**IN THE SUPREME COURT OF THE STATE OF NEVADA**

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| FREDERICK H. HARRIS, JR., | ) | |
| # 1149356, | ) | CASE NO.: **81257-81255** |
| Appellant, | ) | **E-FILE** |
| | ) | D.C. Case No.: **A-18-784704-W** |
| vs. | ) | **C-13-291374-1** |
| | ) | Dept.: **XII** |
| STATE OF NEVADA, | ) | |
| | ) | |
| Respondent. | ) | |
| | ) | |

**APPELLANT'S APPENDIX VOLUME I**

Appeal from a Denial of Post Conviction Relief
Eighth Judicial District Court, Clark County, Nevada

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## CERTIFICATE OF SERVICE

I hereby certify that I am an assistant to Terrence M. Jackson, Esquire, am a person competent to serve papers and not a party to the above-entitled action and on the 29th day of October, 2020, I served copy of the foregoing: Appellant, Frederick H. Harris', Opening Brief as well as Volumes I through XI of the Appendix, as follows:

[X] Via Electronic Service to the Nevada Supreme Court, to the Eighth Judicial District Court, and to the Nevada Attorney General by U.S. mail with first class postage affixed to the Petitioner/Appellant as follows:

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By: */s/ Ila C. Wills*
Assistant to Terrence M. Jackson, Esq.

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CLERK OF THE COURT

**INFM**
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I.A. 7/30/13
1:30 PM
B. ALLEN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

FREDERICK HAROLD HARRIS JR.,
aka, Fredrick Harold Harris Jr., #0972945

Defendant.

Case No: C-13-291374-1
Dept No: XII

INFORMATION

STATE OF NEVADA )
) ss.
COUNTY OF CLARK )

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

That FREDERICK HAROLD HARRIS JR., aka, Fredrick Harold Harris Jr., the Defendant(s) above named, having committed the crimes of **CHILD ABUSE, NEGLECT, OR ENDANGERMENT (Category B Felony - NRS 200.508), SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Category A Felony - NRS 200.364, 200.366), LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (Category A Felony - NRS 201.230), FIRST DEGREE KIDNAPPING (Category A Felony - NRS 200.310, 200.320), COERCION (SEXUALLY MOTIVATED) (Category B Felony - NRS 207.190), ADMINISTRATION OF A DRUG TO AID IN THE COMMISSION OF A CRIME (Category B Felony - NRS 200.405), SEXUAL ASSAULT WITH A**

**MINOR UNDER SIXTEEN YEARS OF AGE (Category A Felony - NRS 200.364, 200.366), SEXUAL ASSAULT (Category A Felony - NRS 200.364, 200.366), BATTERY WITH INTENT TO COMMIT SEXUAL ASSAULT (Category A Felony - NRS 200.400), PANDERING (Category C Felony - NRS 201.300), LIVING FROM THE EARNINGS OF A PROSTITUTE (Category D Felony - NRS 201.320) and BATTERY BY STRANGULATION (Category C Felony - NRS 200.481)**, on or between December, 2004 and September 26, 2012, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada,

COUNT 1 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

did, on or between August, 2007 and September 26, 2012 willfully, unlawfully, and feloniously cause a child under the age of 18 years, to-wit: TAHARAH DUKE, being approximately 8 to 12 years of age, to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect, and/or cause the said TAHARAH DUKE to be placed in a situation where she might have suffered unjustifiable physical pain or mental suffering as a result of abuse or neglect, by repeatedly beating the said TAHARAH DUKE with a belt.

COUNT 2 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

did on or between October 1, 2010 and September 26, 2012 then and there willfully, unlawfully, and feloniously sexually assault and subject TAHARAH DUKE, a female child under fourteen years of age, to sexual penetration, to-wit: digital penetration, by inserting his finger(s) into the genital opening of the said TAHARAH DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said TAHARAH DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

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COUNT 3 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

did on or between October 1, 2010 and September 26, 2012 then and there willfully, unlawfully, and feloniously sexually assault and subject TAHARAH DUKE, a female child under fourteen years of age, to sexual penetration, to-wit: sexual intercourse, by placing his penis into the genital opening of the said TAHARAH DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said TAHARAH DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 4 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

did, on or between October 1, 2010 and September 26, 2012 then and there willfully, lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part or member thereof, a child, to-wit: TAHARAH DUKE, said child being under the age of fourteen years, by the said Defendant touching and/or rubbing the breast(s) of the said TAHARAH DUKE, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of said Defendant, or said child.

COUNT 5 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

did, on or between October 1, 2010 and September 26, 2012 then and there willfully, lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part or member thereof, a child, to-wit: TAHARAH DUKE, said child being under the age of fourteen years, by the said Defendant directing and/or causing and/or encouraging the said TAHARAH DUKE to place her hand on his penis and cause her hand to rub up and down, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of said Defendant, or said child.

COUNT 6 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

did on or between October 1, 2010 and September 26, 2012 then and there willfully, unlawfully, and feloniously sexually assault and subject TAHARAH DUKE, a female child

under fourteen years of age, to sexual penetration, to-wit: digital penetration, by inserting his finger(s) into the genital opening of the said TAHARAH DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said TAHARAH DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 7 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

did, on or between October 1, 2010 and September 26, 2012 then and there willfully, lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part or member thereof, a child, to-wit: TAHARAH DUKE, said child being under the age of fourteen years, by the said Defendant touching and/or rubbing the breast(s) of the said TAHARAH DUKE, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of said Defendant, or said child.

COUNT 8 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

did on or between October 1, 2010 and September 26, 2012 then and there willfully, unlawfully, and feloniously sexually assault and subject TAHARAH DUKE, a female child under fourteen years of age, to sexual penetration, to-wit: sexual intercourse, by placing his penis into the genital opening of the said TAHARAH DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said TAHARAH DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 9 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

did on or between October 1, 2010 and September 26, 2012 then and there willfully, unlawfully, and feloniously sexually assault and subject TAHARAH DUKE, a female child under fourteen years of age, to sexual penetration, to-wit: fellatio, by placing his penis on or in the mouth of the said TAHARAH DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said TAHARAH DUKE was mentally or

physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 10 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

did on or between October 1, 2010 and September 26, 2012 then and there willfully, unlawfully, and feloniously sexually assault and subject TAHARAH DUKE, a female child under fourteen years of age, to sexual penetration, to-wit: digital penetration, by inserting his finger(s) into the genital opening of the said TAHARAH DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said TAHARAH DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 11 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

did on or between October 1, 2010 and September 26, 2012 then and there willfully, unlawfully, and feloniously sexually assault and subject TAHARAH DUKE, a female child under fourteen years of age, to sexual penetration, to-wit: sexual intercourse, by placing his penis into the genital opening of the said TAHARAH DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said TAHARAH DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 12 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

did, on or between October 1, 2010 and September 26, 2012 then and there willfully, lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part or member thereof, a child, to-wit: TAHARAH DUKE, said child being under the age of fourteen years, by the said Defendant directing and/or causing and/or encouraging the said TAHARAH DUKE to place her hand on his penis and cause her hand to rub up and down, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of said Defendant, or said child.

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COUNT 13 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

did on or between October 1, 2010 and September 26, 2012 then and there willfully, unlawfully, and feloniously sexually assault and subject TAHARAH DUKE, a female child under fourteen years of age, to sexual penetration, to-wit: digital penetration, by inserting his finger(s) into the genital opening of the said TAHARAH DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said TAHARAH DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 14 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

did on or between October 1, 2010 and September 26, 2012 then and there willfully, unlawfully, and feloniously sexually assault and subject TAHARAH DUKE, a female child under fourteen years of age, to sexual penetration, to-wit: sexual intercourse, by placing his penis into the genital opening of the said TAHARAH DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said TAHARAH DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 15 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

did, on or between August, 2007 and September 26, 2012 willfully, unlawfully, and feloniously cause a child under the age of 18 years, to-wit: TAQUANDA DUKE, being approximately 7 to 11 years of age, to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect, and/or cause the said TAQUANDA DUKE to be placed in a situation where she might have suffered unjustifiable physical pain or mental suffering as a result of abuse or neglect, by beating the said TAQUANDA DUKE with a belt and/or threatening her with a knife.

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COUNT 16 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

did, on or between August, 2007 and September 26, 2012 willfully, unlawfully, and feloniously cause a child under the age of 18 years, to-wit: SHABAZZ DUKE, being approximately 12 to 17 years of age, to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect, and/or cause the said SHABAZZ DUKE to be placed in a situation where she might have suffered unjustifiable physical pain or mental suffering as a result of abuse or neglect, by repeatedly beating the said SHABAZZ DUKE with a belt and/or repeatedly punching the said SHABAZZ DUKE.

COUNT 17 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

did, on or between August, 2007 and September 26, 2012 willfully, unlawfully, and feloniously cause a child under the age of 18 years, to-wit: MAHLICA DUKE, being approximately 9 to 15 years of age, to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect, and/or cause the said MAHLICA DUKE to be placed in a situation where she might have suffered unjustifiable physical pain or mental suffering as a result of abuse or neglect, by repeatedly beating the said MAHLICA DUKE with a belt and/or choking her.

COUNT 18 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

did, on or between January, 2005 and September 26, 2012 willfully, unlawfully, and feloniously cause a child under the age of 18 years, to-wit: VICTORIA DUKE, being approximately 15-18 years of age, to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect, and/or cause the said VICTORIA DUKE to be placed in a situation where she might have suffered unjustifiable physical pain or mental suffering as a result of abuse or neglect, by repeatedly beating the said VICTORIA DUKE with a belt.

COUNT 19 - FIRST DEGREE KIDNAPPING

did, on or between December, 2004 and May, 2005, willfully, unlawfully, feloniously, and without authority of law, seize, confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry away VICTORIA DUKE, a human being, with the intent to hold or detain the said VICTORIA DUKE against her will, and without her consent, for the purpose

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of committing sexual assault and/or lead, take, entice, or carry away or detain VICTORIA DUKE, a minor, with the intent to keep, imprison, or confine said minor from her parent, guardian, or any other person having lawful custody of the said minor and/or perpetrate upon the person of said minor any unlawful act, to wit: sexual assault.

COUNT 20 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

did on or between December, 2004 and May, 2005 then and there willfully, lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part or member thereof, a child, to-wit: VICTORIA DUKE, said child being under the age of fourteen years, by Defendant putting the hand of the said VICTORIA DUKE on his genital area, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of said Defendant, or said child.

COUNT 21 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

did on or between December, 2004 and May, 2005 then and there willfully, unlawfully, and feloniously sexually assault and subject VICTORIA DUKE, a female child under fourteen years of age, to sexual penetration, to-wit: digital penetration, by inserting his finger(s) into the genital opening of the said VICTORIA DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said VICTORIA DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 22 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

did on or between December, 2004 and May, 2005 then and there willfully, unlawfully, and feloniously sexually assault and subject VICTORIA DUKE, a female child under fourteen years of age, to sexual penetration, to-wit: sexual intercourse, by placing his penis into the genital opening of the said VICTORIA DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said VICTORIA DUKE was mentally or physically incapable of resisting or understanding the nature of

Defendant's conduct.

COUNT 23 - COERCION (SEXUALLY MOTIVATED)

did December, 2004 and May, 2005 then and there, wilfully, unlawfully and feloniously use physical force, or the immediate threat of such force, against VICTORIA DUKE, with intent to compel her to do, or abstain from doing, an act which she had a right to do, or abstain from doing, by Defendant grabbing the arm of the said VICTORIA DUKE and telling her not to tell anyone or he would beat her, one of the purposes for which the Defendant committed the offense was Defendant's sexual gratification.

COUNT 24 - ADMINISTRATION OF A DRUG TO AID IN THE COMMISSION OF A CRIME

did on or between August 1, 2007 and August 31, 2007 then and there wilfully, unlawfully, feloniously, and knowingly administer to VICTORIA DUKE, a controlled substance, anesthetic, or intoxicating agent, with the intent thereby to enable or assist himself to commit a felony, to-wit: Sexual Assault with a Minor Under the Age of 16.

COUNT 25 - FIRST DEGREE KIDNAPPING

did, on or between August 1, 2007 and August 31, 2007, willfully, unlawfully, feloniously, and without authority of law, seize, confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry away VICTORIA DUKE, a human being, with the intent to hold or detain the said VICTORIA DUKE against her will, and without her consent, for the purpose of committing sexual assault and/or lead, take, entice, or carry away or detain VICTORIA DUKE, a minor, with the intent to keep, imprison, or confine said minor from her parent, guardian, or any other person having lawful custody of the said minor and/or perpetrate upon the person of said minor any unlawful act, to wit: sexual assault.

COUNT 26 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

did on or between August 1, 2007 and August 31, 2007 then and there willfully, unlawfully, and feloniously sexually assault and subject VICTORIA DUKE, a female child under sixteen years of age, to sexual penetration, to-wit: sexual intercourse, by placing his penis into the genital opening of the said VICTORIA DUKE, against her will, or under

conditions in which Defendant knew, or should have known, that the said VICTORIA DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 27 - ADMINISTRATION OF A DRUG TO AID IN THE COMMISSION OF A CRIME

did on or between September 1, 2007 and July 30, 2008 then and there wilfully, unlawfully, feloniously, and knowingly administer to VICTORIA DUKE, a controlled substance, anesthetic, or intoxicating agent, with the intent thereby to enable or assist himself to commit a felony, to-wit: Sexual Assault with a Minor Under the Age of 16.

COUNT 28 - FIRST DEGREE KIDNAPPING

did, on or between September 1, 2007 and July 30, 2008, willfully, unlawfully, feloniously, and without authority of law, seize, confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry away VICTORIA DUKE, a human being, with the intent to hold or detain the said VICTORIA DUKE against her will, and without her consent, for the purpose of committing sexual assault and/or lead, take, entice, or carry away or detain VICTORIA DUKE, a minor, with the intent to keep, imprison, or confine said minor from her parent, guardian, or any other person having lawful custody of the said minor and/or perpetrate upon the person of said minor any unlawful act, to wit: sexual assault.

COUNT 29 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

did on or between September 1, 2007 and July 30, 2008 then and there willfully, unlawfully, and feloniously sexually assault and subject VICTORIA DUKE, a female child under sixteen years of age, to sexual penetration, to-wit: sexual intercourse, by placing his penis into the genital opening of the said VICTORIA DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said VICTORIA DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

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COUNT 30 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

did on or between September 1, 2007 and July 30, 2008 then and there willfully, unlawfully, and feloniously sexually assault and subject VICTORIA DUKE, a female child under sixteen years of age, to sexual penetration, to-wit: anal intercourse, by placing his penis into the anal opening of the said VICTORIA DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said VICTORIA DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 31 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

did on or between September 1, 2007 and July 30, 2008 then and there willfully, unlawfully, and feloniously sexually assault and subject VICTORIA DUKE, a female child under sixteen years of age, to sexual penetration, to-wit: sexual intercourse, by placing his penis into the genital opening of the said VICTORIA DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said VICTORIA DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 32 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

did on or between September 1, 2007 and July 30, 2008 then and there willfully, unlawfully, and feloniously sexually assault and subject VICTORIA DUKE, a female child under sixteen years of age, to sexual penetration, to-wit: anal intercourse, by placing his penis into the anal opening of the said VICTORIA DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said VICTORIA DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 33 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

did on or between September 1, 2007 and July 30, 2008 then and there willfully, unlawfully, and feloniously sexually assault and subject VICTORIA DUKE, a female child under sixteen years of age, to sexual penetration, to-wit: sexual intercourse, by placing a

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dildo and/or vibrator into the genital opening of the said VICTORIA DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said VICTORIA DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 34 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

did on or between September 1, 2007 and July 30, 2008 then and there willfully, unlawfully, and feloniously sexually assault and subject VICTORIA DUKE, a female child under sixteen years of age, to sexual penetration, to-wit: sexual intercourse, by causing TINA DUKE TO place a dildo into the genital opening of the said VICTORIA DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said VICTORIA DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 35 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

did on or between September 1, 2007 and July 30, 2008 then and there willfully, unlawfully, and feloniously sexually assault and subject VICTORIA DUKE, a female child under sixteen years of age, to sexual penetration, to-wit: sexual intercourse, by causing TINA DUKE TO place a dildo into the genital opening of the said VICTORIA DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said VICTORIA DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 36 - SEXUAL ASSAULT

did on in May, 2009 then and there willfully, unlawfully, and feloniously sexually assault and subject VICTORIA DUKE, a female person, to sexual penetration, to-wit: sexual intercourse, by placing his penis into the genital opening of the said VICTORIA DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said VICTORIA DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

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COUNT 37 - FIRST DEGREE KIDNAPPING

did, on or between August 2010 and August 2011willfully, unlawfully, feloniously, and without authority of law, seize, confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry away VICTORIA DUKE, a human being, with the intent to hold or detain the said VICTORIA DUKE against her will, and without her consent, for the purpose of committing sexual assault.

COUNT 38 - BATTERY WITH INTENT TO COMMIT SEXUAL ASSAULT

did, on or between August 2010 and August 2011, willfully, unlawfully and feloniously use force or violence upon the person of another, to-wit: VICTORIA DUKE, with the intent to commit sexual assault, by grabbing the wrist of the said VICTORIA DUKE and holding it tight while attempting to cause her to perform fellatio on him.

COUNT 39 - SEXUAL ASSAULT

did on or between August 2010 and August 2011 then and there willfully, unlawfully, and feloniously sexually assault and subject VICTORIA DUKE, a female person, to sexual penetration, to-wit: sexual intercourse, by placing his penis into the genital opening of the said VICTORIA DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said VICTORIA DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 40 - SEXUAL ASSAULT

did on or between August 2010 and August 2011 then and there willfully, unlawfully, and feloniously sexually assault and subject VICTORIA DUKE, a female person, to sexual penetration, to-wit: sexual intercourse, by placing his penis into the genital opening of the said VICTORIA DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said VICTORIA DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 41 - SEXUAL ASSAULT

did on or between August 2011 and December 2011 then and there willfully, unlawfully, and feloniously sexually assault and subject VICTORIA DUKE, a female

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person, to sexual penetration, to-wit: sexual intercourse, by placing his penis into the genital opening of the said VICTORIA DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said VICTORIA DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 42 - PANDERING

did on or between August, 2007 and December 17, 2011 then and there willfully, unlawfully, and feloniously induce, persuade, encourage, inveigle, entice, or compel TINA DUKE to become a prostitute, and/or to engage or continue to engage in prostitution, Defendant using physical force or the threat of physical force.

COUNT 43 - SEXUAL ASSAULT

did on or between August 2007 and August 2008 then and there willfully, unlawfully, and feloniously sexually assault and subject TINA DUKE, a female person, to sexual penetration, to-wit: anal intercourse, by placing his penis into the anal opening of the said VICTORIA DUKE, against her will.

COUNT 44 - LIVING FROM THE EARNINGS OF A PROSTITUTE

did on or between August, 2007 and December 17, 2011 then and there willfully, unlawfully, feloniously, and knowingly accept, receive, levy, or appropriate money, without consideration, from TINA DUKE, the proceeds of prostitution activity.

COUNT 45 - BATTERY BY STRANGULATION

did on or between August, 2007 and December, 2011 then and there willfully, unlawfully, and feloniously use force or violence upon the person of another, to-wit: TINA DUKE, by strangulation.

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

BY /s/ LISA LUZAICH
LISA LUZAICH
Chief Deputy District Attorney
Nevada Bar #5056

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

| NAME | ADDRESS |
|---|---|
| AGUIAR, CHRISTOPHER | HPD #1395 |
| COOKS, LEALER | 966 Blankenship Ave LVN 89106 |
| CUSTODIAN OF RECORDS | CCDC |
| CUSTODIAN OF RECORDS | LVMPD COMMUNICATIONS |
| CUSTODIAN OF RECORDS | LVMPD RECORDS |
| DELACANAL, C | Henderson PD |
| DUKE, MAHLICA | C/O DISTRICT ATTORNEY'S OFFICE |
| DUKE, SHABAZZ | C/O DISTRICT ATTORNEY'S OFFICE |
| DUKE, TAHARAH | C/O DISTRICT ATTORNEY'S OFFICE |
| DUKE, TAQUANDA | C/O DISTRICT ATTORNEY'S OFFICE |
| DUKE, TINA | C/O DISTRICT ATTORNEY'S OFFICE |
| DUKE, VICTORIA | C/O DISTRICT ATTORNEY'S OFFICE |
| FABERT, CRAIG | DISTRICT ATTORNEY INVESTIGATOR |
| FISHER, MICHELE | SNCAC |
| KUFUOR, NANA | 653 N Town Center Dr LVN 89144 |
| MADSEN, NICHOLAS | LVMPD #7315 |
| MEHTA, NEHA | SNCAC |
| MELCHERT, JEFF | HPD #1396 |
| NOURBAKHSH, SHOLEN | CPS |
| PARENT/GUARDIAN | Duke Children |
| STOKES, DEVON | CPS |
| TIBBS, TERESA | CPS |

DA#13F02924X/jm/SVU
LVMPD EV#1209271444
(TK3)

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT
APR 11 2014
BY, SUSAN JOVANOVICH, DEPUTY

ORIGINAL

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
-vs-
FREDERICK HAROLD HARRIS JR.,
Defendant.

CASE NO: C-13-291374-1
DEPT NO: XII

INSTRUCTIONS TO THE JURY (INSTRUCTION NO. I)

MEMBERS OF THE JURY:

It is now my duty as judge to instruct you in the law that applies to this case. It is your duty as jurors to follow these instructions and to apply the rules of law to the facts as you find them from the evidence.

You must not be concerned with the wisdom of any rule of law stated in these instructions. Regardless of any opinion you may have as to what the law ought to be, it would be a violation of your oath to base a verdict upon any other view of the law than that given in the instructions of the Court.

INSTRUCTION NO. 2

If, in these instructions, any rule, direction or idea is repeated or stated in different ways, no emphasis thereon is intended by me and none may be inferred by you. For that reason, you are not to single out any certain sentence or any individual point or instruction and ignore the others, but you are to consider all the instructions as a whole and regard each in the light of all the others.

The order in which the instructions are given has no significance as to their relative importance.

INSTRUCTION NO. 3

An amended information is but a formal method of accusing a person of a crime and is not of itself any evidence of his guilt.

In this case, it is charged in an amended information that on or between December, 2004 and September 26, 2012, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada, said Defendant

COUNT 1 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

did, on or between August, 2007 and September 26, 2012 willfully, unlawfully, and feloniously cause a child under the age of 18 years, to-wit: TAHARAH DUKE, being approximately 8 to 12 years of age, to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect, and/or cause the said TAHARAH DUKE to be placed in a situation where she might have suffered unjustifiable physical pain or mental suffering as a result of abuse or neglect, by repeatedly beating the said TAHARAH DUKE with a belt.

COUNT 2 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

did on or between October 1, 2010 and September 26, 2012 then and there willfully, unlawfully, and feloniously sexually assault and subject TAHARAH DUKE, a female child under fourteen years of age, to sexual penetration, to-wit: digital penetration, by inserting his finger(s) into the genital opening of the said TAHARAH DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said TAHARAH DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 3 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

did on or between October 1, 2010 and September 26, 2012 then and there willfully, unlawfully, and feloniously sexually assault and subject TAHARAH DUKE, a female child under fourteen years of age, to sexual penetration, to-wit: sexual intercourse, by placing his

penis into the genital opening of the said TAHARAH DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said TAHARAH DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 4 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

did, on or between October 1, 2010 and September 26, 2012 then and there willfully, lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part or member thereof, a child, to-wit: TAHARAH DUKE, said child being under the age of fourteen years, by the said Defendant touching and/or rubbing the breast(s) of the said TAHARAH DUKE, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of said Defendant, or said child.

COUNT 5 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

did, on or between October 1, 2010 and September 26, 2012 then and there willfully, lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part or member thereof, a child, to-wit: TAHARAH DUKE, said child being under the age of fourteen years, by the said Defendant directing and/or causing and/or encouraging the said TAHARAH DUKE to place her hand on his penis and cause her hand to rub up and down, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of said Defendant, or said child.

COUNT 6 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

did on or between October 1, 2010 and September 26, 2012 then and there willfully, unlawfully, and feloniously sexually assault and subject TAHARAH DUKE, a female child under fourteen years of age, to sexual penetration, to-wit: digital penetration, by inserting his finger(s) into the genital opening of the said TAHARAH DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said TAHARAH DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 7 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

did, on or between October 1, 2010 and September 26, 2012 then and there willfully, lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part or member thereof, a child, to-wit: TAHARAH DUKE, said child being under the age of fourteen years, by the said Defendant touching and/or rubbing the breast(s) of the said TAHARAH DUKE, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of said Defendant, or said child.

COUNT 8 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

did on or between October 1, 2010 and September 26, 2012 then and there willfully, unlawfully, and feloniously sexually assault and subject TAHARAH DUKE, a female child under fourteen years of age, to sexual penetration, to-wit: sexual intercourse, by placing his penis into the genital opening of the said TAHARAH DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said TAHARAH DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 9 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

did on or between October 1, 2010 and September 26, 2012 then and there willfully, unlawfully, and feloniously sexually assault and subject TAHARAH DUKE, a female child under fourteen years of age, to sexual penetration, to-wit: fellatio, by placing his penis on or in the mouth of the said TAHARAH DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said TAHARAH DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 10 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

did on or between October 1, 2010 and September 26, 2012 then and there willfully, unlawfully, and feloniously sexually assault and subject TAHARAH DUKE, a female child

under fourteen years of age, to sexual penetration, to-wit: digital penetration, by inserting his finger(s) into the genital opening of the said TAHARAH DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said TAHARAH DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 11 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

did on or between October 1, 2010 and September 26, 2012 then and there willfully, unlawfully, and feloniously sexually assault and subject TAHARAH DUKE, a female child under fourteen years of age, to sexual penetration, to-wit: sexual intercourse, by placing his penis into the genital opening of the said TAHARAH DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said TAHARAH DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 12 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

did, on or between October 1, 2010 and September 26, 2012 then and there willfully, lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part or member thereof, a child, to-wit: TAHARAH DUKE, said child being under the age of fourteen years, by the said Defendant directing and/or causing and/or encouraging the said TAHARAH DUKE to place her hand on his penis and cause her hand to rub up and down, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of said Defendant, or said child.

COUNT 13 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

did on or between October 1, 2010 and September 26, 2012 then and there willfully, unlawfully, and feloniously sexually assault and subject TAHARAH DUKE, a female child under fourteen years of age, to sexual penetration, to-wit: digital penetration, by inserting his finger(s) into the genital opening of the said TAHARAH DUKE, against her will, or

under conditions in which Defendant knew, or should have known, that the said TAHARAH DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 14 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

did on or between October 1, 2010 and September 26, 2012 then and there willfully, unlawfully, and feloniously sexually assault and subject TAHARAH DUKE, a female child under fourteen years of age, to sexual penetration, to-wit: sexual intercourse, by placing his penis into the genital opening of the said TAHARAH DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said TAHARAH DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 15 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

did, on or between August, 2007 and September 26, 2012 willfully, unlawfully, and feloniously cause a child under the age of 18 years, to-wit: TAQUANDA DUKE, being approximately 7 to 11 years of age, to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect, and/or cause the said TAQUANDA DUKE to be placed in a situation where she might have suffered unjustifiable physical pain or mental suffering as a result of abuse or neglect, by beating the said TAQUANDA DUKE with a belt and/or threatening her with a knife.

COUNT 16 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

did, on or between August, 2007 and September 26, 2012 willfully, unlawfully, and feloniously cause a child under the age of 18 years, to-wit: SHABAZZ DUKE, being approximately 12 to 17 years of age, to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect, and/or cause the said SHABAZZ DUKE to be placed in a situation where he might have suffered unjustifiable physical pain or mental suffering as a result of abuse or neglect, by repeatedly beating the said SHABAZZ DUKE with a belt and/or repeatedly punching the said SHABAZZ DUKE.

COUNT 17 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

did, on or between August, 2007 and September 26, 2012 willfully, unlawfully, and feloniously cause a child under the age of 18 years, to-wit: MAHLICA DUKE, being approximately 9 to 15 years of age, to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect, and/or cause the said MAHLICA DUKE to be placed in a situation where she might have suffered unjustifiable physical pain or mental suffering as a result of abuse or neglect, by repeatedly beating the said MAHLICA DUKE with a belt and/or choking her.

COUNT 18 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT

did, on or between January, 2005 and September 26, 2012 willfully, unlawfully, and feloniously cause a child under the age of 18 years, to-wit: VICTORIA DUKE, being approximately 15-18 years of age, to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect, and/or cause the said VICTORIA DUKE to be placed in a situation where she might have suffered unjustifiable physical pain or mental suffering as a result of abuse or neglect, by repeatedly beating the said VICTORIA DUKE with a belt.

COUNT 19 - FIRST DEGREE KIDNAPPING

did, on or between December, 2004 and May, 2005, willfully, unlawfully, feloniously, and without authority of law, seize, confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry away VICTORIA DUKE, a human being, with the intent to hold or detain the said VICTORIA DUKE against her will, and without her consent, for the purpose of committing sexual assault and/or lead, take, entice, or carry away or detain VICTORIA DUKE, a minor, with the intent to keep, imprison, or confine said minor from her parent, guardian, or any other person having lawful custody of the said minor and/or perpetrate upon the person of said minor any unlawful act, to wit: sexual assault.

COUNT 20 - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

did on or between December, 2004 and May, 2005 then and there willfully, lewdly, unlawfully, and feloniously commit a lewd or lascivious act upon or with the body, or any part or member thereof, a child, to-wit: VICTORIA DUKE, said child being under the age

of fourteen years, by Defendant putting the hand of the said VICTORIA DUKE on his genital area, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of said Defendant, or said child.

COUNT 21 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

did on or between December, 2004 and May, 2005 then and there willfully, unlawfully, and feloniously sexually assault and subject VICTORIA DUKE, a female child under fourteen years of age, to sexual penetration, to-wit: digital penetration, by inserting his finger(s) into the genital opening of the said VICTORIA DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said VICTORIA DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 22 - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

did on or between December, 2004 and May, 2005 then and there willfully, unlawfully, and feloniously sexually assault and subject VICTORIA DUKE, a female child under fourteen years of age, to sexual penetration, to-wit: sexual intercourse, by placing his penis into the genital opening of the said VICTORIA DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said VICTORIA DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 23 - COERCION (SEXUALLY MOTIVATED)

did on or between December, 2004 and May, 2005 then and there, willfully, unlawfully and feloniously use physical force, or the immediate threat of such force, against VICTORIA DUKE, with intent to compel her to do, or abstain from doing, an act which she had a right to do, or abstain from doing, by Defendant grabbing the arm of the said VICTORIA DUKE and telling her not to tell anyone or he would beat her, one of the purposes for which the Defendant committed the offense was Defendant's sexual

gratification.

COUNT 24 - ADMINISTRATION OF A DRUG TO AID IN THE COMMISSION OF A CRIME

did on or between August 1, 2007 and August 31, 2007 then and there willfully, unlawfully, feloniously, and knowingly administer to VICTORIA DUKE, a controlled substance, anesthetic, or intoxicating agent, with the intent thereby to enable or assist himself to commit a felony, to-wit: Sexual Assault with a Minor Under the Age of 16.

COUNT 25 - FIRST DEGREE KIDNAPPING

did, on or between August 1, 2007 and August 31, 2007, willfully, unlawfully, feloniously, and without authority of law, seize, confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry away VICTORIA DUKE, a human being, with the intent to hold or detain the said VICTORIA DUKE against her will, and without her consent, for the purpose of committing sexual assault and/or lead, take, entice, or carry away or detain VICTORIA DUKE, a minor, with the intent to keep, imprison, or confine said minor from her parent, guardian, or any other person having lawful custody of the said minor and/or perpetrate upon the person of said minor any unlawful act, to wit: sexual assault.

COUNT 26 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

did on or between August 1, 2007 and August 31, 2007 then and there willfully, unlawfully, and feloniously sexually assault and subject VICTORIA DUKE, a female child under sixteen years of age, to sexual penetration, to-wit: sexual intercourse, by placing his penis into the genital opening of the said VICTORIA DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said VICTORIA DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 27 - ADMINISTRATION OF A DRUG TO AID IN THE COMMISSION OF A CRIME

did on or between September 1, 2007 and July 30, 2008 then and there willfully, unlawfully, feloniously, and knowingly administer to VICTORIA DUKE, a controlled

substance, anesthetic, or intoxicating agent, with the intent thereby to enable or assist himself to commit a felony, to-wit: Sexual Assault with a Minor Under the Age of 16.

COUNT 28 - FIRST DEGREE KIDNAPPING

did, on or between September 1, 2007 and July 30, 2008, willfully, unlawfully, feloniously, and without authority of law, seize, confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry away VICTORIA DUKE, a human being, with the intent to hold or detain the said VICTORIA DUKE against her will, and without her consent, for the purpose of committing sexual assault and/or lead, take, entice, or carry away or detain VICTORIA DUKE, a minor, with the intent to keep, imprison, or confine said minor from her parent, guardian, or any other person having lawful custody of the said minor and/or perpetrate upon the person of said minor any unlawful act, to wit: sexual assault.

COUNT 29 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

did on or between September 1, 2007 and July 30, 2008 then and there willfully, unlawfully, and feloniously sexually assault and subject VICTORIA DUKE, a female child under sixteen years of age, to sexual penetration, to-wit: sexual intercourse, by placing his penis into the genital opening of the said VICTORIA DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said VICTORIA DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 30 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

did on or between September 1, 2007 and July 30, 2008 then and there willfully, unlawfully, and feloniously sexually assault and subject VICTORIA DUKE, a female child under sixteen years of age, to sexual penetration, to-wit: anal intercourse, by placing his penis into the anal opening of the said VICTORIA DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said VICTORIA DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 31 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

did on or between September 1, 2007 and July 30, 2008 then and there willfully, unlawfully, and feloniously sexually assault and subject VICTORIA DUKE, a female child under sixteen years of age, to sexual penetration, to-wit: sexual intercourse, by placing his penis into the genital opening of the said VICTORIA DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said VICTORIA DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 32 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

did on or between September 1, 2007 and July 30, 2008 then and there willfully, unlawfully, and feloniously sexually assault and subject VICTORIA DUKE, a female child under sixteen years of age, to sexual penetration, to-wit: anal intercourse, by placing his penis into the anal opening of the said VICTORIA DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said VICTORIA DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 33 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

did on or between September 1, 2007 and July 30, 2008 then and there willfully, unlawfully, and feloniously sexually assault and subject VICTORIA DUKE, a female child under sixteen years of age, to sexual penetration, to-wit: sexual intercourse, by placing a dildo and/or vibrator into the genital opening of the said VICTORIA DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said VICTORIA DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 34 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

did on or between September 1, 2007 and July 30, 2008 then and there willfully, unlawfully, and feloniously sexually assault and subject VICTORIA DUKE, a female child under sixteen years of age, to sexual penetration, to-wit: sexual intercourse, by causing

TINA DUKE to place a dildo into the genital opening of the said VICTORIA DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said VICTORIA DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 35 - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

did on or between September 1, 2007 and July 30, 2008 then and there willfully, unlawfully, and feloniously sexually assault and subject VICTORIA DUKE, a female child under sixteen years of age, to sexual penetration, to-wit: sexual intercourse, by causing TINA DUKE to place a dildo into the genital opening of the said VICTORIA DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said VICTORIA DUKE was mentally or physically incapable of resisting or understanding the nature of the defendants conduct.

