

MR. SANTACROCE: And are you going to take that frustration out on my client --

PROSPECTIVE JUROR NO. 633: No.

MR. SANTACROCE: -- or Dr. Desai or me or Mr. Wright or Ms. Stanish?

PROSPECTIVE JUROR NO. 633: No, I wouldn't.

MR. SANTACROCE: Okay. The two men that are on trial here, you understand that the State has to prove each and every element of the crimes charged beyond a reasonable doubt as it relates to them individually, do you understand that?

PROSPECTIVE JUROR NO. 633: Yes, I do.

MR. SANTACROCE: And -- strike that. I think that's all I have. Thank you.

PROSPECTIVE JUROR NO. 633: You're welcome.

THE COURT: Thank you. Pass for cause?

MR. SANTACROCE: Yes.

THE COURT: State?

MR. SANTACROCE: Actually, I'm going to reserve, Your Honor.

THE COURT: All right.

MR. STAUDAHER: At the end of the case, I mean, as long as it may be, if you were chosen as a juror, I mean, you could still base your decision on the evidence that just came in at the trial; is that fair?

PROSPECTIVE JUROR NO. 633: Yes.

MR. STAUDAHER: So anything you may have heard in the press, and I know you were kind of vague on what you heard, it was awhile back, you weren't sure on specifics, sure you can just set that aside and just listen to what we have

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here and make your decision based on what you hear in court?

PROSPECTIVE JUROR NO. 633: Yes, I could.

MR. STAUDAHER: And that includes the testimony, the evidence, the hard evidence, whatever it is that comes in?

PROSPECTIVE JUROR NO. 633: Yes.

MR. STAUDAHER: At the end of the trial, though, the State has the burden of proof in this case and our burden is to prove each and every crime, the elements of each one of the crimes beyond a reasonable doubt. If at the end of the trial in your mind you believe that the State has met that burden, meaning that we've proved the essential elements of the crimes charged beyond a reasonable doubt, can you come back with a guilty verdict?

PROSPECTIVE JUROR NO. 633: Yes.

MR. STAUDAHER: Do you have any reason, philosophical, religious, or otherwise why that might be difficult for you to do?

PROSPECTIVE JUROR NO. 633: No.

MR. STAUDAHER: Conversely, if we get to the end and the State hasn't met its burden in your mind, would you vote not guilty?

PROSPECTIVE JUROR NO. 633: Yes.

MR. STAUDAHER: Any problem with that?

PROSPECTIVE JUROR NO. 633: No.

MR. STAUDAHER: So you're going to give us both a

clear shot at, in your mind, as to presentation of the evidence and -- and not really skew one way or the other the two sides; correct?

PROSPECTIVE JUROR NO. 633: Yes.

MR. STAUDAHER: Not give us the benefit because we're the State or a benefit to the defense because they're the defense, anything like that?

PROSPECTIVE JUROR NO. 633: No.

MR. STAUDAHER: I pass for cause, Your Honor.

THE COURT: All right. Thank you.

Ms. Young, I'm about to excuse --

MR. WRIGHT: Your Honor?

THE COURT: Did you have some questions?

MR. WRIGHT: Just -- just one.

THE COURT: Okay.

MR. WRIGHT: You have no opinion from the news; correct?

PROSPECTIVE JUROR NO. 633: Correct.

MR. WRIGHT: Okay. Does that say -- I can't read your writing. Does that say no?

PROSPECTIVE JUROR NO. 633: Yes, it says no.

MR. WRIGHT: Yes, that says no.

PROSPECTIVE JUROR NO. 633: It says no.

MR. WRIGHT: Right. It says no.

THE COURT: I read it as no.

MR. WRIGHT: Okay. I just couldn't read it.

THE COURT: It kind of looks like me, but it also --

PROSPECTIVE JUROR NO. 633: Sorry.

THE COURT: -- could be no. No, that's all right. All right. Ma'am --

MR. WRIGHT: Nothing further.

THE COURT: All right. Ma'am, we're going to excuse you for the evening as we question the other prospective jurors. You may still be selected as a juror, so for that reason you need to be, you know, aware of the admonishment that you're not to discuss anything relating to the case, you're not to read, watch, or listen to any reports of or commentaries on the case, person or subject matter relating to the case, don't form or express an opinion on the trial.

Additionally, you are admonished that you're not to discuss anything that's transpired in the courtroom with anyone else, meaning, of course, my questions, the lawyers' question, and your answers. Please place the microphone in the chair, and before you leave tonight check out through jury services on the third floor. And as I said, you may be selected.

