

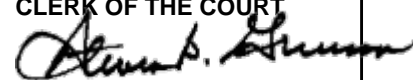
Appellant's Appendix

Volume 1

Electronically Filed
Dec 30 2020 04:49 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Index of Appellant's Appendix

Court minutes of 07/17/2017	p. 7, 8
Findings of Fact, Conclusions of Law and Order	p. 1293-1296
Information.....	p. 1-6
Judgment of Conviction.....	p. 1277-1279
Notice of Appeal.....	p. 1300-1362
Notice of Entry of Findings of Fact, Conclusions of Law.....	p. 1296-1299
Order for Petition for Writ of Habeas Corpus.....	p. 1292
Petition for Writ of Habeas Corpus (Post Conviction).....	p. 1280-1291
Recorder's Transcript of Proceedings: Jury Trial – Day 1.....	p. 9- 160
Recorder's Transcript of Proceedings: Jury Trial – Day 2.....	p. 161-407
Recorder's Transcript of Proceedings: Jury Trial – Day 3.....	p. 408-702
Recorder's Transcript of Proceedings: Jury Trial – Day 4.....	p. 703-910
Recorder's Transcript of Proceedings: Jury Trial – Day 5.....	p. 911-1158
Recorder's Transcript of Proceedings: Jury Trial – Day 6.....	p. 1159-1271
Recorder's Transcript of Proceedings: Jury Trial – Day 7.....	p. 1272-1276



INFM
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
KRISTINA RHOADES
Chief Deputy District Attorney
Nevada Bar #012480
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

I.A. 07/17/17
10:00 AM
SPD

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

TRANDON GREEN, aka,
Trandon Tekario Green, #2633490,

Defendant.

CASE NO: C-17-325044-1

DEPT NO: VI

INFORMATION

STATE OF NEVADA }
COUNTY OF CLARK } ss.

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 TRANDON GREEN, aka, Trandon Tekario Green, the Defendant(s) above named, having committed the crimes of **BATTERY CONSTITUTING DOMESTIC VIOLENCE (Category C Felony - NRS 200.481, 200.485.1C, 33.018 - NOC 50239); BURGLARY (Category B Felony - NRS 205.060 - NOC 50424); FIRST DEGREE KIDNAPPING (Category A Felony - NRS 200.310, 200.320 - NOC 50051); FIRST DEGREE KIDNAPPING (Category A Felony - NRS 200.310, 200.320 - NOC 50053) BATTERY WITH INTENT TO COMMIT SEXUAL ASSAULT (Category A Felony - NRS 200.400.4 - NOC 50157); SEXUAL ASSAULT (Category A Felony - NRS 200.364, 200.366 - NOC 50095); BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM CONSTITUTING DOMESTIC VIOLENCE**

(Category B Felony - NRS 200.481; 200.485; 33.018 - NOC 57936); ASSAULT WITH A DEADLY WEAPON (Category B Felony - NRS 200.471 - NOC 50201); CHILD ABUSE, NEGLECT, OR ENDANGERMENT WITH USE OF A DEADLY WEAPON (Category B Felony - NRS 200.508, 193.165 - NOC 55228) and PREVENTING OR DISSUADING WITNESS FROM TESTIFYING OR PRODUCING EVIDENCE (Gross Misdemeanor - NRS 199.230 - NOC 52983), on or between May 28, 2017 and July 13, 2017, 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 - BATTERY CONSTITUTING DOMESTIC VIOLENCE

did, on or about May 28, 2017, then and there willfully, unlawfully, and feloniously use force or violence upon the person of S.W., a person with whom the Defendant has a dating relationship, by striking the said S.W.

COUNT 2 - BURGLARY

did, on or about June 18, 2017, willfully, unlawfully, and feloniously enter, with intent to commit assault and/or battery and/or a felony, to wit: sexual assault, that certain building, located at 2686 Jennydiane Drive, Las Vegas, Clark County, Nevada, Apartment No. B, occupied by S.W. and R.W.

COUNT 3 - FIRST DEGREE KIDNAPPING

did, on or about June 18, 2017, willfully, unlawfully, and feloniously, seize, confine, inveigle, entice, decoy, abduct, conceal, kidnap, or carry away S.W., a human being, with the intent to hold or detain S.W. against her will, and without her consent, for the purpose of committing sexual assault and/or inflicting substantial bodily harm.

COUNT 4 - FIRST DEGREE KIDNAPPING

did, on or about June 18, 2017, willfully, unlawfully, and feloniously, lead, take, entice, and/or carry away or detain R.W., a minor, with the intent to keep her for a protracted period of time or permanently and/or imprison or confine the said R.W., from his parents, guardians, or other person or persons having lawful custody of R.W., or with the intent to hold R.W. to unlawful service, or to perpetrate upon the person of R.W. any unlawful act, to wit: child abuse

1 and/or child abuse with use of a deadly weapon.

2 COUNT 5 - BATTERY WITH INTENT TO COMMIT SEXUAL ASSAULT

3 did, on or about June 18, 2017, then and there willfully, unlawfully, and feloniously
4 use force or violence upon the person of another, to wit: S.W., with intent to commit sexual
5 assault by punching the said S.W., and/or by striking the said S.W. with a wooden stick.

6 COUNT 6 - SEXUAL ASSAULT

7 did, on or about June 18, 2017, then and there willfully, unlawfully, and feloniously
8 sexually assault and subject S.W., a female person, to sexual penetration, to wit: sexual
9 intercourse: by placing his penis into the genital opening of the said S.W., against her will, or
10 under conditions in which Defendant knew, or should have known, that S.W. was mentally or
11 physically incapable of resisting or understanding the nature of Defendant's conduct.

12 COUNT 7 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN
13 SUBSTANTIAL BODILY HARM CONSTITUTING DOMESTIC VIOLENCE

14 did, on or about June 18, 2017, willfully, unlawfully, and feloniously use force or
15 violence upon the person of S.W., a person with whom the Defendant has a dating relationship,
16 with use of a deadly weapon, to wit: a knife, and/or a wooden stick, by cutting the hand of
17 S.W. with a knife, and/or by striking the said S.W. in her head with a wooden stick, resulting
18 in substantial bodily harm to S.W.

19 COUNT 8 - BATTERY CONSTITUTING DOMESTIC VIOLENCE

20 did, on or about June 18, 2017, then and there willfully, unlawfully, and feloniously
21 use force or violence upon the person of S.W., a person with whom the Defendant has a dating
22 relationship, by striking and/or punching the said S.W.

23 COUNT 9 - ASSAULT WITH A DEADLY WEAPON

24 did, on or about June 18, 2017, willfully, unlawfully, feloniously and intentionally
25 place another person in reasonable apprehension of immediate bodily harm and/or did willfully
26 and unlawfully attempt to use physical force against another person, to wit: R.W., with use of
27 a deadly weapon, to wit: scissors, by holding said scissors to the said R.W.'s neck.

28 ///

1 COUNT 10 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT WITH USE OF A
2 DEADLY WEAPON

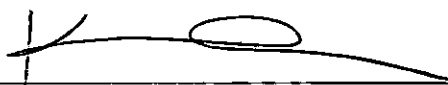
3 did, on or about June 18, 2017, willfully, unlawfully, and feloniously cause a child
4 under the age of 18 years, to wit: R.W., being approximately 6 year(s) of age, to suffer
5 unjustifiable physical pain or mental suffering as a result of abuse or neglect, to wit: negligent
6 treatment or maltreatment and/or physical injury of a nonaccidental nature, and/or cause R.W.
7 to be placed in a situation where she might have suffered unjustifiable physical pain or mental
8 suffering as a result of abuse or neglect, to wit: negligent treatment or maltreatment and/or
9 physical injury of a nonaccidental nature, with use of a deadly weapon, to wit: scissors, by
10 holding scissors to the said R.W.'s neck, as he verbally threatened to kill her and/or the mother
11 of R.W.

12 COUNT 11 - PREVENTING OR DISSUADING WITNESS FROM TESTIFYING OR
13 PRODUCING EVIDENCE

14 did, on or between June 18, 2017 and July 13, 2017, then and there willfully, and
15 unlawfully, with the intent thereby to obstruct the course of justice, prevent, or attempt to
16 prevent S.W. from appearing before any Court, or person authorized to subpoena witnesses,
17 as a witness in any action, investigation or other official proceeding, or did cause or induce the
18 said S.W. to absent herself from such a proceeding or evade the process which requires her to
19 appear as a witness to testify or produce a record, document or other object, by attempting to
20 prevent the said S.W. from testifying.

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

24 BY


25 KRISTINA RHOADES
26 Chief Deputy District Attorney
27 Nevada Bar #012480
28

1 **DO NOT READ TO THE JURY**

2 Said Defendant having committed the offense of Battery Constituting Domestic
3 Violence at least two times within seven (7) years immediately preceding the date of the
4 principle offense or after the principle offense charged herein, to wit:

5 Date of Offense: September 12, 2011
6 Conviction: September 15, 2011, Case No. 11M39223X,
Justice Court, Las Vegas Township, Clark County, State of Nevada,

7 Date of Offense: October 29, 2012
8 Conviction: July 10, 2013, Case No. C286631,
Eighth Judicial District Court, Clark County, State of Nevada.

9
10 Names of witnesses known to the District Attorney's Office at the time of filing this
11 Information are as follows:

12 <u>NAME</u>	<u>ADDRESS</u>
13 ALEXANDER, LARA M.	LVMPD #15376
14 CAMPBELL, MATT J.	LVMPD #6959
15 CUSTODIAN OF RECORDS	CCDC
16 CUSTODIAN OF RECORDS	LVMPD COMMUNICATIONS
17 CUSTODIAN OF RECORDS	LVMPD RECORDS
18 DENTEN, LEROY	984 F St., Hawthorne, NV 89415
19 HENNINGS, AMANDA LEIGH	LVMPD #16131
20 KATOWICH, TODD R.	LVMPD #6360
21 KNEPP, TYLER SCOTT	LVMPD #15071
22 LEGRAND, JASON WAYNE	LVMPD #13648
23 PATTERSON, DEBRA	District Attorney Process Server
24 REVELS, JEROME	District Attorney Investigator
25 RODRIGUEZ, JAVIER	District Attorney Process Server
26 R.W.	C/O DISTRICT ATTORNEY'S OFFICE
27 SMITH, BLAKE EDWARD	LVMPD #4712
28 S.W.	C/O DISTRICT ATTORNEY'S OFFICE

WARNKE, RICHMOND

District Attorney Process Server

17F11093X/td/dvu
LVMPD EV#1706183728
(TK7)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 17, 2017

C-17-325044-1 State of Nevada
vs
Trandon Green

July 17, 2017 10:00 AM Initial Arraignment

HEARD BY: De La Garza, Melisa

COURTROOM: RJC Lower Level Arraignment

COURT CLERK: Kristen Brown

RECORDER: Kiara Schmidt

REPORTER:

PARTIES

PRESENT:	Green, Trandon	Defendant
	Oliver, Melissa	Attorney for the Defendant
	Special Public Defender	Attorney
	State of Nevada	Plaintiff
	Vail, Alexander R.	Attorney Deputized Law Clerk for the State

JOURNAL ENTRIES

- DEFT. GREEN ARRAIGNED, PLED NOT GUILTY, and INVOKED the 60-DAY RULE. COURT ORDERED, matter set for trial. Counsel has 21 days from today for the filing of any Writs; if the Preliminary Hearing Transcript has not been filed as of today, Counsel has 21 days from the filing of the Transcript; further, Counsel has an obligation under case law, statute and rules regarding discovery.

CUSTODY

9/11/17 9:30 AM CALENDAR CALL (DEPT. 6)

9/18/17 10:00 AM JURY TRIAL (DEPT. 6)

PRINT DATE: 08/03/2017

Page 1 of 2

Minutes Date: July 17, 2017



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

TRAN DON GREEN,

Defendant.

CASE NO: C-17-325044-1

DEPT. VI

BEFORE THE HONORABLE ELISSA F. CADISH, DISTRICT COURT JUDGE
MONDAY, JUNE 25, 2018

**RECORDER'S TRANSCRIPT OF PROCEEDINGS:
JURY TRIAL - DAY 1**

APPEARANCES:

For the State:

LISA LUZAICH, ESQ.
Chief Deputy District Attorney
STEVEN ROSE, ESQ.
Deputy District Attorney

For the Defendant:

MONIQUE A. MCNEILL, ESQ.

RECORDED BY: DE'AWNA CREWS, COURT RECORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Las Vegas, Nevada; Monday, June 25, 2018

[Proceeding commenced at 1:40 p.m.]

[Outside the presence of the prospective jurors]

THE MARSHAL: All rise, District Court Department VI is now in session, Judge Elissa F. Cadish presiding.

Please be seated. Come to order.

Judge, everybody but panel number 23 are present.

[Colloquy between the Marshal and the Court]

THE COURT: All right, let me get appearances for the record, starting with the State.

MR. ROSE: Good morning, Your Honor. Steven Rose and Lisa Luzaich on behalf of the State.

MS. MCNEILL: Good afternoon, Your Honor. Monique McNeill, bar number 9862, on behalf of Mr. Trandon Green.

THE COURT: All right. And he's present in custody. So, before we get started, let me just explain the jury selection process. When we bring in the panel -- well, so, we'll seat them -- some of them up front and then the rest in the back. We're going to need ultimately 12 jurors and probably 2 alternates is what we'll look for. And because we do have a life tail in this case, so -- we'll need to pass 32 potential jurors for cause.

MS. LUZAICH: Yes, ma'am.

THE COURT: Okay, good. We're on the same page. So, what we'll do is we'll end up having 24 up front between those three

1 rows that we've set up and then eight more will be in the front row of the
2 back of the courtroom. And then, the rest of the panel will be sitting
3 following them.

4 So, when we start, I'll be asking some of the general questions
5 that I always ask as part of voir dire, the basic qualification questions. I'll
6 end up asking each of you to introduce yourselves and identify potential
7 witnesses. And to give a brief, neutral description of the nature of the
8 case, just so they have some idea what the case is about. So, when I
9 ask them if there's some reason they couldn't be a fair and impartial in
10 this case, they have some idea what that actually means.

11 After kind of the basic, general questions that I ask of the
12 whole panel, and we'll be taking notes of course, I'll have you come up
13 and we'll go over at the bench those issues that have arisen, so I can
14 determine if anyone needs to be excused for cause based on what we
15 hear. Which reminds me, on the undue burden question, we got to talk
16 about how long the trial is.

17 MS. LUZAICH: I think in light of the nature of the charges,
18 there's two different incidents, so there's witnesses from both incidents.
19 I think we close on Monday, that's a guess. But at least if you qualify to
20 them, if we close earlier, they'll be happy.

21 THE COURT: So, I probably need to make sure they're
22 available through Tuesday.

23 MS. LUZAICH: Tuesday.

24 MS. MCNEILL: Yeah.

25 MS. LUZAICH: Just in abundance of caution.

1 MS. MCNEILL: Yeah.

2 THE COURT: Right. And okay. So, we'll do that. So
3 anyway, like I said, after the -- that initial set of general questions of the
4 whole group, I'll have you come up at that time up here at the bench and
5 throughout the trial. At the bench, we are recording at the bench, the
6 mic is on up here.

7 Now, when we do bench conferences and you come up here,
8 so we're staying on the record, but we put on the white noise to
9 hopefully keep the rest of the courtroom from hearing what's going on up
10 here. But I need you to not speak so softly that the mic won't pick you
11 up or if you kind of whisper, it makes it tough for someone to later hear
12 and transcribe it. And at the same time, of course, if you're too loud up
13 here, it kind of defeats the purpose of the white noise.

14 So, you need to find the sweet spot between being too soft
15 and too loud, so you can be recorded up here. It'll also help when
16 you're up here if you identify yourself when you speak, so someone later
17 transcribing it knows who's talking at any given time.

18 So, I'll decide at that point if any of the -- well, if any of the
19 panel members need to be excused for cause. Any amongst the first 32
20 who are excused for cause at that time will be replaced in order from the
21 folks in the back. We'll fill those holes, and then start with individual
22 questioning of seat number 1, which will be the back, left corner. Keith
23 is preparing a chart that we're going to give you shortly that'll show the
24 seats and how we number them.

25 But the way that I do the voir dire is I ask some -- the general

1 questions about family members and career and education and such for
2 juror number 1, then it goes to the State to ask questions of juror
3 number 1 or pass for cause. Then, to the defense for any questions of
4 that juror, pass for cause, and then we go to seat number 2. So, you
5 won't be questioning the panel as a whole; we'll be doing individual.

6 If during that questioning time when we're talking to individual
7 jurors you do have a challenge for cause, just ask to approach and we'll
8 discuss any cause challenges up here at the bench, rather than in open
9 court in front of the jurors. So, just do that and we can address it up
10 here at the bench, and I can decide if there's any challenges being
11 made.

12 Once -- and if any of the folks do need to be excused, then
13 we'll continue to pull in order from the back to replace and take that
14 open seat, question that juror, go to the State, go to the defense. Once
15 we've passed 32 potential jurors for cause, then you'll be doing your
16 peremptory challenges. While you're doing those, I will be excusing the
17 jurors from the courtroom, so make any notes you need to make to be
18 able to do your peremptory challenges without staring at them.

19 So, and you'll be doing your preempts on a chart that we'll
20 have as we pass jurors for cause. They'll be on the list on your chart.
21 So, you will have eight preempts to use amongst the first 28 on the list,
22 the petit jurors, and then you'll each get one preempt as to the last four
23 which are the potential alternates. And we can -- I'll go over the form
24 with you again, but when we get to that point, as well.

25 So, that's the selection process. Any questions about that

1 part? Then, next thing we'll talk about schedule, but --

2 MS. LUZAICH: I don't have a question, necessarily, but I
3 always ask in sex cases while you're asking your questions, will you ask
4 the jurors whether any of them have been the victim of or accused of a
5 sexual offense?

6 THE COURT: Uh-huh.

7 MS. LUZAICH: And then, I would ask you to include domestic
8 violence as well. Has anybody been the victim of domestic violence or
9 accused of a domestic violence event?

10 THE COURT: So, victim or accused of domestic violence or --

11 MS. LUZAICH: A sexual offense.

12 THE COURT: -- a sexual offense. Okay. Right. I will ask
13 that.

14 MS. LUZAICH: Thank you, Judge.

15 THE COURT: Mm-hmm. In terms of schedule for the week,
16 so I've got a civil calendar tomorrow morning, and I'm starting at 8:30. It
17 looks like it's fairly big, unfortunately.

18 [Colloquy between counsel]

19 THE COURT: So now, Ms. Luzaich, you don't have a conflict
20 tomorrow morning.

21 MS. LUZAICH: I do not, Judge.

22 THE COURT: Okay. All right, so I have this calendar which
23 looks pretty substantial. So, I probably won't be able to start until 10:30,
24 11:00. I think I'm -- I hate to say it, and I don't want to waste time, but I
25 think I'm just going to call it 11:00, and hopefully we'll get something in

1 before we break for lunch. So, let's do that.

2 I think on Wednesday, we'll be able to start around 10:30. I'll
3 give you a better idea of that tomorrow.

4 MS. LUZAICH: Okay.

5 THE COURT: But that's what I'm looking at is starting about
6 10:30 on Wednesday. Thursday, probably about the same on Thursday.
7 I have an evidentiary hearing set at 8:30 that morning, which looks like it
8 shouldn't take too long, possibly as early as 10:00, so I'll -- for now I
9 guess, let's expect tomorrow, 11:00, probably 10:30 Wednesday and
10 Thursday. Friday we could probably start about 10:00. Just to give you
11 an idea for this week, I'll take a look at next Monday's and give you
12 some idea as we get moving through this.

13 Okay. Before we get started, and I think we've had prior
14 conversations, but I'm sorry, I really don't remember what the last offer
15 discussions were, where were we?

16 MR. ROSE: The last offer that had been extended by the
17 State was to plead to one count of battery constituting domestic
18 violence, resulting in substantial bodily harm with the use of a deadly
19 weapon, one count of coercion, sex-motivated, and one count of child
20 abuse, the E Felony. The state would retain the right to argue, but we're
21 not opposing current time between the counts.

22 THE COURT: Okay. And obviously, that was rejected. How
23 long ago was that?

24 MR. ROSE: I think that was actually the same offer that was
25 made at or around the time of prelim, but had not been a whole lot of

1 discussion in between then and more recently. That was re-extended
2 more recently. My understanding is that that's been rejected.

3 THE COURT: All right, so -- go --

4 MS. MCNEILL: That's correct, Your Honor. I did reach out to
5 Mr. Rose over -- on Friday after Mr. Green made a counteroffer. The
6 State said no, it said the original offer was still open, which I've
7 discussed with Mr. Green. So, ready to proceed.

8 THE COURT: And Mr. Green, I take it you have decided to
9 reject that offer that the State made, correct?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Okay. And you understand any offer that's
12 made, it's ultimately your decision whether you accept it or don't accept
13 it, right?

14 THE DEFENDANT: Yes.

15 THE COURT: Okay. You can get advice from your counsel,
16 but ultimately, it's your decision.

17 THE DEFENDANT: Yes.

18 THE COURT: Okay, great. Okay, so we do have a record
19 that it was communicated, and it was his decision to reject it. And
20 although a counteroffer was discussed, the State chose to reject that
21 proposal.

22 That's correct, Mr. Rose?

23 MR. ROSE: It is, Your Honor.

24 THE COURT: Okay. Anything else we need to talk about
25 before I bring in the jurors?

1 MS. LUZAICH: Will you stop at 5:00 each day, unless we're in
2 the middle of something?

3 THE COURT: Right. Right, try to stop at or close to 5:00.
4 You know, if we have someone on the stand who's going to be done in
5 ten minutes, I'm going to try to finish them. But generally, about 5:00.
6 Okay.

7 All right, let's go ahead and get the jurors.

8 [Colloquy between the Court and the Court Clerk]

9 THE COURT: Keith is going to step out and get copies of the
10 charts for you.

11 [Colloquy between counsel]

12 THE COURT: Let's go off.

13 [Recess began at 1:54 p.m.]

14 [Proceedings resumed at 1:55 p.m.]

15 [In the presence of the prospective jurors]

16 THE MARSHAL: Come to the top row and go all the way to
17 the back, okay?

18 THE COURT: You can go ahead and have a seat once you
19 get to your seat.

20 [Colloquy between the Marshal and the prospective jurors]

21 THE COURT: You can go ahead and have a seat back there
22 once you're at your spot.

23 [Colloquy between the Marshal and the prospective jurors]

24 THE MARSHAL: Please be seated.

25 THE COURT: All right, folks. So, welcome to Department VI.

1 This is the time set for the trial of Case Number C325044, the State of
2 Nevada, Plaintiff, versus Trandon Green, the Defendant. Record will
3 reflect the presence of the Defendant and his counsel, as well as the
4 Deputy District Attorneys and all Officers of the Court.

5 Are the parties ready to proceed?

6 MR. ROSE: We are, Your Honor.

7 MS. MCNEILL: We are, Your Honor, yes.

8 THE COURT: Great. All right, so Ladies and Gentleman, as I
9 mentioned, you are in Department VI of the Eighth Judicial District Court
10 of the State of Nevada. My name is Elissa Cadish, and I'm the presiding
11 Judge in this department.

12 Let me take this opportunity to introduce the court staff with
13 whom you may be coming into contact during the course of these
14 proceedings. First, to my far right, is De'Awna Crews, our Court
15 Recorder. She'll be making sure everything that is said during the trial is
16 preserved in case of an appeal. And she also has Melissa Murphy
17 sitting with her today working on some training over there.

18 But we do use audio visual recording here in the courtroom.
19 So, whenever we have you talk on the record, we'll be giving you a mic
20 to make sure you get picked up and recorded, and that's their job over
21 there.

22 To my immediate right is Keith Reed. He is our courtroom
23 Deputy Clerk. He swears witnesses, marks exhibits, keeps track of
24 evidence, and prepares minutes or descriptions of the proceedings for
25 the official record.

1 You've already met Anthony Russo, he is our Marshal. He is
2 in charge of courtroom security and the only person that you can talk
3 directly with during the trial, except when we're actually addressing you
4 on the record in the courtroom.

5 Now, at this time, does any party wish to present a challenge
6 to the prospective jury panel as a whole?

7 MR. ROSE: Not by the State, Your Honor.

8 MS. MCNEILL: No, Your Honor.

9 THE COURT: Okay, thank you. Now, Mister Clerk, please
10 call the roll of the panel of prospective jurors. When your name is
11 called, please answer present or here.

12 THE COURT CLERK: Yes, Your Honor.

13 [Court Clerk calls roll of prospective jury panel]

14 THE COURT: Sorry, sorry, hold on. Do you need some
15 water? Anthony? Anthony? Sorry, I know -- can you get some water
16 for this gentleman, please? Is there water out in the pitcher? Thank you
17 so much, I appreciate that ma'am. Okay. All right, go on, I apologize.

18 [Court Clerk continues to call roll of prospective jury panel]

19 THE COURT CLERK: Everyone's present, Your Honor.

20 THE COURT: Okay, great. Thank you.

21 Is there anyone whose name was not called? Raise your
22 hand if you're -- okay and ma'am, what's your badge number and name?

23 PROSPECTIVE JUROR NUMBER 436: It's 1436.

24 THE COURT: 1436? And what's your name?

25 PROSPECTIVE JUROR NUMBER 436: [Indiscernible]

1 Williams.

2 THE COURT: I'm so sorry, I can't --

3 PROSPECTIVE JUROR NUMBER 436: [Indiscernible]

4 Williams.

5 [Colloquy between the Court and the Court Clerk]

6 THE COURT: Okay. I don't -- perhaps she needs to go back
7 down to jury services.

8 Thank you, ma'am.

9 PROSPECTIVE JUROR NUMBER 436: Thank you.

10 [Colloquy between the Court and the Marshal]

11 THE COURT: Okay. Okay, anyone else whose name was
12 not called?

13 Okay, no other hands. Thank you.

14 So, we're about to begin what's called the voir dire process.

15 That's the legal name for the process where I and the attorneys have an
16 opportunity to ask you questions bearing on your ability to be fair and
17 impartial jurors in this particular case. So, as I said, that is the goal is to
18 make sure that you're available to serve as a juror and that you can be
19 fair and impartial in this particular case. First, I'll be asking some
20 questions of all of you together, and we'll get some responses around
21 the room, and then we'll be doing individual questioning of the potential
22 jurors.

23 During the process of selecting the jurors, there are two
24 methods by which any of you might be excused. The first is a -- possibly
25 to be excused for cause. If you know somebody involved in the case,

1 for some reason you can't be fair and impartial in this particular case, or
2 for some other reason you're just unable to serve, you might be excused
3 for cause.

4 Once we've passed enough jurors for cause, then the
5 attorneys have the opportunity to do what are called peremptory
6 challenges. That is, they get a certain number of challenges on each
7 side where they don't have to give a particular reason to excuse
8 somebody as a juror from this case. Please don't be offended or if
9 you're excused using either of these challenge procedures. It's just part
10 of the process designed to ensure a fair trial for everybody involved.

11 So, before we go ahead and begin, that questioning process
12 I've described is done under oath. So, I do need you all to stand and
13 raise your right hand, so the Clerk can administer the oath.

14 [Court Clerk swore in Prospective Jury panel]

15 THE COURT CLERK: Thank you, please be seated.

16 THE COURT: So, we're going to start with some introductions
17 of the folks who are involved with this case. And I need you all to pay
18 attention to this information because in a few minutes, I'm going to be
19 asking you if you know anybody related to the case. So, you need to
20 listen in order to be able to answer that in a few minutes.

21 So first, starting with the State, introduce yourselves, briefly
22 describe the nature of the case, and identify the potential jurors -- sorry,
23 potential witnesses. Thank you.

24 MS. LUZAICH: Thank you, Judge.

25 Good afternoon, Ladies and Gentleman. My name is Lisa

1 Luzaich. My co-Counsel is Steven Rose. We represent the State of
2 Nevada.

3 Over the course of the next week or so, you're going to hear a
4 trial that pertains to two different events. One event that took place on
5 May 28th of 2017, another event that took place on June 18th of 2017.
6 During that time frame, Samantha Weston, who is the victim in this case,
7 and the Defendant were boyfriend/girlfriend, living together. Living with
8 them was Samantha's then six-year-old daughter, Riley Weston. You'll
9 hear that Riley is autistic and has some other issues, as well.

10 At the time they lived at 2686 Jennydiane Drive, that's here in
11 Las Vegas, that's -- it's in the Sahara and Nellis area. On May 28th,
12 there was an incident of domestic violence for which Samantha called
13 the police. And the police arrived and observed injury. Nobody was
14 arrested at that time.

15 On June 7 -- 18th into the 19th, there was another incident of
16 domestic violence, but it included other things, as well. There was a
17 sexual assault; she was forced to engage in sexual contact, he hit her
18 over the head with a wooden stick, held a scissor to Riley's throat,
19 wouldn't let them leave, threatened to kill them both.

20 And for all of these things, the Defendant is today charged
21 with multiple counts of battery constituting domestic violence, burglary,
22 multiple counts of first degree kidnapping, battery with intent to commit
23 sexual assault, sexual assault, battery with use of a deadly weapon
24 resulting in substantial bodily harm constituting domestic violence,
25 assault with a deadly weapon, child abuse and neglect with use of a

1 deadly weapon, and dissuading a witness from testifying.

2 Over the course of the next week, to prove these charges, the
3 State is going to call numerous witnesses. I'm going to read a list of
4 witnesses. I promise we are not going to call all of them, but the
5 witnesses that you don't hear from, you might hear about, and that's why
6 I'm going to give you the names. So obviously, you will hear from
7 Samantha Weston, potentially Riley Weston, Leroy Denten.

8 From the Las Vegas Metropolitan Police Department, Officer
9 Lara Alexander, who is a crime scene analyst, actually, sorry. Officer
10 Adam Borden, Officer Shannon Brown, Officer Frances Calimbas,
11 Detective Matt Campbell, Officer Blake Ferron, Officer Rainier Frost,
12 Officer Zachary Gainey, Officer Brandon Goodnough, Officer Amanda
13 Hennings, Officer Spencer Hill-Hale, Detective Todd Katowich, Officer
14 Tyler Knepp, Officer Jason LeGrand, Officer Josh Orgill, Officer Chad
15 Palmira, Officer Jordan Richards, Officer Crystal Sanchez, Sergeant
16 Blake Smith.

17 From the Las Vegas Metropolitan Police Department's Crime
18 Lab, Brianne Huesby, potentially DA Investigator Jerome Revels and
19 Jeri Dermanelian, a sexual assault nurse examiner who also works out
20 of the University Medical Center.

21 Thank you.

22 THE COURT: Thank you.

23 And for the defense, introduce yourself and your client.

24 MS. MCNEILL: Thank you, Your Honor.

25 My name is Monique McNeill. I'm proud to represent

1 Mr. Trandon Green who has pled not guilty to the charges. Our potential
2 witnesses are his parents, his mother Marilyn Green, his father Gary
3 Pierre, and our investigator Tobi Caperon.

4 THE COURT: Okay, thank you.

5 So, now I'm going to start asking some general questions. I
6 have a few questions before I get to asking you about the particular
7 witnesses. There are some general questions that I need to ask in every
8 single case to make sure each person is qualified to be a juror. So, let
9 me start there.

10 If you do want to respond -- if you need to respond yes to any
11 of these when I ask, you'll raise your hand, we'll get you a microphone,
12 and then you'll need to state your name and badge number before you
13 go ahead and explain why you raised your hand. All right? So, we'll get
14 started here.

15 First, have any of you been convicted of a felony? Please
16 raise your hand if you have.

17 No hands.

18 Are any of you not a United States citizen? Raise your hand if
19 you're not a citizen.

20 No hands, okay, thank you.

21 Now, do any of you have such a sympathy, prejudice, or bias
22 relating to age, religion, race, gender, or national origin that you feel
23 would affect your ability to be an open-minded, fair and impartial juror?

24 No hands, great, thank you very much.

25 All right. Now, do any of you know the Defendant Mr. Green

1 or his attorney Ms. McNeill?

2 No hands, okay.

3 Do any of you know either of our Deputy District Attorneys,
4 Ms. Luzaich or Mr. Rose?

5 No hands, okay.

6 Do any of you know our District Attorney Steve Wolfson or
7 other personnel in the District Attorney's Office?

8 No hands, okay.

9 All right, now, do any of you know any of the witnesses who
10 were identified by either party just a couple minutes ago? Anyone know
11 any of the witnesses?

12 Okay, I got one hand down front here. We'll get you the
13 microphone. Name and badge number?

14 PROSPECTIVE JUROR NUMBER 369: Elizabeth Rouse,
15 369.

16 THE COURT: Okay. And who do you know, ma'am?

17 PROSPECTIVE JUROR NUMBER 369: I believe I've met
18 Detective Chad Palmira.

19 THE COURT: Detective Palmira?

20 PROSPECTIVE JUROR NUMBER 369: Yes.

21 THE COURT: Okay. And is that through the course of your
22 employment or --

23 PROSPECTIVE JUROR NUMBER 369: No, from a social
24 situation.

25 THE COURT: Okay. And is that someone you've met many

1 times or how many?

2 PROSPECTIVE JUROR NUMBER 369: No, I believe one
3 time.

4 THE COURT: Okay. And would the fact that you've met
5 Detective Palmira one time affect your ability to be fair and impartial as a
6 juror in this case?

7 PROSPECTIVE JUROR NUMBER 369: I don't know.

8 THE COURT: Okay. Would it cause you -- in other words,
9 have you already formed an opinion about that detective's credibility?

10 PROSPECTIVE JUROR NUMBER 369: No, I have not.

11 THE COURT: Okay. If Detective Palmira comes and testifies,
12 do you think that you would feel compelled in some way to have to
13 agree with whatever Detective Palmira said?

14 PROSPECTIVE JUROR NUMBER 369: I don't know.

15 THE COURT: So, okay. How long ago was it that you met?

16 PROSPECTIVE JUROR NUMBER 369: Within the past 6
17 months.

18 THE COURT: And how long would you say you spent actually
19 speaking with him?

20 PROSPECTIVE JUROR NUMBER 369: Not very long.

21 THE COURT: And so, was he like a friend of a friend or
22 something?

23 PROSPECTIVE JUROR NUMBER 369: Yes.

24 THE COURT: All right. Okay. And but you have some
25 concern that it might keep you from being able to weigh the evidence or

1 be fair and impartial?

2 PROSPECTIVE JUROR NUMBER 369: Yes.

3 THE COURT: Okay. And tell me why. What are you thinking
4 about that?

5 PROSPECTIVE JUROR NUMBER 369: Simply because I
6 have met him.

7 THE COURT: Okay. All right, thank you, ma'am.

8 Anyone else know any of the witnesses?

9 PROSPECTIVE JUROR NUMBER 348: I'm not sure what
10 you mean.

11 THE COURT: Hold on, hold on.

12 [Colloquy between the Court and the Marshal]

13 PROSPECTIVE JUROR NUMBER 348: Trinquilino Madrid,
14 348. At the very end there, I heard Officer Blake Smith. I don't know if
15 that's a witness or if anything I needed to be concerned about. He was
16 a former neighbor of mine, about 12, 15 years ago.

17 THE COURT: And what was the first name, do you know of
18 the person you know?

19 PROSPECTIVE JUROR NUMBER 348: Blake Smith.

20 THE COURT: Blake.

21 PROSPECTIVE JUROR NUMBER 348: Detective.

22 THE COURT: Okay. And I'm not sure who identified a Smith
23 and what was -- it was --

24 MS. LUZAICH: He's the police sergeant.

25 THE COURT: And the first name is?

1 MS. LUZAICH: Blake Smith.

2 THE COURT: Blake Smith. Okay. So, that's a sergeant.
3 Okay so, how long ago did you know him?

4 PROSPECTIVE JUROR NUMBER 348: It was about 15
5 years ago.

6 THE COURT: Okay. And so, you no longer live near him?

7 PROSPECTIVE JUROR NUMBER 348: No.

8 THE COURT: Okay. And you haven't for now 15 years or
9 so?

10 PROSPECTIVE JUROR NUMBER 348: No, but I'm a little
11 concerned now only because my ex-wife works for the police
12 department. And she knows Officer Smith and she's relayed stories to
13 me which might --

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NUMBER 348: -- prejudice me.

16 THE COURT: So, your -- let me back up to Sergeant Smith
17 for a minute, and then I'll explore that. So, Sergeant Blake Smith used
18 to be your neighbor and would -- if he comes and testifies in this case,
19 would that affect your ability to be fair and impartial?

20 PROSPECTIVE JUROR NUMBER 348: Because of things
21 my ex-wife told me about him.

22 THE COURT: Okay, got it. And what does your ex-wife do
23 with Metro?

24 PROSPECTIVE JUROR NUMBER 348: She works at the
25 building, the main building -- darn.

1 THE COURT: The headquarters that are right near downtown
2 here?

3 PROSPECTIVE JUROR NUMBER 348: Yes, by the -- Martin
4 Luther King.

5 THE COURT: Yeah.

6 PROSPECTIVE JUROR NUMBER 348: Right. You know
7 what, I -- it's been a while now. We've been divorced eight years and
8 I'm not sure exactly what she does for the Police Department anymore.

9 THE COURT: Is she a --

10 PROSPECTIVE JUROR NUMBER 348: She used to be a
11 LEST.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NUMBER 348: And then, she's
14 doing something above that now.

15 THE COURT: I see. Okay. And -- but because of some
16 information that she told you about, you're concerned about whether you
17 could be fair and impartial if Sergeant Smith is involved in the case? Is
18 that right?

19 PROSPECTIVE JUROR NUMBER 348: The matter was more
20 personal related to him.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR NUMBER 348: I don't know if I could
23 say that if he were here that that would have anything to do with this --
24 me being impartial related to this case.

25 THE COURT: So, but you -- are you saying it might affect

1 your ability to be fair and impartial?

2 PROSPECTIVE JUROR NUMBER 348: I'm feeling that it
3 would not.

4 THE COURT: Okay. All right, you think it would not?

5 PROSPECTIVE JUROR NUMBER 348: It would not.

6 THE COURT: Okay. Okay. All right, I may follow up on that
7 a little later, privately, all right? Anyone else know any of the witnesses
8 who are identified?

9 No other hands.

10 Okay. All right. Now, the -- we're starting this case Monday
11 afternoon. We do expect this case to go through the rest of this week
12 and possibly next week, Monday and Tuesday.

13 Now, I'm sure you're all aware, you might be anyway, next
14 Wednesday is the July 4th holiday. I'm not going to be here, you're not
15 going to be here next Wednesday, and we should be done by Tuesday,
16 the 3rd. But I want to put it in context, so you all understand what we're
17 talking about. So, this week and potentially next week, Monday and
18 Tuesday.

19 With that in mind -- and look, it's inconvenient for probably all
20 of you to be here. You have other things that you need to be doing or
21 you'd rather be doing, I certainly understand that. But we need folks
22 who are willing to be jurors in jury trials, right, that's the only way the
23 system works.

24 So, with that in mind, would serving this week and possibly
25 Monday, Tuesday, next week represent an undue burden for any of

1 you? That is, more of a burden than it is for everyone else who needs to
2 be here. Yeah, okay.

3 All right, so here's what I'm going to do because there were
4 several hands up. We're just going to start with the mic in the back
5 here, we'll go through row by row, get the information from each of you
6 that have some concerns in this regard. After I finish asking the general
7 questions that I'm asking, including this one, I'll talk to the attorneys
8 about all the information I've gathered and determine whether anybody
9 needs to be excused.

10 All right, so who do we have with the mic to start with?

11 PROSPECTIVE JUROR NUMBER 285: Brande Newman,
12 285.

13 THE COURT: Okay, let me just find your page here. Okay.
14 Yes, ma'am, tell me what your issue is.

15 PROSPECTIVE JUROR NUMBER 285: I'm the lead resident
16 assistant at a senior living. I work Sunday through Thursday, 6:00 to
17 5:00 in the afternoon. My director is out of the building, so I'm kind of
18 the person to make sure all my residents are fine. I missed work this
19 morning, and I had a couple falls and stuff. So, I do have to go like
20 whenever I'm done. And it would be a pretty big burden. I have a lot of
21 people depending on me.

22 THE COURT: Okay. And I'm sorry, I know you said this, but I
23 wasn't taking notes fast enough. What's your work schedule?

24 PROSPECTIVE JUROR NUMBER 285: I work Sunday
25 through Thursdays, 6:00 to 5:00.

1 THE COURT: So, 6:00 a.m. to 5:00 p.m.?

2 PROSPECTIVE JUROR NUMBER 285: Yes, majority of the
3 time, I get off at 2:30, but with her being out of the state for family, I stay
4 until 5:00.

5 THE COURT: And sorry, who is it that's out of state now?

6 PROSPECTIVE JUROR NUMBER 285: The director of --
7 well, my boss.

8 THE COURT: And is this just her -- and I -- sorry if I missed
9 this. Is this her vacation, so she's out this week?

10 PROSPECTIVE JUROR NUMBER 285: Her son is having his
11 first child.

12 THE COURT: Okay, so --

13 PROSPECTIVE JUROR NUMBER 285: So, she's going.

14 THE COURT: -- right. So, she had planned time off.

15 PROSPECTIVE JUROR NUMBER 285: Yes.

16 THE COURT: So, and that's like -- how long is she away for?

17 PROSPECTIVE JUROR NUMBER 285: It said from the 22nd
18 until further notice, so I'm not too sure.

19 THE COURT: Okay. Okay, so while the -- while your boss is
20 gone, you have more responsibilities.

21 PROSPECTIVE JUROR NUMBER 285: Yes.

22 THE COURT: Okay. So, with you being here today and not
23 there, is -- so, you were supposed to kind of be in charge?

24 PROSPECTIVE JUROR NUMBER 285: Yeah, I had like two
25 residents fall this morning, and then I had like a lady that has me every

1 day for her meds. And you know, just me not being there, it kind of
2 throws everything off track.

3 THE COURT: Right, so there are other employees, obviously,
4 working there, but they're not able to deal with that?

5 PROSPECTIVE JUROR NUMBER 285: Well, we have
6 caregivers in the facility, so then they -- what they do is throughout the
7 day or anything happens, they come to me. I've been getting like phone
8 calls this morning. So, it's kind of -- I mean, yeah, they have them, but
9 I'm the person that they call if they don't -- can't figure out the solution.

10 THE COURT: I understand. Okay. All right, thank you very
11 much, ma'am. I appreciate that.

12 So, just keep -- I guess, no, hold on. So, stay in the back row,
13 just pass down the back row to whoever needs information and then
14 we'll come down to the next row, okay? All right.

15 PROSPECTIVE JUROR NUMBER 298: My name is Todd
16 Jaron, and my number is 298.

17 THE COURT: Yes, sir.

18 PROSPECTIVE JUROR NUMBER 298: Oh, I am the main,
19 my -- sorry. I'm the main income in my household. And I'm just actually
20 starting a second job that starts on Monday. And right now, I'm living
21 paycheck to paycheck, so I wouldn't be able to take off too many days
22 without missing bills. That's pretty much the main thing.

23 THE COURT: So, you're starting a new job Monday?

24 PROSPECTIVE JUROR NUMBER 298: A second job, yeah.

25 THE COURT: A second job, okay. And so, you have one job

1 that you already would be missing this week, is that --

2 PROSPECTIVE JUROR NUMBER 298: Yeah, I have one job
3 that I missed today -- well, half today. I normally work 12-hour shifts
4 with them. And then, the new job I start on Monday is a day shift job.

5 THE COURT: What's your schedule for the job you have
6 now?

7 PROSPECTIVE JUROR NUMBER 298: It varies. I work at a
8 casino, the Hoover Dam Lodge. So, usually it's graveyard, but most of
9 the time I'm working from 12:00 at midnight all the way to sometimes
10 12:00 during the afternoon.

11 THE COURT: Okay. And so, you're the primary income for
12 your household; is that what you said?

13 PROSPECTIVE JUROR NUMBER 298: Yes, I'm the primary
14 income. My wife, she works part time, but she can't get full time.

15 THE COURT: And do you have children?

16 PROSPECTIVE JUROR NUMBER 298: No.

17 THE COURT: Okay. All right. So, if you -- well, first let me --
18 and I think you know this, although I understand there are practical
19 concerns. So, but obviously an employer isn't allowed and it's actually a
20 crime to, you know, punish or terminate an employee because of being
21 on jury service. So --

22 PROSPECTIVE JUROR NUMBER 298: Yeah.

23 THE COURT: -- I don't expect that to happen. But I
24 understand, you're talking about the income that you --

25 PROSPECTIVE JUROR NUMBER 298: Yeah.

1 THE COURT: Okay. So, if you needed to be here this week
2 and two days next week, kind of be specific with me about how that
3 would affect your family and your living there.

4 PROSPECTIVE JUROR NUMBER 298: Oh, okay. So,
5 income-wise, the job that I'm at right now, I only get paid 13 an hour and
6 we rent out a home. At my house, with all the other electrical and
7 normal utility bills and everything like that, and if I missed all week this
8 week and then missed the first two days of my new job, I would probably
9 be down, I want to say, depending on how many overtime I get, maybe
10 about \$800 --

11 THE COURT: Mm-hmm.

12 PROSPECTIVE JUROR NUMBER 298: -- for the next week.

13 THE COURT: And would you be able to pay your July rent?

14 PROSPECTIVE JUROR NUMBER 298: No.

15 THE COURT: Like -- so, like your other -- your utility bills,
16 food, the -- you know the basic requirements --

17 PROSPECTIVE JUROR NUMBER 298: I would be able to
18 pay those, but the rent itself, no, I wouldn't be able to pay.

19 THE COURT: Okay. Thank you. All right, thank you, sir. I
20 appreciate that.

21 Anyone else in that row?

22 PROSPECTIVE JUROR NUMBER 300: Troy Miller -- excuse
23 me, badge 300.

24 THE COURT: Yes?

25 PROSPECTIVE JUROR NUMBER 300: I'm just concerned if

1 it goes beyond Tuesday. I have plans for a vacation we scheduled back
2 in March. And so, I leave 6:00 a.m. on the 4th.

3 THE COURT: Okay, leaving 6:00 a.m. on the 4th. And how
4 long will you be gone for?

5 PROSPECTIVE JUROR NUMBER 300: Until the 15th.

6 THE COURT: Okay. Okay, thank you.

7 THE MARSHAL: Anybody else in that top row?

8 Anybody in the second row?

9 Pass it down to the second lady in that row.

10 PROSPECTIVE JUROR NUMBER 316: Lelisa, last number
11 316. I just have a question, Your Honor. I'm a single mother at home,
12 and I watch my grandchildren. Today, my daughter, she's the assistant
13 of one of the doctors and there's no other staff. She actually runs it, so I
14 usually keep my grandchildren.

15 I'm on disability and I teach for CSN, but we're on semester
16 break, so this -- all the grandchildren are home. And so -- and my
17 youngest daughter who lives with me and my granddaughter, she just
18 started her first day today. My oldest daughter, they had administration
19 day off or something like that, so she has it.

20 So -- but from this point on, I have the grandchildren until they
21 get off of work. So, otherwise, I don't have a life, I wouldn't mind. I
22 mean, I say they don't think I have a life, but I don't have a life really
23 outside of that because everything else proceeds in the evening when I
24 teach a ministerial class in the evening. But during the day, I'm just
25 concerned because there's no other childcare.

1 THE COURT: Right.

2 PROSPECTIVE JUROR NUMBER 316: And I'm the only
3 childcare provider.

4 THE COURT: Right, so your daughter, the children's mom,
5 will be working?

6 PROSPECTIVE JUROR NUMBER 316: Both my daughters.

7 THE COURT: Both.

8 PROSPECTIVE JUROR NUMBER 316: My youngest
9 daughter just started today at Alorica. This is her first day. But my
10 oldest daughter -- I've been watching them through this summer since
11 they've been out of school. And so -- and I told them I had jury duty, but
12 she already had that day off with the doctors. So, I don't know --

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NUMBER 316: -- what to do.

15 THE COURT: So, the rest of the week, you're the one who's
16 responsible --

17 PROSPECTIVE JUROR NUMBER 316: Rest of the summer.
18 The rest of the summer, yes ma'am.

19 THE COURT: -- the summer. So, how many children?

20 PROSPECTIVE JUROR NUMBER 316: I have four
21 grandchildren, but just the three granddaughters, yeah.

22 THE COURT: Okay. And about -- like how old are they?

23 PROSPECTIVE JUROR NUMBER 316: I have a seven-year
24 old, one's about to be five, and then the two-year old.

25 THE COURT: Okay. All right. So, they're -- you're the one

1 who's responsible for watching them during the day?

2 PROSPECTIVE JUROR NUMBER 316: Until they get off, yes
3 ma'am.

4 THE COURT: And so, I know you were -- so, one of your
5 daughters was able to be home with them today.

6 PROSPECTIVE JUROR NUMBER 316: Because she's --
7 yeah, because the doctor that she works for -- it's just her, she's
8 administrative staff. She's everything, but they have a admin day,
9 normally on Wednesday. I know Wednesday she's off because it's
10 admin day, so I know I don't have them on Wednesday.

11 This is the first Monday ever that they had off. Dr. Ross had
12 some other schedule of his, so she had today off. Normally, she don't.
13 Normally, on Wednesdays, they're admin days.

14 So, other than that, like I said, I don't teach. I'm off for the
15 semester for CSN. And I'm on disability and then I teach at night. But
16 that's, like I said, ministerial classes, and that's in the evening, which
17 don't conflict in the day.

18 THE COURT: Right. Okay. So, for Tuesday, Thursday,
19 Friday, you don't have any other coverage to take care of the girls?

20 PROSPECTIVE JUROR NUMBER 316: I'm the only one at
21 home. Yeah, I'm only --

22 THE COURT: You don't have any other --

23 PROSPECTIVE JUROR NUMBER 316: No.

24 THE COURT: -- or no close friend or relative who could
25 cover?

1 PROSPECTIVE JUROR NUMBER 316: I am -- that's --
2 unfortunately, it's just me and my children out here, and I don't -- they
3 don't have -- they just have me.

4 THE COURT: I understand.

5 PROSPECTIVE JUROR NUMBER 316: Yes, ma'am.

6 THE COURT: Okay. All right, thank you. I appreciate that
7 information.

8 Is there anyone else in that row? Go ahead.

9 PROSPECTIVE JUROR NUMBER 318: Sanjuanita Irlas.

10 THE COURT: Yes.

11 PROSPECTIVE JUROR NUMBER 318: Badge number 1318.
12 I have doctor appointments that I just a had a surgery -- neck surgery
13 last month, and I have doctor's appointment tomorrow and I am in
14 therapy, so I have to attend therapy twice a week.

15 THE COURT: Okay. What time is your appointment
16 tomorrow?

17 PROSPECTIVE JUROR NUMBER 318: At 9:30 in the
18 morning, and I live on the east side of town, takes me an hour to get to
19 the west side of town.

20 THE COURT: Okay. So, for example, I don't know how long
21 your appointment's expected to take, but could you be here by 11:00?

22 PROSPECTIVE JUROR NUMBER 318: It would be like really
23 close.

24 THE COURT: Okay, I understand. Now, you mentioned you
25 have therapy two times a week. What's that schedule?

1 PROSPECTIVE JUROR NUMBER 318: That schedule is also
2 at 9:30 in the morning, and that lasts about an hour. So, on --

3 THE COURT: And what days?

4 PROSPECTIVE JUROR NUMBER 318: This week -- they
5 schedule me different every week. But this week it is on Friday and
6 Wednesday.

7 THE COURT: So, Wednesday and Friday this week?

8 PROSPECTIVE JUROR NUMBER 318: Mm-hmm.

9 THE COURT: Got it. Okay. And aside from the
10 appointments with the recent neck surgery that you had, are you able to
11 sit for an hour and a half, two hours, or --

12 PROSPECTIVE JUROR NUMBER 318: It's a little --

13 THE COURT: -- for that --

14 PROSPECTIVE JUROR NUMBER 318: -- uncomfortable, but
15 you know, I'm sure I can manage.

16 THE COURT: And I'm -- just got to ask, are you taking
17 medication because of that?

18 PROSPECTIVE JUROR NUMBER 318: No.

19 THE COURT: No, okay. All right. Okay, thank you, ma'am.

20 [Colloquy between the Marshal and the prospective jurors]

21 THE COURT: Anyone else there?

22 PROSPECTIVE JUROR NUMBER 329: Hi, Shannon Long,
23 32 -- is it 329?

24 THE COURT: Yep.

25 PROSPECTIVE JUROR NUMBER 329: I'm a freelancer, and

1 I've already blocked this week to -- for possible -- possibly this, so I
2 turned down some work. And I don't get paid unless I work. And I got a
3 gig starting next week.

4 THE COURT: Okay. And so, what kind of work do you do?

5 PROSPECTIVE JUROR NUMBER 329: Corporate events,
6 basically like rock and roll-type stuff, but for corporate PowerPoint
7 presentations, you name it.

8 THE COURT: So, you've already kind of blocked out this
9 week, but you do have things set next week.

10 PROSPECTIVE JUROR NUMBER 329: Yes.

11 THE COURT: Okay. And if you had to pass on that job for
12 next week, how would that affect you?

13 PROSPECTIVE JUROR NUMBER 329: That would be about
14 -- probably about \$4,000 I'm missing out on.

15 THE COURT: Okay, and I don't --

16 PROSPECTIVE JUROR NUMBER 329: I only get paid when I
17 work.

18 THE COURT: I understand. So, if you didn't get that \$4,000,
19 would you be able to pay your rent or mortgage payment for the month?

20 PROSPECTIVE JUROR NUMBER 329: Yes, but --

21 THE COURT: Okay. And like your basic expenses, utilities,
22 food, things like that.

23 PROSPECTIVE JUROR NUMBER 329: Yeah, yeah.

24 THE COURT: I mean, I don't mean to minimize \$4,000, right,
25 it's a significant amount of money. I just need to understand exactly

1 what burden it puts on you.

2 PROSPECTIVE JUROR NUMBER 329: Yeah, I understand.

3 THE COURT: Okay. Okay, all right, thanks very much.

4 Anyone else there?

5 [Colloquy between the Marshal and the prospective jurors]

6 THE COURT: So, go up. No? Okay, great.

7 THE MARSHAL: You've got to raise your hands, I'm not a
8 hand reader.

9 PROSPECTIVE JUROR NUMBER 374: I'm sorry. It's -- my
10 number is 1374. My name is Maria Fernandez.

11 THE COURT: Yes, ma'am?

12 PROSPECTIVE JUROR NUMBER 374: I want to talk in
13 Spanish because I don't understand what is she talking over here. I
14 don't know speak or understand a lot of English.

15 THE COURT: Uh-huh. Okay.

16 PROSPECTIVE JUROR NUMBER 374: And I'm disability,
17 and I can stay, sit down for long time, or walking too long time. And I
18 drink a medicine. I'm really, really, really tired. I don't know. So,
19 [indiscernible] I'm sorry.

20 THE COURT: No. So, I just need to ask a couple questions.
21 Hopefully, you'll understand. So, Spanish is the language you speak
22 primarily; is that right?

23 PROSPECTIVE JUROR NUMBER 374: Yes.

24 THE COURT: Yes, okay. And so, when Ms. Luzaich
25 described what the case is about a few minutes ago, did you understand

1 what she was saying?

2 PROSPECTIVE JUROR NUMBER 374: No.

3 THE COURT: No? Okay. And you mentioned you also have
4 a disability, and it's difficult for you to sit for long; is that right?

5 PROSPECTIVE JUROR NUMBER 374: I don't know,
6 understand you.

7 THE COURT: Sure. It is -- is it hard for you to sit for an
8 extended period of time?

9 PROSPECTIVE JUROR NUMBER 374: Right.

10 THE COURT: Yes. And what's your -- you have a back
11 problem? What's your issue?

12 PROSPECTIVE JUROR NUMBER 374: I have four discs
13 broken --

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NUMBER 374: -- for, I don't know,
16 eight years or a little more time.

17 THE COURT: And are you saying -- so, you're taking
18 medicine for that that's making you sleepy?

19 PROSPECTIVE JUROR NUMBER 374: For pain --

20 THE COURT: Uh-huh.

21 PROSPECTIVE JUROR NUMBER 374: -- and tired.

22 THE COURT: Right. And does that make it difficult to
23 concentrate?

24 PROSPECTIVE JUROR NUMBER 374: Right.

25 THE COURT: Yes. Okay, all right. Thank you, ma'am, I

1 appreciate that.

2 PROSPECTIVE JUROR NUMBER 374: I -- my real problem
3 is I can't understand everything.

4 THE COURT: Okay, thank you. All right, go ahead and pass
5 it down.

6 PROSPECTIVE JUROR NUMBER 379: Alyssa Laster, 1379.

7 THE COURT: Yes, ma'am?

8 PROSPECTIVE JUROR NUMBER 379: I just had one little
9 concern. I start a new job on July 3rd, and I didn't know if I heard you
10 correctly that if you said it will be the 2nd or the 3rd you're -- that it would
11 end.

12 THE COURT: Yeah, next Tuesday, which is the last possible
13 day we'd be here is the 3rd.

14 PROSPECTIVE JUROR NUMBER 379: Okay.

15 THE COURT: So, you're supposed to start a job that day.

16 PROSPECTIVE JUROR NUMBER 379: Yes.

17 THE COURT: Well, so what's the nature of the job you're
18 supposed to start?

19 PROSPECTIVE JUROR NUMBER 379: I'm a guest
20 representative at a spa. I answer all their incoming calls. And it's a full
21 time job, so -- and I'm a college student, so it's a big deal for me to have
22 a full time job that will help me take care of myself financially better than
23 what I've been doing.

24 THE COURT: Right. Okay. So, if you were to be picked on
25 the -- and sit on the jury, it's possible we would still be here that day. I'm

1 hoping we won't, but it's possible. I suppose perhaps you could -- if you
2 get picked, then you could let your future boss know you're on jury duty
3 at that time.

4 PROSPECTIVE JUROR NUMBER 379: Yeah. I don't
5 imagine her having a problem with it because as you said, it's illegal to
6 fire somebody.

7 THE COURT: Yeah.

8 PROSPECTIVE JUROR NUMBER 379: So, I don't have a
9 problem doing it all, I just wanted to make the --

10 THE COURT: No, I'm --

11 PROSPECTIVE JUROR NUMBER 379: -- Court aware.

12 THE COURT: -- definitely glad you told us, so --

13 PROSPECTIVE JUROR NUMBER 379: Yes.

14 THE COURT: -- we're aware of that issue. All right, thank
15 you.

16 PROSPECTIVE JUROR NUMBER 379: You're welcome.

17 PROSPECTIVE JUROR NUMBER 393: I am Michelle
18 Monroe, 393. And the only thing with me is financially it would be a
19 burden to get down here all the time. And tomorrow, my grandson is
20 scheduled to have ear surgery. I don't know exactly what time yet. I'm
21 supposed to get a call today, and that's my only thing.

22 But other than that, yeah, I can sit up here.

23 THE COURT: Okay. And so, your grandson's ear surgery, do
24 you know like how long of a -- like were you planning to be there during
25 the procedure? How much time is that going to take whenever it

1 happens?

2 PROSPECTIVE JUROR NUMBER 393: I'm not exactly sure.
3 They're kind of not really letting me know anything right now --

4 THE COURT: Yeah.

5 PROSPECTIVE JUROR NUMBER 393: -- and probably until
6 later on today. So, I'm not exactly sure if -- well, I would like to be there
7 because I would be the only person to be there as far as support goes
8 for him.

9 THE COURT: So, you would be the only adult, you'd be the
10 one that has to take him there?

11 PROSPECTIVE JUROR NUMBER 393: Yes, yes.

12 THE COURT: And how old's your grandson?

13 PROSPECTIVE JUROR NUMBER 393: He's six.

14 THE COURT: Okay. All right, so you're the one that's got to
15 take him there and take care of him?

16 PROSPECTIVE JUROR NUMBER 393: Yes, correct.

17 THE COURT: So, have they told you if that will mean he's
18 going to have to stay home, like the rest of the day, or --

19 PROSPECTIVE JUROR NUMBER 393: I'm not sure. He's
20 been having this problem for three months. And tomorrow's supposed
21 to be the deadline of getting this correct for him. So, I really don't have a
22 lot of information until they call me.

23 THE COURT: Okay, and they're supposed to let you know
24 that information today?

25 PROSPECTIVE JUROR NUMBER 393: Yeah because it's

1 supposed to be tomorrow, but they're supposed to let me know the day
2 before --

3 THE COURT: Yeah.

4 PROSPECTIVE JUROR NUMBER 393: -- which would be
5 today. And this was a surprise to me getting, you know, the summons.

6 THE COURT: Right. Okay. All right, thanks, ma'am.

7 PROSPECTIVE JUROR NUMBER 393: Uh-huh.

8 PROSPECTIVE JUROR NUMBER 403: Hi, Louise Tuzon,
9 403.

10 THE COURT: Yes.

11 PROSPECTIVE JUROR NUMBER 403: All right, so I have a
12 couple of problems. First one is a car problem. I drive stick shift, no one
13 else drives stick shift in the family. I have to fix the problem with my
14 spark plugs and alternator. If not, I can't drive my siblings to wherever
15 they want to go, especially one of them is working.

16 And a second problem is, this Thursday, I have -- I'm
17 scheduled with an OB/GYN for abnormal cells inside my vagina. And
18 they said something about pre-cancer cells, and I'm really concerned
19 about that.

20 THE COURT: Yes.

21 PROSPECTIVE JUROR NUMBER 403: And --

22 THE COURT: And you have an appointment on Thursday
23 about that?

24 PROSPECTIVE JUROR NUMBER 403: Yeah.

25 THE COURT: What time is the appointment?

1 PROSPECTIVE JUROR NUMBER 403: 2:00, I think.

2 THE COURT: Is that -- how long has that been scheduled?

3 PROSPECTIVE JUROR NUMBER 403: I'm sorry?

4 THE COURT: How long have you had to wait to get that
5 appointment?

6 PROSPECTIVE JUROR NUMBER 403: Oh, it's since the
7 beginning of June.

8 THE COURT: Okay, a couple weeks.

9 PROSPECTIVE JUROR NUMBER 403: And I always try to
10 call them for like check-up because I -- back then, I used to have like
11 yeast infection and bacterial infection, and all of a sudden, everything's
12 getting downhill. And they swabbed me and then they're telling me, oh,
13 we have to do another follow-up. We have to make sure that you don't
14 have cancer or anything.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NUMBER 403: And I've been having
17 a lot of anxiety because of that.

18 THE COURT: Yes, okay. All right, thank you, ma'am.

19 PROSPECTIVE JUROR NUMBER 403: Thank you.

20 PROSPECTIVE JUROR NUMBER 422: Kristen Melton,
21 badge number 422.

22 THE COURT: Yes?

23 PROSPECTIVE JUROR NUMBER 422: The first issue is
24 financial hardship. I'm a independent contractor. I'm a marriage and
25 family therapist, and I have clients scheduled on Tuesdays and

1 Thursdays. And I wouldn't have anyone to cover them, so that would be
2 about 16 to 20 individuals without mental health services on those days.

3 And on the days that I'm not working, I have my daughter to
4 take care of.

5 THE COURT: How old's your daughter?

6 PROSPECTIVE JUROR NUMBER 422: Four.

7 THE COURT: So, what do you do with her on the days that
8 you're working?

9 PROSPECTIVE JUROR NUMBER 422: She has daycare.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR NUMBER 422: Yeah, and so, if I
12 don't work, I don't get paid, and I use every dollar to pay my bills.

13 THE COURT: Yeah. And -- okay. So, let's talk about that. If
14 you had to miss work, say -- so, this Tuesday, Thursday --

15 PROSPECTIVE JUROR NUMBER 422: And Tuesday --

16 THE COURT: -- and next Tuesday, so you'd miss three days
17 of doing your counseling, how would that affect your ability to pay your
18 bills?

19 PROSPECTIVE JUROR NUMBER 422: I would be short.

20 THE COURT: So, would you be able to -- I don't know, pay
21 your rent or mortgage and utilities?

22 PROSPECTIVE JUROR NUMBER 422: No.

23 THE COURT: Okay. Are you the only earner -- income
24 earner in the home?

25 PROSPECTIVE JUROR NUMBER 422: No, I'm married, but

1 we split everything 50/50.

2 THE COURT: Uh-huh. All right. And so, if you missed those
3 days of work, you would have difficulty paying those necessary bills?

4 PROSPECTIVE JUROR NUMBER 422: Absolutely.

5 THE COURT: Thank you.

6 THE MARSHAL: Anybody else in that row?

7 PROSPECTIVE JUROR NUMBER 442: Stephanie Cote,
8 badge number 442. The only thing with me is I start my -- I'm free all
9 this week, but I start my first job on July 2nd, on Monday.

10 THE COURT: Right. Okay. And what kind of -- what's the
11 nature of that job?

12 PROSPECTIVE JUROR NUMBER 442: It's a support desk
13 position for the system computing services at UNLV. It's with the NSHE
14 Department.

15 THE COURT: Mm-hmm. Okay. And what's the work
16 schedule?

17 PROSPECTIVE JUROR NUMBER 442: I start at 12:30 to
18 5:00 for the entire week, so Monday and Tuesday.

19 THE COURT: So, it's 12:30 in the afternoon until 5:00?

20 PROSPECTIVE JUROR NUMBER 442: Mm-hmm.

21 THE COURT: Okay, I just wanted to be sure I understood.
22 Okay. So, you're not working this week, and you're just --

23 PROSPECTIVE JUROR NUMBER 442: Yes.

24 THE COURT: -- starting next week?

25 PROSPECTIVE JUROR NUMBER 442: Yes.

1 THE COURT: Okay. And if you couldn't start until after
2 Tuesday next week, how would that affect you?

3 PROSPECTIVE JUROR NUMBER 442: It -- I mean, it would
4 just be inconvenient. I'd have to let my employer know, but it's not a
5 financial burden or anything, so --

6 THE COURT: Okay. All right, thank you, I appreciate that.

7 PROSPECTIVE JUROR NUMBER 454: Hi, Victor Ramos,
8 badge number 15 -- 1454.

9 THE COURT: Yes?

10 PROSPECTIVE JUROR NUMBER 454: My work is -- I
11 perform. And the only concern I have is making sure I'm physically
12 capable to do the physical since that -- I have to do along with doing jury
13 -- jury stuff during the day. Going to this month of -- or going into this
14 month of July, we're doing triple shows, so we do three shows a day
15 starting at 4:00 until 11:00 at night -- 4:00 p.m. to 11:00 at night. So,
16 that's my main concern.

17 THE COURT: Okay. So, I just want to understand what
18 you're saying. So, when do you need to be at work?

19 PROSPECTIVE JUROR NUMBER 454: On days that we're
20 doing the triple shows, I have to be at work at 3:00 p.m. On double-
21 show days, it's 5:00 p.m.

22 THE COURT: Okay. So, this week, what -- which is it?

23 PROSPECTIVE JUROR NUMBER 454: This upcoming week,
24 it's triple shows.

25 THE COURT: So, this week that we're in now, you're

1 supposed to be there at 3 o'clock.

2 PROSPECTIVE JUROR NUMBER 454: Yes.

3 THE COURT: Okay because -- is that -- and next week also?

4 PROSPECTIVE JUROR NUMBER 454: Yes, July on.

5 THE COURT: Okay. And just asking, if you couldn't be there
6 until I don't -- 5:30 or 6:00, I guess, that would cause you to miss some
7 shows?

8 PROSPECTIVE JUROR NUMBER 454: We have to do
9 rehearsals with stunts at 5:00, so it would hold back the rest of the other
10 performers from doing the stunts because I'm involved with him, as well.

11 THE COURT: What days -- are there any days that you're
12 dark?

13 PROSPECTIVE JUROR NUMBER 454: Yes, Wednesday.
14 Like I said, going into this next week, we aren't off on Tuesdays
15 anymore. Tuesdays would typically be our dark day, as well, but we're
16 working that day, as well, going -- moving forward with this week.

17 THE COURT: And so, if you couldn't be there because I was
18 holding you here, how -- what would happen?

19 PROSPECTIVE JUROR NUMBER 454: I swing for the rest of
20 the cast members, so it would in turn leave them down a person to help
21 them swing for their tracks. I -- so, I mean, yeah.

22 THE COURT: Okay. But they would -- in other words, so like
23 if you couldn't be there for the early show that they're now doing, they
24 would still have a show with everyone else, they would replace you or
25 skip your part or something?

1 PROSPECTIVE JUROR NUMBER 454: Based on like
2 people's injury -- like just making sure that like if anybody were to be
3 injured, if no one's there for that part, I guess no one's there for that part.

4 THE COURT: Yeah.

5 PROSPECTIVE JUROR NUMBER 454: But it's -- like I said, I
6 swing for these guys, so it's like if somebody gets injured, they're looking
7 at me as to fill in for that space.

8 THE COURT: I see.

9 PROSPECTIVE JUROR NUMBER 454: I'm like the plan B, I
10 guess you could say.

11 THE COURT: Okay. I see. Okay. All right, thank you.

12 THE MARSHAL: Anybody in the back row?

13 PROSPECTIVE JUROR NUMBER 479: Hi, my name is Sam
14 Lim, and my badge number is 479. And the problem I have is English
15 because I'm -- don't really graduate high school. So, I have time to
16 come, but just -- I probably need somebody to help me translate.

17 THE COURT: What language do you speak, sir?

18 PROSPECTIVE JUROR NUMBER 479: I speak Chinese and
19 also Cambodian. Yeah, but English not too good. I can understand little
20 bit, but not read or write very good.

21 THE COURT: Okay. When Ms. Luzaich, the Deputy District
22 Attorney, when she stood up and explained what the case is about, did
23 you understand what she said?

24 PROSPECTIVE JUROR NUMBER 479: Some part but not all
25 of them.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NUMBER 479: Because --

3 THE COURT: It --

4 PROSPECTIVE JUROR NUMBER 479: -- like already had on
5 the -- like a guilty and something like that. I don't know exactly what it
6 means, yeah. But just a simple [indiscernible] understand go to -- and I
7 could speak, but not the big case or something like that. Yeah.

8 THE COURT: So, you're concerned -- are you concerned
9 about whether you would understand the witness testimony?

10 PROSPECTIVE JUROR NUMBER 479: Right. Right, is what
11 I -- because maybe I speak like some time the people not guilty, I say
12 maybe they guilty or -- that's what I -- you know, my idea is. My -- I want
13 to -- you want me to say something wrong, I don't know what it talking
14 about.

15 THE COURT: And do you work right now, sir? Are you
16 employed?

17 PROSPECTIVE JUROR NUMBER 479: Yes, I am doing like
18 a property manager and have them fixing something like that. Like
19 restroom are leaking, I go have them -- yeah.

20 THE COURT: Mm-hmm. Are you -- do you communicate in
21 English when you're on the job?

22 PROSPECTIVE JUROR NUMBER 479: When I work I
23 have -- just Chinese or something -- explained to me in Chinese.

24 THE COURT: I see.

25 PROSPECTIVE JUROR NUMBER 479: Yeah.

1 THE COURT: Okay. All right, thank you, sir.

2 PROSPECTIVE JUROR NUMBER 477: I'm Alicia Barrales-

3 de-Sanchez. The badge is 477.

4 THE COURT: What badge number?

5 PROSPECTIVE JUROR NUMBER 477: 477.

6 THE COURT: Oh, got it, thank you. Go ahead.

7 PROSPECTIVE JUROR NUMBER 477: Just one thing, I

8 don't speak English.

9 THE COURT: What language do you speak?

10 PROSPECTIVE JUROR NUMBER 477: Spanish.

11 THE COURT: Okay. So, have you understood what we've

12 been talking about here in court so far?

13 PROSPECTIVE JUROR NUMBER 477: A little.

14 THE COURT: A little?

15 PROSPECTIVE JUROR NUMBER 477: Mm-hmm.

16 THE COURT: So, when Ms. Luzaich described what the case

17 is about and what the charges are, did you understand that?

18 PROSPECTIVE JUROR NUMBER 477: Not too much.

19 THE COURT: Would you say you understood half of it or less

20 than half of it?

21 PROSPECTIVE JUROR NUMBER 477: It's because I don't

22 understand.

23 THE COURT: You don't understand. All right. Are you

24 employed, ma'am, outside the home?

25 PROSPECTIVE JUROR NUMBER 477: No.

1 THE COURT: No? How long have you lived here in Las
2 Vegas?

3 PROSPECTIVE JUROR NUMBER 477: Thirteen years.

4 THE COURT: Do you -- what language do you speak in your
5 home?

6 PROSPECTIVE JUROR NUMBER 477: Spanish.

7 THE COURT: Spanish, okay. All right, thank you.

8 THE MARSHAL: Anybody else in that row?

9 PROSPECTIVE JUROR NUMBER 464: Donna Fox, 64 --
10 464.

11 THE COURT: Yep.

12 PROSPECTIVE JUROR NUMBER 464: My husband's in the
13 hospital right now, and he might be coming home in the next couple of
14 days, and he has no way to get him home except for me.

15 THE COURT: Okay. How long has he been in the hospital?

16 PROSPECTIVE JUROR NUMBER 464: He's in and out of the
17 hospital all the time. Right now, he's been in there since Friday.

18 THE COURT: Okay. Okay, and so, you don't know when
19 he's going to be released, but whenever that is, you're the one who's got
20 to be there?

21 PROSPECTIVE JUROR NUMBER 464: Yeah, because he --
22 they got him on a CPAP right now.

23 THE COURT: Uh-huh.

24 PROSPECTIVE JUROR NUMBER 464: And he's got really
25 bad anxiety, so they don't know when they're going to be able -- you

1 know, could be tomorrow or it can be three days from now, I don't know.

2 THE COURT: Okay. So, if you weren't here today as part of
3 jury selection, what would you be doing?

4 PROSPECTIVE JUROR NUMBER 464: I probably at -- be at
5 the hospital with him.

6 THE COURT: Okay. Do you work outside the home at all?

7 PROSPECTIVE JUROR NUMBER 464: Yes.

8 THE COURT: When do you work?

9 PROSPECTIVE JUROR NUMBER 464: I work Thursday,
10 Friday, Saturday, and every other Sunday.

11 THE COURT: Okay. So, if you were -- like later this week
12 when you're scheduled to work, are you -- would you go into work if he
13 was still in the hospital?

14 PROSPECTIVE JUROR NUMBER 464: Probably not. I
15 already missed since Friday.

16 THE COURT: Yeah. Okay. Right, so you took off last
17 weekend when he ended up in the hospital?

18 PROSPECTIVE JUROR NUMBER 464: Yes, yes.

19 THE COURT: Okay. All right, thank you, ma'am.

20 THE MARSHAL: Anybody else back there?

21 PROSPECTIVE JUROR NUMBER 460: Hi, my name is
22 Manuel Arguello. My badge number is 1460.

23 THE COURT: Uh-huh.

24 PROSPECTIVE JUROR NUMBER 460: I just had a pre-
25 planned vacation, leaving on Monday for four days. I had it scheduled

1 since January. I already have my hotel and my rental car done.

2 THE COURT: Where are you going?

3 PROSPECTIVE JUROR NUMBER 460: Santa Fe, New
4 Mexico. We're taking my mom's tombstone to the cemetery.

5 THE COURT: Okay. All right, so you're leaving Monday, so
6 you're gone all next week.

7 PROSPECTIVE JUROR NUMBER 460: Just for four days.

8 THE COURT: Yeah. Okay. Thank you.

9 [Colloquy between the Marshal and the prospective jurors]

10 PROSPECTIVE JUROR NUMBER 545: Harold Miller, 545.

11 THE COURT: Hold on, let me find you.

12 PROSPECTIVE JUROR NUMBER 545: It's just a --

13 THE COURT: What number?

14 PROSPECTIVE JUROR NUMBER 545: 545.

15 THE COURT: 545, hold on, let me get there. Last page,
16 okay, got it.

17 PROSPECTIVE JUROR NUMBER 545: I just wanted to tell
18 you my schedule. I work 8:00 p.m. to 4:00 a.m. Tuesday through
19 Saturdays. I'm off Sundays and Mondays. And I didn't know, would I
20 have to do the jury duty during the day and then work at night? I don't
21 think I would be good. I would probably be falling asleep.

22 THE COURT: Right, so you'd probably need to not work like
23 the folks who don't -- work during the day.

24 PROSPECTIVE JUROR NUMBER 545: Yeah, I work, you
25 know, nights, so.

1 THE COURT: Right. Right, so if you were on the jury, yes,
2 you'd probably need to take off work like --

3 PROSPECTIVE JUROR NUMBER 545: Okay.

4 THE COURT: -- the folks who work during the day.

5 PROSPECTIVE JUROR NUMBER 545: I just wanted to make
6 you guys aware of my schedule.

7 THE COURT: Yeah, because I --

8 PROSPECTIVE JUROR NUMBER 545: Okay.

9 THE COURT: -- I agree, that would be very difficult, I would
10 think, to work all night and then come here and try to --

11 PROSPECTIVE JUROR NUMBER 545: Right.

12 THE COURT: -- pay attention --

13 PROSPECTIVE JUROR NUMBER 545: Right.

14 THE COURT: -- all day.

15 PROSPECTIVE JUROR NUMBER 545: Okay.

16 THE COURT: And okay. So, what kind of work do you do?

17 PROSPECTIVE JUROR NUMBER 545: I'm a bar apprentice
18 at a MGM property.

19 THE COURT: Oh, I see. All right, thanks very much.

20 PROSPECTIVE JUROR NUMBER 531: My name is Gloria
21 Lerma. My number, 1531.

22 THE COURT: 1531, got it, okay.

23 PROSPECTIVE JUROR NUMBER 531: My problem is only
24 speak little English, not too much.

25 THE COURT: What language do you speak, ma'am?

1 PROSPECTIVE JUROR NUMBER 531: Spanish.
2 THE COURT: Okay. Have you understood what -- the
3 questions I've been asking so far this afternoon?
4 PROSPECTIVE JUROR NUMBER 531: Not everything.
5 THE COURT: Do you understand what the case is about and
6 what kind of charges are involved in this case?
7 PROSPECTIVE JUROR NUMBER 531: Not the whole thing.
8 I know something -- but happen, but not clearly.
9 THE COURT: I see. And ma'am, are you employed outside
10 the home?
11 PROSPECTIVE JUROR NUMBER 531: Yes.
12 THE COURT: What do you do?
13 PROSPECTIVE JUROR NUMBER 531: Food helper on the
14 buffet. [Indiscernible] helper.
15 THE COURT: Yeah, okay. All right, thank you.
16 PROSPECTIVE JUROR NUMBER 526: Steven Coburn, 526.
17 THE COURT: Yes, sir?
18 PROSPECTIVE JUROR NUMBER 526: I'm moving to Texas
19 on Monday. And I need all this week to pack. My fiancé just got a job
20 literally this past Thursday. And we have a four-and-a-half-year-old
21 who's autistic, so this whole week is spent packing and taking care of
22 him.
23 THE COURT: We got you right before you left, huh?
24 PROSPECTIVE JUROR NUMBER 526: Yeah, unfortunately.
25 THE COURT: Okay. All right, thank you.

1 THE MARSHAL: Is there anybody in the second row?

2 PROSPECTIVE JUROR NUMBER 513: I -- my name's Liezel
3 Talamayan, badge number 1513. I have a couple of concerns. First,
4 I'm a product of a -- what this case is about. So, I -- it just brings back
5 things. And I don't --

6 THE COURT: So, ma'am, I don't want to intrude too far into
7 your personal issues but let me ask this. So, based on what you've
8 said, would it be difficult for you to be --

9 PROSPECTIVE JUROR NUMBER 513: Yes.

10 THE COURT: -- fair and partial in this case?

11 PROSPECTIVE JUROR NUMBER 513: Yes.

12 THE COURT: Because of your personal experiences?

13 PROSPECTIVE JUROR NUMBER 513: Yes, because I have
14 witnessed it.

15 THE COURT: You've witnessed --

16 PROSPECTIVE JUROR NUMBER 513: My mother and my
17 father when I was young.

18 THE COURT: And is it fair to say that talking about that is --
19 that you're emotional right now?

20 PROSPECTIVE JUROR NUMBER 513: Yes. I would rather
21 not really have to --

22 THE COURT: So --

23 PROSPECTIVE JUROR NUMBER 513: -- remember.

24 THE COURT: -- sure. I mean, obviously, once we get into the
25 case, we won't be talking about what happened to you. It'll be about

1 what happened to these folks.

2 PROSPECTIVE JUROR NUMBER 513: Right.

3 THE COURT: But do you think that you would be able to pay
4 attention to the evidence and make a decision about it without -- I don't
5 know, I guess kind of having you think about your personal
6 experiences?

7 PROSPECTIVE JUROR NUMBER 513: It's difficult because I
8 am one in the same person.

9 THE COURT: Yeah.

10 PROSPECTIVE JUROR NUMBER 513: So, I --

11 THE COURT: You don't think you could --

12 PROSPECTIVE JUROR NUMBER 513: -- honestly, I
13 cannot --

14 THE COURT: -- put that aside.

15 PROSPECTIVE JUROR NUMBER 513: -- yeah.

16 THE COURT: And -- in this type of case?

17 PROSPECTIVE JUROR NUMBER 513: I don't think I would
18 be able to render a fair --

19 THE COURT: Okay. All right, thank you, ma'am.

20 PROSPECTIVE JUROR NUMBER 513: I'm sorry.

21 THE COURT: I appreciate you letting me know about that.

22 PROSPECTIVE JUROR NUMBER 513: Thank you.

23 PROSPECTIVE JUROR NUMBER 488: Hi, my name is
24 Adam Schwartz, number 1488.

25 THE COURT: Okay, just give me a second. Okay, yes sir?

1 PROSPECTIVE JUROR NUMBER 488: I'm actually a chef
2 over at MGM, and we're actually short one chef already, so most of us
3 are pulling six-day weeks. I'm actually supposed to be at work at 1:00
4 p.m. and I'll be going directly there right after this to close the restaurant
5 tonight. I'll be off Wednesday, but I will be working the rest of the week
6 tomorrow -- today, tomorrow, Thursday, Friday, Saturday, Sunday,
7 Monday, Tuesday. I go in at 1:00 p.m. on all of those days.

8 THE COURT: I'm sorry, I missed the last part.

9 PROSPECTIVE JUROR NUMBER 488: I go in at 1:00 p.m.
10 on all of those days.

11 THE COURT: Right. Okay. And so, the particular restaurant
12 where you work is already short one; is that what you said?

13 PROSPECTIVE JUROR NUMBER 488: Yes, ma'am.

14 THE COURT: And so, if you couldn't be there, do they have
15 anybody to fill in or --

16 PROSPECTIVE JUROR NUMBER 488: The person that
17 would open would have to pull 14, 15-hour shift that way.

18 THE COURT: I see. Okay. Thank you.

19 PROSPECTIVE JUROR NUMBER 488: Thanks.

20 [Colloquy between the Marshal and the prospective jurors]

21 PROSPECTIVE JUROR NUMBER 367: Badge number 1367.

22 THE COURT: Okay, give me a second to find it. And your
23 name?

24 PROSPECTIVE JUROR NUMBER 367: Kathrina Avetria.

25 THE COURT: Yes.

1 PROSPECTIVE JUROR NUMBER 367: My first concern is
2 childcare. I work nights from 7:00 to 7:30 in the morning. Right now, my
3 son is with my boyfriend, and he just asked his boss if he can bring his --
4 my son right now with him. And I work in hospital, I'm a nurse at
5 neonatal ICU. So, right now, we're very short. So, if I cannot work,
6 there might be really like shorted staff.

7 THE COURT: At the ICU?

8 PROSPECTIVE JUROR NUMBER 367: ICU, MountainView
9 Hospital.

10 THE COURT: Okay. So, usually you work nights and --

11 PROSPECTIVE JUROR NUMBER 367: Yeah.

12 THE COURT: -- you care for your son during the day?

13 PROSPECTIVE JUROR NUMBER 367: Yeah, I take care in
14 the morning, and he works during the daytime. I work at the nighttime.

15 THE COURT: Okay. And so, you usually -- you would take
16 care of your son during the day?

17 PROSPECTIVE JUROR NUMBER 367: During the daytime
18 because it's summer break, so.

19 THE COURT: How old is your son?

20 PROSPECTIVE JUROR NUMBER 367: He's five.

21 THE COURT: Yeah. Okay. And so, your boyfriend has him
22 now today?

23 PROSPECTIVE JUROR NUMBER 367: Yeah. Mm-hmm.

24 THE COURT: But the rest of the week --

25 PROSPECTIVE JUROR NUMBER 367: He might ask his

1 boss if he can bring him. Because we usually bring him in a daycare,
2 but it's always sick. That's why I ended up like staying at the nighttime,
3 so I can take care of him during the day.

4 THE COURT: So, you don't use a daycare for him anymore?

5 PROSPECTIVE JUROR NUMBER 367: Right now, no.

6 THE COURT: Okay. And is there any other close friend or
7 family member who could take care of your son for the next week?

8 PROSPECTIVE JUROR NUMBER 367: No because my mom
9 works in a group home, and I don't want to bring him there because
10 there's a lot of like sick, you know, because he's always sick most of the
11 time. So, I'm trying not to expose him.

12 THE COURT: Okay. What's your work schedule again?

13 PROSPECTIVE JUROR NUMBER 367: From 7:00 in the
14 nighttime to 7:30 in the morning.

15 THE COURT: How many days a week do you work?

16 PROSPECTIVE JUROR NUMBER 367: I work Monday,
17 Tuesday, and then Friday. Next week, I'm working Monday, Tuesday,
18 Wednesday.

19 THE COURT: Okay. And what does your boyfriend do for
20 work where he's trying to bring your son?

21 PROSPECTIVE JUROR NUMBER 367: Hospice. If
22 somebody died, he might bring my son to pronounce, so I don't want
23 him to come with him, but unfortunately, no one's going to take care of
24 my son at this time.

25 THE COURT: Yeah. Okay, ma'am. Thank you.

1 PROSPECTIVE JUROR NUMBER 546: Hi, my name is
2 Jocelyn Chanquin, 546.

3 THE COURT: Hold on. Sorry, let me get --

4 PROSPECTIVE JUROR NUMBER 546: You're fine.

5 THE COURT: -- your number. 546, yes, go ahead.

6 PROSPECTIVE JUROR NUMBER 546: My only problem is I
7 had found out from my mother this morning that she had a call from
8 family members in California that my grandpa had fallen really bad. And
9 he had to be taken to the hospital. And we have to go visit him because
10 he or may not make it. And we may be leaving like on Wednesday of
11 this week.

12 THE COURT: All right. So, and this just happened, and now
13 you're looking at needing to leave town on Wednesday?

14 PROSPECTIVE JUROR NUMBER 546: Yes.

15 THE COURT: Okay. He's in California, you said?

16 PROSPECTIVE JUROR NUMBER 546: Yes, he's with other
17 family in California.

18 THE COURT: Okay, thank you.

19 PROSPECTIVE JUROR NUMBER 546: Thank you.

20 THE COURT: Okay. I have a couple more questions and
21 then I'm going to talk to the attorneys about the information we've
22 gathered.

23 First, I need to explain a little bit about the role of a Judge and
24 a jury in case like this. So, as the Judge, I'm the Judge of the questions
25 of law, right? It's my job to know what the law is that applies to this case

1 and to tell the jury the law that applies, and I give the jury instructions
2 that explains what the law is.

3 The jurors are the judges of the questions of fact. The jurors
4 decide what really happened and render a verdict based on what I tell
5 you the law is and the facts that you find from the evidence. But it's
6 important, the jurors have to follow my instructions on the law, even if
7 you think I don't know what I'm talking about, even if you think that
8 shouldn't be the law, you're still required to follow the law that I give you
9 in instructions.

10 So, with that in mind, do any of you think you might not be
11 able to follow all of my instructions on the law, even if it was different
12 from what you thought the law ought to be? Anyone have a problem
13 with that?

14 No hands, thank you, I appreciate that.

15 Now, under our system of justice, there are certain principles
16 of law that apply in every criminal trial. They are that the charging
17 document filed in this case is a mere accusation and is not evidence of
18 guilt. That the Defendant Mr. Green is presumed innocent, and the
19 State must prove that he is guilty beyond a reasonable doubt.

20 Do any of you not understand or believe in these basic
21 principles of American justice?

22 No hands, thank you.

23 Do any of you know anything about this case other than
24 what's been stated in the courtroom so far today? Anyone have any
25 outside information?

1 PROSPECTIVE JUROR NUMBER 330: Was it in the paper?

2 THE COURT: I don't think it was.

3 PROSPECTIVE JUROR NUMBER 330: I remember reading
4 it, I think, but --

5 THE COURT: So, let me get your name and badge --

6 PROSPECTIVE JUROR NUMBER 330: Oh, okay.

7 THE COURT: -- hold on, let me get you a mic, just for a sec'.
8 So, name and badge?

9 PROSPECTIVE JUROR NUMBER 330: Dianne Rutkoske,
10 330. I believe I remember reading about it if it was in last May or June.
11 But --

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NUMBER 330: -- it just sounded
14 familiar, that's all.

15 THE COURT: Oh, I understand, and I appreciate you letting
16 me know that. Would whatever you may have heard at that time affect
17 your ability to be fair and impartial as a juror in this case?

18 PROSPECTIVE JUROR NUMBER 330: I suppose whatever
19 came out is the evidence. I don't know.

20 THE COURT: Well, so --

21 PROSPECTIVE JUROR NUMBER 330: I read about it in the
22 paper, and just -- maybe just the gist of it, what happened with the
23 Defendant, but --

24 THE COURT: Okay. So, but my question is, if you read
25 something about this in the paper last year, would that affect your ability

1 to be fair and impartial as a juror? In other words, are you going to try to
2 base your verdict on what you read in the paper or --

3 PROSPECTIVE JUROR NUMBER 330: Oh, probably not.

4 THE COURT: -- could you only rule based on what you see
5 here in court?

6 PROSPECTIVE JUROR NUMBER 330: Probably court.

7 THE COURT: Okay. All right, thank you.

8 Okay. All right, anybody else?

9 Okay. Counsel, why don't you come on up?

10 THE MARSHAL: Hold on, one second, Judge.

11 THE COURT: Oh, sorry, I didn't see there was another hand.

12 PROSPECTIVE JUROR NUMBER 353: 353. I think I seen it
13 on the news. But I don't -- I didn't see a lot because I work graveyard.

14 THE COURT: Okay. Can you put aside whatever you may
15 have seen on the news to base a decision just on the evidence
16 presented here in the courtroom?

17 PROSPECTIVE JUROR NUMBER 353: Yes, I can.

18 THE COURT: Thank you very much.

19 Sorry, was there anyone else?

20 Sorry, I missed that. You know what, why don't we do this,
21 folks? Why don't we go ahead -- I need to tell you some information,
22 and then we'll take a short break and let everyone stretch their legs
23 while -- and I'll talk to the attorneys about all the information that's come
24 up.

25 But before I let you take this break because it's our first break,

1 I need to give you some information and instruction. So, while you are
2 potential jurors in this case, and ultimately those of you who sit as the
3 jurors in the case, you are not allowed to talk to anyone about the case
4 or do any independent research about the case. So, that means you
5 can't go out in the hall and start talking to each other about the case or
6 any of the questions and answers given, even as part of jury selection.
7 You can't discuss that with each other or with anyone else.

8 Don't get on the phone with your spouse or your boss and
9 start saying, I can't believe that answer this -- or can't believe what that
10 Judge said, or -- can't believe what that attorney might have said. You
11 can't have any conversations about the case or anyone relating to the
12 case outside the courtroom.

13 Now, if you need to tell your spouse, caregiver, boss, or
14 whatever a general status, you can let someone know that you're here
15 for jury service, that you're a potential juror in a criminal case. And if
16 you get picked it could go until next Tuesday. Don't get into anything
17 else about what the case is about, anyone involved in it, or any of the
18 communications that have gone on in the courtroom. It's very important
19 that you comply with that.

20 Also, you're not allowed to pay attention -- I don't expect any
21 news coverage, but if there were to be any, you can't read or watch any
22 type of media coverage or any reports about the case or anything having
23 to do with the case. And you also, ultimately, even the folks who sit as
24 jurors aren't allowed to form their opinion about the case until the very
25 end of the case after all the evidence has come in and when they go

1 back to make a decision in the jury room. So, certainly, you shouldn't be
2 forming any opinion about the case at this stage and shouldn't be
3 discussing it with anyone else. That's very, very important.

4 So, you know, these days, every time we hear about
5 something new or interesting, we jump on our phones and start
6 Googling people or issues or words that we just heard for the first time,
7 and you know, I know you do it, I do it, many of us do it these days. But
8 as a juror, you can't do it. No independent research. Everyone has to
9 base their decision on the information that everyone hears together here
10 in the courtroom.

11 So, no independent research or anything like that. It's very
12 important, otherwise, if it turns out we get, you know, four days into this
13 trial and it turns out someone's been doing that, we all have to have a
14 mistrial and you've wasted all of our time. So, please, please don't do
15 that, all right?

16 So, we're going to take about a 15-minute break right now.
17 So, I'm going to read the formal -- what's called the admonishment,
18 which is the formal instructions which kind of summarizes what I just told
19 you about what you can or can't do. And I'm going to be required to
20 read this at each and every recess we take throughout the trial. So,
21 those of you who sit as the jurors will probably be able to read it back to
22 me by the end of the case, but I'm required by law to read it to you at
23 every break because it's that important.

24 So, during this recess, you are admonished not to talk or
25 converse among yourselves or with anyone else on any subject

1 connected with this trial; or to read, watch, or listen to any report of or
2 commentary on the trial or any person connected with this trial by any
3 medium of information including without limitation newspapers,
4 television, the internet, or radio or to form or express any opinion on any
5 subject connected with this trial until the case is finally submitted to you.

6 Jurors are excused. Counsel, stay a minute.

7 THE MARSHAL: All rise. Court is now in recess.

8 THE COURT: It's about a 15 minute break.

9 UNIDENTIFIED PROSPECTIVE JUROR: If we have more
10 questions, do we just wait or?

11 THE COURT: Yeah, we're going to be asking some more
12 questions.

13 [Outside the presence of the prospective jurors]

14 THE COURT: We're still on the record.

15 THE MARSHAL: Please be seated.

16 THE COURT: All right, so before we talk about all those
17 things, why don't we just take a quick bathroom break, come back in,
18 and then we'll just go over everything that's come up? I'll make
19 decisions, and then we'll bring them back in, okay?

20 MS. MCNEILL: Thank you.

21 THE MARSHAL: All rise.

22 [Recess began at 3:17 p.m.]

23 [Recess concluded at 3:27 p.m.]

24 [Outside the presence of the prospective jurors]

25 THE MARSHAL: All rise, District Court Department VI is back

1 in session.

2 Please be seated.

3 THE COURT: So, since we were getting to about time for a
4 break, I figured this way we could just talk about it in open court instead
5 of at the bench.

6 MS. MCNEILL: Much easier.

7 THE COURT: Yeah.

8 MS. MCNEILL: Yes.

9 THE COURT: So, I'm just going to start at the top of the juror
10 list and go through anyone that I have notes about or that said
11 something during the questioning, so we can talk about whether they
12 need to be excused or not.

13 So, the first one I have is badge 1285, Ms. Newman. People
14 were falling at the senior living place.

15 MS. MCNEILL: It's terrible, right.

16 THE COURT: I shouldn't be laughing, that's actually sad.

17 MS. MCNEILL: Yeah.

18 THE COURT: But so, I don't know. I mean, I guess it's a
19 unique situation in that her boss is already gone and now she's gone, so
20 it seems like it is a particularly bad week for her to be gone. I don't
21 know. We have a lot of folks who are going to need to be excused. I
22 don't know.

23 I guess I'm more sympathetic than I would otherwise be on the
24 -- they need me at work idea because of the director being gone. So --

25 MS. LUZAICH: We agree.

1 MS. MCNEILL: Yeah, I agree, Your Honor. That was my
2 concern, with no one else there, it sounds kind of stressful.

3 THE COURT: All right, so I will excuse her. Let me make a
4 note here. Okay.

5 Next one I have is 298, Mr. Jaron. So, he's primary income.
6 He's got his -- so, he's missing his current job and he's starting a new
7 job next week as a second job, and he said he would not be able to pay
8 his rent if he was here.

9 MS. LUZAICH: No objection.

10 THE COURT: So -- yeah. Okay. So, usually, just personally,
11 when people talk about financial hardship, to me, it becomes a hardship
12 when they can't pay those basic bills, so I'm inclined to excuse him. Is
13 there any objection?

14 MS. LUZAICH: Not on behalf of the State.

15 MS. MCNEILL: No, Your Honor.

16 THE COURT: All right. 300, Mr. Miller. Oh, he's leaving on
17 July 4th, so we should be okay with him.

18 MS. LUZAICH: Yes.

19 THE COURT: We're holding him for now. Okay. All right,
20 316, Ms. Bolton-Smith. Oh, so she's -- watches her granddaughters,
21 seven, five, and two. I think -- so, she's got one covering today, and
22 there's one who can cover Wednesday, but the other days, it sounds like
23 there's no other coverage for the children. So, I think I'm inclined to
24 excuse her. Any objection?

25 MS. LUZAICH: No objection.

1 MS. MCNEILL: No objection.

2 THE COURT: All right. 318, Ms. Irlas. She had neck surgery,
3 and she's got doctor appointment and two therapy appointments. I don't
4 know. I mean, I was hoping maybe we could get her in after those
5 appointments, but it's tough with 9:30 appointments to get much of a day
6 in. So --

7 MS. LUZAICH: Agree.

8 THE COURT: -- suppose I'm ready to excuse her.

9 MS. LUZAICH: No objection.

10 MS. MCNEILL: No objection.

11 THE COURT: Thank you. 329, Mr. Long. He's -- he blocked
12 out this week, he will be missing a job next week if he's here, it'll cost
13 him money, but he was pretty honest that it wouldn't really be a
14 hardship. So, I think I'm holding him for now. Okay.

15 330, Rutkoske.

16 MS. LUZAICH: It wasn't in the paper.

17 THE COURT: Oh, okay.

18 MS. MCNEILL: Yeah, it wasn't, and we can all deal with that.
19 Yeah.

20 THE COURT: That's -- you know, unfortunately there's
21 multiple domestic violence issues that show up in the paper, so --

22 MS. LUZAICH: Sadly, true.

23 THE COURT: Right, so there was nothing about this case.
24 Okay.

25 MS. LUZAICH: Not that we're aware of.

1 THE COURT: So, you can follow up in individual questioning
2 if you need to, but I'm holding her for now. All right.

3 Oh, I intended to follow up, this Tranquilino Madrid, 348, the
4 issue with Sergeant Smith. So, his ex-wife works for Metro --

5 MS. MCNEILL: It was weird.

6 THE COURT: -- and told him something about the sergeant --
7 it sounds like maybe it's a personal issue or something.

8 MS. LUZAICH: Yeah, and I have no idea what he's talking
9 about. I mean, Sergeant Smith is like one of the squeaky -- squeakiest,
10 clean guys I know.

11 THE COURT: I mean, I don't -- we could -- I could bring him
12 in when we're done going through this alone to try to figure out --
13 because I didn't want to step in it by asking --

14 MS. MCNEILL: Yeah.

15 THE COURT: -- what that was about.

16 MS. LUZAICH: Right.

17 THE COURT: Is Sergeant Smith one that you actually think is
18 going to be called?

19 MS. LUZAICH: You know, I don't think so.

20 THE COURT: Okay. All right, well we'll -- I'll bring him in
21 when we -- when we're done going through this and try to explore what
22 he's talking about.

23 MS. LUZAICH: And we need to go back for one second.

24 THE COURT: Okay.

25 MS. LUZAICH: The -- it was actually in the paper --

1 MS. MCNEILL: Was it?
2 MS. LUZAICH: -- with a picture of the Defendant. Yeah.
3 THE COURT: Oh.
4 MS. MCNEILL: Oh, okay. I didn't know.
5 MR. ROSE: It was -- at least on the RJ website, Your Honor.
6 MS. MCNEILL: Okay.
7 MR. ROSE: I just did a quick Google search. The
8 Defendant's name in 2017 brought that up. I admit --
9 THE COURT: Interesting.
10 MR. ROSE: -- I had not known that prior. I didn't think it was
11 in the paper.
12 THE COURT: Okay, so I may need to -- because she was not
13 very clear, as I recall, about whether it would or wouldn't --
14 MS. MCNEILL: Yeah.
15 THE COURT: All right. I'll need to bring her in separately and
16 try to explore what she remembers seeing. Okay. All right.
17 All right, so the next one I have notes on is 353, Ms. Kirk, who
18 -- she also said she thinks she saw it on the news, but she said she
19 could put it aside. Do you want me to -- I probably should bring her in
20 and explore it anyway.
21 MS. LUZAICH: Just in case.
22 THE COURT: Yeah, okay.
23 MS. MCNEILL: Yeah, I agree, just in case.
24 THE COURT: So, we know what she remembers. Okay. All
25 right.

1 The next one I have is 367, Avetria. Oh, so she's also got her
2 five-year-old that she needs to take care of, who I'd rather not have at
3 hospice, frankly.

4 MS. LUZAICH: Yeah, oh my --

5 MS. MCNEILL: Yeah, that's --

6 MS. LUZAICH: -- when she said that --

7 MS. MCNEILL: -- yeah, that was a little concerning.

8 THE COURT: Okay, so I'm inclined to excuse her.

9 MS. LUZAICH: Yes, no objection.

10 MS. MCNEILL: No objection.

11 THE COURT: Okay, thank you.

12 [Colloquy between the Court and the Court Clerk]

13 THE COURT: I was looking at the wrong number, thank you.
14 Okay. Let me get there. Yes, 367, okay. Thank you.

15 Okay, 369, Ms. Rouse met Detective Palmira one time. She
16 couldn't really commit, I think, to whether that would affect her or not.

17 MS. LUZAICH: That was so bizarre.

18 MS. MCNEILL: It was. I thought maybe it was like a date or
19 something, but then it --

20 MS. LUZAICH: Yeah. She's wearing --

21 MS. MCNEILL: -- didn't seem --

22 MS. LUZAICH: -- wedding rings.

23 MS. MCNEILL: Yeah, it was weird.

24 MS. LUZAICH: Not that that makes a difference. But --

25 MS. MCNEILL: I don't know.

1 MS. LUZAICH: Maybe that's why she didn't want to commit.

2 MS. MCNEILL: Right. Yeah.

3 MS. LUZAICH: But he's not going to testify, so.

4 THE COURT: He's not going to testify?

5 MS. LUZAICH: No.

6 THE COURT: Okay. So, do I need to talk to her alone? I

7 mean, as opposed to -- like out of the presence of the other jurors?

8 Well, maybe I should, just to have a clear record. Okay.

9 MS. LUZAICH: That's fine.

10 THE COURT: 374, Maria Fernandez, oh she's got a language
11 issue and a disability issue, so I'm inclined to excuse her.

12 MS. LUZAICH: No objection.

13 MS. MCNEILL: No objection.

14 THE COURT: 379, Ms. Laster, she's -- so, she's starting a
15 new job next Tuesday, but she should be able to work around that if we
16 still have her here next Tuesday.

17 MS. LUZAICH: Yes.

18 THE COURT: I think I'm okay with her. I'm holding her.

19 So, 393, Ms. Monroe. Oh, okay. Her grandson's having ear
20 surgery tomorrow. At first, I thought oh, you know, the mom or dad will
21 take the kid --

22 MS. LUZAICH: Yeah.

23 THE COURT: -- and she'll just be there for support. But she's
24 actually the one who's taking the kid to the surgery. So, --

25 MS. LUZAICH: Right. No objection.

1 MS. MCNEILL: No objection.

2 THE COURT: -- I think I need to let her go. Yeah, okay.

3 MS. MCNEILL: She also sounded like she had some

4 transportation issues getting here, so --

5 THE COURT: Right. Okay. All right. 403, Ms. Tuzon, we

6 know a lot about.

7 MS. MCNEILL: A lot. Yeah, that was --

8 THE COURT: But I will say I don't want to keep her from that

9 OB/GYN appointment if she's got pre-cancerous cells.

10 MS. LUZAICH: Agree.

11 THE COURT: So, I'm inclined to excuse her.

12 MS. LUZAICH: No objection.

13 THE COURT: Okay.

14 MS. MCNEILL: No objection, Your Honor.

15 THE COURT: All right. Okay, 422, Ms. Melton, right, she said

16 she would not be able to pay her bills if she was off those days.

17 MS. LUZAICH: I was more concerned about the mental

18 health patients who aren't going to get their counseling.

19 THE COURT: Yeah, 16 to 20 patients. Right because I guess

20 she's a solo, so she can't --

21 MS. MCNEILL: Yeah.

22 MS. LUZAICH: Mm-hmm.

23 THE COURT: -- have someone else see them. All right, I'll

24 excuse her, 422. Okay.

25 442, Ms. Cote, right. She's starting a new job Monday at

1 UNLV but acknowledged it would be inconvenient but not a hardship.
2 So, I'm holding her for now.

3 454, Mr. Ramos. So, he -- looks like he's with Jabbawockeez,
4 based on the information I have about him.

5 MS. MCNEILL: Oh, okay.

6 MS. LUZAICH: Oh, is that what it is?

7 MS. MCNEILL: I wondered.

8 MS. LUZAICH: Oh, I couldn't figure out --

9 MS. MCNEILL: I couldn't understand what he was trying to
10 convey.

11 MS. LUZAICH: -- is it on the thing? Oh, okay.

12 THE COURT: Right.

13 MS. MCNEILL: It was just not clear.

14 THE COURT: Well, yeah, I had that much just based on the
15 information I have about him being a performer. But I --

16 MS. MCNEILL: Yeah.

17 THE COURT: -- still was having trouble following.

18 MR. ROSE: I wasn't sure what he does.

19 MS. MCNEILL: Yeah.

20 MR. ROSE: Said he swings for some people on --

21 THE COURT: Right. So, I don't know if he meant like he fills
22 in if -- like is he like a back-up person or I don't know. But it sounded
23 like the show will go on without him if he's here. It -- so, I don't know. I
24 didn't really get any real hardship out of that whole conversation. I don't
25 know, unless you think differently, I'm holding him for now.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

[Colloquy between counsel]

THE COURT: All right. All right, I'm holding him.

MS. LUZAICH: Okay.

THE COURT: 460, Mr. Arguello, leaving for -- well, a vacation for four days, but he's -- you know, he's taking his mom's tombstone to the cemetery is what he said.

MR. ROSE: It was a nice touch.

MS. LUZAICH: Yeah.

THE COURT: Yes.

MS. MCNEILL: Yeah, that was a nice little addendum.

THE COURT: But in any event, if he's got travel plans out of town, I'm inclined to excuse him. Any objection?

MS. LUZAICH: No.

MS. MCNEILL: No objection, Your Honor.

THE COURT: All right. 464, Ms. Fox. Oh, her husband's in the hospital and will be coming home in the next couple days, and she should --

MS. LUZAICH: He probably wants to see her happy face at home.

THE COURT: I'm thinking. So, I'm going to excuse her, 464.

MS. MCNEILL: No objection.

THE COURT: Okay, thank you. All right, 477 doesn't -- has difficulty with English, mostly a Spanish speaker. Any objection?

MS. LUZAICH: No.

MS. MCNEILL: No objection.

1 THE COURT: I'm sorry that -- yeah, 477, okay. Okay. And
2 479 is another language problem. She speaks Chinese primarily. Any
3 objection to excusing her?

4 MS. LUZAICH: No.

5 MS. MCNEILL: No objection.

6 MS. LUZAICH: Though I think it's a him.

7 MR. ROSE: Yeah.

8 THE COURT: All right. 488, Adam Schwartz, the restaurant
9 will be short of a chef.

10 MS. LUZAICH: Yeah, it was --

11 MR. ROSE: Second chef.

12 THE COURT: Second chef, right, right. Because there's
13 already a chef --

14 MS. MCNEILL: Chef out, yeah.

15 THE COURT: -- out, and I don't know. I guess I was more
16 concerned about them being short-handed at senior living than I am at
17 the restaurant.

18 MS. MCNEILL: Yeah, right.

19 MS. LUZAICH: Right.

20 MS. MCNEILL: Yeah.

21 THE COURT: I think -- I'm inclined to hold onto him for right
22 now, I think. All right, let's see. 513, Talamayan, oh she's had -- sounds
23 like domestic violence in the home.

24 MS. LUZAICH: Yes.

25 THE COURT: She was pretty emotional talking about it.

1 MS. MCNEILL: Yes.

2 THE COURT: I'm inclined to let her go. Any --

3 MS. LUZAICH: No objection.

4 MS. MCNEILL: No objection.

5 THE COURT: Okay. 526, moving to Texas next week. I think
6 that's a pretty good excuse.

7 MS. MCNEILL: I think so.

8 MS. LUZAICH: I agree.

9 THE COURT: Okay, letting him go. 531, this is another
10 language barrier person. Any objection?

11 MS. LUZAICH: No.

12 MS. MCNEILL: No objection.

13 THE COURT: Excusing. Okay, 545, Mr. Miller. I'm worried
14 he's actually going to still try to work.

15 MS. MCNEILL: That's what they do. I've had on juries --
16 people who work graves --

17 MS. LUZAICH: Yep.

18 MS. MCNEILL: -- they come in and then they sleep, but they
19 don't want to not work. And I think MGM -- I mean, I think the casinos
20 usually pay for jury service.

21 THE COURT: I don't know. So, he was -- I guess, I'm -- I'm
22 not convinced there's a hardship right now. But if he sticks around, we'll
23 have to make sure he gets some sleep.

24 MS. LUZAICH: That would be helpful.

25 THE COURT: I'm holding him for now. Then, I have 546, who

1 -- Ms. Chanquin has said her -- I guess they just found out her
2 grandfather fell. They're trying to go visit him Wednesday. I'm inclined
3 to let her go do that.

4 MS. LUZAICH: No objection.

5 MS. MCNEILL: No objection.

6 THE COURT: So, when they come in, I'm going to excuse
7 those folks I just identified, we'll fill any open spots and then start
8 individual questioning. I'll make sure there's extra jurors available
9 tomorrow if needed. Okay.

10 MS. LUZAICH: Are you going to bring those couple in by
11 themselves first?

12 THE COURT: Oh, I'm so sorry. I'm glad you reminded me,
13 let's do that. So, let's back up. All right, so let me start then with 330,
14 Dianne Rutkoske. Thank you for reminding me.

15 [Colloquy between counsel]

16 [In the presence of prospective juror number 330]

17 THE MARSHAL: Just grab the mic, and just sit right in that --
18 anywhere you want in the front row over there, that'd be fine. Thank
19 you.

20 THE COURT: All right, so we've got juror number 330, Ms.
21 Rutkoske.

22 PROSPECTIVE JUROR NUMBER 330: Rutkoske, yes.

23 THE COURT: Okay. So, I just wanted to follow up. You
24 mentioned that you may have seen a story in the paper about this. So, I
25 guess tell me everything you remember that you saw.

1 PROSPECTIVE JUROR NUMBER 330: Just the vague story
2 about Defendant and a woman being assaulted and it involving an
3 autistic child. And that's about it.

4 THE COURT: Okay. And is -- like is -- okay. But it sticks in
5 your mind --

6 PROSPECTIVE JUROR NUMBER 330: Correct.

7 THE COURT: -- that you heard about it. Okay. And -- so,
8 you understand, of course, the importance of the jurors coming in kind of
9 with a clean slate on this case, and just base a decision on the evidence
10 presented here in the courtroom?

11 PROSPECTIVE JUROR NUMBER 330: Correct.

12 THE COURT: Okay. And do you think that you could put
13 aside whatever you may have read at that time and just base a decision
14 on what you see here in the courtroom?

15 PROSPECTIVE JUROR NUMBER 330: Sure. If the
16 Defendant gets up and defends himself, yeah.

17 THE COURT: Okay.

18 PROSPECTIVE JUROR NUMBER 330: Well, I know they
19 don't always go on the stand --

20 THE COURT: Right.

21 PROSPECTIVE JUROR NUMBER 330: -- as part of --

22 THE COURT: So, he has a right --

23 PROSPECTIVE JUROR NUMBER 330: He has a right not to
24 go up there, yes.

25 THE COURT: Right. And so, ultimately, it's the State that has

1 the burden to prove, and you have to --

2 PROSPECTIVE JUROR NUMBER 330: Correct.

3 THE COURT: -- you know -- I'll instruct obviously the jurors
4 on all that later, but I want to make sure that any decision you make isn't
5 based on anything you read in some newspaper a year ago, which may
6 or may not be --

7 PROSPECTIVE JUROR NUMBER 330: Okay.

8 THE COURT: -- true. You know?

9 PROSPECTIVE JUROR NUMBER 330: Right.

10 THE COURT: That's just the initial reporting, right?

11 PROSPECTIVE JUROR NUMBER 330: I don't think there
12 was ever a follow-up on the report itself. It just was a blurb where they --
13 you know, in the Nevada part of it, you know.

14 THE COURT: Uh-huh. Are you a regular newspaper reader?

15 PROSPECTIVE JUROR NUMBER 330: Yes.

16 THE COURT: Okay. There aren't too many of us left.

17 PROSPECTIVE JUROR NUMBER 330: I know. I know. I
18 just --

19 THE COURT: Okay.

20 PROSPECTIVE JUROR NUMBER 330: -- like it, you know?

21 THE COURT: Uh-huh.

22 PROSPECTIVE JUROR NUMBER 330: I don't like being on
23 the phone all the time --

24 THE COURT: Right.

25 PROSPECTIVE JUROR NUMBER 330: -- or the computer.

1 THE COURT: Uh-huh. Okay. All right. But -- okay. So, I
2 think I got my answer, but I just want to be sure. You think --

3 PROSPECTIVE JUROR NUMBER 330: Okay.

4 THE COURT: -- you can put aside whatever you may have
5 read before and base a decision just on the --

6 PROSPECTIVE JUROR NUMBER 330: Strictly on the
7 evidence --

8 THE COURT: -- evidence --

9 PROSPECTIVE JUROR NUMBER 330: -- correct.

10 THE COURT: Okay. And the law that I give you, of course.

11 PROSPECTIVE JUROR NUMBER 330: Mm-hmm.

12 THE COURT: All right. Thanks, ma'am. I appreciate that.

13 Anthony, number 348, Mr. Madrid.

14 [Prospective juror number 330 exits the courtroom]

15 THE COURT: I'm not inclined to excuse her right now based
16 on what I've heard. You may want to follow up on presumption of
17 innocence, but --

18 MS. MCNEILL: Yes, Your Honor. I made myself a note.

19 THE COURT: Yes.

20 [In the presence of prospective juror number 348]

21 THE MARSHAL: Just grab the mic and go anywhere you
22 want in that front row right over there, okay?

23 [Colloquy between the Marshal and prospective juror]

24 THE COURT: All right. Okay, Mr. Madrid, just wanted to
25 bring you back in to follow up on what you were mentioning earlier. So, I

1 don't want to embarrass you, and I don't necessarily want to --

2 PROSPECTIVE JUROR NUMBER 348: Sure.

3 THE COURT: -- get into all kinds of personal stuff in front of
4 the whole panel. So, tell me, you mentioned your ex-wife told you some
5 things about Sergeant Smith that were causing you some concern. So,
6 tell me what that's about.

7 PROSPECTIVE JUROR NUMBER 348: It was just more
8 personal. It had nothing to do with this, just that if I can say -- again, I'm
9 uncomfortable to say it, even to you guys just because it's personal. To
10 -- but she's a senior law enforcement support tech. And over the years,
11 she worked at a command station where he was a sergeant there.

12 And she was a little bit upset that he would be flirtatious with
13 the women and actually having an affair, something like that, type of
14 thing going on.

15 THE COURT: I see.

16 PROSPECTIVE JUROR NUMBER 348: And again, I don't
17 believe it really have any bearing on --

18 THE COURT: Right.

19 PROSPECTIVE JUROR NUMBER 348: -- my feelings related
20 to this case. But I felt I needed to at least say that I --

21 THE COURT: Okay. And I appreciate that. And that's why I
22 wanted to follow up, so we knew what we were talking about. So, I think
23 you just said this, but let me be sure. If you were to sit as a juror on this
24 case, would you have a tendency to either favor or disfavor something
25 Sergeant Smith said because of this prior information you have?

1 PROSPECTIVE JUROR NUMBER 348: Not at all.

2 THE COURT: You know, like will -- have you already
3 prejudged his credibility as a witness?

4 PROSPECTIVE JUROR NUMBER 348: No.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR NUMBER 348: Not as it relates to
7 the matter of this case.

8 THE COURT: Right, okay. And while I have you, the fact that
9 your ex-wife works for Metro, will that cause you to favor or disfavor
10 Metro representatives more generally?

11 PROSPECTIVE JUROR NUMBER 348: I wouldn't say it
12 would have any bearing.

13 THE COURT: Okay. So, in other words, you don't come in
14 with like, oh, I hate everyone at Metro, and you know --

15 PROSPECTIVE JUROR NUMBER 348: Not at all.

16 THE COURT: Okay. Or I love everyone at Metro, I don't
17 know.

18 PROSPECTIVE JUROR NUMBER 348: Not at all.

19 THE COURT: Okay. So, you think you could weigh the
20 testimony of each witness as it comes?

21 PROSPECTIVE JUROR NUMBER 348: Absolutely.

22 THE COURT: Okay. Okay, thank you, sir. You can step out,
23 give the mic back to Anthony.

24 [Prospective juror number 348 exits the courtroom]

25 THE COURT: So, Anthony, the next one I have is 353,

1 Delilah Kirk.

2 Right now, I'm comfortable keeping him unless I hear an
3 objection either.

4 MS. MCNEILL: No objection.

5 MS. LUZAICH: No.

6 THE COURT: Okay.

7 [In the presence of prospective juror number 353]

8 THE COURT: All right. All right, Ms. Kirk, you kind of said this
9 already, but you mentioned earlier that you think you might have seen
10 something on the news about this case, right?

11 PROSPECTIVE JUROR NUMBER 353: Yes.

12 THE COURT: Okay. Tell me what you remember that you
13 might have seen.

14 PROSPECTIVE JUROR NUMBER 353: I don't really
15 remember nothing. I work graveyard, okay?

16 THE COURT: Okay.

17 PROSPECTIVE JUROR NUMBER 353: And I just seen
18 something on TV, but I don't really remember what I seen. You know?
19 And when the lady asked has she seen something, but I don't really
20 remember what I seen. I just -- he looks familiar.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR NUMBER 353: And that's all I can
23 say. I don't really remember the -- what -- transpired, so if I -- I can
24 say -- exactly say I don't remember the circumstance and all that --

25 THE COURT: Mm-hmm.

1 PROSPECTIVE JUROR NUMBER 353: -- what transpired
2 with it. I just remember his face looks familiar. That's all I can say.

3 THE COURT: Okay. Do you -- because of whatever you saw
4 and remembering his face, are you coming in with like a prejudice
5 against him already?

6 PROSPECTIVE JUROR NUMBER 353: No, it's like blank.
7 His face looks familiar, and that's all I can say.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR NUMBER 353: So, it's like a blank
10 canvas.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR NUMBER 353: He looks familiar,
13 that's all I can say.

14 THE COURT: So --

15 PROSPECTIVE JUROR NUMBER 353: So, when she said
16 she seen it in the newspaper --

17 THE COURT: Mm-hmm.

18 PROSPECTIVE JUROR NUMBER 353: -- all I can say is his
19 face familiar, but I don't remember nothing. And by me working
20 graveyard, when I get up, I get up and I'm getting -- rushing to get
21 dressed.

22 THE COURT: Yeah.

23 PROSPECTIVE JUROR NUMBER 353: And basically, the TV
24 may be on, and this TV's on, so I look at the TV but I'm getting dressed
25 to go to work. So --

1 THE COURT: Right.

2 PROSPECTIVE JUROR NUMBER 353: -- all I can do is say I
3 may be walking through to get dressed, and I might just look at
4 something. And when I came in, he looks familiar. So, I didn't want to
5 be deceitful or lie.

6 THE COURT: Oh, I appreciate that.

7 PROSPECTIVE JUROR NUMBER 353: So, I wanted to be
8 honest.

9 THE COURT: And that's of course what I want. So, let me
10 just ask. Will you be able to put aside whatever you may have seen or
11 heard before and base a decision just based on the evidence presented
12 here in the courtroom?

13 PROSPECTIVE JUROR NUMBER 353: Yes, I can.

14 THE COURT: All right, thank you, ma'am. That's all I needed
15 to know.

16 [Prospective juror number 353 exits the courtroom]

17 THE COURT: And Anthony, I have 369, Elizabeth Rouse.

18 [Colloquy between the Court and the Court Clerk]

19 THE COURT: So, I think we're okay with her too.

20 MS. LUZAICH: Yes, agree.

21 THE COURT: Did you know she worked graveyards? Sorry.
22 All right.

23 [In the presence of prospective juror number 369]

24 [Colloquy between the Marshal and prospective juror number 369]

25 THE COURT: All right. Ms. Rouse, I just wanted to follow up

1 with you briefly about -- you said you had met Detective Palmira
2 sometime in the last six months, right?

3 PROSPECTIVE JUROR NUMBER 369: Yes.

4 THE COURT: So, can you -- now that we don't have
5 everyone else around, can you tell me a little bit more about the context
6 in which you met the detective?

7 PROSPECTIVE JUROR NUMBER 369: I believe I met him at
8 a retirement party for somebody who works with my husband.

9 THE COURT: Okay.

10 PROSPECTIVE JUROR NUMBER 369: He's a federal agent.

11 THE COURT: Right. Right. So, right. Okay. And so, did you
12 have like -- what was the nature of your interaction with him?

13 PROSPECTIVE JUROR NUMBER 369: Really, just socially
14 at this retirement party, meeting him.

15 THE COURT: So, like how long did you talk with him? Or did
16 -- like --

17 PROSPECTIVE JUROR NUMBER 369: Maybe --

18 THE COURT: -- was it just as part of a group or did you have
19 --

20 PROSPECTIVE JUROR NUMBER 369: -- ten minutes,
21 maybe.

22 THE COURT: Uh-huh, sorry.

23 PROSPECTIVE JUROR NUMBER 369: Yeah, about ten
24 minutes, I would say.

25 THE COURT: Okay. And -- but do you have a concern about

1 whether him being involved in the investigation of this case would affect
2 your ability to be fair and impartial?

3 PROSPECTIVE JUROR NUMBER 369: No, I couldn't say
4 that. No.

5 THE COURT: Okay. So, do -- you think you can be fair even
6 though you had that interaction with him?

7 PROSPECTIVE JUROR NUMBER 369: I'd like to think so. I
8 can't be absolutely sure. I'm sure that over the course of these 20 years
9 I've been with my husband, I think I have biases --

10 THE COURT: More generally --

11 PROSPECTIVE JUROR NUMBER 369: -- that are
12 unrelated --

13 THE COURT: -- about law enforcement --

14 PROSPECTIVE JUROR NUMBER 369: -- unrelated to
15 Detective Palmira.

16 THE COURT: Oh, got it, okay. Right, so just -- let's just talk
17 about that. So, what does your husband do?

18 PROSPECTIVE JUROR NUMBER 369: He works with the
19 FBI.

20 THE COURT: Right. And so, because he's in that position
21 and has been for some time, you know a lot of law enforcement officers?

22 PROSPECTIVE JUROR NUMBER 369: Indeed, I do.

23 THE COURT: Okay. And so, is that what you're -- your
24 concern is more about -- more generally about law enforcement?

25 PROSPECTIVE JUROR NUMBER 369: More generally of

1 law enforcement, but when the question was, have I met any of the
2 witnesses, that was my answer.

3 THE COURT: Of course. No, no. You were --

4 PROSPECTIVE JUROR NUMBER 369: Yes.

5 THE COURT: -- correctly answered --

6 PROSPECTIVE JUROR NUMBER 369: Okay.

7 THE COURT: -- if you met him -- I'm just -- so, I guess there
8 are two things. One is I want to make sure whatever interaction you had
9 with Palmira doesn't affect you here, and then to the extent you think
10 you may have some bias about law enforcement, more generally, I need
11 to explore that, as well.

12 PROSPECTIVE JUROR NUMBER 369: Indeed. So, not --

13 THE COURT: So --

14 PROSPECTIVE JUROR NUMBER 369: -- specifically about
15 Detective Palmira.

16 THE COURT: Okay. All right. Now, so given your, I guess,
17 history of having friends and folks who were involved in law enforcement
18 that your husband's involved in, and you've had those interactions over
19 the years, do you think you would have a tendency to give extra weight
20 or credibility to the testimony of law enforcement officers because
21 they're law enforcement officers?

22 PROSPECTIVE JUROR NUMBER 369: Yes, I do.

23 THE COURT: You do? Okay. And you think that even if you
24 were a juror here that you would have difficulty putting that aside?

25 PROSPECTIVE JUROR NUMBER 369: Yes, I think I'd have

1 difficulty putting it aside.

2 THE COURT: Let me just -- I don't necessarily have more
3 questions, but what -- why don't we just finish and if there's any follow
4 up on this issue, I'd just assume get it done.

5 MS. LUZAICH: Sure, sure.

6 THE COURT: So, why don't you go ahead.

7 MS. LUZAICH: May I? Thank you.

8 Good afternoon, Ms. Rouse.

9 PROSPECTIVE JUROR NUMBER 369: Hi.

10 MS. LUZAICH: Would you agree that police officers, whether
11 they are special agents with the FBI or patrol officers with Metro, they're
12 still human?

13 PROSPECTIVE JUROR NUMBER 369: Indeed. Yes.

14 MS. LUZAICH: And is it possible that humans make
15 mistakes?

16 PROSPECTIVE JUROR NUMBER 369: Of course.

17 MS. LUZAICH: So, is it possible that a police officer could
18 make a mistake?

19 PROSPECTIVE JUROR NUMBER 369: Of course.

20 MS. LUZAICH: So, when you are evaluating the testimony of
21 all of the witnesses to include police officers, is that something that you
22 would at least take into consideration?

23 PROSPECTIVE JUROR NUMBER 369: That they're making
24 mistakes?

25 MS. LUZAICH: That they could, not that they are, that they

1 could.

2 PROSPECTIVE JUROR NUMBER 369: That they could?

3 Well, yes.

4 MS. LUZAICH: So, for example, if the police officer -- and this
5 is going to have nothing to do with the case, but if the police officer
6 testifies that the light was red and an independent witness, not the
7 victim, not the Defendant, just an independent witness testified that the
8 light was green, are you going to automatically believe the police officer
9 just because he's a police officer?

10 PROSPECTIVE JUROR NUMBER 369: No, I wouldn't
11 believe the police officer just because he or she was a police officer.
12 Police officer saying one thing and an independent witness saying an
13 opposite thing would give me pause.

14 MS. LUZAICH: Okay, and you would look to other
15 circumstances to see if there is physical evidence to support either one
16 of them, right?

17 PROSPECTIVE JUROR NUMBER 369: Yes.

18 MS. LUZAICH: Okay, so how come you couldn't sit on a case
19 and listen to police officers and be objective?

20 PROSPECTIVE JUROR NUMBER 369: Oh, I hope that I
21 could be. I don't -- again, just because of my experience, because of my
22 history, I feel like I would side, at first, with the police, with the
23 prosecution. It's just what I've been doing for so many years. But of
24 course, I hope that I could be objective.

25 MS. LUZAICH: Okay, well would you try to be objective?

1 PROSPECTIVE JUROR NUMBER 369: Yes.

2 MS. LUZAICH: Will you listen to absolutely everything that
3 every witness says before you actually make up your mind?

4 PROSPECTIVE JUROR NUMBER 369: Yes.

5 MS. LUZAICH: Okay, thank you.

6 THE COURT: Go ahead.

7 MS. MCNEILL: Thank you, Your Honor.

8 I know you indicated that you would hope that you could be
9 fair. It sounds like you have some concerns that just because of the
10 nature of your husband's job that it might be difficult for you to -- you're
11 going to want to give them a little more leeway is what it sounds like?

12 PROSPECTIVE JUROR NUMBER 369: I would like to be
13 objective.

14 MS. MCNEILL: Okay. But you obviously have some
15 concerns, which is why you brought it up?

16 PROSPECTIVE JUROR NUMBER 369: Yes.

17 MS. MCNEILL: Okay. Is it more than just -- I know we talked
18 a little bit about, would you give more weight to a police officer's
19 testimony, is there something more to it than that? Is it also just
20 because of what your husband does, you feel a certain way about
21 criminal Defendants or having to sit on a jury that's criminal in nature?

22 PROSPECTIVE JUROR NUMBER 369: Again, I don't really
23 have specific things to tell you about that, but just over the course of my
24 adult life, that has been my bent.

25 MS. MCNEILL: Okay. And how long have you and your

1 husband been married?

2 PROSPECTIVE JUROR NUMBER 369: About 18 years.

3 MS. MCNEILL: Eighteen years, okay. And do you have any
4 other family in law enforcement?

5 PROSPECTIVE JUROR NUMBER 369: My parents and my
6 sister are both court officers -- are all court officers in New York City.

7 MS. MCNEILL: Okay, so it sounds like it's more than just your
8 husband, it's sort of your growing up, and now your married life, and --

9 PROSPECTIVE JUROR NUMBER 369: In fact, my family in
10 New York became part of the court system after my husband and I were
11 married.

12 MS. MCNEILL: Okay, all right. Does your husband talk to you
13 a lot about things that happen at work?

14 PROSPECTIVE JUROR NUMBER 369: No.

15 MS. MCNEILL: Okay. But his views about what he does are
16 probably very clear?

17 PROSPECTIVE JUROR NUMBER 369: Indeed.

18 MS. MCNEILL: Okay. And is it that kind of viewpoint that
19 you're saying when you say your bent?

20 PROSPECTIVE JUROR NUMBER 369: Yes, that's right.

21 MS. MCNEILL: And what is that viewpoint? And I know it's
22 difficult to talk about with strangers.

23 PROSPECTIVE JUROR NUMBER 369: It is. And it's not
24 right, that doesn't make it right.

25 MS. MCNEILL: Sure.

1 PROSPECTIVE JUROR NUMBER 369: And still, at the end
2 of the day, I think my impression is that I will be on the side of law
3 enforcement without knowing all the facts, and I understand that.
4 Obviously, I'm trying to learn all the facts, but that is just my first
5 impression.

6 MS. MCNEILL: Okay. And I appreciate your honesty. And I
7 know it's hard to want to say things because you feel like you're being
8 judged, but I promise you, we just --

9 PROSPECTIVE JUROR NUMBER 369: It's not right.

10 MS. MCNEILL: -- it's easier, if you just --

11 PROSPECTIVE JUROR NUMBER 369: But it's just the way it
12 is.

13 MS. MCNEILL: Yeah, absolutely. Last question is, if you
14 were charged with a crime and sitting here where Mr. Green is, would
15 you want someone with that bend that you called it, sitting on the --

16 PROSPECTIVE JUROR NUMBER 369: I would not.

17 MS. MCNEILL: Okay. Nothing further, Your Honor.

18 MS. LUZAICH: You know, can I ask one more question?

19 THE COURT: Go ahead.

20 MS. LUZAICH: Ms. Rouse, if we go through the whole trial,
21 present all of our witnesses, and you're sitting as a juror, if you felt that
22 we did not prove beyond a reasonable doubt that the Defendant
23 committed the crimes that he is charged with, would you be able to find
24 him not guilty?

25 PROSPECTIVE JUROR NUMBER 369: Yes.

1 MS. LUZAICH: Thank you.

2 MS. MCNEILL: Just one follow-up.

3 THE COURT: Yeah.

4 MS. MCNEILL: The State mentioned that the burden of proof

5 is beyond a reasonable doubt. Do you think because of your way of

6 thought that it would be maybe not quite as high for them to have to

7 prove the case?

8 PROSPECTIVE JUROR NUMBER 369: Do I feel like my --

9 MS. MCNEILL: Your burden's a little lower.

10 PROSPECTIVE JUROR NUMBER 369: My level is -- yes, I

11 do.

12 MS. MCNEILL: Okay, nothing further.

13 THE COURT: Okay thank you, ma'am. I appreciate your

14 time.

15 PROSPECTIVE JUROR NUMBER 369: Thank you.

16 THE COURT: You can just give the mic to Anthony.

17 MS. LUZAICH: Thank you, ma'am.

18 [Prospective juror number 369 exits the courtroom]

19 THE COURT: Okay. I think I need to excuse her.

20 [Colloquy between counsel]

21 MS. LUZAICH: I just said, somehow, I get the feeling she's

22 going.

23 THE COURT: Yeah.

24 MS. LUZAICH: Just a lucky guess.

25 THE COURT: I mean, she -- you know, she wants to do the

1 right thing, but I think she just recognizes the bias she comes in with,
2 which I appreciate.

3 MS. MCNEILL: I appreciate that.

4 THE COURT: Yeah. Right.

5 MS. MCNEILL: You know, most people don't, so --

6 THE COURT: Right.

7 MS. MCNEILL: -- you know.

8 THE COURT: Okay, so I'm going to excuse her. Okay. So,
9 now let's bring them in and I'll excuse those we've discussed and then
10 keep going.

11 THE MARSHAL: All rise.

12 [In the presence of the prospective jurors]

13 THE MARSHAL: Please be seated.

14 THE COURT: Okay, folks. I do appreciate your patience
15 while I went over some of the issues that have come up with the
16 attorneys. So, at this time, I'm going to read out a list of folks who I'm
17 excusing at this time, and then we'll continue on with the jury selection
18 process.

19 So, wait until I finish reading the list of names, and then
20 everyone I read will be excused and can go ahead and depart with the
21 thanks of the Court. So, badge 285, Ms. Newman, 298, Mr. Jaron, 316,
22 Ms. Bolton-Smith, 318, Ms. Irlas, 367, Ms. Avetria, 369, Ms. Rouse, 374,
23 Ms. Fernandez, 393, Ms. Monroe, 403, Ms. Tuzon, 422, Ms. Melton,
24 460, Mr. Arguello, 464, Ms. Fox, 477, Ms. Barrales, 479, Mr. Lim, 513, I
25 can't remember, Talamayan, Liezel, 526, Mr. Coburn, 531, Ms. Lerma,

1 546, Ms. Chanquin.

2 You folks that I've read off are excused. Thanks very much
3 for your time today.

4 Okay. All right, let's go ahead and fill the open spots.

5 THE COURT CLERK: Next in seat number 2, badge number
6 410, Jennifer Gotkin.

7 Seat number 5, badge number 423, Kelly Sundeaus.

8 Seat number 10, badge number 441, Edgar Fernandez-
9 Lesmez.

10 Seat number 11, badge number 442, Stephanie Cote.

11 Seat number 23, badge number 454, Victor Ramos.

12 Seat 25, badge number 455, Dane Arinas.

13 THE COURT: Hold on. We had seat 25.

14 THE COURT CLERK: 25 is Dane Arinas.

15 THE COURT: Oh.

16 THE COURT CLERK: 28, 458, Mark Robbins.

17 THE COURT: Oh, I see. Okay, that's where I got confused.

18 THE COURT CLERK: Oh, no problem at all.

19 THE COURT: So, and that's --

20 THE COURT CLERK: And on seat number 31, badge number
21 469, Kimberly Newton.

22 THE COURT: Wait, sorry. What seat is Mr. Robbins in now?

23 THE COURT CLERK: Mr. Robbins is currently in seat 28.

24 THE COURT: 28. Oh, okay. Sorry, that's my bad. So, 458,
25 Mark Robbins. Seat 31 is Newton.

1 THE COURT CLERK: Newton.

2 THE COURT: 469. Okay. Okay. All right. So, we got

3 Ms. Johnson now, correct?

4 PROSPECTIVE JUROR NUMBER 283: Correct.

5 THE COURT: Okay, good. And we got you the mic.

6 So, Ms. Johnson, is there any reason you could not be fair

7 and impartial in this case?

8 PROSPECTIVE JUROR NUMBER 283: Not that I can think

9 of, no.

10 THE COURT: Okay. Could you wait in forming your opinion

11 on the appropriate result until all the evidence has been heard?

12 PROSPECTIVE JUROR NUMBER 283: Yes.

13 THE COURT: Have you or anyone close to you worked in law

14 enforcement?