COUNT 36 - SEXUAL ASSAULT

did in May, 2009 then and there willfully, unlawfully, and feloniously sexually assault and subject VICTORIA DUKE, a female person, to sexual penetration, to-wit: sexual intercourse, by placing his penis into the genital opening of the said VICTORIA DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said VICTORIA DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 37 - FIRST DEGREE KIDNAPPING

did, on or between August 2010 and August 2011 willfully, unlawfully, feloniously, and without authority of law, seize, confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry away VICTORIA DUKE, a human being, with the intent to hold or detain the said VICTORIA DUKE against her will, and without her consent, for the purpose of committing sexual assault.

COUNT 38 - BATTERY WITH INTENT TO COMMIT SEXUAL ASSAULT

did, on or between August 2010 and August 2011, willfully, unlawfully and feloniously use force or violence upon the person of another, to-wit: VICTORIA DUKE, with the intent to commit sexual assault, by grabbing the wrist of the said VICTORIA

DUKE and holding it tight while attempting to cause her to perform fellatio on him.

COUNT 39 - SEXUAL ASSAULT

did on or between August 2010 and August 2011 then and there willfully, unlawfully, and feloniously sexually assault and subject VICTORIA DUKE, a female person, to sexual penetration, to-wit: sexual intercourse, by placing his penis into the genital opening of the said VICTORIA DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said VICTORIA DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 40 - SEXUAL ASSAULT

did on or between August 2010 and August 2011 then and there willfully, unlawfully, and feloniously sexually assault and subject VICTORIA DUKE, a female person, to sexual penetration, to-wit: sexual intercourse, by placing his penis into the genital opening of the said VICTORIA DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said VICTORIA DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 41 - SEXUAL ASSAULT

did on or between August 2011 and December 2011 then and there willfully, unlawfully, and feloniously sexually assault and subject VICTORIA DUKE, a female person, to sexual penetration, to-wit: sexual intercourse, by placing his penis into the genital opening of the said VICTORIA DUKE, against her will, or under conditions in which Defendant knew, or should have known, that the said VICTORIA DUKE was mentally or physically incapable of resisting or understanding the nature of Defendant's conduct.

COUNT 42 - PANDERING

did on or between August, 2007 and December 17, 2011 then and there willfully, unlawfully, and feloniously induce, persuade, encourage, inveigle, entice, or compel TINA DUKE to become a prostitute, and/or to engage or continue to engage in prostitution, Defendant using physical force or the threat of physical force.

COUNT 43 - SEXUAL ASSAULT

did on or between August 2007 and August 2008 then and there willfully, unlawfully, and feloniously sexually assault and subject TINA DUKE, a female person, to sexual penetration, to-wit: anal intercourse, by placing his penis into the anal opening of the said TINA DUKE, against her will.

COUNT 44 - LIVING FROM THE EARNINGS OF A PROSTITUTE

did on or between August, 2007 and December 17, 2011 then and there willfully, unlawfully, feloniously, and knowingly accept, receive, levy, or appropriate money, without consideration, from TINA DUKE, the proceeds of prostitution activity.

COUNT 45 - BATTERY BY STRANGULATION

did on or between August, 2007 and December, 2011 then and there willfully, unlawfully, and feloniously use force or violence upon the person of another, to-wit: TINA DUKE, by strangulation.

It is the duty of the jury to apply the rules of law contained in these instructions to the facts of the case and determine whether or not the Defendant is guilty of one or more of the offenses charged.

Each charge and the evidence pertaining to it should be considered separately. The fact you may find a defendant guilty or not guilty as to one of the offenses charged should not control your verdict as to any other offense charged.

INSTRUCTION NO. 4

A person who willfully, unlawfully and feloniously causes a child under the age of 18 years to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as a result of abuse or neglect is guilty of child abuse.

INSTRUCTION NO. 5

As used in these instructions:

"Abuse or neglect" means physical or mental injury of a nonaccidental nature of a child under the age of 18 years.

"Physical injury" means:

(1) Permanent or temporary disfigurement; or

(2) Impairment of any bodily function or organ of the body.

INSTRUCTION NO. 6

A person who subjects another person to sexual penetration, against the victim's will, or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his/her conduct, is guilty of sexual assault.

A person who subjects a minor under fourteen years to sexual penetration, against the minor's will, or under conditions in which the perpetrator knows or should know that the minor is mentally or physically incapable of resisting or understanding the nature or his/her conduct, is guilty of sexual assault with a minor under fourteen years of age.

A person who subjects a minor under sixteen years to sexual penetration, against the minor's will, or under conditions in which the perpetrator knows or should know that the minor is mentally or physically incapable of resisting or understanding the nature of his/her conduct, is guilty of sexual assault with a minor under sixteen year of age.

"Sexual penetration" means cunnilingus, fellatio, or any intrusion, however slight, of any part of a person's body or any object manipulated or inserted by a person into the genital or anal openings of the body of another, including sexual intercourse in its ordinary meaning. Evidence of ejaculation is not necessary.

Digital penetration is the placing of one or more fingers of the perpetrator into the genital or anal opening of another person.

Cunnilingus is a touching of the female sexual organ by the mouth or tongue of another person.

Fellatio is a touching of the penis by the mouth or tongue of another person.

Sexual intercourse is the intrusion, however slight, of the penis into the genital opening of another person.

Anal intercourse is the intrusion, however slight, of the penis into the anal opening of another person.

INSTRUCTION NO. 7

Physical force is not necessary in the commission of sexual assault. The crucial question is not whether a person was physically forced to engage in a sexual assault but whether the act was committed without his/her consent or under conditions in which the defendant knew or should have known, the person was incapable of giving his/her consent or understanding the nature of the act. There is no consent where a person is induced to submit to the sexual act through fear of death or serious bodily injury.

INSTRUCTION NO. 8

A person is not required to do more than his/her age, strength, surrounding facts and attending circumstances make it reasonable for him/her to do to manifest opposition to a sexual assault.

INSTRUCTION NO. 9

Submission is not the equivalent of consent. While consent inevitably involves submission, submission does not inevitably involve consent. Lack of protest by a victim is simply one among the totality of circumstances to be considered by the jury.

INSTRUCTION NO. 10

If you find the state failed to prove beyond a reasonable doubt the defendant subjected another person to sexual penetration, against the victim's will or under conditions in which the perpetrator knew or should have known the victim is mentally or physically incapable of resisting or understanding the nature of his conduct, then the defendant is entitled to a verdict of not guilty of sexual assault.

INSTRUCTION NO. 11

There is no requirement that the testimony of a victim of sexual assault be corroborated, and his/her testimony standing alone, if believed beyond a reasonable doubt, is sufficient to sustain a verdict of guilty.

INSTRUCTION NO. 12

Any person who willfully commits any lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with any part of the body of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of that child, is guilty of lewdness with a minor.

INSTRUCTION NO. 13

The law does not require that the lust, passions or sexual desires of either of such persons actually be aroused, appealed to, or gratified.

INSTRUCTION NO. 14

To constitute a lewd or lascivious act it is not necessary that the bare skin be touched. The touching may be through the clothing of the child.

INSTRUCTION NO. 15

Lewdness with a child under the age of 14 years requires an act upon or with the body of a child under the age of 14 years, but does not require physical contact between the perpetrator and the victim.

INSTRUCTION NO. 16

Where a child has been the victim of sexual assault with a minor under the age of 14 and/or lewdness with a minor under the age of 14, and does not remember the exact date of the act, the State is not required to prove a specific date, but may prove a time frame within which the act took place.

INSTRUCTION NO. 17

Where multiple sexual acts occur as part of a single criminal encounter a defendant may be found guilty for each separate or different act of sexual assault/lewdness.

Where a defendant commits a specific type of act constituting sexual assault/lewdness he/she may be found guilty of more than one count of that specific type of act of sexual assault/lewdness if:

1. There is an interruption between the acts which are of the same specific type;
2. Where the acts of the same specific type are interrupted by a different specific type of sexual assault/lewdness; or
3. For each separate object manipulated or inserted into the genital or anal opening of another.

Only one sexual assault/lewdness occurs when a defendant's actions were of one specific type of sexual assault/lewdness and those acts were continuous and did not stop between the acts of that specific type.

INSTRUCTION NO. 18

Every person who willfully seizes, confines, inveigles, entices, decoys, abducts, conceals, kidnaps or carries away any person by any means whatsoever with the intent to hold or detain, or who holds or detains, the person:

1. For ransom, or reward; or
2. For the purpose of committing sexual assault, extortion or robbery upon or from the person; or
3. For the purpose of killing the person or inflicting substantial bodily harm upon him; or
4. For exact from relatives, friends, or any other person any money or valuable thing for the return or disposition of the kidnapped person; or
5. A person who leads, takes, entices, or carries away or detains any minor with the intent to keep, imprison, or confine him from his parents, guardians, or any other person having lawful custody of the minor, or with the intent to hold the minor to unlawful service, or perpetrate upon the person of the minor any unlawful act, is guilty of Kidnapping in the First Degree.

The law does not require the person being kidnapped to be carried away for any minimal distance.

The term "inveigle" means to lead astray by trickery or deceitful persuasion.

INSTRUC

If you find the state failed to prove beyond a reasonable doubt the seized, confined, inveigled, enticed, decoyed, abducted, concealed, kidnapped, or carried away any person by any means whatsoever with the intent to hold or detain, or who holds or detains, any person:

1. For ransom, or reward; or
2. For the purpose of committing sexual assault, extortion or robbery upon or from the person; or
3. For the purpose of killing the person or inflicting substantial bodily harm upon him or her; or
4. To exact from relatives, friends, or any other person any money; or valuable thing for the return or disposition of the kidnapped person; or
5. A person who leads, takes, entices, or carries away or detains any minor with the intent to keep, imprison, or confine him from his parents, guardians, or any other person having lawful custody of the minor, or with the intent to hold the minor to unlawful service, or perpetrate upon the person of the minor any unlawful act.

Then the defendant is entitled to a verdict of not guilty of First Degree Kidnapping.

INSTRUCTION NO. 20

In order for you to find the Defendant guilty of both First Degree Kidnapping and an associated offense of sexual assault, you must also find beyond a reasonable doubt either:

1. That the movement of the victim was not incidental to the sexual assault; or
2. That the incidental movement of the victim substantially increased the risk of harm to the victim over and above that necessarily present in the sexual assault, or
3. That any incidental movement of the victim substantially exceeded that required to complete the sexual assault; or
4. That the victim was physically restrained and such restraint substantially increased the risk of harm to the victim; or
5. The movement or restraint had an independent purpose or significance.

"Physically restrained" includes but is not limited to tying, binding, or taping.

INSTRUCTION 21

Any person who, with the intent to compel another to do or abstain from doing an act which the other person has a right to do or abstain from doing, to:

(A) Use violence or inflict injury upon the person or any of his family, or upon his property, or threaten such violence or injury;

(B) Deprive the person of any tool, implement or clothing, or hinder him in the use thereof; or

(C) Attempt to intimidate the person by threats or force, is guilty of Coercion.

INSTRUCTION NO. 22

If you find the state failed to prove beyond a reasonable doubt the defendant used violence upon another person or threatened violence or injury to another person with the specific intent to compel another to do or abstain from doing an act which such other person has a right to do or abstain from doing, then the defendant is entitled to a verdict of not guilty of Coercion.

INSTRUCTION NO. 23

Any person who administers to any other person any chloroform, ether, laudanum, or any controlled substance, anesthetic, or intoxicating or emetic agent, with the intent thereby to enable or assist himself to commit a felony, is guilty of Administration of a Drug to Aid in the Commission of a Felony.

INSTRUCTION NO. 24

Battery is defined as the willful and unlawful use of force or violence upon the person of another.

INSTRUCTION NO. 25

Any person who commits a battery upon another with the specific intent to commit a Sexual Assault is guilty of the offense of Battery with Intent to Commit Sexual Assault.

INSTRUCTION NO. 26

A person who, with physical force or the immediate threat of physical force, induces an adult to unlawfully become a prostitute or to continue to engage in prostitution, or to enter any place within this state in which prostitution is practiced, encouraged or allowed for the purpose of sexual conduct or prostitution is guilty of Pandering.

"Adult" means a person 18 years of age or older.

"Induce" means to persuade, encourage, inveigle or entice.

"Prostitute" means a male or female person who for a fee, monetary consideration or other thing of value engages in sexual intercourse, oral-genital contact or any touching of the sexual organs or other intimate parts of a person for the purpose of arousing or gratifying the sexual desire of either person.

"Prostitution" means engaging in sexual conduct with another person in return for a fee, monetary consideration or other thing of value.

"Sexual conduct" includes sexual intercourse, oral-genital contact or any touching of the sexual organs or other intimate parts of a person for the purpose of arousing or gratifying the sexual desire of either person.

INSTRUCTION NO. 27

The consent of a victim of Pandering to an act of prostitution is not a defense to the crime of Pandering.

INSTRUCTION NO. 29

A person who knowingly accepts, receives, levies or appropriates any money or other valuable thing, without consideration, from the proceeds of any prostitute, is guilty of Living from the Earnings of a Prostitute.

INSTRUCTION NO. 29

"Strangulation" means intentionally impeding the normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person in a manner that creates a risk of death or substantial bodily harm.

INSTRUCTION NO. 30

It is a defense to the charge of sexual assault that the Defendant entertained a reasonable and good faith belief that the alleged victim consented to engage in sexual intercourse. If you find such reasonable, good faith belief, even if mistaken, you must give the Defendant the benefit of the doubt and find him not guilty of sexual assault.

A belief that is based upon ambiguous conduct by the alleged victim that is the product of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person of another is not a reasonable and good faith belief.

INSTRUCTION NO. 31

To constitute the crimes charged, there must exist a union or joint operation of an act forbidden by law and an intent to do the act.

The intent with which an act is done is shown by the facts and circumstances surrounding the case.

Do not confuse intent with motive. Motive is what prompts a person to act. Intent refers only to the state of mind with which the act is done.

Motive is not an element of the crime charged and the State is not required to prove a motive on the part of the Defendant in order to convict. However, you may consider evidence of motive or lack of motive as a circumstance in the case.

INSTRUCTION NO. 32

The Defendant is presumed innocent until the contrary is proved. This presumption places upon the State the burden of proving beyond a reasonable doubt every material element of the crime charged and that the Defendant is the person who committed the offense.

A reasonable doubt is one based on reason. It is not mere possible doubt but is such a doubt as would govern or control a person in the more weighty affairs of life. If the minds of the jurors, after the entire comparison and consideration of all the evidence, are in such a condition that they can say they feel an abiding conviction of the truth of the charge, there is not a reasonable doubt. Doubt to be reasonable must be actual, not mere possibility or speculation.

If you have a reasonable doubt as to the guilt of the Defendant, he is entitled to a verdict of not guilty.

INSTRUCTION NO. 33

It is a constitutional right of a defendant in a criminal trial that he may not be compelled to testify. Thus, the decision as to whether he should testify is left to the defendant on the advice and counsel of his attorney. You must not draw any inference of guilt from the fact that he does not testify, nor should this fact be discussed by you or enter into your deliberations in any way.

INSTRUCTION NO. 34

The evidence which you are to consider in this case consists of the testimony of the witnesses, the exhibits, and any facts admitted or agreed to by counsel.

There are two types of evidence; direct and circumstantial. Direct evidence is the testimony of a person who claims to have personal knowledge of the commission of the crime which has been charged, such as an eyewitness. Circumstantial evidence is the proof of a chain of facts and circumstances which tend to show whether the Defendant is guilty or not guilty. The law makes no distinction between the weight to be given either direct or circumstantial evidence. Therefore, all of the evidence in the case, including the circumstantial evidence, should be considered by you in arriving at your verdict.

Statements, arguments and opinions of counsel are not evidence in the case. However, if the attorneys stipulate to the existence of a fact, you must accept the stipulation as evidence and regard that fact as proved.

You must not speculate to be true any insinuations suggested by a question asked a witness. A question is not evidence and may be considered only as it supplies meaning to the answer.

You must disregard any evidence to which an objection was sustained by the court and any evidence ordered stricken by the court.

Anything you may have seen or heard outside the courtroom is not evidence and must also be disregarded.

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INSTRUCTION NO. 35

You are here to determine whether the State of Nevada has met its burden of proof from the evidence in the case. You are not called upon to return a verdict as to any other person. So, if the evidence in the case convinces you beyond a reasonable doubt of the guilt of the Defendant, you should so find, even though you may believe one or more persons are also guilty.

INSTRUCTION NO. 36

The credibility or believability of a witness should be determined by his manner upon the stand, his relationship to the parties, his fears, motives, interests or feelings, his opportunity to have observed the matter to which he testified, the reasonableness of his statements and the strength or weakness of his recollections.

If you believe a witness has lied about any material fact in the case, you may disregard the entire testimony of that witness or any portion of his testimony which is not proved by other evidence.

INSTRUCTION NO. 37

A prior inconsistent statement may be considered as substantive evidence that the facts described in the statement actually occurred.

INSTRUCTION NO. 38

A witness who has special knowledge, skill, experience, training or education in a particular science, profession or occupation is an expert witness. An expert witness may give his opinion as to any matter in which he is skilled.

You should consider such expert opinion and weigh the reasons, if any, given for it. You are not bound, however, by such an opinion. Give it the weight to which you deem it entitled, whether that be great or slight, and you may reject it, if, in your judgment, the reasons given for it are unsound.

INSTRUCTION NO. 39

Although you are to consider only the evidence in the case in reaching a verdict, you must bring to the consideration of the evidence your everyday common sense and judgment as reasonable men and women. Thus, you are not limited solely to what you see and hear as the witnesses testify. You may draw reasonable inferences from the evidence which you feel are justified in the light of common experience, keeping in mind such inferences should not be based on speculation or guess.

A verdict may never be influenced by sympathy, prejudice or public opinion. Your decision should be the product of sincere judgment and sound discretion in accordance with these rules of law.

INSTRUCTION NO. 40

In your deliberation you may not discuss or consider the subject of punishment, as that is a matter which lies solely with the court. Your duty is confined to the determination of whether the State of Nevada has met its burden of proof as to the Defendant.

INSTRUCTION NO. 41

When you retire to consider your verdict, you must first select one of your member to act as foreperson who will preside over your deliberation, and will be your spokesperson in court.

During your deliberation, you will have all the exhibits admitted into evidence, these written instructions, and forms of verdict prepared for your convenience.

Your verdict must be unanimous. As soon as you agree upon a verdict, the foreperson shall sign and date the verdict form and return with it to this room.

INSTRUCTION NO. 42

Now you will listen to the arguments of counsel who will endeavor to aid you to reach a proper verdict by refreshing in your minds the evidence and by showing the application thereof to the law; but, whatever counsel may say, you will bear in mind it is your duty to be governed in your deliberation by the evidence as you understand it and remember it to be and by the law as given to you in these instructions, with the sole, fixed and steadfast purpose of doing equal and exact justice between the Defendant and the State of Nevada.

GIVEN: _____
DISTRICT JUDGE

VER

ORIGINAL

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT
APR 15 2014 1:06pm
BY, SUSAN JOVANOVICH, DEPUTY

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

-vs-

FREDERICK HAROLD HARRIS JR.,

Defendant.

CASE NO: **C-13-291374-1**

DEPT NO: **XII**

# VERDICT

We, the jury in the above entitled case, find the Defendant FREDERICK HAROLD HARRIS JR., as follows:

**COUNT 1** - CHILD ABUSE, NEGLECT OR ENDANGERMENT

***(please check the appropriate box, select only one)***

☐ Guilty of Child Abuse, Neglect or Endangerment

☒ Not Guilty

**COUNT 2** - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

***(please check the appropriate box, select only one)***

☒ Guilty of Sexual Assault With A Minor Under Fourteen Years Of Age

☐ Not Guilty

**COUNT 3** - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

***(please check the appropriate box, select only one)***

☒ Guilty of Sexual Assault With A Minor Under Fourteen Years Of Age

☐ Not Guilty

**COUNT 4** - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

***(please check the appropriate box, select only one)***

☒ Guilty of Lewdness With A Child Under The Age Of 14

☐ Not Guilty

**COUNT 5** - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

***(please check the appropriate box, select only one)***

☒ Guilty of Lewdness With A Child Under The Age Of 14

☐ Not Guilty

**COUNT 6** - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

***(please check the appropriate box, select only one)***

☒ Guilty of Sexual Assault With A Minor Under Fourteen Years Of Age

☐ Not Guilty

**COUNT 7** - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

***(please check the appropriate box, select only one)***

☒ Guilty of Lewdness With A Child Under The Age Of 14

☐ Not Guilty

**COUNT 8** - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

***(please check the appropriate box, select only one)***

☒ Guilty of Sexual Assault With A Minor Under Fourteen Years Of Age

☐ Not Guilty

**COUNT 9** - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

***(please check the appropriate box, select only one)***

☒ Guilty of Sexual Assault With A Minor Under Fourteen Years Of Age

☐ Not Guilty

**COUNT 10** - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

***(please check the appropriate box, select only one)***

☒ Guilty of Sexual Assault With A Minor Under Fourteen Years Of Age

☐ Not Guilty

**COUNT 11** - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

***(please check the appropriate box, select only one)***

☒ Guilty of Sexual Assault With A Minor Under Fourteen Years Of Age

☐ Not Guilty

**COUNT 12** - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

***(please check the appropriate box, select only one)***

☒ Guilty of Lewdness With A Child Under The Age Of 14

☐ Not Guilty

**COUNT 13** - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

***(please check the appropriate box, select only one)***

☒ Guilty of Sexual Assault With A Minor Under Fourteen Years Of Age

☐ Not Guilty

**COUNT 14** - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

***(please check the appropriate box, select only one)***

☒ Guilty of Sexual Assault With A Minor Under Fourteen Years Of Age

☐ Not Guilty

**COUNT 15** - CHILD ABUSE, NEGLECT OR ENDANGERMENT

***(please check the appropriate box, select only one)***

☐ Guilty of Child Abuse, Neglect Or Endangerment

☒ Not Guilty

**COUNT 16** - CHILD ABUSE, NEGLECT OR ENDANGERMENT

***(please check the appropriate box, select only one)***

☒ Guilty of Child Abuse, Neglect Or Endangerment

☐ Not Guilty

**COUNT 17** - CHILD ABUSE, NEGLECT OR ENDANGERMENT

***(please check the appropriate box, select only one)***

Lisa Sleeper

☒ Guilty of Child Abuse, Neglect Or Endangerment

☒ Not Guilty

**COUNT 18** - CHILD ABUSE, NEGLECT OR ENDANGERMENT

***(please check the appropriate box, select only one)***

☐ Guilty of Child Abuse, Neglect Or Endangerment

☒ Not Guilty

**COUNT 19** - FIRST DEGREE KIDNAPPING

***(please check the appropriate box, select only one)***

☒ Guilty of First Degree Kidnapping

☐ Not Guilty

**COUNT 20** - LEWDNESS WITH A CHILD UNDER THE AGE OF 14

***(please check the appropriate box, select only one)***

☒ Guilty of Lewdness With A Child Under The Age Of 14

☐ Not Guilty

**COUNT 21** - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

***(please check the appropriate box, select only one)***

☒ Guilty of Sexual Assault With A Minor Under Fourteen Years Of Age

☐ Not Guilty

**COUNT 22** - SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE

***(please check the appropriate box, select only one)***

☒ Guilty of Sexual Assault With A Minor Under Fourteen Years Of Age

☐ Not Guilty

**COUNT 23** - COERCION (Sexually Motivated)

***(please check the appropriate box, select only one)***

☒ Guilty of Coercion (Sexually Motivated)

☐ Not Guilty

**COUNT 24** - ADMINISTRATION OF A DRUG TO AID IN THE COMMISSION OF A CRIME

***(please check the appropriate box, select only one)***

☒ Guilty of Administration Of A Drug To Aid In The Commission Of A Crime

☐ Not Guilty

**COUNT 25** - FIRST DEGREE KIDNAPPING

***(please check the appropriate box, select only one)***

☒ Guilty of First Degree Kidnapping

☐ Not Guilty

**COUNT 26** - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

***(please check the appropriate box, select only one)***

☒ Guilty of Sexual Assault With A Minor Under Sixteen Years Of Age

☐ Not Guilty

**COUNT 27** - ADMINISTRATION OF A DRUG TO AID IN THE COMMISSION OF A CRIME

***(please check the appropriate box, select only one)***

☐ Guilty of Administration Of A Drug To Aid In The Commission Of A Crime

☒ Not Guilty

**COUNT 28** - FIRST DEGREE KIDNAPPING

***(please check the appropriate box, select only one)***

☒ Guilty of First Degree Kidnapping

☐ Not Guilty

**COUNT 29** - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

***(please check the appropriate box, select only one)***

☒ Guilty of Sexual Assault With A Minor Under Sixteen Years Of Age

☐ Not Guilty

**COUNT 30** - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

***(please check the appropriate box, select only one)***

☐ Guilty of Sexual Assault With A Minor Under Sixteen Years Of Age

☒ Not Guilty

**COUNT 31** - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

***(please check the appropriate box, select only one)***

☒ Guilty of Sexual Assault With A Minor Under Sixteen Years Of Age

☐ Not Guilty

**COUNT 32** - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

***(please check the appropriate box, select only one)***

☐ Guilty of Sexual Assault With A Minor Under Sixteen Years Of Age

☒ Not Guilty

**COUNT 33** - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

***(please check the appropriate box, select only one)***

☒ Guilty of Sexual Assault With A Minor Under Sixteen Years Of Age

☐ Not Guilty

**COUNT 34** - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

***(please check the appropriate box, select only one)***

☒ Guilty of Sexual Assault With A Minor Under Sixteen Years Of Age

☐ Not Guilty

**COUNT 35** - SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE

***(please check the appropriate box, select only one)***

☒ Guilty of Sexual Assault With A Minor Under Sixteen Years Of Age

☐ Not Guilty

**COUNT 36** - SEXUAL ASSAULT

***(please check the appropriate box, select only one)***

☒ Guilty of Sexual Assault

☐ Not Guilty

**COUNT 37** - FIRST DEGREE KIDNAPPING

***(please check the appropriate box, select only one)***

☒ Guilty of First Degree Kidnapping

☐ Not Guilty

**COUNT 38** - BATTERY WITH INTENT TO COMMIT SEXUAL ASSAULT

***(please check the appropriate box, select only one)***

☒ Guilty of Battery With Intent To Commit Sexual Assault

☐ Not Guilty

**COUNT 39** - SEXUAL ASSAULT

***(please check the appropriate box, select only one)***

☒ Guilty of Sexual Assault

☐ Not Guilty

**COUNT 40** - SEXUAL ASSAULT

***(please check the appropriate box, select only one)***

☒ Guilty of Sexual Assault

☐ Not Guilty

**COUNT 41** - SEXUAL ASSAULT

***(please check the appropriate box, select only one)***

☒ Guilty of Sexual Assault

☐ Not Guilty

**COUNT 42** - PANDERING

***(please check the appropriate box, select only one)***

☒ Guilty of Pandering

☐ Not Guilty

**COUNT 43** - SEXUAL ASSAULT

***(please check the appropriate box, select only one)***

☐ Guilty of Sexual Assault

☒ Not Guilty

**COUNT 44** - LIVING FROM THE EARNINGS OF A PROSTITUTE

***(please check the appropriate box, select only one)***

☒ Guilty of Living From The Earnings Of A Prostitute

☐ Not Guilty

**COUNT 45** - BATTERY BY STRANGULATION

***(please check the appropriate box, select only one)***

☐ Guilty of Battery By Strangulation

☒ Not Guilty

DATED this 15th day of April, 2014

FOREPERSON

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CLERK OF THE COURT

MOT
**BETSY Allen, ESQ**
Nevada Bar No. 6878
P.O. Box 46991
Las Vegas, Nevada 89114
(702) 386-9700
Fax (702) 386-4723
betsyallenesq@yahoo.com
Attorney for Defendant
FREDRICK HARRIS

DISTRICT COURT
CLARK COUNTY, NEVADA

| | |
|---|---|
| THE STATE OF NEVADA,<br><br>Plaintiff,<br><br>vs.<br><br>FREDRICK HARRIS,<br><br>Defendant. | Case No.: C-13-291374-1<br>Dept. No. XII |

**DEFENDANT'S MOTION FOR A NEW TRIAL**

COMES NOW the Defendant, FREDRICK HARRIS, by and through his attorney, BETSY ALLEN, ESQ., and hereby moves this Honorable Court to Grant a New Trial.

This Motion is based upon the pleading and papers on files herein, the following Points and Authorities all as incorporated herein.

DATED this _28th_ day of April, 2014

/s/ Betsy Allen
Betsy Allen, Esq.
Nevada Bar No. 6878

**NOTICE OF MOTION**

TO: CLARK COUNTY DISTRICT ATTORNEY

YOU WILL PLEASE TAKE NOTICE that counsel for the Defendant FREDRICK HARRIS has set this matter for hearing in Department XII on the 29 day of MAY, 2014 at the hour of 8:30A.

DATED THIS 28th day of April, 2014

BY: /s/ Betsy Allen
BETSY ALLEN, ESQ
Nevada Bar No. 6878
P.O. Box 46991
Las Vegas, Nevada, 89114

## POINTS AND AUTHORITIES

### Factual Background

In the instant case, the Defendant, FREDRICK HARRIS, was convicted of 36 out of 45 counts of various charges, including: Sexual Assault on a Minor under Fourteen, Sexual Assault of a Minor under 16, and Lewdness with a Minor.

### Legal Argument

NRS 176.515 provides in relevant part that:

> 1. The Court may grant a new trial to a defendant if required as a matter of law or on the ground of newly discovered evidence.
> 2. If trial was by the Court without a jury, the Court may vacate the judgment if entered, take additional testimony on direct the entry of a new judgment.
> 3. Except as otherwise provided in NRS 176.0918, a motion for new trial based on the ground of newly discovered evidence may be made only within 2 years after the verdict or finding of guilt.
> 4. A motion for a new trial based on any other grounds must be made within 7 days after the verdict or finding of guilt or within such further time as the Court may fix during the 7-day period.[1]

### A. The Court allowed portions of the statement of co-defendant Lealer Ann Cooks without a finding of reliability

NRS 51.035 states, in pertinent part, that hearsay is not admissible unless it falls within an exception. One of these exceptions is a statement against interest. A statement against interest, in order to be admissible, must, at the time it is made:

> (a) Was so far contrary to the pecuniary or proprietary interests of the declarant;
>
> (b) So far tended to subject the declarant to civil or criminal liability;

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[1] Chief Deputy District Attorney Lisa Luzaich graciously granted the Defense until April 28, 2014 to file the aforementioned Motion.

(c) So far tended to render invalid a claim by the declarant against another; or

(d) So far tended to make the declarant an object of hatred, ridicule or social disapproval, that a reasonable person in the position of the declarant would not have made the statement unless the declarant believed it to be true. NRS 51.345(1)

During the course of Harris' trial, the State opted to elicit particular statements from Detective Madsen, made by co-defendant Lealer Cooks.[2] These statements were clearly hearsay, as the State asserted that they were a statement against penal interest(an exception to the hearsay rule).

However, contrary to defense's objections, the Court opted to allow these statements to be elicited. There was no subsequent finding by this Court with regard to whether the statement elicited was trustworthy under *Walker v. State*, 116 Nev. 670, 76(2000).

In the instant case, the statement was made to law enforcement after a lengthy discussion, all of which was recorded. Ms. Cooks stated repeatedly throughout the statement that she did not believe the Duke girls and their claims. Further, part of the statute requires that the report of the abuse have some indicia of reliability and the person must have some belief that the abuse is true.[3]

Lealer was very clear in her statement that she did not believe the victims in this case. To simply characterize that one particular portion as a "statement against interest"

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[2] Lealer Ann Cooks was charged in case number C290726. She is a co-defendant as she is charged with a failure to report the abuse(Child Abuse & Neglect) arising out of the same allegations levied against Mr. Harris.

[3] The Defense was not permitted to bring in information that Cooks was concerned about the Tahara Duke being sexually active with some boy at her school, thus the reason for taking her to the doctor.

was patently incorrect. It was primarily taken out of context, in light of the entire statement, and it was never subjected to a finding of reliability.

For this reason, Harris should received a new trial.

**B. Harris should receive a new trial because his statement was altered incorrectly and the jury was precluded from hearing material facts.**

During the course of the trial, the State opted to play Harris' statement to the jury. However, there were parts of the statement that were which should have been played and were material to the defense.

During the course of Harris' statement to Henderson PD, he told the Detective that Victoria had disclosed to him that she had had sex while she lived in Utah.[4] The State opted to take this portion out, claiming it was subject to rape shield.

NRS 50.090 provides, in pertinent part:

> In any prosecution for sexual assault....., the accused may not present evidence of any previous sexual conduct of the victim of the crime to challenge the victim's credibility as a witness unless the prosecutor has presented evidence or the victim has testified concerning such conduct, or the absence of such conduct, in which case the scope of the accused's cross-examination of the victim or rebuttal must be limited to the evidence presented by the prosecutor or the victim.

In the instant case, Victoria Duke was **VERY** clear that she was subjected to a sexual assault almost immediately upon her return from Utah. And furthermore, this sexual assault was her first time having sex.