PROSPECTIVE JUROR NO. 633: Thank you.

THE COURT: All right. Thank you.

(Outside the presence of Prospective Juror No. 633.)

THE COURT: Mr. Santacroce, were you going to make a

challenge for cause?

MR. SANTACROCE: Yes, I am, Your Honor.

THE COURT: Go ahead.

MR. SANTACROCE: Well, Ms. Young also works at the Palace Station and I believe -- and she's on a quota system. And earlier today Juror 453, we excused her for a hardship work at Palace Station. I believe she said she wasn't going to get paid.

THE COURT: Wasn't that a cocktail server?

MR. STAUDAHER: Cocktail waitress, yeah.

MR. SANTACROCE: A cocktail server, correct, but same employer. So I'm assuming that the same policies and procedures apply.

THE COURT: The reason I didn't excuse Ms. Young is she checked no, that she didn't have a significant hardship, and then she didn't seem all that concerned to me. I mean, certainly if she had said, yes, I'm not going to be making all my wages I probably would have excused her, but she didn't ask to be excused and she didn't seem that concerned. I mean, I agree, it is a possible --

MR. SANTACROCE: Well, it concerns me --

THE COURT: -- hardship.

MR. SANTACROCE: It concerns me because I'm fearful that in the middle of the trial, this lady who has already said that she's impatient because of her last experience, it

took too long, now may be faced with a financial hardship and become impatient during this trial. I'm going to challenge her for cause for that reason, as well as her not disclosing that she previously had served on a jury. It may be an oversight, I don't know.

THE COURT: It was 14 years ago. Also, I don't know, I mean, the other lawyers can weigh in on this, but I got the impression she was impatient with the deliberative process, not that that necessarily matters. I mean, you should have patience. But it sounded like people were requesting read-backs or playbacks or something like that and she may have been impatient, you know -- I don't know. I mean, I'm speculating, but it sounded to me like it was more the deliberation than the trial itself. Like why didn't these people listen during the first part of the trial as opposed to requesting all of these playbacks. It was probably read-backs because it was 14 years ago. So I doubt they had playback technology.

MR. SANTACROCE: When I specifically asked her about the defense attorneys and her frustration with the questioning of the defense attorneys and she said yes.

THE COURT: Well, she laughed and she said she wouldn't hold it against your client. I took that, actually, as a friendly, affable exchange between the two of you.

MR. SANTACROCE: Well, I did, too. I'm just trying

to look beyond --

THE COURT: Yeah, I mean --

MR. SANTACROCE: -- and given the --

THE COURT: -- she didn't seem like --

MR. SANTACROCE: -- totality of her answers I'm very concerned, and I think that there's a basis for a cause challenge. That's my position.

THE COURT: State, anything?

MR. STAUDAHER: Well, I -- I think those are clearly not basis for cause challenge. The fact that she didn't disclose, put all that information about the jury thing is not really an issue. She was asked the question, she answered it appropriately. With regard to the real issue, which is whether or not she can put aside whatever she heard about this case, she clearly didn't have much definitive information about it and the information she did have isn't necessarily accurate. There's no evidence or allegations of HIV transmission to anyone in this particular case.

You know, she indicated that she knows that the news media gets it wrong, she's not going to hold it against anybody, she can put it out of her mind. She did not, as the Court pointed out, mark that this would be hardship to serve for six weeks. So she put that down knowing what her job was at the Palace Station, whereas the server had just gotten her job back, that was the only shift she had gotten, she clearly

was reliant on tips and so forth. It was a -- they're two different scenarios with those individuals. So I don't think that that's financially a hardship that matches up with the prior juror that we let go.

THE COURT: Yeah, and I'll just comment. On hardship, I mean, we kind of leave it partially to the jurors, you know. If they don't say it's a hardship, then I'm not going to insert my own opinion as to whether or not it's a hardship. So I don't think she's a for cause. I know she's a possible hardship. But, again, she didn't note that.

Yes? Were you raising your hand or --

MR. WRIGHT: Yeah. I was just going to join in the challenge for cause.

THE COURT: Even though you passed for cause before that?

MS. STANISH: No, Your Honor, I said no further questions. That's my queue.

THE COURT: Oh, I'm sorry.

MR. WRIGHT: No, I was --

THE COURT: No, I didn't -- I didn't hear -- I didn't hear correctly. Okay.