15 PROSPECTIVE JUROR NUMBER 283: No.

16 THE COURT: Have you or anyone close to you been charged

17 with a serious crime?

18 PROSPECTIVE JUROR NUMBER 283: No.

19 THE COURT: Have you or anyone close to you been the

20 victim of a serious crime?

21 PROSPECTIVE JUROR NUMBER 283: Not that I can think

22 of, no.

23 THE COURT: Have you or anyone close to you either been

24 the victim of or accused of domestic violence or sexual abuse?

25 PROSPECTIVE JUROR NUMBER 283: No.

1 THE COURT: Is there anything about the charges in this case
2 that would make it difficult for you to be fair and impartial?

3 PROSPECTIVE JUROR NUMBER 283: No.

4 THE COURT: Can you base your verdict solely on the
5 evidence brought out at trial and the law that applies as stated in my
6 instructions without fear of criticism or popular opinion?

7 PROSPECTIVE JUROR NUMBER 283: Yes.

8 THE COURT: Have you ever been a juror before?

9 PROSPECTIVE JUROR NUMBER 283: No.

10 THE COURT: If you were a party to this case, would you be
11 comfortable with jurors of a like frame of mind as yourself sitting in
12 judgment?

13 PROSPECTIVE JUROR NUMBER 283: Yes.

14 THE COURT: How long have you lived here in Clark County?

15 PROSPECTIVE JUROR NUMBER 283: Since 2009.

16 THE COURT: And where'd you live before that?

17 PROSPECTIVE JUROR NUMBER 283: I'm from Missouri.

18 THE COURT: And what's the highest level of education you
19 completed?

20 PROSPECTIVE JUROR NUMBER 283: High school.

21 THE COURT: And are you employed?

22 PROSPECTIVE JUROR NUMBER 283: Yes.

23 THE COURT: What do you do?

24 PROSPECTIVE JUROR NUMBER 283: Nursing assistant.

25 THE COURT: And are you married?

1 PROSPECTIVE JUROR NUMBER 283: No.
2 THE COURT: Do you have any children?
3 PROSPECTIVE JUROR NUMBER 283: No.
4 THE COURT: Okay. State, questions for Ms. Johnson?
5 MS. LUZAICH: Thank you.
6 Ms. Johnson, where are you a nursing assistant?
7 PROSPECTIVE JUROR NUMBER 283: I'm a nursing
8 assistant at Centennial Hills and MountainView Hospital.
9 MS. LUZAICH: What do you do on a daily basis?
10 PROSPECTIVE JUROR NUMBER 283: Daily basis, I work
11 night shift, so my daily basis be vital signs, basically assist with daily
12 activities like get ready for bed. If they put on a call light, anything they
13 need, I'm there.
14 MS. LUZAICH: So, you work on the floors?
15 PROSPECTIVE JUROR NUMBER 283: Yes.
16 MS. LUZAICH: Have you ever worked in the emergency room
17 or anything like that?
18 PROSPECTIVE JUROR NUMBER 283: Well, at
19 MountainView I get floated down there, but it's more like the back end of
20 the emergency room.
21 MS. LUZAICH: Okay, and at MountainView, as far as you
22 know, they do not do sexual assault exams; is that correct?
23 PROSPECTIVE JUROR NUMBER 283: As far as I know, I
24 don't know. I don't work that end.
25 MS. LUZAICH: So, you've never had to participate in --

1 PROSPECTIVE JUROR NUMBER 283: No.
2 MS. LUZAICH: -- anything like that?
3 PROSPECTIVE JUROR NUMBER 283: No.
4 MS. LUZAICH: Okay. Would you agree that a woman has an
5 absolute right to say no to a man's sexual advances?
6 PROSPECTIVE JUROR NUMBER 283: Yes.
7 MS. LUZAICH: Do you think a woman ever gives up that
8 right?
9 PROSPECTIVE JUROR NUMBER 283: No.
10 MS. LUZAICH: Can you foresee any circumstance where a
11 woman could give up that right?
12 PROSPECTIVE JUROR NUMBER 283: No.
13 MS. LUZAICH: Okay. Do you know anybody that has been
14 involved in any kind of domestic violence relationship, I mean, friend
15 from school, friend's parents, anything like that?
16 PROSPECTIVE JUROR NUMBER 283: No.
17 MS. LUZAICH: So, no experience with --
18 PROSPECTIVE JUROR NUMBER 283: No.
19 MS. LUZAICH: -- domestic violence? You heard the nature of
20 the charges here, sexual assault, among other things. Is there anything
21 that you are expecting to see in a trial like this?
22 PROSPECTIVE JUROR NUMBER 283: Not sure.
23 MS. LUZAICH: Okay. And you know what, if you don't know,
24 that's a great answer.
25 PROSPECTIVE JUROR NUMBER 283: Yeah.

1 MS. LUZAICH: Do you think that you have in your mind a
2 particular idea of how somebody who has been through an experience
3 like that should act or react?

4 PROSPECTIVE JUROR NUMBER 283: Yeah and no, kind of
5 thing.

6 MS. LUZAICH: Okay. I mean, do you have an idea in your
7 mind if, God forbid, that ever happened to you how you might act or
8 react?

9 PROSPECTIVE JUROR NUMBER 283: Yes.

10 MS. LUZAICH: And do you think that if somebody doesn't act
11 the same way you would have that you would have a hard time believing
12 them?

13 PROSPECTIVE JUROR NUMBER 283: Yes.

14 MS. LUZAICH: Why is that?

15 PROSPECTIVE JUROR NUMBER 283: It's kind of hard to
16 explain, I don't know.

17 MS. LUZAICH: Okay, it's not fun talking in front of people --

18 PROSPECTIVE JUROR NUMBER 283: I know.

19 MS. LUZAICH: -- is it?

20 PROSPECTIVE JUROR NUMBER 283: I know.

21 MS. LUZAICH: Do you think that it would be embarrassing for
22 a person to have to come into court and talk to a room full of strangers
23 about intimate details of a sexual assault?

24 PROSPECTIVE JUROR NUMBER 283: Yes, it can be. Yes.

25 MS. LUZAICH: And is that embarrassment something that

1 you would take into consideration when you are evaluating their
2 testimony?

3 PROSPECTIVE JUROR NUMBER 283: Yes, I will.

4 MS. LUZAICH: Would you agree that different people react
5 differently to the same set of circumstances?

6 PROSPECTIVE JUROR NUMBER 283: Yes, I believe that.

7 MS. LUZAICH: You ever see -- this is probably a bad
8 example, but have you ever seen somebody laugh at a funeral?

9 PROSPECTIVE JUROR NUMBER 283: Yes.

10 MS. LUZAICH: Kind of inappropriate --

11 PROSPECTIVE JUROR NUMBER 283: Yeah.

12 MS. LUZAICH: -- but that's just --

13 PROSPECTIVE JUROR NUMBER 283: Right.

14 MS. LUZAICH: -- how they deal with it.

15 PROSPECTIVE JUROR NUMBER 283: Right.

16 MS. LUZAICH: So, when I ask you if you think that you would
17 have reacted a certain way if you went through those circumstances, if
18 somebody else acts differently --

19 PROSPECTIVE JUROR NUMBER 283: Mm-hmm.

20 MS. LUZAICH: -- do you think that you can still listen to what
21 they have to say objectively?

22 PROSPECTIVE JUROR NUMBER 283: Yes.

23 MS. LUZAICH: Okay. Do you think that -- do you watch CSI?

24 PROSPECTIVE JUROR NUMBER 283: No, not really.

25 MS. LUZAICH: No? Would it surprise you to know that CSI's

1 fake?

2 PROSPECTIVE JUROR NUMBER 283: Oh really?

3 MS. LUZAICH: It is, it is. So, when I asked you, again, are
4 you expecting to see anything -- are you expecting to see any of those
5 crazy things that they have on TV these days? These crazy tests and
6 stuff like that?

7 PROSPECTIVE JUROR NUMBER 283: No.

8 MS. LUZAICH: Can you listen to what witnesses have to say
9 and evaluate what all of them have to say objectively?

10 PROSPECTIVE JUROR NUMBER 283: Yes.

11 MS. LUZAICH: So, a police officer, can you listen to a police
12 officer the same as you would, you know, somebody who works at a
13 7-Eleven, for example?

14 PROSPECTIVE JUROR NUMBER 283: Yes.

15 MS. LUZAICH: Knowing what you know about yourself, is
16 there anything that you think you need to share with us?

17 PROSPECTIVE JUROR NUMBER 283: I don't know. No.

18 MS. LUZAICH: And you know, you're the one that's getting
19 picked on because you're first. The Judge had explained earlier that
20 she is the finder of the law. She's going to tell you what the law is, but
21 you, as a juror --

22 PROSPECTIVE JUROR NUMBER 283: Mm-hmm.

23 MS. LUZAICH: -- are going to be the finder of the facts. So,
24 after you listen to all of the witnesses and after you look at any evidence
25 that may be admitted, you're going to go back there with your fellow

1 jurors and talk about it. And you guys are going to decide what
2 happened here. Is that something that you feel that you could do?

3 PROSPECTIVE JUROR NUMBER 283: Yes.

4 MS. LUZAICH: How might you go about evaluating
5 witnesses? People that you don't know are going to come in here and
6 tell you things, and you have to decide who's telling the truth. How
7 might you go about that?

8 PROSPECTIVE JUROR NUMBER 283: I don't know.

9 MS. LUZAICH: I know it's hard. This isn't fun. I'm sorry.

10 PROSPECTIVE JUROR NUMBER 283: Yeah.

11 MS. LUZAICH: What about body language? Are you a
12 believer in body language?

13 PROSPECTIVE JUROR NUMBER 283: Not really.

14 MS. LUZAICH: No?

15 PROSPECTIVE JUROR NUMBER 283: Mm-hmm.

16 MS. LUZAICH: Will you listen to what all the witnesses say
17 and compare what they have to say to each other?

18 PROSPECTIVE JUROR NUMBER 283: Yes.

19 MS. LUZAICH: Can you think of anything else?

20 PROSPECTIVE JUROR NUMBER 283: No.

21 MS. LUZAICH: If you sit as a juror in this case, you go back in
22 the deliberation room, and all of the other jurors feel one way, and you
23 feel the other way, it doesn't matter which is which, but they feel one
24 way and you feel the other way. How would you handle that situation?

25 PROSPECTIVE JUROR NUMBER 283: Just basically tell

1 them, like what I think and my personal opinion, maybe. I don't know.

2 MS. LUZAICH: Okay. Try and convince them --

3 PROSPECTIVE JUROR NUMBER 283: Yeah.

4 MS. LUZAICH: -- of your point of view?

5 PROSPECTIVE JUROR NUMBER 283: Yeah.

6 MS. LUZAICH: Will you listen to what they have to say?

7 PROSPECTIVE JUROR NUMBER 283: Yes.

8 MS. LUZAICH: If you are sure that you're right, will you stick
9 to your guns?

10 PROSPECTIVE JUROR NUMBER 283: Mm-hmm.

11 MS. LUZAICH: Is that a yes?

12 PROSPECTIVE JUROR NUMBER 283: Yes.

13 MS. LUZAICH: We have a nice court reporter who is
14 recording everything we say, and she can't get the head nods.

15 PROSPECTIVE JUROR NUMBER 283: Oh, yes.

16 MS. LUZAICH: So, you said you'll stick to your guns. Now, if
17 they're able to maybe point to something that you missed, or misheard,
18 is it possible that you could change your mind?

19 PROSPECTIVE JUROR NUMBER 283: Possible.

20 MS. LUZAICH: Okay, but you won't change your mind just
21 because you want to go home?

22 PROSPECTIVE JUROR NUMBER 283: No.

23 MS. LUZAICH: So, if it's Friday and it's five to 5:00, you won't
24 change your mind just because you want to go home for the weekend?

25 PROSPECTIVE JUROR NUMBER 283: No.

1 MS. LUZAICH: Okay. Knowing what you know about
2 yourself, is there anything that would prevent you from being able to sit
3 in judgment?

4 PROSPECTIVE JUROR NUMBER 283: No.

5 MS. LUZAICH: So, if you listen to the witnesses and the
6 evidence in this case, if you are convinced beyond a reasonable doubt
7 that the Defendant committed the crimes that he is charged with, would
8 you be able to say the word guilty?

9 PROSPECTIVE JUROR NUMBER 283: Yes.

10 MS. LUZAICH: Thank you, ma'am.

11 Pass for cause.

12 THE COURT: Thank you.

13 Counsel?

14 MS. MCNEILL: Thank you, Your Honor.

15 Ms. Johnson, you indicated that you work as a nursing
16 assistant.

17 PROSPECTIVE JUROR NUMBER 283: Correct.

18 MS. MCNEILL: Did you go to some type of vocational training
19 before you did that job?

20 PROSPECTIVE JUROR NUMBER 283: I got mines in my
21 senior year in high school. They offer that in Missouri.

22 MS. MCNEILL: Okay, so it was sort of a vocational program
23 within --

24 PROSPECTIVE JUROR NUMBER 283: Yeah.

25 MS. MCNEILL: -- your high school?

1 PROSPECTIVE JUROR NUMBER 283: Uh-huh.

2 MS. MCNEILL: Okay. And have you been doing that since
3 you graduated from high school?

4 PROSPECTIVE JUROR NUMBER 283: Yes.

5 MS. MCNEILL: Did you do that in Missouri, as well?

6 PROSPECTIVE JUROR NUMBER 283: Yes.

7 MS. MCNEILL: Okay. So, through that job, would you say
8 you have a lot of contact with different kinds of people?

9 PROSPECTIVE JUROR NUMBER 283: Yes.

10 MS. MCNEILL: All right. Do you spend a lot of time talking to
11 the people when they come into the hospital?

12 PROSPECTIVE JUROR NUMBER 283: Nine times out of ten,
13 yes.

14 MS. MCNEILL: Okay. I know that the State asked you some
15 questions about everybody reacts differently to different situations;
16 remember those questions?

17 PROSPECTIVE JUROR NUMBER 283: Mm-hmm.

18 MS. MCNEILL: And you had kind of said that you have this
19 notion in your head of how you would act in certain circumstances, and
20 you might expect someone to act that way. Do you agree, even though
21 people react differently to different situations, do you think that based on
22 what you know about people and what you know about yourself that you
23 can still use that to judge if someone is telling the truth?

24 PROSPECTIVE JUROR NUMBER 283: Yes.

25 MS. MCNEILL: Okay. Do you kind of have to do that at work

1 when people are telling you information about maybe what's going on
2 with them?

3 PROSPECTIVE JUROR NUMBER 283: Yes.

4 MS. MCNEILL: Okay. Do you think that you're a good judge
5 of character?

6 PROSPECTIVE JUROR NUMBER 283: I think so.

7 MS. MCNEILL: Okay.

8 PROSPECTIVE JUROR NUMBER 283: Hopefully.

9 MS. MCNEILL: Okay. And is that something that's important
10 in your line of work? It's kind of sizing up if people are giving you
11 accurate information?

12 PROSPECTIVE JUROR NUMBER 283: Yes.

13 MS. MCNEILL: Okay. What kind of situations do you have in
14 the hospital where people might not be giving you accurate information?

15 PROSPECTIVE JUROR NUMBER 283: Like offhand, I don't
16 know. I can't even think of anything.

17 MS. MCNEILL: Okay. I know, it's hard to be on the spot with
18 perfect strangers. Do you ever situations where it may seem like
19 somebody is coming in just because they need a refill for a prescription,
20 and you're trying to sort out what's really going on?

21 PROSPECTIVE JUROR NUMBER 283: Usually the nurses
22 usually do that. But usually they usually like tell me that if their patient is
23 coming in, oh, they're pain seekers, or you know, they're here just
24 because, you know, they ran out of pain medicine, and stuff like that.

25 MS. MCNEILL: Okay.

1 PROSPECTIVE JUROR NUMBER 283: So --

2 MS. MCNEILL: So, you then use your skills to sort of figure
3 out how someone is saying something and what they're saying and if it
4 adds up, right?

5 PROSPECTIVE JUROR NUMBER 283: Most of the time,
6 yeah.

7 MS. MCNEILL: Okay. You indicated that you don't watch
8 CSI, right?

9 PROSPECTIVE JUROR NUMBER 283: Mm-hmm.

10 MS. MCNEILL: You watch any type of legal drama shows?

11 PROSPECTIVE JUROR NUMBER 283: The only one that I
12 actually watch is First 48.

13 MS. MCNEILL: Okay. And that one's a little more reality
14 show than CSI --

15 PROSPECTIVE JUROR NUMBER 283: Mm-hmm.

16 MS. MCNEILL: -- right? Okay. Anything about your watching
17 that show that would affect your ability to be a juror?

18 PROSPECTIVE JUROR NUMBER 283: Not that I can think
19 of, no.

20 MS. MCNEILL: Okay. Along those same lines, the State
21 talked to you a little bit about the burden of proof and if they prove their
22 case beyond a reasonable doubt. Do you expect the defense to do
23 anything? I mean, you want me to do my job, right, because someone's
24 paying me to do it, but do you believe that Mr. Green has to prove
25 something to you?

1 PROSPECTIVE JUROR NUMBER 283: Until proven guilty,
2 yeah.

3 MS. MCNEILL: Okay. Well, and that's my question is whose
4 job do you think it is to prove that he's guilty?

5 PROSPECTIVE JUROR NUMBER 283: Actually, your job,
6 right?

7 MS. MCNEILL: Well, I represent him, so I obviously don't
8 want to prove him guilty, right? Isn't that why we're here?

9 PROSPECTIVE JUROR NUMBER 283: Well, I know that, but
10 the opposite --

11 MS. MCNEILL: Okay. Okay, do you think that I have to prove
12 that he's not guilty?

13 PROSPECTIVE JUROR NUMBER 283: Yes.

14 MS. MCNEILL: Okay. So, then what does innocent until
15 proven guilty mean?

16 PROSPECTIVE JUROR NUMBER 283: Basically, how can I
17 explain this? Innocent and proven guilty means basically he's still
18 innocent. He hasn't been proven, I mean, that he is guilty or not guilty,
19 basically.

20 MS. MCNEILL: Okay. And just so it's clear, what that means
21 is he's innocent until they prove it, and if they don't prove it, he's still
22 innocent, whether I do anything or not.

23 PROSPECTIVE JUROR NUMBER 283: Yes.

24 MS. MCNEILL: Do you have a problem with that?

25 PROSPECTIVE JUROR NUMBER 283: No, I don't.

1 MS. MCNEILL: Okay. Do you expect to see some type of
2 defense?

3 PROSPECTIVE JUROR NUMBER 283: No.

4 MS. MCNEILL: Put on witnesses or have him testify?

5 PROSPECTIVE JUROR NUMBER 283: No, I don't.

6 MS. MCNEILL: Okay. And if you didn't hear a word from me
7 the entire time and they didn't prove it to you, would you find him not
8 guilty?

9 PROSPECTIVE JUROR NUMBER 283: Yes.

10 MS. MCNEILL: Okay. Court's indulgence.

11 Sometimes I can't read my own handwriting. The State talked
12 a little bit about, you know, the CSI shows and how they're fake. Do you
13 still expect, though, that there are -- I mean, you work in the medical
14 field, that there is science that can tell us certain details, right?

15 PROSPECTIVE JUROR NUMBER 283: Like DNA and
16 everything?

17 MS. MCNEILL: Yeah.

18 PROSPECTIVE JUROR NUMBER 283: Yes.

19 MS. MCNEILL: Okay. And you would expect law
20 enforcement to be thorough, right?

21 PROSPECTIVE JUROR NUMBER 283: Yes.

22 MS. MCNEILL: Okay, you're just not expecting it to be as
23 fancy as on CSI --

24 PROSPECTIVE JUROR NUMBER 283: Right.

25 MS. MCNEILL: -- right? Okay.

1 I'll pass for cause, Your Honor.

2 THE COURT: Thank you.

3 All right, great, so now go ahead and pass the mic to, it's
4 Ms. Gotkin.

5 PROSPECTIVE JUROR NUMBER 410: Yes, that's correct.

6 THE COURT: All right. Okay. Turn to your page here. There
7 we go. Okay.

8 All right, ma'am, is there any reason you could not be fair and
9 impartial in this case?

10 PROSPECTIVE JUROR NUMBER 410: No, not at all.

11 THE COURT: Can you wait in forming your opinion on the
12 appropriate result until all the evidence has been heard?

13 PROSPECTIVE JUROR NUMBER 410: Yes.

14 THE COURT: Have you or anyone close to you worked in law
15 enforcement?

16 PROSPECTIVE JUROR NUMBER 410: No.

17 THE COURT: Have you or anyone close to you been charged
18 with a serious crime?

19 PROSPECTIVE JUROR NUMBER 410: No.

20 THE COURT: Have you or anyone close to you been the
21 victim of a serious crime?

22 PROSPECTIVE JUROR NUMBER 410: No.

23 THE COURT: Have you or anyone close to you been the
24 victim of or accused of domestic violence or a sexual abuse?

25 PROSPECTIVE JUROR NUMBER 410: No.

1 THE COURT: Is there anything about the charges in this case
2 that would make it difficult for you to be fair and impartial?

3 PROSPECTIVE JUROR NUMBER 410: No.

4 THE COURT: Can you base your verdict solely on the
5 evidence brought out at trial and the law that applies as stated in my
6 instructions without fear of criticism or popular opinion?

7 PROSPECTIVE JUROR NUMBER 410: Absolutely.

8 THE COURT: Have you ever been a juror before?

9 PROSPECTIVE JUROR NUMBER 410: No.

10 THE COURT: If you were a party to this case, would you be
11 comfortable with jurors of a like frame of mind as yourself sitting in
12 judgment?

13 PROSPECTIVE JUROR NUMBER 410: Yeah. Mm-hmm.

14 THE COURT: How long have you lived in Clark County?

15 PROSPECTIVE JUROR NUMBER 410: Eighteen years.

16 THE COURT: And what's the highest level of education you
17 completed?

18 PROSPECTIVE JUROR NUMBER 410: I worked towards a
19 doctorate, didn't finish.

20 THE COURT: Okay. So, you have a master's?

21 PROSPECTIVE JUROR NUMBER 410: I do. Yeah.

22 THE COURT: In what?

23 PROSPECTIVE JUROR NUMBER 410: Education.

24 THE COURT: And what was your undergraduate degree in?

25 PROSPECTIVE JUROR NUMBER 410: English literature and

1 business communication.

2 THE COURT: Okay. And are you employed?

3 PROSPECTIVE JUROR NUMBER 410: I am.

4 THE COURT: What do you do?

5 PROSPECTIVE JUROR NUMBER 410: I am -- my husband
6 and I own a business together. And before that I was in education,
7 teaching.

8 THE COURT: And what kind of business do you own?

9 PROSPECTIVE JUROR NUMBER 410: It's a medical
10 supplies company specializing in those with diabetes.

11 THE COURT: I see. Okay, how long were you a teacher?

12 PROSPECTIVE JUROR NUMBER 410: I was a teacher
13 about four years here.

14 THE COURT: Okay. All right, and so, you just referred to
15 your husband, so I'm going to assume you're married --

16 PROSPECTIVE JUROR NUMBER 410: I am.

17 THE COURT: -- and we now know what he does for a living.

18 PROSPECTIVE JUROR NUMBER 410: Yeah.

19 THE COURT: Okay. Do you have any children?

20 PROSPECTIVE JUROR NUMBER 410: I do, a seven-year-
21 old.

22 THE COURT: Is that a girl or a boy?

23 PROSPECTIVE JUROR NUMBER 410: Boy.

24 THE COURT: Seven-year-old boy. Okay. All right, State?

25 MS. LUZAICH: Thank you.

1 Good afternoon, Ms. Gotkin.

2 PROSPECTIVE JUROR NUMBER 410: Hello.

3 MS. LUZAICH: What did -- well, you said you taught for four

4 years.

5 PROSPECTIVE JUROR NUMBER 410: Yes.

6 MS. LUZAICH: What did you teach?

7 PROSPECTIVE JUROR NUMBER 410: I was a reading

8 coach for children with difficulties with reading. And then I wanted to

9 consult in that field, so I was in it probably for four years, and then I

10 consulted for outsourced companies.

11 MS. LUZAICH: What made you leave?

12 PROSPECTIVE JUROR NUMBER 410: It's a really hard job

13 and you see and hear a lot of stuff. And it's really -- it's not just about

14 the child, it's the entire -- everything that surrounds them. So, it's hard.

15 It's a hard job.

16 MS. LUZAICH: As a teacher, or someone --

17 PROSPECTIVE JUROR NUMBER 410: Yeah.

18 MS. LUZAICH: -- in the teaching field, you were a mandated

19 reporter.

20 PROSPECTIVE JUROR NUMBER 410: Yes, absolutely.

21 MS. LUZAICH: Did you ever have occasion to report?

22 PROSPECTIVE JUROR NUMBER 410: Yes, absolutely.

23 MS. LUZAICH: On one occasion or more than one?

24 PROSPECTIVE JUROR NUMBER 410: Multiple and I sat on

25 a committee at the schools as well that helped kind of figure out what

1 was possibly going on.

2 MS. LUZAICH: Did you ever have occasion to kind of
3 participate in an investigation, like police or Child Protective Services
4 came out and questioned you?

5 PROSPECTIVE JUROR NUMBER 410: Yes. Yes, that's
6 happened. That happened on site and then there were off-site
7 meetings, as well.

8 MS. LUZAICH: Did you ever have to go to court and testify?

9 PROSPECTIVE JUROR NUMBER 410: I did not, no.

10 MS. LUZAICH: Sometimes it's difficult to make the actual first
11 step of reporting --

12 PROSPECTIVE JUROR NUMBER 410: Mm-hmm.

13 MS. LUZAICH: -- but that's something that you felt that you
14 could do?

15 PROSPECTIVE JUROR NUMBER 410: Oh, I would take the
16 step myself if I felt that there was something not right and you -- yeah,
17 we -- they trained us very well on seeing signs, and then we also just
18 had to trust our own intuition when something -- I saw a lot of the kids
19 who had issues that were causing reading to be the thing I saw them for,
20 but there were other issues usually, yeah.

21 MS. LUZAICH: Okay. And then you went from there into the
22 medical supply field with your husband?

23 PROSPECTIVE JUROR NUMBER 410: Yeah. Mm-hmm.

24 MS. LUZAICH: Did he do something before that?

25 PROSPECTIVE JUROR NUMBER 410: He was also a

1 teacher and had his own sad stories. Yeah. Yeah.

2 MS. LUZAICH: Okay. So, tell me, what do you think would
3 make somebody a good juror?

4 PROSPECTIVE JUROR NUMBER 410: You have to really --
5 you can't come in with bias, and you have to really listen carefully and
6 try to find patterns. I think you have to be a pattern maker and try to
7 figure out what's real -- you know, suss out what's -- what do people
8 want to make you feel and what's really going on. So, look for the facts,
9 I guess.

10 MS. LUZAICH: Okay. And when you say look for patterns, do
11 you think there's always a pattern?

12 PROSPECTIVE JUROR NUMBER 410: I actually do think life
13 has patterns everywhere. And I am very data-driven. I've always been
14 that way whether it's in looking for patterns in a reader or looking for
15 patterns in medical -- I believe that there are patterns all around us.
16 Yeah.

17 MS. LUZAICH: Okay. Do you think that you would be a good
18 juror?

19 PROSPECTIVE JUROR NUMBER 410: I don't know. I don't
20 know.

21 MS. LUZAICH: Why?

22 PROSPECTIVE JUROR NUMBER 410: I -- it's the topic of
23 this case is disgusting to me, quite frankly.

24 MS. LUZAICH: Well, I can't imagine --

25 PROSPECTIVE JUROR NUMBER 410: I'm sure it is to many

1 people here, but it's -- yeah.

2 MS. LUZAICH: If you polled a hundred people --

3 PROSPECTIVE JUROR NUMBER 410: Yeah.

4 MS. LUZAICH: -- outside, I don't think any of them would
5 say --

6 PROSPECTIVE JUROR NUMBER 410: Right.

7 MS. LUZAICH: -- you know, I'm really excited about it --

8 PROSPECTIVE JUROR NUMBER 410: Yeah.

9 MS. LUZAICH: -- the topic. So, that being said --

10 PROSPECTIVE JUROR NUMBER 410: Yeah.

11 MS. LUZAICH: -- otherwise, knowing what you know about
12 yourself -- because don't forget, I don't know you, none of us do.

13 PROSPECTIVE JUROR NUMBER 410: Sure.

14 MS. LUZAICH: Do you think that you could be a good juror?

15 PROSPECTIVE JUROR NUMBER 410: Yeah, I do.

16 MS. LUZAICH: Why?

17 PROSPECTIVE JUROR NUMBER 410: I'm good at
18 everything I do. Quite frankly, I don't do it, so that's the goal.

19 MS. LUZAICH: Okay. Is there anything that you are
20 expecting to see in a trial like this?

21 PROSPECTIVE JUROR NUMBER 410: There's probably a
22 history that led it to get this far, and I'm expecting that to come out at
23 some point.

24 MS. LUZAICH: If you don't hear anything like that --

25 PROSPECTIVE JUROR NUMBER 410: Yeah.

1 MS. LUZAICH: -- will that make a difference?

2 PROSPECTIVE JUROR NUMBER 410: I don't know. I guess
3 it depends on all the evidence presented, and again, looking for the
4 patterns, and --

5 MS. LUZAICH: Okay.

6 PROSPECTIVE JUROR NUMBER 410: -- the facts.

7 MS. LUZAICH: The Court's going to read you a bunch of
8 instructions --

9 PROSPECTIVE JUROR NUMBER 410: Mm-hmm.

10 MS. LUZAICH: -- at the end of the trial, that's the law in the
11 case. And if the Court tells you that you can only take into consideration
12 what you hear in this --

13 PROSPECTIVE JUROR NUMBER 410: Mm-hmm.

14 MS. LUZAICH: -- courtroom from that witness stand, will you
15 only take that into consideration --

16 PROSPECTIVE JUROR NUMBER 410: Yes.

17 MS. LUZAICH: -- and not wonder about what else --

18 PROSPECTIVE JUROR NUMBER 410: Yeah --

19 MS. LUZAICH: -- could be out there?

20 PROSPECTIVE JUROR NUMBER 410: -- that's the job, and I
21 would do it. Yep.

22 MS. LUZAICH: Okay. Do you think that having been a
23 teacher and now working in sales --

24 PROSPECTIVE JUROR NUMBER 410: Mm-hmm.

25 MS. LUZAICH: -- you kind of have a good insight into people?

1 PROSPECTIVE JUROR NUMBER 410: I do.

2 MS. LUZAICH: Can you look at somebody you don't know
3 and kind of get an idea whether or not they're telling the truth?

4 PROSPECTIVE JUROR NUMBER 410: Yeah, in about two
5 seconds, I think I can. Yeah.

6 MS. LUZAICH: Okay. And those skills that you've acquired
7 over the years, is that something that you'll take into consideration --

8 PROSPECTIVE JUROR NUMBER 410: Yeah --

9 MS. LUZAICH: -- while you're in court.

10 PROSPECTIVE JUROR NUMBER 410: -- I think it's hard to
11 turn off your -- you know, turn off -- turn that off entirely, but just maybe
12 be more aware of it so that it doesn't get in the way of justice.

13 MS. LUZAICH: Okay. Do you watch court stuff on TV?

14 PROSPECTIVE JUROR NUMBER 410: No, I don't like any of
15 that garbage on TV. No.

16 MS. LUZAICH: Okay, so you won't be surprised that --

17 PROSPECTIVE JUROR NUMBER 410: No.

18 MS. LUZAICH: -- CSI is fake?

19 PROSPECTIVE JUROR NUMBER 410: I don't even know
20 what that is.

21 MS. LUZAICH: And on things like, you know, the afternoon
22 movie or Lifetime Network, whenever you have cases like this,
23 somebody comes into court and they're hysterically crying, what if
24 nobody cries? Is that going to make a difference to you?

25 PROSPECTIVE JUROR NUMBER 410: No. I mean, there's

1 been lots of people who don't cry, and they fall on both sides. So, no,
2 that doesn't have any effect on things to me.

3 MS. LUZAICH: Okay, you would agree different people react
4 differently --

5 PROSPECTIVE JUROR NUMBER 410: Yep.

6 MS. LUZAICH: -- to the same set of circumstances? Do you
7 think that you can evaluate the testimony of anybody that's going to
8 testify objectively? For example, look at a police officer the same way
9 as you would a 7-Eleven clerk or something along those lines?

10 PROSPECTIVE JUROR NUMBER 410: I might believe a
11 police officer -- I might believe them a little bit more, if I'm being honest.

12 MS. LUZAICH: Why?

13 PROSPECTIVE JUROR NUMBER 410: It's their profession
14 to uphold the law and to protect us. And I actually should go back, my
15 brother-in-law actually is an air marshal. And I don't know if that -- it
16 counts -- and was on border patrol. I think that counts too, as law
17 enforcement, now that I think about it.

18 Out of respect for that profession, it's a dangerous job and
19 those people go out every day and try to keep our streets safe and our
20 community safe, so it's probably an -- it's a bias and I'm not unproud of
21 but I -- yeah, it probably could affect me a little bit.

22 MS. LUZAICH: Okay. Would you agree that police officers
23 are human?

24 PROSPECTIVE JUROR NUMBER 410: Yep, absolutely.

25 MS. LUZAICH: It is possible that humans make mistakes?

1 PROSPECTIVE JUROR NUMBER 410: Absolutely.

2 MS. LUZAICH: Right?

3 PROSPECTIVE JUROR NUMBER 410: Mm-hmm.

4 MS. LUZAICH: So, if for example -- and this is going to have

5 nothing to do with the facts of this case, but if a police officer says the

6 light is red and an independent witness says the light was green, not the

7 victim, not the Defendant, just an independent witness, you're not going

8 to automatically believe the police officer just because he's a police

9 officer, are you?

10 PROSPECTIVE JUROR NUMBER 410: No. No.

11 MS. LUZAICH: So, would you look to other evidence to see --

12 PROSPECTIVE JUROR NUMBER 410: Look at the data and

13 facts. Look for --

14 MS. LUZAICH: -- which one of them is correct?

15 PROSPECTIVE JUROR NUMBER 410: -- yeah, look for a

16 pattern, look for anything else that would inform that judgment. Yeah.

17 MS. LUZAICH: Okay. So, the same thing --

18 PROSPECTIVE JUROR NUMBER 410: Mm-hmm.

19 MS. LUZAICH: -- with all of the witnesses, you'll look to see

20 how what everybody says compares with each other?

21 PROSPECTIVE JUROR NUMBER 410: Mm-hmm.

22 THE COURT: Is that yes?

23 MS. LUZAICH: Can you do that?

24 PROSPECTIVE JUROR NUMBER 410: That's a yes.

25 THE COURT: Thanks.

1 PROSPECTIVE JUROR NUMBER 410: Sorry.

2 THE COURT: It's okay. It's hard to transcribe, mm-hmm.

3 PROSPECTIVE JUROR NUMBER 410: Yes.

4 MS. LUZAICH: Have you ever been in a situation that you
5 found uncomfortable and couldn't get out of?

6 PROSPECTIVE JUROR NUMBER 410: Could you be more
7 specific than that?

8 MS. LUZAICH: Well, have you ever been in an uncomfortable
9 situation?

10 PROSPECTIVE JUROR NUMBER 410: Yes.

11 MS. LUZAICH: You do your best to get out of an
12 uncomfortable situation.

13 PROSPECTIVE JUROR NUMBER 410: Absolutely. Mm-
14 hmm.

15 MS. LUZAICH: Have you ever just found yourself somewhere
16 that you just couldn't -- you were at a party and somebody came over
17 and talked to you and you hate that person, and there's nobody around
18 to kind of --

19 PROSPECTIVE JUROR NUMBER 410: Yeah.

20 MS. LUZAICH: -- get you away from them? And you kind of
21 deal with it.

22 PROSPECTIVE JUROR NUMBER 410: It's less a problem
23 the older I get. But yes.

24 MS. LUZAICH: Okay.

25 PROSPECTIVE JUROR NUMBER 410: To be honest, I'm

1 more willing to just tell people to just leave when you're older.

2 MS. LUZAICH: Okay.

3 PROSPECTIVE JUROR NUMBER 410: Yeah.

4 MS. LUZAICH: But would you agree that sometimes younger
5 people --

6 PROSPECTIVE JUROR NUMBER 410: Yep.

7 MS. LUZAICH: -- can't do that?

8 PROSPECTIVE JUROR NUMBER 410: Yep.

9 MS. LUZAICH: Not everybody can stand up for themselves --

10 PROSPECTIVE JUROR NUMBER 410: Mm-hmm.

11 MS. LUZAICH: -- would you agree with that?

12 PROSPECTIVE JUROR NUMBER 410: Mm-hmm. Yep,
13 absolutely, I would.

14 MS. LUZAICH: And is all of that stuff that you might take into
15 consideration when you're evaluating testimony?

16 PROSPECTIVE JUROR NUMBER 410: Yes, I would.

17 MS. LUZAICH: Do you think that you have an idea of how
18 somebody who has been the victim of crimes like these might act or
19 react?

20 PROSPECTIVE JUROR NUMBER 410: There still seems to
21 be patterns to me just from the experience I've had with parents saying
22 they didn't do things or did do things to -- you know, the table just flew
23 across the floor and we know it didn't. It's hard. But can you repeat
24 your question?

25 MS. LUZAICH: Do you think that somebody who has been

1 through an experience like the one that we're going to talk about --

2 PROSPECTIVE JUROR NUMBER 410: Mm-hmm.

3 MS. LUZAICH: -- during this trial, do you think that they
4 should act or react in a particular way?

5 PROSPECTIVE JUROR NUMBER 410: They should report
6 things as soon as they -- that voice in your head is saying this isn't right.
7 I mean, as a woman, I feel that we have a voice in our head that goes
8 off and we just don't want to listen to it sometimes, but --

9 MS. LUZAICH: Could there be a reason that somebody might
10 not --

11 PROSPECTIVE JUROR NUMBER 410: There could be --

12 MS. LUZAICH: -- do what you think --

13 PROSPECTIVE JUROR NUMBER 410: Yeah.

14 MS. LUZAICH: -- should be done?

15 PROSPECTIVE JUROR NUMBER 410: There could be a
16 many number reasons, yeah. Yeah.

17 MS. LUZAICH: Okay. And you wouldn't automatically
18 disbelieve someone just because they didn't do what you think --

19 PROSPECTIVE JUROR NUMBER 410: Nope.

20 MS. LUZAICH: -- you might have?

21 PROSPECTIVE JUROR NUMBER 410: Nope.

22 MS. LUZAICH: Knowing what you know about yourself, is
23 there a reason that you could not sit in judgment?

24 PROSPECTIVE JUROR NUMBER 410: No.

25 MS. LUZAICH: If you were convinced at the end of the trial

1 beyond a reasonable doubt the Defendant committed the crimes that he
2 is charged with, would you be able to say the word guilty?

3 PROSPECTIVE JUROR NUMBER 410: Absolutely.

4 MS. LUZAICH: Thank you.

5 PROSPECTIVE JUROR NUMBER 410: Mm-hmm.

6 MS. LUZAICH: Pass for cause.

7 THE COURT: Thank you.

8 Counsel?

9 MS. MCNEILL: Thank you, Your Honor.

10 Ms. Gotkin, you said to the State that you weren't sure if you
11 could be a good juror because the topic is disgusting to you, correct?

12 PROSPECTIVE JUROR NUMBER 410: Mm-hmm. Yes.

13 MS. MCNEILL: You understand that what they told you is not
14 evidence. Do you understand that?

15 PROSPECTIVE JUROR NUMBER 410: Yes.

16 MS. MCNEILL: Okay. What they're telling you is what they
17 think happened, right?

18 PROSPECTIVE JUROR NUMBER 410: Mm-hmm.

19 MS. MCNEILL: Okay.

20 THE COURT: Is that a yes?

21 PROSPECTIVE JUROR NUMBER 410: Yes.

22 THE COURT: Uh-huh.

23 MS. MCNEILL: And because the topic that you mentioned is
24 disgusting to you, do you think it's going to be easier for them to prove
25 the case to you than it would be if it was, say, a car accident?

1 PROSPECTIVE JUROR NUMBER 410: I'm expecting certain
2 facts to come out that there's evidence to prove, and those are the ones
3 that would, you know, inform my opinion.

4 MS. MCNEILL: Okay. I guess my question is, because of
5 how you feel about domestic violence --

6 PROSPECTIVE JUROR NUMBER 410: Yeah.

7 MS. MCNEILL: -- or sex assault, are you going to need less
8 evidence from them just because somebody says it happened?

9 PROSPECTIVE JUROR NUMBER 410: It's hard not to say
10 yes to that because unfortunately, more of the cases that we saw in
11 schools were -- it was man on woman violence. It's just -- happens to
12 be -- it was just more common to see that that way. So --

13 MS. MCNEILL: And I -- and that's all we're asking --

14 PROSPECTIVE JUROR NUMBER 410: Mm-hmm.

15 MS. MCNEILL: -- you to be honest, and everybody --

16 PROSPECTIVE JUROR NUMBER 410: Yeah, and I want to
17 be.

18 MS. MCNEILL: -- comes in here --

19 PROSPECTIVE JUROR NUMBER 410: Yeah.

20 MS. MCNEILL: -- with their own stuff.

21 PROSPECTIVE JUROR NUMBER 410: Yeah.

22 MS. MCNEILL: Okay. So, it's going to be easier for them to
23 prove it to you just because of all the things that you've heard when you
24 were a teacher?

25 PROSPECTIVE JUROR NUMBER 410: Yeah, unfortunately.

1 MS. MCNEILL: All right.

2 PROSPECTIVE JUROR NUMBER 410: Yeah.

3 MS. MCNEILL: And those things are probably pretty heavy

4 when you hear them.

5 PROSPECTIVE JUROR NUMBER 410: They're awful.

6 MS. MCNEILL: Okay. And you --

7 PROSPECTIVE JUROR NUMBER 410: They are awful.

8 MS. MCNEILL: -- carry that around with you?

9 PROSPECTIVE JUROR NUMBER 410: Yeah. You never --

10 and it's not just my stories, it's my husband's stories. It's -- I still think

11 about these families. I -- it's so weird that -- I actually hadn't thought

12 about them in a while, and it comes right back like it was -- yeah. You

13 remember them, yeah.

14 MS. MCNEILL: All right. And you're going to be sort of

15 remembering those while you listen to the evidence?

16 PROSPECTIVE JUROR NUMBER 410: I'll try -- you know, I

17 mean, it's not fair to do that. But I have to be honest with you that it's

18 something I have seen --

19 MS. MCNEILL: Okay.

20 PROSPECTIVE JUROR NUMBER 410: -- too often.

21 MS. MCNEILL: And I know that it's hard because as people

22 we want to be perfect, and we want to be fair --

23 PROSPECTIVE JUROR NUMBER 410: Yeah.

24 MS. MCNEILL: -- and we don't want to talk about --

25 PROSPECTIVE JUROR NUMBER 410: Yeah.

1 MS. MCNEILL: -- our biases. But now is the time, if ever --
2 PROSPECTIVE JUROR NUMBER 410: Absolutely.
3 MS. MCNEILL: -- to say what they are because they do affect
4 US.
5 PROSPECTIVE JUROR NUMBER 410: Mm-hmm.
6 MS. MCNEILL: And the concern is that you get back in the
7 jury room and then you're not as fair as you wish you were, right?
8 PROSPECTIVE JUROR NUMBER 410: Right.
9 MS. MCNEILL: Okay. And that's a real concern for you?
10 PROSPECTIVE JUROR NUMBER 410: I'd be better off with
11 a car accident, to be honest with you. You know, but you take good
12 notes and you just pay attention, and you try to work in the here and
13 now and not bring that in. Yeah.
14 MS. MCNEILL: Okay. All right.
15 PROSPECTIVE JUROR NUMBER 410: But it's -- yeah.
16 MS. MCNEILL: But it's a -- it is a real concern.
17 PROSPECTIVE JUROR NUMBER 410: Yeah. To the extent
18 that I've said, yes.
19 MS. MCNEILL: Okay.
20 PROSPECTIVE JUROR NUMBER 410: Yeah.
21 MS. MCNEILL: All right. You also said something about that
22 you would expect to hear about a history that led to it get this far. As
23 you sit there, does that mean that because he's -- was obviously
24 arrested and charged with a crime, you think there's an it there?
25 PROSPECTIVE JUROR NUMBER 410: You know, I think

1 when there's someone -- when it gets to this point, that there's
2 something happened -- something happened that caused the police to
3 get involved. And we've all had spats with a spouse or a partner, but
4 when you have to get the police involved, and there's a child with special
5 needs involved, it's -- it leads me to believe that something big
6 happened that needed some kind of intervention.

7 MS. MCNEILL: Okay.

8 PROSPECTIVE JUROR NUMBER 410: Yeah.

9 MS. MCNEILL: Okay. So, it's more than -- because
10 obviously, I mean, we live in the world, we understand that the police in
11 Las Vegas don't randomly snatch people up and say, hey --

12 PROSPECTIVE JUROR NUMBER 410: Right.

13 MS. MCNEILL: -- today we're charging --

14 PROSPECTIVE JUROR NUMBER 410: Right.

15 MS. MCNEILL: -- you with this crime. So, clearly something
16 happened that led to him being arrested --

17 PROSPECTIVE JUROR NUMBER 410: Right.

18 MS. MCNEILL: -- but it sounds like you sort of had this
19 preconceived idea based on your own experience with children that it
20 was something to the point of being egregious?

21 PROSPECTIVE JUROR NUMBER 410: Yeah, and the
22 patterns that I've seen that I'm always looking for in life are that there
23 are so many uncaught things before the big thing happened and where I
24 would get pulled in or where evidence would show up on a child or a
25 parent that thankfully was in some place we could see. Or it could be --

1 or a kid told me a story, you know, because there's usually a pattern.
2 There's something -- I don't -- I've never experienced where it just
3 happens, you know, in a vacuum and it never -- there's nothing leading
4 up to that.

5 MS. MCNEILL: Well, let me ask you this, so you talked about
6 patterns, you ever seen or heard about people who are falsely accused
7 of crimes?

8 PROSPECTIVE JUROR NUMBER 410: Sure, yes.

9 MS. MCNEILL: Okay. Have you ever heard about people
10 who make up false allegations of rape?

11 PROSPECTIVE JUROR NUMBER 410: Absolutely.

12 MS. MCNEILL: Okay. So, you're willing to accept that that
13 can happen?

14 PROSPECTIVE JUROR NUMBER 410: Mm-hmm.
15 Absolutely.

16 MS. MCNEILL: All right. But it sounds like you just feel, as a
17 woman and a prior teacher, that you got to err on the side of caution
18 when it comes to these kinds of allegations? And I'll flesh that out --

19 PROSPECTIVE JUROR NUMBER 410: Yeah.

20 MS. MCNEILL: -- a little more for you because I think
21 sometimes my concern on these kinds of cases is this. You're
22 instructed on what the burden of proof is, right?

23 PROSPECTIVE JUROR NUMBER 410: Mm-hmm.

24 MS. MCNEILL: And that is beyond a reasonable doubt. And
25 you'll get a definition of that, but then the concern is that someone with

1 your experience, maybe the burden isn't as high because you're going
2 to be concerned as to okay, if they don't prove their case, but I have
3 these concerns about these types of cases, should I just find him guilty?

4 PROSPECTIVE JUROR NUMBER 410: Fall guy. Yeah.

5 MS. MCNEILL: Yeah.

6 PROSPECTIVE JUROR NUMBER 410: No. No one should
7 be a fall guy, you know, guilty people should be found guilty and have
8 consequences to their action and help the children, if there's any
9 children involved, they need the most help. And then people need to
10 heal and move on. But no, I think guilty should be found guilty, and
11 innocent people should be found innocent and get help, so that --

12 MS. MCNEILL: Okay.

13 PROSPECTIVE JUROR NUMBER 410: -- so that this doesn't
14 happen again, whatever brought it to this extent.

15 MS. MCNEILL: Okay. And so, you would agree with me that
16 because of how important this proceeding is, you really have to be able
17 to set any feelings aside and just base it on what the State proves to
18 you?

19 PROSPECTIVE JUROR NUMBER 410: Yes.

20 MS. MCNEILL: Okay. You said you can tell if someone is
21 telling the truth within two seconds.

22 PROSPECTIVE JUROR NUMBER 410: Yeah, it's Malcolm --

23 MS. MCNEILL: Okay.

24 PROSPECTIVE JUROR NUMBER 410: -- Gladwell.

25 MS. MCNEILL: What's it, I'm sorry?

1 PROSPECTIVE JUROR NUMBER 410: It's -- yeah. There
2 have been a few researchers on this, and it's really amazing that that
3 intuition, I think, is very powerful.

4 MS. MCNEILL: Okay. Is that a skill that you -- I mean, I feel
5 like that would be hard to turn off.

6 PROSPECTIVE JUROR NUMBER 410: Yeah, I don't -- yeah,
7 I don't think we can turn that off.

8 MS. MCNEILL: Okay.

9 PROSPECTIVE JUROR NUMBER 410: Yeah.

10 MS. MCNEILL: And have you ever been wrong about when
11 you guessed that someone might be lying and then later you get some
12 evidence, you go, oh no, I was wrong about that?

13 PROSPECTIVE JUROR NUMBER 410: Very seldom --

14 MS. MCNEILL: Okay.

15 PROSPECTIVE JUROR NUMBER 410: -- yeah.

16 MS. MCNEILL: But occasionally?

17 PROSPECTIVE JUROR NUMBER 410: -- have I felt wrong
18 about that.

19 MS. MCNEILL: Okay.

20 PROSPECTIVE JUROR NUMBER 410: And usually nothing
21 of consequence, like a neighbor or something -- you know, nothing --
22 usually I feel like when I assess something, I'm usually right about it.

23 MS. MCNEILL: Okay. How's your --

24 PROSPECTIVE JUROR NUMBER 410: My feelings don't
25 change.

1 MS. MCNEILL: -- husband like that? I'm --

2 PROSPECTIVE JUROR NUMBER 410: Yeah.

3 MS. MCNEILL: -- guessing he can't get away with not taking
4 out the trash, right?

5 PROSPECTIVE JUROR NUMBER 410: Yeah. Not much that
6 he can get away with.

7 MS. MCNEILL: All right.

8 PROSPECTIVE JUROR NUMBER 410: Yeah.

9 MS. MCNEILL: Court's indulgence, Your Honor.

10 You first said that you didn't think you could be a good juror,
11 and then you kind of came back to saying that you could be a good
12 juror, it sounds like you have, maybe conflicting ideas about that.

13 PROSPECTIVE JUROR NUMBER 410: The nature of this
14 case, like I said, is very -- it's upsetting. So -- and you can't be
15 emotional when you're trying to help figure out futures.

16 MS. MCNEILL: Sure.

17 PROSPECTIVE JUROR NUMBER 410: So, that's where it's
18 tough.

19 MS. MCNEILL: Well, and it --

20 PROSPECTIVE JUROR NUMBER 410: Yeah.

21 MS. MCNEILL: -- I think what was interesting was you also
22 then kind of agreed that it would be terrible to wrongfully convict
23 someone --

24 PROSPECTIVE JUROR NUMBER 410: Mm-hmm.

25 MS. MCNEILL: -- right? And so --

1 THE COURT: Is that a yes?

2 PROSPECTIVE JUROR NUMBER 410: Yes.

3 MS. MCNEILL: -- would you say that fear of wrongfully
4 convicting someone is as important to you as the nature of the case and
5 how you feel about women who might be victims in those?

6 PROSPECTIVE JUROR NUMBER 410: Yes.

7 MS. MCNEILL: Okay, so both are very important to you?

8 PROSPECTIVE JUROR NUMBER 410: Yes, both are
9 important.

10 MS. MCNEILL: Your Honor, I'll pass for cause.

11 THE COURT: Okay, thank you.

12 All right, let's go. So, it's Ms. Unada, correct?

13 PROSPECTIVE JUROR NUMBER 292: Yes.

14 THE COURT: How are you doing today, ma'am?

15 PROSPECTIVE JUROR NUMBER 292: I'm pretty good,
16 thank you.

17 THE COURT: Good.

18 Is there any reason you could not be fair and impartial in this
19 case?

20 PROSPECTIVE JUROR NUMBER 292: No.

21 THE COURT: Can you wait in forming your opinion on the
22 appropriate result until all the evidence has been heard?

23 PROSPECTIVE JUROR NUMBER 292: Yes.

24 THE COURT: Have you or anyone close to you worked in law
25 enforcement?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROSPECTIVE JUROR NUMBER 292: None.

THE COURT: Have you or anyone close to you been charged with a serious crime?

PROSPECTIVE JUROR NUMBER 292: None.

THE COURT: Have you or anyone close to you been the victim of a serious crime?

PROSPECTIVE JUROR NUMBER 292: None.

THE COURT: Excuse me. Have you or anyone close to you been the victim of or accused of domestic violence or a sexual abuse?

PROSPECTIVE JUROR NUMBER 292: No.

THE COURT: Is there anything about the charges in this case that would make it difficult for you to be fair and impartial?

PROSPECTIVE JUROR NUMBER 292: None.

THE COURT: Can you base your verdict solely on the evidence brought out at trial and the law that applies as stated in my instructions without fear of criticism or popular opinion?

PROSPECTIVE JUROR NUMBER 292: Yes.

THE COURT: Have you ever been a juror before?

PROSPECTIVE JUROR NUMBER 292: No.

THE COURT: If you were a party to this case, would you be comfortable with jurors of a like frame of mind as yourself sitting in judgment?

PROSPECTIVE JUROR NUMBER 292: Yes.

THE COURT: How long have you lived here in Clark County?

PROSPECTIVE JUROR NUMBER 292: Since 2004.

1 THE COURT: Okay. And what's the highest level of
2 education you completed?

3 PROSPECTIVE JUROR NUMBER 292: I have bachelor's
4 degree in economics.

5 THE COURT: Economics, okay.
6 And are you employed?

7 PROSPECTIVE JUROR NUMBER 292: Yes.

8 THE COURT: What do you do?

9 PROSPECTIVE JUROR NUMBER 292: I was not able to use
10 that degree here in America when I came in here, but I'm working as a
11 personal assistant and partly housekeeping for my boss.

12 THE COURT: Where'd you get that degree?

13 PROSPECTIVE JUROR NUMBER 292: In the Philippines.

14 THE COURT: I see. Okay. Are you married?

15 PROSPECTIVE JUROR NUMBER 292: Yes.

16 THE COURT: Is your spouse employed?

17 PROSPECTIVE JUROR NUMBER 292: Yes.

18 THE COURT: Doing what?

19 PROSPECTIVE JUROR NUMBER 292: He is dietary aid.

20 THE COURT: Dietary aid?

21 PROSPECTIVE JUROR NUMBER 292: Yes.

22 THE COURT: Got it.

23 PROSPECTIVE JUROR NUMBER 292: In a rehab.

24 THE COURT: Okay. Do you have any children?

25 PROSPECTIVE JUROR NUMBER 292: Yes, I have four.

1 THE COURT: And are they all grown?
2 PROSPECTIVE JUROR NUMBER 292: Yes.
3 THE COURT: What do they do?
4 PROSPECTIVE JUROR NUMBER 292: With lives of their
5 own.
6 THE COURT: Uh-huh. So, what do they do career-wise?
7 PROSPECTIVE JUROR NUMBER 292: Okay. My oldest is a
8 nurse. And my second is working in -- at O'Hare International Airport.
9 And my third is dialysis tech. And my youngest is a manager at
10 Walmart.
11 THE COURT: The one who works at the airport, what does
12 that one do?
13 PROSPECTIVE JUROR NUMBER 292: He is a supervisor
14 at --
15 THE COURT: Like checking people in and -- or --
16 PROSPECTIVE JUROR NUMBER 292: No.
17 THE COURT: -- security or --
18 PROSPECTIVE JUROR NUMBER 292: He is a luggage
19 supervisor of airline company.
20 THE COURT: I see. Okay.
21 All right, State?
22 MS. LUZAICH: Thank you.
23 How come you couldn't use your economics degree here?
24 PROSPECTIVE JUROR NUMBER 292: Because I -- when I
25 came in here, I was hooked to my first employer who was so nice.

1 That's why.

2 MS. LUZAICH: So, you just stayed?

3 PROSPECTIVE JUROR NUMBER 292: Yeah, I just stayed.

4 And --

5 MS. LUZAICH: Do you still work for the same person?

6 PROSPECTIVE JUROR NUMBER 292: No. It's like first was
7 -- I was here since 1991. And I worked for three employers doing the
8 same thing in a private home.

9 MS. LUZAICH: What do you do in the private home?

10 PROSPECTIVE JUROR NUMBER 292: Right now, my
11 present?

12 MS. LUZAICH: Well, the first three, what did you do?

13 PROSPECTIVE JUROR NUMBER 292: I was -- the first three
14 was babysitting, the second is babysitting, and the third is like desktop
15 work. It is --

16 MS. LUZAICH: What you do now?

17 PROSPECTIVE JUROR NUMBER 292: -- more on --
18 assisting my boss personally.

19 MS. LUZAICH: Okay. Do you think that you would be a good
20 juror?

21 PROSPECTIVE JUROR NUMBER 292: I think I can be a
22 good juror because I know very well what is right and wrong. But I have
23 to admit I have limited horizon because I just work in a private home.

24 MS. LUZAICH: Okay. So, you don't see very much out in the
25 world?

1 PROSPECTIVE JUROR NUMBER 292: Not really. I like
2 reading and I always like watch news or TV, and I can base on my
3 knowledge on those things.

4 MS. LUZAICH: Okay. Do you think that you can evaluate the
5 testimony of people you don't know?

6 PROSPECTIVE JUROR NUMBER 292: I think so. Yes.

7 MS. LUZAICH: How would you go about doing that?

8 PROSPECTIVE JUROR NUMBER 292: Well, I can tell if they
9 are telling the truth or not telling the truth.

10 MS. LUZAICH: How could you tell?

11 PROSPECTIVE JUROR NUMBER 292: Well, maybe if I'm in
12 the situation already.

13 MS. LUZAICH: Well, when you're trying to decide whether or
14 not they're telling the truth, will you look to see how their testimony
15 compares to other people's testimony?

16 PROSPECTIVE JUROR NUMBER 292: Yes.

17 MS. LUZAICH: And how it compares to the evidence that you
18 might see?

19 PROSPECTIVE JUROR NUMBER 292: Mm-hmm. Yes.

20 MS. LUZAICH: You raised a couple daughters?

21 PROSPECTIVE JUROR NUMBER 292: What --

22 MS. LUZAICH: Do you have daughters?

23 PROSPECTIVE JUROR NUMBER 292: Yes, I have two.

24 MS. LUZAICH: Two daughters. And as your daughters were
25 growing up, did they ever talk to you about boyfriends and things like

1 that?

2 PROSPECTIVE JUROR NUMBER 292: Yes.

3 MS. LUZAICH: Did they talk to you about their friends and
4 boys?

5 PROSPECTIVE JUROR NUMBER 292: Yes.

6 MS. LUZAICH: Did they ever tell you anything about how
7 friends may have had problems with boys or boys pushing them to do
8 things they didn't want to do?

9 PROSPECTIVE JUROR NUMBER 292: Well, luckily, their
10 friends and their companies are like very good kids. So, I never had that
11 situation.

12 MS. LUZAICH: Okay. Did you ever have to resolve disputes
13 amongst your own kids?

14 PROSPECTIVE JUROR NUMBER 292: No.

15 MS. LUZAICH: No? They didn't kind of point their finger at
16 each other and --

17 PROSPECTIVE JUROR NUMBER 292: Not in this matter.
18 Yeah.

19 MS. LUZAICH: Okay. Are you expecting to see anything in a
20 trial like this?

21 PROSPECTIVE JUROR NUMBER 292: I think so.

22 MS. LUZAICH: What are you expecting to see?

23 PROSPECTIVE JUROR NUMBER 292: Well, maybe the one
24 I see in the movie or in the TV, like that.

25 MS. LUZAICH: Well, remember what you see in movies and

1 on TV, they're making up because they want you to watch --

2 PROSPECTIVE JUROR NUMBER 292: Yes.

3 MS. LUZAICH: -- right?

4 PROSPECTIVE JUROR NUMBER 292: I'm a fan of Law and

5 Order.

6 MS. LUZAICH: Oh, do you watch Law and Order?

7 PROSPECTIVE JUROR NUMBER 292: Yes.

8 MS. LUZAICH: Okay. Now, in Law and Order, every episode

9 ends in an hour, and it's tied up in a nice red bow, right?

10 PROSPECTIVE JUROR NUMBER 292: Mm-hmm.

11 MS. LUZAICH: This episode isn't going to end in an hour; you

12 know that, right?

13 PROSPECTIVE JUROR NUMBER 292: Right.

14 MS. LUZAICH: And you're the one at the end that's going to

15 have to make a decision about what happened.

16 PROSPECTIVE JUROR NUMBER 292: Yes.

17 MS. LUZAICH: Okay. Can you do that?

18 PROSPECTIVE JUROR NUMBER 292: Yes.

19 MS. LUZAICH: Would you agree that real life is not like what

20 you see on TV?

21 PROSPECTIVE JUROR NUMBER 292: Yes, of course.

22 MS. LUZAICH: Okay. Do you think that a woman has an

23 absolute right to say no to a man's sexual advances?

24 PROSPECTIVE JUROR NUMBER 292: Yes.

25 MS. LUZAICH: Do you think that she ever gives up that right?

1 PROSPECTIVE JUROR NUMBER 292: No.

2 MS. LUZAICH: Do you think that no ever means convince

3 me?

4 PROSPECTIVE JUROR NUMBER 292: I really think we

5 should not give that right, that we should -- if we say no, it's no.

6 MS. LUZAICH: No always means no.

7 PROSPECTIVE JUROR NUMBER 292: Yes.

8 MS. LUZAICH: Okay. Do you think that if somebody does

9 something that you don't think you would have done yourself you can

10 still listen to what that person has to say?

11 PROSPECTIVE JUROR NUMBER 292: I think so.

12 MS. LUZAICH: And evaluate that person objectively?

13 PROSPECTIVE JUROR NUMBER 292: Yes.

14 MS. LUZAICH: Do you think that -- well, you know, when you

15 see Law and Order and stuff like that on TV, very often in cases like this,

16 somebody comes in and they're crying, and they're very upset. What if

17 nobody cries here? Is that going to make a difference to you?

18 PROSPECTIVE JUROR NUMBER 292: It doesn't make any

19 difference.

20 MS. LUZAICH: Would you agree different people react

21 differently --

22 PROSPECTIVE JUROR NUMBER 292: Yes.

23 MS. LUZAICH: -- to circumstances?

24 PROSPECTIVE JUROR NUMBER 292: Yes.

25 MS. LUZAICH: And if somebody didn't act or react the way

1 that you think you might have or one of your daughters might have, you
2 can still listen to what that person has to say?

3 PROSPECTIVE JUROR NUMBER 292: Yes.

4 MS. LUZAICH: If you serve as a jury -- juror in this case, and
5 you go back in that deliberation room, and all of the jurors feel one way
6 and you feel the other way, what are you going to do?

7 PROSPECTIVE JUROR NUMBER 292: Well, maybe I will
8 look for some more evidences that if --

9 MS. LUZAICH: When you say look for more evidence, what
10 do you mean?

11 PROSPECTIVE JUROR NUMBER 292: Maybe I missed
12 something.

13 MS. LUZAICH: Okay.

14 PROSPECTIVE JUROR NUMBER 292: So, I have to -- that
15 will change my decision. So --

16 MS. LUZAICH: But if you're sure you're right --

17 PROSPECTIVE JUROR NUMBER 292: Yes.

18 MS. LUZAICH: -- will you stick --

19 PROSPECTIVE JUROR NUMBER 292: I will stand for it.

20 MS. LUZAICH: -- to your guns --

21 PROSPECTIVE JUROR NUMBER 292: Yes.

22 MS. LUZAICH: -- and stand up for yourself? Okay.

23 PROSPECTIVE JUROR NUMBER 292: Yes, of course.

24 MS. LUZAICH: But it's possible that if they can point to
25 something you missed, you can --

1 PROSPECTIVE JUROR NUMBER 292: Mm-hmm.
2 MS. LUZAICH: -- possibly change your mind?
3 PROSPECTIVE JUROR NUMBER 292: Yes.
4 MS. LUZAICH: Okay. Do you think sometimes people have a
5 reason for saying things that are not true?
6 PROSPECTIVE JUROR NUMBER 292: Yes.
7 MS. LUZAICH: No matter what that reason is, in your mind, is
8 it ever okay to lie?
9 PROSPECTIVE JUROR NUMBER 292: No, it's not okay to
10 lie.
11 MS. LUZAICH: Do you think that it would be embarrassing for
12 someone to come in here, and in a room full of strangers, have to talk
13 about intimate sexual details?
14 PROSPECTIVE JUROR NUMBER 292: I think so, yes.
15 MS. LUZAICH: Is that embarrassment something that you
16 would take into consideration when you're evaluating testimony?
17 PROSPECTIVE JUROR NUMBER 292: Yes.
18 MS. LUZAICH: Can you evaluate the testimony of a police
19 officer the same as you would any other witness?
20 PROSPECTIVE JUROR NUMBER 292: Yes.
21 MS. LUZAICH: Okay. Knowing what you know about
22 yourself, is there anything that would prevent you from being able to sit
23 in judgment?
24 PROSPECTIVE JUROR NUMBER 292: None.
25 MS. LUZAICH: So, if you were convinced after you heard all

1 the testimony and saw all the evidence, if you were convinced beyond a
2 reasonable doubt that the Defendant committed the crimes that he is
3 charged with, would you be able to say the word guilty?

4 PROSPECTIVE JUROR NUMBER 292: Yes.

5 MS. LUZAICH: Thank you.

6 Pass for cause.

7 PROSPECTIVE JUROR NUMBER 292: You're welcome.

8 THE COURT: Thank you.

9 MS. MCNEILL: Thank you, Your Honor.

10 You indicated that prior to becoming a personal assistant, you
11 worked as a babysitter; is that correct?

12 PROSPECTIVE JUROR NUMBER 292: Yes.

13 MS. MCNEILL: Okay. What ages children did you babysit?

14 PROSPECTIVE JUROR NUMBER 292: Agency?

15 MS. MCNEILL: What ages of children?

16 PROSPECTIVE JUROR NUMBER 292: Oh, I used to babysit
17 like two sets of twins.

18 MS. MCNEILL: Okay.

19 PROSPECTIVE JUROR NUMBER 292: One family and
20 another family.

21 MS. MCNEILL: Okay. And were they very young? Was it
22 before they went to school or --

23 PROSPECTIVE JUROR NUMBER 292: Since childhood.

24 MS. MCNEILL: Okay.

25 PROSPECTIVE JUROR NUMBER 292: Since they were

1 babies.

2 MS. MCNEILL: Okay, until how old?

3 PROSPECTIVE JUROR NUMBER 292: Until 13.

4 MS. MCNEILL: Okay, so you got to experience a little bit of
5 the teen years with them?

6 PROSPECTIVE JUROR NUMBER 292: Yes.

7 MS. MCNEILL: Okay. And then you have your own children.
8 You said you didn't really have to resolve disputes amongst your kids.
9 Did you ever have to do that with the twins that you babysat?

10 PROSPECTIVE JUROR NUMBER 292: Not really. The
11 parents that I babysat always told me that I am a very good
12 disciplinarian.

13 MS. MCNEILL: Okay.

14 PROSPECTIVE JUROR NUMBER 292: So -- and I did that to
15 my kids -- thank God they were okay.

16 MS. MCNEILL: Okay, so you had very strict rules and you
17 didn't need to resolve disputes because the kids just didn't --

18 PROSPECTIVE JUROR NUMBER 292: Not really strict. You
19 have to be friendly.

20 MS. MCNEILL: Right.

21 PROSPECTIVE JUROR NUMBER 292: Yeah.

22 MS. MCNEILL: Okay. Well, that -- you're very lucky then that
23 you didn't have to resolve disputes. You agreed with the State that it
24 could be embarrassing to talk about intimate details in front of strangers;
25 remember that?

1 PROSPECTIVE JUROR NUMBER 292: Yes.

2 MS. MCNEILL: Do you think that just because someone
3 comes in and is going to have to talk about intimate details that it means
4 they're telling the truth because it's embarrassing?

5 PROSPECTIVE JUROR NUMBER 292: Not really.

6 MS. MCNEILL: Okay. So, you're willing to accept that just
7 because someone might -- sex might be embarrassing to talk about,
8 doesn't mean they're telling the truth when they're sitting up there, right?

9 PROSPECTIVE JUROR NUMBER 292: Yes.

10 MS. MCNEILL: Okay. You have to look at other things --

11 PROSPECTIVE JUROR NUMBER 292: Yes.

12 MS. MCNEILL: -- right? Okay. What kind of things do you
13 look for when you're evaluating someone's credibility?

14 PROSPECTIVE JUROR NUMBER 292: I can see it in their
15 face.

16 MS. MCNEILL: Okay. So -- and body language, do you look
17 at?

18 PROSPECTIVE JUROR NUMBER 292: Yes.

19 MS. MCNEILL: Okay. Do you ever ask yourself why
20 someone is saying something? Do you think people have motives to
21 say things that they're saying to people?

22 PROSPECTIVE JUROR NUMBER 292: They're saying --
23 what do you mean?

24 MS. MCNEILL: Well, when we talk to people, do you think
25 that sometimes we have a motive to say what we're saying? There

1 might be a reason that we're saying what we're saying, and you may
2 never know what that reason is, but it might affect why I'm saying it?

3 PROSPECTIVE JUROR NUMBER 292: Oh, maybe they're
4 like shy to say it.

5 MS. MCNEILL: Okay. Do you factor those things in when
6 you're deciding if someone's telling the truth?

7 PROSPECTIVE JUROR NUMBER 292: Yes.

8 MS. MCNEILL: Okay.

9 PROSPECTIVE JUROR NUMBER 292: Just making an alibi
10 sometimes.

11 MS. MCNEILL: Sure. Right.

12 PROSPECTIVE JUROR NUMBER 292: Yeah.

13 MS. MCNEILL: So, people might have reasons for saying
14 what they're saying.

15 PROSPECTIVE JUROR NUMBER 292: Mm-hmm.

16 MS. MCNEILL: Have you -- you said you read a little bit.
17 What kind of stuff do you read?

18 PROSPECTIVE JUROR NUMBER 292: Usually I read
19 novels.

20 MS. MCNEILL: Okay, fiction or nonfiction?

21 PROSPECTIVE JUROR NUMBER 292: Both.

22 MS. MCNEILL: Both, okay. What kind of fiction books do you
23 read?

24 PROSPECTIVE JUROR NUMBER 292: Emily Lawrence.

25 MS. MCNEILL: And what kind of books are those? I don't --

1 I'm not familiar.

2 PROSPECTIVE JUROR NUMBER 292: Oh, not too much
3 anymore. I can't remember anymore.

4 MS. MCNEILL: Okay. And do you watch the news a lot?

5 PROSPECTIVE JUROR NUMBER 292: Usually an hour in
6 the morning.

7 MS. MCNEILL: Okay, and is that the like local news or is it
8 more like the Today Show?

9 PROSPECTIVE JUROR NUMBER 292: More local news.

10 MS. MCNEILL: Okay. All right. Have you heard anything
11 about the Me Too movement that we've been hearing about with
12 allegations of sex assault or sex harassment?

13 PROSPECTIVE JUROR NUMBER 292: Not too much. Yes.

14 MS. MCNEILL: Okay. Are you familiar with it?

15 PROSPECTIVE JUROR NUMBER 292: Yes.

16 MS. MCNEILL: Okay. How do you feel about that movement
17 in general?

18 PROSPECTIVE JUROR NUMBER 292: Well, if there's really
19 sexual abuse, then people should be punished for those.

20 MS. MCNEILL: Okay. And so, it sounds like you're saying
21 you don't just necessarily believe it just because someone says it
22 happened?

23 PROSPECTIVE JUROR NUMBER 292: Yes.

24 MS. MCNEILL: Okay, you need a little more than --

25 PROSPECTIVE JUROR NUMBER 292: Mm-hmm.

1 MS. MCNEILL: -- just that? Okay.

2 PROSPECTIVE JUROR NUMBER 292: Yes.

3 MS. MCNEILL: All right, Your Honor. I'll pass for cause.

4 THE COURT: Thank you.

5 So, folks, I see that it's 5 o'clock already. So, we're going to
6 be recessing for the evening in just a minute.

7 Now, tomorrow morning, I have hearings on some other
8 cases, before I'll be ready to start up with our trial tomorrow. So, we're
9 actually not going to be starting -- it -- with the trial until about 11:00
10 tomorrow morning. And we'll go a while and continue with the jury
11 selection process. At some point we'll take a lunch break, we'll come
12 back, and we'll continue going with jury selection.

13 But it's very important when you leave here now tonight and
14 any time we take a break, you keep in mind what I talked to you about
15 earlier that you can't be talking to anyone else about the case or doing
16 any independent research or about any of the issues or legal principles
17 that we may discuss here. It's very important, other than to let whoever
18 you may need to let know that you're part of jury selection in a criminal
19 case and the discussion we had about how long the trial's expected to
20 take, nothing beyond that, okay?

21 So, between now and tomorrow at 11:00, you are admonished
22 not to talk or converse among yourselves or with anyone else on any
23 subject connected with this trial; or to read, watch, or listen to any report
24 of or commentary on the trial or any person connected with this trial, by
25 any medium of information including without limitation newspapers,

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

3 Have a good night, and I will see you tomorrow.

4 THE MARSHAL: All rise, Court is now in recess.

5
6 [Jury Trial, Day 1, concluded at 5:03 p.m.]

7 * * * * *

8
9
10
11
12
13
14
15
16
17
18
19
20 ATTEST: I do hereby certify that I have truly and correctly transcribed
21 the audio/video proceedings in the above-entitled case to the best of my
22 ability.

23 

24 Kaihla Berndt
25 Court Recorder/Transcriber



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

vs.

TRANDON GREEN,
Defendant.

CASE#: C-17-325044-1
DEPT. VI

BEFORE THE HONORABLE ELISSA F. CADISH, DISTRICT COURT JUDGE
TUESDAY, JUNE 26, 2018

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

APPEARANCES:

For the State:

LISA LUZAICH, ESQ.
Chief Deputy District Attorney
STEVEN ROSE, ESQ.
Deputy District Attorney

For the Defendant:

MONIQUE A. MCNEILL, ESQ.

RECORDED BY: DE'AWNA TAKAS, COURT RECORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Las Vegas, Nevada, Tuesday, June 26, 2018

[Proceedings began at 11:26 a.m.]

[Outside the presence of the prospective jury]

THE MARSHAL: All rise. District Court, Department 6 is now in session, the Honorable Judge Elissa Cadish presiding.

Please be seated. Come to order.

THE COURT: Well, I did my best to finish at or close to 11:00. Probably what I'll try to do is get maybe an hour in and take a little late lunch. At least we can get something useful in before we take a break.

Okay. Anything before we bring them in?

MS. LUZAICH: I don't think so -- or not on behalf of the State.

MS. MCNEILL: No, Your Honor.

THE COURT: Thanks. Okay. Let's go ahead.

[Colloquy between the Court and the Marshal]

THE COURT: All right, go and get them.

[Colloquy between the Court and the Marshal]

THE COURT: So, it was just brought to my attention that juror 508, who is Natasa Bogdanovic, I think is how you say it, has a language issue.

[Prospective Juror Number 508 enters the courtroom]

THE COURT: And she was just brought in.

Okay. We're getting you the mic.

All right. Yes, ma'am, Anthony mentioned that you spoke to him today. Do you have trouble understanding English?

1 PROSPECTIVE JUROR NUMBER 508: Yes, about the justice
2 in court. I mean, I'm -- I know how -- I communicate but I'm not very good
3 without like --

4 THE COURT: Did you understand the proceedings that we had
5 yesterday?

6 PROSPECTIVE JUROR NUMBER 508: Maybe 60 percent.
7 I'm not sure. I was trying -- I don't want to say nothing yesterday. I was
8 trying to stay but I didn't understand very well.

9 THE COURT: So, when you say you don't understand very
10 well, I mean, did you understand when Ms. Luzaich got up towards the
11 beginning and explained what the case is about and what the charges
12 are?

13 PROSPECTIVE JUROR NUMBER 508: Some of it, yeah.

14 THE COURT: Some of it. But some of it you didn't
15 understand?

16 PROSPECTIVE JUROR NUMBER 508: No, ma'am.

17 THE COURT: Now -- and maybe it's because of the language
18 problem, but a couple of people raised their hands yesterday and raised
19 concerns about not being able to understand, do you remember that?

20 PROSPECTIVE JUROR NUMBER 508: Yes, but that was my
21 first time yesterday so I don't know.

22 THE COURT: Okay.

23 PROSPECTIVE JUROR NUMBER 508: I told him yesterday
24 also the same thing --

25 THE COURT: Okay.

1 PROSPECTIVE JUROR NUMBER 508: -- that officer.

2 THE COURT: And so what language do you speak primarily,
3 ma'am?

4 PROSPECTIVE JUROR NUMBER 508: Croatian.

5 THE COURT: Is that the language you speak in your home?

6 PROSPECTIVE JUROR NUMBER 508: Yes, ma'am.

7 THE COURT: Are you employed?

8 PROSPECTIVE JUROR NUMBER 508: Yes.

9 THE COURT: What do you do?

10 PROSPECTIVE JUROR NUMBER 508: Dealer, casino.

11 THE COURT: Card dealer.

12 Okay. So, what is your understanding what the charges are
13 about in this case?

14 PROSPECTIVE JUROR NUMBER 508: They was talking
15 about somebody's guilty but --

16 THE COURT: What do you understand like the actual charges
17 are, like what crimes are being alleged?

18 PROSPECTIVE JUROR NUMBER 508: There was some
19 sexual -- sexual problem.

20 THE COURT: Okay. All right. Thanks, ma'am. You can go
21 ahead and step out. We'll grab the mic from you.

22 [Prospective Juror Number 508 exits the courtroom]

23 THE COURT: Anthony, when did she first mention it to you?

24 THE MARSHAL: About 17:01 hours yesterday, as she was
25 leaving.

1 THE COURT: So for the rest of us humans that's 5:01?
2 THE MARSHAL: 5:01 p.m., Judge.
3 THE COURT: Thank you.
4 THE MARSHAL: Non-prior military personal, yes.
5 THE COURT: Us civilians.
6 Okay. So, she mentioned it as she was leaving last night?
7 THE MARSHAL: Yes.
8 THE COURT: Thank you.
9 Okay. Is there any objection to excusing Ms. --
10 MS. LUZAICH: No, Judge.
11 MS. MCNEILL: No, Your Honor.
12 THE COURT: Okay. So, Anthony, you can go ahead and let
13 her know that she's excused and bring in the rest of the group.
14 Was she in a numbered seat? I don't think she was.
15 THE CLERK: No.
16 MS. LUZAICH: No.
17 THE COURT: Okay. Good.
18 THE MARSHAL: Please rise.
19 MS. LUZAICH: Can we approach real quick?
20 THE COURT: Sure. Come on up.
21 [Bench conference transcribed as follows:]
22 MS. LUZAICH: Not a problem.
23 When do -- when you do the first admonishment, will you tell
24 them that we can't talk to them. Somebody --
25 THE COURT: Yes, I forgot too.

1 MS. LUZAICH: -- just said hello to me and somebody said hello
2 to me in the elevator before --

3 THE COURT: Ah, I forgot to --

4 MS. LUZAICH: -- I smiled and turned my head.

5 THE COURT: -- right. I forgot that yesterday.

6 MS. LUZAICH: Please. Thank you.

7 THE COURT: Okay. Thank you.

8 [Bench conference ends]

9 THE MARSHAL: Please be seated.

10 [In the presence of the prospective jury]

11 THE COURT: All right. So, I believe -- well, sorry. Thank you
12 for coming back this morning and being here on time. I'm sorry to keep
13 you waiting in the hallway. I did my best to be done by about 11:00 but it
14 took a little time in the transition to get you in. Though I do appreciate
15 your patience as we go through this.

16 So just sort of a schedule-wise, the plan is to now continue on
17 with jury selection for probably about an hour now, then we'll take a lunch
18 break, and then continue on this afternoon. I apologize, we are doing our
19 best to try to complete the process but it is an important process that does
20 sometimes take some extra time.

21 And so we are now up to Ms. Wagstaff in seat number four,
22 correct?

23 PROSPECTIVE JUROR NUMBER 297: Yes.

24 THE COURT: How are you doing today?

25 PROSPECTIVE JUROR NUMBER 297: I'm fine. Thank you.

1 THE COURT: Is there any reason you cannot be fair and
2 impartial in this case?

3 PROSPECTIVE JUROR NUMBER 297: No.

4 THE COURT: Can you wait in forming your opinion on the
5 appropriate result until all the evidence has been heard?

6 PROSPECTIVE JUROR NUMBER 297: Yes.

7 THE COURT: Have you or anyone close to you worked in law
8 enforcement?

9 PROSPECTIVE JUROR NUMBER 297: No.

10 THE COURT: Have you or anyone close to you been charged
11 with a serious crime?

12 PROSPECTIVE JUROR NUMBER 297: No.

13 THE COURT: Have you or anyone close to you been the victim
14 of a serious crime?

15 PROSPECTIVE JUROR NUMBER 297: No.

16 THE COURT: Have you or anyone close to you been accused
17 of or the victim of domestic violence or sexual abuse?

18 PROSPECTIVE JUROR NUMBER 297: My sister and
19 boyfriend were molested as children.

20 THE COURT: Your sister and your boyfriend --

21 PROSPECTIVE JUROR NUMBER 297: Yes.

22 THE COURT: -- or your sister's boyfriend?

23 PROSPECTIVE JUROR NUMBER 297: My boyfriend.

24 THE COURT: Okay. So when it happened to your sister was it
25 by someone you know?

1 PROSPECTIVE JUROR NUMBER 297: A babysitter.
2 THE COURT: Were you a witness?
3 PROSPECTIVE JUROR NUMBER 297: No.
4 THE COURT: Did that get reported in that time frame?
5 PROSPECTIVE JUROR NUMBER 297: It did not.
6 THE COURT: Did it ever get reported to police?
7 PROSPECTIVE JUROR NUMBER 297: It did not, no.
8 THE COURT: All right. And when did you first become aware
9 of it?
10 PROSPECTIVE JUROR NUMBER 297: Probably when I was
11 13, I would say, around 13.
12 THE COURT: Sorry. So I should have asked this before, how
13 old were you at the time it allegedly happened?
14 PROSPECTIVE JUROR NUMBER 297: I would have been
15 four.
16 THE COURT: Oh, okay. So you were very young at the time.
17 PROSPECTIVE JUROR NUMBER 297: Yes.
18 THE COURT: Okay. And so at 13 you became aware of it.
19 PROSPECTIVE JUROR NUMBER 297: Yes.
20 THE COURT: Is that your sister who told you?
21 PROSPECTIVE JUROR NUMBER 297: Yes.
22 THE COURT: Okay. And your boyfriend has told you that
23 something happened to him as a child as well?
24 PROSPECTIVE JUROR NUMBER 297: Correct, yes.
25 THE COURT: Do you know whether that was reported to the

1 police?

2 PROSPECTIVE JUROR NUMBER 297: It was not.

3 THE COURT: Would the fact that you know two different
4 people who had that happen to them affect your ability to be fair and
5 impartial in this case given the nature of the, I guess, the domestic
6 violence and sex abuse related charges?

7 PROSPECTIVE JUROR NUMBER 297: No.

8 THE COURT: Okay. Do you think you can still be fair to both
9 sides here?

10 PROSPECTIVE JUROR NUMBER 297: Yes.

11 THE COURT: The fact that you know people who have been
12 victimized, will that cause you to give, kind of, extra weight to accusers in
13 this case?

14 PROSPECTIVE JUROR NUMBER 297: No.

15 THE COURT: Do you think you can weigh everyone's
16 credibility based on their testimony and everything you hear?

17 PROSPECTIVE JUROR NUMBER 297: Yes.

18 THE COURT: Is there anything about the charges in this case
19 that would make it difficult for you to be fair and impartial?

20 PROSPECTIVE JUROR NUMBER 297: No.

21 THE COURT: Can you base your verdict solely on the
22 evidence brought out at trial and the law that applies as stated in my
23 instructions without fear of criticism or popular opinion?

24 PROSPECTIVE JUROR NUMBER 297: Yes.

25 THE COURT: Have you ever been a juror before?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROSPECTIVE JUROR NUMBER 297: No.

THE COURT: If you were a party to this case would you be comfortable with jurors of a like frame of mind as yourself sitting in judgment?

PROSPECTIVE JUROR NUMBER 297: Yes.

THE COURT: How long have you lived here in Clark County?

PROSPECTIVE JUROR NUMBER 297: Since -- off and on since 1990.

THE COURT: And what's the highest level of education you completed?

PROSPECTIVE JUROR NUMBER 297: University.

THE COURT: So you have a bachelors?

PROSPECTIVE JUROR NUMBER 297: I have three.

THE COURT: Three bachelors.

PROSPECTIVE JUROR NUMBER 297: Yes.

THE COURT: Got it. In what fields?

PROSPECTIVE JUROR NUMBER 297: The first was a double major in comparative literature and theatre and then ten years later in computer animation.

THE COURT: Okay. And are you employed?

PROSPECTIVE JUROR NUMBER 297: Yes.

THE COURT: What do you do?

PROSPECTIVE JUROR NUMBER 297: I'm an animator.

THE COURT: And what -- what do you do as an animator?

PROSPECTIVE JUROR NUMBER 297: I paint symbols for slot

1 machines and make them move.

2 THE COURT: Okay. Are you married?

3 PROSPECTIVE JUROR NUMBER 297: No.

4 THE COURT: Have any children?

5 PROSPECTIVE JUROR NUMBER 297: No.

6 THE COURT: All right. State.

7 MS. LUZAICH: Thank you.

8 Ms. Wagstaff, how are you doing?

9 PROSPECTIVE JUROR NUMBER 297: Good. Thank you.

10 MS. LUZAICH: Are you and your sister close?

11 PROSPECTIVE JUROR NUMBER 297: Very.

12 MS. LUZAICH: And is it just you two?

13 PROSPECTIVE JUROR NUMBER 297: Yes.

14 MS. LUZAICH: Did that same babysitter babysit you?

15 PROSPECTIVE JUROR NUMBER 297: Yes.

16 MS. LUZAICH: But nothing --

17 PROSPECTIVE JUROR NUMBER 297: I was very young, to
18 the best of my knowledge, no.

19 MS. LUZAICH: Okay. When your sister told you, do you
20 know -- what caused her to tell you, like on that particular Tuesday or
21 whatever it was, what caused her to tell you?

22 PROSPECTIVE JUROR NUMBER 297: I don't remember why
23 it came up.

24 MS. LUZAICH: Do you know if she ever told your parents?

25 PROSPECTIVE JUROR NUMBER 297: She did.

1 MS. LUZAICH: And -- around the same time that you found out
2 or about when it happened?

3 PROSPECTIVE JUROR NUMBER 297: I think closer to when
4 it happened. I'm pretty --

5 MS. LUZAICH: Do you know why it was not reported?

6 PROSPECTIVE JUROR NUMBER 297: They did not believe
7 her.

8 MS. LUZAICH: Okay. How did that make her feel? Horrible?

9 PROSPECTIVE JUROR NUMBER 297: Horrible, yeah.

10 MS. LUZAICH: Okay. And then your boyfriend, how long have
11 you and he been together?

12 PROSPECTIVE JUROR NUMBER 297: About six months.

13 MS. LUZAICH: Was that a, kind of, difficult conversation for
14 him to have with you?

15 PROSPECTIVE JUROR NUMBER 297: It was very brief. It
16 was just mentioned very briefly.

17 MS. LUZAICH: How did that come up?

18 PROSPECTIVE JUROR NUMBER 297: I don't recall, to be
19 honest.

20 MS. LUZAICH: Okay. Do you know, was it a family member or
21 a friend of the family, a stranger?

22 PROSPECTIVE JUROR NUMBER 297: It was a stranger.

23 MS. LUZAICH: Do you know why that was not reported?

24 PROSPECTIVE JUROR NUMBER 297: I do not.

25 MS. LUZAICH: Okay. As an animator, do you create the story

1 for -- of a better word, you know, in the machines are -- do they give you a
2 topic and you just draw what they want you to?

3 Does that make sense?

4 PROSPECTIVE JUROR NUMBER 297: Yes, we're given a
5 topic.

6 MS. LUZAICH: Okay. Would you consider yourself to be more
7 of a creative than analytical person or fifty-fifty?

8 PROSPECTIVE JUROR NUMBER 297: Probably more
9 creative.

10 MS. LUZAICH: When you sit as a juror part of your job is to
11 evaluate the testimony of all the witnesses that are going to come into
12 court. How might you go about doing that with people that you don't
13 know?

14 PROSPECTIVE JUROR NUMBER 297: I think that I would be
15 very objective just based on the witnesses and evidence that was
16 presented.

17 MS. LUZAICH: Okay. Part of your job is to determine who is
18 and potentially is not telling the truth, how would you do that?

19 PROSPECTIVE JUROR NUMBER 297: Again, just based --
20 based on that evidence that was presented and the -- yeah.

21 MS. LUZAICH: Compare what they have to say to what other
22 people say --

23 PROSPECTIVE JUROR NUMBER 297: Yes.

24 MS. LUZAICH: -- and to the evidence?

25 PROSPECTIVE JUROR NUMBER 297: Yes.

1 MS. LUZAICH: Will you look at things like whether or not
2 somebody has a reason to make something up?

3 PROSPECTIVE JUROR NUMBER 297: I believe so. I believe
4 I would.

5 MS. LUZAICH: And is that at least something you would take
6 into consideration?

7 PROSPECTIVE JUROR NUMBER 297: Yes. Yes.

8 MS. LUZAICH: Do you think that sometimes people do have a
9 reason to not tell the truth?

10 PROSPECTIVE JUROR NUMBER 297: Yes.

11 MS. LUZAICH: Does that make it okay?

12 PROSPECTIVE JUROR NUMBER 297: No.

13 MS. LUZAICH: What are some reasons that you think that
14 somebody might not tell the truth?

15 PROSPECTIVE JUROR NUMBER 297: Embarrassment
16 perhaps or -- yeah. I guess just afraid that something would come of it
17 that would affect them negatively perhaps. I don't know.

18 MS. LUZAICH: Like to keep themselves out of trouble --

19 PROSPECTIVE JUROR NUMBER 297: Right.

20 MS. LUZAICH: -- maybe?

21 PROSPECTIVE JUROR NUMBER 297: Right. Yes.

22 MS. LUZAICH: Okay. If two different witnesses say two
23 different things, does it necessarily mean in your mind that one of them is
24 lying?

25 PROSPECTIVE JUROR NUMBER 297: No.

1 MS. LUZAICH: Why?

2 PROSPECTIVE JUROR NUMBER 297: They could recall
3 things differently, they could both be not telling the truth. Yeah, any
4 number of reasons.

5 MS. LUZAICH: Can they both be telling the truth and still
6 describe things differently?

7 PROSPECTIVE JUROR NUMBER 297: Yes.

8 MS. LUZAICH: Would you agree that different people can
9 perceive things differently, two people watch the same event but what is
10 important to one person may not be important to the other?

11 PROSPECTIVE JUROR NUMBER 297: Yes.

12 MS. LUZAICH: Okay. And are all of these things that you
13 would take into consideration when you evaluate the testimony of
14 witnesses?

15 PROSPECTIVE JUROR NUMBER 297: Yes.

16 MS. LUZAICH: How did you feel when you got your summons
17 to come sit here?

18 PROSPECTIVE JUROR NUMBER 297: Not thrilled.

19 MS. LUZAICH: Okay. See, honesty is good.

20 PROSPECTIVE JUROR NUMBER 297: Yeah.

21 MS. LUZAICH: Do you think that you would be a good juror
22 though?

23 PROSPECTIVE JUROR NUMBER 297: I do.

24 MS. LUZAICH: Why?

25 PROSPECTIVE JUROR NUMBER 297: I'm a pretty objective

1 person. Yeah, generally if somebody says something to me negatively
2 about somebody else, I try to get both sides of the story.

3 MS. LUZAICH: And would you consider yourself to be a fair
4 and open minded person?

5 PROSPECTIVE JUROR NUMBER 297: Yes.

6 MS. LUZAICH: Willing to wait until you hear and see everything
7 before you make up your mind?

8 PROSPECTIVE JUROR NUMBER 297: Yes.

9 MS. LUZAICH: Is there anything about you that would prevent
10 you from sitting in judgment?

11 PROSPECTIVE JUROR NUMBER 297: I don't believe so, no.

12 MS. LUZAICH: Some people have moral or philosophical or
13 religious reasons, nothing like that?

14 PROSPECTIVE JUROR NUMBER 297: No.

15 MS. LUZAICH: So if you sit and listen to all the testimony, see
16 all the evidence, if you are convinced beyond a reasonable doubt the
17 Defendant committed the crimes that he is charged with, would you be
18 able to say the word guilty?

19 PROSPECTIVE JUROR NUMBER 297: Yes.

20 MS. LUZAICH: Thank you.

21 Pass for cause.

22 THE COURT: Thank you.

23 MS. MCNEILL: Thank you, Your Honor.

24 Good morning, Ms. Wagstaff.

25 PROSPECTIVE JUROR NUMBER 297: Hello.

1 MS. MCNEILL: You said you have three bachelor's degrees --

2 PROSPECTIVE JUROR NUMBER 297: Yes.

3 MS. MCNEILL: -- right?

4 Okay. So where did you get your degrees?

5 PROSPECTIVE JUROR NUMBER 297: The double major was
6 at UC Davis.

7 MS. MCNEILL: Okay.

8 PROSPECTIVE JUROR NUMBER 297: And then the computer
9 animation was at Ringling College.

10 MS. MCNEILL: Okay. And are you from California or did you
11 just go out there for college?

12 PROSPECTIVE JUROR NUMBER 297: I was born there.

13 MS. MCNEILL: Okay.

14 PROSPECTIVE JUROR NUMBER 297: Yeah.

15 MS. MCNEILL: Okay. How did you end up in Las Vegas?

16 PROSPECTIVE JUROR NUMBER 297: My parents moved us
17 here --

18 MS. MCNEILL: Okay.

19 PROSPECTIVE JUROR NUMBER 297: -- when I was nine.

20 MS. MCNEILL: Okay. So almost a native, right?

21 PROSPECTIVE JUROR NUMBER 297: Yeah.

22 MS. MCNEILL: Basically.

23 PROSPECTIVE JUROR NUMBER 297: Yeah.

24 MS. MCNEILL: Okay. You said that you -- you sort of have this
25 creative background but then you said you tend to be very objective. Do

1 you feel like maybe you're kind of both? You have this sort of computer
2 background and then the creative background. Do you find that you're
3 able to mesh being creative with being objective?

4 PROSPECTIVE JUROR NUMBER 297: I would say so.

5 MS. MCNEILL: Okay. You indicated that you will try to listen to
6 both sides of the story when you're making a determination.

7 PROSPECTIVE JUROR NUMBER 297: Yes.

8 MS. MCNEILL: Jury trials are a little bit weird in that sense. I
9 think jurors come in and that's what they want is to hear both sides, but do
10 you understand that you might not hear anything from this side?

11 PROSPECTIVE JUROR NUMBER 297: Yes.

12 MS. MCNEILL: Okay. Does that bother you? Sometimes it
13 bothers people.

14 PROSPECTIVE JUROR NUMBER 297: I don't believe so.

15 MS. MCNEILL: Okay. Did you take any government classes or
16 civics classes where you learned about the justice system and the burden
17 of proof?

18 PROSPECTIVE JUROR NUMBER 297: Just in high school.

19 MS. MCNEILL: Okay. Would it bother you if Mr. Green didn't
20 testify?

21 PROSPECTIVE JUROR NUMBER 297: No.

22 MS. MCNEILL: No. Okay. Do you think that you'd want to
23 hear what he had to say? Would that make it helpful in listening to both
24 sides?

25 PROSPECTIVE JUROR NUMBER 297: It could.

1 MS. MCNEILL: Okay. But you wouldn't hold it against him?

2 PROSPECTIVE JUROR NUMBER 297: No.

3 MS. MCNEILL: Okay. And if the Judge instructed that you
4 can't hold it against him would you be able to set that aside?

5 PROSPECTIVE JUROR NUMBER 297: Yes.

6 MS. MCNEILL: Okay. Talking a little bit about your sister and I
7 know it's hard to talk about personal things in a full room of strangers but
8 this is unfortunately our job here. You indicated that it wasn't reported
9 because people didn't believe her. Who was it that didn't believe her?

10 PROSPECTIVE JUROR NUMBER 297: To the best of my
11 knowledge, she just told my mother and father so.

12 MS. MCNEILL: Okay. And they decided that they didn't think it
13 had happened?

14 PROSPECTIVE JUROR NUMBER 297: Right.

15 MS. MCNEILL: Okay. Was the babysitter close? Was it a
16 family friend or?

17 PROSPECTIVE JUROR NUMBER 297: No.

18 MS. MCNEILL: No. Okay.

19 Do you think that it's difficult to weigh credibility of a child more
20 difficult than it is an adult?

21 PROSPECTIVE JUROR NUMBER 297: Perhaps they could
22 perceive things a bit -- maybe they could have more difficulty perceiving a
23 situation.

24 MS. MCNEILL: Okay. A child would --

25 PROSPECTIVE JUROR NUMBER 297: Yes.

1 MS. MCNEILL: -- than an adult.

2 PROSPECTIVE JUROR NUMBER 297: Perhaps.

3 MS. MCNEILL: Okay. Do you think kids are easily influenced
4 by adults?

5 PROSPECTIVE JUROR NUMBER 297: I believe that they can
6 be.

7 MS. MCNEILL: You said you weren't thrilled when you got your
8 jury summons, I don't think too many people are. But when you heard the
9 nature of the charges, was there anything about that that made you think,
10 ugh, didn't want be here anyway and now this sounds like it might be kind
11 of heavy?

12 PROSPECTIVE JUROR NUMBER 297: It's a very unfortunate
13 situation so I just -- I just felt bad for the people involved.

14 MS. MCNEILL: Okay. And so just sort of hearing -- and I'm
15 kind of guessing, hearing what the State said in their introduction sort of
16 got you a little bit emotionally, right?

17 PROSPECTIVE JUROR NUMBER 297: Yes.

18 MS. MCNEILL: Okay. Are you willing to accept that what she
19 tells you has not been proven at this point?

20 PROSPECTIVE JUROR NUMBER 297: Yes.

21 MS. MCNEILL: Nothing she said is evidence at this point?

22 PROSPECTIVE JUROR NUMBER 297: Yes.

23 MS. MCNEILL: Okay. Anything about those emotions that you
24 felt upon hearing that that would make it difficult for you to be an impartial
25 juror?

1 PROSPECTIVE JUROR NUMBER 297: No.

2 MS. MCNEILL: You talked a little bit about that you would be
3 objective based on witnesses and evidence. Do you have any type of
4 personal sort of filter that you run things through to help you decide if
5 someone is telling the truth if you only have what they're saying, you don't
6 have anything else to help corroborate or to not corroborate?

7 PROSPECTIVE JUROR NUMBER 297: I guess it depends on
8 the situation. I mean, my job is basically studying bodies and movement
9 but I don't consider myself to be like a body language expert or anything
10 like that.

11 MS. MCNEILL: Okay. Okay. So just in your interactions with
12 people on your own have you developed anything that you sort of use to
13 help evaluate credibility?

14 PROSPECTIVE JUROR NUMBER 297: I guess the number of
15 people who would confirm the same thing would affect my decision.

16 MS. MCNEILL: Okay. All right. So sort of like Ms. Gotkin, you
17 sort of look for patterns in things to help you make a decision, is that fair?

18 PROSPECTIVE JUROR NUMBER 297: If multiple people said
19 the same thing that would affect my opinion.

20 MS. MCNEILL: Okay. All right.

21 I have nothing further, Your Honor. I'll pass for cause.

22 THE COURT: Thank you. Go ahead and pass the mic.

23 All right. How do you pronounce your last name?

24 PROSPECTIVE JUROR NUMBER 423: Sundeaus.

25 THE COURT: Sundeaus. Okay. Mr. Sundeaus, how are you

1 doing today?

2 PROSPECTIVE JUROR NUMBER 423: I'm pretty good.

3 Thank you.

4 THE COURT: Good.

5 Is there any reason you could not be fair and impartial in this
6 case?

7 PROSPECTIVE JUROR NUMBER 423: No.

8 THE COURT: Can you wait in forming your opinion on the
9 appropriate result until all the evidence has been heard?

10 PROSPECTIVE JUROR NUMBER 423: Yes.

11 THE COURT: Have you or anyone close to you worked in law
12 enforcement?

13 PROSPECTIVE JUROR NUMBER 423: No, I don't think so.

14 THE COURT: Have you or anyone close to you been charged
15 with a serious crime?

16 PROSPECTIVE JUROR NUMBER 423: No.

17 THE COURT: Have you or anyone close to you been the victim
18 of a serious crime?

19 PROSPECTIVE JUROR NUMBER 423: Not to my knowledge.

20 THE COURT: Have you or anyone close to you been accused
21 of or the victim of domestic violence or sexual abuse?

22 PROSPECTIVE JUROR NUMBER 423: No.

23 THE COURT: Is there anything about the charges in this case
24 that would make it difficult for you to be fair and impartial?

25 PROSPECTIVE JUROR NUMBER 423: No.

1 THE COURT: Can you base your verdict solely on the
2 evidence brought out at trial and the law that applies as stated in my
3 instructions without fear of criticism or a popular opinion?

4 PROSPECTIVE JUROR NUMBER 423: Yes.

5 THE COURT: Have you ever been a juror before?

6 PROSPECTIVE JUROR NUMBER 423: I have not.

7 THE COURT: If you were a party to this case, would you be
8 comfortable with jurors of a like frame of mind as yourself sitting in
9 judgment?

10 PROSPECTIVE JUROR NUMBER 423: I believe so.

11 THE COURT: How long have you lived here in Clark County?

12 PROSPECTIVE JUROR NUMBER 423: It's been a little bit,
13 over a year now.

14 THE COURT: Where did you come from?

15 PROSPECTIVE JUROR NUMBER 423: I used to live in
16 Phoenix.

17 THE COURT: Is that where you grew up?

18 PROSPECTIVE JUROR NUMBER 423: Yes.

19 THE COURT: And what's the highest level of education you
20 completed?

21 PROSPECTIVE JUROR NUMBER 423: I took a few college
22 courses after graduating high school.

23 THE COURT: Okay. No degree though?

24 PROSPECTIVE JUROR NUMBER 423: No.

25 THE COURT: And are you a student now?

1 PROSPECTIVE JUROR NUMBER 423: Not right now.
2 THE COURT: Okay. And are you employed?
3 PROSPECTIVE JUROR NUMBER 423: Yes.
4 THE COURT: Doing what?
5 PROSPECTIVE JUROR NUMBER 423: I'm a delivery driver for
6 Dominos.
7 THE COURT: Okay. And are you married?
8 PROSPECTIVE JUROR NUMBER 423: No.
9 THE COURT: Have any kids?
10 PROSPECTIVE JUROR NUMBER 423: No.
11 THE COURT: Okay. State.
12 MS. LUZAICH: Thank you.
13 Good morning.
14 PROSPECTIVE JUROR NUMBER 423: Good morning.
15 MS. LUZAICH: What college courses did you take? What were
16 you studying?
17 PROSPECTIVE JUROR NUMBER 423: I was studying
18 computer engineering. I had a scholarship for a major at the time but.
19 MS. LUZAICH: Where were you going?
20 PROSPECTIVE JUROR NUMBER 423: I was going to ASU.
21 MS. LUZAICH: What caused you to stop?
22 PROSPECTIVE JUROR NUMBER 423: The price for housing
23 was pretty high, even with everything else.
24 MS. LUZAICH: What brought you to Las Vegas?
25 PROSPECTIVE JUROR NUMBER 423: My grandparents live

1 out here and they said I could move out here and live with them for free. I
2 thought it sounded like a good deal.

3 MS. LUZAICH: That's always nice.

4 Are you going to go back to school?

5 PROSPECTIVE JUROR NUMBER 423: I believe someday,
6 yes. I want to save up money.

7 MS. LUZAICH: Do you have an idea what you want to do with
8 it?

9 PROSPECTIVE JUROR NUMBER 423: I always wanted to be
10 a vet.

11 MS. LUZAICH: Okay. All right. So if I said a woman has an
12 absolute right to say no to a man's sexual advances, what do you think
13 about that?

14 PROSPECTIVE JUROR NUMBER 423: I'd agree.

15 MS. LUZAICH: Does a woman ever give up that right?

16 PROSPECTIVE JUROR NUMBER 423: No.

17 MS. LUZAICH: Do you think that no could ever mean convince
18 me?

19 PROSPECTIVE JUROR NUMBER 423: No.

20 MS. LUZAICH: As you -- you grew up in Phoenix, right?

21 PROSPECTIVE JUROR NUMBER 423: Right.

22 MS. LUZAICH: As you grew up in Phoenix, you had some
23 friends that were girls?

24 PROSPECTIVE JUROR NUMBER 423: Yeah, a few.

25 MS. LUZAICH: Any girls have any problem with some

1 boyfriends, domestic violence type of issues?

2 PROSPECTIVE JUROR NUMBER 423: Not that I ever heard
3 of. If they did, they --

4 MS. LUZAICH: Not that --

5 PROSPECTIVE JUROR NUMBER 423: -- kept it secret.

6 MS. LUZAICH: -- you're aware of?

7 PROSPECTIVE JUROR NUMBER 423: No.

8 MS. LUZAICH: Any boyfriends that made them kind of want to
9 do more than they wanted to do otherwise?

10 PROSPECTIVE JUROR NUMBER 423: I don't think so. But I
11 was -- I didn't know that many girls.

12 MS. LUZAICH: Okay. So they wouldn't have confided in you if
13 that had?

14 PROSPECTIVE JUROR NUMBER 423: No.

15 MS. LUZAICH: Okay. You're a little younger than some of the
16 other jurors, how do you think that will affect you if you go back in the
17 deliberation room?

18 PROSPECTIVE JUROR NUMBER 423: That's a good
19 question. I think they'd try to take my -- whatever I said as the same way
20 as any other juror.

21 MS. LUZAICH: Okay. Are you somebody who can express
22 your views to strangers?

23 PROSPECTIVE JUROR NUMBER 423: Yes, if it's necessary.

24 MS. LUZAICH: Yeah.

25 PROSPECTIVE JUROR NUMBER 423: I think --

1 MS. LUZAICH: Especially if you feel strongly about something?

2 PROSPECTIVE JUROR NUMBER 423: Yes.

3 MS. LUZAICH: Okay. So I had asked a couple of jurors
4 yesterday, if you go back in the deliberation room and you and other
5 jurors are talking about all of the evidence and the testimony and the
6 charges, and they all feel one way and you feel a different way, are you
7 going to try and convince them of your point of view?

8 PROSPECTIVE JUROR NUMBER 423: Well, if -- first I'd have
9 to re-evaluate what I thought. But if I still felt that I was correct, then I
10 would try to convince them.

11 MS. LUZAICH: Okay. I mean, you're not going to think
12 automatically that you're wrong because you think differently than they do,
13 right?

14 PROSPECTIVE JUROR NUMBER 423: Not automatically.

15 MS. LUZAICH: Okay. I mean, maybe you saw something or
16 heard something that they didn't hear.

17 PROSPECTIVE JUROR NUMBER 423: Right.

18 MS. LUZAICH: Okay. So if you -- if you're sure and you feel
19 strongly about your thoughts, will you stick to your guns?

20 PROSPECTIVE JUROR NUMBER 423: Yes.

21 MS. LUZAICH: But, similarly, if they point out something that
22 maybe you didn't hear or that you misheard, you could potentially change
23 your mind?

24 PROSPECTIVE JUROR NUMBER 423: Yes.

25 MS. LUZAICH: Okay. But you won't have a problem sticking

1 up to one of those other jurors and saying, hey, no, I think you're wrong?

2 PROSPECTIVE JUROR NUMBER 423: No.

3 MS. LUZAICH: Okay. Do you watch CSI or any of those
4 shows?

5 PROSPECTIVE JUROR NUMBER 423: Not regularly.

6 MS. LUZAICH: A little bit?

7 PROSPECTIVE JUROR NUMBER 423: I've seen a few here
8 and there.

9 MS. LUZAICH: Were you surprised when I said CSI is fake?

10 PROSPECTIVE JUROR NUMBER 423: Not really.

11 MS. LUZAICH: Okay. Does that kind of stuff interest you
12 though?

13 PROSPECTIVE JUROR NUMBER 423: Not really. I usually
14 find the plots to be kind of like one dimensional.

15 MS. LUZAICH: Far-fetched?

16 PROSPECTIVE JUROR NUMBER 423: Yeah.

17 MS. LUZAICH: Okay. Do you watch Law & Order or any of
18 those shows?

19 PROSPECTIVE JUROR NUMBER 423: I think the only like law
20 type of movie I've ever seen would be Twelve Angry Men.

21 MS. LUZAICH: Okay. That was a couple of years ago.

22 PROSPECTIVE JUROR NUMBER 423: Yeah, just a few.

23 MS. LUZAICH: And this is going to be very different than that.

24 PROSPECTIVE JUROR NUMBER 423: All right.

25 MS. LUZAICH: Fair enough?

1 PROSPECTIVE JUROR NUMBER 423: Yeah.

2 MS. LUZAICH: Okay.

3 PROSPECTIVE JUROR NUMBER 423: I'll take that in mind.

4 MS. LUZAICH: Do you think that it would be embarrassing for a
5 young woman to come into court and speak to a room full of strangers
6 about intimate sexual details?

7 PROSPECTIVE JUROR NUMBER 423: Absolutely.

8 MS. LUZAICH: Do you think that's something that you would
9 take into consideration when you're evaluating testimony?

10 PROSPECTIVE JUROR NUMBER 423: Yes.

11 MS. LUZAICH: Okay. Are you expecting to see anything in this
12 kind of a case?

13 PROSPECTIVE JUROR NUMBER 423: Nothing besides
14 witness testimonies.

15 MS. LUZAICH: Okay. Can you keep an open mind?

16 PROSPECTIVE JUROR NUMBER 423: Yes.

17 MS. LUZAICH: Not make up your -- make a decision until
18 you've seen all the evidence and heard all the testimony?

19 PROSPECTIVE JUROR NUMBER 423: Yes.

20 MS. LUZAICH: If this witness, and this witness, both give you a
21 statement that are not similar, in your mind does that mean that one of
22 them are lying?

23 PROSPECTIVE JUROR NUMBER 423: Not necessarily. One
24 could be mistaken or they could both be lying like she said.

25 MS. LUZAICH: Okay. So you said one could be mistaken. In

1 your mind there's a difference between lying and being mistaken?

2 PROSPECTIVE JUROR NUMBER 423: Yes.

3 MS. LUZAICH: What's the difference?

4 PROSPECTIVE JUROR NUMBER 423: Lying is usually
5 intentional.

6 MS. LUZAICH: And mistaken would be inadvertent?

7 PROSPECTIVE JUROR NUMBER 423: Right.

8 MS. LUZAICH: Okay. So there are a lot of ways that one could
9 explain why two people don't give you the same description of events,
10 would you agree with that?

11 PROSPECTIVE JUROR NUMBER 423: Yes.

12 MS. LUZAICH: And is that also something that you'll take in
13 consideration?

14 PROSPECTIVE JUROR NUMBER 423: Yes.

15 MS. LUZAICH: Okay. Do you think that you can look at
16 somebody and tell whether or not they're telling the truth?

17 PROSPECTIVE JUROR NUMBER 423: It would depend on the
18 person. I wouldn't say that I'm a mind reader or anything. I'd have to
19 usually take their word for it.

20 MS. LUZAICH: Okay. Maybe sometimes you can look at
21 somebody and tell, oh, my God, they're lying, it's so clear?

22 PROSPECTIVE JUROR NUMBER 423: Yeah, when it's really
23 obvious.

24 MS. LUZAICH: But not very often, right?

25 PROSPECTIVE JUROR NUMBER 423: Right.

1 MS. LUZAICH: How would you determine whether or not
2 witnesses are telling the truth?

3 PROSPECTIVE JUROR NUMBER 423: I'd have to look at the
4 evidence and maybe the motives, if that comes into play.

5 MS. LUZAICH: People have a reason for saying things they do
6 sometimes?

7 PROSPECTIVE JUROR NUMBER 423: Yes.

8 MS. LUZAICH: And all of those things are things that you'll take
9 in consideration?

10 PROSPECTIVE JUROR NUMBER 423: Yes.

11 MS. LUZAICH: Is there anything about you that would prevent
12 you from being able to sit in judgment?

13 PROSPECTIVE JUROR NUMBER 423: No.

14 MS. LUZAICH: So if you listen to all of the witnesses and you
15 see all the evidence, if you're convinced beyond a reasonable doubt the
16 Defendant committed the crimes that he is charged with, would you be
17 able to say the word guilty?

18 PROSPECTIVE JUROR NUMBER 423: Yes.

19 MS. LUZAICH: Thank you.

20 Pass for cause.

21 THE COURT: Thank you.

22 Counsel.

23 MS. MCNEILL: Thank you, Your Honor.

24 You said you took some computer engineering classes --

25 PROSPECTIVE JUROR NUMBER 423: Yes.

1 MS. MCNEILL: -- in school?

2 Okay. But you want to be a vet?

3 PROSPECTIVE JUROR NUMBER 423: Right.

4 MS. MCNEILL: Okay. So why were you taking computer
5 engineering classes?

6 PROSPECTIVE JUROR NUMBER 423: Everyone at
7 counseling, my parents, they were, oh, it's such a good idea, computers
8 are so big but.

9 MS. MCNEILL: Okay. So mom and dad's idea?

10 PROSPECTIVE JUROR NUMBER 423: Right.

11 MS. MCNEILL: Right. Okay. I get that.

12 What makes you want to be a vet?

13 PROSPECTIVE JUROR NUMBER 423: I just really love
14 animals and I feel like it's a way to do some unconditional good.

15 MS. MCNEILL: Okay. Do you have pets?

16 PROSPECTIVE JUROR NUMBER 423: Yeah, we have two
17 dogs.

18 MS. MCNEILL: Okay. And so you live with your grandparents
19 here in Las Vegas?

20 PROSPECTIVE JUROR NUMBER 423: Yes.

21 MS. MCNEILL: Do you have an opportunity to spend a lot of
22 time with people your age, make friends as you got a job and moved to
23 the community?

24 PROSPECTIVE JUROR NUMBER 423: Yeah, I'd say I have a
25 lot of friends.

1 MS. MCNEILL: Okay. How did you make those friends?

2 PROSPECTIVE JUROR NUMBER 423: Just either I've known
3 them for years or I met them through work.

4 MS. MCNEILL: Okay. Do any of the friends that you have have
5 backgrounds a little different than yours? Maybe grew up a little
6 differently than you did?

7 PROSPECTIVE JUROR NUMBER 423: I'd say a lot of them,
8 yeah.

9 MS. MCNEILL: Okay. Does -- does that bother you or is it just
10 something that you take in stride?

11 PROSPECTIVE JUROR NUMBER 423: I keep it in mind. If
12 anything I feel like it makes friendship more interesting.

13 MS. MCNEILL: Okay. Friends that you've had to group a little
14 differently than you, do you ever have a situations arise where they'll do
15 something or say something and you kind of think, what are you doing,
16 dude?

17 PROSPECTIVE JUROR NUMBER 423: Yeah. All the time.

18 MS. MCNEILL: Okay. What kind of situation have you had like
19 that?

20 PROSPECTIVE JUROR NUMBER 423: Like one of my friends
21 he likes to drink a lot so he'll say some crazy things to people he's never
22 even met before.

23 MS. MCNEILL: Okay. So he tells you crazy stories of things he
24 did when he was drinking?

25 PROSPECTIVE JUROR NUMBER 423: Right.

1 MS. MCNEILL: Okay. Do you kind of take those with a grain of
2 salt?

3 PROSPECTIVE JUROR NUMBER 423: Yeah. I know that he
4 likes to exaggerate, tell tall tales.

5 MS. MCNEILL: Okay. Do you think that people have a
6 tendency to kind of exaggerate things that they've done just to make it
7 sound better or maybe worse depending who they're talking to?

8 PROSPECTIVE JUROR NUMBER 423: I think it would depend
9 on the context of who they were talking to.

10 MS. MCNEILL: Okay. You said that you look at motives when
11 you are hearing what someone is telling you, that exaggeration, is that,
12 kind of, go along those same lines as motive?

13 PROSPECTIVE JUROR NUMBER 423: Yeah.

14 MS. MCNEILL: Okay. Is it important to you to evaluate
15 someone's credibility when they're talking to you, if it's an important
16 issue?

17 PROSPECTIVE JUROR NUMBER 423: I would like to, like,
18 know how credible they are generally.

19 MS. MCNEILL: Okay. You did -- you said you didn't watch a lot
20 of legal shows. What kind of TV shows do you watch?

21 PROSPECTIVE JUROR NUMBER 423: I usually don't watch
22 much TV, except for the news.

23 MS. MCNEILL: Okay. Just news?

24 PROSPECTIVE JUROR NUMBER 423: Yeah.

25 MS. MCNEILL: Yeah. Okay.

1 PROSPECTIVE JUROR NUMBER 423: I like to read mostly.

2 MS. MCNEILL: Okay. What do you read?

3 PROSPECTIVE JUROR NUMBER 423: Fantasy and sci-fi.

4 MS. MCNEILL: Okay. All right. You are one of the younger
5 jurors, as we pointed out, do you spend a lot of time on social media?

6 PROSPECTIVE JUROR NUMBER 423: Not exactly. I spend a
7 lot of time on voice chat, playing video games.

8 MS. MCNEILL: Okay. What video games do you play?

9 PROSPECTIVE JUROR NUMBER 423: You know the
10 Nintendo Switch, games on there.

11 MS. MCNEILL: Okay. All right. Do you use any type of like
12 Facebook, Snapchat, any Twitter, or any of those things, Instagram?

13 PROSPECTIVE JUROR NUMBER 423: I don't use them
14 generally.

15 MS. MCNEILL: Okay. Do you have friends that do?

16 PROSPECTIVE JUROR NUMBER 423: I don't think so.

17 MS. MCNEILL: Okay. So just mostly communicating via the
18 video games?

19 PROSPECTIVE JUROR NUMBER 423: Right.

20 MS. MCNEILL: Okay. Ms. Luzaich asked you about is it
21 embarrassing for a young woman to speak about intimate sexual details
22 and you agreed that it would be, right?

23 PROSPECTIVE JUROR NUMBER 423: Yes.

24 MS. MCNEILL: Sort of similar line of questioning as yesterday,
25 does that mean if a woman comes in and is talking about something that

1 most people would be embarrassed about, does it mean that she must be
2 telling the truth?

3 PROSPECTIVE JUROR NUMBER 423: No.

4 MS. MCNEILL: Okay. Why is that? I mean, do you just say,
5 oh, well, that's embarrassing, so that's the end of my critique of her
6 credibility?

7 PROSPECTIVE JUROR NUMBER 423: No.

8 MS. MCNEILL: Okay.

9 PROSPECTIVE JUROR NUMBER 423: That's not where it
10 ends.

11 MS. MCNEILL: Okay.

12 PROSPECTIVE JUROR NUMBER 423: I'd have to -- well, it
13 would depend on everything I'd seen throughout the course. It's 'cause --
14 well, everything I'd say now would just be speculation.

15 MS. MCNEILL: Okay. So you need more than just the fact that
16 maybe some people would be embarrassed by having --

17 PROSPECTIVE JUROR NUMBER 423: Right.

18 MS. MCNEILL: -- to talk about sexual details?

19 Do you think that there are people who wouldn't be
20 embarrassed by talking about those things?

21 PROSPECTIVE JUROR NUMBER 423: Yes.

22 MS. MCNEILL: Okay. So different kinds of people find different
23 things embarrassing, right?

24 PROSPECTIVE JUROR NUMBER 423: Right.

25 MS. MCNEILL: Okay. You said that you didn't have any

1 female friends who had talked to you about domestic violence issues.

2 PROSPECTIVE JUROR NUMBER 423: No.

3 MS. MCNEILL: Have you ever had any of your male friends
4 talk to you about issues they were having with their girlfriends?

5 PROSPECTIVE JUROR NUMBER 423: No.

6 MS. MCNEILL: No?

7 PROSPECTIVE JUROR NUMBER 423: I don't think so.

8 MS. MCNEILL: Okay. All right. Well, I guess you're lucky.
9 Okay. Your Honor, I'll pass for cause.

10 THE COURT: All right. Thanks very much. You survived.
11 Okay. All right. So Mr. Miller, correct?

12 PROSPECTIVE JUROR NUMBER 300: Yes.

13 THE COURT: How are you doing today?

14 PROSPECTIVE JUROR NUMBER 300: Oh, stunning, yes.

15 THE COURT: Well, good. Okay. I like the enthusiasm.

16 Is there any reason you could not be fair and impartial in this
17 case?

18 PROSPECTIVE JUROR NUMBER 300: No.

19 THE COURT: Can you wait in forming your opinion on the
20 appropriate result until all the evidence has been heard?

21 PROSPECTIVE JUROR NUMBER 300: Yes.

22 THE COURT: Have you or anyone close to you worked in law
23 enforcement?

24 PROSPECTIVE JUROR NUMBER 300: No.

25 THE COURT: Have you or anyone close to you been charged

1 with a serious crime?

2 PROSPECTIVE JUROR NUMBER 300: No.

3 THE COURT: Have you or anyone close to you been the victim
4 of a serious crime?

5 PROSPECTIVE JUROR NUMBER 300: No.

6 THE COURT: Have you or anyone close to you been accused
7 of or the victim of domestic violence or sexual abuse?

8 PROSPECTIVE JUROR NUMBER 300: No.

9 THE COURT: Is there anything about the charges in this case
10 that would make it difficult for you to be fair and impartial?

11 PROSPECTIVE JUROR NUMBER 300: No.

12 THE COURT: Can you base your verdict solely on the
13 evidence and the law that applies without fear of criticism or popular
14 opinion?

15 PROSPECTIVE JUROR NUMBER 300: Yes.

16 THE COURT: Have you ever been a juror before?

17 PROSPECTIVE JUROR NUMBER 300: No.

18 THE COURT: If you were a party to this case, would you be
19 comfortable with jurors of a like frame of mind as yourself sitting in
20 judgment?

21 PROSPECTIVE JUROR NUMBER 300: Yes.

22 THE COURT: How long have you lived here in Clark County?

23 PROSPECTIVE JUROR NUMBER 300: Since 1972.

24 THE COURT: Well, that's a long time around here.

25 PROSPECTIVE JUROR NUMBER 300: It is, yes.

1 THE COURT: What's the highest level of education you
2 completed?

3 PROSPECTIVE JUROR NUMBER 300: Bachelors.

4 THE COURT: In what?

5 PROSPECTIVE JUROR NUMBER 300: Math education.

6 THE COURT: And are you employed?

7 PROSPECTIVE JUROR NUMBER 300: Yes.

8 THE COURT: What do you do?

9 PROSPECTIVE JUROR NUMBER 300: I'm a director for cyber
10 security, internet operations at the school district.

11 THE COURT: You mentioned cyber security, do you have
12 interactions with law enforcement officers as part of your work?

13 PROSPECTIVE JUROR NUMBER 300: Occasionally. They
14 usually go through the CTO, the computer technology officer, but it's
15 either monitoring certain things or with certain things we see we'll let them
16 know.

17 THE COURT: Okay. Have you ever had occasion to report
18 something you found on the computer system there?

19 PROSPECTIVE JUROR NUMBER 300: No, no.

20 THE COURT: Are you married?

21 PROSPECTIVE JUROR NUMBER 300: No.

22 THE COURT: Have any children?

23 PROSPECTIVE JUROR NUMBER 300: No.

24 THE COURT: All right. State.

25 MS. LUZAICH: In your employment, what do you do a daily

1 basis?

2 PROSPECTIVE JUROR NUMBER 300: We pretty much -- we
3 monitor ingoing/outgoing traffic. We're pretty much the edge on the ISP
4 for the school district. So the internet comes into us, we do the internet
5 edge security, and then other web services and stuff like that.

6 MS. LUZAICH: But, like, are you monitoring what the students
7 are doing? Are you monitoring what the teachers are doing?

8 PROSPECTIVE JUROR NUMBER 300: Yes. It's the traffic.

9 MS. LUZAICH: Everything.

10 PROSPECTIVE JUROR NUMBER 300: So most of what we're
11 looking for is either -- we're not monitoring as to -- if they're going
12 somewhere they shouldn't, it's typically blocked. If -- what we're
13 monitoring for is either inbound or outbound malware, cryptojacking.

14 MS. LUZAICH: Viruses, that type of stuff?

15 PROSPECTIVE JUROR NUMBER 300: Yeah, viruses. You
16 know, ransomware, people are using more bandwidth than they should
17 and so on, any anomalies.

18 MS. LUZAICH: Is there that much going on that there's several
19 of you doing this?

20 PROSPECTIVE JUROR NUMBER 300: Yeah, yeah. It's -- we
21 have 320,000 students and 40,000 employees that show up each day so
22 that's providing an internet for a small city.

23 MS. LUZAICH: Oh, okay. Good point.

24 PROSPECTIVE JUROR NUMBER 300: Many of which are
25 intent on not being good so.

1 MS. LUZAICH: Okay. So would you consider yourself to be
2 more of an analytical person than anything else?

3 PROSPECTIVE JUROR NUMBER 300: Yeah.

4 MS. LUZAICH: Make sure all your T's are crossed; your I's are
5 dotted?

6 PROSPECTIVE JUROR NUMBER 300: U'm-h'm.

7 MS. LUZAICH: Is that a yes?

8 PROSPECTIVE JUROR NUMBER 300: Yes, I'm sorry.

9 MS. LUZAICH: Our nice court recorder --

10 PROSPECTIVE JUROR NUMBER 300: Yes, I -- I'm sorry.

11 MS. LUZAICH: -- is, remember, recording everything we say.

12 You seem like you are a person that easily expresses your
13 views to strangers.

14 PROSPECTIVE JUROR NUMBER 300: It depends.

15 MS. LUZAICH: On what?

16 PROSPECTIVE JUROR NUMBER 300: Of what we're
17 discussing. I mean, I just don't walk up to somebody and say, hey, let me
18 tell you what I did yesterday. Unless there was --

19 MS. LUZAICH: Okay. In a social --

20 PROSPECTIVE JUROR NUMBER 300: -- yesterday, which
21 was a nightmare, but yeah.

22 MS. LUZAICH: You didn't enjoy yesterday?

23 PROSPECTIVE JUROR NUMBER 300: It's hard.

24 MS. LUZAICH: It's going to get better I promise.

25 PROSPECTIVE JUROR NUMBER 300: I'm highly anticipating.

1 yes.

2 MS. LUZAICH: Well, how do you feel about serving on a jury?

3 PROSPECTIVE JUROR NUMBER 300: I don't mind. I'm just --
4 I don't mind. I understand it's my duty and so on. It's just the timing. Like
5 I said, I -- we've had tickets for a vacation on next Wednesday. So as
6 long as I get out by Tuesday night.

7 MS. LUZAICH: We'll be done. You're going. Don't worry.

8 PROSPECTIVE JUROR NUMBER 300: Well, I'm just saying,
9 because I'm on a plane for Alaska Wednesday morning.

10 MS. LUZAICH: Yeah, you're going on a vacation. No worries.
11 Do you watch CSI, those kind of shows?

12 PROSPECTIVE JUROR NUMBER 300: No.

13 MS. LUZAICH: Nothing at all?

14 PROSPECTIVE JUROR NUMBER 300: Don't watch much TV,
15 no.

16 MS. LUZAICH: So you're not heartbroken hearing that it's
17 fake?

18 PROSPECTIVE JUROR NUMBER 300: No, no, no.

19 MS. LUZAICH: Okay. What do you think would make
20 somebody a good juror?

21 PROSPECTIVE JUROR NUMBER 300: Objective, able to
22 actually listen to testimony, pay attention to -- I assume there's
23 questioning from the prosecution and the defense.

24 MS. LUZAICH: Okay. Well, prosecution and defense, they're
25 going to get to ask witnesses questions as well.

1 PROSPECTIVE JUROR NUMBER 300: Right.

2 MS. LUZAICH: In your capacity at the school district, do you
3 deal with the students or is it really more just the -- like the computers and
4 administrators?

5 PROSPECTIVE JUROR NUMBER 300: I don't deal with the
6 students. We let the building know if something is going on.

7 MS. LUZAICH: Okay. So you don't question students --

8 PROSPECTIVE JUROR NUMBER 300: No, no --

9 MS. LUZAICH: -- stuff like that.

10 PROSPECTIVE JUROR NUMBER 300: -- no.

11 MS. LUZAICH: How might you evaluate witnesses to see who
12 is or potentially not telling the truth?

13 PROSPECTIVE JUROR NUMBER 300: It was just -- like they
14 were saying, just evaluate and what the other testimony as well. If
15 somebody I've just met I have no idea whether they're telling me the truth
16 or not, I have to, you know, depending on what happens. I don't know.
17 I'm not a mind reader. So I have to be able to listen to what they say and
18 then evaluate with the other evidence presented.

19 MS. LUZAICH: Okay. Do you think that different people react
20 differently to the same set of circumstances?

21 PROSPECTIVE JUROR NUMBER 300: Of course, yeah.
22 People --

23 MS. LUZAICH: I mean, --

24 PROSPECTIVE JUROR NUMBER 300: -- always remember
25 different things. It was a guy in a red shirt or a guy in a blue shirt, you

1 know. It's --

2 MS. LUZAICH: Right. But I asked yesterday, something, have
3 you ever seen somebody cry at a funeral.

4 PROSPECTIVE JUROR NUMBER 300: Yes.

5 MS. LUZAICH: So it's not what you would expect but it's an
6 emotion still.

7 PROSPECTIVE JUROR NUMBER 300: Yes.

8 MS. LUZAICH: Would you agree?

9 PROSPECTIVE JUROR NUMBER 300: Yes.

10 MS. LUZAICH: Is there anything that you're expecting to see
11 here?

12 PROSPECTIVE JUROR NUMBER 300: No.

13 MS. LUZAICH: You know, on TV you always see in this kind of
14 situation somebody comes in and cries. If nobody cries, is that going to
15 matter to you?

16 PROSPECTIVE JUROR NUMBER 300: No.

17 MS. LUZAICH: Do you think that you can evaluate the
18 testimony of all witnesses the same, a police officer the same as a
19 7-Eleven clerk, the same as, you know, an astronaut?

20 PROSPECTIVE JUROR NUMBER 300: Yes, it doesn't matter.

21 MS. LUZAICH: Would you agree that sometimes people have
22 reasons to not be perfectly honest?

23 PROSPECTIVE JUROR NUMBER 300: Of course.

24 MS. LUZAICH: Can you think of what some reasons might be?

25 PROSPECTIVE JUROR NUMBER 300: Either they can get in

1 trouble themselves, trying to protect friends or family.

2 MS LUZAICH: Is it okay to not tell the truth?

3 PROSPECTIVE JUROR NUMBER 300: Not once you've been
4 sworn in.

5 MS. LUZAICH: Good point.

6 Do you think that it will be embarrassing for somebody to come
7 in here and talk to a room full of strangers about intimate sexual details?

8 PROSPECTIVE JUROR NUMBER 300: I'm sure it would be,
9 yeah.

10 MS. LUZAICH: Is that something you would take into
11 consideration?

12 PROSPECTIVE JUROR NUMBER 300: Yes.

13 MS. LUZAICH: Is there anything -- because you know
14 everything there is to know about yourself -- is there anything that you
15 think that we should know that would help us determine whether you
16 would be a good juror?

17 PROSPECTIVE JUROR NUMBER 300: No

18 MS. LUZAICH: Is there anything that would prohibit you from
19 sitting in judgment?

20 PROSPECTIVE JUROR NUMBER 300: No.

21 MS. LUZAICH: If you listen to all the testimony and see all the
22 evidence, if you are convinced beyond a reasonable doubt the Defendant
23 committed the crimes he's charged with, would you be able to say the
24 word guilty?

25 PROSPECTIVE JUROR NUMBER 300: Yes.

1 MS. LUZAICH: Thank you.
2 Pass for cause.
3 MS. MCNEILL: Good afternoon, Mr. Miller.
4 You said you have a degree in math education?
5 PROSPECTIVE JUROR NUMBER 300: Yes.
6 MS. MCNEILL: Okay. Were you ever a teacher?
7 PROSPECTIVE JUROR NUMBER 300: I taught for four years.
8 MS. MCNEILL: Okay. And I have a stupid question, but did
9 you teach math?
10 PROSPECTIVE JUROR NUMBER 300: Yeah, calculus.
11 MS. MCNEILL: Okay. Well, sometimes you get a math degree
12 and then you end up doing, like, you know, 5th grade or something.
13 PROSPECTIVE JUROR NUMBER 300: PE, no, I never.
14 MS. MCNEILL: You taught for four years, what grades did you
15 teach?
16 PROSPECTIVE JUROR NUMBER 300: High school math.
17 MS. MCNEILL: Okay. Here in Las Vegas?
18 PROSPECTIVE JUROR NUMBER 300: Yes.
19 MS. MCNEILL: What high school did you teach at?
20 PROSPECTIVE JUROR NUMBER 300: Cheyenne.
21 MS. MCNEILL: Okay. And four years of teenagers was
22 enough?
23 PROSPECTIVE JUROR NUMBER 300: I had an opportunity to
24 get to the department I'm at now --
25 MS. MCNEILL: Okay.

1 PROSPECTIVE JUROR NUMBER 300: -- and sort of work my
2 way up to that department. So it was something I was already sort of into
3 and interested in.

4 MS. MCNEILL: Okay. All right. Did you enjoy your time as a
5 teacher?

6 PROSPECTIVE JUROR NUMBER 300: Four years was
7 enough, yes.

8 MS. MCNEILL: Yeah. And math isn't usually not a lot people's
9 wheel --

10 PROSPECTIVE JUROR NUMBER 300: I was fortunate, I was
11 teaching the AP classes. So they --

12 MS. MCNEILL: Oh, okay. So you were with the kids who were
13 good at math and wanted to be in math class.

14 PROSPECTIVE JUROR NUMBER 300: Yeah, they were
15 heading out to college, so they enjoyed their calc AP.

16 MS. MCNEILL: Okay. All right. And now you said you monitor
17 stuff going in and out, you said many people's intent is not on being good.
18 Is that mostly students?

19 PROSPECTIVE JUROR NUMBER 300: Oh, no, no, no. The
20 40,000 employees are just as bad as the 320,000 students, yeah.

21 MS. MCNEILL: Okay. So you have employees who are using
22 their computer for things they shouldn't be.

23 PROSPECTIVE JUROR NUMBER 300: Of course, yes, yes.

24 MS. MCNEILL: Okay. All right. Have you ever seen anything
25 that kind of shocked you that someone would be stupid enough to do at

1 work?

2 PROSPECTIVE JUROR NUMBER 300: After 25 years of being
3 there, there's not much that shocks me anymore. But, no, people,
4 teachers especially, will click on about any free offer that comes along.
5 So now there's ransomware in their school or malware and so on.

6 MS. MCNEILL: Okay. All right. So it's mostly just sort of
7 stumbling into things you shouldn't be stumbling into?

8 PROSPECTIVE JUROR NUMBER 300: Yeah, that and, of
9 course, students trying to play around with hacking and so on.

10 MS. MCNEILL: Okay. With hacking?

11 PROSPECTIVE JUROR NUMBER 300: U'm-h'm.

12 MS. MCNEILL: Okay. All right. So some enterprising children.
13 You have tickets to go on vacation and you sound like you're
14 kind of not dreading being here but this isn't where you want to spend
15 your last few days before vacation?

16 PROSPECTIVE JUROR NUMBER 300: I have stuff to do at
17 work obviously, but I'm here, yeah.

18 MS. MCNEILL: Okay. Does the school district pay you to be
19 here?

20 PROSPECTIVE JUROR NUMBER 300: Yes.

21 MS. MCNEILL: Okay. So you're not worrying about your
22 income?

23 PROSPECTIVE JUROR NUMBER 300: No, no.

24 MS. MCNEILL: Okay. Because we always worry that if
25 someone's got something else, kind of, looming in their head, that it

1 makes it harder to be here critically thinking.