In *Summit v. State*, 101 Nev. 159, 697 P.2d 1374(1985), the Nevada Supreme Court addressed this issue. In *Summit*, like here, the defense sought to introduce evidence that the victim had prior sexual experience, which would account for her knowledge of sex. The

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[4] Victoria claimed that upon her return from Utah, Harris had taken her virginity.

District Court denied the request. In analyzing the facts and NRS 50.090, the Court decidedly agreed with the analysis of the Supreme Court of Washington, which held that the trial court must undertake to balance the probative value of the evidence against its prejudicial effect and that the inquiry should particularly focus upon "potential prejudice to the truthfinding process itself," i.e., "whether the introduction of the victim's past sexual conduct may confuse the issues, mislead the jury, or cause the jury to decide the case on an improper or emotional basis." *Summit* at 1377, citing *State v. Hudlow*, 99 Wash.2d 1, 59 P.2d 514(1983)

In the instant case, there was no balancing at all. The Court simply precluded this portion of the defendant's statement. Her claims of Harris taking her virginity were clearly rebuttable through his own statement to police. The purpose of bringing in the statements was not to attack her credibility but simply to show prior sexual knowledge, which would account for her rendition of the acts itself.

The state further argued that it was self serving. However, if the court were to accept this reasoning, then every statement a defendant makes would be subject to the State's "eraser" with regard to anything they feel is "self serving." The defendant's statement was put into evidence by the State. Portions were redacted regarding a polygraph(which are inadmissible in this state). However, his statement to the police regarding what Victoria had previously told him was certainly relevant. It did not violate rape shield and should not have been subject to the state's "eraser" for reasons which do not comport with his right to confront witnesses pursuant to the 6th Amendment.

**C. Victoria Duke made material misrepresentations of what she was doing in California.**

During Victoria Duke's testimony, she testified that she was living in California and

going to school. However, after Harris' conviction, counsel for the defense became aware of the fact that Ms. Duke was arrested on two occasions for prostitution. Counsel for Harris confirmed this with the two court entities that are listed on the register of actions.

Certainly, information about Victoria Duke being a prostitute was exceptionally important in this case. She alleged multiple instances of sexual abuse and then lied about what she was doing in California. Certainly her criminal record would have been relevant to this case.

**Conclusion**

Wherefore, The accused, FREDRICK HARRIS, respectfully requests this Honorable Court to grant his Motion for a new trial. Alternatively, he requests the Court to hold a hearing concerning the matters set forth herein.

DATED _28th_ day of April, 2014

BY: /s/ Betsy Allen, Esq.
BETSY ALLEN, ESQ
Nevada Bar No. 6878
P.O. Box 46991
Las Vegas, Nevada 89114
(702) 386-9700

**Certificate of Service**

I hereby certify that I provided the Clark County District Attorney, specifically Lisa Luzaich, a true and correct copy of the foregoing motion on the 28th day of April, 2014 via email to:

lisa.luzaich@clarkcountyda.com

DATED this 28th day of April, 2014

/s/Betsy Allen
**Betsy Allen, Esq.**

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06/13/2014 07:56:15 AM

CLERK OF THE COURT

**OPPS**
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
LISA LUZAICH
Chief Deputy District Attorney
Nevada Bar #005056
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

THE STATE OF NEVADA,

Plaintiff,

-vs-

FREDRICK HAROLD HARRIS JR., #0972945

Defendant.

CASE NO: **C-13-291374-1**

DEPT NO: **XII**

**STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR A NEW TRIAL**

DATE OF HEARING: JUNE 19, 2014
TIME OF HEARING: 8:30 A.M.

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through LISA LUZAICH, Chief Deputy District Attorney, and hereby submits the attached Points and Authorities in Opposition to Defendant's Motion for New Trial.

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

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## POINTS AND AUTHORITIES

## STATEMENT OF THE CASE

On April 15, 2014, after hearing twelve (12) days of evidence in this case, and after approximately two (2) days of deliberation, the jury found Defendant Frederick Harris ("Defendant") guilty of the following: eleven (11) counts of Sexual Assault With a Minor Under Fourteen Years of Age; five (5) counts of Lewdness With a Child Under the Age of 14; six (6) counts of Sexual Assault With a Minor Under Sixteen Years of Age; four (4) counts of Sexual Assault; four (4) counts of First Degree Kidnapping; one (1) count of Administration of a Drug to Aid in the Commission of a Crime; one (1) count of Coercion (Sexually Motivated); one (1) count of Battery With Intent to Commit Sexual Assault; one (1) count of Child Abuse, Neglect or Endangerment; one (1) count of Pandering; and one (1) count of Living From the Earnings of a Prostitute.

The jury found Defendant not guilty of the following: two (2) counts of Sexual Assault With a Minor Under Sixteen Years of Age; one (1) count of Sexual Assault; one (1) count of Administration of a Drug to Aid in the Commission of a Crime; four (4) counts of Child Abuse, Neglect or Endangerment; and one (1) count of Battery by Strangulation.

Defendant filed the instant Motion for a New Trial on April 28, 2014.

## ARGUMENT

### I. DEFENDANT'S CLAIMS DO NOT MEET THE STANDARD REQUIRED TO GRANT A NEW TRIAL

In criminal cases, NRS 176.515 controls when a motion for new trial may be granted. NRS 176.515 provides:

> 1. The court may grant a new trial to a defendant if required as a matter or law or on the ground of newly discovered evidence.
>
> 2. If trial was by the court without a jury the court may vacate the judgment if entered, take additional testimony and direct the entry of a new judgment.
>
> 3. A motion for a new trial based on the ground of newly discovered evidence may be made only within 2 years after the verdict or finding of guilty.

> 4. A motion for a new trial based on any other grounds must be made within 7 days after verdict or finding of guilt or within such further time as the court may fix during the 7-day period.
>
> The trial court has the discretion to grant or deny a motion for new trial. Rippo v. State, 113 Nev. 1239, 946 P.2d 1017 (1997).

**a. LEALER COOKS' STATEMENT WAS PROPERLY ADMITTED AS A STATEMENT AGAINST INTEREST**

Defendant argues that a new trial should be granted under NRS 176.515(4) on the grounds that the Court improperly admitted limited portions of Lealer Cooks' ("Cooks") statement to police as a statement against interest under NRS 51.345.

The admissibility of evidence is within the sound discretion of the trial court and will not be overturned on appeal unless found to be manifestly wrong. See Cipriano v. State, 111 Nev. 534, 541, 894 P.2d 347, 352 (1995). NRS 51.345 states as follows:

> 1. A statement which at the time of its making:
>
> (a) Was so far contrary to the pecuniary or proprietary interest of the declarant;
>
> (b) So far tended to subject the declarant to civil or criminal liability;
>
> (c) So far tended to render invalid a claim by the declarant agains another; or
>
> (d) So far tended to make the declarant an object of hatred, ridicule or social disapproval, that a reasonable person in the position of the declarant would not have made the statement unless the declarant believed it to be true is not admissible under the hearsay rule if the declarant is unavailable as a witness. A statement tending to expose the declarant to criminal liability and offered to exculpate the accused in a criminal case is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.

NRS 51.345 (emphasis added).

Defendant's main contention is that this Court erroneously made no finding of reliability under NRS 51.345 and that "the statute requires that the report of the abuse have some indicia of reliability and the person must have some belief that the abuse is true." Defendant's Motion, p. 4. Defendant takes this portion of the statute above out of context and

the requirement of a finding of reliability does not apply to Cooks' statements against interest elicited by the State during trial. It is clear from a thorough reading of NRS 51.345 that the requirement that corroborating circumstances clearly indicate the trustworthiness of the statement only applies to statements offered to exculpate the accused in a criminal case.

Here, the State elicited Cooks very narrow statements against her interest through Detective Nick Madsen to show that Cooks was aware of Taharah's and Taquandah's disclosure of Defendant's abuse, that Cooks took Taharah to a doctor, and that Cooks ultimately did nothing about the abuse. In support of his argument, Defendant cites Walker v. State, 116 Nev. 670, 6 P.3d 477 (2000). However, Walker specifically deals with statements against interest of a co-defendant sought to be admitted to exculpate the accused. The evidence admitted during the instant trial was in no way offered to exculpate the Defendant. Thus, the Court was not required to make a finding of reliability in order to admit the statements. The Court properly admitted these statements because they so far tended to subject Cooks to criminal liability that a reasonable person in Cooks' position would not have made the statements unless the person believed it to be true.

Indeed, while Cooks was not charged as Defendant's co-defendant, Cooks was prosecuted with regard to the facts of the instant case. Moreover, Cooks and pled guilty pursuant to North Carolina v. Alford to one (1) count of Child Abuse, Neglect or Endangerment (Category B Felony), in C290726. Specifically, the allegations she pled to were, in part, that she "[kept] Tahara Duke in the home with Frederick Harris after knowing the said Taharah Duke was being molested by Frederick Harris, and her sister had previously been molested by Frederick Harris, and promising but failing to move the said Tahara Duke out of the home resulting in the continuing sexual abuse of Tahara Duke by Frederick Harris." (See Amended Information, a copy of which is attached hereto as Exhibit "1"). Cooks was ultimately adjudicated guilty of that offense.

Defendant also contends that Cooks' statement was "taken out of context" and that Cooks was very clear in her statement to police that she did not believe the victims in this case. On cross-examination, the Court allowed Defendant to ask Det. Madsen about Cooks initially

not believing the girls. Defendant further asked if Cooks gave specific instances to Det. Madsen as to why she did not believe the girls. The Court properly excluded the specific examples that Defendant purported to offer because these statements from Cooks were inadmissible hearsay that did not fall within any hearsay exception. Cooks' statements were not taken out of context and the Court allowed Defendant to follow up with regard to whether Cooks did not initially believe Taharah and Taquandah. The statements were properly admitted and this argument fails to show that Defendant is entitled to a new trial.

**b. DEFENDANT'S STATEMENT WAS PROPERLY REDACTED TO EXCLUDE INADMISSIBLE HEARSAY**

Defendant argues that this Court improperly excluded Defendant's statements during his December 18, 2011 interview with law enforcement. The statements that the State redacted that Defendant sought to admit included the following:

> Q [Detective Aguiar]: Had she [Victoria] ever had sex with anyone before you?
>
> A [Defendant]: Not that I know of. I don't know.
>
> Q: So you're the first person she's ever had sex with?
>
> A: I know she had sex before because when she came in from Utah she had been having sex. She admitted it that she had been having sex with girl and a friend that used to sneak around after school with out in Utah.

Defendant's Transcribed Statement, p. 90, lns. 8-14. Defendant made these statements after he admitted to having sex with Victoria and her mother, Tina Duke, on two (2) prior occasions. Again, the admissibility of evidence is within the sound discretion of the trial court and will not be overturned on appeal unless found to be manifestly wrong. Cipriano, 111 Nev. at 541, 894 P.2d at 352. Defendant argues that the Court did not balance the probative value of these statements against their prejudicial effect and simply precluded this portion of Defendant's statement. Defendant's Motion, p. 6. This Court is very well aware of the law surrounding NRS 50.090 and Summit v. State. These statements were properly excluded by the Court, and as such provide no grounds to grant a motion for new trial.

NRS 50.090 states the following:

In any prosecution for sexual assault or statutory sexual seduction or for attempt to commit or conspiracy to commit either crime, the accused may not present evidence of any previous sexual conduct of the victim of the crime to challenge the victim's credibility as a witness unless the prosecutor has presented evidence or the victim has testified concerning such conduct, or the absence of such conduct, in which case the scope of the accused's cross-examination of the victim or rebuttal must be limited to the evidence presented by the prosecution or victim.

In Summit v. State, 101 Nev. 159, 697 P. 2d 1374 (1985), the Nevada Supreme Court explained the rationale for the rape-shield law codified in NRS 50.090. The Court explained that general use of a female's reputation for morality and chastity would be inadmissible to infer consent or to attack credibility. The Court also explained that the law is designed to protect rape victims from degrading and embarrassing disclosure of intimate details of their private lives and to encourage rape victims to disclose crimes, while being free from unnecessary indignities and needless probing into their sexual histories. Specifically, the Court stated:

In 1977 Nevada joined forty-five states and the federal government in passing a "rape shield" statute, limiting inquiry into the sexual history of a complaining witness in a rape or sexual assault case. See J.A. Tanford and A.J. Bocchino, Rape Victim Shield Laws and the Sixth Amendment, 128 U.Pa.L.Rev. 544, 544 (1980). Such laws have generally been designed to reverse the common law rule applicable in rape cases, that use of evidence of a female complainant's general reputation for morality and chastity was admissible to infer consent and also to attack credibility generally. Thus, for example, it had been held: "It is a matter of common knowledge that the bad character of a man for chastity does not even in the remotest degree affect his character for truth, when based upon that alone, while it does that of a woman." State v. Sibley, 131 Mo. 519, 132 Mo. 102, 33 S.W. 167, 171 (1895), quoted in State v. Brown, 636 S.W.2d 929, 933 n. 3 (Mo.1982), cert. denied sub nom., Brown v. Missouri, 459 U.S. 1212, 103 S.Ct. 1207, 75 L.Ed.2d 448 (1983). Such statutes as Nevada's have been described as "directed at the misuse of prior sexual conduct evidence based on this antiquated

and obviously illogical premise." State v. Hudlow, 99 Wash.2d 1, 659 P.2d 514, 519 (1983). See also People v. McKenna, 196 Colo. 367, 585 P.2d 275, 278 (1978). An additional purpose of such statutes is "'to protect rape victims from degrading and embarrassing disclosure of intimate details about their private lives.' "124 Cong.Rec. at H 11945 (1978), quoted in Doe v. United States, 666 F.2d 43, 45 (4th Cir.1981). Finally, "[t]he restrictions placed on the admissibility of certain evidence by the rape-shield laws will, it was hoped, encourage rape victims to come forward and report the crimes and testify in court protected from unnecessary indignities and needless probing into their respective sexual histories." State v. Lemon, 456 A.2d 261, 264 (R.I.1983). Id.

Defendant's own statements that he "knows" Victoria was having sex in Utah, and that Victoria previously admitted to him that she had sex in Utah are clearly self-serving and there is absolutely no indicia of reliability to these statements. Moreover, these statements are protected under NRS 50.090. Defendant argues that the statements should have been admitted to show that "the victim had prior sexual experience, which would account for her knowledge of sex," and "simply to show prior sexual knowledge, which would account for her rendition of the acts itself." Defendant's Motion, p. 5-6. Victoria Duke was twenty-one (21) years old at the time she testified at trial in this case. The victim in Summit was six (6) years old, and the victim in State v. Howard, 121 N.H. 52, 426 A.2d 457 (1981), referenced in Summit, was twelve (12) years old. Defendant's statements are not specific evidence to challenge "the young complaining witness's credibility, by showing that she had other experiences which could explain the source of her knowledge of the sexual activity she described in her testimony." Summit, 101 Nev. at 163, 697 P.2d at 1377. Victoria was an adult at the time she testified, and on cross-examination of at least one of the State's witnesses, defense counsel elicited the fact that Victoria now has a baby. Defendant's own statements that were sought to be admitted at trial simply do not fall under the exception to rape-shield under Summit and the Court properly excluded them. As such, this argument fails and provides no grounds to grant a new trial.

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### c. VICTORIA DUKE DID NOT MAKE ANY MATERIAL MISREPRESENTATIONS AND DEFENDANT'S CLAIM THAT SHE WAS ARRESTED FOR PROSTIUTION WOULD NOT HAVE BEEN ADMISSIBLE HAD IT BEEN KNOWN TO EITHER DEFENSE COUNSEL OR THE STATE

Defendant states that "information about Victoria Duke being a prostitute was exceptionally important to the case," and argues that a new trial should be granted because Victoria did not testify that she had been arrested on two (2) occasions for prostitution since moving to California in August 2013, two years after the last incident of sexual assault occurred with the Defendant. Defendant's Motion, p. 7.

Defendant makes the unsupported allegation that Victoria "lied about what she was doing in California." Id. During trial, Victoria testified that she moved to California in August 2013, that she was currently living with her "godmother," and that she was currently attending school to become a medical clinical admissions assistant. Defendant has absolutely nothing to support his claim that Victoria lied in any of these statements. In fact, the State's investigator went to Victoria's school and spoke to an administrator. Additionally, he went to Victoria's address and spoke to Victoria's "godmother."

At the time of trial, neither the State, nor the Defense, were aware that Victoria had been arrested on two occasions for prostitution since Victoria had moved to California in August 2013. The State did run Victoria in SCOPE, its local criminal history database, and there were no arrests listed there. If the State had this information, it would have turned it over to the Defense, but the State did not.

Assuming Defendant's representations are accurate, even if the State had this information, Victoria's (2) prior arrests for prostitution would not have been admissible at trial. The arrests are not relevant because they occurred two years after the last incident of sexual assault occurred with the Defendant. The arrests have no bearing whatsoever with what occurred with Victoria Duke and the Defendant during December 2004 through December 2011, which are the dates encompassed by all of the charges involving Victoria.

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Moreover, Defendant does not even set forth a basis that he would have sought to admit this evidence. The defense at trial was that the victims were making their testimony up; the defense was not a consent defense. Victoria's two (2) prior arrests for prostitution are not relevant to the defense set forth during trial. A prior arrest record for prostitution, if found to be relevant, is still subject to considerations of confusion and prejudice under NRS 48.035 and in the appropriate case, a district court could properly exercise its discretion by refusing to admit such evidence. Drake v. State, 108 Nev. 523, 527, 836 P.2d 52, 55 (1992). Even had this Court found Victoria's arrests to somehow be relevant, the evidence would have been excluded because the probative value of the arrests would have been substantially outweighed by the danger of unfair prejudice, and because of the danger the evidence posed of confusing the issues in the case and misleading the jury. Again, Defendant fails to set forth what probative value, if any, this evidence would have had at trial. This argument fails and is not a basis to grant a new trial under NRS 176.515(4).

Insomuch as Defendant's argument is construed as a motion for new trial based upon a claim of newly discovered evidence, NRS 176.515(1) provides that a new trial may be granted on the ground of newly discovered evidence. The standard for a new trial based on newly discovered evidence is that:

> (1) the evidence must be newly discovered: (2) it must be material to the defense; (3) it could not have been discovered and produced even with the exercise of reasonable diligence; (4) it must not be cumulative; (5) it must indicate that a different result is probable on retrial; (6) it must not simply be an attempt to contradict or discredit a former witness; and (7) it must be the best evidence the case admits.

Hennie v. State, 114 Nev. 1285, 968 P.2d 761 (1998). See also, Callier v. Warden, 111 Nev. 976, 988, 901 P.2d 619, 626 (1995). In order to obtain a new trial based upon newly discovered evidence, Defendant must present evidence that satisfies all seven prongs of the test set forth in Callier. Defendant has failed to do so.

As argued above, Defendant fails to meet prong (2) because they have failed to show how this evidence is material to the defense. Additionally, Defendant fails to meet prong (3) because the evidence very clearly could have been produced through the exercise of reasonable

diligence evidenced by the fact that Defendant obtained this information days after the jury's verdict was reached. Defendant also fails to meet prong (5) because the evidence most certainly does not indicate that a different result is probable on retrial considering he has failed to show that the evidence would have been admissible in the first place, and considering the two (2) arrests took place two years after the last incident of sexual assault in this case. Lastly, Defendant fails to show that this evidence is not simply an attempt to contradict or discredit Victoria Duke as a witness, and thus fails to meet prong (6). Because Defendant has failed to meet any of the requirements set forth in Hennie, and he is required to meet all seven (7) requirements to obtain a new trial, he is not entitled to a new trial.

## II. DEFENDANT IS NOT ENTITLED TO AN EVIDENTIARY HEARING

The Nevada Supreme Court has previously stated that requests for evidentiary hearings in motions for new trial should be subject to the same rule as applied to post-conviction petitions. See, Rippo, 113 Nev. at 1250, 946 P.2d at 1024. As applied to post-conviction proceedings, "[a] petitioner for post-conviction relief is entitled to an evidentiary hearing only if he supports his claims with specific factual allegations that if true would entitle him to relief. The petitioner is not entitled to an evidentiary hearing if the factual allegations are belied or repelled by the record. The petitioner has the burden of establishing the factual allegations in support of his petition." Thomas v. State, 120 Nev. 37, 44, 83 P.3d 818, 823 (2004). Since Defendant has failed to establish that any of his claims would require relief, an evidentiary hearing is not warranted.

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## CONCLUSION

For the foregoing reasons, the State respectfully requests that Defendant's Motion for New Trial and his request for an evidentiary hearing be denied.

DATED this 13th day of June, 2014.

Respectfully submitted,

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

BY /s/ LISA LUZAICH
LISA LUZAICH
Chief Deputy District Attorney
Nevada Bar #005056

## CERTIFICATE OF E-SERVICE

I hereby certify that service of the above and foregoing was made this 13th day of JUNE 2014, to:

BETSY ALLEN, ESQ.
betsyallenesq@yahoo.com

BY /s/ HOWARD CONRAD
Secretary for the District Attorney's Office
Special Victims Unit

hjc/SVU

# EXHIBIT "1"

ORIGINAL

AINF
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
LISA LUZAICH
Chief Deputy District Attorney
Nevada Bar #5056
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

FILED IN OPEN COURT
STEVEN D. GRIERSON
CLERK OF THE COURT
OCT 29 2013
BY Linda Skinner
LINDA SKINNER, DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

LEALER ANN COOKS,
#0701381

Defendant.

Case No: C-13-290726-1
Dept No: XX

AMENDED
INFORMATION

AMENDED BY ORDER OF THE COURT
STEVEN D. GRIERSON, CLERK OF THE COURT
BY Linda Skinner, DEPUTY
OCT 29 2013

STATE OF NEVADA )
) ss.
COUNTY OF CLARK )

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

That LEALER ANN COOKS, the Defendant(s) above named, having committed the crime of **CHILD ABUSE, NEGLECT, OR ENDANGERMENT (Category B Felony - NRS 200.508)**, on or between August 1, 2007 and September 30, 2012, within the County of Clark, State of Nevada, contrary to the form, force and effect of statutes in such cases made and provided, and against the peace and dignity of the State of Nevada, did ~~commit a felony~~ ~~August 1, 2008 and December 30, 2010~~, wilfully, unlawfully, and feloniously cause a child under the age of 18 years, to-wit: VICTORIA DUKE, being approximately 15-18 year(s) of age and/or TAHARE DUKE, being approximately 7-12 year(s) of age and/or MAHLICA DUKE, being approximately 15-17 year(s) of age and/or TAQUANDAH DUKE, being approximately 7-11 year(s) of age and/or SHABAZZ DUKE, being approximately 12-15

year(s) of age, to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect, and/or cause the said VICTORIA DUKE and/or TAHARE DUKE and/or MAHLICA DUKE and/or TAQUANDAH DUKE and/or SHABAZZ DUKE to be placed in a situation where they might have suffered unjustifiable physical pain or mental suffering as a result of abuse or neglect, by Defendant being responsible for VICTORIA DUKE'S and/or TAHARE DUKE'S and/or MAHLICA DUKE'S and/or TAQUANDAH DUKE'S and/or SHABAZZ DUKE'S safety, failed to protect VICTORIA DUKE and/or TAHARE DUKE and/or MAHLICA DUKE and/or TAQUANDAH DUKE and/or SHABAZZ DUKE from Fredrick Harris and the physical batteries he committed on the said VICTORIA DUKE and/or TAHARE DUKE and/or MAHLICA DUKE and/or TAQUANDAH DUKE and/or SHABAZZ DUKE and/or by Defendant keeping TAHARE DUKE in the home with Fredrick Harris after knowing the said TAHARE DUKE was being molested by Frederick Harris, and her sister had previously been molester by Frederick Harris, and promising but failing to move the said TAHARE DUKE out of the home resulting in the continuing sexual abuse of TAHARE DUKE by Fredrick Harris.

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

BY _____
LISA LUZAICH
Chief Deputy District Attorney
Nevada Bar #5056

DA#13F03712X/jm/SVU
LVMPD EV#1209271444
(TK1)

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CLERK OF THE COURT

RPLY
**BETSY Allen, ESQ**
Nevada Bar No. 6878
P.O. Box 46991
Las Vegas, Nevada 89114
(702) 386-9700
Fax (702) 386-4723
betsyallenesq@yahoo.com
Attorney for Defendant
FREDRICK HARRIS

DISTRICT COURT
CLARK COUNTY, NEVADA

| | |
|---|---|
| THE STATE OF NEVADA, Plaintiff, vs. FREDRICK HARRIS, Defendant. | Case No.: C-13-291374-1<br>Dept. No. XII |

**DEFENDANT'S REPLY TO STATE'S RESPONSE TO MOTION FOR A NEW TRIAL AND SUPPLEMENT TO DEFENDANT'S MOTION FOR A NEW TRIAL**

COMES NOW the Defendant, FREDRICK HARRIS, by and through his attorney, BETSY ALLEN, ESQ., and hereby files this Reply to State's Response to Motion for New Trial and Supplements Defendant's Motion for a New Trial.

This Reply and Supplement is based upon the pleading and papers on files herein, the following Points and Authorities all as incorporated herein.

DATED this _9th_ day of July, 2014

/s/ Betsy Allen
Betsy Allen, Esq.
Nevada Bar No. 6878



Docket 81257 Document 2020-39622

## POINTS AND AUTHORITIES

### Factual Background

In the instant case, the Defendant, FREDRICK HARRIS, was convicted of 36 out of 45 counts of various charges, including: Sexual Assault on a Minor under Fourteen, Sexual Assault of a Minor under 16, and Lewdness with a Minor.

## I. REPLY TO STATE'S RESPONSE TO DEFENDANT'S MOTION FOR A NEW TRIAL

NRS 176.515 provides in relevant part that:

> 1. The Court may grant a new trial to a defendant if required as a matter of law or on the ground of newly discovered evidence.
> 2. If trial was by the Court without a jury, the Court may vacate the judgment if entered, take additional testimony on direct the entry of a new judgment.
> 3. Except as otherwise provided in NRS 176.0918, a motion for new trial based on the ground of newly discovered evidence may be made only within 2 years after the verdict or finding of guilt.
> 4. A motion for a new trial based on any other grounds must be made within 7 days after the verdict or finding of guilt or within such further time as the Court may fix during the 7-day period.[1]

### A. The Court allowed portions of the statement of co-defendant Lealer Ann Cooks without a finding of reliability

During the trial, the State elicited statements from Lealer Cooks, ultimately choosing to admit them through a detective, not through Ms.Cooks.

Part of the State's argument that there is an indicia of reliability is that Lealer pled guilty to a count of Child Abuse and Neglect, pursuant to **the Alford decision.** The State glosses over the idea and thought process behind the Alford decision. This United State Supreme Court decision allows a defendant to plead guilty without admitting guilt, in order

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[1] Chief Deputy District Attorney Lisa Luzaich graciously granted the Defense until April 28, 2014 to file the aforementioned Motion.

to avoid a harsher penalty.[2] This is not an admission of guilt, merely a way to avoid going to trial. In fact, as this Court is well aware, during a plea canvas, the Defendant is NOT asked to allocute but rather to agree that the State COULD prove the charges against him/her.

Therefore, Cooks "indicia" of reliability relied on by the State simply does not exist.

**B. Harris should receive a new trial because his statement was altered incorrectly and the jury was precluded from hearing material facts.**

During the course of the trial, the State opted to play Harris' statement to the jury. However, there were parts of the statement that were which should have been played and were material to the defense.

Victoria made clear claims that Fred was the first person she had ever had sexual intercourse with. The State claims his statements that she had sex was somehow self-serving, without really explaining how it helped him somehow.

While making this statement, Fred was not under arrest, was in his own home and had just admitted to having sex with her. There was nothing self-serving about saying she had had sex previous to him.

The State claims that Defendant is trying to somehow circumvent rape shield, NRS 50.090. This could not be farther from the truth. Rape shield was meant to protect victims from a Defendant attacking based upon promiscuous conduct. However, when the alleged victim claims that she never had sexual intercourse before, the Defendant is permitted to rebuke that for very obvious reasons. Being able to relay specific actions related to sex requires some indicia of knowledge.

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[22] See North Carolina v. Alford, 400 U.S. 25 (1970)

*Summit v. State*, 101 Nev. 159, 697 P.2d 1374(1985) addressed this issue. In *Summit* the defense sought to introduce evidence that the victim had prior sexual experience, which would account for her knowledge of sex. The District Court denied the request. In analyzing the facts and NRS 50.090, the Court decidedly agreed with the analysis of the Supreme Court of Washington, which held that the trial court must undertake to balance the probative value of the evidence against its prejudicial effect and that the inquiry should particularly focus upon "potential prejudice to the truthfinding process itself," i.e., "whether the introduction of the victim's past sexual conduct may confuse the issues, mislead the jury, or cause the jury to decide the case on an improper or emotional basis." *Summit* at 1377, citing *State v. Hudlow*, 99 Wash.2d 1, 59 P.2d 514(1983)

This Court did no such balancing. This was not an open and shut case, with confessions and undeniable evidence. There were hugely conflicting statements, a TON of prior inconsistent statements and witnesses presented by the Defense which CLEARLY contradicted the victims. The Court simply precluded this portion of the defendant's statement. Her claims of Harris taking her virginity were clearly rebuttable through his own statement to police. The purpose of bringing in the statements was not to attack her credibility but simply to show prior sexual knowledge, which would account for her rendition of the acts itself.

**C. Victoria Duke made material misrepresentations of what she was doing in California.**

The Defense became aware that Victoria was arrested shortly before the trial, two times, for soliciting prostitution. While she may have testified that she was in school and living with her "godmother" there was no coorboration for this information.

In the State's Response, they supplement the record by stating their investigator obtained information that she was in school and living with someone. However, this was not testified to during the trial and should not be considered by this Court.

In interviews with juror #8, Kathleen Smith, she indicated that information regarding arrests for prostitution would have made a difference in the verdict. (see attached affidavit, Exhibit A) Victoria Duke materially misrepresented her activities in California. Her mother testified that she was a prostitute during this trial and it was clear from Victoria's testimony that she was disgusted by this behavior. To find out that she was **DOING THE SAME THING,** and NOT because Fred was supposedly forcing to her do so, is a material issue that should have been presented to the jury.

## II. SUPPLEMENT TO DEFENDANT'S MOTION FOR A NEW TRIAL.

NRS 176.515 provides in relevant part that:

> 1. The Court may grant a new trial to a defendant if required as a matter of law or on the ground of newly discovered evidence.

In the instant matter, it has been discovered that there was an extreme instance of juror misconduct. In an interview with Juror #8, Kathleen Smith, it was discovered that during deliberations, Juror # 7, Yvonne Lewis, was not truthful during voir dire.

This was a forty-six(46) count sexual abuse/assault case. And jurors were asked if they were ever the victims of physical or sexual abuse during questioning during voir dire. Juror #7 did NOT disclose sexual abuse, only disclosing during deliberations, while crying, and calling for the conviction of the defendant. (see attached exhibit A).

This is on point with the facts in Canada v. State, 944 P.2d 781, 113 Nev. 938(1997). In Canada, the jury in this murder trial was tainted by a juror who failed to disclose during voir dire that his own father was murdered. Other jurors stated that he

would have voted to convict no matter what and kept referring to his own father's murder.

Fred Harris' case was a contentious sexual abuse case. The jurors were picked over meticulously and asked about abuse of all kinds. This particular juror talked about physical abuse from her mother, but failed to disclose sexual abuse of ANY KIND.

However, during jury deliberation, she broke down crying and referred to sexual abuse and knowing how it felt to be sexually abused. She also was pushing for Harris' conviction and need to be punished. (See attached affidavit of Harrison Mayo Jr., and notes from Kathleen Smith, including changes she asked for in original affidavit, attached as Exhibit A, B and C).

In Lopez v. State, 105 Nev. 68, 769 P.2d 1276(1989) the Supreme Court held that where a juror failed to reveal potentially prejudicial information during voir dire, the relevant inquiry is whether the juror is guilty of intentional concealment. Id at 89, 1290. Lopez states that is the trial court's discretion to determine this information.[3] "A new trial must be granted unless it appears, beyond a reasonable doubt, that no prejudice has resulted." Lane v. State, 110 Nev. 1156, 1164, 881 P.2d 1358, 1364 (1994). This Court must consider "whether the issue of guilt is close, the quantity and character of the error, and the gravity of the crime charged." Rowbottom v. State, 105 Nev. 472, 486, 779 P.2d 934, 943(1989)

In the instant case, Harris was charged with 46 felony counts, most of which were life sentence counts. There were days of jury deliberation, indicating people who were holding out on guilt and finally, a juror who, after lying about sexual abuse, was calling for

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[3] This court must remember the painstaking process both sides undertook to delve into this information. There was even a juror who reveal sexual abuse for the very first time EVER at the bench. Counsel has done numerous sexual abuse/trials and ALWAYS looks for people who previously have been victims for this exact reason.

the punishment of Harris during deliberation. Harris is entitled to an evidentiary hearing to determine the facts and circumstances of this jurors misconduct.

**Conclusion**

Wherefore, The accused, FREDRICK HARRIS, is entitled to a hearing wherein Juror # 7 and #8 must be called to testify regarding the information recently provided to Harris.

DATED _9th_ day of July, 2014

BY: /s/ Betsy Allen, Esq.
BETSY ALLEN, ESQ
Nevada Bar No. 6878
P.O. Box 46991
Las Vegas, Nevada 89114
(702) 386-9700

**Certificate of Service**

I hereby certify that I provided the Clark County District Attorney, specifically Lisa Luzaich, a true and correct copy of the foregoing motion on the 1st day of July, 2014 via email to:

lisa.luzaich@clarkcountyda.com

DATED this 9th day of July, 2014

/s/Betsy Allen
**Betsy Allen, Esq.**

# A

**AFFIDAVIT OF HARRISON MAYO, JR.**

COUNTY OF CLARK )
) ss:
STATE OF NEVADA )

I, HARRISON MAYO, JR., being first duly sworn on oath, deposes and states as follows:

1. That I was appointed to work with Betsy Allen, Esq., on the case of Fredrick Harris, C291374-1 and the information contained herein is the truth to the best of my knowledge.

2. That I was asked by the attorney, Betsy Allen, to talk to a particular juror with regard to deliberations.

3. That I was asked to talk to this juror due to the fact that Dorothy Harris, Fredrick Harris' mother, was approached at Wal-Mart by this particular juror and discussed the case with her. Further, she apologized for the convictions.

4. That I came to find out that the this juror was named Kathleen Smith and she works in the Regional Justice Center at the Information booth on the first floor.