MR. WRIGHT: Well, I was going to join in because I don't like her deceased husband having been treated by Dr. Patel and that she went in and was present with Dr. Patel on occasion.

THE COURT: Right. Well --

MR. WRIGHT: And Dr. Patel may be a witness in this case.

THE COURT: To make a more complete record, when that came up I asked everyone to approach the bench because I really couldn't gauge, based on my knowledge, how important that was or not on the Dr. Patel thing and how -- how much more we should follow up on that. It was expressed at the bench, I believe, by the State that we weren't even sure if it was the same Dr. Patel. I think Patel is kind of like Smith or Jones, you know, in -- in -- among Indians. The point being, I don't think it's an unusual surname. So --

MR. WRIGHT: Well, my simple concern is Dr. Patel --

THE COURT: No, I get it.

MR. WRIGHT: -- comes in here, he's a witness, and then that's the one that the lady had the relationship.

THE COURT: Right.

MR. WRIGHT: By relationship, I mean, she went in because her former husband was -- didn't have good memory problems, and so then there is an issue if that is the Dr. Patel.

THE COURT: Well, State, on the Dr. Patel issue?

MR. STAUDAHER: Well, with regard to Dr. Patel, first of all, we don't even know if we're going to be calling Dr. Patel. She marked on her jury form not that she had

intimate knowledge of this individual, but that she had heard of him, and she could not articulate --

THE COURT: Right, but it later came out she did. Whoever the Dr. Patel is, she does know the person because that's why I always ask, you know, are you sitting in the waiting room or are you actually back in the examination room? And she said, no, she's back in the examination room actually talking to the doctor. So whoever this Dr. Patel may be, she definitely met him and may recognize him.

MR. STAUDAHER: Fair -- fair enough, but she also could not articulate where the office was that she went to, what part of town, which made it difficult to determine if it was even the same person. He did not do a colonoscopy on her, obviously, he referred her, which is certainly possible that it could be the same person, but we just don't know based on the answers that she gave.

MR. WRIGHT: I agree, and I said my problem is --

THE COURT: No, we don't know.

MR. WRIGHT: -- the witness Patel shows --

THE COURT: I understand. When the guy walks in she may look at him and say, oh, yeah, that's Dr. -- that's my Dr. Patel.

State, how likely is it that you're going to call this -- this -- your Dr. Patel?

MR. STAUDAHER: He would be a referring doctor for

one of the patients, if that was the case. There were two doctors that -- that were involved, Dr. Patel and I think it was Dr. Kewal (phonetic). We -- we'll call one or the other. I don't know that we have to call -- we'll have to call both, but it would just be a referring doctor of one of the patients that came to the clinic. Not necessarily a fact witness for other parts of the case related to that.

THE COURT: So basically his testimony would be I'm Dr. Patel, this is what I do, and I referred patient whoever to the endoscopy clinic for a colonoscopy or an endoscopy. Is that --

MR. STAUDAHER: Essentially. And that according to the records he has that the person didn't have any obviously signs or symptoms of hepatitis C when they sent him to the clinic. The issue is going to be -- obviously what we're talking about is the transmissions at the clinic, not what happened before. That person was not referred back or had any further actions or any sort of involvement after that fact, but just that that was how the patient got to the clinic in the first place and that they were a patient of that individual.

THE COURT: Okay. Well, I'll kind of hold this for cause. Not for anything Mr. Santacroce said. The only possibility would be we don't want to be in the trial and then she say, oh, yeah, I do know that Dr. Patel and then we have

to excuse her and something like that. So I'm just going to hold that issue in abeyance and put her -- all right. Last is 641, Rhyan Parbo.

Oh, I'm sorry. You need time --

MR. WRIGHT: Yes, please.

THE COURT: -- to confer with your client.

MR. WRIGHT: Yes, please.

THE COURT: So we'll give you some time to confer in the vestibule as we've been doing throughout the selection process.

MR. WRIGHT: Yes.

THE COURT: So go ahead and you can go to the vestibule area as you've been doing.

(Pause in the proceedings.)

THE COURT: 641, Rhyan Parbo.

(Inside the presence of Prospective Juror No. 641.)

THE COURT: Have a seat. We're having a moment of technical --

THE RECORDER: No, it's on.

THE COURT: Okay.

THE COURT: We were --

PROSPECTIVE JUROR NO. 641: Hello.

THE COURT: Hello. We were experiencing some technical difficulty, but it's all resolved. Just to ask you a couple of questions from the Court regarding your