2 You said that there are reasons for people to lie but not once
3 they get sworn in. Do you think that witnesses who once they've been
4 sworn in always tell the truth?

5 PROSPECTIVE JUROR NUMBER 300: No. I'm not gullible
6 enough to think they always tell the truth once they're sworn in.

7 MS. MCNEILL: Okay. Do you think that oath means different
8 things to different people?

9 PROSPECTIVE JUROR NUMBER 300: Oh, yeah.

10 MS. MCNEILL: Okay. Do you think -- have you ever heard of
11 instances of where people have made false allegations of domestic
12 violence or rape?

13 PROSPECTIVE JUROR NUMBER 300: Yes.

14 MS. MCNEILL: Okay. Is that something you've heard about in
15 the news or in your own life?

16 PROSPECTIVE JUROR NUMBER 300: I just read about 'em.

17 MS. MCNEILL: Okay. What are your feelings towards men
18 who are accused of domestic violence?

19 PROSPECTIVE JUROR NUMBER 300: If they're accused, I --
20 they need to have their day in court or, you know, in court, yeah.

21 MS. MCNEILL: Okay. And I know it's a little different if it's a
22 friend, because you might have more background information. But you're
23 willing to keep an open mind that just because someone says something
24 happened to them it doesn't mean it's true?

25 PROSPECTIVE JUROR NUMBER 300: True, yes.

1 MS. MCNEILL: Okay. When you were a teacher, I know you
2 had the AP kids so it was probably a little different, but did you ever have
3 to resolve disputes amongst your students?

4 PROSPECTIVE JUROR NUMBER 300: No.

5 MS. MCNEILL: No? Okay.

6 PROSPECTIVE JUROR NUMER 300: No.

7 MS. MCNEILL: You had, for a lack of a better term, probably
8 like math nerds?

9 PROSPECTIVE JUROR NUMBER 300: Yes, yes.

10 MS. MCNEILL: Yeah. Okay.

11 All right. I will pass for cause, Your Honor.

12 THE COURT: Thank you. Sorry, just one second.

13 All right. Ma'am, how do you pronounce your last name?

14 PROSPECTIVE JUROR NUMBER 305: Machleit.

15 THE COURT: Machleit. Okay.

16 Ms. Machleit, how are you doing today?

17 PROSPECTIVE JUROR NUMBER 305: Nervous.

18 THE COURT: Okay. I understand. Not a fan of public
19 speaking?

20 PROSPECTIVE JUROR NUMBER 305: No, I'm not.

21 THE COURT: I understand.

22 PROSPECTIVE JUROR NUMBER 305: I'm usually a very
23 quiet person.

24 THE COURT: Okay. Well, we'll try not to make it painful.

25 Is there any reason you could not be fair and impartial in this

1 case?

2 PROSPECTIVE JUROR NUMBER 305: My dad was an
3 alcoholic and he used to beat the shit out of my mother regularly.

4 THE COURT: Okay. And did that happen when you were
5 growing up?

6 PROSPECTIVE JUROR NUMBER 305: Yes.

7 THE COURT: Were police ever called?

8 PROSPECTIVE JUROR NUMBER 305: No. She was
9 embarrassed, she wouldn't -- she didn't want anybody to know what was
10 going on and she didn't tell anybody and we were told not to tell anybody
11 either.

12 THE COURT: Right.

13 PROSPECTIVE JUROR NUMBER 305: She just wanted to find
14 a way -- she tried to get a job. She practiced typing and got a job so that
15 she could get him out of there. And then she started to work at Chrysler
16 and she started --

17 THE COURT: So she --

18 PROSPECTIVE JUROR NUMBER 305: -- divorce
19 proceedings.

20 THE COURT: Okay. So she eventually sought a divorce?

21 PROSPECTIVE JUROR NUMBER 305: Yes.

22 THE COURT: Did you see your father after the divorce?

23 PROSPECTIVE JUROR NUMBER 305: I saw him not too
24 much because I didn't want to be around him because of the situation and
25 what he did to my mom. And then he started going after my brother and

1 me, because, you know, I was weaker.

2 THE COURT: Right.

3 PROSPECTIVE JUROR NUMBER 305: He threw me down the
4 stairs because --

5 THE COURT: How old --

6 PROSPECTIVE JUROR NUMBER 305: -- I was making
7 cookies.

8 THE COURT: -- how old were you when they got divorced?

9 PROSPECTIVE JUROR NUMBER 305: I was 17.

10 THE COURT: So ma'am, those personal experiences that
11 you've had do you think that they would affect your ability to be fair and
12 impartial as a juror in this case?

13 PROSPECTIVE JUROR NUMBER 305: Yes.

14 THE COURT: You think -- so you think you would be biased or
15 -- one way or the other here?

16 PROSPECTIVE JUROR NUMBER 305: Yes

17 THE COURT: Before you hear the evidence based --

18 PROSPECTIVE JUROR NUMBER 305: Yes.

19 THE COURT: -- on your experiences? Okay.

20 PROSPECTIVE JUROR NUMBER 305: Yes. I was always
21 afraid when my dad came up the stairs, he used to live in the basement
22 we never knew who he'd come after.

23 THE COURT: Yeah. Okay.

24 PROSPECTIVE JUROR NUMBER 305: And he drank a lot.

25 MS. LUZAICH: No objection, Judge.

1 MS. MCNEILL: No objection, Your Honor.

2 THE COURT: All right. Ma'am, thank you for sharing that with
3 us. I'm sure that was difficult for you to discuss --

4 PROSPECTIVE JUROR NUMBER 305: Yes, it was very
5 difficult.

6 THE COURT: -- in this room of strangers. I am going to
7 excuse you at this time. Thanks very much.

8 PROSPECTIVE JUROR NUMBER 305: Thank you very much.

9 THE COURT: Just leave your mic there, we'll get someone
10 else.

11 THE COURT CLERK: Next in seat 7, Badge 478, Cory
12 Mulherin.

13 THE COURT: Mr. Mulherin.

14 PROSPECTIVE JUROR NUMBER 478: Yes, ma'am.

15 THE COURT: How are you doing today?

16 PROSPECTIVE JUROR NUMBER 478: I'm doing okay.

17 THE COURT: Is there any reason you could not be fair and
18 impartial in this case?

19 PROSPECTIVE JUROR NUMBER 478: No, ma'am.

20 THE COURT: Can you wait in forming your opinion on the
21 appropriate result until all of the evidence has been heard?

22 PROSPECTIVE JUROR NUMBER 478: Yes, ma'am.

23 THE COURT: Have you or anyone close to you worked in law
24 enforcement?

25 PROSPECTIVE JUROR NUMBER 478: I was an MP for a

1 while in the Marine Corps.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NUMBER 478: I don't know if that
4 counts.

5 THE COURT: Yeah, I think it does.

6 So based on your law enforcement experience, would that
7 affect your ability to be fair and impartial as a juror in this case?

8 PROSPECTIVE JUROR NUMBER 478: No, ma'am.

9 THE COURT: Do you think you might have a tendency to give
10 extra weight or credibility to the testimony of law enforcement officers
11 because they're law enforcement officers?

12 PROSPECTIVE JUROR NUMBER 478: No, ma'am.

13 THE COURT: You think you could weigh their testimony as you
14 would weigh any witness testimony?

15 PROSPECTIVE JUROR NUMBER 478: Yes, ma'am.

16 THE COURT: Have you or anyone close to you been charged
17 with a serious crime?

18 PROSPECTIVE JUROR NUMBER 478: Yes, ma'am.

19 THE COURT: Tell me about that.

20 PROSPECTIVE JUROR NUMBER 478: Both my parents were
21 charged with domestic violence.

22 THE COURT: Okay. So what -- and were the charges about
23 violence against each other?

24 PROSPECTIVE JUROR NUMBER 478: Yes, ma'am.

25 THE COURT: Is that when you were a child?

1 PROSPECTIVE JUROR NUMBER 478: Yes, ma'am.

2 THE COURT: Okay. Were -- so they were charged. Did they
3 end up spending time in jail?

4 PROSPECTIVE JUROR NUMBER 478: Yes, ma'am.

5 THE COURT: Okay. Each of them did at some points?

6 PROSPECTIVE JUROR NUMBER 478: Yes, ma'am.

7 THE COURT: Okay. I guess at some point did that resolve
8 itself, did they separate, or did they just keep going that way?

9 PROSPECTIVE JUROR NUMBER 478: They stayed together.

10 THE COURT: And they're still together?

11 PROSPECTIVE JUROR NUMBER 478: Well, my father
12 passed away like three weeks ago so.

13 THE COURT: Oh, I'm sorry to hear that.

14 Okay. Did you live here in Las Vegas when you were growing
15 up?

16 PROSPECTIVE JUROR NUMBER 478: Yes, ma'am.

17 THE COURT: Okay. As a result of those experiences and
18 observations for you growing up, will that affect your ability to be fair and
19 impartial as a juror in this case?

20 PROSPECTIVE JUROR NUMBER 478: No, ma'am.

21 THE COURT: You think you can separate your experiences
22 from the -- what's presented here in the courtroom for this case?

23 PROSPECTIVE JUROR NUMBER 478: Yes, ma'am.

24 THE COURT: Did you ever have to testify in any of those
25 proceedings?

1 PROSPECTIVE JUROR NUMBER 478: No, ma'am.

2 THE COURT: And maybe I was assuming this, but I should
3 ask, did you witness domestic violence going on?

4 PROSPECTIVE JUROR NUMBER 478: Yes, ma'am.

5 THE COURT: Okay. Other than what you've already told me
6 about, have you or anyone close to you been the victim of a serious
7 crime?

8 PROSPECTIVE JUROR NUMBER 478: No, ma'am.

9 THE COURT: Now, let me ask this also with this domestic
10 violence going on between your parents, did either of them ever physically
11 abuse you?

12 PROSPECTIVE JUROR NUMBER 478: No, ma'am.

13 THE COURT: Okay. Other than what you've told be about,
14 have you or anyone close to you been accused of or the victim of
15 domestic violence or sexual abuse?

16 PROSPECTIVE JUROR NUMBER 478: No, ma'am.

17 THE COURT: Is there anything about the charges in this case
18 that would make it difficult for you to be fair and impartial?

19 PROSPECTIVE JUROR NUMBER 478: No, ma'am.

20 THE COURT: Can you base your verdict solely on the
21 evidence that comes out at trial and the law that applies as stated in my
22 instructions without fear of criticism or a popular opinion?

23 PROSPECTIVE JUROR NUMBER 478: Yes, ma'am.

24 THE COURT: Have you ever been a juror before?

25 PROSPECTIVE JUROR NUMBER 478: No, ma'am.

1 THE COURT: If you were a party to this case, would you be
2 comfortable with jurors of a like frame of mind as yourself sitting in
3 judgment?

4 PROSPECTIVE JUROR NUMBER 478: Yes, ma'am.

5 THE COURT: How long have you lived here in Clark County?

6 PROSPECTIVE JUROR NUMBER 478: I moved back
7 December 2015.

8 THE COURT: Had you been -- oh, right, so you grew up here?

9 PROSPECTIVE JUROR NUMBER 478: Yes, ma'am.

10 THE COURT: And where had you gone in the middle?

11 PROSPECTIVE JUROR NUMBER 478: I was in California. I
12 was stationed in California and then Okinawa.

13 THE COURT: Right. Okay. So you -- what branch did you say
14 you were in?

15 PROSPECTIVE JUROR NUMBER 478: Marine Corps.

16 THE COURT: Marine Corps. Okay.

17 What's the highest level of education you completed?

18 PROSPECTIVE JUROR NUMBER 478: Associate's degree.

19 THE COURT: In what field?

20 PROSPECTIVE JUROR NUMBER 478: Business with an
21 emphasis in accounting.

22 THE COURT: Okay. Are you employed?

23 PROSPECTIVE JUROR NUMBER 478: Yes, ma'am.

24 THE COURT: What do you do?

25 PROSPECTIVE JUROR NUMBER 478: I'm a project

1 coordinator for Geo Tech.

2 THE COURT: And what kind of company is that?

3 PROSPECTIVE JUROR NUMBER 478: It's like a construction
4 company.

5 THE COURT: Are you married?

6 PROSPECTIVE JUROR NUMBER 478: Yes, ma'am.

7 THE COURT: Is your spouse employed?

8 PROSPECTIVE JUROR NUMBER 478: Yes, ma'am.

9 THE COURT: Doing what?

10 PROSPECTIVE JUROR NUMBER 478: She's a medical
11 records clerk.

12 THE COURT: Do you have any children?

13 PROSPECTIVE JUROR NUMBER 478: No, ma'am.

14 THE COURT: Okay. State.

15 MS. LUZAICH: Thank you.

16 For how long did you serve with the Marines?

17 PROSPECTIVE JUROR NUMBER 478: Four years.

18 MS. LUZAICH: Thank you for your service.

19 You are -- were you an MP the whole time?

20 PROSPECTIVE JUROR NUMBER 478: No.

21 MS. LUZAICH: In the -- for how long were you an MP?

22 PROSPECTIVE JUROR NUMBER 478: Like three months.

23 MS. LUZAICH: In the course of your time doing that, did you
24 investigate, did you arrest, did you just kind of guard, what did you do?

25 PROSPECTIVE JUROR NUMBER 478: I was pretty much

1 guarding.

2 MS. LUZAICH: Here or in Okinawa?

3 PROSPECTIVE JUROR NUMBER 478: Okinawa.

4 MS. LUZAICH: What or who were you guarding?

5 PROSPECTIVE JUROR NUMBER 478: I was guarding the --
6 pretty much the gates for anybody coming in, checking ID's, making sure
7 they didn't have any explosives or anything like that.

8 MS. LUZAICH: Okay. In the course of your time with the
9 Marines, did you ever have occasion to participate in a court-martial,
10 Article -- I get it wrong all the time -- 15. Is that what it is?

11 PROSPECTIVE JUROR NUMBER 478: No, I did not.

12 MS. LUZAICH: Nothing?

13 Did you choose to be an MP or were you chosen?

14 PROSPECTIVE JUROR NUMBER 478: Chosen, voluntold.

15 MS. LUZAICH: But you followed orders?

16 PROSPECTIVE JUROR NUMBER 478: Yes, ma'am.

17 MS. LUZAICH: 'Cause that's what Marines do.

18 What else did you do as a Marine?

19 PROSPECTIVE JUROR NUMBER 478: I was a supply
20 administration clerk.

21 MS. LUZAICH: And you were released in December of 2015?

22 PROSPECTIVE JUROR NUMBER 478: 2011. I went to school
23 for three years after.

24 MS. LUZAICH: Okay. And that's where you got your degree?

25 PROSPECTIVE JUROR NUMBER 478: Yes, ma'am.

1 MS. LUZAICH: Okay. And thank you for being so open about
2 the situation with your parents.

3 How often were the police called?

4 PROSPECTIVE JUROR NUMBER 478: It was probably like
5 every six months. There was like four or five different instances between
6 them.

7 MS. LUZAICH: Who called the police?

8 PROSPECTIVE JUROR NUMBER 478: Sometimes it was my
9 father, sometimes it was my mom.

10 MS. LUZAICH: Did you ever have to?

11 PROSPECTIVE JUROR NUMBER 478: No.

12 MS. LUZAICH: How old were you when it started?

13 PROSPECTIVE JUROR NUMBER 478: I don't remember
14 when it started. The last time I remember is when I was like 11, 11 or 12.

15 MS. LUZAICH: Oh, that was the last time?

16 PROSPECTIVE JUROR NUMBER 478: Yes.

17 MS. LUZAICH: So they remained together you said.

18 PROSPECTIVE JUROR NUMBER 478: Yes.

19 MS. LUZAICH: Did it kind of level out and stop?

20 PROSPECTIVE JUROR NUMBER 478: They just stopped
21 drinking as much.

22 MS. LUZAICH: Was that the problem --

23 PROSPECTIVE JUROR NUMBER 478: Yes.

24 MS. LUZAICH: -- drinking?

25 PROSPECTIVE JUROR NUMBER 478: Yes.

1 MS. LUZAICH: Were you scared when it would happen?
2 PROSPECTIVE JUROR NUMBER 478: No.
3 MS. LUZAICH: Did you ever have to actually talk to the police?
4 PROSPECTIVE JUROR NUMBER 478: No.
5 MS. LUZAICH: Do you know was it Metro who would respond?
6 PROSPECTIVE JUROR NUMBER 478: Yes.
7 MS. LUZAICH: Did -- and they never talked to you about --
8 PROSPECTIVE JUROR NUMBER 478: They would ask me,
9 my parents always just said that I -- told me to say I never saw anything
10 so.
11 MS. LUZAICH: Oh, okay.
12 Do you have any opinions as to how Metro treated your parents
13 on those different situations?
14 PROSPECTIVE JUROR NUMBER 478: I just remember Metro
15 talking to both of them and then taking one of them away.
16 MS. LUZAICH: Did that upset you when one of them was taken
17 away?
18 PROSPECTIVE JUROR NUMBER 478: Not really.
19 MS. LUZAICH: Did you ever feel like they took the wrong one?
20 PROSPECTIVE JUROR NUMBER 478: I don't think so.
21 MS. LUZAICH: So I guess, overall do you have an opinion
22 about how the police handled the situation? I mean, do you have any
23 good feelings or bad feelings or just kind of neutral feelings because of
24 your personal experience with the family?
25 PROSPECTIVE JUROR NUMBER 478: I was just usually glad

1 it was just over whenever they came so.

2 MS. LUZAICH: Okay. So you know, an officer that's been
3 around for twenty some years, if he comes in and testifies, you're not
4 going to go, oh, wait, you're the one, I don't like you, I'm not going to
5 believe you. I mean, nothing like that, right?

6 PROSPECTIVE JUROR NUMBER 478: No.

7 MS. LUZAICH: Have you ever had the occasion to call the
8 police?

9 PROSPECTIVE JUROR NUMBER 478: No.

10 MS. LUZAICH: Do you think you would be a good juror?

11 PROSPECTIVE JUROR NUMBER 478: Yes.

12 MS. LUZAICH: Why?

13 PROSPECTIVE JUROR NUMBER 478: I think I'm fair.

14 MS. LUZAICH: Open minded?

15 PROSPECTIVE JUROR NUMBER 478: Yes.

16 MS. LUZAICH: Willing to wait until you hear everything before
17 you make a decision?

18 PROSPECTIVE JUROR NUMBER 478: Yes.

19 MS. LUZAICH: Do you think that it will be embarrassing for a
20 young woman to have to come in here and speak to a room full of
21 strangers about intimate sexual details?

22 PROSPECTIVE JUROR NUMBER 478: Yes.

23 MS. LUZAICH: Is that something that you would take into
24 consideration when evaluating testimony?

25 PROSPECTIVE JUROR NUMBER 478: No.

1 MS. LUZAICH: No? How come?

2 PROSPECTIVE JUROR NUMBER 478: I just -- I just don't
3 think I would. I mean, it's -- it would be tough to do but they're doing it for
4 a reason so.

5 MS. LUZAICH: Okay. What things might you take into
6 consideration when you're evaluating the testimony of witnesses?

7 PROSPECTIVE JUROR NUMBER 478: The reason people are
8 saying things, maybe the motive behind it, or why.

9 MS. LUZAICH: Do you think there's always a motive behind
10 what people say?

11 PROSPECTIVE JUROR NUMBER 478: Usually.

12 MS. LUZAICH: Sometimes is it possible that saying it because
13 it really happened?

14 PROSPECTIVE JUROR NUMBER 478: Yes.

15 MS. LUZAICH: I mean, I guess I asked the question because if
16 you think that there's always a motive behind things that people say it's
17 almost like you think that everything is calculated, is that right?

18 PROSPECTIVE JUROR NUMBER 478: Yes.

19 MS. LUZAICH: Okay. So if your neighbor juror over there just
20 turned around and whacked you in the head and the juror in front of you
21 said, excuse me, she just whacked him in the head, do you think that he's
22 got a reason for saying that or did he say it just because it happened?

23 PROSPECTIVE JUROR NUMBER 478: I think he has a reason
24 to say it.

25 MS. LUZAICH: What would -- what might that reason be?

1 PROSPECTIVE JUROR NUMBER 478: Because he was
2 whacked in the head.

3 MS. LUZAICH: No, you were whacked in the head.

4 PROSPECTIVE JUROR NUMBER 478: Oh, me. Is he saying
5 that I whacked in the head?

6 MS. LUZAICH: Yeah, yeah. He raised --

7 PROSPECTIVE JUROR NUMBER 478: Oh.

8 MS. LUZAICH: -- his hand and told me that she whacked you
9 in the head.

10 PROSPECTIVE JUROR NUMBER 478: Because I was
11 whacked in the head.

12 MS. LUZAICH: Okay. But you think that he said it because it
13 actually happened?

14 PROSPECTIVE JUROR NUMBER 478: Yes.

15 MS. LUZAICH: And maybe he doesn't want her to whack him.

16 PROSPECTIVE JUROR NUMBER 478: Yeah.

17 MS. LUZAICH: Okay. You know, this is difficult, you gotta
18 make it a little bit light periodically when you can.

19 THE MARSHAL: There will be no whacking on the head.

20 MS. LUZIACH: So if two witnesses say things that are slightly
21 different, why, in your mind, do you think that might happen?

22 PROSPECTIVE JUROR NUMBER 478: They might want a
23 different outcome or have a reason for saying it a certain way.

24 MS. LUZAICH: Could it be because they were just paying
25 attention to different things?

1 PROSPECTIVE JUROR NUMBER 478: Could be.

2 MS. LUZAICH: I mean, if you and I are watching the same car
3 accident you may notice that really cool Mustang that ran into the other
4 car, I may notice the really cool shirt the girl driving it was wearing, right?

5 PROSPECTIVE JUROR NUMBER 478: Correct.

6 MS. LUZAICH: So you and I might describe the incident
7 differently.

8 PROSPECTIVE JUROR NUMBER 478: Yes.

9 MS. LUZAICH: Would you agree with that?

10 PROSPECTIVE JUROR NUMBER 478: Yes.

11 MS. LUZAICH: But I don't know that either one of us has a
12 reason for describing it differently, other than we were paying attention to
13 different things.

14 PROSPECTIVE JUROR NUMBER 478: Okay.

15 MS. LUZAICH: Do you agree?

16 PROSPECTIVE JUROR NUMBER 478: Yes.

17 MS. LUZAICH: I mean, could it, in your mind, be as easy as
18 that?

19 PROSPECTIVE JUROR NUMBER 478: It could, yeah.

20 MS. LUZAICH: You still think there's a reason behind
21 everything?

22 PROSPECTIVE JUROR NUMBER 478: Yes.

23 MS. LUZAICH: Okay. Fair enough.

24 Do you think that if you go back in the deliberation room you're
25 going to be somebody who is going to try and move the conversation

1 around or are you going to be somebody who just kind of sits back and
2 listens?

3 PROSPECTIVE JUROR NUMBER 478: I'd move the
4 conversation around.

5 MS. LUZAICH: Okay. Will you be able to also sit back and
6 listen?

7 PROSPECTIVE JUROR NUMBER 478: Of course.

8 MS. LUZAICH: Because you would agree that it's important
9 what everybody's opinion is?

10 PROSPECTIVE JUROR NUMBER 478: Definitely.

11 MS. LUZAICH: So if they all feel one way and you feel the
12 other way, what are you then going to do?

13 PROSPECTIVE JUROR NUMBER 478: I'm going to just listen
14 to everybody then state whatever I believe.

15 MS. LUZAICH: Okay. But if you're sure you're right, will you
16 stick to your guns?

17 PROSPECTIVE JUROR NUMBER 478: Yes.

18 MS. LUZAICH: But will you keep your mind open that maybe
19 they did see something that you didn't?

20 PROSPECTIVE JUROR NUMBER 478: Yes.

21 MS. LUZAICH: So it's possible you could change your mind?

22 PROSPECTIVE JUROR NUMBER 478: Yes.

23 MS. LUZAICH: Okay. If -- well, is there anything about you that
24 would prevent you from sitting in judgment?

25 PROSPECTIVE JUROR NUMBER 478: I don't believe so.

1 MS. LUZAICH: So if you do listen to all the testimony and see
2 all the evidence, if you're convinced beyond a reasonable doubt the
3 Defendant committed the crimes that he's charged with, would you be
4 able to say the word guilty?

5 PROSPECTIVE JUROR NUMBER 478: Yes.

6 MS. LUZAICH: Thank you.

7 Pass for cause.

8 THE COURT: Thank you.

9 MS. MCNEILL: Thank you, Your Honor.

10 You indicated that you thought you'd be a good juror because
11 you're a fair person, right?

12 PROSPECTIVE JUROR NUMBER 478: Yes.

13 MS. MCNEILL: What does that mean to you, in this context of a
14 jury trial, to be fair?

15 PROSPECTIVE JUROR NUMBER 478: I believe to be just fair
16 to my other jurors, to make sure everyone has their own voice, we're all
17 equal.

18 MS. MCNEILL: Okay.

19 PROSPECTIVE JUROR NUMBER 478: Every -- yeah.

20 MS. MCNEILL: Okay. What do you think about fairness in the
21 context of what the State's job is versus what my job is?

22 PROSPECTIVE JUROR NUMBER 478: I believe I understand
23 that your job is just to -- they're just -- excuse me, the prosecutors are just
24 supposed to provide evidence and it's my job to listen to all the evidence
25 and come to a conclusion.

1 MS. MCNEILL: Okay. And you understand that they have to
2 prove to you that he's guilty?

3 PROSPECTIVE JUROR NUMBER 478: Yes.

4 MS. MCNEILL: And that right now he's innocent --

5 PROSPECTIVE JUROR NUMBER 478: Yes.

6 MS. MCNEILL: -- right?

7 Okay. You talked a little bit about what it was like in your house
8 and you said you didn't feel like that would cause any problems as you sit
9 here. Sometimes what happens with jurors is they have things that are
10 sort of emotional and then they're sitting here they realize as they hear the
11 witnesses talk that those emotions are coming to the surface again and it
12 makes it hard for them to be sort of neutral.

13 Do you have any concerns about that?

14 PROSPECTIVE JUROR NUMBER 478: No.

15 MS. MCNEILL: Okay. Did you have any -- did you go to any
16 type of therapy or counseling because of what happened in your house
17 when you were a kid?

18 PROSPECTIVE JUROR NUMBER 478: No.

19 MS. MCNEILL: Okay. Did you feel that you needed to or did
20 you feel like you were just able to say, you know what, that was my
21 childhood and I'm past that point?

22 PROSPECTIVE JUROR NUMBER 478: I feel like I'm past it.

23 MS. MCNEILL: Okay. When you were in the Marine Corps, did
24 you ever have male friends who talked to you about issues they were
25 having with girlfriends?

1 PROSPECTIVE JUROR NUMBER 478: Yes.

2 MS. MCNEILL: Okay. What kind of issues would they talk to
3 you about?

4 PROSPECTIVE JUROR NUMBER 478: There's -- there's a lot
5 of issues. Some, you know, with women being back here and we're, you
6 know, overseas or just, you know, just, hey, I'm talking to her or. I don't
7 know. There's all kinds of issues. People come to me with their
8 problems.

9 MS. MCNEILL: Okay.

10 PROSPECTIVE JUROR NUMBER 478: But.

11 MS. MCNEILL: Are you the kind of person that people like to
12 talk to you about their problems?

13 PROSPECTIVE JUROR NUMBER 478: Yes.

14 MS. MCNEILL: Why do you think that is?

15 PROSPECTIVE JUROR NUMBER 478: I think I'm very open
16 and accepting.

17 MS. MCNEILL: Okay. So you don't judge them you just listen?

18 PROSPECTIVE JUROR NUMBER 478: Yes.

19 MS. MCNEILL: Okay. Do you think that's an important skill to
20 have as a juror?

21 PROSPECTIVE JUROR NUMBER 478: I'd hope -- yeah, I
22 think so.

23 MS. MCNEILL: Okay. You said, you kind of laughed when I
24 said what kind of issues did they have with their girlfriends and you said a
25 lot of issues. Would you agree with me that in dating there's all kinds of

1 issues that can arise between men and women?

2 PROSPECTIVE JUROR NUMBER 478: Yes.

3 MS. MCNEILL: Okay. And some of those stem from what kind
4 of person is in the relationship, right?

5 PROSPECTIVE JUROR NUMBER 478: Yes.

6 MS. MCNEILL: Okay. Did you ever have male friends who had
7 girlfriends or ex-girlfriends who did come to you and say like she's crazy?

8 PROSPECTIVE JUROR NUMBER 478: Yes.

9 MS. MCNEILL: Okay. Was that fairly common?

10 PROSPECTIVE JUROR NUMBER 478: Not that common.

11 MS. MCNEILL: Okay. But it is an experience that you've had.
12 Have you ever had an experience like that of your own with an
13 ex?

14 PROSPECTIVE JUROR NUMBER 478: No.

15 MS. MCNEILL: Okay. The situation in your house it sounds
16 like you've sort of been able to compartmentalize that partially because
17 you were there and you saw it and you know the real details, right?

18 PROSPECTIVE JUROR NUMBER 478: [No audible response.]

19 MS. MCNEILL: In this case you understand you might not get
20 all of the details, you're only going to get what the State presents to you?

21 PROSPECTIVE JUROR NUMBER 478: Okay, yes.

22 MS. MCNEILL: Okay. Do you have any problems with that or
23 do you feel like you're going to be asking, well, why didn't the defense do
24 more or why didn't they call anybody or why didn't they tell me, fill in these
25 gaps that the State left?

1 PROSPECTIVE JUROR NUMBER 478: No, I think -- I
2 understand.

3 MS. MCNEILL: Okay. So if the State doesn't fill in the gaps,
4 you'll hold that against them, right?

5 PROSPECTIVE JUROR NUMBER 478: I don't think I'll hold it
6 against anybody.

7 MS. MCNEILL: Okay.

8 PROSPECTIVE JUROR NUMBER 478: I mean, I'm just going
9 to listen to the --

10 MS. MCNEILL: Well, if they don't prove to you beyond a
11 reasonable doubt, if you're back they're saying to yourself, well, you know,
12 I had these questions about these details, I would want this information, I
13 need this information in order to determine if he's guilty.

14 You'll hold that against them not me, right?

15 PROSPECTIVE JUROR NUMBER 478: Yes.

16 MS. MCNEILL: Okay. When you -- when the State talks to you
17 a little bit about that it's embarrassing for someone to talk about sexual
18 details, how do you feel about someone like me, a defense attorney, sort
19 of having to inquire further into those embarrassing details?

20 PROSPECTIVE JUROR NUMBER 478: I think it's your job.

21 MS. MCNEILL: Okay. And you don't have a problem with that?
22 You'd, in fact, probably expect me to do something?

23 PROSPECTIVE JUROR NUMBER 478: Yes, it's your job.

24 MS. MCNEILL: Okay. You said your wife is a medical records
25 clerk?

1 PROSPECTIVE JUROR NUMBER 478: Yes.

2 MS. MCNEILL: Okay. And where does she work?

3 PROSPECTIVE JUROR NUMBER 478: Shepard Eye Center.

4 MS. MCNEILL: Okay. Does she have any type of medical
5 background or is it more administrative?

6 PROSPECTIVE JUROR NUMBER 478: Administrative.

7 MS. MCNEILL: Okay. All right.

8 Your Honor, I'll pass for cause.

9 THE COURT: All right. Thank you.

10 So folks, we're going to -- sorry. We are going to go ahead and
11 take a lunch break. We're going to try to keep it to an hour, so try to pick
12 up at 1:30.

13 Before you depart -- and I -- before you depart, I will have to
14 read those admonitions again that I had told you about yesterday. But
15 even before that, one thing that I didn't mention to you yesterday when I
16 was talking to you about what you can and can't do, that I meant to and
17 will now, is that the attorneys, parties, and witnesses and everybody
18 involved in the case they're not allowed to talk to you.

19 Now, I'm sure you all understand they can't, you know, catch
20 you out in the hallway and start talking to you about the case. But to
21 make sure no one thinks they're talking to you about the case, they're
22 going to be avoiding having any interaction with you folks at all about any
23 subject; clothing, the weather, normal pleasantries. They're going to
24 avoid it just to make sure there's no issue later about what was said to
25 whom, right? So I'm sure you understand that.

1 So if you -- if they sort of take a different elevator, or walk the
2 other way out in the hallway, please don't think they're being rude or
3 disrespectful, they're just honoring their obligation to avoid interacting with
4 you folks as now potential jurors and eventually those who do sit as the
5 jurors.

6 So make sure you do keep in mind these admonitions that I did
7 talk to you about yesterday. So between now and -- let's make it 1:35,
8 give you at least a full hour.

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

16 Jurors are excused.

17 Counsel, please stay a minute.

18 THE MARSHAL: All rise.

19 [Outside the presence of the prospective jury]

20 THE COURT: You can go ahead and have a seat. Thanks.

21 So a little while ago while we were questioning Mr. Miller in seat
22 number six, as a potential juror. He's the guy that does IT stuff with the
23 school district.

24 So while you guys were doing your questioning of him, I got an
25 email forwarded to me. So the background is I have a campaign email

1 address, which is basically monitored by my campaign consultant and he
2 forwarded me an email that had come to that email address about Mr.
3 Miller from someone, I don't believe I know, about him being a juror and
4 asking if I would dismiss him as a juror because of some responsibility he
5 has with the school district and some tasks that he's working on that this
6 person thinks they're important. It's not from a CCSD email address.

7 But it -- you know, it -- it may be someone involved with the
8 project because it talks about specific programs that he was supposed to
9 get done before he leaves on vacation next week. This person clearly
10 knows him.

11 And it goes on about, you know, the team being small and
12 needing this, you know, about needing community support from public
13 officials.

14 And the last sentence is, please keep this request confidential.

15 So I -- so I considered going back and asking him a couple of
16 questions about it. I didn't because of that last sentence; however, I do
17 think that you should be aware and I'm -- I've had copies of it printed for
18 you so you can see what came.

19 I don't -- I mean, I could go back and ask him how important
20 these projects are but he was already kind of asked about it and he didn't
21 seem overly concerned about it at all so.

22 MS. LUZAICH: Not at all.

23 MS. MCNEILL: He didn't at all.

24 THE COURT: So I'm not sure --

25 MS. LUZAICH: He just wants to get out of town.

1 MS. MCNEILL: Yeah. That was his concern, yeah.

2 THE COURT: Right. He's concerned about his vacation, but I
3 don't think he's concerned as this person is.

4 And I tried to Google this person, I didn't find much. I went to
5 the person's website and apparently he has some sort tech business. So
6 maybe he's like a contractor that's involved in installing the program. I
7 don't know. It seemed a little odd to me, to give me this information and
8 then say, please keep it confidential. So I gather that even he doesn't
9 know that this person was going to communicate --

10 MS. LUZAICH: Yeah.

11 MS. MCNEILL: Yeah.

12 THE COURT: -- to me by email about his jury service.

13 So I'm not sure, I, frankly, am going to follow up, although I may
14 have just lost a vote, but be that as it may.

15 MS. MCNEILL: Unless you let him go and then I think you've
16 gained a vote.

17 THE COURT: Yes.

18 MS. MCNEILL: Is what they were saying.

19 MS. LUZAICH: Or two.

20 THE COURT: Right.

21 But, you know, since work responsibilities did come up, you
22 both asked him about it, he didn't seem like it was big deal, so I don't think
23 I'm going to go by this email who asked me to keep it confidential.

24 So I'm going to mark one copy of this email as a court exhibit so
25 it's actually in the record for the case.

1 I have a copy for each of you, one for each side to grab.

2 So if -- you will see that it was forwarded to me by Dave
3 Thomas, my campaign consultant, who monitors that email address and
4 then I forwarded it to Tim in chambers and asked him to print it. So I just
5 wanted you to be aware of the communication.

6 Once I read it, I thought the parties should know about it. But
7 I'm not intending to follow up any further in that regard.

8 So with that, I suppose we're in recess until 1:35. I -- we were
9 moving along. I hope we can keep moving along and get at least close to
10 being done today, if not done. It's a --

11 MS. MCNEILL: They're not very chatty.

12 THE COURT: -- lot of jurors though.

13 MS. MCNEILL: Yeah, but they're not very chatty.

14 THE COURT: No, they're not so. And usually it starts to move
15 a little more quickly once we get a few in and they start anticipating the
16 questions we're asking. So we'll see. But in any event, so we'll pick up at
17 1:35.

18 THE MARSHAL: All rise. Court is now in recess.

19 [Recess taken at 12:42 p.m.]

20 [Jury trial resumed at 1:42 p.m.]

21 [Outside the presence of the prospective jury]

22 THE MARSHAL: All rise. District Court Department 6 is back in
23 session.

24 Please be seated. Come to order.

25 THE COURT: Okay. Are we ready to go? So we're -- what

1 time did I say for tomorrow? 10:30?

2 THE CLERK: Tomorrow is 10:30.

3 THE COURT: Okay. Good. Just keep it there.

4 MS. LUZAICH: Is 10:30 good?

5 THE COURT: It should be good.

6 All right. So let's go ahead and get the jurors then.

7 THE MARSHAL: All rise.

8 [In the presence of the prospective jurors]

9 THE MARSHAL: Please be seated.

10 THE COURT: Okay. Folks, thanks for getting your lunch and
11 getting back here. We got most of you back.

12 Okay. Do you have the mic back there? Awesome. So this is
13 Ms. Glover, correct?

14 PROSPECTIVE JUROR NUMBER 308: Yes.

15 THE COURT: All right. How are you doing today?

16 PROSPECTIVE JUROR NUMBER 308: Good. Thank you.

17 THE COURT: Good.

18 Is there any reason you could not be fair and impartial in this
19 case?

20 PROSPECTIVE JUROR NUMBER 308: No.

21 THE COURT: Can you wait in forming your opinion on the
22 appropriate result until all the evidence has been heard?

23 PROSPECTIVE JUROR NUMBER 308: Yes.

24 THE COURT: Have you or anyone close to you worked in law
25 enforcement?

1 PROSPECTIVE JUROR NUMBER 308: No.

2 THE COURT: Have you or anyone close to you been charged
3 with a serious crime?

4 PROSPECTIVE JUROR NUMBER 308: No.

5 THE COURT: Have you or anyone close to you been the victim
6 of a serious crime?

7 PROSPECTIVE JUROR NUMBER 308: Yes.

8 THE COURT: Tell me about that.

9 PROSPECTIVE JUROR NUMBER 308: It was myself. I was
10 involved in an abusive relationship about seven years ago. Well, maybe
11 eight, eight years ago.

12 THE COURT: Okay. And who was the -- was it a boyfriend?

13 PROSPECTIVE JUROR NUMBER 308: Yes.

14 THE COURT: Okay. How long were in a relationship with him?

15 PROSPECTIVE JUROR NUMBER 308: Over a year.

16 THE COURT: Okay. Did you ever report the abuse to police?

17 PROSPECTIVE JUROR NUMBER 308: I did not.

18 THE COURT: Okay. And did you end the relationship because
19 of that?

20 PROSPECTIVE JUROR NUMBER 308: I did, yes.

21 THE COURT: Okay. All right. And so it ended about eight
22 years ago?

23 PROSPECTIVE JUROR NUMBER 308: Yes.

24 THE COURT: Did you ever need medical treatment as a result
25 of those events?

1 PROSPECTIVE JUROR NUMBER 308: No.

2 THE COURT: Okay. So having been in that type of
3 relationship, do you think that would affect your ability to be fair and
4 impartial as a juror in this case?

5 PROSPECTIVE JUROR NUMBER 308: I've never been a juror
6 before so it's hard for me to say.

7 THE COURT: Right.

8 PROSPECTIVE JUROR NUMBER 308: But I would listen to
9 both sides and listen to the evidence before making a decision.

10 THE COURT: Right.

11 S do you think that you could put aside your own personal
12 experiences, unfortunately, with domestic violence and listen to this case
13 and judge it on its own merits?

14 PROSPECTIVE JUROR NUMBER 308: I would -- I would
15 definitely try to do that, yes.

16 THE COURT: Do you think you could base your decision on
17 the evidence rather than on, I don't know, sympathy or emotion? You
18 know what I'm saying? Do you think you could do that?

19 PROSPECTIVE JUROR NUMBER 308: Yes.

20 THE COURT: Other than what you just told me about, have
21 you or anyone close to you been accused of or the victim -- or the victim
22 of domestic violence or sexual abuse?

23 PROSPECTIVE JUROR NUMBER 308: No.

24 THE COURT: Is there anything about the charges in this case
25 that would make it difficult for you to be fair and impartial?

1 PROSPECTIVE JUROR NUMBER 308: I don't think so, no.

2 THE COURT: Can you base your verdict solely on the
3 evidence brought out at trial and the law that applies as stated in my
4 instructions without fear of criticism or popular opinion?

5 PROSPECTIVE JUROR NUMBER 308: Yes.

6 THE COURT: Have you ever been a juror before?

7 PROSPECTIVE JUROR NUMBER 308: No.

8 THE COURT: If you were a party to this case, would you be
9 comfortable with jurors of a like frame of mind as yourself sitting in
10 judgment?

11 PROSPECTIVE JUROR NUMBER 308: Yes.

12 THE COURT: How long have you lived here in Clark County?

13 PROSPECTIVE JUROR NUMBER 308: 14 years.

14 THE COURT: And what's the highest level of education you
15 completed?

16 PROSPECTIVE JUROR NUMBER 308: I have a bachelor's
17 degree.

18 THE COURT: In what field?

19 PROSPECTIVE JUROR NUMBER 308: Communications.

20 THE COURT: And are you employed?

21 PROSPECTIVE JUROR NUMBER 308: I am.

22 THE COURT: What do you do?

23 PROSPECTIVE JUROR NUMBER 308: Online advertising.

24 THE COURT: Are you married?

25 PROSPECTIVE JUROR NUMBER 308: No.

1 THE COURT: Have any children?

2 PROSPECTIVE JUROR NUMBER 308: No.

3 THE COURT: State.

4 MS. LUZAICH: Thank you.

5 Good afternoon, Ms. Glover.

6 And, I'm sorry, I don't mean to embarrass you when I ask you
7 these questions, but when you were going through that relationship was it
8 a one-time thing or was it, kind of, repeated the abuse?

9 PROSPECTIVE JUROR NUMBER 308: It was something that
10 progressed, the longer I was in the relationship.

11 MS. LUZAICH: So it started out small and then it, kind of,
12 escalated?

13 PROSPECTIVE JUROR NUMBER 308: Yes.

14 MS. LUZAICH: You said that it was never reported. How
15 come?

16 PROSPECTIVE JUROR NUMBER 308: I think I was afraid of
17 causing more trouble for myself. I just wanted to get away and out of the
18 situation.

19 MS. LUZAICH: Did you need help to get away and get out of it
20 or was it something you were able to do yourself?

21 PROSPECTIVE JUROR NUMBER 308: I did it myself.

22 MS. LUZAICH: All right. And have you had communication
23 with him since?

24 PROSPECTIVE JUROR NUMBER 308: No.

25 MS. LUZAICH: So it's just a total clean break?

1 PROSPECTIVE JUROR NUMBER 308: Well, right after the
2 break up there was but it was, yeah.

3 MS. LUZAICH: But nothing, I mean, as years went by?

4 PROSPECTIVE JUROR NUMBER 308: No.

5 MS. LUZAICH: Was it difficult to do?

6 PROSPECTIVE JUROR NUMBER 308: Yes.

7 MS. LUZAICH: Did you ever have to get medical treatment for
8 what had occurred?

9 PROSPECTIVE JUROR NUMBER 308: No.

10 MS. LUZAICH: Okay. So it -- although it escalated, it didn't get
11 quite that bad?

12 PROSPECTIVE JUROR NUMBER 308: No.

13 MS. LUZAICH: Had you ever told anybody about it?

14 PROSPECTIVE JUROR NUMBER 308: Afterwards, yes.

15 MS. LUZAICH: How come you didn't talk to anybody during the
16 timeframe?

17 PROSPECTIVE JUROR NUMBER 308: It's kind of shocking
18 when it happens so it's almost unbelievable.

19 MS. LUZAICH: Did you feel, I mean, were you kind of
20 embarrassed?

21 PROSPECTIVE JUROR NUMBER 308: Yes.

22 MS. LUZAICH: You didn't want to share it with friends and
23 family?

24 PROSPECTIVE JUROR NUMBER 308: Right.

25 MS. LUZAICH: Okay. Thank you. I won't ask you anything else

1 about that.

2 As an online -- working in online advertising, are you somebody
3 who has like clients and you put their advertising online or how does --

4 PROSPECTIVE JUROR NUMBER 308: Yes.

5 MS. LUZAICH: Anything in particular or just anybody that
6 comes to you?

7 PROSPECTIVE JUROR NUMBER 308: Mainly others casinos,
8 some real estate.

9 MS. LUZAICH: Do you work for yourself or with somebody?

10 PROSPECTIVE JUROR NUMBER 308: No, I work for an
11 advertising agency.

12 MS. LUZAICH: Would you call yourself a pretty creative
13 person, as opposed to a more analytical person?

14 PROSPECTIVE JUROR NUMBER 308: I don't know. I think
15 I'm split down the middle.

16 MS. LUZAICH: Okay. Do you -- are you somebody who's
17 comfortable voicing your opinions around people that you don't really
18 know?

19 PROSPECTIVE JUROR NUMBER 308: Yes.

20 MS. LUZAICH: So back in the deliberation room, assuming you
21 sit on the jury, are you going to be somebody who's, kind of, leading the
22 discussion or are you going to be somebody who sits back and listens and
23 participates just kind of as needed or somewhere in between?

24 PROSPECTIVE JUROR NUMBER 308: It probably depends
25 on the discussion and whether or not I have opinions to voice or things to

1 say.

2 MS. LUZAICH: Okay. What do you think would make someone
3 a good juror?

4 PROSPECTIVE JUROR NUMBER 308: Someone who is open
5 minded, willing to listen to whatever is displayed in the course of the case.

6 MS. LUZAICH: Okay. And would you consider yourself to be a
7 fair and open minded person?

8 PROSPECTIVE JUROR NUMBER 308: Yes.

9 MS. LUZAICH: You kind of hesitated --

10 PROSPECTIVE JUROR NUMBER 308: Yes.

11 MS. LUZAICH: -- for a second.

12 Do you find that there are certain, I guess, situations or
13 circumstances where you might kind of jump to a conclusion, something
14 that you feel strongly about?

15 PROSPECTIVE JUROR NUMBER 308: Sure, yes.

16 MS. LUZAICH: But for the most part you can sit back and
17 watch things happen?

18 PROSPECTIVE JUROR NUMBER 308: Yes.

19 MS. LUZAICH: How might you listen to witnesses that you
20 don't know and evaluate who is or might not be telling the truth?

21 PROSPECTIVE JUROR NUMBER 308: I guess listen to their
22 full story, consider their circumstances, what they have to say, the
23 questions that they're asked, and then try to come to a conclusion as best
24 I can.

25 MS. LUZAICH: Okay. Are you a body language kind of

1 person?

2 PROSPECTIVE JUROR NUMBER 308: Sometimes.

3 MS. LUZAICH: Nobody yet has brought that up.

4 Would you agree that sometimes body language can be helpful
5 but it's certainly not the be all and end all?

6 PROSPECTIVE JUROR NUMBER 308: Yes.

7 MS. LUZAICH: Do you think that you can listen to somebody
8 and at least, kind of, get an idea whether or not they're telling the truth?

9 PROSPECTIVE JUROR NUMBER 308: Yes.

10 MS. LUZAICH: But do you also think that some people can be
11 good liars?

12 PROSPECTIVE JUROR NUMBER 308: Yes.

13 MS. LUZAICH: And you think some people can also be really
14 bad liars?

15 PROSPECTIVE JUROR NUMBER 308: Yes.

16 MS. LUZAICH: And everybody's different, right?

17 PROSPECTIVE JUROR NUMBER 308: Correct.

18 MS. LUZAICH: Would you agree that different people react
19 differently in the same set of circumstances?

20 PROSPECTIVE JUROR NUMBER 308: Yes.

21 MS. LUZAICH: So are you expecting to see anything in this
22 trial?

23 PROSPECTIVE JUROR NUMBER 308: I'm not sure I have any
24 expectations, no.

25 MS. LUZAICH: Okay. Like I had said earlier, you know, a lot of

1 things that you see on TV when these topics come up, somebody comes
2 in and just, you know, cries, cries, cries, cries, cries. If nobody cries, is
3 that going to make a difference to you?

4 PROSPECTIVE JUROR NUMBER 308: No.

5 MS. LUZAICH: Sorry, I lost my train of thought.

6 Do you think that you would be comfortable sitting in the back
7 and arguing with people if they don't -- maybe argue is the wrong word,
8 disagreeing with people if they don't see things your way?

9 PROSPECTIVE JUROR NUMBER 308: If I'm sure of my
10 conclusion, then yeah.

11 MS. LUZAICH: Okay. So you would try and persuade them of
12 your perspective?

13 PROSPECTIVE JUROR NUMBER 308: Yes.

14 MS. LUZAICH: But you would listen to what they have to say?

15 PROSPECTIVE JUROR NUMBER 308: Sure, yes.

16 MS. LUZAICH: Do you watch CSI or any of those?

17 PROSPECTIVE JUROR NUMBER 308: I've seen it
18 occasionally, yes.

19 MS. LUZAICH: So you wouldn't be broken hearted to know that
20 it's fake?

21 PROSPECTIVE JUROR NUMBER 308: No.

22 MS. LUZAICH: And you're not expecting anything to be
23 wrapped up in a nice red bow in an hour, right?

24 PROSPECTIVE JUROR NUMBER 308: No.

25 MS. LUZAICH: How would you feel about sitting on this trial?

1 PROSPECTIVE JUROR NUMBER 308: I feel uncomfortable
2 about it but I'm willing to do it.

3 MS. LUZAICH: Uncomfortable because of your situation or just
4 because you don't want to sit on a trial?

5 PROSPECTIVE JUROR NUMBER 308: Probably both.

6 MS. LUZAICH: You know, honest answers are good answers.
7 But you would do it, you would listen to all the testimony and
8 see all the evidence and make a decision?

9 PROSPECTIVE JUROR NUMBER 308: Yes.

10 MS. LUZAICH: So if you are convinced, after listening to all the
11 evidence and the testimony beyond a reasonable doubt the Defendant
12 committed the crimes that he is charged with, or that -- sorry, that the
13 State proved beyond a reasonable doubt that the Defendant committed
14 the crimes he's charged with, would you be able to say the word guilty?

15 PROSPECTIVE JUROR NUMBER 308: Yes.

16 MS. LUZAICH: Thank you.

17 Pass for cause.

18 THE COURT: Thank you.

19 MS. MCNEILL: Thank you, Your Honor.

20 Where did you get your bachelors?

21 PROSPECTIVE JUROR NUMBER 308: University of Utah.

22 MS. MCNEILL: Okay. Are you from Utah or did you just go to
23 college there?

24 PROSPECTIVE JUROR NUMBER 308: No, I'm from there.

25 MS. MCNEILL: Okay. From Salt Lake City?

1 PROSPECTIVE JUROR NUMBER 308: Logan, Utah.

2 MS. MCNEILL: Okay. And what brought you to Las Vegas?

3 PROSPECTIVE JUROR NUMBER 308: Work.

4 MS. MCNEILL: Okay. That's usually how most people wind up
5 here, they're not from here.

6 You talked a little bit about the relationship you were in, and I
7 know nobody wants to come in and divulge their secrets in front of
8 strangers, so I apologize in advance. You talked about -- a little bit that
9 you were uncomfortable because of that history that you have being here.
10 And I think sometimes jurors feel like we're looking for certain answers but
11 we're really just trying to get an idea of whether or not somebody has
12 something that's going to make it hard for them to be fair when they get
13 back to the jury room.

14 The discomfort that you have you said it kind of comes just from
15 having to be on the jury and kind of from your past. What is it about your
16 past that you're worried about might happen if you get on this jury?

17 PROSPECTIVE JUROR NUMBER 308: Maybe just
18 sympathizing with a witness that tells about their abuse.

19 MS. MCNEILL: Okay. And I think that's probably a natural
20 emotion to have, especially in light of your past.

21 Do you think that -- is it a concern you have that maybe hearing
22 someone testify about something, because of your emotional attachment,
23 it's going to be harder for you to evaluate their credibility?

24 PROSPECTIVE JUROR NUMBER 308: No.

25 MS. MCNEILL: Okay. So you wouldn't be sort of -- sometimes

Appellant's Appendix

Volume 2

Index of Appellant's Appendix

Court minutes of 07/17/2017	p. 7, 8
Findings of Fact, Conclusions of Law and Order	p. 1293-1296
Information.....	p. 1-6
Judgment of Conviction.....	p. 1277-1279
Notice of Appeal.....	p. 1300-1362
Notice of Entry of Findings of Fact, Conclusions of Law.....	p. 1296-1299
Order for Petition for Writ of Habeas Corpus.....	p. 1292
Petition for Writ of Habeas Corpus (Post Conviction).....	p. 1280-1291
Recorder's Transcript of Proceedings: Jury Trial – Day 1.....	p. 9- 160
Recorder's Transcript of Proceedings: Jury Trial – Day 2.....	p. 161-407
Recorder's Transcript of Proceedings: Jury Trial – Day 3.....	p. 408-702
Recorder's Transcript of Proceedings: Jury Trial – Day 4.....	p. 703-910
Recorder's Transcript of Proceedings: Jury Trial – Day 5.....	p. 911-1158
Recorder's Transcript of Proceedings: Jury Trial – Day 6.....	p. 1159-1271
Recorder's Transcript of Proceedings: Jury Trial – Day 7.....	p. 1272-1276

1 I think people get emotional about something and then it's harder for them
2 to listen critically.

3 Does that make sense?

4 PROSPECTIVE JUROR NUMBER 308: Yes.

5 MS. MCNEILL: Okay. We've talked a little bit about, with other
6 jurors, that as he sits here Mr. Green is not guilty.

7 Do you understand that?

8 PROSPECTIVE JUROR NUMBER 308: Yes.

9 MS. MCNEILL: Okay. And so that sort of means at this point
10 you all have to be over on this side and they have to convince you to bring
11 them to that side, okay?

12 Do you have any concerns once you heard the nature of the
13 allegations that their job might not be as difficult to get you to that side
14 because of the relationship that you were in?

15 PROSPECTIVE JUROR NUMBER 308: I'm not sure. I think
16 maybe at first I did but I know it's important to be impartial.

17 MS. MCNEILL: Okay. And have you ever heard the expression
18 it's better that a hundred guilty men go free than one innocent man go to
19 jail? Have you ever heard that?

20 PROSPECTIVE JUROR NUMBER 308: Yes.

21 MS. MCNEILL: Okay. And how do you -- what are your
22 thoughts on that? If you have any thoughts, maybe you don't.

23 PROSPECTIVE JUROR NUMBER 308: I'm not sure.

24 MS. MCNEILL: Okay. You said that this proceeding is
25 important, right?

1 PROSPECTIVE JUROR NUMBER 308: Yes.

2 MS. MCNEILL: Okay. And I imagine you think it's important
3 because you wouldn't want an innocent man to go to jail?

4 PROSPECTIVE JUROR NUMBER 308: No.

5 MS. MCNEILL: Okay. How do you think you will be able to sort
6 of compartmentalize your emotions about your past with what you might
7 hear in this case?

8 PROSPECTIVE JUROR NUMBER 308: I'm not -- I'm not sure.

9 MS. MCNEILL: Okay.

10 PROSPECTIVE JUROR NUMBER 308: It's hard question.

11 MS. MCNEILL: Okay.

12 PROSPECTIVE JUROR NUMBER 308: It's hard to say without
13 hearing other details or any other evidence. It's hard to say.

14 MS. MCNEILL: Yeah. I know that's a weird thing we do here,
15 right, is we ask you questions but you know nothing and so it's hard to
16 except you to answer but we try.

17 You said that you didn't report it, you just, sort of, got yourself
18 out of the situation --

19 PROSPECTIVE JUROR NUMBER 308: Yes.

20 MS. MCNEILL: -- right?

21 So it sounds like you can be a very determined person when
22 you set your mind to something?

23 PROSPECTIVE JUROR NUMBER 308: Sure, yeah.

24 MS. MCNEILL: Okay. Do you expect that everyone is like
25 that?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROSPECTIVE JUROR NUMBER 308: No.

MS. MCNEILL: Do you think though that ultimately people are responsible for their decisions?

PROSPECTIVE JUROR NUMBER 308: Yes.

MS. MCNEILL: The State asked you if they prove the case beyond a reasonable doubt to you would you find him guilty. Just flip that around, if you had any reasonable doubt in your mind, regardless of how you feel about the allegations, would you find him not guilty?

PROSPECTIVE JUROR NUMBER 308: Yes.

MS. MCNEILL: I'll pass for cause, Your Honor.

THE COURT: Thank you.

All right. Do you pronounce your last name Myl?

PROSPECTIVE JUROR NUMBER 309: It's pronounced Myl.

THE COURT: All right. Ms. Myl, how are you doing today?

PROSPECTIVE JUROR NUMBER 309: Good.

THE COURT: Is there any reason you could not be fair and impartial in this case?

PROSPECTIVE JUROR NUMBER 309: No.

THE COURT: Can you wait in forming your opinion on the appropriate result until all the evidence has been heard?

PROSPECTIVE JUROR NUMBER 309: Yes.

THE COURT: Have you or anyone close to you worked in law enforcement?

PROSPECTIVE JUROR NUMBER 309: No.

THE COURT: Have you or anyone close to you been charged

1 with a serious crime?

2 PROSPECTIVE JUROR NUMBER 309: Yes.

3 THE COURT: Who's that?

4 PROSPECTIVE JUROR NUMBER 309: My father.

5 THE COURT: And what type of crime was he charged with?

6 PROSPECTIVE JUROR NUMBER 309: He was charged with
7 grand larceny.

8 THE COURT: Okay. How long ago was that?

9 PROSPECTIVE JUROR NUMBER 309: It was in 2006, I think.

10 THE COURT: And was he convicted?

11 PROSPECTIVE JUROR NUMBER 309: Yes.

12 THE COURT: Of that?

13 PROSPECTIVE JUROR NUMBER 309: Yes.

14 THE COURT: Okay. And what happened, did he go to prison
15 or on probation or?

16 PROSPECTIVE JUROR NUMBER 309: He was in prison for
17 six months and then probation after that.

18 THE COURT: And where was he in prison?

19 PROSPECTIVE JUROR NUMBER 309: It was in Payette,
20 Idaho.

21 THE COURT: Okay. Do you think he was treated fairly in his
22 case?

23 PROSPECTIVE JUROR NUMBER 309: I wasn't involved, to be
24 honest, so I couldn't say.

25 THE COURT: Right. Okay.

1 Were you living with him when that happened?

2 PROSPECTIVE JUROR NUMBER 309: Yes.

3 THE COURT: Okay. All right. But you don't know enough to
4 know one way or the other if he was treated properly or not?

5 PROSPECTIVE JUROR NUMBER 309: No, I don't know, like,
6 the details of what happened.

7 THE COURT: Okay. Have you or anyone close to you been
8 the victim of a serious crime?

9 PROSPECTIVE JUROR NUMBER 309: Yes.

10 THE COURT: Tell me about that.

11 PROSPECTIVE JUROR NUMBER 309: My mom was
12 molested by my grandfather and then my mother-in-law was raped.

13 THE COURT: So when your mom was molested, was that
14 when she was a child?

15 PROSPECTIVE JUROR NUMBER 309: Yes.

16 THE COURT: Okay. And do you know if that was ever
17 reported to authorities?

18 PROSPECTIVE JUROR NUMBER 309: I don't think so but I'm
19 not sure.

20 THE COURT: All right. Have you had any contact with your
21 grandfather who did that to her?

22 PROSPECTIVE JUROR NUMBER 309: Yeah. When we were
23 young my mom didn't allow him to visit but then as we all got older she
24 tried to repair her relationship with him.

25 THE COURT: Okay. And so she ended up having a decent

1 relationship with him?

2 PROSPECTIVE JUROR NUMBER 309: Yeah.

3 THE COURT: And your mother-in-law you said was raped, was
4 that while you were with your husband or before?

5 PROSPECTIVE JUROR NUMBER 309: No, it was before. It
6 was when she was 18.

7 THE COURT: Okay. And do you think that, I guess, either your
8 father having the charge we talked about, or these instances where
9 people you know were victimized, do you think any of that would affect
10 your ability to be fair and impartial as a juror in this case?

11 PROSPECTIVE JUROR NUMBER 309: No.

12 THE COURT: You still think you can be fair to both sides?

13 PROSPECTIVE JUROR NUMBER 309: Yes.

14 THE COURT: And other than what you've told me about
15 already, have you or anyone close to you been accused or the victim of
16 domestic violence or sexual abuse?

17 PROSPECTIVE JUROR NUMBER 309: No.

18 THE COURT: Is there anything about the charges in this case
19 that would make it difficult for you to be fair and impartial?

20 PROSPECTIVE JUROR NUMBER 309: No.

21 THE COURT: Can you base your verdict solely on the
22 evidence brought out at trial and the law that applies as stated in my
23 instructions without fear of criticism or popular opinion?

24 PROSPECTIVE JUROR NUMBER 309: Yes.

25 THE COURT: Have you ever been a juror before?

1 PROSPECTIVE JUROR NUMBER 309: No.

2 THE COURT: If you were a party to this case, would you be
3 comfortable with jurors of a like frame of mind as yourself sitting in
4 judgment?

5 PROSPECTIVE JUROR NUMBER 309: Yes.

6 THE COURT: How long have you lived in Clark County?

7 PROSPECTIVE JUROR NUMBER 309: Five years.

8 THE COURT: What's the highest -- sorry, let me back up a
9 second, where did you come from?

10 PROSPECTIVE JUROR NUMBER 309: I went to school in
11 Virginia before that.

12 THE COURT: Oh, which school there?

13 PROSPECTIVE JUROR NUMBER 309: Southern Virginia
14 University.

15 THE COURT: Okay. And where did you grow up before you
16 were in school?

17 PROSPECTIVE JUROR NUMBER 309: I spent most of my
18 childhood in Washington State.

19 THE COURT: Okay. All right. Now, what's the highest level of
20 education you completed?

21 PROSPECTIVE JUROR NUMBER 309: I got a liberal arts,
22 bachelors.

23 THE COURT: Okay. And that was at that school in Virginia?

24 PROSPECTIVE JUROR NUMBER 309: Yes.

25 THE COURT: Okay. And are you employed?

1 PROSPECTIVE JUROR NUMBER 309: Yes.
2 THE COURT: Doing what?
3 PROSPECTIVE JUROR NUMBER 309: I'm a research analyst
4 for Tesla.
5 THE COURT: Okay. They have a location here in town where
6 you work?
7 PROSPECTIVE JUROR NUMBER 309: Yes.
8 THE COURT: Okay. And are you married?
9 PROSPECTIVE JUROR NUMBER 309: Yes.
10 THE COURT: Is your spouse employed?
11 PROSPECTIVE JUROR NUMBER 309: Yes.
12 THE COURT: Doing what?
13 PROSPECTIVE JUROR NUMBER 309: He's a safety and
14 permit manger for a blasting company.
15 THE COURT: For what?
16 PROSPECTIVE JUROR NUMBER 309: A blasting company.
17 THE COURT: Blasting. Okay.
18 And do you have any children?
19 PROSPECTIVE JUROR NUMBER 309: No.
20 THE COURT: Okay. State.
21 MS. LUZAICH: Thank you.
22 You like working for Tesla?
23 PROSPECTIVE JUROR NUMBER 309: I do.
24 MS. LUZAICH: Do you drive a Tesla?
25 PROSPECTIVE JUROR NUMBER 309: I don't unfortunately.

1 MS. LUZAICH: They don't give you one?

2 PROSPECTIVE JUROR NUMBER 309: No.

3 MS. LUZAICH: That's unfortunate.

4 PROSPECTIVE JUROR NUMBER 309: I wish they did.

5 MS. LUZAICH: Okay. I'm going to go through your family a
6 little bit, if you don't mind.

7 PROSPECTIVE JUROR NUMBER 309: Sure.

8 MS. LUZAICH: You said that your dad was charged and
9 convicted. Do you know did he plead guilty? Did he go to a trial?

10 PROSPECTIVE JUROR NUMBER 309: I honestly don't know.
11 I was 17 at the time and I was working. And all I -- and my parents are
12 very private people. So I just know that he got picked up from our house
13 one day while I was at work and got taken in. And I don't know if there
14 was a trial or how all that happened, but I know he spent six months in jail
15 and then was out on probation.

16 MS. LUZAICH: Okay. So he gets picked up one day and like
17 the next six months he's in and then he's out on probation?

18 PROSPECTIVE JUROR NUMBER 309: Yes.

19 MS. LUZAICH: As far as you know, did he successfully make it
20 through his probation?

21 PROSPECTIVE JUROR NUMBER 309: Not that I'm aware.
22 He broke his probation.

23 MS. LUZAICH: Did he go to prison because of it?

24 PROSPECTIVE JUROR NUMBER 309: No, I -- he's still on the
25 run. I don't know where he is.

1 MS. LUZAICH: Oh, okay. So you don't have contact with him
2 these days?

3 PROSPECTIVE JUROR NUMBER 309: No, I do not.

4 MS. LUZAICH: All right. So you don't have an opinion one way
5 or another about the court system or police based on your father's
6 situation?

7 PROSPECTIVE JUROR NUMBER 309: No.

8 MS. LUZAICH: Okay. Your mother, how did you find out about
9 that?

10 PROSPECTIVE JUROR NUMBER 309: Like I said, my parents
11 are really private so it was actually my oldest sister who told me.

12 MS. LUZAICH: How did she find out?

13 PROSPECTIVE JUROR NUMBER 309: She found out from my
14 mom.

15 MS. LUZAICH: Okay. And you said you don't think it was
16 reported ever?

17 PROSPECTIVE JUROR NUMBER 309: I don't think so.

18 MS. LUZAICH: Do you know why?

19 PROSPECTIVE JUROR NUMBER 309: I don't. I couldn't
20 speculate as to why.

21 MS. LUZAICH: Do you have any idea if she even told her own
22 mother?

23 PROSPECTIVE JUROR NUMBER 309: I don't know.

24 MS. LUZAICH: Your mother, not your sister.

25 PROSPECTIVE JUROR NUMBER 309: I think so. I think she

1 did.

2 MS. LUZAICH: At what age were you when your mom allowed
3 you to have contact with your grandfather? About.

4 PROSPECTIVE JUROR NUMBER 309: I was much older. I
5 have younger siblings also so she waited until we were all a little bit older.
6 I was probably like 15 or 16 when she was allowing him to, like, come
7 over more.

8 MS. LUZAICH: Did she explain to you, like, earlier did she
9 explain to you why you weren't allowed to see your grandfather?

10 PROSPECTIVE JUROR NUMBER 309: No. We actually lived
11 kind of far anyway so it wasn't weird that --

12 MS. LUZAICH: Yeah.

13 PROSPECTIVE JUROR NUMBER 309: -- we didn't see him all
14 the time.

15 MS. LUZAICH: And then when she did let him come back into
16 your -- or come into your life, did she explain why now?

17 PROSPECTIVE JUROR NUMBER 309: No.

18 MS. LUZAICH: Did she say anything about, you know, don't be
19 alone with him, make sure there's someone around, anything like that?

20 PROSPECTIVE JUROR NUMBER 309: No. I mean, there was
21 one instance where he ended up showing up and telling our babysitter
22 that she could go home and after that she came around to each of my --
23 me and my siblings and asked if anything had happened. That was the
24 only instance of that.

25 MS. LUZAICH: Okay. And then your mother-in-law, how did

1 you find out about that?

2 PROSPECTIVE JUROR NUMBER 309: My husband told me.

3 MS. LUZAICH: And do you know anything about that
4 circumstance?

5 PROSPECTIVE JUROR NUMBER 309: I know some details,
6 yes.

7 MS. LUZAICH: Do you know was it reported?

8 PROSPECTIVE JUROR NUMBER 309: I don't think so.

9 MS. LUZAICH: You said she was 18, was it like a boyfriend
10 situation or?

11 PROSPECTIVE JUROR NUMBER 309: No, it was stranger.

12 MS. LUZAICH: Okay. Do you know if she ever had to go to
13 court or anything like that?

14 PROSPECTIVE JUROR NUMBER 309: I don't think so.

15 MS. LUZAICH: Okay. And did -- what happened with your
16 mom and your mother-in-law, was that here in Nevada or elsewhere?

17 PROSPECTIVE JUROR NUMBER 309: No, it was in different
18 states.

19 MS. LUZAICH: Both of them were?

20 PROSPECTIVE JUROR NUMBER 309: Yeah.

21 MS. LUZAICH: Okay. So I assume, based on that, you have
22 no opinion about the court system because it doesn't sound like it was
23 involved?

24 PROSPECTIVE JUROR NUMBER 309: No, I don't.

25 MS. LUZAICH: Okay. Do you think that it is -- or will -- could

1 be embarrassing to have to come in here and talk to a room full of
2 strangers about intimate sexual details?

3 PROSPECTIVE JUROR NUMBER 309: Yeah, I think
4 depending on the person it could be.

5 MS. LUZAICH: Is that something that you would take into
6 consideration when you evaluate testimony?

7 PROSPECTIVE JUROR NUMBER 309: Of course.

8 MS. LUZAICH: In addition to being embarrassing, do you think
9 it could be painful?

10 PROSPECTIVE JUROR NUMBER 309: Yeah.

11 MS. LUZAICH: And is that also something you would take into
12 consideration?

13 PROSPECTIVE JUROR NUMBER 309: Yes.

14 MS. LUZAICH: Would you agree that different people can
15 perceive the same set of events differently?

16 PROSPECTIVE JUROR NUMBER 309: Yes.

17 MS. LUZAICH: And in your mind why might that happen?

18 PROSPECTIVE JUROR NUMBER 309: I mean, like the
19 example you said earlier about a car accident. I think different people will
20 focus in on different things and that makes them relate the experience
21 differently.

22 MS. LUZAICH: Okay. Are you expecting to see anything in this
23 trial?

24 PROSPECTIVE JUROR NUMBER 309: I don't think I have any
25 expectations besides hearing witness testimony and any physical

1 evidence that there might be.

2 MS. LUZAICH: Do you think that there needs to be physical
3 evidence in a case like this?

4 PROSPECTIVE JUROR NUMBER 309: Not necessarily

5 MS. LUZAICH: So, potentially, I'm not saying yes or no, but
6 potentially if the only thing that you come away with in this trial is the
7 testimony of witnesses and you don't see anything, do you think it's
8 possible the State could sustain a burden of beyond a reasonable doubt
9 based on that?

10 PROSPECTIVE JUROR NUMBER 309: Yeah.

11 MS. LUZAICH: And that just depends on whether or not you
12 believe the witnesses, right?

13 PROSPECTIVE JUROR NUMBER 309: Right.

14 MS. LUZAICH: How might you evaluate the testimony of
15 witnesses?

16 PROSPECTIVE JUROR NUMBER 309: I think there's a lot of
17 factors to consider. I think body language is one, like you mentioned
18 before. Listening to their story, like, are they -- are they really detailed or
19 do they, you know, cut off or are details not, you know, matching up
20 between stories. I'd compare against what other witnesses say. Yeah, I
21 think there's a lot of things that you can look at.

22 MS. LUZAICH: Do you think it's possible that you can live
23 through a really upsetting experience and remember the experience but
24 some of the details get fuzzy?

25 PROSPECTIVE JUROR NUMBER 309: Of course.

1 MS. LUZAICH: Okay. So that wouldn't be unusual to you?

2 PROSPECTIVE JUROR NUMBER 309: Not at all.

3 MS. LUZAICH: You said that with Tesla you are a research
4 analyst.

5 PROSPECTIVE JUROR NUMBER 309: Yes.

6 MS. LUZAICH: So does that mean you deal with the public?
7 You call people and ask them stuff or?

8 PROSPECTIVE JUROR NUMBER 309: No, actually I do like
9 new market research to see sales potential in areas where we aren't
10 currently selling.

11 MS. LUZAICH: So you --

12 PROSPECTIVE JUROR NUMBER 309: So I look at like --

13 MS. LUZAICH: -- research stuff on the computer?

14 PROSPECTIVE JUROR NUMBER 309: Yes.

15 MS. LUZAICH: As opposed to call people and ask them
16 questions?

17 PROSPECTIVE JUROR NUMBER 309: Yes.

18 MS. LUZAICH: Okay. Are you somebody who if you're
19 selected as a juror in this case and you're back in the deliberation room,
20 are you going to be somebody who's kind of leading the conversation or
21 are you more like one who sits back and listens and then participates
22 when you feel the need?

23 PROSPECTIVE JUROR NUMBER 309: I'm more the type of
24 person where if no one else takes charges I'll kind of -- I naturally will. But
25 if there's someone else that does it, then I like to just sit back.

1 MS. LUZAICH: Okay. Do you think you have to like somebody
2 to believe them?

3 PROSPECTIVE JUROR NUMBER 309: No.

4 MS. LUZAICH: So if there's somebody that you're not really
5 fond of, you can listen to what they have to say and still believe what
6 they're saying?

7 PROSPECTIVE JUROR NUMBER 309: Yes.

8 MS. LUZAICH: Okay. Knowing what you know about yourself,
9 is there anything that you think you should share with us so that we can
10 determine whether or not you'd be a good juror?

11 PROSPECTIVE JUROR NUMBER 309: No.

12 MS. LUZAICH: Is there anything that would prevent you from
13 being able to sit in judgment?

14 PROSPECTIVE JUROR NUMBER 309: No.

15 MS. LUZAICH: If you are convinced beyond a reasonable
16 doubt that the Defendant committed the crimes he's charged with after
17 you listen to all the testimony and see any evidence, would you be able to
18 say the word guilty?

19 PROSPECTIVE JUROR NUMBER 309: Yes.

20 MS. LUZAICH: Thank you.

21 Pass for cause.

22 MS. MCNEILL: Thank you, Your Honor.

23 Good afternoon, Ms. Myl.

24 PROSPECTIVE JUROR NUMBER 309: Good afternoon.

25 MS. MCNEILL: How are you?

1 Do you think it's easier to find someone guilty than it is to find
2 them not guilty?

3 PROSPECTIVE JUROR NUMBER 309: That's a good
4 question. I think naturally when we hear a potential victim's story or
5 alleged victim's story it's natural to sympathize.

6 MS. MCNEILL: Okay.

7 PROSPECTIVE JUROR NUMBER 309: It pulls at your heart
8 strings. I think it's difficult to stay impartial so you have to be conscious of
9 it.

10 MS. MCNEILL: Okay. So you have to acknowledge that that
11 might be happening and check it --

12 PROSPECTIVE JUROR NUMBER 309: I think so.

13 MS. MCNEILL: -- right?

14 Okay. Do you think that you're capable of sort of
15 compartmentalizing different emotion from data?

16 PROSPECTIVE JUROR NUMBER 309: Yes.

17 MS. MCNEILL: Okay. What kind of data do you look for when
18 you're doing your job?

19 PROSPECTIVE JUROR NUMBER 309: I research a lot of
20 things. So I look at the number of people that live there, so like
21 demographics. I also look into -- so I'm on the solar side, so we
22 interconnect to solar panels, so I look at utility rates and the policies in
23 that state to make sure that we're not gonna run into any, like, road blocks
24 when we open there.

25 MS. MCNEILL: Okay. But as far as maybe legal issues or --

1 PROSPECTIVE JUROR NUMBER 309: Right.

2 MS. MCNEILL: Okay. So in your job, when you're doing your
3 analysis, it sounds like you use some demographics from the area that
4 you're looking at?

5 PROSPECTIVE JUROR NUMBER 309: Yup.

6 MS. MCNEILL: Okay. Would you agree with me that we
7 can't -- that people are more than demographics but those can be helpful
8 in making judgments --

9 PROSPECTIVE JUROR NUMBER 309: I agree.

10 MS. MCNEILL: -- right?

11 Okay. You had mentioned that the issue with your mom and
12 your mother-in-law you didn't think would -- would cause you any problem
13 in listening to the witnesses that may come before you during this trial; is
14 that right?

15 PROSPECTIVE JUROR NUMBER 309: Right.

16 MS. MCNEILL: And is that because you do acknowledge that
17 we all have these maybe biases we come in here with and you have to
18 constantly ask yourself is this a product of what the State showed to me or
19 is this a product of my emotion?

20 PROSPECTIVE JUROR NUMBER 309: Right, I agree, yeah.

21 MS. MCNEILL: Okay. What kinds of TV shows do you watch?

22 PROSPECTIVE JUROR NUMBER 309: I like watching, like, I
23 guess you call them sitcoms. Like The Office and --

24 MS. MCNEILL: Okay.

25 PROSPECTIVE JUROR NUMBER 309: -- things like that.

1 MS. MCNEILL: So more lighthearted --
2 PROSPECTIVE JUROR NUMBER 309: Yes.
3 MS. MCNEILL: -- funny stuff?
4 PROSPECTIVE JUROR NUMBER 309: Yeah.
5 MS. MCNEILL: Okay. Nothing serious like Law and Order?
6 PROSPECTIVE JUROR NUMBER 309: No, I don't --
7 MS. MCNEILL: Okay.
8 PROSPECTIVE JUROR NUMBER 309: -- really watch that.
9 MS. MCNEILL: Do you use social media at all?
10 PROSPECTIVE JUROR NUMBER 309: I don't.
11 MS. MCNEILL: You don't? Okay.
12 You get enough of the computer at work --
13 PROSPECTIVE JUROR NUMBER 309: Yeah.
14 MS. MCNEILL: -- probably?
15 Okay. All right. Do you think that social media is more common
16 for younger generations than older generations?
17 PROSPECTIVE JUROR NUMBER 309: Probably.
18 MS. MCNEILL: Okay. Do you think that younger people are
19 more willing to talk to about things that older people might be
20 uncomfortable with?
21 PROSPECTIVE JUROR NUMBER 309: I think that's changing
22 a little bit like with culture. But I think in general, yeah.
23 MS. MCNEILL: Okay. Do you think that younger people are
24 more able to talk about say sex for example then older people?
25 PROSPECTIVE JUROR NUMBER 309: I think so.

1 MS. MCNEILL: And it sounds like you kind of have an example
2 of that with your mom where she was very closed off about some things.

3 PROSPECTIVE JUROR NUMBER 309: Yes.

4 MS. MCNEILL: Okay. What does it mean to you to be fair, in
5 the context of being a juror?

6 PROSPECTIVE JUROR NUMBER 309: I think it's, like what I
7 said, like, you have to know what your biases are and know when, like,
8 hey, that's just my emotions talking and compartmentalize that and try to
9 think about things logically and impartially.

10 MS. MCNEILL: Okay. And do you think that the system in
11 order for them to meet their burden it sort of requires it to be based on
12 facts and evidence and not your feelings --

13 PROSPECTIVE JUROR NUMBER 309: Right.

14 MS. MCNEILL: -- right?

15 Okay. I'll pass for cause, Your Honor.

16 THE COURT: Thank you.

17 All right. Is it okay if I call you Mr. Fernandez?

18 PROSPECTIVE JUROR NUMBER 441: Yes.

19 THE COURT: Okay. How are you doing today?

20 PROSPECTIVE JUROR NUMBER 441: Good. Thank you.

21 THE COURT: Is there any reason you could not be fair and
22 impartial in this case?

23 PROSPECTIVE JUROR NUMBER 441: No.

24 THE COURT: Can you wait in forming your opinion on the
25 appropriate result until all the evidence has been heard?

1 PROSPECTIVE JUROR NUMBER 441: Yes.

2 THE COURT: Have you or anyone close to you worked in law
3 enforcement?

4 PROSPECTIVE JUROR NUMBER 441: No.

5 THE COURT: Have you or anyone close to you been charged
6 with a serious crime?

7 PROSPECTIVE JUROR NUMBER 441: No.

8 THE COURT: Have you or anyone close to you been the victim
9 of a serious crime?

10 PROSPECTIVE JUROR NUMBER 441: Yes.

11 THE COURT: Tell me about that.

12 PROSPECTIVE JUROR NUMBER 441: Around, I think it was
13 1995, I think I was eight, my mother and father had a dispute and that kind
14 of caused a separation. I don't know if there was -- my younger sister and
15 I we didn't see any physical abuse but that's what my mom said had
16 caused it so.

17 THE COURT: So your mom said there was abuse?

18 PROSPECTIVE JUROR NUMBER 441: Yes.

19 THE COURT: Okay. And so they separated at that time, did
20 they -- have they stayed separated ever since?

21 PROSPECTIVE JUROR NUMBER 441: Yes.

22 THE COURT: Okay. And who did you live with after that?

23 PROSPECTIVE JUROR NUMBER 441: When we moved out it
24 was just my mother and I, my younger sister, and on and off we stayed
25 with friends of hers, of my mothers.

1 THE COURT: Did you see your father after that?

2 PROSPECTIVE JUROR NUMBER 441: Yes, maybe a handful
3 of times, nothing permanent. But, you know, for holidays but.

4 THE COURT: I see. Okay.

5 So would the fact that -- I guess there may have been some
6 violence that impacted your family there, would that affect your ability to
7 be fair and impartial as a juror in this case?

8 PROSPECTIVE JUROR NUMBER 441: No.

9 THE COURT: Do you know if your mom ever needed like
10 medical treatment because of interactions with your father?

11 PROSPECTIVE JUROR NUMBER 441: Maybe anxiety she
12 dealt with. I don't know if it was because of that or if before that and that
13 just, you know, added to it but.

14 THE COURT: Right. Okay.

15 PROSPECTIVE JUROR NUMBER 441: I know she had
16 problems with anxiety but.

17 THE COURT: Okay. But are you aware of any like physical
18 bruising and things like that?

19 PROSPECTIVE JUROR NUMBER 441: No.

20 THE COURT: Okay. So -- but do you think you could be fair
21 and impartial even though you had that in your family?

22 PROSPECTIVE JUROR NUMBER 441: Yes.

23 THE COURT: Have you, other than what you told me about,
24 have you or anyone close to you been accused of or the victim of
25 domestic violence or sexual abuse?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROSPECTIVE JUROR NUMBER 441: No.

THE COURT: Is there anything about the charges in this case that would make it difficult for you to be fair and impartial?

PROSPECTIVE JUROR NUMBER 441: No.

THE COURT: Can you base your verdict solely on the evidence and the law that applies without fear or criticism or popular opinion?

PROSPECTIVE JUROR NUMBER 441: Yes.

THE COURT: Have you ever been a juror before?

PROSPECTIVE JUROR NUMBER 441: No.

THE COURT: If you were a party to this case would you be comfortable with jurors of a like frame of mind as yourself sitting in judgment?

PROSPECTIVE JUROR NUMBER 441: Yes.

THE COURT: How long have you lived here in Clark County?

PROSPECTIVE JUROR NUMBER 441: 25 years.

THE COURT: And what's the highest level of education you completed?

PROSPECTIVE JUROR NUMBER 441: High school.

THE COURT: Okay. And are you employed?

PROSPECTIVE JUROR NUMBER 441: Yes.

THE COURT: What do you do?

PROSPECTIVE JUROR NUMBER 441: I am an officer for TSA.

THE COURT: Okay. You work at the airport?

1 PROSPECTIVE JUROR NUMBER 441: Yes.
2 THE COURT: Okay. Are you married?
3 PROSPECTIVE JUROR NUMBER 441: No.
4 THE COURT: Have any children?
5 PROSPECTIVE JUROR NUMBER 441: No.
6 THE COURT: All right. State.
7 MS. LUZAICH: Thank you.
8 A TSA officer, you work at the airport?
9 PROSPECTIVE JUROR NUMBER 441: Yes.
10 MS. LUZAICH: So are you the one that never gives me TSA
11 pre-check?
12 PROSPECTIVE JUROR NUMBER 441: No.
13 THE COURT: I paid for mine.
14 MS. LUZAICH: It's expensive.
15 How long have you been with TSA?
16 PROSPECTIVE JUROR NUMBER 441: 12 years.
17 MS. LUZAICH: Oh, okay.
18 So have you had recent training, as opposed to training that you
19 had when you first started, because of what's been going on over the last
20 few years?
21 PROSPECTIVE JUROR NUMBER 441: We seem to have
22 training continuously, if something is happening in the media, it just
23 depends. But it's continuous.
24 MS. LUZAICH: They try to keep up with the times?
25 PROSPECTIVE JUROR NUMBER 441: Yes.

1 MS. LUZAICH: Okay. So as a TSA officer, are you like a
2 sworn peace officer?

3 PROSPECTIVE JUROR NUMBER 441: Yes.

4 MS LUZAICH: Do you carry a gun at work?

5 PROSPECTIVE JUROR NUMBER 441: No.

6 MS. LUZAICH: And are you the one who kind of wonders
7 around, are you at the -- where the, you know, luggage goes through, or
8 what do you do on a daily basis? That's the way I should ask it, sorry.

9 PROSPECTIVE JUROR NUMBER 441: I just do the security
10 for the check points for the passengers so.

11 MS. LUZAICH: So you probably hear lots of excuses --

12 PROSPECTIVE JUROR NUMBER 441: Yes.

13 MS. LUZAICH: -- from people every day?

14 PROSPECTIVE JUROR NUMBER 441: Yes.

15 MS. LUZAICH: Do you kind of get a feeling for when people
16 are trying to pull the wool over your eyes, as opposed to, oh, my God, I
17 really did forget something?

18 PROSPECTIVE JUROR NUMBER 441: Yes. You can tell from
19 experience when someone is genuine, just from many patterns that
20 you've seen, with so many people that we get to see so --

21 MS. LUZAICH: And everybody that you see wants something
22 from you --

23 PROSPECTIVE JUROR NUMBER 441: Yes.

24 MS. LUZAICH: -- right?

25 Do you think that the skills that you've picked up over the last

1 12 years might help you here in court assessing witnesses?

2 PROSPECTIVE JUROR NUMBER 441: Yes.

3 MS. LUZAICH: Okay. Are you one of those people if you're
4 back in the deliberation room that's going to, kind of, move the
5 conversation in certain directions or are you more the kind that's going to
6 sit back and listen and participate when you feel the need?

7 PROSPECTIVE JUROR NUMBER 441: I like to sit back and --
8 if something strikes me, then I'll, you know, state my opinion.

9 MS. LUZAICH: And take in what everybody else says?

10 PROSPECTIVE JUROR NUMBER 441: Yes.

11 MS. LUZAICH: See how they perceive things?

12 PROSPECTIVE JUROR NUMBER 441: Yes.

13 MS. LUZAICH: But if you feel strongly about something you'll
14 tell them, right?

15 PROSPECTIVE JUROR NUMBER 441: Yes.

16 MS. LUZAICH: Okay. I just want to ask you couple of
17 questions about your parents. I'm sorry. You were young at the time, you
18 thought eight maybe?

19 PROSPECTIVE JUROR NUMBER 441: Yeah, I think eight.

20 MS. LUZAICH: Is it possible that police came and you just don't
21 remember?

22 PROSPECTIVE JUROR NUMBER 441: I know the police were
23 called and they arrived. I think neighbors called from noise and
24 disturbance. I don't know if anything was filed because he was not
25 arrested. But I know he was -- he was told not to stay the night there. And

1 in the morning that's when my mother and sister, we left so.

2 MS. LUZAICH: Okay. Did your mom ever talk to you about it
3 after that?

4 PROSPECTIVE JUROR NUMBER 441: Yes.

5 MS. LUZAICH: And did she talk about the fact that he was
6 abusive?

7 PROSPECTIVE JUROR NUMBER 441: She did mention it,
8 that it was a one-time incident, that's all I know. Before that we -- we
9 didn't have an idea that, you know, they had any issues, any problems
10 but.

11 MS. LUZAICH: Okay. In your mind is it ever acceptable to
12 raise a hand to a woman?

13 PROSPECTIVE JUROR NUMBER 441: No.

14 MS. LUZAICH: When you got your jury summons what did you
15 think?

16 PROSPECTIVE JUROR NUMBER 441: I've gotten it the past a
17 few times. I just never been in this spot right now.

18 MS. LUZAICH: Okay. So have you --

19 PROSPECTIVE JUROR NUMBER 441: But I wasn't --

20 MS. LUZAICH: -- made it to a courtroom before but never --

21 PROSPECTIVE JUROR NUMBER 441: No.

22 MS. LUZAICH: -- into the box?

23 PROSPECTIVE JUROR NUMBER 441: No, never been into
24 the courtroom.

25 MS. LUZAICH: So you were downstairs or --

1 PROSPECTIVE JUROR NUMBER 441: Yeah.

2 MS. LUZAISH: -- did you not even have to come to the
3 building?

4 PROSPECTIVE JUROR NUMBER 441: Well, the last time they
5 had us outside and I don't know what happened at the last minute. It was
6 cancelled I guess. So that's -- so that was the closest.

7 MS. LUZAICH: And they said go home?

8 PROSPECTIVE JUROR NUMBER 441: Yeah.

9 MS. LUZAICH: So you were really excited when you got this
10 one, right?

11 PROSPECTIVE JUROR NUMBER 441: Oh, yeah.

12 MS. LUZAICH: When you came into the courtroom and heard
13 the nature of the charges what went through your mind?

14 PROSPECTIVE JUROR NUMBER 441: Sadly it happens a lot
15 so.

16 MS. LUZAICH: True.

17 PROSPECTIVE JUROR NUMBER 441: I mean, I guess a case
18 that I hear a lot going on. So I don't know if I'm familiar with it in a way
19 but.

20 MS. LUZAICH: Okay. Do you think you would be a good juror?

21 PROSPECTIVE JUROR NUMBER 441: Yes.

22 MS. LUZAICH: Why?

23 PROSPECTIVE JUROR NUMBER 441: With this, you know,
24 keeping my mind open, make sure I hear from sides, get all the details as
25 possible, maybe history from each person.

1 MS. LUZAICH: When you say history from each person what
2 do you mean?

3 PROSPECTIVE JUROR NUMBER 441: See if maybe they
4 have went through similar things in their -- of growing up and in history
5 between themselves, if this was a one-time, if it happened before, what
6 was leading up to it.

7 MS. LUZAICH: What if you don't get to hear any of that stuff,
8 what if you only get to make your determination based on what happened
9 on those particular days that I had mentioned earlier, can you do that?

10 PROSPECTIVE JUROR NUMBER 441: Yes.

11 MS. LUZAICH: And you can forget about the other stuff, you're
12 not going to just sit there and wonder, h'm, has this happened before or,
13 you know, h'm, what were they doing a year ago? Can you not wonder
14 about that stuff?

15 PROSPECTIVE JUROR NUMBER 441: Yes.

16 MS. LUZAICH: Okay. The judge is going to read you a whole
17 bunch of law at the end, that's the law of the case. What if the judge
18 reads you an instruction, a piece of law that you don't agree with, will you
19 follow it anyway?

20 PROSPECTIVE JUROR NUMBER 441: Yes.

21 MS. LUZAICH: Okay. And then you can go home and write a
22 letter to your legislature and say change it. But even if you don't agree
23 with the law, you'll follow it anyway?

24 PROSPECTIVE JUROR NUMBER 441: Yes.

25 MS. LUZAICH: Okay. Do you think that it'll be -- or it could be

1 embarrassing for a woman to come in here and talk to a room full of
2 strangers about intimate sexual details?

3 PROSPECTIVE JUROR NUMBER 441: Yes.

4 MS. LUZAICH: Is that something you would take into
5 consideration?

6 PROSPECTIVE JUROR NUMBER 441: Yes.

7 MS. LUZAICH: How do you think you might evaluate the
8 testimony of witnesses that you don't know?

9 PROSPECTIVE JUROR NUMBER 441: Just from what we've
10 been trained, you know, body language, see how they act, respond.
11 Another good thing is, you know, asking open-ended questions, see what
12 their answers are, see if it adds up with any other witnesses, just getting
13 as many facts and details as possible.

14 MS. LUZAICH: Okay.

15 PROSPECTIVE JUROR NUMBER 441: Before deciding.

16 MS. LUZAICH: Compare it to what the other people say?

17 PROSPECTIVE JUROR NUMBER 441: Yes.

18 MS. LUZAICH: Do you think that different people can act
19 differently to the same set of circumstances?

20 PROSPECTIVE JUROR NUMBER 441: Yes.

21 MS. LUZAICH: So when you say, you know, body language,
22 would you agree that body language can be helpful but it's not the be all
23 and end all?

24 PROSPECTIVE JUROR NUMBER 441: Yes.

25 MS. LUZAICH: Is there anything about you that you think we

1 need to know to help us make a determination if you would be the right
2 juror for this case?

3 PROSPECTIVE JUROR NUMBER 441: Just that I, you know,
4 try to get all the facts first. I'm open minded, keep an open mind until the
5 end, and just deliberate with myself, what I've heard and learned from the
6 case.

7 MS. LUZAICH: Okay. Is there anything about you that would
8 prevent you from sitting in judgment?

9 PROSPECTIVE JUROR NUMBER 441: No.

10 MS. LUZAICH: If you listen to all the testimony and see the
11 evidence if you're convinced beyond a reasonable doubt the Defendant
12 committed the crimes that he is charged with, would you be able to the
13 word guilty?

14 PROSPECTIVE JUROR NUMBER 441: Yes.

15 MS. LUZAICH: Thank you.

16 Pass for cause.

17 THE COURT: Thank you.

18 MS. MCNEILL: You indicated that you didn't, I guess, have
19 strong emotions when you heard the nature of the charges because you
20 said it happens a lot, remember that?

21 PROSPECTIVE JUROR NUMBER 441: [No audible response.]

22 MS. MCNEILL: When you say it happens a lot it sounds like
23 once you heard what the State said that they believe happened you sort
24 of preconceived that something happened; is that fair to say?

25 PROSPECTIVE JUROR NUMBER 441: I guess, just that I've

1 heard many cases like this.

2 MS. MCNEILL: Okay. When you say, like this, remember that
3 we don't actually know anything that's happened at this point. What they
4 told you is not evidence. Okay.

5 PROSPECTIVE JUROR NUMBER 441: Right.

6 MS. MCNEILL: Do you think that, if it were up to you, my job
7 would be to prove that he didn't do anything?

8 PROSPECTIVE JUROR NUMBER 441: Yes.

9 MS. MCNEILL: Okay. And why do you feel that way?

10 PROSPECTIVE JUROR NUMBER 441: You're representing
11 someone and, of course, you're going to give all the facts and details as
12 much as possible so that I can make a decision, and knowing that it's a
13 100 percent what I believe is true.

14 MS. MCNEILL: Okay. What if I don't do anything? What if I sit
15 here and he and I play Pictionary or Hangman the whole time?

16 PROSPECTIVE JUROR NUMBER 441: It's a lot harder to
17 come up with a -- with a verdict that way.

18 MS. MCNEILL: Okay. And why would it be harder for you, if I
19 didn't do anything?

20 PROSPECTIVE JUROR NUMBER 441: 'Cause I would only
21 get one side of the story so.

22 MS. MCNEILL: Okay. Do you understand that you are possibly
23 only going to get one side of the story?

24 PROSPECTIVE JUROR NUMBER 441: Okay, yes.

25 MS. MCNEILL: And that -- that one side has to meet the

1 burden of proof that the constitution requires them to meet.

2 PROSPECTIVE JUROR NUMBER 441: Yes.

3 MS. MCNEILL: Does that make sense?

4 Okay. And if they present to you one side of the story, and it
5 doesn't meet that burden, you have to find him not guilty

6 Does that make sense?

7 PROSPECTIVE JUROR NUMBER 441: Can you explain it
8 another way?

9 MS. MCNEILL: Sure.

10 The law requires that they prove to you that something
11 happened; right, you're going to get some instructions and you're going to
12 get the law and you're going to be told what they have to prove, and they
13 have to prove it to you beyond a reasonable doubt, okay? If they don't do
14 that you have to find him not guilty, even if you hear nothing from me the
15 entire time.

16 PROSPECTIVE JUROR NUMBER 441: Yes, I understand.

17 MS. MCNEILL: So if there's any gaps that make you question,
18 that's their fault.

19 Does that make sense?

20 PROSPECTIVE JUROR NUMBER 441: Yes.

21 MS. MCNEILL: Okay. How do you feel about that though? It
22 sounds like you feel as if it shouldn't be that way. And you're absolutely
23 entitled to feel that way. No one's going to, you know, we're not testing
24 you or judging you, this is how you feel and what you believe.

25 PROSPECTIVE JUROR NUMBER 441: If I don't get all the

1 details, all the facts, I'm just not gonna be able to come up with a verdict
2 without knowing everything.

3 MS. MCNEILL: Okay. But you're not going to hold it against
4 him?

5 PROSPECTIVE JUROR NUMBER 441: No.

6 MS. MCNEILL: Okay. Why do you think the law requires the
7 State to prove it versus the Defendant to prove it?

8 PROSPECTIVE JUROR NUMBER 441: That's a good
9 question. I think it's 'cause the possibility of somebody, you know, being
10 found innocent or guilty. That one's a hard one to answer.

11 MS. MCNEILL: It's a hard one, I know. Sorry.

12 I just told you I wouldn't test you and then I tested you.

13 Would you agree with me that maybe it's because first of all
14 they're the ones bringing the charges?

15 PROSPECTIVE JUROR NUMBER 441: Yes.

16 MS. MCNEILL: Okay. And then the State of Nevada has a
17 certain amount of power available to it, right?

18 PROSPECTIVE JUROR NUMBER 441: Yes.

19 MS. MCNEILL: Okay. Your job as a TSA agent I imagine you
20 see people in all kinds of states of existence; angry, drunk, right?

21 PROSPECTIVE JUROR NUMBER 441: Yes.

22 MS. MCNEILL: Okay. So some people are having not their
23 best moments out at the airport, right?

24 PROSPECTIVE JUROR NUMBER 441: Yes.

25 MS. MCNEILL: Okay. You said based on all your interactions

1 with people you kind of get to recognize maybe which people are lying
2 and you can probably, kind of, tell which people coming through the line
3 are going to be trouble.

4 Would you agree with me?

5 PROSPECTIVE JUROR NUMBER 441: Yes.

6 MS. MCNEILL: Okay. What kind of things do you look for
7 when you're sizing people up?

8 PROSPECTIVE JUROR NUMBER 441: A lot of times there's --
9 once we're speaking to them see if they respond, if they seem like they're
10 attentive, that they're not -- they don't have their mind on something else,
11 on their own mission. So it's a lot of interacting to see, get a feel of the
12 person.

13 MS. MCNEILL: Okay. So it's important to have interactions
14 with people so you can size 'em up?

15 PROSPECTIVE JUROR NUMBER 441: Yes.

16 MS. MCNEILL: Okay. Do you receive any type of training on
17 those interactions and maybe how to question someone to get
18 information?

19 PROSPECTIVE JUROR NUMBER 441: Yes.

20 MS. MCNEILL: Okay. What -- how much training have you had
21 on that?

22 PROSPECTIVE JUROR NUMBER 441: It's hard to say. It's
23 different forms of training, either we're person to person in classrooms or
24 we do computer training. But it's on and off.

25 MS. MCNEILL: Okay.

1 PROSPECTIVE JUROR NUMBER 441: There's never a long
2 period of time when we don't.

3 MS. MCNEILL: Okay. So it's sort of constantly keeping up with
4 that --

5 PROSPECTIVE JUROR NUMBER 441: Yes.

6 MS. MCNEILL: -- skill?

7 Okay. You indicated that you, again, kind of going along with
8 the fact that it's their burden that you wanted to hear from both sides, will
9 you be able to sort of stop that instinct and just listen to what they present
10 to you?

11 PROSPECTIVE JUROR NUMBER 441: Yes.

12 MS. MCNEILL: And if it doesn't meet that burden, you can find
13 him not guilty?

14 PROSPECTIVE JUROR NUMBER 441: Yes.

15 MS. MCNEILL: Do you think it's harder to find someone not
16 guilty on a case where the charge is something as serious and sort of
17 emotional as rape versus maybe on a theft case or drug case? Do you
18 think that it's harder as a juror to say, oh, I don't want to be wrong about
19 this because what if this guy is a rapist and I let him go, right? So do you
20 think it's harder to sit and listen and be purely impartial when it's
21 something so emotional?

22 PROSPECTIVE JUROR NUMBER 441: Yes, it can be.

23 MS. MCNEILL: Okay. Do you think you're good at separating
24 emotion out when you're having to listen to facts?

25 PROSPECTIVE JUROR NUMBER 441: Yes.

1 MS. MCNEILL: Why do you think you're good at doing that?

2 PROSPECTIVE JUROR NUMBER 441: Not to say it's easier
3 but not to put yourself -- because at the end of the day I don't know the
4 person personally, so I can only go by what is being told to me.

5 MS. MCNEILL: Okay. So it's just easier to check your
6 emotions when you don't know the person?

7 PROSPECTIVE JUROR NUMBER 441: Yes.

8 MS. MCNEILL: All right. Okay.

9 All right. Nothing further, Your Honor. I'll pass for cause.

10 THE COURT: All right. Ms. Cote, is that how you say it?

11 PROSPECTIVE JUROR NUMBER 442: Yes.

12 THE COURT: How are you doing today?

13 PROSPECTIVE JUROR NUMBER 442: I'm good.

14 THE COURT: Good.

15 Is there any reason you could not be fair and impartial in this
16 case?

17 PROSPECTIVE JUROR NUMBER 442: No.

18 THE COURT: Can you wait in forming your opinion on the
19 appropriate result until all the evidence has been heard?

20 PROSPECTIVE JUROR NUMBER 442: Yes.

21 THE COURT: Have you or anyone close to you worked in law
22 enforcement?

23 PROSPECTIVE JUROR NUMBER 442: No.

24 THE COURT: Have you or anyone close to you been charged
25 with a serious crime?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROSPECTIVE JUROR NUMBER 442: No.

THE COURT: Have you or anyone close to you been the victim of a serious crime?

PROSPECTIVE JUROR NUMBER 442: No.

THE COURT: Have you or anyone close to you been accused of or the victim of domestic violence or sexual abuse?

PROSPECTIVE JUROR NUMBER 442: No.

THE COURT: Is there anything about the charges in this case that would make it difficult for you to be fair and impartial?

PROSPECTIVE JUROR NUMBER 442: No.

THE COURT: Can you base your verdict solely on the evidence that's brought out at trial and the law that applies as stated in my instructions without fear of criticism or popular opinion?

PROSPECTIVE JUROR NUMBER 442: Yes.

THE COURT: Have you ever been a juror before?

PROSPECTIVE JUROR NUMBER 442: No.

THE COURT: If you were a party to this case, would you be comfortable with jurors of a like frame of mind as yourself sitting in judgment?

PROSPECTIVE JUROR NUMBER 442: Yes.

THE COURT: How long have you lived in Clark County?

PROSPECTIVE JUROR NUMBER 442: 19 years.

THE COURT: Your whole life?

PROSPECTIVE JUROR NUMBER 442: Yes.

THE COURT: And what's the highest level of education you

1 completed?

2 PROSPECTIVE JUROR NUMBER 442: I'm currently a student
3 at UNLV right now.

4 THE COURT: Okay. And do you have a major?

5 PROSPECTIVE JUROR NUMBER 442: Architecture.

6 THE COURT: Okay. And we talked about the job you're
7 supposed to start on Monday.

8 PROSPECTIVE JUROR NUMBER 442: Yes.

9 THE COURT: Have you talked to them at all since yesterday?

10 PROSPECTIVE JUROR NUMBER 442: Yeah, I have. And
11 they said do your duty, it's okay.

12 THE COURT: Okay. I appreciate that.

13 So that -- you haven't been working right now but you're starting
14 this job?

15 PROSPECTIVE JUROR NUMBER 442: Yes.

16 THE COURT: Okay. And are you married?

17 PROSPECTIVE JUROR NUMBER 442: No.

18 THE COURT: Have any children?

19 PROSPECTIVE JUROR NUMBER 442: No.

20 THE COURT: Okay. Thank you.

21 State.

22 MS. LUZAICH: Hi, Ms. Cote, how are you doing?

23 PROSPECTIVE JUROR NUMBER 442: Hi.

24 MS. LUZAICH: You too are slightly younger than most of the
25 other jurors, do you think that that would be difficult for you back in the

1 deliberation room?

2 PROSPECTIVE JUROR NUMBER 442: I'd hope not. I'm
3 hoping that my fellow jurors will respect my opinion and that I can feel
4 comfortable sharing it as well. So I'm hoping not. I don't think so.

5 MS. LUZAICH: So far you're doing well. So it sounds like you
6 will be able to express your opinion.

7 Generally, like when you're out with friends or whatever, do you
8 have an easy time walking up to people and talking to people that you
9 don't know really well?

10 PROSPECTIVE JUROR NUMBER 442: I mean, if I had to, I
11 could. But I don't generally do that. But I could.

12 MS. LUZAICH: Did you graduate this last year?

13 PROSPECTIVE JUROR NUMBER 442: In 2017, so yes.

14 MS. LUZAICH: Okay. So you just finished your first year of
15 college?

16 PROSPECTIVE JUROR NUMBER 442: Yes.

17 MS. LUZAICH: How did you like it?

18 PROSPECTIVE JUROR NUMBER 442: It was good. I liked it
19 a lot.

20 MS. LUZAICH: Yeah. Here at UNLV, right?

21 PROSPECTIVE JUROR NUMBER 442: U'm-h'm.

22 MS. LUZAICH: How many classes did you take?

23 PROSPECTIVE JUROR NUMBER 442: I took 15 credits, so I
24 had five courses.

25 MS. LUZAICH: Okay. Did you work at all?

1 PROSPECTIVE JUROR NUMBER 442: No.

2 MS. LUZAICH: I think you said actually your first job is going to
3 be on Monday?

4 PROSPECTIVE JUROR NUMBER 442: Yes.

5 MS. LUZAICH: At a computing lab at UNLV, something like
6 that?

7 PROSPECTIVE JUROR NUMBER 442: Yeah, it's like a
8 support desk, so I'd just be checking people in, answering phone calls,
9 stuff like that.

10 MS. LUZAICH: Okay. Do you think that somebody who hasn't
11 had as much life experience can listen to witnesses that you don't know
12 and make a decision who is and potentially is not telling the truth?

13 PROSPECTIVE JUROR NUMBER 442: I think so.

14 MS. LUZAICH: Okay. How might you go about doing that?

15 PROSPECTIVE JUROR NUMBER 442: I think, like they said
16 before, body language, speech, if they're stuttering or stumbling over their
17 words, if they're fidgeting, details in their story, if they're going back on
18 their story and changing things.

19 MS. LUZAICH: Okay. You know, you talk about body
20 language, would you agree that body language can be real helpful but it's
21 not the be all and end all?

22 PROSPECTIVE JUROR NUMBER 442: Yes.

23 MS. LUZAICH: Do you think that sometimes people just get
24 nervous talking in front of people?

25 PROSPECTIVE JUROR NUMBER 442: Oh, yes.

1 MS. LUZAICH: I mean, I assume you're not having --
2 PROSPECTIVE JUROR NUMBER 442: Public speaking.
3 MS. LUZAICH: -- fun right now?
4 PROSPECTIVE JUROR NUMBER 442: Yeah.
5 MS. LUZAICH: So you're not stuttering right now but do you
6 see how you could just because you're nervous as opposed to because
7 you're not telling the truth?
8 PROSPECTIVE JUROR NUMBER 442: Yes.
9 MS. LUZAICH: So although that's something that I don't think
10 that you shouldn't look at, you wouldn't just say, oh, she's stuttering, she
11 couldn't be telling the truth?
12 PROSPECTIVE JUROR NUMBER 442: Of course.
13 MS. LUZAICH: Or, you know, he, you know, isn't looking me in
14 the eye, he must not be telling me the truth.
15 PROSPECTIVE JUROR NUMBER 442: Yes.
16 MS. LUZAICH: Would you agree with that?
17 PROSPECTIVE JUROR NUMBER 442: Yes.
18 MS. LUZAICH: Okay. Do you think it would be good to listen to
19 what each witness has to say as it compares to the other witnesses?
20 PROSPECTIVE JUROR NUMBER 442: Yes.
21 MS. LUZAICH: And to any evidence, if there is any?
22 PROSPECTIVE JUROR NUMBER 442: Yes.
23 MS. LUZAICH: Do you watch CSI or Law and Order or any of
24 those shows?
25 PROSPECTIVE JUROR NUMBER 442: Not really.

1 MS. LUZAICH: Okay. So you're not broken-hearted to know
2 they're fake?

3 PROSPECTIVE JUROR NUMBER 442: No.

4 MS. LUZAICH: Okay. Is there anything -- now that you've
5 heard the charges, is there anything that you are expecting to see in this
6 kind of a trial?

7 PROSPECTIVE JUROR NUMBER 442: Not in particular, no.

8 MS. LUZAICH: Okay. So if, for example, I didn't bring any
9 fingerprints or I didn't bring any DNA or I didn't bring any photographs or I
10 didn't bring any, like, anything that you can touch, can you still listen to
11 what the witnesses say and, if you believe, potentially come back with a
12 guilty verdict?

13 PROSPECTIVE JUROR NUMBER 442: Yes.

14 MS. LUZAICH: So you don't need to touch or look at
15 something?

16 PROSPECTIVE JUROR NUMBER 442: Yes.

17 MS. LUZAICH: Okay. Do you think you could walk into to a
18 room full of strangers and talk about intimate sexual details?

19 PROSPECTIVE JUROR NUMBER 442: I think it would be very
20 difficult.

21 MS. LUZAICH: Yeah. And do you think that anybody who does
22 come in might have that issue?

23 PROSPECTIVE JUROR NUMBER 442: Yes.

24 MS. LUZAICH: Is that something you'll take into consideration?

25 PROSPECTIVE JUROR NUMBER 442: Yes.

1 MS. LUZAICH: But it's also possible they won't have that issue,
2 right?

3 PROSPECTIVE JUROR NUMBER 442: Yes.

4 MS. LUZAICH: You just never know?

5 PROSPECTIVE JUROR NUMBER 442: U'm-h'm.

6 MS. LUZAICH: Is that a yes?

7 PROSPECTIVE JUROR NUMBER 442: Yes, yes, I'm sorry.

8 MS. LUZAICH: And is that okay with you, like just the unknown,
9 you have no idea what's going to come next?

10 PROSPECTIVE JUROR NUMBER 442: Yes, I think it has to be
11 okay with me.

12 MS. LUZAICH: Okay. Is it a little exciting and nerve-racking at
13 the same time?

14 PROSPECTIVE JUROR NUMBER 442: Yes.

15 MS. LUZAICH: To be a juror in a case like this?

16 PROSPECTIVE JUROR NUMBER 442: Yes, it's a lot of
17 pressure.

18 MS. LUZAICH: But is it something that you feel that you can
19 do?

20 PROSPECTIVE JUROR NUMBER 442: Yes.

21 MS. LUZAICH: You took government in your last year, right?

22 PROSPECTIVE JUROR NUMBER 442: I did, yes.

23 MS. LUZAICH: Did you learn about the judicial system and
24 stuff?

25 PROSPECTIVE JUROR NUMBER 442: I was actually a part of

1 the We The People competition.

2 MS. LUZAICH: Yay.

3 PROSPECTIVE JUROR NUMBER 442: And so I recognize --

4 MS. LUZAICH: How did you do?

5 PROSPECTIVE JUROR NUMBER 442: We got second place
6 in our regional competition.

7 MS. LUZAICH: Congratulations.

8 So during all of that if you heard about any laws or any rules or
9 whatever, can you promise that you won't bring those to the courtroom,
10 that the only law that you will follow is the law that the Court reads you at
11 the end?

12 PROSPECTIVE JUROR NUMBER 442: Yes.

13 MS. LUZAICH: And what about you, if the judge reads you a
14 law or an instruction that you don't agree with, will you follow it anyway?

15 PROSPECTIVE JUROR NUMBER 442: Yes.

16 MS. LUZAICH: Okay. You can write your legislature a letter --

17 PROSPECTIVE JUROR NUMBER 442: Yes.

18 MS. LUZAICH: -- but you'll follow the law, right?

19 THE COURT: Sorry, was there an answer? Yes?

20 PROSPECTIVE JUROR NUMBER 442: Yes, yes.

21 THE COURT: I want to be sure.

22 MS. LUZAICH: All right. So let's say you get to be a juror in
23 this case and you listen to all the testimony and you look at -- if there's
24 any evidence and you go back and all of the jurors feel one way and you
25 feel the other way, what are you going to do?

1 PROSPECTIVE JUROR NUMBER 442: I'd state my opinion.
2 I'd give my reasons why. But like everyone else said, I'd be open to
3 hearing their side as well.

4 MS. LUZAICH: Okay. You won't change your mind just 'cause
5 you want to go home?

6 PROSPECTIVE JUROR NUMBER 442: No.

7 MS. LUZAICH: It's five to 5:00, they're all mad at you. If you're
8 sure you're right, you'll still stick to your guns?

9 PROSPECTIVE JUROR NUMBER 442: Yes.

10 MS. LUZAICH: Okay. Knowing what you know about yourself,
11 is there any reason that you could not sit in judgment?

12 PROSPECTIVE JUROR NUMBER 442: No.

13 MS. LUZAICH: So if you listen to all the evidence and
14 testimony if you are convinced beyond a reasonable doubt the Defendant
15 committed the crimes he's charged with, would you be able to say the
16 word guilty?

17 PROSPECTIVE JUROR NUMBER 442: Yes.

18 MS. LUZAICH: Thank you.

19 Pass for cause.

20 MS. MCNEILL: Thank you, Your Honor.

21 Good afternoon, Ms. Cote.

22 PROSPECTIVE JUROR NUMBER 442: Hi.

23 MS. MCNEILL: What is the We the People program?

24 PROSPECTIVE JUROR NUMBER 442: It's a government
25 class where students basically study the constitution and then they have a

1 competition where there's different units and you basically give your
2 opinion on the constitution based on questions they ask you and different
3 stuff like that.

4 MS. MCNEILL: Okay. So is it kind of like a debate where
5 you're giving your opinion against someone else or you're just giving a
6 presentation?

7 PROSPECTIVE JUROR NUMBER 442: We're given questions
8 and then we write speeches to answer them and then they ask us
9 questions. And then if we disagree within our team, it can become a
10 debate or -- it's really just a discussion and sharing our opinions on the
11 constitution and the laws.

12 MS. MCNEILL: Okay. So it sounds like you're a little more
13 comfortable with public speaking than probably most people are because
14 you've done some --

15 PROSPECTIVE JUROR NUMBER 442: Yes.

16 MS. MCNEILL: -- is that fair?

17 Okay. Why did you want to be a part of that program? What
18 was it about it?

19 PROSPECTIVE JUROR NUMBER 442: I didn't initially want to.

20 MS. MCNEILL: Okay.

21 PROSPECTIVE JUROR NUMBER 442: But I found it really
22 rewarding just 'cause you got to like make a lot of friends and really learn
23 about your community and our rights as citizens of the United States so.

24 MS. MCNEILL: Okay. All right. And so --

25 THE COURT: I'll sign you up to be a judge, if you want to do it,

1 I run it.

2 MS. MCNEILL: Talking about getting roped into things, right?

3 THE COURT: Yes.

4 MS. MCNEILL: You -- so it sounds like through that program
5 you learned how important our rights are --

6 PROSPECTIVE JUROR NUMBER 442: Yes.

7 MS. MCNEILL: -- that come from the constitution?

8 Okay. So you understand the fact that it's their burden of
9 proof --

10 PROSPECTIVE JUROR NUMBER 442: Yes.

11 MS. MCNEILL: -- right?

12 Okay. If you are back in the jury room and you hear jurors
13 saying things that you're uncomfortable with, that sort of suggest that
14 maybe they don't quite get the burden of proof or maybe they don't care
15 because of the nature of the charges, are you going to be comfortable
16 saying, hey, that's not our job, that's not what we're supposed to think
17 about?

18 PROSPECTIVE JUROR NUMBER 442: Yes.

19 MS. MCNEILL: Yes. Okay.

20 Even with people who are maybe your elders?

21 PROSPECTIVE JUROR NUMBER 442: Yes.

22 MS. MCNEILL: You don't have any problem standing up to
23 older people?

24 PROSPECTIVE JUROR NUMBER 442: I don't think so.

25 MS. MCNEILL: Okay. What -- the help desk job that you're

1 starting, is that something that you got through the university?

2 PROSPECTIVE JUROR NUMBER 442: Yes.

3 MS. MCNEILL: Okay. What are you planning on getting your
4 degree in, if you've made it that far in your thinking?

5 PROSPECTIVE JUROR NUMBER 442: I want to be an
6 architect, so I'm currently studying architecture.

7 MS. MCNEILL: Okay. So that's a little more scientific, I guess.

8 PROSPECTIVE JUROR NUMBER 442: Yes.

9 MS. MCNEILL: How did you come to that career?

10 PROSPECTIVE JUROR NUMBER 442: I like the fact that it is
11 like more analytical but then it allows me to be creative and kind of -- it's
12 kind of like an art form but then like you use a lot of engineering and math
13 and everything. So I like that.

14 MS. MCNEILL: Okay. Yeah, I mean, it's definitely -- there's
15 design but --

16 PROSPECTIVE JUROR NUMBER 442: Yes.

17 MS. MCNEILL: -- it's sort of based out of math.

18 PROSPECTIVE JUROR NUMBER 442: Yes.

19 MS. MCNEILL: Okay. So we have a couple of other jurors who
20 have sort of that ride the line between being creative but still analytical.
21 Do you think the fact that you sort of use both parts of your brain will make
22 you a good juror?

23 PROSPECTIVE JUROR NUMBER 442: I think so. I think it's a
24 good strength to be able to use both side.

25 MS. MCNEILL: You said that you were kind of excited about

1 being a juror. What's exciting about it to you?

2 PROSPECTIVE JUROR NUMBER 442: Maybe not excited is
3 not the right word more --

4 MS. MCNEILL: I like when people say they're excited. Nobody
5 is excited about it.

6 PROSPECTIVE JUROR NUMBER 442: I mean, I think I'm
7 excited to do my duty as a citizen and I'm hoping that I can be a good
8 juror and be unbiased and objective.

9 MS. MCNEILL: Okay.

10 PROSPECTIVE JUROR NUMBER 442: So in that way, you
11 know, I'm excited.

12 MS. MCNEILL: Okay. So just excited, I guess, to sort of live
13 the process of seeing our rights in action?

14 PROSPECTIVE JUROR NUMBER 442: Sure.

15 MS. MCNEILL: Okay. And then you said there was a lot of
16 pressure, what's the pressure?

17 PROSPECTIVE JUROR NUMBER 442: I think this is a heavy
18 situation and it's a heavy sentence. So, like you said before, like -- I
19 don't -- it's just a big responsibility, and so, yeah.

20 MS. MCNEILL: Yeah. I mean, there's always the concern,
21 right, what if you get it wrong --

22 PROSPECTIVE JUROR NUMBER 442: Yes.

23 MS. MCNEILL: -- right?

24 Okay. Because of that will you make sure that you hold the
25 State to their burden?

1 PROSPECTIVE JUROR NUMBER 442: Yes.

2 MS. MCNEILL: Okay. Because that's where you don't want to
3 get it wrong; right, is you don't hold them to their burden?

4 PROSPECTIVE JUROR NUMBER 442: Yes.

5 MS. MCNEILL: Okay. You said that it's important because it's
6 your civic duty to be a juror. Do you think, sort of the flip side of that, is
7 sometimes it's your civic duty not to be a juror if there's something about
8 you that means you can't necessarily be impartial?

9 PROSPECTIVE JUROR NUMBER 442: Yes.

10 MS. MCNEILL: And why is it that some people should just be
11 free to say can't do it?

12 PROSPECTIVE JUROR NUMBER 442: I mean, if you're
13 emotional and you can't be objective, then the ruling won't be valid.

14 MS. MCNEILL: Okay. All right. Thank you very much,
15 Ms. Cote.

16 Your Honor, I'll pass for cause.

17 THE COURT: Thank you very much.

18 All right. Ms. White, how are you today?

19 PROSPECTIVE JUROR NUMBER 321: Good.

20 THE COURT: Good.

21 Is there any reason you could not be fair and impartial in this
22 case?

23 PROSPECTIVE JUROR NUMBER 321: No.

24 THE COURT: Can you wait in forming your opinion on the
25 appropriate result until all the evidence has been heard?

1 PROSPECTIVE JUROR NUMBER 321: Yes.

2 THE COURT: Have you or anyone close to you worked in law
3 enforcement?

4 PROSPECTIVE JUROR NUMBER 321: No.

5 THE COURT: Have you or anyone close to you been charged
6 with a serious crime?

7 PROSPECTIVE JUROR NUMBER 321: No.

8 THE COURT: Have you or anyone close to you been the victim
9 of a serious crime?

10 PROSPECTIVE JUROR NUMBER 321: No.

11 THE COURT: Have you or anyone close to you been accused
12 of or the victim of domestic violence or sexual abuse?

13 PROSPECTIVE JUROR NUMBER 321: Yes.

14 THE COURT: Okay. Tell me about that.

15 PROSPECTIVE JUROR NUMBER 321: My sister, her
16 estranged husband, he's back in jail now, but he did a lot of harassing
17 when she left him, of the family.

18 THE COURT: She -- sorry. He --

19 PROSPECTIVE JUROR NUMBER 321: He harassed the
20 family when she left.

21 THE COURT: Oh, okay. So she -- she left him.

22 Okay. So was he -- had there been domestic violence between
23 them?

24 PROSPECTIVE JUROR NUMBER 321: I have no clue. Well,
25 I'm sure it was. My sister, she don't disclose everything to us. She's very

1 private.

2 THE COURT: Yeah.

3 PROSPECTIVE JUROR NUMBER 321: And we didn't know
4 what was going on until after she left.

5 THE COURT: Right.

6 PROSPECTIVE JUROR NUMBER 321: And he harassed our
7 whole family so.

8 THE COURT: Okay. When you say he harassed you, like, how
9 did that manifest itself?

10 PROSPECTIVE JUROR NUMBER 321: Text messages, the
11 whole family.

12 THE COURT: Like, were there -- was it threatening?

13 PROSPECTIVE JUROR NUMBER 321: Yes, vandalized our
14 family cars, my mom and dad and me.

15 THE COURT: Was that reported to police?

16 PROSPECTIVE JUROR NUMBER 321: Yes.

17 THE COURT: Okay. And what happened as a result of that?

18 PROSPECTIVE JUROR NUMBER 321: They could hardly ever
19 find him here, which is weird in Vegas. I guess counties don't talk to each
20 other. I don't know. But he just was picked up on drug, I guess, drug
21 related charges and he was put in jail and that's how she knew he was in
22 jail.

23 THE COURT: Okay. Is he still in jail now?

24 PROSPECTIVE JUROR NUMBER 321: Yes. I think he just
25 went back in again.

1 THE COURT: How long ago did she leave him?
2 PROSPECTIVE JUROR NUMBER 321: 2012 I want to say.
3 THE COURT: Do they have children together?
4 PROSPECTIVE JUROR NUMBER 321: Yes, they have four.
5 THE COURT: Did her ex ever threaten you directly?
6 PROSPECTIVE JUROR NUMBER 321: He's threatened us on
7 text message.
8 THE COURT: So it -- on your phone as well?
9 PROSPECTIVE JUROR NUMBER 321: Yes.
10 THE COURT: Okay.
11 PROSPECTIVE JUROR NUMBER 321: My grandmother, my
12 mom and dad, my aunts, my -- he talked about my dead aunt recently that
13 died that year so it was terrible.
14 THE COURT: Yeah, okay.
15 Do you have hard feelings towards police because they weren't
16 able to, kind of, control that better or get him sooner?
17 PROSPECTIVE JUROR NUMBER 321: Not the police, just the
18 system 'cause it feels like the system didn't catch up to what we was like
19 putting -- when we actually filed charges -- they seemed like they could
20 never find him. It was just -- it was weird but.
21 THE COURT: Okay.
22 PROSPECTIVE JUROR NUMBER 321: So when he got picked
23 up on other charges, thank goodness.
24 THE COURT: So do you think that, I guess, that whole set of
25 circumstances, do you think that would affect your ability to be fair and

1 impartial as a juror in this case?

2 PROSPECTIVE JUROR NUMBER 321: No, I don't.

3 THE COURT: I mean, like are you going to hold it against the
4 State because the system didn't serve you well in that circumstance?

5 PROSPECTIVE JUROR NUMBER 321: No, I wouldn't hold it
6 against them.

7 THE COURT: Are you going to hold it against Mr. Green here
8 because of what your brother-in-law did there?

9 PROSPECTIVE JUROR NUMBER 321: No, I wouldn't.

10 THE COURT: Okay. You think you can be fair to both sides?

11 PROSPECTIVE JUROR NUMBER 321: Yes.

12 THE COURT: Is there anything about the charges in this case
13 that would make it difficult for you to be fair and impartial?

14 PROSPECTIVE JUROR NUMBER 321: No.

15 THE COURT: Can you base your verdict solely on the
16 evidence and the law that applies without fear of criticism or popular
17 opinion?

18 PROSPECTIVE JUROR NUMBER 321: Yes.

19 THE COURT: Have you ever been a juror before?

20 PROSPECTIVE JUROR NUMBER 321: I was summons in
21 Houston and I got to this part and that was it.

22 THE COURT: Okay. So you didn't actually get picked and sat
23 through the trial?

24 PROSPECTIVE JUROR NUMBER 321: Right.

25 THE COURT: Okay. How long ago was that?

1 PROSPECTIVE JUROR NUMBER 321: Probably in 2008.

2 THE COURT: Now, do you recall if that was going to be a civil
3 or a criminal case?

4 PROSPECTIVE JUROR NUMBER 321: It was criminal.

5 THE COURT: It was criminal also, okay.

6 And do you recall the nature of what --

7 PROSPECTIVE JUROR NUMBER 321: Same.

8 THE COURT: Similar type of circumstance?

9 PROSPECTIVE JUROR NUMBER 321: U'm-h'm.

10 THE COURT: Okay. Thank you.

11 If you were a party to this case would you be comfortable with
12 jurors of a like frame of mind as yourself sitting in judgment?

13 PROSPECTIVE JUROR NUMBER 321: Yes.

14 THE COURT: How long have you lived here in Clark County?

15 PROSPECTIVE JUROR NUMBER 321: I moved back here in
16 2012.

17 THE COURT: And you said you moved back here, so you were
18 somewhere else for a while?

19 PROSPECTIVE JUROR NUMBER 321: Yes. I was in Houston
20 and before Houston I served in the military for eight years.

21 THE COURT: Oh, and which branch?

22 PROSPECTIVE JUROR NUMBER 321: Air Force.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR NUMBER 321: And my dad's -- he
25 retired here in the Air Force.

1 THE COURT: I see. So had you grown up here though?

2 PROSPECTIVE JUROR NUMBER 321: We moved here in '95.

3 THE COURT: Okay. All right. So what's the highest level of

4 education you completed?

5 PROSPECTIVE JUROR NUMBER 321: Associate's degree.

6 THE COURT: In what?

7 PROSPECTIVE JUROR NUMBER 321: Health information.

8 THE COURT: Okay. And are you employed?

9 PROSPECTIVE JUROR NUMBER 321: Yes.

10 THE COURT: Doing what?

11 PROSPECTIVE JUROR NUMBER 321: Pharmacy tech at

12 Summerlin Hospital.

13 THE COURT: Okay. Are you married?

14 PROSPECTIVE JUROR NUMBER 321: Yes.

15 THE COURT: Is your spouse employed?

16 PROSPECTIVE JUROR NUMBER 321: No, he's disabled

17 veteran.

18 THE COURT: Okay. So was he also in the Air Force?

19 PROSPECTIVE JUROR NUMBER 321: He was. And he just

20 had surgery last year on amputation of fingers and was diagnosed with

21 Berger's disease. So his health declined, so, yeah.

22 THE COURT: Yeah. That's tough on you.

23 Okay. You're able to be here and serve though, correct?

24 PROSPECTIVE JUROR NUMBER 321: U'm-h'm.

25 THE COURT: Yes?

1 PROSPECTIVE JUROR NUMBER 321: Yes.

2 THE COURT: Sorry.

3 So other than now that I'm talking to you about him, would you
4 be able to concentrate on what goes on here in the courtroom during the
5 trial?

6 PROSPECTIVE JUROR NUMBER 321: I would hope so.

7 THE COURT: Are you concerned about whether you can focus
8 on the trial?

9 PROSPECTIVE JUROR NUMBER 321: Yes, I am concerned
10 about the focus on it.

11 THE COURT: And is that because of the issues with your
12 husband?

13 PROSPECTIVE JUROR NUMBER 321: Yes.

14 THE COURT: When was the surgery?

15 PROSPECTIVE JUROR NUMBER 321: Last year around this
16 time, it happened around the beginning of July. And he's had two
17 different surgeries in September and November and then he was
18 diagnosed Guillain-Barre because he had -- his right foot went numb. So
19 he can't -- he has no feeling. We've just been dealing with the VA system
20 back and forth, so it's not been a good year for us.

21 THE COURT: Yeah, I could -- I could definitely see that.

22 Now, if you weren't here though, you'd be doing your full time
23 job?

24 PROSPECTIVE JUROR NUMBER 321: I do. And I just pretty
25 much take my husband to his appointments.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: Right.

Do you work during the day?

PROSPECTIVE JUROR NUMBER 321: I do.

THE COURT: Okay. But if you got picked to be on this jury, would you be able to, you know, listen to the statements of the lawyers, listen to the witness testimony, and evaluate it in light of the instructions on the law that I give you?

PROSPECTIVE JUROR NUMBER 321: Yes, ma'am.

THE COURT: Do you have any children?

PROSPECTIVE JUROR NUMBER 321: Yes, I have a four year old.

THE COURT: Four year old. Okay.

And is that a girl or a boy?

PROSPECTIVE JUROR NUMBER 321: Girl.

THE COURT: So does your husband care for her during the day or does she go --

PROSPECTIVE JUROR NUMBER 321: He does.

THE COURT: Okay. All right.

Okay. State.

MS. LUZAICH: Thank you.

Good afternoon, Ms. White.

PROSPECTIVE JUROR NUMBER 321: Hello.

MS. LUZAICH: For how long were you in the Air Force?

PROSPECTIVE JUROR NUMBER 321: Eight years.

MS. LUZAICH: Thank you for your service.

1 PROSPECTIVE JUROR NUMBER 321: I thank you.
2 MS. LUZAICH: What did you do at the Air Force?
3 PROSPECTIVE JUROR NUMBER 321: I was services.
4 MS. LUZAICH: I'm sorry?
5 PROSPECTIVE JUROR NUMBER 321: Services.
6 MS. LUZAICH: What does that mean?
7 PROSPECTIVE JUROR NUMBER 321: Which is like personal
8 training, we deploy, I would make sure everyone had pretty much a
9 phone, computer, help people with bedding, and make sure people had
10 stuff, comfort, since I was the Air Force services.
11 MS. LUZAICH: What did your husband do in the service?
12 PROSPECTIVE JUROR NUMBER 321: He was vehicle supply
13 and he actually ended up getting deployed with Marines. And he was --
14 he was Air Force because he was a sharpshooter.
15 MS. LUZAICH: So you didn't get to deploy together?
16 PROSPECTIVE JUROR NUMBER 321: No, we didn't. I knew
17 each other -- we knew each other back when but we just -- we --
18 MS. LUZAICH: Oh, you weren't together --
19 PROSPECTIVE JUROR NUMBER 321: Right.
20 MS. LUZAICH: -- in the -- oh, oh, I'm sorry. Okay. I
21 misunderstood.
22 PROSPECTIVE JUROR NUMBER 321: Yes.
23 MS. LUZAICH: For how long have you been a pharmacy tech?
24 PROSPECTIVE JUROR NUMBER 321: I have been one for 12
25 years.

1 MS. LUZAICH: Oh, so you've been out of the military for a
2 while?

3 PROSPECTIVE JUROR NUMBER 321: U'm-h'm, since 2 --
4 hold up, since 2005.

5 MS. LUZAICH: Okay. I can't do the math that fast but it's a
6 while.

7 PROSPECTIVE JUROR NUMBER 321: Yes.

8 MS. LUZAICH: Okay. And I don't -- I'm sorry for your
9 husband's situation. Are you going to be able to concentrate on the trial
10 because obviously every aspect of the trial is important and we wouldn't
11 want you to miss anything, that's all, --

12 PROSPECTIVE JUROR NUMBER 321: Right, I understand.

13 MS. LUZAICH: -- worrying about your husband.

14 PROSPECTIVE JUROR NUMBER 321: I understand.

15 I feel like I would be able to concentrate but I feel like if there
16 was, like, with my job, I know there's flexibility in case there was an
17 emergency. That's the only thing.

18 MS. LUZAICH: Has he had emergencies --

19 PROSPECTIVE JUROR NUMBER 321: Yes.

20 MS. LUZAICH: -- in the recent past?

21 PROSPECTIVE JUROR NUMBER 321: Yes. We would -- yes.
22 We would have to take him to the VA for nerve damage. He has nerve
23 problem too, so, yes.

24 MS. LUZAICH: And the VA is a monster to deal with --

25 PROSPECTIVE JUROR NUMBER 321: Very.

1 MS. LUZAICH: -- right?

2 PROSPECTIVE JUROR NUMBER 321: Yes.

3 MS. LUZAICH: Okay. I just want to ask you a couple of
4 questions if I could about our sister and her situation. It sounds like it was
5 very frustrating for you and your family.

6 PROSPECTIVE JUROR NUMBER 321: Yes.

7 MS. LUZAICH: You had said that she left him and he started
8 harassing all of you, I mean, as --

9 PROSPECTIVE JUROR NUMBER 321: Yes.

10 MS. LUZAICH: -- far as your grandmother, everybody.

11 PROSPECTIVE JUROR NUMBER 321: Yes.

12 MS. LUZAICH: Did each one of you file police reports?

13 PROSPECTIVE JUROR NUMBER 321: We did. Even my
14 grandmother when she was in Florida. She filed there too so. Because
15 he kept --

16 MS. LUZAICH: That was my next question. Was -- were they
17 living here when it happened?

18 PROSPECTIVE JUROR NUMBER 321: We -- we were living
19 here, my grandmother left, she would come visit. My grandmother would
20 come visit during the summer to see the grandkids, her grandkids here or
21 in California. And so she was here that summer when my sister left.

22 MS. LUZAICH: Okay. So your sister was living here when she
23 left?

24 PROSPECTIVE JUROR NUMBER 321: Yeah. No, my sister
25 still -- she works for TSA actually. She still lives here.

1 MS. LUZAICH: I'm just trying to figure out how many different
2 jurisdictions were involved. So it was Florida for your grandmother and
3 here.

4 PROSPECTIVE JUROR NUMBER 321: Oh, it was just one,
5 one jurisdiction. And then when he started harassing us, my grandmother
6 went back to Florida, and he started texting her along with group text to
7 everyone.

8 MS. LUZAICH: There?

9 PROSPECTIVE JUROR NUMBER 321: Yes.

10 MS. LUZAICH: Okay. And when you guys filed your police
11 reports, did you like handwrite statements and talk to --

12 PROSPECTIVE JUROR NUMBER 321: Yes, ma'am.

13 MS. LUZAICH: -- the police?

14 PROSPECTIVE JUROR NUMBER 321: Yes, ma'am, we did.

15 MS. LUZAICH: Do you know, did they assign a detective to the
16 case?

17 PROSPECTIVE JUROR NUMBER 321: No, ma'am. I don't
18 even know what happened to that since that was like since 2012 or '13.
19 We just let it go because he was -- got -- because since he was put in jail
20 for other charges.

21 MS. LUZAICH: So problem solved at least --

22 PROSPECTIVE JUROR NUMBER 321: So no one's followed
23 up, yeah.

24 MS LUZAISH: -- for a little while?

25 PROSPECTIVE JUROR NUMBER 321: Right.

1 MS. LUZAICH: And you said he was picked up on drug
2 charges way back then and --

3 PROSPECTIVE JUROR NUMBER 321: Yes, yes, ma'am.

4 MS. LUZAICH: -- then maybe again recently?

5 PROSPECTIVE JUROR NUMBER 321: Yes, ma'am.

6 MS. LUZAICH: In between those two times did he continue to
7 harass you or was it kind of done in the beginning?

8 PROSPECTIVE JUROR NUMBER 321: No, ma'am. It was just
9 more at the beginning and then when he got sent to jail it stopped.