5. That Ms. Allen and I interviewed this juror, Ms. Smith, and she disclosed that during deliberations, another juror started talking about being sexually abused as a child. She described this juror as being juror number seven(7), Yvonne Lewis. Ms. Smith further said that Ms. Lewis became emotional during deliberations and began crying while she talked about her own experiences of sexual abuse.

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6. That after she said she had been sexually abused, she began talking about the defendant, Fred Harris, needing to be punished for what he did.

7. That after Ms. Allen made changes to the affidavit as requested by Ms. Smith, she now does not want to get involved.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this 9TH day of July, 2014.

HARRISON MAYO, JR.

# B

I went with the Consensus but I was not wholeheartedly in agreement with the guilty verdicts

- Some of the ~~jurors~~ juror's were to me in a rush to judgement - Some had vacation plans. Some wanted to get back to lives it was pretty much cut & dry to them & they did not believe the testimony of the School offcals, CPS & Harris -

Henderson P.D. investigation -

One of the jurors I recall put strong emphasis on a personal experience of being sexually abused & physically abused as a child so she sympatized with the victims wholeheartedly - She even came to tears when she spoke of this - I believe she did not separate her personal experience from juding the case - making a ~~sound~~ sound decision on the case.

00113

# C

# AFFIDAVIT OF KATHLEEN SMITH

COUNTY OF CLARK )
) ss:
STATE OF NEVADA )

I, KATHLEEN SMITH, being first duly sworn on oath, deposes and states as follows:

1. That I was a sworn juror in the State of Nevada v. Fredrick Harris and the information contained herein is the truth to the best of my knowledge.

2. That I participated in deliberations which resulted in the conviction of Harris on multiple counts of sexual assault.

3. That I was pressured into voting to convict Fredrick Harris by other jurors. I, along with another juror, held out for two days.

4. That I finally gave up because I did not want to be in deliberations forever.

5. That during deliberation, one juror became emotional and began crying. She then talked about her own experience with sexual abuse. This was juror #7, Yvonne Lewis. I recall she put strong emphasis on being sexually abused and physically abused as a child. She sympathized with the victims wholeheartedly and began crying when she spoke of this. I do not believe she separated her personal experience from this case. She was unable to make sound judgments on this case based upon the things she said about her own sexual abuse.

~~#3 - I was~~

#4 - That I caved finally ~~gave~~ gave in to the consesus

* Take out did not want 2 be in

#5 - last line I believe she was unable 2 MK sound judgments on this case-

6. That after she said she had been sexually abused, she began talking about the defendant, Fred Harris, needing to be punished for what he did.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this _____ day of July, 2014.

_____
KATHLEEN SMITH

SUBSCRIBED and SWORN to me
this _____ day of July, 2014.

_____
NOTARY PUBLIC in and for said
County and State.

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CLERK OF THE COURT

NOTC
CHRISTOPHER R. ORAM, ESQ.
Nevada Bar No. 4349
520 South 4th Street, # 370
Las Vegas, Nevada 89101
(702) 384-5563

Attorney for Defendant
FREDERICK HARRIS

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

* * * * *

| | |
|---|---|
| THE STATE OF NEVADA,<br><br>Plaintiff,<br><br>vs.<br><br>FREDERICK HARRIS,<br><br>Defendant. | CASE NO. C-13-291374-1<br>DEPT. NO. 12 |

**NOTICE OF APPEAL**

NOTICE is hereby given that Defendant, FREDERICK HARRIS, hereby appeals to the Supreme Court of the State of Nevada from his sentence announced on October 27, 2015. The Judgment of Conviction has not yet been filed.

DATED this 27 day of October, 2015.

By _____
CHRISTOPHER R. ORAM
Nevada Bar #004349
520 South Fourth Street.,
Las Vegas, Nevada 89101

Attorney for Defendant
FREDERICK HARRIS

CHRISTOPHER R. ORAM, LTD.
520 SOUTH 4TH STREET | SECOND FLOOR
LAS VEGAS, NEVADA 89101
TEL. 702.384-5563 | FAX. 702.974-0623

**CERTIFICATE OF SERVICE**

I hereby certify that on the 21 day of October, 2015, I served a true and correct copy of the foregoing document entitled **NOTICE OF APPEAL** to the Clark County District Attorney's Office by sending a copy via electronic mail to:

CLARK COUNTY DISTRICT ATTORNEY'S OFFICE

I further certify that on the 21 day of October, 2015, I did deposit in the United States Post Office, at Las Vegas, Nevada, in a sealed envelope with postage fully pre-paid thereon, a true and correct copy of the above and foregoing **NOTICE OF APPEAL**, addressed to:

Supreme Court Clerk
Supreme Court Building
201 S. Carson Street
Carson City, Nevada 89701

Adam Paul Laxalt
Attorney General
100 North Carson Street
Carson City, Nevada 89701

BY:

An employee of Christopher R. Oram, Esq.

CHRISTOPHER R. ORAM, LTD.
520 SOUTH 4TH STREET | SECOND FLOOR
LAS VEGAS, NEVADA 89101
TEL. 702.384-5563 | FAX. 702.974-0623

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CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

FREDERICK HAROLD HARRIS JR.
aka Fredrick Harold Harris, Jr.
#0972945

Defendant.

CASE NO. C291374-1

DEPT. NO. XII

JUDGMENT OF CONVICTION

(JURY TRIAL)

The Defendant previously entered a plea of not guilty to the crimes of COUNTS 1, 15, 16, 17 & 18 – CHILD ABUSE, NEGLECT OR ENDANGERMENT (Category B Felony) in violation of NRS 200.508; COUNTS 2, 3, 6, 8, 9, 10, 11, 13, 14, 21 & 22 – SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Category A Felony) in violation of NRS 200.364, 200.366; COUNTS 4, 5, 7, 12 & 20 – LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (Category A Felony) in violation of NRS 201.230; COUNTS 19, 25, 28 & 37 – FIRST DEGREE KIDNAPPING

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DEPT. 12

(Category A Felony) in violation of NRS 200.310, 200.320; COUNT 23 – COERCION (SEXUALLY MOTIVATED) (Category B Felony) in violation of NRS 207.190: COUNTS 24 & 27 – ADMINISTRATION OF A DRUG TO AID IN THE COMMISSION OF A CRIME (Category B Felony) in violation of NRS 200.405; COUNTS 26, 29, 30, 31, 32, 33, 34 & 35 – SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (Category A Felony) in violation of NRS 200.364, 200.366; COUNTS 36, 39, 40, 41 & 43 – SEXUAL ASSAULT (Category A Felony) in violation of NRS 200.364, 200.366; COUNT 38 – BATTERY WITH INTENT TO COMMIT SEXUAL ASSAULT (Category A Felony) in violation of NRS 200.400; COUNT 42 – PANDERING (Category C Felony) in violation of NRS 201.300; COUNT 44 – LIVING FROM THE EARNINGS OF A PROSTITUTE (Category D Felony) in violation of NRS 201.320; COUNT 45 – BATTERY BY STRANGULATION (Category C Felony) in violation of NRS 200.481, and the matter having been tried before a jury and the Defendant having been found guilty of the crimes of COUNTS 2, 3, 6, 8, 9,10,11,13,14, 21 & 22 – SEXUAL ASSAULT WITH A MINOR UNDER FOURTEEN YEARS OF AGE (Category A Felony) in violation of NRS 200.364, 200.366; COUNTS 4, 5, 7, 12 & 20 – LEWDNESS WITH A CHILD UNDER THE AGE OF 14 (Category A Felony) in violation of NRS 201.230; COUNT 16 – CHILD ABUSE, NEGLECT OR ENDANGERMENT (Category B Felony) in violation of NRS 200.508); COUNTS 19, 25, 28 & 37 – FIRST DEGREE KIDNAPPING (Category A Felony) in violation of NRS 200.310, 200.320; COUNT 23 – COERCION (SEXUALLY MOTIVATED) (Category B Felony) in violation of NRS 207.190; COUNT 24 – ADMINISTRATION OF A DRUG TO AID IN THE COMMISSION OF A CRIME

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(Category B Felony) in violation of NRS 200.405; COUNTS 26, 29, 31, 33, 34 & 35 – SEXUAL ASSAULT WITH A MINOR UNDER SIXTEEN YEARS OF AGE (Category A Felony) in violation of NRS 200.364, 200.366; COUNTS 36, 39, 40 & 41 – SEXUAL ASSAULT (Category A Felony) in violation of NRS 200.364, 200.366; COUNT 38 – BATTERY WITH INTENT TO COMMIT SEXUAL ASSAULT (Category A Felony) in violation of NRS 200.400; COUNT 42 – PANDERING (Category C Felony) in violation of NRS 201.300, and COUNT 44 – LIVING FROM THE EARNINGS OF A PROSTITUTE (Category D Felony) in violation of NRS 201.320; thereafter, on the 27th day of October, 2015, the Defendant was present in court for sentencing with his counsel, BETSY ALLEN, ESQ., and good cause appearing,

THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense(s) and, in addition to the $25.00 Administrative Assessment Fee, and a $150.00 DNA Analysis Fee including testing to determine genetic markers, plus a $3.00 DNA Collection Fee, the Defendant is sentenced to the Nevada Department of Corrections (NDC) as follows: AS TO **COUNT 2** - TO LIFE with a MINIMUM Parole Eligibility of THIRTY-FIVE (35) YEARS; AS TO **COUNT 3** - TO LIFE with a MINIMUM Parole Eligibility of THIRTY-FIVE (35) YEARS; AS TO **COUNT 4** - TO LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS; AS TO **COUNT 5** – TO LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS; AS TO **COUNT 6** - TO LIFE with a MINIMUM Parole Eligibility of THIRTY-FIVE (35) YEARS; AS TO **COUNT 7** - TO LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS; AS TO **COUNT 8** - TO LIFE with a MINIMUM Parole Eligibility of THIRTY-FIVE (35) YEARS; AS TO **COUNT 9** - TO LIFE with a MINIMUM

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Parole Eligibility of THIRTY-FIVE (35) YEARS; AS TO **COUNT 10** – TO LIFE with a MINIMUM Parole Eligibility of THIRTY-FIVE (35) YEARS; AS TO **COUNT 11** - TO LIFE with a MINIMUM Parole Eligibility of THIRTY-FIVE (35) YEARS; AS TO **COUNT 12** – TO LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS; AS TO **COUNT 13** – TO LIFE with a MINIMUM Parole Eligibility of THIRTY-FIVE (35) YEARS; AS TO **COUNT 14** – TO LIFE with a MINIMUM Parole Eligibility of THIRTY-FIVE (35) YEARS; AS TO **COUNT 16** – TO A MAXIMUM of SEVENTY-TWO (72) MONTHS with a MINIMUM Parole Eligibility of TWENTY-EIGHT (28) MONTHS, Count 16 to run CONCURRENT with all other counts; AS TO **COUNT 19** – TO LIFE with a MINIMUM Parole Eligibility of FIVE (5) YEARS; AS TO **COUNT 20** – TO LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS; AS TO **COUNT 21** – TO LIFE with a MINIMUM Parole Eligibility of TWENTY (20) YEARS; AS TO **COUNT 22** – TO LIFE with a MINIMUM Parole Eligibility of TWENTY (20) YEARS, Count 22 to run CONSECUTIVE to Count 21; AS TO **COUNT 23** – TO A MAXIMUM of SEVENTY-TWO (72) MONTHS with a MINIMUM Parole Eligibility of TWENTY-EIGHT (28) MONTHS, Count 23 to run CONCURRENT with all other counts; AS TO **COUNT 24** – TO A MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS, Count 24 to run CONCURRENT with all other counts; AS TO **COUNT 25** – TO LIFE with a MINIMUM Parole Eligibility of FIVE (5) YEARS; AS TO **COUNT 26** – TO LIFE with a MINIMUM Parole Eligibility of TWENTY (20) YEARS; AS TO **COUNT 28** – TO LIFE with a MINIMUM Parole Eligibility of FIVE (5) YEARS; AS TO **COUNT 29** – TO LIFE with a MINIMUM Parole Eligibility of TWENTY (20) YEARS; AS TO **COUNT 31** – TO LIFE with a MINIMUM Parole Eligibility of TWENTY (20) YEARS; AS TO **COUNT**

**33** – TO LIFE with a MINIMUM Parole Eligibility of TWENTY (20) YEARS; AS TO **COUNT 34** – TO LIFE with a MINIMUM Parole Eligibility of TWENTY (20) YEARS; AS TO **COUNT 35** – TO LIFE with a MINIMUM Parole Eligibility of TWENTY (20) YEARS; AS TO **COUNT 36** – TO LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS; AS TO **COUNT 37** – TO LIFE with a MINIMUM Parole Eligibility of FIVE (5) YEARS; AS TO **COUNT 38** – TO LIFE with a MINIMUM Parole Eligibility of TWO (2) YEARS; AS TO **COUNT 39** – TO LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS; AS TO **COUNT 40** – TO LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS; AS TO **COUNT 41** – TO LIFE with a MINIMUM Parole Eligibility of TEN (10) YEARS; AS TO **COUNT 42** – TO A MAXIMUM of SIXTY (60) MONTHS with a MINIMUM Parole Eligibility of TWENTY-FOUR (24) MONTHS, Count 42 to run CONCURRENT with all other counts; and AS TO **COUNT 44** – TO A MAXIMUM of FORTY-EIGHT (48) MONTHS with a MINIMUM Parole Eligibility of EIGHTEEN (18) MONTHS, Count 44 to run CONSECUTIVE to Count 42; with NINE HUNDRED SEVENTY-NINE (979) DAYS credit for time served. ALL LIFE SENTENCES to run CONCURRENT with each other. Defendant was found **NOT GUILTY** on **COUNTS - 1, 15, 17, 18, 27, 30, 32, 43 and 45**. COURT ORDERED, NOT GUILTY COUNTS are DISMISSED. Defendant's AGGREGATE TOTAL SENTENCE is LIFE with a MINIMUM sentence of NINE HUNDRED EIGHTEEN (918) MONTHS.

FURTHER ORDERED, a SPECIAL SENTENCE of LIFETIME SUPERVISION is imposed to commence upon release from any term of imprisonment, probation or parole. In addition, before the Defendant is eligible for parole, a panel consisting of the Administrator of the Mental Health and Development Services of the Department of

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Human Resources or his designee; the Director of the Department of Corrections or his designee; and a psychologist licensed to practice in this state; or a psychiatrist licensed to practice medicine in Nevada must certify that the Defendant does not represent a high risk to re-offend based on current accepted standards of assessment.

ADDITIONALLY, the Defendant is ORDERED to REGISTER as a sex offender in accordance with NRS 179D.460 within FORTY-EIGHT (48) HOURS after any release from custody.

DATED this 29 day of October, 2015.

MICHELLE LEAVITT
DISTRICT JUDGE

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CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

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|---|---|
| THE STATE OF NEVADA,<br><br>Plaintiff,<br><br>vs.<br><br>FREDERICK HARRIS, JR.<br><br>Defendant. | CASE #: C291374<br><br>DEPT. XII |

BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

TUESDAY, MARCH 25, 2014

***RECORDER'S TRANSCRIPT OF PROCEEDINGS***
**JURY TRIAL, DAY 1, VOIR DIRE**

APPEARANCES:

For the State: ELISSA LUZAICH, ESQ.
Chief Deputy District Attorney

KRISTINA A. RHOADES, ESQ.
Deputy District Attorney

For the Defendant: BETSY ALLEN, ESQ.
JONATHAN E. MACARTHUR, ESQ.

RECORDED BY: KRISTINE CORNELIUS, COURT RECORDER



Docket 81257 Document 2020-39622
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TUESDAY, MARCH 25, 2014 AT 10:56 A.M.

[Outside the presence of the prospective jury panel]

THE COURT: Okay. State of Nevada versus Frederick Harris, case C291374. The Defendant is present. He's in custody. Will the attorneys please make their appearances.

MS. LUZAICH: Good morning, Judge. Lisa Luzaich and Kristina Rhodes for the State.

MS. ALLEN: And Betsy Allen and Jonathan MacArthur for Mr. Harris.

THE COURT: Okay.

MR. MACARTHUR: Madam Clerk, bar number 7072 for Jonathan MacArthur.

MS. ALLEN: Sorry. 6878.

THE COURT: Okay. And everyone has their jury list?

MS. ALLEN: Yes, we do. Thank you, Your Honor.

THE COURT: We're ready to bring the jury panel in. There's actually 56 that are coming in now. We have 56 seats.

MS. LUZAICH: Judge, is it your intent to start tomorrow at 9 o'clock? I had asked your chambers last week.

THE COURT: Right. Is that okay?

MS. ALLEN: Oh, you know what. It should be. Just a minute.

MS. LUZAICH: Okay. Wait. Is tomorrow Wednesday?

MS. ALLEN: It is.

THE COURT: Tomorrow's Wednesday.

MS. LUZAICH: I don't mean to be obnoxious. Can we get 10 o'clock? I have a sentencing with speakers.

THE COURT: That's fine.

MS. ALLEN: And I have Judge Delaney at nine.

THE COURT: So, what by 10 o'clock; will that be good for everybody?

MS. ALLEN: I think you.

MS. LUZAICH: Is that all right? Thank you.

[Inside the presence of the prospective jury panel]

THE COURT: Thank you very much. You can have a seat.

Good morning, Ladies and gentlemen. Do I have a stipulation from the parties as to the presence of the jury venire?

MS. LUZAICH: Yes, Judge.

MS. ALLEN: Yes, Your Honor.

THE COURT: Thank you. Good morning, Ladies and gentlemen. Welcome to Department 12 of the Eighth Judicial Court. You've been summonsed here today to serve as a jury panel in a criminal case entitled State of Nevada versus Frederick Harris, case C291394.

Before I do allow both sides to give you a brief statement of the facts, I'm going to introduce the members of the staff in Department 12 and give you a brief description of what they do.

You have all met Officer Amani already. He's the court marshal in Department 12. He is the person that you will have the most contact with. Throughout this process of selecting a jury and after we do have a jury impaneled, myself, the attorneys, the parties, and the staff in Department 12 with the exception of the Court marshal are not permitted to have any communication with you whatsoever outside of the courtroom. So, if there anything that you'd like to address with the Court I ask that you please do it when we're in the courtroom on the record

in the presence of both parties.

In front of me is the Court Recorder. The Court Recorder is required to take down everything that is being said and done in the courtroom. At some point she'll be called upon by myself to prepare what we call a written transcript which means that she will listen to everything that is said in the courtroom and she will type down a verbatim transcript. So, if you're called upon to respond to the lawyers or to the Court, I ask that you please state your name, the badge number that's been provided to you by the jury commissioner before you do respond to the Court so that we have a clear record of who is speaking at all times.

To my right is the Clerk of the Court, Susan. It's Susan's job to keep the official record. She takes the minutes of the Court; she's also the person that will take charge of all of the evidence when it's introduced at the time of trial.

To her right is Michael. Michael is a licensed attorney in the state of Nevada. He's the law clerk in Department 12 and he assists the Court with legal issues.

With that, I'm going to allow the State of Nevada to introduce themselves. They're going to give you a brief statement of the facts. Both sides will also have the opportunity to give you a list of the witnesses who will be called to testify in this matter. I ask that you pay close attention to the names of the witnesses because at some point I will ask you if you're familiar with any of the witnesses who will be called to testify in this matter.

And before I move on, is there anyone that's having any trouble hearing me? Okay. We have ear phones that kind of amplify my voice and the voice of others. We can provide those to you and we'll do that now and you can tell me if that helps. It usually does help. Is that better? Is that better, sir? You can both

hear me? Do you need me to start over and repeat what I said? Okay. So, at this time I'm going to allow the State of Nevada to introduce themselves and they can address the jury panel.

MS. RHOADES: Thank you, Your Honor.

Good afternoon. My name is Kristina Rhoades and this is Lisa Luzaich. We represent the State of Nevada, and the State of Nevada in this case has brought charges against the Defendant, Frederick Harris, by way of Information, and all an Information is a piece of paper. To prove these charges to you over the course of the next several days, we're going to be providing you with witness testimony and potentially some evidence.

You will hear about the Defendant between August 2007 through September 2012 being in a relationship with a woman named Lealer Ann Cooks. The Defendant lived with Ms. Cook in a house at 966 Blankenship. Ms. Cooks had guardianship over the five Duke Children. Their names are Taquanda, Taharah, Shabazz, Mahlica, and Victoria. And during that time period they all lived in that house at 966 Blankenship and also during that time period the Defendant physically abused all five children. He is therefore charged with five counts of child abuse, one for each of the Duke children.

You will also hear about the Defendant between October 1st 2010 and September 26, 2012 in that same residence sexually abused Taharah Duke, which is the second youngest of the Duke children. He is therefore charged with numerous counts of sexual assault with a child under fourteen and lewdness with a child under 14.

You will also hear about the Defendant sexually abusing the oldest of the Duke children. Her name is Victoria Duke again. This abuse first occurred from

December 2005 to -- through May -- I'm sorry -- December 2004 through May of 2005 at a house on Trish Lane here in Las Vegas, Nevada. The sexual abuse also occurred several times during August 2007 through December 2011 in various locations including an apartment on Walnut Street here in Las Vegas, at that residence at 966 Blankenship, at St. Andrews Club Apartments in North Las Vegas, and at 1100 Center Street in Henderson. The Defendant is therefore charged with numerous counts of first degree kidnapping, sexual assault with a child under 14, lewdness with a child under 14, sexual assault with a child under 16, sexually motivated coercion, administration of a drug to aid in the commission of a crime, sexual assault and battery with intent to commit sexual assault.

You will further hear about the Defendant between August 2007 and December 17, 2011 also being in a relationship with the Duke children's mother, Tina Duke. The Defendant is charged with pandering, sexual assault, living from the earnings of a prostitute, and battery by strangulation for abusing Tina Duke, forcing her into prostitution, and taking her money from his prostitution.

In order to prove these charges to you, we will be calling some of the following witnesses. We will not be calling all of them. We just want you to know all of their names so that you can let us know if you know any of these people. Henderson Police Detective Christopher Aguilar, Lealer Cook, a Custodian of Records for the Clark County Detention Center, a Custodian of Records for Las Vegas Metropolitan Police Department Communications and Records, Detective Delacanal at the Henderson Police Department, Mahlica Duke, Shabazz Duke, Taharah Duke, Taquanda Duke, Tina Duke, Victoria Duke. Craig Fabert, he is an investigator with the Clark County District Attorney's office. Michele Fisher. She is a forensic interviewer at the Children's Advocacy Center here in Las Vegas. Dr.

Nan Kufuor, she is a pediatrician. Detective Nicholas Matsen. He works with the Las Vegas Metropolitan Police Department. Dr. Neha Mehta. She is a physician. She worked at the Children's Advocacy Center. Dr. Jeff Melchert. He is a detective with the Henderson Police Department. Sholeh Nourbakhsh. She works at Department of Family Services and Child Protective Services. Devon Stokes. She also works at Department of Family Services. Theresa Tibbs who works at Department of Family Services. Cheryl Collie [phonetic]; Vassa Brockaman [phonetic], and Virgil Clark who all work at Department of Family Services, and Rose Smith is a family friend of the Duke children. Thank you.

THE COURT: Thank you. Ms. Allen.

MS. ALLEN: Yes, thank you. If I may just have one moment.

THE COURT: Of course.

MS. ALLEN: Thank you. I apologize.

Good morning. My name is Betsy Allen and I along with Jonathan MacArthur, who's present, represent Mr. Frederick Harris. If you could stand up. And as the State's stated correctly, there is an Information charging him with in fact all those charges that they listed, however, this is just an Information which means they are just charges.

In addition to any of the State's witnesses that they listed, which we reserve the right to call, we do have some witnesses of our own. I'm going to list them and give a little bit of a description just so you know. The first one is Shakira Bailey, and that is Lealer Cook's -- I think you heard the State mention her name -- that's Lealer Cook's step-daughter. We have Kamilah Bywaters, Hernandez Cooper, and Kenyoni House. And all three of those are individuals work for the Clark County School District and they will be testifying -- they're testifying on behalf

of the Defense that in fact the children never told them those allegations. They allege -- the children allege they told them these allegations. These three teachers will tell you that that never happened. Custodian of Records from the Clark County School District; Sharday Green, that's my client's step-daughter that he raised. Dorothy Harris, which is his mother; Mary Harris is his ex-wife; Moses Harris is his son; Dr. Anita Gondy who saw and treated two of the girls approximately about a year and a half ago; Dr. Emmanuel Nwapa who is a psychiatrist who treated Victoria for psychiatric issues. Any of the CPS records -- people that the State named, Michele Fisher, Sholeh Noubakhsh, Devon Stokes, Bobbie Tibbs, Shelly Warbush.

In addition to that, the State -- I apologize -- the Defense will be calling Michael Loving. He is actually a Metro officer who took a purported DV report from Tina Dukes. And my investigator, Harris Mayo. He's a former Metro cop who now works for Nevada Investigative Group.

We look forward to showing all of you that end up lucky enough to sit in the box that Mr. Harris is not guilty as per his entry at the beginning of this case and that in fact this was a simple revenge tactic on behalf of --

MS. LUZAICH: Objection; this is not opening statement.

THE COURT: Sustained.

MS. ALLEN: Thank you. I'm finished.

THE COURT: Thank you.

Okay. At this time, Ladies and gentlemen, the clerk is going to call the roll of the panel of prospective jurors. When your name is called if you'd please say present or here.

THE COURT CLERK: Thank you, Your Honor.

[The Court Clerk calls the roll of the prospective jurors]

THE COURT: Anyone whose name was not called by the Clerk of the Court?

The record will reflect no response from the panel. If you all will please stand and raise your right hand so the clerk can administer the oath.

[The Court Clerk swore the prospective jury panel]

THE COURT: Thank you. You can have a seat.

We're about to commence what is called voir dire examination. The term voir dire means to tell the truth. During this process, you'll be asked questions bearing upon your ability to sit as fair and impartial jurors. To accomplish this result, various questions will be asked of you by myself or counsel for the parties. On occasion, some of these questions will seem somewhat personal. While we do not wish to unnecessarily pry into your personal lives, the questions are necessary so that counsel and the Court can make an intelligent determination as to your capabilities to serve fairly and impartially. I want you to know that myself and the attorneys and all other persons involved in this case are concerned with having this matter tried by jurors who are completely open minded, neutral, objective, and unbiased in their thinking. Wide discretion is vested in the trial judge to the method of examination of jurors. As I stated previously, I will personally conduct the voir dire, but I will give the attorneys the opportunity to participate in this questioning.

It is important that you know the significance of full, complete and honest answers to all the questions we're about to ask you. I caution you not to try to hide or withhold anything which might indicate bias or prejudice of any sort by any of you. Should you fail to answer truthfully or if you hide or withhold anything touching upon your qualifications that fact may tend to contaminate your verdict and subject you to further inquiry even after you're discharged as jurors. Your decision should be based upon all of the evidence presented during the trial and not based

upon any preconceived prejudice or bias. I will conduct a general voir dire examination of all of you while you are seated in the audience. After those general questions, the clerk will call the first 32 names using the order provided to us by the jury commissioner to fill the jury box.

At some point during the process of selecting a jury, the attorneys for both sides will have the right to ask that a particular person not serve as a juror. These requests are called challenges. There are two types of challenges, challenges for cause and peremptory challenges. A challenge for cause means that as a juror has been excused because his or her answers to some of the voir dire questions indicates that he or she would have a difficult time in giving a fair and impartial hearing to the case. I will ask the attorneys to pass or waive the prospective jurors for a cause challenge when they are done questioning the jury panel. A preemptory challenge means that a juror can be excused from duty without counsel having to give a reason for the excusal. Please do not be offended should you be excused by either of the challenge procedures. They are simply a part of the procedures designed to protect the rights of the parties under our system of government. Again, if you wish to respond to a question individually and in the affirmative, please raise your hand, state your name, and the badge number that's been provided to you by the jury commissioner.

Is there anyone on the panel who has ever been convicted of a felony? The record will reflect no response from the panel.

Is there anyone on the panel who is not a citizen of the United States? The record will reflect no response from the panel.

Is there anyone on the panel who is not a citizen of Clark County, Nevada? The record will reflect no response from the panel.

Is there anyone who has such a sympathy, prejudice or bias relating to age, religion, race, gender or national origin that they feel would affect their ability to be open-minded, fair and impartial jurors? The record will reflect no response from the panel.

Are there any of you on the panel who are acquainted with the Defendant in this matter? Okay. Your name and badge number.

PROSPECTIVE JUROR #01: Robert Newman, badge number 1.

THE COURT: You're familiar with Mr. Harris?

PROSPECTIVE JUROR #01: I am.

THE COURT: Okay. You know him?

PROSPECTIVE JUROR #01: Not personally, but I'm aware of him.

THE COURT: How?

PROSPECTIVE JUROR #01: Previous trial. I was the jury foreman.

MR. MCARTHUR: Your Honor --

THE COURT: Okay. Why don't you come down here and approach the bench and I'll have both attorneys.

[Bench conference -- begins]

THE COURT: He's never had a prior trial?

MS. ALLEN: No.

THE COURT: Okay.

MS. ALLEN: Never. Of course.

THE COURT: All right. Mr. Newman, Badge number 1?

PROSPECTIVE JUROR #01: Yes.

THE COURT: You served as a juror before?

PROSPECTIVE JUROR #01: Jury foreman on his previous trial.

THE COURT: He's never been tried before, ever.

MS. ALLEN: Ever.

PROSPECTIVE JUROR #01: You were his attorney.

MS. ALLEN: No.

THE COURT: So, you recognize Ms. Allen?

PROSPECTIVE JUROR #01: Her and him. I recognize the names of the five children.

THE COURT: I'm sorry. What?

PROSPECTIVE JUROR #01: I recognize the name of the five children as well as you this morning.

THE COURT: Okay. When did you --

PROSPECTIVE JUROR #01: This was probably about four years back, maybe five years back.

MS. ALLEN: What were the charges?

THE COURT: What were the charges?

PROSPECTIVE JUROR #01: Sexual abuse of children.

MS. ALLEN: Are you sure it wasn't Cecil Hall.

PROSPECTIVE JUROR #01: Uh --

MS. ALLEN: Bald guy, Cecil Hall.

PROSPECTIVE JUROR #01: I don't know if he's involved.

MS. ALLEN: He had four or five kids. It was in front of Judge Togliatti.

PROSPECTIVE JUROR #01: Togliatti.

MS. ALLEN: You guys acquitted him?

PROSPECTIVE JUROR #01: Yes.

MS. ALLEN: It's Cecil Hall.

THE COURT: Okay.

PROSPECTIVE JUROR #01: It's not this guy. Okay.

THE COURT: All right. So you understand that's not this guy.

PROSPECTIVE JUROR #01: Okay. Sorry about that.

THE COURT: Okay. So, it kind of sounds like you recognize Ms. Allen?

PROSPECTIVE JUROR #01: Yes.

THE COURT: Okay. Anything about --

MS. ALLEN: I'm like --

PROSPECTIVE JUROR #01: Sorry.

THE COURT: Okay. I know we all just sort of panicked because -- all right. He's never been tried -- he's never been in a jury trial before.

MS. ALLEN: Yeah, no, never.

THE COURT: Okay. So, you understand that?

PROSPECTIVE JUROR #01: Okay Yes.

THE COURT: So, you're thinking of somebody else?

PROSPECTIVE JUROR #01: Apparently, yes.

THE COURT: Okay. Anything about that that would affect your ability to be fair and impartial in this case?

PROSPECTIVE JUROR #01: No.

THE COURT: Okay. So, we've clarified it enough for you?

PROSPECTIVE JUROR #01: Yes.

THE COURT: And you believe us that it wasn't him?

PROSPECTIVE JUROR #01: Yes.

THE COURT: Okay. And you can continue to sit on this panel?

PROSPECTIVE JUROR #01: Yes.

THE COURT: Okay. You can go back to your seat, but if I could have the lawyers stay here. Thank you. Okay.

MS. ALLEN: Oh, my God.

THE COURT: I know. I don't even know what to say.

MS. ALLEN: Heart attack; I'm like what.

MR. MACARTHUR: I think we just inform the jury that he's never been tried before.

THE COURT: Is everyone okay with me that saying that the juror was mistaken?

MR. MACARTHUR: He recognized her not him.

THE COURT: Yeah.

MS. ALLEN: Yeah, that's fine.

THE COURT: Well now I get the next question. Does he recognize any of the lawyers. We've already been through that.

MS. ALLEN: That was Taleen Pankdukt and [indiscernible]. That's fine.

THE COURT: Okay. Were you the prosecutor?

MS. ALLEN: No, it was Taleen. It was her case.

THE COURT: All right. So, everyone's okay with me just saying that the juror recognized you but it clearly was not this --

MS. ALLEN: Correct.

THE COURT: -- it wasn't this particular person. It was another case.

MS. ALLEN: Yes, that's fine.

MS. LUZAICH: And admonish him not to talk about it to the other jurors. MR.

MR. MACARTHUR: That's fine.

THE COURT: Okay. Thank you.

[Bench conference -- concluded]

THE COURT: Okay. Ladies and gentlemen, Juror number 1, upon further clarification up here, Juror number 1 recognize Ms. Allen as being an attorney in a case that he had previously served as a juror before. So, is there anything about what Juror number 1 would affect anybody's ability to be fair and impartial in this particular case? Okay. And Mr. Newman, I'm just going to ask you not to discuss anything that we discussed up here with your fellow jurors, and you understand that; correct?

PROSPECTIVE JUROR #01: Yes, ma'am.

MR. MACARTHUR: Your Honor, if I may. At the bench there were two parts to that. Permission to approach?

THE COURT: Sure.

[Bench conference -- begins]

MR. MACARTHUR: We don't want to dispel the perception that he may have been tried before.

MS. ALLEN: Oh, yeah.

THE COURT: Okay.

MR. MACARTHUR: Because he's never been --

THE COURT: oh, okay. You don't think -- all right. That's fine.

MS. ALLEN: Yeah, because he's never been trial ever.

MR. MACARTHUR: This is his first felony charge.

THE COURT: Okay.

MS. ALLEN: No; it's not his first felony charge. He's never been tried.

MR. MACARTHUR: This is his first felony charge.

THE COURT: Well I don't want to --

MS. LUZAICH: No; it's not his first felony charge. He's never been to trial.

THE COURT: -- I just kind of --

MR. MACARTHUR: I'm unaware of this.

THE COURT: But I'm okay with me saying he's never been tried.

MS. ALLEN: He's never been tried --

MS. LUZAICH: He's never been tried to a jury.

MR. MACARTHUR: Okay.

MS. ALLEN: Thank you.

[Bench conference -- concluded]

THE COURT: Also I just want to make it clear that Mr. Harris has never been tried to a jury for anything. So, clearly Mr. Newman just -- he recognized Ms. Allen and that was the connection.

Okay. Are there -- anyone else that's acquainted with the Defendant in this matter? The record will reflect no response from the panel.

Anyone familiar with the defense attorneys other than what you've told us, Mr. Newman. Anyone else that's familiar with the defense attorneys? Okay. Right here. Your name and badge number.

PROSPECTIVE JUROR#40: Kathleen Smith, Badge number 40.

THE COURT: And who are you familiar with?

PROSPECTIVE JUROR #40: Jonathan MacArthur.

THE COURT: Okay. And how do you know him?

PROSPECTIVE JUROR #40: I know him from when he was running for Justice of the Peace and as well I work at the court house. I work at the information desk so I know a lot of the attorneys that come to the courtroom.

THE COURT: Okay. Is there anything about that that would affect your ability

to be fair and impartial?

PROSPECTIVE JUROR #40: No.

THE COURT: Okay. Anything about the fact that you're an employee here in the courthouse that would affect your ability to be fair and impartial?

PROSPECTIVE JUROR #40: No.

THE COURT: Okay. Thank you. Ms. Smith, do you know any of the other attorneys?

PROSPECTIVE JUROR #40: I've seen her before, you know.

THE COURT: Okay. Do you mean Ms. Allen?

PROSPECTIVE JUROR #40: Yes.

THE COURT: Okay. And how about the prosecutors?

PROSPECTIVE JUROR #40: No, I don't recognize 'em.

THE COURT: Okay. All right. Thank you. Anyone else that's familiar with the defense attorneys? The record will reflect no response from the panel.

MR. MACARTHUR: Your Honor, I'm sorry. What was the number associated?

THE COURT: Forty. Okay. Are there any you who are acquainted with the Deputy District Attorneys that have been assigned to prosecute this matter? Okay. The record will reflect no response from the panel.

The District Attorney's office employs many deputies and other personnel. Is there anyone on the panel who has such a close relationship with either the District Attorney, Mr. Steve Wolfson, his deputies or other members of his staff that you feel might affect your ability to serve as a fair and impartial juror in this particular case? The record will reflect no response from the panel.

Are there any of you on the panel who are acquainted with any of the

witnesses whose names were previously mentioned by the Deputy District Attorney or defense counsel? Okay. Go ahead, ma'am. State your name and badge number.

PROSPECTIVE JUROR #32: Badge number 32.

THE COURT: Badge number 32, Helen Stephens.

PROSPECTIVE JUROR #32: Yes.

THE COURT: Do you mind standing up?

PROSPECTIVE JUROR #32: I'm familiar with Dr. Gondy.

THE COURT: Okay. How so?

PROSPECTIVE JUROR #32: I worked at University Medical Center in department of surgery where I was working with her quite frequently.

THE COURT: I can hardly hear you. If you just hold it closer, I might be able to hear you.

PROSPECTIVE JUROR #32: I worked at the department of surgery --

THE COURT: Okay.

PROSPECTIVE JUROR #32: -- at UMC and Dr. Gondy was there as a R-5, resident five, just before she graduated. I was around her quite often. We're not friends or anything, just work acquaintances.

THE COURT: Anything about that that would affect your ability to be fair and impartial in this case?

PROSPECTIVE JUROR #32: No, I don't believe so, no.

THE COURT: Okay. Well you're the only one who can tell me. Is there anything about the fact that you knew her would affect your ability to be fair and impartial?

PROSPECTIVE JUROR #32: No, ma'am, no.

THE COURT: When was the last time you worked with her?

PROSPECTIVE JUROR #32: I've been retired seven years.

THE COURT: Okay. So, it's been at least seven years since you've seen her?

PROSPECTIVE JUROR #32: Yes, yes.

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

Anyone else who is familiar with any of the witnesses? Go ahead.

PROSPECTIVE JUROR #14: Melinda St. Clair, Juror number 14. I think one of the CPS workers, Shelly. I can't remember her last name. I think she got married. It was years ago though.

THE COURT: Okay. So, you think you know one of the CPS workers?

PROSPECTIVE JUROR #14: She was a case with my nephew.

THE COURT: Okay. What does that mean? Your nephew which would be --

PROSPECTIVE JUROR #14: I had custody of him and she was the worker on the case.

THE COURT: She was your CPS worker?

PROSPECTIVE JUROR #14: No; she was his CPS worker.

THE COURT: Okay. But you said you have custody of him?

PROSPECTIVE JUROR #14: I had custody of him, yes.

THE COURT: So, there was an open case?

PROSPECTIVE JUROR #14: Yeah, and he was returned to his mother and stuff. But I'm not sure it's the same Shelly. I can't her last name.

THE COURT: Okay. How long ago was this?

PROSPECTIVE JUROR #14: It was about seven years ago.

THE COURT: Anything about that that would affect your ability to be fair and

impartial?

PROSPECTIVE JUROR #14: No.

THE COURT: If it is the same Shelly and you recognize her and it's the same one that was a CPS worker for your nephew, is there anything about your experience with her that would affect your ability to be fair and impartial in this case?

PROSPECTIVE JUROR #14: No, no.

THE COURT: I mean, you don't even know if it's the same one?

PROSPECTIVE JUROR #14: I'm not sure.

THE COURT: Okay. Thank you.

PROSPECTIVE JUROR #14: You're welcome.

THE COURT: Anyone else? Okay. We have a juror in the back. Your name and badge number, please.

PROSPECTIVE JUROR #79: Maria Boulton, Badge number 79.

THE COURT: Okay. Go ahead.

PROSPECTIVE JUROR #79: Dr. Nwapa. He's seeing my son for some issues.

THE COURT: He's treated your son?

PROSPECTIVE JUROR #79: Yes.

THE COURT: Currently or past?

PROSPECTIVE JUROR #79: Currently.

THE COURT: Okay. So, your son is currently a patient of that doctor?

PROSPECTIVE JUROR #79: Yes.

THE COURT: All right. How often?

PROSPECTIVE JUROR #79: Like every six months.

THE COURT: Anything about that that would affect your ability to be fair and

impartial?

PROSPECTIVE JUROR #79: No.

THE COURT: Okay. And you know that you -- do you have any pending appointments with this doctor?

PROSPECTIVE JUROR #79: I think next month, I believe, for my son.

THE COURT: So, next month?

PROSPECTIVE JUROR #79: Yes.

THE COURT: Is it within the next two weeks?

PROSPECTIVE JUROR #79: No.

THE COURT: All right. And how long has he treated your son?

PROSPECTIVE JUROR #79: I think about six months ago.

THE COURT: For the first time?

PROSPECTIVE JUROR #79: About twice.

THE COURT: So, you've been to see the doctor twice?

PROSPECTIVE JUROR #79: Yes.

THE COURT: Is your son a minor?

PROSPECTIVE JUROR #79: Yes.

THE COURT: So, you go in with your son?

PROSPECTIVE JUROR #79: Most of the time it's my husband. I just met him once.

THE COURT: Okay. You've only met him one time?

PROSPECTIVE JUROR #79: Yes.

THE COURT: Anything about this relationship that would affect your ability to be fair and impartial in this case?

PROSPECTIVE JUROR #79: No.

THE COURT: Okay. Thank you.

PROSPECTIVE JUROR #79: You're welcome.

THE COURT: Anyone else that's familiar with any of the witnesses who will be called to testify in this matter? The record will reflect no further response from the panel.

This case we do expect to last a couple weeks which means we expect it to last through this week and then we expect it to probably go the full week next week. And I know that that's -- I know everybody has busy schedules and you have lives and I know that that's a lot to ask of people to be here for two weeks.

So, my next question is going to be, is there anyone that serving for that amount of time would be such an undue hardship or burden on you such it would make it impossible for you to be here? And let me tell you what the schedule will be so you can think about it before you want to answer. Tomorrow we're starting at 10 o'clock and we'll go till five; Thursday we will be starting at 10:30 and go till five; Friday will be generally 8:30 to five. And then on Mondays, Tuesdays and Thursdays we will generally start at 10:30 unless I tell you otherwise and go to 5 o'clock. Wednesdays and Fridays are what I call more full days and I like to start at 8:30 with the exception of tomorrow. Tomorrow we'll be starting at 10 o'clock. So, I can give you a general overview of what our schedule is. Unless I tell you otherwise, that's what I -- that's the schedule I generally like to adhere to.

So, I'm going to start over here in the jury box. Is there anyone that serving for that amount of time would be such an undue hardship such it would make it impossible for you to be here? Okay. We'll start with Mr. Philips.

PROSPECTIVE JUROR #002: Chad Philips, Juror number 2. I umpire baseball and I have a full schedule for the next two weeks and there's no possible

way I can get more than three days off.

THE COURT: Well what would happen if you're not there?

PROSPECTIVE JUROR #002: I won't be able to make any money and pay my bills.

THE COURT: Okay. So, that's what I need to get to. Is that what you do for a living, you umpire baseball games?

PROSPECTIVE JUROR #002: That's correct.

THE COURT: At what level?

PROSPECTIVE JUROR #002: High school and college.

THE COURT: So, you umpire for UNLV and CSN?

PROSPECTIVE JUROR #002: Lower level college.

THE COURT: Well what other teams we have in Vegas besides CSN and UNLV?

PROSPECTIVE JUROR #002: The season hasn't started yet, I'm not exactly sure, but as for high school --

THE COURT: Okay. But high school baseball going right now; right?

PROSPECTIVE JUROR #002: Yes, ma'am.

THE COURT: Okay. And so that's what you do for a living?

PROSPECTIVE JUROR #002: That's correct.

THE COURT: Okay. And if you were asked to be here for two weeks -- well when do the games -- I guess high school games are in the afternoon; correct?

PROSPECTIVE JUROR #002: Three o'clock, yes.

THE COURT: Okay. They start right at three?

PROSPECTIVE JUROR #002: Yep.

THE COURT: Okay. So, why don't we get to -- you said you would -- if you

don't umpire you don't get paid?

PROSPECTIVE JUROR #002: That's correct.

THE COURT: Is that what you do full time?

PROSPECTIVE JUROR #002: That's right.

THE COURT: You don't have any other job?

PROSPECTIVE JUROR #002: No.

THE COURT: Okay. If you missed umpiring for the next couple weeks, would you be able to meet your financial obligations?

PROSPECTIVE JUROR #002: No.

THE COURT: Are you married?

PROSPECTIVE JUROR #002: I'm engaged.

THE COURT: Okay. So, you're the only breadwinner in your home?

PROSPECTIVE JUROR #002: My fiancé makes very little money.

THE COURT: Okay. So, you live together?

PROSPECTIVE JUROR #002: Yes.

THE COURT: Okay. What does she do?

PROSPECTIVE JUROR #002: She works for Spirit Airlines.

THE COURT: Okay. But you don't believe you'd be able to meet your financial obligations if you were required to be here?

PROSPECTIVE JUROR #002: I don't believe so. It would be very difficult.

THE COURT: How many games do you umpire a day? Is it every day?

PROSPECTIVE JUROR #002: Well this next couple weeks is the busiest portion of the schedule and I have several out of town games which pay very good because I get paid to travel.

THE COURT: Oh, so you actual travel out of town as well?

PROSPECTIVE JUROR #002: Yeah. And I've already had to take today and tomorrow off so -- I mean, the schedule is already made through May -- through April, I mean. I'm sorry.

THE COURT: Okay, sir. Thank you. Thank you for being here. Anyone else in the box? You can just pass it on down. Ma'am, you in the red shirt. I like to kind of go in order. So, do you want to respond to that question? I just like to go in order It's easier for me to keep track.

PROSPECTIVE JUROR #007: I'm an independent contractor.

THE COURT: Name and badge number.

PROSPECTIVE JUROR #007: Oh, I'm sorry. Jeneen Miller.

THE COURT: Badge number 7.

PROSPECTIVE JUROR #007: Seven, yeah.

THE COURT: Okay. Go ahead.

PROSPECTIVE JUROR #007: I'm an independent contractor and if I don't work I don't get paid.

THE COURT: What do you do?

PROSPECTIVE JUROR #007: I'm a massage therapist in a casino.

THE COURT: Okay. If you're -- when do you work? What are your hours?

PROSPECTIVE JUROR #007: Thursday, Friday, Saturday, Sunday and Monday.

THE COURT: Okay. So, you'd only have to -- I mean, you understand we're -- the courthouse is closed on the weekends.

PROSPECTIVE JUROR #007: Right.

THE COURT: Okay. Do you work during the day, at night?

PROSPECTIVE JUROR #007: On Friday I work during the day and I'm also

on call at Southern Highlands.

THE COURT: Okay. So, how would it affect you financially if you were asked to be here during the day?

PROSPECTIVE JUROR #007: I'm the breadwinner of the family so it would affect us.

THE COURT: All right. Would you able to pay your bills?

PROSPECTIVE JUROR #007: No; not for two weeks.

THE COURT: Okay. You would be unable to meet -- you won't be able to pay your rent?

PROSPECTIVE JUROR #007: My mortgage.

THE COURT: Okay. Are you married?

PROSPECTIVE JUROR #007: I'm married.

THE COURT: Is your husband employed?

PROSPECTIVE JUROR #007: Yes; he's a massage therapist.

THE COURT: Okay. And without your income --

PROSPECTIVE JUROR #007: Right.

THE COURT: All right. But you said you're independent contractor. Do you get paid a certain amount?

PROSPECTIVE JUROR #007: I only get paid per massage. So, if I don't make any massages I do not get paid.

THE COURT: Okay. I understand that. But what I'm trying to get at, do you know how much money you're going to make every week?

PROSPECTIVE JUROR #007: It's up and down, but it's pretty good. And if I don't work I --

THE COURT: Okay. Let me ask you this. Do you have appointments the

next two weeks?

PROSPECTIVE JUROR #007: No. It's cold sales.

THE COURT: Okay.

PROSPECTIVE JUROR #007: Except for the on call and Southern Highlands.

THE COURT: All right. But you're telling me if you're required to be here you won't be able to make your mortgage?

PROSPECTIVE JUROR #007: Exactly.

THE COURT: Okay. Thank you.

PROSPECTIVE JUROR #007: Thank you.

THE COURT: Go ahead.

PROSPECTIVE JUROR #008: Christina Quattrone, Juror number 8. I am a journalism student at CSN full time. I have midterms coming up on Monday and I'm also acting manager editor of a staff of 15 students. So, our next pieces are due on the 2nd. So, I have to edit their grammar mechanics and everything. My editor in chief she could help me, but most of the kids come to me.

THE COURT: I'm more concerned about your midterms.

PROSPECTIVE JUROR #008: Yeah.

THE COURT: When are you taking those?

PROSPECTIVE JUROR #008: On Monday and on Wednesday next week. And I just accepted an internship for Disneyworld so I can't miss school or else that internship could be in jeopardy.

THE COURT: Okay. Thank you. Anyone else on that back row? Anyone else in the box? Go ahead. Ms. Sinclair, Badge number 14. St. Clair. I'm sorry.

PROSPECTIVE JUROR #014: Yes. Melinda St. Clair, Badge 14. I'm a

caretaker for my stepfather. He has chemo. He has appointments on Monday and he has another one on Friday.

THE COURT: This Friday?

PROSPECTIVE JUROR #014: The 31st and then on the 4th.

THE COURT: So, is that next Friday?

PROSPECTIVE JUROR #014: Next Monday and next Friday.

THE COURT: Okay. What time on Monday?

PROSPECTIVE JUROR #014: I believe it's 11:30.

THE COURT: What if you can't take him?

PROSPECTIVE JUROR #014: It's a really important appointment.

THE COURT: I don't doubt it for a minute that it's important. Okay. I clearly think that's important.

PROSPECTIVE JUROR #014: There's no one else to take him.

THE COURT: So, if you're not able to take him he misses his chemo treatment?

PROSPECTIVE JUROR #014: My sister has to come from Utah to bring him.

THE COURT: Okay. Would you be able to make those accommodations if you're required to be here?

PROSPECTIVE JUROR #014: I can if I have to but --

THE COURT: Okay.

PROSPECTIVE JUROR #014: -- he basically wants me to take him because I have all the information.

THE COURT: Sure. I understand that. But if you are required to be here --

PROSPECTIVE JUROR #014: I could be here.

THE COURT: -- would you be able to make other arrangements?

PROSPECTIVE JUROR #014: I can make arrangements, yes.

THE COURT: Okay. Thank you. I appreciate you being here. Anyone else in the box? Okay. I'm moving over to the left side. Anyone on this first row? Okay. If you don't mind -- it's easier if you stand up so I can see you better.

PROSPECTIVE JUROR #029: Hello. My name is Cordero Gomez, Juror number 29.

THE COURT: Good morning.

PROSPECTIVE JUROR #029: Good morning. I work at the DMV. I just got that job. I'm still on probation. My days off are Tuesday and Wednesday so luckily it fell on a day off. But I am married. I'm the sole breadwinner. My wife works part time at UNLV and she's a full time student. I just graduated so I have student loans coming up.

THE COURT: You work for the state of Nevada.

PROSPECTIVE JUROR #029: I work for the state of Nevada.

THE COURT: You get paid if you're here.

PROSPECTIVE JUROR #029: I do get paid if I'm here?

THE COURT: No, I'm asking you.

PROSPECTIVE JUROR #029: Oh. Sorry. No; it's still furlough and I don't get annual until I've been there six months so I wouldn't get paid time off.

THE COURT: Okay. So, how would this affect you financially?

PROSPECTIVE JUROR #029: It would be pretty severe. I don't think I would be able to make my rent such as it is.

THE COURT: Okay. And your wife doesn't work at all?

PROSPECTIVE JUROR #029: She works part time but it's student work at HR at UNLV which isn't very much and very few hours, and we have two kids.

We're married and no support from grandma besides babysitting occasionally.

THE COURT: No support from who?

PROSPECTIVE JUROR #029: Grandma, my mother. So, like our extended -- her parents and my parents they don't like give us any money or anything like that. So, we're pretty independent.

THE COURT: Okay. That's a good thing; right?

PROSPECTIVE JUROR #029: Yeah, it's a great thing.

THE COURT: Okay.

PROSPECTIVE JUROR #029: But for the record, I would love to do jury duty. I just don't think that as of right now I would be financially able.

THE COURT: Okay. Thank you. I appreciate that, sir.

PROSPECTIVE JUROR #029: No problem.

THE COURT: Thank you for being here. If you can just pass it down to your next fellow juror. Ms. Stephens, Badge number 32.

PROSPECTIVE JUROR #032: No, Valeria McIver, Badge 31.

THE COURT: Okay. I'm sorry. Go ahead.

PROSPECTIVE JUROR #031: I actually attend full time at UNLV.

THE COURT: You're a full time UNLV student?

PROSPECTIVE JUROR #031: Yes.

THE COURT: What are you studying?

PROSPECTIVE JUROR #031: Accounting.

THE COURT: Where are you in the semester?

PROSPECTIVE JUROR #031: What do you mean?

THE COURT: Would you be able to miss two weeks of school?

PROSPECTIVE JUROR #031: No; I have midterms next week.

THE COURT: Midterms next week. Okay. Of course I get a bunch of students when midterms are due. Okay. What year are you in school?

PROSPECTIVE JUROR #031: It's my junior year.

THE COURT: All right. So, you have one more year till you --

PROSPECTIVE JUROR #031: For my bachelors.

THE COURT: So, are you taking pretty much 400 level -- is that what they call 'em still?

PROSPECTIVE JUROR #031: Yes.

THE COURT: Okay. All right. Thank you. Thank you for being here.

Anyone else? On this first row, first row. Okay. We're going backward.

PROSPECTIVE JUROR #027: I'm Roselinda Daggett, 27. And my husband had a barrage of tests last week. We go to the doctor Monday and he may have to have surgery for -- on his heart, for his heart. So, I'm worried about that. I don't know if I'd be able to be here and take care of him.

THE COURT: How severe are his health issues?

PROSPECTIVE JUROR #031: We don't know. We'll find out Monday when we go to the doctor.

THE COURT: Why do you think he might have to have surgery?

PROSPECTIVE JUROR #031: Because the doctor said he has a heart disease and that's why he put him through all these tests so that we can find out how soon he has to go in, possibly next week.

THE COURT: Okay. Thank you. Anyone else? Over here on the first row on the left. Okay. First row over here on the right.

PROSPECTIVE JUROR #034: Your Honor, my name is Patrick Hoover, Badge number 34. My hardship is not financial but physical.

THE COURT: Okay.

PROSPECTIVE JUROR #034: I'm a recovering cancer patient and as a side effect of some of the treatments I've had have been very difficult for me to sit those kind of hours. And even in a shorter trial, I require breaks very frequently.

THE COURT: Okay. Kind of tell what. Can you give me a little bit more?

PROSPECTIVE JUROR #034: Well the --

THE COURT: The kind of treatment that you had was it --

PROSPECTIVE JUROR #034: It was radiation treatment for prostate cancer.

THE COURT: Oh, okay.

PROSPECTIVE JUROR #034: And the side effects to --

THE COURT: I'm sorry that you have to tell me that. I apologize.

PROSPECTIVE JUROR #034: That's okay. The side effects of the treatment is that I have to use the restroom quite often.

THE COURT: Okay. Are you okay right now?

PROSPECTIVE JUROR #034: I'm fine.

THE COURT: All right. You'll let me know if --

PROSPECTIVE JUROR #034: And it's really not -- I mean, it's just the longevity of this particular trial. I would like to maybe get on maybe a short trial, but this one is just going to be difficult and the breaks is another concern that I have.

THE COURT: How often -- if we took hourly breaks.

PROSPECTIVE JUROR #034: Hourly would probably be fine.

THE COURT: So, if we took hourly breaks you could be on the panel?

PROSPECTIVE JUROR #034: Well I wouldn't say for the duration of this trial but for a shorter trial I would imagine I could do that.

THE COURT: Okay. Why do you think the duration would affect you?

PROSPECTIVE JUROR #034: Well it's just besides the breaks it's just hard on me to sit that long --

THE COURT: Okay.

PROSPECTIVE JUROR #034: -- for long periods of time.

THE COURT: How long are you post-treatment?

PROSPECTIVE JUROR #034: I'm five years. I still have five years to go.

THE COURT: What does that mean?

PROSPECTIVE JUROR #034: Well it's a ten year process where testing happens.

THE COURT: Okay.

PROSPECTIVE JUROR #034: Post --

THE COURT: So, you're not currently under any type of treatment?

PROSPECTIVE JUROR #034: Other than blood tests, no.

THE COURT: Okay. Are you just tired? What is it?

PROSPECTIVE JUROR #034: It's tired and it's just hard, physically hard on me to sit for those long hours at a time without being able to get up and move around.

THE COURT: Okay. All right. Thank you, sir. Thank you for being here.

PROSPECTIVE JUROR #035: Hi. My name is Evan Casey. My badge number is 35. I'm also a private contractor. I work as a stylist model and producer for an all purpose production company here in town as well as individually teaching classes for different studios. And for me, I have to be able to work during the day in our office and I also have to be able to be available in the evenings, but our call times are about 4 o'clock and for me to get out of downtown to places on The Strip I need to be, I wouldn't be able to do those. I'm the only person. I live alone. I'm a

single woman and I can't pay my rent if I'm here.

THE COURT: Okay. So, you don't get paid if you're not working and missing two weeks --

PROSPECTIVE JUROR #035: And additionally I have an appointment with a graduate advisor.

THE COURT: It's okay; okay, honey.

PROSPECTIVE JUROR #035: I'm sorry. As soon as I heard that it was something to do with children, I started shaking. I have a long history with Child Protective Services and the state and I get very emotional.

THE COURT: All right. But it pretty much sounds to me like it would be a -- we don't need to go into that.

PROSPECTIVE JUROR #035: I'm very sorry.

THE COURT: It would be a financial burden such that you couldn't be here?

PROSPECTIVE JUROR #035: Yes, for me it would be.

THE COURT: Okay. I'm sorry.

PROSPECTIVE JUROR #035: No, I'm very sorry.

THE COURT: Are you okay?

PROSPECTIVE JUROR #035: Yes, I'm fine. I'm so sorry. I did not mean to do that. I also have an appointment with a graduate's advisor this week that I've waited over a month and a half for.

THE COURT: Are you a student too?

PROSPECTIVE JUROR #035: I actually am trying to get back into school. I have two degrees and I'm trying to finish so I can work toward my Ph.D in history.

THE COURT: Okay.

PROSPECTIVE JUROR #035: I can't be a model forever; right?

THE COURT: Okay. Thank you.

PROSPECTIVE JUROR #035: Thank you.

THE COURT: You can pass it down. Anyone else over here?

PROSPECTIVE JUROR #038: Vivian Jones, 38. I'm a heart survivor and -- if somebody else cries I will cry.

THE COURT: That's okay.

PROSPECTIVE JUROR #038: And I'm on Coumadin.

THE COURT: I don't want you to cry so --

PROSPECTIVE JUROR #038: Okay.

THE COURT: It sounds like you're a heart survivor. Okay. Are you in good health?

PROSPECTIVE JUROR #038: I spent a lot of time in the hospital and doctors -- because of the Coumadin and I have a mechanical valve, and I just don't think I'm healthy enough to do it.

THE COURT: You don't believe you're healthy enough to do it?

PROSPECTIVE JUROR #038: Not enough to miss my appointments and not --

THE COURT: You're currently under medical care?

PROSPECTIVE JUROR #038: Yes, after open heart surgery, yeah, I have to be on Coumadin so I have to go once a week, once a month depending on how my levels are.

THE COURT: Okay. Thank you, Ms. Jones. Thank you for being here. Anyone else on that front row? I'm going to get to you in the back. I promise I'll get to you.

PROSPECTIVE JUROR #044: Hello. Diana Hayes, Juror 44. I travel

extensively for work and after this particular jury was selected and I agreed, my company has booked me a trip. I'm a 6:30 flight tomorrow to New York City for the remainder of the week.

THE COURT: What do you do?

PROSPECTIVE JUROR #044: I'm a regional manager in retail.

THE COURT: And so if you're here you can't make your plane; right?

PROSPECTIVE JUROR #044: That's accurate.

THE COURT: Okay. How would that affect you?

PROSPECTIVE JUROR #044: This obviously would affect our company. They've already paid for the flight. I did bring a boarding pass and the itinerary.

THE COURT: But they knew you had jury duty?

PROSPECTIVE JUROR #044: They did not know I had jury duty. I already -- I was scheduled for the last week of February. I postponed that because that was a training meeting in Akron, and then I re-scheduled for this week and then they -- a booking came up after that.

THE COURT: You knew. I mean, obviously you knew and you could have told your employer?

PROSPECTIVE JUROR #044: I could not have told my employer. They booked it -- I did not know they were doing that. It's a training. It's a one time thing.

THE COURT: But you had notice that you had to be here and you've already postponed being here one time; correct?

PROSPECTIVE JUROR #044: Correct.

THE COURT: Okay. All right. But -- so if you can't be there tomorrow somebody else has to take your place; right?

PROSPECTIVE JUROR #044: No; I'm the only one that goes. I cover a

region --

THE COURT: Okay.

PROSPECTIVE JUROR #044: Las Vegas, Utah, Hawaii. I go for the training, come back and train.

THE COURT: Okay. So, the training will have to take place another time if you're here; right?

PROSPECTIVE JUROR #044: No; I -- it's the only time they do the training. It's in New York. It's with a vendor. And so I am the one that doesn't get the training. It's not that I am giving the training. I'm getting the training.

THE COURT: Okay. All right. Thank you. Thank you for being here.

Okay. The left on the second row. Anyone on the left on the second row. Okay. On the right second row. Okay. On the left third row. Go ahead, sir.

PROSPECTIVE JUROR #081: I'm Ruben Hernandez-Diaz, 81. I am on call at Del Taco. I work Friday, Saturday and Sunday and I will be at Sands April 1st, 2nd, 3rd and 4th.

THE COURT: You will be where April 1st?

PROSPECTIVE JUROR #081: Oh, at Sands Expo.

THE COURT: Okay. How would that effect -- I mean, everybody here I assume has something they have to do every day for the next two weeks. Okay. So, what I'm trying to get at, do you have things that it would be impossible for you to be here?

PROSPECTIVE JUROR #081: Well the people I work, I'm employed there. So they need someone to work.

THE COURT: Okay. So, if you're not there somebody else will have to take your place; right?

PROSPECTIVE JUROR #081: Well now I got -- I accepted it so I have to go.

THE COURT: Okay. Well if you're here under Court order you understand you have to be here; right? You would comply with a Court order to be present in Court?

PROSPECTIVE JUROR #081: Yes but --

THE COURT: Okay.

PROSPECTIVE JUROR #081: -- I have a schedule and those hours are very important for me to get more experience.

THE COURT: Okay. Thank you for being here. Anyone else on the back row? Okay. Officer, there's --

PROSPECTIVE JUROR #075: Danielle Ross, number 75.

THE COURT: Go ahead.

PROSPECTIVE JUROR #075: I am a single mother and I take my son to and pick him up from school. My mother --

THE COURT: How old is he?

PROSPECTIVE JUROR #075: He's 13.

THE COURT: So, middle school?

PROSPECTIVE JUROR #075: Yes.

THE COURT: Do they start at 8 o'clock still?

PROSPECTIVE JUROR #075: They start at eight, yes, and get out at three.

THE COURT: All right. So, you'll be able to take him to school in the morning?

PROSPECTIVE JUROR #075: Yes.

THE COURT: Do you pick him up?

PROSPECTIVE JUROR #075: I do.

THE COURT: Do you work?

PROSPECTIVE JUROR #075: I do. I leave work to go get him. That's my lunch break basically.

THE COURT: All right. If you were required to be here, would you have -- would you be able to make other arrangements to have him picked up?

PROSPECTIVE JUROR #075: My mother doesn't drive anymore and my father works.

THE COURT: I just need to know if you'd be able to make other arrangements.

PROSPECTIVE JUROR #075: No, I wouldn't, unfortunately.

THE COURT: Okay. Do you live within walking distance?

PROSPECTIVE JUROR #075: It's a few blocks but I don't like him to walk home by himself.

THE COURT: Okay. And so what happens when you get home, then what happens?

PROSPECTIVE JUROR #075: He stays.

THE COURT: Do you go back to work?

PROSPECTIVE JUROR #075: I do.

THE COURT: All right. And there's nobody in the whole neighborhood and at school that he's able to catch a ride with?

PROSPECTIVE JUROR #075: I could probably find somebody at school that he can get a ride with.

THE COURT: Okay. So, that's all I'm trying to find out. I know you have -- obviously you have obligations. We would not start -- you'd be able to take him every morning. My only concern is would you be able to make arrangements for the

afternoon?

PROSPECTIVE JUROR #075: I can try.

THE COURT: Okay. Thank you. I appreciate that. Thank you for being here. All right. Third row over here. All right.

PROSPECTIVE JUROR #113: Hi, Your Honor. I am Juror number 113. I am a owner operator of my business and I travel, commute every day about a hundred miles each way Monday through Saturday, and it would be very difficult for me to find somebody that can take my place. My wife doesn't work and we have four children at home. So, it would be just very difficult to make the arrangements to do that. I wouldn't have anyone that could take my place.

THE COURT: Okay. All right. Thank you. Thank you for being here.

Anyone else that wishes to respond to that question? The record will reflect no further response from the panel.

Are there any of you who believe that for any other reason you would be unable to serve as a juror in this particular case? Okay. Go ahead, sir. Mr. Lau, Badge number 3.

PROSPECTIVE JUROR #003: My English is not very good. My English is not very good. I don't think I --

THE COURT: How long have you lived in the United States?

PROSPECTIVE JUROR #003: Thirty years.

THE COURT: Thirty years.

PROSPECTIVE JUROR #003: Yeah.

THE COURT: And you're a United States citizen; yes?

PROSPECTIVE JUROR #003: Yes.

THE COURT: Do you work?

PROSPECTIVE JUROR #003: Retire.

THE COURT: Do you work?

PROSPECTIVE JUROR #003: Retire.

THE COURT: Oh, you're retired. I'm sorry. What did you do before you retired?

PROSPECTIVE JUROR #003: Restaurant.

THE COURT: You worked in a restaurant?

PROSPECTIVE JUROR #003: Yeah.

THE COURT: What'd you do in the restaurant?

PROSPECTIVE JUROR #003: A cook.

THE COURT: Okay. And you've been able to understand everything I've said.

PROSPECTIVE JUROR #003: Yeah, I understand but I don't fully understand the conversations but [indiscernible] I can't --

THE COURT: Okay. Is there anything that you don't understand, you'll raise your hand and let me know so we can clarify it for you; correct?

PROSPECTIVE JUROR #003: Okay.

THE COURT: Okay. Thank you, sir.

PROSPECTIVE JUROR #003: Okay.

THE COURT: All right. Go ahead, sir. Your name and badge number. Go head.

PROSPECTIVE JUROR #022: My name's Alexi Pumarejo, Badge number 22.

THE COURT: Okay.

PROSPECTIVE JUROR #022: I don't know if this is going to be a follow-up

question but I don't know that I can be impartial in this case.

THE COURT: Okay. Why don't I just have you -- I'm going to have you approach the bench. This is Mr. Pumarejo, Badge number 22. And I could have the attorneys approach as well.

[Bench conference -- begins]

MS. ALLEN: Out of curiosity, are we going to break today?

THE COURT: Oh, yeah, for lunch? Oh yeah of course.

MS. ALLEN: Okay. I just didn't [indiscernible].

THE COURT: Okay. The record will reflect a juror is present, Badge number 22 and all four lawyers are present. You indicated you didn't think you could be impartial?

PROSPECTIVE JUROR NUMBER #022: I don't think I can.

THE COURT: Because?

PROSPECTIVE JUROR NUMBER #022: I never suffered child abuse myself but --

THE COURT: Okay. Come on here so everybody can --

PROSPECTIVE JUROR NUMBER #022: I've had very close relations who'd had so I've dealt with a lot of that.

THE COURT: Okay. Who?

PROSPECTIVE JUROR NUMBER #022: A former girlfriend, fiancé that I was with for five years.

THE COURT: Okay.