10 MS. LUZAICH: Okay. So there hasn't been a problem since?

11 PROSPECTIVE JUROR NUMBER 321: No, no problem since.

12 MS. LUZAICH: Okay. Thank you.

13 You said you have a four year old?

14 PROSPECTIVE JUROR NUMBER 321: Yes, I do.

15 MS. LUZAICH: Does she go to daycare or anything or is she
16 just home with your husband?

17 PROSPECTIVE JUROR NUMBER 321: She is home with my
18 husband. Now he's able to take care of her because we was getting in
19 home care nurse coming for my husband. Then they would go to my
20 mother sometimes, or whoever, family to help out.

21 MS. LUZAICH: Whoever can help?

22 PROSPECTIVE JUROR NUMBER 321: U'm-h'm.

23 MS. LUZAICH: Okay. So now as a pharmacy tech, do you
24 have people, or do you believe that you have people coming, trying to,
25 like, pull the wool over your eyes and get more medicine than they're

1 entitled to, things --

2 PROSPECTIVE JUROR NUMBER 321: I'm more --

3 MS. LUZAICH: -- of that nature?

4 PROSPECTIVE JUROR NUMBER 321: -- I'm sorry, but I'm
5 more so inpatient pharmacy not outpatient so I service -- my customers
6 are the nurses and the doctors.

7 MS. LUZAICH: Okay. So you give to the people that are in the
8 hospital?

9 PROSPECTIVE JUROR NUMBER 321: Yes, ma'am.

10 MS. LUZAICH: Okay. So you don't have any experience with
11 people --

12 PROSPECTIVE JUROR NUMBER 321: No, ma'am.

13 MS. LUZAICH: -- trying to get what they're not entitled to?

14 PROSPECTIVE JUROR NUMBER 321: No, ma'am.

15 MS. LUZAICH: Okay. Did you go to school for that?

16 PROSPECTIVE JUROR NUMBER 321: Yes, ma'am.

17 MS. LUZAICH: How would you feel about serving on a trial like
18 this?

19 PROSPECTIVE JUROR NUMBER 321: I didn't want to.

20 MS. LUZAICH: I understand that, most people don't. But is it
21 something that you feel that you could do?

22 PROSPECTIVE JUROR NUMBER 321: Yes, I can. I can
23 comprehend and --

24 MS. LUZAICH: Of course. What do you think about you might
25 make you a good juror?

1 PROSPECTIVE JUROR NUMBER 321: I'm a person who likes
2 to listen to everything, everything and then make my decision.

3 MS. LUZAICH: Okay. And when you're back in the deliberation
4 room will you freely express your opinion to the other jurors?

5 PROSPECTIVE JUROR NUMBER 321: Yes, I would.

6 MS. LUZAICH: And listen to what they have to say?

7 PROSPECTIVE JUROR NUMBER 321: Yes, I would.

8 MS. LUZAICH: So if all of them felt one way and you felt the
9 other way how would you handle that?

10 PROSPECTIVE JUROR NUMBER 321: I'm not a person who
11 want to put my opinion on other people, but I am -- if I feel like it's right,
12 then I'm not going to let it go.

13 MS. LUZAICH: You'd stick to your guns?

14 PROSPECTIVE JUROR NUMBER 321: Yes.

15 MS. LUZAICH: Even if it's five to 5:00 on Friday --

16 PROSPECTIVE JUROR NUMBER 321: Right.

17 MS. LUZAICH: -- and everyone's mad?

18 Okay. Do you think that it would be embarrassing to come in
19 here to a room full of strangers and explain intimate sexual details?

20 PROSPECTIVE JUROR NUMBER 321: Yes. It was just
21 embarrassing to explain about my sister and so I could understand it
22 would be very awkward for someone to explain sexual details, male or
23 female.

24 MS. LUZAICH: And is that something that you would take into
25 consideration?

1 PROSPECTIVE JUROR NUMBER 321: Yes.

2 MS. LUZAICH: And would you agree that it's just not fun talking
3 about anything in public?

4 PROSPECTIVE JUROR NUMBER 321: I agree.

5 MS. LUZAICH: Except maybe for me because this is what I do.

6 PROSPECTIVE JUROR NUMBER 321: Right.

7 MS. LUZAICH: But when people come up and sit in the witness
8 chair, do you think that that may be a little disconcerting for them?

9 PROSPECTIVE JUROR NUMBER 321: It is because you're
10 looking on to a crowd of people you don't know, explaining things.

11 MS. LUZAICH: Okay. And are all those things things that you
12 would take into consideration?

13 PROSPECTIVE JUROR NUMBER 321: Yes.

14 MS. LUZAICH: And do you agree that two different people can
15 view an event and potentially view it differently?

16 PROSPECTIVE JUROR NUMBER 321: Yes.

17 MS. LUZAICH: And you don't see a problem with that?

18 PROSPECTIVE JUROR NUMBER 321: No.

19 MS. LUZAICH: Are you expecting anything in this trial?

20 PROSPECTIVE JUROR NUMBER 321: No.

21 MS. LUZAICH: Nothing at all?

22 PROSPECTIVE JUROR NUMBER 321: Just whatever is
23 presented and then I'll make my decision.

24 MS. LUZAICH: Okay. So like I've asked a couple of people, if
25 all you get are witness testimony, and I'm not saying that that's going to

1 happen, but, you know, if I don't give you any DNA, if I don't give you
2 fingerprints, or if I don't give you photos, or anything like that, can you
3 listen to witnesses and if you believe them potentially return a guilty
4 verdict?

5 PROSPECTIVE JUROR NUMBER 321: Yes. I can actually --
6 yeah, I will be able to listen and follow.

7 MS. LUZAICH: You don't need to touch anything --

8 PROSPECTIVE JUROR NUMBER 321: Right.

9 MS. LUZAICH: -- in order to convict?

10 PROSPECTIVE JUROR NUMBER 321: Right.

11 MS. LUZAICH: Okay. Is there anything about you that would
12 prevent you from being able to sit in judgment?

13 PROSPECTIVE JUROR NUMBER 321: No.

14 MS. LUZAICH: So if you do listen to the testimony and view the
15 evidence if you're convinced beyond a reasonable doubt the Defendant
16 has committed the crimes he's charged with, would you be able to say the
17 word guilty?

18 PROSPECTIVE JUROR NUMBER 321: Yes.

19 MS. LUZAICH: Thank you.

20 Pass for cause.

21 THE COURT: Thank you.

22 MS. MCNEILL: Thank you, Your Honor.

23 Ms. White, you indicated that you didn't necessarily want to sit
24 on the jury, is that because of your concerns with your husband or your
25 feelings on the system or both?

1 PROSPECTIVE JUROR NUMBER 321: It's just -- it weighs on
2 you if you're gonna make the right decision.

3 MS. MCNEILL: Okay. So sort of the pressure that Ms. --

4 PROSPECTIVE JUROR NUMBER 321: Yes.

5 MS. MCNEILL: -- Cote talked about --

6 PROSPECTIVE JUROR NUMBER 321: Yes.

7 MS. MCNEILL: -- right?

8 Okay. Do you think that pressure is something that you can
9 handle?

10 PROSPECTIVE JUROR NUMBER 321: Yes.

11 MS. MCNEILL: Okay. All right. I mean, it's something that we
12 want -- some people feel like they can't, that they just aren't going to be
13 able to do that and so we want -- we want to know those things.

14 You indicated that you have some hard feelings towards the
15 system, not necessarily towards the police, remember that?

16 PROSPECTIVE JUROR NUMBER 321: Yes.

17 MS. MCNEILL: Your feelings towards the system, are they
18 directed at one side more than the other? Maybe directed more towards
19 defense attorneys since it was your brother-in-law who would have been
20 charged with crimes or more towards the State or is it just sort of the
21 system as a whole?

22 PROSPECTIVE JUROR NUMBER 321: The system as a
23 whole. I feel like no communication. It's like broken communication, I
24 would say. Like, this doesn't speak to this or this department doesn't
25 speak to that department. It feels like that. I don't --

1 MS. MCNEILL: Okay. So it seems like because of that lack of
2 communication your brother-in-law sort of slips through the cracks?

3 PROSPECTIVE JUROR NUMBER 321: Yes, ma'am.

4 MS. MCNEILL: Okay. Do you think that the system treats
5 everybody equally?

6 PROSPECTIVE JUROR NUMBER 321: No.

7 MS. MCNEILL: Do you think that the system makes it easier for
8 certain types of people to be convicted than others?

9 PROSPECTIVE JUROR NUMBER 321: Maybe it depends, I
10 feel like, where you're from.

11 MS. MCNEILL: Okay.

12 PROSPECTIVE JUROR NUMBER 321: If people have like
13 probably caught up with -- I really don't know. It's -- it would be -- it's hard
14 to make that -- to even voice my opinion on if -- I don't know.

15 MS. MCNEILL: Okay. And why is it hard, because it's a room
16 full of strangers, or just because it's a very complicated answer or both?

17 PROSPECTIVE JUROR NUMBER 321: I think it's a
18 complicated answer and I don't want to offend.

19 MS. MCNEILL: Okay. And I understand that and I appreciate
20 that.

21 The issues that your sister had with her husband, did they sort
22 of happen after the relationship was ending or were they ongoing during
23 the relationship?

24 PROSPECTIVE JUROR NUMBER 321: For us it was -- we
25 saw after she left. She told us some things were going on when he was

1 there.

2 MS. MCNEILL: Okay. But you weren't aware of that?

3 PROSPECTIVE JUROR NUMBER 321: Right.

4 MS. MCNEILL: Okay. So it wasn't sometimes relationships
5 end and people don't handle it well.

6 PROSPECTIVE JUROR NUMBER 321: Right.

7 MS. MCNEILL: It sounds like it was more maybe the reason for
8 the relationship ending and then escalated.

9 PROSPECTIVE JUROR NUMBER 321: Yes.

10 MS. MCNEILL: Okay. As far as your husband, because I know
11 you said that you were concerned about emergencies coming up, and I
12 think that's something that people in your situation frequently have to
13 balance that, what if I get a phone call and I miss it, right? Is that --

14 PROSPECTIVE JUROR NUMBER 321: Right.

15 MS. MCNEILL: -- the kind of thing you're worrying about?

16 PROSPECTIVE JUROR NUMBER 321: U'm-h'm.

17 MS. MCNEILL: Is that something that's going to kind of weigh
18 on you as you're sitting here listening, like, oh, no, I hope I haven't missed
19 a phone call or, you know, you're going to feel like you need to be
20 checking your phone to make sure everything is okay?

21 PROSPECTIVE JUROR NUMBER 321: I have family --

22 MS. MCNEILL: Okay.

23 PROSPECTIVE JUROR NUMBER 321: -- who can look --

24 MS. MCNEILL: So you could tell him, you know, hey, if you
25 can't get me, call my mom, or someone like that?

1 PROSPECTIVE JUROR NUMBER 321: Right.

2 MS. MCNEILL: Okay. So you'll be able to kind of put those
3 concerns -- like because if you're having those concerns, we don't want
4 someone who's sitting here, you know, worrying about a family member.

5 PROSPECTIVE JUROR NUMBER 321: I'm still gonna be
6 worried even though I put it off on someone because he's my husband.

7 MS. MCNEILL: Sure.

8 PROSPECTIVE JUROR NUMBER 321: So therefore he wants
9 me beside him.

10 MS. MCNEILL: Yeah.

11 PROSPECTIVE JUROR NUMBER 321: That's the problem.

12 MS. MCNEILL: Yeah, I get that.

13 Okay. But will it affect you to the point of maybe feeling like
14 now is not the time for you sit on a jury?

15 PROSPECTIVE JUROR NUMBER 321: I was thinking that.

16 MS. MCNEILL: Okay. Are you still thinking that as you sit
17 here?

18 PROSPECTIVE JUROR NUMBER 321: I do just a little bit,
19 concern.

20 MS. MCNEILL: Okay. All right.

21 Your Honor, may we approach?

22 THE COURT: Yeah, come on up.

23 [Bench conference transcribed as follows:]

24 MS. LUZAICH: One day you need to wear flats in trial, please.

25 THE COURT: H'm?

1 MS. LUZAICH: I told her she needs to wear flats in trial one
2 day, just for me.

3 MS. MCNEILL: I do feel kind of like giant up here right now.
4 I'm a little concerned that -- I know, she --

5 THE COURT: I need you speak on the record.

6 MS. MCNEILL: Oh, I'm sorry, I always forget that.

7 I'm a little concerned that, you know, she keeps saying she's
8 going to try but it sounds like she is fairly worried about what's going on
9 with her husband at home so.

10 THE COURT: Right. I mean, I was concerned when she first
11 raised it but then she seemed to sort of settle back into it and.

12 MS. LUZAICH: She's going back and forth, so I just. I asked
13 her but she said she can do it.

14 THE COURT: Right. I mean, a lot of people would say they'd
15 rather not be here. I don't know, I mean, I'm sympathetic. It sounds like
16 there are some real medical issues.

17 MS. MCNEILL: Yeah.

18 THE COURT: But it's -- like it --

19 MS. MCNEILL: She did get emotional too, I mean, that was my
20 concern.

21 THE COURT: She did.

22 MS. MCNEILL: Is it was something that she kind of started to
23 cry about.

24 THE COURT: Right.

25 MS. MCNEILL: Versus, you know, which I think gives it a little

1 more weight as to what she's worrying about so.

2 MS. LUZAICH: I mean, I don't have a position. I'd just --

3 THE COURT: Yeah.

4 MS. LUZAICH: -- submit it, whatever the Court wants.

5 THE COURT: I know -- I suppose I can give her a break and let
6 her go. All right. I'll do that.

7 Thanks.

8 [Bench conference ends]

9 THE COURT: All right. Ma'am, I do appreciate your time these
10 last couple of days. I'm going to go ahead and excuse you and let -- you
11 got some other things in your life you need to deal with right now.

12 Thanks very much for your time.

13 PROSPECTIVE JUROR NUMBER 321: Thank you.

14 THE CLERK: Next in seat 12, badge number 480, Marisela
15 Nadeau.

16 THE COURT: All right. Ma'am, is it Nadeau?

17 PROSPECTIVE JUROR NUMBER 480: Yes.

18 THE COURT: Ms. Nadeau, how are you today?

19 PROSPECTIVE JUROR NUMBER 480: I'm fine. Thank you.

20 THE COURT: Good.

21 Is there any reason you could not be fair and impartial in this
22 case?

23 PROSPECTIVE JUROR NUMBER 480: No.

24 THE COURT: Can you wait in forming your opinion on the
25 appropriate result until all the evidence has been heard?

1 PROSPECTIVE JUROR NUMBER 480: Yes.

2 THE COURT: Have you or anyone close to you worked in law
3 enforcement?

4 PROSPECTIVE JUROR NUMBER 480: A long time ago,
5 growing up with -- my neighbor he was a LAPD officer.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NUMBER 480: Spent a lot of time with
8 him but I haven't seen him now for like 15 years.

9 THE COURT: Got it.

10 Would the fact that you grew up with sort of this friendly officer
11 in the neighborhood would that affect your ability to fair and impartial as a
12 juror in this case?

13 PROSPECTIVE JUROR NUMBER 480: I don't think so, no.

14 THE COURT: Do you think you would have a tendency to give
15 extra weight or credibility to the testimony of law enforcement officers
16 because they're law enforcement?

17 PROSPECTIVE JUROR NUMBER 480: Maybe a little bit.

18 THE COURT: And does that have to do with this neighbor or
19 just more general feelings?

20 PROSPECTIVE JUROR NUMBER 480: I think it's just more
21 general feelings. It's respect the profession and --

22 THE COURT: Right.

23 Now, as, we had some discussion about this yesterday, I mean,
24 of course, you understand law enforcement officers are human and can
25 make mistakes like anyone else.

1 PROSPECTIVE JUROR NUMBER 480: Right.

2 THE COURT: And would you be able to listen to the testimony
3 of law enforcement officers together with all the other evidence to
4 evaluate whether you would agree with --

5 PROSPECTIVE JUROR NUMBER 480: Yes.

6 THE COURT: -- them or disagree with them?

7 PROSPECTIVE JUROR NUMBER 480: Yes.

8 THE COURT: Okay. Are you going to automatically believe
9 anything a law enforcement officer says?

10 PROSPECTIVE JUROR NUMBER 480: Well, no.

11 THE COURT: Okay. All right. Have you or anyone close to
12 you been charged with a serious crime?

13 PROSPECTIVE JUROR NUMBER 480: My brother.

14 THE COURT: And what was that about?

15 PROSPECTIVE JUROR NUMBER 480: Domestic violence. I
16 don't really know too much of the details. He and his girlfriend had a child
17 and so -- but as far as those, the details of when they had this domestic
18 violence, I wasn't living there at the time. He still lives with my -- in my
19 mom's house with one of my sisters and she's the one who kind of told
20 me about it. I'm not as close to him as I used to be.

21 THE COURT: Where do they live?

22 PROSPECTIVE JUROR NUMBER 480: They're in Los
23 Angeles, in Torrance.

24 THE COURT: Is he still with his girlfriend?

25 PROSPECTIVE JUROR NUMBER 480: No. My sister made

1 her move out just to alleviate things. He still resides there and then he
2 gets his daughter on the weekends and --

3 THE COURT: I see.

4 PROSPECTIVE JUROR NUMBER 480: -- they have --
5 they've -- they're -- I guess you can say they're co-parents, not the best of
6 parents, either one of them. But, you know, their daughter is taken care of
7 thanks to our family. And her family and everyone is just kind of coming
8 together --

9 THE COURT: So he was --

10 PROSPECTIVE JUROR NUMBER 480: -- in her interest.

11 THE COURT: -- he was charged at some point with domestic
12 violence?

13 PROSPECTIVE JUROR NUMBER 480: I think they both were.

14 THE COURT: Okay. That's what I was going to ask.

15 PROSPECTIVE JUROR NUMBER 480: Yeah.

16 THE COURT: All right. Okay. But you haven't been there to
17 observe that going on?

18 PROSPECTIVE JUROR NUMBER 480: No.

19 THE COURT: Okay. And would the fact that your brother has
20 been involved in that type of relationship affect your ability to be fair and
21 impartial as a juror in this case?

22 PROSPECTIVE JUROR NUMBER 480: I don't think so, no.

23 THE COURT: Do you have an opinion about whether he's
24 been treated fairly like in the legal system?

25 PROSPECTIVE JUROR NUMBER 480: Yeah, I think he's

1 been treated more than fairly.

2 THE COURT: Okay. All right. Have you or anyone close to
3 you been the victim of a serious crime?

4 PROSPECTIVE JUROR NUMBER 480: No.

5 THE COURT: And other than what we've talked about, have
6 you or anyone close to you been accused of or the victim of domestic
7 violence or sexual abuse?

8 PROSPECTIVE JUROR NUMBER 480: Growing up my dad
9 was an alcoholic, up until I was like in tenth grade, he had a major car
10 accident and then he quit right then. And so he would have come home
11 drunk a lot of times. And I never saw him hit my mother but they would
12 argue so.

13 THE COURT: Well, did police ever come to the home because
14 of those type of events?

15 PROSPECTIVE JUROR NUMBER 480: Not that I recall.

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

18 PROSPECTIVE JUROR NUMBER 480: I don't think so
19 because at the end of the day it's a different situation --

20 THE COURT: Sure.

21 PROSPECTIVE JUROR NUMBER 480: -- different people.

22 THE COURT: Exactly. So can you put aside your family
23 experiences that you've described and base your decision on the
24 evidence presented in this courtroom?

25 PROSPECTIVE JUROR NUMBER 480: I mean, I think that I --

1 that I could.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NUMBER 480: I don't really think
4 about that stuff too much anymore.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR NUMBER 480: I kind of worked
7 through it and.

8 THE COURT: Is there anything about the charges in this case
9 that would make it difficult for you to be fair and impartial?

10 PROSPECTIVE JUROR NUMBER 480: No.

11 THE COURT: Can you base your verdict solely on the
12 evidence and the law that applies without fear of criticism or popular
13 opinion?

14 PROSPECTIVE JUROR NUMBER 480: Yes.

15 THE COURT: Have you ever been a juror before?

16 PROSPECTIVE JUROR NUMBER 480: No.

17 THE COURT: If you were a party to this case would you be
18 comfortable with jurors of a like frame of mind as yourself sitting in
19 judgment?

20 PROSPECTIVE JUROR NUMBER 480: I mean, I'm not
21 comfortable sitting in judgment of anybody --

22 THE COURT: Right.

23 PROSPECTIVE JUROR NUMBER 480: -- period.

24 THE COURT: Is that something you're able to do though?

25 PROSPECTIVE JUROR NUMBER 480: Probably. I mean, if I

1 had to.

2 THE COURT: Okay. I understand that.

3 But it's not -- as was mentioned earlier, there are some people
4 because of religious beliefs or other --

5 PROSPECTIVE JUROR NUMBER 480: No.

6 THE COURT: -- principles they can't judge somebody. You're
7 not in that category?

8 PROSPECTIVE JUROR NUMBER 480: No.

9 THE COURT: Okay. I appreciate that.

10 But, now, if you were a party to the case, would you be
11 comfortable with jurors like yourself?

12 PROSPECTIVE JUROR NUMBER 480: I would.

13 THE COURT: Do you think you would be a good juror?

14 PROSPECTIVE JUROR NUMBER 480: I mean, I don't really
15 know what a good juror is.

16 THE COURT: Okay. Do you think you can be -- you can pay
17 attention to all the evidence and be fair to all parties in the case?

18 PROSPECTIVE JUROR NUMBER 480: Yes.

19 THE COURT: It's not where you particularly want to be right
20 now though?

21 PROSPECTIVE JUROR NUMBER 480: Correct.

22 THE COURT: Okay. I understand.

23 How long have you lived here in Clark County?

24 PROSPECTIVE JUROR NUMBER 480: 14 years.

25 THE COURT: What's the highest level of education you

1 completed?

2 PROSPECTIVE JUROR NUMBER 480: Masters in science of
3 nursing.

4 THE COURT: And what was your undergraduate degree in?

5 PROSPECTIVE JUROR NUMBER 480: Nursing.

6 THE COURT: And are you employed?

7 PROSPECTIVE JUROR NUMBER 480: Yes.

8 THE COURT: What do you do?

9 PROSPECTIVE JUROR NUMBER 480: I'm a nurse
10 practitioner.

11 THE COURT: And where do you work?

12 PROSPECTIVE JUROR NUMBER 480: Private practice in
13 North Las Vegas, underserved area.

14 THE COURT: Are you married?

15 PROSPECTIVE JUROR NUMBER 480: Divorced.

16 THE COURT: Do you have any children?

17 PROSPECTIVE JUROR NUMBER 480: Three.

18 THE COURT: And how old are they?

19 PROSPECTIVE JUROR NUMBER 480: 16, 15, and 10.

20 THE COURT: All right. State.

21 MS. LUZAICH: Thank you.

22 Good afternoon.

23 PROSPECTIVE JUROR NUMBER 480: Hi.

24 MS. LUZAICH: Nobody is really comfortable judging other
25 people, you know that; right? But when I ask that question is there

1 anything that would prevent you from sitting in judgment, what I really am
2 looking to know is as a juror what your job is going to be, if you get
3 selected, is to sit there and listen to everybody who goes and sits in that
4 chair, raises their hand, you know, swears to tell the truth and tells you
5 what they know and then maybe you'll see some evidence, maybe some
6 pictures, you know, some results, something like that and then you just
7 need to sit and talk to the fellow jurors and decide, did the State prove to
8 you beyond a reasonable doubt that the Defendant committed the crimes
9 he's charged with. That's all you have to do is decide whether or not we
10 proved our case.

11 The real, like, sitting in judgment kind of stuff, you know, if there
12 were to be any guilty verdicts, the Court is going to do all the sentencing,
13 you will never have to come up with any kind of sentence or punishment
14 or anything like that.

15 Does that help any?

16 PROSPECTIVE JUROR NUMBER 480: Yeah, it helps a little.

17 MS. LUZAICH: Okay. And remember, and it's not just you, it's
18 you and all of your fellow --

19 PROSPECTIVE JUROR NUMBER 480: Right.

20 MS. LUZAICH: -- jurors back there because in order for there
21 to be a guilty verdict all of you have to agree.

22 PROSPECTIVE JUROR NUMBER 480: Right.

23 MS. LUZAICH: So does that help a lot?

24 PROSPECTIVE JUROR NUMBER 480: I mean, it helps, yeah.

25 MS. LUZAICH: You know as a nurse practitioner you listen

1 every day to patients; right, and they tell --

2 PROSPECTIVE JUROR NUMBER 480: Correct.

3 MS. LUZAICH: -- you this is what's wrong or this is what's
4 bothering me or this is what I want and you listen to what they have to say
5 and then you make a decision about what to do next, right?

6 PROSPECTIVE JUROR NUMBER 480: Yeah.

7 MS. LUZAICH: It's kind of similar.

8 PROSPECTIVE JUROR NUMBER 480: Right.

9 MS. LUZAICH: Sort of. Actually I think your job is harder as a
10 nurse because you sometimes have to tell people no when you don't want
11 to, right?

12 PROSPECTIVE JUROR NUMBER 480: Right.

13 MS. LUZAICH: So maybe this will be easier than doing your
14 daily job.

15 PROSPECTIVE JUROR NUMBER 480: Hopefully.

16 MS. LUZAICH: Okay. So you said you served -- you serve in
17 an under represented area?

18 PROSPECTIVE JUROR NUMBER 480: Right.

19 MS. LUZAICH: What do you do like on a daily basis?

20 PROSPECTIVE JUROR NUMBER 480: I see anywhere
21 between like 20 to 35 patients per day, ranging from all ages, like
22 pediatrics, adults, geriatrics.

23 MS. LUZAICH: Do you see them at a clinic?

24 PROSPECTIVE JUROR NUMBER 480: I do, yeah. I did ICU
25 as a registered nurse for ten years, then my back was kind of getting

1 messed up, so I went back to school to do this.

2 MS. LUZAICH: In your years as a registered nurse you said
3 ICU, was that all, did you ever work emergency room or?

4 PROSPECTIVE JUROR NUMBER 480: I did do some
5 emergency room; it was mainly for ICU holds. Like, when there wasn't
6 enough room in the unit, but they had to keep the ICU patients down
7 there, so we would go down there to care for them.

8 MS. LUZAICH: Was that here or somewhere else?

9 PROSPECTIVE JUROR NUMBER 480: I've worked in Los
10 Angeles, Denver, and Vegas.

11 MS. LUZAICH: What hospital did you work here?

12 PROSPECTIVE JUROR NUMBER 480: I worked at several. I
13 was an agency nurse where I would float to where they needed an ICU
14 nurse that day, so Valley Hospital. I finally signed on to St. Rose Siena,
15 various valley hospitals.

16 MS. LUZAICH: Okay. Any time at UMC?

17 PROSPECTIVE JUROR NUMBER 480: No, I didn't go to UMC
18 ever, yeah.

19 PROSPECTIVE JUROR NUMBER 480: Okay. Jeri
20 Dermanelian is a sexual assault nurse examiner, she's going to testify
21 here. So you've never participated in any sexual assault evaluations or
22 anything like that; is that correct?

23 PROSPECTIVE JUROR NUMBER 480: Not in the evaluations,
24 no.

25 MS. LUZAICH: Have you ever had occasion to see a sexual

1 assault patient?

2 PROSPECTIVE JUROR NUMBER 480: I can't recall, to be
3 honest, but I don't think so.

4 MS. LUZAICH: Have you ever had occasion to see a patient
5 who has been the victim of domestic violence?

6 PROSPECTIVE JUROR NUMBER 480: Yes.

7 MS. LUZAICH: Here? Somewhere else?

8 PROSPECTIVE JUROR NUMBER 480: Here. I mean, it's all
9 kind of a blur because it's so many patients. But, I mean, there's been
10 people where, you know, you see them with bruises and things like that
11 and.

12 MS. LUZAICH: Have you ever had to be questioned by a police
13 officer, anything about what you've seen?

14 PROSPECTIVE JUROR NUMBER 480: No.

15 MS. LUZAICH: Or about treatment? No.

16 So you never --

17 PROSPECTIVE JUROR NUMBER 480: No.

18 MS. LUZAICH: -- had to testify in court or --

19 PROSPECTIVE JUROR NUMBER 480: No.

20 MS. LUZAICH: -- anything?

21 PROSPECTIVE JUROR NUMBER 480: No.

22 MS. LUZAICH: Okay. Do you think that it is difficult for
23 somebody to come in here and talk to a room full of strangers about
24 intimate sexual details?

25 PROSPECTIVE JUROR NUMBER 480: Yes.

1 MS. LUZAICH: I mean, clearly you're not enjoying talking --
2 PROSPECTIVE JUROR NUMBER 480: Right.
3 MS. LUZAICH: -- in front of everybody.
4 Do you think that it's even harder up there?
5 PROSPECTIVE JUROR NUMBER 480: Yeah, I would imagine
6 so.
7 MS. LUZAICH: Okay. Is that something you would take into
8 consideration?
9 PROSPECTIVE JUROR NUMBER 480: As far as -- into
10 consideration?
11 MS. LUZAICH: Part of your job as a juror is to evaluate the
12 testimony of all the witnesses to see who is and potentially is not telling
13 the truth. So is that something that you would look at to make that
14 determination?
15 PROSPECTIVE JUROR NUMBER 480: Well, at their behavior
16 you mean?
17 MS. LUZAICH: Yeah.
18 PROSPECTIVE JUROR NUMBER 480: Like when they're
19 talking about it? Well, yeah, u'm-h'm, like if -- yeah.
20 MS. LUZAICH: What other --
21 PROSPECTIVE JUROR NUMBER 480: I would look at that.
22 MS. LUZAICH: -- what other things might you look at?
23 PROSPECTIVE JUROR NUMBER 480: I guess, just their
24 demeanor, their eye contact, where it's directed, things like that.
25 MS. LUZAICH: Okay. Do you think that sometimes if

1 somebody is nervous they may not look you in the eye?

2 PROSPECTIVE JUROR NUMBER 480: Yeah, I do believe
3 that.

4 MS. LUZAICH: So it could be nerves not --

5 PROSPECTIVE JUROR NUMBER 480: Right.

6 MS. LUZAICH: -- non truth?

7 PROSPECTIVE JUROR NUMBER 480: That's what I was
8 thinking that it would be difficult to decipher whether they're nervous or. I
9 think that's what would make this difficult.

10 MS. LUZAICH: Okay. Will you listen to what they have to say
11 and compare it to what other people have to say?

12 PROSPECTIVE JUROR NUMBER 480: U'm-h'm.

13 MS. LUZAICH: Is that a yes?

14 PROSPECTIVE JUROR NUMBER 480: Yes.

15 MS. LUZAICH: Remember the nice court --

16 PROSPECTIVE JUROR NUMBER 480: Yes.

17 MS. LUZAICH: -- recorder.

18 PROSPECTIVE JUROR NUMBER 480: Yes.

19 MS. LUZAICH: And if there is evidence -- okay, obviously
20 there's going to be some evidence.

21 PROSPECTIVE JUROR NUMBER 480: Okay.

22 MS. LUZAICH: I know I keep asking that question but there will
23 be some evidence. So you would compare the evidence to what people
24 have to say as well?

25 PROSPECTIVE JUROR NUMBER 480: Oh, yeah, to see if I

1 felt it matched up.

2 MS. LUZAICH: Okay. Are you somebody that has a kind of a
3 harder time expressing your views to a room full of strangers?

4 PROSPECTIVE JUROR NUMBER 480: It depends on the
5 situation and my mood.

6 MS. LUZAICH: Fair enough.

7 So if you go back in the deliberation room do you think you
8 might be the one that kind of sits back and listens to people and then
9 jumps in, as opposed to the person who right from go is just ruling the
10 conversation?

11 PROSPECTIVE JUROR NUMBER 480: Honestly, yes.

12 MS. LUZAICH: That's okay. We need everybody back there
13 doing different things.

14 So what did you think when you got your summons?

15 PROSPECTIVE JUROR NUMBER 480: Oh, crap. I just got
16 back from vacation.

17 MS. LUZAICH: I bet everybody else thought the same thing.

18 What about when you heard the nature of the charges?

19 PROSPECTIVE JUROR NUMBER 480: Honestly the job that I
20 do nothing really surprises me of these days.

21 MS. LUZAICH: Okay. Do you watch CSI or any of those
22 shows?

23 PROSPECTIVE JUROR NUMBER 480: No.

24 MS. LUZAICH: You're not expecting any of those crazy things
25 that they show on TV in the courtroom, are you?

1 PROSPECTIVE JUROR NUMBER 480: Not really, no.

2 MS. LUZAICH: Okay. And if two witnesses tell you that they
3 watch the same event but they describe it differently, to you that doesn't
4 necessarily mean that one of them is lying, does it?

5 PROSPECTIVE JUROR NUMBER 480: No, it does not mean
6 that.

7 MS. LUZAICH: What else could it mean?

8 PROSPECTIVE JUROR NUMBER 480: Well, everybody's
9 brain kind of picks up different things and people tend to react different in
10 different situations. Some might panic and like not remember anything
11 where others remember, you know, a lot more detail.

12 MS. LUZAICH: So none of that would surprise you?

13 PROSPECTIVE JUROR NUMBER 480: No, not necessarily.

14 MS. LUZAICH: Okay. You indicated that you're not
15 comfortable sitting in judgment, but can you listen to the evidence and just
16 make up your mind whether or not the State proved their case?

17 PROSPECTIVE JUROR NUMBER 480: Yes, I mean, I believe
18 I could do that.

19 MS. LUZAICH: Okay. So if you do listen to all the testimony
20 and see whatever evidence is admitted if you are convinced beyond a
21 reasonable doubt that the State proved the Defendant committed the
22 crimes he is charged with, would you be able to say the word guilty?

23 PROSPECTIVE JUROR NUMBER 480: Yes.

24 MS. LUZAICH: You hesitate a little.

25 PROSPECTIVE JUROR NUMBER 480: I mean, I wouldn't be

1 comfortable with it, but if that's what I really believed, then, yes, I would.

2 MS. LUZAICH: Why would you not be comfortable with it?

3 PROSPECTIVE JUROR NUMBER 480: I just don't like the
4 thought of like me being a part of somebody going to serve time because
5 what if I'm wrong.

6 MS. LUZAICH: Well, first of all you don't know whether or not
7 he would --

8 PROSPECTIVE JUROR NUMBER 480: Right.

9 MS. LUZAICH: -- serve time. You have to trust the judge to do
10 the right -- if there were a guilty verdict --

11 PROSPECTIVE JUROR NUMBER 480: Yeah.

12 MS. LUZAICH: -- you gotta trust the judge to do the right thing
13 because it's going to be only the judge who makes the determination what
14 the penalty would be.

15 PROSPECTIVE JUROR NUMBER 480: I mean, that makes it a
16 little easier. But, yeah, it's not something I'm crazy about doing, as I know
17 nobody else is here. So if I had to, I would see that -- if I -- if that's what I
18 believed, that there was reasonable doubt, if there's reasonable doubt,
19 then I would have to say he's not guilty.

20 MS. LUZAICH: Of course.

21 PROSPECTIVE JUROR NUMBER 480: But if there's no doubt
22 and you guys prove your case, then, yeah, guilty 'cause that would be the
23 right thing to do if that's what I perceive --

24 MS. LUZAICH: Okay.

25 PROSPECTIVE JUROR NUMBER 480: -- after listening and

1 seeing everything presented.

2 MS. LUZAICH: Okay. Now, you said if there's no doubt, the
3 judge is going to read for you an instruction that describes what
4 reasonable doubt means, but it doesn't mean no doubt --

5 PROSPECTIVE JUROR NUMBER 480: Okay.

6 MS. LUZAICH: -- it's just reasonable doubt. So you're not
7 going to hold the State to a higher burden than the law requires, are you?

8 PROSPECTIVE JUROR NUMBER 480: No. I mean,
9 reasonable doubt makes it where you could --

10 MS. LUZAICH: Well, the Court will define reasonable doubt for
11 you.

12 PROSPECTIVE JUROR NUMBER 480: Okay.

13 MS. LUZAICH: I just want to make sure that that is the law that
14 you will follow. You're not going to make me prove more than I have to.

15 PROSPECTIVE JUROR NUMBER 480: I would --

16 MS. LUZAICH: We have to.

17 PROSPECTIVE JUROR NUMBER 480: -- follow --

18 MS. LUZAICH: Sorry.

19 PROSPECTIVE JUROR NUMBER 480: -- the law that Judge
20 Cadish puts forward or explains to us when the time comes.

21 MS. LUZAICH: Okay. Whether you agree with it or not you'll
22 follow the law, right?

23 PROSPECTIVE JUROR NUMBER 480: Well, if it's the law, I'm
24 supposed to. I would --

25 MS. LUZAICH: It will be.

1 PROSPECTIVE JUROR NUMBER 480: -- follow it.
2 MS. LUZAICH: Okay. Thank you very much, ma'am.
3 PROSPECTIVE JUROR NUMBER 480: Okay.
4 MS. LUZAICH: Pass for cause.
5 THE COURT: Thank you.
6 MS. MCNEILL: You still seem a little uncomfortable. Sorry, I
7 know, it's never-ending, right?
8 PROSPECTIVE JUROR NUMBER 480: I thought it was his
9 turn already. Okay.
10 MS. MCNEILL: Well, close, it's almost his turn. I'll be gentle.
11 You still seem a little I think concerned and is it just because,
12 like you said, it's just a big decision to make involving other people's lives,
13 right?
14 PROSPECTIVE JUROR NUMBER 480: Involving strangers
15 that I don't know.
16 MS. MCNEILL: Okay.
17 PROSPECTIVE JUROR NUMBER 480: Yeah.
18 MS. MCNEILL: But as a nurse practitioner, I mean, that's sort
19 of just like a step below a doctor, right? I mean, you're allowed to do a lot
20 of things that doctors do?
21 PROSPECTIVE JUROR NUMBER 480: Well, we do the same
22 thing basically --
23 MS. MCNEILL: Yeah, right.
24 PROSPECTIVE JUROR NUMBER 480: -- we have
25 independent practice --

1 MS. MCNEILL: Yeah.

2 PROSPECTIVE JUROR NUMBER 480: -- in Nevada so, yeah.

3 MS. MCNEILL: So you are -- you take in a lot of information
4 from people and you process all of the training that you've picked up in
5 school and you're able to make decisions synthesizing all of that pretty
6 quickly, right?

7 PROSPECTIVE JUROR NUMBER 480: Yeah.

8 MS. MCNEILL: Okay. And so there's nothing about the
9 process of taking in the information and evaluating it that would be hard
10 for you?

11 PROSPECTIVE JUROR NUMBER 480: No.

12 MS. MCNEILL: Okay. Do you think that people like you who
13 sort of feel that this is a big decision to make, do you think that that's
14 probably the best kind of juror to have; right, is somebody who gets how
15 important it is?

16 PROSPECTIVE JUROR NUMBER 480: I guess, yeah.

17 MS. MCNEILL: Okay. I mean, if someone really wasn't all that
18 concerned about that decision, probably not someone that we would want
19 sitting on a jury --

20 PROSPECTIVE JUROR NUMBER 480: Right.

21 MS. MCNEILL: -- right?

22 If they --

23 PROSPECTIVE JUROR NUMBER 480: Makes sense.

24 MS. MCNEILL: -- just thought, well, these guys are going to tell
25 me some stuff and the police did arrest him so it sounds pretty easy, that's

1 probably not an ideal juror, right?

2 PROSPECTIVE JUROR NUMBER 480: Right.

3 MS. MCNEILL: Okay. Does that help alleviate some of the
4 concern?

5 PROSPECTIVE JUROR NUMBER 480: It does.

6 MS. MCNEILL: Okay. All right. You said that you practice in
7 private practice but in an underserved area. Is it your own practice?

8 PROSPECTIVE JUROR NUMBER 480: No.

9 MS. MCNEILL: Okay.

10 PROSPECTIVE JUROR NUMBER 480: It's -- I work for a
11 doctor.

12 MS. MCNEILL: Okay. And was that the intent of the practice
13 was to be in an underserved area or was it just something that --

14 PROSPECTIVE JUROR NUMBER 480: Yeah.

15 MS. MCNEILL: -- kind of happened?

16 PROSPECTIVE JUROR NUMBER 480: Yeah, I believe
17 that's -- that was his intent.

18 MS. MCNEILL: Okay. And is that something that you found to
19 be important to you was that people who may not have access to health
20 care get good health care?

21 PROSPECTIVE JUROR NUMBER 480: Yeah --

22 MS. MCNEILL: Okay.

23 PROSPECTIVE JUROR NUMBER 480: -- that was part of it.

24 MS. MCNEILL: Okay. And so it sounds like you just are the
25 kind of person who really wants everybody to have access to the system

1 and to healthcare, would you agree with me?

2 PROSPECTIVE JUROR NUMBER 480: Yeah.

3 MS. MCNEILL: Okay. Along those same lines you indicated
4 that it was your brother who was charged with domestic violence?

5 PROSPECTIVE JUROR NUMBER 480: Yes.

6 MS. MCNEILL: Okay. And you said the system treated him
7 more than fairly. What did you mean by that?

8 PROSPECTIVE JUROR NUMBER 480: Well, my brother,
9 since a young age has kind of been, you know, the black sheep, the little
10 troublemaker of the family. So he's been getting into trouble a lot since,
11 you know, like middle school.

12 MS. MCNEILL: Okay. So it was more along the lines of it --

13 PROSPECTIVE JUROR NUMBER 480: He keeps getting --

14 MS. MCNEILL: -- wasn't his first rodeo?

15 PROSPECTIVE JUROR NUMBER 480: Right.

16 MS. MCNEILL: Okay.

17 PROSPECTIVE JUROR NUMBER 480: And he kind of kept
18 getting away with things all the time.

19 MS. MCNEILL: Okay. All right. Okay. So you do --

20 PROSPECTIVE JUROR NUMBER 480: Yeah.

21 MS. MCNEILL: -- kind of have both perspectives here of, you
22 know, the system treating your brother in a way that maybe he didn't
23 deserve all the time and then this heaviness that you feel in having to
24 listen to the case.

25 PROSPECTIVE JUROR NUMBER 480: Right.

1 MS. MCNEILL: Do you think that's important to have both
2 those perspectives when you're on a jury?

3 PROSPECTIVE JUROR NUMBER 480: Well, I think any
4 experience helps. I get -- yeah, I would think that would be important.

5 MS MCNEILL: Okay. And then the State asked you about how
6 it would be embarrassing potentially to talk about sexual details. Does
7 that mean that a person who is talking about uncomfortable subject matter
8 must be telling the truth?

9 ROSPECTIVE JUROR NUMBER 480: No, I don't believe that.

10 MS. MCNEILL: Okay. All right. So you'll still evaluate what
11 they're saying not just stop at, well, this seems embarrassing so they must
12 be honest?

13 PROSPECTIVE JUROR NUMBER 480: Right.

14 MS. MCNEILL: Okay. I'll pass for cause, Your Honor.

15 THE COURT: Thank you.

16 Okay. Mr. Long, how are you doing?

17 PROSPECTIVE JUROR NUMBER 329: All right. How are you
18 doing?

19 THE COURT: Good.

20 Is there any reason you could not be fair and impartial in this
21 case?

22 PROSPECTIVE JUROR NUMBER 329: No.

23 THE COURT: Can you wait in forming your opinion on the
24 appropriate result until all the evidence has been heard?

25 PROSPECTIVE JUROR NUMBER 329: Yes.

1 THE COURT: Have you or anyone close to you worked in law
2 enforcement?

3 PROSPECTIVE JUROR NUMBER 329: No.

4 THE COURT: Have you or anyone close to you been charged
5 with a serious crime?

6 PROSPECTIVE JUROR NUMBER 329: Yes.

7 THE COURT: Tell me about that.

8 PROSPECTIVE JUROR NUMBER 329: My teenage years,
9 early 20s, I was held up at gunpoint.

10 THE COURT: And did you know the person who did that to
11 you?

12 PROSPECTIVE JUROR NUMBER 329: No, I didn't.

13 THE COURT: Okay. And --

14 PROSPECTIVE JUROR NUMBER 329: It was actually three
15 guys that -- that --

16 THE COURT: Three guys. Okay.

17 PROSPECTIVE JUROR NUMBER 480: -- came in. I worked
18 at a Pizza Hut delivering pizza, it was late at night, they came in with three
19 guns and had us get on the floor and give them our money and luckily
20 they didn't take our life, I mean.

21 THE COURT: Right.

22 PROSPECTIVE JUROR NUMBER 329: It's pretty scary.

23 THE COURT: Sure.

24 And so how did it end?

25 PROSPECTIVE JUROR NUMBER 329: There was three of us,

1 there was a manager and another driver, and we just sat on the floor until
2 they left and then our manager called the police and they ended up
3 catching them a few miles down the road because they ran some red
4 lights. And they caught two of the three -- three guys.

5 THE COURT: And did you ever have to go testify in that case?

6 PROSPECTIVE JUROR NUMBER 329: Yes.

7 THE COURT: And do you know what happened to the guys
8 who did that?

9 PROSPECTIVE JUROR NUMBER 329: The two that got
10 caught they served a little bit of time, I believe, a couple of years or maybe
11 a little more.

12 THE COURT: Right.

13 Was that here in Las Vegas?

14 PROSPECTIVE JUROR NUMBER 329: No, I lived in -- I grew
15 up in the Fort Lauderdale area, Fort Lauderdale, Florida.

16 THE COURT: And did you feel that the -- I mean, obviously
17 that was a scary experience, but did the criminal justice system work
18 appropriately and treat you appropriately?

19 PROSPECTIVE JUROR NUMBER 329: Yes and no. The
20 deposition felt really uncomfortable and the lawyers were kind of snarky
21 taking the deposition. And they -- I felt like they -- this happened and
22 they -- they postponed it for like six or eight months and then they wanted
23 you to point them out again, and, you know, it just seemed like it was --
24 should have been something that was taken care of right then and there
25 to me.

1 THE COURT: Did it go to trial or was there a guilty plea
2 eventually?

3 PROSPECTIVE JUROR NUMBER 329: Yeah, it went to trial. I
4 had to go and --

5 THE COURT: Got it.

6 PROSPECTIVE JUROR NUMBER 329: -- do it again, you
7 know.

8 THE COURT: Okay. So it was a frustrating process?

9 PROSPECTIVE JUROR NUMBER 329: Yes.

10 THE COURT: So would that experience of being held up, and
11 then going through that process, would that affect your ability to be fair
12 and impartial in this case?

13 PROSPECTIVE JUROR NUMBER 329: No, that's a totally
14 different case so.

15 THE COURT: Okay. So other than what you've told me about,
16 have you or anyone close to you either been charged with a serious crime
17 or been the victim of a serious crime?

18 PROSPECTIVE JUROR NUMBER 329: Yes, my uncle was
19 charged with molesting his teenage stepdaughter.

20 THE COURT: How long ago was that arrest?

21 PROSPECTIVE JUROR NUMBER 329: 25 some odd years
22 ago, maybe more.

23 THE COURT: Okay. Were you kind of in touch with the family
24 at the time that was going on?

25 PROSPECTIVE JUROR NUMBER 329: Yes.

1 THE COURT: And where was that, like in what community?

2 PROSPECTIVE JUROR NUMBER 329: That was Sarasota,
3 Florida.

4 THE COURT: So he was charged with that, what happened in
5 that case? Did he end up being convicted?

6 PROSPECTIVE JUROR NUMBER 329: Yes.

7 THE COURT: Okay. Did he go to prison?

8 PROSPECTIVE JUROR NUMBER 329: Yes, for about 15
9 years, I think, 12 to 15.

10 THE COURT: Have you seen him since?

11 PROSPECTIVE JUROR NUMBER 329: Yes, I've seen him
12 when he got out, he was living with my aunt. And then the last time I saw
13 him is when I moved my parents out here and he lives in Arizona now.
14 But I didn't believe he did it.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NUMBER 329: But now that -- now I
17 do, you know.

18 THE COURT: What changed your mind? Sorry, I see you're
19 getting emotional. I'm sorry to have to ask.

20 PROSPECTIVE JUROR NUMBER 329: It seems like he's put
21 himself in the same predicament with another woman, another teenage
22 daughter. And I can't say for sure, but it just doesn't, you know, I never
23 wanted to believe it and now.

24 THE COURT: Yeah.

25 PROSPECTIVE JUROR NUMBER 329: I think we -- they made

1 the right decision, you know.

2 THE COURT: Right.

3 Okay. And I can certainly understand why that -- you know,
4 happening within your family is emotional for you. Once we're not talking
5 about your family and if you're here as a juror could you put aside those
6 personal experiences you had and base a decision just on the evidence
7 presented here in this courtroom?

8 PROSPECTIVE JUROR NUMBER 329: I think so.

9 THE COURT: I'm sorry to have to make you talk about those
10 things.

11 PROSPECTIVE JUROR NUMBER 329: I didn't know I would --

12 THE COURT: Yeah.

13 PROSPECTIVE JUROR NUMBER 329: -- bring that up.

14 THE COURT: So do you -- you think that you could be fair and
15 impartial as a juror in this case?

16 PROSPECTIVE JUROR NUMBER 329: I think so.

17 THE COURT: So is there anything about the charges in this
18 case that would make it difficult for you to be fair and impartial?

19 PROSPECTIVE JUROR NUMBER 329: I'm not sure. I don't --
20 I mean, from what you told us, it doesn't look good for him.

21 THE COURT: Okay. I understand.

22 PROSPECTIVE JUROR NUMBER 329: From what -- from
23 what I know, but I would listen to the rest but --

24 THE COURT: Right.

25 PROSPECTIVE JUROR NUMBER 329: -- but it doesn't --

1 THE COURT: So -- and I understand. So what you know is
2 what the charges are right now, right?

3 PROSPECTIVE JUROR NUMBER 329: Right.

4 THE COURT: Now, you understand that we haven't heard any
5 evidence yet, all we've done is talk --

6 PROSPECTIVE JUROR NUMBER 329: Right. Right.

7 THE COURT: -- in jury selection, right?

8 You understand if you were to actually be a juror in this case
9 you'd have to wait to hear the evidence and decide whether the evidence
10 shows guilt beyond a reasonable doubt?

11 PROSPECTIVE JUROR NUMBER 480: Yes.

12 THE COURT: And do you think that you'd be able to wait and
13 see whether the State meets its burden of proof on that?

14 PROSPECTIVE JUROR NUMBER 329: Yes.

15 THE COURT: Do you think you're already coming in with like a
16 bias or you're already kind of leaning one way or the other?

17 PROSPECTIVE JUROR NUMBER 329: Honestly, yes.

18 THE COURT: And so I'm just -- I gotta ask because I need to
19 understand. Can you put that aside and to have them start evenly?

20 PROSPECTIVE JUROR NUMBER 329: Yeah, I could. But like
21 you said, I think -- I don't know about everybody else, but I have a feeling
22 most people have already -- they gotta be swayed one way or the other
23 just from the little bit that we know so. But I guess that's the -- the whole
24 point of this.

25 THE COURT: Well, -- right. So we needed to let you know

1 what the nature of this case was to be able to ask you questions about
2 whether you could be fair and impartial or not, but the folks who sit as the
3 jurors will need to be able to follow the law on the presumption of
4 innocence and require the State to present evidence, and if they meet
5 their burden of showing guilt beyond a reasonable doubt, that calls for a
6 guilty verdict, but if they don't, that calls for a not guilty verdict.

7 PROSPECTIVE JUROR NUMBER 329: I understand, yes.

8 THE COURT: And -- okay. Can you base your verdict solely
9 on the evidence brought out at trial and the law that applies as stated in
10 my instructions without fear of criticism or popular opinion?

11 PROSPECTIVE JUROR NUMBER 329: Yes.

12 THE COURT: Have you ever been a juror before?

13 PROSPECTIVE JUROR NUMBER 329: No.

14 THE COURT: If you were a party to this case, would you be
15 comfortable with jurors of a like frame of mind as yourself sitting in
16 judgment?

17 PROSPECTIVE JUROR NUMBER 329: Sure, yes.

18 THE COURT: How long have you lived here in Clark County?

19 PROSPECTIVE JUROR NUMBER 329: About 15 years.

20 THE COURT: And what's the highest level of education you
21 completed?

22 PROSPECTIVE JUROR NUMBER 329: I did some college and
23 I did vocational school for two years.

24 THE COURT: What area was the -- what's the field of the
25 vocational school?

1 PROSPECTIVE JUROR NUMBER 329: TV production.

2 THE COURT: Okay. And I know you told me yesterday about
3 being a freelancer, but I don't recall what area you actually -- what kind of
4 work do you do?

5 PROSPECTIVE JUROR NUMBER 329: I'm a video engineer. I
6 set up -- basically we take what you would have in a TV studio and we set
7 it up for these conventions, I set up power, you know, for PowerPoint
8 presentations, I set up the projection, the video systems. I cut camera,
9 direct camera. Pretty much anything video but. And I travel quite a bit so
10 I'm not always here but there is a ton of work here too.

11 THE COURT: Okay. So the job next week that you have
12 booked, there's some event going on here -- here in town next week
13 you're planning to work on?

14 PROSPECTIVE JUROR NUMBER 329: Yes.

15 THE COURT: All right. Are you married?

16 PROSPECTIVE JUROR NUMBER 329: No, I'm engaged.

17 THE COURT: Okay. Is your fiancé employed?

18 PROSPECTIVE JUROR NUMBER 329: She's self-employed
19 too. She makes jewelry from the house.

20 THE COURT: Do you have any children?

21 PROSPECTIVE JUROR NUMBER 329: No.

22 THE COURT: Okay. All right. Counsel, why don't you come
23 on up for a minute?

24 [Bench conference transcribed as follows:]

25 MS. LUZAICH: Can we take a bathroom break too.

1 THE COURT: Oh, yeah, you know, I meant to take one --
2 MS. LUZAICH: I was going to ask to approach.
3 THE COURT: -- before him and then I got started and --
4 MS. LUZAICH: I thought you were going to let him go when he
5 started crying.
6 THE COURT: Ah, yeah, so I -- I was concerned about that and
7 then it was sort of different situation. But I don't know. I kept going back
8 and forth in my own mind.
9 MS. LUZAICH: I figure if a guy cries during jury selection --
10 MS. MCNEILL: Yeah, I would -- I would move to have him --
11 THE COURT: Okay. All right. Sorry if I wasted your time.
12 MS. LUZAICH: Oh, no.
13 MS. MCNEILL: That's okay, yeah.
14 THE COURT: So I'm going to go ahead --
15 MS. LUZAICH: Not at all.
16 MS. MCNEILL: You never know where it's going to go.
17 THE COURT: Yeah, you know, I mean, he was emotional
18 about that circumstance, but I -- all right, yeah, probably safer. Okay.
19 [Bench conference ends]
20 THE COURT: All right. So, Mr. Long, I'm going to go ahead
21 and excuse you from this case at this time. I do thank you for your time.
22 PROSPECTIVE JUROR NUMBER 329: Thank you.
23 THE COURT: Okay. And for the rest of us we're going to go
24 ahead and take our afternoon break to use the facilities.
25 During this recess, you're admonished not to talk or converse

1 among yourselves or with anyone else on any subject connected with this
2 trial; or to read, watch, or listen to any report of or commentary on the trial
3 or any person connected with this trial by any medium of information
4 including, without limitation, newspapers, television, the internet, or radio;
5 or to form or express any opinion on any subject connected with this trial
6 until the case is finally submitted to you.

7 Take about ten minutes.

8 THE MARSHAL: All rise. Court is now in recess.

9 [Recess taken at 3:50 p.m.]

10 [Jury trial resumed at 4:11 p.m.]

11 [Outside the presence of the prospective jury]

12 THE MARSHAL: All rise. District Court Department 6 is back in
13 session.

14 THE COURT: Sorry for the delay, I was getting tomorrow's
15 calendar.

16 MS. MCNEILL: That doesn't sound good by the tone of your
17 voice.

18 THE COURT: No, it's not -- we'll -- we should be fine to start up
19 at 10:30. Well, I guess, the only possible issue is the transport back and
20 forth, you know, after -- 'cause it's a criminal calendar tomorrow morning.

21 MS. MCNEILL: Oh, yeah.

22 THE COURT: But we should be okay.

23 All right. We can get the jurors. Thank you.

24 THE MARSHAL: All rise.

25 [In the presence of the prospective jury]

1 THE MARSHAL: Please be seated.

2 THE COURT: All right. So we need to go ahead and replace
3 that juror I excused.

4 THE COURT CLERK: Yes, Your Honor.

5 Next -- excuse me -- next in seat number 13, badge number
6 483, Rodrigo Contreras.

7 THE COURT: All right. Mr. Contreras, how are you doing
8 today?

9 PROSPECTIVE JUROR NUMBER 483: Okay.

10 THE COURT: Is there any reason you could not be fair and
11 impartial in this case?

12 PROSPECTIVE JUROR NUMBER 483: No.

13 THE COURT: Can you wait in forming your opinion on the
14 appropriate result until all the evidence has been heard?

15 PROSPECTIVE JUROR NUMBER 483: Yes.

16 THE COURT: Have you or anyone close to you worked in law
17 enforcement?

18 PROSPECTIVE JUROR NUMBER 483: No.

19 THE COURT: Have you or anyone close to you been charged
20 with a serious crime?

21 PROSPECTIVE JUROR NUMBER 483: Yes.

22 THE COURT: Who's that?

23 PROSPECTIVE JUROR NUMBER 483: My half-brother.

24 THE COURT: Okay. And what was he charged with?

25 PROSPECTIVE JUROR NUMBER 483: He was charged with

1 multiple crimes.

2 THE COURT: Okay. Was he convicted?

3 PROSPECTIVE JUROR NUMBER 483: No.

4 THE COURT: No? He was acquitted, he was found not guilty?

5 PROSPECTIVE JUROR NUMBER 483: Yes.

6 THE COURT: Okay. How long ago was that?

7 PROSPECTIVE JUROR NUMBER 483: Two week ago.

8 THE COURT: That he was found not guilty?

9 PROSPECTIVE JUROR NUMBER 483: Yes.

10 THE COURT: Did he go to trial?

11 PROSPECTIVE JUROR NUMBER 483: Yes.

12 THE COURT: Was that here in Las Vegas?

13 PROSPECTIVE JUROR NUMBER 483: No, in Oregon.

14 Oregon. Oregon.

15 THE COURT: Oregon. I'm so sorry. Okay. Got it.

16 Okay. Did you go up there any see any part of the trial?

17 PROSPECTIVE JUROR NUMBER 483: Yes.

18 THE COURT: You did? Okay.

19 What kind of crimes was he charged with?

20 PROSPECTIVE JUROR NUMBER 483: Kidnapping, intent of
21 rape, burglary, coercion, and I don't remember the other one.

22 THE COURT: Okay. So are you close with your half-brother?

23 PROSPECTIVE JUROR NUMBER 483: Not that close. Not
24 that close.

25 THE COURT: But you took an interest enough to go up there

1 and see part of the trial?

2 PROSPECTIVE JUROR NUMBER 483: Yes. Yes, we just got
3 in touch lately. For a long time -- I didn't even -- I didn't even know him
4 until recently. Yeah, and we started communicating.

5 THE COURT: Were you called as a witness in the case at all?

6 PROSPECTIVE JUROR NUMBER 483: Yes, but once over
7 there I didn't have to testify because that -- that charge was dismissed
8 before.

9 THE COURT: I see. Okay.

10 So is it the jurors in this case that ended up coming back and
11 found him not guilty?

12 PROSPECTIVE JUROR NUMBER 483: Yes.

13 THE COURT: On all the charges?

14 PROSPECTIVE JUROR NUMBER 483: Yes.

15 THE COURT: Okay. Do you think the system worked as it
16 should in his case?

17 PROSPECTIVE JUROR NUMBER 483: Yes.

18 THE COURT: Okay. Now, how long had that case been
19 pending before he now had got found not guilty?

20 PROSPECTIVE JUROR NUMBER 483: He was in jail for two
21 months.

22 THE COURT: Had he been living in Oregon?

23 PROSPECTIVE JUROR NUMBER 483: Yes.

24 THE COURT: Okay. So, now, having had that case in your
25 family just a couple of weeks ago, would that affect your ability to be a fair

1 and impartial juror in this case?

2 PROSPECTIVE JUROR NUMBER 483: No.

3 THE COURT: You think you can evaluate this case on its own
4 merits?

5 PROSPECTIVE JUROR NUMBER 483: Yes.

6 THE COURT: Have you or anyone close to you been the victim
7 of a serious crime?

8 PROSPECTIVE JUROR NUMBER 483: No.

9 THE COURT: Other than your brothers case we just talked
10 about, have you or anyone close to you been accused of or the victim of
11 domestic violence or sexual abuse?

12 PROSPECTIVE JUROR NUMBER 483: No.

13 THE COURT: Is there anything about the charges in this case
14 that would make it difficult for you to be fair and impartial?

15 PROSPECTIVE JUROR NUMBER 483: No.

16 THE COURT: Can you base your verdict solely on the
17 evidence brought out at trial and the law that applies as stated in my
18 instructions without fear of criticism or popular opinion?

19 PROSPECTIVE JUROR NUMBER 483: Yes.

20 THE COURT: Have you ever been a juror before?

21 PROSPECTIVE JUROR NUMBER 483: No.

22 THE COURT: If you were a party to this case would you be
23 comfortable with jurors of a like frame of mind as yourself sitting in
24 judgment?

25 PROSPECTIVE JUROR NUMBER 483: Yes.

1 THE COURT: How long have you lived here in Clark County?
2 PROSPECTIVE JUROR NUMBER 483: Since 1990.
3 THE COURT: Okay. What's the highest level of education you
4 completed?
5 PROSPECTIVE JUROR NUMBER 483: I just got my GED.
6 THE COURT: Okay. Are you employed?
7 PROSPECTIVE JUROR NUMBER 483: Yes.
8 THE COURT: What do you do?
9 PROSPECTIVE JUROR NUMBER 483: I'm a school bus
10 driver.
11 THE COURT: For the school district?
12 PROSPECTIVE JUROR NUMBER 483: Yes.
13 THE COURT: And are you married?
14 PROSPECTIVE JUROR NUMBER 483: Yes.
15 THE COURT: Is your spouse employed?
16 PROSPECTIVE JUROR NUMBER 483: She's self-employed.
17 THE COURT: What does she do?
18 PROSPECTIVE JUROR NUMBER 483: She does -- she has a
19 small business that has to do with sewing.
20 THE COURT: Sewing?
21 PROSPECTIVE JUROR NUMBER 483: Yes.
22 THE COURT: Do you have children?
23 PROSPECTIVE JUROR NUMBER 483: Yes.
24 THE COURT: How many?
25 PROSPECTIVE JUROR NUMBER 483: Two.

1 THE COURT: How old are they?
2 PROSPECTIVE JUROR NUMBER 483: My daughter is 16; my
3 son is 22.
4 THE COURT: Okay. And what does your son do now?
5 PROSPECTIVE JUROR NUMBER 483: He's also a bus driver,
6 school bus driver.
7 THE COURT: Okay. All right. State.
8 MS. LUZAICH: Thank you.
9 How long have you been a bus driver, Mr. Contreras?
10 PROSPECTIVE JUROR NUMBER 483: 14 years.
11 MS. LUZAICH: What did you do before that?
12 PROSPECTIVE JUROR NUMBER 483: I used to work at
13 Circus Circus as a kitchen runner.
14 MS. LUZAICH: Okay. Your brother -- your half-brother's case,
15 you said that you didn't know him until recently?
16 PROSPECTIVE JUROR NUMBER 483: Yes.
17 MS. LUZAICH: How did you, I guess, come into contact with
18 him?
19 PROSPECTIVE JUROR NUMBER 483: He contacted one of
20 my sisters by Facebook and then I contacted him.
21 MS. LUZAICH: And how is he your half-brother? Like, who is
22 he related to that --
23 PROSPECTIVE JUROR NUMBER 483: He's the son of my
24 dad.
25 MS. LUZAICH: Okay. And not your mother, somebody else?

1 PROSPECTIVE JUROR NUMBER 483: Yes.
2 MS. LUZAICH: Is he older than you or younger than you?
3 PROSPECTIVE JUROR NUMBER 483: Younger.
4 MS. LUZAICH: Is he younger than your youngest sibling?
5 PROSPECTIVE JUROR NUMBER 483: No.
6 MS. LUZAICH: So he's somewhere in the middle?
7 PROSPECTIVE JUROR NUMBER 483: Yes.
8 MS. LUZAICH: Okay. Who was the victim in that case?
9 PROSPECTIVE JUROR NUMBER 483: His ex-wife.
10 MS. LUZAICH: And did you know her?
11 PROSPECTIVE JUROR NUMBER 483: No.
12 MS. LUZAICH: Okay. And you said he was in jail for two
13 months --
14 PROSPECTIVE JUROR NUMBER 483: Yes.
15 MS. LUZAICH: -- and then he went to trial?
16 PROSPECTIVE JUROR NUMBER 483: Yes.
17 MS. LUZAICH: Are you sure that was a trial not a preliminary
18 hearing?
19 PROSPECTIVE JUROR NUMBER 483: Well, there was jurors.
20 MS. LUZAICH: There was? Okay.
21 PROSPECTIVE JUROR NUMBER 483: Yeah.
22 MS. LUZAICH: Okay. Sorry. Just that's fast, that's all.
23 Does your daughter go to high school here?
24 PROSPECTIVE JUROR NUMBER 483: Yes.
25 MS. LUZAICH: What school does she go to?

1 PROSPECTIVE JUROR NUMBER 483: She goes to a charter
2 school, Odyssey Charter School.

3 MS. LUZAICH: Is she going to a charter school because you
4 want her -- or she's going to do something, like, you know, math or
5 science or some program?

6 PROSPECTIVE JUROR NUMBER 483: I signed them up there
7 to kind of protect them from --

8 MS. LUZAICH: Public school?

9 PROSPECTIVE JUROR NUMBER 483: Yes.

10 MS. LUZAICH: Did your son also attend the charter school?

11 PROSPECTIVE JUROR NUMBER 483: Yes, from middle
12 school all the way to high school.

13 MS. LUZAICH: Okay. Do you think that you would be a good
14 juror?

15 PROSPECTIVE JUROR NUMBER 483: I have a high sense of
16 justice and I will do my best.

17 MS. LUZAICH: Okay. Would you consider yourself to be a fair
18 and open minded person?

19 PROSPECTIVE JUROR NUMBER 483: Yes.

20 MS. LUZAICH: Okay. Do you think that it would be difficult for
21 somebody to come in here and testify in front of a room full of strangers
22 about intimate sexual details?

23 PROSPECTIVE JUROR NUMBER 483: Yes.

24 MS. LUZAICH: Did you get to watch his ex-wife testify at all?

25 PROSPECTIVE JUROR NUMBER 483: Yes.

1 MS. LUZAICH: Did she appear upset?

2 PROSPECTIVE JUROR NUMBER 483: She got emotional on
3 one part but -- I didn't -- I didn't feel that she was too upset.

4 MS. LUZAICH: Okay. How much of the trial did you watch?

5 PROSPECTIVE JUROR NUMBER 483: It lasted three days. I
6 was there two days, the last two days.

7 MS. LUZAICH: Okay. Do you think that if two witnesses
8 describe an event and they describe it differently that one of them must be
9 lying?

10 PROSPECTIVE JUROR NUMBER 483: Could be.

11 MS. LUZAICH: Could there be another alternative?

12 PROSPECTIVE JUROR NUMBER 483: Yes.

13 MS. LUZAICH: What's another alternative?

14 PROSPECTIVE JUROR NUMBER 483: Maybe the -- the
15 motives.

16 MS. LUZAICH: Sorry?

17 PROSPECTIVE JUROR NUMBER 483: Motives. Motives.

18 MS. LUZAICH: Oh, motives. Sorry about that. Okay. Motives.
19 Also could they have been paying attention to different parts of
20 the incident, do you think?

21 PROSPECTIVE JUROR NUMBER 483: Yes.

22 MS. LUZAICH: Could one of them maybe have been
23 mistaken?

24 PROSPECTIVE JUROR NUMBER 483: Yes.

25 MS. LUZAICH: In your mind is there a difference between lying

1 and being mistaken?

2 PROSPECTIVE JUROR NUMBER 483: Yes.

3 MS. LUZAICH: What's the difference?

4 PROSPECTIVE JUROR NUMBER 483: Well, lying is
5 intentional and mistaken is saying something you really -- didn't really
6 mean.

7 MS. LUZAICH: Accidentally kind of?

8 PROSPECTIVE JUROR NUMBER 483: Yes.

9 MS. LUZAICH: Okay. Are you somebody that has an easy
10 time expressing your views to strangers?

11 PROSPECTIVE JUROR NUMBER 483: Yes.

12 MS. LUZAICH: So if you go back in the deliberation room, are
13 you going to be able to share your views with the rest of the jurors?

14 PROSPECTIVE JUROR NUMBER 483: Yes.

15 MS. LUZAICH: And will you question them on their views?

16 PROSPECTIVE JUROR NUMBER 483: Yes.

17 MS. LUZAICH: And if they all feel one way and you feel the
18 other way, will you stand up for yourself, stick your guns?

19 PROSPECTIVE JUROR NUMBER 483: Yes.

20 MS. LUZAICH: But if they're able to point something out that
21 maybe you missed, is it possible that you could change your mind?

22 PROSPECTIVE JUROR NUMBER 483: Yes.

23 MS. LUZAICH: But you won't change your mind just because
24 you want to go home?

25 PROSPECTIVE JUROR NUMBER 483: No.

1 MS. LUZAICH: Okay. Is there anything about you that would
2 prevent you from being able to sit in judgment of someone?

3 PROSPECTIVE JUROR NUMBER 483: My limited English, I
4 don't feel very comfortable with my English. I don't consider myself to be
5 able to understand 100 percent English in such a serious matter. I will be
6 very concerned of misunderstanding something and making a decision --
7 a wrong decision by not understanding completely something.

8 MS. LUZAICH: Okay. That's understandable.

9 For example, there's going to be a DNA analyst coming from
10 the lab that uses big words, do you think you might have a difficult time
11 with that?

12 PROSPECTIVE JUROR NUMBER 483: Yeah.

13 MS. LUZAICH: And a nurse -- a nurse examiner with medical
14 terms?

15 PROSPECTIVE JUROR NUMBER 483: Yes.

16 MS. LUZAICH: Okay. Thank you. I appreciate that.

17 Can we approach?

18 THE COURT: Yes.

19 [Bench conference transcribed as follows:]

20 THE COURT: I love it when I have a whole conversation with
21 someone and then 20 minutes in they say, oh, I don't understand English
22 very well.

23 MS. LUZAICH: Yeah.

24 THE COURT: So I don't know. I mean, he -- he has an accent
25 but he seemed to understand pretty well.

1 MS. LUZAICH: My concern, like I asked him, is DNA, I mean,
2 there's DNA in the case and there's the sexual assault nurse, so there will
3 be big words. I just don't know how he'll do with that. And that's what he
4 seems to be worried about.

5 MS. MCNEILL: Yeah, I always worry too. Sometimes, you
6 know, with the jury instructions, that they just -- legal words.

7 MS. LUZAICH: Those great, stupid instructions, yeah.

8 MS. MCNEILL: Yeah, right.

9 MS. LUZAICH: Sorry.

10 MR. ROSE: How do you translate inveigle?

11 THE COURT: Yeah.

12 I doubt that anybody in this room right now knows what that
13 means.

14 MS. LUZAICH: I do. I do.

15 MS. MCNEILL: Right, so much to ask --

16 MR. ROSE: Go ahead, Lisa.

17 THE COURT: I'm not sure --

18 MS. LUZAICH: To lead astray by trickery or deceit.

19 THE COURT: Ooh, woo-hoo, impressive. Okay.

20 All right. So, I guess, if you both agree, I'll go ahead and
21 excuse him. But we're going to have trouble finishing jury selection
22 tomorrow.

23 MS. LUZAICH: No, we'll definitely finish tomorrow.

24 THE COURT: Okay.

25 MS. LUZAICH: We're hoping before lunch.

1 MS. MCNEILL: At least just agree to it.
2 MS. LUZAICH: Yeah.
3 THE COURT: Yeah, right.
4 MS. LUZAICH: I am the internal optimist.
5 THE COURT: We still have like 18 --
6 MS. LUZAICH: A lot of people to go.
7 THE COURT: -- 20 we still have to go --
8 MR. ROSE: We're halfway through.
9 MS. LUZAICH: Okay, maybe not before lunch.
10 MS. MCNEILL: At some point tomorrow, we'll get it done.
11 THE COURT: Okay.
12 MR. ROSE: At some point.
13 THE COURT: Thanks.
14 [Bench conference ends]
15 THE COURT: All right. Mr. Contreras, I'm going to go ahead
16 and excuse you at this time. Thanks very much for your time and
17 attention.
18 PROSPECTIVE JUROR NUMBER 483: Thank you.
19 THE CLERK: Next in seat 13, badge number 487, Robert
20 Fishbourne.
21 THE COURT: All right. Mr. Fishbourne, how are you doing
22 today?
23 PROSPECTIVE JUROR NUMBER 487: I'm doing great, Your
24 Honor.
25 THE COURT: Good.

1 Is there any reason you could not be fair and impartial in this
2 case?

3 PROSPECTIVE JUROR NUMBER 487: Yes.

4 THE COURT: What's that?

5 PROSPECTIVE JUROR NUMBER 487: I've been a victim
6 myself, my son, a downstairs neighbor.

7 THE COURT: All have been victims of domestic violence or?

8 PROSPECTIVE JUROR NUMBER 487: Yeah, violence, yeah,
9 if you call a black eye violence.

10 THE COURT: I do.

11 PROSPECTIVE JUROR NUMBER 487: I do.

12 Now, me, it was a different story. It started out there was
13 physical, but no injuries, but then it became mental and I stayed with that
14 for 13 years before I finally took the way out, which was divorce.

15 THE COURT: So it was your spouse doing that to you?

16 PROSPECTIVE JUROR NUMBER 487: Yeah, the first
17 marriage.

18 THE COURT: Yeah. Okay.

19 PROSPECTIVE JUROR NUMBER 487: My son, heard him
20 yelling, they were both out in the garage, we heard him yelling mom, dad.
21 We came out, she busted his nose; he was bleeding at the mouth. We
22 called Henderson, they came out and picked her up, took her in. And
23 after that I'm sure what -- what happened after that.

24 I had a downstairs neighbor, it was back in 1972, a lot of yelling
25 at times from the apartment below, and I come out one morning ready to

1 go to the base and she had the best black eye I've ever seen.

2 So, yeah, I don't think I could -- it just brings back memories.

3 THE COURT: Okay. So it would be difficult for you to be fair in
4 this --

5 PROSPECTIVE JUROR NUMBER 487: Fair.

6 THE COURT: -- case because of that?

7 PROSPECTIVE JUROR NUMBER 487: Yeah.

8 THE COURT: Yes?

9 PROSPECTIVE JUROR NUMBER 487: Yes.

10 THE COURT: So -- and I see you're emotional talking about
11 these issues. So is it fair to say that you would not be able to put aside
12 those circumstances that you've been involved in to judge this case fairly?

13 PROSPECTIVE JUROR NUMBER 487: Not in this type of
14 case.

15 THE COURT: I'm sorry?

16 PROSPECTIVE JUROR NUMBER 487: Not in this type of
17 case.

18 THE COURT: Yeah.

19 PROSPECTIVE JUROR NUMBER 487: I mean, I could be a
20 juror on anything else but domestic violence.

21 THE COURT: Yeah.

22 MS. LUZAICH: No objection.

23 MS. MCNEILL: No objection, Your Honor.

24 THE COURT: All right. Thank you, sir. I am going to excuse
25 you. I do appreciate you letting me know about that right up front.

1 THE COURT CLERK: Next, badge number -- in seat number
2 13, badge number 488, Adam Schwartz.

3 THE COURT: Mr. Schwartz, how are you today?

4 PROSPECTIVE JUROR NUMBER 488: Just peachy.

5 THE COURT: Okay. Good.

6 Is there any reason you could not be fair and impartial in this
7 case?

8 PROSPECTIVE JUROR NUMBER 488: No, Your Honor.

9 THE COURT: Can you wait in forming your opinion on the
10 appropriate result until all the evidence has been heard?

11 PROSPECTIVE JUROR NUMBER 488: I think I could, yes.

12 THE COURT: Have you or anyone close to you worked in law
13 enforcement?

14 PROSPECTIVE JUROR NUMBER 488: Just some friends, no
15 family or anything like that.

16 THE COURT: Okay. Anyone close enough to you that it would
17 affect your ability to be fair and impartial here?

18 PROSPECTIVE JUROR NUMBER 488: I'm very -- very
19 supportive of our police force.

20 THE COURT: Okay. Good.

21 Now, if -- do you think you would have a tendency to give extra
22 weight or credibility to the testimony of law enforcement officers because
23 they're law enforcement officers?

24 PROSPECTIVE JUROR NUMBER 488: I would say, yes.

25 THE COURT: Okay. And so you think they kind of come in

1 with an extra, like all other things being equal, kind of, tie goes to law
2 enforcement?

3 PROSPECTIVE JUROR NUMBER 488: Yeah. I know that
4 there are probably some bad cops, but I think they're -- the good
5 outweighs the bad a lot more. So I tend to believe them a lot more than --

6 THE COURT: Okay. And so I'm not here to tell you that they're
7 bad per se, but law enforcement officers could make mistakes or reach an
8 incorrect conclusion, right?

9 PROSPECTIVE JUROR NUMBER 488: Of course.

10 THE COURT: Okay. And would you listen to testimony of law
11 enforcement officers and weigh it with everything else presented to
12 determine whether you think they got it right or not?

13 PROSPECTIVE JUROR NUMBER 488: Yes.

14 THE COURT: But do you kind of come in with a presumption
15 that they probably got it right?

16 PROSPECTIVE JUROR NUMBER 488: Yes.

17 THE COURT: Yeah. Okay.

18 All right. So, counsel, come on up.

19 [Bench conference transcribed as follows:]

20 MS. LUZAICH: Not that I'm cynical --

21 THE COURT: He doesn't want to be here.

22 MS. LUZAICH: -- it's the chef doesn't want to be here.

23 MS. MCNEILL: Yeah, I feel the same way.

24 THE COURT: Uh-huh, I'm with you.

25 MS. LUZAICH: Yeah.

1 THE COURT: And so --

2 MS. LUZAICH: But he's just muddied up the record enough.

3 MS. MCNEILL: Yeah.

4 THE COURT: And they're starting to learn.

5 But, yes, I agree with you. I don't think I can keep him with
6 those answers.

7 MS. MCNEILL: Yeah.

8 MS. LUZAICH: No, but I would make him sit -- oh, I was going
9 to say if it were 2 o'clock, I'd make him sit in the back of the courtroom
10 until 5:00.

11 THE COURT: Yeah, it's 4:34 already.

12 MS. LUZAICH: It's 4:30, yeah.

13 MR. ROSE: I've seen Judge Miley order people to come back
14 and just sit in the back of her courtroom throughout the rest of jury
15 selection.

16 MS. LUZAICH: Yeah.

17 MR. ROSE: I don't know if that's necessarily appropriate in any
18 given case. But when you're trying this hard, I wouldn't, you know, object
19 if Your Honor wanted to order him to do that.

20 THE COURT: You know, I appreciate that but I've got enough
21 things to worry about --

22 MS. MCNEILL: Right, yeah.

23 THE COURT: -- today without dealing with that so.

24 MR. ROSE: You've got to be supportive of local business
25 remember.

1 THE COURT: Yeah. All right. Yeah, I guess the MGM can
2 have him back.

3 MS. MCNEILL: Yeah.

4 THE COURT: We'll keep going. Thank you. I'll let him go.

5 [Bench conference ends]

6 THE COURT: All right. Mr. Schwartz, I'm going to have to let
7 you go. I do appreciate your time today. Thank you.

8 PROSPECTIVE JUROR NUMBER 488: Thanks.

9 THE COURT CLERK: Next in seat 13, badge number 504,
10 Katherine Searcy.

11 THE COURT: Okay. So, before we get started with
12 Ms. Searcy, I just want to emphasize to everyone the importance of jury
13 trials and that folks can't get a fair trial unless people are willing to
14 potentially serve as jurors in a case. Obviously some people have biases
15 and prejudices, we do need to know about those, and we will address
16 those as they come up. But just remember as you give answers in this
17 courtroom you are under oath and lying potentially is a crime. So just
18 keep that in mind as we go through the process.

19 So, Ms. Searcy, is that how you say it?

20 PROSPECTIVE JUROR NUMBER 504: Yes.

21 THE COURT: Great.

22 So, ma'am, how are you doing today?

23 PROSPECTIVE JUROR NUMBER 504: I'm fine.

24 THE COURT: Good.

25 Is there any reason you could not be fair and impartial in this

1 case?

2 PROSPECTIVE JUROR NUMBER 504: Yes.

3 THE COURT: Okay. Now, look, I don't want to keep you from
4 telling me if you really have issues. So, go ahead, what's going on?

5 PROSPECTIVE JUROR NUMBER 504: Well, just -- I'm not
6 comfortable doing this. I've never done it before and --

7 THE COURT: Okay.

8 PROSPECTIVE JUROR NUMBER 504: -- I would not quite
9 understand a lot of things.

10 THE COURT: Okay. Right. And so most folks if -- especially if
11 they've never been a juror before, they're a little uncomfortable about the
12 process and maybe, you know, not too excited about doing it, right?

13 But do you think there's some reason that you aren't capable of
14 listening to all the evidence and following the law, making a decision on a
15 verdict?

16 PROSPECTIVE JUROR NUMBER 504: To be honest about it,
17 I won't be any good with it -- at it because --

18 THE COURT: And why is that?

19 PROSPECTIVE JUROR NUMBER 504: -- because it's -- I
20 don't, you know, I don't understand it and like I said I've never done this
21 before and --

22 THE COURT: Sure.

23 PROSPECTIVE JUROR NUMBER 504: -- I'm just nervous --

24 THE COURT: We don't have professional jurors so most folks
25 haven't ever done it before.

1 So -- I know you're not comfortable with the process. Let me
2 ask you this, do you have some religious belief or other principle that
3 keeps you from sitting in judgment?

4 PROSPECTIVE JUROR NUMBER 504: No.

5 THE COURT: Okay. All right. And I understand that sitting as
6 a juror and making a decision on a verdict may be difficult, it's certainly a
7 serious decision that the jurors will have to make, but do you think you are
8 capable of doing it?

9 PROSPECTIVE JUROR NUMBER 504: Well, I guess, I can try,
10 I guess. I'm not really comfortable with it because --

11 THE COURT: Right. But is there some reason you think you're
12 less qualified than other folks who are sitting here?

13 PROSPECTIVE JUROR NUMBER 504: My memories are not
14 so good, and when I -- and I -- so a lot of things I won't be able to just, you
15 know, remember and.

16 THE COURT: Your memory is not good, is that --

17 PROSPECTIVE JUROR NUMBER 504: Memories, you know,
18 my memory is not so good. I'm just not used to talking around a lot of
19 people, you know, I just --

20 THE COURT: Uh-huh.

21 PROSPECTIVE JUROR NUMBER 504: -- it's --

22 THE COURT: Okay. So, could you -- if you were required to sit
23 here as a juror, could you wait until you hear all the evidence before
24 forming your opinion about what the verdict should be?

25 PROSPECTIVE JUROR NUMBER 504: Yes.

1 THE COURT: Have you or anyone close to you worked in law
2 enforcement?

3 PROSPECTIVE JUROR NUMBER 504: No.

4 THE COURT: Have you or anyone close to you been charged
5 with a serious crime?

6 PROSPECTIVE JUROR NUMBER 504: No.

7 THE COURT: Have you or anyone close to you been the victim
8 of a serious crime?

9 PROSPECTIVE JUROR NUMBER 504: No.

10 THE COURT: Have you or anyone close to you been accused
11 of or the victim of domestic violence or sexual abuse?

12 PROSPECTIVE JUROR NUMBER 504: No.

13 THE COURT: Is there anything about the charges in this case
14 that would make it difficult for you to be fair and impartial?

15 PROSPECTIVE JUROR NUMBER 504: Can you say that
16 again?

17 THE COURT: Sure.

18 Do you remember yesterday when we first started Ms. Luzaich
19 described what this case was about and what the charges are?

20 PROSPECTIVE JUROR NUMBER 504: Yes.

21 THE COURT: Is there anything about the -- the type of charges
22 that we have that would make it difficult for you to be fair and impartial?

23 PROSPECTIVE JUROR NUMBER 504: No.

24 THE COURT: Okay. Can you base your verdict just on the
25 evidence and the law that applies, which I'll give you, without fear of

1 criticism or popular opinion?

2 PROSPECTIVE JUROR NUMBER 504: Yes.

3 THE COURT: And I think I asked you this but you just said
4 you've never been a juror before, correct?

5 PROSPECTIVE JUROR NUMBER 504: Correct.

6 THE COURT: Okay. All right. If you were a party to this case
7 would you be comfortable with jurors of a like frame of mind as yourself
8 sitting in judgment?

9 PROSPECTIVE JUROR NUMBER 504: Yes.

10 THE COURT: How long have you lived here in Clark County,
11 ma'am?

12 PROSPECTIVE JUROR NUMBER 504: Since 1985.

13 THE COURT: Oh, that's quite some time. Okay.

14 What's the highest level of education you completed?

15 PROSPECTIVE JUROR NUMBER 504: I graduated.

16 THE COURT: From high school?

17 PROSPECTIVE JUROR NUMBER 504: Yeah, in 1973.

18 THE COURT: Great. Okay.

19 And are you employed?

20 PROSPECTIVE JUROR NUMBER 504: Yes, ma'am.

21 THE COURT: What do you do?

22 PROSPECTIVE JUROR NUMBER 504: I'm an ambassador for
23 SP Plus at the Excalibur. SP Plus parking.

24 THE COURT: Ah, I see.

25 Are you married?

1 PROSPECTIVE JUROR NUMBER 504: Yes.
2 THE COURT: Is your spouse employed?
3 PROSPECTIVE JUROR NUMBER 504: Yes.
4 THE COURT: Doing what?
5 PROSPECTIVE JUROR NUMBER 504: He works in the
6 warehouse.
7 THE COURT: Do you have children?
8 PROSPECTIVE JUROR NUMBER 504: Yes.
9 THE COURT: How many?
10 PROSPECTIVE JUROR NUMBER 504: Well, I had four, I lost
11 my baby nine years ago. I had my other three.
12 THE COURT: Okay. And what do those three children do?
13 PROSPECTIVE JUROR NUMBER 504: My daughter she lives
14 in Michigan, she works at Chrysler; my oldest son, well, he's unemployed
15 right now, but my second oldest one he works at Harrah's as a kitchen
16 worker.
17 THE COURT: I see.
18 Okay. State.
19 MS. LUZAICH: Thank you.
20 You don't want to be here, I understand, most people don't.
21 You said that you don't think you would be good, that you've
22 never done this before. You've tried new things in your life, right?
23 PROSPECTIVE JUROR NUMBER 504: [No audible response.]
24 MS. LUZAICH: Do you drive?
25 PROSPECTIVE JUROR NUMBER 504: No.

1 MS. LUZAICH: Have you ever?

2 PROSPECTIVE JUROR NUMBER 504: Yes.

3 MS. LUZAICH: One day you've never drove and then one day

4 you learned to drive and you drove after that, right?

5 PROSPECTIVE JUROR NUMBER 504: Yes.

6 MS. LUZAICH: So there are things that you can pick up over

7 time, right?

8 PROSPECTIVE JUROR NUMBER 504: [No audible response.]

9 MS. LUZAICH: Your daughter that works for Chrysler, what

10 does she do?

11 PROSPECTIVE JUROR NUMBER 504: She works on -- she

12 puts stuff -- the parts on cars, she works on assembly lines.

13 MS. LUZAICH: Uh-huh.

14 And then you said you have a son that works at Harrah's in the

15 kitchen?

16 PROSPECTIVE JUROR NUMBER 504: Yes.

17 MS. LUZAICH: Your son that's currently unemployed, has he

18 worked before?

19 PROSPECTIVE JUROR NUMBER 504: Yes.

20 MS. LUZAICH: What did he do?

21 PROSPECTIVE JUROR NUMBER 504: He did a lot of

22 warehousing and things like that.

23 MS. LUZAICH: Okay. So you've raised kids, obviously you

24 have a lot of know-how. When your kids were growing up, did you have

25 to resolve disputes amongst them? Did they argue and blame things on

1 each other?

2 PROSPECTIVE JUROR NUMBER 504: When they were
3 younger, yeah.

4 MS. LUZAICH: And how would you go about doing that?

5 PROSPECTIVE JUROR NUMBER 504: What do you mean?

6 MS. LUZAICH: Well, me, I used to just punish them all and
7 hoped one of --

8 PROSPECTIVE JUROR NUMBER 504: A lot of yell --

9 MS. LUZAICH: -- them would cough it up but.

10 PROSPECTIVE JUROR NUMBER 504: -- you see, that's what
11 I'm saying.

12 MS. LUZAICH: Other people have different ways of figuring out
13 who did -- who did what. How did you go about it?

14 PROSPECTIVE JUROR NUMBER 504: Well, I whooped them
15 and sent them to their rooms, and, you know, things like that. That's --

16 MS. LUZAICH: Okay. See --

17 PROSPECTIVE JUROR NUMBER 504: I didn't put them on
18 punishments or anything but --

19 MS. LUZAICH: You figure out how to resolve situations at
20 home, right?

21 PROSPECTIVE JUROR NUMBER 504: [No audible response.]

22 MS. LUZAICH: As an ambassador at the Luxor, what -- like
23 what do you do on a daily basis?

24 PROSPECTIVE JUROR NUMBER 504: I help the guests
25 learn -- to know how to use machines at the gates, because, you know, a

1 lot of them --

2 MS. LUZAICH: Because they're hard?

3 PROSPECTIVE JUROR NUMBER 504: No, it's an easy job,
4 it's just being out there in that heat and -- but I like the job, it's a good job.

5 MS. LUZAICH: So you get to interact with people all the time?

6 PROSPECTIVE JUROR NUMBER 504: U'm-h'm, yes.

7 MS. LUZAICH: How long have you been doing that?

8 PROSPECTIVE JUROR NUMBER 504: Since they started in
9 216 -- 2016.

10 MS. LUZAICH: What did you do before that?

11 PROSPECTIVE JUROR NUMBER 504: I worked at Popeye's.

12 MS. LUZAICH: For how long?

13 PROSPECTIVE JUROR NUMBER 504: Like maybe six
14 months, maybe.

15 MS. LUZAICH: Okay. What else have you done?

16 PROSPECTIVE JUROR NUMBER 504: I've done porter work.
17 I've worked in the casinos. I was a housekeeping porter.

18 MS. LUZAICH: A lot of customer service?

19 PROSPECTIVE JUROR NUMBER 504: Yes.

20 MS. LUZAICH: So you interact with people all the time?

21 PROSPECTIVE JUROR NUMBER 504: Yes. Yeah.

22 MS. LUZAICH: Okay. So as a juror what you would do is just
23 listen to what the witnesses have to say and then make a decision
24 whether or not the State proved the charges beyond a reasonable doubt.

25 You think you can do that?

1 PROSPECTIVE JUROR NUMBER 504: Yeah, I guess.

2 MS. LUZAICH: You don't want to but you think you can?

3 PROSPECTIVE JUROR NUMBER 504: Yeah.

4 MS. LUZAICH: Okay. Do you think that it would be
5 embarrassing for a young lady to have to come into court and explain to a
6 room full of strangers intimate sexual details?

7 PROSPECTIVE JUROR NUMBER 504: Would she be
8 embarrassed?

9 MS. LUZAICH: Do you think that could be embarrassing?

10 PROSPECTIVE JUROR NUMBER 504: Yeah.

11 MS. LUZAICH: Okay. Do you think just getting up there and
12 talking in front of a whole bunch of strangers could be a little difficult?

13 PROSPECTIVE JUROR NUMBER 504: Yes.

14 MS. LUZAICH: Kind of like you feel right now?

15 PROSPECTIVE JUROR NUMBER 504: Yes.

16 MS. LUZAICH: Okay. So if you do get to serve as a juror,
17 when you go back in the deliberation room, will you talk to the other jurors
18 about what your thoughts are of the witnesses?

19 PROSPECTIVE JUROR NUMBER 504: Yes, I would. See, I
20 don't -- I don't really -- I don't really do a lot of talking, you know, except --
21 well, my job I do because I have no choice. But I -- it's just really hard for
22 me to really talk to people and stuff around, you know, like this is different.

23 MS. LUZAICH: Lots of people feel that way.

24 PROSPECTIVE JUROR NUMBER 504: I just don't feel
25 comfortable.

1 MS. LUZAICH: Okay. But if you're back there will you listen to
2 what the other people have to say?

3 PROSPECTIVE JUROR NUMBER 504: Yes.

4 MS. LUZAICH: And then share your opinion whenever you feel
5 you need to?

6 PROSPECTIVE JUROR NUMBER 504: Yes.

7 MS. LUZAICH: If you listen to all the witnesses and if you see
8 the evidence and if you're convinced after all that that the State has
9 proven beyond a reasonable doubt that the Defendant committed the
10 crimes that he's charged with, would you be able to say the word guilty?

11 PROSPECTIVE JUROR NUMBER 504: Yes.

12 MS. LUZAICH: Thank you, ma'am.

13 Pass for cause.

14 THE COURT: Thank you.

15 MS. MCNEILL: Thank you, Your Honor.

16 Good afternoon, Ms. Searcy.

17 You indicated that you thought your memory might be an issue.
18 I wasn't sure if I understood you were saying that your memory is an issue
19 or you have some memories that might cause you some problems?

20 PROSPECTIVE JUROR NUMBER 504: Some memories. You
21 know, it's -- I don't -- I can't -- when it's so much being said and things like
22 that. It's -- you know, I might not remember a few things that have been
23 said.

24 MS. MCNEILL: Okay. Well, you can take notes. Does that
25 help you feel a little better that you'll be able to write things down because

1 none of us can remember? I mean, you'll see -- we're taking notes right
2 now because it's hard to remember everything people are saying.

3 PROSPECTIVE JUROR NUMBER 504: [No audible response.]

4 MS. MCNEILL: Okay. So you were worried more that you
5 might miss -- or you might forget an important piece of evidence? Was
6 that your concern?

7 PROSPECTIVE JUROR NUMBER 504: It's possible.

8 MS. MCNEILL: Okay. All right. So you'll be able to take notes
9 on things and you'll have those.

10 And then it sounds like some of it is interacting with people, kind
11 of, in this setting with being questioned in front of strangers. When you're
12 back in the deliberation room it won't be like this, it'll be people that you've
13 spent the rest of the week with, right? So maybe more like work where
14 you're interacting with people. And you said part of your job that you liked
15 was inter -- was interacting with people?

16 PROSPECTIVE JUROR NUMBER 504: Well, yeah, that
17 was -- it's different.

18 MS. MCNEILL: Okay. Yeah. I mean, this is -- listen, none of
19 us like this process, right?

20 You said that your -- you have the three children who are all
21 adults, is that correct?

22 PROSPECTIVE JUROR NUMBER 504: Yes.

23 MS. MCNEILL: Okay. Do they all live here in Las Vegas?

24 PROSPECTIVE JUROR NUMBER 504: Just my two older
25 boys but my daughter lives in Michigan.

1 MS. MCNEILL: In Michigan. Okay.

2 PROSPECTIVE JUROR NUMBER 504: Yes.

3 MS. MCNEILL: Where did you live prior to moving to Las

4 Vegas?

5 PROSPECTIVE JUROR NUMBER 504: Detroit.

6 MS. MCNEILL: Detroit. Okay.

7 Is that where your daughter went back to?

8 PROSPECTIVE JUROR NUMBER 504: Yes.

9 MS. MCNEILL: Okay. And I might have missed it, if the judge

10 asked you 'cause I was taking some notes, so, see I miss things too, did

11 you -- have you ever known anybody who's been accused of a crime?

12 PROSPECTIVE JUROR NUMBER 504: Not right offhand. I

13 don't remember.

14 MS. MCNEILL: Okay. Do you have any thoughts about the

15 justice system in general?

16 PROSPECTIVE JUROR NUMBER 504: What do you mean?

17 MS. MCNEILL: Well, I mean, do you watch the -- do you watch

18 the news?

19 PROSPECTIVE JUROR NUMBER 504: Oh yeah, I watch the

20 news every day.

21 MS. MCNEILL: Okay. Do you ever see things about people

22 who are accused of crimes or people who have been wrongfully

23 convicted? Do you have any thoughts about those -- about those stories

24 and concerns about how the system functions?

25 PROSPECTIVE JUROR NUMBER 504: Yeah, I guess.

1 MS. MCNEILL: Okay. What are those thoughts?
2 PROSPECTIVE JUROR NUMBER 504: I'm not understanding.
3 MS. MCNEILL: Okay. That's fine.
4 Do you -- do you watch the news a lot or do you watch more
5 sort of sitcom, television type of shows?
6 PROSPECTIVE JUROR NUMBER 504: No, I watch the news.
7 MS. MCNEILL: Okay. What other kind of shows do you watch
8 on TV?
9 PROSPECTIVE JUROR NUMBER 504: I watch the
10 investigation -- the ID Investigation.
11 MS. MCNEILL: Okay. So you like sort of true crime shows?
12 PROSPECTIVE JUROR NUMBER 504: Yeah.
13 MS. MCNEILL: Okay. So it sounds like you'll be a little bit
14 more familiar with this process then you think, right?
15 PROSPECTIVE JUROR NUMBER 504: [No audible response.]
16 MS. MCNEILL: Okay. What is it about those shows that you
17 like?
18 PROSPECTIVE JUROR NUMBER 504: It's -- hearing it it's
19 really terrible was -- you know, what I hear, what's going on.
20 MS. MCNEILL: Okay. Is there -- do you read at all?
21 PROSPECTIVE JUROR NUMBER 504: No.
22 MS. MCNEILL: Okay.
23 PROSPECTIVE JUROR NUMBER 504: I don't like to read.
24 MS. MCNEILL: And you said you work at the Excalibur, how
25 long have you worked there?

1 PROSPECTIVE JUROR NUMBER 504: Well, for SP Plus, it's
2 parking, I've been there since they started in 2016.

3 MS. MCNEILL: Okay.

4 PROSPECTIVE JUROR NUMBER 504: That's when the
5 parking was --

6 MS. MCNEILL: Okay. And you work outside?

7 PROSPECTIVE JUROR NUMBER 504: Outside, yes.

8 MS. MCNEILL: Okay. So this is a little vacation from the heat;
9 right, being here?

10 PROSPECTIVE JUROR NUMBER 504: Yeah.

11 MS. MCNEILL: Yeah.

12 PROSPECTIVE JUROR NUMBER 504: Yeah.

13 MS. MCNEILL: Okay. All right.

14 I'll pass for cause, Your Honor.

15 THE COURT: Thank you.

16 Go ahead and pass the mic.

17 All right. All right. Ms. Rutkoske.

18 PROSPECTIVE JUROR NUMBER 330: Rutkoske, yes.

19 THE COURT: How are you doing today?

20 PROSPECTIVE JUROR NUMBER 330: Okay.

21 THE COURT: Okay. All right. Is there any reason you could
22 not be fair and impartial in this case?

23 PROSPECTIVE JUROR NUMBER 330: No.

24 THE COURT: Can you wait in forming your opinion on the
25 appropriate result until all the evidence has been heard?

1 PROSPECTIVE JUROR NUMBER 330: Yes.

2 THE COURT: Have you or anyone close to you worked in law
3 enforcement?

4 PROSPECTIVE JUROR NUMBER 330: No.

5 THE COURT: Have you or anyone close to you been charged
6 with a serious crime?

7 PROSPECTIVE JUROR NUMBER 330: No.

8 THE COURT: Have you or anyone close to you been the victim
9 of a serious crime?

10 PROSPECTIVE JUROR NUMBER 330: No.

11 THE COURT: Have you or anyone close to you been accused
12 of or the victim of domestic violence or sexual abuse?

13 PROSPECTIVE JUROR NUMBER 330: No.

14 THE COURT: Is there anything about the charges in this case
15 that would make it difficult for you to be fair and impartial?

16 PROSPECTIVE JUROR NUMBER 330: I'd have to listen to
17 evidence and the witnesses and that. But, no, probably not.

18 THE COURT: Okay. Why do you hesitate?

19 PROSPECTIVE JUROR NUMBER 330: Well, it's -- it's a bad
20 crime.

21 THE COURT: Right.

22 PROSPECTIVE JUROR NUMBER 330: If he is, in fact, guilty
23 it's a bad crime.

24 THE COURT: Sure. Well, right. And I'm glad --

25 PROSPECTIVE JUROR NUMBER 330: So, yes.

1 THE COURT: -- you prefaced it that way. Right. Because
2 that's -- it's obviously --

3 PROSPECTIVE JUROR NUMBER 330: Right.

4 THE COURT: -- important to wait and listen to the evidence
5 and --

6 PROSPECTIVE JUROR NUMBER 330: Correct.

7 THE COURT: -- see what it shows. Okay.

8 So can you base your verdict solely on the evidence and the
9 law that applies without fear of criticism or popular opinion?

10 PROSPECTIVE JUROR NUMBER 330: Yes.

11 THE COURT: So if we get to the end of the case and you feel
12 that the State has presented sufficient evidence to prove guilt beyond a
13 reasonable doubt, could you vote guilty?

14 PROSPECTIVE JUROR NUMBER 330: Yes.

15 THE COURT: And on the other hand if we get to the end of the
16 case and you feel the State has not presented sufficient evidence to prove
17 guilt beyond a reasonable doubt, would you vote not guilty?

18 PROSPECTIVE JUROR NUMBER 330: Yes.

19 THE COURT: Have you ever been a juror before?

20 PROSPECTIVE JUROR NUMBER 330: No.

21 THE COURT: If you were a party to this case would you be
22 comfortable with jurors of a like frame of mind as yourself sitting in
23 judgment?

24 PROSPECTIVE JUROR NUMBER 330: Yes.

25 THE COURT: And how long have you lived here in Clark

1 County?

2 PROSPECTIVE JUROR NUMBER 330: Since 2006.

3 THE COURT: Okay. And what's the highest level of education
4 you completed?

5 PROSPECTIVE JUROR NUMBER 330: Bachelor of science in
6 nursing.

7 THE COURT: Okay. And are you employed?

8 PROSPECTIVE JUROR NUMBER 330: I am recently retired.

9 THE COURT: Okay. Well, congratulations.

10 PROSPECTIVE JUROR NUMBER 330: Thank you.

11 THE COURT: What did you do before retiring?

12 PROSPECTIVE JUROR NUMBER 330: Surgical nurse.

13 THE COURT: You were a nurse?

14 PROSPECTIVE JUROR NUMBER 330: U'm-h'm.

15 THE COURT: Where did you work?

16 PROSPECTIVE JUROR NUMBER 330: Surgic, surgery.

17 THE COURT: Oh, a surgical nurse. Got it.

18 PROSPECTIVE JUROR NUMBER 330: Yes.

19 THE COURT: Okay. Are you married?

20 PROSPECTIVE JUROR NUMBER 330: Yes.

21 THE COURT: Is your spouse employed?

22 PROSPECTIVE JUROR NUMBER 330: No, he's happily
23 retired too.

24 THE COURT: Okay. What did he do before retiring?

25 PROSPECTIVE JUROR NUMBER 330: Purchasing agent.

1 THE COURT: Okay. And do you have children?
2 PROSPECTIVE JUROR NUMBER 330: No.
3 THE COURT: Okay. State.
4 MS. LUZAICH: Thank you.
5 Good afternoon. Congratulations on your retirement.
6 PROSPECTIVE JUROR NUMBER 330: Thank you.
7 MS. LUZAICH: How recent?
8 PROSPECTIVE JUROR NUMBER 330: I'm still getting used to
9 it.
10 MS. LUZAICH: How recent?
11 PROSPECTIVE JUROR NUMBER 330: Last year.
12 MS. LUZAICH: Oh, very recent.
13 Okay. So a surgical nurse, for how long were you a surgical
14 nurse?
15 PROSPECTIVE JUROR NUMBER 330: I graduated from
16 nursing school in 1998 and all I did was surgery.
17 MS. LUZAICH: Oh, okay.
18 PROSPECTIVE JUROR NUMBER 330: So 20years.
19 MS. LUZAICH: So not the ER --
20 PROSPECTIVE JUROR NUMBER 330: Almost 20 years.
21 MS. LUZAICH: -- or anything like that?
22 PROSPECTIVE JUROR NUMBER 330: No, it's all surgery.
23 MS. LUZAICH: Never participated in a sexual assault
24 evaluation?
25 PROSPECTIVE JUROR NUMBER 330: No.

1 MS. LUZAICH: So a sexual assault nurse examiner is going to
2 come in here and testify, you're not going to challenge what she says just
3 because you think you know better?

4 PROSPECTIVE JUROR NUMBER 330: No.

5 MS. LUZAICH: Obviously. I mean, you'll listen to her with an --

6 PROSPECTIVE JUROR NUMBER 330: Correct.

7 MS. LUZAICH: -- open mind but.

8 PROSPECTIVE JUROR NUMBER 330: I'll probably
9 understand but, you know.

10 MS. LUZAICH: A little more than others maybe.

11 PROSPECTIVE JUROR NUMBER 330: U'm-h'm.

12 MS. LUZAICH: Do you think that it would be embarrassing for
13 someone to come in here and talk about intimate sexual details?

14 PROSPECTIVE JUROR NUMBER 330: Definitely.

15 MS. LUZAICH: And would you agree that a lot of people find it
16 really uncomfortable talking in front of strangers?

17 PROSPECTIVE JUROR NUMBER 330: Yes.

18 MS. LUZAICH: And are all of these things that you'll take into
19 consideration when you're evaluating witnesses?

20 PROSPECTIVE JUROR NUMBER 330: Yes.

21 MS. LUZAICH: How might you evaluate the testimony of
22 witnesses you don't know?

23 PROSPECTIVE JUROR NUMBER 330: Well, surgical patients
24 are really nervous so you can kind of find out if they're lying to you or
25 they're twitchy or furtive or if they lied about eating or drinking anything

1 since the night, you know, or if they're on drugs. So I -- you kind of can
2 tell.

3 MS. LUZAICH: Sometimes you can --

4 PROSPECTIVE JUROR NUMBER 330: Kind of.

5 MS. LUZAICH: -- right?

6 PROSPECTIVE JUROR NUMBER 330: Yes.

7 MS. LUZAICH: But some of the tails that you think they could
8 kind of go both ways?

9 PROSPECTIVE JUROR NUMBER 330: They could be twitchy,
10 yeah.

11 MS. LUZAICH: They can be twitchy and lying or --

12 PROSPECTIVE JUROR NUMBER 330: U'm-h'm.

13 MS. LUZAICH: -- they can be just --

14 PROSPECTIVE JUROR NUMBER 330: Yes --

15 MS. LUZAICH: -- twitchy and nervous --

16 PROSPECTIVE JUROR NUMBER 330: -- they can.

17 MS. LUZAICH: -- right?

18 PROSPECTIVE JUROR NUMBER 330: Yes, they can.

19 MS. LUZAICH: Do you have any expectations about somebody
20 who has been the victim of a sexual assault might act or react?

21 PROSPECTIVE JUROR NUMBER 330: I have no idea.

22 MS. LUZAICH: Okay. So if somebody comes in here and acts
23 or reacts in a way that you don't think that you would have, you wouldn't
24 automatically disbelieve what they say?

25 PROSPECTIVE JUROR NUMBER 330: Oh, no, no.

1 MS. LUZAICH: Different people react differently to the same
2 set of --

3 PROSPECTIVE JUROR NUMBER 330: Of course.

4 MS. LUZAICH: -- circumstances? You would agree with that?

5 Are you somebody who if you're back in the deliberation room
6 will more take charge or more sit back and kind of listen and participate as
7 needed?

8 PROSPECTIVE JUROR NUMBER 330: I can take charge but I
9 probably would just like to listen to everybody else's opinion.

10 MS. LUZAICH: Okay. And you'll share yours as well?

11 PROSPECTIVE JUROR NUMBER 330: Of course.

12 MS. LUZAICH: And you'll stick to your guns if you're sure
13 you're right?

14 PROSPECTIVE JUROR NUMBER 330: Yes.

15 MS. LUZAICH: Would you agree that if two people describe an
16 event it doesn't necessarily mean that if they're different one of them is
17 lying?

18 PROSPECTIVE JUROR NUMBER 330: Correct.

19 MS. LUZAICH: Mistaken is an option?

20 PROSPECTIVE JUROR NUMBER 330: Correct.

21 MS. LUZAICH: Or just paying attention to different things?

22 PROSPECTIVE JUROR NUMBER 330: Like you said before,
23 yeah, you're looking at a blouse and I'm looking at the car or something,
24 you know.

25 MS. LUZAICH: Right. So are all these things that you'll take

1 into consideration while you're keeping an open mind?

2 PROSPECTIVE JUROR NUMBER 330: Yes.

3 MS. LUZAICH: Is there anything about you that you think we
4 should know?

5 PROSPECTIVE JUROR NUMBER 330: No.

6 MS. LUZAICH: You sat here for almost whole days now --

7 PROSPECTIVE JUROR NUMBER 330: Well --

8 MS. LUZAICH: -- are there --

9 PROSPECTIVE JUROR NUMBER 330: -- what would you like
10 to know?

11 MS. LUZAICH: -- are there any questions that have been
12 asked that you are dying to answer?

13 PROSPECTIVE JUROR NUMBER 330: Oh, the CSI one.

14 MS. LUZAICH: Okay. Do you watch CSI?

15 PROSPECTIVE JUROR NUMBER 330: I like the show, yes.

16 MS. LUZAICH: Okay. Did I break your heart when I told you it
17 was fake?

18 PROSPECTIVE JUROR NUMBER 330: I most likely knew that.

19 MS. LUZAICH: Okay.

20 PROSPECTIVE JUROR NUMBER 330: I just like the show.

21 MS. LUZAICH: So you're not expecting to see any --

22 PROSPECTIVE JUROR NUMBER 330: No.

23 MS. LUZAICH: -- of those really far-fetched kind of things here,
24 correct?

25 PROSPECTIVE JUROR NUMBER 330: No.

1 MS. LUZAICH: So if you see some forensic evidence that
2 would be nice, but if you don't see any that would be okay as well?

3 PROSPECTIVE JUROR NUMBER 330: I believe so, yes.

4 MS. LUZAICH: Okay. Knowing what you know about yourself
5 is there anything that would prevent you from be able to sit in judgment?

6 PROSPECTIVE JUROR NUMBER 330: No.

7 MS. LUZAICH: And if you listen to the testimony and see any
8 evidence if you are convinced beyond a reasonable doubt that the
9 Defendant has committed the crimes he's charged with, would you be
10 able to say the word guilty?

11 PROSPECTIVE JUROR NUMBER 330: Yes.

12 MS. LUZAICH: Thank you.

13 Pass for cause.

14 THE COURT: Thank you.

15 MS. MCNEILL: Thank you, Your Honor.

16 Good afternoon, almost evening, I guess.

17 You indicated that you like CSI but you kind of knew it was fake,
18 right?

19 PROSPECTIVE JUROR NUMBER 330: Well, yeah.

20 MS. MCNEILL: Yeah. But you're a nurse so you know that
21 some of the science --

22 PROSPECTIVE JUROR NUMBER 330: Well, some of it was
23 based on fact.

24 MS. MCNEILL: Okay

25 PROSPECTIVE JUROR NUMBER 330: There's a lot of stuff in

1 there that, you know, like the tires and the --

2 MS. MCNEILL: Right.

3 PROSPECTIVE JUROR NUMBER 330: -- you know, the DNA
4 and everything else.

5 MS. MCNEILL: Okay. So you are aware that there are -- is
6 some science that goes into --

7 PROSPECTIVE JUROR NUMBER 330: Correct.

8 MS. MCNEILL: -- criminal cases sometimes?

9 And you don't expect them to, you know, have these computers
10 that will tell you who committed the crime --

11 PROSPECTIVE JUROR NUMBER 330: Right.

12 MS. MCNEILL: -- but you are going to understand that there is
13 going to be some science and you get that?

14 PROSPECTIVE JUROR NUMBER 330: Yes.

15 MS. MCNEILL: Okay. You said that it's a bad crime and so
16 you're going to kind of factor that in as you sit here, right?

17 PROSPECTIVE JUROR NUMBER 330: Yes.

18 MS. MCNEILL: The fact that it is such a -- the charges are fairly
19 heavy; right, I mean --

20 PROSPECTIVE JUROR NUMBER 330: Yes.

21 MS. MCNEILL: Do you think that that makes it easier for the
22 State to prove it to you?

23 PROSPECTIVE JUROR NUMBER 330: I don't know. I don't
24 know. It goes both ways, doesn't it?

25 MS. MCNEILL: Well, I don't know --

1 PROSPECTIVE JUROR NUMBER 330: I mean, obviously --

2 MS. MCNEILL: -- what do you mean? What do you mean by
3 that?

4 PROSPECTIVE JUROR NUMBER 330: I don't know. If the
5 State proved their case, would it be easy for me to say guilty and --

6 MS. MCNEILL: Well, I mean --

7 PROSPECTIVE JUROR NUMBER 330: -- as opposed to what
8 you would say?

9 MS. MCNEILL: -- well, I mean -- let me ask you this.

10 PROSPECTIVE JUROR NUMBER 330: Okay.

11 MS. MCNEILL: Because -- because as you sit here, you know,
12 you're saying it's a bad crime and --

13 PROSPECTIVE JUROR NUMBER 330: Right.

14 MS. MCNEILL: -- no one's telling you you should think
15 differently. Do you feel like you'll have to sort of err on the side of
16 caution? Let me give you this example, when they read the charges I
17 imagine you thought, wow, he sounds like a terrible person; right, this is a
18 terrible crime. But then you hear, well, that's just allegations, we don't
19 know if that's true. But do you still sit there thinking, oh, you know, what
20 they said to me yesterday that was really horrible? And so it lessens the
21 burden of proof a little bit for them because you're just kind of wondering
22 you don't want to be the person that gets it wrong, if it means putting a
23 rapist on the street, right?

24 PROSPECTIVE JUROR NUMBER 330: I guess it would
25 depend on what the witnesses said, and -- I don't know. I've never been

1 in this position before so I have no idea.

2 MS. MCNEILL: Okay.

3 PROSPECTIVE JUROR NUMBER 330: But I think I could be
4 objective.

5 MS. MCNEILL: Okay. So you understand that the burden of
6 proof that they have is very serious, it's the highest in our justice system,
7 right?

8 PROSPECTIVE JUROR NUMBER 330: U'm-h'm.

9 MS. MCNEILL: Okay. And they don't get a pass because the
10 nature of the crime is heavy and it's serious, right?

11 PROSPECTIVE JUROR NUMBER 330: Yes.

12 MS. MCNEILL: Okay. Yesterday you mentioned something
13 along the lines of that you can be fair if the Defendant defends himself.
14 Do you -- do you feel like a Defendant has to defend himself in court?

15 PROSPECTIVE JUROR NUMBER 330: Well, I would like him
16 to get up there, but at the same time I could see why he'd be hesitant
17 because she would be grilling him.

18 MS. MCNEILL: Okay.

19 PROSPECTIVE JUROR NUMBER 330: So he might slip up,
20 he might say something that he didn't mean to say, but at -- oh, disregard,
21 well, we heard it, you know.

22 MS. MCNEILL: Okay. Well, and let me ask you this, if they
23 don't prove their case to you, why should he have to defend anything,
24 right?

25 PROSPECTIVE JUROR NUMBER 330: Okay.

1 MS. MCNEILL: I mean, it's their burden --
2 PROSPECTIVE JUROR NUMBER 330: Okay.
3 MS. MCNEILL: -- right? Okay.
4 PROSPECTIVE JUROR NUMBER 330: Okay.
5 MS. MCNEILL: That's fair?
6 PROSPECTIVE JUROR NUMBER 330: Okay.
7 MS. MCNEILL: Okay. You -- the State asked you some
8 questions about when a victim comes in to testify. Do you understand at
9 this point you get to decide if there is a victim?
10 PROSPECTIVE JUROR NUMBER 330: Yes.
11 MS. MCNEILL: Okay. Because we don't know yet if -- if he's
12 guilty --
13 PROSPECTIVE JUROR NUMBER 330: Correct.
14 MS. MCNEILL: -- and as he --
15 PROSPECTIVE JUROR NUMBER 330: Oh, yeah.
16 MS. MCNEILL: -- sits here right now he's not.
17 PROSPECTIVE JUROR NUMBER 330: Correct.
18 MS. MCNEILL: So at this point we don't know if there's a victim
19 of a crime; is that fair?
20 PROSPECTIVE JUROR NUMBER 330: That's fair.
21 MS. MCNEILL: Okay. So a surgical nurse for 20 years, would
22 you say you're probably good under pressure?
23 PROSPECTIVE JUROR NUMBER 330: Oh, yeah.
24 MS. MCNEILL: Okay.
25 PROSPECTIVE JUROR NUMBER 330: Yes.

1 MS. MCNEILL: All right.

2 PROSPECTIVE JUROR NUMBER 330: And I know anatomy.

3 MS. MCNEILL: Well, yeah, I would hope, right?

4 And I imagine -- I've obviously never had to perform surgery in

5 any manner but it seems like it would be fairly stressful.

6 PROSPECTIVE JUROR NUMBER 330: Yeah. But you might

7 have surgery some day and hope you, you know --

8 MS. MCNEILL: Right. Yeah. And so I feel like doctors and

9 nurses in those situations have to really be able to handle stress.

10 PROSPECTIVE JUROR NUMBER 330: Correct.

11 MS. MCNEILL: Okay.

12 PROSPECTIVE JUROR NUMBER 330: Oh, yeah.

13 MS. MCNEILL: And so if it's stressful back in the jury room,

14 that's no big deal --

15 PROSPECTIVE JUROR NUMBER 330: Correct.

16 MS. MCNEILL: -- for you? Okay.

17 I'll pass for cause, Your Honor.

18 THE COURT: Thank you.

19 You know, I know you were excited to go next but --

20 PROSPECTIVE JUROR NUMBER 341: I've been waiting for --

21 THE COURT: Yeah, I know. I'm so sorry.

22 It appears we're going to have to continue the selection process

23 tomorrow. I -- the attorneys have promised that we're going to finish

24 picking the jury tomorrow; right, attorneys?

25 MS. MCNEILL: Yes, Your Honor.

1 MS. LUZAICH: Yes.

2 THE COURT: Thank you.

3 See, they're on the record.

4 MS. LUZAICH: Well, once we got past seat 13, we're good.

5 MS. MCNEILL: Yeah.

6 THE COURT: I do -- I do apologize and I know it's probably a
7 frustrating process and you end up sitting around and waiting a lot and I
8 know -- in fact, not probably, I know that's what you do, you sit around and
9 wait a lot and I do apologize for that. Once we get through the selection
10 process, the trial itself, of course, will move much more quickly and
11 probably be more interesting than the jury selection process as well. I
12 hope you understand that, you know, we do need to take time with some
13 of the potential jurors to hear about their particular circumstances in order
14 to make sure we have a fair jury for everyone involved. So I appreciate
15 your continued patience.

16 Tomorrow morning -- again, I do have a morning calendar
17 before we start up the trial, but we're going to start at 10:30 tomorrow,
18 11:00 was today but tomorrow I can go a little earlier. So I would ask you
19 to be here at 10:30 tomorrow morning and we'll continue on with the
20 selection process.

21 Between now and then you are admonished not to talk or
22 converse among yourselves or with anyone else on any subject
23 connected with this trial; or to read, watch, or listen to any report of or
24 commentary on the trial or any person connected with this trial by any
25 medium of information including, without limitation, newspapers,

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

3 Have a good night.

4 THE MARSHAL: All rise.

5 THE COURT: Counsel, if you could stay just a minute also.

6 [Outside the presence of the prospective jury]

7 [Prospective Juror Number 455 present]

8 THE COURT: Okay. I guess, have a seat. So, what's up?

9 THE MARSHAL: He's got -- this gentleman has got an issue
10 and he needs to discuss.

11 THE COURT: Okay. Okay. So just hold up the mic.

12 Okay. Go ahead and tell me.

13 PROSPECTIVE JUROR 455: Yeah, I have an appointment
14 tomorrow. If I possible, I can't come tomorrow. Doctor -- dentist
15 appointment.

16 THE COURT: Sir, okay, can I have your name and badge
17 number?

18 PROSPECTIVE JUROR NUMBER 455: 455, my name is Dane
19 Arinas.

20 THE COURT: Okay. And you have an appointment tomorrow?

21 PROSPECTIVE JUROR NUMBER 455: Yes.

22 THE COURT: At what time?

23 PROSPECTIVE JUROR NUMBER 455: 11:00.

24 THE COURT: Okay. Is that a doctor appointment?

25 PROSPECTIVE JUROR NUMBER 455: Yeah, dentist

1 appointment.

2 THE COURT: Dentist. Okay.

3 All right. So the appointment is at 11:00 --

4 PROSPECTIVE JUROR NUMBER 455: Yes.

5 THE COURT: -- and is that -- so, for example, if I excuse you
6 for the morning, would you be able to be here by 1 o'clock or 1:30? I don't
7 know how long your appointment is going to take.

8 PROSPECTIVE JUROR NUMBER 455: Yeah, maybe.

9 THE COURT: So I'm going to ask you -- I'm going to say you're
10 excused in the morning, go ahead and take care of your dentist
11 appointment, but I want you to get here between -- well, right after your
12 appointment.

13 PROSPECTIVE JUROR NUMBER 455: Okay.

14 THE COURT: So we'll probably start up in the afternoon
15 between 1:00 and 1:30 some time.

16 And I'll tell you what, if you want -- if you leave your number
17 with Anthony before you leave, we can call you when we break for lunch
18 and tell you what time we're starting in the afternoon, okay?

19 PROSPECTIVE JUROR NUMBER 455: I can come around 1
20 o'clock.

21 THE COURT: Okay. You can just come around 1:00 or we can
22 let you know, like, in case we're not starting until 1:30, for example. I
23 would, you know, we'll try to accommodate you.

24 So go to your dentist appointment but we'll still need you here in
25 the afternoon, okay?

1 PROSPECTIVE JUROR NUMBER 455: Okay.
2 THE COURT: All right. Thank you for letting us know.
3 PROSPECTIVE JUROR NUMBER 455: Thank you.
4 THE MARSHAL: All rise. The Court is now in recess.
5 [Outside the presence of the prospective jury]
6 MS. LUZAICH: Also, Judge, before you get off the bench.
7 THE COURT: Yeah.
8 MS. LUZAICH: Juror number 292, sitting in seat 3, as she was
9 walking by she walked over to Mr. Rose and myself and told us that we
10 lead very boring lives.
11 MS. MCNEILL: What?
12 THE COURT: Really?
13 MS. LUZAICH: I swear to God.
14 MR. ROSE: And --
15 MS. MCNEILL: Wait --
16 MS. LUZAICH: She did. She walked up, she put her hand on
17 my arm, and said, you lead very boring lives.
18 MS. MCNEILL: What -- which juror was this?
19 MS. LUZAICH: Seat number 3, juror number 292, Unada,
20 Leticia Unada.
21 THE COURT: Okay.
22 MS. MCNEILL: I don't know what to say about that.
23 THE COURT: I think she's not real excited to be here --
24 MS. MCNEILL: Yeah.
25 THE COURT: -- is maybe what we can conclude from that.

1 MS. MCNEILL: Yeah. I don't --
2 THE COURT: And if we do it every day, I guess --
3 MS. LUZAICH: Well, she wasn't upset when she said it, how's
4 that?
5 MR. ROSE: It was more of a joke.
6 THE COURT: But she -- it was pleasant?
7 MS. LUZAICH: She was --
8 MR. ROSE: Yes.
9 MS. LUZAICH: Oh, she was laughing, yeah.
10 MR. ROSE: Yes.
11 THE COURT: Oh, okay.
12 MS. LUZAICH: Oh, yeah, yeah, yeah, she was laughing when
13 she said it.
14 MS. MCNEILL: That's bizarre.
15 THE COURT: Yeah, okay, okay.
16 MR. ROSE: I think she was laughing at us.
17 THE COURT: Okay. Well, I appreciate now that I have the
18 tone of it, okay. Okay.
19 MS. MCNEILL: I feel like your lives are probably really exciting.
20 I don't know, that's me.
21 THE COURT: All right. Well, we'll just -- I need to emphasize --
22 I will need to emphasize again to them tomorrow --
23 MS. LUZAICH: They can't talk to us.
24 THE COURT: -- that they can't talk with us.
25 MS. LUZAICH: Just like we can't talk to them.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: Right.

MS. LUZAICH: Yes.

THE COURT: All right. Have a good night.

MS. MCNEILL: All right. Good night, Judge.

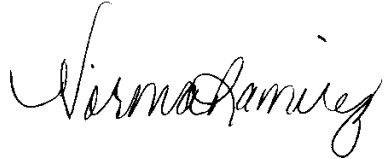
MS. LUZAICH: Thank you, Judge.

MR. ROSE: Thank you, Judge.

[Jury Trial, Day 2, concluded at 5:08 p.m.]

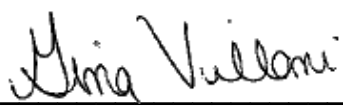
* * * * *

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



NORMA RAMIREZ
Court Recorder
District Court Dept. XXII
702 671-0572

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



Gina Villani
Court Recorder/Transcriber
District Court Dept. IX



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,

vs.

TRANDON GREEN,
Defendant.

CASE#: C-17-325044-1
DEPT. VI

BEFORE THE HONORABLE ELISSA F. CADISH, DISTRICT COURT JUDGE
WEDNESDAY, JUNE 27, 2018

**RECORDER'S TRANSCRIPT OF PROCEEDINGS:
JURY TRIAL - DAY 3**

APPEARANCES:

For the State:

LISA LUZAICH, ESQ.
Chief Deputy District Attorney
STEVEN ROSE, ESQ.
Deputy District Attorney

For the Defendant:

MONIQUE A. MCNEILL, ESQ.

RECORDED BY: DE'AWNA TAKAS, COURT RECORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Las Vegas, Nevada, Wednesday, June 27, 2018

[Proceedings began at 11:21 a.m.]

[Outside the presence of the prospective jury]

THE MARSHAL: All rise. District Court Department 6 is now in session, the Honorable Elissa Cadish presiding.

THE COURT: Good morning.

MS. LUZAICH: Good morning.

THE COURT: Yeah, it's still morning, okay.

MR. ROSE: For now.

MS. MCNEILL: Yeah.

THE COURT: Okay. You know, sometimes you just can't win for losing.

MS. LUZAICH: That was a fun end of calendar.

MS. MCNEILL: Right.

MR. ROSE: One more thing, Judge, just one more thing.

THE COURT: Yes, the last two matters were -- you know, I thought, oh, good it's 10 o'clock, no problem, get these two out, we'll be done by 10:30. Yeah, no, anyway.

Are we ready? So, I guess, what I would say is, I need you guys to do the best you can to keep things moving today so we can at least get the jury selected today.

MS. LUZAICH: Yes.

THE COURT: And, you know, some things obviously are beyond our control and there are things we'll need to follow up on but

1 hopefully we can keep it moving.

2 All right. Let's get the jurors.

3 MS. LUZAICH: Will you go to at least 12:30?

4 THE COURT: Yeah.

5 THE MARSHAL: All rise.

6 [In the presence of the prospective jury]

7 THE MARSHAL: Please be seated. Come to order.

8 THE COURT: Okay. Just before we get started, I see we've
9 got an open seat up front.

10 THE MARSHAL: The young lady went to the restroom.

11 THE COURT: Okay. And we have the gentleman who I said
12 was going to be out this morning.

13 THE MARSHAL: Yes.

14 And Ms. Gomez is still --

15 THE COURT: Right. Still not here?

16 THE MARSHAL: Yes.

17 THE COURT: Okay. We will keep going.

18 All right. So, folks, let me start, as usual, I suppose, by
19 apologizing again for keeping you waiting in the hallway. I'm sorry. I do
20 my best to try to get the calendars done in the morning so we can get
21 started but sometimes it just takes a little longer than I expect. And I'm
22 sorry that that happened again. We are still doing our best to finish
23 selecting the jury today so then we can go forward with the rest of the trial.
24 So thank you for your continued patience.

25 So we're up to Mr. Rincon, is that how you say it?

1 PROSPECTIVE JUROR NUMBER 341: Yes, that's fine.

2 THE COURT: How are you doing today?

3 PROSPECTIVE JUROR NUMBER 341: I'm good.

4 THE COURT: Is there any reason you could not be fair and
5 impartial in this case?

6 PROSPECTIVE JUROR NUMBER 341: No.

7 THE COURT: Can you wait in forming your opinion on the
8 appropriate result until all the evidence has been heard?

9 PROSPECTIVE JUROR NUMBER 341: Yes.

10 THE COURT: Have you or anyone close to you worked in law
11 enforcement?

12 PROSPECTIVE JUROR NUMBER 341: Yes.

13 THE COURT: Tell me about that.

14 PROSPECTIVE JUROR NUMBER 341: Well, I call him my
15 brother. We go to church together. He's in Henderson Police
16 Department. He just started -- he's actually been there for about six
17 months now. But, yeah, he's in the police department.

18 THE COURT: Okay. So he's an officer with Henderson Police?

19 PROSPECTIVE JUROR NUMBER 341: Yes.

20 THE COURT: Okay. And he's someone you're very close
21 with?

22 PROSPECTIVE JUROR NUMBER 341: Yes.

23 THE COURT: Okay. Would the fact that he has chosen to
24 pursue a career with the police department affect your ability to be fair and
25 impartial in this case?

1 PROSPECTIVE JUROR NUMBER 341: No.

2 THE COURT: Okay. You think you could still be fair to both
3 sides here?

4 PROSPECTIVE JUROR NUMBER 341: Yes.

5 THE COURT: Have you or anyone close to you been charged
6 with a serious crime?

7 PROSPECTIVE JUROR NUMBER 341: No.

8 THE COURT: Have you or anyone close to you been the victim
9 of a serious crime?

10 PROSPECTIVE JUROR NUMBER 341: No.

11 THE COURT: Have you or anyone close to you been accused
12 of or the victim of domestic violence or sexual abuse?

13 PROSPECTIVE JUROR NUMBER 341: Yes.

14 THE COURT: Tell me about that.

15 PROSPECTIVE JUROR NUMBER 341: A couple of friends of
16 mine, female friends, they've told me stories about sexual abuse. And it --
17 I mean, it, -- it is -- it's something -- it's disgusting. But, I mean, it doesn't
18 just happen to females, it happens to males alike and everybody so.

19 THE COURT: Sure.

20 PROSPECTIVE JUROR NUMBER 341: And as for domestic
21 violence, my older sister she was in a domestic violence case. But it
22 was -- it was equal, both her and her baby daddy had a, yeah, but --yeah.

23 THE COURT: Okay. Someone has a phone vibrating, I hear.
24 Make sure your phones are off.

25 All right. So knowing people who've been in those kinds of

1 situations, do you think that that will prevent you from being fair and
2 impartial in this case?

3 PROSPECTIVE JUROR NUMBER 341: No.

4 THE COURT: Do you think you could put aside those
5 experiences that people close to you have had and base a decision in this
6 case on its own merits?

7 PROSPECTIVE JUROR NUMBER 341: Yes.

8 THE COURT: Is there anything about the charges in this case
9 that would make it difficult for you to be fair and impartial?

10 PROSPECTIVE JUROR NUMBER 341: No.

11 THE COURT: Can you base your verdict solely on the
12 evidence brought out at trial and the law that applies, as stated in my
13 instructions, without fear of criticism or popular opinion?

14 PROSPECTIVE JUROR NUMBER 341: Yes.

15 THE COURT: Have you ever been a juror before?

16 PROSPECTIVE JUROR NUMBER 341: No.

17 THE COURT: If you were a party to this case, would you be
18 comfortable with jurors of a like frame of mind as yourself sitting in
19 judgment?

20 PROSPECTIVE JUROR NUMBER 341: Yes.

21 THE COURT: I think the vibrating isn't a phone, it sounds like
22 some thing's upstairs. Okay. We'll continue.

23 How long have you lived here in Clark County?

24 PROSPECTIVE JUROR NUMBER 341: I've been here about
25 22, 23 years.

1 THE COURT: Okay. And what's the highest level of education
2 you completed?

3 PROSPECTIVE JUROR NUMBER 341: I went to a trade
4 school.

5 THE COURT: In what field?

6 PROSPECTIVE JUROR NUMBER 341: HVAC.

7 THE COURT: And are you employed?

8 PROSPECTIVE JUROR NUMBER 341: Yes.

9 THE COURT: Doing what?

10 PROSPECTIVE JUROR NUMBER 341: HVAC. I work for
11 Downtown Grand Hotel and Casino.

12 THE COURT: Oh, sure.

13 You going over to work on your breaks or?

14 PROSPECTIVE JUROR NUMBER 341: No, no.

15 THE COURT: Okay. All right. Are you married?

16 PROSPECTIVE JUROR NUMBER 341: No.

17 THE COURT: Have any children?

18 PROSPECTIVE JUROR NUMBER 341: No.

19 THE COURT: All right. State.

20 MS. LUZAICH: Thank you.

21 Good morning.

22 PROSPECTIVE JUROR NUMBER 341: Good morning.

23 MS. LUZAICH: The person that you referred to as your brother,
24 is that somebody that like you're really good friends with for a long time?

25 PROSPECTIVE JUROR NUMBER 341: Yeah, we're really

1 close that's why we call each brothers 'cause we're that close.

2 MS. LUZAICH: Okay. And you said he started with the
3 Henderson Police Department fairly recently?

4 PROSPECTIVE JUROR NUMBER 341: Yes.

5 MS. LUZAICH: Is he still in field training; do you know?

6 PROSPECTIVE JUROR NUMBER 341: He's actually out of
7 field training. He's on his own, solo.

8 MS. LUZAICH: So he drives around and responds to calls?

9 PROSPECTIVE JUROR NUMBER 341: Yes.

10 MS. LUZAICH: Does he talk to you much about like his daily
11 routine and calls that he goes on?

12 PROSPECTIVE JUROR NUMBER 341: He does.

13 MS. LUZAICH: And I assume he goes on a lot of domestic
14 violence calls?

15 PROSPECTIVE JUROR NUMBER 341: He does get domestic
16 violence calls, yes.

17 MS. LUZAICH: So whatever he's told you about those calls,
18 can you keep that separate and make your decision only based on the
19 evidence that you hear coming from that chair?

20 PROSPECTIVE JUROR NUMBER 341: Definitely.

21 MS. LUZAICH: Okay. You had mentioned that your sister and
22 her baby daddy had domestic violence situations, was it a one time or
23 multiple times?

24 PROSPECTIVE JUROR NUMBER 341: It was a one time.

25 MS. LUZAICH: Did they both get arrested?

1 PROSPECTIVE JUROR NUMBER 341: No, there was no
2 arrest.

3 MS. LUZAICH: Did police come?

4 PROSPECTIVE JUROR NUMBER 341: They did, they did.

5 MS. LUZAICH: Did one of them call the police or did somebody
6 else?

7 PROSPECTIVE JUROR NUMBER 341: It was their family
8 member -- or the dad's family members.

9 MS. LUZAICH: Did they talk to you about what happened later?

10 PROSPECTIVE JUROR NUMBER 341: My sister did, yes.

11 MS. LUZAICH: Based on what she told you, do you believe
12 that they were treated fairly by the police?

13 PROSPECTIVE JUROR NUMBER 341: Yes.

14 MS. LUZAICH: You're kind of smiling.

15 PROSPECTIVE JUROR NUMBER 341: Well, 'cause -- my
16 sister, she's a wildfire. She's a little crazy but -- and that's the only reason
17 I was smiling because I know how she is and she takes care of herself so.