PROSPECTIVE JUROR NUMBER #022: Who suffered extensive child abuse and rape and such.

THE COURT: Okay.

PROSPECTIVE JUROR NUMBER #022: And so the entire time I was kind of dealing with that and with her issues, and just seeing that I don't know that I can -- that I could be completely impartial and just listen to the facts. It would be hard for me.

THE COURT: But you know what's happening. Your life is different than what's going on in this courtroom?

PROSPECTIVE JUROR NUMBER #022: I understand; yes, of course I understand that.

THE COURT: Are you a person that would able to separate that and judge this case solely upon what you see and hear in the courtroom?

PROSPECTIVE JUROR NUMBER #022: I could certainly try, but what I'm saying is I'm not -- if the question is whether you know that you can be completely impartial --

THE COURT: Sure.

PROSPECTIVE JUROR NUMBER #022: -- I don't know that I can be, but I can try but --

THE COURT: Who are you going to be unfair to?

PROSPECTIVE JUROR NUMBER #022: The Defendant.

THE COURT: Okay. And so just because the Defendant's sitting there and the charges you don't think you can be fair to him?

PROSPECTIVE JUROR NUMBER #022: I don't know. I'm not sure. I mean, I want to be completely honestly. So, I'm not sure that I can be. To be honest, when I first heard the prosecution's statement of the charges, I --

THE COURT: You know they're only allegations though; correct?

PROSPECTIVE JUROR NUMBER #022: I understand fully and intellectually,

yes.

THE COURT: And you understand as he sits here today he is innocent; correct?

PROSPECTIVE JUROR NUMBER #022: Of course. That's our system.

THE COURT: All right. But that differs from your personal beliefs because of the charges?

PROSPECTIVE JUROR NUMBER #022: Yes; I just think it would be -- it might be difficult for me to -- after hearing all the evidence to be fully impartial. It's just a feel that I wanted to make aware and make the Court aware of.

THE COURT: So, you can't set aside your personal experiences?

PROSPECTIVE JUROR NUMBER #022: I don't know that I can.

THE COURT: Okay, sir. Thank you. Go have a seat.

[Bench conference -- concluded]

THE COURT: Okay. Anyone else that wishes to respond? Okay. Officer, yes, someone back there. Go ahead. You can stand up and start talking. I can hear you.

PROSPECTIVE JUROR NUMBER #054: I'm Rochelle Herst, Badge 54. I potentially have a bias to you about a bias.

THE COURT: You want to approach the bench?

PROSPECTIVE JUROR NUMBER #054: Yes.

THE COURT: Okay. It's Rochelle Herst, Badge number 54. If I can have the attorneys join me. The officer will escort you up here.

[Bench conference -- begins]

THE COURT: Okay. The record will reflect -- just a minute -- Ms. Herst is present, Badge number 54 and all four lawyers are present. Go ahead.

PROSPECTIVE JUROR NUMBER #054: I'm a case worker with Desert Regional Center working in the children's division. So, I've had children with CPS and adults and kids with disabilities. So, I just thought I'd let you know --

THE COURT: Okay.

PROSPECTIVE JUROR NUMBER #054: -- of my bias.

THE COURT: What's your bias?

PROSPECTIVE JUROR NUMBER #054: Well like he probably did it, but you know, I could be proven wrong but --

THE COURT: Okay. Well no one's here to prove you wrong. First, Desert Regional; what is that?

PROSPECTIVE JUROR NUMBER #054: Desert Regional Center. We work for the state agency that works with children with disabilities and adults from zero to death.

THE COURT: Okay.

PROSPECTIVE JUROR NUMBER #054: A case worker for the last 16 years there.

THE COURT: Okay. What I'm concerned about is you said I think he probably did it.

PROSPECTIVE JUROR NUMBER #054: Yeah.

THE COURT: You've already formed an opinion?

PROSPECTIVE JUROR NUMBER #054: I have.

THE COURT: Based on what?

PROSPECTIVE JUROR NUMBER #054: Just working with children for many years and children don't usually say things that they don't mean.

THE COURT: Okay. So, regardless of what goes on in here --

PROSPECTIVE JUROR NUMBER #054: I could be persuade --

THE COURT: Well here's the thing. We're not here to change -- I mean, we're not here to change an opinion you've already formed. We need people that have not formed any opinions.

PROSPECTIVE JUROR NUMBER #054: Right.

THE COURT: Have you formed an opinion?

PROSPECTIVE JUROR NUMBER #054: Just by the little bit I've heard, yes.

THE COURT: Okay. And you understand you haven't heard anything? You haven't heard any evidence.

PROSPECTIVE JUROR NUMBER #054: Just [indiscernible] but no, right.

THE COURT: Okay. Do you understand as he sits here today he's innocent?

PROSPECTIVE JUROR NUMBER #054: Yes.

THE COURT: But you don't agree with that?

PROSPECTIVE JUROR NUMBER #054: No.

THE COURT: Okay. So, our system says he's innocent. Your personal belief doesn't accept that.

PROSPECTIVE JUROR NUMBER #054: Just by looking at the children, yes.

THE COURT: Okay. Have you shared that opinion with anyone else on the panel?

PROSPECTIVE JUROR NUMBER #054: No.

THE COURT: And I'm going to order you not to discuss these opinions or anything that's discussed up here with any of the members of the jury panel.

PROSPECTIVE JUROR NUMBER #054: Absolutely.

THE COURT: And you'll comply with that; correct?

PROSPECTIVE JUROR NUMBER #054: Yes.

THE COURT: Okay. Thank you.

[Bench conference -- concluded]

THE COURT: Anyone else that wishes to address the Court? Okay. We have someone in the back row. You can stand up. I can hear you, sir.

PROSPECTIVE JUROR NUMBER #123: My name's Anthony Bonde, 123. I have a tendency to prejudge. So, I don't think it would be fair to the families involved and I wouldn't want myself to be, you know, to make a decision on my -- based on my prejudgment.

THE COURT: All right. You've made a -- you haven't heard any evidence; correct?

PROSPECTIVE JUROR NUMBER #123: No, I haven't.

THE COURT: And you've made a judgment based on what?

PROSPECTIVE JUROR NUMBER #123: From what I've heard so far.

THE COURT: Okay. So, you understand what the attorneys say is not evidence. It can't even be considered by you.

PROSPECTIVE JUROR NUMBER #123: Okay.

THE COURT: Can you accept that?

PROSPECTIVE JUROR NUMBER #123: I can accept that. I just want to be fair and let you know the type of person that I am, that I do prejudge people. If I was in their shoes I would want to know about me also.

THE COURT: Okay. But can you follow the rules in this courtroom? And one of the rules I'm going to tell you is can you keep an open mind, can you wait until forming opinion until you have heard all of the evidence from both sides and after you've been instructed on the law by myself?

PROSPECTIVE JUROR NUMBER #123: I would definitely try, yes.

THE COURT: Okay. You can think about it. But what I'm asking you to do is listen to everything that's presented by both sides --

PROSPECTIVE JUROR NUMBER #123: True.

THE COURT: And then it's my job to instruct you on the law that applies and then to follow the law and apply it to what you've heard in the courtroom. Are you a person that can do that?

PROSPECTIVE JUROR NUMBER #123: I will definitely try, yes.

THE COURT: Are you a person that can do that?

PROSPECTIVE JUROR NUMBER #123: I believe so.

THE COURT: Okay. And you haven't formed any opinions today; correct?

PROSPECTIVE JUROR NUMBER #123: So far I have, yes.

THE COURT: You've already formed an opinion?

PROSPECTIVE JUROR NUMBER #123: Mm-hmm.

THE COURT: Based on nothing.

PROSPECTIVE JUROR NUMBER #123: Based on -- yes, I have.

THE COURT: All right. But you understand now that I've told you, the attorneys what they say is not evidence and can't be considered by you. The attorneys get to ask questions --

PROSPECTIVE JUROR NUMBER #123: Mm-hmm.

THE COURT: Okay. And you can consider their questions only as it applies meaning to the answer that's given by the witness.

PROSPECTIVE JUROR NUMBER #123: Yes.

THE COURT: Do you agree with that?

PROSPECTIVE JUROR NUMBER #123: Yes.

THE COURT: And would you follow that rule?

PROSPECTIVE JUROR NUMBER #123: I will try, yes, I will.

THE COURT: Well I need to know if you'll do it not whether you'll try to do it.

PROSPECTIVE JUROR NUMBER #123: I will.

THE COURT: Okay. So, whatever your personality is, can you set that aside and follow the rules that's given to you by myself?

PROSPECTIVE JUROR NUMBER #123: Okay.

THE COURT: Will you do that?

PROSPECTIVE JUROR NUMBER #123: Yes.

THE COURT: Okay. And you understand as this gentleman sits here today, he's an innocent man; do you understand that?

PROSPECTIVE JUROR NUMBER #123: Yes.

THE COURT: Okay. So, he deserves a jury panel that actually believed not only believed -- not only recognizes that but also believes in it and believes in our system, that as he sits here today he is presumed innocent; do you understand that?

PROSPECTIVE JUROR NUMBER #123: Yes.

THE COURT: And do you believe that?

PROSPECTIVE JUROR NUMBER #123: Pretty much; yes, I do. Okay.

THE COURT: Will you accept that?

PROSPECTIVE JUROR NUMBER #123: Yes, I will.

THE COURT: Okay. Does that conflict with your personal opinions? I mean, everybody here, everybody in this whole room, everybody in the whole United States of America is they're accused of a crime is entitled to that same presumption; do you agree with that?

PROSPECTIVE JUROR NUMBER #123: Yes.

THE COURT: And do you agree with the fact that this gentleman is entitled to it?

PROSPECTIVE JUROR NUMBER #123: Yes.

THE COURT: You're entitled to it?

PROSPECTIVE JUROR NUMBER #123: Yes.

THE COURT: I'm entitled to it, he's entitled to it; do you agree with that?

PROSPECTIVE JUROR NUMBER #123: Yes, I do.

THE COURT: Okay. And you'll follow the law as given to you by the Court?

PROSPECTIVE JUROR NUMBER #123: Yes.

THE COURT: Okay. And I'm never going to tell you to let your personality traits interfere with what the law is?

PROSPECTIVE JUROR NUMBER #123: Okay.

THE COURT: Can you do that?

PROSPECTIVE JUROR NUMBER #123: Sure.

THE COURT: And can you wait until you've heard all of the evidence and after being instructed on the law before reaching a conclusion as to what the appropriate results should be?

PROSPECTIVE JUROR NUMBER #123: Yes.

THE COURT: Okay. Thank you, sir. Anyone else that wishes to address the Court? The record will reflect no further response from the panel.

Is there anyone on this panel -- you know what. It's about time. We're going to take a lunch break at this time. And so I just need to give you're an admonishment before you leave. When you come back, I'd just like you to pay attention to where you're sitting because when the Court marshal brings you in I'm going to ask you to sit in the same seats that you're sitting in and we will resume

again at 1:45.

During this recess, you're admonished not to talk or converse amongst yourselves or with anyone else on any subject connected with this trial or read, watch or listen to any report of or commentary on the trial or any person connected with this trial by any medium of information, including without limitation, newspapers, television, the internet or radio or form or express an opinion on any subject connected with this trial unless the case is finally submitted to you. You are further admonished you may not communicate with anyone including your fellow jurors about this case or on your cellphones through email , Blackberry, iPhone, text messaging, through Twitter or any blog or website, through any internet chat room or way of any other social networking website including but not limited to Facebook MySpace, LinkedIn and YouTube. Thank you very much and you are excused.

[Recess taken at 12:05 p.m.]

[Proceedings resumed at 1:54 p.m.]

[Inside the presence of the prospective jury panel]

THE COURT: Will the parties stipulate to the presence of the jury venire?

MS. LUZAICH: Yes.

MS. ALLEN: Yes, Judge. I'm sorry.

THE COURT: Okay. We left off on this question. Has anyone on this panel ever been engaged in law enforcement work or have a spouse or close relative who has ever been engaged in law enforcement work? And we'll do the same thing. I'll start over here. Okay. Left side. Go ahead, ma'am.

PROSPECTIVE JUROR NUMBER #049: Elizabeth Spaur, Juror number 49.

THE COURT: Okay. Go ahead.

PROSPECTIVE JUROR NUMBER #049: My husband was a police officer in

Glendale, but he left in, gosh, 1990.

THE COURT: So, he hasn't been for a long, long time?

PROSPECTIVE JUROR NUMBER #049: Yes.

THE COURT: Okay. Anything about his -- were you married to him at the time?

PROSPECTIVE JUROR NUMBER #049: No. I didn't even know him at the time.

THE COURT: Okay. What does he do now?

PROSPECTIVE JUROR NUMBER #049: Right now he's retired.

THE COURT: Okay.

PROSPECTIVE JUROR NUMBER #049: After he left law enforcement he went into medical equipment repair.

THE COURT: Anything about his former employment that would affect your ability to be fair and impartial in this particular case?

PROSPECTIVE JUROR NUMBER #049: No.

THE COURT: Okay. Thank you. If you'd pass it down to the juror to the right.

PROSPECTIVE JUROR NUMBER #045: I'm Nabor Torres, Juror 45. My brother-in-law works as a dispatcher for the Los Angeles County Sheriff's Department.

THE COURT: Anything about his employment that would affect your ability to be fair and impartial?

PROSPECTIVE JUROR NUMBER #045: No.

THE COURT: Thank you. Anyone else on the left side? Okay. Over here on the right. Go ahead.

PROSPECTIVE JUROR NUMBER #034: Patrick Hoover, Juror number 34. My brother was a forensic chemist for LAPD, Long Beach PD, and Washington State Troopers for his entire career.

THE COURT: Anything about -- is he retired now?

PROSPECTIVE JUROR NUMBER #034: He's retired.

THE COURT: Okay. Anything about his employment that would affect your ability to be fair and impartial?

PROSPECTIVE JUROR NUMBER #034: No, not at all.

THE COURT: Okay. Thank you. And, Mr. Hoover, you'll remind me if you need a break; right?

PROSPECTIVE JUROR NUMBER #034: Yeah, I will.

THE COURT: Just if you raise your hand I'll know. Okay.

PROSPECTIVE JUROR NUMBER #034: Thank you.

PROSPECTIVE JUROR NUMBER #037: Yvonne Lewis, number 37. I was a dispatcher over ten years ago for police, fire and EMTs in Arizona.

THE COURT: How long did you do that?

PROSPECTIVE JUROR NUMBER #037: About a year and a half.

THE COURT: How'd you like it?

PROSPECTIVE JUROR NUMBER #037: I loved it.

THE COURT: Okay. What do you do now?

PROSPECTIVE JUROR NUMBER #037: Now I run dental offices.

THE COURT: Okay. Why'd you leave dispatch?

PROSPECTIVE JUROR NUMBER #037: The chief of police was impeached and --

THE COURT: Oh, so the chief of police was an elected official?

PROSPECTIVE JUROR NUMBER #037: It wasn't elected. It was a township.

THE COURT: Okay.

PROSPECTIVE JUROR NUMBER #037: So, yeah, he was impeached and there was a lot of bad stuff so I --

THE COURT: You hightailed it out. Okay. Anything about your former employment that would affect your ability to be fair and impartial?

PROSPECTIVE JUROR NUMBER #037: No.

THE COURT: Okay. Thank you. Anyone else?

PROSPECTIVE JUROR NUMBER #044: My husband served 30 years --

THE COURT: Your name and badge number.

PROSPECTIVE JUROR NUMBER #044: Oh, sorry. Diana Hayes, 44.

THE COURT: Okay.

PROSPECTIVE JUROR NUMBER #044: My husband of 30 years law enforcement with the National Park Service.

THE COURT: Okay. What was his job title?

PROSPECTIVE JUROR NUMBER #044: National Park Ranger.

THE COURT: So, he worked for the Federal Government?

PROSPECTIVE JUROR NUMBER #044: Yes.

THE COURT: What does he do now?

PROSPECTIVE JUROR NUMBER #044: He is retired six years.

THE COURT: Okay. Anything about his former employment that would affect your ability to be fair and impartial?

PROSPECTIVE JUROR NUMBER #044: No.

THE COURT: Thank you. Anyone else that wishes to respond to that

question? The record will reflect no further response from the panel.

Is there anyone on this panel who believes that they may not be able to follow all the instructions of the Court on the law even if the instructions differ from your personal conceptions of what the law ought to be? Anyone who believes they cannot follow the law as given to you by the Court? The record will reflect no response from the panel.

Okay. At this time, we're going to go out in the hallway so that we don't have to excuse you. The Court will still be in session. The Court marshal will be in here. I just want to remind you that the recording will still be going and the Court will still be in the session, and just give us a couple minutes.

[Sidebar -- not recorded]

THE COURT: Officer, we're going to get ready to seat 'em in the jury box. So, if you'll have everyone come out of the jury box. Do the parties stipulate to the presence of the jury panel?

MS. LUZAICH: Yes.

MS. ALLEN: Yes, Your Honor.

THE COURT: Okay. At this time, the clerk's going to call the first 32 to sit in the jury box. So, what's going happen are some of you are going to move out and so I'm going to let the clerk go. Juror number 1.

THE COURT CLERK: Robert Newman, seat number 1.

THE COURT: Okay. So, Mr. Philips, if you'll step down, and Mr. Lau, if you'll move to seat number 2.

THE COURT CLERK: Wai Lau, seat number 2. Then it'll be Jayson Kamaunu --

THE COURT: So, Ms. Miller and Ms. Quattrone, if you'll step out of the box.

THE COURT CLERK: Jason Kamaunu, seat number 3.

THE COURT: You know, since we're using every single seat in the courtroom, when I ask you to step in the back if you don't mind standing for just a few minutes and then there will be some open seats for you to sit down. I don't make you stand very long.

THE COURT CLERK: Steven Yowell, seat number 4; Timothy Geiger, seat number 5; Melinda St. Clair, seat number 6; Ian Urquico, seat number 7. Second row, Mona Stammetti, seat number 8; Nicholas Carlyn, seat number 9; Angel Diane Marie Haber, seat number 10. Thank you. William Lambert, seat number 11; Robert Allen, seat number 12; Eric Greenwood, seat number 13; Helen Stephens, seat number 14; Monica Randolph, seat number 15; Yvonne Lewis, seat number 16; Kathleen Smith, seat number 17; Lisa Mandel, seat number 18; Eugene Kordoban, seat number 19; Diana Hayes, seat number 20; Nabor Torres, seat number 21; Robert Bell, seat number 22; Dana Capitanio, seat number 23; Wilfred Bocage; seat number 24; Elizabeth Spaur, seat number 15; Nicole Fried, seat number 26; Mindie Barlow, seat number 27; Robin Powell, seat number 28; Millie Hiatt, seat number 29; Tracy Ence, seat number 30; Jennifer Hernandez, seat number 31; Godfred Padernilla, 32;

THE COURT: All right. Now everyone else that's standing up, you can sit wherever you want just not on that -- this front row. Okay. So, just find an open seat. And every single seat will be taken. You know what, Officer? You're probably going to have to get a chair because I don't want 'em to sit in this front row.

[Colloquy between the Court and the Court Marshal]

THE COURT: Let me ask the parties. Which would be the easiest four to move up here? To me, it would have been 15, 16, 17, 18.

MS. LUZAICH: Only because that's how my chart works right now.

THE COURT: Okay. 15, 16, 17 and 18, if you'll come up here, and then everyone slide down. Sorry. We have to use every seat.

[Colloquy between the Court and the Court Clerk]

THE COURT: She's 30. Okay. Where's number 31 and 32. Officer, where's -- okay. Here's what I need. Jennifer Hernandez, you're sitting right here next to Ms. Ence, and you're number 32. Okay. Now everybody can find a seat, just not in the front row. That row is fine. Everyone should be able to find a seat now. Perfect, perfect. Thank you very much. Thank you for our cooperation.

Mr. Newman, how long have you lived in Clark County?

PROSPECTIVE JUROR #001: Thirty-four years.

THE COURT: Your employment, training, and education background.

PROSPECTIVE JUROR #001: I am a branch sales manager of Bank of the West; high school, some college.

THE COURT: How much college?

PROSPECTIVE JUROR #001: About freshman year.

THE COURT: Okay. So, one year. And I'm sorry. Will you state -- you're a sales manager for --

PROSPECTIVE JUROR #001: Sales manager for Bank of the West.

THE COURT: Okay. That's what I thought you said. What do you sell?

PROSPECTIVE JUROR #001: New accounts, loans.

THE COURT: Okay. Your marital status?

PROSPECTIVE JUROR #001: Divorced.

THE COURT: Do you have any children?

PROSPECTIVE JUROR #001: Four.

THE COURT: Are any of your four children old enough to be employed?

PROSPECTIVE JUROR #001: No.

THE COURT: Okay. They're all minors?

PROSPECTIVE JUROR #001: Minors.

THE COURT: Okay. Do you know of any reason why you could not be a completely fair and impartial juror if you were selected to serve on this panel?

PROSPECTIVE JUROR #001: No.

THE COURT: Thank you. Have you ever served as a juror before?

PROSPECTIVE JUROR #001: Yes.

THE COURT: Was it one time?

PROSPECTIVE JUROR #001: One time.

THE COURT: And that was here in Clark County?

PROSPECTIVE JUROR #001: Correct.

THE COURT: It was criminal?

PROSPECTIVE JUROR #001: Yes.

THE COURT: And you were selected to be the foreperson?

PROSPECTIVE JUROR #001: Yes.

THE COURT: And without telling us what your verdict was, were you able to reach a verdict?

PROSPECTIVE JUROR #001: Correct.

THE COURT: Anything about that that would affect your ability to be fair and impartial in this case?

PROSPECTIVE JUROR #001: No.

THE COURT: Any reason why you could not be a completely fair and impartial juror if you were selected to serve on this panel?

PROSPECTIVE JUROR #001: No, no, ma'am.

THE COURT: Thank you. Thank you. Thank you for being here.

Mr. Lau.

PROSPECTIVE JUROR #003: Yes.

THE COURT: Lau; is that correct?

PROSPECTIVE JUROR #003: Yes.

THE COURT: How long have you lived in Clark County?

PROSPECTIVE JUROR #002: More than thirty years.

THE COURT: Thirty years?

PROSPECTIVE JUROR #003: Yeah.

THE COURT: Your education background.

PROSPECTIVE JUROR #003: Education?

THE COURT: Mm-hmm.

PROSPECTIVE JUROR #003: Nine years.

THE COURT: Nine years. And you told me you're retired now; is that correct?

PROSPECTIVE JUROR #003: Yes.

THE COURT: Okay. And before you retired you worked in a restaurant as a cook; correct?

PROSPECTIVE JUROR #003: Yes.

THE COURT: Okay. Are you married?

PROSPECTIVE JUROR #003: Yes.

THE COURT: Is your wife employed?

PROSPECTIVE JUROR #003: No, retire.

THE COURT: She's retired as well?

PROSPECTIVE JUROR #003: Yeah.

THE COURT: Do you have children?

PROSPECTIVE JUROR #003: Yeah, I have two.

THE COURT: Two children?

PROSPECTIVE JUROR #003: Yes.

THE COURT: Are they old enough to work?

PROSPECTIVE JUROR #003: They are -- yeah, working, yeah.

THE COURT: Okay. What do they do for a living?

PROSPECTIVE JUROR #003: My son.

THE COURT: Uh-huh.

PROSPECTIVE JUROR #003: That one's a pharmacy.

THE COURT: Okay. Pharmacy --

PROSPECTIVE JUROR #003: And doctor.

THE COURT: I'm sorry.

PROSPECTIVE JUROR #003: Medical doctor.

THE COURT: Okay. Do you know of any reason why you could not be a completely fair and impartial juror if you were selected to serve on this panel?

PROSPECTIVE JUROR #003: What's that?

THE COURT: Do you know of any reason why you could not be a completely fair and impartial juror if you were selected to serve on this panel?

PROSPECTIVE JUROR #003: Yeah, because I'm citizen and then [indiscernible].

THE COURT: Okay. Do you understand my question?

PROSPECTIVE JUROR #003: Not quite understand what you just said.

THE COURT: Okay. Do you know of any reason why you could not be a

completely fair and impartial juror if you were selected to serve on this jury panel? Do you know of anything that would prevent you from being a juror on this jury panel? Do you understand my question?

PROSPECTIVE JUROR #003: Not quite.

THE COURT: Okay. Do you know of any reason --

PROSPECTIVE JUROR #003: Yes.

THE COURT: You understand so far?

PROSPECTIVE JUROR #003: Yeah, any reason, yeah.

THE COURT: Okay. Why you could not be a completely fair and impartial juror?

PROSPECTIVE JUROR #003: I don't know.

THE COURT: Okay. You're not understanding my question now? Okay. What I'm going to ask you to do is I'm just going to ask you to step out of the box and you can go sit -- leave the microphone there. And I'm going to ask Danielle Ross, Danielle Ross, you're going to become Juror number 2. Thank you, Ms. Ross. Can you tell me how long you've lived in Clark County?

PROSPECTIVE JUROR #075: For a little over 20 years.

THE COURT: And your education background?

PROSPECTIVE JUROR #075: Three years -- well all through college, three years of college.

THE COURT: Okay. What'd you study in college?

PROSPECTIVE JUROR #075: I was a hotel major with a dance minor.

THE COURT: And you're single?

PROSPECTIVE JUROR #075: I am.

THE COURT: Yes?

PROSPECTIVE JUROR #075: Yes.

THE COURT: And you have one child?

PROSPECTIVE JUROR #075: Yes.

THE COURT: And he's a minor; correct?

PROSPECTIVE JUROR #075: Correct.

THE COURT: Do you know of any reason why you could not be a completely fair and impartial juror if you were selected to serve?

PROSPECTIVE JUROR #075: No.

THE COURT: Thank you. Have you ever served as a juror before?

PROSPECTIVE JUROR #075: No.

THE COURT: Okay. Thank you.

Mr. -- can you pronounce your name for me?

PROSPECTIVE JUROR #009: Kamaunu.

THE COURT: Thank you. How long have you lived in Clark County?

PROSPECTIVE JUROR #009: Eleven years.

THE COURT: Your education background.

PROSPECTIVE JUROR #009: Completed high school.

THE COURT: What do you do for a living?

PROSPECTIVE JUROR #009: I work for Southern Wine and Spirits. I'm the night warehouse foreman.

THE COURT: Okay. Your marital status?

PROSPECTIVE JUROR #009: Married.

THE COURT: Is your wife employed?

PROSPECTIVE JUROR #009: Yes.

THE COURT: What does she do?

PROSPECTIVE JUROR #009: She manages a dental office.

THE COURT: Okay. Do you have any children?

PROSPECTIVE JUROR #009: Five.

THE COURT: Are any of 'em adults?

PROSPECTIVE JUROR #009: Yes; one.

THE COURT: Okay. One is? What does that child do for a living?

PROSPECTIVE JUROR #009: She just moved out to Hawaii to go to school.

THE COURT: Okay. So, she's attending college in Hawaii?

PROSPECTIVE JUROR #009: Yes.

THE COURT: Okay. Do you know of any reason why you could not be a completely fair and impartial juror if you were selected to serve on this panel?

PROSPECTIVE JUROR #009: No.

THE COURT: Have you ever served as a juror before?

PROSPECTIVE JUROR #009: No.

THE COURT: Okay. Thank you, sir. Thank you for being here.

Ms. Ross, I don't think -- did I ask you what you do for a living? I didn't think I did. Can you tell us what you do for a living?

PROSPECTIVE JUROR #075: I work for a destination management company.

THE COURT: What do you do?

PROSPECTIVE JUROR #075: I'm a account executive, sales.

THE COURT: Okay. Thank you.

Stephen Yowell.

PROSPECTIVE JUROR #011: Yes.

THE COURT: How long have you lived in Clark County?

PROSPECTIVE JUROR #011: Twenty-one years.

THE COURT: Your employment, education background.

PROSPECTIVE JUROR #011: Three years of college and I'm a pit manager at a local casino.

THE COURT: How long have you done that?

PROSPECTIVE JUROR #011: Probably 12 years.

THE COURT: Okay. And what'd you study in college?

PROSPECTIVE JUROR #011: Electronic engineering.

THE COURT: Your marital status?

PROSPECTIVE JUROR #011: Married.

THE COURT: Is your wife employed?

PROSPECTIVE JUROR #011: Yes.

THE COURT: What does your wife do for a living?

PROSPECTIVE JUROR #011: She's a paralegal.

THE COURT: Okay. Do you know what law firm she works for?

PROSPECTIVE JUROR #011: Yes.

THE COURT: And what would that law firm be?

PROSPECTIVE JUROR #011: Parker and Associates.

THE COURT: Parker and Associates. Do you know what kind of law they practice?

PROSPECTIVE JUROR #011: Construction defect.

THE COURT: Okay. And you understand if you're selected to serve on this panel you can't discuss the case with anyone including your fellow jurors until you've been discharged to deliberate upon your verdict which means you can't go home and ask your wife any questions about the case.

PROSPECTIVE JUROR #011: Yes.

THE COURT: Do you understand that?

PROSPECTIVE JUROR #011: Yes.

THE COURT: Or anyone else for that matter. You understand that; correct?

PROSPECTIVE JUROR #011: Yes; correct.

THE COURT: And you would comply with that order?

PROSPECTIVE JUROR #011: Yes, I can.

THE COURT: Okay. Do you have any children?

PROSPECTIVE JUROR #011: Yes; I have three.

THE COURT: Okay. Are any of them adults?

PROSPECTIVE JUROR #011: Two of 'em are adults.

THE COURT: Are they employed?

PROSPECTIVE JUROR #011: The oldest is employed getting ready to join the Navy in August and the other one is in college.

THE COURT: Do you know of any reason why you could not be a completely fair and impartial juror if you were selected to serve?

PROSPECTIVE JUROR #011: No.

THE COURT: Have you ever served as a juror before?

PROSPECTIVE JUROR #011: No, ma'am.

THE COURT: Thank you, sir.

Timothy Geiger. Mr. Geiger --

PROSPECTIVE JUROR #012: Yes.

THE COURT: -- how long have you lived in Clark County?

PROSPECTIVE JUROR #012: Eight years.

THE COURT: Your employment education background.

PROSPECTIVE JUROR #012: Retired; high school education; retired plumber pipefitter.

THE COURT: I'm sorry. Retired from where?

PROSPECTIVE JUROR #012: Plumber and pipefitter, Fairbanks, Alaska.

THE COURT: Did you come out here to retire?

PROSPECTIVE JUROR #012: Yes.

THE COURT: Your marital status?

PROSPECTIVE JUROR #012: Married.

THE COURT: Is your wife employed?

PROSPECTIVE JUROR #012: Retired.

THE COURT: What did she do before she retired?

PROSPECTIVE JUROR #012: Housewife.

THE COURT: So, she'd have to retire from being a housewife?

PROSPECTIVE JUROR #012: She's a volunteer for a senior center.

THE COURT: You were giggling before I even asked you that. Do you have any children?

PROSPECTIVE JUROR #012: I have two, a 45 year old and 40 year old.

THE COURT: And can you tell us what they do for a living?

PROSPECTIVE JUROR #012: One works in telephone poling and the other one is at home ill.

THE COURT: Have you ever served as a juror before?

PROSPECTIVE JUROR #012: Yes.

THE COURT: How many times?

PROSPECTIVE JUROR #012: Once.

THE COURT: Was that civil or criminal?

PROSPECTIVE JUROR #012: Criminal.

THE COURT: Were you selected to be the foreperson?

PROSPECTIVE JUROR #012: No.

THE COURT: Without telling us what your verdict was, were you able to reach a verdict?

PROSPECTIVE JUROR #012: Yes.

THE COURT: Anything about that that experience that would affect your ability to be fair and impartial juror in this case?

PROSPECTIVE JUROR #012: No.

THE COURT: Any reason why you could not be a completely fair and impartial juror if you were selected to serve?

PROSPECTIVE JUROR #012: No.

THE COURT: Thank you, sir. Thank you for being here.

Ms. Melinda StClair. How long have you lived in Clark County?

PROSPECTIVE JUROR #014: I'm a native. I was born and raised here.

THE COURT: How long have you lived in Clark County?

PROSPECTIVE JUROR #014: Forty-seven years.

THE COURT: Thank you. Your education and employment background.

PROSPECTIVE JUROR #014: High school diploma.

THE COURT: Okay.

PROSPECTIVE JUROR #014: And I'm self-employed.

THE COURT: What do you do?

PROSPECTIVE JUROR #014: I own a radiator shop.

THE COURT: I'm sorry.

PROSPECTIVE JUROR #014: A radiator repair shop.

THE COURT: Oh, okay. How long have you done that?

PROSPECTIVE JUROR #014: Since 2010.

THE COURT: Okay. Your marital status?

PROSPECTIVE JUROR #014: Married.

THE COURT: Is your husband employed?

PROSPECTIVE JUROR #014: Unemployed right now.

THE COURT: Do you have children?

PROSPECTIVE JUROR #014: We have five.

THE COURT: Are any of your kids old enough to be employed?

PROSPECTIVE JUROR #014: All of them.

THE COURT: All five?

PROSPECTIVE JUROR #014: Yes.

THE COURT: Okay. I want you to start at the top and tell us what each does for a living.

PROSPECTIVE JUROR #014: My oldest works at Walmart in the back doing returns.

THE COURT: Okay.

PROSPECTIVE JUROR #014: The second one, he cuts concrete.

THE COURT: Okay.

PROSPECTIVE JUROR #014: The other one lives in Georgia. I'm not sure what he does.

THE COURT: You don't know what he does?

PROSPECTIVE JUROR #014: He's my stepson.

THE COURT: Okay. The fourth one.

PROSPECTIVE JUROR #014: She's a stay at home mother.

THE COURT: Okay. The fifth one.

PROSPECTIVE JUROR #014: She's in college in Texas.

THE COURT: Okay. Is that all? That was five.

PROSPECTIVE JUROR #014: That was all five.

THE COURT: Okay. All right. Have you ever served as a juror before?

PROSPECTIVE JUROR #014: No.

THE COURT: Any reason why you could not be a completely fair and impartial juror if you were selected to serve?

PROSPECTIVE JUROR #014: No.

THE COURT: Thank you. Thank you for being here.

Mr. Ian --

PROSPECTIVE JUROR #015: Urquico.

THE COURT: Urquico.

PROSPECTIVE JUROR #014: Yes.

THE COURT: Is that right?

PROSPECTIVE JUROR #014: Yes.

THE COURT: Okay. Thank you. How long have you lived in Clark County?

PROSPECTIVE JUROR #014: Thirty-two years.

THE COURT: Your education background.

PROSPECTIVE JUROR #014: I didn't complete high school and I'm a bartender.

THE COURT: Okay. How long have you worked as a bartender?

PROSPECTIVE JUROR #014: Six years.

THE COURT: Okay. Your marital status?

PROSPECTIVE JUROR #014: I'm married.

THE COURT: Is your wife employed?

PROSPECTIVE JUROR #014: Yes.

THE COURT: What does your wife do?

PROSPECTIVE JUROR #014: Optician.

THE COURT: I'm sorry.

PROSPECTIVE JUROR #014: Optician.

THE COURT: Optician.

PROSPECTIVE JUROR #014: Yes.

THE COURT: So, fit you for glasses?

PROSPECTIVE JUROR #014: Yeah, makes lenses.

THE COURT: Okay. Makes lenses. Do you have children?

PROSPECTIVE JUROR #014: Yes; two.

THE COURT: Two kids. Are they minors?

PROSPECTIVE JUROR #014: Yes.

THE COURT: Have you ever served as a juror before?

PROSPECTIVE JUROR #014: No, ma'am.

THE COURT: Okay. Any reason why you could not be a completely fair and impartial juror if you were selected to serve on this panel?

PROSPECTIVE JUROR #014: No.

THE COURT: Thank you, sir. Thank you for being here.

Mona Stammetti. How long have you lived in Clark County?

PROSPECTIVE JUROR #020: Twenty-one years.

THE COURT: Your education background.

PROSPECTIVE JUROR #020: Bachelor of science.

THE COURT: In?

PROSPECTIVE JUROR #020: Civil engineering.

THE COURT: What do you do for a living?

PROSPECTIVE JUROR #020: I work for Clark County designing flood control and roadways.

THE COURT: Do you work for the government?

PROSPECTIVE JUROR #020: Yes.

THE COURT: And you design roadways?

PROSPECTIVE JUROR #020: Roadways and flood control.

THE COURT: Okay. How long have you done that?

PROSPECTIVE JUROR #020: Twenty-five years.

THE COURT: Okay. Your marital status?

PROSPECTIVE JUROR #020: I'm married.

THE COURT: Is your husband employed?

PROSPECTIVE JUROR #020: Yes.

THE COURT: What does he do?

PROSPECTIVE JUROR #020: He's a mechanical engineer.

THE COURT: Do you have children?

PROSPECTIVE JUROR #020: I have two minors.

THE COURT: Okay. Have you ever served as a juror before?

PROSPECTIVE JUROR #020: Yes.

THE COURT: How many times?

PROSPECTIVE JUROR #020: One time.

THE COURT: Civil or criminal.

PROSPECTIVE JUROR #020: Civil.

THE COURT: Were you selected to be the foreperson?

PROSPECTIVE JUROR #020: No.

THE COURT: Without telling us what your verdict was, were you able to reach a verdict?

PROSPECTIVE JUROR #020: Yes.

THE COURT: Anything about that experience that would affect your ability to be a fair and impartial juror in this particular case?

PROSPECTIVE JUROR #020: No.

THE COURT: Thank you.

Mr. Nicholas Carlyn.

PROSPECTIVE JUROR #023: Carlyn.

THE COURT: Carlyn. How long have you lived in Clark County?

PROSPECTIVE JUROR #023: Sixteen years.

THE COURT: Sixteen years?

PROSPECTIVE JUROR #023: Mm-hmm.

THE COURT: Your education background.

PROSPECTIVE JUROR #023: Graduated high school and one year of college.

THE COURT: What do you do for a living?

PROSPECTIVE JUROR #023: I work at a equipment company, just a coordinator there.

THE COURT: Your marital status?

PROSPECTIVE JUROR #023: Married.

THE COURT: Is your wife employed?

PROSPECTIVE JUROR #023: She is.

THE COURT: What does she do?

PROSPECTIVE JUROR #023: She works at an eye doctor, like a contact lens specialist.

THE COURT: Do you have children?

PROSPECTIVE JUROR #023: I do. I have one and one on the way.

THE COURT: Okay. Congratulations.

PROSPECTIVE JUROR #023: So, I'm assuming the one you have is a minor?

PROSPECTIVE JUROR #023: Yes.

THE COURT: Okay. Have you ever served as a juror before?

PROSPECTIVE JUROR #023: No.

THE COURT: Okay. Any reason why you could not be a completely fair and impartial juror if you were selected to serve on this panel?

PROSPECTIVE JUROR #023: No.

THE COURT: Thank you. Ms. Haber.

PROSPECTIVE JUROR #024: Haber.

THE COURT: Haber. How long have you lived in Clark County?

PROSPECTIVE JUROR #024: It will be two years in May.

THE COURT: I'm sorry?

PROSPECTIVE JUROR #024: Two years in May.

THE COURT: Okay. So, you got a jury summons -- whew -- before it was even two years. They got you like right at the 18 months; didn't they? Okay. Your education background. Well welcome to Clark County. Your education background.

PROSPECTIVE JUROR #024: High school diploma.

THE COURT: And what do you do for a living?

PROSPECTIVE JUROR #024: A salon coordinator at a cosmetology school.

THE COURT: Your marital status.

PROSPECTIVE JUROR #024: Married.

THE COURT: Is your husband employed?

PROSPECTIVE JUROR #024: No; unemployed.

THE COURT: I'm sorry?

PROSPECTIVE JUROR #024: Unemployed.

THE COURT: Okay. Do you have children?

PROSPECTIVE JUROR #024: Five.

THE COURT: Five kids. Are any of your five kids old enough to be employed?

PROSPECTIVE JUROR #024: Two.

THE COURT: Can you tell us what those two do for a living?

PROSPECTIVE JUROR #024: Well one's not working. She's a full time student for nursing school and the other one just graduated cosmetology school so she's not working yet either.

THE COURT: Did she graduate from the school that you work at?

PROSPECTIVE JUROR #024: Yes.

THE COURT: Okay. Have you ever served as a juror before?

PROSPECTIVE JUROR #024: No.

THE COURT: Any reason why you could not be a completely fair and impartial juror if you were selected to serve on this panel?

PROSPECTIVE JUROR #024: No.

THE COURT: Thank you. Thank you for being here.

Mr. Lambert, how long have you lived in Clark County?

PROSPECTIVE JUROR #025: Thirty-two years.

THE COURT: Your education background.

PROSPECTIVE JUROR #025: High school.

THE COURT: What do you for a living?

PROSPECTIVE JUROR #025: I own a convenience store.

THE COURT: Your marital status.

PROSPECTIVE JUROR #025: I am married.

THE COURT: Is your wife employed?

PROSPECTIVE JUROR #025: My wife is employed and she works for the Clark County School District.

THE COURT: What does she do?

PROSPECTIVE JUROR #025: She orders equipment for special needs children.

THE COURT: Do you have any children?

PROSPECTIVE JUROR #025: Three.

THE COURT: Are any of your kids old enough to be employed?

PROSPECTIVE JUROR #025: Yes.

THE COURT: Can you tell us what they do for a living?

PROSPECTIVE JUROR #025: My two oldest are in college right now and I have a daughter that's in high school.

THE COURT: Okay. Have you ever served as a juror before?

PROSPECTIVE JUROR #025: No.

THE COURT: Any reason why you could not be a completely fair and impartial juror if you are selected to serve on this panel?

PROSPECTIVE JUROR #025: No.

THE COURT: Thank you, sir.

Mr. Robert Allen. How long have you lived in Clark County?

PROSPECTIVE JUROR #028: Twenty-eight years.

THE COURT: Your education background.

PROSPECTIVE JUROR #028: I'm retired from the Air Force after 24 years.

THE COURT: Are you currently employed?

PROSPECTIVE JUROR #028: Yes; electronic technician.

THE COURT: Electronic technician. Your marital status?

PROSPECTIVE JUROR #028: Married.

THE COURT: Is your wife employed?

PROSPECTIVE JUROR #028: Yes; school district food service.

THE COURT: Do you have children?

PROSPECTIVE JUROR #028: We have three.

THE COURT: Are your kids old enough to be employed?

PROSPECTIVE JUROR #028: Yes.

THE COURT: Can you tell us what they do for a living?

PROSPECTIVE JUROR #028: The oldest is a graphic designer, the middle one son is a bartender, and my youngest daughter is a teacher's assistant at the school district.

THE COURT: Have you ever served as a juror before?

PROSPECTIVE JUROR #028: Yes.

THE COURT: How many times?

PROSPECTIVE JUROR #028: Just once.

THE COURT: Civil or criminal?

PROSPECTIVE JUROR #028: Civil.

THE COURT: Were you selected to be the foreperson?

PROSPECTIVE JUROR #028: No.

THE COURT: Without telling us what your verdict was, were you able to reach a verdict?

PROSPECTIVE JUROR #028: Yes.

THE COURT: Anything about that experience that would affect your ability to be a fair and impartial juror if you were selected to serve on this panel?

PROSPECTIVE JUROR #028: No.

THE COURT: Any reason why you could not be a completely fair and impartial juror if you were selected to serve?

PROSPECTIVE JUROR #28: No.

THE COURT: Thank you, sir.

Mr. Eric Greenwood. How long have you lived in Clark County?

PROSPECTIVE JUROR #30: A year and four months.

THE COURT: We got you too. Welcome to Clark County. Where'd you move from?

PROSPECTIVE JUROR #30: From Houston, Texas.

THE COURT: Okay. For a job?

PROSPECTIVE JUROR #30: For better seniority. I'm a flight attendant with Southwest Airlines.

THE COURT: Okay. So, you work for Southwest Airlines?

PROSPECTIVE JUROR #30: Yes, ma'am.

THE COURT: Okay. Did you say you were a flight attendant?

PROSPECTIVE JUROR #30: Yes, ma'am.

THE COURT: Okay. Your education background.

PROSPECTIVE JUROR #30: Graduated high school. I was in the Navy,

advanced operator school for machinery.

THE COURT: Your marital status?

PROSPECTIVE JUROR #30: Married.

THE COURT: Is your wife employed?

PROSPECTIVE JUROR #30: Yes; she's a flight attendant as well.

THE COURT: Okay. The same, with Southwest Airlines?

PROSPECTIVE JUROR #30: Say again.

THE COURT: For Southwest Airlines?

PROSPECTIVE JUROR #30: Yes, ma'am.

THE COURT: Okay. Do you have children?

PROSPECTIVE JUROR #30: Yes, ma'am.

THE COURT: How many?

PROSPECTIVE JUROR #30: Two sons, 25 and 23.

THE COURT: Did you say 25 and 23?

PROSPECTIVE JUROR #30: Yes, ma'am.

THE COURT: What do they do for a living?

PROSPECTIVE JUROR #30: The oldest delivers pizzas and the youngest is unemployed.

THE COURT: The youngest is --

PROSPECTIVE JUROR #30: He's unemployed.

THE COURT: Oh, okay. Have you ever served as a juror before?

PROSPECTIVE JUROR #30: No, ma'am.

THE COURT: Any reason why you could not be a completely fair and impartial juror if you were selected to serve?

PROSPECTIVE JUROR #30: No, ma'am.

THE COURT: Thank you. Thank you for being here.

Ms. Stephens, how long have you lived in Clark County?

PROSPECTIVE JUROR #32: Fifty years.

THE COURT: Your education background.

PROSPECTIVE JUROR #32: High school.

THE COURT: What do you do for a living?

PROSPECTIVE JUROR #32: I'm retired.

THE COURT: What'd you do before you retired?

PROSPECTIVE JUROR #32: I worked at University Medical Center in the surgical department.

THE COURT: And what did you do in the surgical department?

PROSPECTIVE JUROR #32: Just about everything that didn't require a license.

THE COURT: Except operate?

PROSPECTIVE JUROR #32: Yeah.

THE COURT: I knew you did everything that didn't require a medical license?

PROSPECTIVE JUROR #32: Right.

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

PROSPECTIVE JUROR #32: Twenty years.

THE COURT: Wow. Okay. Your marital status?

PROSPECTIVE JUROR #32: Single.

THE COURT: Do you have any children?

PROSPECTIVE JUROR #32: I have two daughters, minors.

THE COURT: Are they old enough to be employed?

PROSPECTIVE JUROR #32: No; they're minors.

THE COURT: Oh, I'm sorry. You said their minors. Have you ever served as a juror before?

PROSPECTIVE JUROR #32: No.

THE COURT: Any reason why you could not be a completely fair and impartial juror if you were selected to serve?

PROSPECTIVE JUROR #32: No.

THE COURT: Thank you. Thank you for being here.

Ms. Randolph. How long have you lived in Clark County?

PROSPECTIVE JUROR #33: Forty-two years.

THE COURT: Your education background.

PROSPECTIVE JUROR #33: Graduated Rancho High School 1983.

THE COURT: What do you do for a living?

PROSPECTIVE JUROR #33: I work part-time in a Clark County rec center.

THE COURT: Okay. So, you work for the County?

PROSPECTIVE JUROR #33: Yes, I do.

THE COURT: Your marital status?

PROSPECTIVE JUROR #33: Divorced.

THE COURT: Do you have children?

PROSPECTIVE JUROR #33: One daughter, 25.

THE COURT: Have you ever served as a juror before?

PROSPECTIVE JUROR #33: Never have.

THE COURT: Okay. Any reason why you could not be a completely fair and impartial juror if you were selected to serve?

PROSPECTIVE JUROR #33: No reason at all.

THE COURT: Thank you. Thank you for being here.

Ms. Lewis, how long have you lived in Clark County?

PROSPECTIVE JUROR #37: Eight years.

THE COURT: Your education background.

PROSPECTIVE JUROR #37: High school.

THE COURT: What do you do for a living?

PROSPECTIVE JUROR #37: Dental office manager.

THE COURT: I think you told me you now run dental offices?

PROSPECTIVE JUROR #37: Yes.

THE COURT: So, you're a manager and you manage more than one?

PROSPECTIVE JUROR #37: One currently. I've managed multiple in the last ten years.

THE COURT: Okay. Your marital status?

PROSPECTIVE JUROR #37: Separated.

THE COURT: Do you have any children?

PROSPECTIVE JUROR #037: Two minors.

THE COURT: Have you ever served as a juror before?

PROSPECTIVE JUROR #037: No.

THE COURT: Any reason why you could not be a completely fair and impartial juror if you were selected to serve?

PROSPECTIVE JUROR #037: No.

THE COURT: Thank you. Thank you for being here.

Ms. Smith, how long have you lived in Clark County?

PROSPECTIVE JUROR #038: About 11 years.

THE COURT: Your education background.

PROSPECTIVE JUROR #38: Associates degree in -- this past February I just

graduated from UNLV with my paralegal certificate.

THE COURT: Okay. Are you currently employed as a paralegal?

PROSPECTIVE JUROR #38: No; I'm working here at the courthouse.

THE COURT: Oh, that's -- I'm sorry.

PROSPECTIVE JUROR #38: That's okay.

THE COURT: How embarrassing. You told me you work down at the Information Desk; correct?

PROSPECTIVE JUROR #38: Yes. My title is Office Specialist.

THE COURT: Okay. How's that going working down at the Information Desk?

PROSPECTIVE JUROR #38: Very interesting.

THE COURT: I'll bet it is. How long have you done that?

PROSPECTIVE JUROR #38: A year now.

THE COURT: One year. Do you like it?

PROSPECTIVE JUROR #38: Yes; uh-huh.

THE COURT: Okay. Your marital status?

PROSPECTIVE JUROR #38: Separated.

THE COURT: Do you have children?

PROSPECTIVE JUROR #038: I have a daughter; she's 24, and my grandson's at home.

THE COURT: Okay. Have you ever served as a juror before?

PROSPECTIVE JUROR #038: Yes.

THE COURT: How many times:

PROSPECTIVE JUROR #38: Once.

THE COURT: Civil or criminal?

PROSPECTIVE JUROR #38: Civil.

THE COURT: Were you selected to be the foreperson?

PROSPECTIVE JUROR #38: No.

THE COURT: Without telling us what your verdict was, were you able to reach a verdict?

PROSPECTIVE JUROR #38: Yes.

THE COURT: Anything about that experience that would affect your ability to be fair and impartial in this case?

PROSPECTIVE JUROR #38: No.

THE COURT: Okay. Any reason why you could not be a completely fair and impartial juror if you were selected to serve on this panel?

PROSPECTIVE JUROR #038: No.

THE COURT: Thank you.

Ms. Mandel, how long have you lived in Clark County?

PROSPECTIVE JUROR #041: Forty-seven years nine months.

THE COURT: Your education background.

PROSPECTIVE JUROR #041: Bachelor of science business administration, marketing.

THE COURT: Your marital status?

PROSPECTIVE JUROR #041: Single.

THE COURT: Do you have any children?

PROSPECTIVE JUROR #041: I do not.

THE COURT: Have you ever served as a juror before?

PROSPECTIVE JUROR #041: I have not.

THE COURT: Any reason why you could not be a completely fair and impartial juror if you were selected to serve on this panel?

PROSPECTIVE JUROR #041: No, ma'am.

THE COURT: Thank you. Okay. Mr. -- now when I get back there if you don't mind standing up. It helps me hear you a little bit better.

Mr. Eugene --

PROSPECTIVE JUROR #42: Kordoban.

THE COURT: Kordoban. There you go.

PROSPECTIVE JUROR #42: Kordoban.

THE COURT: How long have you lived in Clark County?

PROSPECTIVE JUROR #42: Fifteen years.

THE COURT: Your education background.

PROSPECTIVE JUROR #42: Four plus college years.

THE COURT: So, you have a college degree?

PROSPECTIVE JUROR #42: No.

THE COURT: What'd you study in college?

PROSPECTIVE JUROR #42: Business management.

THE COURT: Okay. What do you do for a living?

PROSPECTIVE JUROR #42: I'm a franchise development direction for new construction at Wyndam Hotels.

THE COURT: For Wyndam Hotels?

PROSPECTIVE JUROR #42: Mm-hmm.

THE COURT: Your marital status?

PROSPECTIVE JUROR #42: Married.

THE COURT: Is your wife employed?

PROSPECTIVE JUROR #42: Yes; she flips properties for real estate.

THE COURT: Do you have children?

PROSPECTIVE JUROR #42: Two daughters; one is a stay home mother with my grandbabies, I have two, and the other one is -- she works for real estate and Disneyland in Florida -- Disneyworld. I'm sorry.

THE COURT: Have you ever served as a juror before?

PROSPECTIVE JUROR #42: Twice.

THE COURT: Okay. The first one, civil or criminal?

PROSPECTIVE JUROR #42: Criminal.

THE COURT: Second one, civil or criminal?

PROSPECTIVE JUROR #42: Civil.

THE COURT: Okay. So, you did one criminal one civil.

PROSPECTIVE JUROR #42: Mm-hmm.

THE COURT: In either case were you selected to be the foreperson?

PROSPECTIVE JUROR #42: On the civil one.

THE COURT: On the civil one. So, criminal, you weren't -- civil one you were selected to be the foreperson; correct?

PROSPECTIVE JUROR #42: Mm-hmm; yes.

THE COURT: Okay. On the criminal case, without telling us what your verdict was, were you able to reach a verdict?

PROSPECTIVE JUROR #42: We were, yes.

THE COURT: How about the civil case?

PROSPECTIVE JUROR #42: Same.

THE COURT: Okay. Anything about those experiences in either case that

would affect your ability to be fair and impartial in this case?

PROSPECTIVE JUROR #42: None.

THE COURT: Thank you. Any reason why you could not be a completely fair and impartial juror if you were selected to serve on this panel?

PROSPECTIVE JUROR #42: None.

THE COURT: Thank you, sir.

Ms. Diana Hayes. Have long have you lived in Clark County?

PROSPECTIVE JUROR #44: Three years.

THE COURT: Your education background?

PROSPECTIVE JUROR #44: Six years college.

THE COURT: What'd you study?

PROSPECTIVE JUROR #44: Cellular and developmental biology, chemistry, and English.

THE COURT: Okay. Any degrees?

PROSPECTIVE JUROR #44: No.

THE COURT: All right. And what do you do for a living?

PROSPECTIVE JUROR #44: Twenty-five years with Sterling Jewelers Incorporated known to you as Kay Jewelers and jeweler at the Galleria of Jewelry.

THE COURT: What do you do?

PROSPECTIVE JUROR #44: I'm a regional manager for the areas of Las Vegas, Utah, Hawaii, and Sparks and Reno, Nevada.

THE COURT: Do you ever get to go to Hawaii?

PROSPECTIVE JUROR #44: Frequently.

THE COURT: Good for you.

PROSPECTIVE JUROR #44: Yes.

THE COURT: Your marital status?

PROSPECTIVE JUROR #44: Married.

THE COURT: Is your husband employed?

PROSPECTIVE JUROR #44: Retired U.S. Park Service law enforcement.

THE COURT: That's right. You told us that earlier. Do you have children?

PROSPECTIVE JUROR #44: Two step-sons.

THE COURT: Are they old enough to be employed?

PROSPECTIVE JUROR #44: Yes. Active duty military and sales, retail sales.

THE COURT: Have you ever served as a juror before?

PROSPECTIVE JUROR #44: No, I have not.

THE COURT: Any reason why you could not be a completely fair and impartial juror if you are selected to serve on this panel?

PROSPECTIVE JUROR #44: No.

THE COURT: Thank you. Thank you for being here.

Mr. Torres, how long have you lived in Clark County?

PROSPECTIVE JUROR #45: Twenty-three years.

THE COURT: Your education background?

PROSPECTIVE JUROR #45: Associates of science in multimedia.

THE COURT: Will you say it again?

PROSPECTIVE JUROR #45: Associates of science in multimedia.

THE COURT: Okay. What do you do for a living?

PROSPECTIVE JUROR #45: Retail, support sales manager for Nevada State Bank.

THE COURT: What does someone with your title do?

PROSPECTIVE JUROR #45: A little bit of training and support to the regional managers that manager all of our branches.

THE COURT: Okay. Your marital status.

PROSPECTIVE JUROR #45: Married.

THE COURT: Is your wife employed?

PROSPECTIVE JUROR #45: Yes.

THE COURT: What does she do for a living?

PROSPECTIVE JUROR #45: Massage therapist.

THE COURT: Do you have children?

PROSPECTIVE JUROR #45: Yes; one.

THE COURT: Is that child old enough to be employed?

PROSPECTIVE JUROR #45: No; a minor.

THE COURT: Minor. Have you ever served as a juror before?

PROSPECTIVE JUROR #45: No.

THE COURT: Any reason why you could not be a completely fair and impartial juror if you are selected to serve on this panel?

PROSPECTIVE JUROR #45: No.

THE COURT: Thank you, sir. Thank you very much for being here.

Mr. Bell, how long have you lived in Clark County?

PROSPECTIVE JUROR #46: About 40 years.

THE COURT: Your education background.

PROSPECTIVE JUROR #46: I have a bachelors in business management.

THE COURT: What do you do for a living?

PROSPECTIVE JUROR #46: I'm a construction inspector for the City of Las

Vegas.

THE COURT: A construction inspector.

PROSPECTIVE JUROR #46: For the City of Las Vegas, yes.

THE COURT: Okay. How long have you done that?

PROSPECTIVE JUROR #46: Fifteen years.

THE COURT: Okay. Your marital status.

PROSPECTIVE JUROR #46: Married.

THE COURT: Do you have any children?

PROSPECTIVE JUROR #46: Two minors.

THE COURT: Is your wife employed?

PROSPECTIVE JUROR #46: Yes.

THE COURT: What does she do?

PROSPECTIVE JUROR #46: She is a lifespan faith development director for a Unitarian church.

THE COURT: Can you say that one more time?

PROSPECTIVE JUROR #46: She is a lifespan faith development director for a Unitarian congregation church.

THE COURT: Have you ever served as a juror before?

PROSPECTIVE JUROR #46: No.

THE COURT: Any reason why you could not be a completely fair and impartial juror if you were selected to serve on this panel?

PROSPECTIVE JUROR #46: No.

THE COURT: Thank you, sir.

Mr. Capitanio.

PROSPECTIVE JUROR #47: Yes.

THE COURT: How long have you lived in Clark County?

PROSPECTIVE JUROR #47: Eight years.

THE COURT: Your education background.

PROSPECTIVE JUROR #47: Three years of college.

THE COURT: What'd you study?

PROSPECTIVE JUROR #47: Mechanical engineering.

THE COURT: What do you do for a living?

PROSPECTIVE JUROR #47: I'm an independent contractor for the Review Journal.

THE COURT: What do you do?

PROSPECTIVE JUROR #47: Home delivery.

THE COURT: I'm sorry?

PROSPECTIVE JUROR #47: Home delivery.

THE COURT: Oh, okay. Your marital status.

PROSPECTIVE JUROR #47: Married.

THE COURT: Is your wife employed?

PROSPECTIVE JUROR #47: Yes; counter attendant at the Signature.

THE COURT: Okay. Do you have any children?

PROSPECTIVE JUROR #47: Six week old daughter.

THE COURT: Oh, wow. Are you sleeping yet?

PROSPECTIVE JUROR #47: No.

THE COURT: Congratulations.

PROSPECTIVE JUROR #47: Thank you.

THE COURT: Have you ever served as a juror before?

PROSPECTIVE JUROR #47: No.

THE COURT: Any reason why you could not be a completely fair and impartial juror if selected to serve?

PROSPECTIVE JUROR #47: No.

THE COURT: Thank you, sir. Thank you for being here.

Mr. Bocage.

PROSPECTIVE JUROR #48: Bocage.

THE COURT: Bocage. Okay

PROSPECTIVE JUROR #48: Sorry about my voice.

THE COURT: That's okay. Are you okay?

PROSPECTIVE JUROR #48: Yes, I'm fine. I just got through teaching.

THE COURT: You're a teacher.

PROSPECTIVE JUROR #48: I'm an associate professor at the University of New Orleans. I just got back so the weather kind of got my throat.

THE COURT: Okay. How long have you lived in Clark County?

PROSPECTIVE JUROR #48: Eighteen years.

THE COURT: Your education background.

PROSPECTIVE JUROR #48: I have a master's in [indiscernible] communication. I'm basically semi -tired. I work on a directive for the disabled American veterans for the state of Nevada and also, like I'm saying, I'm a HBCU professor at State University and I'm just returning from.

THE COURT: You were in New Orleans teaching?

PROSPECTIVE JUROR #48: Yes, yes.

THE COURT: Okay. But you are a citizen of Clark County?

PROSPECTIVE JUROR #48: Yes.

THE COURT: All right. Your marital status?

PROSPECTIVE JUROR #48: Yes, I'm married.

THE COURT: Is your wife employed?

PROSPECTIVE JUROR #48: Retired.

THE COURT: What'd she do before she retired?

PROSPECTIVE JUROR #48: She was a processor with Kodak.

THE COURT: A what?

PROSPECTIVE JUROR #48: She was a film processor with Eastman Kodak.

THE COURT: Do you have children?

PROSPECTIVE JUROR #48: Yes, I did.

THE COURT: How many?

PROSPECTIVE JUROR #48: Two.

THE COURT: Are they old enough to be employed?

PROSPECTIVE JUROR #48: Yes.

THE COURT: What do they do for a living?

PROSPECTIVE JUROR #48: One is a recruiter Air Force -- recruiter, the other one is a community liaison policeman for the city of West Jordan, Utah.

THE COURT: Okay. So, you said a community liaison police officer?

PROSPECTIVE JUROR #48: Yes.

THE COURT: So, that child's an actual police officer?

PROSPECTIVE JUROR #48: For West Jordan, Utah. He's a -- community relations.

THE COURT: Oh, community relations?

PROSPECTIVE JUROR #48: Yes.

THE COURT: For --

PROSPECTIVE JUROR #48: West Jordan Utah Police Department.

THE COURT: All right. For the police department. I though you said police in there somewhere.

PROSPECTIVE JUROR #48: Yeah, police department.

THE COURT: He works for the police department?

PROSPECTIVE JUROR #48: Yes.

THE COURT: Okay. Have you ever served as a juror before?

PROSPECTIVE JUROR #48: No.

THE COURT: Any reason why you could not be a completely fair and impartial juror if you are selected to serve on this panel?

PROSPECTIVE JUROR #48: No.

THE COURT: Thank you, sir. Again, thank you for being here.

Ms. Spaur.

PROSPECTIVE JUROR #49: Spar [phonetic].

THE COURT: Spaur. I'm striking out every time I pronounce someone's name. I apologize. How long have you lived in Clark County?

PROSPECTIVE JUROR #49: Almost eight years.

THE COURT: Your education background.

PROSPECTIVE JUROR #49: I have a bachelor of arts in film production, an MBA, and a law degree.

THE COURT: An MBA and a law degree. What do you do?

PROSPECTIVE JUROR #49: I'm an attorney.

THE COURT: Okay. Do you do civil?

PROSPECTIVE JUROR #49: Yes; construction defect.

THE COURT: That's why I don't see you in here.

PROSPECTIVE JUROR #49: Yeah; they see me at the dirt court.

THE COURT: You're in the dirt court?

PROSPECTIVE JUROR #49: Yes.

THE COURT: How long have you done that?

PROSPECTIVE JUROR #49: I started with Lee, Hernandez which is the firm I work for in January of '08.

THE COURT: So, you do exclusively construction defect?

PROSPECTIVE JUROR #49: Yes.

THE COURT: Okay. You're marital status?

PROSPECTIVE JUROR #49: Married.

THE COURT: Is your husband employed?

PROSPECTIVE JUROR #49: He's currently retired.

THE COURT: What'd he do before he was retired?

PROSPECTIVE JUROR #49: Prior to retiring he worked for a company that repaired medical equipment for all of the Southwest Medical clinics in the Valley.

THE COURT: Do you have any children?

PROSPECTIVE JUROR #49: No.

THE COURT: Have you ever served as a juror before?

PROSPECTIVE JUROR #49: No.

THE COURT: Any reason why you could not be a completely fair and impartial juror if you are selected to serve on this panel?

PROSPECTIVE JUROR #49: None at all.

THE COURT: Have you ever practiced criminal law?

PROSPECTIVE JUROR #49: When I was in law school I interned with the District of Columbia Public Defender's office. I worked in their mental health division working with ensuring the rights of Defendants who had been found not guilty by

reason of insanity. But that's it. And that was in '93. So, not since then.

THE COURT: Okay.

PROSPECTIVE JUROR #49: Everything else has been civil or administrative.

THE COURT: Okay. Thank you. Thank you for being here.

Ms. Nicole Fried.

PROSPECTIVE JUROR #50: Yes.

THE COURT: I got that one right.

PROSPECTIVE JUROR #50: Yes, you did.

THE COURT: Okay. How long have you lived in Clark County?

PROSPECTIVE JUROR #50: About five years.

THE COURT: THE COURT: Your education background.

PROSPECTIVE JUROR #50: Four years of college and no degree.

THE COURT: What'd you study?

PROSPECTIVE JUROR #50: Fashion buying merchandising.

THE COURT: What do you do for a living?

PROSPECTIVE JUROR #50: I am a domestic engineer.

THE COURT: Good for you. And you're married?

PROSPECTIVE JUROR #50: Yes.

THE COURT: And you have children?

PROSPECTIVE JUROR #50: No.

THE COURT: No children?

PROSPECTIVE JUROR #50: Not currently.

THE COURT: What does your husband do for a living?

PROSPECTIVE JUROR #50: He is one of the VPs at a secure credit

processing company.

THE COURT: Have you ever served as a juror before?

PROSPECTIVE JUROR #50: No.

THE COURT: Any reason why could not be a completely fair and impartial juror if you were selected to serve on this panel?

PROSPECTIVE JUROR #50: No.

THE COURT: Thank you. Thank you for being here.

Ms. Mindie Barlow. How long have you lived in Clark County?

PROSPECTIVE JUROR #51: Twenty-seven years.

THE COURT: Your education background.

PROSPECTIVE JUROR #51: Masters in education.

THE COURT: What do you do for a living?

PROSPECTIVE JUROR #51: Teacher with Clark County District.

THE COURT: What do you teach?

PROSPECTIVE JUROR #51: Second grade.

THE COURT: How long have you taught second grade?

PROSPECTIVE JUROR #51: Second grade, I think, four years; kindergarten and fourth grade.

THE COURT: Okay. Kindergarten, second, and fourth?

PROSPECTIVE JUROR #51: Uh-huh; elementary.

THE COURT: Your marital status.

PROSPECTIVE JUROR #51: Married.

THE COURT: Is your husband employed?

PROSPECTIVE JUROR #51: Yes.

THE COURT: What does your husband do?

PROSPECTIVE JUROR #51: He's a budget analyst for NS Tech.

THE COURT: Do you have any children?

PROSPECTIVE JUROR #51: Yes; three.

THE COURT: Three.

PROSPECTIVE JUROR #51: Yes; minors.

THE COURT: Okay. Have you ever served as a juror before?

PROSPECTIVE JUROR #51: No.

THE COURT: Any reason why you could not be a completely fair and impartial juror if selected to serve on this panel?

PROSPECTIVE JUROR #51: No.

THE COURT: Thank you. Thank you for being here.

Robin Powell, Mr. Powell. How long have you lived in Clark County?

PROSPECTIVE JUROR #52: Fourteen years in total; seven most recently.

THE COURT: Your education background.

PROSPECTIVE JUROR #52: One year of college.

THE COURT: What'd you study?

PROSPECTIVE JUROR #52: I think it was photography.

THE COURT: So, you had fun. What do you do for a living?

PROSPECTIVE JUROR #52: I own a consulting firm.

THE COURT: What do you consult?

PROSPECTIVE JUROR #52: Gaming industry; casino business.

THE COURT: Gaming.

PROSPECTIVE JUROR #52: And intellectual property that we own.

THE COURT: Your marital status.

PROSPECTIVE JUROR #52: I lived with a partner and we have four children.

THE COURT: Okay.

PROSPECTIVE JUROR #52: Three are in college and one is working.

THE COURT: Four children. You have three in college.

THE COURT: Whoa. Okay. And one works. What does that child do?

PROSPECTIVE JUROR #52: She works in the casino business in Mississippi.

THE COURT: Have you ever served as a juror before?

PROSPECTIVE JUROR #52: No.

THE COURT: Any reason why you could not be a completely fair and impartial juror if you were selected to serve on this panel?

PROSPECTIVE JUROR #52: No.

THE COURT: Thank you, sir. Again, thank you for being here.

PROSPECTIVE JUROR #52: Thank you.