18 MS. LUZAICH: So she was maybe a tad difficult and they still
19 didn't arrest her?

20 PROSPECTIVE JUROR NUMBER 341: Yes.

21 MS. LUZAICH: So, I guess, my question would be, you don't
22 have any bad feeling toward police because they may have done or said
23 something, you know, inappropriate to your sister?

24 PROSPECTIVE JUROR NUMBER 341: No.

25 MS. LUZAICH: So do you at least feel that they handled the

1 situation appropriately?

2 PROSPECTIVE JUROR NUMBER 341: Yes.

3 MS. LUZAICH: Okay. You mentioned that you have some
4 friends who had told you that they had been sexually abused. When you
5 say that is it like a family member who abused them or maybe a boyfriend
6 that pushed them too far?

7 PROSPECTIVE JUROR NUMBER 341: It was -- well, one of
8 'em -- not family members, no family members. One of 'em was -- or
9 actually two of them were just strangers and one of 'em was a friend of
10 her father, yeah.

11 MS. LUZAICH: Okay. The one who was abused by the friend
12 of the father, do you know, did she tell her father?

13 PROSPECTIVE JUROR NUMBER 341: She didn't. She was --
14 she was really young when that happened and she just has vague
15 memories of it.

16 MS. LUZAICH: So that has never been reported?

17 PROSPECTIVE JUROR NUMBER 341: No.

18 MS. LUZAICH: Did you ever, like when you were talking to her,
19 encourage her to maybe tell her dad?

20 PROSPECTIVE JUROR NUMBER 341: No, I didn't.

21 MS. LUZAICH: Your two friends -- and, I'm sorry, and that
22 friend, how does she deal with it? Is she okay? Does she have a difficult
23 time?

24 PROSPECTIVE JUROR NUMBER 341: Yeah, it doesn't faze
25 her anymore, she just forgave and forget.

1 MS. LUZAICH: And it was a long time ago, it sounds like?

2 PROSPECTIVE JUROR NUMBER 341: Yeah.

3 MS. LUZAICH: And then your two friends, that you said,
4 strangers?

5 PROSPECTIVE JUROR NUMBER 341: Yeah, they're
6 technically strangers. One of 'em it was a guy she went -- she just met. It
7 was a blind date and he picked her up and --

8 MS. LUZAICH: And did bad things?

9 PROSPECTIVE JUROR NUMBER 341: Yeah.

10 And --

11 MS. LUZAICH: Did she report that?

12 PROSPECTIVE JUROR NUMBER 341: She didn't.

13 MS. LUZAICH: Do you know why?

14 PROSPECTIVE JUROR NUMBER 341: She said she was
15 scared so.

16 MS. LUZAICH: Scared of him?

17 PROSPECTIVE JUROR NUMBER 341: Scared of -- well,
18 probably embarrassment most likely, yeah.

19 MS. LUZAICH: Yeah.

20 PROSPECTIVE JUROR NUMBER 341: Yeah, she didn't want
21 anybody to really judge her for what happened.

22 MS. LUZAICH: How old is she?

23 PROSPECTIVE JUROR NUMBER 341: She was -- she was 17
24 when that happened to her. She's probably like 24 now.

25 MS. LUZAICH: And do you feel like -- you're still friendly with

1 her?

2 PROSPECTIVE JUROR NUMBER 341: Yeah.

3 MS. LUZAICH: Do you feel like she's kind of moved past it?

4 PROSPECTIVE JUROR NUMBER 341: Yeah, she has.

5 MS. LUZAICH: And then your other friend.

6 PROSPECTIVE JUROR NUMBER 341: She was actually --
7 she got roofied and the next thing she knows she woke up in bed.

8 MS. LUZAICH: With somebody else?

9 PROSPECTIVE JUROR NUMBER 341: Yeah.

10 MS. LUZAICH: Do you know if that was ever reported?

11 PROSPECTIVE JUROR NUMBER 341: It wasn't.

12 MS. LUZAICH: Do you know why?

13 PROSPECTIVE JUROR NUMBER 341: I never asked her why
14 she never reported it.

15 MS. LUZAICH: Okay. Did it kind of make you feel like an
16 embarrassment thing?

17 PROSPECTIVE JUROR NUMBER 341: Yeah, it probably was,
18 same thing.

19 MS. LUZAICH: So, obviously, you know, a young woman's
20 going to come in here and talk to you, you, the collective you, about
21 intimate sexual details, do you think that she might be embarrassed when
22 she comes in here to do that?

23 PROSPECTIVE JUROR NUMBER 341: I think anybody would
24 be.

25 MS. LUZAICH: Do you think that some people also have a

1 difficult time just talking to strangers?

2 PROSPECTIVE JUROR NUMBER 341: I think we're at a
3 point -- people, period, are at a point where we all stick almost to social
4 media, that's our socializing. It's not as common to socialize, you know,
5 around, I mean.

6 MS. LUZAICH: Face to face?

7 PROSPECTIVE JUROR NUMBER 341: Yeah, pretty much so.

8 MS. LUZAICH: So are all those things things that you would
9 take into consideration when you're listening to the witnesses?

10 PROSPECTIVE JUROR NUMBER 341: U'm-h'm, yes.

11 MS. LUZAICH: Would you agree with me when I say that a
12 person has an absolute right to say no to the sexual advances of another
13 person?

14 PROSPECTIVE JUROR NUMBER 341: Yes.

15 MS. LUZAICH: And before I was always saying, woman but.

16 PROSPECTIVE JUROR NUMBER 341: Yes.

17 MS. LUZAICH: And, like you indicated, men can also be
18 victims of a crime like that.

19 Would you agree?

20 PROSPECTIVE JUROR NUMBER 341: Yes.

21 MS. LUZAICH: Do you think that no ever means convince me?

22 PROSPECTIVE JUROR NUMBER 341: No.

23 MS. LUZAICH: No is always no?

24 PROSPECTIVE JUROR NUMBER 341: [No audible response.]

25 MS. LUZAICH: You're nodding up and down --

1 PROSPECTIVE JUROR NUMBER 341: Yes.

2 MS. LUZAICH: -- yes, just for the record.

3 PROSPECTIVE JUROR NUMBER 341: Yes, no is always no.

4 MS. LUZAICH: Okay. Do you think that it's ever acceptable to
5 lay hands on another person?

6 PROSPECTIVE JUROR NUMBER 341: No.

7 MS. LUZAICH: Do you think that you are actually somebody
8 who can express their views to strangers?

9 PROSPECTIVE JUROR NUMBER 341: Yes.

10 MS. LUZAICH: I mean, you're doing pretty well here talking.

11 On a daily basis, when you are working at the Grand, do you
12 interact with, you know, customers and patrons and stuff or are you just
13 kind of in the background fixing stuff?

14 PROSPECTIVE JUROR NUMBER 341: I interact with -- they
15 tell us we need to interact with everybody and anybody, whether they're
16 guests from out of state or whether it's our own employees, we interact
17 with everybody.

18 MS. LUZAICH: Would you call yourself a people person?

19 PROSPECTIVE JUROR NUMBER 341: Yes.

20 MS. LUZAICH: A little more than some of the others that are
21 only affixed to social media?

22 PROSPECTIVE JUROR NUMBER 341: Yeah. I mean, I have
23 social media, but I don't -- I don't see myself as being antisocial. I feel like
24 I'm pretty social.

25 MS. LUZAICH: You're not married, do you have a girlfriend?

1 PROSPECTIVE JUROR NUMBER 341: No.

2 MS. LUZAICH: Do you think that -- or do you have any
3 expectations about what you should see in a trial like this?

4 PROSPECTIVE JUROR NUMBER 341: No, I mean, I've never
5 been in any trial so I don't have any expectations. And I don't watch -- I
6 don't really watch like Law and Order, anything like that.

7 MS. LUZAICH: CSI? No Law and Order?

8 PROSPECTIVE JUROR NUMBER 341: No, not really. The
9 closest thing I think is a show called iZombie but --

10 MS. LUZAICH: You're not going to see any zombies in this
11 court that I can tell ya.

12 PROSPECTIVE JUROR NUMBER 341: Yeah, so, no, none of
13 that.

14 MS. LUZAICH: Okay. So if you are selected as one of the
15 jurors and you go back in the deliberation room and the other jurors feel
16 one way and you feel differently, how will you handle that?

17 PROSPECTIVE JUROR NUMBER 341: I think a lot of people,
18 you know, they said it themselves, stay open-minded. I have -- I have
19 what I see my insight and everybody else has their insight, if we
20 collaborate, we can, you know, see what -- see what other people don't
21 see and --

22 MS. LUZAICH: And share it with them?

23 PROSPECTIVE JUROR NUMBER 341: U'm-h'm.

24 MS. LUZAICH: Okay, good.

25 Would you agree that different people can react differently to

1 the same set of circumstances?

2 PROSPECTIVE JUROR NUMBER 341: Definitely.

3 MS. LUZAICH: So if nobody cries in this case, that's not going
4 to bother you?

5 PROSPECTIVE JUROR NUMBER 341: No.

6 MS. LUZAICH: But if somebody, you know, breaks down that
7 won't bother you either?

8 PROSPECTIVE JUROR NUMBER 341: No.

9 MS. LUZAICH: Is there any reason that you could not sit in
10 judgment of somebody?

11 PROSPECTIVE JUROR NUMBER 341: No.

12 MS. LUZAICH: So if you listen to all the witnesses and see any
13 evidence that's admitted, if you are convinced beyond a reasonable doubt
14 the defendant committed the crimes that he is charged with, would you be
15 able to say the word guilty?

16 PROSPECTIVE JUROR NUMBER 341: Yes.

17 MS. LUZAICH: Thank you.

18 Pass for cause.

19 THE COURT: Thank you.

20 MS. MCNEILL: Thank you, Your Honor.

21 Mr. Rincon, you said that your sister was, I think you said, a wild
22 fire and a little crazy.

23 PROSPECTIVE JUROR NUMBER 341: Yeah.

24 MS. MCNEILL: So it sounds like the situation that she was in
25 was a little bit of both of them maybe not knowing how to behave

1 themselves; right?

2 PROSPECTIVE JUROR NUMBER 341: Yes.

3 MS. MCNEILL: Okay. Do you think that's a little different than
4 the type of situation where we usually think about when you hear
5 domestic violence?

6 PROSPECTIVE JUROR NUMBER 341: No. I've learned that
7 every person has their own dominion, everybody has their own choices,
8 so regardless everybody can pick and choose whether they want to fight
9 fire with fire or be cool as water.

10 MS. MCNEILL: Sure. Okay.

11 But, what, I guess, what I'm asking you is, in your sister's
12 situation, it sounds like you feel like, well, you know that's kind of what she
13 chose and she gave as good as she got; right?

14 PROSPECTIVE JUROR NUMBER 341: Pretty much, yes.

15 MS. MCNEILL: Okay. And that's a little different than when you
16 hear domestic violence on the news where maybe you hear that the
17 woman really isn't doing anything and it's more just one sided?

18 PROSPECTIVE JUROR NUMBER 341: Yes.

19 MS. MCNEILL: You agree those are a little different situations?

20 PROSPECTIVE JUROR NUMBER 341: Yes.

21 MS. MCNEILL: Okay. You said that you have some friends
22 who were telling you about things that have happened to them, would you
23 agree with me that their motives in telling you these things were maybe
24 just the way that we communicate with people when we're getting to know
25 them; right?

1 PROSPECTIVE JUROR NUMBER 341: Yes, yes and no. I
2 mean, not anybody can just talk about a personal experience like that.

3 MS. MCNEILL: Right.

4 PROSPECTIVE JUROR NUMBER 341: And I'm pretty sure
5 they haven't told many people.

6 MS. MCNEILL: Yeah.

7 But what I'm asking you is, them telling you wasn't designed to
8 get you to do something for them or get sympathy; right, this is just
9 sometimes we communicate with people that we trust and we want to
10 open up to?

11 PROSPECTIVE JUROR NUMBER 341: Yes.

12 MS. MCNEILL: So you agree with me that there's a difference
13 than in somebody who uses things to get sympathy or attention?

14 PROSPECTIVE JUROR NUMBER 341: Yes.

15 MS. MCNEILL: Have you ever met people who've done that?

16 PROSPECTIVE JUROR NUMBER 341: I can't think of any off
17 the top of my head but I'm pretty sure there has been, yes.

18 MS. MCNEILL: Okay. You talked a little bit about social media;
19 right, do you see people on your social media who sort of live their lives
20 and put all of their business on their social media?

21 PROSPECTIVE JUROR NUMBER 341: Yes.

22 MS. MCNEILL: Okay. And how do you feel about that?

23 PROSPECTIVE JUROR NUMBER 341: You've got to -- you've
24 got to keep some of that stuff to yourself.

25 MS. MCNEILL: Okay. Do you -- when people do things like

1 that, do you feel like they're doing it to get attention?

2 PROSPECTIVE JUROR NUMBER 341: Yes.

3 MS. MCNEILL: Okay. You said that you think that somebody
4 like you would be a good juror, if you were falsely accused of a crime,
5 would you want someone like you on your jury?

6 PROSPECTIVE JUROR NUMBER 341: If I was falsely
7 accused of a crime -- well, yeah, I mean, there's -- there's going to be
8 evidence, there's going to be witnesses, there's going to be what
9 everybody chooses as facts.

10 So as long as I know that -- well, it's actually going to be difficult
11 'cause if I was on that end where he's at, Mr. Green is at, I mean, I'm just
12 hoping for a defense. And when somebody is attacking you, it's hard.
13 It's -- especially if it's -- if it's like a big group of people, it's hard.

14 So, yes, I would want somebody like me because I feel like I
15 just listen to the facts and pretty much hope for the best. That's all I can
16 really say.

17 MS. MCNEILL: Okay. Do you feel that even though -- you said
18 you'll listen to the facts and you'll listen to the evidence and you'll keep an
19 open mind about that, obviously everyone has very strong feelings about
20 allegations of rape and domestic violence; right?

21 PROSPECTIVE JUROR NUMBER 341: Yes.

22 MS. MCNEILL: Are you still able to keep an open mind that
23 he's innocent as he sits here now, even though you have those strong
24 feelings about the allegations?

25 PROSPECTIVE JUROR NUMBER 341: Yes, because right

1 now he is innocent.

2 MS. MCNEILL: Okay. And so you're not letting your feelings
3 about these allegations color it, he sits here innocent right now?

4 PROSPECTIVE JUROR NUMBER 341: Yes.

5 MS. MCNEILL: Okay. On a he said, she said allegation; right,
6 how do you decide, how are you going to decide who's telling the truth?

7 PROSPECTIVE JUROR NUMBER 341: Well, because they're
8 complete strangers, it's gonna be tough. But, I mean, there is -- I'm the
9 type of person that trusts people pretty well. I'm not too good at reading
10 people but it just gonna have to be listening to each story, if it is -- if he
11 does go up, or listening to the plaintiff's story, and just figuring out -- it's
12 kind of -- kind of almost deciphering whether they're actually telling the
13 truth or not. It's gonna be tough.

14 MS. MCNEILL: Okay. So what I think you're saying, is you're
15 just really going to listen critically to what everyone says?

16 PROSPECTIVE JUROR NUMBER 341: Yes.

17 MS. MCNEILL: Okay. I appreciate that. Thank you.

18 I'll pass for cause, Your Honor.

19 THE COURT: Thank you.

20 All right. Mr. McDougall, how are you?

21 PROSPECTIVE JUROR NUMBER 342: I'm fine, thank you.

22 THE COURT: Good.

23 Is there any reason you could not be fair and impartial in this
24 case?

25 PROSPECTIVE JUROR NUMBER 342: No.

1 THE COURT: Can you wait in forming your opinion on the
2 appropriate result until all the evidence has been heard?

3 PROSPECTIVE JUROR NUMBER 342: Yes.

4 THE COURT: Have or anyone close to you worked in law
5 enforcement?

6 PROSPECTIVE JUROR NUMBER 342: No.

7 THE COURT: Have you or anyone close to you been charged
8 with a serious crime?

9 PROSPECTIVE JUROR NUMBER 342: No.

10 THE COURT: Have you or anyone close to you been the victim
11 of a serious crime?

12 PROSPECTIVE JUROR NUMBER 342: No.

13 THE COURT: Have you or anyone close to you been accused
14 of or the victim of domestic violence or sexual abuse?

15 PROSPECTIVE JUROR NUMBER 342: No.

16 THE COURT: Is there anything about the charges in this case
17 that would make it difficult for you to be fair and impartial?

18 PROSPECTIVE JUROR NUMBER 342: No.

19 THE COURT: Can you base your verdict solely on the
20 evidence brought out at trial and the law that applies as stated in my
21 instructions without fear of criticism or popular opinion?

22 PROSPECTIVE JUROR NUMBER 342: Definitely.

23 THE COURT: Have you ever been a juror before?

24 PROSPECTIVE JUROR NUMBER 342: No.

25 THE COURT: If you were a party to this case, would you be

1 comfortable with jurors of a like frame of mind as yourself sitting in
2 judgment?

3 PROSPECTIVE JUROR NUMBER 342: Yes.

4 THE COURT: How long have you lived here in Clark County?

5 PROSPECTIVE JUROR NUMBER 342: Since ' 92.

6 THE COURT: Okay. And what's the highest level of education
7 you completed?

8 PROSPECTIVE JUROR NUMBER 342: Two years of college.

9 THE COURT: Did you have a major at that time?

10 PROSPECTIVE JUROR NUMBER 342: Yes, the school I went
11 to was the Walsh Institute of Accounting and it was strictly an accounting
12 school.

13 THE COURT: Okay. Are you employed?

14 PROSPECTIVE JUROR NUMBER 342: Retired.

15 THE COURT: What did you do before retiring?

16 PROSPECTIVE JUROR NUMBER 342: Out here I did
17 warehouse mortgages and back where I was from I was in sales.

18 THE COURT: Are you married?

19 PROSPECTIVE JUROR NUMBER 342: Widowed.

20 THE COURT: Okay. I'm sorry about that, sir.

21 Do you have children?

22 PROSPECTIVE JUROR NUMBER 342: I have five children,
23 eight grandchildren, and three great grandchildren.

24 THE COURT: Wow. Do any of them live out here in Vegas?

25 PROSPECTIVE JUROR NUMBER 342: Three of my children

1 live out here and one grandchild lives out -- three grandchildren live out
2 here.

3 THE COURT: Okay. So give me a general idea of what your
4 five children do?

5 PROSPECTIVE JUROR NUMBER 342: One is self-employed,
6 one works for a school district, one works for the Clark County airport, and
7 one is disability, on disability, and the other one she's unemployed at the
8 present.

9 THE COURT: Okay. Thank you.
10 State.

11 MS. LUZAICH: Thank you.

12 Good morning, Mr. McDougall.

13 PROSPECTIVE JUROR NUMBER 342: Good morning.

14 MS. LUZAICH: It is still morning.

15 What did you your wife do? Did she work outside the home
16 before she passed?

17 PROSPECTIVE JUROR NUMBER 342: My wife was always at
18 home with the children.

19 MS. LUZAICH: So she worked harder than you did.

20 PROSPECTIVE JUROR NUMBER 342: You bet your -- raising
21 five children, she sure did.

22 MS. LUZAICH: For how long have you been retired?

23 PROSPECTIVE JUROR NUMBER 342: Retired about 25 years
24 ago.

25 MS. LUZAICH: Oh, my.

1 So what do you do on a daily basis?

2 PROSPECTIVE JUROR NUMBER 342: Well, I tell everybody
3 I'm so busy now I don't have -- I don't know how I ever had time to work.

4 MS. LUZAICH: So, for example, what kind of stuff do you do?

5 PROSPECTIVE JUROR NUMBER 342: Putts around the
6 house, go out to casinos, that's about it.

7 MS. LUZAICH: Bingo? Poker? Blackjack?

8 PROSPECTIVE JUROR NUMBER 342: You know, play a few
9 slot machines now and then. Go out to eat mainly.

10 MS. LUZAICH: Okay. What do you think about the saying, you
11 shouldn't judge a book by its cover?

12 PROSPECTIVE JUROR NUMBER 342: I think it's very true.

13 MS. LUZAICH: Do you find yourself sometimes doing that while
14 you're out in the casinos and you see some people that look in a way that
15 you might not want to portray yourself, do you look at them and just kind
16 of get an instant, ew, kind of thought?

17 PROSPECTIVE JUROR NUMBER 342: No, I love to people
18 watch though.

19 MS. LUZAICH: Vegas is definitely the place to do that.

20 So if people come in here and look in a way that you might not
21 approve of, can you still listen to what they say objectively?

22 PROSPECTIVE JUROR NUMBER 342: Yeah, it'd be pretty
23 hard for me to look at somebody and not approve the way they look.

24 MS. LUZAICH: Okay. When you were working in mortgages,
25 did you work for a bank or were an independent --

1 PROSPECTIVE JUROR NUMBER 342: Independent.

2 MS. LUZAICH: And when you were in sales, independent as
3 well?

4 PROSPECTIVE JUROR NUMBER 342: No -- well, I was
5 independent but I worked for a big company.

6 MS. LUZAICH: Where people would come and see you or
7 would you go see them?

8 PROSPECTIVE JUROR NUMBER 342: I was a salesman on
9 the road so I had to go and see clients.

10 MS. LUZAICH: Traveling or?

11 PROSPECTIVE JUROR NUMBER 342: Traveling.

12 MS. LUZAICH: For how long did you do that?

13 PROSPECTIVE JUROR NUMBER 342: 22 years.

14 MS. LUZAICH: And in all your years of sales and mortgages
15 and whatnot, do you feel that you learned how to read people?

16 PROSPECTIVE JUROR NUMBER 342: I don't try to read
17 people.

18 MS. LUZAICH: No? Okay.

19 How might you evaluate the testimony of witnesses that you
20 don't know?

21 PROSPECTIVE JUROR NUMBER 342: You have to do the
22 best you can, take notes and listen to what they say to the best of your
23 ability, and then try to form a judgment and go from there.

24 MS. LUZAICH: Listen to what they have to say and see how it
25 compares to what other people say?

1 PROSPECTIVE JUROR NUMBER 342: Correct.

2 MS. LUZAICH: Maybe how it compares to any evidence that
3 you might see?

4 PROSPECTIVE JUROR NUMBER 342: Well, that's definitely
5 why you're here for is to listen to the evidence.

6 MS. LUZAICH: Okay. With your, not quite so free time, do you
7 watch any of those CSI type shows or Law and Order type shows?

8 PROSPECTIVE JUROR NUMBER 342: Favorite thing I like to
9 watch is old cowboys.

10 MS. LUZAICH: There are no cowboys here either.

11 So are you expecting anything in the trial, given the nature of
12 the charges?

13 PROSPECTIVE JUROR NUMBER 342: Nothing whatsoever.

14 MS. LUZAICH: Do you think that it might be embarrassing for
15 somebody to come in here and talk to a room full of strangers about
16 intimate sexual details?

17 PROSPECTIVE JUROR NUMBER 342: I definitely think it
18 would be.

19 MS. LUZAICH: Is that something you would take into
20 consideration?

21 PROSPECTIVE JUROR NUMBER 342: I just -- really like to
22 listen to what they say.

23 MS. LUZAICH: Okay.

24 PROSPECTIVE JUROR NUMBER 342: I know it's going to be
25 tough on anybody.

1 MS. LUZAICH: Have you ever had the experience that if you
2 tell a description of something enough times that even if it was upsetting
3 in the beginning it kind of becomes less upsetting to you?

4 Does that make sense?

5 PROSPECTIVE JUROR NUMBER 342: No, I think that if you
6 tell the same story all the time and it's an honest story, it's easy. But if
7 you tell a lie, a lie seem to compound themselves and you have to keep
8 growing with more lies to cover up the lies that you already had.

9 MS. LUZAICH: Okay. That makes total sense.

10 Do you think that if two people describe for you an event and
11 they don't describe it the same way, will you have a problem with that?

12 PROSPECTIVE JUROR NUMBER 342: No.

13 MS. LUZAICH: Why not?

14 PROSPECTIVE JUROR NUMBER 342: For the simple reason
15 that everybody sees things differently. And, you know, like you brought
16 up different colors, I can go by one area all the time and I'll miss seeing
17 something. And I'll go by it again and I'll say, how long has it been that
18 way? They say, well, it's been six months, where you been?

19 So, you know, everybody sees things differently.

20 MS. LUZAICH: And different people react differently to the
21 same set of circumstances, would you agree?

22 PROSPECTIVE JUROR NUMBER 342: Very differently.

23 MS. LUZAICH: Do you think that an individual has the absolute
24 right to say no to the sexual advances of another person?

25 PROSPECTIVE JUROR NUMBER 342: Oh, yeah, I've had it

1 said to me.

2 MS. LUZAICH: So even if someone's in a relationship they can
3 still say no?

4 PROSPECTIVE JUROR NUMBER 342: Oh, my wife did.

5 MS. LUZAICH: And no means no?

6 PROSPECTIVE JUROR NUMBER 342: And no means no.

7 MS. LUZAICH: Is it ever acceptable to put hands on another
8 person?

9 PROSPECTIVE JUROR NUMBER 342: Only if they want it.

10 MS. LUZAICH: Fair enough.

11 Is there anything about you that would prevent you from being
12 able to sit in judgment?

13 PROSPECTIVE JUROR NUMBER 342: No.

14 MS. LUZAICH: So if you listen to all the testimony and you see
15 any evidence that's admitted, if you're convinced beyond a reasonable
16 doubt that the defendant committed the crimes that he is charged with,
17 would you be able to say the word guilty?

18 PROSPECTIVE JUROR NUMBER 342: Yes.

19 MS. LUZAICH: Thank you.

20 Pass for cause.

21 THE COURT: Thank you.

22 MS. MCNEILL: Thank you, Your Honor.

23 Good morning, Mr. McDougall.

24 PROSPECTIVE JUROR NUMBER 342: Good morning.

25 MS. MCNEILL: What's your favorite cowboy movie?

1 PROSPECTIVE JUROR NUMBER 342: Oh, I like a lot of the
2 John Wayne ones and the Alan Ladd ones and there's quite a few that I
3 like.

4 MS. MCNEILL: All right. Do you ever watch John Wayne in
5 non-cowboy movies, like, did you ever see the Quiet Man?

6 PROSPECTIVE JUROR NUMBER 342: No.

7 MS. MCNEILL: No? Okay. That's a good one. You should
8 check it out.

9 Okay. You -- I don't know if the judge asked you, or if I just
10 missed it, your five children, boys, girls, how many?

11 PROSPECTIVE JUROR NUMBER 342: Three girls, two boys.

12 MS. MCNEILL: Three girls, two boys, okay.

13 That'll keep you busy, huh?

14 PROSPECTIVE JUROR NUMBER 342: U'm-h'm.

15 MS. MCNEILL: All right.

16 PROSPECTIVE JUROR NUMBER 342: Yes.

17 MS. MCNEILL: You indicated that you don't try to read people.

18 PROSPECTIVE JUROR NUMBER 342: Not at all.

19 MS. MCNEILL: And I think that's a little different than what
20 people who don't do sales imagine salespeople do. How did you come to
21 that decision to just try to stop reading people?

22 PROSPECTIVE JUROR NUMBER 342: Because a lot of times
23 you can look at a person and you try to read 'em and it's altogether
24 different than what you thought the person was going to be like.

25 MS. MCNEILL: Okay.

1 PROSPECTIVE JUROR NUMBER 342: And until you get in a
2 conversation, or get to know the people, I don't think it's right to judge
3 somebody for something -- if I looked at you and I formed my own opinion,
4 it's not right.

5 MS. MCNEILL: Okay. I like it.

6 So it needs to be sort of a blank slate and let them prove who
7 they are?

8 PROSPECTIVE JUROR NUMBER 342: Definitely.

9 MS. MCNEILL: Okay. Do you think that skill will be an asset to
10 you as a juror?

11 PROSPECTIVE JUROR NUMBER 342: I don't know what to
12 expect as a juror.

13 MS. MCNEILL: That's fair enough.

14 PROSPECTIVE JUROR NUMBER 342: I really don't.

15 MS. MCNEILL: Fair enough.

16 You said that an honest story is easy; right, that you don't have
17 to remember it 'cause it's the truth and it happened?

18 PROSPECTIVE JUROR NUMBER 342: Yes, I did.

19 MS. MCNEILL: Is that the kind of thing that you think is
20 important for jurors to look for is, are the details changing, are they adding
21 things, are they forgetting things?

22 Is that the kind of thing you're going to use to help you evaluate
23 credibility?

24 PROSPECTIVE JUROR NUMBER 342: I think that the main
25 thing, again, is to listen to the people, and through questions of yourself

1 and the other side, hear the answers, and then weigh the evidence and go
2 from there.

3 MS. MCNEILL: Okay. You have three daughters and I'm sure
4 you have, out of all those eight grandchildren and three great
5 grandchildren, many of them are girls, is there anything about that that's
6 going to -- that Mr. Green should be worried about having someone like
7 you on a jury where maybe you'll feel you need to be a little more
8 protective?

9 PROSPECTIVE JUROR NUMBER 342: Definitely not.

10 MS. MCNEILL: Okay. All right. Never been on a jury before?

11 PROSPECTIVE JUROR NUMBER 342: No.

12 MS. MCNEILL: Looking forward to it?

13 PROSPECTIVE JUROR NUMBER 342: I'm here.

14 MS. MCNEILL: All right. I'll pass for cause, Your Honor.

15 THE COURT: Thank you very much.

16 All right. Mr. Larkin, how are you today?

17 PROSPECTIVE JUROR NUMBER 347: I'm fine this morning.

18 THE COURT: Good.

19 Is there any reason you could not be fair and impartial in this
20 case?

21 PROSPECTIVE JUROR NUMBER 347: No.

22 THE COURT: Can you wait in forming your opinion on the
23 appropriate result until all the evidence has been heard?

24 PROSPECTIVE JUROR NUMBER 347: Yes.

25 THE COURT: Have or anyone close to you worked in law

1 enforcement?

2 PROSPECTIVE JUROR NUMBER 347: No.

3 THE COURT: Have you or anyone close to you been charged
4 with a serious crime?

5 PROSPECTIVE JUROR NUMBER 347: No.

6 THE COURT: Have you or anyone close to you been the victim
7 of a serious crime?

8 PROSPECTIVE JUROR NUMBER 347: No.

9 THE COURT: Is there anything about the charges in this case
10 that would make it difficult for you to be fair and impartial?

11 PROSPECTIVE JUROR NUMBER 347: There are none.

12 THE COURT: I forgot to ask, have you or anyone close to you
13 been accused of or the victim of domestic violence or sexual abuse?

14 PROSPECTIVE JUROR NUMBER 347: They have not.

15 THE COURT: Can you base your verdict solely on the
16 evidence and the law that applies without fear of criticism or popular
17 opinion?

18 PROSPECTIVE JUROR NUMBER 347: Yes, I can.

19 THE COURT: Have you ever been a juror before?

20 PROSPECTIVE JUROR NUMBER 347: No.

21 THE COURT: If you were a party to this case, would you be
22 comfortable with jurors of a like frame of mind as yourself sitting in
23 judgment?

24 PROSPECTIVE JUROR NUMBER 347: Yes, I can.

25 THE COURT: How long have you lived in Clark County?

1 PROSPECTIVE JUROR NUMBER 347: 29 years.
2 THE COURT: What's the highest level of education you
3 completed?
4 PROSPECTIVE JUROR NUMBER 347: A bachelor of science.
5 THE COURT: In what?
6 PROSPECTIVE JUROR NUMBER 347: Major in psychology
7 and a minor in computer science.
8 THE COURT: Okay. Are you employed?
9 PROSPECTIVE JUROR NUMBER 347: Yes.
10 THE COURT: What do you do?
11 PROSPECTIVE JUROR NUMBER 347: I work in gaming.
12 THE COURT: Gaming, okay.
13 Are you married?
14 PROSPECTIVE JUROR NUMBER 347: Yes.
15 THE COURT: Is your spouse employed?
16 PROSPECTIVE JUROR NUMBER 347: No.
17 THE COURT: Do you have children?
18 PROSPECTIVE JUROR NUMBER 347: Three.
19 THE COURT: And what do they do?
20 PROSPECTIVE JUROR NUMBER 347: Daughter has her own
21 business, her oldest brother works with them, and the other son works in
22 medical transport.
23 THE COURT: Okay. State.
24 MS. LUZAICH: Did your wife work outside the home ever?
25 PROSPECTIVE JUROR NUMBER 347: Yes, she did.

1 MS. LUZAICH: What did she do?
2 PROSPECTIVE JUROR NUMBER 347: She was in food
3 service.
4 MS. LUZAICH: And you said you work in gaming?
5 PROSPECTIVE JUROR NUMBER 347: Yes.
6 MS. LUZAICH: What do you do?
7 PROSPECTIVE JUROR NUMBER 347: As a shift supervisor.
8 MS. LUZAICH: As a supervisor, do you have the ability to hire
9 and fire?
10 PROSPECTIVE JUROR NUMBER 347: No.
11 MS. LUZAICH: Do you have the ability to discipline?
12 PROSPECTIVE JUROR NUMBER 347: Yes.
13 MS. LUZAICH: And is that something that you've had to do?
14 PROSPECTIVE JUROR NUMBER 347: Well, we always have
15 to do that, yes.
16 MS. LUZAICH: Well, no, sometimes you have people that don't
17 do bad things.
18 PROSPECTIVE JUROR NUMBER 347: In our position we do,
19 yes.
20 MS. LUZAICH: So it's something that you are able to do?
21 PROSPECTIVE JUROR NUMBER 347: That's correct.
22 MS. LUZAICH: I mean, it may not be pleasant but you've done
23 it?
24 PROSPECTIVE JUROR NUMBER 347: Yeah.
25 MS. LUZAICH: And as a supervisor, do you deal with -- or do

1 you expect that you deal with people trying to lie to you?

2 PROSPECTIVE JUROR NUMBER 347: Quite frequently.

3 MS. LUZAICH: How can you tell?

4 PROSPECTIVE JUROR NUMBER 347: It's hard to judge,
5 through experience it really is. A lot of times you have to listen to both
6 sides and other parties included and then make your decision on the
7 majority of what the people say.

8 MS. LUZAICH: For how long have you been a supervisor?

9 PROSPECTIVE JUROR NUMBER 347: For 29 years.

10 MS. LUZAICH: So do you think that some of those skills that
11 you've acquired over those years you might be able to use here in court?

12 PROSPECTIVE JUROR NUMBER 347: Yes.

13 MS. LUZAICH: And you had three kids grown up?

14 PROSPECTIVE JUROR NUMBER 347: Three grown up kids,
15 yes.

16 MS. LUZAICH: Have you ever had to resolve disputes amongst
17 them as well?

18 PROSPECTIVE JUROR NUMBER 347: Yes.

19 MS. LUZAICH: Now, when they're your own kids you can kind
20 of tell when they're lying; would you agree?

21 PROSPECTIVE JUROR NUMBER 347: Yes, you can.

22 MS. LUZAICH: Witnesses that you don't know that'll be a little
23 different, maybe more like work?

24 PROSPECTIVE JUROR NUMBER 347: Yes.

25 MS. LUZAICH: Do people -- well, would you agree that

1 different people react differently to the same set of circumstances?

2 PROSPECTIVE JUROR NUMBER 347: Yes, of course, yeah.

3 MS. LUZAICH: And do you see that at work a lot?

4 PROSPECTIVE JUROR NUMBER 347: I see it, yes.

5 MS. LUZAICH: Do you think that in your -- I mean, as a
6 supervisor, you're watching the floor; right?

7 PROSPECTIVE JUROR NUMBER 347: That's correct, yeah.

8 MS. LUZAICH: Do you think that you've ever seen any kind of
9 domestic situations between, you know, strangers, you know, tourists,
10 or --

11 PROSPECTIVE JUROR NUMBER 347: Yes.

12 MS. LUZAICH? -- just people coming in?

13 PROSPECTIVE JUROR NUMBER 347: Just over a period of
14 time, yes.

15 MS. LUZAICH: Have you ever reported anything like that?

16 PROSPECTIVE JUROR NUMBER 347: Witness statements,
17 yes.

18 MS. LUZAICH: For example?

19 PROSPECTIVE JUROR NUMBER 347: Well, we have to write
20 witness statements up for -- if we have to call security on someone.

21 MS. LUZAICH: Okay. And have you been part of an
22 investigation?

23 PROSPECTIVE JUROR NUMBER 347: No.

24 MS. LUZAICH: Do you work closely with police?

25 PROSPECTIVE JUROR NUMBER 347: No, I don't, no.

1 MS. LUZAICH: No, not at all?
2 PROSPECTIVE JUROR NUMBER 347: No.
3 MS. LUZAICH: Surveillance?
4 PROSPECTIVE JUROR NUMBER 347: Surveillance, and --
5 yes.
6 MS. LUZAICH: Okay. Do you think that -- well, are you
7 expecting anything in this trial, given the nature of the charges?
8 PROSPECTIVE JUROR NUMBER 347: No expectations.
9 MS. LUZAICH: Nothing at all?
10 PROSPECTIVE JUROR NUMBER 347: No.
11 MS. LUZAICH: Do you have any idea how you think that a
12 person who has been through that kind of situation should either act or
13 react?
14 PROSPECTIVE JUROR NUMBER 347: Well, we all react
15 differently to situations, it's part of human nature.
16 MS. LUZAICH: Okay. So if, you know, the individual comes in
17 here and doesn't appear or act in the way that you think maybe one of
18 your children might have appeared or acted in that situation, you're not
19 going to automatically disbelieve somebody?
20 PROSPECTIVE JUROR NUMBER 347: No.
21 MS. LUZAICH: Would you consider yourself a fair and open
22 minded person?
23 PROSPECTIVE JUROR NUMBER 347: Yes.
24 MS. LUZAICH: Willing to wait until you form your opinion?
25 PROSPECTIVE JUROR NUMBER 347: Yes.

1 MS. LUZAICH: You agree with the saying, you can't judge a
2 book -- or shouldn't judge a book by its cover?

3 PROSPECTIVE JUROR NUMBER 347: Yes, I agree.

4 MS. LUZAICH: Is that something that you kind of see and live
5 with on a daily basis at work?

6 PROSPECTIVE JUROR NUMBER 347: You learn over time.

7 MS. LUZAICH: Do you think that you're a person who easily
8 expresses their views to strangers?

9 PROSPECTIVE JUROR NUMBER 347: Not all the time, no.

10 MS. LUZAICH: Back in the deliberation room, will you be
11 somebody who kind of leads the conversation or more sits back, listens,
12 and participates as needed?

13 PROSPECTIVE JUROR NUMBER 347: The more sits back
14 and listens to everything.

15 MS. LUZAICH: Okay. Is there anything about you that, having
16 sat here for two days, you think we need to know about yourself?

17 PROSPECTIVE JUROR NUMBER 347: No.

18 MS. LUZAICH: Is there any reason that you could not sit in
19 judgment?

20 PROSPECTIVE JUROR NUMBER 347: No.

21 MS. LUZAICH: So if you listen to all the testimony and see any
22 evidence, if you're convinced beyond a reasonable doubt the defendant
23 committed the crimes that he is charged with, would you be able to say
24 the word guilty?

25 PROSPECTIVE JUROR NUMBER 347: Yes.

1 MS. LUZAICH: Thank you.

2 Pass for cause.

3 MS. MCNEILL: Thank you, Your Honor.

4 You said you have a bachelor's in psychology.

5 PROSPECTIVE JUROR NUMBER 347: That's correct.

6 MS. MCNEILL: Okay. Does that come in handy when you're in
7 the casino?

8 PROSPECTIVE JUROR NUMBER 347: Well, yes, when you
9 interact with people, yes.

10 MS. MCNEILL: Okay. So you -- maybe you have a little bit
11 better idea about why sometimes people are doing the things they're
12 doing?

13 PROSPECTIVE JUROR NUMBER 347: That's correct, yeah.

14 MS. MCNEILL: Okay. You said as a supervisor you sometimes
15 have to deal with people lying to you.

16 PROSPECTIVE JUROR NUMBER 347: That's correct, yes.

17 MS. MCNEILL: What are some reasons that people lie to you?

18 PROSPECTIVE JUROR NUMBER 347: Well, they have a
19 vested interest in the results.

20 MS. MCNEILL: Okay. So they lie to save themselves from
21 trouble?

22 PROSPECTIVE JUROR NUMBER 347: That's correct yes.

23 MS. MCNEILL: Do you think that sometimes people lie out of
24 anger?

25 PROSPECTIVE JUROR NUMBER 347: It's possible, yeah.

1 MS. MCNEILL: Okay. You said you have three children?
2 PROSPECTIVE JUROR NUMBER 347: Correct.
3 MS. MCNEILL: Okay. Boys? Girls?
4 PROSPECTIVE JUROR NUMBER 347: Two boys and one girl.
5 MS. MCNEILL: Two boys and one girl; okay.
6 Do you ever have to resolve disputes between them when they
7 were younger?
8 PROSPECTIVE JUROR NUMBER 347: Yes.
9 MS. MCNEILL: Do you think that sometimes kids are especially
10 good at -- that lying to save themselves, you know --
11 PROSPECTIVE JUROR NUMBER 347: Yes, they do.
12 MS. MCNEILL: Yeah, the whole, you know, you watch them do
13 it and they say, I didn't do it.
14 PROSPECTIVE JUROR NUMBER 347: U'm-h'm.
15 MS. MCNEILL: And you're like, I just watched you do that;
16 right?
17 PROSPECTIVE JUROR NUMBER 347: Right.
18 MS. MCNEILL: Okay. Do you think sometimes with kids when
19 they lie they're even aware that they're lying?
20 PROSPECTIVE JUROR NUMBER 347: I believe they do.
21 MS. MCNEILL: Okay. Do you think kids perceive things the
22 same as adults?
23 PROSPECTIVE JUROR NUMBER 347: No.
24 MS. MCNEILL: Do you think that kids can be easily sort of
25 manipulated into believing something happened that maybe didn't?

1 PROSPECTIVE JUROR NUMBER 347: It's possible, yes.

2 MS. MCNEILL: And how does that happen?

3 PROSPECTIVE JUROR NUMBER 347: Through the -- I would
4 say through the -- their parents.

5 MS. MCNEILL: Okay. Their parents are telling them things
6 that --

7 PROSPECTIVE JUROR NUMBER 347: Right, they influence
8 on what they tell you.

9 MS. MCNEILL: Okay. You said you don't easily express your
10 views to strangers, is that by choice or?

11 PROSPECTIVE JUROR NUMBER 347: Well, it's more of I sit
12 back and listen to everything that's going on, make judgment from there.

13 MS. MCNEILL: Okay. So you'd rather take in the information
14 and kind of deal with it on your own and process it?

15 PROSPECTIVE JUROR NUMBER 347: Right.

16 MS. MCNEILL: Okay. Do you think that's a good skill to have
17 in the deliberation room?

18 PROSPECTIVE JUROR NUMBER 347: I believe it would be,
19 yes.

20 MS. MCNEILL: We heard a lot of people say that, yes, they
21 think they'd be a good juror, and I always wonder -- again, if you were
22 falsely accused of a crime, are you the kind of person you'd want on your
23 jury?

24 PROSPECTIVE JUROR NUMBER 347: I would say yes.

25 MS. MCNEILL: Okay. So you don't come in here with any

1 preconceived notion that because he's sitting here, with his defense
2 lawyer, he's got to be guilty?

3 PROSPECTIVE JUROR NUMBER 347: None, no.

4 MS. MCNEILL: Okay.

5 Your Honor, I'll pass for cause.

6 THE COURT: Thank you.

7 All right. Mr. Madrid, how are you?

8 PROSPECTIVE JUROR NUMBER 348: I'm fine.

9 THE COURT: Is there any reason you could not be fair and
10 impartial in this case?

11 PROSPECTIVE JUROR NUMBER 348: No.

12 THE COURT: Can you wait in forming your opinion on the
13 appropriate result until all the evidence has been heard?

14 PROSPECTIVE JUROR NUMBER 348: Yes.

15 THE COURT: Have you or anyone close to you worked in law
16 enforcement?

17 PROSPECTIVE JUROR NUMBER 348: Yes.

18 THE COURT: Who's that?

19 PROSPECTIVE JUROR NUMBER 348: My ex-wife.

20 THE COURT: Right, you told me about that.

21 So you had told me she was a LEST?

22 PROSPECTIVE JUROR NUMBER 348: Yes, she's promoted
23 on from that now.

24 THE COURT: Okay. And do you think that you would have a
25 tendency to give extra weight or credibility to the testimony of law

1 enforcement officers because they're law enforcement officers?

2 PROSPECTIVE JUROR NUMBER 348: No.

3 THE COURT: Do you think you could weigh their testimony as
4 you would weigh any witness testimony?

5 PROSPECTIVE JUROR NUMBER 348: Yes.

6 THE COURT: Have you or anyone close to you been charged
7 with a serious crime?

8 PROSPECTIVE JUROR NUMBER 348: No.

9 THE COURT: Have you or anyone close to you been the victim
10 of a serious crime?

11 PROSPECTIVE JUROR NUMBER 348: No.

12 THE COURT: Have you or anyone close to you been accused
13 of or the victim of domestic violence or sexual abuse?

14 PROSPECTIVE JUROR NUMBER 348: Yes, a high school
15 friend of mine, this goes back over 30 years, was convicted of a sex crime
16 and he's served his -- over -- about 12 years in prison and he's out now
17 and registered as an SO.

18 THE COURT: I'm sorry, I missed the last part.

19 PROSPECTIVE JUROR NUMBER 348: Registered as a
20 sexual offender.

21 THE COURT: Got it, okay.

22 Okay. So this is someone you were friends with in high school?

23 PROSPECTIVE JUROR NUMBER 348: Yes.

24 THE COURT: Were you still friendly with him at the time this
25 offense happened?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROSPECTIVE JUROR NUMBER 348: Yes.

THE COURT: Do you think he was treated fairly in his case?

PROSPECTIVE JUROR NUMBER 348: Yes.

THE COURT: Was it here in Las Vegas?

PROSPECTIVE JUROR NUMBER 348: No, Phoenix, Arizona.

THE COURT: Have you spoken to him at all since he got out of prison?

PROSPECTIVE JUROR NUMBER 348: Yes.

THE COURT: Okay. Would that, the fact that you've had a friend go through that experience, would that affect your ability to be fair and impartial in this case?

PROSPECTIVE JUROR NUMBER 348: No.

THE COURT: Is there anything about the charges in this case that would make it difficult for you to be fair and impartial?

PROSPECTIVE JUROR NUMBER 348: No.

THE COURT: Can you base your verdict solely on the evidence and the law that applies without fear of criticism or popular opinion?

PROSPECTIVE JUROR NUMBER 348: Yes.

THE COURT: Have you ever been a juror before?

PROSPECTIVE JUROR NUMBER 348: Yes.

THE COURT: How many times?

PROSPECTIVE JUROR NUMBER 348: Just once before.

THE COURT: And how long ago was that?

PROSPECTIVE JUROR NUMBER 348: About five years.

1 THE COURT: So was that here in Las Vegas?
2 PROSPECTIVE JUROR NUMBER 348: Yes.
3 THE COURT: Was that a civil or criminal case?
4 PROSPECTIVE JUROR NUMBER 348: Civil.
5 THE COURT: And without telling us what the verdict was, did
6 the jury reach a verdict in that case?
7 PROSPECTIVE JUROR NUMBER 348: Yes.
8 THE COURT: Were you the foreman?
9 PROSPECTIVE JUROR NUMBER 348: No.
10 THE COURT: Anything about that prior jury service that would
11 affect your ability to be a fair and impartial juror in this case?
12 PROSPECTIVE JUROR NUMBER 348: No.
13 THE COURT: Was it a good experience for you?
14 PROSPECTIVE JUROR NUMBER 348: Very much so.
15 THE COURT: All right, good.
16 Now, there's a different burden of proof that applies in civil
17 cases as opposed to criminal cases, would you follow my instructions on
18 the burden that applies in this case?
19 PROSPECTIVE JUROR NUMBER 348: Absolutely.
20 THE COURT: If you were a party to this case, would you be
21 comfortable with jurors of a like frame of mind as yourself sitting in
22 judgment?
23 PROSPECTIVE JUROR NUMBER 348: Yes.
24 THE COURT: How long have you lived here in Clark County?
25 PROSPECTIVE JUROR NUMBER 348: 22 years.

1 THE COURT: And what's the highest level of education you've
2 completed?

3 PROSPECTIVE JUROR NUMBER 348: I've earned two
4 masters degrees.

5 THE COURT: In what fields?

6 PROSPECTIVE JUROR NUMBER 348: Education
7 administration and supervision and educational technology.

8 THE COURT: Are you employed?

9 PROSPECTIVE JUROR NUMBER 348: Recently retired.

10 THE COURT: And what did you do before retiring?

11 PROSPECTIVE JUROR NUMBER 348: 28 years, a classroom
12 teacher.

13 THE COURT: And what did you teach?

14 PROSPECTIVE JUROR NUMBER 348: Elementary for 12
15 years and the last eight years middle school.

16 THE COURT: And what subject were you teaching in middle
17 school?

18 PROSPECTIVE JUROR NUMBER 348: Both reading and
19 math.

20 THE COURT: Okay. And you've told us about your wife's
21 employment already -- or your ex-wife, I should say.

22 PROSPECTIVE JUROR NUMBER 348: Yes.

23 THE COURT: All right. But are you currently married?

24 PROSPECTIVE JUROR NUMBER 348: I am.

25 THE COURT: Okay. And is your wife employed?

1 PROSPECTIVE JUROR NUMBER 348: She retired also.

2 THE COURT: And what did she do before retiring?

3 PROSPECTIVE JUROR NUMBER 348: She was a waitress for
4 over 20 years.

5 THE COURT: Okay. Do you have children?

6 PROSPECTIVE JUROR NUMBER 348: I have three from my
7 first wife.

8 THE COURT: And what do they do?

9 PROSPECTIVE JUROR NUMBER 348: One of 'em -- the
10 youngest is a student at UNLV, the older graduated from UNR and is
11 married to a captain in the army, and my son, who's here, he's a -- he has
12 his own business with his wife and he works at the BJ's Restaurant.

13 THE COURT: Ah, yes. Okay.

14 All right. State.

15 MS. LUZAICH: Thank you.

16 Good afternoon, Mr. Madrid.

17 PROSPECTIVE JUROR NUMBER 348: Good afternoon.

18 MS. MCNEILL: We finally pushed past noon.

19 Your friend who had been convicted in Arizona, did he go to
20 trial? Did he enter into some kind of negotiation? Do you know?

21 PROSPECTIVE JUROR NUMBER 348: You know what, I don't
22 recall that.

23 MS. LUZAICH: Okay. Were you in Phoenix when this all
24 occurred?

25 PROSPECTIVE JUROR NUMBER 348: I was.

1 MS. LUZAICH: Did you -- participate is the wrong word, but did
2 you ever like go to court to see what was happening?

3 PROSPECTIVE JUROR NUMBER 348: No, I only heard about
4 it afterward that he was in prison.

5 MS. LUZAICH: Okay. And you told the Court that you believed
6 he was treated fairly, is that because of things that you heard from him or
7 from other people?

8 PROSPECTIVE JUROR NUMBER 348: I would say from him.

9 MS. LUZAICH: So you won't have -- I mean, it happened in
10 Arizona, so Arizona police and Arizona courts and Arizona prosecutor;
11 correct?

12 PROSPECTIVE JUROR NUMBER 348: Correct.

13 MS. LUZAICH: So I can't imagine you would harbor any bad
14 will towards police or prosecutors or courts here?

15 PROSPECTIVE JUROR NUMBER 348: Not at all.

16 MS. LUZAICH: Not even there?

17 PROSPECTIVE JUROR NUMBER 348: No, I would say no.

18 MS. LUZAICH: When you served on a jury here, you said it
19 was a civil case.

20 PROSPECTIVE JUROR NUMBER 348: Yes.

21 MS. LUZAICH: And that it was a very good experience, what
22 was good about it?

23 PROSPECTIVE JUROR NUMBER 348: Well, it was the first
24 time being called to jury duty, I was always curious as to the whole
25 process and I enjoyed it. I enjoyed the whole process.

1 MS. LUZAICH: Did jury selection go faster in that case?

2 PROSPECTIVE JUROR NUMBER 348: Absolutely.

3 MS. LUZAICH: I had to ask, sorry.

4 You said it was civil, what was the nature of the case?

5 PROSPECTIVE JUROR NUMBER 348: I'm sorry, say it again.

6 MS. LUZAICH: Like, was it an accident, was it a construction

7 issue, was it --

8 PROSPECTIVE JUROR NUMBER 348: Yes, it was -- a transit,
9 those mini transit buses and a car merging onto the freeway at the same
10 time and they had an accident.

11 MS. LUZAICH: So you had to decide whether or not somebody
12 was at fault and whether or not somebody got damages?

13 PROSPECTIVE JUROR NUMBER 348: Exactly.

14 MS. LUZAICH: What did you think of the deliberation process?

15 PROSPECTIVE JUROR NUMBER 348: I thought it went fairly
16 well, yeah, I thought it went well.

17 MS. LUZAICH: Did everybody share their thoughts?

18 PROSPECTIVE JUROR NUMBER 348: Did everybody?

19 MS. LUZAICH: Share their thoughts.

20 PROSPECTIVE JUROR NUMBER 348: They did, they did.

21 MS. LUZAICH: And the judge indicated to you the burden of
22 proof is different here, but it literally, everything is different in a criminal
23 case than in a civil case.

24 Do you understand that?

25 PROSPECTIVE JUROR NUMBER 348: I do.

1 MS. LUZAICH: So anything that you remember or anything that
2 you learned from that trial will you forget and only pay attention to what
3 the Court, our judge, tells you here?

4 PROSPECTIVE JUROR NUMBER 348: Absolutely.

5 MS. LUZAICH: Would you agree that an individual has the
6 absolute right to say no to sexual advances?

7 PROSPECTIVE JUROR NUMBER 348: Yes.

8 MS. LUZAICH: Does a person ever give up that right?

9 PROSPECTIVE JUROR NUMBER 348: Never.

10 MS. LUZAICH: Do you think or can you envision any kind of
11 situation where no might mean convince me?

12 PROSPECTIVE JUROR NUMBER 348: No.

13 MS. LUZAICH: No always means no?

14 PROSPECTIVE JUROR NUMBER 348: No always means no.

15 MS. LUZAICH: Is it ever acceptable to put hands on another
16 person?

17 PROSPECTIVE JUROR NUMBER 348: No.

18 MS. LUZAICH: So domestic violence is also not acceptable;
19 right?

20 PROSPECTIVE JUROR NUMBER 348: No.

21 MS. LUZAICH: Do you have any expectations of what you
22 might see in this trial?

23 PROSPECTIVE JUROR NUMBER 348: None.

24 MS. LUZAICH: Nothing at all?

25 PROSPECTIVE JUROR NUMBER 348: I don't.

1 MS. LUZAICH: You come in with a totally open mind?

2 PROSPECTIVE JUROR NUMBER 348: Exactly.

3 MS. LUZAICH: You would agree that different people react
4 differently to the same set of circumstances?

5 PROSPECTIVE JUROR NUMBER 348: Yes.

6 MS. LUZAICH: So if the individual comes in here and testifies,
7 acts differently than maybe one of your daughters might have, you won't
8 automatically disbelieve that person?

9 PROSPECTIVE JUROR NUMBER 348: That's right.

10 MS. LUZAICH: As a teacher for all those years, you were a
11 mandated reporter; correct?

12 PROSPECTIVE JUROR NUMBER 348: Yes.

13 MS. LUZAICH: Did you ever have an occasion to report
14 anything that you had seen?

15 PROSPECTIVE JUROR NUMBER 348: Nothing sexual that I
16 can recall, just fights.

17 MS. LUZAICH: But like no physical abuse, like no child that you
18 believed had been abused or --

19 PROSPECTIVE JUROR NUMBER 348: No.

20 MS. LUZAICH: -- anything like that?

21 PROSPECTIVE JUROR NUMBER 348: No, it never came
22 across me, only maybe heard of it from other teachers having to deal with
23 it.

24 MS. LUZAICH: Okay. And you would agree that you can't
25 judge a book by its cover?

1 PROSPECTIVE JUROR NUMBER 348: I agree.

2 MS. LUZAICH: You'll just listen to what everybody has to say
3 objectively?

4 PROSPECTIVE JUROR NUMBER 348: Yes.

5 MS. LUZAICH: And you can evaluate the testimony of a police
6 officer the same as any other witness?

7 PROSPECTIVE JUROR NUMBER 348: Yes.

8 MS. LUZAICH: When your ex-wife -- did she work at Metro the
9 whole time that you and she were together?

10 PROSPECTIVE JUROR NUMBER 348: Yes, and continues
11 today.

12 MS. LUZAICH: And then other than Sergeant Smith, there was
13 nobody's name that you recognized?

14 PROSPECTIVE JUROR NUMBER 348: I did not.

15 MS. LUZAICH: Is there anything about you that would prevent
16 you from being able to sit in judgment?

17 PROSPECTIVE JUROR NUMBER 348: No.

18 MS. LUZAICH: So if you listen to the testimony and see any
19 evidence, if you're convinced beyond a reasonable doubt that the
20 defendant committed the crimes that he is charged with it, would you be
21 able to say the word guilty?

22 PROSPECTIVE JUROR NUMBER 348: Yes.

23 MS. LUZAICH: Thank you.

24 Pass for cause.

25 MS. MCNEILL: Thank you, Your Honor.

1 Hi, Mr. Madrid.

2 PROSPECTIVE JUROR NUMBER 348: Hi.

3 MS. MCNEILL: So eight years in middle school.

4 PROSPECTIVE JUROR NUMBER 348: Yes.

5 MS. MCNEILL: Rough; right?

6 PROSPECTIVE JUROR NUMBER 348: It is.

7 MS. MCNEILL: That's kind of a weird time in kid's lives.

8 PROSPECTIVE JUROR NUMBER 348: The hormones are

9 going crazy.

10 MS. MCNEILL: Yes, okay, I have a 13 year old and it's killing

11 me so.

12 Would you agree with me that part of the reason they're difficult

13 at that age is they have trouble sort of regulating their emotions?

14 PROSPECTIVE JUROR NUMBER 348: Absolutely.

15 MS. MCNEILL: Okay. Do you think that there are some people

16 who that kind of continues into adulthood, they just don't have the skills to,

17 I guess, control their impulse?

18 PROSPECTIVE JUROR NUMBER 348: I would agree with

19 that.

20 MS. MCNEILL: Okay. Your ex-wife, who worked at Metro, I

21 imagine she talked a little bit about some of the officers that came into

22 contact with; right?

23 PROSPECTIVE JUROR NUMBER 348: Often.

24 MS. MCNEILL: Okay. Would you agree with me that police

25 are -- they have a very dangerous job but at the end of the day they have

1 all the same problems that the rest of us have?

2 PROSPECTIVE JUROR NUMBER 348: Absolutely.

3 MS. MCNEILL: And would you agree based on some of the
4 things that she told you that really they're only as good as the information
5 that they gave; right, if someone gives them bad information, they have to
6 act on it, sometimes they don't get to make the calls whether it's right or
7 wrong, they just have to act?

8 PROSPECTIVE JUROR NUMBER 348: I would agree with
9 that.

10 MS. MCNEILL: So if the police get bad information, it's not
11 necessarily the officer's fault ,if it later turns out that person was lying;
12 right?

13 PROSPECTIVE JUROR NUMBER 348: I would agree.

14 MS. MCNEILL: Okay. Your high school friend that was
15 convicted of the sex crime, was it someone that he knew or?

16 PROSPECTIVE JUROR NUMBER 348: Yes, it was.

17 MS. MCNEILL: Okay. Did you get a lot of the details about that
18 or did you just kind of get the basic?

19 PROSPECTIVE JUROR NUMBER 348: No, since then I've
20 gotten all the details.

21 MS. MCNEILL: From him?

22 PROSPECTIVE JUROR NUMBER 348: Directly.

23 MS. MCNEILL: Okay. Do you think that it's easier to falsely
24 accuse someone of that kind of crime than it would be a crime that might
25 require a little bit more independent proof?

1 PROSPECTIVE JUROR NUMBER 348: Ask me -- try to ask
2 me different. I'm trying to understand how to --

3 MS. MCNEILL: Well, I mean, sometimes if it's a domestic
4 situation we hear the phrase, he said, she said; right?

5 PROSPECTIVE JUROR NUMBER 348: Right.

6 MS. MCNEILL: And so all you have is one person saying it
7 happened and one person saying it didn't.

8 PROSPECTIVE JUROR NUMBER 348: Since it wasn't
9 domestic, it doesn't relate.

10 MS. MCNEILL: To his, yeah.

11 I'm just saying in general, do you think in those situations it's
12 easier to make something up, an allegation where it just requires your
13 word versus a case where you might need fingerprints or something to
14 prove that it happened?

15 PROSPECTIVE JUROR NUMBER 348: I don't -- I don't think it
16 would be more difficult.

17 MS. MCNEILL: Okay. What kind of things would you want to
18 see in a trial like this, where it is a domestic situation, to make sure that
19 there isn't some type of false allegation?

20 PROSPECTIVE JUROR NUMBER 348: I just want to hear all
21 the facts and the evidence that you guys bring forward.

22 MS. MCNEILL: Okay. You said you taught reading and math in
23 middle school.

24 PROSPECTIVE JUROR NUMBER 348: Yes.

25 MS. MCNEILL: Okay. In elementary school you sort of did all

1 subjects; right?

2 PROSPECTIVE JUROR NUMBER 348: Yes.

3 MS. MCNEILL: Anything about all of your work with children
4 and the fact that you have your own that would make it difficult to sit and
5 listen to these types of charges?

6 PROSPECTIVE JUROR NUMBER 348: Not at all.

7 MS. MCNEILL: Do you think you're a good judge of character?

8 PROSPECTIVE JUROR NUMBER 348: I think so.

9 MS. MCNEILL: Okay. It doesn't necessarily mean it's true, I
10 guess is what you're saying; right?

11 PROSPECTIVE JUROR NUMBER 348: That's right.

12 MS. MCNEILL: Okay, that's fair.

13 You indicated that you thought your friend was treated fairly, is
14 that because he's later sort of said to you, I was guilty of what I did?

15 PROSPECTIVE JUROR NUMBER 348: Yes, exactly.

16 MS. MCNEILL: If he had said to you, I didn't do that, would you
17 have a different opinion about how the system treated him?

18 PROSPECTIVE JUROR NUMBER 348: Just from the
19 circumstances, there's no way he could have said that.

20 MS. MCNEILL: Okay. But, I mean, if he said to you, at some
21 point, I didn't do it, and that's all you knew, do you think the system would
22 have treated him fairly?

23 PROSPECTIVE JUROR NUMBER 348: I think so.

24 MS. MCNEILL: Okay. Do you have concerns that it's easy for
25 people to be falsely convicted?

1 PROSPECTIVE JUROR NUMBER 348: I think it's difficult to
2 be --

3 MS. MCNEILL: You do? Okay.

4 Why do you think it's difficult?

5 PROSPECTIVE JUROR NUMBER 348: Well, it depends on
6 the circumstance. That's a difficult question for me to answer there. To
7 be -- is it easier to be falsely --

8 MS. MCNEILL: Not easier.

9 Just do you think the way the system is designed, it's easy for
10 some people to sort of slip through the cracks?

11 PROSPECTIVE JUROR NUMBER 348: That happens.

12 MS. MCNEILL: Okay.

13 PROSPECTIVE JUROR NUMBER 348: I'll agree with that.

14 MS. MCNEILL: Okay. So maybe it doesn't happen often but it
15 does happen?

16 PROSPECTIVE JUROR NUMBER 348: Yes.

17 MS. MCNEILL: Okay. Why do you think that it happens?

18 PROSPECTIVE JUROR NUMBER 348: Well, people are
19 protecting themselves, you know, on both sides, you know, whether law
20 enforcement needs to cover something that would be terrible or the bad
21 guys trying to get out of what he's done illegally.

22 MS. MCNEILL: Okay. So it sounds like you're saying, what's
23 going to be important to you is to think about everybody's motives, from
24 the police officers to the defendant to the witnesses that testify, to make
25 sure that you're critically hearing what they're saying --

1 PROSPECTIVE JUROR NUMBER 348: What --
2 MS. MCNEILL: -- and not --
3 PROSPECTIVE JUROR NUMBER 348: Yes.
4 MS. MCNEILL: -- getting swept away maybe by emotion --
5 PROSPECTIVE JUROR NUMBER 348: Exactly.
6 MS. MCNEILL: -- right? Okay.
7 I appreciate that. Thank you, Mr. Madrid.
8 I'll pass for cause.
9 THE COURT: All right. So Mr. Rivera; correct?
10 PROSPECTIVE JUROR NUMBER 349: Yes, thank you.
11 THE COURT: How are you today?
12 PROSPECTIVE JUROR NUMBER 349: Fine. Thank you for
13 letting me come.
14 THE COURT: Happy to have you. I appreciate that.
15 Is there any reason you could not be fair and impartial in this
16 case?
17 PROSPECTIVE JUROR NUMBER 349: Yes, there is.
18 THE COURT: And what's that?
19 PROSPECTIVE JUROR NUMBER 349: I just retired as a
20 nurse from UMC, I've dealt with these kind of cases for 20 years. Plus
21 I've seen results of the domestic violence, I've seen the aftermath of
22 domestic violence, and I dealt with the patients and the victims of
23 domestic violence. It's -- I've seen a lot of it.
24 THE COURT: Right.
25 And because of what you have seen, and those experiences

1 you've had, you're telling me that you would not be able to be fair and
2 impartial?

3 PROSPECTIVE JUROR NUMBER 349: Absolutely.

4 THE COURT: All right.

5 Counsel?

6 MS. LUZAICH: No objection.

7 MS. MCNEILL: No objection, Your Honor.

8 THE COURT: All right. Thank you very much for spending
9 three days with us. I am going to excuse you. Thanks very much for
10 letting me know about that.

11 PROSPECTIVE JUROR NUMBER 349: Thank you.

12 THE COURT: All right. Just leave the mic there. Yeah, thank
13 you.

14 THE CLERK: Next in seat 19 is badge number 505, Jacob
15 Esparza.

16 THE COURT: All right. Mr. Esparza, how are you?

17 PROSPECTIVE JUROR NUMBER 505: Good.

18 THE COURT: Good.

19 Is there any reason you could not be fair and impartial in this
20 case?

21 PROSPECTIVE JUROR NUMBER 505: Yes.

22 THE COURT: Tell me about that.

23 PROSPECTIVE JUROR NUMBER 505: I have a family full of
24 law enforcement.

25 THE COURT: Okay. All right. So tell me who in your family is

1 law enforcement and what they do?

2 PROSPECTIVE JUROR NUMBER 505: Yeah, I have three
3 uncles in law enforcement.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR NUMBER 505: One is a commander,
6 one is a sergeant, and one is retired, he was undercover and a training
7 officer.

8 THE COURT: And were they here in Las Vegas, in Metro?

9 PROSPECTIVE JUROR NUMBER 505: It's California.

10 THE COURT: In California; okay.

11 Okay. So there's three uncles, so are they related to your
12 mother or your father?

13 PROSPECTIVE JUROR NUMBER 505: My dad's brothers.

14 THE COURT: Okay. And how would the fact that they're in
15 those positions affect your ability to be fair and impartial in this case?

16 PROSPECTIVE JUROR NUMBER 505: I mean, growing up
17 around law enforcement I just -- I know 'em really well. I just have a really
18 good appreciation for the job and they've been a really big influence in my
19 life.

20 THE COURT: Okay. So are you -- so, I guess, in this case,
21 they're going to be, obviously, a variety of witnesses are going to testify,
22 including some law enforcement officers, are you going to automatically
23 believe what a law enforcement officer says because they're law
24 enforcement?

25 PROSPECTIVE JUROR NUMBER 505: I mean -- I don't know.

1 THE COURT: Okay. You're having to think about that one;
2 right?

3 PROSPECTIVE JUROR NUMBER 505: I mean --

4 THE COURT: Yes?

5 PROSPECTIVE JUROR NUMBER 505: Yes.

6 THE COURT: Sorry, I just want to make sure your reaction is
7 on the record.

8 So obviously we have this criminal case, we have charges
9 brought by the State, but we haven't heard any evidence yet. Are you
10 saying that because of -- because of your background and your
11 experiences, that you may be prejudging what happens here?

12 PROSPECTIVE JUROR NUMBER 505: Not necessarily
13 prejudging, but I just think I, like I said, 'cause I -- 'cause I know law
14 enforcement, because I've grown up around them, I just have a different
15 perspective.

16 THE COURT: Right.

17 Okay. All right. Counsel, come on up, please.

18 [Bench conference begins]

19 MS. LUZAICH: I was waiting for him to say because he's sitting
20 there he must be guilty.

21 THE COURT: All right.

22 MS. LUZAICH: I think he's trying not to say that.

23 MS. MCNEILL: I do too.

24 THE COURT: Yeah, you want -- go ahead and excuse him now
25 or should I keep going?

1 MS. LUZAICH: I would say in the interest of time --
2 MS. MCNEILL: Just --
3 MS. LUZAICH: -- if you want to excuse him --
4 MS. MCNEILL: Yeah.
5 MS. LUZAICH: -- I won't object.
6 THE COURT: Okay.
7 MS. LUZAICH: While I would like to keep him, I won't object.
8 THE COURT: Okay.
9 [Bench conference ends]
10 THE COURT: Okay. All right. I appreciate that background,
11 experience, that you have and the bias that you bring in, I appreciate you
12 letting me know about that. I'm going to go ahead and excuse you at this
13 time. Thanks for your time.
14 THE CLERK: Next in seat 19 is badge number 511, Santos
15 Portillo.
16 THE COURT: All right. Ms. Portillo, how are you today?
17 PROSPECTIVE JUROR NUMBER 511: Good. And you?
18 THE COURT: Good.
19 Is there any reason you could not be fair and impartial in this
20 case?
21 PROSPECTIVE JUROR NUMBER 511: No.
22 THE COURT: Can you wait in forming your opinion on the
23 appropriate result until all the evidence has been heard?
24 PROSPECTIVE JUROR NUMBER 511: Yes.
25 THE COURT: Have or anyone close to you worked in law

1 enforcement?

2 PROSPECTIVE JUROR NUMBER 511: No.

3 THE COURT: Have you or anyone close to you been charged
4 with a serious crime?

5 PROSPECTIVE JUROR NUMBER 511: No.

6 THE COURT: Have you or anyone close to you been the victim
7 of a serious crime?

8 PROSPECTIVE JUROR NUMBER 511: No.

9 THE COURT: Have you or anyone close to you been accused
10 of or the victim of domestic violence or sexual abuse?

11 PROSPECTIVE JUROR NUMBER 511: No.

12 THE COURT: Is there anything about the charges in this case
13 that would make it difficult for you to be fair and impartial?

14 PROSPECTIVE JUROR NUMBER 511: No.

15 THE COURT: Can you base your verdict solely on the
16 evidence and the law that applies without fear of criticism or popular
17 opinion?

18 PROSPECTIVE JUROR NUMBER 511: Yes.

19 THE COURT: Have you ever been a juror before?

20 PROSPECTIVE JUROR NUMBER 511: No.

21 THE COURT: If you were a party to this case, would you be
22 comfortable with jurors of a like frame of mind as yourself sitting in
23 judgment?

24 PROSPECTIVE JUROR NUMBER 511: Yes.

25 THE COURT: How long have you lived here in Clark County?

1 PROSPECTIVE JUROR NUMBER 511: 24 years.
2 THE COURT: And what's the highest level of education you've
3 completed?
4 PROSPECTIVE JUROR NUMBER 511: 11.
5 THE COURT: 11th grade?
6 PROSPECTIVE JUROR NUMBER 511: Yes.
7 THE COURT: Are you employed?
8 PROSPECTIVE JUROR NUMBER 511: No.
9 THE COURT: And are you married?
10 PROSPECTIVE JUROR NUMBER 511: Yes.
11 THE COURT: Is your spouse employed?
12 PROSPECTIVE JUROR NUMBER 511: Yes.
13 THE COURT: Doing what?
14 PROSPECTIVE JUROR NUMBER 511: He works in
15 landscaping.
16 THE COURT: Okay. Do you have any children?
17 PROSPECTIVE JUROR NUMBER 511: Yes, two.
18 THE COURT: And how old are they?
19 PROSPECTIVE JUROR NUMBER 511: One is ten and the
20 other one is six.
21 THE COURT: And boys or girls?
22 PROSPECTIVE JUROR NUMBER 511: One girl and one boy.
23 THE COURT: Okay. State.
24 MS. LUZAICH: Thank you.
25 Good afternoon, ma'am.

1 PROSPECTIVE JUROR NUMBER 511: Good afternoon.
2 MS. LUZAICH: Have you ever worked outside the home?
3 PROSPECTIVE JUROR NUMBER 511: No.
4 MS. LUZAICH: I guess, in the home you work harder than any
5 of us do.
6 PROSPECTIVE JUROR NUMBER 511: Yes.
7 MS. LUZAICH: You lived most of your life here in Las Vegas?
8 PROSPECTIVE JUROR NUMBER 511: Yes.
9 MS. LUZAICH: So you went to high school here?
10 PROSPECTIVE JUROR NUMBER 511: Yes.
11 MS. LUZAICH: Did you ever have any friends who got
12 themselves into kind of domestic violence relationships?
13 PROSPECTIVE JUROR NUMBER 511: No.
14 MS. LUZAICH: Nothing like that.
15 No family members, nothing like that?
16 PROSPECTIVE JUROR NUMBER 511: No.
17 MS. LUZAICH: Do you have any expectations about what you
18 might see in this trial based on what you hear the charges are?
19 PROSPECTIVE JUROR NUMBER 511: No.
20 MS. LUZAICH: Would you agree that a person has the
21 absolute right to say no to sexual advances?
22 PROSPECTIVE JUROR NUMBER 511: Yes.
23 MS. LUZAICH: Can you envision a situation where that person
24 would ever give up that right?
25 PROSPECTIVE JUROR NUMBER 511: No.

1 MS. LUZAICH: And no never means convince me; right?

2 PROSPECTIVE JUROR NUMBER 511: No.

3 MS. LUZAICH: Do you think that it's ever acceptable to lay
4 hands on another person?

5 PROSPECTIVE JUROR NUMBER 511: No.

6 MS. LUZAICH: Do you watch any of those court shows, or CSI,
7 or anything like that?

8 PROSPECTIVE JUROR NUMBER 511: No, I just watch
9 cartoons with my kids.

10 MS. LUZAICH: So a little adult conversation is nice for a few
11 days; right?

12 PROSPECTIVE JUROR NUMBER 511: Yes.

13 MS. LUZAICH: Your kids are going to be okay at home while
14 you're here?

15 PROSPECTIVE JUROR NUMBER 511: Right now they're with
16 a babysitter, so, yeah, they're okay.

17 MS. LUZAICH: What are they doing for the summer?

18 PROSPECTIVE JUROR NUMBER 511: Technically they're
19 almost kind of, like, all day in the pool, my pool that I have there, but like
20 right now they are -- I'm not there, so they're not in the pool.

21 MS. LUZAICH: Okay.

22 PROSPECTIVE JUROR NUMBER 511: Or sometimes --

23 MS. LUZAICH: Okay. The babysitter doesn't take them in the
24 pool?

25 PROSPECTIVE JUROR NUMBER 511: She take them to the

1 library or they can be reading and doing fun stuff over there.

2 MS. LUZAICH: Even better.

3 PROSPECTIVE JUROR NUMBER 511: U'm-h'm.

4 MS. LUZAICH: Would you consider yourself a person who has
5 an easy time or a harder time talking to strangers?

6 PROSPECTIVE JUROR NUMBER 511: Harder time.

7 MS. LUZAICH: Okay. So if you go back in the deliberation
8 room, after you listen to the evidence and the testimony, will you be able
9 to share your opinions with the fellow jurors?

10 PROSPECTIVE JUROR NUMBER 511: Yes, if I have to, yes.

11 MS. LUZAICH: Okay, yes, you will have to.

12 If all of them feel one way and you feel the other way, how will
13 you handle that?

14 PROSPECTIVE JUROR NUMBER 511: I'll try to say the things,
15 what I'm -- h'm? I will try to do my best to make 'em see like it's the
16 opposite way.

17 MS. LUZAICH: To share your opinion?

18 PROSPECTIVE JUROR NUMBER 511: Yes.

19 MS. LUZAICH: Okay. You'll listen to what they have to say as
20 well?

21 PROSPECTIVE JUROR NUMBER 511: Yes.

22 MS. LUZAICH: If you're sure that you are correct, will you stick
23 to your guns?

24 PROSPECTIVE JUROR NUMBER 511: Yes.

25 MS. LUZAICH: But is it also possible that if maybe they heard

1 something that you didn't, or saw something that you didn't, that you could
2 possibly change your mind?

3 PROSPECTIVE JUROR NUMBER 511: Yes.

4 MS. LUZAICH: But you won't change your mind just 'cause you
5 want to go home?

6 PROSPECTIVE JUROR NUMBER 511: No.

7 MS. LUZAICH: Okay. How might you evaluate the testimony of
8 witnesses that you don't know?

9 PROSPECTIVE JUROR NUMBER 511: It's hard. It will be
10 hard.

11 MS. LUZAICH: Will you listen to what they have to say and
12 compare it to what other people say?

13 PROSPECTIVE JUROR NUMBER 511: Yes.

14 MS. LUZAICH: Will you compare it to what any -- what
15 evidence that you might see?

16 PROSPECTIVE JUROR NUMBER 511: Yes.

17 MS. LUZAICH: Do you think that it would be embarrassing for
18 somebody to come in here and talk to a room full of strangers about
19 sexual details?

20 PROSPECTIVE JUROR NUMBER 511: It will be.

21 MS. LUZAICH: Is that something that you might take into
22 consideration when you're listening to witnesses?

23 PROSPECTIVE JUROR NUMBER 511: Yes.

24 MS. LUZAICH: Do you think that if two people describe one
25 event for you but they describe it differently, that you would have a hard

1 time with that?

2 PROSPECTIVE JUROR NUMBER 511: No, because
3 everybody thinks different ways and everybody sees different ways too.

4 MS. LUZAICH: Would you agree that everybody brings their
5 own background into their viewpoints?

6 PROSPECTIVE JUROR NUMBER 511: Yes.

7 MS. LUZAICH: And is that also something that you'll take into
8 consideration?

9 PROSPECTIVE JUROR NUMBER 511: Yes.

10 MS. LUZAICH: Is there anything about you that would prevent
11 you from being able to sit in judgment?

12 PROSPECTIVE JUROR NUMBER 511: No.

13 MS. LUZAICH: And if do you listen to the testimony and see
14 the evidence, if you're convinced beyond a reasonable doubt the
15 defendant committed the crimes that he's charged with, would you be able
16 to say the word guilty?

17 PROSPECTIVE JUROR NUMBER 511: Yes.

18 MS. LUZAICH: Thank you.

19 Pass for cause.

20 THE COURT: Thank you.

21 MS. MCNEILL: Thank you, Your Honor.

22 Good afternoon, Ms. Portillo.

23 PROSPECTIVE JUROR NUMBER 511: Good afternoon.

24 MS. MCNEILL: Did you work prior to having your children?

25 PROSPECTIVE JUROR NUMBER 511: No.

1 MS. MCNEILL: Okay. All right. What high school did you go to
2 here in town?

3 PROSPECTIVE JUROR NUMBER 511: I went to Roy -- Desert
4 Pine.

5 MS. MCNEILL: Okay. All right. And then Roy Martin Middle
6 School? Is that what you were saying?

7 PROSPECTIVE JUROR NUMBER 511: Yes.

8 MS. MCNEILL: Okay. All right. You indicated that you agree it
9 would be embarrassing to talk about sexual details.

10 PROSPECTIVE JUROR NUMBER 511: Yes.

11 MS. MCNEILL: Does the fact that someone's going to come in
12 and talk about something that you would consider embarrassing, mean
13 that she must be telling the truth?

14 PROSPECTIVE JUROR NUMBER 511: Sometimes not.

15 MS. MCNEILL: Okay. And why is that?

16 PROSPECTIVE JUROR NUMBER 511: Because sometimes
17 they want -- not they don't want 'em there, so they try to make 'em go if
18 they don't want to, so they call the police and say things they're not -- it
19 was not true.

20 MS. MCNEILL: Okay. So you've heard of situations where
21 people will give the police false information?

22 PROSPECTIVE JUROR NUMBER 511: Yes.

23 MS. MCNEILL: Okay. You said a little bit about, what people
24 can describe things differently because they're maybe looking for different
25 details -- at different details; right?

1 PROSPECTIVE JUROR NUMBER 511: Yes.

2 MS. MCNEILL: Would you agree with me though that there
3 should be -- that there are some details that should be the same; right?

4 PROSPECTIVE JUROR NUMBER 511: Yes.

5 MS. MCNEILL: I mean, if it happened at nighttime, you would
6 hope that both people noticed it happened at nighttime; right?

7 PROSPECTIVE JUROR NUMBER 511: Yes.

8 MS. MCNEILL: And if one person said it happened in the
9 daytime, you might be a little concerned about that; right?

10 PROSPECTIVE JUROR NUMBER 511: Yes.

11 MS. MCNEILL: Okay. You said you haven't had any friends
12 that have been -- that have talked to you about sort of domestic violence
13 relationships?

14 PROSPECTIVE JUROR NUMBER 511: Yes.

15 MS. MCNEILL: Have you had any male friends who've been
16 accused of any type of domestic violence?

17 PROSPECTIVE JUROR NUMBER 511: No.

18 MS. MCNEILL: No; okay.

19 When you heard what the charges were, did you have any
20 concerns?

21 PROSPECTIVE JUROR NUMBER 511: No.

22 MS. MCNEILL: No; okay.

23 The fact that you're going to hear someone talk about things of
24 a sexual nature, or make allegations of violence, is it going to make it hard
25 for you to keep an open mind about whether or not Mr. Green is guilty?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROSPECTIVE JUROR NUMBER 511: No.

MS. MCNEILL: No; okay.

Anything else you want to say, you've been sitting here for three days?

PROSPECTIVE JUROR NUMBER 511: No.

MS. MCNEILL: No; okay.

Okay. All right. I'll pass for cause, Your Honor.

THE COURT: You know, we might want to go ahead and take a lunch break about now. I'm so sorry, after keeping you waiting and then we go for a little while and it's time for a break, huh?

Let's go ahead and take a break until 1:30 and then we'll pick up.

When I excuse everyone, Mr. Arinas, if you can wait just a minute here so I can talk to you about your schedule.

So during this recess, you're admonished not to talk or converse among yourselves or with anyone else on any subject connected with this trial; or to 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 to form or express any opinion on any subject connected with this trial until the case is finally submitted to you.

See you back at 1:30.

THE MARSHAL: All rise.

[Prospective jurors exit the courtroom.]

THE MARSHAL: Please be seated.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

[Juror 455 present in courtroom]

THE COURT: All right. Go ahead and have a seat.

THE MARSHAL: Go ahead and have a seat, sir.

THE COURT: So, Mr. Arinas, you had your dentist appointment this morning; right?

PROSPECTIVE JUROR NUMBER 455: Yes, ma'am.

THE COURT: Okay. Now, my marshal gave me a note that you need to go back to the dentist.

PROSPECTIVE JUROR NUMBER 455: Excuse me?

THE COURT: Do you have to go back to the dentist again?

PROSPECTIVE JUROR NUMBER 455: Yes, yes ma'am, around 4 o'clock. But I drove one hour from my dentist, so maybe around 3 o'clock.

THE COURT: Right, you'll need to leave here at 3 o'clock to be there at 4 o'clock?

PROSPECTIVE JUROR NUMBER 455: Yes, ma'am.

THE COURT: So you're having some kind of dental work done, I take it?

PROSPECTIVE JUROR NUMBER 455: Yeah, they are doing my -- because I cannot eat. It's hurting me. So they are fixing my teeth since they remove all of my teeth.

MS. LUZAICH: No objection, if you want to let him go.

THE COURT: Okay. Counsel, can I just excuse him?

MS. MCNEILL: Yes, Your Honor, no objection.

THE COURT: All right. Mr. Arinas, I'm going to go ahead and

1 excuse you from jury service. I do appreciate your effort to get here in
2 between being at the dentist. You're going to be excused at this time from
3 jury service. Thanks very much for your time.

4 PROSPECTIVE JUROR NUMBER 455: Thank you, Your
5 Honor.

6 [Outside the presence of the prospective jury]

7 THE COURT: Okay. All right. We'll see you back at 1:30. I
8 think we have a few more jurors downstairs who are available if we need
9 'em. I hope we won't.

10 And then I forgot when I was excusing them to talk about them
11 not talking to you guys. So I'll try to remember to mention that later.

12 All right. See you back at 1:30.

13 MS. LUZAICH: Thank you.

14 MS. MCNEILL: And, Your Honor, just so you know --

15 THE COURT: Yeah, uh-huh.

16 MS. MCNEILL: -- I promised your JEA that I'd get my jury
17 instructions done tonight.

18 THE COURT: Okay, good.

19 All right. Thanks.

20 [Recess taken at 12:37 p.m.]

21 [Jury trial resumed 1:35 p.m.]

22 [Outside the presence of the prospective jury]

23 THE MARSHAL: Please be seated. Come to order.

24 THE COURT: All righty. You guys ready?

25 MS. LUZAICH: Of course.

1 MS. MCNEILL: So ready.

2 MR. ROSE: Yes, Judge.

3 THE COURT: Let's go.

4 THE MARSHAL: All rise.

5 [In the presence of the prospective jury]

6 THE MARSHAL: Please be seated.

7 THE COURT: All right. Thanks for coming back on time and
8 I'm glad we were able to start right up as scheduled.

9 So we're up to, Ms. Kirk; correct?

10 PROSPECTIVE JUROR NUMBER 353: Yes.

11 THE COURT: How are you doing today?

12 PROSPECTIVE JUROR NUMBER 353: I'm good.

13 THE COURT: Is there any reason you could not be fair and
14 impartial in this case?

15 PROSPECTIVE JUROR NUMBER 353: No.

16 THE COURT: Can you wait in forming your opinion on the
17 appropriate result until all the evidence has been heard?

18 PROSPECTIVE JUROR NUMBER 353: Yes.

19 THE COURT: Have or anyone close to you worked in law
20 enforcement?

21 PROSPECTIVE JUROR NUMBER 353: No.

22 THE COURT: Have you or anyone close to you been charged
23 with a serious crime?

24 PROSPECTIVE JUROR NUMBER 353: No.

25 THE COURT: Have you or anyone close to you been the victim

1 of a serious crime?

2 PROSPECTIVE JUROR NUMBER 353: No.

3 THE COURT: Have you or anyone close to you been accused
4 of or the victim of domestic violence or sexual abuse?

5 PROSPECTIVE JUROR NUMBER 353: No.

6 THE COURT: Is there anything about the charges in this case
7 that would make it difficult for you to be fair and impartial?

8 PROSPECTIVE JUROR NUMBER 353: No.

9 THE COURT: Can you base your verdict solely on the
10 evidence brought out at trial and the law that applies as stated in my
11 instructions without fear of criticism or popular opinion?

12 PROSPECTIVE JUROR NUMBER 353: Yes.

13 THE COURT: Have you ever been a juror before?

14 PROSPECTIVE JUROR NUMBER 353: No.

15 THE COURT: If you were a party to this case, would you be
16 comfortable with jurors of a like frame of mind as yourself sitting in
17 judgment?

18 PROSPECTIVE JUROR NUMBER 353: Yes.

19 THE COURT: How long have you lived here in Clark County?

20 PROSPECTIVE JUROR NUMBER 353: 65 -- well, 62 years.

21 THE COURT: What's the highest level of education you
22 completed?

23 PROSPECTIVE JUROR NUMBER 353: I got some college and
24 I went to vocation school.

25 THE COURT: For what?

1 PROSPECTIVE JUROR NUMBER 353: Medical assistant.
2 THE COURT: Medical assistant, great.
3 And are you employed?
4 PROSPECTIVE JUROR NUMBER 353: Yes.
5 THE COURT: What do you do?
6 PROSPECTIVE JUROR NUMBER 353: I'm a house person at
7 Circus Circus.
8 THE COURT: And are you married?
9 PROSPECTIVE JUROR NUMBER 353: Yes.
10 THE COURT: Is your spouse employed?
11 PROSPECTIVE JUROR NUMBER 353: He's retired military.
12 THE COURT: Which branch was he in?
13 PROSPECTIVE JUROR NUMBER 353: Oh, Lord. The air
14 force, I think.
15 THE COURT: Okay. All right. How long have you been
16 married?
17 PROSPECTIVE JUROR NUMBER 353: 28 years.
18 THE COURT: Okay. And do you have children?
19 PROSPECTIVE JUROR NUMBER 353: Yes, I have four.
20 THE COURT: Oh. And what do they do?
21 PROSPECTIVE JUROR NUMBER 353: One is a tattoo artist,
22 another one is the house man, my baby son works at Lowe's as a
23 manager.
24 THE COURT: We missed one, sorry, I thought you said four;
25 right?

1 PROSPECTIVE JUROR NUMBER 353: Yeah, my other son
2 works for Uber. He's an Uber person.

3 THE COURT: Oh, sure, okay. All right. Thank you.
4 State.

5 MS. LUZAICH: Thank you.

6 Good afternoon, Ms. Kirk.

7 I think when you were here the other day you said you work
8 graveyard.

9 PROSPECTIVE JUROR NUMBER 353: Yes, I do.

10 MS. LUZAICH: Have you been working since we've been in
11 trial?

12 PROSPECTIVE JUROR NUMBER 353: No.

13 MS. LUZAICH: Okay, good. Just checking.

14 They're not giving you a hard time about it or anything; right?

15 PROSPECTIVE JUROR NUMBER 353: No, they aren't.

16 MS. LUZAICH: You said that your husband has been retired
17 military, did he deploy at all?

18 PROSPECTIVE JUROR NUMBER 353: No.

19 MS. LUZAICH: So he's just been here. Is he stationed -- was
20 he stationed at Nellis?

21 PROSPECTIVE JUROR NUMBER 353: No, it was when he
22 was in Ohio.

23 MS. LUZAICH: Were you not married when he was in the
24 service?

25 PROSPECTIVE JUROR NUMBER 353: No.

1 MS. LUZAICH: Oh, I thought you said you were married 28
2 years.

3 PROSPECTIVE JUROR NUMBER 353: Yes, but it was before
4 we got married.

5 MS. LUZAICH: Oh, okay. So since he's been retired from the
6 military, has he worked?

7 PROSPECTIVE JUROR NUMBER 353: He's a pastor. He's a
8 certified pastor right now.

9 MS. LUZAICH: Here in Las Vegas?

10 PROSPECTIVE JUROR NUMBER 353: Yes, he is.

11 MS. LUZAICH: Okay. Would you agree that a person has the
12 absolute right to say no to unwanted sexual advances?

13 PROSPECTIVE JUROR NUMBER 353: Yes.

14 MS. LUZAICH: Even if they're married, dating, living together?

15 PROSPECTIVE JUROR NUMBER 353: That's very true.

16 MS. LUZAICH: Does a person ever give up the right to say no?

17 PROSPECTIVE JUROR NUMBER 353: No, they don't.

18 MS. LUZAICH: Do you think that it is ever acceptable to lay
19 your hands on somebody else?

20 PROSPECTIVE JUROR NUMBER 353: No.

21 MS. LUZAICH: Have you ever heard from any of your kids that
22 their friends or anyone have been through any of those kinds of
23 situations?

24 PROSPECTIVE JUROR NUMBER 353: Yeah, I've heard of it,
25 people have talked to me about being assaulted.

1 MS. LUZAICH: And, like, come to you for advice or just things
2 that you've just heard about?

3 PROSPECTIVE JUROR NUMBER 353: Yeah, people have
4 came to me for counseling about being assaulted.

5 MS. LUZAICH: And how do you counsel them?

6 PROSPECTIVE JUROR NUMBER 353: I tell them to go to the
7 police.

8 MS. LUZAICH: Okay. Do you ever talk to them about maybe
9 going to counseling, to get some help for what they've been through?

10 PROSPECTIVE JUROR NUMBER 353: Well, in our church we
11 have -- they do spiritual counseling.

12 MS. LUZAICH: So your church will handle something like that,
13 help them?

14 PROSPECTIVE JUROR NUMBER 353: Yeah, we send them
15 to our pastor.

16 MS. LUZAICH: Your husband or another pastor?

17 PROSPECTIVE JUROR NUMBER 353: We send them to our
18 head pastor and our pastor handles that.

19 MS. LUZAICH: Okay. How would you feel like serving on a
20 case like this?

21 PROSPECTIVE JUROR NUMBER 353: I think that in this
22 situation I think that they should have a good -- they should get a good
23 defense. So I feel that you should look to all the evidence and make a
24 decision by looking at all the evidence.

25 MS. LUZAICH: Okay.

1 PROSPECTIVE JUROR NUMBER 353: So you shouldn't have
2 preconceived ideas about what happened. You should look at all the
3 evidence and then make a decision.

4 MS. LUZAICH: Okay. And when you say, you shouldn't have a
5 preconceived idea, you mean all of the jurors shouldn't have any
6 preconceived ideas?

7 PROSPECTIVE JUROR NUMBER 353: No, if I was a juror I
8 would look at all the evidence and then make my choice once I look at all
9 the evidence.

10 MS. LUZAICH: Okay. And you said because of the charges he
11 deserves a good defense. Would you agree that everybody who sits at
12 that table deserves a good defense?

13 PROSPECTIVE JUROR NUMBER 353: Yes, everybody that
14 looks -- everybody should look at all the evidence and make a decision.

15 MS. LUZAICH: Okay. And you --

16 PROSPECTIVE JUROR NUMBER 353: Every single person
17 deserves a good defense.

18 MS. LUZAICH: Every person charged with a crime?

19 PROSPECTIVE JUROR NUMBER 353: Yes.

20 MS. LUZAICH: And you understand also that the burden of
21 proof on the State is the same in every case --

22 PROSPECTIVE JUROR NUMBER 353: In every case.

23 MS. LUZAICH: -- whether it's a petit larceny or a murder or
24 anywhere in between?

25 PROSPECTIVE JUROR NUMBER 353: Every single case they

1 deserve a good defense.

2 MS. LUZAICH: Okay. Would you agree that you can't judge a
3 book by its cover?

4 PROSPECTIVE JUROR NUMBER 353: That's right.

5 MS. LUZAICH: Have you ever seen somebody do that?

6 PROSPECTIVE JUROR NUMBER 353: Yes, people, they
7 make preconceived all the time.

8 MS. LUZAICH: Is that frustrating?

9 PROSPECTIVE JUROR NUMBER 353: I think it's human
10 nature that they would do that but I don't think they should.

11 MS. LUZAICH: Okay. And you won't do that here?

12 PROSPECTIVE JUROR NUMBER 353: I wouldn't do it, I don't.

13 MS. LUZAICH: Would you consider yourself to be somebody
14 who easily expresses their views to strangers or has a harder time?

15 PROSPECTIVE JUROR NUMBER 353: I work in the casinos
16 and we have to talk to people all the time. So it's easy for me to talk to
17 people because that's my job.

18 MS. LUZAICH: Okay. So would you consider yourself a people
19 person?

20 PROSPECTIVE JUROR NUMBER 353: Yes, I'm a people
21 person 'cause we are taught to interact with people.

22 MS. LUZAICH: Okay. So back in the deliberation room, are
23 you going to be somebody who kind of takes charge of the conversation
24 as opposed to somebody who just sits back and listens?

25 PROSPECTIVE JUROR NUMBER 353: No, I'm gonna -- I'm

1 gonna listen to what everybody says and I'm gonna weigh out what's said.

2 MS. LUZAICH: Okay. And if you're back there and you're
3 talking about what you've seen and they all feel one way and you feel the
4 other way, are you going to stick to your guns if you're sure you're right?

5 PROSPECTIVE JUROR NUMBER 353: Yes, I am.

6 MS. LUZAICH: But will you be open to listening to them and
7 see if maybe they could point to something that you either missed or didn't
8 hear?

9 PROSPECTIVE JUROR NUMBER 353: Yes, I am.

10 MS. LUZAICH: Okay. So it's possible you could change your
11 mind?

12 PROSPECTIVE JUROR NUMBER 353: If I feel that there is --
13 if I feel that I missed something and they're right, I'm gonna be able to
14 change my mind.

15 MS. LUZAICH: Okay. Do you think that two people can watch
16 an event and describe it differently later?

17 PROSPECTIVE JUROR NUMBER 353: Yes.

18 MS. LUZAICH: Why might that be?

19 PROSPECTIVE JUROR NUMBER 353: Because you don't
20 always see things that -- sometimes you miss things. You don't always
21 see things the same way another person may see it. So you may miss
22 something that they seen.

23 MS. LUZAICH: Okay. And would you agree that different
24 people react differently to circumstances?

25 PROSPECTIVE JUROR NUMBER 353: Yes, they do.

1 MS. LUZAICH: Are you expecting to see anything in this trial?

2 PROSPECTIVE JUROR NUMBER 353: No.

3 MS. LUZAICH: Do you watch any of those crime shows or

4 CSI?

5 PROSPECTIVE JUROR NUMBER 353: No, I don't.

6 MS. LUZAICH: No?

7 PROSPECTIVE JUROR NUMBER 353: Uh-uh, no, I don't.

8 THE COURT: Ma'am, can you just try to wait till she's done
9 with the question before you answer.

10 PROSPECTIVE JUROR NUMBER 353: Okay.

11 THE COURT: Because otherwise it's going to be kind of hard
12 to transcribe it later.

13 PROSPECTIVE JUROR NUMBER 353: Okay.

14 THE COURT: Thank you.

15 MS. LUZAICH: Thank you.

16 Sorry, I can't even read my own handwriting.

17 Is there anything about you that would prevent you from being
18 able to sit in judgment?

19 PROSPECTIVE JUROR NUMBER 353: No.

20 MS. LUZAICH: No religious or philosophical or moral
21 obstacles?

22 PROSPECTIVE JUROR NUMBER 353: No.

23 MS. LUZAICH: So if you listen to all of the testimony and you
24 see any evidence that's admitted, if you are convinced beyond a
25 reasonable doubt the State has proven the charges, would you be able to

1 find the defendant guilty?

2 PROSPECTIVE JUROR NUMBER 353: Yes.

3 MS. LUZAICH: Or would you be able -- sorry -- say the word
4 guilty?

5 PROSPECTIVE JUROR NUMBER 353: Yes.

6 MS. LUZAICH: Thank you.

7 Pass for cause.

8 THE COURT: Thank you.

9 MS. MCNEILL: Thank you, Your Honor.

10 Good afternoon, Ms. Kirk.

11 PROSPECTIVE JUROR NUMBER 353: Good afternoon.

12 MS. MCNEILL: You indicated that sometimes in your capacity
13 at the church people will come to you and talk to you about issues they're
14 having with their spouses or loved ones; right?

15 PROSPECTIVE JUROR NUMBER 353: Yes.

16 MS. MCNEILL: Have you ever had anyone in your life tell you
17 something that happened that you later found out was a lie?

18 PROSPECTIVE JUROR NUMBER 353: Yes, I have.

19 MS. MCNEILL: Okay. What kind of things have you heard that
20 you later found out were lies?

21 PROSPECTIVE JUROR NUMBER 353: Sometime will people
22 come in there, exaggerate. Like, my granddaughter, she, like, was saying
23 that her boyfriend did something that he didn't do. And when I found out
24 that -- she found -- she said something that wasn't true, I went back to her
25 and told her it wasn't fair that she would lie.

1 MS. MCNEILL: Okay. So you've seen both sides of the fence,
2 of people saying things that happened and people saying things that
3 didn't?

4 PROSPECTIVE JUROR NUMBER 353: Right.

5 MS. MCNEILL: Okay. Are you going to use those experiences
6 as a juror to evaluate the witness's credibility?

7 PROSPECTIVE JUROR NUMBER 353: No.

8 MS. MCNEILL: No? Okay. And why not?

9 PROSPECTIVE JUROR NUMBER 353: Because I want to
10 evaluate what comes in that what was -- the information that I get from the
11 evidence that comes in to me.

12 MS. MCNEILL: Okay. So you're just going to listen to what you
13 hear in this courtroom?

14 PROSPECTIVE JUROR NUMBER 353: Yes.

15 MS. MCNEILL: Do you think that it's human nature though to
16 sort of use experiences that you've had in your life when you're kind of
17 sizing somebody up?

18 PROSPECTIVE JUROR NUMBER 353: I don't wanna do that.
19 I wanna look at the evidence that we get from the -- from the Court.
20 That's what I wanna do. I wanna use only the evidence that I get.

21 MS. MCNEILL: Okay. How do you feel about being on this
22 jury?

23 PROSPECTIVE JUROR NUMBER 353: I think it'll be a good
24 experience.

25 MS. MCNEILL: Okay. And why is that?

1 PROSPECTIVE JUROR NUMBER 353: Because I never
2 served on a jury and I think everybody -- I came in not wanting to be on
3 the jury, period.

4 MS. MCNEILL: Okay.

5 PROSPECTIVE JUROR NUMBER 353: I just really didn't
6 wanna -- to deal with it, period. But sitting here and listening to a few
7 people talking, it gave me a different mind.

8 MS. MCNEILL: Okay. So now you feel like it might be
9 something important to -- for you to do?

10 PROSPECTIVE JUROR NUMBER 353: It seems to be
11 important.

12 MS. MCNEILL: Okay. Well, and you've invested three days at
13 this point, you might as well stay; right?

14 PROSPECTIVE JUROR NUMBER 353: It seems like it's
15 important to learn something different.

16 MS. MCNEILL: Okay. All right.

17 PROSPECTIVE JUROR NUMBER 353: So it may be look
18 different at life. Even though I'm 62 years old, it seems like I'm learning
19 something that I had never thought about.

20 MS. MCNEILL: Okay. All right.

21 PROSPECTIVE JUROR NUMBER 353: You know. And I'm
22 looking at people -- it's causing me to even look at people different. You
23 know, that -- people's lives matter now that didn't really matter, you know.
24 And I'm concerned about somebody more than myself.

25 MS. MCNEILL: Okay. So you -- sitting here has made you

1 realize the importance of decisions that get made?

2 PROSPECTIVE JUROR NUMBER 353: Of jury trial and
3 people's lives. It matters to me more than it did before.

4 MS. MCNEILL: Okay. And so hearing us talk about the fact
5 that they have to prove it --

6 PROSPECTIVE JUROR NUMBER 353: Yeah.

7 MS. MCNEILL: -- you understand how important that is?

8 PROSPECTIVE JUROR NUMBER 353: How important it is.

9 MS. MCNEILL: Okay. And so you don't believe he has to
10 prove anything to you and you won't hold it against him if he doesn't get
11 up there and testifies?

12 PROSPECTIVE JUROR NUMBER 353: No, I wouldn't.

13 MS. MCNEILL: Okay. All right.

14 I'll pass for cause, Your Honor.

15 THE COURT: Thank you.

16 Go ahead and pass the mic.

17 Ms. Deltoro.

18 PROSPECTIVE JUROR NUMBER 355: Yes.

19 THE COURT: How are you today?

20 PROSPECTIVE JUROR NUMBER 355: I'm good, thank you.

21 THE COURT: Good.

22 Is there any reason you could not be fair and impartial in this
23 case?

24 PROSPECTIVE JUROR NUMBER 355: No.

25 THE COURT: Can you wait in forming your opinion on the

1 appropriate result until all the evidence has been heard?

2 PROSPECTIVE JUROR NUMBER 355: Yes, I can.

3 THE COURT: Have you or anyone close to you worked in law
4 enforcement?

5 PROSPECTIVE JUROR NUMBER 355: No.

6 THE COURT: Have you or anyone close to you been charged
7 with a serious crime?

8 PROSPECTIVE JUROR NUMBER 355: Yes.

9 THE COURT: Tell me about that.

10 PROSPECTIVE JUROR NUMBER 355: An uncle was charged
11 with sexual harassment, I believe.

12 THE COURT: Okay. And how long ago was that?

13 PROSPECTIVE JUROR NUMBER 355: About 18 years ago.

14 THE COURT: Okay. And was he convicted of something?

15 PROSPECTIVE JUROR NUMBER 355: Yes, he was, of
16 coercion.

17 THE COURT: Was that here in Las Vegas?

18 PROSPECTIVE JUROR NUMBER 355: Yes.

19 THE COURT: And do you know the victim of that crime?

20 PROSPECTIVE JUROR NUMBER 355: No.

21 THE COURT: Okay. So what happened, did he end up serving
22 time in prison?

23 PROSPECTIVE JUROR NUMBER 355: No.

24 THE COURT: He got probation?

25 PROSPECTIVE JUROR NUMBER 355: He got probation.

1 THE COURT: And successfully completed that, I guess?

2 PROSPECTIVE JUROR NUMBER 355: Yes, he did.

3 THE COURT: And are you still in touch with him?

4 PROSPECTIVE JUROR NUMBER 355: Yes.

5 THE COURT: Do you think he was treated fairly in his case?

6 PROSPECTIVE JUROR NUMBER 355: Yes.

7 THE COURT: Do you have any hard feelings toward police or
8 prosecutors because he got arrested and charged and convicted in that
9 case?

10 PROSPECTIVE JUROR NUMBER 355: No, not at all.

11 THE COURT: Anything about that case that would affect your
12 ability to be fair and impartial as a juror in this case?

13 PROSPECTIVE JUROR NUMBER 355: No, not at all.

14 THE COURT: Have you or anyone close to you been the victim
15 of a serious crime?

16 PROSPECTIVE JUROR NUMBER 355: No.

17 THE COURT: And, other than what you've told me about, have
18 you or anyone close to you been accused of or the victim of domestic
19 violence or sexual abuse?

20 PROSPECTIVE JUROR NUMBER 355: No.

21 THE COURT: Is there anything about the charges in this case
22 that would make it difficult for you to be fair and impartial?

23 PROSPECTIVE JUROR NUMBER 355: No.

24 THE COURT: Can you base your verdict solely on the
25 evidence and the law that applies without fear of criticism or popular

Appellant's Appendix

Volume 3

Index of Appellant's Appendix

Court minutes of 07/17/2017	p. 7, 8
Findings of Fact, Conclusions of Law and Order	p. 1293-1296
Information.....	p. 1-6
Judgment of Conviction.....	p. 1277-1279
Notice of Appeal.....	p. 1300-1362
Notice of Entry of Findings of Fact, Conclusions of Law.....	p. 1296-1299
Order for Petition for Writ of Habeas Corpus.....	p. 1292
Petition for Writ of Habeas Corpus (Post Conviction).....	p. 1280-1291
Recorder's Transcript of Proceedings: Jury Trial – Day 1.....	p. 9- 160
Recorder's Transcript of Proceedings: Jury Trial – Day 2.....	p. 161-407
Recorder's Transcript of Proceedings: Jury Trial – Day 3.....	p. 408-702
Recorder's Transcript of Proceedings: Jury Trial – Day 4.....	p. 703-910
Recorder's Transcript of Proceedings: Jury Trial – Day 5.....	p. 911-1158
Recorder's Transcript of Proceedings: Jury Trial – Day 6.....	p. 1159-1271
Recorder's Transcript of Proceedings: Jury Trial – Day 7.....	p. 1272-1276

1 opinion?

2 PROSPECTIVE JUROR NUMBER 355: Yes, I can.

3 THE COURT: Have you ever been a juror before?

4 PROSPECTIVE JUROR NUMBER 355: No.

5 THE COURT: If you were a party to this case, would you be
6 comfortable with jurors of a like frame of mind as yourself sitting in
7 judgment?

8 PROSPECTIVE JUROR NUMBER 355: Yes.

9 THE COURT: How long have you lived in Clark County?

10 PROSPECTIVE JUROR NUMBER 355: For 17 years.

11 THE COURT: And what's the highest level of education you
12 completed?

13 PROSPECTIVE JUROR NUMBER 355: High school.

14 THE COURT: And are you employed?

15 PROSPECTIVE JUROR NUMBER 355: Yes.

16 THE COURT: What do you do?

17 PROSPECTIVE JUROR NUMBER 355: I'm a legal assistant.

18 THE COURT: Where do you work?

19 PROSPECTIVE JUROR NUMBER 355: For a solo practitioner
20 attorney here in Las Vegas.

21 THE COURT: What's the nature of the practice at that firm?

22 PROSPECTIVE JUROR NUMBER 355: Immigration law and
23 family law.

24 THE COURT: So do you ever work on any criminal cases?

25 PROSPECTIVE JUROR NUMBER 355: No.

1 THE COURT: Okay. How long have you been a legal
2 assistant?

3 PROSPECTIVE JUROR NUMBER 355: For ten years.

4 THE COURT: Have you ever, in those ten years, worked in the
5 criminal law field?

6 PROSPECTIVE JUROR NUMBER 355: No.

7 THE COURT: Okay. Would you -- you may have had some
8 exposure to legal principles in the course of your work, would you follow
9 my instructions on the law that applies in this case?

10 PROSPECTIVE JUROR NUMBER 355: Yes, I would.

11 THE COURT: Are you married?

12 PROSPECTIVE JUROR NUMBER 355: Yes, I am.

13 THE COURT: Is your spouse employed?

14 PROSPECTIVE JUROR NUMBER 355: Yes.

15 THE COURT: Doing what?

16 PROSPECTIVE JUROR NUMBER 355: We own an auto
17 detailing company. He manages the company.

18 THE COURT: And do you have children?

19 PROSPECTIVE JUROR NUMBER 355: Yes, I do.

20 THE COURT: How many?

21 PROSPECTIVE JUROR NUMBER 355: Two daughters.

22 THE COURT: And how old are they?

23 PROSPECTIVE JUROR NUMBER 355: 17 and seven.

24 THE COURT: Okay. State.

25 MS. LUZAICH: Thank you.

1 Good afternoon, Ms. Deltoro.

2 PROSPECTIVE JUROR NUMBER 355: Good afternoon.

3 MS. LUZAICH: As a legal assistant, what do you do on a daily
4 basis?

5 PROSPECTIVE JUROR NUMBER 355: I handle the
6 immigration department of the office. I meet with immigration clients that
7 the firm has retained, that the attorney has retained, and I prepare forms
8 of relief that they might qualify for.

9 MS. LUZAICH: Are you a paralegal?

10 PROSPECTIVE JUROR NUMBER 355: I do not have a
11 paralegal certificate.

12 MS. LUZAICH: Do you have the training that a paralegal does
13 basically?

14 PROSPECTIVE JUROR NUMBER 355: Yes, yes, I do.

15 MS. LUZAICH: So, I mean, you can research --

16 PROSPECTIVE JUROR NUMBER 355: Yes.

17 MS. LUZAICH: -- and write and stuff like that?

18 PROSPECTIVE JUROR NUMBER 355: Yes.

19 MS. LUZAICH: Do you promise you won't research anything
20 while you're in this trial?

21 PROSPECTIVE JUROR NUMBER 355: I promise.

22 MS. LUZAICH: You won't talk to your attorney about this trial?

23 PROSPECTIVE JUROR NUMBER 355: I won't talk to my
24 attorney.

25 MS. LUZAICH: The attorney that you work for now, is that the

1 same person you've worked for for the whole time that you've been doing
2 this?

3 PROSPECTIVE JUROR NUMBER 355: During the last ten
4 years I have worked for three different attorneys.

5 MS. LUZAICH: Okay. And none of them ever did any criminal?

6 PROSPECTIVE JUROR NUMBER 355: One of the firms did
7 have a criminal department but I was not part of. I've only been in the
8 immigration department for the ten years.

9 MS. LUZAICH: Okay. Do your attorneys, the ones that you've
10 worked for, do they litigate or do they try to do everything, you know, by
11 paper?

12 PROSPECTIVE JUROR NUMBER 355: They litigate.

13 MS. LUZAICH: They do?

14 PROSPECTIVE JUROR NUMBER 355: Yeah.

15 MS. LUZAICH: So they go to court --

16 PROSPECTIVE JUROR NUMBER 355: Yes.

17 MS. LUZAICH: -- they argue?

18 Do they do trials?

19 PROSPECTIVE JUROR NUMBER 355: Yes, my current
20 attorney she does family law trials.

21 MS. LUZAICH: Okay. So you know, of course, that the burden
22 of proof is very different here --

23 PROSPECTIVE JUROR NUMBER 355: Yes.

24 MS. LUZAICH: -- than there?

25 All of the laws and the rules are different here than there, so

1 anything that you know, you won't apply here; correct?

2 PROSPECTIVE JUROR NUMBER 355: Right; correct.

3 MS. LUZAICH: You'll only apply the judge that -- that the
4 judge -- the law that the judge reads to you?

5 PROSPECTIVE JUROR NUMBER 355: Yes.

6 MS. LUZAICH: Even if you don't agree with it?

7 PROSPECTIVE JUROR NUMBER 355: I understand, yes.

8 MS. LUZAICH: Are there parts of family law that you don't
9 agree with?

10 PROSPECTIVE JUROR NUMBER 355: Yes.

11 MS. LUZAICH: You understand that because it's the law --

12 PROSPECTIVE JUROR NUMBER 355: Yes.

13 MS. LUZAICH: -- you have to follow it; right? Okay.

14 Would you agree that a person has the absolute right to say no
15 to unwanted sexual advances?

16 PROSPECTIVE JUROR NUMBER 355: Yes.

17 MS. LUZAICH: Does somebody ever give up that right?

18 PROSPECTIVE JUROR NUMBER 355: No.

19 MS. LUZAICH: Does no ever mean convince me?

20 PROSPECTIVE JUROR NUMBER 355: No.

21 MS. LUZAICH: Is there any situation where it's acceptable to
22 put hands on somebody else?

23 PROSPECTIVE JUROR NUMBER 355: No.

24 MS. LUZAICH: Are you expecting anything in this trial?

25 PROSPECTIVE JUROR NUMBER 355: No.

1 MS. LUZAICH: You know the nature of the charges, do you
2 think that there is, in your mind, any kind of idea of how somebody who
3 has experienced that should appear or act or react?

4 PROSPECTIVE JUROR NUMBER 355: No.

5 MS. LUZAICH: So you would agree that different people react
6 differently to the same set of circumstances?

7 PROSPECTIVE JUROR NUMBER 355: Yes.

8 MS. LUZAICH: So if people who come in here and talk about
9 things, don't appear the same way that you think you might have, that
10 won't have any effect on you?

11 PROSPECTIVE JUROR NUMBER 355: No, it wouldn't.

12 MS. LUZAICH: Do you think that people can repeat something
13 numerous times and get the big picture the same but small details might
14 not always be exact?

15 PROSPECTIVE JUROR NUMBER 355: Yes.

16 MS. LUZAICH: Is that a problem for you?

17 PROSPECTIVE JUROR NUMBER 355: No.

18 MS. LUZAICH: Have you ever experienced something that was
19 extremely traumatizing and then had to describe it later?

20 PROSPECTIVE JUROR NUMBER 355: Have I? No.

21 MS. LUZAICH: Can you see how talking about something
22 traumatizing will affect different people differently?

23 PROSPECTIVE JUROR NUMBER 355: Yes.

24 MS. LUZAICH: Is there anything about you that you think we
25 need to know to determine whether you would be a good juror in this

1 case?

2 PROSPECTIVE JUROR NUMBER 355: No.

3 MS. LUZAICH: Any questions that you've been dying to answer
4 for the last two days, now is your chance?

5 PROSPECTIVE JUROR NUMBER 355: No.

6 MS. LUZAICH: Is there anything about you that would prevent
7 you from being able to sit in judgment?

8 PROSPECTIVE JUROR NUMBER 355: No.

9 MS. LUZAICH: And if you listen to the testimony and view any
10 evidence, if you're convinced beyond a reasonable doubt the defendant's
11 committed the crimes that he's charged with, would you be able to say the
12 word guilty?

13 PROSPECTIVE JUROR NUMBER 355: Yes.

14 MS. LUZAICH: Thank you.

15 Pass for cause.

16 THE COURT: Thank you.

17 MS. MCNEILL: Thank you, Your Honor.

18 The firm that you worked at that did criminal, what firm was
19 that?

20 PROSPECTIVE JUROR NUMBER 355: Eric Palacios &
21 Associates.

22 MS. MCNEILL: Okay. Did --

23 THE COURT: I'm sorry?

24 PROSPECTIVE JUROR NUMBER 355: Eric Palacios &
25 Associates.

1 THE COURT: Got it.

2 MS. MCNEILL: Thank you.

3 Did you -- you didn't work on any of the criminal cases?

4 PROSPECTIVE JUROR NUMBER 355: No.

5 MS. MCNEILL: Okay. Did you have any contact with some of

6 the clients? I imagine maybe there was crossover sometimes, criminal

7 clients having some immigration issues?

8 PROSPECTIVE JUROR NUMBER 355: Yes.

9 MS. MCNEILL: Okay. So you did talk to some of those clients

10 maybe?

11 PROSPECTIVE JUROR NUMBER 355: Yes.

12 MS. MCNEILL: Okay. In the firm that you're at now, it sounds

13 like you're mainly handling the immigration clients?

14 PROSPECTIVE JUROR NUMBER 355: Yes.

15 MS. MCNEILL: Do you ever do any of the family, handle any of

16 the family clients?

17 PROSPECTIVE JUROR NUMBER 355: Yes.

18 MS. MCNEILL: Okay.

19 PROSPECTIVE JUROR NUMBER 355: I would say about 20

20 percent.

21 MS. MCNEILL: Okay. And have you, in your prior firms, also

22 done family as well?

23 PROSPECTIVE JUROR NUMBER 355: No.

24 MS. MCNEILL: Okay. So this is new?

25 PROSPECTIVE JUROR NUMBER 355: This is new.

1 MS. MCNEILL: It's -- family law is a lot; isn't it?

2 PROSPECTIVE JUROR NUMBER 355: Yes.

3 MS. MCNEILL: Not -- it's sort of people at their worst; right?

4 PROSPECTIVE JUROR NUMBER 355: Yes.

5 MS. MCNEILL: Have you ever seen any of your family law
6 clients have false allegations of domestic violence made against them for
7 custody purposes or custody battles, things like that?

8 PROSPECTIVE JUROR NUMBER 355: No.

9 MS. MCNEILL: Okay. You said you don't have a paralegal
10 certificate but, I mean, it sounds like you're doing the kind of work that a
11 paralegal would do, how did you end up getting into this field?

12 PROSPECTIVE JUROR NUMBER 355: I saw a job
13 advertisement for a front desk about ten years ago, I applied, I got the job,
14 and been working in the field, like the field, and been working my way up
15 and where I am today.

16 MS. MCNEILL: All right. So you started out maybe more as a
17 receptionist and kind of --

18 PROSPECTIVE JUROR NUMBER 355: Yes.

19 MS. MCNEILL: Okay. And then have worked your way up to
20 this position?

21 PROSPECTIVE JUROR NUMBER 355: Yes.

22 MS. MCNEILL: Okay. What do you like about it?

23 PROSPECTIVE JUROR NUMBER 355: I -- as I'm immigrant
24 myself, I find the field very rewarding.

25 MS. MCNEILL: Okay.

1 PROSPECTIVE JUROR NUMBER 355: Yes.

2 MS. MCNEILL: Do you like working with lawyers?

3 PROSPECTIVE JUROR NUMBER 355: Yes.

4 MS. MCNEILL: Okay.

5 PROSPECTIVE JUROR NUMBER 355: I do. I learn a lot.

6 MS. MCNEILL: Okay, that's good. I always worry that might --
7 good to know.

8 Anything about the fact that you have this background that you
9 feel might make it more difficult to be a juror? Do you think jurors -- other
10 jurors might look to you for maybe explaining legal concepts?

11 PROSPECTIVE JUROR NUMBER 355: No.

12 MS. MCNEILL: Okay.

13 PROSPECTIVE JUROR NUMBER 355: I don't think so.

14 MS. MCNEILL: Okay. The uncle that was charged with sexual
15 harassment, do you know if he went to trial or if he pled guilty?

16 PROSPECTIVE JUROR NUMBER 355: He took a plea.

17 MS. MCNEILL: Okay. And so I know you know 'cause you
18 have the legal background, but he's -- in that he's admitting that he did
19 something wrong --

20 PROSPECTIVE JUROR NUMBER 355: Yes.

21 MS. MCNEILL: -- by saying he's guilty?

22 PROSPECTIVE JUROR NUMBER 355: Yes.

23 MS. MCNEILL: Okay. And, obviously, Mr. Green is maintaining
24 his innocence.

25 PROSPECTIVE JUROR NUMBER 355: Yes.

1 MS. MCNEILL: Okay. And so there's a difference between
2 somebody who takes a plea and how the system treats them and what
3 we're doing here today?

4 PROSPECTIVE JUROR NUMBER 355: Yes, I understand.

5 MS. MCNEILL: Okay. You thought that the system treated him
6 fairly I'm guessing because he admitted that he'd done something wrong?

7 PROSPECTIVE JUROR NUMBER 355: Yes.

8 MS. MCNEILL: Okay. Do you think that the system treats
9 everyone fairly?

10 PROSPECTIVE JUROR NUMBER 355: I --

11 MS. MCNEILL: The justice system?

12 PROSPECTIVE JUROR NUMBER 355: -- I want to believe,
13 yes.

14 MS. MCNEILL: You want to believe so?

15 PROSPECTIVE JUROR NUMBER 355: Yes.

16 MS. MCNEILL: Okay. Do you ever have in -- and I know it's a
17 little different in immigration court, kind of the whole different ball of wax,
18 do you ever have clients that you feel the courts aren't treating fairly?

19 PROSPECTIVE JUROR NUMBER 355: Yes.

20 MS. MCNEILL: And so you understand the importance of
21 holding the State to their burden?

22 PROSPECTIVE JUROR NUMBER 355: Yes.

23 MS. MCNEILL: Okay. Did your attorneys tell you, oh, you're
24 probably never getting picked?

25 PROSPECTIVE JUROR NUMBER 355: My attorney has been

1 wanting to be on a jury forever and she has never been summoned.

2 MS. MCNEILL: Yeah, so she's hoping you get in so she can
3 live through you?

4 PROSPECTIVE JUROR NUMBER 355: Yes.

5 MS. MCNEILL: Okay. I'll pass for cause, Your Honor.

6 THE COURT: Thank you.

7 All right. Ms. Stone, how are you today?

8 PROSPECTIVE JUROR NUMBER 360: I'm doing great. How
9 are you?

10 THE COURT: Good.

11 Is there any reason you could not be fair and impartial in this
12 case?

13 PROSPECTIVE JUROR NUMBER 360: I don't believe so.

14 THE COURT: Can you wait in forming your opinion on the
15 appropriate result until all the evidence has been heard?

16 PROSPECTIVE JUROR NUMBER 360: Yes.

17 THE COURT: Have you or anyone close to you worked in law
18 enforcement?

19 PROSPECTIVE JUROR NUMBER 360: A few uncles.

20 THE COURT: Okay. So were they working in that field when
21 you were growing up or is that more recent?

22 PROSPECTIVE JUROR NUMBER 360: Yeah, since a small
23 child.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NUMBER 360: They were detectives

1 in LA.

2 THE COURT: And were you living in the LA area when you
3 were growing up?

4 PROSPECTIVE JUROR NUMBER 360: No, San Diego.

5 THE COURT: I see.

6 So did you see them very often?

7 PROSPECTIVE JUROR NUMBER 360: They would come
8 down and visit every two, three months.

9 THE COURT: Okay. Would the fact that you had uncles
10 working in law enforcement affect your ability to be fair and impartial in
11 this case?

12 PROSPECTIVE JUROR NUMBER 360: No.

13 THE COURT: Have you or anyone close to you been charged
14 with a serious crime?

15 PROSPECTIVE JUROR NUMBER 360: My sister-in-law.

16 THE COURT: And what was she charged with?

17 PROSPECTIVE JUROR NUMBER 360: Murder.

18 THE COURT: That's serious; okay.

19 So how long ago did that happen?

20 PROSPECTIVE JUROR NUMBER 360: 20 years ago.

21 THE COURT: And what happened with her case, was she
22 convicted?

23 PROSPECTIVE JUROR NUMBER 360: A hung jury.

24 THE COURT: And so was there a retrial or what ended up
25 happening?

1 PROSPECTIVE JUROR NUMBER 360: They never retried it.
2 She was arrested twice on the matter and they took it to court and they
3 never did retry. It's still an open case.

4 THE COURT: So she is not in custody, I take it?

5 PROSPECTIVE JUROR NUMBER 360: Not now.

6 THE COURT: Not now, great.

7 Who was she charged with murdering?

8 PROSPECTIVE JUROR NUMBER 360: She had a daycare in
9 her home and one of the child -- children fell backwards, hit his head on a
10 coffee table. It was a big case in Sacramento. And he passed away.

11 THE COURT: Wow. Okay. So you answered a question that
12 was in Sacramento.

13 So how do you feel about what happened in her case, do you
14 think that was the right outcome or -- how do you feel about that?

15 PROSPECTIVE JUROR NUMBER 360: I'm hoping it was the
16 right outcome. You know, I know her fairly well. I don't think she could do
17 something like that. It's her word against all the evidence. But it was a
18 hung jury so. I don't think she did it though.

19 THE COURT: Okay. Do you have any, I guess, hard feelings
20 toward police or prosecutors for pursuing that case against her?

21 PROSPECTIVE JUROR NUMBER 360: No.

22 THE COURT: Would it cause you to have any bias one way or
23 the other in this case?

24 PROSPECTIVE JUROR NUMBER 360: No.

25 THE COURT: Have you or anyone close to you been the victim

1 of a serious crime?

2 PROSPECTIVE JUROR NUMBER 360: No.

3 THE COURT: Have you or anyone close to you been accused
4 of or the victim of domestic violence or sexual abuse?

5 PROSPECTIVE JUROR NUMBER 360: I am a victim of
6 domestic violence.

7 THE COURT: Okay. And tell me about that, in what
8 circumstance?

9 PROSPECTIVE JUROR NUMBER 360: I work at the Carson
10 City Nugget, got off work at midnight, got home, and my husband at the
11 time, when I walked in the door he hit me in the face and when he hit me
12 he broke his hand, sliced my face open pretty bad. I couldn't call the
13 police because there were no phones available to me at the time. I just
14 waited for him to pass out before I took myself to the emergency room.

15 THE COURT: How long ago was that?

16 PROSPECTIVE JUROR NUMBER 360: 30 years ago. But it
17 all came back to me when this was opened up.

18 THE COURT: Sure.

19 Okay. So this happened in Carson City?

20 PROSPECTIVE JUROR NUMBER 360: Correct.

21 THE COURT: And then did you report it to the police or did
22 someone report it to the police?

23 PROSPECTIVE JUROR NUMBER 360: Somehow the police --
24 it was reported. I think the hospital probably reported it. I don't know for
25 sure.

1 THE COURT: Right, uh-huh.

2 And so did he get charged as a result?

3 PROSPECTIVE JUROR NUMBER 360: No, what happened
4 was the next morning I took my brother and his three roommates to the
5 house and we moved my stuff out immediately. And I never saw him
6 again except for the divorce proceedings.

7 THE COURT: Right; okay.

8 So you had -- was this the only violent incident you had with
9 him?

10 PROSPECTIVE JUROR NUMBER 360: There was verbal
11 abuse, but other than that.

12 THE COURT: Okay. And after this you were done and you got
13 a divorce?

14 PROSPECTIVE JUROR NUMBER 360: With him, yes.

15 THE COURT: With him, yes, that's what I meant, yes; okay.

16 Okay. Would the fact that you have had that happen to you
17 affect your ability to be fair and impartial in this case, given the nature of
18 the charges?

19 PROSPECTIVE JUROR NUMBER 360: I would hope so. I'm
20 not sure. 'Cause, like I said, it's all flooding back to me.

21 THE COURT: So the memories, I understand, are flooding
22 back to you, do you think you could put aside the events that happened to
23 you and judge this case on its own merits?

24 PROSPECTIVE JUROR NUMBER 360: I think I can.

25 THE COURT: Do you think you're going to hold it against

1 Mr. Green because your ex-husband did that to you that day?

2 PROSPECTIVE JUROR NUMBER 360: I don't think I would
3 hold it against him.

4 THE COURT: Right.

5 So would you follow the law that calls for the presumption of
6 innocence for every criminal defendant?

7 PROSPECTIVE JUROR NUMBER 360: Yes.

8 THE COURT: Okay. And would you wait to see what the
9 evidence is that gets presented by the State to evaluate what the right
10 verdict should be?

11 PROSPECTIVE JUROR NUMBER 360: I'll wait and see the
12 evidence.

13 THE COURT: And will your verdict be based on the evidence
14 presented here rather than what you experienced with your ex-husband?

15 PROSPECTIVE JUROR NUMBER 360: The evidence.

16 THE COURT: Thank you.

17 Is there anything about the charges in this case that would
18 make it difficult for you to be fair and impartial?

19 PROSPECTIVE JUROR NUMBER 360: No, I think it'll be okay.

20 THE COURT: Can you base your verdict solely on the
21 evidence and the law that applies without fear of criticism or popular
22 opinion?

23 PROSPECTIVE JUROR NUMBER 360: Yes.

24 THE COURT: Have you ever been a juror before?

25 PROSPECTIVE JUROR NUMBER 360: No.

1 THE COURT: If you were a party to this case, would you be
2 comfortable with jurors of a like frame of mind as yourself sitting in
3 judgment?

4 PROSPECTIVE JUROR NUMBER 360: Yes.

5 THE COURT: How long have you lived here in Clark County?

6 PROSPECTIVE JUROR NUMBER 360: 14 months.

7 THE COURT: Oh, okay.

8 And did you come from Carson City or?

9 PROSPECTIVE JUROR NUMBER 360: I actually came from
10 Sacramento.

11 THE COURT: Oh, okay.

12 How long were you in Sacramento?

13 PROSPECTIVE JUROR NUMBER 360: 14 years and 25 years
14 in Carson.

15 THE COURT: Got it.

16 What's the highest level of education you completed?

17 PROSPECTIVE JUROR NUMBER 360: Three years college.

18 THE COURT: What was your major?

19 PROSPECTIVE JUROR NUMBER 360: Music.

20 THE COURT: And are you employed?

21 PROSPECTIVE JUROR NUMBER 360: Retired.

22 THE COURT: What did you do before retiring?

23 PROSPECTIVE JUROR NUMBER 360: Legal assistant.

24 THE COURT: Okay. And where did you work?

25 PROSPECTIVE JUROR NUMBER 360: At Metzinger &

1 Associates in Sacramento.

2 THE COURT: Have you worked in the legal field in Las Vegas
3 at all?

4 PROSPECTIVE JUROR NUMBER 360: No.

5 THE COURT: And what kind of firm was that or what kind of
6 practice did they have?

7 PROSPECTIVE JUROR NUMBER 360: Workers' comp,
8 personal injury, and social security.

9 THE COURT: Did you ever work at an office that was doing
10 criminal practice?

11 PROSPECTIVE JUROR NUMBER 360: No.

12 THE COURT: And whatever you may have learned in your
13 years working in the legal field, will you follow my instructions on the law
14 that applies in this case?

15 PROSPECTIVE JUROR NUMBER 360: Yes.

16 THE COURT: Okay. And are you married now?

17 PROSPECTIVE JUROR NUMBER 360: Yes.

18 THE COURT: And is your spouse employed?

19 PROSPECTIVE JUROR NUMBER 360: Medically retired.

20 THE COURT: Okay. What did he do before that?

21 PROSPECTIVE JUROR NUMBER 360: Mail carrier, post
22 office.

23 THE COURT: Do you have children?

24 PROSPECTIVE JUROR NUMBER 360: One stepdaughter.

25 THE COURT: And what does she do?

1 PROSPECTIVE JUROR NUMBER 360: She's an at home
2 mom.

3 THE COURT: Is that here in Nevada?

4 PROSPECTIVE JUROR NUMBER 360: That's why we moved
5 here, yes.

6 THE COURT: Okay. State.

7 MS. LUZAICH: Thank you.

8 Good afternoon, Ms. Stone.

9 PROSPECTIVE JUROR NUMBER 360: Hello.

10 MS. LUZAICH: When you were a legal assistant, what kind of
11 work did you do?

12 PROSPECTIVE JUROR NUMBER 360: I took care of the office
13 calendar and then the clients with last names from A to M were assigned
14 to me to set up subpoenas and take all the phone calls from them and
15 route everything regarding their case to whichever attorney was working
16 the case.

17 MS. LUZAICH: Do you have any legal training?

18 PROSPECTIVE JUROR NUMBER 360: No.

19 MS. LUZAICH: And did your attorneys litigate or did they try to
20 do most things through paperwork?

21 PROSPECTIVE JUROR NUMBER 360: There was some
22 litigation.

23 MS. LUZAICH: Okay. You know the law in California is very
24 different than the law here?

25 PROSPECTIVE JUROR NUMBER 360: Yes.

1 MS. LUZAICH: And, obviously, the burden of proof in criminal
2 and civil are very different. So, like the Court indicated, you'll just forget
3 all that and only pay attention --

4 PROSPECTIVE JUROR NUMBER 360: Yes.

5 MS. LUZAICH: -- to her instructions? Okay.

6 When you were married to your ex-husband, you said that there
7 was verbal abuse but the first time that he actually laid hands on was that
8 one night?

9 PROSPECTIVE JUROR NUMBER 360: Yes.

10 MS. LUZAICH: How come you stayed before he laid hands on,
11 when there was abuse?

12 PROSPECTIVE JUROR NUMBER 360: I was very young. I
13 was 21, 22 at the time and naive.

14 MS. LUZAICH: Okay. And you said that the night that he did
15 this, you eventually took yourself to the emergency room --

16 PROSPECTIVE JUROR NUMBER 360: Correct.

17 MS. LUZAICH: -- and moved out?

18 How come you didn't call the police?

19 PROSPECTIVE JUROR NUMBER 360: I just -- as soon as he
20 passed out, I just wanted out of there. I couldn't get to a phone because
21 he was watching every move I made. So I just waited, I just -- I knew he'd
22 pass out sooner or later and as soon as he passed out, I left.

23 MS. LUZAICH: Okay. When you went to the emergency room
24 you said you thought they called the police?

25 PROSPECTIVE JUROR NUMBER 360: Somebody. I don't

1 know who did. Somebody called the police 'cause when I got there and I
2 told 'em who I was, they said, oh, you're the one the call went out on, on
3 the street address where I lived. So someone somewhere called
4 somebody. I'm not too sure who.

5 MS. LUZAICH: Did you talk to police?

6 PROSPECTIVE JUROR NUMBER 360: No.

7 MS. LUZAICH: Do you know why?

8 PROSPECTIVE JUROR NUMBER 360: No, I don't know why.

9 MS. LUZAICH: Did you want to pursue something so that he
10 would at least suffer some consequence as a result?

11 PROSPECTIVE JUROR NUMBER 360: I just wanted out with
12 my personal belongings and my life because he hit me hard enough to
13 where he broke his hand.

14 MS. LUZAICH: Yeah, yeah.

15 You said that he hurt you pretty bad too, no?

16 PROSPECTIVE JUROR NUMBER 360: Yeah, he sliced me
17 from my lip to my ear, so I had to have stitches.

18 MS. LUZAICH: Okay. But you're okay now.

19 PROSPECTIVE JUROR NUMBER 360: It's all coming back to
20 me.

21 MS. LUZAICH: Sorry.

22 Do you have any expectations for this trial?

23 PROSPECTIVE JUROR NUMBER 360: No.

24 MS. LUZAICH: Nothing that you're expecting to see?

25 PROSPECTIVE JUROR NUMBER 360: I'm expecting to see

1 pictures or something, you would think they'd have pictures or
2 photographs of --

3 MS. LUZAICH: Something?

4 PROSPECTIVE JUROR NUMBER 360: -- bodily harm, if there
5 was some.

6 MS. LUZAICH: Okay. What if there wasn't, I mean, would you
7 be able to return a verdict of guilty if you didn't see any photographs?

8 PROSPECTIVE JUROR NUMBER 360: Yes.

9 MS. LUZAICH: So in your mind, if you just listened to
10 witnesses testify, and, of course, if you believe them, you would be able to
11 return a verdict of guilty based on that, you don't need something to hold
12 in your hands and look at?

13 PROSPECTIVE JUROR NUMBER 360: I'm pretty sure I'd be
14 able to.

15 MS. LUZAICH: Okay. You're going to get more than that, but I
16 still have to ask the questions.

17 Would you agree that a person has the absolute right to say no
18 to unwanted sexual advances?

19 PROSPECTIVE JUROR NUMBER 360: Yes.

20 MS. LUZAICH: No matter what their relationship is,
21 boyfriend/girlfriend, husband/wife --

22 PROSPECTIVE JUROR NUMBER 360: Yes.

23 MS. LUZAICH: -- you can still say no?

24 PROSPECTIVE JUROR NUMBER 360: Yes.

25 MS. LUZAICH: And no always means no?

1 PROSPECTIVE JUROR NUMBER 360: Correct.

2 MS. LUZAICH: Do you think that if somebody describes an
3 incident and it differs from somebody else who describes that same
4 incident, is that going to be -- could that be a problem for you?

5 PROSPECTIVE JUROR NUMBER 360: No.

6 MS. LUZAICH: Why is that?

7 PROSPECTIVE JUROR NUMBER 360: Everybody sees
8 things, like everybody else been saying, they see things differently and
9 catch, did you see something, that over there, no, I didn't catch it. You
10 know, if you point it out. So everybody sees different aspects.

11 MS. LUZAICH: Now, would you agree that everybody reacts
12 differently to circumstances?

13 PROSPECTIVE JUROR NUMBER 360: Yes.

14 MS. LUZAICH: And are all those things that you might take into
15 consideration?

16 PROSPECTIVE JUROR NUMBER 360: Yes.

17 MS. LUZAICH: Okay. How do you think you might evaluate the
18 testimony of witnesses that you don't know?

19 PROSPECTIVE JUROR NUMBER 360: I'm pretty sure I'll be
20 fair.

21 MS. LUZAICH: Okay. Are you going to compare what each
22 person says like to what the other people say?

23 PROSPECTIVE JUROR NUMBER 360: I might.

24 MS. LUZAICH: Will you compare it to whatever the evidence is,
25 if you see any evidence?

1 PROSPECTIVE JUROR NUMBER 360: Yes.

2 MS. LUZAICH: Are you concerned about sitting --

3 PROSPECTIVE JUROR NUMBER 360: Yes.

4 MS. LUZAICH: -- on a trial like this?

5 PROSPECTIVE JUROR NUMBER 360: This one, yes. 'Cause
6 I have a stepdaughter, and I went with my current husband -- I've been
7 with him for 34 years -- and we went through a very bad child custody
8 case where she took the baby. We had to have private investigators and
9 it's been tremendous thing so.

10 MS. LUZAICH: And I really don't mean to sound insensitive,
11 how does that make it different -- difficult to listen to this?

12 PROSPECTIVE JUROR NUMBER 360: Just all the turmoil, I
13 guess, I don't -- I don't know how to explain it. There's a lot of turmoil with
14 what I've been through and then I'm sure there was a lot of turmoil the
15 evening of whatever took place here to where I can feel for the parties.

16 MS. LUZAICH: Do you think that that will kind of get in the way
17 of your objectivity?

18 PROSPECTIVE JUROR NUMBER 360: It might.

19 MS. LUZAICH: Okay. You know, there are no wrong answers
20 here, only honest answers, truly.

21 Can we approach?

22 THE COURT: Yep.

23 [Bench conference begins]

24 MS. LUZAICH: It's almost like she talked herself out of being
25 able to sit.

1 MS. MCNEILL: Yeah, I'd make a motion.

2 THE COURT: Okay. And so you're not objecting?

3 MS. LUZAICH: It's submitted, yeah.

4 THE COURT: All right. I guess, 20 minutes we'll never get
5 back.

6 [Bench conference ends]

7 THE COURT: All right. Ma'am, I do appreciate you being
8 honest and I know it's hard to talk about these personal issues in front of
9 the room. I'm going to go ahead and excuse you at this time.

10 Thank you.

11 THE CLERK: Next in seat 22 will be badge number 516, Nancy
12 Raygoza.

13 THE COURT: All right. Ms. Raygoza, how are you today?

14 PROSPECTIVE JUROR NUMBER 516: Good. How are you?

15 THE COURT: Good.

16 Is there any reason you could not be fair and impartial in this
17 case?

18 PROSPECTIVE JUROR NUMBER 516: I don't think so.

19 THE COURT: Can you wait in forming your opinion on the
20 appropriate result until all the evidence has been heard?

21 PROSPECTIVE JUROR NUMBER 516: Yes.

22 THE COURT: Have you or anyone close to you worked in law
23 enforcement?

24 PROSPECTIVE JUROR NUMBER 516: No.

25 THE COURT: Have you or anyone close to you been charged

1 with a serious crime?

2 PROSPECTIVE JUROR NUMBER 516: No.

3 THE COURT: Have you or anyone close to you been the victim
4 of a serious crime?

5 PROSPECTIVE JUROR NUMBER 516: Yes.

6 THE COURT: Tell me what happened.

7 PROSPECTIVE JUROR NUMBER 516: Actually last night I
8 was assaulted.

9 THE COURT: Last night; okay. I'm sorry to hear that happened
10 to you.

11 Tell me what happened.

12 PROSPECTIVE JUROR NUMBER 516: My husband and I
13 went to Target, he decided to get off the car, and I decided to stay 'cause
14 our baby was taking a nap. So I asked him to FaceTime me while he was
15 in there 'cause he needed to buy a gift for our niece. And I was on the
16 phone with him, a car parked next to me, and the passenger, when she
17 opened her car door, she flung the door and hit our door -- or I assumed
18 she hit our door but she hit our car.

19 I told my husband, like, oh, someone just hit our car. He asked
20 me, like, you should get out and see if there's any scratches since they're
21 there. Maybe if there is any damages, now it's a good time to ask for
22 information. I said, no, I don't want to do that. It's kind of embarrassing
23 and I didn't feel comfortable doing it. And he's, like, Nancy, if they're
24 there, it's better for you to check it now than when I get out of the store.
25 So I said, okay.

1 I got out of the car and the woman, I think, got offended that I
2 was checking my car and she started yelling at me and cussing at me and
3 calling me names.

4 And I tried to explain, like, it's okay, like, chill out, you know,
5 just -- I just want to check my car, like. I was kind of getting nervous
6 already, like, why is she getting so angry?

7 Her friends were with her. And she just started getting crazy.
8 She got close to me. Eventually we were face to face and she just hit me.

9 THE COURT: So she hit your car, you got out to look, and then
10 she's yelling at you and hit you?

11 PROSPECTIVE JUROR NUMBER 516: U'm-h'm.

12 THE COURT: Okay.

13 PROSPECTIVE JUROR NUMBER 516: Because she said she
14 didn't hit my door, she hit my mirrors so. I don't know why that mattered
15 but.

16 THE COURT: So the other lady hit you how?

17 PROSPECTIVE JUROR NUMBER 516: She hit me on my jaw.

18 THE COURT: Okay. All right. And how did it end, did you just
19 get back in your car --

20 PROSPECTIVE JUROR NUMBER 516: No.

21 THE COURT: -- did she walk away?

22 PROSPECTIVE JUROR NUMBER 516: During this time I didn't
23 notice my husband was still on the phone so he ran out. By the time -- I
24 yelled and I was, like, oh, my gosh, I can't believe she just -- she just hit
25 me. I had turned around. By the time I turned back around, she was

1 already walking away with her friends towards Target entrance.

2 My husband was walking out and was yelling, like, what's going
3 on? And I just couldn't believe it. I just got off the phone. I called 9-1-1
4 right away.

5 THE COURT: Uh-huh.

6 PROSPECTIVE JUROR NUMBER 516: By the time they
7 arrived, they were gone.

8 THE COURT: So they had already gotten back to their car and
9 left?

10 PROSPECTIVE JUROR NUMBER 516: U'm-h'm.

11 THE COURT: Is that yes? Sorry.

12 PROSPECTIVE JUROR NUMBER 516: Yes, sorry.

13 THE COURT: Uh-huh.

14 So you -- did you give a report to the police?

15 PROSPECTIVE JUROR NUMBER 516: Yes.

16 THE COURT: Okay. All right. Well, I'm sorry that happened to
17 you.

18 Just sort of curious, I guess, did you happen to get the license
19 plate --

20 PROSPECTIVE JUROR NUMBER 516: Yes.

21 THE COURT: -- for that car?

22 So you gave that information to the police?

23 PROSPECTIVE JUROR NUMBER 516: Yes, u'm-h'm.

24 THE COURT: Okay. So have you heard any follow-up
25 information today about that?

1 PROSPECTIVE JUROR NUMBER 516: Not today, uh-huh.

2 THE COURT: Okay. All right. So now that, having had that
3 experience last night, do you think that that will affect your ability to be fair
4 and impartial in this case?

5 PROSPECTIVE JUROR NUMBER 516: I hope not. But I feel
6 the way that the police officers -- one of the police officers made me feel --
7 I wasn't comfortable. So things that he said.

8 THE COURT: Okay. And I'm sorry to do this, but I've got to
9 ask, what about what he said that made you uncomfortable?

10 PROSPECTIVE JUROR NUMBER 516: There was two police
11 officers in one car, one police officer took down the report and asked me
12 all these questions. He went back to his vehicle.

13 And the second officer was just on the side talking to me and he
14 was, like, oh, that sucks, you know, explain to me what happened again
15 and I did. And I was shaking, I was -- I was furious. I couldn't believe that
16 happened.

17 THE COURT: Right.

18 PROSPECTIVE JUROR NUMBER 516: I was, like, my eyes
19 were teary-eyed. I was so upset.

20 And he said to me, well, you know, nothing might happen out of,
21 like, nothing might come out of this because there was no witnesses, you
22 know, there's not much we can really do. Do you still want to press
23 charges? Like, are you sure you want to press charges?

24 And I said, well, yeah, like, what am I supposed to do?

25 And he's, like, well, maybe it's just your pride.

1 And I said, this is my pride? I don't know how that's my pride
2 but. I couldn't believe he said that.

3 THE COURT: Yes, okay. I understand.

4 And was this Metro officers?

5 PROSPECTIVE JUROR NUMBER 516: U'm-h'm.

6 THE COURT: Yes?

7 PROSPECTIVE JUROR NUMBER 516: Yes, sorry.

8 THE COURT: It's okay. It's just hard to transcribe.

9 Okay. All right. And so do you think that that conversation with
10 that particular officer will affect how you view other Metro officers who
11 may come in and testify in this case?

12 PROSPECTIVE JUROR NUMBER 516: No. I do believe each
13 officer is different.

14 THE COURT: Right.

15 So, obviously, that was an unpleasant experience, for you all
16 around last night, but do you think that you could put that issue aside and
17 base a decision in this case just on what happens here in the courtroom?

18 PROSPECTIVE JUROR NUMBER 516: I hope so.

19 THE COURT: Okay. And do you think that you can or do you
20 think, gosh, I don't know, it may be difficult for you, each person's
21 different?

22 PROSPECTIVE JUROR NUMBER 516: I'll say no.

23 THE COURT: You think you're going to have a tough time
24 putting that aside to listen to this case?

25 PROSPECTIVE JUROR NUMBER 516: I would like to say yes,

1 but if I were to hear, the way the officer explained things to me, he said,
2 well, it's a he said, she said situation in my case. And unfortunately if they
3 don't believe you, then your case is over.

4 So it kind of made me -- I don't know. If I were to hear someone
5 testify, I would feel for them because -- I mean, it would suck going up
6 there and no one caring. I don't know.

7 THE COURT: Okay. So because of what happened you're
8 going to have some empathy for --

9 PROSPECTIVE JUROR NUMBER 516: I might, u'm-h'm.

10 THE COURT: -- the person? Yeah.

11 And you may have -- are you saying you would not be able to
12 put aside those feelings to base a decision on the facts and the law?

13 PROSPECTIVE JUROR NUMBER 516: Right.

14 THE COURT: Okay. Counsel, come on up.

15 [Bench conference begins]

16 THE COURT: Yikes.

17 MS. LUZAICH: It's one of those days.

18 I want to find out which Target 'cause I want to prosecute the
19 person who did it.

20 THE COURT: Yeah.

21 MR. ROSE: And I want to chat with the officer.

22 MS. LUZAICH: Yeah, I want to punch the officer.

23 MS. MCNEILL: Sounds like they're not giving a lot of direction,
24 so it was, I don't like the police. And then also it's going to be --

25 THE COURT: It's true. It kind of cuts both ways, I guess. But

1 either way, the fact that it just happened last night.

2 MS. LUZAICH: Last night.

3 MS. MCNEILL: Yeah, it's very fresh.

4 THE COURT: And she's obviously emotional about it.

5 MS. LUZAICH: Yeah.

6 MS. MCNEILL: Yeah.

7 MS. MCNEILL: That's very disturbing.

8 THE COURT: I guess I need to excuse her.

9 MS. LUZAICH: Yeah.

10 THE COURT: Okay. Thanks.

11 MS. LUZAICH: But at least it was quick and not 20 minutes.

12 THE COURT: Yes, that's true.

13 [Bench conference ends]

14 THE COURT: All right. Ma'am, I appreciate that you had to tell
15 this whole story in front of us and, you know, unfortunately it happened
16 while we're in the middle of this process.

17 Under those circumstances, I am going to excuse you. But
18 thanks for your time.

19 THE CLERK: Next in seat 22, badge number 518, Kelly
20 Hayden.

21 THE COURT: All right. Ms. Hayden, how are you today?

22 PROSPECTIVE JUROR NUMBER 518: I'm good.

23 THE COURT: Is there any reason you could not be fair and
24 impartial in this case?

25 PROSPECTIVE JUROR NUMBER 518: No.

1 THE COURT: Can you wait in forming your opinion on the
2 appropriate result until all the evidence has been heard?

3 PROSPECTIVE JUROR NUMBER 518: Yes.

4 THE COURT: Have you or anyone close to you worked in law
5 enforcement?

6 PROSPECTIVE JUROR NUMBER 518: I have a few neighbors
7 that are Metro officers.

8 THE COURT: Okay. Are you friendly with those folks?

9 PROSPECTIVE JUROR NUMBER 518: Yes.

10 THE COURT: They weren't any of the listed witnesses though?

11 PROSPECTIVE JUROR NUMBER 518: No.

12 THE COURT: Okay. The fact that you're friends and neighbors
13 with some Metro officers, would that affect your ability to be fair and
14 impartial as a juror in this case?

15 PROSPECTIVE JUROR NUMBER 518: No.

16 THE COURT: Have you or anyone close to you been charged
17 with a serious crime?

18 PROSPECTIVE JUROR NUMBER 518: Yes.

19 THE COURT: Tell me about that.

20 PROSPECTIVE JUROR NUMBER 518: My brother-in-law was
21 accused of rape and was convicted and served a few years in juvenile
22 detention.

23 THE COURT: Was that here in Las Vegas?

24 PROSPECTIVE JUROR NUMBER 518: Yes.

25 THE COURT: How long ago was that?

1 PROSPECTIVE JUROR NUMBER 518: I think it was about 17
2 years ago.

3 THE COURT: So he was a juvenile at the time of that incident?

4 PROSPECTIVE JUROR NUMBER 518: Yes.

5 THE COURT: Did you know him then?

6 PROSPECTIVE JUROR NUMBER 518: No.

7 THE COURT: And has he gone on to lead a trouble-free life
8 after that or?

9 PROSPECTIVE JUROR NUMBER 518: No.

10 THE COURT: No.

11 Has he had other legal issues?

12 PROSPECTIVE JUROR NUMBER 518: Not legal issues but he
13 has a drug problem since then.

14 THE COURT: Now, so you didn't know him at the time of those
15 underlying incidents, or the underlying case, do you have an opinion
16 about whether he was treated fairly in his case?

17 PROSPECTIVE JUROR NUMBER 518: Just from what I've
18 heard from my husband and his family, they believe that he was innocent
19 and that it was an unfair trial.

20 THE COURT: And I know you weren't around at the time, but
21 do you know if he actually had a trial or was it a --

22 PROSPECTIVE JUROR NUMBER 518: Yes.

23 THE COURT: It was a trial?

24 PROSPECTIVE JUROR NUMBER 518: U'm-h'm.

25 THE COURT: So will the fact that you think he was wrongly

1 charged and convicted, affect your ability to be fair and impartial in this
2 case?

3 PROSPECTIVE JUROR NUMBER 518: No.

4 THE COURT: In other words, will you hold it against police or
5 prosecutors because that happened to your brother-in-law?

6 PROSPECTIVE JUROR NUMBER 518: No, because I've seen
7 both sides of the situation.

8 THE COURT: Right.

9 So you think you can judge this case on its own merits?

10 PROSPECTIVE JUROR NUMBER 518: Yes.

11 THE COURT: Have you or anyone close to you been a victim
12 of a serious crime?

13 PROSPECTIVE JUROR NUMBER 518: No.

14 THE COURT: Have you or anyone close to you been accused
15 of or the victim of domestic violence or sexual abuse, other than what you
16 told me about?

17 PROSPECTIVE JUROR NUMBER 518: Yes, I have a few
18 cousins who were raped and molested by their father.

19 THE COURT: Was that here in Las Vegas?

20 PROSPECTIVE JUROR NUMBER 518: No, it was in
21 California.

22 THE COURT: Was that ever reported to police?

23 PROSPECTIVE JUROR NUMBER 518: No, it happened while
24 they were children and they didn't say anything about it until about eight
25 years ago.

1 THE COURT: Okay. And at that time it wasn't reported?

2 PROSPECTIVE JUROR NUMBER 518: No, it was probably 20
3 years after it had happened.

4 THE COURT: Is their father still in the picture?

5 PROSPECTIVE JUROR NUMBER 518: No, after they came
6 forward, they told their mom and confronted their dad, and their parents
7 got a divorce.

8 THE COURT: And, again, would that set of circumstances
9 involving your family members affect your ability to be fair and impartial in
10 this case?

11 PROSPECTIVE JUROR NUMBER 518: No.

12 THE COURT: Is there anything about the charges in this case
13 that would make it difficult for you to be fair and impartial?

14 PROSPECTIVE JUROR NUMBER 518: No.

15 THE COURT: Can you base your verdict solely on the
16 evidence and the law that applies without fear of criticism or popular
17 opinion?

18 PROSPECTIVE JUROR NUMBER 518: Yes.

19 THE COURT: Have you ever been a juror before?

20 PROSPECTIVE JUROR NUMBER 518: No.

21 THE COURT: If you were a party to this case, would you be
22 comfortable with jurors of a like frame of mind as yourself sitting in
23 judgment?

24 PROSPECTIVE JUROR NUMBER 518: Yes.

25 THE COURT: How long have you lived here in Clark County?

1 PROSPECTIVE JUROR NUMBER 518: Since 2000.

2 THE COURT: Okay. And what's the highest level of education

3 you completed?

4 PROSPECTIVE JUROR NUMBER 518: Associates degree.

5 THE COURT: In what area?

6 PROSPECTIVE JUROR NUMBER 518: Business marketing.

7 THE COURT: And are you employed?

8 PROSPECTIVE JUROR NUMBER 518: No, I'm a stay at home

9 mother.

10 THE COURT: Are you married?

11 PROSPECTIVE JUROR NUMBER 518: Yes.

12 THE COURT: Is your spouse employed?

13 PROSPECTIVE JUROR NUMBER 518: Yes, he's an insurance

14 agent.

15 THE COURT: And do you have children?

16 PROSPECTIVE JUROR NUMBER 518: Yes.

17 THE COURT: How many?

18 PROSPECTIVE JUROR NUMBER 518: I have three children.

19 I have a boy who's seven and two girls that are five and three.

20 THE COURT: Okay. And just -- have you been able to get

21 childcare coverage while you're here with us?

22 PROSPECTIVE JUROR NUMBER 518: Yeah, luckily I have a

23 sister and sister-in-law who have been helping.

24 THE COURT: Great.

25 State.

1 MS. LUZAICH: Thank you.

2 Good afternoon, Ms. Hayden.

3 And I'm sorry if I missed this, did you work outside the home
4 before you had kids?

5 PROSPECTIVE JUROR NUMBER 518: Yes, I did.

6 MS. LUZAICH: What did you do?

7 PROSPECTIVE JUROR NUMBER 518: I was a personal
8 assistant.

9 MS. LUZAICH: For?

10 PROSPECTIVE JUROR NUMBER 518: He owned a
11 construction company and I just took care of his travel plans. I was kind
12 of like a second wife. I did all the -- yeah.

13 MS. LUZAICH: You ran his life?

14 PROSPECTIVE JUROR NUMBER 518: Yeah.

15 MS. LUZAICH: Okay. All right. So when you -- when you
16 talked about your brother-in-law, they, his family, indicated that they
17 thought that it was unfair and that he was innocent, based on what you've
18 heard from them, do you have your own opinion?

19 PROSPECTIVE JUROR NUMBER 518: Um --

20 MS. LUZAICH: I mean, it may be politically incorrect to
21 disagree but.

22 PROSPECTIVE JUROR NUMBER 518: No, I mean, only
23 because I knew who she was and I just heard about some of the
24 testimony of people who had testified and also just people who knew her.
25 And I think she had got caught and she didn't want her parents to know

1 and so she was trying to cover it up.

2 Because she, I mean, I -- who knows. I wasn't there. I still -- I
3 can't -- I can't judge. But just based on the type of girl she was in high
4 school, it sounds like -- but my brother-in-law says that it was consensual.
5 But, again, no one can know except for those two people.

6 MS. LUZAICH: Except for who was in the room?

7 PROSPECTIVE JUROR NUMBER 518: Yeah.

8 MS. LUZAICH: And you would agree that crimes like this
9 generally happen behind closed doors?

10 PROSPECTIVE JUROR NUMBER 518: Yes.

11 MS. LUZAICH: And nobody knows what happens behind
12 closed doors except the people that are behind closed doors?

13 PROSPECTIVE JUROR NUMBER 518: Absolutely, yes.

14 MS. LUZAICH: So in that case it was a consent issue?

15 PROSPECTIVE JUROR NUMBER 518: Yes.

16 MS. LUZAICH: Can you put that behind you, I mean --

17 PROSPECTIVE JUROR NUMBER 518: Yes.

18 MS. LUZAICH: -- leave it outside the courtroom and only
19 decide this case based on what you hear and see there?

20 PROSPECTIVE JUROR NUMBER 518: Yeah, it's only fair to
21 do that.

22 MS. LUZAICH: Okay. And it doesn't sound like there was, I
23 mean, independent evidence, it sounds like there was testimony there?

24 PROSPECTIVE JUROR NUMBER 518: Yeah.

25 MS. LUZAICH: Would you be able to decide this case, if all you

1 had was testimony of witnesses? Assuming, of course, you believe them
2 but.

3 PROSPECTIVE JUROR NUMBER 518: Yes.

4 MS. LUZAICH: So are you expecting to see anything here?

5 PROSPECTIVE JUROR NUMBER 518: Just testimony and
6 maybe some physical evidence. But, no, I'm not expecting anything.

7 MS. LUZAICH: Okay. You mentioned that you have some
8 friends, neighbors, that are police officers?

9 PROSPECTIVE JUROR NUMBER 518: Yes.

10 MS. LUZAICH: What do they do at Metro?

11 PROSPECTIVE JUROR NUMBER 518: One is a detective,
12 undercover detective, and the other -- I don't -- he does -- he teaches
13 them how to like drive blindfolded. I don't know. It's some --

14 MS. LUZAICH: Okay. That would scare me.

15 PROSPECTIVE JUROR NUMBER 518: Yeah, I know.

16 MS. LUZAICH: Defensive driving or something like that.

17 PROSPECTIVE JUROR NUMBER 518: Something like that,
18 but, yeah. Some crazy thing like that, but, yeah. 2:35:05.

19 MS. LUZAICH: Do you talk to them about like what they do and
20 what they see?

21 PROSPECTIVE JUROR NUMBER 518: Every now and then
22 but not any details.

23 MS. LUZAICH: Nothing specific?

24 PROSPECTIVE JUROR NUMBER 518: No.

25 MS. LUZAICH: And the fact that you are friendly with them has

1 no bearing on what happens in here?

2 PROSPECTIVE JUROR NUMBER 518: No, no.

3 MS. LUZAICH: Would you with that?

4 PROSPECTIVE JUROR NUMBER 518: I agree.

5 MS. LUZAICH: And you didn't recognize any of the names --

6 PROSPECTIVE JUROR NUMBER 518: No.

7 MS. LUZAICH: -- that I had read?

8 When you said that your brother-in-law hasn't legal problems
9 since, but he's got a drug problem since then.

10 PROSPECTIVE JUROR NUMBER 518: Yeah.

11 MS. LUZAICH: Do you relate his drug problem to what
12 occurred or?

13 PROSPECTIVE JUROR NUMBER 518: I do because I think
14 there was a lot of embarrassment and a lot of shame. And he -- after he
15 was released he wanted to just move away and didn't want to be around
16 people who recognized him because he knew that people already had
17 that judgment of him.

18 MS. LUZAICH: A preconceived idea?

19 PROSPECTIVE JUROR NUMBER 518: Yeah.

20 MS. LUZAICH: Uh-huh.

21 PROSPECTIVE JUROR NUMBER 518: And so I think that kind
22 of led to, you know, self-medicating and trying to deal with those feelings.

23 MS. LUZAICH: Does he still live here?

24 PROSPECTIVE JUROR NUMBER 518: No, he lives in
25 Arizona.

1 MS. LUZAICH: Has he been able to get past his drug issue?

2 PROSPECTIVE JUROR NUMBER 518: He's like high
3 functioning. He has a job and is married now and has kids but I know
4 he -- there's still a lot of signs that he's still using.

5 MS. LUZAICH: Okay. That's unfortunate.

6 PROSPECTIVE JUROR NUMBER 518: Yeah.

7 MS. LUZAICH: Would you agree that a person does have the
8 absolute right to say no to unwanted sexual advances?

9 PROSPECTIVE JUROR NUMBER 518: Yes.

10 MS. LUZAICH: And do you think that somebody ever gives up
11 that right?

12 PROSPECTIVE JUROR NUMBER 518: No.

13 MS. LUZAICH: And no never means convince me?

14 PROSPECTIVE JUROR NUMBER 518: No.

15 MS. LUZAICH: Would you agree that it's never appropriate to
16 lay hands on somebody physically?

17 PROSPECTIVE JUROR NUMBER 518: That's not -- never
18 okay.

19 MS. LUZAICH: Do you think that the State should get involved
20 in domestic violence?

21 PROSPECTIVE JUROR NUMBER 518: Yes.

22 MS. LUZAICH: So it's not something that should just remain
23 within the home?

24 PROSPECTIVE JUROR NUMBER 518: No.

25 MS. LUZAICH: It's okay that people get prosecuted for that?

1 PROSPECTIVE JUROR NUMBER 518: Yes.

2 MS. LUZAICH: Would you consider yourself to be a fair and
3 open minded person?

4 PROSPECTIVE JUROR NUMBER 518: Yes.

5 MS. LUZAICH: If you were me, would you want you on this
6 jury?

7 PROSPECTIVE JUROR NUMBER 518: Yeah, I do.

8 MS. LUZAICH: Is there anything that you have heard over the
9 last two days that you were just dying to answer a particular question?

10 PROSPECTIVE JUROR NUMBER 518: Well, I actually do
11 watch Law and Order SVU. And maybe everyone's too embarrassed to
12 admit that they do but I love that show, yeah.

13 MS. LUZAICH: It is a great show.

14 Which one -- you watch SVU?

15 PROSPECTIVE JUROR NUMBER 518: SVU, the old ones so.

16 MS. LUZAICH: Okay. Now, that show is always wound up in
17 an hour --

18 PROSPECTIVE JUROR NUMBER 518: I know, they're
19 amazing.

20 MS. LUZAICH: -- in a nice red bow.

21 They are amazing, aren't they?

22 PROSPECTIVE JUROR NUMBER 518: Yes.

23 MS. LUZAICH: I apologize, but we are not going to wrap this
24 up for you in an hour.

25 PROSPECTIVE JUROR NUMBER 518: Okay.

1 MS. LUZAICH: Although I kind of think you've already realized
2 that.

3 PROSPECTIVE JUROR NUMBER 518: Yeah, that's all right,
4 yeah.

5 MS. LUZAICH: And I don't know that it's going to be in a nice
6 red bow either.

7 PROSPECTIVE JUROR NUMBER 518: No.

8 MS. LUZAICH: Is that okay?

9 PROSPECTIVE JUROR NUMBER 518: Yes, that's okay.

10 MS. LUZAICH: You're going to have to make some decisions
11 on your own.

12 PROSPECTIVE JUROR NUMBER 518: Yes.

13 MS. LUZAICH: And nobody's going to come running through
14 that door and say, I did it, I did it.

15 PROSPECTIVE JUROR NUMBER 518: I know.

16 MS. LUZAICH: You're not expecting anything like that; right?

17 PROSPECTIVE JUROR NUMBER 518: Yeah, no, no it would
18 be great, but no.

19 MS. LUZAICH: Okay. How about CSI, do you watch that too?

20 PROSPECTIVE JUROR NUMBER 518: No.

21 MS. LUZAICH: Okay. So you would not be heartbroken to
22 know that that is fake?

23 PROSPECTIVE JUROR NUMBER 518: Yes -- no, I wouldn't
24 be heartbroken, I'm sorry.

25 MS. LUZAICH: Is there anything at all that you're expecting to

1 see?

2 PROSPECTIVE JUROR NUMBER 518: No.

3 MS. LUZAICH: You're not expecting to see anybody burst into
4 tears?

5 PROSPECTIVE JUROR NUMBER 518: No.

6 MS. LUZAICH: You're not expecting to see --

7 PROSPECTIVE JUROR NUMBER 518: No, everyone reacts
8 so differently.

9 MS. LUZAICH: And if somebody comes in here and does not
10 appear or react the same way that you think you might have, if you were
11 in, God forbid those same circumstances, you wouldn't automatically
12 disbelieve them?

13 PROSPECTIVE JUROR NUMBER 518: No.

14 MS. LUZAICH: Will you give all the witnesses a fair chance?

15 PROSPECTIVE JUROR NUMBER 518: Yes.

16 MS. LUZAICH: Is there anything about you that would prevent
17 you from being able to sit in judgment?

18 PROSPECTIVE JUROR NUMBER 518: No.

19 MS. LUZAICH: And if you listen to the evidence and facts and
20 you are convinced beyond a reasonable doubt the defendant committed
21 the crimes he's charged with, would you be able to say the word guilty?

22 PROSPECTIVE JUROR NUMBER 518: Yes.

23 MS. LUZAICH: Thank you.

24 Pass for cause.

25 MS. MCNEILL: Hi, Ms. Hayden.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROSPECTIVE JUROR NUMBER 518: Hi.

MS. MCNEILL: So the old Law and Order SVUs; right?

PROSPECTIVE JUROR NUMBER 518: Yes.

MS. MCNEILL: So the ones with Olivia and Stabler?

PROSPECTIVE JUROR NUMBER 518: Yeah.

MS. MCNEILL: Yeah, I watch it too. I admit it. But I just yell at the lawyers on TV and say that's not how it works.

You said that you've seen both sides of the situation and so it sounds like you were able to kind of come to an idea about what you think really happened with your brother-in-law because you had facts that maybe the people in the court didn't have?

PROSPECTIVE JUROR NUMBER 518: Right, yeah, it's not everybody that was summoned to be a witness was able to testify. And so I think the family feels like had all those people had the chance to testify, maybe it would have been a different outcome.

MS. MCNEILL: Okay. And so you're hearing about that and knowing some of the players involved, would you agree with me that it can be kind of easy for a woman to make up this type of allegation if she was inclined?

PROSPECTIVE JUROR NUMBER 518: Yeah, if she had the motive to.

MS. MCNEILL: Okay.

PROSPECTIVE JUROR NUMBER 518: Yeah.

MS. MCNEILL: And so motive is something that is important to you when you're looking at why someone is saying something?

1 PROSPECTIVE JUROR NUMBER 518: Yes.

2 MS. MCNEILL: Okay. Do you think that that's a skill, the
3 questioning for motives, that a good juror should have?

4 PROSPECTIVE JUROR NUMBER 518: Yes.

5 MS. MCNEILL: You said that you were a personal assistant for
6 a construction company, how long has it been since you were working?
7 Did you stay at home immediately after your first child?

8 PROSPECTIVE JUROR NUMBER 518: Yeah, I did. I thought I
9 was going to be able to work part-time but then I realized it was a lot
10 harder than I thought, so, yeah.

11 MS. MCNEILL: And so your children are seven, five, and
12 three?

13 PROSPECTIVE JUROR NUMBER 518: Yes.

14 MS. MCNEILL: Okay. So everyone's home for the summer
15 now?

16 PROSPECTIVE JUROR NUMBER 518: Yes.

17 MS. MCNEILL: So you want to be here; right?

18 PROSPECTIVE JUROR NUMBER 518: I know, everyone
19 keeps telling me, I'm so sorry that you're there. I'm, like, yeah, it's really
20 bad. But really, like, oh, I'm kind of excited to be here.

21 MS. MCNEILL: Right, yeah. I get it.

22 Okay. I don't think I have a lot of questions for you. I think Ms.
23 Luzaich did a good job getting information.

24 So I'll pass you for cause.

25 THE COURT: Thank you.

1 All right. Mr. Ramos, how are you doing today?

2 PROSPECTIVE JUROR NUMBER 454: I'm good. How are
3 you?

4 THE COURT: Good.

5 Is there any reason you could not be fair and impartial in this
6 case?

7 PROSPECTIVE JUROR NUMBER 454: No, ma'am.

8 THE COURT: Can you wait in forming your opinion on the
9 appropriate result until all the evidence has been heard?

10 PROSPECTIVE JUROR NUMBER 454: Yes.

11 THE COURT: Have you or anyone close to you worked in law
12 enforcement?

13 PROSPECTIVE JUROR NUMBER 454: No.

14 THE COURT: Have you or anyone close to you been charged
15 with a serious crime?

16 PROSPECTIVE JUROR NUMBER 454: No.

17 THE COURT: Have you or anyone close to you been the victim
18 of a serious crime?

19 PROSPECTIVE JUROR NUMBER 454: No.

20 THE COURT: Have you or anyone close to you been accused
21 of or the victim of domestic violence or sexual abuse?

22 PROSPECTIVE JUROR NUMBER 454: No.

23 THE COURT: Is there anything about the charges in this case
24 that would make it difficult for you to be fair and impartial?

25 PROSPECTIVE JUROR NUMBER 454: No.

1 THE COURT: Can you base your verdict solely on the
2 evidence and the law that applies without fear of criticism or popular
3 opinion?

4 PROSPECTIVE JUROR NUMBER 454: Yes.

5 THE COURT: Have you ever been a juror before?

6 PROSPECTIVE JUROR NUMBER 454: No.

7 THE COURT: If you were a party to this case, would you be
8 comfortable with jurors of a like frame of mind as yourself sitting in
9 judgment?

10 PROSPECTIVE JUROR NUMBER 454: Yes.

11 THE COURT: And how long have you lived here in Clark
12 County?

13 PROSPECTIVE JUROR NUMBER 454: Four years.

14 THE COURT: Where did you live before that?

15 PROSPECTIVE JUROR NUMBER 454: I lived in Atlanta for
16 one year and then the rest of my life I lived in Florida.

17 THE COURT: Okay. And what's the highest level of education
18 you completed?

19 PROSPECTIVE JUROR NUMBER 454: High school diploma.

20 THE COURT: Okay. And I know we had a conversation, a
21 couple of days ago now, I guess, about your employment. But I know you
22 are involved with these shows and we were talking about the schedule,
23 but what is it you actually do in the show?

24 PROSPECTIVE JUROR NUMBER 454: I'm a dancer.

25 THE COURT: A dancer; okay.

1 PROSPECTIVE JUROR NUMBER 454: Yes.

2 THE COURT: All right. And have you been in touch with your
3 employer during the last couple of days while you've been here?

4 PROSPECTIVE JUROR NUMBER 454: So luckily I had
5 Tuesday and Wednesday off, so I haven't had to talk to them yet.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NUMBER 454: It's kind of like one of
8 those things where I don't want to bring it up to them --

9 THE COURT: Right.

10 PROSPECTIVE JUROR NUMBER 454: -- if I don't need to.

11 THE COURT: Right. So if you get picked later, you'll have to
12 talk to them?

13 PROSPECTIVE JUROR NUMBER 454: Exactly. It's like
14 tonight I'm gonna like text them and let them know if I'm -- whatever the
15 case is.

16 THE COURT: Right. That makes sense; okay.

17 Are you -- so is your employer the hotel or?

18 PROSPECTIVE JUROR NUMBER 454: It's -- I work at the
19 MGM and they hire the company that I work for, so, yeah.

20 THE COURT: Okay. But you're employed by the company that
21 has a contract with the MGM?

22 PROSPECTIVE JUROR NUMBER 454: Correct; yes.

23 THE COURT: Got it; okay.

24 All right. Are you married?

25 PROSPECTIVE JUROR NUMBER 454: No, I have a girlfriend.

1 THE COURT: Okay. And what does she do?

2 PROSPECTIVE JUROR NUMBER 454: She's a dancer as
3 well -- or performer as well.

4 THE COURT: Do you have any children?

5 PROSPECTIVE JUROR NUMBER 454: No.

6 THE COURT: Okay. State.

7 MS. LUZAICH: Okay, a silly question, what's the difference
8 between a dancer and a performer?

9 PROSPECTIVE JUROR NUMBER 454: Because a performer
10 could be an acrobat, it could be anything that just involves being on stage.
11 But a dancer is specific, it's kind of like a branch system, I guess.

12 MS. LUZAICH: Okay. So you're a dancer?

13 PROSPECTIVE JUROR NUMBER 454: U'm-h'm.

14 MS. LUZAICH: And she's a performer?

15 PROSPECTIVE JUROR NUMBER 454: She's a dancer as
16 well, we're both dancers, yes.

17 MS. LUZAICH: Okay. Do you dance in the -- or do you perform
18 for -- dance in, sorry, the same show?

19 PROSPECTIVE JUROR NUMBER 454: No.

20 MS. LUZAICH: What does she do?

21 PROSPECTIVE JUROR NUMBER 454: She performs at MJ
22 ONE.

23 MS. LUZAICH: At?

24 PROSPECTIVE JUROR NUMBER 454: MJ ONE, Michael
25 Jackson ONE.

1 MS. LUZAICH: Oh, Michael Jackson.
2 PROSPECTIVE JUROR NUMBER 454: Yeah.
3 MS. LUZAICH: Gotcha.
4 And you are in?
5 PROSPECTIVE JUROR NUMBER 454: Jabbawockeez.
6 MS. LUZAICH: Okay. And how long have you done that?
7 PROSPECTIVE JUROR NUMBER 454: Ever since I've been in
8 Vegas. That's actually what brought me out here. So been doing it for --
9 MS. LUZAICH: That was my next question --
10 PROSPECTIVE JUROR NUMBER 454: Yeah.
11 MS. LUZAICH: -- what brought you to Vegas.
12 PROSPECTIVE JUROR NUMBER 454: Yeah.
13 MS. LUZAICH: Did you meet her here or did she come with
14 you?
15 PROSPECTIVE JUROR NUMBER 454: We actually met in
16 Florida.
17 MS. LUZAICH: So she came with you?
18 PROSPECTIVE JUROR NUMBER 454: I'm sorry, she came
19 six months after I did.
20 MS. LUZAICH: Okay. Did you dance or perform in Atlanta as
21 well?
22 PROSPECTIVE JUROR NUMBER 454: Yes, yes, I did. It
23 wasn't as steady of a job as this one, but, yes, I did.
24 MS. LUZAICH: Okay. Do you think -- well, what did you think
25 when you got your jury summons?

1 PROSPECTIVE JUROR NUMBER 454: Ah --

2 THE COURT: Keep it clean.

3 MS. LUZAICH: Tell the truth.

4 PROSPECTIVE JUROR NUMBER 454: So it's funny I put it off
5 until it was like the whole five business days until I could change it. So I
6 was already in that period, so I was, like, I guess I'm going.

7 So, I mean, in the beginning I was -- I was kind of, like, I don't
8 how I'm going to get through this like next week. But even just these three
9 days it's been, like, pretty interesting. Just like she was saying, like, I'm
10 learning a lot, and I'm, like, figuring out big words that I never thought I
11 would know, so, yeah.

12 MS. LUZAICH: Make all your friends think you're really smart.

13 And you know you could have gotten a construction defect case
14 that lasts for six months instead of just a one week. And this will be a little
15 bit exciting; don't you think?

16 PROSPECTIVE JUROR NUMBER 454: Yeah, yeah it's been
17 exciting so far, so, yeah.

18 MS. LUZAICH: Do you watch any of this kind of stuff on TV?

19 PROSPECTIVE JUROR NUMBER 454: No, just cartoons. I'm
20 a kid at heart, so, yeah.

21 MS. LUZAICH: You can hang out with Ms. Portillo and her kids.
22 Are you expecting anything from this trial?

23 PROSPECTIVE JUROR NUMBER 454: No. I don't really know
24 what to expect because this is my first, like, trial. I don't really watch the
25 Law and Orders or anything like that so I don't really know what to expect,

1 but, yeah.

2 MS. LUZAICH: Are you willing to keep an open mind?

3 PROSPECTIVE JUROR NUMBER 454: Absolutely.

4 MS. LUZAICH: And would you agree that different people react
5 differently to the same set of circumstances?

6 PROSPECTIVE JUROR NUMBER 454: Yes.

7 MS. LUZAICH: So if somebody comes in here and describes
8 for you what occurred and that person doesn't act or react the way you
9 think, for example, your girlfriend might have, you won't automatically
10 disbelieve that person, will you?

11 PROSPECTIVE JUROR NUMBER 454: No, I will not.

12 MS. LUZAICH: Would you agree that a person does have the
13 absolute right to say no to sexual advances?

14 PROSPECTIVE JUROR NUMBER 454: Absolutely.

15 MS. LUZAICH: Even if they're married, boyfriend/girlfriend, no
16 matter what the relationship?

17 PROSPECTIVE JUROR NUMBER 454: Yes.

18 MS. LUZAICH: Does no ever mean anything other than no?

19 PROSPECTIVE JUROR NUMBER 454: No always means no.

20 MS. LUZAICH: And that's okay with you?

21 PROSPECTIVE JUROR NUMBER 454: Yes.

22 MS. LUZAICH: Do you think that the State should get involved
23 in a domestic violence situation?

24 PROSPECTIVE JUROR NUMBER 454: Yes.

25 MS. LUZAICH: You don't think it's something that should

1 necessarily be just handled within the home?

2 PROSPECTIVE JUROR NUMBER 454: No.

3 MS. LUZAICH: If you are selected to serve as a juror, obviously
4 what you're going to do is evaluate the testimony of all the witnesses that
5 are going to be here, can you evaluate the testimony of a police officer the
6 same as you would anyone else, a 7-Eleven clerk, a taxi driver, can you
7 evaluate them all the same?

8 PROSPECTIVE JUROR NUMBER 454: It would be 60/40.

9 MS. LUZAICH: Why is that?

10 PROSPECTIVE JUROR NUMBER 454: I don't know exactly
11 who said it but police officers are sworn under oath, regular citizens aren't.

12 MS. LUZAICH: Everybody who sits in that chair --

13 PROSPECTIVE JUROR NUMBER 454: Oh, okay.

14 MS. LUZAICH: -- is going to be sworn to tell the truth.

15 PROSPECTIVE JUROR NUMBER 454: Okay. Then, yes, I
16 would -- it would be -- I would -- it would be equal.

17 MS. LUZAICH: Okay.

18 PROSPECTIVE JUROR NUMBER 454: Yes.

19 MS. LUZAICH: Well, police officers have a hard job, I mean,
20 everybody would agree with that; right?

21 PROSPECTIVE JUROR NUMBER 454: Correct.

22 MS. LUZAICH: And they are trained to be observers and things
23 of that nature?

24 PROSPECTIVE JUROR NUMBER 454: U'm-h'm.

25 MS. LUZAICH: Correct?

1 PROSPECTIVE JUROR NUMBER 454: Yes.

2 MS. LUZAICH: But police officers are human just like
3 everybody else and it's possible that they make mistakes. So you can
4 listen to them the same way you would listen to anybody else; right?

5 PROSPECTIVE JUROR NUMBER 454: Yes, yes.

6 MS. LUZAICH: Okay. You're kind of like hesitating.

7 PROSPECTIVE JUROR NUMBER 454: Yes, sorry, I just -- I've
8 always, like, I guess, I've just been brought up to, like, respect authority. I
9 never in any -- I mean, I see it, like, videos of, like, police brutality and
10 stuff but per se I've never seen that firsthand. So it's just something that I
11 can -- I can't ever say that I've went through. So I just usually am very
12 comfortable in police --

13 MS. LUZAICH: You or are not comfortable around police?

14 PROSPECTIVE JUROR NUMBER 454: I am.

15 MS. LUZAICH: Okay.

16 PROSPECTIVE JUROR NUMBER 454: Or I'm more so than
17 with anybody else, yeah.

18 MS. LUZAICH: Okay. But if, for example -- and this has
19 nothing to do with this case -- a police officer testified the light was red
20 and the taxi driver, that has nothing to do with the case, testified that the
21 light was green, you would look to other evidence to see which one was
22 right or wrong, you wouldn't just automatically believe the police officer;
23 right?

24 PROSPECTIVE JUROR NUMBER 454: Yes, evidence over
25 everything, yes.

1 MS. LUZAICH: Okay. So a bunch of people are going to testify
2 that you've never met before, how are you going to determine who is
3 telling the truth and who potentially is not?

4 PROSPECTIVE JUROR NUMBER 454: I believe I'm just going
5 to look strictly at the evidence. I would like to say I'm a good judge of
6 character, but at the same time people could lie with a straight face. And
7 then also people that tell the truth sometimes might be nervous because
8 they felt like they're being accused so, so, yeah.

9 MS. LUZAICH: But you'll keep an open mind?

10 PROSPECTIVE JUROR NUMBER 454: Yes.

11 MS. LUZAICH: Listen to everything before you make a
12 decision?

13 PROSPECTIVE JUROR NUMBER 454: Yes.

14 MS. LUZAICH: Is there anything that you want to tell us after
15 having sat here for two days that you think we need to know?

16 PROSPECTIVE JUROR NUMBER 454: I have a question
17 and --

18 MS. LUZAICH: Sure.

19 PROSPECTIVE JUROR NUMBER 454: Okay. So if I were
20 able to be to work by 5:30, am I still able to do that just or is it something
21 where I just need to definitely have off?

22 THE COURT: You can. It may be difficult for you to be at the
23 MGM by 5:30 'cause we're probably going to go about 5:00 every day.
24 But, you know, maybe close. You could. I would -- I don't know how late
25 you work. As long as -- obviously, I would want you to be getting enough

1 sleep to --

2 PROSPECTIVE JUROR NUMBER 454: Absolutely.

3 THE COURT: -- be alert when you're here so you won't be
4 falling asleep in the jury box, would be my main concern.

5 PROSPECTIVE JUROR NUMBER 454: Absolutely, okay.

6 MS. LUZAICH: And don't run red lights to get there by 5:30.

7 PROSPECTIVE JUROR NUMBER 454: Absolutely.

8 MS. LUZAICH: So other than that, there's nothing that you
9 think that we need to know?

10 PROSPECTIVE JUROR NUMBER 454: No.

11 MS. LUZAICH: So if you are a juror and you're in the back and
12 all of the jurors feel one way and you feel the other way, how are you
13 going to handle that?

14 PROSPECTIVE JUROR NUMBER 454: I'm going to stick with
15 my beliefs, whatever I feel as though -- whatever the evidence tells me,
16 I'm going to stick with it.

17 MS. LUZAICH: Okay. So if you're sure you're right, you're
18 going to stick to your guns?

19 PROSPECTIVE JUROR NUMBER 454: Yes.

20 MS. LUZAICH: But if the other jurors -- you'll try to explain to
21 them why you feel the way you do?

22 PROSPECTIVE JUROR NUMBER 454: Yes, I will.

23 MS. LUZAICH: And if they are able to point to something that
24 either you didn't hear or didn't see, is it possible that you could change
25 your mind?

1 PROSPECTIVE JUROR NUMBER 454: Yes, it is possible.

2 MS. LUZAICH: But you won't change your mind just 'cause you
3 want to get to work?

4 PROSPECTIVE JUROR NUMBER 454: I don't want to get to
5 work either, but, yes, I won't change my mind, no.

6 MS. LUZAICH: Okay. Just 'cause it's Friday and it's five to
7 5:00, you don't -- you won't change your mind just for that reason?

8 PROSPECTIVE JUROR NUMBER 454: It's tempting, but no.

9 MS. LUZAICH: Is there anything about you that would prevent
10 you from being able to sit in judgment?

11 PROSPECTIVE JUROR NUMBER 454: No.

12 MS. LUZAICH: Knowing all that you know about yourself, if you
13 are convinced, after you hear all the testimony and see any evidence, if
14 you're convinced beyond a reasonable doubt the defendant committed the
15 crimes he's charged with, would you be able to say the word guilty?

16 PROSPECTIVE JUROR NUMBER 454: Yes.

17 MS. LUZAICH: Thank you.

18 Pass for cause.

19 THE COURT: Thank you.

20 MS. MCNEILL: Thank you, Your Honor.

21 Hi, Mr. Ramos.

22 PROSPECTIVE JUROR NUMBER 454: Hello.

23 MS. MCNEILL: So I just want to start out by saying, do we all
24 get to go see the Jabbawockeez when we're done with this or?

25 PROSPECTIVE JUROR NUMBER 454: Yes. If I'm picked, if

1 I'm not -- no, I'm just kidding.

2 MS. MCNEILL: You indicated that you have a lot of respect for
3 authority because of how you were brought up; right?

4 PROSPECTIVE JUROR NUMBER 454: Yes.

5 MS. MCNEILL: And so you're comfortable with police and you
6 feel like you're going to give them a lot of deference; right?

7 PROSPECTIVE JUROR NUMBER 454: Yes.

8 MS. MCNEILL: Okay. And nobody faults anyone for how they
9 feel here, but do you feel that part of defending a client, who's charged
10 with a crime, means saying that that police did something wrong?

11 PROSPECTIVE JUROR NUMBER 454: I'm sorry, can you say
12 that one more time.

13 MS. MCNEILL: Do you feel like part of my job, in defending
14 someone who is charged with a crime, would be to say that the police did
15 something wrong?

16 PROSPECTIVE JUROR NUMBER 454: I think it's everyone's
17 job to tell the truth. Yeah -- sorry, I really know exactly how to answer that
18 properly.

19 MS. MCNEILL: Okay. Do you think that that's what something
20 that criminal defense attorneys do is to try to say, the police are making it
21 up or the police planted the evidence or things like that?

22 PROSPECTIVE JUROR NUMBER 454: I don't think that's -- I
23 don't think that's their -- what they're trying to do, no.

24 MS. MCNEILL: Okay. But you don't think that's what
25 something that I would try to do?

1 PROSPECTIVE JUROR NUMBER 454: No.

2 MS. MCNEILL: Okay. I always ask that because I think
3 sometimes that's what some people do think and so they want to make
4 sure that I -- that we get that they like the police and that's absolutely fine
5 so.

6 PROSPECTIVE JUROR NUMBER 454: Right.

7 MS. MCNEILL: Do you agree with me though that a police
8 officer, the information that they have, is only as good as the person who's
9 telling it to them? So if someone's lying to the police, that's not the
10 officer's fault?

11 PROSPECTIVE JUROR NUMBER 454: Correct.

12 MS. MCNEILL: Right?

13 And the officer is to act on only what he knows?

14 PROSPECTIVE JUROR NUMBER 454: Absolutely.

15 MS. MCNEILL: Right?

16 Okay. So we can't blame an officer if it turns out later that
17 someone lied to him?

18 PROSPECTIVE JUROR NUMBER 454: Correct.

19 MS. MCNEILL: Okay. And you said that no always means no,
20 does that mean that if a woman later says, yeah, I said no, she must be
21 telling the truth about that?

22 PROSPECTIVE JUROR NUMBER 454: Are you saying that
23 she said yes first and then she -- or then she said no whenever it was
24 brought up again?

25 MS. MCNEILL: Well, more along the lines of what Ms. Hayden

1 was saying that her -- what she thought happened to her brother-in-law
2 was that the girl wanted to have sex, then later got caught, maybe by her
3 parents, and instead of admitting that's what happened, said, oh, no, you
4 know, I was raped.

5 So if a woman comes in and says, no, I said no, does that mean
6 it has to be true that she said no?

7 PROSPECTIVE JUROR NUMBER 454: It does not.

8 MS. MCNEILL: Okay. Do you have any experience with
9 friends of yours who had women say that they did things to them?

10 PROSPECTIVE JUROR NUMBER 454: Not that I can recall,
11 no.

12 MS. MCNEILL: Okay. Any friends, female friends, of yours,
13 who have come to you and confided things that have happened to them?

14 PROSPECTIVE JUROR NUMBER 454: No.

15 MS. MCNEILL: Okay. Did you -- in Florida, where you met
16 your girlfriend, were you a dancer there as well?

17 PROSPECTIVE JUROR NUMBER 454: Yes.

18 MS. MCNEILL: Okay. How long have you been dancing
19 professionally?

20 PROSPECTIVE JUROR NUMBER 454: Let's say six years.

21 MS. MCNEILL: Six years; okay.

22 What did you do before that?

23 PROSPECTIVE JUROR NUMBER 454: Dominos, just various
24 part-time jobs.

25 MS. MCNEILL: Okay. I imagine that being a performer,

1 especially in Las Vegas, you meet all kinds of different people?

2 PROSPECTIVE JUROR NUMBER 454: Absolutely.

3 MS. MCNEILL: Okay. Do you consider yourself pretty open
4 minded about the types of people that you meet?

5 PROSPECTIVE JUROR NUMBER 454: Absolutely.

6 MS. MCNEILL: Okay. So you don't judge people for the color
7 of their skin or maybe the background that they come from, things like
8 that?

9 PROSPECTIVE JUROR NUMBER 454: Never.

10 MS. MCNEILL: Okay.

11 I'll pass for cause, Your Honor.

12 THE COURT: Thank you.

13 All right. Ms. Egbertson, how are you?

14 PROSPECTIVE JUROR NUMBER 373: I'm splendid. How are
15 you?

16 THE COURT: Oh, good.

17 Is there any reason you could not be fair and impartial in this
18 case?

19 PROSPECTIVE JUROR NUMBER 373: Yes, there are two
20 reasons. The first one I think it's important to know that I was a volunteer
21 for two years at a women's domestic -- women's and children's domestic
22 abuse shelter in Cleveland, Ohio, where I worked with children in art
23 therapy while their mothers got counseling with the other women
24 residents.

25 THE COURT: Okay.

1 PROSPECTIVE JUROR NUMBER 373: And it was fairly inner
2 city.

3 THE COURT: Right.

4 PROSPECTIVE JUROR NUMBER 373: Two, I think it should
5 be noted that I'm on the autism spectrum and so I sometimes have
6 difficulty getting out of my own way when it comes to forming an opinion
7 because I tend to be very quick to judge and categorize other people and
8 especially based on the things that I've heard for two and a half days now.

9 In this case it would -- which I logically understand that you are
10 innocent until proven guilty, to me, in this case, it would be proving -- he's
11 guilty until proven innocent, the way I'm wired.

12 THE COURT: Right. So it would difficult, even though
13 intellectually you know that's not the way it works, it's tough for you to put
14 it aside?

15 PROSPECTIVE JUROR NUMBER 373: Yes.

16 And then the other question you keep asking is would you want
17 a jury of you to be judging you. And I'd live with that every day and I
18 wouldn't want -- I don't -- I judge myself all day. So I wouldn't want a
19 judge of me 'cause that's already how I operate so.

20 THE COURT: Okay. Got it.

21 I appreciate you letting me know about those things right up
22 front.

23 MS. LUZAICH: No objection.

24 MS. MCNEILL: No objection.

25 THE COURT: All right. Ma'am, I am going to excuse you

1 based on those issues --

2 PROSPECTIVE JUROR NUMBER 373: Thank you.

3 THE COURT: -- which will keep you from being fair and
4 impartial. Thanks for letting me know.

5 All right. Let's replace that.

6 PROSPECTIVE JUROR NUMBER 373: I appreciate knowing I
7 can't do it now though. I tried.

8 THE COURT: Thank you, ma'am.

9 THE CLERK: Next in seat 24, badge number 520, Sayna
10 Rojas.

11 THE COURT: Okay. Ms. Rojas.

12 PROSPECTIVE JUROR NUMBER 520: Yes.

13 THE COURT: How are today?

14 PROSPECTIVE JUROR NUMBER 520: I'm okay. How are
15 you?

16 THE COURT: Good.

17 Is there any reason you could not be fair and impartial in this
18 case?

19 PROSPECTIVE JUROR NUMBER 520: No.

20 THE COURT: Can you wait in forming your opinion on the
21 appropriate result until all the evidence has been heard?

22 PROSPECTIVE JUROR NUMBER 520: Yes.

23 THE COURT: Have you or anyone close to you worked in law
24 enforcement?

25 PROSPECTIVE JUROR NUMBER 520: No.

1 THE COURT: Have you or anyone close to you been charged
2 with a serious crime?

3 PROSPECTIVE JUROR NUMBER 520: I believe my cousin
4 was.

5 THE COURT: Okay. And what type of crime?

6 PROSPECTIVE JUROR NUMBER 520: I think since he was
7 pretty young, 'cause he's a little older than me, but from what I've heard,
8 'cause I really don't like to get into issues with family or details, I think he
9 had, like, a drug issue growing up. And maybe, like, getting and robbing
10 cars. He finally -- I think he got -- he finally got caught, like, probably two
11 years ago. Ended up -- he ended up getting deported. So then that was
12 the end of it. Yeah, he spent some time in jail. I think they did a trial.
13 They did something. But he ended up getting deported. He's been gone
14 for, yeah, two years now.

15 THE COURT: Was that here in Las Vegas?

16 PROSPECTIVE JUROR NUMBER 520: It was here in Vegas.

17 THE COURT: Okay. So do you feel he was treated fairly in his
18 case?

19 PROSPECTIVE JUROR NUMBER 520: To be honest with you,
20 I, like I said, I -- it's just what I hear. I really didn't get into it.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR NUMBER 520: I asked my mother
23 questions or I asked his mother questions. I'm, like, sucks it happened,
24 hope you're okay, and that's the end of it. I really don't have an opinion
25 about it. I mean, he's family and I love my family but the choices they

1 make that's -- that's on you, that's on them.

2 THE COURT: So do you have any hard feelings towards police
3 or prosecutors because of that case?

4 PROSPECTIVE JUROR NUMBER 520: No. And also because
5 I think I've seen him and, you know, I'll try to help family as much as I can.
6 And I remember after -- I think it was a little bit after I graduated high
7 school, him and his wife had a baby and they needed somebody to, like,
8 help 'em out, so I went to New Mexico, Albuquerque. And I was there, I
9 think I was there for a month and I kind of like saw like maybe he still
10 struggled with some drug addiction.

11 THE COURT: Right.

12 PROSPECTIVE JUROR NUMBER 520: But I just focused on
13 the kid. I didn't ask much questions. I try to avoid situations.

14 THE COURT: I understand.

15 PROSPECTIVE JUROR NUMBER 520: And I think it just got
16 the best of him at the end. But, like, I have no hard feelings towards cops
17 or prosecutors, anybody like that.

18 THE COURT: So do you think you could be fair to both sides
19 here?

20 PROSPECTIVE JUROR NUMBER 520: Oh, no, yeah, of
21 course.

22 THE COURT: Have you or anyone close to you been the victim
23 of a serious crime?

24 PROSPECTIVE JUROR NUMBER 520: I was actually
25 molested when I was younger.

1 THE COURT: Okay. By whom?

2 PROSPECTIVE JUROR NUMBER 520: I guess you would say
3 he's an uncle, my dad's cousin. So I -- we'd refer to them to as uncles.

4 THE COURT: How old were you at the time?

5 PROSPECTIVE JUROR NUMBER 520: I was probably -- I was
6 under ten for sure. It was before I moved to the north side of town and
7 that's when I started fifth grade. So, I mean, I was like ten, maybe eight,
8 like between eight to ten, maybe a little older.

9 THE COURT: Did you tell someone that it happened?

10 PROSPECTIVE JUROR NUMBER 520: I told my mother
11 probably like when I was in sixth or seventh grade, so about a couple of
12 years after it happened. And at the time when I told my mom, like, that
13 uncle had -- went back home to -- he's from Pueblo, Mexico, and I told my
14 mom and it pretty much stayed between my mom, my dad, and myself,
15 and probably, I think, they told my grandmother, who is my dad's mother
16 'cause that's her nephew.

17 And my mom reported it and I had people come and talk to me,
18 you know, you're a kid, so they'll show you diagrams. They'll ask you,
19 where did it happen? What exactly, as best I recall.

20 I went through some therapy. But I was, like, okay, I don't think
21 I need therapy. I think my mom mentioned it's probably still an open case
22 'cause he's in -- I mean, he went back home and there's --

23 THE COURT: Right, he's not in the country.

24 PROSPECTIVE JUROR NUMBER 520: He's not in the
25 country. But, you know, through time, I was young and I told my parents,

1 a little hard to believe, my mom's really took action towards it.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR NUMBER 520: And, yeah, I mean, it
4 happened. I'm okay. I don't think it's something that affected me like
5 super -- 'cause I'm a very affectionate person. So it's not like I don't like
6 people touching me.

7 THE COURT: Right.

8 PROSPECTIVE JUROR NUMBER 520: I don't like people
9 around me. I'm not -- I'm like the complete opposite. But --

10 THE COURT: Okay.

11 PROSPECTIVE JUROR NUMBER 520: -- it's something like I
12 feel like I've probably blocked, like I recall certain things. I was also
13 young.

14 THE COURT: Did it happen like multiple times?

15 PROSPECTIVE JUROR NUMBER 520: It did. Until like, you
16 know, now that I think about it and I'm like okay, at first it's like, okay, what
17 the heck's going on? And I think as he -- it keeps happening, it starts to
18 feel like it's wrong. And at the same time, like, I was young. But, you
19 know, I remember -- 'cause we have a lot of family gatherings, like, that's
20 how we are, I remember like looking underneath the door to see if people
21 were coming towards my room. 'Cause I have three younger sisters, at
22 the time it was just two younger ones, and the other one was a baby at
23 the time. So she would sleep with my parents. And it was just me and my
24 other sister. And we had bunk beds but I remember, like, the drawer was,
25 like, right there, and the door was over here. So sometimes, just out of

1 fear, I would like sit there, push my feet against the --

2 THE COURT: Door?

3 PROSPECTIVE JUROR NUMBER 520: -- the -- not the door,
4 the nightstand. I would like put pressure towards the door so nobody
5 would come in. And then sometimes I would like to like hide in my mom's
6 room. But at the same time it's me leaving my little sister inside the room
7 so I didn't want her -- in a way I thought about it, better me than her.

8 THE COURT: Right.

9 PROSPECTIVE JUROR NUMBER 520: So.

10 THE COURT: Did you ever talk to her about whether anything
11 happened to her?

12 PROSPECTIVE JUROR NUMBER 520: None of my sisters
13 know. It's still just between my mom, my dad, and my grandmother, that's
14 it. Nobody -- we're a pretty private family.

15 THE COURT: Yeah.

16 PROSPECTIVE JUROR NUMBER 520: But it's something I
17 don't feel like my sisters need to know. I mean, we're all -- I have a ten
18 year old sister, she's the youngest, but the rest of us are 22 and 19 and I
19 don't think it's something they need to know. I mean, eventually, maybe,
20 one day we'll -- I'll tell them about it.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR NUMBER 520: But it's nothing they
23 need to know right now.

24 THE COURT: Okay. And so I appreciate that.

25 But knowing all of that happened to you, that whole experience,

1 will that affect your ability to be fair and impartial in this case?

2 PROSPECTIVE JUROR NUMBER 520: No. I put my stuff to
3 rest. It's in the past. I dealt with it. I moved on from it. You know, I have
4 supportive parents, you know, like the two friends that do know, you know,
5 gave me their advice or encouragement. And, like I said, like, to this day
6 I'm good.

7 THE COURT: Okay. Good.

8 PROSPECTIVE JUROR NUMBER 520: I don't mind people
9 touching me. I'm a very huggy person. I'm pretty affectionate so.

10 THE COURT: Okay. Good.

11 PROSPECTIVE JUROR NUMBER 520: Like I said, it's not
12 something I'm gonna hold against whoever is involved.

13 THE COURT: Right.

14 PROSPECTIVE JUROR NUMBER 520: You know.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR NUMBER 520: For all I know he's
17 probably innocent. I don't know. We're here to find out.

18 THE COURT: All right. So you will put aside your experiences
19 and base your decision just on the evidence presented here in court?

20 PROSPECTIVE JUROR NUMBER 520: Yeah, 'cause it's not
21 about me.

22 THE COURT: Okay. Is there anything about the charges in
23 this case that would make it difficult for you to be fair and impartial?

24 PROSPECTIVE JUROR NUMBER 520: No.

25 THE COURT: Can you base your verdict solely on the

1 evidence and the law that applies without fear of criticism or popular
2 opinion?

3 PROSPECTIVE JUROR NUMBER 520: Yes.

4 THE COURT: Have you ever been a juror before?

5 PROSPECTIVE JUROR NUMBER 520: No.

6 THE COURT: If you were a party to this case, would you be
7 comfortable with jurors of a like frame of mind as yourself sitting in
8 judgment?

9 PROSPECTIVE JUROR NUMBER 520: Yes.

10 THE COURT: How long have you lived in Clark County?

11 PROSPECTIVE JUROR NUMBER 520: 20 years.

12 THE COURT: And what's the highest level of education you've
13 completed?

14 PROSPECTIVE JUROR NUMBER 520: I did three years of
15 college and then I did like a -- like a career college course.

16 THE COURT: What did you study at that school?

17 PROSPECTIVE JUROR NUMBER 520: Dental assisting.

18 THE COURT: Okay. And in college, did you have a major
19 there?

20 PROSPECTIVE JUROR NUMBER 520: I was going for
21 associates in science. I wanted to be an orthodontist.

22 THE COURT: Right. Okay.

23 And what are you doing now?

24 PROSPECTIVE JUROR NUMBER 520: I'm an orthodontic
25 assistant.

1 THE COURT: Okay. All right.

2 And are you married?

3 PROSPECTIVE JUROR NUMBER 520: No.

4 THE COURT: Have any children?

5 PROSPECTIVE JUROR NUMBER 520: No. But ten year old
6 sisters like my child. I'm good.

7 THE COURT: All right. State.

8 MS. LUZAICH: What did you think when you got your jury
9 summons?

10 PROSPECTIVE JUROR NUMBER 520: Well, this is the
11 second time, and I was, like, dang, hopefully I get dismissed like last time.
12 But, no, I called Sunday night and I got to report at 11:45. I was, like, well,
13 okay.

14 MS. LUZAICH: Do you not want to serve?

15 PROSPECTIVE JUROR NUMBER 520: No. Like I -- I think --
16 like it's pretty much mentioned, and I think we -- it was on Monday and we
17 had a judge downstairs say it, like, it's a different experience honestly.
18 And I think after the two days and -- think about, like, I did think a little bit
19 about me, like, what happened to me. And I was, like, you know what, if
20 innocent or not, like, you want somebody with a clear mind to hear all the
21 facts and, you know, it's somebody who was never involved and is coming
22 in listening to all this new. And, like, if I was in that position, I would want
23 somebody, you know, to take everything into consideration.

24 MS. LUZAICH: Are you sure that you have a clear mind?

25 PROSPECTIVE JUROR NUMBER 520: I do have a clear mind.

1 Like I said, what happened to me was years ago. I'm 26, so this
2 happened when I was, like, probably eight, nine, ten. I put it in the past.

3 MS. LUZAICH: Okay.

4 PROSPECTIVE JUROR NUMBER 520: This is not about me,
5 this is about whoever is involved.

6 MS. LUZAICH: You said that it was hard to believe your mother
7 took action, why is that?

8 PROSPECTIVE JUROR NUMBER 520: It's not that I meant it
9 as it was hard to believe 'cause my mom is very supportive, like,
10 regardless what happens, what we do, good or bad, she's our mother and
11 she loves us regardless. But I think at that time, even though I was
12 young, I saw what mother's love is and how she reacted to it, even when it
13 was a family member so. And then I just adore my mom, she's an
14 incredible person, so I admire her for many reasons.

15 MS. LUZAICH: How long have you been an orthodontic
16 assistant?

17 PROSPECTIVE JUROR NUMBER 520: For five years.

18 MS. LUZAICH: And are you still wanting to be an orthodontist?

19 PROSPECTIVE JUROR NUMBER 520: Not an orthodontist.
20 You know, you go to your appointments and you're, like, well, this doctor
21 doesn't do anything. Being behind everything, the doctor doesn't do a lot.
22 We do it for him. But it goes to a lot of treatment planning. I enjoy my job.
23 I love it. I've always been interested in teeth. But I'm sticking toward
24 orthodontic assistant. I'll leave it -- I'll work for the doctor.

25 MS. LUZAICH: Okay. Are you expecting to see anything in this

1 trial?

2 PROSPECTIVE JUROR NUMBER 520: No. It's whatever, you
3 know, what's presented to you guys, what you were informed. And now
4 that I'm thinking about it, it's pretty much you guys telling a story to us,
5 presenting it, and us making a judgment out of it.

6 MS. LUZAICH: That's actually exactly what it is.

7 PROSPECTIVE JUROR NUMBER 520: Yeah. So I don't
8 expect anything. Like I said, I did watch when I was younger with my dad,
9 'cause he loves CSI Miami. But, like you said, I'm not surprised it's --

10 MS. LUZAICH: Fake?

11 PROSPECTIVE JUROR NUMBER 520: -- fake.

12 MS. LUZAICH: Okay.

13 PROSPECTIVE JUROR NUMBER 520: No, a lot of TV is fake
14 so.

15 MS. LUZAICH: Okay. Would you agree that a person has the
16 absolute right to say no to sexual advances?

17 PROSPECTIVE JUROR NUMBER 520: Yes.

18 MS. LUZAICH: Never gives up that right?

19 PROSPECTIVE JUROR NUMBER 520: No.

20 MS. LUZAICH: No does not mean convince me ever?

21 PROSPECTIVE JUROR NUMBER 520: No.

22 MS. LUZAICH: Do you think that the State should get involved
23 in domestic violence situations?

24 PROSPECTIVE JUROR NUMBER 520: If it's brought to them,
25 yes, 'cause a lot of people keep things private. Like a lot of people say

1 they're scared to come forward. But if it's presented to the State, then
2 yeah.

3 MS. LUZAICH: Okay. So you don't think it needs to stay within
4 the home?

5 PROSPECTIVE JUROR NUMBER 520: It doesn't. But, you
6 know, people, like I said, they choose it that way and unfortunately, you
7 know, if they can get the help, they don't seek it 'cause of fear. But if it's,
8 you know, it's provided for them they should take it.

9 MS. LUZAICH: Okay. Would you consider yourself to be a fair
10 and open minded person?

11 PROSPECTIVE JUROR NUMBER 520: I do.

12 MS. LUZAICH: If you are selected as a juror and you go back
13 in the deliberation room and all of the jurors feel one way and you feel the
14 other way, how are you going to handle that?

15 PROSPECTIVE JUROR NUMBER 520: I would take whatever
16 they have to say in consideration. Like we said, honest -- and I keep --
17 I've been listening to these questions for the past two days and I'm
18 thinking well, honestly, it's, like, my sister and I, something happens, she'll
19 tell the story one way and I'll recall it a different way. You know, we're all
20 different. We all have different minds. We all think differently. I mean,
21 people more observant than others. So I would ask, okay, what did you
22 see that I missed? And, you know, reanalyze what I think and go from
23 there.

24 MS. LUZAICH: But if you're sure that you're right, you'll stick to
25 your guns?

1 PROSPECTIVE JUROR NUMBER 520: Yes.

2 MS. LUZAICH: But you could potentially change your mind if
3 they were able to point to something that you missed?

4 PROSPECTIVE JUROR NUMBER 520: If they point to
5 something that I missed, then I feel, like, okay, maybe they might have a
6 point, then it's a possibility. But it all depends on what is presented to me
7 honestly. I can't --

8 MS. LUZAICH: But you won't change your mind just 'cause you
9 want to leave on Friday at five to 5:00?

10 PROSPECTIVE JUROR NUMBER 520: No.

11 MS. LUZAICH: Okay. Is there anything that would prevent you
12 from sitting in judgment?

13 PROSPECTIVE JUROR NUMBER 520: No.

14 MS. LUZAICH: If you are convinced beyond a reasonable
15 doubt the defendant committed the crimes that he's charged with, after
16 you listen to the testimony and see any evidence, would you be able to
17 say the word guilty?

18 PROSPECTIVE JUROR NUMBER 520: Yes.

19 MS. LUZAICH: Thank you.

20 Pass for cause.

21 THE COURT: Thank you.

22 MS. MCNEILL: Thank you, Your Honor.

23 Ms. Rojas, what TV shows do you watch now?

24 PROSPECTIVE JUROR NUMBER 520: None honestly.

25 MS. MCNEILL: None? Okay.

1 PROSPECTIVE JUROR NUMBER 520: I have no time.

2 MS. MCNEILL: Okay. What do you do for fun?

3 PROSPECTIVE JUROR NUMBER 520: I enjoy concerts,
4 festivals, yeah.

5 MS. MCNEILL: Okay. All right. That's fun too.

6 Do you go to Coachella?

7 PROSPECTIVE JUROR NUMBER 520: I went in 2013.

8 MS. MCNEILL: Okay.

9 PROSPECTIVE JUROR NUMBER 520: Other than that, I like
10 to like go to a concert every month.

11 MS. MCNEILL: Okay. All right. You said that it's important for
12 jurors to have a clear mind and so it sounds like you've kind of been
13 thinking a lot about this?

14 PROSPECTIVE JUROR NUMBER 520: I have honestly.

15 MS. MCNEILL: Okay.

16 PROSPECTIVE JUROR NUMBER 520: Like, sitting back there
17 and taking three days to get to me, you start to think about, like, like,
18 would I, could I? And, you know, I think of how I am, and, you know, I'm
19 pretty accepting of people and I don't like to judge off the bat without
20 getting to know them. So, you know, come in here, I don't know him, I
21 don't know who's involved, like this is all being brought out to me, like,
22 when this starts.

23 MS. MCNEILL: So at this point you're just waiting for something
24 to happen --

25 PROSPECTIVE JUROR NUMBER 520: Yes.

1 MS. MCNEILL: -- other than listening to the other jurors talk;
2 right?

3 PROSPECTIVE JUROR NUMBER 520: U'm-h'm.

4 MS. MCNEILL: Okay. Do you think that you will be able to
5 stand up to other jurors if you feel like they aren't having a clear mind
6 about it, if you feel like their emotions are kind of getting the better of
7 them, do you think you're comfortable saying, hey, you know what, you
8 shouldn't be bringing that into this discussion?

9 PROSPECTIVE JUROR NUMBER 520: Of course.

10 MS. MCNEILL: Okay. And one random question, because you
11 look familiar to me, what orthodontist do you work for?

12 PROSPECTIVE JUROR NUMBER 520: Seven Hills
13 Orthodontist.

14 MS. MCNEILL: Okay. I thought maybe it my daughter's but it's
15 not. So you just have one of those faces, I think.

16 You -- the -- when you went to your mom about the allegations,
17 was that difficult for you?

18 PROSPECTIVE JUROR NUMBER 520: It was. I mean, I pretty
19 much waited like maybe two years after it happened.

20 MS. MCNEILL: Did you tell anyone else in that time period,
21 other than your mom?

22 PROSPECTIVE JUROR NUMBER 520: No.

23 MS. MCNEILL: Okay. What made you decide to tell your
24 mom?

25 PROSPECTIVE JUROR NUMBER 520: It was just a gut

1 feeling. Like, I think, it was time.

2 MS. MCNEILL: Okay.

3 PROSPECTIVE JUROR NUMBER 520: And I wasn't feeling
4 really good about it, so I was, like, I think I should just tell my parents.

5 MS. MCNEILL: It wasn't because you didn't think she'd believe
6 you?

7 PROSPECTIVE JUROR NUMBER 520: No

8 MS. MCNEILL: Okay.

9 PROSPECTIVE JUROR NUMBER 520: My parents have
10 never made us feel like they won't believe what we say.

11 MS. MCNEILL: Okay. So it was --

12 PROSPECTIVE JUROR NUMBER 520: Yeah, no my parents
13 are pretty supportive people.

14 MS. MCNEILL: Okay. It was more just something you'd kind of
15 kept to yourself and then thought --

16 PROSPECTIVE JUROR NUMBER 520: Yeah.

17 MS. MCNEILL: -- I need to say something?

18 PROSPECTIVE JUROR NUMBER 520: And I'm kind of -- now
19 that I realize I'm older, I'm kind of that way. I keep things to myself until
20 like it really bugs me and then I'll probably express what I have to say.

21 MS. MCNEILL: So you'll be letting the other jurors know when
22 you've had enough is what you're saying?

23 PROSPECTIVE JUROR NUMBER 520: Yeah.

24 MS. MCNEILL: Okay. You've been sitting here, and it sounds
25 like you've really been listening to everything that we've been saying and

1 everyone else has been saying, do you have anything that you want us to
2 know at this point, or any questions you wanted to answer or?

3 PROSPECTIVE JUROR NUMBER 520: No. Honestly, I just,
4 like you said, I really have been listening to everybody's responses.
5 Everybody, honestly, is different here, you know.

6 MS. MCNEILL: Sure.

7 PROSPECTIVE JUROR NUMBER 520: There's different minds
8 and --

9 MS. MCNEILL: It's part of what makes it work though; right --

10 PROSPECTIVE JUROR NUMBER 520: Yeah.

11 MS. MCNEILL: -- is a lot of different people --

12 PROSPECTIVE JUROR NUMBER 520: Strangers and.

13 MS. MCNEILL: Are you kind of excited at this point about
14 maybe getting on the jury?

15 PROSPECTIVE JUROR NUMBER 520: Excited because it'll be
16 a different experience. But not as excited 'cause I'm, like, they're kind of
17 lost without me at the office. But, you know, if it has to be done, it has to
18 be done.

19 MS. MCNEILL: Okay. All right.

20 I'll pass for cause, Your Honor.

21 THE COURT: Thank you.

22 I think we'll go ahead and take our afternoon break at this point
23 and then we'll continue on in the back.

24 During this recess, you're admonished not to talk or converse
25 among yourselves or with anyone else on any subject connected with this

1 trial; or to read, watch, or listen to any report of or commentary on the trial
2 or any person connected with this trial by any medium of information
3 including, without limitation, newspapers, television, the internet, or radio;
4 or to form or express any opinion on any subject connected with this trial
5 until the case is finally submitted to you.

6 Two quick things, before I let you go, one, when I told you
7 yesterday about that no one related to the trial can talk to you, you guys
8 also need to avoid talking to them, just so it's clear. It works both ways.
9 So we avoid communication.

10 And the other thing, just real quick, we'll probably try to keep, I
11 know I said this yesterday, we're going to try to keep the break to about
12 ten minutes, go use the facilities, and get going again.

13 All right. You're excused.

14 THE MARSHAL: All rise.

15 [Recess taken at 3:16 p.m.]

16 [Jury trial resumed at 3:28 p.m.]

17 [Outside the presence of the prospective jury]

18 THE MARSHAL: All rise. District Court Department 6 is back
19 in session.

20 THE COURT: All right. So in that row of eight, that we're about
21 to go to, there were two open seats, one, 'cause I excused 'em and, one,
22 because the lady never showed up yesterday or today. So I don't expect
23 her.

24 MR. ROSE: Can we issue an order to show cause on her? I
25 would love to.

1 THE COURT: Yeah, I got to remember to go back and do that,
2 that should happen.

3 But once we fill those two seats, I only have one more juror in
4 the back. There are some downstairs, if we need them. But if we need
5 them, we're going to have to start over with introductions and undue
6 burden and all of that. So, I mean, things can come up and obviously I
7 don't want someone on the jury if they can't be fair, goes without saying.
8 But, hopefully, we'll be able to get through without having to bring up the
9 next group.

10 MR. ROSE: We'll pray.

11 THE COURT: So I'll just, when they come back in, we'll fill the
12 first seat, which is we're about to question, and then we'll, you know, we'll
13 go on from there and see how it goes.

14 MS. LUZAICH: Is Urga going in the next seat, Keith?

15 THE CLERK: Yes.

16 MS. LUZAICH: And then Rodriguez in 27?

17 THE CLERK: Could potentially, potentially because --

18 MS. LUZAICH: Oh, unless it has to go there.

19 THE CLERK: -- we have to use -- we have to do 25.

20 MS. LUZAICH: Yeah, right.

21 THE COURT: Right.

22 MR. ROSE: Oh, in case he gets --

23 THE COURT: In case someone else; right, right, right.

24 MR. ROSE: Gotcha.

25 THE COURT: So we're not -- we're not filling the other seat

1 yet --

2 MS. LUZAICH: Right.

3 THE COURT: -- we'll fill the first one and keep going.

4 MR. ROSE: Okay.

5 THE MARSHAL: All rise.

6 [In the presence of the prospective jury]

7 THE MARSHAL: Please be seated.

8 THE COURT: All right. Folks, let's go ahead and replace seat
9 number 25.

10 THE CLERK: Yes, Your Honor.

11 Next is 25, badge number 528, Michael Urga.

12 THE COURT: All right. Mr. Urga, how are you today?

13 PROSPECTIVE JUROR NUMBER 528: Just fine, Your Honor.

14 THE COURT: Good.

15 Are you by chance related to Bill Urga?

16 PROSPECTIVE JUROR NUMBER 528: Yes, he's my cousin.

17 THE COURT: Your cousin; okay. Because I worked with him
18 years ago; okay.

19 Is there any reason you could not be fair and impartial in this
20 case?

21 PROSPECTIVE JUROR NUMBER 528: No.

22 THE COURT: Can you wait in forming your opinion on the
23 appropriate result until all the evidence has been heard?

24 PROSPECTIVE JUROR NUMBER 528: Yes.

25 THE COURT: Have you or anyone close to you worked in law

1 enforcement?

2 PROSPECTIVE JUROR NUMBER 528: I'm not sure whether
3 my previous employment would constitute law enforcement. I was an
4 enforcement agent for the accounting and business license department.

5 THE COURT: Okay. When did you do that job?

6 PROSPECTIVE JUROR NUMBER 528: I retired last year, prior
7 to that I worked as an enforcement agent for 37 years.

8 THE COURT: And so in the course of that job did you interact
9 with Metro officers or other, I guess, more full time law enforcement?

10 PROSPECTIVE JUROR NUMBER 528: On occasion, yes. Not
11 all the time. But, yes, there were circumstances where we did.

12 THE COURT: Okay. And so would the fact that you did that
13 kind of work, and interacted with other law enforcement offices, affect your
14 ability to be fair and impartial as a juror in this case?

15 PROSPECTIVE JUROR NUMBER 528: No.

16 THE COURT: Do you think you could be fair to both sides
17 here?

18 PROSPECTIVE JUROR NUMBER 528: Yes, ma'am.

19 THE COURT: Have you or anyone close to you been charged
20 with a serious crime?

21 PROSPECTIVE JUROR NUMBER 528: Yes.

22 THE COURT: Tell me about that.

23 PROSPECTIVE JUROR NUMBER 528: My son was charged
24 with domestic violence.

25 THE COURT: Okay. How long ago?

1 PROSPECTIVE JUROR NUMBER 528: I believe it was about
2 seven years ago.

3 THE COURT: Was that here in Las Vegas?

4 PROSPECTIVE JUROR NUMBER 528: Yes, ma'am.

5 THE COURT: And what ended up happening in his case?

6 PROSPECTIVE JUROR NUMBER 528: He pleaded NOLO
7 and was probation.

8 THE COURT: Okay. Was it a misdemeanor?

9 PROSPECTIVE JUROR NUMBER 528: Well, he was initially
10 charged with a felony and then it was reduced to a misdemeanor.

11 THE COURT: Okay. All right. And I take you would know --
12 you know the victim in that case?

13 PROSPECTIVE JUROR NUMBER 528: It was his wife.

14 THE COURT: His wife; okay.

15 Do you think he was treated fairly in his case?

16 PROSPECTIVE JUROR NUMBER 528: No, ma'am, I don't.

17 THE COURT: Okay. And why not?

18 PROSPECTIVE JUROR NUMBER 528: Well, I don't believe
19 the District Attorney's Office looked at all the evidence fairly. They initially
20 charged it -- said they were going to charge him with a felony, and after
21 his attorney spoke to the district attorney, it was agreed that if he would --
22 if he would plead to a misdemeanor, then they would drop the felony
23 charge. There was evidence that was brought out at the preliminary
24 hearing, which, in my opinion, showed that the incident didn't happen the
25 way it was presented. Then I'm his father, of course.

1 THE COURT: Right, I understand.

2 Right; that's why we're not jurors on our family's cases; right? I
3 understand.

4 So but do you have hard feelings towards police or prosecutors
5 in the District Attorney's Office because of that?

6 PROSPECTIVE JUROR NUMBER 528: No, ma'am. I've
7 worked with people in the District Attorney's Office before and many very
8 professionally.

9 THE COURT: And were you involved at all in meeting with your
10 son's attorney or considering that offer?

11 PROSPECTIVE JUROR NUMBER 528: Yes, I was.

12 THE COURT: Okay. And was it -- did you -- did he retain
13 private counsel for his case?

14 PROSPECTIVE JUROR NUMBER 528: I retained the private
15 counsel.

16 THE COURT: You did, uh-huh. I understand. Okay.

17 And it wasn't either of these district -- deputy district attorneys
18 here today who was involved in that case?

19 PROSPECTIVE JUROR NUMBER 528: No, ma'am.

20 THE COURT: And it wasn't Ms. McNeill involved in that case?

21 PROSPECTIVE JUROR NUMBER 528: No, ma'am.

22 THE COURT: Okay. But you think you could put aside what
23 happened with your son there and be a fair juror in this case?

24 PROSPECTIVE JUROR NUMBER 528: Yes, I can.

25 THE COURT: And could you judge this case just based on the

1 evidence presented in this courtroom in this case?

2 PROSPECTIVE JUROR NUMBER 528: Yes, ma'am.

3 THE COURT: Have you or anyone close to you been the victim
4 of a serious crime?

5 PROSPECTIVE JUROR NUMBER 528: No.

6 THE COURT: And, other than what you've told me about, have
7 you or anyone close to you been accused of or the victim of domestic
8 violence or sexual abuse?

9 PROSPECTIVE JUROR NUMBER 528: No.

10 THE COURT: Is there anything about the charges in this case
11 that would make it difficult for you to be fair and impartial?

12 PROSPECTIVE JUROR NUMBER 528: No.

13 THE COURT: Can you base your verdict solely on the
14 evidence and the law that applies without fear of criticism or popular
15 opinion?

16 PROSPECTIVE JUROR NUMBER 528: Yes.

17 THE COURT: Have you ever been a juror before?

18 PROSPECTIVE JUROR NUMBER 528: No.

19 THE COURT: If you were a party to this case, would you be
20 comfortable with jurors of a like frame of mind as yourself sitting in
21 judgment?

22 PROSPECTIVE JUROR NUMBER 528: Yes.

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

24 PROSPECTIVE JUROR NUMBER 528: Since 1946.

25 THE COURT: Okay. What's the highest level of education you

1 completed?

2 PROSPECTIVE JUROR NUMBER 528: I have a master's
3 degree.

4 THE COURT: In what?

5 PROSPECTIVE JUROR NUMBER 528: Public administration.

6 THE COURT: Okay. And you mentioned earlier you're retired
7 and before that you were in the business licensing?

8 PROSPECTIVE JUROR NUMBER 528: Yes, ma'am.

9 THE COURT: And are you married?

10 PROSPECTIVE JUROR NUMBER 528: Yes.

11 THE COURT: Is your spouse employed?

12 PROSPECTIVE JUROR NUMBER 528: Yes.

13 THE COURT: Doing what?

14 PROSPECTIVE JUROR NUMBER 528: She does internal
15 maintenance at one of the casinos.

16 THE COURT: All right. And we know you have a son, how
17 many children do you have?

18 PROSPECTIVE JUROR NUMBER 528: I have two children, a
19 son and a daughter.

20 THE COURT: And what do they do?

21 PROSPECTIVE JUROR NUMBER 528: My son is a heavy
22 vehicle mechanic and my daughter is a clinical psychologist.

23 THE COURT: Okay. All right.

24 State.

25 MS. LUZAICH: Thank you.

1 Mr. Urga, in your son's case was it a felony because there was
2 a weapon or injury or priors?

3 PROSPECTIVE JUROR NUMBER 528: They said that the
4 felony charge was based on the fact that she claimed a continuing injury.

5 MS. LUZAICH: Substantial bodily harm, that kind of thing?

6 PROSPECTIVE JUROR NUMBER 528: Yes.

7 MS. LUZAICH: Are they still together?

8 PROSPECTIVE JUROR NUMBER 528: No.

9 MS. LUZAICH: Did that end their relationship?

10 PROSPECTIVE JUROR NUMBER 528: Yes.

11 MS. LUZAICH: Was there actually a preliminary hearing held?

12 PROSPECTIVE JUROR NUMBER 528: Yes, there was.

13 MS. LUZAICH: And you watched it?

14 PROSPECTIVE JUROR NUMBER 528: Yes.

15 MS. LUZAICH: Do you disagree with the plea bargaining
16 process?

17 PROSPECTIVE JUROR NUMBER 528: Don't disagree with the
18 plea bargaining process, I believe, this is personally my own opinion, I felt
19 that the individuals for the District Attorney's Office, were more concerned
20 with getting a judgment in their favor than they were considering all the
21 evidence. And I base that primarily on the fact that since the felony
22 charge was based on her claim that she had an ongoing injury, yet she
23 never provided any medical reports, any attempt to see a doctor about it.
24 She was in the military at the time and she was subsequently assigned
25 overseas and she had a legal responsibility to let her commanding officer

1 know if she had a continuing injury. She never did so. Therefore, I
2 believe, that she didn't really have that injury, you know, a continuing
3 injury.

4 MS. LUZAICH: Okay. You're not a lawyer, are you?

5 PROSPECTIVE JUROR NUMBER 528: No, ma'am, I'm not.

6 MS. LUZAICH: So you are not actually familiar with the legal
7 definition of substantial bodily harm?

8 PROSPECTIVE JUROR NUMBER 528: Yes, ma'am.

9 MS. LUZAICH: Would you agree with that?

10 PROSPECTIVE JUROR NUMBER 528: Yes, I understand.

11 MS. LUZAICH: Okay. So is it possible that there was
12 substantial bodily harm there, under the legal definition?

13 PROSPECTIVE JUROR NUMBER 528: I believe so, yes.

14 MS. LUZAICH: So potentially he got the benefit of a
15 misdemeanor instead of a felony?

16 PROSPECTIVE JUROR NUMBER 528: Yes, ma'am.

17 MS. LUZAICH: Doesn't make you feel any better, does it?

18 PROSPECTIVE JUROR NUMBER 528: Not much.

19 MS. LUZAICH: Okay. And I totally -- as a parent, I totally
20 understand your frustration.

21 Do you think that you can put that behind you and --

22 PROSPECTIVE JUROR NUMBER 528: Oh, absolutely.

23 MS. LUZAICH: -- not look at all, with those eyes, at this case?

24 PROSPECTIVE JUROR NUMBER 528: Yes, no, I'm just -- no
25 problem with that.

1 MS. LUZAICH: Okay. So your many, many years of pretty
2 much law enforcement experience, will help you do that; right?

3 PROSPECTIVE JUROR NUMBER 528: Yes, ma'am, I believe
4 so.

5 MS. LUZAICH: As somebody with the business licensing -- like,
6 what did you do on a daily basis in enforcement?

7 PROSPECTIVE JUROR NUMBER 528: Well, my primary
8 function was to try and determine and locate businesses that did not have
9 a business license or a business license to do the activity for which they
10 were performing.

11 MS. LUZAICH: Okay. So you were an investigator?

12 PROSPECTIVE JUROR NUMBER 528: Yes.

13 MS. LUZAICH: And that's what you did for all those years. Did
14 you have training that enabled you to do that?

15 PROSPECTIVE JUROR NUMBER 528: We did have ongoing
16 training, you know, it was periodic, it wasn't, you know, like, every week or
17 anything like that. But it was periodic that we would have training. A lot of
18 it was simply a lot of on-the-job training.

19 MS. LUZAICH: Yeah, of course.

20 The years that you dealt with individuals like that, I expect lots
21 of people lied to you or at least tried to?

22 PROSPECTIVE JUROR NUMBER 528: Yes, ma'am, that's
23 certainly true.

24 MS. LUZAICH: And did you feel that you got fairly good at
25 figuring out who was lying to you fairly quickly?

1 PROSPECTIVE JUROR NUMBER 528: Well, with some
2 people, other people are a little bit better about hiding their emotions and
3 how they react to things. But, yes, in general I would think so.

4 MS. LUZAICH: Some people are really good liars and you're
5 just never going to figure that out, those few people, but for the most part,
6 people can't keep it up for very long; right?

7 PROSPECTIVE JUROR NUMBER 528: There are some
8 people the first time you talk to them you know that they're trying to scam
9 the system.

10 MS. LUZAICH: Okay. So do you think that the skills that you
11 picked up over all those years might help you in evaluating witnesses
12 here?

13 PROSPECTIVE JUROR NUMBER 528: I would hope so. As a
14 part of my work, I've also seen the other side of things. I was also my
15 shop steward. So I handled employees' issues with respect to -- with
16 respect to the county. So I've seen people who have been charged with
17 something and I've been there to try and act as their advocate for them.

18 MS. LUZAICH: Kind of defend them?

19 PROSPECTIVE JUROR NUMBER 528: Yes, ma'am.

20 MS. LUZAICH: Like a union situation?

21 PROSPECTIVE JUROR NUMBER 528: Yes, union, yeah, I
22 was the union steward.

23 MS. LUZAICH: And was that something that was voluntary, like
24 you chose that position or were you chosen?

25 PROSPECTIVE JUROR NUMBER 528: I did because the

1 previous individual who was the steward had left our department; no one
2 was willing to step up to take the position so I offered to do it.

3 MS. LUZAICH: Okay. Are you expecting to see anything in this
4 trial?

5 PROSPECTIVE JUROR NUMBER 528: No, ma'am, other than
6 the fact I feel that both sides will try to present a spirited defense and
7 prosecution.

8 MS. LUZAICH: Okay. Now, you know, of course, that they do
9 not need to present anything?

10 PROSPECTIVE JUROR NUMBER 528: Yes, ma'am. I'm
11 perfectly aware that he's presumed innocent and he's not required to
12 testify or anything of that nature.

13 MS. LUZAICH: I mean, technically his attorney can sit there
14 and polish her nails during this trial.

15 PROSPECTIVE JUROR NUMBER 528: Yes, ma'am, I know
16 that.

17 MS. LUZAICH: She won't. I'm quite sure.

18 PROSPECTIVE JUROR NUMBER 528: I'm certain that's true.

19 MS. LUZAICH: But she could, she doesn't have to do anything,
20 the burden is solely on us. I mean, you understand that?

21 PROSPECTIVE JUROR NUMBER 528: Yes, ma'am, I do
22 know.

23 MS. LUZAICH: And do you agree with that? Do you think that's
24 a good thing?

25 PROSPECTIVE JUROR NUMBER 528: Yes, ma'am.

1 MS. LUZAICH: Why is that?

2 PROSPECTIVE JUROR NUMBER 528: Well, I believe that's --
3 our constitution is setup such that the innocent, or the people who are
4 charged with a crime, need to have an opportunity to either testify on their
5 own behalf, if they believe it's essential to their case, or not to because it
6 is the burden of proof for the prosecution to prove.

7 MS. LUZAICH: Okay. How do you feel about the fact that the
8 State does get involved in domestic violence situations?

9 PROSPECTIVE JUROR NUMBER 528: It's absolutely
10 necessary.

11 MS. LUZAICH: Okay. I mean, some people think that domestic
12 violence should remain in the home and the State shouldn't get involved,
13 you're not of that opinion?

14 PROSPECTIVE JUROR NUMBER 528: No, ma'am.

15 MS. LUZAICH: So people who actually want help can get help,
16 that's a good thing?

17 PROSPECTIVE JUROR NUMBER 528: Yes.

18 MS. LUZAICH: Do you think that if two people watch an event
19 and describe it later differently; is that a problem for you?

20 PROSPECTIVE JUROR NUMBER 528: No.

21 MS. LUZAICH: Why is that?

22 PROSPECTIVE JUROR NUMBER 528: We all see things
23 different. We are -- our own backgrounds will often times color how we
24 see a particular circumstance. Two people see a traffic accident, one
25 sees it happen one way; one may see the color of the vehicle different

1 than somebody else. We just do.

2 MS. LUZAICH: Okay. Do you think that if you repeat a
3 description of an event numerous times, if it's not exactly the same every
4 time, that that person is necessarily not being truthful?

5 PROSPECTIVE JUROR NUMBER 528: No, not necessarily. I
6 would think that there's -- as often times, your mind will play maybe little
7 tricks with you sometimes and you'll forget a phrase or something of that
8 nature.

9 MS. LUZAICH: And are all these things things that you'll take
10 into consideration when you're evaluating the testimony --

11 PROSPECTIVE JUROR NUMBER 528: Yes.

12 MS. LUZAICH: -- of witnesses?

13 PROSPECTIVE JUROR NUMBER 528: Yes.

14 MS. LUZAICH: Did you deal much with police in your line of
15 work?

16 PROSPECTIVE JUROR NUMBER 528: Well, not on a
17 continuous basis but there would be occasions. Since we weren't police
18 officers, I would write -- I could write a misdemeanor citation but I couldn't
19 arrest someone.

20 So if I had an individual, let's say, who would refuse to accept a
21 citation, then it would be necessary for me to contact Metro, Metro would
22 come and then offer the person the opportunity to sign the citation or be
23 arrested. It didn't happen an awful lot but it did happen occasionally.

24 MS. LUZAICH: Okay. So the bit that you worked with Metro,
25 you can still listen to police officers and evaluate their testimony the same

1 as you would all of the other witnesses; right?

2 PROSPECTIVE JUROR NUMBER 528: Yes, ma'am, I believe
3 so.

4 MS. LUZAICH: Everybody's going to be equal in your eyes?

5 PROSPECTIVE JUROR NUMBER 528: Yes.

6 MS. LUZAICH: Do you watch that Law and Order, CSI,
7 anything like that?

8 PROSPECTIVE JUROR NUMBER 528: I watched Law and
9 Order -- actually my favorite is Blue Bloods.

10 MS. LUZAICH: Okay. Real life is not like what you see on TV,
11 as you well know 'cause you've lived it a little.

12 Will you promise that the only things that you will consider, if
13 you sit on this case, is what you hear from the witness stand or see from
14 the witness stand?

15 PROSPECTIVE JUROR NUMBER 528: Absolutely, the
16 evidence is -- if the evidence presented on both sides or on one side
17 even.

18 MS. LUZAICH: Okay. Is there anything about you that would
19 prevent you from being able to sit in judgment?

20 PROSPECTIVE JUROR NUMBER 528: No, ma'am, I don't
21 believe so.

22 MS. LUZAICH: So if you listen to the testimony and see
23 evidence, if you are convinced beyond a reasonable doubt the defendant
24 committed the crimes he's charged with, would you be able to say the
25 word guilty?

1 PROSPECTIVE JUROR NUMBER 528: Yes.

2 MS. LUZAICH: Thank you.

3 Pass for cause.

4 MS. MCNEILL: Thank you, Your Honor.

5 You indicated that you watched the preliminary hearing and so
6 I'm guessing you saw your former daughter-in-law testify?

7 PROSPECTIVE JUROR NUMBER 528: Yes, ma'am.

8 MS. MCNEILL: Okay. And prior to her testifying, she probably
9 came in, took an oath to be honest?

10 PROSPECTIVE JUROR NUMBER 528: Yes.

11 MS. MCNEILL: And you don't believe that she was; right?

12 PROSPECTIVE JUROR NUMBER 528: No, ma'am, I don't
13 believe so because of some of the statements that she made during the
14 preliminary hearing --

15 MS. MCNEILL: Okay. So you don't --

16 PROSPECTIVE JUROR NUMBER 528: -- which was sort of
17 inconsistent with the facts as they had been presented.

18 MS. MCNEILL: Okay. And because it was your son, it sounds
19 like you're kind of familiarized with the facts because you're a concerned
20 parent?

21 PROSPECTIVE JUROR NUMBER 528: Yes.

22 MS. MCNEILL: Okay. And so you don't believe that just
23 because somebody comes in here and swears to tell the truth means that
24 what comes of their mouth --

25 PROSPECTIVE JUROR NUMBER 528: No, ma'am, I don't.

1 MS. MCNEILL: -- is going to be the truth; right?

2 PROSPECTIVE JUROR NUMBER 528: No.

3 MS. MCNEILL: Okay. You were -- the incident with your son
4 and his ex-wife, do you have any idea about why she would have made
5 up the claims that she made up?

6 PROSPECTIVE JUROR NUMBER 528: Well, I just don't the
7 facts were as she presented them. There was -- there was a situation that
8 that occurred, I do know that. My son acknowledged that to me. The --
9 but the facts as she presented them were --

10 MS. MCNEILL: Okay. So --

11 PROSPECTIVE JUROR NUMBER 528: -- it didn't appear to be
12 correct.

13 MS. MCNEILL: She took the situation and exaggerated it?

14 PROSPECTIVE JUROR NUMBER 528: Yes.

15 MS. MCNEILL: Okay. Do you know why she would do that?
16 Do you have any idea? Were they having some type of kind --

17 PROSPECTIVE JUROR NUMBER 528: They were having --

18 MS. MCNEILL: -- of custody battle?

19 PROSPECTIVE JUROR NUMBER 528: -- they were having
20 problems prior to this -- at this time.

21 MS. MCNEILL: Okay.

22 PROSPECTIVE JUROR NUMBER 528: I know that my
23 daughter and her husband had gone to dinner with them that night and
24 they, my son and his wife, were arguing at that time, later the incident
25 occurred so. And I have a feeling this was -- this was not a marriage

1 made in heaven, believe me. So I think that it probably had been an
2 ongoing problem for some time.

3 MS. MCNEILL: Okay. All right. And why she would
4 exaggerate it you're not clear, but it sounds like you're willing to accept
5 everybody has motives for doing what they do?

6 PROSPECTIVE JUROR NUMBER 528: That's correct.

7 MS. MCNEILL: Okay. Do they have children in common?

8 PROSPECTIVE JUROR NUMBER 528: No.

9 MS. MCNEILL: Okay. So easier to end?

10 PROSPECTIVE JUROR NUMBER 528: Yes, ma'am.

11 MS. MCNEILL: You said that you retained him a lawyer, a
12 defense lawyer, do you have -- and you have a cousin who's a lawyer;
13 correct? So do you have feelings one way or the other about defense
14 lawyers? Do you feel it necessary evil or just here to do a job?

15 PROSPECTIVE JUROR NUMBER 528: They're here to do a
16 job; right.

17 MS. MCNEILL: Okay. All right.

18 PROSPECTIVE JUROR NUMBER 528: And my son doesn't
19 practice criminal -- my cousin doesn't practice criminal law anyway.

20 MS. MCNEILL: Sure.

21 Anything else that you think that we need to know about you?

22 PROSPECTIVE JUROR NUMBER 528: Other than -- I'm not
23 trying to be flippant, I assure you, but is there a reason we keep it so cold
24 in this courtroom?

25 THE COURT: So we keep you awake.

1 MS. MCNEILL: I have asked the same thing many times. The
2 judge has no control over it, just so you know. Don't blame her.

3 THE COURT: I don't.

4 MS. MCNEILL: All right. Mr. Urga, I have no other questions
5 for you.

6 Thank you, Your Honor. I'll pass for cause.

7 THE COURT: Thanks. All right, yes.

8 All right. Ms. Laster; right?

9 PROSPECTIVE JUROR NUMBER 379: Laster.

10 THE COURT: All right. How are you doing today?

11 PROSPECTIVE JUROR NUMBER 379: I'm good. How are
12 you?

13 THE COURT: Good.

14 Is there any reason you could not be fair and impartial in this
15 case?

16 PROSPECTIVE JUROR NUMBER 379: No, I don't think
17 there's any reason that I wouldn't be fair. But I do have some concerns
18 about the case.

19 THE COURT: Okay. Go ahead.

20 PROSPECTIVE JUROR NUMBER 379: I think my personal
21 faith in the justice system and in law enforcement could sort of affect my
22 view on how the case is being handled, just from what I personally believe
23 that the justice system cannot always be fair to certain types of people.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NUMBER 379: But I would, again, try

1 my best to be fair and impartial.

2 THE COURT: And so when you say, it's not always fair to
3 some groups of people, and I understand that may be true, that means
4 that it's important for the jurors in each case; right, to take a hard look at
5 the evidence and decide whether the State meets its burden or not?

6 PROSPECTIVE JUROR NUMBER 379: Yes, I agree.

7 THE COURT: So if you were a juror on this case, and you felt
8 the State presented sufficient evidence to show guilt beyond a reasonable
9 doubt, would you be able to vote guilty?

10 PROSPECTIVE JUROR NUMBER 379: Yes, guilty people
11 should be tried -- be guilty -- be tried as guilty.

12 THE COURT: I'm sorry?

13 PROSPECTIVE JUROR NUMBER 379: Guilty people should
14 be tried as guilty --

15 THE COURT: Correct.

16 PROSPECTIVE JUROR NUMBER 379: -- if the burden of
17 proof meets it.

18 THE COURT: Right, right.

19 So if they present enough evidence to meet the burden, then
20 you don't have a problem with that?

21 PROSPECTIVE JUROR NUMBER 379: No.

22 THE COURT: And on the other hand, if you felt they just didn't
23 come up with sufficient evidence to establish guilt beyond a reasonable
24 doubt, could you vote not guilty?

25 PROSPECTIVE JUROR NUMBER 379: Yes.

1 THE COURT: Okay. And I appreciate you letting me know
2 about your feelings about the system, so let me explore that a little more.

3 Do you have a bias against law enforcement officers who may
4 come in and testify, such that they kind of come in with less credibility
5 than anyone else?

6 PROSPECTIVE JUROR NUMBER 379: I will -- while the
7 prosecution was listing off her witnesses, there was a great deal of
8 officers on there. And I heard her ask questions many times about, if you
9 don't see physical evidence, would that affect you none. And I would
10 hope that they have more evidence than just the alleged victim's word and
11 the word of police officers.

12 But, like I said, I'll do my best to listen to all the -- any evidence
13 she has and come with a decision.

14 THE COURT: Right.

15 I guess what I want to be sure though is that if a law
16 enforcement officer comes in and testifies you're not going to assume --
17 well, you know, they're just in here lying, that's all they do; right?

18 PROSPECTIVE JUROR NUMBER 379: As long as it matches
19 up with the evidence.

20 THE COURT: Sure.

21 PROSPECTIVE JUROR NUMBER 379: Yes.

22 THE COURT: So if that's -- right, when you're evaluating
23 credibility, you consider that testimony, all the other testimony, all the
24 evidence to decide what you think really happened?

25 PROSPECTIVE JUROR NUMBER 379: Yes. I wouldn't

1 automatically assume that they're lying, no.

2 THE COURT: Okay. All right.

3 PROSPECTIVE JUROR NUMBER 379: As long as I don't see
4 any other reasons to assume that they're not lying, you know.

5 THE COURT: Right.

6 So it's not -- you're not prejudging that, you'll just have to look at
7 the evidence?

8 PROSPECTIVE JUROR NUMBER 379: Yes, I'm not just gonna
9 off the word is what I meant.

10 THE COURT: Yes; okay.

11 So can you wait in forming your opinion on the appropriate
12 result until all the evidence has been heard?

13 PROSPECTIVE JUROR NUMBER 379: That I can do, yes.

14 THE COURT: Have you or anyone close to you worked in law
15 enforcement?

16 PROSPECTIVE JUROR NUMBER 379: No.

17 THE COURT: Have you or anyone close to you been charged
18 with a serious crime?

19 PROSPECTIVE JUROR NUMBER 379: Yes.

20 THE COURT: Okay. I need to hear about that.

21 PROSPECTIVE JUROR NUMBER 379: My dad and my
22 brother. My dad has been to prison since 1996.

23 THE COURT: And for what type crime?

24 PROSPECTIVE JUROR NUMBER 379: I wasn't born yet, so I
25 don't know the exact charges that are brought against him. I do know the

1 story. But I don't know what charges were exactly brought against him.

2 Do you want me to explain?

3 THE COURT: Sure.

4 PROSPECTIVE JUROR NUMBER 379: Him and some friends
5 had gotten into a fight with some other people in their neighborhood, in
6 California, not here, by the way.

7 THE COURT: U'm-h'm.

8 PROSPECTIVE JUROR NUMBER 379: And there was shots
9 fired and unfortunately one of the shots hit a kid that was just walking by
10 and he unfortunately passed away, so, yeah.

11 THE COURT: And so your dad got charged and he's still in
12 prison now --

13 PROSPECTIVE JUROR NUMBER 379: Yes, he is.

14 THE COURT: -- since 1996?

15 PROSPECTIVE JUROR NUMBER 379: U'm-h'm. He wasn't
16 the one who shot the gun, by the way. But he still went to jail 'cause he
17 was there.

18 THE COURT: Right. I understand.

19 And although he's been in prison since before you were born,
20 have you met him?

21 PROSPECTIVE JUROR NUMBER 379: Yes, I have.

22 THE COURT: Okay. So you've seen him in the prison?

23 PROSPECTIVE JUROR NUMBER 379: Yes.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NUMBER 379: And we have a nice

1 relationship.

2 THE COURT: Okay. And your brother, you said, also had
3 been charged.

4 PROSPECTIVE JUROR NUMBER 379: Yes. He spent a
5 couple years in prison for breaking probation.

6 THE COURT: Okay. Do you know what the underlying
7 charges were that he was on probation for?

8 PROSPECTIVE JUROR NUMBER 379: I don't know the exact
9 charge but I know it was drug related.

10 THE COURT: And was that here in Las Vegas?

11 PROSPECTIVE JUROR NUMBER 379: Yes, I think it was like
12 carrying with intent to sell or something like that.

13 THE COURT: Okay. And, again, do you -- well, I mean, we've
14 talked about how you feel about police and prosecutors even before we
15 talked about those cases, but even though your family members have
16 been charged and convicted in those cases, you still think you can be fair
17 to both sides?

18 PROSPECTIVE JUROR NUMBER 379: Yes. This specific
19 case has nothing to do with me personally. I am able to take my family
20 business and separate it from this.

21 THE COURT: All right. Now, have you or anyone close to you
22 been the victim of a serious crime?

23 PROSPECTIVE JUROR NUMBER 379: No.

24 THE COURT: Okay. Have you or anyone close to you been
25 accused of or the victim of domestic violence or sexual abuse?

1 PROSPECTIVE JUROR NUMBER 379: Yes. My mother and
2 my best friend both had problems with sexual abuse.

3 THE COURT: All right. So what happened to your mom?

4 PROSPECTIVE JUROR NUMBER 379: My mom, when she
5 was a kid, she was molested by her grandfather.

6 THE COURT: By her grandfather?

7 PROSPECTIVE JUROR NUMBER 379: Yes.

8 THE COURT: Okay. Do you know if that was ever reported to
9 police?

10 PROSPECTIVE JUROR NUMBER 379: No, it was never
11 reported to police. And that was in Michigan, by the way.

12 THE COURT: And your best friend, what happened there?

13 PROSPECTIVE JUROR NUMBER 379: While we were in high
14 school she was raped.

15 THE COURT: And was it by someone she knew?

16 PROSPECTIVE JUROR NUMBER 379: Sort of. She had
17 gotten a contact from a friend about a guy who did tattoos and she went
18 over to his house to get tattoo and he raped her there, so kind of a
19 stranger.

20 THE COURT: Yeah.

21 And did she report that shortly after it happened?

22 PROSPECTIVE JUROR NUMBER 379: She told me the next
23 day after it happened.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR NUMBER 379: And I convinced her to

1 tell one of our trusted teachers and she reported it. And she did end up
2 talking to police but it didn't go anywhere.

3 THE COURT: So they never arrested him?

4 PROSPECTIVE JUROR NUMBER 379: No.

5 THE COURT: And that was here in Las Vegas too?

6 PROSPECTIVE JUROR NUMBER 379: Yes.

7 THE COURT: And, I'm just asking, do you know why that
8 person was never arrested?

9 PROSPECTIVE JUROR NUMBER 379: I don't think -- from
10 what I remember, my principal didn't take it that seriously because my
11 best friend she was kind of troublemaker. So I don't think she believed
12 her; therefore, I think the police fed off that energy.

13 THE COURT: I see.

14 PROSPECTIVE JUROR NUMBER 379: And they kind of just
15 brushed it under the rug.

16 THE COURT: So -- right; so there was some folks who didn't
17 believe her?

18 PROSPECTIVE JUROR NUMBER 379: Yes.

19 THE COURT: Or at least one or two. Okay.

20 All right. Now, with all that in mind is there anything about the
21 charges in this case that would make it difficult for you to be fair and
22 impartial?

23 PROSPECTIVE JUROR NUMBER 379: No.

24 THE COURT: Can you base your verdict solely on the
25 evidence and the law that applies without fear of criticism or popular

1 opinion?

2 PROSPECTIVE JUROR NUMBER 379: Yes, I can.

3 THE COURT: Have you ever been a juror before?

4 PROSPECTIVE JUROR NUMBER 379: No.

5 THE COURT: If you were a party to this case, would you be
6 comfortable with jurors of a like frame of mind as yourself sitting in
7 judgment?

8 PROSPECTIVE JUROR NUMBER 379: Yes.

9 THE COURT: How long have you lived here in Clark County?

10 PROSPECTIVE JUROR NUMBER 379: 18 years, since 2000.

11 THE COURT: And what's the highest level of education you
12 completed?

13 PROSPECTIVE JUROR NUMBER 379: I have a high school
14 diploma and I've been taking -- I've been in college for two years.

15 THE COURT: And do you have a major?

16 PROSPECTIVE JUROR NUMBER 379: Hospitality
17 management.

18 THE COURT: Are you employed?

19 PROSPECTIVE JUROR NUMBER 379: Yes, I am.

20 THE COURT: What do you do?

21 PROSPECTIVE JUROR NUMBER 379: Right now I work at a
22 retail store called Lane Bryant. But, I think -- I remember telling you that
23 I'm starting a new job on Tuesday.

24 THE COURT: Thank you. Yes, Tuesday, July 3rd, a new
25 full-time job. Thank you.

1 PROSPECTIVE JUROR NUMBER 379: Yes, at a spa.

2 THE COURT: At a spa?

3 PROSPECTIVE JUROR NUMBER 379: U'm-h'm.

4 THE COURT: Okay. I didn't write that part down.

5 PROSPECTIVE JUROR NUMBER 379: Yes, I'm gonna be
6 answering all their incoming calls, guest representative, or something like
7 that.

8 THE COURT: Okay, great.

9 Okay. Are you married?

10 PROSPECTIVE JUROR NUMBER 379: No, I have a boyfriend.

11 THE COURT: Okay. Is he in school or employed?

12 PROSPECTIVE JUROR NUMBER 379: He's employed.

13 THE COURT: What does he do?

14 PROSPECTIVE JUROR NUMBER 379: He works at Wild Fire
15 Casino, security.

16 THE COURT: Okay. And do you have any children?

17 PROSPECTIVE JUROR NUMBER 379: No.

18 THE COURT: All right. State.

19 MS. LUZAICH: Hello.

20 PROSPECTIVE JUROR NUMBER 379: Hi.

21 MS. LUZAICH: All right. What you said was that you believe
22 that the system is not always fair to certain types of people. What types of
23 people?

24 PROSPECTIVE JUROR NUMBER 379: African American men
25 who make up most of the percentages of today's prisons, if you want me

1 to be specific.

2 MS. LUZAICH: And what makes you think that --

3 PROSPECTIVE JUROR NUMBER 379: Personal --

4 MS. LUZAICH: -- the systems not fair?

5 PROSPECTIVE JUROR NUMBER 379: -- personal research I
6 have done myself, things I've learned in school, today's culture and
7 today's society, and personal experiences.

8 MS. LUZAICH: Do you think that we are prosecuting Mr. Green
9 simply because he's African American?

10 PROSPECTIVE JUROR NUMBER 379: No. But I believe that
11 the way society has formed an opinion about African American men, I
12 think people, not all people, but some people can come in and see a black
13 man who can potentially look kind of scary. And I don't know if the alleged
14 victim is Caucasian or not. But, I believe, that can make a difference.

15 MS. LUZAICH: Will it make a difference to you if she's
16 Caucasian?

17 PROSPECTIVE JUROR NUMBER 379: No. I'll listen to all the
18 evidence, preceded. And if the State meets their burden of proof, then I
19 can -- I will say that he's guilty, if I think that.

20 MS. LUZAICH: If she were, if the alleged victim is -- were
21 African American, would you believe her more than if she was
22 Caucasian?

23 PROSPECTIVE JUROR NUMBER 379: No. But -- I'm sorry,
24 I'm trying to put where I don't offend anybody. I just think that it can be
25 very suggestive if -- if the people, the jury, see her, they can -- I believe

1 that they'll sympathize with her more.

2 MS. LUZAICH: Why?

3 PROSPECTIVE JUROR NUMBER 379: Because -- you asked
4 a question to somebody earlier, if it's easy, to, like, make a false
5 allegation. I think, actually, I think, it was you. Yes. And I think it is easy
6 for women, period, to falsely accuse a man of sexual assault.

7 MS. LUZAICH: Well, I guess, in theory it's easy for anyone to
8 falsely accuse anyone else, if they have a reason to?

9 PROSPECTIVE JUROR NUMBER 379: Yes.

10 MS. LUZAICH: Would you agree with that?

11 PROSPECTIVE JUROR NUMBER 379: U'm-h'm.

12 MS. LUZAICH: Is that a yes?

13 PROSPECTIVE JUROR NUMBER 379: Yes.

14 MS. LUZAICH: Just the court reporter --

15 PROSPECTIVE JUROR NUMBER 379: Sorry.

16 MS. LUZAICH: -- types words --

17 PROSPECTIVE JUROR NUMBER 379: Yes.

18 MS. LUZAICH: -- not sounds.

19 So whether an individual is African American, Caucasian,
20 Asian, I'm running out of examples, but no matter what they are, it doesn't
21 make it easier to accuse somebody if you're Caucasian or African
22 American or Asian; do you think?

23 PROSPECTIVE JUROR NUMBER 379: Not to accuse them
24 but for them to be found guilty I think it can make a difference.

25 MS. LUZAICH: Why?

1 PROSPECTIVE JUROR NUMBER 379: [No audible response.]

2 MS. LUZAICH: I mean, in your personal experience?

3 PROSPECTIVE JUROR NUMBER 379: Yes.

4 MS. LUZAICH: Have you been falsely accused of something by
5 somebody who is --

6 PROSPECTIVE JUROR NUMBER 379: No, not me personally.

7 MS. LUZAICH: Somebody that's close to you?

8 PROSPECTIVE JUROR NUMBER 379: Yes. I mean, I've
9 heard and I've seen how it can happen. But not nothing that ever went to
10 trial or anything.

11 MS. LUZAICH: Okay. Because these are your feelings and
12 because Mr. Green is African American -- and I'll tell you right now, I
13 mean, the alleged victim in this case is not African American. Are you
14 going to make us, the State of Nevada, prove more than beyond a
15 reasonable doubt for you to return a verdict of guilty?

16 PROSPECTIVE JUROR NUMBER 379: No. I expect you to go
17 with the law, you know, meet the burden of proof, not more than you
18 need.

19 And I think I would -- I think I'm -- I think I could listen and
20 decide whether or not he's guilty or not. And I also think that I would take
21 what my other jurors have to say, if I'm selected, and listen to them. And
22 if -- if they have a different opinion than me, I'll probably re -- re-look at all
23 the facts in my head and see if I'm missing anything and ask them what
24 they think and take in consideration.

25 MS. LUZAICH: Okay. When your mother went through her

1 situation, did she tell anybody; do you know?

2 PROSPECTIVE JUROR NUMBER 379: No.

3 MS. LUZAICH: Okay. How did you find out?

4 PROSPECTIVE JUROR NUMBER 379: She told me.

5 MS. LUZAICH: I mean, recently, a long time ago?

6 PROSPECTIVE JUROR NUMBER 379: She told me when I
7 was 16. I'm 21 now.

8 MS. LUZAICH: To kind of get you prepared for the fact that bad
9 things happen to people, kind of?

10 PROSPECTIVE JUROR NUMBER 379: Well, she was always
11 very protective of me, she wouldn't let me go and spend the night at a
12 friend's house or anything. And one day I was just, like, why are you so
13 protective? And she told me what happened to her when she was a child.

14 MS. LUZAICH: Did she tell you why she never told anybody?

15 PROSPECTIVE JUROR NUMBER 379: In those times she
16 said it was common for that stuff to be -- kept silent for --

17 MS. LUZAICH: Swept under the rug?

18 PROSPECTIVE JUROR NUMBER 379: Yes. And she was
19 also scared of her grandfather.

20 MS. LUZAICH: Okay. And then your friend, you said that she
21 told you the next day.

22 PROSPECTIVE JUROR NUMBER 379: Yes.

23 MS. LUZAICH: If you hadn't convinced her to tell somebody, do
24 you think that she would have reported it on her own?

25 PROSPECTIVE JUROR NUMBER 379: No, I don't.

1 MS. LUZAICH: Do you know why?

2 PROSPECTIVE JUROR NUMBER 379: I don't know for
3 certain. I can only go from how I know her personally. She's a very
4 independent person and she likes to solve problems herself and she
5 doesn't like to lean on anybody. And she told me once that her parents
6 had enough problems, she didn't want to add to their problems.

7 MS. LUZAICH: So your gut feeling is that she wouldn't have
8 done anything about it?

9 PROSPECTIVE JUROR NUMBER 379: Yes.

10 MS. LUZAICH: But you said that because you didn't think the
11 principal believed her, the police felt that off of his personal energy?

12 PROSPECTIVE JUROR NUMBER 379: What I meant by that
13 was the principals -- I remember seeing the principal take the cops aside
14 and just being, like, hey, she's not giving us lots of details. I don't think
15 that -- I remember saying that I don't this is gonna go anywhere. And so
16 the police were, like, okay, we'll give you a call, sort of thing, if we know
17 anything.

18 MS. LUZAICH: Did they interview her, the police?

19 PROSPECTIVE JUROR NUMBER 379: Yes, they did.

20 MS. LUZAICH: Did they interview you as well?

21 PROSPECTIVE JUROR NUMBER 379: No.

22 MS. LUZAICH: Do you know what they did or didn't do or are
23 you just kind of speculating?

24 PROSPECTIVE JUROR NUMBER 379: No, I know because I
25 was called to the principal's office with her. Because we went to tell my

1 teacher together, our teacher together, and then our teacher walked us
2 both down to the office.

3 MS. LUZAICH: So that was a bad question that I asked.

4 The police, not the school, the police, do you know that they did
5 or did not investigate or are you just speculating that they didn't
6 investigate?

7 PROSPECTIVE JUROR NUMBER 379: I know they didn't
8 investigate 'cause she told me that they never gave her a call or anything.

9 MS. LUZAICH: Okay. Did she call them?

10 PROSPECTIVE JUROR NUMBER 379: I think one of the
11 policemen gave her --

12 MS. LUZAICH: The number?

13 PROSPECTIVE JUROR NUMBER 379: The number, yes.

14 But I don't know if she called or not; no, I don't.

15 MS. LUZAICH: Okay. You said that you -- when you heard me
16 read the list of witnesses that there are a whole lot of police officers, you
17 know, there are multiple events that we're going to be discussing.

18 PROSPECTIVE JUROR NUMBER 379: Yes, I remember you
19 telling that, two different events; right?

20 MS. LUZAICH: Right.

21 So, I mean, it kind of makes sense that there a lot of police
22 officers; right, don't you think?

23 PROSPECTIVE JUROR NUMBER 379: Yes. What I was
24 going for is that you said that -- I remember you asking questions, like, if
25 you don't see any physical evidence or anything like that, so in my mind I

1 was just, like, well, is she just gonna be going off of what police officers
2 have to say and the alleged victim.

3 MS. LUZAICH: And if that's all that there was, would you not be
4 able to return a verdict of guilty?

5 PROSPECTIVE JUROR NUMBER 379: Well, in my mind
6 wouldn't you need more than just the word of witnesses?

7 MS. LUZAICH: Why?

8 PROSPECTIVE JUROR NUMBER 379: Because you can't
9 prove if they're lying or not; right? Am I wrong?

10 MS. LUZAICH: Well, I don't know that's up to you as a juror
11 but.

12 PROSPECTIVE JUROR NUMBER 379: Oh.

13 MS. LUZAICH: Sometimes you can just listen to what people
14 have to say and determine that they're lying; don't you think?

15 PROSPECTIVE JUROR NUMBER 379: Yeah, but there's no
16 actual way to prove it unless you have DNA or pictures or something like
17 that.

18 MS. LUZAICH: So in your mind I need DNA or pictures or
19 something in order for you to return a verdict of guilt; is that right?

20 PROSPECTIVE JUROR NUMBER 379: Yes.

21 MS. LUZAICH: Okay. Thank you.

22 PROSPECTIVE JUROR NUMBER 379: You're welcome.

23 MS. LUZAICH: Can we approach?

24 THE COURT: Yep. Come on up.

25 [Bench conference begins]

1 MS. MCNEILL: Can I follow-up with her?

2 THE COURT: Do you want to do that before I excuse her?

3 MS. MCNEILL: Yeah.

4 THE COURT: Okay. Go ahead. Ask some questions.

5 [Bench conference ends]

6 THE COURT: All right. Ms. McNeill has a few questions for
7 you, ma'am.

8 MS. MCNEILL: Thank you.

9 Ms. Laster, you indicated that if the prosecution just gives you
10 the word of their victim and the officers, that you wouldn't be able to find
11 Mr. Green guilty. If the judge instructed you that the law in Nevada is they
12 don't -- the State does not have to have anything other than the word of
13 their alleged victim, would you follow the instructions?

14 PROSPECTIVE JUROR NUMBER 379: Yeah, I rather not be
15 held in contempt.

16 MS. MCNEILL: Okay.

17 THE COURT: I apologize, I didn't catch that.

18 PROSPECTIVE JUROR NUMBER 379: I would rather not be
19 held in contempt.

20 THE COURT: Oh. Good, okay. I appreciate that.

21 PROSPECTIVE JUROR NUMBER 379: I don't think that'll be
22 fun for me and Anthony at all.

23 MS. MCNEILL: Okay. So your personal view is, if you were
24 running the world, you would require more than that --

25 PROSPECTIVE JUROR NUMBER 379: Yes.

1 MS. LUZAICH: -- than just someone's word; right?

2 But the judge, if she tells you, that's not how it works, you'll
3 follow that?

4 PROSPECTIVE JUROR NUMBER 379: Yes, I'm aware of that.

5 MS. MCNEILL: Okay. Got it.

6 I want to talk to you a little bit about some of your thoughts on
7 the justice system and I know that it seemed like, it's a little hard to say it, I
8 think sometimes people have a hard time being really honest --

9 PROSPECTIVE JUROR NUMBER 379: Yes.

10 MS. MCNEILL: -- because it's a room full of strangers. But I'm
11 guessing that you and I have probably read some of the same studies.

12 You indicated that in your mind it's easier for a black man to be
13 convicted if the alleged victim is white; right?

14 PROSPECTIVE JUROR NUMBER 379: Yes.

15 MS. MCNEILL: Okay. That's not something that you made up;
16 right, you've read studies on that?

17 PROSPECTIVE JUROR NUMBER 379: Yes, it's not something
18 that I just popped into my mind.

19 MS. MCNEILL: Did you ever read the book To Kill a Mocking
20 Bird?

21 PROSPECTIVE JUROR NUMBER 379: Yes, I have.

22 MS. MCNEILL: Okay. And it's a similar situation; right, that's
23 exactly what happened in that book, it's easy for a white woman to say
24 she'd been raped by a black man?

25 PROSPECTIVE JUROR NUMBER 379: Yes.

1 MS. MCNEILL: And it turned out it was a lie?

2 PROSPECTIVE JUROR NUMBER 379: Yes.

3 MS. MCNEILL: Okay. And that book is a classic; right?

4 PROSPECTIVE JUROR NUMBER 379: Yes, it is.

5 MS. MCNEILL: So obviously that's a thing that happens in
6 society?

7 PROSPECTIVE JUROR NUMBER 379: Yes, it's absolutely a
8 thing.

9 MS. MCNEILL: Okay. Your views on the justice system aren't
10 going to keep you from -- just like I've asked a lot of people about, it's not
11 going to be something easier for the State to prove it to you 'cause the
12 word rape, it's not going to be harder for them to prove to you because
13 he's black; right?

14 PROSPECTIVE JUROR NUMBER 379: No.

15 MS. MCNEILL: Okay. Would you agree with me that people
16 like you who are going to take a critical eye to the system it's probably
17 really important that you serve on juries?

18 PROSPECTIVE JUROR NUMBER 379: Yes.

19 MS. MCNEILL: Okay. But you're not going to give me less, I
20 mean, you're not going to make my job easier just because of those
21 views; right?

22 PROSPECTIVE JUROR NUMBER 379: No.

23 MS. MCNEILL: You're going to follow the law as instructed by
24 the judge?

25 PROSPECTIVE JUROR NUMBER 379: Yes, absolutely.

1 MS. MCNEILL: And be fair to everybody?
2 PROSPECTIVE JUROR NUMBER 379: U'm-h'm.
3 MS. MCNEILL: Okay.
4 PROSPECTIVE JUROR NUMBER 379: Yes, sorry.
5 THE COURT: Why don't you come on up.
6 [Bench conference begins]
7 THE COURT: Okay. I assume you're seeking to excuse her?
8 MS. LUZAICH: Yes, I am.
9 THE COURT: Okay. And --
10 MS. MCNEILL: I mean, she -- I mean, I understand --
11 THE COURT: -- I need you to speak.
12 MS. MCNEILL: Sorry, I always.
13 I think she's said that, you know, she didn't know that was the
14 law and I think she's instructed that they don't need to corroborate the
15 victim, that she'll follow the law so.
16 MS. LUZAICH: I know she's said that she's going to follow the
17 law. But, I'm sorry, I think she's lying. I think that she has an agenda.
18 And I think that all of her answers, every single one of her answers,
19 demonstrate that she is not going to be fair. She's going to hold us to a
20 higher burden that she does not think a black man can sexually assault a
21 white woman.
22 THE COURT: And --
23 MS. MCNEILL: I don't --
24 THE COURT: -- sorry, the victim is white?
25 MS. LUZAICH: Yes.

1 MS. MCNEILL: -- and I don't know if she said that they can't, I
2 think. And, you know, she's right, that studies show that if a defendant is
3 black --

4 THE COURT: More likely.

5 MS. MCNEILL: -- and the victim is white --

6 THE COURT: Yes.

7 MS. MCNEILL: -- then it does affect jurors. So she's not -- but,
8 I mean, we -- we're kind of going by what she says.

9 There have been jurors who have said, oh, no, the fact that, you
10 know, my best friend was raped isn't going to affect me. And I'm stuck
11 with that answer, whether I believe it or not, you know. And I think she
12 said she can be truly fair.

13 THE COURT: Right.

14 I mean, she has her views on the system, that the system isn't
15 fair in some circumstances, which it's not fair in some circumstances. But,
16 ultimately, I think she's said she would follow the law and she would vote
17 guilty, if the evidence was there so.

18 And I was concerned when you first raised the issue when she
19 said there would have to be more. But, ultimately, I'm satisfied that she'll
20 follow the law on that.

21 And, obviously, we will give a specific instruction, which, of
22 course, you've proposed that it doesn't have to be corroborated.

23 So at this point I'm not finding cause to excuse.

24 MS. LUZAICH: Thank you.

25 THE COURT: Thank you.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

[Bench conference ends]

THE COURT: All right. So pass her for cause.
And let's go ahead and fill that next seat then.

THE CLERK: Yes, Your Honor.

Next in seat 27, badge number 541, Gabriela Rodriguez.

THE COURT: Okay. Ms. Rodriguez, how are you today?

PROSPECTIVE JUROR NUMBER 541: I'm doing good. How
are you?

THE COURT: Good.

Is there any reason you could not be fair and impartial in this
case?

PROSPECTIVE JUROR NUMBER 541: I'd like to say, no, but
a few years ago one of my best friends came to me right after a domestic
violence incident, her and her two young kids at the time.

THE COURT: Okay. And so she came to you after a domestic
violence incident?

PROSPECTIVE JUROR NUMBER 541: Correct.

THE COURT: And so who was the person who had been
violent?

PROSPECTIVE JUROR NUMBER 541: Her significant other.

THE COURT: And what did she tell you?

PROSPECTIVE JUROR NUMBER 541: She called me on
her -- while she was driving, right after the incident, and asked me if she
could come over to my house, that she had an emergency. So, of course,
I said, yes.

1 And when she got to my house she was just very shaken and
2 she told me what had happened. He pretty much choked her until she
3 passed out. So she had marks on her neck, her eyes were kind of
4 bloodshot. The kids at the time, I believe, the oldest was maybe four, the
5 younger one about two. They were -- fortunately, he didn't do anything to
6 them, but they were pretty, I guess, shaken, they were pretty silent, they
7 were just -- kind of had blank stares in their eyes, because, of course,
8 they didn't know how to explain it.

9 THE COURT: And how long ago did this happen?

10 PROSPECTIVE JUROR NUMBER 541: This was about five
11 years ago or so.

12 THE COURT: Okay. And were the police called?

13 PROSPECTIVE JUROR NUMBER 541: They were not. At the
14 time I was around 21, 22. And she asked me not to call the police. She --
15 and the reason I decided not to, to take her word not to call the police, is
16 because she had -- when she was pregnant with her smaller child, they
17 had had an incident where the police had been called. And she was -- the
18 police told them that if they ever called again their kids would be taken
19 away from them. So she was scared that her children would be taken.

20 And at the time I wasn't -- I didn't really -- I wasn't educated on
21 that so I wouldn't know that would be true. And I didn't want to be the
22 person to call the police and possibly have her kids taken away from her.

23 THE COURT: Right.

24 Okay. And so did she end up staying with you that night or
25 what happened?

1 PROSPECTIVE JUROR NUMBER 541: She left to her family, I
2 believe, it was her brother. I'm not too sure. I believe they went to court
3 on -- I want to say it was custody issues after that. I remember meeting
4 her at a courthouse in case I had to testify to seeing her injuries and
5 things like that. But, I think, they -- they didn't decide to go forward with
6 that. Now they're actually married and have another child.

7 THE COURT: So they're actually still together?

8 PROSPECTIVE JUROR NUMBER 541: Yes.

9 THE COURT: Are you aware of any other domestic violence
10 incidents with that same person?

11 PROSPECTIVE JUROR NUMBER 541: No. I know they've
12 had other issues but not domestic violence.

13 THE COURT: Okay. All right. So having kind of been a
14 witness to those events that you just described, would that affect your
15 ability to be a fair and impartial juror in this case?

16 PROSPECTIVE JUROR NUMBER 541: I'm not sure just
17 because I know there's a child involved. And just -- I guess seeing her
18 and seeing her kids, I guess, if I kind of see it in them, I don't want -- I
19 can't a 100 percent say that, you know, I would -- I wouldn't be affected by
20 it.

21 Or maybe just if I kind of see, let's say, like the, a similar or what
22 I see as similar look in the child's and believe it even though it might not
23 necessarily be true or.

24 THE COURT: Right.

25 So you'd be -- you'd be wanting to compare what you see

1 versus what you saw that day with your friend --

2 PROSPECTIVE JUROR NUMBER 541: Correct.

3 THE COURT: -- and her kids?

4 PROSPECTIVE JUROR NUMBER 541: Yeah, I don't want to --
5 yeah.

6 THE COURT: Right.

7 So if you were a juror on this case you would kind of need to put
8 aside your personal experiences and just judge the case on its own
9 merits. So would you be able to do that?