THE COURT: Ms. Millie Hiatt.

PROSPECTIVE JUROR #53: Yes.

THE COURT: How long have you lived in Clark County?

PROSPECTIVE JUROR #53: Fifteen years.

THE COURT: Your education background.

PROSPECTIVE JUROR #53: High school graduate.

THE COURT: What do you do for a living?

PROSPECTIVE JUROR #53: I am now retired. I worked for 17 years for a casino company as a product developer buyer.

THE COURT: Your marital status.

PROSPECTIVE JUROR #53: Widow.

THE COURT: Do you have any children?

PROSPECTIVE JUROR #53: I have two. My son is a firefighter in California and my daughter is a property manager in Florida.

THE COURT: Have you ever served as a juror before?

PROSPECTIVE JUROR #53: I was an alternate once when I lived in California but we never got to trial. They settled before --

THE COURT: Okay. Was it civil or criminal?

PROSPECTIVE JUROR #53: It was criminal.

THE COURT: Anything about that experience that would affect your ability to be fair and impartial in this case?

PROSPECTIVE JUROR #53: No.

THE COURT: Any reason why you could not be a completely fair and impartial juror if you were selected to serve on this panel?

PROSPECTIVE JUROR #53: No reason.

THE COURT: Thank you. Ms. Tracy Ence. How long have you lived in Clark County?

PROSPECTIVE JUROR #56: Fifty-five years.

THE COURT: Your education background.

PROSPECTIVE JUROR #56: Bachelor of science in dental hygiene.

THE COURT: What do you do for a living?

PROSPECTIVE JUROR #56: I'm a dental hygienist.

THE COURT: Your marital status.

PROSPECTIVE JUROR #56: Married.

THE COURT: Is your husband employed?

PROSPECTIVE JUROR #56: Yes.

THE COURT: What's he do?

PROSPECTIVE JUROR #56: He works for a trust company.

THE COURT: And what does he do for the trust company?

PROSPECTIVE JUROR #56: He's a manager.

THE COURT: Do you have children?

PROSPECTIVE JUROR #56: Five children.

THE COURT: Are any of them old enough to be employed?

PROSPECTIVE JUROR #56: Yes; they all are.

THE COURT: Can you tell us what each does for a living?

PROSPECTIVE JUROR #56: The oldest is a business development officer for a aerospace company; the second is a -- works at the school in their resource -- learning resource center. She's a school teacher but isn't practicing that right now. The third is a school teacher on maternity leave; the fourth is a college student, and the fifth is a senior in high school.

THE COURT: Have you ever served as a juror before?

PROSPECTIVE JUROR #56: No.

THE COURT: Any reason why you could not be a completely fair and impartial juror if you were selected to serve on this panel?

PROSPECTIVE JUROR #56: No.

THE COURT: Thank you. Thank you for being here.

Ms. Hernandez. Good afternoon. How long have you lived in Clark County?

PROSPECTIVE JUROR #67: Two years.

THE COURT: We got you too right at the two year deadline. Your education background.

PROSPECTIVE JUROR #67: High school diploma; current student.

THE COURT: Where do you go to school?

PROSPECTIVE JUROR #67: UNLV.

THE COURT: What are you studying?

PROSPECTIVE JUROR #67: Business administration.

THE COURT: What year are you in?

PROSPECTIVE JUROR #67: Sophomore.

THE COURT: Okay. Do you have a problem with midterms?

PROSPECTIVE JUROR #67: No.

THE COURT: You don't have 'em next week?

PROSPECTIVE JUROR #67: I'm actually taking a semester off right now.

THE COURT: Oh, okay. So, you're not currently enrolled?

PROSPECTIVE JUROR #67: No.

THE COURT: All right. Do you work?

PROSPECTIVE JUROR #67: Yes.

THE COURT: What do you do?

PROSPECTIVE JUROR #67: Retail sales.

THE COURT: Your marital status.

PROSPECTIVE JUROR #67: Single.

THE COURT: Any children?

PROSPECTIVE JUROR #67: No.

THE COURT: Have you ever served as juror before?

PROSPECTIVE JUROR #67: No.

THE COURT: Any reason why you could not be a completely fair and impartial juror if selected to serve on this panel?

PROSPECTIVE JUROR #67: No.

THE COURT: Thank you, ma'am.

Okay. Mr. Padernilla.

PROSPECTIVE JUROR #74: Yes.

THE COURT: Thank you. Have long have you lived in Clark County?

PROSPECTIVE JUROR #74: Seven years and 11 months.

THE COURT: Your education background.

PROSPECTIVE JUROR #74: BSN graduate; registered nurse.

THE COURT: Okay. What area do you work in? Do you work in a hospital?

PROSPECTIVE JUROR #74: I work as a charge nurse in a long term care.

THE COURT: A charge nurse in a long term care.

PROSPECTIVE JUROR #74: That's it.

THE COURT: Okay. So, you're in charge of all the other nurses? Isn't that what a charge nurse means?

PROSPECTIVE JUROR #74: Yeah, yeah. That's right.

THE COURT: Okay. So, you have -- you also have a four year degree in nursing; correct?

PROSPECTIVE JUROR #74: Five years.

THE COURT: Five years.

PROSPECTIVE JUROR #74: [Indiscernible].

THE COURT: Okay. Your marital status.

PROSPECTIVE JUROR #74: Divorced.

THE COURT: Do you have children?

PROSPECTIVE JUROR #74: No.

THE COURT: Have you ever served as a juror before?

PROSPECTIVE JUROR #74: No.

THE COURT: Any reason why you could not be a completely fair and impartial juror --

PROSPECTIVE JUROR #74: No.

THE COURT: -- if you were selected to serve on this panel?

PROSPECTIVE JUROR #74: No.

THE COURT: Thank you, sir. Thank you very much.

Okay. I just have a few questions and these questions are going to be for the jury panel as a whole. So, if you want to answer this question, raise your hand and remember to state your name and badge number before responding.

Have you or anyone close to you such as a family member or friend ever been the victim of a crime? Have you or anyone close to you such as a family member or friend ever been the victim of a crime? Okay. Remember, these are only for the 32 that are in the box. So, if you're not in the box, you don't have to answer right now, but you'll have to answer if you get in the box. So, thank you very much for paying such good attention. Go ahead, sir.

PROSPECTIVE JUROR #30: I got jumped at a --

THE COURT: Badge number.

PROSPECTIVE JUROR #030: Eric Greenwood, Badge number 30.

THE COURT: Okay.

PROSPECTIVE JUROR #030: I was with my sons at a Shakey's Pizza in California and a guy pulled a pipe on me and told me he was going to beat me up.

THE COURT: And then you did get beat up?

PROSPECTIVE JUROR #030: No, I ran 'em off.

THE COURT: You what?

PROSPECTIVE JUROR #030: I ran 'em off but then the cops came. So,

technically I was jumped but nothing came of it.

THE COURT: All right. So, they didn't take any of your property?

PROSPECTIVE JUROR #030: No, ma'am.

THE COURT: And you didn't get hurt?

PROSPECTIVE JUROR #030: No, ma'am.

THE COURT: But the police came?

PROSPECTIVE JUROR #030: Yes, ma'am.

THE COURT: Did they ever catch the person?

PROSPECTIVE JUROR #030: They did.

THE COURT: All right. Did you have to go to Court and testify?

PROSPECTIVE JUROR #030: No, ma'am.

THE COURT: What happened as a result of them catching the perpetrator?

PROSPECTIVE JUROR #030: They just came to my house and showed me the pictures of the fellows and I was to identify the ones that did it.

THE COURT: There were more than one?

PROSPECTIVE JUROR #030: One drove a truck, like a getaway truck, and the other guy was the guy that pulled the pipe on me.

THE COURT: Okay. And so you identified them?

PROSPECTIVE JUROR #030: Yes.

THE COURT: And then what happened after that, if anything?

PROSPECTIVE JUROR #030: Yeah, I never really heard. They just said, okay, that's who we thought it was and we'll need you if we need you.

THE COURT: And so you didn't follow up on it?

PROSPECTIVE JUROR #030: No, ma'am.

THE COURT: Okay. Were you happy with how the case was handled?

PROSPECTIVE JUROR #030: It was fine because I didn't get injured and they didn't my hurt my kids so I was good.

THE COURT: All right. So, were you happy with the way the police handled it?

PROSPECTIVE JUROR #030: Yeah, they did fine.

THE COURT: Okay. Thank you.

PROSPECTIVE JUROR #030: Yes, ma'am.

THE COURT: Anything about that experience that would affect your ability to be fair and impartial in this case?

PROSPECTIVE JUROR #030: No, ma'am.

THE COURT: Okay. Thank you.

PROSPECTIVE JUROR #032: Helen Stephens, Juror 32. My van was stolen from in front of my home about five years ago. I actually caught the guy later in the afternoon in the neighborhood in the van and I disabled my van by running into the front tire. My father had told me if you ever need to stop a car run into the tire and make it bend in and they won't go anywhere. And the police were called. I had a cellphone. The police were called.

THE COURT: You ran into the van?

PROSPECTIVE JUROR #032: Yes, with my rental.

THE COURT: With what?

PROSPECTIVE JUROR #032: With my rental.

THE COURT: Okay.

PROSPECTIVE JUROR #032: Yes; I had lots of claims that year. There was a trial. I was called.

THE COURT: So, the police caught the person?

PROSPECTIVE JUROR #032: Yes.

THE COURT: They see him.

PROSPECTIVE JUROR #032: Yes.

THE COURT: Okay. And that person got arrested?

PROSPECTIVE JUROR #032: Yes.

THE COURT: Got charged?

PROSPECTIVE JUROR #032: Yes.

THE COURT: And it actually went to trial?

PROSPECTIVE JUROR #032: Yes; he went to trial. Actually he had a bunch of stolen cars all over the city and he left his key ring with the little lockbox key for dealerships on there and they were able to trace all these cars and get 'em back. So, he got 15 years.

THE COURT: So, did you have to come to Court and testify?

PROSPECTIVE JUROR #032: Yes, ma'am.

THE COURT: And was that in this courthouse?

PROSPECTIVE JUROR #032: No; it was in North Las Vegas.

THE COURT: Okay. But you never had to come here?

PROSPECTIVE JUROR #032: No.

THE COURT: All right. You only had to testify in North Las Vegas?

PROSPECTIVE JUROR #032: Right.

THE COURT: Okay. Were you happy with the way it was handled?

PROSPECTIVE JUROR #032: I wasn't real happy with the police letting him get away. I told them where he was.

THE COURT: How'd he get away? I thought you stopped him.

PROSPECTIVE JUROR #032: He jumped out the van. It crashed into the

sidewalk. He jumped out of the van, cussed me out, and ran down a drainage ditch. But he just went back around the corner to the house he was staying at. I told the policeman if he would just wait a minute I was pretty sure the guy was going to come out 'cause he wasn't too bright.

THE COURT: He wasn't what?

PROSPECTIVE JUROR #032: He wasn't very smart.

THE COURT: Oh, okay.

PROSPECTIVE JUROR #032: He took the stolen van back to my own neighborhood.

THE COURT: Yeah, not very bright.

PROSPECTIVE JUROR #032: So, as I was going back in to my neighborhood, this guy comes walking down the sidewalk in different clothes carrying plastic bags and nodded at me, and I said, well, that's him. I threw on the brakes and he took off running. So, I just went home and called the police again and told 'em.

THE COURT: But they eventually apprehended him?

PROSPECTIVE JUROR #032: Four days later, yes.

THE COURT: Okay. And you were -- I mean, besides that, were you happy with the way it was handled?

PROSPECTIVE JUROR #032: Yes, I was.

THE COURT: Okay. Anything about that experience that would affect your ability to be fair and impartial in this case?

PROSPECTIVE JUROR #032: No, I don't think so.

THE COURT: Don't take this lady's car. Thank you.

Anyone else? Okay. Pass it down here.

PROSPECTIVE JUROR #037: I've just had multiple --

THE COURT: Your name and badge number.

PROSPECTIVE JUROR #037: Oh, sorry. Yvonne Lewis, number 37. I've had multiple cars broken into and property stolen, like a purse and CDs and stuff like that. Neither case was solved or the person caught or anything that I know of came out of it.

THE COURT: Anything about those experiences that would affect your ability to be fair and impartial in this case?

PROSPECTIVE JUROR #037: No.

THE COURT: Thank you.

PROSPECTIVE JUROR #040: Hi. Kathleen Smith, number 40. I was a victim of domestic violence.

THE COURT: Okay. When was that?

PROSPECTIVE JUROR #040: About two, three years ago.

THE COURT: All right. And I'm assuming that was your spouse?

PROSPECTIVE JUROR #040: Yes.

THE COURT: Okay. And the police were called?

PROSPECTIVE JUROR #040: Yes.

THE COURT: Okay. Did it have to go to trial in the case?

PROSPECTIVE JUROR #040: Yes.

THE COURT: All right. Did you have to go to Court and testify?

PROSPECTIVE JUROR #040: Yes.

THE COURT: Were you happy with the way it was handled?

PROSPECTIVE JUROR #040: Yes.

THE COURT: Okay. Anything about that case that would affect your ability to

be fair and impartial in this case?

PROSPECTIVE JUROR #040: No.

THE COURT: Okay. And you're not married anymore?

PROSPECTIVE JUROR #040: We're separated.

THE COURT: Okay. All right. Did you ever have to come to this courthouse and testify?

PROSPECTIVE JUROR #040: It was in North Las Vegas.

THE COURT: North Las Vegas. Okay. Thank you. Anyone else over here in the box?

PROSPECTIVE JUROR #020: Mona Stammetti, number 20.

While we were at work our apartment was broken into and a lot of things were stolen, and we've had property taken from our truck.

THE COURT: Anything about those experiences that would affect your ability to be fair and impartial in this case?

PROSPECTIVE JUROR #020: I don't think so, no.

THE COURT: Okay. Anything about those -- because you're the only one who can tell me. So, were they separate events? So, someone burglarized your home?

PROSPECTIVE JUROR #020: They were separate events. It was in California; it was kind of traumatic --

THE COURT: Sure.

PROSPECTIVE JUROR #020: -- at the time, and I wasn't happy with the way it was handled.

THE COURT: Okay. So, when was your home burglarized? That was in California; correct?

PROSPECTIVE JUROR #020: It was in California in '89.

THE COURT: And why weren't you happy?

PROSPECTIVE JUROR #020: In California, Southern California all the cities kind of run together and we found some of my property in a pawn shop.

THE COURT: Okay.

PROSPECTIVE JUROR #020: And the police told us they wouldn't really do anything unless -- they wouldn't go to the pawn shop and research anything unless they were after something in particular, like they had another reason to go there, they wouldn't follow up on it.

THE COURT: Okay. So, you weren't happy with the way it was handled --

PROSPECTIVE JUROR #020: No.

THE COURT: -- I'm assuming it wasn't solved?

PROSPECTIVE JUROR #020: No, it wasn't.

THE COURT: Okay. And then you said your car was broken into?

PROSPECTIVE JUROR #020: At Long Beach State. Actually they took the tailgate off my new truck.

THE COURT: Okay. And the police were called?

PROSPECTIVE JUROR #020: Yes, and nothing ever came of that.

THE COURT: Okay. Were you happy with the way that was handled?

PROSPECTIVE JUROR #020: No.

THE COURT: Okay. Because?

PROSPECTIVE JUROR #020: Because you couldn't hardly even talk to someone. They're just so overwhelmed --

THE COURT: Okay.

PROSPECTIVE JUROR #020: -- that they weren't going to do anything.

THE COURT: Do you believe the police were overwhelmed?

PROSPECTIVE JUROR #020: I believe so, yes.

THE COURT: Okay. And that maybe this might have been minor to them --

PROSPECTIVE JUROR #020: Yes.

THE COURT: -- but it was a huge deal to you?

PROSPECTIVE JUROR #020: Yes.

THE COURT: Okay. Anything about those experiences that would affect your ability to be fair and impartial in this case?

PROSPECTIVE JUROR #020: No.

THE COURT: Thank you. Anyone else? Right there.

PROSPECTIVE JUROR #042: Eugene Kordoban, 42.

My car was stolen out of my garage in 2004. They found the car after the insurance took possession of it. So, I saw the car to get any personal stuff out of it. There was drug paraphernalia and needles and stuff inside the car. Luckily I went into the -- where you put your glasses, you know, and I opened it up and there was needle in there. Scary, scary. The police handled it as best as they could. They found the car and found him because of a broken taillight which is kind of cool. But I never had to testify because the insurance company had it.

THE COURT: Okay. Anything about that experience that would affect your ability to be fair and impartial in this particular case?

PROSPECTIVE JUROR #042: None.

THE COURT: Thank you. Anyone else?

PROSPECTIVE JUROR #046: Robert Bell, number 46.

I've had multiple -- let's see -- bicycles stolen; my wife's car stolen; our house has been broken into. Nothing ever went to trial. Nobody ever got caught for

it.

THE COURT: Okay. Did you call the police every time?

PROSPECTIVE JUROR #046: Yeah.

THE COURT: Were you happy with the way they handled the cases?

PROSPECTIVE JUROR #046: No, no. Not much was handled. But when our home was broken into the door was kicked in and my wife was under the assumption that they were still there because all our valuables, our guitars, everything, was all still hanging on the wall that she could visibly. So, she was -- it was well over an hour. She called me. I brought my vehicle back to the yard, got my personal vehicle, came back, beat the cops there by 45 minutes.

THE COURT: Okay.

PROSPECTIVE JUROR #046: That was a little disappointing.

THE COURT: So, you weren't happy about that because you thought the intruders were still in your home?

PROSPECTIVE JUROR #046: Mm-hmm.

THE COURT: Were they?

PROSPECTIVE JUROR #046: No.

THE COURT: Okay. Anything about those experiences that would affect your ability to be fair and impartial in this case?

PROSPECTIVE JUROR #046: No.

THE COURT: Thank you, sir.

PROSPECTIVE JUROR #049: Elizabeth Spaur, 49.

When I was in college my car was stolen. The police did recover it. I don't believe they ever caught who stole it but my car was recovered with minor damage. And then right after my husband and I moved here to Las Vegas, his car

was broken into while we were at the IHOP on Tropicana, and we reported it to the police but nothing was ever happened. They didn't take the car. They just took personal property out of the car.

THE COURT: Okay. Anything about those experiences that would affect your ability to be a fair and impartial juror in this case?

PROSPECTIVE JUROR #046: No.

THE COURT: Thank you. Anyone else?

PROSPECTIVE JUROR #052: Robin Powell, 52. My house was broken into back '88 and my personal effects were stolen, family heirlooms and stuff like that.

THE COURT: Were the police called?

PROSPECTIVE JUROR #052: Oh, yes.

THE COURT: Did they catch the person?

PROSPECTIVE JUROR #052: No.

THE COURT: Were you happy with the way the police handled it?

PROSPECTIVE JUROR #052: They did as much as they could.

THE COURT: Okay. Anything about that experience that would affect your ability to be fair and impartial in this case?

PROSPECTIVE JUROR #052: No.

THE COURT: Thank you, sir. Anyone else? Okay. The record will reflect no further response from the panel.

Have you or anyone close to you such as a family member or friend ever been the victim of a sexual assault, sexual abuse or domestic violence other than what you've already told us about? Go ahead, ma'am.

PROSPECTIVE JUROR #050: Nicole Fried, number 50.

When my mother was younger she was molested repeatedly by her

uncle.

PROSPECTIVE JUROR #050: Okay. So, I'm assuming you know that because your mother told you about it?

PROSPECTIVE JUROR #050: Yes.

THE COURT: All right. How old were you when your mother told you about that?

PROSPECTIVE JUROR #050: Just recently she told me.

THE COURT: And what was the -- I guess the reason for tell you that?

PROSPECTIVE JUROR #050: She just kept it hidden inside for so long and now that I guess I'm older and we're friends now, you know, like mother and daughters are. As the daughter gets older she just divulged the information to me. Now I understand a lot of the issues that she had. I didn't really know when I was growing up, but now I understand like, you know, the reasons why she did a lot of the things that she did.

THE COURT: Did she report it?

PROSPECTIVE JUROR #050: She had told her parents and they just didn't do anything about it, old school Italian family, sweep it under the rug kind of a thing.

THE COURT: Okay. Anything about that that would affect your ability to be fair and impartial in this case?

PROSPECTIVE JUROR #050: Possibly, yeah.

THE COURT: Okay. Well we need to know that.

PROSPECTIVE JUROR #050: Yes.

THE COURT: Yes, it will?

PROSPECTIVE JUROR #050: Yes.

THE COURT: Okay. How so?

PROSPECTIVE JUROR #050: Just because my mother and just from --

THE COURT: And I always feel terrible having to ask you these questions because they're so personal. When did your mother disclose this to you?

PROSPECTIVE JUROR #050: Maybe about three years ago.

THE COURT: Okay. But you understand what happened to your mother and what goes in here are completely separate things?

PROSPECTIVE JUROR #050: Yes, I do.

THE COURT: Okay. So, you wouldn't want to take out on anybody else what happened to your mother; correct?

PROSPECTIVE JUROR #050: Yeah, I wouldn't.

THE COURT: All right. And you agree with me as the Defendant sits here today, he's innocent?

PROSPECTIVE JUROR #050: Yes.

THE COURT: Do you agree with that?

PROSPECTIVE JUROR #050: Yes.

THE COURT: And you understand the State of Nevada has the burden of proof. They have to establish each of the material elements as alleged in their charging document by proof beyond a reasonable doubt?

PROSPECTIVE JUROR #050: Yes.

THE COURT: Do you understand that?

PROSPECTIVE JUROR #050: Yeah. Everyone's entitled.

THE COURT: Okay. If the State fails to meet their burden of proof, what verdict are you going to return if the State does not meet their burden of proof?

PROSPECTIVE JUROR #050: Okay. Well then he wouldn't be guilty.

THE COURT: Okay. And if they do meet their burden of proof?

PROSPECTIVE JUROR #050: Then guilty.

THE COURT: Okay. So, how is what happened to your mom interfere with that?

PROSPECTIVE JUROR #050: I guess it wouldn't then.

THE COURT: Well I don't know. I'm not trying to talk you out of it. I'm trying to figure out if it's going to really interfere with your ability to be fair and impartial. Here's the bottom line. Everybody comes to this courtroom with life experiences. I'm not going to every find anybody that doesn't have a life experience. Okay. What I need to know is if you're a person that can leave those life experiences at the door and come in here with an open mind and judge this case based solely upon what you see and hear in the courtroom and the instructions on the law which will be given to you at the end of the case.

PROSPECTIVE JUROR #050: Okay. I could do that.

THE COURT: Can you do that?

PROSPECTIVE JUROR #050: Yeah.

THE COURT: Okay. Will you be able to set aside what happened to your mother and not judge this case based upon what happened to your mother?

PROSPECTIVE JUROR #050: Yeah.

THE COURT: Okay. And now you said you're friends with your mother?

PROSPECTIVE JUROR #050: Yeah, really close.

THE COURT: Does she live here in Clark County?

PROSPECTIVE JUROR #050: No, they live in New York.

THE COURT: All right. So, I'm assuming you communicate with her by talking on the phone?

PROSPECTIVE JUROR #050: Constantly, yes.

THE COURT: All right. Every day?

PROSPECTIVE JUROR #050: Yeah, every day.

THE COURT: Okay. So, you understand that if you're asked to be a juror on this case you could not talk to her about this case; do you understand that?

PROSPECTIVE JUROR #050: Yeah, yeah, I understand.

THE COURT: When you talk to her every day you could tell her you're a juror in a criminal case but you couldn't tell her anything else; do you understand that?

PROSPECTIVE JUROR #050: Absolutely.

THE COURT: And you would comply with that?

PROSPECTIVE JUROR #050: Yes.

THE COURT: But when you're done, when you're discharged as a juror, you could talk to anyone or you don't have to talk to anyone. It's completely up to you; do you understand that?

PROSPECTIVE JUROR #050: Yeah.

THE COURT: Okay. Well what if you returned a verdict in this case, let's say a not guilty verdict, would you have a problem telling your mom that?

PROSPECTIVE JUROR #050: No, I wouldn't just because it's different from what happened to her.

THE COURT: Okay. So, you wouldn't have any fear of any ramifications or your mom being upset with you?

PROSPECTIVE JUROR #050: No, no.

THE COURT: Okay. So, we wouldn't have to worry about you trying to return a verdict that would make your mom happy?

PROSPECTIVE JUROR #050: No.

THE COURT: Okay. Anything about what happened to your mom that is

going to interfere with your ability to give the State of Nevada and this gentleman a fair trial?

PROSPECTIVE JUROR #050: No.

THE COURT: Okay. And, again, I'm sorry we had to ask those questions.

PROSPECTIVE JUROR #050: That's okay.

THE COURT: Okay. Thank you. Anyone else?

PROSPECTIVE JUROR #40: Can you repeat the question again?

THE COURT: Have you or anyone close to you such as a family member or friend ever been the victim of a sexual assault, sexual abuse or domestic violence? So, other than what you've already disclosed to me, ma'am, will you state your name just so the -- will you state your name and badge number?

PROSPECTIVE JUROR #040: Kathleen Smith, Badge 40.

THE COURT: Okay. All right. Again, I see some people that are not in the 32 raising their hands. I'm so appreciative everybody's paying attention because you may end up here in the box. But I don't need you to answer these questions. They are just for the first 32. So, is there anyone in the first 32 that needs to respond. Ms. StClair, go ahead.

PROSPECTIVE JUROR #014: Melinda StClair, Badge 14.

My mom had domestic violence when we were growing up.

THE COURT: Your mom was what?

PROSPECTIVE JUROR #014: My mom had some domestic violence. We were growing up with my stepfather. He also molested my two oldest sisters.

THE COURT: Okay. The same person?

PROSPECTIVE JUROR #014: Yes.

THE COURT: Okay. So, your mom was a victim of a domestic violence?

PROSPECTIVE JUROR #014: Yes.

THE COURT: Did you witness it or did you hear about it?

PROSPECTIVE JUROR #014: I seen her black and blue from head to toe.

THE COURT: Okay. So, you knew that that was a result of stepdad?

PROSPECTIVE JUROR #014: Yes.

THE COURT: Yes?

PROSPECTIVE JUROR #014: Yes.

THE COURT: Okay. Did she ever call the police?

PROSPECTIVE JUROR #014: I'm not sure. I was young. I can't remember that part.

THE COURT: Okay. How old were you?

PROSPECTIVE JUROR #014: Seven, eight.

THE COURT: Okay. So, you were really little?

PROSPECTIVE JUROR #014: Yeah.

THE COURT: Okay. Anything about that experience that would affect your ability to be fair and impartial in this case?

PROSPECTIVE JUROR #014: No.

THE COURT: And then you said something about your older sisters were molested?

PROSPECTIVE JUROR #014: Yeah; he molested both of them.

THE COURT: Okay. How did you come to find out that?

PROSPECTIVE JUROR #014: They mentioned it later on in life.

THE COURT: So, after they became adults?

PROSPECTIVE JUROR #014: I guess when they were younger and teenagers and stuff. There was a lot going on and I guess I was left out of it 'cause I

was younger.

THE COURT: Yeah. Again, you were like seven or eight?

PROSPECTIVE JUROR #014: Yes.

THE COURT: Okay. But your older sisters, are they -- how much older are they than you?

PROSPECTIVE JUROR #014: Seven, eight years old.

THE COURT: Okay. And they disclosed it?

PROSPECTIVE JUROR #014: Yes.

THE COURT: When they were teenagers?

PROSPECTIVE JUROR #014: Yeah, to my mom.

THE COURT: Okay. How did you find out about it?

PROSPECTIVE JUROR #014: There was a lot of animosity because my mom didn't believe them.

THE COURT: Okay. So, sisters disclosed it to mom; mom, you believe, didn't believe the sisters?

PROSPECTIVE JUROR #014: Correct.

THE COURT: Okay. But you're so little. Did you figure this all out on your own?

PROSPECTIVE JUROR #014: Yeah.

THE COURT: Okay. And then what -- did the police ever get called?

PROSPECTIVE JUROR #014: I'm not sure. I know that they -- after he beat her black and blue he was gone.

THE COURT: Okay. She made him leave?

PROSPECTIVE JUROR #014: I'm not sure.

THE COURT: Okay. So, stepfather was gone at some point, and even today

you don't know why he left?

PROSPECTIVE JUROR #014: No. I know that he contacted my mom a few years ago and she told him do not -- do not come see me or I will let my daughters know where you're at.

THE COURT: Okay. So, has she since kind of changed her opinion?

PROSPECTIVE JUROR #014: My mom passed away in 2012.

THE COURT: Oh, I'm sorry. I'm sorry. But it sounds like at some point she changed her opinion on whether your sisters were telling the truth or not?

PROSPECTIVE JUROR #014: Yeah, she did. She starting coming to be a little bit smarter than she was then.

THE COURT: So, at first she didn't believe it?

PROSPECTIVE JUROR #014: Right.

THE COURT: And then she came around --

PROSPECTIVE JUROR #014: Yes.

THE COURT: -- and believed it. Okay. Was it ever reported to the police?

PROSPECTIVE JUROR #014: I don't think so.

THE COURT: Okay. And it sounds like you kind of know all this because you figured it out?

PROSPECTIVE JUROR #014: Right.

THE COURT: Did your sisters ever tell you?

PROSPECTIVE JUROR #014: We never have really talked about it.

THE COURT: Okay. It's something that's not really talked about?

PROSPECTIVE JUROR #014: Right.

THE COURT: Okay. Anything about those experiences that would affect your ability to be fair and impartial in this case?

PROSPECTIVE JUROR #014: No.

THE COURT: Okay. Anyone else? Thank you.

PROSPECTIVE JUROR #014: I also had some domestic violence with my husband.

THE COURT: I apologize. Oh, I'm sorry. Okay.

PROSPECTIVE JUROR #014: It's all taken care of though.

THE COURT: All right. Can you just give me a brief statement of what happened.

PROSPECTIVE JUROR #014: We got into a really fight and he went to jail. He got out and went to drug therapy.

THE COURT: Okay. Did you call the police?

PROSPECTIVE JUROR #014: Yes.

THE COURT: And they came and got him?

PROSPECTIVE JUROR #014: Yep.

THE COURT: And he was arrested?

PROSPECTIVE JUROR #014: Yep.

THE COURT: And he was charged?

PROSPECTIVE JUROR #014: Yeah. The charges were dropped, I believe.

THE COURT: Okay.

PROSPECTIVE JUROR #014: He didn't have to go to class or anything.

THE COURT: All right. So, he went to jail and he got out but he was never charged with anything?

PROSPECTIVE JUROR #014: He had to go to Court but I don't -- I think they dropped it because he was going to class.

THE COURT: What kind of class?

PROSPECTIVE JUROR #014: A drug therapy behavioral -- Nevada Behavioral Center.

THE COURT: Okay. So, you think that because he was going to some classes that the government didn't proceed against him?

PROSPECTIVE JUROR #014: Correct.

THE COURT: Did you ever talk to him about it?

PROSPECTIVE JUROR #014: Well we're still married.

THE COURT: Okay. I'm just wondering.

PROSPECTIVE JUROR #014: But, yeah, we talked about it. You know, we worked our problems out and everything.

THE COURT: Okay. Anything about that experience that would affect your ability to be fair and impartial?

PROSPECTIVE JUROR #014: No.

THE COURT: Okay. Anything else?

PROSPECTIVE JUROR #014: No, thank you.

THE COURT: Okay. I'm sorry you had to tell us that but thank you very much. I know I had a lot of hands. Go ahead.

PROSPECTIVE JUROR #037: Hello. Yvonne Lewis, number 37. I just grew up in a home with a lot of domestic violence. My mother was actually the aggressor and the cops were called more times than I can remember, and being this little third grade talking to judges and whatnot, that was about it. Once I was old enough to fight back, it stopped.

THE COURT: Oh, you mean it was against you?

PROSPECTIVE JUROR #037: My dad and myself. She was a big woman.

THE COURT: From your mom?

PROSPECTIVE JUROR #037: Yeah.

THE COURT: Okay. And so you or your father would call the police on her?

PROSPECTIVE JUROR #037: Or the neighbors or whoever saw what was going on, but yeah.

THE COURT: And she would get arrested?

PROSPECTIVE JUROR #037: Sometimes. Sometimes they would just be separated for a few months and then she'd come back. It was just a, you know, periodic thing. Every couple years she would go crazy and beat somebody up and then leave. But small towns and, you know, things are kind of just -- don't do it again and then they came back.

THE COURT: Okay. Anything about those experiences that would affect your ability to be fair and impartial?

PROSPECTIVE JUROR #037: No.

THE COURT: Thank you.

PROSPECTIVE JUROR #037: Thank you.

THE COURT: Anyone else in the box?

PROSPECTIVE JUROR #020: Mona Stammetti, number 20.

My mother was sexually molested by her brother.

THE COURT: Okay. How did you come to find out about that?

PROSPECTIVE JUROR #020: She told me probably 30 years ago.

THE COURT: Okay. Was that her first disclosure or had she told somebody else?

PROSPECTIVE JUROR #020: I know she told my dad. She was married to my dad at the time. And then my best friend was molested by her father. She and her sister were both molested by her father.

THE COURT: Anything about those experiences that would affect your ability to be fair and impartial?

PROSPECTIVE JUROR #020: No.

THE COURT: Thank you.

PROSPECTIVE JUROR #044: Diana Hayes, number 44.

My mother was a victim of incest from her father.

THE COURT: Okay. Now how did you come to know that?

PROSPECTIVE JUROR #044: Probably about ten years ago, my aunt, her sister, and I were talking.

THE COURT: And who told you?

PROSPECTIVE JUROR #044: She did, my aunt.

THE COURT: Your aunt told you that that happened to your mother?

PROSPECTIVE JUROR #044: Right. There's some question whether or not my aunt is my sister.

THE COURT: Okay. Anything about -- I'm sorry -- anything about that experience that would affect your ability -- and again I'm sorry, I'm sorry, Ms. Hayes, -- anything about that disclosure and learning that that would affect your ability to be fair and impartial?

PROSPECTIVE JUROR #040: I've heard you ask the other people and I want to say the answer's no, but it's -- I mean, I'm surprised at my own reaction. So, my concern would --

THE COURT: Would you rather -- Ms. Hayes, if you want to approach the bench you can. Is that more comfortable? Okay. It's Badge number 44, Ms. Hayes. You can approach the bench.

[Bench conference -- begins]