10 PROSPECTIVE JUROR NUMBER 541: I would do my best
11 and try to do so, yeah.

12 THE COURT: Right.

13 But are you concerned that you won't be able to do that?

14 PROSPECTIVE JUROR NUMBER 541: A little bit just because
15 it is, I mean, I'm sure everybody knows, it's a hard topic and just seeing
16 someone in distress. Similar like if I see the alleged victim like that, I may
17 or may not -- not saying that I can necessarily compare it to my friend's
18 case, but just have that similar feeling like I feel for her --

19 THE COURT: Sure.

20 PROSPECTIVE JUROR NUMBER 541: -- knowing. And, you
21 know, it's hard to -- it's hard to know if it's true or not.

22 THE COURT: Right.

23 PROSPECTIVE JUROR NUMBER 541: So, you know, some
24 people can be good at putting on that persona and just I don't know if I'd
25 be able to tell whether it's genuine or not.

1 THE COURT: Right.

2 And so as a juror, jurors may feel some sympathy toward
3 people that they see during a trial, but the decision as a juror, the verdict,
4 can't be based on sympathy, it has to only be based on like what the
5 evidence shows as opposed to sympathy.

6 Do you understand what I'm saying?

7 PROSPECTIVE JUROR NUMBER 541: Yes.

8 THE COURT: And, I guess, do you think you'd be able to do
9 that, that you could kind of separate the sympathy and emotions from
10 what does the evidence show?

11 PROSPECTIVE JUROR NUMBER 541: I think I could try my
12 best.

13 THE COURT: I understand.

14 Let me go on and ask some more questions.

15 PROSPECTIVE JUROR NUMBER 541: Okay.

16 THE COURT: So I think we started talking about this on my
17 first question about being fair and impartial; right?

18 PROSPECTIVE JUROR NUMBER 541: Yes.

19 THE COURT: Okay. So can you wait in forming your opinion
20 on the appropriate result until all the evidence has been heard?

21 PROSPECTIVE JUROR NUMBER 541: Yes, I believe so.

22 THE COURT: Have you or anyone close to you worked in law
23 enforcement?

24 PROSPECTIVE JUROR NUMBER 541: No.

25 THE COURT: Have you or anyone close to you been charged

1 with a serious crime?

2 PROSPECTIVE JUROR NUMBER 541: No.

3 THE COURT: And, I guess, other than what you've told me
4 about, have you or anyone close to you been the victim of a serious
5 crime?

6 PROSPECTIVE JUROR NUMBER 541: Not other than that.

7 THE COURT: And, again other than what you've told me, have
8 you or anyone close to you been accused of or the victim of domestic
9 violence or sexual abuse?

10 PROSPECTIVE JUROR NUMBER 541: No.

11 THE COURT: So is there anything about the charges in this
12 case that would make it difficult for you to be fair and impartial?

13 PROSPECTIVE JUROR NUMBER 541: I think other than just
14 relating it to that story, no.

15 THE COURT: Can you base your verdict solely on the
16 evidence brought out at trial and the law that applies as stated in my
17 instructions without fear of criticism or popular opinion?

18 PROSPECTIVE JUROR NUMBER 541: Yes.

19 THE COURT: Have you ever been a juror before?

20 PROSPECTIVE JUROR NUMBER 541: No.

21 THE COURT: If you were a party to this case, would you be
22 comfortable with jurors of a like frame of mind as yourself sitting in
23 judgment?

24 PROSPECTIVE JUROR NUMBER 541: I think so, yes.

25 THE COURT: How long have you lived in Clark County?

1 PROSPECTIVE JUROR NUMBER 541: About 19 years.

2 THE COURT: What's the highest level of education you
3 completed?

4 PROSPECTIVE JUROR NUMBER 541: A bachelor's degree in
5 communication studies.

6 THE COURT: Are you employed?

7 PROSPECTIVE JUROR NUMBER 541: Yes.

8 THE COURT: What do you do?

9 PROSPECTIVE JUROR NUMBER 541: I'm a public relations
10 specialist at a local PR firm.

11 THE COURT: Are you married?

12 PROSPECTIVE JUROR NUMBER 541: Engaged.

13 THE COURT: Is your fiancé employed?

14 PROSPECTIVE JUROR NUMBER 541: Yes. He is a music
15 teacher at a high school.

16 THE COURT: Do you have any children?

17 PROSPECTIVE JUROR NUMBER 541: No.

18 THE COURT: And -- okay. So sitting here, this week, during
19 this jury selection process has, you know, brought up the memory for you
20 of the incident you described.

21 PROSPECTIVE JUROR NUMBER 541: Correct.

22 THE COURT: You know, ultimately the question is: Do you
23 think you'll be able to separate that incident from your job here as a juror?
24 Do you think you can do that or do you not think you could do that?

25 PROSPECTIVE JUROR NUMBER 541: I don't -- I don't if I

1 could give you, like, a 100 percent, yes, I can do that. I'm just scared that
2 I would relate kind of what I saw to what maybe the victim and what the
3 child kind of act or react to when they're telling their story.

4 THE COURT: Yeah.

5 All right. Counsel, come on up.

6 [Bench conference begins]

7 [Colloquy between the District Attorney and Defense Counsel]

8 THE COURT: I'm sorry, what --

9 MS. MCNEILL: The last one was tough.

10 MS. LUZAICH: Yeah.

11 THE COURT: Yes. I believe she can't say that she can put it
12 aside. I think I'm probably required to excuse her. I don't know.

13 I mean, I -- lots of people have had experiences, as you
14 mentioned, either personally or other people. But, ultimately, I think the
15 ones we've kept are the ones who've committed that they could keep 'em
16 separate.

17 MS. LUZAICH: I don't know. I think some people are, like, yes,
18 I'll try, I'll do my best.

19 THE COURT: I'll try; right.

20 MS. LUZAICH: I don't know that anybody said 100 percent,
21 yes, I can. She's the only one who actually brought the number out there.

22 MS. MCNEILL: I mean, the Supremes --

23 THE COURT: What did she say on the number? I don't --

24 MS. MCNEILL: Not a -- she can't say --

25 MS. LUZAICH: She says, I can't say --

1 THE COURT: 100 percent; right.

2 MS. LUZAICH: But I don't know that she needs to.

3 MS. MCNEILL: No, I don't think they have to say 100, I mean,

4 nobody can say that. I mean, the Supreme Court --

5 THE COURT: Right.

6 MS. LUZAICH: Yeah. She said she said she's going to try.

7 MS. MCNEILL: -- wants them to be -- sorry, I need to just get

8 close to this. I'm sorry.

9 The Supreme Court wants them to be, you know, not

10 equivocate on it.

11 THE COURT: Right.

12 MS. MCNEILL: With her, I don't know I --

13 THE COURT: And I'm supposed to evaluate --

14 MS. MCNEILL: Yeah.

15 THE COURT: -- not just what they say.

16 MS. MCNEILL: But I will say what's interesting is she's kind of

17 gone both ways with it. I mean, she also said that she may judge the

18 alleged victim if she doesn't react like her friend did. So I don't -- I think

19 she's kind of -- I don't know that she's --

20 THE COURT: All right.

21 MS. MCNEILL: -- hurting either, you know --

22 THE COURT: No, all right. I mean --

23 MS. LUZAICH: Are you making a motion to excuse?

24 MS. MCNEILL: No, I'm not. I'm saying like I feel good.

25 MS. LUZAICH: Oh, okay.

1 THE COURT: You're not? And you're not?

2 MS. LUZAICH: And, no, I'm not.

3 MS. MCNEILL: Yeah.

4 THE COURT: Go ahead then.

5 MS. MCNEILL: I'm not --

6 MS. LUZAICH: Yep.

7 THE COURT: Thank you.

8 [Bench conference ends]

9 THE COURT: All right. Ms. Luzaich, go ahead.

10 MS. LUZAICH: Thank you.

11 Good afternoon, ma'am.

12 PROSPECTIVE JUROR NUMBER 541: Good afternoon.

13 MS. LUZAICH: You had mentioned that your friend has since
14 gotten back together with him and they have another child.

15 PROSPECTIVE JUROR NUMBER 541: Yes.

16 MS. LUZAICH: Are you and she still close?

17 PROSPECTIVE JUROR NUMBER 541: Not as close
18 because -- we actually met at my previous employment. So when I
19 graduated college and we worked at a restaurant. So I kind of moved on
20 to an office job, where she kind of still works odd hours.

21 MS. LUZAICH: Different set of friends?

22 PROSPECTIVE JUROR NUMBER 541: U'm-h'm. She works
23 odd hours versus a nine to five. So it's kind of harder to see each other.
24 But we still text and, you know, come to each other's birthdays and things
25 like that.

1 MS. LUZAICH: But it's not the fact that they got back together
2 that causes you not to see her?

3 PROSPECTIVE JUROR NUMBER 541: No. But I will say
4 when we are together, he's usually not there.

5 MS. LUZAICH: Which isn't a bad thing probably.

6 But you said that you don't think that she's had instances of
7 domestic violence since?

8 PROSPECTIVE JUROR NUMBER 541: I don't think so.

9 MS. LUZAICH: Okay. You had mentioned, and I'm sorry, you
10 had mentioned also that prior in their relationship there had been a
11 situation and the police came and said something about, you know, next
12 time your kid, you'll lose your kids if --

13 PROSPECTIVE JUROR NUMBER 541: Yeah.

14 MS. LUZAICH: Were you friends at that time?

15 PROSPECTIVE JUROR NUMBER 541: I was not. I met her --
16 at that point she was pregnant and when I met her she had already had
17 her child so.

18 MS. LUZAICH: Okay. So you weren't around when that prior
19 incident occurred?

20 PROSPECTIVE JUROR NUMBER 541: No, I just kind of heard
21 the story from her.

22 MS. LUZAICH: Okay. Can you keep an open mind?

23 PROSPECTIVE JUROR NUMBER 541: Yes.

24 MS. LUZAICH: I mean, you'll listen to all the evidence before
25 you make up your mind?

1 PROSPECTIVE JUROR NUMBER 541: Yes.

2 MS. LUZAICH: Can you evaluate the testimony of all witnesses
3 the same, you know, a police officer, a 7-Eleven clerk, a Zamboni driver,
4 can you evaluate everybody the same?

5 PROSPECTIVE JUROR NUMBER 541: Yes.

6 MS. LUZAICH: Would you agree that a person has the
7 absolute right to say no to sexual advances?

8 PROSPECTIVE JUROR NUMBER 541: Yes.

9 MS. LUZAICH: Does somebody ever give up that right?

10 PROSPECTIVE JUROR NUMBER 541: No.

11 MS. LUZAICH: Does no ever mean convince me?

12 PROSPECTIVE JUROR NUMBER 541: No.

13 MS. LUZAICH: And do you think the State should get involved
14 in domestic violence situations?

15 PROSPECTIVE JUROR NUMBER 541: I do.

16 MS. LUZAICH: And when I say, the State should get involved,
17 police can makes arrests and people should be prosecuted for doing
18 something wrong?

19 PROSPECTIVE JUROR NUMBER 541: Correct, u'm-h'm.

20 MS. LUZAICH: And in your mind is there ever an acceptable
21 reason to -- or an acceptable situation where somebody should lay hands
22 on someone else?

23 PROSPECTIVE JUROR NUMBER 541: No.

24 MS. LUZAICH: Are you expecting anything in this trial?

25 PROSPECTIVE JUROR NUMBER 541: No. Just -- like

1 everyone's mentioned, hearing from witnesses or parties involved,
2 possibly some evidence.

3 MS. LUZAICH: Okay. And if there isn't any evidence, if it's only
4 testimony of witnesses and the victim and nurses and whatever, is it
5 possible that you would be able to return a guilty verdict, without physical
6 tangible, touching evidence?

7 PROSPECTIVE JUROR NUMBER 541: Yes, I believe so.

8 MS. LUZAICH: There's going to be some.

9 PROSPECTIVE JUROR NUMBER 541: Yeah.

10 MS. LUZAICH: But I'm just asking, is it possible that you could
11 still return a verdict?

12 PROSPECTIVE JUROR NUMBER 541: Yes.

13 MS. LUZAICH: And you said you were a PR specialist, so do
14 you -- like, what do you do on a daily basis?

15 PROSPECTIVE JUROR NUMBER 541: I receive media
16 inquiries to reach out to media, depending on what specific client I'm
17 working on. I do some community outreach for some of our clients as
18 well.

19 MS. LUZAICH: Do you work for a company?

20 PROSPECTIVE JUROR NUMBER 541: Yeah, it's a local firm,
21 company. We're pretty small; it's about eight of us.

22 MS. LUZAICH: And then somebody assigns clients to you? Do
23 you go out and get your own clients?

24 PROSPECTIVE JUROR NUMBER 541: We're usually
25 assigned clients, yeah.

1 MS. LUZAICH: Okay. But would you consider yourself a
2 people person?

3 PROSPECTIVE JUROR NUMBER 541: I think in the middle. I
4 consider myself an introvert so.

5 MS. LUZAICH: Okay. So back in the deliberation room, you
6 will share your opinion with others when asked?

7 PROSPECTIVE JUROR NUMBER 541: Yes.

8 MS. LUZAICH: But you may not, like, be the driving force --

9 PROSPECTIVE JUROR NUMBER 541: Correct.

10 MS. LUZAICH: -- being the -- fair enough. Everybody gets to
11 do what they choose.

12 What did you think when you got your jury summons?

13 PROSPECTIVE JUROR NUMBER 541: I actually had received
14 it twice before and my number was called. So I was, like, oh, I'm gonna
15 for sure be there this time.

16 MS. LUZAICH: Okay. How would you feel about serving in a
17 jury trial?

18 PROSPECTIVE JUROR NUMBER 541: I think it's our duty to
19 serve. My -- actually, did I mention, my brother is in the military. So, you
20 know, he's giving back to our country, so I think it's only fair for us, as
21 citizens, to give back a little bit.

22 MS. LUZAICH: Make sure you call him and tell him that you're
23 doing this.

24 Is there anything about you that would prevent you from being
25 able to sit in judgment?

1 PROSPECTIVE JUROR NUMBER 541: No.

2 MS. LUZAICH: And if you listen to the testimony, see any
3 evidence, if you are convinced beyond a reasonable doubt the defendant
4 committed the crimes that he's charged with, would you be able to say the
5 word guilty?

6 PROSPECTIVE JUROR NUMBER 541: Yes.

7 MS. LUZAICH: You hesitated.

8 PROSPECTIVE JUROR NUMBER 541: I was just -- it's hard to
9 kind of play in somebody else's life and make such a big decision.

10 MS. LUZAICH: Well, remember, all you are going to do is listen
11 to evidence, testimony, and look at evidence, and make a decision
12 whether or not the State of Nevada has proven the charges. I mean,
13 that's all you have to do, did we or did we not prove the charges. And,
14 remember, it's not just you, it's you and all of the other jurors.

15 Does that make it any easier?

16 PROSPECTIVE JUROR NUMBER 541: A little bit, yeah.

17 MS. LUZAICH: And if are you convinced that we proved those
18 charges, could you just say the word guilty, you along with all of the
19 others?

20 PROSPECTIVE JUROR NUMBER 541: Yes.

21 MS. LUZAICH: Thank you.

22 Pass the witness.

23 THE COURT: Thank you.

24 MS. MCNEILL: Thank you, Your Honor.

25 So it sounds like you get how important this process is for

1 everyone, including Mr. Green?

2 PROSPECTIVE JUROR NUMBER 541: Yes.

3 MS. MCNEILL: Okay. So you kind of hesitated about the
4 whole could you find him guilty, but it's because you get how important
5 that is?

6 PROSPECTIVE JUROR NUMBER 541: Correct.

7 MS. MCNEILL: Okay. So their burden of proof, you're going to
8 hold them to it, that's what I'm hearing you say, is he --

9 PROSPECTIVE JUROR NUMBER 541: Yes.

10 MS. MCNEILL: None of us were there on the night of the
11 allegation and so we've got to base it on what the State gives to you. But
12 you understand the seriousness of making sure that that burden is met?

13 PROSPECTIVE JUROR NUMBER 541: Correct.

14 MS. MCNEILL: Okay. And the friend that you have, you said
15 you were a little concerned because you might sort of think about her
16 when you're listening to the testimony. But, again, you're not going to let
17 that make them have an easier burden; right?

18 PROSPECTIVE JUROR NUMBER 541: Right.

19 MS. MCNEILL: Okay. Because you've said that they really --
20 they're going to have to prove it to you?

21 PROSPECTIVE JUROR NUMBER 541: Correct.

22 MS. MCNEILL: Okay. So your sympathy isn't going to play
23 into --

24 PROSPECTIVE JUROR NUMBER 541: No.

25 MS. MCNEILL: -- their -- okay.

1 The public relations, what kind of clients do you get?

2 PROSPECTIVE JUROR NUMBER 541: I have several -- a few

3 different assigned to me. I have a few master plans, master planned

4 communities, a dispensary. I have worked with several non-profits.

5 MS. MCNEILL: Okay.

6 PROSPECTIVE JUROR NUMBER 541: Nevada Partnership

7 For Homeless Youth being one, a few animal shelters.

8 MS. MCNEILL: Okay. So that's a wide range from master

9 planned communities to people who sell marijuana; right?

10 PROSPECTIVE JUROR NUMBER 541: Yes.

11 MS. MCNEILL: Okay. So you're used to dealing with a wide

12 variety of people; right?

13 PROSPECTIVE JUROR NUMBER 541: Correct, yeah.

14 MS. MCNEILL: Okay. And would you agree with me that when

15 your friend came to you, it's a little different because you know her, you

16 have a relationship with her, and it's not your job to decide what

17 happened; right, it was your job to be supportive?

18 PROSPECTIVE JUROR NUMBER 541: Correct.

19 MS. MCNEILL: Okay. But in this situation it's your job to

20 decide if they meet their burden?

21 PROSPECTIVE JUROR NUMBER 541: Yes.

22 MS. MCNEILL: Okay.

23 Your Honor, I'll pass for cause.

24 THE COURT: Thank you.

25 Go ahead and pass the mic.

1 All right. So, Ms. Luzaich, would you mind going one way or the
2 other.

3 MS. LUZAICH: Oh, I'm sorry.

4 THE COURT: Sorry, it's just -- just in my line of sight.

5 MS. LUZAICH: Of course.

6 THE COURT: Thank you.

7 All right. Mr. Robbins, how are you?

8 PROSPECTIVE JUROR NUMBER 458: I'm doing fine.

9 THE COURT: Good.

10 Is there any reason you could not be fair and impartial in this
11 case?

12 PROSPECTIVE JUROR NUMBER 458: No, Judge, no.

13 But I would like to go expand on beyond that and request
14 personal dismissal from this proceedings.

15 THE COURT: Uh-huh.

16 PROSPECTIVE JUROR NUMBER 458: I just have a trifecta of
17 concerns, like a black cloud, that's been over me the last few months and
18 so that leads to medical status, financial concerns, and then professional
19 concerns as well.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR NUMBER 454: To elaborate, I pretty
22 much have missed four out of the last nine weeks of work just from freak
23 accidents from banana peeling it off the top step and falling down a flight
24 of stairs, to getting rear ended at a red light. So it leaves me in a current
25 status of going through therapy, physical therapy. And then it puts

1 professional stress on me as well, as there's work obligations that I can't
2 meet due to medical status.

3 THE COURT: There's what obligations you can't meet?

4 PROSPECTIVE JUROR NUMBER 458: I can't show up to
5 work.

6 THE COURT: Right.

7 PROSPECTIVE JUROR NUMBER 458: Right, yeah. I can't -- I
8 work on my feet. I'm a waiter for a living. So my back issues, slip disc. I
9 have knee issues as well.

10 THE COURT: So would you be able to work right now, if you
11 weren't here?

12 PROSPECTIVE JUROR NUMBER 458: I would -- I would -- I
13 have been back to work the last six days.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR NUMBER 458: Kind of like 'cause I
16 have to, not 'cause I'm wanting to be there; right, just fulfilling obligations.

17 THE COURT: Yeah.

18 Okay. So you've missed some time at work because of those
19 circumstances you described?

20 PROSPECTIVE JUROR NUMBER 458: Right, right. And
21 financially it's like a \$9,000 hit so far with the time I've met, and that's, you
22 know, half a quarter basically. So I'm not poor but I'm certainly not well
23 off. And it kind of brings me right back to level so.

24 THE COURT: So would -- your employer will not pay you if
25 you're here; is that right?

1 PROSPECTIVE JUROR NUMBER 458: I would assume not. I
2 don't know. I haven't asked what the -- what the thought is with that but.

3 THE COURT: I don't know. Some -- you work at a hotel
4 casino?

5 PROSPECTIVE JUROR NUMBER 458: Yes, for MGM.

6 THE COURT: I think some of them pay, some don't. I mean, to
7 the extent you're relying on tips, I guess, that certainly won't be part of the
8 package.

9 PROSPECTIVE JUROR NUMBER 458: Right; it's everything,
10 yeah.

11 THE COURT: Yeah, right.

12 So are you saying you would not be able to pay your basic
13 expenses?

14 PROSPECTIVE JUROR NUMBER 458: Yes, I'm sitting at the
15 point where it's a sacrifice that I'd rather not make.

16 THE COURT: Okay. All right. And so, I'm sorry, I just want to
17 make sure I understand your answer then, would you be able to pay your
18 July rent or mortgage payment?

19 PROSPECTIVE JUROR NUMBER 458: One way or another,
20 yes.

21 THE COURT: Okay. Pay your basic utility bills, put food on the
22 table?

23 PROSPECTIVE JUROR NUMBER 458: Yes.

24 THE COURT: I understand it's -- you've lost some work already
25 and you'd lose more if you were here.

1 PROSPECTIVE JUROR NUMBER 458: Yes.

2 THE COURT: Okay. I get it.

3 All right. Let me -- let me ask some more questions.

4 PROSPECTIVE JUROR NUMBER 458: Sure.

5 THE COURT: So I understand, you don't want to be here
6 because of those reasons you just described?

7 PROSPECTIVE JUROR NUMBER 458: U'm-h'm.

8 THE COURT: Do you think that you could be fair and impartial
9 though?

10 PROSPECTIVE JUROR NUMBER 458: Yes.

11 THE COURT: And if you had to be here, could you wait in
12 forming your opinion on the appropriate result until all the evidence has
13 been heard?

14 PROSPECTIVE JUROR NUMBER 458: Yes.

15 THE COURT: Have you or anyone close to you worked in law
16 enforcement?

17 PROSPECTIVE JUROR NUMBER 458: No, no, maybe
18 acquaintances from high school that have gone on and so on.

19 THE COURT: Okay. Nothing that would affect your ability to
20 be fair in this case?

21 PROSPECTIVE JUROR NUMBER 458: No, no.

22 THE COURT: Have you or anyone close to you been charged
23 with a serious crime?

24 PROSPECTIVE JUROR NUMBER 458: I have a brother, my
25 father's previous marriage, who went through legal problems. I'm not sure

1 of the charges. It's not something we're communicating much. But I think
2 it's something about forging a check or something. I don't know if that's
3 serious or not, I don't know.

4 THE COURT: Okay. Was that here in Las Vegas?

5 PROSPECTIVE JUROR NUMBER 458: Yes, or Henderson,
6 one or the other.

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

9 PROSPECTIVE JUROR NUMBER 458: No.

10 THE COURT: Have you or anyone close to you been the victim
11 of a serious crime?

12 PROSPECTIVE JUROR NUMBER 458: No.

13 THE COURT: Have you or anyone close to you been accused
14 of or the victim of domestic violence or sexual abuse?

15 PROSPECTIVE JUROR NUMBER 458: No.

16 THE COURT: Is there anything about the charges in this case
17 that would make it difficult for you to be fair and impartial?

18 PROSPECTIVE JUROR NUMBER 458: I would think not.

19 THE COURT: Can you base your verdict solely on the
20 evidence and the law that applies without fear of criticism or popular
21 opinion?

22 PROSPECTIVE JUROR NUMBER 458: Yes.

23 THE COURT: Have you ever been a juror before?

24 PROSPECTIVE JUROR NUMBER 458: No.

25 THE COURT: If you were a party to this case, would you be

1 comfortable with jurors of a like frame of mind as yourself sitting in
2 judgment?

3 PROSPECTIVE JUROR NUMBER 458: Yes.

4 THE COURT: How long have you lived in Clark County?

5 PROSPECTIVE JUROR NUMBER 458: Since 1995.

6 THE COURT: And what's the highest level of education you
7 completed?

8 PROSPECTIVE JUROR NUMBER 458: Two years of college.

9 THE COURT: Did you have a major?

10 PROSPECTIVE JUROR NUMBER 458: Liberal arts.

11 THE COURT: And you told me about your employment.

12 Are you married?

13 PROSPECTIVE JUROR NUMBER 458: No.

14 THE COURT: Do you have any children?

15 PROSPECTIVE JUROR NUMBER 458: No.

16 THE COURT: Okay. State.

17 MS. LUZAICH: As you sit here, if you have to sit here for the
18 next week, are you -- well, until Monday or whatever -- are you going to be
19 able to concentrate on the trial?

20 PROSPECTIVE JUROR NUMBER 458: Yeah.

21 MS. LUZAICH: Do you agree that a person has the absolute
22 right to say no to sexual advances?

23 PROSPECTIVE JUROR NUMBER 454: Yes.

24 MS. LUZAICH: Does a person ever give up that right?

25 PROSPECTIVE JUROR NUMBER 458: No.

1 MS. LUZAICH: Does no in your mind ever mean convince me?

2 PROSPECTIVE JUROR NUMBER 458: No.

3 MS. LUZAICH: Do you think the State should get involved in
4 domestic violence situations, and by that, I mean, arrest if necessary and
5 go to trial?

6 PROSPECTIVE JUROR NUMBER 458: Yes, when necessary.

7 MS. LUZAICH: When necessary?

8 PROSPECTIVE JUROR NUMBER 458: Well, if, I guess, one
9 or the other feels that they need to have the police involved, if there's a
10 safety concern, and it's out of their hands, I would like to think you could
11 try to work out your issues with someone you're intimate with before
12 calling the police but it doesn't always happen.

13 MS. LUZAICH: Sometimes you just can't.

14 PROSPECTIVE JUROR NUMBER 458: Apparently.

15 MS. LUZAICH: Okay. Is there anything that you would be
16 expecting to see in a trial with these charges?

17 PROSPECTIVE JUROR NUMBER 458: No.

18 MS. LUZAICH: Do you think that it could be embarrassing for
19 somebody to have to come in and talk to a room of full of strangers about
20 intimate sexual details?

21 PROSPECTIVE JUROR NUMBER 458: Yes.

22 MS. LUZAICH: Is that something that you would take into
23 consideration?

24 PROSPECTIVE JUROR NUMBER 458: Yes.

25 MS. LUZAICH: You said that you're a server.

1 PROSPECTIVE JUROR NUMBER 458: Yes.

2 MS. LUZAICH: You're kind of a people person, do you have to
3 talk to and be friendly with, you know, the people at the tables; right?

4 PROSPECTIVE JUROR NUMBER 458: There's a level of
5 showmanship and professionalism for sure, yeah.

6 MS. LUZAICH: So are you going to be, if you're selected, one
7 of the ones in the back that kind of takes charge and moves the
8 conversation along?

9 PROSPECTIVE JUROR NUMBER 458: Only if necessary.

10 MS. LUZAICH: Would you consider yourself to be a -- an
11 opinionated person?

12 PROSPECTIVE JUROR NUMBER 458: No.

13 MS. LUZAICH: So if you listen to the evidence and you make
14 up your mind and you're sure you're right, if the other people feel the other
15 way, what are you going to do?

16 PROSPECTIVE JUROR NUMBER 458: I believe in good
17 debate.

18 MS. LUZAICH: Okay. So you would share your point of view
19 with them?

20 PROSPECTIVE JUROR NUMBER 458: Yes.

21 MS. LUZAICH: And listen to what they have to say?

22 PROSPECTIVE JUROR NUMBER 458: Yes.

23 MS. LUZAICH: If you're absolutely sure you're right, you'd stick
24 to your guns?

25 PROSPECTIVE JUROR NUMBER 458: 100 percent.

1 MS. LUZAICH: But if they could point to something that maybe
2 you either misheard or didn't hear, it's possible you could change your
3 mind?

4 PROSPECTIVE JUROR NUMBER 458: Potentially.

5 MS. LUZAICH: Possible, potentially; okay.

6 But you wouldn't change your mind just because you want to go
7 home?

8 PROSPECTIVE JUROR NUMBER 458: Correct.

9 MS. LUZAICH: When you first got your jury summons, what did
10 you think?

11 PROSPECTIVE JUROR NUMBER 458: I should get a doctor
12 note.

13 MS. LUZAICH: That is the best answer I've heard.

14 Okay. It's not the thing that you would be choosing to do, I
15 understand, but you recognize how important it is --

16 PROSPECTIVE JUROR NUMBER 458: Yes.

17 MS. LUZAICH: -- our system? So we appreciate that.

18 Is there any reason that you could not sit in judgment of
19 someone?

20 PROSPECTIVE JUROR NUMBER 458: No.

21 MS. LUZAICH: So if you do stay and hear all the testimony and
22 see any evidence, if you're convinced beyond a reasonable doubt the
23 defendant committed the crimes he's charged with, would you be able to
24 say the word guilty?

25 PROSPECTIVE JUROR NUMBER 458: Yes.

1 MS. LUZAICH: Thank you.

2 Pass for cause.

3 THE COURT: Thank you.

4 MS. MCNEILL: Thank you, Your Honor.

5 You said there's a degree of showmanship to being a server.

6 PROSPECTIVE JUROR NUMBER 458: You bet.

7 MS. MCNEILL: Do you think there's a degree of showmanship
8 to being a lawyer?

9 PROSPECTIVE JUROR NUMBER 458: I don't like to assume
10 things, so I don't know. It's a little out of my spectrum.

11 MS. MCNEILL: Okay. So you don't -- some people expect the
12 lawyers to be like it is on TV, where, you know, I'm going to bang on the
13 table and call people liars, and Perry Mason in this trial; right, you're not
14 expecting that?

15 PROSPECTIVE JUROR NUMBER 458: I wouldn't be expecting
16 it, no.

17 MS. MCNEILL: Okay. All right. I know that Ms. Luzaich asked
18 you if you would be sitting here worried about your finances and you said
19 you wouldn't. But if you did feel it was enough of a concern to bring it up;
20 right?

21 PROSPECTIVE JUROR NUMBER 458: Yes, I was hoping
22 there's 14 level heads that would be able to negate my presence.

23 MS. MCNEILL: Okay. All right. But if you're -- if we decide to
24 keep you here, you're not going to be sitting here worrying, oh, how am I
25 going pay my rent, what am I going to do, you're going to be able to listen

1 to the evidence?

2 PROSPECTIVE JUROR NUMBER 458: Yes, I am.

3 MS. MCNEILL: Okay. I'm trying to give you an out, if you want
4 to take it, that's what I'm doing here so. Just so you know.

5 PROSPECTIVE JUROR NUMBER 458: Yeah. Well, it's like
6 any job when you don't show up, you know, you worry about people's
7 professional perspective of you, you know, you're obligated to be there,
8 you sign up for this. I work for MGM so it's -- they pride themselves in
9 accounting economics. So it's a pretty lean team. There's a lot of stress,
10 a lot of pressure on everyone out there. So that's one of the main
11 thoughts as well, concern.

12 MS. MCNEILL: Okay. So it's not just financially, you're
13 concerned about how you'll be perceived at work, and I'm guessing
14 because you had to miss so much work before?

15 PROSPECTIVE JUROR NUMBER 458: Right.

16 MS. MCNEILL: And you're worried that they might be saying,
17 okay, Mr. Robbins, of course he's out of work again, that kind of thing?

18 PROSPECTIVE JUROR NUMBER 458: Correct.

19 MS. MCNEILL: Is that fairly stressful, I mean, it's your
20 livelihood?

21 PROSPECTIVE JUROR NUMBER 458: Right. Well, the jobs
22 pretty stressful, so that just adds to it, yeah.

23 MS. MCNEILL: Okay. And do you think that stress, I mean, if
24 you were sitting here, where he is, or, you know, in the position of the
25 State, would you be concerned if a juror had that kind of stress that

1 they're thinking about, instead of being able to focus on the evidence?

2 PROSPECTIVE JUROR NUMBER 458: I believe you need
3 jurors to have a sound, present mind.

4 MS. MCNEILL: And do you think you'll be able to do that?

5 PROSPECTIVE JUROR NUMBER 458: Yes.

6 MS. MCNEILL: Okay. All right. I tried. I tried to help you,
7 Mr. Robbins.

8 Pass for cause, Your Honor.

9 THE COURT: Okay. Go ahead and pass the mic.

10 So, folks, I know that it's getting close to 5 o'clock and people
11 are probably getting antsy. But, I guess, it's sort of a tradeoff, I'm hoping
12 to avoid bringing everyone back tomorrow by trying to finish up the
13 process. But it may keep you past -- it likely will keep you past 5:00
14 today. But I have to have enough potential jurors and then the attorneys
15 will need a few minutes to do their peremptory challenges, I mentioned,
16 what seems like a long time ago, when I described the process for you.
17 But I hope that you will appreciate that that's better than making everyone
18 come back tomorrow to finish up. We're doing the best we can.

19 All right. So we are on -- is it -- let me see here. Mr. Boushy, is
20 that how you say it?

21 PROSPECTIVE JUROR NUMBER 398: Congratulations.

22 THE COURT: Yay, okay.

23 Mr. Boushy, how are you doing today?

24 PROSPECTIVE JUROR NUMBER 398: I'm doing well at 4:45.

25 THE COURT: Uh-huh, okay. I understand.

1 Is there any reason you could not be fair and impartial in this
2 case?

3 PROSPECTIVE JUROR NUMBER 398: No.

4 THE COURT: Can you wait in forming your opinion on the
5 appropriate result until all the evidence has been heard?

6 PROSPECTIVE JUROR NUMBER 398: Absolutely.

7 THE COURT: Have you or anyone close to you worked in law
8 enforcement?

9 PROSPECTIVE JUROR NUMBER 398: My daughter-in-law is
10 a crime scene analyst with Metro.

11 THE COURT: Okay. And what's her name?

12 PROSPECTIVE JUROR NUMBER 398: Alex Drouse
13 (phonetic.)

14 THE COURT: Okay. And she wasn't listed as a witness in this
15 case?

16 PROSPECTIVE JUROR NUMBER 398: No.

17 THE COURT: Okay. Thank you.

18 And the fact that she works with Metro in that capacity, would
19 that affect your ability to be a fair and impartial juror in this case?

20 PROSPECTIVE JUROR NUMBER 398: No.

21 THE COURT: Will you kind of give extra weight or credibility to
22 Metro officers because they're with Metro?

23 PROSPECTIVE JUROR NUMBER 398: No.

24 THE COURT: Do you think you could be fair to both sides?

25 PROSPECTIVE JUROR NUMBER 398: Yes.

1 THE COURT: Have you or anyone close to you been charged
2 with a serious crime?

3 PROSPECTIVE JUROR NUMBER 398: Yes.

4 THE COURT: Have you or anyone close to you been the victim
5 of a serious crime?

6 PROSPECTIVE JUROR NUMBER 398: Yes.

7 THE COURT: Okay. So, you said yes, didn't you?

8 PROSPECTIVE JUROR NUMBER 398: I did say yes.

9 THE COURT: I have to start listening to your answers.

10 PROSPECTIVE JUROR NUMBER 398: That's 'cause you're
11 hoping for no.

12 THE COURT: All right. I'm so sorry.

13 PROSPECTIVE JUROR NUMBER 398: That's okay.

14 THE COURT: Who close to you was charged with a serious
15 crime?

16 PROSPECTIVE JUROR NUMBER 398: My son, my first son.

17 THE COURT: Okay. And what type of charge did he face?

18 PROSPECTIVE JUROR NUMBER 398: So I'm embarrassed to
19 say that there's three different charges over a period of about 15 years.
20 The first one was domestic violence -- and to answer another question -- it
21 was against his mother, so my wife. The second set of charges were
22 related to trafficking of drugs. And the third set of charges, which
23 happened about eight months ago, was due to resisting arrest after he
24 attempted to commit suicide.

25 THE COURT: Where is he now?

1 PROSPECTIVE JUROR NUMBER 398: He's now here in Las
2 Vegas. The last set of charges, he's undergoing counseling and his
3 sentence has been, I guess, delayed or something. And I think he had a
4 hearing on June 26th. But I don't know what the outcome of that was.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR NUMBER 398: But he was released
7 on, you know, his own recognizance and things like that.

8 THE COURT: Right.

9 But he's going to counseling, meanwhile?

10 PROSPECTIVE JUROR NUMBER 398: Yes.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR NUMBER 398: So I covered three
13 topics for you.

14 THE COURT: You did.

15 PROSPECTIVE JUROR NUMBER 398: Just to try to
16 summarize it.

17 THE COURT: Right.

18 So when you answered, yes, about the victim, was that your
19 wife as the victim of that --

20 PROSPECTIVE JUROR NUMBER 398: Yes.

21 THE COURT: -- or was there a different issue also?

22 PROSPECTIVE JUROR NUMBER 398: No, just my wife,
23 u'm-h'm.

24 THE COURT: So are you still in contact with your son?

25 PROSPECTIVE JUROR NUMBER 398: Yes.

1 THE COURT: Okay. And are all of those cases, did they all
2 happen here in Las Vegas?

3 PROSPECTIVE JUROR NUMBER 398: Yes.

4 THE COURT: And so has he been prosecuted by the Clark
5 County District Attorney's Office?

6 PROSPECTIVE JUROR NUMBER 398: Domestic violence
7 was with Henderson.

8 THE COURT: Ah.

9 PROSPECTIVE JUROR NUMBER 398: The trafficking charge
10 was with, I believe, the Las Vegas -- the Clark County. And the most
11 recent one was with Henderson.

12 THE COURT: Henderson; okay.

13 Did he spend time in custody on the trafficking?

14 PROSPECTIVE JUROR NUMBER 398: He spent time for a
15 few days on trafficking but he did not go to jail for that.

16 THE COURT: Did he end up pleading to something less or?

17 PROSPECTIVE JUROR NUMBER 398: He did end up
18 pleading to something less. I don't -- I don't remember exactly what the
19 initial charges were.

20 THE COURT: Right.

21 PROSPECTIVE JUROR NUMBER 398: But the charges that
22 he pleaded to were a gross misdemeanor.

23 THE COURT: I see, okay.

24 Do you think he's been treated fairly by police and prosecutors?

25 PROSPECTIVE JUROR NUMBER 398: I would say that in the

1 domestic violence case, yes, except that I think the judge could have
2 determined that he needed counseling more than he needed to serve jail
3 time. But I'm his father so.

4 THE COURT: Yes.

5 PROSPECTIVE JUROR NUMBER 398: On the second one, I
6 think that he was treated more than fairly. And on the third one, I think
7 that there was a bit of piling on when he was arrested, given the
8 circumstances that he had. So I have a somewhat balanced view so.

9 THE COURT: Yeah.

10 So will you hold it against police or prosecutors that they have
11 arrested, charged, and prosecuted your son?

12 PROSPECTIVE JUROR NUMBER 398: No, because they
13 aren't the same people.

14 THE COURT: Right; okay.

15 Right, so you may have -- you may have a beef with some
16 individuals but they're not the folks involved in this case?

17 PROSPECTIVE JUROR NUMBER 398: Correct.

18 THE COURT: Okay. So do you think you can be fair and
19 impartial in this case?

20 PROSPECTIVE JUROR NUMBER 398: Yes.

21 THE COURT: So, other than what we have talked about, are
22 there any other circumstances where you or someone close to you has
23 been accused of or the victim of domestic violence or sexual abuse?

24 PROSPECTIVE JUROR NUMBER 398: No.

25 THE COURT: Okay. Is there anything about the charges in

1 this case that would make it difficult for you to be fair and impartial?

2 PROSPECTIVE JUROR NUMBER 398: No, I'm sure I'll be
3 impartial. It just pulls on your heart strings that something like this
4 happens in society.

5 THE COURT: Sure.

6 PROSPECTIVE JUROR NUMBER 398: Whether it actually
7 happened or not.

8 THE COURT: Yes.

9 So you understand that your verdict has to be based on the
10 facts and the law and not on any sympathy you may feel?

11 PROSPECTIVE JUROR NUMBER 398: Correct.

12 THE COURT: And you think you can do that?

13 PROSPECTIVE JUROR NUMBER 398: Yes.

14 THE COURT: Can you base your verdict solely on the
15 evidence and the law that applies without fear of criticism or popular
16 opinion?

17 PROSPECTIVE JUROR NUMBER 398: Yes.

18 THE COURT: Have you ever been a juror before?

19 PROSPECTIVE JUROR NUMBER 398: No.

20 THE COURT: If you were a party to this case, would you be
21 comfortable with jurors of a like frame of mind as yourself sitting in
22 judgment?

23 PROSPECTIVE JUROR NUMBER 398: It depends upon who
24 the party is. So I'll answer that question, before you ask.

25 THE COURT: Uh-huh.

1 PROSPECTIVE JUROR NUMBER 398: I think if I were the
2 prosecution I would want to have somebody who makes sure that they're
3 paying attention to the concept of beyond a reasonable doubt because
4 that is how I personally believe the decision should be made.

5 And I think if I were the defense, I would probably feel good
6 about the fact that I have very strong views of that.

7 THE COURT: What do you mean by that?

8 PROSPECTIVE JUROR NUMBER 398: That I believe that it
9 has to be proven beyond a reasonable doubt.

10 THE COURT: Okay. So you're not -- I want to make sure --
11 you're not going to hold the State to a higher burden than beyond a
12 reasonable doubt, which is the burden under the law?

13 PROSPECTIVE JUROR NUMBER 398: Correct.

14 THE COURT: Okay. But you will make sure they have -- they
15 have to meet that burden or it's not guilty?

16 PROSPECTIVE JUROR NUMBER 398: Correct.

17 THE COURT: Okay. But if they do meet that burden, do you
18 have a problem voting guilty?

19 PROSPECTIVE JUROR NUMBER 398: No.

20 THE COURT: Okay. How long have you lived in Clark County?

21 PROSPECTIVE JUROR NUMBER 398: 19 years.

22 THE COURT: And what's the highest level of education you
23 completed?

24 PROSPECTIVE JUROR NUMBER 398: I have a master's
25 degree in applied mathematics.

1 THE COURT: Okay. And what was your undergraduate
2 degree in?

3 PROSPECTIVE JUROR NUMBER 398: Mathematics.

4 THE COURT: And are you employed?

5 PROSPECTIVE JUROR NUMBER 398: I'm self-employed in a
6 consulting business.

7 THE COURT: So what type of consulting do you provide?

8 PROSPECTIVE JUROR NUMBER 398: Well, I've been
9 involved in the hospitality and casino industry for about forty years and
10 was a senior executive within the casino industry for a number of years.
11 And so I -- most of my consulting is within the casino industry. For
12 example, I was a professional on the bankruptcy case of Caesars
13 Entertainment.

14 THE COURT: I see.

15 Okay. And I know you mentioned you're married, is your wife
16 employed?

17 PROSPECTIVE JUROR NUMBER 398: She is not.

18 THE COURT: And how many children do you have?

19 PROSPECTIVE JUROR NUMBER 398: We have a total of six.

20 THE COURT: Okay. So you told me about one son, what are
21 your other children doing?

22 PROSPECTIVE JUROR NUMBER 398: So we have five and I
23 have to kind of go in order, otherwise I forget.

24 THE COURT: I understand.

25 PROSPECTIVE JUROR NUMBER 398: So our oldest daughter

1 is a real estate agent here in Las Vegas -- or three of six -- for those of
2 you with Star Trek -- for our third of six he's here in Las Vegas and works
3 as a tutor in mathematics. Our fourth one is a max specialist with Intel.
4 Our fifth one is a lieutenant in the navy who has just gone through nuclear
5 power training and is stationed in Seattle, Washington. And our sixth one
6 is here in Las Vegas and she's currently looking for a job after having
7 gotten her master's degree in cyber security.

8 THE COURT: Okay. So I just want to make sure I correctly
9 understood that the son we talked about, who had the legal issues --

10 PROSPECTIVE JUROR NUMBER 398: Number one.

11 THE COURT: -- is your second of six?

12 PROSPECTIVE JUROR NUMBER 398: The number one.

13 THE COURT: He's the number one?

14 PROSPECTIVE JUROR NUMBER 398: He was our first one,
15 yeah.

16 THE COURT: Oh, and the others were two through six.

17 PROSPECTIVE JUROR NUMBER 398: Yeah, two through six.

18 THE COURT: Got it; okay.

19 Okay. All right. Thank you.

20 State.

21 MS. LUZAICH: Mr. Boushy, would you consider yourself to be
22 a pretty analytical person?

23 PROSPECTIVE JUROR NUMBER 398: Yes.

24 MS. LUZAICH: And is that how you would approach your
25 duties as a juror?

1 PROSPECTIVE JUROR NUMBER 398: Yes.

2 MS. LUZAICH: Is there anything that you're expecting to see in
3 a trial with these charges?

4 PROSPECTIVE JUROR NUMBER 398: Evidence that proves
5 beyond a reasonable doubt that he's guilty. Or short of that, he's
6 innocent.

7 MS. LUZAICH: Okay. But is there anything in particular that
8 you're expecting to see?

9 PROSPECTIVE JUROR NUMBER 398: No, even though I do
10 watch CSI and all of those kinds of wonderful shows.

11 MS. LUZAICH: And I would say you of all people know that
12 that's fake.

13 PROSPECTIVE JUROR NUMBER 398: I know that some of it
14 is fake, absolutely.

15 MS. LUZAICH: Right; right, a good part of it.

16 So you're not expecting the far-fetched things that you see on
17 CSI here in the courtroom?

18 PROSPECTIVE JUROR NUMBER 398: Not at all.

19 MS. LUZAICH: Okay. If you were me, representing the State
20 of Nevada, would you want you on this jury?

21 PROSPECTIVE JUROR NUMBER 398: It depends upon how
22 strong your case is.

23 MS. LUZAICH: Okay. Well, I would say just given the nature of
24 juries, and the idea that it's got to be unanimous, all cases are kind of the
25 same, just because you never know what a jurors going to do.

1 But you're not going to hold me to any higher burden --

2 PROSPECTIVE JUROR NUMBER 369: No.

3 MS. LUZAICH: -- than the law requires; correct?

4 PROSPECTIVE JUROR NUMBER 398: No, correct.

5 MS. LUZAICH: The judge is going to read you an instruction
6 that defines reasonable doubt, it doesn't mean beyond all shadow of a
7 doubt, beyond an imaginary doubt, I mean, obviously, you understand
8 that. So even if you don't agree with the description -- or the definition
9 that the Court gives you, you'll still follow it; right?

10 PROSPECTIVE JUROR NUMBER 398: [No audible response.]

11 MS. LUZAICH: No?

12 PROSPECTIVE JUROR NUMBER 398: Well, I hesitate
13 because my definition of beyond a reasonable doubt is that based upon
14 the evidence provided the -- there's only a single logical conclusion that
15 you can come to, which is he's guilty.

16 MS. LUZAICH: That is not the definition of reasonable doubt.

17 PROSPECTIVE JUROR NUMBER 398: So -- so -- so that's
18 why I articulate that so that I could get that clarification.

19 MS. LUZAICH: Okay. That is not the definition of reasonable
20 doubt. It's not even close.

21 So if the Court's definition is not what you think it is, are you still
22 going to follow the Court's definition?

23 PROSPECTIVE JUROR NUMBER 398: I would absolutely
24 follow the Court's definition.

25 MS. LUZAICH: You can always write to your legislature and tell

1 them that you think you need to change the law. But, I mean, you're going
2 to swear to follow your oath and you'll follow the law?

3 PROSPECTIVE JUROR NUMBER 398: Yes.

4 MS. LUZAICH: No matter what you think of it?

5 PROSPECTIVE JUROR NUMBER 398: Yes.

6 MS. LUZAICH: Okay. In the domestic violence case, who
7 called the police?

8 PROSPECTIVE JUROR NUMBER 398: Kevin, who is five
9 years younger than Brandon, who committed the crime.

10 MS. LUZAICH: So one of your other kids did?

11 PROSPECTIVE JUROR NUMBER 398: One of my other kids
12 'cause I wasn't home at the time.

13 MS. LUZAICH: That was my next question, you weren't home?

14 PROSPECTIVE JUROR NUMBER 398: Yeah.

15 MS. LUZIACH: If you had been home --

16 PROSPECTIVE JUROR NUMBER 398: I got home while it was
17 in the middle of it but after Kevin had called the police.

18 MS. LUZAICH: Had you been home would you have called the
19 police?

20 PROSPECTIVE JUROR NUMBER 398: If I had not been able
21 to handle Brandon myself, absolutely.

22 MS. LUZAICH: Okay. Do you think that the State should be
23 involved in domestic violence situations or do you think that it's something
24 that should just be handled within the home?

25 PROSPECTIVE JUROR NUMBER 398: No, I think under

1 certain circumstances it makes sense for the State to be involved. I
2 sometimes wonder if the laws are so rigid that the outcomes are not
3 ultimately in the best interest of the people who were impacted.

4 MS. LUZAICH: Okay.

5 PROSPECTIVE JUROR NUMBER 398: But that's just my
6 personal opinion.

7 MS. LUZAICH: Okay. Do you think that it would embarrassing
8 or could it be embarrassing for someone to come in here and describe for
9 a room full of strangers intimate sexual details?

10 PROSPECTIVE JUROR NUMBER 398: Yes.

11 MS. LUZAICH: Is that something that you might take into
12 consideration?

13 PROSPECTIVE JUROR NUMBER 398: Yes.

14 MS. LUZAICH: How might you evaluate testimony of witnesses
15 that you don't know?

16 PROSPECTIVE JUROR NUMBER 398: I would connect the
17 dots between all the evidence that's provided and determine whether what
18 makes sense and what -- or what seems to be the truth and what may not
19 be.

20 MS. LUZAICH: Okay. Do you think that analytical skills help
21 you do that or more of a knee-jerk reaction?

22 PROSPECTIVE JUROR NUMBER 398: I think a combination
23 of analytical skills and insights in the things that you pick up that may be,
24 you know, have less of an impact on reaching a conclusion but can be
25 informed -- can create information that one can use -- could all be put

1 together.

2 MS. LUZAICH: Sometimes you can just trust your gut; right?

3 PROSPECTIVE JUROR NUMBER 398: Yeah, exactly, intuition
4 is pretty -- pretty powerful from time to time.

5 MS. LUZAICH: Okay. So you won't leave that outside the
6 courtroom, you'd bring it in with you?

7 PROSPECTIVE JUROR NUMBER 398: Correct.

8 MS. LUZAICH: So is there anything about you that would
9 prevent you from sitting in judgment?

10 PROSPECTIVE JUROR NUMBER 398: No.

11 MS. LUZAICH: And if you are convinced beyond a reasonable
12 doubt, as defined by the Court, that the defendant committed the crimes
13 that he's charged with, would you be able to say the word guilty?

14 PROSPECTIVE JUROR NUMBER 398: Yes.

15 MS. LUZAICH: Thank you.

16 Pass for cause.

17 THE COURT: Thank you.

18 Counsel.

19 MS. MCNEILL: Thank you, Your Honor.

20 Mr. Boushy, the incident with your son, just based on what I'm
21 hearing, I'm guessing that he had some underlying mental health
22 concerns?

23 PROSPECTIVE JUROR NUMBER 398: Subsequent to all that
24 he was -- well, I think there were two things going on, that he ultimately
25 admitted to. Number one, he was on and off using drugs that was

1 impacting his mental state. Number two, you know, he's subsequently
2 been diagnosed as being bipolar.

3 MS. MCNEILL: Okay.

4 PROSPECTIVE JUROR NUMBER 398: And so, you know, I
5 think that -- I think that that started to show up at around that age when all
6 that started to happen.

7 MS. MCNEILL: Sure.

8 And I'm guessing when you said that, and I'm paraphrasing,
9 probably badly, but you said something along the lines of, the State
10 doesn't always need to be involved in domestic violence and laws are kind
11 of rigid.

12 It sounds like, in your situation, this was your child, who had
13 some underlying issues, and that's ultimately what needed to be treated
14 versus being put in jail.

15 Is that kind of what you were saying?

16 PROSPECTIVE JUROR NUMBER 398: Yeah, exactly.

17 MS. MCNEILL: Okay. There's a difference between that and
18 other types of domestic violence.

19 PROSPECTIVE JUROR NUMBER 398: Agree.

20 MS. MCNEILL: Okay. As a mathematician, I imagine that you
21 like things to be fairly orderly? I mean, math is pretty orderly and --

22 PROSPECTIVE JUROR NUMBER 398: It is, but, you know, as
23 a senior executive, you can't always get orderly things and you still have
24 to make decisions and sometimes the most important decisions are based
25 upon the people that you hire.

1 MS. MCNEILL: Sure.
2 So people are not orderly?
3 PROSPECTIVE JUROR NUMBER 398: Not at all.
4 MS. MCNEILL: Okay. In fact, the complete opposite; right?
5 PROSPECTIVE JUROR NUMBER 398: Exactly.
6 MS. MCNEILL: Okay. And so it sounds like you use your skills
7 in dealing -- that you've collected in dealing with people over the years, in
8 addition to sort of what one of our earlier jurors said was looking for
9 patterns to find those things in deciding if someone's being honest?
10 PROSPECTIVE JUROR NUMBER 398: Yeah, I think I'd
11 balance the combination of analytic creativity and insight as I look at
12 things.
13 MS. MCNEILL: Do you think that's how most people evaluate
14 other people?
15 PROSPECTIVE JUROR NUMBER 398: I don't know how most
16 people evaluate other people. I just know how I do.
17 MS. MCNEILL: Okay, that's fair. I guess, that was kind of a
18 bad question. It's getting late. So forgive you.
19 PROSPECTIVE JUROR NUMBER 398: That's okay. I'm
20 helping you to get past 5:00.
21 MS. MCNEILL: Yes, thank you.
22 You -- I don't get paid by the word though -- did you hear
23 anything that any of the other jurors said and feel very strongly close to it
24 or was there something that you wished you could have commented on?
25 PROSPECTIVE JUROR NUMBER 398: No.

1 MS. MCNEILL: Do you think that, I mean, you seem to have a
2 very clear idea about what the burden of proof means and how important
3 it is. Do you think --

4 PROSPECTIVE JUROR NUMBER 398: Yeah, obviously
5 incorrect perhaps, but, yeah.

6 MS. MCNEILL: Right, that's okay.

7 Do you think that some people don't kind of have an idea about
8 what it means and how important it is?

9 PROSPECTIVE JUROR NUMBER 398: I'm sure there are
10 some people in the world that don't and there are a lot of people who do.
11 But, you know, I just can go off of kind of how I think about things.

12 MS. MCNEILL: Sure.

13 Do you think maybe one of the flaws with the justice system is
14 the fact that you have different people and they make up different ideas
15 about what that -- importance of that burden is?

16 PROSPECTIVE JUROR NUMBER 398: Well, I think the great
17 news is that juries are made up of 12 people, and so, therefore, it comes
18 with the collaboration of the 12 that reaches a verdict.

19 MS. MCNEILL: Okay.

20 PROSPECTIVE JUROR NUMBER 398: So I think that, you
21 know, any one individual's position may influence but isn't the deciding
22 factor.

23 MS. MCNEILL: Okay. And that being said you would be
24 comfortable sticking to your guns, if it was 11 people against you?

25 PROSPECTIVE JUROR NUMBER 398: Yeah, I wouldn't look

1 forward to it, but yes.

2 MS. MCNEILL: Okay. All right. Okay.

3 I'll pass for cause, Your Honor.

4 THE COURT: Thank you.

5 How do you pronounce your last name, sir?

6 PROSPECTIVE JUROR NUMBER 402: Groce.

7 THE COURT: Groce; okay. I wasn't sure if it was like Groce or.

8 Okay. All right. Mr. Groce, how are you doing today?

9 PROSPECTIVE JUROR NUMBER 402: I'm doing very well.

10 THE COURT: Good.

11 Is there any reason you could not be fair and impartial in this
12 case?

13 PROSPECTIVE JUROR NUMBER 402: No.

14 THE COURT: Can you wait in forming your opinion on the
15 appropriate result until all the evidence has been heard?

16 PROSPECTIVE JUROR NUMBER 402: Yes.

17 THE COURT: Have you or anyone close to you worked in law
18 enforcement?

19 PROSPECTIVE JUROR NUMBER 402: I'm going to answer
20 yes to that. My fiancé is a state investigator for the medical board.

21 THE COURT: Okay. And would her employment in that field
22 affect your ability to be fair and impartial as a juror in this case?

23 PROSPECTIVE JUROR NUMBER 402: No.

24 THE COURT: Have you or anyone close to you been charged
25 with a serious crime?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PROSPECTIVE JUROR NUMBER 402: No.

THE COURT: Have you or anyone close to you been the victim of a serious crime?

PROSPECTIVE JUROR NUMBER 402: No.

THE COURT: Have you or anyone close to you been accused of or the victim of domestic violence or sexual abuse?

PROSPECTIVE JUROR NUMBER 402: No.

THE COURT: Is there anything about the charges in this case that would make it difficult for you to be fair and impartial?

PROSPECTIVE JUROR NUMBER 402: No.

THE COURT: Can you base your verdict solely on the evidence and the law that applies without fear of criticism or popular opinion?

PROSPECTIVE JUROR NUMBER 402: Yes.

THE COURT: Have you ever been a juror before?

PROSPECTIVE JUROR NUMBER 402: No.

THE COURT: If you were a party to this case, would you be comfortable with jurors of a like frame of mind as yourself sitting in judgment?

PROSPECTIVE JUROR NUMBER 402: Yes.

THE COURT: How long have you lived here in Clark County?

PROSPECTIVE JUROR NUMBER 402: 20 years.

THE COURT: What's the highest level of education you completed?

PROSPECTIVE JUROR NUMBER 402: High school graduate.

1 THE COURT: Are you employed?

2 PROSPECTIVE JUROR NUMBER 402: Yes.

3 THE COURT: What do you do?

4 PROSPECTIVE JUROR NUMBER 402: I work at MGM Grand.

5 I'm a linen service manager. So, just to give an example, he works at

6 Jabbawockeez, I provide him with towels for the show.

7 THE COURT: Got it, okay.

8 PROSPECTIVE JUROR NUMBER 402: You're welcome.

9 THE COURT: Are you married?

10 PROSPECTIVE JUROR NUMBER 402: No, engaged.

11 THE COURT: Right, you just told me that and you told me what

12 your fiancé does.

13 Do you have any children?

14 PROSPECTIVE JUROR NUMBER 402: Yes, I have four

15 children, a set of twins, 12 years old; 13 year old boy and 15 year old girl.

16 THE COURT: Okay. Thank you.

17 State.

18 MS. LUZAICH: Thank you.

19 Your fiancé working with the medical board, does she

20 investigate cases and put them together?

21 PROSPECTIVE JUROR NUMBER 402: That's correct. So

22 when complaints come in she basically gets them assigned and then she

23 investigates the allegations and then turns it over to the board to make a

24 decision if they're gonna revoke doctor's license or not.

25 MS. LUZAICH: Has she ever had to testify?

1 PROSPECTIVE JUROR NUMBER 402: Not yet.

2 MS. LUZAICH: Does she talk to you much about what she

3 does?

4 PROSPECTIVE JUROR NUMBER 402: All the time.

5 MS. LUZAICH: Okay.

6 PROSPECTIVE JUROR NUMBER 402: I'm the venting person.

7 MS. LUZAICH: You sound less excited than she probably is.

8 PROSPECTIVE JUROR NUMBER 402: Well, I'm used to it

9 now after six years. But it's a -- if everybody in this room knew about what

10 doctors are accused of and anything else, it makes it, yeah.

11 MS. LUZAICH: We don't want to know.

12 PROSPECTIVE JUROR NUMBER 402: Yes, you do not want

13 to know, trust me.

14 MS. LUZAICH: Would you agree that a person has the

15 absolute right to say no to sexual advances?

16 PROSPECTIVE JUROR NUMBER 402: Yes.

17 MS. LUZAICH: Does a person ever give up that right?

18 PROSPECTIVE JUROR NUMBER 402: No.

19 MS. LUZAICH: In your mind does no ever mean convince me?

20 PROSPECTIVE JUROR NUMBER 402: No.

21 MS. LUZAICH: Given the nature of the charges in this case, is

22 there anything that you're expecting to see?

23 PROSPECTIVE JUROR NUMBER 402: No, I've never been in

24 a trial before so I have no idea.

25 MS. LUZAICH: Okay. Do you think that it could be

1 embarrassing for a person to have to come into a room full of strangers
2 and talk about intimate sexual details?

3 PROSPECTIVE JUROR NUMBER 402: Yes.

4 MS. LUZAICH: Is that something that you would take into
5 consideration?

6 PROSPECTIVE JUROR NUMBER 402: Yes.

7 MS. LUZAICH: Do you think that you would be a good juror?

8 PROSPECTIVE JUROR NUMBER 402: Yes.

9 MS. LUZAICH: Why?

10 PROSPECTIVE JUROR NUMBER 402: I believe that I'm open
11 minded, I'm fair, dealing with four kids, teenager kids, that's something I
12 think I have to balance, that would be it.

13 MS. LUZAICH: Okay. You've sat here for a really long time
14 now and listening to a lot of questions, are there any questions that you
15 sat here and thought, I am dying to answer that question?

16 PROSPECTIVE JUROR NUMBER 402: No.

17 MS. LUZAICH: Is there anything that you think we need to
18 know about you to see if we would think you would be a good juror in this
19 case?

20 PROSPECTIVE JUROR NUMBER 402: No.

21 MS. LUZAICH: Is there anything about you that would prevent
22 you from sitting in judgement?

23 PROSPECTIVE JUROR NUMBER 402: No.

24 MS. LUZAICH: And if you listen to the testimony, see the
25 evidence, if you're convinced beyond a reasonable doubt that the

1 defendant committed the crimes he's charged with, would you be able to
2 say the word guilty?

3 PROSPECTIVE JUROR NUMBER 402: Yes.

4 MS. LUZAICH: Thank you.

5 Pass for cause.

6 THE COURT: Thank you.

7 Counsel.

8 MS. MCNEILL: Thank you.

9 Mr. Groce, just the flip side of that question, if they don't prove it
10 to you, would you be comfortable finding him not guilty?

11 PROSPECTIVE JUROR NUMBER 402: Yes.

12 MS. MCNEILL: Okay. So nothing about the nature of the
13 charges is going to make you feel like you've got to err on the side of
14 caution?

15 PROSPECTIVE JUROR NUMBER 402: No.

16 MS. MCNEILL: You're going to hold them to their burden?

17 PROSPECTIVE JUROR NUMBER 402: That's correct.

18 MS. MCNEILL: Okay. Any questions that you heard that you
19 thought, I hope they don't ask me that?

20 PROSPECTIVE JUROR NUMBER 402: No.

21 MS. MCNEILL: Okay. All right. Just excited to be getting done
22 with it?

23 PROSPECTIVE JUROR NUMBER 402: Ah, yeah.

24 MS. MCNEILL: Okay. All right. Me too.

25 So I'm going to pass you for cause.

1 PROSPECTIVE JUROR NUMBER 402: Okay.

2 THE COURT: Thank you.

3 Okay. So, Ms. Newton, how are you doing back there?

4 PROSPECTIVE JUROR NUMBER 469: I'm very well. Thank
5 you.

6 THE COURT: Good.

7 Is there any reason you could not be fair and impartial in this
8 case?

9 PROSPECTIVE JUROR NUMBER 469: No.

10 THE COURT: Can you wait in forming your opinion on the
11 appropriate result until all the evidence has been heard?

12 PROSPECTIVE JUROR NUMBER 469: Yes.

13 THE COURT: Have you or anyone close to you worked in law
14 enforcement?

15 PROSPECTIVE JUROR NUMBER 469: If you consider me
16 being a corrections officer for ten years, that's about it.

17 THE COURT: Okay.

18 PROSPECTIVE JUROR NUMBER 469: In California.

19 THE COURT: Okay. So you were a corrections officer in
20 California?

21 PROSPECTIVE JUROR NUMBER 469: Yes.

22 THE COURT: When was that?

23 PROSPECTIVE JUROR NUMBER 469: 1990 to 2000.

24 THE COURT: Okay. So what type of facility were you working
25 in?

1 PROSPECTIVE JUROR NUMBER 469: I worked Level IV,
2 Level I through IV and then at sig, which is Level I is the one that's, that
3 they're allowed to go out on, you know, to clean the highways and stuff.
4 Level IV is the murders and those -- the lifers.

5 THE COURT: So you had the full range?

6 PROSPECTIVE JUROR NUMBER 469: Yes.

7 THE COURT: Okay. All right. And why did you leave doing
8 that in 2000?

9 PROSPECTIVE JUROR NUMBER 469: I fell and they
10 medically retired me.

11 THE COURT: Oh, okay.

12 PROSPECTIVE JUROR NUMBER 469: With a nice pension.

13 THE COURT: Nice, okay. Congratulations on that.

14 PROSPECTIVE JUROR NUMBER 469: Thank you.

15 THE COURT: So the fact that you had that particular
16 experience and employment and working in the prison system, would that
17 affect your ability to be fair and impartial in this case?

18 PROSPECTIVE JUROR NUMBER 469: No.

19 THE COURT: Do you think you might have a tendency to favor
20 law enforcement because of that history you have?

21 PROSPECTIVE JUROR NUMBER 469: Not at all.

22 THE COURT: Okay. You're not going to hold it against
23 Mr. Green here because you might have met some folks you -- well, in the
24 prison system that you dealt with?

25 PROSPECTIVE JUROR NUMBER 469: No.

1 THE COURT: Okay. You think you can judge this case on its
2 own merits?

3 PROSPECTIVE JUROR NUMBER 469: Absolutely.

4 THE COURT: And have you or anyone close to you been
5 charged with a serious crime?

6 PROSPECTIVE JUROR NUMBER 469: Yes.

7 THE COURT: Tell me about that.

8 PROSPECTIVE JUROR NUMBER 469: My nephew, here in
9 Clark County, was charged with child molestation.

10 THE COURT: Okay. When was that?

11 PROSPECTIVE JUROR NUMBER 469: It's going on now so.

12 THE COURT: So it's still pending?

13 PROSPECTIVE JUROR NUMBER 469: Yes, he's in jail now.

14 THE COURT: So he's still -- hasn't gone to trial yet?

15 PROSPECTIVE JUROR NUMBER 469: No.

16 THE COURT: Okay. But he's in custody right now?

17 PROSPECTIVE JUROR NUMBER 469: Yes.

18 THE COURT: And are you close with this nephew?

19 PROSPECTIVE JUROR NUMBER 469: I was.

20 THE COURT: Okay. How do you feel about the fact that he's
21 facing these charges, like do you think -- do you have an opinion about
22 whether he actually did commit the crimes or?

23 PROSPECTIVE JUROR NUMBER 469: I have no opinion.

24 THE COURT: No opinion?

25 PROSPECTIVE JUROR NUMBER 469: No.

1 THE COURT: Okay. Are you going to hold it against police or
2 prosecutors locally here because he's been investigated and prosecuted?

3 PROSPECTIVE JUROR NUMBER 469: No.

4 THE COURT: Are you going to favor or disfavor Mr. Green
5 over here because of your nephew facing charges like that?

6 PROSPECTIVE JUROR NUMBER 469: No.

7 THE COURT: Have you attended any court proceedings
8 involving your nephew?

9 PROSPECTIVE JUROR NUMBER 469: No.

10 THE COURT: Okay. Have you or anyone close to you been
11 the victim of a serious crime?

12 PROSPECTIVE JUROR NUMBER 469: No.

13 THE COURT: Have you or anyone close to you been accused
14 of or the victim of domestic violence or sexual abuse, other than what you
15 told me about?

16 PROSPECTIVE JUROR NUMBER 469: Domestic violence,
17 yes.

18 THE COURT: Okay. Tell me about that.

19 PROSPECTIVE JUROR NUMBER 469: My mother had six
20 daughters and over a period of 20 years either baby daddy's or husband's
21 beat them, beat us all so. But it was 40 plus years ago.

22 THE COURT: So you were a victim of that type of violence as
23 well?

24 PROSPECTIVE JUROR NUMBER 469: Yes.

25 THE COURT: Okay. And, again, would the fact that you had

1 that experience and observed those kind of interactions affect your ability
2 to be fair and impartial in this case?

3 PROSPECTIVE JUROR NUMBER 469: Can you ask that
4 question again.

5 THE COURT: Sorry.

6 The fact that you were hit in those situations and that you
7 observed others being abused would that affect your ability to be fair and
8 impartial in this case?

9 PROSPECTIVE JUROR NUMBER 469: No, it was long ago.

10 THE COURT: Yeah.

11 Is there anything about the charges in this case that would
12 make it difficult for you to be fair and impartial?

13 PROSPECTIVE JUROR NUMBER 469: No.

14 THE COURT: Can you base your verdict solely on the
15 evidence and the law that applies without fear of criticism or popular
16 opinion?

17 PROSPECTIVE JUROR NUMBER 469: Yes.

18 THE COURT: Have you ever been a juror before?

19 PROSPECTIVE JUROR NUMBER 469: No.

20 THE COURT: If you were a party to this case, would you be
21 comfortable with jurors of a like frame of mind as yourself sitting in
22 judgment?

23 PROSPECTIVE JUROR NUMBER 469: Yes.

24 THE COURT: How long have you lived here in Clark County?

25 PROSPECTIVE JUROR NUMBER 469: Since 2012.

1 THE COURT: And you came from California?

2 PROSPECTIVE JUROR NUMBER 469: Yes.

3 THE COURT: Okay. And so what's the highest level of
4 education you completed?

5 PROSPECTIVE JUROR NUMBER 469: I have a master's
6 degree in Christian education and a master's degree in mental health.

7 THE COURT: And are you -- I know you were medically retired
8 from the corrections officer job, are you employed now?

9 PROSPECTIVE JUROR NUMBER 469: I am.

10 THE COURT: What do you do?

11 PROSPECTIVE JUROR NUMBER 469: I'm a case worker for
12 SAFY, which is a foster care agency.

13 THE COURT: Are you married?

14 PROSPECTIVE JUROR NUMBER 469: No. I mean, no.

15 THE COURT: Do you have children?

16 PROSPECTIVE JUROR NUMBER 469: I have a daughter, 42.

17 THE COURT: And what does she do?

18 PROSPECTIVE JUROR NUMBER 469: She is -- I am not sure
19 what she does but she works.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR NUMBER 469: But I'm not sure what
22 she does.

23 THE COURT: Fair enough.

24 State.

25 MS. LUZAICH: Thank you.

1 Good afternoon.

2 PROSPECTIVE JUROR NUMBER 469: Good afternoon.

3 MS. LUZAICH: As a foster care caseworker, what do you do?

4 PROSPECTIVE JUROR NUMBER 469: I have only been in
5 this particular job for five weeks and it's been in training.

6 MS. LUZAICH: Oh, my.

7 PROSPECTIVE JUROR NUMBER 469: Prior to that I was a
8 foster care mother out at -- but as far as the training go, I can tell you what
9 I think I'm going to do.

10 MS. LUZAICH: Okay. You're not doing it yet so.

11 PROSPECTIVE JUROR NUMBER 469: Right.

12 MS. LUZAICH: You're ultimately going to investigate and see
13 if --

14 PROSPECTIVE JUROR NUMBER 469: Well, no, there's really
15 not much investigation as a caseworker or a case coordinator, they pretty
16 much go hand in hand. I'll be going into the homes to ensure that the kids
17 are safe and the medical -- or the medication logs are kept up, the home
18 is clean. And then I will also be going to their court cases, because, you
19 know, the children have been placed --

20 MS. LUZAICH: Taken from their home.

21 PROSPECTIVE JUROR NUMBER 469: -- taken -- well,
22 removed from the homes and placed with foster parents.

23 MS. LUZAICH: For how long were you a foster mother?

24 PROSPECTIVE JUROR NUMBER 469: Two years.

25 MS. LUZAICH: From the time you medically retired until you

1 got this new job, have you had other employment?

2 PROSPECTIVE JUROR NUMBER 469: I worked as an
3 apartment manager in California briefly. I needed the free rent.

4 MS. LUZAICH: Helpful.

5 The situation with your mother's significant others, did the
6 physical abuse ever get reported?

7 PROSPECTIVE JUROR NUMBER 469: It was my sisters and
8 I. It was the six girls, not my mom. I just said my mother --

9 MS. LUZAICH: Right. But your mother's significant -- oh.

10 PROSPECTIVE JUROR NUMBER 469: It was just the girls

11 MS. LUZAICH: Right.

12 PROSPECTIVE JUROR NUMBER 469: Not my mom.

13 MS. LUZAICH: But --

14 PROSPECTIVE JUROR NUMBER 469: All of it got reported. It
15 was in the 70s. But back then the laws were different. The police, when
16 they came, they said, sorry, but we would have to see, we would have to
17 be present, even if there was blood or, you know, it's back in the -- back in
18 the -- back in those days.

19 MS. LUZAICH: Okay. Was that frustrating for you or were you
20 young and not --

21 PROSPECTIVE JUROR NUMBER 469: I was 18, 19 years old
22 so.

23 MS. LUZAICH: Okay. Do you think that the State should
24 become involved in domestic violence situations?

25 PROSPECTIVE JUROR NUMBER 469: Yes.

1 MS. LUZAICH: Would you agree that a person has the
2 absolute right to say no to unwanted sexual advances?

3 PROSPECTIVE JUROR NUMBER 469: Yes.

4 MS. LUZAICH: Do they ever give up that right?

5 PROSPECTIVE JUROR NUMBER 469: No.

6 MS. LUZAICH: Does no ever mean convince me?

7 PROSPECTIVE JUROR NUMBER 469: No.

8 MS. LUZAICH: Do you think that you have any expectations
9 about what you might see in this trial?

10 PROSPECTIVE JUROR NUMBER 469: I have no expectations
11 at all.

12 MS. LUZAICH: Nothing at all?

13 PROSPECTIVE JUROR NUMBER 469: Well --

14 MS. LUZAICH: Do you think it would be -- or could be
15 embarrassing for someone to come and talk about intimate sexual
16 details?

17 PROSPECTIVE JUROR NUMBER 469: Yes.

18 MS. LUZAICH: Is that something you would take into
19 consideration?

20 PROSPECTIVE JUROR NUMBER 469: Yes.

21 MS. LUZAICH: Are there any questions that you feel the need
22 to answer that we've asked over the last couple of days?

23 PROSPECTIVE JUROR NUMBER 469: No.

24 MS. LUZAICH: Is there anything that would prevent you from
25 sitting in judgment?

1 PROSPECTIVE JUROR NUMBER 469: No.

2 MS. LUZAICH: And if you listen to the testimony, see the
3 evidence, if you're convinced beyond a reasonable doubt the defendant
4 committed the crimes he is charged with, would you able to say the word
5 guilty?

6 PROSPECTIVE JUROR NUMBER 469: Yes.

7 MS. LUZAICH: Thank you, ma'am.

8 Pass for cause.

9 THE COURT: Thank you.

10 MS. MCNEILL: Thank you, Your Honor.

11 Good evening, Ms. Newton.

12 Your job as a corrections officer, did you actually work sort of in
13 the units with the inmates?

14 PROSPECTIVE JUROR NUMBER 469: I did.

15 MS. MCNEILL: Okay. So you had a lot of contact with people
16 that were in prison?

17 PROSPECTIVE JUROR NUMBER 469: Yes.

18 MS. MCNEILL: Okay. Anything about that experience that
19 would give me any concern as Mr. Green's lawyer?

20 PROSPECTIVE JUROR NUMBER 469: No.

21 MS. MCNEILL: Okay. I'm guessing, if I had to guess, that your
22 contact with inmates probably led you to believe that people in prison are
23 ultimately just people?

24 PROSPECTIVE JUROR NUMBER 469: Yes.

25 MS. MCNEILL: Okay. And you probably tried to treat them as

1 such?

2 PROSPECTIVE JUROR NUMBER 469: Absolutely.

3 MS. MCNEILL: Did you ever talk to any of them about their
4 cases or how they ended up there?

5 PROSPECTIVE JUROR NUMBER 469: Suge Knight.

6 MS. MCNEILL: What's that?

7 PROSPECTIVE JUROR NUMBER 469: Oh, I would say just
8 say one person.

9 MS. LUZAICH: Just one person; okay.

10 PROSPECTIVE JUROR NUMBER 469: Suge Knight.

11 MS. MCNEILL: Oh, okay.

12 PROSPECTIVE JUROR NUMBER 469: Yeah. Interesting.

13 MS. MCNEILL: Yeah, that's a whole other story; right?

14 PROSPECTIVE JUROR NUMBER 469: Right.

15 MS. MCNEILL: So you didn't spend a lot of time talking about
16 how they ended up there, other than him because he's famous probably?

17 PROSPECTIVE JUROR NUMBER 469: No.

18 MS. MCNEILL: Okay. Your nephew, that's charged with child
19 molestation, you said that you were close to him, is the reason that you're
20 not close anymore is because of the charges?

21 PROSPECTIVE JUROR NUMBER 469: Yes.

22 MS. MCNEILL: Okay. Is it a family member who he's accused
23 of --

24 PROSPECTIVE JUROR NUMBER 469: Yes.

25 MS. MCNEILL: -- molesting? Okay.

1 Has that kind of -- has that kind of divided the family up a little
2 bit?

3 PROSPECTIVE JUROR NUMBER 469: No, not at all,
4 everyone is sort of left him, you know.

5 MS. MCNEILL: Okay. Do you agree that it's kind of easier to
6 make a decision about whether or not some things true if you know the
7 people that are involved?

8 PROSPECTIVE JUROR NUMBER 469: Yeah, it is.

9 MS. MCNEILL: Okay. It's a little different than here where it's
10 going to be strangers?

11 PROSPECTIVE JUROR NUMBER 469: Right.

12 MS. MCNEILL: Okay. Anything else do you think we need to
13 know about you? You've got kind of a varied background. Do you think
14 that that kind of background is good for jurors?

15 PROSPECTIVE JUROR NUMBER 469: Yes.

16 MS. MCNEILL: Your degree in mental health, did you ever do
17 counseling or anything?

18 PROSPECTIVE JUROR NUMBER 469: I just finished.

19 MS. MCNEILL: You just finished; okay.

20 Do you plan to do any type counseling or?

21 PROSPECTIVE JUROR NUMBER 469: Not at my age, no.

22 MS. MCNEILL: Okay. All right.

23 I'll pass for cause, Your Honor.

24 THE COURT: Thank you.

25 Ms. Churchill, how are you?

1 PROSPECTIVE JUROR NUMBER 408: I'm fine. Thank you.

2 THE COURT: Good.

3 Is there any reason you could not be fair and impartial in this
4 case?

5 PROSPECTIVE JUROR NUMBER 408: I hope not.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR NUMBER 408: I've got a lot of
8 baggage.

9 THE COURT: Okay. Tell me what you got.

10 PROSPECTIVE JUROR NUMBER 408: Well, when I was six
11 years old I was put up on a stand for my parents going through a divorce
12 and that traumatized me. So when I'm in a courtroom, I'm not here, just to
13 let you know. I shake. I got knots in my stomach.

14 And also right now my boss told me at lunch time that I must be
15 at work at 6 o'clock tonight.

16 THE COURT: Tonight?

17 PROSPECTIVE JUROR NUMBER 408: Yes, ma'am.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR NUMBER 408: I am the only
20 supporter of me. So I -- but I don't -- I work in a restaurant, I work off tips,
21 so if I don't work, I don't make the money. If I don't make the money, I
22 don't live.

23 THE COURT: Okay. So let's talk about -- oh, sorry, were you
24 done with that?

25 PROSPECTIVE JUROR NUMBER 408: Yes, yes.

1 THE COURT: Okay. So --

2 PROSPECTIVE JUROR NUMBER 408: Right there.

3 THE COURT: -- the first issue about --

4 PROSPECTIVE JUROR NUMBER 408: I've got more. But go
5 ahead.

6 THE COURT: What's that?

7 PROSPECTIVE JUROR NUMBER 408: I do have more. But
8 as you ask me questions, they'll come up.

9 THE COURT: So about being in a courtroom, so you -- are you
10 actually getting like physical symptoms of anxiety being here?

11 PROSPECTIVE JUROR NUMBER 408: Right. I've got a big ol'
12 knot right now in my stomach.

13 THE COURT: And just by being here or because I'm
14 questioning you?

15 PROSPECTIVE JUROR NUMBER 408: Both.

16 THE COURT: Obviously this is the only time someone will be
17 questioning you if you -- even if you stay as a juror.

18 PROSPECTIVE JUROR NUMBER 408: Right; correct.

19 THE COURT: But if you were here as a juror, would you be
20 able to pay attention to the testimony and the evidence to make --

21 PROSPECTIVE JUROR NUMBER 408: I would hope so but I
22 wouldn't know until I was there.

23 THE COURT: Okay. So do -- I mean, obviously, none of us
24 know what's going to happen in the future.

25 PROSPECTIVE JUROR NUMBER 408: Correct.

1 THE COURT: But do you have reason, I mean, based on your
2 experiences, to think that being here in the courtroom is going to prevent
3 you from being able to listen to the testimony and pay attention to the
4 evidence?

5 PROSPECTIVE JUROR NUMBER 408: I think I should be able
6 to.

7 THE COURT: Now -- and so -- where do you work?

8 PROSPECTIVE JUROR NUMBER 408: Red Lobster.

9 THE COURT: Okay. And are you a waitress there?

10 PROSPECTIVE JUROR NUMBER 408: Yes, ma'am.

11 THE COURT: And you mentioned about supporting yourself
12 and counting on your pay, so, you know, we had this conversation with
13 several folks, I want to say yesterday, but it was actually Monday, about
14 some financial hardships that people had.

15 If you're here during this trial, will you be able to pay your rent or
16 your mortgage --

17 PROSPECTIVE JUROR NUMBER 408: No, ma'am.

18 THE COURT: -- and pay your utilities and put food on the
19 table?

20 PROSPECTIVE JUROR NUMBER 408: No, ma'am.

21 THE COURT: You won't?

22 PROSPECTIVE JUROR NUMBER 408: No.

23 THE COURT: And I'm just asking you chose not to raise your
24 hand the other day when I was asking about hardship.

25 PROSPECTIVE JUROR NUMBER 408: Because I was

1 nervous.

2 THE COURT: I understand, okay.

3 All right. Counsel, any objection?

4 MS. LUZAICH: No.

5 MS. MCNEILL: No, Your Honor.

6 THE COURT: All right. Ma'am, I'm going to go ahead and
7 excuse you based on all of those reasons that you've expressed. Thank
8 you for your three days of time.

9 PROSPECTIVE JUROR NUMBER 408: Thank you.

10 THE COURT: Hope you get to work.

11 PROSPECTIVE JUROR NUMBER 408: I'm glad you didn't
12 have to listen to the rest of it.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR NUMBER 405: 'Cause there was
15 much more.

16 THE COURT: Thank you.

17 PROSPECTIVE JUROR NUMBER 408: Thank you.

18 THE CLERK: Next in seat 32, badge number 545, Harold
19 Miller.

20 THE COURT: All right. Mr. Miller, how are you doing today?

21 PROSPECTIVE JUROR NUMBER 545: I'm doing fine. Thank
22 you.

23 THE COURT: Good.

24 Is there any reason you could not be fair and impartial in this
25 case?

1 PROSPECTIVE JUROR NUMBER 545: No.

2 THE COURT: Can you wait in forming your opinion on the
3 appropriate result until all the evidence has been heard?

4 PROSPECTIVE JUROR NUMBER 545: Yes.

5 THE COURT: Have you or anyone close to you worked in law
6 enforcement?

7 PROSPECTIVE JUROR NUMBER 545: Yes.

8 THE COURT: Tell me about that.

9 PROSPECTIVE JUROR NUMBER 545: My cousin, back home
10 in Michigan, he's a state trooper.

11 THE COURT: Would that affect your ability to be fair and
12 impartial in this case?

13 PROSPECTIVE JUROR NUMBER 545: No.

14 THE COURT: Have you or anyone close to you been charged
15 with a serious crime?

16 PROSPECTIVE JUROR NUMBER 545: No.

17 THE COURT: Have you or anyone close to you been the victim
18 of a serious crime?

19 PROSPECTIVE JUROR NUMBER 545: No.

20 THE COURT: Have you or anyone close to you been accused
21 of or the victim of domestic violence or sexual abuse?

22 PROSPECTIVE JUROR NUMBER 545: Yes.

23 THE COURT: Okay. Tell me about that.

24 PROSPECTIVE JUROR NUMBER 545: I got arrested for a
25 domestic battery ten years ago.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR NUMBER 545: But I was the victim. I
3 was -- me and my daughter's mom and my two daughters were living
4 together and I was just trying to keep her off of me. And my daughter
5 called the police and they came and they said we've got to take somebody
6 so. I said take me 'cause I didn't want them to take my, you know, my
7 daughter's mom, so I said take me.

8 THE COURT: So you got arrested, were charged pursued?

9 PROSPECTIVE JUROR NUMBER 545: Yes, I had to do anger
10 management and that was it.

11 THE COURT: Okay. So was the case dismissed after that?

12 PROSPECTIVE JUROR NUMBER 545: Yes.

13 THE COURT: Was that here in Las Vegas?

14 PROSPECTIVE JUROR NUMBER 545: Yes.

15 THE COURT: Do you recall whether it was Metro police that
16 was involved?

17 PROSPECTIVE JUROR NUMBER 545: Yes, it was Metro.

18 THE COURT: Okay. And was it the District Attorney's Office
19 that was the prosecutors?

20 PROSPECTIVE JUROR NUMBER 545: Yes, I believe so. It
21 was ten years ago so.

22 THE COURT: Sure.

23 Do you know if you came to this courthouse?

24 PROSPECTIVE JUROR NUMBER 545: Yes, I was here.

25 THE COURT: So based on that experience and going through

1 that, would that affect your ability to be fair and impartial in this case?

2 PROSPECTIVE JUROR NUMBER 545: No, I take it as a
3 blessing in disguise because it got me out of that predicament. I put my
4 big boy pants on and I just moved on and life's been good since then.

5 THE COURT: Okay. So you're not together with that same
6 woman anymore?

7 PROSPECTIVE JUROR NUMBER 545: No.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR NUMBER 545: She's the daughter of
10 my kids, but, you know, I still communicate with her.

11 THE COURT: Right.

12 PROSPECTIVE JUROR NUMBER 545: But we're friends from
13 a distance.

14 THE COURT: I see, okay.

15 Do you have any hard feelings towards police or prosecutors
16 that you're going to hold against them in this case?

17 PROSPECTIVE JUROR NUMBER 545: No, they were doing
18 their job.

19 THE COURT: Would you tend to favor or disfavor Mr. Green
20 here because he's facing domestic violence related charges?

21 PROSPECTIVE JUROR NUMBER 545: No, I've been, like I
22 said, I was in his shoes for two and half days so. No, that was ten years
23 ago.

24 THE COURT: So will you be able to wait and see what the
25 evidence shows to decide what the right verdict should be?

1 PROSPECTIVE JUROR NUMBER 545: Of course.

2 THE COURT: Is there anything about the charges in this case
3 that would make it difficult for you to be fair and impartial?

4 PROSPECTIVE JUROR NUMBER 545: I have two daughters,
5 25 and 19, so that sexual, you know, that's like zero tolerance on that.
6 But, no, I can put that aside.

7 THE COURT: Right.

8 And so I understand, you know, your concern for your
9 daughters and that they would come to your mind, but ultimately do you
10 think you can wait and see what the evidence shows, whether the State
11 meets its burden of proof?

12 PROSPECTIVE JUROR NUMBER 545: Yes, ma'am.

13 THE COURT: Can you base your verdict solely on the
14 evidence and the law that applies without fear of criticism or popular
15 opinion?

16 PROSPECTIVE JUROR NUMBER 545: Yes, ma'am.

17 THE COURT: Have you ever been a juror before?

18 PROSPECTIVE JUROR NUMBER 545: No, ma'am. I had to
19 go through this twice before. I never got this far.

20 THE COURT: Okay. All right. If you were a party to this case,
21 would you be comfortable with jurors of a like frame of mind as yourself
22 sitting in judgment?

23 PROSPECTIVE JUROR NUMBER 545: Yes.

24 THE COURT: How long have you lived here in Clark County?

25 PROSPECTIVE JUROR NUMBER 545: 2003.

1 THE COURT: What's the highest level of education you
2 completed?

3 PROSPECTIVE JUROR NUMBER 545: High school diploma.

4 THE COURT: Are you employed?

5 PROSPECTIVE JUROR NUMBER 545: Yes.

6 THE COURT: What do you do?

7 PROSPECTIVE JUROR NUMBER 545: I'm a --

8 THE COURT: You told me a bar --

9 PROSPECTIVE JUROR NUMBER 545: -- bar apprentice --

10 THE COURT: Yes.

11 PROSPECTIVE JUROR NUMBER 545: -- at Mandalay Bay
12 and they're missing me.

13 THE COURT: Yes.

14 PROSPECTIVE JUROR NUMBER 545: 'Cause I run the whole
15 bar. They're like, Harold, where's this, where's that so. I'm at jury duty so.

16 THE COURT: I understand, right. I just realized I had notes
17 from that conversation we had on Monday. So, I guess, they'll appreciate
18 you more when you come back.

19 PROSPECTIVE JUROR NUMBER 545: And I just want to say I
20 see everybody's faces, you guys get a free drink if you guys come to my
21 bar so. I see you all's face so.

22 THE COURT: Wait, I'm writing that down. Thank you.

23 So are you married now?

24 PROSPECTIVE JUROR NUMBER 545: No, ma'am.

25 THE COURT: And you did mention you have the two daughters

1 and you already told us how old they are. So we're good.

2 State.

3 MS. LUZAICH: Thank you.

4 Good afternoon, Mr. Miller.

5 PROSPECTIVE JUROR NUMBER 545: Hello.

6 MS. LUZAICH: Did you think we weren't going to get to you?

7 PROSPECTIVE JUROR NUMBER 545: Man, I was, like,
8 Anthony keep leaving me, I was sitting over there, I'm, like, Anthony. I
9 didn't want to tell him stay over here but.

10 MS. LUZAICH: You were hoping we weren't going to get to
11 you.

12 PROSPECTIVE JUROR NUMBER 545: Man, I'm, like, save
13 the best for last.

14 MS. LUZAICH: Okay. So the fact that you've been through the
15 domestic violence situation, ten years ago I was not prosecuting domestic
16 violence cases and neither was Mr. Rose, you're not going to hold it
17 against us, are you?

18 PROSPECTIVE JUROR NUMBER 545: No.

19 MS. LUZAICH: And what if, during the course of the trial, one
20 of the officers walks in to testify and it was the officer who arrested you?

21 PROSPECTIVE JUROR NUMBER 545: I don't even remember
22 those faces.

23 MS. LUZAICH: Okay. So --

24 PROSPECTIVE JUROR NUMBER 545: I don't remember their
25 names or their faces. That's --

1 MS. LUZAICH: That's in the past.

2 PROSPECTIVE JUROR NUMBER 545: Yeah, that is gone.

3 MS. LUZAICH: Okay. So you can listen to the testimony of

4 police the same as you would any other witness?

5 PROSPECTIVE JUROR NUMBER 545: Yes.

6 MS. LUZAICH: And be objective about all of them?

7 PROSPECTIVE JUROR NUMBER 545: Yes.

8 MS. LUZAICH: Would you agree that a person has the

9 absolute right to say no to sexual advances?

10 PROSPECTIVE JUROR NUMBER 545: Yes.

11 MS. LUZAICH: No never means anything but no?

12 PROSPECTIVE JUROR NUMBER 545: Yes.

13 MS. LUZAICH: And do you believe that the State should get

14 involved in domestic violence situations?

15 PROSPECTIVE JUROR NUMBER 545: Yes.

16 MS. LUZAICH: Can you tell me one question that you're dying

17 to answer that you've heard over the last couple of days?

18 PROSPECTIVE JUROR NUMBER 545: No. I just have a

19 question.

20 MS. LUZAICH: Sure.

21 PROSPECTIVE JUROR NUMBER 545: Like, as far as, like,

22 these last, I was off Sunday and Monday, but Tuesday, so do I get my --

23 excuse me, I don't mean to be, you know, do I get my \$40 for -- do I get

24 \$40 for --

25 THE COURT: Once you're sworn in as a juror.

1 PROSPECTIVE JUROR NUMBER 545: So --

2 THE COURT: If you are sworn in as a juror.

3 PROSPECTIVE JUROR NUMBER 545: -- I know everybody
4 wanted to ask this question, you know, day three, nobody asked it so.

5 Only when we're sworn in?

6 THE MARSHAL: I gave you that information this morning. No
7 one listens to me.

8 PROSPECTIVE JUROR NUMBER 545: Well, you didn't come
9 stand next to me, Anthony, so.

10 THE COURT: All right. Let's move it along.

11 MS. LUZAICH: You'll listen to the witnesses, better than you
12 listen to Anthony?

13 PROSPECTIVE JUROR NUMBER 545: Yes.

14 MS. LUZAICH: Is there anything we need to know about you
15 that we haven't heard yet?

16 PROSPECTIVE JUROR NUMBER 545: No, ma'am.

17 MS. LUZAICH: So if you listen to all the testimony and you see
18 any evidence that if you're convinced beyond a reasonable doubt the
19 defendant committed the crimes that he's charged with, would you be able
20 to say the word guilty?

21 PROSPECTIVE JUROR NUMBER 545: Yes.

22 MS. LUZAICH: Thank you, sir.

23 Pass for cause.

24 THE COURT: Thank you.

25 MS. MCNEILL: Thank you.

1 You indicated that you had some concerns because you have
2 daughters and you have zero tolerance for sex crimes; right? But you
3 also have been on the other side of it where you had to go to jail for
4 something you didn't do; right?

5 PROSPECTIVE JUROR NUMBER 545: Yes.

6 MS. MCNEILL: Okay. So your zero tolerance policy, you could
7 still understand that even -- people can even be falsely accused of sexual
8 crimes; right?

9 PROSPECTIVE JUROR NUMBER 545: Yes, ma'am.

10 MS. MCNEILL: Okay. So you're not going to hold that zero
11 tolerance policy against this guy?

12 PROSPECTIVE JUROR NUMBER 545: No, ma'am.

13 MS. MCNEILL: Okay. I'll pass for cause, Your Honor.

14 THE COURT: Thank you.

15 Okay. Folks, so here's what's about to happen, in a moment I'm
16 going to excuse you folks out to the hallway while the attorneys finish up
17 doing their peremptory challenges of some of the jurors. When you come
18 back in, we'll announce who the jurors will be, the rest of you will be
19 excused, and the folks who are jurors will have to get sworn in and come
20 back tomorrow.

21 What time did we say we're starting tomorrow, 10:30 or 10:00?

22 MR. ROSE: 10:00 or 10:30.

23 MS. LUZAICH: I have 10:30.

24 THE COURT: Okay. So those of you who will be the jurors will
25 need to be here at 10:30 tomorrow morning.

1 So while you're out in the hallway, waiting for us to finish, you
2 are admonished not to talk or converse among yourselves or with anyone
3 else on any subject connected with this trial; or to read, watch, or listen to
4 any report of or commentary on the trial or any person connected with this
5 trial by any medium of information including, without limitation,
6 newspapers, television, the internet, or radio; or to form or express any
7 opinion on any subject connected with this trial until the case is finally
8 submitted to you.

9 Jurors are you excused.

10 Counsel stay.

11 THE MARSHAL: All rise.

12 [Outside the presence of the prospective jury]

13 THE COURT: All right. So in a moment I'm going to step out
14 while you pass the paper back and forth doing your preempts.

15 So let's just talk about the form. So, first, you get eight
16 preempts as to the proposed petit jurors, which is numbers 1 through 28,
17 and then you get one preempt each as to the possible alternates, which
18 are 29 to 32.

19 So first it goes to the State, the State will put a number one in
20 the State column next to the juror they wish to excuse. Then it goes to the
21 defense, the defense will put a number one in the defense column next to
22 the juror they wish to excuse. Then back to State for two, to defense for
23 two, and so on until you're all done. And then you'll use your number nine
24 between the 29 and 32 at the end as to the potential alternates.

25 If you want to waive any of your preempts, you can make a

1 note, you know, State waives number seven, that doesn't necessarily
2 waive future strikes. And if that were to happen, then the first 12, starting
3 at the top, will be the jurors. And the first two starting at 29, who aren't
4 stricken, will be the alternates.

5 Does everyone understand?

6 MS. MCNEILL: Yes.

7 THE COURT: Okay. I will step in the back while you get that
8 done.

9 Thank you.

10 THE MARSHAL: All rise. The court is in recess.

11 [Recess taken at 5:41 p.m.]

12 [Jury trial resumed at 6:12 p.m.]

13 [Outside the presence of the prospective jury]

14 THE MARSHAL: Please be seated. Come to order.

15 THE COURT: All right. So I just want to make sure that
16 everyone understood how this was going to happen, especially because
17 defense waived the last two. So the first 12 who are not stricken amongst
18 1 through 28 will be the jurors, and then starting at 29, the first two not
19 stricken will be the alternates; right?

20 MS. MCNEILL: Right, yes.

21 THE COURT: Okay. So I just wanted to make sure.

22 So we'll bring the entire group in, Keith will call out the 12
23 starting at the top who are the jurors -- and he'll call all 14 actually
24 without -- we're not going to identify for the jurors that the last two are
25 alternates but we know.

1 We'll seat them, we'll dismiss the others, I'll swear them in --
2 Keith will swear them in as the jurors, we'll let 'em go for the night and
3 we'll give them, you know, the introductory instructions in the morning and
4 then, you know, the reading of the Information, and then we'll get to
5 openings. Okay? Great.

6 Okay. Let's get 'em.

7 THE MARSHAL: All rise.

8 [In the presence of the prospective jury]

9 THE MARSHAL: Please be seated. Come to order.

10 THE COURT: Okay. Folks, I'm thanking you, again, for your
11 patience. I know it's been a long day and a long week already. I do
12 appreciate you bearing with us and we get through the process.

13 The attorneys have now completed their challenges, the clerk
14 will now read out loud the names of the folks who will sit as jurors.

15 THE CLERK: Yes, Your Honor.

16 Juror number one, badge number 283, Latisha Johnson.

17 Juror number two, badge number 423, Kelly Sundeaus.

18 Juror number three, badge number 300, Troy Miller.

19 Juror number four, badge number 309, Rebecca Myl.

20 Juror number five, badge number 442, Stephanie Cote.

21 Juror number six, badge number 504, Katherine Searcy.

22 Juror number seven, badge number 341, Jose Rincon.

23 Juror number eight, badge number 342, John McDougall.

24 Juror number nine, badge number 347, Forbs Larkin.

25 Juror number ten, badge number 348, Trinquilino Madrid.

1 Juror number 11, badge number 511, Santos Portillo.
2 Juror number 12, badge number 355, Ana Deltoro.
3 Juror number 13, badge number 402, Robert Groce.
4 And juror number 14, badge number 469, Kimberly Newton.
5 THE COURT: Okay. The folks in the back, whose names were
6 not called, I am so grateful for your immense patience all week, but you
7 folks will not be on the jury and you are excused. Thanks so much for
8 your time.
9 [Remaining prospective jurors exit the courtroom]
10 THE COURT: All right. So, folks, I know it's late, so what we're
11 going to do, I need you folks to stand up and be sworn in as the jurors and
12 then I'll be excusing you for the evening.
13 [The Court Clerk swears in the jury]
14 THE COURT: Okay. So we're starting at 10:30 tomorrow. I'm
15 sorry for keeping you late. At least we know who the jurors are.
16 Tomorrow we'll get started with the actual trial.
17 Have a wonderful evening. I need to read the admonitions.
18 Between now and tomorrow, you are admonished not to talk or
19 converse among yourselves or with anyone else on any subject
20 connected with this trial; or to read, watch, or listen to any report of or
21 commentary on the trial or any person connected with this trial by any
22 medium of information including, without limitation, newspapers,
23 television, the internet, or radio; or to form or express any opinion on any
24 subject connected with this trial until the case is finally submitted to you.
25 Have a great night. See you tomorrow.

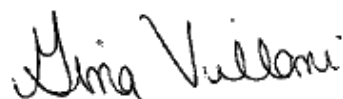
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE MARSHAL: All rise. Court is now in recess.

[Jury trial, Day 3, concluded at 6:20 p.m.]

* * * * *

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



Gina Villani
Court Recorder/Transcriber
District Court Dept. IX



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
vs.
TRANDON GREEN,
Defendant.

CASE#: C-17-325044-1
DEPT. VI

BEFORE THE HONORABLE ELISSA CADISH, DISTRICT COURT JUDGE
THURSDAY, JUNE 28, 2018

**RECORDER'S TRANSCRIPT OF PROCEEDINGS:
JURY TRIAL – DAY 4**

APPEARANCES:

For the State:

LISA LUZAICH, ESQ.
Chief Deputy District Attorney
STEVEN ROSE, ESQ.
Deputy District Attorney

For the Defendant:

MONIQUE A. MCNEILL, ESQ.

RECORDED BY: DE'AWNA CREWS, COURT RECORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

WITNESS INDEX

<u>STATE'S WITNESSES:</u>	<u>PAGE</u>
SAMANTHA WESTON	
Direct Examination by Mr. Rose	22
Cross-Examination by Ms. McNeill	78
Redirect Examination by Mr. Rose	132
Recross-Examination by Ms. McNeill	139
RILEY WESTON	
Direct Examination by Ms. Luzaich	142
LEROY DENTEN	
Direct Examination by Mr. Rose	157
Cross-Examination by Ms. McNeill	165
ZACHARY GAINEY	
Direct Examination by Ms. Luzaich	169
Cross-Examination by Ms. McNeill	182
Redirect Examination by Ms. Luzaich	191
Recross-Examination by Ms. McNeill	194
Further Redirect Examination by Ms. Luzaich	196
Further Recross-Examination by Ms. McNeill	197
JORDAN RICHARDS	
Direct Examination by Mr. Rose	200
Cross-Examination by Ms. McNeill	205

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXHIBIT INDEX

<u>STATE'S EXHIBITS</u>	<u>PAGE</u>
Exhibits 1 through 98	7
Exhibits 100 through 109	7
Exhibit 110	137
<u>DEFENDANT'S EXHIBITS</u>	<u>PAGE</u>
Exhibit 201-A	110
Exhibit 202	131
Exhibit 203	130
Exhibit 204	131

1 Las Vegas, Nevada, Thursday, June 28, 2018

2
3 [Proceedings began at 10:45 a.m.]

4 [Outside the presence of the jury]

5 THE MARSHAL: All rise. District Court Department 6 is now is
6 in session, the Honorable Elissa Cadish presiding.

7 Please be seated. Come to order.

8 THE COURT: All right. So when we bring in the jurors I will
9 briefly go through the introductory and introduction to the case, I guess,
10 obviously, including the reading of the charges and then we'll go ahead
11 into openings.

12 How long do you anticipate your openings taking?

13 MR. ROSE: Maybe 20 minutes, Judge.

14 MS. MCNEILL: Maybe 10, not long.

15 THE COURT: Okay. So we might even get a witness going.

16 MS. MCNEILL: Yeah.

17 THE COURT: See how it goes.

18 MR. ROSE: We're going to try to.

19 THE COURT: Okay.

20 MR. ROSE: One more thing, Judge, if you don't mind, while
21 we're on the record, I think defense counsel had a chance to look at all of
22 the proposed exhibits that the State has identified at this point, at least the
23 photographs that the State has identified, provided to the court. My
24 understanding is that they're not going to be objecting to any of them so
25 we'd be asking that they be admitted by stipulation.

1 Additionally, I provided with your clerk this morning, I provided
2 Ms. McNeill either a day or two ago with copies of the 9-1-1 call for the
3 June 18th event. It's actually a call made not by the victim here, but by
4 another witness who will be present. That call has been redacted slightly.
5 There's a point in there in the initial call where he says -- the 9-1-1 caller
6 refers to the defendant as a convicted sex offender. I've gone and
7 deleted that portion of the audio. There's not a gap there. It just flows
8 right through as if you don't -- hopefully it doesn't sound like there's
9 anything missing. But that has been redacted.

10 THE COURT: Okay.

11 MR. ROSE: My understanding is Ms. McNeill is not objecting to
12 that either.

13 MS. MCNEILL: That's correct, Your Honor. I looked at the
14 photographs, I'll stipulate to their admission. I reviewed the redacted body
15 cam footage and 9-1-1 call and I will also stipulate to the admission of
16 those.

17 THE COURT: Okay. And so those are exhibits -- what are the
18 numbers?

19 MR. ROSE: So it would be -- I think right now we're at 1
20 through 108, possibly?

21 THE CLERK: One second. The photos currently are 1 through
22 98 are stipulated and there it goes from 103 through 109, which are
23 stipulated. The -- I'm assuming the audios that you're referring to, how
24 many? All three of these?

25 MR. ROSE: All three of those is my understanding.

1 THE CLERK: All three is yours, stipulated, which would be 100,
2 101, and 102.

3 MR. ROSE: So the only number that's not included there, Your
4 Honor, is number 99. We were considering offering the medical records,
5 we're still debating whether or not we want to do that.

6 THE COURT: Okay.

7 MR. ROSE: But that's why we're not just saying all of them.

8 THE COURT: Okay.

9 MR. ROSE: With the body cams, the one thing that I do want to
10 bring to the Court's attention is I can't edit out the video portion of it, but
11 there were certain references in the body cam, the audio portion of it, that
12 brought up other bad acts. There's a discussion of when the defendant
13 had his priors, the other things that obviously were going to be
14 objectionable. I've muted those portions of the audio. So although the
15 video keeps on going, you can't hear anything.

16 So I will talk with Ms. McNeill later on, if we want to ask Your
17 Honor for an instruction essentially just saying that either irrelevant or
18 personally identifying information such as phone numbers and social
19 security numbers have been redacted out of this just so that the jury isn't
20 wondering, hey --

21 THE COURT: Why it isn't there.

22 MR. ROSE: -- why isn't that.

23 On the other hand, the first 30 seconds of every body cam is
24 automatically muted because the video camera's constantly recording, it
25 doesn't start picking up the audio until the person hits the button, and so it

1 saves the prior 30 seconds.

2 THE COURT: I see.

3 MR. ROSE: So they will already be, and we can bring that out
4 from the officers, so we will kind of talk about if we want that curative
5 instruction or not. I just wanted to make it aware -- bring the Court up to
6 speed as to what's happening there.

7 THE COURT: So to be clear then, Exhibits 1 through 98 and
8 100 to 109 are being admitted by stipulation?

9 MS. MCNEILL: Yes, Your Honor.

10 THE COURT: Okay. So those are admitted.

11 **[STATE'S EXHIBITS 1 THROUGH 98 ADMITTED]**

12 **[STATE'S EXHIBITS 100 THROUGH 109 ADMITTED]**

13 THE COURT: So you don't have to worry about offering those.
14 And when you bring them up, you can mention they've already been
15 admitted by stipulation.

16 MS. MCNEILL: Thank you.

17 MR. ROSE: Thank you, Your Honor.

18 THE COURT: Okay. Great. Let's go ahead and get the jurors
19 then.

20 THE MARSHAL: All rise.

21 [In the presence of the jury]

22 THE MARSHAL: Please be seated. Come to order.

23 THE COURT: All right. Good morning, folks.

24 Do counsel stipulate to the presence of the jury?

25 MS. LUZAICH: Yes.

1 MS. MCNEILL: Yes, Your Honor.

2 THE COURT: Okay. Great. So before we get going I just have
3 some introductory information for you guys. First, you can see you've
4 been provided notepads and pens, which you can use to take notes
5 during the course of these proceedings and of course you'll be able to
6 take those notes back with you to the jury room at the end of the case
7 when you go to deliberate so you can rely on those to help refresh your
8 memory if you need to do that.

9 You also have all now been given the blue jury badges which
10 we request that you wear around the courthouse so it's -- makes you
11 easily identifiable as a juror and as we've been discussing this week, it
12 helps make it easier for everyone involved in the case to see that you're a
13 juror and not be talking to you about the case or about anything for that
14 matter, and, frankly, to make sure that they're not having conversations
15 really within your earshot either. So they're going to know to avoid having
16 conversations about the case close to you in the hallway, and if you could
17 also be aware and alert so you don't end up overhearing something you
18 shouldn't be overhearing as well, I would appreciate it if you pay attention
19 to that.

20 Also, the verdict that you render at the end of the case can only
21 be based on the evidence that's presented here in the courtroom. So
22 anything that you may see or hear outside the courtroom is not evidence
23 and you have to disregard it and not consider it as part of your
24 deliberations in the case.

25 Now, this is a criminal case commenced by the State of Nevada

1 against the Defendant, Trandon Green, and the case is based on an
2 Information. The clerk will now read the information to the jury and state
3 the plea of the Defendant, Mr. Green, to that information.

4 THE CLERK: Yes, Your Honor.

5 [The Clerk read the Information aloud]

6 THE COURT: All right. So, folks, please understand that the
7 Information is simply a list of charges and that it's not, in any sense,
8 evidence of the allegations it contains. Because the defendant has
9 pleaded not guilty to those charges, the State has the burden of proving
10 each of the elements of those charges beyond a reasonable doubt. As
11 Mr. Green sits there now, he is not guilty. The purpose of the trial is to
12 determine whether the State will meet its burden. It is your primary
13 responsibility as jurors to find and determine the facts.

14 Under our system of criminal procedure you are the sole judges
15 of the facts. You are to determine the facts from the testimony you hear
16 and the other evidence, including exhibits, introduced in court. I should
17 also mention that when you go back to deliberate at the end of the case,
18 all of the exhibits which have been introduced into evidence will also go
19 back to the jury room with you so you can examine them.

20 It's up to you to determine the inferences which you feel may be
21 properly drawn from the evidence. The parties may sometimes present
22 objections to some of the testimony or other evidence. It is the duty of a
23 lawyer to object to evidence which he or she believes may not properly be
24 offered and you should not be prejudiced in any way against a lawyer who
25 makes objections on behalf of the party he or she represents. At times I

1 may sustain objections or direct that you disregard certain testimony or
2 exhibits. You must not consider any evidence to which an objection has
3 been sustained or which I have instructed you to disregard.

4 In considering the weight and value of the testimony of any
5 witness, you may take into consideration the appearance, attitude, and
6 behavior of the witness; the interest of the witness in the outcome of the
7 case, if any; the relation of the witness to the defendant or the State; the
8 inclination of the witness to speak truthfully or not; and the probability or
9 improbability of the witness's statements as well as all of the facts and
10 circumstances in evidence. Thus, you may give the testimony of any
11 witness, just such weight and value as you believe that testimony is
12 entitled to receive. It is for you to decide how much weight to give to any
13 evidence.

14 Once the trial begins we'll have opening statement by the State,
15 maybe an opening statement by the defense, the State's evidence,
16 possibly defense evidence, jury instructions, and closing arguments. Until
17 the case is submitted to you, you must not discuss it with anyone, even
18 with your fellow jurors. After it is submitted to you, you must discuss it
19 only in the jury room with your fellow jurors. It is important that you keep
20 an open mind and not decide any issue in the case until the entire case
21 has been submitted to you under instructions from me. I also want to
22 remind you that you're not allowed to do any independent research about
23 the case or anyone having anything to do with it and you can't conduct
24 any experiments on your own about the case, you have to rely on the
25 evidence that's presented here in the courtroom.

1 If you can't hear a witness, please raise your hand as an
2 indication. Also, if you need to use the restroom or if you feel ill, please
3 also raise your hand as an indication. We'll generally take breaks about
4 every hour and a half to two hours during the course of the trial. So
5 please, on those breaks, go ahead and use the facilities and do what you
6 need to do so we won't need to take extra breaks in between.

7 Jurors are allowed to ask questions. The procedures require
8 that you write your juror number and question on a clean sheet of paper
9 and give it to the marshal while the witness is still in the courtroom. If it's
10 a proper question under court rules, I'll ask it. If not, it simply means that
11 for legal reasons that I can't ask that particular question. Please don't
12 draw any inference from the fact that I've not asked a question. It just
13 means because of those legal reasons, I can't ask it.

14 Now, it's the primary responsibility of the attorneys to ask
15 questions of the witnesses. And when I'm talking about your ability to ask
16 questions, it should just be a question directed to the witness and it should
17 only be after the attorneys have finished asking their questions, if you
18 have a follow-up question for that witness about what that witness has
19 testified to. In other words, it can't be, like, a legal question or a question
20 directed to me or to the attorneys. But if you do find yourself not
21 understanding something the witness said or needed to follow up, you can
22 get -- do that and the marshal will take it from you and we'll look at
23 whether it can be asked or not.

24 All right. So before we proceed then to openings, not an
25 issue at the moment, but just so I have a record, is any party invoking the

1 exclusionary rule?

2 MS. LUZAICH: Yes, Judge.

3 MS. MCNEILL: Yes, Your Honor.

4 THE COURT: Okay. And so, folks, what that means, because
5 the parties have invoked the exclusionary rule, that means that any of the
6 witnesses who are going to come and testify in the case, they have to wait
7 outside the courtroom and not see anyone else testify until after they've
8 given their testimony. That's what that means, and Anthony will be in
9 charge of making sure the folks who come into the courtroom won't be
10 witnesses who have not yet testified.

11 All right, with that in mind, the State opening statement.

12 MR. ROSE: Thank you, Your Honor.

13 Good morning, ladies and gentlemen.

14 THE JURY PANEL: Good morning.

15 MR. ROSE: I bet you thought I was just going to sit there and
16 take notes all trial. Three days and I haven't spoken to you yet. I've
17 never had a trial go that long without speaking to a jury.

18 Imagine if you will a world where a woman meets a man online,
19 they hit it off, they start hanging out, hanging out turns into dating, and
20 eventually things progress to where the man proposes to the woman,
21 asks her to marry him, tells her that he wants to spend the rest of his life
22 with her, that he will cherish her and love her forever. Yet, within just a
23 few months of that proposal he's now telling her that she needs to leave
24 her own apartment because he wants to bring another woman over and
25 when she says no to her supposed fiancé, his response is to punch her in

1 the face and then flee before cops can arrive.

2 Imagine if you will a world where just a few months after that
3 incident, less than a month after that incident, that same woman, she has
4 to rely on a good Samaritan, a friend of a friend, to come over and change
5 the locks of her apartment, specifically to keep out that supposed fiancé,
6 that man who swore he would love her and cherish her forever. But within
7 a few days of changing out the locks, that man comes back over to the
8 apartment, demands to be let in, and when he's told no, he decides he's
9 going to break in through the window of the woman's six-year-old autistic
10 child. He surprises he woman inside the home and proceeds to hold her
11 and that child in the apartment the entire day, threatening to kill her,
12 threatening to kill her daughter.

13 Every time the daughter comes into the room, that man who
14 had claimed that he would love the woman forever, tells the daughter to
15 shut up, to go sit down, don't speak. And the last time she comes into the
16 room, he gets so angry with her that he takes a pair of kitchen shears and
17 puts them to her neck and tells her, Say good bye to your mother, she's
18 going to die today. And when that little six-year-old gets upset at hearing
19 that, starts crying, he goes and takes those scissors and puts them into
20 that little girl's mouth and tells her, I'm going to kill you too.

21 After kicking her out of the room again, imagine that world
22 where that same woman is looking at her supposed fiancé and he
23 demands sex from her. When she tells him no, the response is, Well, you
24 can either give it to me or I'm going to take what's mine. And while she
25 stares at the wall, crying, pleading for him to stop, he forces himself into

1 her. And when he's done, he tells that woman that he had asked to marry
2 him, Go clean up, get rid of the evidence.

3 Ladies and gentlemen, Samantha Weston didn't have to
4 imagine that world. She had to live with it. That was the nightmare that
5 the Defendant, Trandon Green, inflicted upon her. Over the next few days
6 you'll get to hear from Samantha along from a number of other people.
7 You'll hear that in late 2016 she met the defendant online on a dating
8 Website. They met, they started to hang out, and before too long, the
9 defendant had kind of invited himself in, brought a few things over, never
10 much, just enough that he could be there whenever he wanted to be
11 there.

12 You'll hear that he proposed to her and she accepted. She said
13 yes. But shortly after that, the relationship deteriorated. Until we get to
14 May 28th, 2000 -- 2017, excuse me, when the defendant comes home and
15 tells her that she needs to leave because he wants to bring another
16 woman home. She tells him no, she doesn't want that. His response is to
17 punch her in the face and throw an aerosol can of air freshener at her.
18 When she calls the police, he takes off.

19 Just a few weeks after that, you'll hear that Samantha reaches
20 out to a friend of hers because she wants a way to keep the defendant out
21 of her apartment. She is eventually connected with a man by the name of
22 Leroy Denten. She doesn't know him. All she knows is that he's
23 somebody who can help her change the locks. Now, Leroy doesn't know
24 Samantha, they've never met, but he hears about the situation and he
25 wants to do something to protect her. So he comes over, he changes

1 locks. Within just a day or two of that happening, the defendant is back
2 over at Samantha's apartment at 3:00 a.m. he's texting her, he's banging
3 on the door, he's calling her, demanding to be let in.

4 Over the course of the next several hours in the morning of
5 June 18th, 2017, Samantha does nothing but tell him, no, I don't want you
6 here, go away. You'll hear that the defendant didn't just go away. Instead
7 he climbed in through the window of Samantha's daughter's, Riley, room.
8 You'll hear that Riley was at that point in time six. She's now seven years
9 old and she's a girl with special needs. The defendant climbs in through
10 her window and surprises Samantha and Riley inside the house. He
11 takes Samantha's phone when she tries to call the police. He prevents
12 her from leaving the apartment with her daughter. And he spends the
13 entire day arguing with her, demanding to know why she wouldn't just let
14 him in that morning.

15 Over and over again he tells her that she's going to die that day,
16 that the only way that she and Riley are going out of that apartment are in
17 body bags. You'll hear that Riley has a hard time sitting still. Some of the
18 time she's out on the couch watching cartoons, other times she's coming
19 into the room. Every time she does, the defendant tells her to shut up, to
20 go sit down, to leave the room. You'll hear that the last time that Riley
21 comes in, the defendant is so upset that he grabs those kitchen shears,
22 puts them to her neck, says say good bye to your mother, she's going to
23 die today. And when that little six-year-old starts crying, the defendant
24 goes and puts those shears into her mouth and threatens to kill her too.
25 The entire time Samantha is just begging, trying to protect her daughter.

1 You'll hear that after Riley is sent back out to the living room,
2 the defendant demands sex from Samantha. Understandably, she tells
3 him no. Over and over again she tells him no. And he tells her, I'm going
4 to have what's mine, you can either give it to me or I'm going to take it.
5 You'll hear that he sexually assaults her while she stares at the wall
6 crying. You'll hear that afterwards he tells her to go take a bath, go clean
7 up and get rid of the evidence. You'll hear that she goes and she takes a
8 bath. She does exactly what she's being told to do. After she comes
9 back from the bath, the defendant pulls out a pocketknife, you'll hear it
10 described kind of like a Swiss Army-style knife, opens up the blade and
11 tells her that they're going to start with body parts. You'll get to hear and
12 you'll actually get to see the wound that's inflicted, wound to her left index
13 finger that cuts straight down through the nail into the nailbed, to the point
14 where later the nail has to be removed entirely.

15 Now, eventually, after she has complied with everything that
16 he's told her to do, Samantha is able to get her phone back. She doesn't
17 call the police, instead she goes and texts Leroy, that same good guy who
18 had changed the locks for her, and tells him, Don't text me back, just call
19 the police and get them here, tell them what's happening, I'm being held
20 hostage, I've been raped. Tell them he won't let us leave, that to kick in
21 the door. Then she deletes the text so the defendant can't find it.

22 Leroy, you'll hear, goes and calls the police, reads them the text
23 message and says, you know what, you've got to get there soon, I'm on
24 my way too. You'll hear that the police arrive, start banging on the door.
25 They can see through the window somebody's inside. At first, no one

1 comes to the door. They keep on banging, they announce themselves,
2 and Samantha now comes to the door and the first words out of her
3 mouth are he's gone out the back and she's give them his description.

4 So you'll hear that the defendant took the same escape route
5 that he used to get in, going out through Riley's window. The defendant is
6 caught not too far away. And Samantha says, Yes, that's the man who
7 did it. You'll get to see the wounds that Samantha suffered. You'll get to
8 hear that the defendant's DNA was found from the rape kit that she had to
9 go through. And you'll hear that even after all of this, after everything that
10 the defendant put her through, even afterwards, he continues to try and
11 contact her and tell her, I love you, forgive me, do me a favor and don't
12 come to court, I need you not to come to court.

13 Well, ladies and gentlemen, Samantha came to court and she's
14 coming to court again. At the end of this case we're going to ask you to
15 hold the defendant accountable for each and every thing that he did to
16 Samantha and to six-year-old Riley. We're going to ask you to find the
17 defendant guilty of battery constituting domestic violence, of burglary, of
18 kidnapping both of Samantha of Riley, of battery with intent to commit
19 sexual assault, of sexually assaulting Samantha, the abuse that he put
20 Riley through, and then trying to convince that same victim not to come to
21 court, try to convince her to help him get off. We're going to ask you to
22 find him guilty of everything that he's done.

23 Thank you.

24 THE COURT: Thank you.

25 MS. MCNEILL: Thank you, Your Honor.

1 Well, he was right about one thing, it is a story about a boy who
2 meets a girl. But the story about the boy who meets the girl is a story
3 about falling in love, some problems with loyalty, and then a whole lot of
4 lying.

5 Samantha and Trandon met online, started dating, and it was
6 hot and it was fast. It moved pretty quickly. And it wasn't Samantha's
7 apartment, it was both of theirs. Mr. Green moved into that apartment and
8 the utilities were in his name. They were living together, but it was the
9 kind of relationship where they were either madly in love or fighting with
10 each other, so she would frequently tell him to leave, he would go stay at
11 his parents' house, sometimes she would go stay at her aunt's house.
12 But there was a lot of back-and-forth.

13 You're going to hear that Samantha Weston is a convicted
14 felon. She has felony convictions for stalking and domestic violence.
15 You're going to hear that Samantha Weston is a very insecure person.
16 She was jealous, she was worried that Trandon was cheating on her
17 constantly. This was the kind of relationship where they were going
18 through each other's phones to see who were you talking to, who were
19 you sleeping with.

20 And then what happened is, he did sleep with someone else
21 and she found out about it and she was angry and she posted on social
22 media about it. But the worst part of it was, that woman that he cheated
23 with was pregnant by him and she was mad. Samantha was angry. And
24 the worst part about living your life these days on social media is people
25 were posting on Facebook about the fact that Samantha's boyfriend had

1 gotten someone else pregnant. So she's mad and she's embarrassed
2 and it's already one of those relationships where you're in love or you're
3 fighting and everybody's accusing each other of cheating.

4 Samantha's also the type of person who would call the police
5 on Trandon. They would arrive, he wouldn't be there. On May 28th, she
6 called the police and Trandon wasn't there. And you're going to hear that
7 the injuries that the officers documented didn't quite match up to her story
8 and you're going to see on May 28th in her own words that what her
9 concern was was that he had cheated on her and that's what she's talking
10 about on social media.

11 You get to June 18th, again, they're fighting back and forth, she
12 had told him to leave, he went to stay at his mom's, he came back, she
13 changed the locks. Not because it was just her apartment and she had
14 the right to do so, but because she just didn't want him in there anymore.
15 But all of his things were in there. In fact, you're going to hear that after
16 his arrest, his mother had to go get his belongings out of that apartment.

17 On June 18th what happened is Trandon went over, the locks
18 had been changed, he wanted back inside, he wanted to get his stuff, he
19 wanted to talk to Samantha. He goes inside, they have an argument,
20 they're fighting back and forth. As is their custom, they make up, things
21 are fine. He thinks they're fine. They have consensual sex. They start
22 fighting again because now he's going through her phone and discovers
23 that she's been talking to another man.

24 Well, you have to imagine that a woman who finds that she's
25 been cheated on is a little angry that he's going through her phone.

1 There's a lot of arguing back and forth. And then the police come. And
2 you will hear that the police saw Trandon inside. He was inside cooking
3 noodles for Riley and he went out the window. Well, she was frequently
4 calling the police on him.

5 You're going to hear that Samantha's version of what happened
6 inside differs depending on who she's talking to and her details aren't
7 quite consistent. And when the DA says that a rape kit will prove rape, a
8 rape kit only proves that there was sex. The DNA that came from
9 Mr. Green in that rape kit only proves that they had sex. No one is going
10 to be able to tell you that there's any forensic proof that Samantha Weston
11 was raped.

12 Then you're going to hear that Samantha herself admitted that
13 she lied to the police, to Mr. Green, and she admitted that she didn't want
14 to come to court. But she was being forced to by the State of Nevada
15 who was using CPS to scare her into coming to court. And so the letters
16 from Trandon to Samantha that the State says are telling her, You -- I
17 need you not to come to court, you could also take those as a man who is
18 innocent of the crimes that she accusing him of because in those letters
19 he tells her, I know you're lying, you're lying about these things, don't
20 come to court. He mentions CPS multiple times because he knows that's
21 what's happening.

22 So you have this relationship that's hot and fast, there's a lot of
23 arguing, there's a lot of insecurity, there's a lot of jealousy, there's
24 cheating, there's lying, and unfortunately the police get involved. And at
25 that point, once the police are involved, if you're Samantha, it doesn't

1 really bother you until you get to the point where now you've got to go to
2 court. And when you say you don't want to go to court and suddenly CPS
3 is showing up at your door, it becomes pretty obvious that you don't have
4 much choice in the matter and you probably shouldn't have called the
5 police in the first place. But here we all are.

6 And so, the State wants you to find Mr. Green guilty based on
7 the words of a woman who can't keep her story straight, on forensic
8 evidence that proves nothing except sex, the words of a child who you will
9 see has some processing issues, the child's interview was taken in
10 circumstances where the police didn't follow their own procedures and
11 that's what they're asking you to convict him on.

12 After you listen to all the evidence and you remember the
13 problems and you remember the motives and the jealousy and the lying
14 and the fear of witnesses of what happens if they don't testify, you will
15 know that Mr. Green is not guilty.

16 THE COURT: Thank you.

17 All right, State, call your first witness.

18 MR. ROSE: The State would call Samantha Weston.

19 THE COURT: She'll be in in a second I understand.

20 MR. ROSE: Court's brief indulgence.

21 THE COURT: Yep.

22 **SAMANTHA WESTON**

23 [having been called as a witness and being first duly sworn, testified as
24 follows:]

25 THE CLERK: Thank you. You may be seated.

1 Please state your complete name, spelling both your first and
2 last name for the record.

3 THE WITNESS: Samantha Jean Weston, S-A-M-A-N-T-H-A,
4 W-E-S-T-O-N.

5 MR. ROSE: May I proceed, Your Honor?

6 THE COURT: Yes.

7 **DIRECT EXAMINATION OF SAMANTHA WESTON**

8 BY MR. ROSE:

9 Q How are you doing, Samantha? If you need a break at any
10 point in time just let me know and we'll try and take a break. You've got
11 tissues to your right and you've got some water to your left, okay?

12 THE COURT: I need you to speak up when you respond.
13 Okay?

14 THE WITNESS: Okay.

15 BY MR. ROSE:

16 Q You have that microphone right in front of you. If you want to
17 just kind of pull it closer. The one thing is that they are recording
18 everything and they type it out later, so we need you to say a "yes" or a
19 "no" rather than just shaking your head or nodding your head. Okay?

20 A Okay.

21 Q Samantha, I'm going to ask you to do this once and once only,
22 but do you see Trandon Green in the courtroom today?

23 A Yes.

24 Q Can you point to him and describe something that he's
25 wearing?

1 A He's over there. He's wearing a white shirt.

2 MR. ROSE: Will the record reflect the identification of the
3 defendant, Your Honor?

4 THE COURT: Yes, it will.

5 BY MR. ROSE:

6 Q When did you first meet the defendant?

7 A The first time, it was December, 2016.

8 Q And how did you meet the defendant?

9 A Originally he contacted me on a dating site.

10 Q And do you remember what dating site it was?

11 A Plenty of Fish.

12 Q You said that he contacted you. Had you met him prior to that?

13 A We had, like, met up at a party thing.

14 Q And when you met at the party, were you hanging out kind of --

15 A Yeah, we had just started to get to know each other and we just
16 like immediately hit it off.

17 Q So he had communicated with you on Plenty of Fish, you meet
18 up at this party, you hit it off, does any kind of relationship develop
19 between you and the defendant?

20 A Very quickly.

21 Q And what kind of relationship was that? Was it romantic? Was
22 it sexual? Was it both? Was it neither?

23 A It was both.

24 Q Now, in December of 2016, where were you living?

25 A Vegas and Nellis at Jennydiane Drive.

1 Q Was it 2686 Jennydiane?

2 A That's correct.

3 Q Is that a house? Condos? Apartments?

4 A It's an apartment.

5 Q Was there a specific number or letter associated with your
6 apartment?

7 A It's been a year, but off the top of my head, I think it was D.

8 Q Now, I apologize, but according to you that was D as in dog or
9 B as in boy?

10 A Yes. D as in dog.

11 Q I know you said it's been about a year since you were there.

12 A Yeah.

13 Q Would it surprise you to learn that it was actually B as in boy?

14 A No, it wouldn't surprise me. All I know is it was the bottom
15 apartment.

16 Q Okay. And when you moved into that apartment, who did you
17 move in there with?

18 A It was just me and my daughter.

19 Q And what's your daughter's name?

20 A Riley Weston.

21 Q How old is she?

22 A Now she's seven, at the time she was six.

23 Q And is it fair to say that Riley has some challenges?

24 A She's extreme special needs, yes.

25 Q You're saying she's extreme special needs, do you know if

1 she's ever been diagnosed with anything?

2 A Yes.

3 Q What has she been diagnosed with?

4 A She's been diagnosed with autism, epilepsy, delayed

5 milestones, chromosome abnormality, defiant disorder, ADHD, and then I

6 forget the last one.

7 Q Okay. Lots of doctors' visits?

8 A Yeah. All the time.

9 Q So when you moved into that Jennydiane address, were you in

10 the relationship with the defendant?

11 A At the time, no. It was -- I literally moved in and it was like a

12 week later.

13 Q So a week after you moved in is when you started dating the

14 defendant?

15 A Yeah. Yeah.

16 Q Whose name was on the lease?

17 A Mine.

18 Q Was the defendant's name ever on the lease?

19 A No.

20 Q Did he ever ask you to put his name on the lease?

21 A More than once, yes.

22 Q Did you put his name on the lease?

23 A No.

24 Q Could you have put his name on the lease?

25 A Yes.

1 Q Is there a reason why you didn't?

2 A Because I didn't trust him.

3 Q So you indicated that you developed a -- both a romantic and a
4 sexual relationship with the defendant.

5 A Yes.

6 Q You were living at that address. Where was he living when the
7 relationship started?

8 A His parents' house.

9 Q Is that also here in Vegas?

10 A Yes.

11 Q Would he ever spend the night with you?

12 A Yes.

13 Q Would he spend more than one night a week with you?

14 A Sometimes a few, actually three or four at a time.

15 Q So kind of during December and into the beginning of 2017,
16 could you describe for us, kind of, what the living situation was between
17 yourself and the defendant?

18 A It was -- sometimes he was at this parents' house, sometimes
19 he was at my house. For the first couple months our relationship was
20 actually good.

21 Q Did the defendant bring all of his furniture and all his clothing
22 and everything else that he had and kind of move them in?

23 A No. He only ever brought clothes and then his, like, hygiene
24 items.

25 Q Dishes?

1 A Nope.

2 Q Cutlery?

3 A No.

4 Q I see you shaking your head "no." Is that a no?

5 A No. Sorry.

6 Q You said that he would bring clothing over, I mean, was it his
7 whole wardrobe or what was it?

8 A Just a few things at a time, he never really had a wardrobe.

9 Q Now, you said that for the first several months of the
10 relationship things were good and that you were, at least at that point in
11 time, dating the defendant. Did the relationship move beyond simply
12 dating?

13 A Yeah. We were in a serious relationship.

14 Q At any point did the defendant propose to you?

15 A He asked me to marry him. It wasn't like nothing romantic. He
16 didn't get down on one knee or anything, but he did ask.

17 Q What did you say?

18 A I said yes.

19 Q Did you think you would get married?

20 A At the time I thought I was.

21 Q And now, approximately when was that?

22 A It was, like, February or March time frame. I know it was after
23 Valentine's Day.

24 Q Of 2017?

25 A Correct.

1 Q You said earlier that kind of the first few months were good
2 within the relationship, should I take that to mean that --

3 A Like, February, March.

4 Q So should I take that kind of statement to mean that it didn't
5 remain peachy? I see you're shaking your head no.

6 A No. Sorry.

7 Q And I don't mean to, you know, kind of be mean about that, just
8 making sure that we have, you know, all your answers in the record,
9 okay?

10 A I understand.

11 Q About what time frame did the relationship deteriorate?

12 A It was, like, the beginning of March time frame.

13 Q Shortly after the proposal?

14 A Yeah.

15 Q Was the defendant still spending some days with you some
16 days away from you?

17 A Correct.

18 Q Did you want him to move in full-time?

19 A No.

20 Q Did you ask him to move in full-time?

21 A Did I ask him? No.

22 Q Did he ever ask you if he could move in full-time?

23 A More than one occasion, yes.

24 Q And what was your answer?

25 A No.

1 Q I'd like to draw your attention to May 28th, 2017, did anything in
2 particular happen that day that brings you here today?

3 A I remember bits and pieces of that day, like I stated before. I
4 know that we were fighting a lot. At first it was just yelling and arguing. At
5 one point he tried to stop me from leaving my apartment. He had hit me
6 several times. He threw a -- it was, like, a air freshener can at my face. I
7 had a lot of bruises. I ended up calling the police and they came.

8 Q Now, you gave us kind of a big picture to look at, I want to kind
9 of look at it in smaller pieces, if you don't mind. The morning of that
10 particular day, do you remember if Trandon was home or if he was away
11 from the apartment?

12 A I know that he had left for a while, then he came back.

13 Q And when he was coming back, do you remember if he was
14 asking anything of you?

15 A There was a couple things.

16 Q Do you remember the defendant asking you to leave the
17 apartment?

18 A Yeah.

19 MS. MCNEILL: Objection. Leading.

20 THE COURT: Sustained, so --

21 MR. ROSE: I'll rephrase.

22 THE COURT: Yes.

23 BY MR. ROSE:

24 Q You said that there were a couple of things the defendant was
25 asking you. What were those things?

1 A He wanted to bring a girl over and I said I don't feel comfortable
2 with that. He goes, You need to leave. I ended up taking my duffle bag
3 and going to my aunt's house that day, during the day, and I came back
4 later.

5 Q You said that there's a duffle bag.

6 A It was an Adidas, pink and blue duffle bag that I had.

7 Q Light blue? Dark blue? How would you describe it?

8 A Dark blue, hot pink.

9 Q So you said that the defendant asked to bring another woman
10 over to the home. Were you two still engaged at that point?

11 A I thought we were, yes.

12 Q What did you initially say when the defendant asked you that?

13 A I remember I was cussing at him a lot saying, I don't want to
14 fucking do that.

15 Q And how did the defendant react when you told him no?

16 A He was extremely mad.

17 Q Now, you stated earlier that the defendant hit you, did that
18 happen before or after you told him no?

19 A After.

20 Q And do you remember where he hit you?

21 A I remember he hit me once on my leg, he hit me on my arm,
22 and he hit me in my face.

23 Q Are we talking open-hand slaps? Closed-fist punches? Can
24 you describe for us kind of as best you can remember?

25 A It was a mixture of both, mainly it was punches. I had bruises

1 all over my body.

2 Q Now, you also mentioned something about throwing an aerosol
3 can.

4 A It was at my cheek. I think it was my left cheek if I remember
5 right.

6 Q Do you remember what that was a can of?

7 A It was, like, a air freshener can.

8 Q Like a Febreze thing?

9 A Yeah, but it was, like, a metal one.

10 Q Okay.

11 A It was hard enough to really hurt, leave a bruise on me, and it
12 pissed me off. I remember being really upset, cussing, crying, yelling,
13 telling him to get the fuck out, to leave me the fuck alone. And I said, If
14 you don't go away, I'm really going to call the police this time again.

15 Q I want to kind of stop you there because you mentioned that you
16 had an injury to your leg --

17 A My leg.

18 Q -- something to your arm, something to your face. Do you
19 remember having injuries to other body parts?

20 A On that day, there was one on, like, I'm trying to remember,
21 there were two incidences that were major, one was like right here on my
22 hand.

23 Q Okay. And just for the record, you're kind of pointing to --

24 A Yeah.

25 Q -- between the thumb and the forefinger of your left hand?

1 A Yeah.

2 Q Now, you indicated that you had called -- that you had told the
3 defendant that you would call the police, did you actually call the police
4 that day?

5 A I did.

6 Q Did the police arrive?

7 A They did.

8 Q When the police arrived was the defendant still there?

9 A At the time he was there and he left and they actually went to
10 look for him.

11 Q Did you speak with them?

12 A For a little bit, yes.

13 Q Did you kind of tell them what happened? I see you nodding --

14 A Yes. Yes.

15 Q Okay. Do you remember if they took pictures?

16 A They took pictures and they had me fill out a statement and
17 they gave me this blue-card-type-thing.

18 MR. ROSE: Your Honor, may I approach your clerk?

19 THE COURT: Yes.

20 MR. ROSE: Permission to publish, Your Honor?

21 THE COURT: Yes. So they've been admitted by stipulation, so
22 you can publish.

23 MR. ROSE: Thank you, Your Honor.

24 BY MR. ROSE:

25 Q Samantha, off to your right there is that monitor. Whatever I put

1 up here you'll be able to see on that, okay?

2 A Okay.

3 Q If you can't see it, just let me know and I'll adjust this.

4 A Okay.

5 Q So I'll publish first what's been admitted by way of stipulation as
6 State's Exhibit 103. Do you recognize what we're looking at there?

7 A Yeah. This was my old apartment and that was me after
8 Trandon had hit me numerous times and threw the air freshener can at
9 my cheek.

10 Q So is this --

11 A Police took it.

12 Q -- one of the pictures that was taken on May 28th, 2017?

13 A Correct. Yes.

14 Q And you mentioned you got an injury to your hand. Showing
15 you what's been admitted by stipulation as State's 104, is that what we're
16 looking at?

17 A Correct.

18 Q And -- I apologize, I'm trying to get better clarification. There.

19 Samantha, do you ever watch football? Have you ever seen
20 where they can kind of draw on the screens? Okay, I see you nodding
21 your head "yes."

22 A Yes.

23 Q On that screen there, actually, you can use your finger and kind
24 of trace on it, and it will show up on the other monitors so everybody else
25 can see it. Could you circle with your finger, kind of, the injury to your

1 hand that you were noting for us.

2 A [Witness complies]

3 I'm not the best at that.

4 Q Yeah, they're difficult.

5 Looking at State's 105, is that your leg?

6 A Yeah.

7 Q And if we look down, kind of, on the shin portion, the lower shin
8 portion of your leg, is that one of the injuries that you were speaking of?

9 A Yeah. There's, like, three in here. One's on my knee and then
10 one's at the lower end. Do you want me to just circle it too?

11 Q If you can.

12 A [Witness complies]

13 Q Don't worry, we'll take care of that.

14 State's 106, is that your cheek from that night?

15 A Yes.

16 Q I know the color's a little bit washed out here, but can you see
17 there some of the -- the color that you were talking about?

18 A Yeah. It's -- it goes up, like, there.

19 Q Samantha, I know this can be difficult, but I'm going to ask you
20 to try and keep your voice up if you can, just to make sure that we can get
21 a good recording of everything. Okay?

22 A Okay.

23 Q If you need to, you can just slide the mic a little bit towards you
24 too.

25 So the police came out and they took those photographs and

1 you've indicated that the defendant was initially there and left before the
2 police arrived?

3 A Yes.

4 Q After that day, was it fair to say that the relationship, your
5 relationship with Trandon didn't necessarily improve?

6 A I wanted it to end. I kept stating several times that I wanted it to
7 end, that I don't want to be with him. I kept telling him to leave, not to
8 come back. I don't want to be with him anymore.

9 Q At least at that point in time, did the defendant have a key to the
10 apartment?

11 A At that time, no.

12 Q Eventually does the defendant get a key to your apartment?

13 A Yes.

14 Q Do you do anything as a result of him getting a key to your
15 apartment?

16 A I told him, Give me back my keys now. He took 'em. He had
17 had 'em for about two, three weeks.

18 Q And --

19 A I kept saying, Give me back my fucking keys. I kept yelling at
20 him for it and he just would not do it. He also at the time had my debit
21 card, a EBT card.

22 Q Now, with respect to the keys themselves --

23 A Uh-huh.

24 Q -- you said that he had the keys and he wouldn't give them back
25 to you. Did you do anything as a result of him having those keys?

1 A I remember yelling at him a lot to get 'em back and that's about
2 it.

3 Q Do you know somebody by the name of Leroy Denten?

4 A Yes. Well, I knew of him, yes.

5 Q And you said you knew of him, how is it that you came to know
6 Leroy?

7 A I put out a message on Facebook about I need to change my
8 locks now, and a friend of mine, Christine had answered it and said that
9 she knew a guy that could change my locks for me.

10 Q And was that guy Leroy?

11 A Yes.

12 Q Had you ever met Leroy before?

13 A No.

14 Q Do you get in contact with Leroy?

15 A Yes.

16 Q What do you have Leroy do?

17 A I have him come to my apartment when Trandon was gone to
18 change my locks for me.

19 Q Did he actually do it?

20 A Yes.

21 Q Were you there at the time?

22 A Yes.

23 Q Did you kind of fill him in on what was going on?

24 A Bits and pieces, not a lot.

25 Q Did he ask you for money in exchange?

1 A No.

2 Q Do you remember approximately when you had Leroy change
3 the locks to your apartment?

4 A This was, like, the beginning of June. It was right after this
5 incident, I know that.

6 Q I kind of want to draw your attention now to June 17th and 18th.
7 At that point in time were you still living at 2686 Jennydiane?

8 A Yes.

9 Q That same apartment?

10 A Yes.

11 Q Let's go to June 17th, was the defendant at the apartment that
12 day?

13 A That night, yeah, not during the day.

14 Q Okay. At night, do you remember approximately when at night?

15 A He started messaging me around, like, 10:00 o'clock.

16 Q And what were the messages in reference to?

17 A There were several times that he said, Let me in, I need in, let
18 me in now. It went on for hours.

19 Q You say it went on for hours, it started at least at 10:00 o'clock,
20 did it extend into the morning?

21 A Yes.

22 Q June 18th?

23 A Yes.

24 THE COURT: When you say 10:00 o'clock are you saying
25 10:00 at night?

1 THE WITNESS: 10:00 p.m.

2 THE COURT: Thank you.

3 MR. ROSE: Thank you, Your Honor.

4 BY MR. ROSE:

5 Q You say it went into the morning hours of June 18th, do you
6 remember when you were getting messages from the defendant during --

7 A It was all night long between that time frame, like, there was no
8 time that he really stopped. I tried to go to sleep. I was asleep for a few
9 hours. I woke up and my phone was still blown up. He was trying to call
10 me, video chat me, message me to let him in. He kept saying that he was
11 hungry, he's tired, he needed clothes, he needed water, he needed to eat,
12 let him in, and he just wouldn't stop.

13 Q And those messages, kind of, you said you went to sleep, woke
14 up, and you had a lot of messages on your phone, do you remember
15 approximately when that was?

16 A It was, like, 10:00, 11:00 a.m., the morning of the 18th. I was
17 sleeping on the couch that night because I was in fear for my life.

18 Q Do you remember responding to messages at 3:00 in the
19 morning?

20 A Yes.

21 Q At 4:00 in the morning?

22 A Yeah, that's safe to say it was all night.

23 Q So all the way up through 10:00 or 11:00 a.m.?

24 A Yeah.

25 Q So you said that the defendant was consistently asking you to

1 let him in, what was your response?

2 A Go away, get out of here, I don't want you in. Leave me the
3 fuck alone. Go to your parents' house. Get away from here. Leave me
4 alone. I just kept saying that over and over again.

5 Q Did the defendant go away?

6 A No. He kept pounding on my windows, on my doors, texting
7 me, calling me, acting really crazy. He would not leave me alone.

8 Q You said that he kind of -- the messages ended around 10:00 or
9 11:00 a.m. What happened at or around 10:00 or 11:00 a.m.?

10 A He broke in through my daughter's window.

11 Q Now, you said earlier that the -- you remember, that the
12 apartment was kind of downstairs, this apartment building, was it one
13 story or two stories? Three stories?

14 A It was two stories.

15 Q By downstairs do you mean you were on the first floor?

16 A Yes.

17 Q You said that the defendant broke in through your daughter's
18 window; is that Riley's window?

19 A Yes.

20 Q No other kiddos at the time living there?

21 A No.

22 Q How do you find out the defendant is inside of the home?

23 A He had my daughter and at the time I was on the couch and he
24 had brought her and walked into the living room where I was at.

25 Q Were you expecting to see him?

1 A No.

2 Q What went through your --

3 A I knew it was only a matter of time, but --

4 Q What went through your mind when you saw him there with
5 your daughter?

6 A All I kept saying is -- all I kept thinking was he was going to hurt
7 me and my child.

8 Q Was he saying anything to you?

9 A For a while he just stood there and looked at me. It was almost
10 like something took him over, he was -- he looked crazy and he was just
11 staring at me, nothing was even said for a while.

12 Q He was in the building, you said for a while, did you say
13 anything?

14 A I was the one that originally, after time I had passed, I said, Do
15 you want something.

16 Q And you --

17 A I said it kind of smart ass, like, why are you here, do you need
18 anything.

19 Q How did he respond?

20 A He told Riley to sit down on the couch, which she did, and he
21 said, We need to talk, and him and I went into the bedroom.

22 Q Now, when you say the bedroom, is it your bedroom?

23 A Yes.

24 Q How many bedrooms are there? I know you mentioned there
25 was Riley's and there's yours --

1 A There's Riley's and mine.

2 Q No other bedrooms?

3 A No.

4 Q When the two of you go into your bedroom, what do you talk
5 about?

6 A Why I wouldn't open the door, why I wouldn't let him in. He
7 insisted to say that we are going to be in a relationship, we are going to
8 work this out. I kept saying I don't want to be with him and it went from
9 talking to we were both yelling, we were both cussing at each other. And
10 it went on for a long time.

11 Q Now, Samantha, you mentioned that the first thing that ran
12 through your mind when you saw him there was that you were worried he
13 was going to harm you and your daughter. Did you have your cellphone
14 with you at that point?

15 A On the couch, yeah.

16 Q Is it fair to say you did not call the police?

17 A Very fair, yes.

18 Q Is one reason you didn't call the police because that fact --

19 MS. MCNEILL: Objection. Leading.

20 THE COURT: Sustained.

21 BY MR. ROSE:

22 Q Why didn't you call the police?

23 A Because I had before and they didn't do anything.

24 THE COURT: Because? I'm sorry, I didn't hear you.

25 THE WITNESS: He was never -- they didn't do anything, he

1 was never found. He kept running back to his parents' house and they
2 couldn't find him. So at that time I felt like if they haven't done anything in
3 past, they're not going to do it now. My -- I -- it would be fair to say my
4 trust in the legal system was shot at that point. I didn't -- I didn't believe
5 there was help out there for me and my child.

6 BY MR. ROSE:

7 Q So now, you and Trandon are in your bedroom?

8 A Yes.

9 Q Where is Riley at that point?

10 A In the living room -- on the couch watching cartoons.

11 Q How long does the argument between you and Trandon last?

12 A At this time I don't have my cellphone, so I can't tell you. All I
13 know was it felt like hours.

14 Q You said that you didn't have your cellphone.

15 A He took my phone from me.

16 Q Where did your cellphone go? And I apologize, I didn't mean
17 to speak over you, could you say that one more time?

18 A He took my phone from me and wouldn't give it back. I
19 remember saying countless times, Give me my phone, give it back to me.
20 And he had took it and he wouldn't give it back.

21 Q When did he actually take the phone?

22 A Between the time we went from the couch into the bedroom.

23 Q Was there something that caused him to take the phone from
24 you?

25 A He thought I was going to call 9-1-1.

1 Q Why would he think you were going to call 9-1-1?

2 A Because I had in the past.

3 Q Did you tell him that you were going to call 9-1-1?

4 A I said I'm going to call the police if you don't get the fuck out of
5 here.

6 Q And as a response to that you're saying he took the phone from
7 you?

8 A Yeah.

9 Q You said that it felt like hours when you two were arguing in
10 your bedroom. Where was Riley?

11 A The whole time she was out in the living room on the couch.
12 The cartoons were loud and she was just out there the whole time.

13 Q Did she ever come into the bedroom?

14 A On several occasions, yeah.

15 Q Was she in the bedroom for long each time?

16 A No. It was just long enough to say I'm hungry, I'm thirsty, can
17 you change the TV. It was stuff like that and every time, Trandon was
18 like, Go in the -- go in the living room, Riley, sit on the couch; I'm talking to
19 your mom; get out of here. And every time I was like, Riley, mom's okay,
20 go in the living room.

21 Q You said the defendant would tell her, Go sit down on the
22 couch, I'm talking to your mom. Could you describe for us the tone of
23 voice he was using with Riley.

24 A He was really loud, yelling at her is the best way to describe it.
25 And

1 one -- he said a couple times, Riley, get the fuck out; go in the living room.
2 He just didn't want her in there.

3 Q When Trandon came into the house that day and you saw him
4 for the first time do you remember what he was wearing?

5 A Yeah, I remember it like yesterday. From the time he got there
6 to the time he left, he -- when he first got there he had on, like, jeans and
7 a shirt, just regular t-shirt.

8 Q Okay. And then was he wearing that the entire time?

9 A No. At some point after the whole day had passed, I'm sure
10 we'll get there, he had changed into, like, shorts and a long-sleeved white
11 shirt.

12 Q When he first came into the house did he have anything on his
13 hands?

14 A On his hands? Not that I remember, no.

15 Q At any time during the day do you remember if the defendant
16 had anything on his hands?

17 A No. He had a ring at one point, and then there was, like, his
18 phone and stuff, but I can't remember what else.

19 Q Okay.

20 MR. ROSE: May I approach your clerk, Judge?

21 THE COURT: Yeah.

22 BY MR. ROSE:

23 Q Had you ever seen the defendant wearing gloves?

24 A Yes.

25 Q What kind of gloves are we talking about?

Appellant's Appendix

Volume 4

Index of Appellant's Appendix

Court minutes of 07/17/2017	p. 7, 8
Findings of Fact, Conclusions of Law and Order	p. 1293-1296
Information.....	p. 1-6
Judgment of Conviction.....	p. 1277-1279
Notice of Appeal.....	p. 1300-1362
Notice of Entry of Findings of Fact, Conclusions of Law.....	p. 1296-1299
Order for Petition for Writ of Habeas Corpus.....	p. 1292
Petition for Writ of Habeas Corpus (Post Conviction).....	p. 1280-1291
Recorder's Transcript of Proceedings: Jury Trial – Day 1.....	p. 9- 160
Recorder's Transcript of Proceedings: Jury Trial – Day 2.....	p. 161-407
Recorder's Transcript of Proceedings: Jury Trial – Day 3.....	p. 408-702
Recorder's Transcript of Proceedings: Jury Trial – Day 4.....	p. 703-910
Recorder's Transcript of Proceedings: Jury Trial – Day 5.....	p. 911-1158
Recorder's Transcript of Proceedings: Jury Trial – Day 6.....	p. 1159-1271
Recorder's Transcript of Proceedings: Jury Trial – Day 7.....	p. 1272-1276

1 A Like, household gloves, like, I wouldn't say elastic, but, like,
2 cotton maybe, just --

3 Q Are they the kinds of gloves that, like, surgeons would wear or
4 that, like, mechanics would wear?

5 A In between that, almost like gardening gloves. I think.

6 MR. ROSE: Permission to publish some of the stipulated
7 exhibits, Your Honor.

8 THE COURT: Go ahead.

9 BY MR. ROSE:

10 Q First, Samantha, showing you State's Exhibit 1, do you
11 recognize that?

12 A Yeah, that's my old apartment.

13 Q Fair -- you say that's your old apartment, fair to say you're not
14 living there anymore?

15 A After this I left.

16 Q Showing you State's Exhibit 4, what are we looking at there?

17 A This would be the living room. This is the couch my daughter
18 was on all day. The kitchen's, like, this way and leaking air vent and my
19 bedroom's that way.

20 Q Now, is that also the couch you said that you were sleeping on?

21 A Yes.

22 Q That morning?

23 A Trying to.

24 Q Looking State's Exhibit 5, what are we looking at there?

25 A That would be the entrance to my bedroom.

1 Q Now, you mentioned earlier, kind of, a blue and pink duffle bag.
2 Do you see that in this particular photo?

3 A Yes.

4 Q Could you circle that for us?

5 A [Witness complies]

6 Q Looking at State's 6, what are we looking at there?

7 A That would be my bedroom, my bed, my dresser, and two
8 nightstands.

9 Q Is it fair to say that that's how your room looked at least at the
10 end of the day on the 18th?

11 A It's fair. I don't even remember looking at how it looked
12 because I was too shaken up at the time. But if I had to guess, then,
13 yes.

14 Q You can look at State's 25, what are we looking at in this
15 photograph?

16 A In this photograph you see my dresser and my hygiene stuff, a
17 couple of Trandon's hygiene things, and then right here are the gloves
18 that he was wearing that day.

19 Q Kind of right in the center of the --

20 A Yeah.

21 Q -- the photograph?

22 Do you remember when he put the gloves on?

23 A After he was already inside, it was when we were in the
24 bedroom. I can't remember an exact time for you, but --

25 Q Okay. So the exact --

1 A We were already fighting, I know that.

2 Q Okay. What did he do after he put the gloves on?

3 A I remember him hitting me. I remember he grabbed a piece of
4 wood that was off the door. It was, like, the side and was holding the
5 wood and that's what he kept hitting me with.

6 Q You said it was off the door, was it actually a piece of the door
7 or the door frame or what do you mean by that?

8 A It was -- it was, like, the door frame, the thing that goes around
9 the outside of a door.

10 Q Now, do you remember what that stick was made of?

11 A It was wood.

12 Q About how long was it?

13 A It was longer than me and he had broke it in half.

14 Q Now, you stated that he hit you with it. Where did he hit you?

15 A Several times, several places, he had hit me in the arm; he hit
16 me in the leg; he hit me in the stomach; he hit me in the head. The main
17 place he hit me was right here.

18 Q Okay. You're indicating kind of the upper, left portion of your
19 head?

20 A Side of my head. Yeah.

21 Q Okay. Looking at State's 15.

22 MS. MCNEILL: And, I'm sorry, was it the left side?

23 THE COURT: Is that correct, ma'am?

24 THE WITNESS: I'm pretty sure, if I remember, yeah.

25

1 BY MR. ROSE:

2 Q Looking at State's 15, what are we looking at there?

3 A That's part of it that he broke, the piece of wood from the door.

4 Q Now, did you say that it broke once or more than once?

5 A It was more than once. I remember though --

6 Q Do you remember how many --

7 A -- there was one big time that he actually, like, broke it in the
8 middle though. That's just part of it.

9 Q Okay. Do you remember how many pieces it was in?

10 A I think it was in three.

11 Q Looking at State's 19, are those the other two pieces?

12 A Correct, yes.

13 Q Now, because we can't really see right here in State's 19, do
14 you remember where those two pieces were actually found? What room
15 is that in?

16 A This was in my bedroom, yeah.

17 Q Actually, if I show you State's 18, does that make it a little bit
18 clearer?

19 A Yeah.

20 Q Okay. And, again, because the, kind of, the lighting on the
21 screen isn't that great, can you circle for us where those two pieces are?

22 A [Witness complies]

23 Q Kind of right next to the trash can?

24 A Yeah.

25 Q Is the defendant saying anything to you as he's hitting you with

1 that piece of wood?

2 A I remember him saying a lot of things. There's two that stand
3 out more than anything. The only way you and your daughter are getting
4 out of here today is doing it in body bags, was one.

5 Q And what was the other one?

6 A You were raped as a small child, let me show you how it should
7 have been done.

8 Q Do you need to take a break or are you okay to keep going?

9 A Can I take a break and go to the bathroom?

10 MR. ROSE: Can we take a short recess, Your Honor?

11 THE COURT: All right, folks, let's -- you know what, why don't
12 we just --

13 MR. ROSE: Or do you want to do a lunch recess?

14 THE COURT: -- go ahead and take a lunch break. So we'll
15 break 'til 1:15.

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

23 We'll see you back at 1:15.

24 THE MARSHAL: All rise. Court is now in recess.

25 [Recess at 12:05 p.m.; proceedings resumed at 1:21 p.m.]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

[Outside the presence of the jury]

THE MARSHAL: All rise. District Court Department 6 is now in session.

Please be seated. Come to order.

THE COURT: Just a reminder, we are scheduled to start at 10:00 tomorrow.

MS. LUZAICH: Yes.

MR. ROSE: Yes, Your Honor.

One quick thing before we bring the jury in. Ms. Weston testified on direct earlier that she thought she had done a hand written statement after the May 28th event. After she mentioned that, defense counsel asked me if I had a copy of that statement.

THE COURT: Yes.

MR. ROSE: I don't believe that statement actually exists. It's not mentioned anywhere in the report and it's not anywhere in OnBase under that event number. We've looked for that. We cannot find it. We don't -- we -- personally, I just think she's mistaken about that portion of it. But we don't have it and I know also that defense does not have it and that's why I indicated to her that I think she --

THE COURT: And the investigating officers have been questioned?

MR. ROSE: Correct.

THE COURT: And don't have it?

MR. ROSE: They don't -- they've got nothing about it. In the incident report it will list out all of the documentation that they have. It'll

1 list out the incident report. It'll list out the victim information guide that
2 they gave her, all of those things. It does not include a written voluntary.

3 THE COURT: Okay. So that's fine. So I understand you've
4 made the efforts to find one and disclose it. I suppose she could ask her
5 about it and do what you will.

6 MS. MCNEILL: Yeah. I mean, yeah, I know sometimes they
7 think they've done it or it could have been something else. I just wanted
8 to make sure it wasn't something I was missing.

9 THE COURT: Yeah.

10 MS. MCNEILL: We did do a file review and I know he's been
11 giving me stuff, so.

12 THE COURT: Yeah. Okay. All right. So let me ask this, in
13 terms of schedule how we're doing. Obviously we need to finish up, I'm
14 assuming she's the longest witness.

15 MS. LUZAICH: Yeah. Absolutely.

16 MR. ROSE: Yes.

17 THE COURT: I could be mistaken.

18 MR. ROSE: No, no, I think she's by far the longest witness.
19 We have several other witnesses lined up for today who will be in today.
20 A couple that I got overly ambitious and had them come in today, I told
21 them, hey, come back tomorrow probably. I still believe that the State will
22 be able to rest its case-in-chief tomorrow.

23 MS. LUZAICH: Agree.

24 MS. MCNEILL: Okay.

25 THE COURT: Great.

1 MS. MCNEILL: Tomorrow's Friday.

2 MR. ROSE: And everybody's over there laughing at me again.

3 MS. MCNEILL: Okay. My witness, I potentially have two and

4 they're short.

5 THE COURT: Okay.

6 MS. MCNEILL: So I imagine we can close Monday.

7 MS. LUZAICH: Yeah.

8 THE COURT: Okay. Great.

9 MS. LUZAICH: Which is what I said from the beginning.

10 THE COURT: It is what you said from the beginning.

11 MS. LUZAICH: I thought we were going to close Monday.

12 MS. MCNEILL: You did.

13 THE COURT: And I'm reminding you again, I'm hoping to be

14 able to not be here Tuesday afternoon.

15 MS. MCNEILL: Yeah. I will call my witnesses tonight and make

16 sure they can be here Monday and we'll go from there.

17 THE COURT: Okay. Great.

18 MS. LUZAICH: And Monday, when would you start, Judge?

19 Ish?

20 THE COURT: Monday, probably like 11:00. Sorry.

21 MS. LUZAICH: Sure.

22 THE COURT: So we may be, like, if there's a couple short

23 witnesses maybe doing those, take a lunch break, and then argument.

24 We'll have to figure out when to talk about instructions.

25 MS. MCNEILL: Right.

1 MR. ROSE: And when did --

2 THE COURT: Possibly we would do instructions Monday
3 morning and then finish up Monday afternoon.

4 MS. MCNEILL: Sure.

5 MR. ROSE: That's fine.

6 MS. LUZAICH: Now, do you have -- have you looked at ours?
7 Do you have an issue with ours?

8 MS. MCNEILL: I did look at yours and I don't think I do. I didn't
9 set anything --

10 MR. ROSE: With the instructions --

11 MS. LUZAICH: I mean, they're pretty standard.

12 MR. ROSE: -- there are actually a couple of instructions I forgot
13 to put in there, specifically the Mendoza instruction with regard to the
14 kidnapping and the sexual assault.

15 THE COURT: Right. Okay.

16 MR. ROSE: I just forgot to include those.

17 THE COURT: Yes.

18 MR. ROSE: But I will send those over tonight.

19 THE COURT: Okay. Okay.

20 MR. ROSE: To counsel and the Court.

21 THE COURT: Okay. Thank you.

22 MS. MCNEILL: What time do you think you'll finish tomorrow?
23 Would we have time to do instructions maybe tomorrow and that way
24 we're ready Monday?

25 THE COURT: I mean, if we're -- if we finish the witnesses

1 earlier in the afternoon.

2 MS. LUZAICH: Early.

3 MS. MCNEILL: Yeah, and we --

4 THE COURT: I wouldn't be opposed to doing that. We just
5 have to see.

6 MS. LUZAICH: I am going to ask the Court to finish at 4:15
7 tomorrow. I have to pretrial a murder victim family at 4:30. Judge
8 Herndon ordered us so that we can make an offer. You know the whole
9 murder thing.

10 THE COURT: Yes.

11 MS. LUZAICH: So they wanted to come in, like, earlier in the
12 week, and I was like, you know what, Friday at 4:30 because I kind of
13 thought that we would rest around 3:00. I think we'll be close to that, but I
14 am going to ask, if you don't mind, to quit at 4:15.

15 THE COURT: Okay. That's okay with me to end early on
16 Friday.

17 MS. LUZAICH: Thank you.

18 THE COURT: But obviously, we'll just have to -- I guess we'll
19 see where we are tomorrow and we'll work out when we're going to get to
20 talk about instructions as long as I have everything and it sounds like, you
21 know, there may not be a whole lot of --

22 MS. LUZAICH: Argument.

23 THE COURT: -- areas of dispute.

24 All right. So, yeah, let's go ahead and get the jurors.

25 THE MARSHAL: Please rise.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

[In the presence of the jury]

THE MARSHAL: Please be seated. Come to order.

THE COURT: All right. Do counsel stipulate to the presence of the jury?

MS. MCNEILL: Yes.

MR. ROSE: We do, Your Honor.

MS. MCNEILL: Yes, Your Honor.

THE COURT: Great. Let's go ahead and get the witness.
Go ahead and have a seat.

Okay. All right, Mr. Rose, you may continue.

MR. ROSE: Thank you, Your Honor.

BY MR. ROSE:

Q Hi, Samantha. So I think before we broke for lunch we were kind of talking about some of what was being said during the argument between yourself and Trandon in the bedroom. I know you -- before we broke for lunch, also, you mentioned that, you know, there were a number of instances where Riley would come into the bedroom before being sent back out.

A Yes.

Q And did you testify earlier that during those instances Trandon would tell her that she needed to go back out to the living room?

A Yes.

Q Was there ever an instance where Trandon did more than just tell her?

A Yes.

1 Q What happened?

2 A There was one time where, I guess you would say, he got sick
3 of her coming in the room. And he had took scissors to her neck and put
4 them in her throat.

5 Q Is he saying anything to her when he puts those scissors to her
6 neck?

7 A He told her that he was going to kill me and kill her.

8 Q Now, what kind of scissors are we talking about?

9 A They were, like, I forget what you call them, but, like, kitchen
10 scissors that you would have in the knife-set-thing, whatever those are
11 called, it was like cutting scissors.

12 Q And showing you what's been admitted by way of stipulation,
13 State's Exhibit 30, what are we looking at there?

14 A Those are the scissors Trandon used on my daughter.

15 Q Would you agree with me that in that photograph they're resting
16 on some flat wooden surface?

17 A Yes.

18 Q What is that?

19 A That was one of the tables.

20 Q Okay. And what room was that table in?

21 A That was in my bedroom.

22 Q So is that, like, a full-sized table, like one you'd eat at? Or is it
23 smaller?

24 A It was like a nightstand.

25 Q Okay. And looking at State's 31, is that just a closer view of

1 those scissors? Okay. I see you nodding your head.

2 A Yes.

3 Q Okay. You indicated that the defendant put those scissors to

4 your daughter's throat. Did he cut her with them?

5 A Well, to her neck, he never cut her. He put them right here and

6 then in her mouth.

7 Q Okay. Did he reach it --

8 A It was like a scare tactic thing.

9 Q Okay. You said right here, you kind of touched on the --

10 A Side of her neck.

11 Q -- right-hand side of the neck?

12 A Yeah.

13 Q Okay. You said that he put them in her mouth?

14 Okay. You're shaking your head --

15 A Yes.

16 Q -- "yes" again.

17 Were the scissors opened or closed?

18 A There was -- at first they were closed and then he ended up

19 opening them.

20 Q How did Riley react to that?

21 A She was still most of the time. You could tell she was scared

22 because nobody had ever done something like that to her.

23 Q What was running through your head?

24 A I thought he was going to use them on her because he had

25 already said how he was going to kill us and we -- the only way we'd get

1 out of there is doing it in body bags by that time. So that's what I was
2 really thinking.

3 Q Did you ever try to leave the house?

4 A More than one occasion.

5 Q And when, during the day, were these times that you tried to
6 leave the house?

7 A Several times when she would come into the bedroom, I would
8 tell her to go out her window. There was one incident where I told her to
9 go out my window. And every time she tried to jump out the window,
10 Trandon would tell her, Get the fuck back in here, if you don't I'm going to
11 kill your mom.

12 Q What about you, did you ever try to leave?

13 A I tried to leave out the front door and he stopped me.

14 Q And how did he stop you?

15 A He pushed the door and he said, You're not getting out of here,
16 the front door.

17 Q How many doors are there to your apartment?

18 A There's just the front door and then there's the two bedrooms
19 doors and the bathroom door.

20 Q Okay. And those two bedroom doors and the bathroom door,
21 do those ones lead outside?

22 A No.

23 Q Okay. So they're all internal doors?

24 A Uh-huh.

25 THE COURT: "Yes"?

1 THE WITNESS: Yes.

2 BY MR. ROSE:

3 Q Is that a "yes"? Okay. And again, we're not trying to pick on
4 you, just make sure we've got a clear record.

5 A Okay.

6 Q So you said there's a front door. Is that the only door that leads
7 inside and outside the apartment?

8 A Yes.

9 Q Now, we've kind of talked about the defendant hitting you with
10 that kind of wooden stick that we looked at earlier, we talked about kind of
11 his interactions with Riley throughout the day and the scissors. Was there
12 anything else that happened between you and Trandon that day?

13 A There was a few more things, like I said, this was hours. At one
14 point we had went past talking and yelling at each other and he sexually
15 assaulted me, forced me to have sex after I had already said no. He
16 raped me. And he also had cut me with a knife after that.

17 Q And I know this is going to be difficult to talk about, but we're
18 just going to kind of go through it one step at a time. You indicated that
19 you had told Trandon that you did not want to have sex with him. Who
20 brought up the topic of sex?

21 A Him.

22 Q By "him" you mean Trandon?

23 A Trandon.

24 Q How did he bring it up? What did he say?

25 A Let's fuck.

1 Q Did you want to?

2 A No.

3 Q What part of the day was the first time that he brought up sex?

4 A It was that night. I want to say it was, like, two hours before
5 police had got there. I know that it was already starting to get dark. I
6 don't know what time it is. We had no clock inside the apartment and he
7 had had my cell phone.

8 Q Okay.

9 A So if I had to guess, it would've been about 7:00 or 8:00 o'clock.

10 Q And what was your response when he said that to you?

11 A I said, No, I don't want to, I just want to get out of here, I want
12 you to let me and my daughter go.

13 Q How did he react to that?

14 A He was mad and he kept hitting me.

15 Q And as he's hitting you is he saying anything?

16 A We're going to fuck and you're just going to like it. And then he
17 had said a couple more things, but I can't remember what off the top of
18 my head.

19 Q Do you remember having a conversation with police about
20 these events?

21 A Yeah.

22 Q And you knew that that particular conversation was recorded?

23 A Correct.

24 Q Would looking at a transcript of that conversation refresh your
25 recollection as to some of the other things that were said?

1 A What? I can't --

2 Q I apologize.

3 A I thought you were going to show me something. Sorry.

4 Q It was a long -- oh, no, no, no. It was a long and bad question.
5 I apologize for that.

6 If I were to show you -- you just indicated that you can't quite
7 remember everything that was said during that time frame. If I were to
8 show you a copy of the transcript of your conversation with the detectives,
9 would that help you to remember some of the details of what was said?

10 A It might. Like I said, I know it was two days and there was lot
11 that was said. But I remember telling him more than once --

12 MS. MCNEILL: Your Honor, I'm going to object. There's no
13 question pending.

14 THE COURT: Sustained.

15 All right. Hold on and wait for a question, ma'am. Okay?

16 THE WITNESS: Okay.

17 MR. ROSE: Page 24, counsel.

18 MS. MCNEILL: Thank you.

19 MR. ROSE: Into 25.

20 May I approach the witness, Your Honor?

21 THE COURT: Yes.

22 BY MR. ROSE:

23 Q Samantha, I'm going to show you a portion of that transcript.
24 I'm going to ask you to read it only to yourself, not out loud. And when
25 you're done, just kind of take a look back up at me, okay?

1 A Read this whole thing?

2 Q Starting with the last paragraph here and then on to the middle
3 of this page.

4 A Okay.

5 Q Okay?

6 Have you had a chance to look at that?

7 A Yeah. Yes.

8 Q Does that help refresh your recollection of some of the specific
9 things that were being said at that time?

10 A Yes.

11 Q So could you tell us what some of the other things the
12 defendant was saying during this time period?

13 A That the pussy is his, he's going to take it. That I have no
14 choice, I'm going to give it up. I remember telling him that I didn't want to
15 have sex, he kept insisting and I kept saying, no, I don't want to. That's a
16 couple of 'em.

17 Q After you told the defendant that you didn't want to have sex,
18 did you just drop it?

19 A No.

20 Q You testified earlier that you -- the defendant sexually assaulted
21 you. Did he put a part of his body into a part of your body?

22 A Yes.

23 Q What part of his body?

24 A His dick inside my vagina and I did not want him to and I made
25 that very clear more than once.

1 Q When -- before that happened, were you clothed?

2 A Yes.

3 Q When the defendant was assaulting you did you still have all of
4 your clothes on?

5 A At first, yes.

6 Q You said "at first, yes," does that indicate that at some point
7 some of the clothing came off?

8 A Yes.

9 Q Do you remember what you were wearing?

10 A I remember I had on, like, Capri-jean-things and a t-shirt and a
11 bra.

12 Q And what happens to -- how do those clothes come off?

13 A He pushed me on to the bed. I kept saying no. He helped
14 me -- I had took my own pants off. He had helped me with my bra. And
15 then he, like, ripped my shirt off.

16 Q You said that you took your pants off, why did you do that?

17 A At that point I really just thought I wanted this to be over with
18 and I want to get out of here.

19 Q Had you already told him no at that point?

20 A Yeah, several times.

21 Q When the defendant is assaulting you, are you continuing to tell
22 him no?

23 A Most the time I was really quiet, just looking at a wall. But I did
24 tell him no a couple more times during, yes.

25 Q And what was his reaction to that?

1 A He didn't care. He was -- he just told me to shut up at one
2 point.

3 Q Not to be indelicate, but how did that result end?

4 A With me looking at a wall, crying and then he started to fall
5 asleep afterwards.

6 Q Again, not to be crude, but did the defendant ejaculate?

7 A Yes.

8 Q And where did that happen?

9 A It was, like, on the backside close to my ass.

10 Q Was a condom being used?

11 A No.

12 Q What happened after the assault?

13 A He started to fall asleep.

14 Q What did you do?

15 A I laid there until he started going to sleep, until I knew he was
16 almost asleep. At that time I had reached for my cell phone and he had
17 made a comment about you need to go take a bath.

18 Q So you said that you reached for the cell phone. Where was it?

19 A Nightstand on the side he was on.

20 Q Had it been laying there the whole time?

21 A Yes.

22 Q With him still in the room?

23 A Yes.

24 Q So you said that the defendant made a comment about going
25 and taking a bath, what did he tell you to do?

1 A He said, Go wash off any evidence.

2 Q What did you do?

3 A I went in the bath. I made sure that I didn't have no soap. I just
4 ran the water. I had got in there at that point, into the bath, and I had
5 texted somebody and I said, I was just assaulted, I need help. I forget
6 what all words I used because it just happened to me. I said, Call 9-1-1,
7 and that's what had happened at that point. He had walked into the
8 bathroom. I guess he came to check on me, asked me if my bath was
9 almost over. I said, Yeah, I'll come back in there soon and I got up, went
10 in there, and he had had a knife by the bed, and he had said, Let's start
11 with body parts, let's start with fingers, and he sliced my finger.

12 And then he saw blood was everywhere. I went back in the
13 bathroom, started washing off. I said, I'm just washing off my hand,
14 Trandon, don't freak out, I'm just washing it off. There's blood
15 everywhere. He said, Let me help you. He started putting pressure on it.
16 At that point I was just attended to my finger.

17 My daughter's still in the living room. He went, got dressed
18 some time when I was in the bathroom, went to go start making Top
19 Ramen and that's when I hear bangs on the door.

20 Q Okay. You just gave us a whole lot right there.

21 A Sorry.

22 Q No, it's okay. I just want to kind of break it down a little bit. You
23 said that you went into the bath and that while you were in the bath, that's
24 when you texted somebody. Who did you text?

25 A I texted a guy named Leroy. I had met him only one time prior

1 and he changed my locks.

2 Q Okay. So that was the guy that you testified about earlier?

3 A Earlier.

4 Q Okay.

5 A Yes.

6 Q Other than when he had changed the locks, had you ever met
7 him?

8 A No.

9 Q Okay. What did you do with that text message?

10 A I deleted it right away off my phone because I didn't want
11 Trandon to see it 'cause he was looking through my phone, which he's
12 done in the past.

13 Q Now, you said that you went back into the bedroom, was that
14 your bedroom or Riley's bedroom?

15 A My bedroom.

16 Q And when you were in the bedroom, did you put on clothes or
17 were you there still naked from the bath?

18 A I was, like, half-and-half naked, I was trying to get dressed.

19 Q Did you put on the same clothes or different clothes?

20 A I put on the same, I'm pretty sure.

21 Q Now, we're obviously about a year later.

22 A Yeah.

23 Q Is it fair to say that, kind of, parts of memory have faded over
24 time?

25 A It's very fair. I've tried to block out the last year of my life.

1 Q You said that while you were in the bedroom after the bath that
2 the defendant had a knife, what kind of knife are we talking about?

3 A It was, like, a army knife. It was, like, red and it had different
4 things attached, different things on it.

5 Q Okay. So you say it was like an army knife, are we talking kind
6 of, you know, one of the big ones, but, like, the blade is always out?

7 A No. It was a smaller knife.

8 Q Okay. You said there were multiple things on it, different things
9 can be pulled out of it?

10 A Yeah.

11 Q Where -- did you see where the defendant got that knife?

12 A No.

13 Q Okay. When you first see the knife, is there anything sticking
14 out of it or is it all closed up?

15 A It's all closed up.

16 Q What gets folded out of it?

17 A The, like, knife part with an actual blade.

18 Q And then --

19 THE COURT: What -- sorry, with a what blade?

20 THE WITNESS: A blade, like a regular blade.

21 BY MR. ROSE:

22 Q Do you remember about how long that blade was?

23 A I don't and I know it went by so fast, all I know is my finger was
24 sliced open.

25 Q Okay. And, now, you just said that your finger was sliced --

1 A It was a little knife, I know that.

2 Q Okay. You said that your finger was sliced open. Did you --
3 and I apologize if I missed this, did you testify earlier about anything that
4 was said prior to actually being cut?

5 A Yeah.

6 Q What did the defendant say prior to you actually being cut?

7 A Let's start with body parts, start with your finger.

8 Q Which finger got cut?

9 A It was this one on my left-hand side.

10 Q All right. So you're indicating your left index finger?

11 A Yes. Yes.

12 Q What part of the left index finger got cut?

13 A The whole entire nail, like, it was completely off when I was in
14 the hospital.

15 Q Now, when you were at the hospital did they treat your finger?

16 A Yes. It was --

17 Q What did they do?

18 A They had had to stop the bleeding. It was bleeding for more
19 than a couple hours. They put it in, like, this finger cast, had to wrap it up,
20 and it was like that for about a week and a half. They tried to get it to
21 stop.

22 Q And, I apologize, I was grabbing one of the photographs, what
23 happened to the actual nail itself?

24 A It was completely ripped off.

25 Q I'm going to show you what's been admitted by way of

1 stipulation as State's Exhibit 89. What are we looking at there?

2 A That was my finger from that night. It was -- this looks like it
3 was in the hospital when this picture was taken. It had already been
4 bleeding a good couple hours. It was black and it was completely not a
5 finger any more, I guess. The nail was all off at that point, besides the
6 end right here.

7 Q Now, obviously, it looks at least as if that kind of goes into the
8 top of the nail, did it actually go all the way through the nail?

9 A Yeah. It went, like, completely inside of my finger.

10 Q And you indicated that the entire nail was removed and you had
11 a kind of cast on it, how long was that cast on?

12 A About a week and a half.

13 Q And how long did it take for the nail to grow back?

14 A Months.

15 Q It might sound like --

16 A It took about six months.

17 Q It might sound like a silly question, but did that hurt?

18 A It hurt a lot.

19 Q Do you remember about how long the pain lasted?

20 A I know that they gave me medicine for pain and it was a good
21 few weeks that -- until it was able to be tolerable.

22 Q Now, you testified earlier that after the defendant cut your finger
23 you went to the bathroom to go clean up.

24 A Yes.

25 Q What did you do to try and clean up?

1 A I just ran the water and I sat in the water. I didn't use any soap.
2 I just laid there. I made it look to him like I had taken a bath and I was
3 clean.

4 Q And I apologize, I think I probably asked a bad question.

5 After you take that first bath, when you're in the bathroom, you
6 go back, the defendant pulls out the knife and cuts your finger, you
7 indicated that you went to go kind of try and clean up your finger.

8 A Yes.

9 Q Is that correct?

10 A Out of the bathroom sink.

11 Q What were you doing to try and clean up your finger?

12 A I had, like I said, some of the time he assisted me with it. I ran
13 water under it. I had, like, cotton balls. I was putting pressure on it. I had
14 a couple wash cloths I used. And I think used peroxide, if I remember
15 right. I know I was trying just to get the blood to stop because there was
16 blood everywhere.

17 Q Looking at State's 37, is that your bathroom?

18 A Yes.

19 Q What's on the floor?

20 A The blood from my finger.

21 Q On the otherwise white towel?

22 A Yes.

23 Q State's 58, is that just a close-up of that towel?

24 A Yes.

25 Q Sorry, 38, not 58.

1 State's 39, what are we looking at here?

2 A That's some of the blood that was -- I was using toilet paper at
3 that point. This was one of the wash cloths I was used. We -- like, I could
4 not get the blood to stop and even when he tried to help me, he couldn't
5 get the blood to stop. It just kept pouring out.

6 Q State's 40, is that tissues in the bath -- in the trashcan?

7 A Correct. Yes.

8 Q What about 41?

9 A This is the cotton balls that I was using on the side, the
10 Band-Aids that Trandon had tried to put -- help me with, the wash cloth
11 that had blood on it. There's another wash cloth that had blood on it. It's
12 just blood is the worst -- best way to describe it to you, blood everywhere.

13 Q Now, you indicated that prior to all of this, you'd sent out that
14 message asking for help.

15 A Yes.

16 Q And you heard a banging on the door after you were trying to
17 deal with your finger.

18 A Yes.

19 Q Where was the defendant when the banging on the door
20 started?

21 A He was making Top Ramen in the kitchen.

22 Q After the banging started, did the defendant stay in the kitchen?

23 A He had ran out to me. I was still in the bathroom trying to
24 attend to my finger. He grabbed me and he said, No matter what
25 happens, I love you, went to kiss me and I said, Go out the window, you

1 came in, go out Riley's window, and he jumped out the window at that
2 point. Metro was banging, again, Metropolitan Police, open up, and I
3 opened the door up at that point. My words to the officer, He went that
4 way, go get him.

5 Q Now, let me ask you this, you were testifying earlier about the
6 way that the defendant was behaving prior to the sexual assault.

7 A Yes.

8 Q Was his demeanor, his behavior the same prior to the assault
9 and after?

10 A It -- it was almost like it was -- all the events leading up to it, he
11 was mean, he was angry. During the sexual assault he -- it was like he
12 didn't realize what -- he was calm, I guess you would say. He just -- he
13 told me to shut up, wanted to be quiet, and then after it was done, like I
14 said, he tried to help me with my finger.

15 Q So is it fair to say there was a change in his behavior?

16 A Yes.

17 Q You said that afterwards is when he was calm?

18 A Yes. It was almost like he knew exactly what he did and he
19 had -- he wanted to help me at that point.

20 Q Now, you testified that you told the defendant to go out Riley's
21 window.

22 A Yes.

23 Q Why'd you tell him that?

24 A Because I -- I just told him to go.

25 Q And then the first thing that you tell the police is where he went?

1 A Yes.

2 Q Now --

3 A Because at that point, like I had said before, police have already
4 been to my house, they've already tried to find him on another occasion,
5 and at that point I thought I was helping them by telling them where to find
6 him at, where to go.

7 Q You were helping the police out by telling them where he went?

8 A Yeah.

9 Q Now, you just testified a moment or two ago about kind of the
10 first words that you said were, you know, that's where he went, go get
11 him; is that a direct quote that you can remember or is that a paraphrase?

12 A That was, if not exactly those words, it was pretty close to that
13 to the officer that responded.

14 Q Okay.

15 A I remember that there was -- I can't tell you their names off the
16 top of my head because I really didn't know, I was in crisis, I know there
17 was a older officer and then, like, a female, a black female that arrested
18 him. Because after they had found him, I was outside and she goes, Is
19 this him?

20 Q Are you able to give the officers any description or identifiers for
21 the defendant?

22 A I knew exactly what he was wearing. I still remember to this
23 very day. He was wearing shorts and a white, long-sleeved shirt.

24 Q Did you tell that to the officers?

25 A During -- when they interviewed me, but at that moment, no. I

1 said that he had dreads and he was black and 6'9" and had tattoos and
2 that's what they went to go look for and they found him really quick.

3 Q Now you said that the -- one of the officers asked you if, you
4 know, this is him.

5 A Yes.

6 Q Did you actually see the officers take him into custody?

7 A Arrest him, no. But I saw when she asked me if that was him
8 and then I saw that he was put in the police car as -- there was Metro
9 everywhere, and one of them was asking me questions, another one was
10 in his cop car. There were more around us. All I know is they put him in
11 the cop car and they kept asking me stuff.

12 Q And I know you've described a couple times now what it was
13 that he was wearing. Showing you State's 54, first off, is that -- who --
14 who are we looking at in that photograph?

15 A Trandon.

16 Q And would you agree with me that in that photograph he's
17 wearing dark shorts and a white, long-sleeved shirt?

18 A Yeah. I see this image every night when I go to sleep.

19 Q Is that the clothing he was wearing when he went out the back
20 window?

21 A Yes.

22 Q After the police arrived and they put Trandon into one of the
23 police cars, where do you go?

24 A I kept asking to go to the hospital. The detective said that I had
25 to go talk to them first. They asked me to go with them down to the

1 Metropolitan Police station.

2 Q Did you go with them?

3 A Yes. I got in one of their cop cars and they drove us down
4 there, me and my daughter.

5 Q Did you speak with them?

6 A Yes. They put my daughter in one room, me in the other room,
7 and the detective just asked me to give in details what had happened
8 throughout the last couple days and he reassured me that everything
9 wasn't my fault.

10 Q And when you were speaking with the officers were you trying
11 to provide them with as much information as you could?

12 A I tried, yes.

13 Q And were they asking you, kind of, about your history with the
14 defendant?

15 A Yeah, they asked me about --

16 Q And were they also asking about your own personal history?

17 A Yes.

18 Q And did you tell the officers that you've had some experiences
19 in the criminal justice system yourself?

20 A Yes, I admitted it.

21 Q And did you tell them that back in 2011, out of Washington, you
22 were convicted of two felonies, those being harassment and domestic
23 violence?

24 A Yes, I did.

25 Q So you told them all of that. You told them what happened that

1 night. You said something about you wanted to go to the hospital. Do
2 you end up going to the hospital?

3 A Yes. Right after I was done at Metro, I was taken to UMC
4 Hospital where I was treated. I was there for hours. From the time
5 everything started on the 17th to the time everything was over, Metro and
6 then the hospital, it was three days of no sleep and hell is the best way to
7 describe it to you.

8 Q You said that you were treated at the hospital.

9 A Yes.

10 Q Did they treat your finger?

11 A Yes. That was one of the things.

12 Q You said that was one of the things. What else happened at the
13 hospital?

14 A They did the finger. They were talking me down. They had
15 took pictures of the bruises and marks. And then they did a rape kit.

16 Q Did they explain to you kind of how the rape kits worked?

17 A Yeah. It was a nurse. She said it was my choice whether I
18 wanted to or not and I said, yeah, do it, just get it over with.

19 Q And did you go through that whole process?

20 A Yeah. It was like I was being raped all over again. I hated it.

21 Q Now, when the officers first arrived, did they tell you to do
22 anything with the clothing you had been wearing earlier in the day?

23 A I can't remember if it was at the hospital, but I knew that they
24 had taken the clothes I was wearing during the time. I think it was at the
25 hospital.

1 Q I'm going to show you State's 50. Do you know what we're
2 looking at there?

3 A Yeah. The -- that was the clothes I was wearing that day. I was
4 wearing, like, some pink pajama shirts and a shirt. I can't remember who,
5 but somebody had me put it in a bag.

6 Q Okay. So is it fair to say that those are being closed in a plastic
7 bag?

8 A Yes.

9 Q How did they get into that plastic bag?

10 A I put them in there.

11 Q Why did you put them in there?

12 A Because they said that they needed them and I did it willingly.

13 Q Showing you State's 49, the plastic bag that we see on the
14 couch there, is that the same one we were looking at in 50?

15 A Yes.

16 Q So after you went to the hospital and got treated, had your
17 finger kind of bandaged up, and you had the rape kit done, did you have
18 to kind of stay involved in the court process?

19 A I had to, didn't want to. I said several times I don't want to do
20 this.

21 Q Why didn't you want to do it?

22 A Like I said before, my faith in our legal system is not good.

23 Q Is it difficult to share what's happened to you?

24 A At this point, it's safe to say that I feel like I've been raped ten
25 times.

1 Q After the -- all of these events, after going to the hospital, did
2 you have any continued communication with Trandon?

3 A He had called me several times, wrote me several letters. Even
4 when we went to court back in July of last year, the judge at the time had
5 put a protection order saying not to contacted me. I had told --

6 Q And you said that he had kind of written you letters and called
7 you.

8 A Yes.

9 Q What was the nature of the communications there? What was
10 he saying?

11 A Telling me more than once not to come to court, to get out of
12 the state or he's going to go away for life. Told me to contact my best
13 friends, my dad, went into detail about it. Told me get out of Vegas
14 because if I'm not here, then there's nothing that they can do.

15 MR. ROSE: Brief indulgence, Your Honor.

16 Your Honor, I have no further questions at this point in time.

17 THE COURT: Cross.

18 MS. MCNEILL: Thank you, Your Honor.

19 Your Honor, may I approach your clerk?

20 THE COURT: Yeah.

21 **CROSS-EXAMINATION OF SAMANTHA WESTON**

22 BY MS. MCNEILL:

23 Q Good afternoon, Ms. Weston.

24 I want to take you back a little bit, kind of the beginning of your
25 testimony you talked about meeting Mr. Green. Remember those

1 questions that Mr. Rose asked you?

2 A Yes.

3 Q Okay. You told us today that you met Mr. Green online in
4 December of 2016, right?

5 A Yes.

6 Q Okay. And you indicated that he proposed to you around March
7 of 2017, right?

8 A Yes.

9 Q Okay. So that would be about three to four months after you
10 met online?

11 A Yes.

12 Q Okay. Back in June of 2017, Mr. Rose asked you about an
13 interview that you gave with the detective, remember that interview?

14 A Yes.

15 Q Okay. And you knew that it was being recorded --

16 A Yes.

17 Q -- right?

18 At the time that you gave that interview you were in the police
19 station with the detective, right?

20 A Yes.

21 Q Okay. So you were surrounded by police officers?

22 A Yes.

23 Q And you knew that Mr. Green had been arrested, right?

24 A Yes.

25 Q Okay. You also knew that the detective was asking you

1 questions so that he could get information to arrest and prosecute Mr.
2 Green, correct?

3 A Yes.

4 Q Okay. And you wanted to give him accurate information
5 because it was important to you?

6 A Yes.

7 Q Okay. Do you remember telling the detective that you actually
8 met Trandon almost three years prior to June, 2017?

9 A Yeah, but it wasn't -- for a brief second. I had already -- I had
10 said that in my interview with them.

11 Q Okay. So, I'm sorry, I can barely hear you. So you're saying
12 that you do remember saying that?

13 A Yes.

14 Q Okay. And that you had been official for about nine months and
15 so that would be prior to -- nine months prior to June of 2017?

16 A I said we were, like, hanging out at that point. But we didn't
17 become a couple until that December.

18 Q Okay. But what I'm asking you about is your interview that you
19 gave with the detective --

20 A Uh-huh.

21 Q -- do you remember telling the detective that you had met
22 Trandon almost three years prior to the date that you were giving the
23 interview?

24 A Yes.

25 Q Okay. Do you remember telling the detective that you and

1 Trandon had been, your word, official for about nine months?

2 A Yes.

3 Q Okay. And nine months before June of 2017 would be about
4 September, 2016, correct?

5 A About that, yeah.

6 Q Okay. And you would agree with me that September, 2016, is
7 before December, 2016?

8 A Correct.

9 Q Okay. I want to talk to you a little bit about the apartment that
10 you talked about with Mr. Rose. Excuse me. You said that your name
11 was on the lease, right?

12 A Yes.

13 Q Okay. Isn't it true that the utilities were in Trandon's name?

14 A After, like, three months because my power was being shut off,
15 he offered to put it in his name.

16 Q Okay. So he had the utilities come to him through the mail, at
17 that apartment, in his name?

18 A Correct.

19 Q Okay. And isn't it true that he also purchased some items for
20 that apartment such as dishes?

21 A If you count going to the Dollar Store and getting a couple
22 coffee cups dishes, then yes.

23 Q Okay. Well, coffee cups are dishes, right?

24 A Yes.

25 Q Yes? And he had to pay money for them at the Dollar Store,

1 right?

2 A He never once paid money, he never worked, but yes. It was
3 all me. But keep going.

4 Q Okay. So you purchased the dishes at the Dollar Store?

5 A Yes, he was with me.

6 Q But I asked you -- oh, he was with you?

7 A Yes.

8 Q So when I asked you if he purchased them and you said yes,
9 now you're saying it was really you but he was just present?

10 A He was present.

11 Q Okay. The detective, when they questioned you in June of
12 2017, asked you if Trandon was living with you. Remember that?

13 A Yep.

14 Q And you answered, Yes, correct?

15 A I told them that he was between me and his parents' house.

16 MS. MCNEILL: Counsel, page 15 of her voluntary statement.

17 BY MS. MCNEILL:

18 Q And so your answer is that you remember saying that he was
19 coming and going back and forth from his parents' house?

20 A Yes.

21 Q Okay. Do you remember the detective saying, How long has he
22 lived with you?

23 A If he worded it like that, do I remember? No.

24 Q Okay. Would looking at your statement refresh your
25 recollection?

1 A It might.

2 MS. MCNEILL: Okay. May I approach, Judge?

3 THE COURT: Yes.

4 BY MS. MCNEILL:

5 Q You can just read this page to yourself and let me know when
6 you're done.

7 A Yeah.

8 Q Okay. So that helps you refresh your recollection?

9 A Uh-huh.

10 Q Okay. So the detective asks you how long that Trandon had
11 been living with you, correct?

12 A Correct.

13 Q And you said, This time three days; right?

14 A For this time, yes. That's what I said.

15 Q Okay. And you didn't say, Well, he doesn't actually live in the
16 apartment, right?

17 A No, I had said for him to go back to his parents' house.

18 Q Okay.

19 A Or that he was going to go back to his parents' house.

20 Q Well, no, that's not -- I think we just established, that's not
21 actually what you said to the detective, okay?

22 A Uh-huh.

23 Q You just read the page and it's fair to say that your answer was,
24 This time three days, right?

25 THE COURT: Is that "yes"?

1 THE WITNESS: Yes.

2 BY MS. MCNEILL:

3 Q Okay. I'm going to move to May 28th of 2017. You called the
4 police, you indicated, because you'd had an argument with Trandon
5 because he wanted to bring a woman to the apartment?

6 A Yes.

7 Q Okay. Did you call the police before or after you came -- went
8 to your aunt's?

9 A I think it was after the fact.

10 Q After you went to your aunt's?

11 A Yes.

12 Q Okay. So can you explain it a little bit to me? He calls you and
13 tells you he wants to bring a woman to the apartment, right?

14 A He called me at first, yes.

15 Q Okay.

16 A I was still at the apartment.

17 Q Okay. And at what point does he come back to the apartment
18 where you had this altercation?

19 A I can't give you an exact time, but it was some time throughout
20 the day.

21 Q Okay. Was it daytime or nighttime?

22 A It was, like, mid-afternoon.

23 Q Mid-afternoon? Did you call the police right after you had this
24 altercation?

25 A At that point, no.

1 Q Okay. How long did you wait?

2 A I waited until after we went -- after I had went with my daughter
3 to my aunt's house and came back.

4 Q Okay. And that's when you called the police?

5 A Yes.

6 Q Okay. Did you give -- and I assume an officer showed up?

7 A After everything that took place they showed up, after I called,
8 yes.

9 Q Okay. So after you called the police an officer arrived to your
10 apartment?

11 A Yes.

12 Q And they asked you some details about what happened, right?

13 A Yes.

14 Q Today you testified that he hit you on the air freshener on -- with
15 an air freshener bottle on your cheek, correct?

16 A Yes.

17 Q Today you testified that he hit you in the leg?

18 A Yes.

19 Q That he hit you in the arm?

20 A Yes.

21 Q And that he hit you in the face? And that you had bruises all
22 over your body, correct?

23 A Correct.

24 Q Did you tell that to the police officer that day? All those details?

25 A I'm pretty sure.

1 Q Okay. Did you ever tell that officer that he hit you with an open
2 hand on your face?

3 A Yes.

4 Q Do you remember telling that police officer that you were three
5 months pregnant?

6 A Yes.

7 Q Okay. Were you three months pregnant?

8 A No.

9 Q Okay. At that time -- you testified to Mr. Rose that at the time of
10 that incident, Trandon didn't yet have a key to the apartment, correct?

11 A Correct.

12 Q Do you remember telling the officer on May 28th, however, that
13 you needed to change your locks?

14 A Yes.

15 Q Why did you need to change your locks if Trandon didn't have a
16 key?

17 A Because he had got a key, like, that week, and I think I said that
18 earlier.

19 Q Well, and maybe that's -- I wrote my note's wrong, because
20 Mr. Rose asked you about the May 28th incident and you said he didn't
21 have a key at that time.

22 A Yes.

23 Q Okay. But on May 28th you've told the officer you needed help
24 changing your locks.

25 A Yes.

1 Q Okay. So my question was, if he didn't have a key on May 28th,
2 why would you tell the officer that day that you needed help changing your
3 locks?

4 A Because I didn't trust him. I didn't want him at my apartment.
5 And he could break in. My apartment wasn't the best apartment.

6 Q Okay. So you needed help changing your locks because he
7 could have broken in?

8 A Yeah.

9 Q Okay. You indicated that, to Mr. Rose, that on May 28th when
10 the police arrived, Trandon was initially present but left, right?

11 A Yes.

12 Q Did the police officers talk to him?

13 A I'm not sure. I know that they couldn't find him after all of this.

14 Q Well, if he was present when they arrived, did they talk to him
15 when they arrived?

16 A I'm not sure.

17 Q Okay. You indicated that they couldn't find him. You knew
18 Trandon's parents' address, correct?

19 A Did I remember the actual address? No. Do I knew where they
20 lived? Yeah, because I had been there.

21 Q Okay. So you didn't remember the address?

22 A No.

23 Q If the police had Trandon's parents' --

24 A I remember it was Green Ice Avenue.

25 Q Okay. So you do remember the address?

1 A Do I remember exactly the numbers? No.

2 Q Okay. So if the police had the address, how would they have
3 gotten that information?

4 A I gave it to them at the time.

5 Q Okay. So at that time you had the address?

6 A Yes.

7 Q Okay.

8 A Do I know it now? No.

9 Q Well, my question wasn't --

10 A I know a piece of it.

11 Q Okay. Ms. Weston, I understand that you don't want to talk to
12 me, I get it. But how it works is I ask a question and you answer.

13 A Yes, ma'am.

14 Q Okay? Going to June 18th, you indicated that prior to that day, I
15 think you said it was the day before, you posted on Facebook that you
16 needed to change your locks.

17 A Yes.

18 Q Okay. Why didn't you ask your landlord to change your locks?

19 A My landlord wasn't the best landlord.

20 Q Okay. Prior to June 18th, 2017, you had learned that Trandon
21 had gotten another woman pregnant, right?

22 A Prior? It was, like, that week, that month, but, yes.

23 Q That week or that month?

24 A That time frame, yes.

25 Q Okay.

1 THE COURT: I'm sorry, and what time frame? I missed it.

2 MS. MCNEILL: June of 2017.

3 THE COURT: Thank you.

4 BY MS. MCNEILL:

5 Q What was that woman's name?

6 A Suzanne Campbell.

7 Q Okay. You were pretty angry about that?

8 A I was pissed, yeah.

9 Q And she -- people had been posting on Facebook about it?

10 A I wouldn't say posting, but they were commenting, yes.

11 Q Okay. What's the difference between posting and commenting?

12 A A post is a post for everybody to see and comments are what
13 happens afterwards.

14 Q Okay. So people were writing things on Facebook --

15 A Correct.

16 Q -- about her being pregnant?

17 A Correct.

18 Q With Trandon's baby?

19 A Correct.

20 Q And these were people that you knew?

21 A Not all of them, no.

22 Q But you could see these comments?

23 A Yes.

24 Q And some people that you knew could see these comments?

25 A Yes.

1 Q Earlier with Mr. Rose you said that on the night of June 17th,
2 Trandon showed up around 10:00 p.m., correct?

3 A Yes.

4 Q And that he started messaging you all the way through until
5 10:00, 11:00 a.m. the next day?

6 A Correct.

7 Q Again, I'm going to take you back to that interview that you gave
8 to the detectives. Do you remember telling the detective that Trandon
9 started messaging you at 3:00 a.m.?

10 A I might have.

11 Q Okay.

12 A But it was that night when he started.

13 Q Okay. I'm sorry, what do you mean by that?

14 A The night of the 17th is when he started.

15 Q Okay. Right, you told Mr. Rose, just now today, that it started at
16 10:00 p.m. on the 17th. Right? My question is do you remember telling
17 the detective on June 18th that Trandon started messaging you at 3:00
18 a.m., June 18th?

19 A Yes.

20 Q Okay. You didn't, in fact, tell the detective that he started
21 messaging you at 10:00 p.m. the night before, correct?

22 A I don't think so, no.

23 Q And then, as Mr. Rose indicated, you spoke with the officers on
24 June 18th when they arrived to your apartment. Do you remember telling
25 the officer that arrived that he started messaging you around 2:00 a.m.?

1 A No. But if you say so.

2 Q Okay. You also told that officer that you had posted it on
3 Facebook Live?

4 A Yeah.

5 Q Okay. And so Facebook Live is an app on Facebook.

6 A Correct.

7 Q Right? Where you can video tape something and it posts it as
8 it's happening, right?

9 A Yes.

10 Q And so that went out to everyone on Facebook who could see
11 it?

12 A That could see it, yes.

13 Q Do you remember telling the detectives that Trandon broke
14 windows with a rock?

15 A Yes.

16 Q That he was beating on the door for hours?

17 A Yes, I do.

18 Q Okay. That he was beating on the windows for hours?

19 A Yes.

20 Q And that he was throwing rocks for hours?

21 A Yes.

22 Q And this would have been either from 10:00 p.m. until 10:00,
23 11:00 a.m. the next day or 3:00 a.m. to 10:00, 11:00 a.m. the next day?

24 A Either/or, it was from that night I was trying to sleep all the way
25 'til the morning.

1 Q Okay. So could have been 12 hours, could have been 8 hours,
2 but for a long period of time?

3 A I can tell you I was exhausted, yes.

4 Q Okay. But what I'm asking is the beating on the windows, the
5 throwing the rocks at the windows --

6 A It was hours.

7 Q Okay. But arguably 8 to 12 hours?

8 A Okay.

9 Q You told us today that when Trandon got in the house he stood
10 there for a while staring at you, remember that?

11 A Yes.

12 Q And then he said, Let's go to the bedroom and talk?

13 A Yes.

14 Q Do you remember telling the detective on June 18th that what
15 Trandon did when he got in the house was said, Why the fuck wouldn't
16 you let me in?

17 A Yeah.

18 Q Okay. And then you told him --

19 A He said that, yeah.

20 Q I'm sorry?

21 A He said that.

22 Q Okay. And then you told the detective that you told Trandon to
23 get his stuff and move back to his parents' house right?

24 A Yeah.

25 Q Okay. At that point he -- do you remember telling the detective

1 that it was Trandon who said, You're going to have to call the police?

2 MR. ROSE: Objection, Your Honor, as to hearsay.

3 THE COURT: I'm sorry, I missed it.

4 MS. MCNEILL: Oh, I said, Do you remember telling the police
5 that it was Trandon who said you're going to have to call the police. I'm
6 not offering it for the truth of the matter, Your Honor.

7 THE COURT: Come on up.

8 [Bench conference transcribed as follows:]

9 THE COURT: Sorry, I apologize. So the question that you're
10 asking is about what?

11 MS. MCNEILL: Do you remember telling the detective on June
12 18th that it was Trandon who said you're going to have to call the police?
13 I'm not offering it to show that he said it, just that this is what she told the
14 detective which is inconsistent to what she testified to today.

15 THE COURT: Okay. And your objection is hearsay?

16 MR. ROSE: I mean, if -- and I'll just ask that the jury be
17 instructed that they're not to consider whether or not he actually said that,
18 just, you know, for the purposes of examining her credibility, that's
19 generally what it's being offered for.

20 THE COURT: Okay. Thanks.

21 [End of bench conference]

22 THE COURT: All right. Folks, so when -- she's going to talk
23 now about something the witness said previously. It's not for the truth of
24 whatever Mr. Green supposedly said because he's -- it's just about
25 whether -- it's just about this witness's statements and examination of her

1 about that.

2 MS. MCNEILL: Thank you, Your Honor.

3 THE COURT: Sorry.

4 MS. MCNEILL: That's okay. Thank you.

5 THE COURT: Go ahead.

6 BY MS. MCNEILL:

7 Q Do you remember telling the detective on June 18th that when
8 Trandon came in he's the one who said you're going to have to call the
9 police?

10 A Yeah.

11 Q Okay. You testified today that the stick that he hit you with was
12 longer than you, right? How tall are --

13 A The way I remember it, yeah. I know it was in three pieces.

14 Q Okay. But before it was put into three pieces --

15 A It was --

16 Q -- you saw it?

17 A -- completely together.

18 Q And it was longer than you; is what you testified to?

19 A Yes.

20 Q How tall are you?

21 A I'm five foot.

22 Q Okay. So it was longer than five feet?

23 A It was the exact size of the door 'cause it came off the door.

24 Q Okay. But if you testified that it was longer than you and you're
25 five feet tall, it would be longer than five feet, right?

1 A In theory, yes.

2 Q Okay. You testified today that he hit you several times with the
3 stick, remember? In the arms?

4 A Uh-huh.

5 Q In the legs? In the stomach?

6 THE COURT: "Yes"?

7 BY MS. MCNEILL:

8 Q Right?

9 A Yes.

10 Q The left side of your head, right?

11 A Yes.

12 Q Do you remember telling the detective on multiple occasions
13 only that you were hit two times in the head?

14 A Do I remember that? No.

15 Q Okay. Would it refresh your recollection to look at your
16 statement?

17 A It might.

18 MS. MCNEILL: Page 20 and 43, counsel.

19 If I may approach the witness, Your Honor?

20 THE COURT: You may.

21 BY MS. MCNEILL:

22 Q Read this part to yourself, just this part right here. Are you done
23 reading? Okay. And then if you could --

24 A I remember.

25 Q So you do remember saying this?

1 A Uh-huh.

2 Q Okay. That makes it easy. So you do remember now telling
3 the detective that he hit you on the head?

4 A Yes.

5 Q You did not tell the detective about your arms, right?

6 A I don't think so, no.

7 Q You did not tell the detective he hit you on your legs, right? And
8 you did not tell the detective that he hit you on your stomach, correct?

9 You also had --

10 THE COURT: I'm sorry, I didn't hear an answer.

11 THE WITNESS: Yes.

12 THE COURT: Thank you.

13 BY MS. MCNEILL:

14 Q You also went to the hospital and were examined by doctors,
15 correct?

16 A Yes.

17 Q Did you tell the doctors that he hit you in the arms with the
18 stick?

19 A I don't think so.

20 Q Did you tell them that he hit you in the legs with the stick?

21 A I don't remember.

22 Q Did you tell them that he hit you in the stomach with the stick?

23 A Again, I don't remember.

24 Q Okay. That's fair enough.

25 And speaking of him hitting you in the stomach with the stick,

1 when you were talking to the doctors, you knew it was important that you
2 give them information about what happened because they needed to treat
3 you medically, correct?

4 A Yes.

5 Q And you had told the detective in June of 2017 that you thought
6 you were pregnant?

7 A Thought, yes.

8 Q Okay. Now, you told the police on May 28th that you were three
9 months pregnant, right?

10 A [No audible response]

11 Q And then you told the detective on June 18th of 2017, that you
12 were just a few weeks pregnant, correct?

13 A I can't remember but --

14 Q That you had just taken --

15 A -- yes, sure.

16 Q Okay. Do you remember telling him that you took a home
17 pregnancy test?

18 A Yes, 'cause I did.

19 Q And it was a -- okay. Do you remember telling him that?

20 A Yes.

21 Q Okay. And do you remember telling him that it was about a
22 week ago that you took the test?

23 A I can't remember exactly, but it was something like that, yeah.

24 Q Okay. And that would have been a week prior to June 18th of
25 2017?

1 A It was something like that, yeah.

2 Q Trandon believed that you were pregnant based on what you
3 had told him, correct?

4 A Yeah.

5 Q He believed you were about three months pregnant?

6 A Yeah, that's a fair assumption.

7 Q Before we took a break you said that before the sex Trandon
8 said to you, You were raped as a child, and I'm going to do it the right
9 way?

10 A Yes.

11 Q You never told the detective that Trandon said that, did you?

12 A I don't remember what I told the detective. I know I was in
13 crisis. I know I was scared and I know I wanted him to leave me alone.

14 Q Okay. But it sounds like that statement, when you testified to it
15 today, was emotional, right? You started crying when you told us that?

16 A Yeah.

17 Q You told us that -- and you needed to take a break, right?

18 A Yes.

19 Q So that statement seems like it's pretty emotional, right?

20 A Yes.

21 Q Okay. But you didn't tell that to the detective?

22 A No. I don't think so.

23 Q The scissors -- I want to talk now about the scissors that you
24 say he put to Riley's throat and then put them in her mouth. How did he
25 put the scissors in her mouth?

1 A He had her open up and he put them in her mouth.

2 Q How? Were they open? Were they closed?

3 A At first they were closed and then he opened them up.

4 Q While they were in her mouth?

5 A Correct.

6 Q Okay. When that happened was she screaming?

7 A She was scared. She was, like, terrified, but she -- I wouldn't
8 say she was screaming. She really couldn't scream.

9 Q Okay. Was she crying?

10 A Yes.

11 Q Okay. Do you remember when you testified that on multiple
12 occasions you told Riley to try to leave?

13 A Yes, I did.

14 Q Okay. But you never told that to the detective, correct?

15 A I thought I did. I'm pretty sure I did.

16 Q Okay. Well --

17 A Riley tried to get out the windows more than once.

18 Q Okay. Again, that's not what I asked you. Okay? They're
19 going to have another chance to question you and they can help you fix all
20 those things.

21 What I'm asking you is you never told the detective that you told
22 Riley, multiple times, to go out the window, right?

23 A I can't remember what I exactly told the detective.

24 Q Okay.

25 A It has been over a year.

1 Q Sure. Well, let's talk about that. You talked to them prior to
2 coming in to testify today, right? To these two district attorneys?

3 A Those two, yeah.

4 Q Okay. Did they give you a copy of your statement to read?

5 A Yeah.

6 Q Okay. So you've had a chance to read it?

7 A Uh-huh.

8 Q Okay.

9 THE COURT: Is that "yes"?

10 THE WITNESS: Yes.

11 BY MS. MCNEILL:

12 Q And then when we took a break you were talking to these two
13 attorneys, correct?

14 A Briefly, yes.

15 Q The only thing that you told the detective about a window was
16 that you tried to open the window, correct?

17 A Yes.

18 Q You testified on direct that you were able to get to the front door
19 a few times, but he would always push you away, correct?

20 A Yes.

21 Q But do you remember telling the detective that you were
22 trapped in the bedroom for most of the time?

23 A Yeah. And I was.

24 Q You testified on direct that the cutting of your finger happened
25 after the bath, right?

1 A Yes.

2 Q Do you remember telling the police that it happened before the
3 bath?

4 A No. I know it happened around that time frame. Yes.

5 Q Okay. So do you remember telling the police that it happened
6 before you took the bath?

7 A Again, I'm going to try to say this as nicely as possible, I don't
8 really remember what I told the police. It's been about a year.

9 Q Okay. I'm going to ask you to look at your statement that you
10 have reviewed prior to today, correct?

11 A Correct.

12 MS. MCNEILL: And, counsel, page 36 into page 37.

13 If I may approach the witness, Your Honor.

14 THE COURT: Yes.

15 THE WITNESS: Yes.

16 BY MS. MCNEILL:

17 Q If you can just read page --

18 MS. MCNEILL: Sorry, counsel, page 35 and 36.

19 THE WITNESS: Okay.

20 BY MS. MCNEILL:

21 Q Okay. So do you remember telling the detective that it
22 happened before the bath?

23 A Yes.

24 Q Do you remember how the cutting happened?

25 A Yes.

1 Q How did it happen?

2 A He sliced my finger with a knife.

3 Q Okay. But how? Where were you? Where were he? Where
4 was your hand?

5 A It was in the bedroom.

6 Q Okay. And where were you in the bedroom?

7 A By the bed.

8 Q By the bed?

9 A Side of the -- side of the bed.

10 Q Were you standing next to the bed?

11 A Yes.

12 Q Okay. Do you remember telling the detective on June 18th,
13 which you would agree with me was the same day that the police came?

14 A Yes.

15 Q That you were lying -- that you were sitting on the bed?

16 A Sitting or standing, I can't remember, but, yes.

17 Q Do you remember telling the detective that?

18 A Yes, I know it was by the bed.

19 Q Okay. But, again, my question is do you remember telling him
20 that you were sitting on the bed?

21 A Yes.

22 Q Do you remember the detective had to ask you a few times how
23 it happened, how the cutting happened --

24 A Yes.

25 Q -- because he didn't think it made sense?

1 A I don't know if it -- that would be a way to word it, but, yes, he
2 asked me a few times.

3 Q Okay. And do you remember telling him that you honestly don't
4 even remember how it happened?

5 A Yeah.

6 Q You said today that he took some of your clothes off, but you
7 took your own pants off, correct? And I'm talking about the sex now.

8 A Yes.

9 Q Okay. But do you remember telling the detective on June 18th
10 that he ripped your clothes off?

11 A He ripped my shirt off.

12 Q Okay.

13 A I think that's what I said earlier.

14 Q Okay. But my question is do you remember telling the detective
15 on June 18th that Trandon ripped your clothes off?

16 A Yeah.

17 Q Sorry?

18 A Yes.

19 Q Okay. That he literally rips them off.

20 A Yes.

21 Q Do you remember saying that?

22 A Yes.

23 Q And you didn't say that you took anything off, correct?

24 A I don't remember, but --

25 Q Would looking at your statement refresh your recollection?

1 A If you say so, yes.

2 MS. MCNEILL: Page 25, counsel.

3 If I may approach, Your Honor?

4 THE COURT: Yes.

5 THE WITNESS: Uh-huh.

6 BY MS. MCNEILL:

7 Q Would you agree with me, because I think you did with
8 Mr. Rose, that your memory would have been better on June 18th than it is
9 today?

10 A Very much so. Like I stated before, I've spent the last year
11 trying to black this out.

12 Q And what you said was that he ripped, he literally ripped off your
13 clothing, right?

14 A Yes.

15 Q Okay. Today you testified that he ejaculated, you said, on your
16 ass, right?

17 A Yep.

18 Q Okay. Do you remember telling the detective that he ejaculated
19 inside of you?

20 A Yeah.

21 Q The cut, the picture that we saw of the wound on your finger,
22 was there more than one cut?

23 A No. That was the only one.

24 Q You said that they gave you a cast on your finger and that it
25 kept bleeding. It kept bleeding after you left the hospital?

1 A Yes.

2 Q Okay. After the police arrived on the night of June 18th when
3 you opened the door, there were multiple officers who came up to talk to
4 you, correct?

5 A Multiple. I can't even tell you who's who.

6 Q Okay. And while they were talking you, you were providing
7 them information about what happened that night, right?

8 A As best as I could.

9 Q Okay. While you were talking to them your daughter was next
10 to you, correct?

11 A No. Some of it she was, some of it she wasn't. They had her
12 stay over there by the door.

13 MS. MCNEILL: Okay. Do you have the body cam?

14 MR. ROSE: It's up there.

15 MS. MCNEILL: If I may approach the clerk, Your Honor?

16 THE COURT: Yes.

17 BY MS. MCNEILL:

18 Q So it's your testimony that while you were talking to the officers
19 who initially responded, your daughter was not next to you during that
20 time?

21 A Correct.

22 MR. ROSE: Your Honor, I believe she indicated that there were
23 certain times that she was.

24 MS. MCNEILL: Okay.

25 THE COURT: That's what I heard.

1 BY MS. MCNEILL:

2 Q Okay. What times was she not next to you?

3 A Again, I wish I could remember. It was a lot in three days. I
4 remember a lot of police. I remember a lot of things going on. I was
5 exhausted.

6 Q Okay.

7 A So I can't tell you specifically when, what, where, and that's -- I
8 know that's what you're trying to do, but I can't tell you because I don't
9 know.

10 Q Okay. Well, I'm just trying to ask what you remember. So you
11 don't remember if she was next to you?

12 A I remember what he did. I remember how it went down. Do I
13 remember time frames and all that and when she was next to me, when
14 she wasn't? No, I do not.

15 Q Okay. So you don't remember if she was next to you when the
16 officers were speaking to you?

17 A No. I know there were some times that she was and some
18 times she wasn't.

19 MR. ROSE: Your Honor, I would object. She's not answering
20 the question of if she was next to her, she's saying that she doesn't
21 remember exactly when she was next to her. I think she testified --

22 MS. MCNEILL: And I'm --

23 MR. ROSE: -- that there were certain times she was and
24 certain times that she wasn't.

25 MS. MCNEILL: Well, I'm trying to clarify it so I can refresh her

1 recollection.

2 BY MS. MCNEILL:

3 Q And I understand, Ms. Weston, again, you don't want to answer
4 my questions. But my question is this, while you -- do you remember
5 when you were talking to the police when they first arrived if your daughter
6 was next to you?

7 A No, I don't remember.

8 Q Okay. Would watching the body cam footage from one of the
9 officers who responded refresh your recollection?

10 A It might.

11 MR. ROSE: Just for the record, Your Honor, it's State's 102, I
12 believe.

13 THE COURT: So, I'm -- hold on a minute. Come on up.

14 [Bench conference transcribed as follows:]

15 THE COURT: So, first, let me back up. This is one of the
16 exhibits that's in evidence?

17 MR. ROSE: Correct.

18 MS. MCNEILL: Yeah.

19 THE COURT: Okay. So I'll need to identify to the number.
20 Because if we're -- generally when we refresh recollection, we don't show
21 it to the jury, so I'm just trying to understand what we're doing here.

22 MS. MCNEILL: Yeah, that's true.

23 THE COURT: So I don't --

24 MS. LUZAICH: Which is why I didn't play it, so.

25 THE COURT: -- if you're trying to actually show it or if you're

1 refreshing recollection or --

2 MS. MCNEILL: Yeah, I forgot that they had admitted it. So if
3 you want to just publish it at this point, I don't --

4 THE COURT: You can -- you can, it's in evidence.

5 MS. MCNEILL: It's admitted, so. Yeah.

6 THE COURT: I just wanted to clarify what we're doing.

7 MS. MCNEILL: Okay.

8 THE COURT: All right.

9 [End of bench conference]

10 THE COURT: All right, folks. All right. So we're just clarifying
11 what we're doing now?

12 MS. MCNEILL: Yes, Your Honor. And my apologies, at this
13 time, this is State's Exhibit 102 that's been admitted previously. I would
14 move to publish.

15 THE COURT: Okay.

16 [State's Exhibit 102 played for the jury]

17 MR. ROSE: And, Your Honor, at counsel's request we're going
18 to go to about 6 minutes and 40 seconds in.

19 THE COURT: Okay. Thank you.

20 MR. ROSE: We were at just under four minutes in.

21 THE COURT: All right.

22 [State's Exhibit 102 continues to play]

23 MS. MCNEILL: And if we could just pause it right there.

24 BY MS. MCNEILL:

25 Q In the corner of the screen, is that your daughter?

1 A I can't tell you.

2 Q Okay.

3 A I don't see who's there.

4 MS. MCNEILL: Okay. If we can keep playing

5 THE WITNESS: I see three shadows.

6 BY MS. MCNEILL:

7 Q Okay. And we'll keep playing.

8 A Right there in the doorway is her.

9 Q Yes, that's your daughter, right?

10 A If that's what you're talking about. Yes.

11 Q Okay. All right.

12 So do you now remember that when the initially responded
13 Riley was standing there?

14 A Again, I don't know because I was in too much of a crisis to
15 even know where she was.

16 Q Okay. That's fair enough. When the police were -- at some
17 point they were taking you through the house, so you could collect items;
18 remember that?

19 A Yes.

20 Q Okay. Riley was with you at that time?

21 A Yes.

22 Q Okay. And then in the police car on the way to the police
23 station Riley rode with you?

24 A Yes.

25 Q And in the police car on the way to the hospital Riley rode with

1 you?

2 A Yes.

3 Q You testified a little bit about after Trandon was arrested that he
4 had contact with you, correct?

5 A Multiple contact, but, yes.

6 Q Okay. You also wrote him letters, correct?

7 A I wrote him one letter.

8 Q Okay. Well, okay.

9 MS. MCNEILL: Court's indulgence.

10 BY MS. MCNEILL:

11 Q You wrote him one letter?

12 A One letter and then one page with just song lyrics, that's all I
13 wrote him.

14 Q Well, let's talk about one letter which is dated -- do you
15 remember writing him a letter dated July 12th, 2017?

16 A It was some time in July, I know that because it was right before
17 we went to court the last time.

18 MS. MCNEILL: Your Honor, I have previously had marked as
19 Defense Proposed Exhibit 201-A, I have shown it to the State. I don't
20 believe he has any objection to its admission.

21 MR. ROSE: We don't.

22 THE COURT: All right. 201-A is admitted.

23 **[DEFENSE EXHIBIT 201-A ADMITTED]**

24 MS. MCNEILL: And I move to publish.

25 THE COURT: Go ahead.

1 BY MS. MCNEILL:

2 Q Showing you this letter, does that look familiar to you?

3 A That's exactly what I wrote him.

4 Q Okay. And so down here you signed your name, correct?

5 A Uh-huh.

6 Q All right. And then showing --

7 THE COURT: Is that "yes"?

8 THE WITNESS: Yes.

9 BY MS. MCNEILL:

10 Q Showing you the back, could you read --

11 A That's not my writing.

12 Q That's not your handwriting?

13 A That is not my handwriting at all.

14 Q Okay. So the front of the letter is yours?

15 A Yes.

16 Q And this is not?

17 A Correct.

18 Q Okay. You indicated that you only wrote one letter to him.

19 A One letter and then one with song lyrics.

20 Q Some song lyrics.

21 Did you ever send him any drawings that Riley did?

22 A I think I sent him one that she did for him.

23 Q Okay. And so you would agree with me that that's now in
24 addition to this letter, the song -- and the song lyrics?

25 A Yeah. But have I only wrote him one letter? Yes.

1 Q Okay. You did mail that picture to him --

2 A Yes.

3 Q -- correct?

4 A Yes.

5 MS. MCNEILL: And I haven't had these marked, Your Honor.

6 If I may approach your clerk?

7 THE COURT: Yeah.

8 BY MS. MCNEILL:

9 Q Do you remember sending him a letter around July 21st of
10 2017?

11 A No.

12 Q Would looking at an envelope refresh your recollection?

13 A It might.

14 Q Does looking at that refresh your recollection?

15 A That's my writing, yeah.

16 Q That's your writing?

17 A Do I know what the letter is? No.

18 Q Okay. But you would -- you admit that that is your writing on
19 that envelope?

20 A Yes.

21 Q Okay. And it's dated July 21st, 2017?

22 A And I think that would be the song lyrics and letter. I'm not
23 sure.

24 Q Okay. And I'm showing you Defense Proposed Exhibit 205, do
25 you remember sending him a letter on July 10th, 2017?

1 A I know one was a letter, one was song lyrics, and then there
2 was the drawing Riley wrote.

3 Q Okay.

4 A Do I remember what went in there? No.

5 Q Okay. But you do recognize these envelopes?

6 A Yes.

7 Q With those dates?

8 A Correct.

9 Q Okay.

10 MS. MCNEILL: If I may approach the witness, Your Honor?

11 THE COURT: Yeah.

12 BY MS. MCNEILL:

13 Q Showing you two letters.

14 A Uh-huh.

15 Q Which of those is the song lyrics?

16 A Song lyrics aren't even on here.

17 Q Is this a letter that you wrote to him?

18 MR. ROSE: Your Honor, could we approach briefly?

19 THE COURT: Yes.

20 [Bench conference transcribed as follows:]

21 MS. MCNEILL: Okay. [inaudible] answered his own question.

22 THE COURT: Hold on for a moment.

23 MR. ROSE: The first letter that was shown to her that she
24 wrote and that she said that she --

25 THE COURT: I need you to speak into the mic.

1 MR. ROSE: The first letter that was shown to her that she
2 stated she wrote the first half, not the second half, we were provided a
3 copy of that by Ms. McNeill a couple of days ago. I have never seen
4 these letters.

5 MS. MCNEILL: They haven't. I wasn't planning on using them
6 until she said she never wrote them. And you have her letters and I'm
7 just --

8 THE COURT: What -- so when were they -- so they have them
9 or they don't have them?

10 MS. MCNEILL: They don't have them. I'm not using them in
11 my case-in-chief and so I don't have to provide them to them. I wasn't
12 planning on admitting them until she said that she only wrote the one
13 letter.

14 THE COURT: Okay.

15 MS. MCNEILL: I'm not planning on admitting the letters.

16 THE COURT: Okay.

17 MS. MCNEILL: I'm just impeaching that she wrote him more
18 than --

19 THE COURT: Okay. But you need to show them what you're
20 using.

21 MS. MCNEILL: Sure.

22 MS. LUZAICH: Can we have a few minutes so that we can
23 read them?

24 THE COURT: Okay. So we'll take a short break.

25 MR. ROSE: Thank you, Your Honor.

1 THE COURT: Okay.

2 MS. MCNEILL: Thank you.

3 [End of bench conference.]

4 THE COURT: All right, folks, we're just going to take a short --
5 our afternoon recess at this point. We'll take about 15 minutes.

6 During the recess you're admonished not to talk or converse
7 among yourselves or with anyone else on any subject connected with this
8 trial or to read, watch, or listen to any report of or commentary on the trial
9 or any person connected with this trial by any medium of information,
10 including without limitation, newspapers, television, the internet, or radio
11 or to form or express any opinion on any subject connected with this trial
12 until the case is finally submitted to you.

13 So we'll take about 15 minutes and then we'll probably go
14 straight through until 5:00.

15 THE MARSHAL: All rise. Court is now in recess.

16 [Recess at 2:47 p.m.; proceedings resumed at 3:02 p.m.]

17 [Outside the presence of the jury]

18 THE MARSHAL: All rise. District Court Department 6 is back in
19 session.

20 Please be seated. Come to order.

21 THE COURT: All right. Did you have a chance to look at those
22 letters?

23 MR. ROSE: We have, Your Honor.

24 THE COURT: And so my understanding is you're not seeking
25 to admit them.

1 MS. MCNEILL: I'm not. I was very poorly trying to refresh her
2 recollection, Your Honor, but --

3 THE COURT: Okay.

4 MR. ROSE: I mean, part of the State's concern, Your Honor, is
5 although they're not being admitted, it's still effectively putting in front of
6 the jury extrinsic evidence of a collateral issue. They're not being
7 admitted, not seeing the contents of it, but they're seeing the physical
8 documents being shown to her. There's no way for them not to think that
9 those are what counsel is saying that they are. It is extrinsic evidence of a
10 collateral issue. Whether -- you know, what she wrote to him afterwards
11 or how many things she wrote to him afterwards, is collateral to the
12 charges in the case.

13 MS. MCNEILL: Well, Your Honor, one, they brought it up on
14 direct that there have been communication between the two of them. And
15 so I think I get to inquire into it further. They're saying that he was --
16 contact -- he's saying the contact between them is irrelevant, but they're
17 admitting his letters to her as proof of witness tampering. If she's writing
18 back, I think it's potentially a defense that if they're going to argue his
19 letters to her were a way of manipulation to get her not to come to court. I
20 think I get to show that she was writing him back.

21 I mean, she can deny that these are her letters and then that's
22 that, you know, but --

23 THE COURT: Right. I mean, you can ask her about whether
24 she wrote -- well, okay. So you asked her and she said no other letters
25 and now you're showing her these attempting to establish in fact she

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

wrote more?

MS. MCNEILL: Yes.

MS. LUZAICH: Which pursuant to 50.085, subsection 3, she can't do. I mean, she can ask the question, sorry, she can ask the questions, specific instances of the conduct -- I'm so sorry.

MR. ROSE: That's okay.

MS. LUZAICH: -- of a witness for purposes of attacking or impeaching the credibility, other than conviction of the crime may not be proved by extrinsic evidence. They may, if relevant to truthfulness, be inquired into on cross-examination of the witness -- of the witness.

MS. MCNEILL: And that's all I'm doing is inquiring. She said I only wrote this letter, and I'm saying, well, that's not exactly true, is it?

MS. LUZAICH: 50.085. And, right, she can say that's not exactly true, but what she's not allowed to do is walk up there and show it to her because then she's trying to impeach her with extrinsic evidence.

THE COURT: All right. So you can cross-examine her about whether she wrote more letters than that, but you can't use extrinsic evidence to pursue that issue. And the letters themselves won't, presumably, be extrinsic.

MS. MCNEILL: And, Your Honor, if I can respond to that?

THE COURT: Yep.

MS. MCNEILL: The Supreme Court has said that bias and credibility are never collateral. And if they, on direct, opened up --

THE COURT: I didn't say collateral.

MS. MCNEILL: Right. Well, they're saying it's collateral and

1 that's why the extrinsic evidence rule comes in, that I believe she said it --
2 Ms. Luzaich said it was collateral. I think that they opened the door to you
3 had contact with him, making it sound as if it was only one way; I think I'm
4 allowed to ask that it was, in fact, two ways; and if she's dishonest about
5 that --

6 THE COURT: We agreed, you can ask her about it.

7 MS. MCNEILL: Okay. And so you're saying I don't get to show
8 her the letters to say, well, it was, in fact, more than two?

9 THE COURT: You can ask her if, in fact, she wrote more than
10 that letter, but I -- it appears you're stuck with the answer rather than
11 establishing it with extrinsic evidence.

12 MS. MCNEILL: Okay. And I would argue that pursuant to
13 Lobato I would be allowed to because I think it goes to her credibility.

14 THE COURT: No, it does. But then it talks about they may,
15 however, if relevant to truthfulness, be inquired into on cross-examination.
16 So, yes, it potentially goes to truthfulness, you can inquire on cross-
17 examination about whether, in fact, she wrote other letters. But --

18 MS. MCNEILL: Right.

19 THE COURT: -- the statute says, May not be proved by
20 extrinsic evidence.

21 MS. MCNEILL: Right. And in Lobato that was one of the
22 issues is the witness has written a letter and counsel asked about it, the
23 witness denied it and the Court said that they were stuck with the answer.
24 In Lobato they said they weren't -- they should have been allowed to use
25 that letter because it went directly to her credibility. In candor to the

1 Court, the difference there was that letter was directly about -- it was a
2 jailhouse snitch and they wanted to impeach her with the contents of that
3 letter. And so I will argue -- submit that this is a little bit different. But I
4 think it goes to her credibility especially since they're trying to argue that
5 it -- the contact being one way was a method of manipulation.

6 MR. ROSE: And, Your Honor, just, if I can respond very briefly
7 to that? We're not saying that it doesn't touch on her credibility. What
8 Lobato talks about is that it's not everything that touches on credibility but
9 the specific things that they said were not ever collateral were things that
10 go specifically to the bias or the motive to lie. If counsel just wants to get
11 into the existence of the letters, the existence of the letters by themselves
12 don't get into bias or motive to lie. In the Lobato case when they're trying
13 to get into the actual contents of the letter, that would have a bearing on
14 the motive to lie.

15 In addition, the State's position is that with regard to the
16 defendant's letters to her, the argument isn't that, oh, because it's one
17 way. She indicated that she wrote him back, she indicated that she spoke
18 to him on the phone, so clearly, there's two-way communication. It's not
19 the fact that there's one-way manipu -- or one-way communication going
20 on that's manipulative, it's the specific language that says, Don't come to
21 court, which is the essence of that particular charge. So I think here when
22 all we were doing is saying, well, look, these letters exist, yes, that
23 touches on credibility which is why we have no objection to them asking
24 her about it. But the difference is that it -- the existence of the letters
25 certainly does not go to a motive to lie or to bias.

1 And -- which is part of why with that first letter, that we didn't
2 have any objection to that's been entered into evidence now, where she
3 supposedly says on the back of it, I lied to the police, obviously, that goes
4 to a motive to lie or bias or whatever else, so that, obviously, had she
5 denied it, I think could have been appropriately brought in as part of
6 extrinsic evidence. But looking at the contents of those letters, there's
7 nothing similar to that in there where she says I made it all up.

8 MS. MCNEILL: Well, I would note, first of all, that I don't think
9 it's necessarily motive to lie that the case law talks about, it's motive to
10 testify in a certain manner, which is different than motive to lie. I mean,
11 just because someone -- you're not necessarily saying they're lying, it's
12 just why are they motivated to say the things that they're saying. That's
13 always something for the jury to determine.

14 And so I'll submit it to Your Honor. I mean, I don't know that it's
15 worth this much of a fight at this point. And so, you know, I'll just clean it
16 up with her that, It's your testimony that you only wrote him twice, we've
17 seen the picture, and I'll move on.

18 THE COURT: Right. So that's my ruling. I don't intend to,
19 frankly, when they come in, instruct them or act like there's been
20 misconduct or anything. Just ask her the question and move forward.

21 MS. MCNEILL: Yes, Your Honor.

22 THE COURT: All right. Let's bring them back in.

23 THE MARSHAL: All rise.

24 [In the presence of the jury]

25 THE MARSHAL: Please be seated.

1 THE COURT: Counsel stipulate to the presence of the jury?

2 MS. MCNEILL: Yes, Your Honor.

3 MS. LUZAICH: Yes.

4 MR. ROSE: Yes, Your Honor.

5 THE COURT: All right. Let's go ahead and get the witness
6 back.

7 All right. You can continue your cross-examination.

8 MS. MCNEILL: Thank you, Your Honor.

9 BY MS. MCNEILL:

10 Q Okay, Ms. Weston, you had testified that after Mr. Green's
11 arrest you actually sent him some mail to the jail, correct?

12 A A letter, yes.

13 Q Okay.

14 A And then the song lyrics and drawing.

15 Q Okay. It's fair to say that the night that you went to the hospital,
16 the night that Mr. Green was arrested, he actually called you on the phone
17 from the jail, correct?

18 A Multiple times, yeah.

19 Q Okay. And you took those phone calls?

20 A A couple of them, yeah.

21 Q Okay. When did you tell Mr. Green that you weren't pregnant?

22 A I never did.

23 Q The State asked you about some letters that you received from
24 Mr. Green prior to you coming to court in July of 2017; remember those
25 questions?

1 A Yes.

2 Q Okay. And you indicated that those letters told you not to come
3 to court, right?

4 A Yes.

5 Q Do you remember that those letters also said that he knew you
6 were lying --

7 MR. ROSE: Objection, Your Honor, as to hearsay.

8 MS. MCNEILL: And, Your Honor, I would say it's 47 -- I just
9 wrote down the statute -- .120, rule of completeness.

10 MR. ROSE: Could we approach briefly, Judge?

11 THE COURT: Yes, come on up.

12 [Bench conference transcribed as follows:]

13 MS. MCNEILL: They've admitted parts of the letter which by
14 asking her --

15 THE COURT: So --

16 MS. MCNEILL: -- so both --

17 THE COURT: Hold on.

18 MS. MCNEILL: Oh, I'm sorry.

19 THE COURT: So the letter -- the letter's in evidence -- a letter
20 in evidence?

21 MR. ROSE: Not yet.

22 THE COURT: Okay.

23 MS. MCNEILL: They did elicit testimony about --

24 THE COURT: Right.

25 MS. MCNEILL: -- the substance of the writing. And she

1 testified that it said that -- not to come to court. I think I'm allowed to bring
2 out other relevant parts of that letter. The Supreme Court has ruled that if
3 they bring in a defendant's statement, I'm allowed to bring in other
4 relevant parts of that statement.

5 MR. ROSE: Your Honor, the rule itself says that they can clarify
6 misleading or confusing parts of the statement. We're not cutting it off
7 halfway through, you know, a sentence where the person says, I did it,
8 but, we're having them just say, I did it. There's nothing confusing or
9 misleading about the fact that it says in there, Don't come to court.

10 MS. MCNEILL: Well -- sorry.

11 MR. ROSE: And there's also case law that says that the
12 doctrine of completeness doesn't obviate the rest of the hearsay rules.
13 And our concern is that if we are going to start having the defendant's
14 statements coming in, I think there's also the statute that says that if they
15 come in, we get to impeach him as if he's on the stand.

16 MS. MCNEILL: The problem with this, Your Honor, is that it's
17 the -- the content of the letters saying, Don't come to court, is the basis for
18 one of the charges. I have to defend against that. And it is misleading to
19 say that that's the only -- if they're saying he said don't come to court
20 because he doesn't want to be prosecuted, I think it's fair to admit that he
21 doesn't want to be prosecuted because he thinks -- he's telling her it's a
22 lie.

23 MR. ROSE: His statements -- it is a self-serving statement
24 saying, you know, these things are all a lie, don't come to court because if
25 you do I'm going to go away forever. There's nothing misleading to have

1 her testifying that he said don't come to court because if you do I'm going
2 away forever. It's not qualified by -- or not explained by also bringing in
3 his hearsay statements.

4 THE COURT: So what are you saying that other parts of the
5 letter say? What are you trying to elicit?

6 MS. MCNEILL: That she told him, You know that you're lying; I
7 know that you're lying; you know that you're lying.

8 MR. ROSE: That's what he told her.

9 MS. MCNEILL: Yes. You know that you're lying.

10 THE COURT: He told her --

11 MS. MCNEILL: Yes.

12 THE COURT: -- in the letter, You know that you're lying?

13 MS. MCNEILL: You know that you're lying.

14 THE COURT: And so they've elicited --

15 MS. MCNEILL: That the content of the letters was telling her
16 not to come to court.

17 THE COURT: Right.

18 MR. ROSE: And, Your Honor, it was -- it was our intention to
19 admit the letter. So as long as we admit the letter and show it, that's
20 okay. But just going into kind of what he's saying because it's also there
21 were multiple letters --

22 THE COURT: So, wait, what? So are we admitting the letter?

23 MS. MCNEILL: One letter.

24 MS. LUZAICH: One.

25 MR. ROSE: That's part of my concern is we have discussion of

1 multiple letters and we're saying isn't it true that in a letter he said this. If
2 we're going to do -- if we're going to be putting it in front of the jury, let's
3 just put that specific letter in front of the jury without reference to kind of all
4 of the others and what they may have said.

5 THE COURT: Without -- what?

6 MR. ROSE: Reference to the other letters.

7 THE COURT: Oh, okay.

8 MR. ROSE: And what those letters might have said. So if you
9 want to move that -- the July 12th letter, the pre-prelim --

10 MS. LUZAICH: We just had it marked.

11 MS. MCNEILL: Is that the one I looked at?

12 MR. ROSE: Yes.

13 MR. ROSE: The pre-prelim letter.

14 MS. MCNEILL: Okay. Okay. Yeah. I've stipulated to its
15 admission.

16 MR. ROSE: If we want to move that in, that's fine.

17 THE COURT: Okay. Is that marked as an exhibit yet?

18 MS. LUZAICH: No, I just had it marked so you haven't
19 stipulated yet. I just had it marked.

20 MS. MCNEILL: I had told him, yeah.

21 MR. ROSE: And then just ask her the question about the
22 contents and show her the contents of the letter, I'm fine with that.

23 MS. MCNEILL: That's fine.

24 THE COURT: Okay.

25 MS. MCNEILL: But the other -- the other letters, it was my

1 understanding that you had said multiple -- that he had written her multiple
2 letters telling her not to come to court. If I misheard you --

3 MR. ROSE: I -- I tried to keep it only to the pre-prelim one.

4 MS. MCNEILL: Okay. Then that's my bad.

5 MR. ROSE: Because that was ultimately charged.

6 MS. MCNEILL: Okay. That's fine.

7 MR. ROSE: I was trying not to get into the ones after.

8 MS. MCNEILL: Okay. I'll move and stip.

9 THE COURT: Okay. All right. Thank you.

10 [End of bench conference.]

11 THE COURT: So, okay, so let me know if you're going to use it
12 and we'll reference the number.

13 MS. MCNEILL: Yes, Your Honor. Thank you.

14 Court's indulgence. I always get thrown off when there's a long
15 objection.

16 THE COURT: Sorry.

17 MS. MCNEILL: That's okay.

18 BY MS. MCNEILL:

19 Q The -- you talked about these letters that came to you telling
20 you not to come to court and do you remember that the court date that
21 you're talking about, that we're talking about would have been the
22 preliminary hearing which was
23 July 13th, 2017; do you remember that date?

24 A It didn't say that. It said, Do not come to court.

25 Q I understand that, and it was a bad, long question. I apologize

1 for that.

2 What I'm asking is the court date that it's talking about would
3 have been the preliminary hearing, right? You had a subpoena to come
4 to court in July.

5 A That's --

6 Q Right? Okay. And that would have been July 13th, 2017?

7 A I think so, yes.

8 Q Okay.

9 A It was some time in July.

10 MS. MCNEILL: Okay. Could I get counsel to stipulate that the
11 preliminary hearing was July 13th, 2017?

12 MR. ROSE: Yes.

13 MS. MCNEILL: Okay.

14 BY MS. MCNEILL:

15 Q You did, in fact, come to court on that date, correct?

16 A Yes.

17 Q Okay. Do you remember on that date you had a conversation
18 with Mr. Green's previous counsel?

19 A Yeah.

20 Q Okay. An African-American woman with long hair?

21 A Yep.

22 Q In that conversation do you remember telling her that you didn't
23 want to come to court?

24 A I think I have said that over and over again in the last year to
25 multiple people, yes.

1 Q Okay. Do you remember telling her that you only came to court
2 because the district attorney sent CPS to your house?

3 A Yes. Because they did come to my house.

4 Q Okay. And when CPS came to your house it was your
5 understanding that the district attorney sent them?

6 A Yes.

7 Q And it was your understanding that the district attorney sent
8 them because you didn't want to come to court?

9 A It happened all within the same week.

10 Q Okay.

11 A So that's correct.

12 Q Okay.

13 A And it was because I was suicidal, but continue.

14 Q Okay. CPS came because you were suicidal?

15 A Over the court case.

16 Q Okay. So you told the District Attorney's Office that you were
17 suicidal?

18 A Yes.

19 Q And then CPS came to your house?

20 A Yes.

21 Q And when CPS came to your house, based on your
22 conversation with them, it was your understanding that if you didn't come
23 to court your child might be taken away?

24 A Yes.

25 Q I want to go back a little bit to May and June of 2017. During

1 that time period you had a Facebook account?

2 A Yes.

3 Q May 28th was the day that you called the police on Trandon, one
4 of the time -- the first time that we discussed, remember?

5 A Correct.

6 Q Do you remember posting on your Facebook page what we call
7 a meme?

8 A Yeah, do I remember what I posted? No.

9 Q Okay.

10 A But do I remember I posted stuff? Yeah, I posted all the time.

11 Q Would looking at a copy of that refresh your recollection?

12 A It might. Again, I posted all the time.

13 Q Okay.

14 MS. MCNEILL: If I may approach, Your Honor?

15 THE COURT: Yes.

16 BY MS. MCNEILL:

17 Q Looking at that, is that a post from your Facebook page?

18 A Yeah.

19 Q Okay. And would you agree with me the date is May 28th,
20 2017?

21 A Yes.

22 Q Okay. Do you remember posting a meme that said, Just
23 remember, any bitch before me was a mistake and any bitch after me is a
24 downgrade?

25 A Yeah. It's one of the shareable ones that everybody shares,

1 but, yeah.

2 MS. MCNEILL: Okay. And I've previously shown this to the
3 State and it's marked as Defendant's Proposed Exhibit 203 and I would
4 move for its admission.

5 MR. ROSE: No objection, Your Honor.

6 THE COURT: It's admitted.

7 MS. MCNEILL: If I may publish, Your Honor?

8 THE COURT: Yep, go ahead.

9 **[DEFENSE EXHIBIT 203 ADMITTED]**

10 BY MS. MCNEILL:

11 Q And that's the meme that we're talking about, correct?

12 A Yeah, I posted that.

13 Q Okay. And that would be May 28th, 2017, right?

14 A Uh-huh.

15 THE COURT: Is that --

16 THE WITNESS: Yes.

17 THE COURT: Okay. Go ahead.

18 BY MS. MCNEILL:

19 Q And I want to show you two more memes, one that you posted
20 on June 20 -- I'm sorry -- June 7th, 2017, so this would have been after
21 that May 28th incident.

22 A Okay.

23 Q Correct? About your goals that you -- a meme about
24 relationship goals.

25 MS. MCNEILL: If I may approach, Your Honor?

1 THE COURT: Yes.

2 BY MS. MCNEILL:

3 Q Do you remember posting that?

4 A Do I remember posting it? No. Again, I posted a lot of things,
5 so show me. It's okay.

6 Q Okay. Is that something that you posted from your Facebook
7 account on June 7th, 2017?

8 A That's correct.

9 Q Okay. And I'm -- while I'm up here, I'm going to show you one.
10 Do you remember posting that from June 30th, 2017, to your Facebook
11 account?

12 A Yes.

13 Q Okay.

14 MS. MCNEILL: And, Your Honor, I would move for the
15 admission of Defense Exhibit 204 and 202.

16 MR. ROSE: No objection, Your Honor.

17 MS. MCNEILL: If I may publish?

18 THE COURT: They're admitted.

19 **[DEFENSE EXHIBIT 204 ADMITTED]**

20 **[DEFENSE EXHIBIT 202 ADMITTED]**

21 MS. MCNEILL: May I publish, Your Honor?

22 THE COURT: Yes.

23 BY MS. MCNEILL:

24 Q Okay. Showing you 202, this was June -- posted June 30th,
25 2017, and it's that same meme that we saw, correct? And so this would

1 have been posted after June 18th, 2017, right?

2 A That would be correct.

3 Q And then showing you Defense Exhibit 204, this was posted
4 after that May 28th incident, correct?

5 A Yes.

6 Q And it says that your relationship goal is to make it last forever,
7 right?

8 A Yep.

9 Q The text that you sent to Mr. Denten, did you provide those
10 texts to the police?

11 A No. Because I had deleted 'em.

12 Q Okay. Did the police officer look at your phone at one point
13 while you were talking to them?

14 A Yes.

15 MS. MCNEILL: Okay. Nothing further, Your Honor.

16 THE COURT: Redirect.

17 MR. ROSE: Thank you, Your Honor.

18 **REDIRECT EXAMINATION OF SAMANTHA WESTON**

19 BY MR. ROSE:

20 Q Samantha, you testified on cross-examination that you received
21 a copy of your statement to the police to review prior to today. Do you
22 remember who it was who gave that to you?

23 A I don't remember.

24 Q Is it fair to say that you and I met for the very first time on
25 Monday?

1 A When I got here on Monday. Well, I got here Sunday, it was
2 Monday.

3 Q So just beginning of this week?

4 A Yeah.

5 Q And I didn't provide that copy to you, did I?

6 A No.

7 Q Nor did Ms. Luzaich?

8 A No.

9 Q So if you received a copy would that have been back in July of
10 last year?

11 A Yeah, it was -- I don't remember if that's what they called it, but
12 they showed me something.

13 Q Okay. So they showed it to you?

14 A Yeah.

15 Q Okay. So are you -- just so that I understand, have you had a
16 copy of the voluntary statement with the police to review since you've
17 been here in town --

18 A No.

19 Q -- this week? No?

20 A No.

21 Q Okay.

22 A You guys -- no.

23 THE COURT: Sorry, so, no, you didn't have a copy?

24 THE WITNESS: No. Correct.

25 THE COURT: Okay. Thank you.

1 BY MR. ROSE:

2 Q Do you remember being asked some questions on cross-
3 examination about kind of the living situation between yourself and
4 Trandon at the apartment?

5 A Yes.

6 Q Okay. And you were shown a portion of your voluntary
7 statement where you were asked about when he was gone; do you
8 remember what your answer was to that?

9 A Off the top of my head, no.

10 Q If I were to show you pages 15 and 16 would that refresh your
11 recollection as to your discussion with the detectives about his living
12 situation with you?

13 A It might, yeah.

14 MR. ROSE: May I approach the witness, Your Honor?

15 THE COURT: Yes.

16 MR. ROSE: 15 and 16.

17 BY MR. ROSE:

18 Q So starting kind of down from the bottom here --

19 A Yeah.

20 Q -- to the top of the next page.

21 A Yeah.

22 Q Has looking that over refreshed your recollection as to what
23 your discussion with the detectives was regarding the living situation?

24 A Yes.

25 Q So do you now remember telling them that he lived with you

1 three days this time?

2 A This time, yes.

3 Q And do you remember answering, No, to the question of does
4 he have a full residency there?

5 A Yes.

6 Q So when you were asked, Does he have a full residency there,
7 your answer is no?

8 A Correct, yes.

9 MS. MCNEILL: And, Your Honor, I'm going to object that it's --
10 that the question is misleading based on the context of the prior question
11 by the officer.

12 THE COURT: You know, if you're saying if you want to go back
13 another question or something, I don't -- I'm not looking at it -- why don't
14 you come on up.

15 [Bench conference transcribed as follows:]

16 MS. MCNEILL: He asks -- it's this, How long has he lived --

17 THE RECORDER: I can't hear her.

18 MS. MCNEILL: -- with you this time? Three days. Oh, okay,
19 so. And he keeps going back and forth is what he does. Okay, right. He
20 doesn't have an actual full residency there. Because she said she sent
21 him to his parents' house. So I read that as the "there" being the parents'
22 house.

23 MR. ROSE: I'll clarify.

24 THE COURT: Just a second.

25 Okay. And what are you wanting to add? Or you're --

1 MR. ROSE: I can clarify.

2 THE COURT: You'll clean it up?

3 MR. ROSE: Yeah.

4 THE COURT: Okay. Go ahead.

5 [End of bench conference.]

6 THE COURT: All right. So ahead and clarify.

7 MR. ROSE: Thank you, Your Honor.

8 BY MR. ROSE:

9 Q So you remember telling the officers that he lived with you this
10 time three days. Do you remember telling the officers that the defendant
11 kept going back and forth?

12 A Yes.

13 Q And when you're saying back and forth, what are the two places
14 that you're talking about?

15 A Between my house and his parents' house.

16 Q So when the officer asks you, So he doesn't have a full
17 residency there, and you say, no, which house are you referring to?

18 A Mine.

19 Q Okay. So you did tell them during that first statement that he
20 was living with you on and off but not full-time?

21 A Correct.

22 Q Okay.

23 MR. ROSE: May I approach your clerk, Your Honor?

24 THE COURT: Yeah.

25 MR. ROSE: All right. At this time the State would move to

1 admit State's Proposed Exhibit 110, I believe there's a stipulation to it.

2 THE COURT: Exhibit?

3 MR. ROSE: 110.

4 THE COURT: 110. Any objection?

5 MS. MCNEILL: No, Your Honor.

6 THE COURT: It's admitted.

7 **[STATE'S EXHIBIT 110 ADMITTED]**

8 MR. ROSE: Permission to publish?

9 THE COURT: Yeah, go ahead.

10 BY MR. ROSE:

11 Q I know it can be a little bit difficult to read, so I'll zoom in there,
12 but do you recognize what this is?

13 A Yeah.

14 Q And what is that?

15 A It's one of the letters he wrote me from jail.

16 Q And by "he," who do you mean?

17 A Trandon.

18 Q And does it say, kind of in the middle of it, that he's writing a
19 letter Friday morning, July 7th, 2017?

20 A Yes.

21 Q And is this --

22 THE COURT: Can you adjust contrast or something? I mean
23 that's --

24 MR. ROSE: I can certainly try.

25 THE COURT: That's better.

1 MR. ROSE: That a little bit better?

2 BY MR. ROSE:

3 Q And as we're looking at -- this is page 4, it's marked in the
4 upper, right-hand corner of it, are we looking at the defendant asking you
5 not to show up to court?

6 A Yes.

7 MR. ROSE: Brief indulgence, Your Honor.

8 BY MR. ROSE:

9 Q Samantha, you were asked about kind of what you told the
10 detectives and what you had told the nurse at UMC regarding kind of
11 being hit --

12 A Yeah.

13 Q -- on the legs and the stomach. At that point in time, what were
14 your main concerns?

15 A At the main -- at that point in time it was me and my daughter's
16 safety, making sure we're okay, and I just wanted to get out of here.

17 Q Do you remember telling the officers when they first showed up
18 at your house that you really wanted to go get checked out and have a
19 rape exam done?

20 A Yes.

21 Q Is it fair to say that the sexual assault and your finger were a
22 little bit more important to you?

23 A Oh, clearly, yeah.

24 Q That was kind of what was on your mind not the bruise on the
25 leg?

1 A Yes.

2 Q Now, you were asked kind of a lot of questions about some of
3 the things that you've said today versus some of the things that you said
4 to the detectives initially.

5 A Yes.

6 Q Or whether you remember kind of if Riley was standing right
7 next to you at the door, had you ever seen that body cam before?

8 A No.

9 Q Did you have any way of going back in time and looking at
10 exactly where she was when the cops arrived?

11 A No.

12 Q And then you've already testified, correct me if I'm wrong, but
13 you did not have a copy of your statement to review this week?

14 A That's correct, yes.

15 MR. ROSE: I have no additional questions at this point in time.

16 THE COURT: Recross.

17 MS. MCNEILL: Just briefly, Your Honor.

18 **RECROSS-EXAMINATION OF SAMANTHA WESTON**

19 BY MS. MCNEILL:

20 Q Ms. Weston, the State has asked you a few questions about
21 Mr. Green's living arrangements and asked you if he had a full residency
22 at your apartment; remember those questions?

23 A Yes.

24 Q You don't have any training on the Nevada law on what
25 constitutes a residence, do you?

1 A No.

2 Q Okay. You indicated that when you went to the hospital to talk
3 to the nurse your main concern was to get checked out, right?

4 A Yes.

5 Q Wouldn't part of getting checked out be telling them where you
6 were hit so they could check if there were injuries?

7 A The only two things I was concerned about at that time, and I'll
8 say it again, was our safety, my finger, and then the rape kit.

9 Q Okay. But the nurse asked you questions about what had
10 happened, correct?

11 A Yes.

12 Q And she asked you where you'd been hit, right?

13 A Yes.

14 Q And at -- you had told the detective that you believed you were
15 at least a week pregnant, right?

16 A Yes. Because I took a home pregnancy test and said I was
17 pregnant and then I took another one and it said I wasn't.

18 Q Okay. Well, there's two parts, I'm going to break that down.
19 First let's do this, when did you take the second one that said you weren't
20 pregnant?

21 A After that week.

22 Q Okay. So you believed at the time that you were talking to the
23 nurse that you were pregnant, correct?

24 A Yes.

25 Q Okay. Getting hit in the stomach would probably be something

1 you would be concerned about if you believed you were pregnant,
2 correct?

3 A At the time, no, that wasn't my concern. I didn't even want a
4 baby with him.

5 Q Okay. Fair enough.

6 THE COURT: Redirect.

7 MR. ROSE: Nothing.

8 THE COURT: Okay. All right. Thank you, ma'am. I appreciate
9 you coming to court and testifying.

10 THE WITNESS: I can step down?

11 THE COURT: You're all done.

12 Next?

13 MS. LUZAICH: Riley Weston.

14 And, Judge, because of Riley's age, I'm going to ask that our
15 advocate be allowed to sit next to her. She knows that she can't talk to
16 her, coach her, or anything.

17 MS. MCNEILL: Oh, I'm sorry, Your Honor, I told them I didn't
18 have an objection to that.

19 THE COURT: Thank you. Okay, so that'll be allowed.

20 You need to look at him, honey. There we go. Perfect.

21 **RILEY WESTON**

22 [having been called as a witness and being first duly sworn, testified as
23 follows:]

24 MS. MCNEILL: And, Your Honor, could we approach?

25 THE COURT: So, just for the record, she is mouthing "I do"

1 over there.

2 All right. Go ahead and have a seat for a second while I talk to
3 the attorneys.

4 THE WITNESS ADVOCATE: Thank you so much.

5 [Bench conference transcribed as follows:]

6 THE COURT: Right. So we were just trying to get her sworn
7 in. I will say the advocate was telling her to say I do and she eventually
8 sort of said, I do.

9 MS. MCNEILL: Yes, and my concern at this point is if she can't
10 even get through the oath, I have some competency concerns with her as
11 a witness.

12 THE COURT: Right.

13 MS. LUZAICH: All right. I get it. I'm --

14 THE COURT: So we'll -- I guess we'll have to see.

15 MS. LUZAICH: I'll do the best I can. And if I can, I can; if I
16 can't, I can't.

17 THE COURT: Okay. All right.

18 [End of bench conference.]

19 **DIRECT EXAMINATION OF RILEY WESTON**

20 BY MS. LUZAICH:

21 Q Hi, Riley. Riley, can you look at me, honey?

22 Okay. Riley, you've got to talk to me. You can't talk to Tara.

23 Did you meet Tara the other day? Yeah?

24 THE COURT: She's nodding her head for the record.
25

1 BY MS. LUZAICH:

2 Q Okay. Did you come to court, to this room with me and
3 Mr. Steve the other day? You're nodding your head.

4 Remember when we were here, we talked about this is a
5 microphone. Is that right? You're nodding your head again.

6 THE COURT: I need you to answer --

7 BY MS. LUZAICH:

8 Q Remember we said you have to answer out loud? Can you try?
9 Okay. You're just mouthing "no," you gotta say out loud.

10 Okay. Can you say hi to the judge? Remember I told you the
11 judge is going to sit up there? Can you turn around and say hi to the
12 judge? Yes, you can. Come on, Riley.

13 You can't talk to Tara, you gotta talk to me.

14 Are you nervous? Is that what's the matter?

15 Okay. Can you tell me what your name is? Just say into --
16 remember the microphone? Just say into the microphone. In the
17 microphone, please. Come on. I know you can.

18 MS. MCNEILL: And, Your Honor, I'm going to renew my
19 objection at this time.

20 THE COURT: Yeah. I'm going to give her a little longer to see
21 if she can get some cooperation.

22 BY MS. LUZAICH:

23 Q Come on, Riley, can you just say your name in the microphone.
24 You have to talk out loud, Riley.

25 THE VICTIM ADVOCATE: Use your words.

1 BY MS. LUZAICH:

2 Q You can't talk to Tara, you gotta talk to me.

3 THE VICTIM ADVOCATE: Use your words right here.

4 BY MS. LUZAICH:

5 Q Come on, Riley. Okay. Can you just say your name out loud?
6 Remember the microphone?

7 A Riley, yeah.

8 Q Okay, you have to say it out loud, honey. No, you're whispering
9 still. Come on. Just look at me. Just look at me.

10 A Riley.

11 Q Okay. You're still whispering. Come on, your big girl voice.

12 A Riley.

13 Q Okay. You're still whispering. Come on.

14 A Riley.

15 Q Riley, see that's good.

16 How old are you, Riley? Out loud.

17 A Seven.

18 Q Very good.

19 Now, while we were in this room the other day, do you
20 remember we talked about you have to only say things that are real.
21 You're nodding your head up and down; is that a "yes"?

22 A Yes.

23 Q Out loud.

24 A Yes.

25 Q Okay. And nothing that's make believe, right?

1 A Yes.

2 Q Out loud.

3 A Yes.

4 Q Okay. So if I talked about a big pink elephant, would I be
5 talking about something that's real or something that's make believe?

6 A Make believe.

7 Q Okay. If I told you that I am wearing a blue jacket, would I be
8 talking about something that's real or make believe?

9 A Make believe.

10 Q Make believe? What color's my jacket?

11 A Blue.

12 Q Okay. So does that mean that if I say I'm wearing a blue jacket
13 I'm talking about something that's real? You're nodding your head.

14 A Yes.

15 Q Yes? Okay. If I told you that you had green hair, would I be
16 talking about something that's real or make believe?

17 A Make -- make believe.

18 Q Out loud. Make believe. Okay.

19 THE COURT: I know you're doing the best you can. I'm going
20 to -- I need the jurors to hear what she says. You've got to try.

21 BY MS. LUZAICH:

22 Q That means you have to talk out loud in your big girl voice.
23 Okay? You're nodding your head.

24 THE COURT: I need you to speak out loud, Riley.

25 THE WITNESS: Yes.

1 THE COURT: Thank you.

2 BY MS. LUZAICH:

3 Q Okay. Who did you come here with today?

4 A My mom.

5 Q Your mom? What's your mom's name?

6 A I forget.

7 Q Out loud. Please.

8 A Sammy.

9 Q What is it?

10 A Sammy.

11 Q Louder.

12 A Sammy.

13 Q Sammy? Okay. Can you go a little bit louder? Because you're
14 doing a really good job.

15 A Sammy.

16 Q Sammy? Okay. You're still whispering.

17 How old are you, Riley?

18 A Seven.

19 Q Do you go to school?

20 A Yes.

21 Q What grade are you in?

22 A Second.

23 Q Does that mean you just finished second? You're nodding your
24 head.

25 A Yes.

1 Q Okay. So does that mean you're going to go into fifth grade
2 next? Louder.

3 A Third.

4 Q Third. Okay.

5 So if I say something that's wrong, like I just did, will you tell me
6 that I'm wrong? Out loud.

7 A Wrong.

8 Q Wrong? Okay. Do you remember living here in Las Vegas?
9 You're nodding your head. Is that a "yes"?

10 A Yes.

11 Q Yes? Did you live in an apartment?
12 You're nodding your head. Is that a "yes"?

13 A Yes.

14 Q If I show you a picture will you recognize it?

15 THE COURT: Out loud.

16 MS. MCNEILL: Your Honor, can -- can we approach?

17 MS. LUZAICH: Out loud.

18 THE COURT: Yeah, come on up.

19 [Bench conference transcribed as follows:]

20 MS. MCNEILL: My concern is I don't know how I'm going to
21 ever be able to cross-examine her. At this point it's kind of just a show
22 and she can't -- I mean, saying something's make believe isn't the same
23 as saying I know the difference between a truth and a lie. There's multiple
24 problems with putting her on the stand. So I would object to her
25 competency as a witness.

1 THE COURT: Right. Okay. So go ahead and respond.

2 MS. LUZAICH: Well, I think that make believe and real are
3 something that tells that she's competent because the pink elephant is
4 make believe, my blue jacket is real and her green hair is make believe.

5 MS. MCNEILL: But a lie is something that's done with the intent
6 to deceive. That's not the same as something being made -- a pink
7 elephant --

8 THE COURT: Right. So I guess go over that with her to make
9 sure that she understands truth versus a lie.

10 MS. LUZAICH: Well, I, you know, when you're seven I don't
11 know that you know truth and lie, it's what really happened and what didn't
12 happen, which is why I say real and make believe.

13 MS. MCNEILL: I think --

14 THE COURT: Okay. I mean, I don't care if she uses the word
15 "lie," per se, but that she can only talk, you know, say things that really
16 happened and can't make it up or something. I don't know.

17 MS. MCNEILL: Right. And, I mean, after the testimony from
18 her mom, I --

19 THE COURT: I need you to speak up.

20 MS. MCNEILL: Sorry. The testimony from her mother about
21 the multiple issues that she has, I just don't know how we'll ever get
22 meaningful cross-examination.

23 My concern too is she's clearly very nervous about being here,
24 which I get. I have autistic children, Your Honor. My concern is that at
25 some point she could melt down from being questioned and then what do

1 I do? I -- he has the right to cross-examine anybody they come in and put
2 on the stand and it has to be meaningful.

3 MS. LUZAICH: Actually, I don't think it does have to be
4 meaningful under Pantano.

5 MS. MCNEILL: I'm talking about the Supreme Court of the
6 United States, meaningful cross-examination, that's what the
7 confrontation law stands for.

8 THE COURT: Sure, but I can't force a witness to answer the
9 way we want them to.

10 MS. MCNEILL: Well, no. But if she can't answer at all or she, I
11 mean, she shuts down, she has, I mean --

12 THE COURT: Where's the section about children as
13 witnesses? I'm looking at general competency. I haven't looked at these
14 sections in a long --

15 MS. LUZAICH: I can find it. One second.

16 50.015.

17 THE COURT: Yeah, that's just the general rule of competency.

18 MS. LUZAICH: Right. All witnesses are competent to testify.

19 MR. ROSE: She was much better on Monday.

20 MS. MCNEILL: Yeah, I mean, you put a kid like that in a room
21 like this --

22 THE COURT: I need you to speak --

23 MS. MCNEILL: Oh, he was saying she was better on Monday.

24 And I said --

25 THE COURT: I need you to speak.

1 MS. MCNEILL: Oh, sorry. He said you put a kid like -- he said
2 she was better Monday.

3 THE COURT: Right.

4 MS. MCNEILL: I said, well, yeah, you put her in a room like this
5 and it's going to be an issue.

6 THE COURT: I know. I know.

7 MS. MCNEILL: And I'm not trying to insensitive to it, but I also
8 have to --

9 THE COURT: No, no, no.

10 MS. MCNEILL: -- you know, take care of the record, so.

11 THE COURT: I mean --

12 MS. LUZAICH: The witness has to be able to perceive things
13 and relate them accurately.

14 THE COURT: Okay.

15 MS. LUZAICH: That's all. Through the Felix and Kirshner --

16 THE COURT: Right. So she's got to be able to -- she's going
17 to have to be able to relate them. So --

18 MS. LUZAICH: Right, but that's how you can tell. Make believe
19 and --

20 MS. MCNEILL: But initially she said that the blue jacket was
21 make believe.

22 THE COURT: So, child is competent to testify if he's capable of
23 receiving just impressions of the facts concerning which he testified and
24 relating them truly. Child must relate his impressions with the knowledge
25 of the difference between the truth and a falsehood and in the light of that

1 knowledge.

2 Relevant factors --

3 MS. LUZAICH: She needs to go to the bathroom.

4 MR. ROSE: Can we take a two-minute break?

5 THE COURT: Yeah, just go off the record -- well, I'll tell them.

6 Sorry, take off the noise.

7 [End of bench conference]

8 THE COURT: All right. She's going to step out to the
9 bathroom, folks, and then we're just going to go off the record for a few
10 minutes. So we won't speak until she comes back in.

11 [Recess at 3:51 p.m.; proceedings resumed at 3:52 p.m.]

12 [Bench conference transcribed as follows:]

13 THE COURT: So, I'm assuming, because of her age that she's
14 not able to, like, write down an answer that we could look at if that's easier
15 than speaking. She probably isn't there yet.

16 MS. LUZAICH: No.

17 MR. ROSE: I doubt it.

18 THE COURT: No? All right.

19 MS. LUZAICH: I mean, I'll ask her stuff like what did she have
20 breakfast and just general stuff, nothing cross-examinable. I mean, like
21 nothing about the case and let's see.

22 THE COURT: Right. So she's got to be able to distinguish
23 between truth and falsehood. I mean, I suppose what I would add to what
24 you've already said about make believe is that, you know, the importance
25 of telling the truth in the courtroom, you're not allowed to lie. A seven-

1 year-old knows what it means to lie, usually. I don't know how --

2 MS. LUZAICH: Not an autistic seven year old.

3 THE COURT: Right. Right. And so that's, I don't know, but if
4 she doesn't, then that may be a problem.

5 MS. LUZAICH: Uh-huh.

6 THE COURT: I don't know. I was just looking at the factors set
7 out about evaluating the child's competency, which apparently come from
8 the Felix case.

9 MS. LUZAICH: Uh-huh.

10 THE COURT: Child's ability to receive and communicate
11 information, spontaneity of child's statements. I mean, obviously, this is
12 more about disclosures by a witness.

13 MS. LUZAICH: Yeah, sexual abuse.

14 THE COURT: Yeah.

15 MS. LUZAICH: That's what Felix is talking about, 51.385, and
16 how it was disclosed.

17 THE COURT: Right.

18 I mean, ultimately I'm going to need -- so I need to do a little
19 more about knowing truth versus lie and I need her to answer out louder.
20 And you'll have to do your best to cross her if we are able to get anything
21 substantive.

22 MS. LUZAICH: Okay.

23 THE COURT: Let's keep trying.

24 [End of bench conference.]

25 THE COURT: All right, counsel, you can continue to examine

1 the young lady.

2 MS. LUZAICH: Thank you.

3 BY MS. LUZAICH:

4 Q Okay. Remember, outdoor voice and we're going to talk into
5 the microphone, okay?

6 You're nodding your head, can you say "yes" out loud?

7 A Yes.

8 Q Louder.

9 A Yes.

10 Q Thank you.

11 Did you have breakfast today?

12 A Yes.

13 Q What did you have for breakfast?

14 A McDonald's.

15 Q McDonald's?

16 Is that your favorite? You're nodding your head.

17 A Yes.

18 Q Yes? Okay.

19 What at McDonald's did you have?

20 A Sausage biscuit.

21 Q Was it good?

22 A Yes.

23 Q Did mom have breakfast too?

24 A Yes.

25 Q What did mom have?

1 A Sausage biscuit.

2 Q Okay.

3 THE COURT: Louder.

4 BY MS. LUZAICH:

5 Q Louder.

6 A Sausage biscuit.

7 Q Okay. Were you here in Las Vegas yesterday?

8 A Yes.

9 Q What did you do yesterday?

10 A Went to the carnival.

11 Q Louder.

12 A We went to carnival.

13 Q You went to carnival? Did you have fun at the carnival?

14 A Yes.

15 Q What did you do that was fun at the carnival?

16 A Ride rides. Ride rides.

17 Q Louder.

18 A Ride rides.

19 Q Ride rides? Okay.

20 What kind of rides did you ride? Out loud.

21 A I don't remember.

22 Q You don't remember? That's okay.

23 Riley, do you understand that there's a difference between

24 telling something that's -- that really happened and telling something that

25 didn't really happen?

1 A Yeah.

2 Q Do you understand that?

3 A Yes.

4 Q Is telling something that really happened, is that a good thing or

5 a bad thing?

6 A Bad thing.

7 Q It's a bad thing if you tell something that really happened?

8 A Wait. No. Good thing.

9 Q Good thing? You gotta say it out loud, Riley.

10 A Good thing.

11 Q Are you nervous? Are you upset?

12 A No.

13 Q No? Good.

14 THE COURT: I -- jury's gotta be able to hear her. I know

15 you're doing your best.

16 BY MS. LUZAICH:

17 Q Are you looking over there at them?

18 A No.

19 Q Loud.

20 A No.

21 Q No? Why not?

22 A I'm looking at you.

23 Q Louder.

24 A I'm looking at you.

25 Q Because you're looking at me? Okay.

1 But they have to be able to hear you. Okay.

2 When you go outside and play, do you talk loud?

3 A Yeah.

4 Q Can you talk loud like that while you're in here?

5 A Yeah.

6 Q Can you talk even louder? No? You're nodding your head no?

7 What's the matter?

8 A I want to go out there now. I want to go out there now.

9 Q Louder.

10 A I want to go out there now.

11 Q Loud.

12 A I want to go out there now.

13 Q You want to go out there now? Where do you want to go?

14 A The room where my mom's in.

15 MS. LUZAICH: Okay. I --

16 THE COURT: Not going to happen? All right. So it appears

17 she's not going to be able to testify any further today.

18 Riley, that's okay, honey. All right. You can go ahead and step

19 out.

20 MS. LUZAICH: Thank you for coming, Riley.

21 THE COURT: All right, so, then call your next witness.

22 MR. ROSE: The State would call Leroy Denten.

23 THE COURT: I'm sorry, what was the name?

24 MR. ROSE: Leroy Denten.

25 THE COURT: Got it, thank you.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LEROY DENTEN

[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. You may be seated.
Please state your complete name, spelling both your first and last name for the record.

THE WITNESS: Leroy Denten, L-E-R-O-Y, D-E-N-T-E-N.

THE CLERK: Thank you.
MR. ROSE: May I proceed, Your Honor?
THE COURT: Yes.

DIRECT EXAMINATION OF LEROY DENTEN

BY MR. ROSE:

Q Good afternoon, Mr. Denten.
A Good afternoon.
Q What do you currently do for a living?
A I haul scrap cars.
Q And do you live here in Vegas?
A I live in Northern Nevada, but I have the businesses down here because it's more profitable.
MS. MCNEILL: I'm sorry, Your Honor, I can't hear the witness.
THE COURT: Yeah, I can't you. We need you to speak --
MR. ROSE: Right in front of you is --
THE COURT: -- into the mic, sir.
THE WITNESS: Oh, I'm sorry. I apologize.
THE COURT: That's okay.

1 THE WITNESS: I'll speak a little louder.

2 THE COURT: Thank you.

3 THE WITNESS: I haul scrap cars. I own TMC Scrap and
4 Salvage and I live up north and I come down here because I have a
5 bunch of businesses down here.

6 BY MR. ROSE:

7 Q So you say that you live up north and you've got some
8 businesses down here. Are we talking, like, Carson City or kind of
9 generally speaking, where up north?

10 A Hawthorne, Nevada.

11 Q Okay. Are you familiar with somebody by the name of
12 Samantha Weston?

13 A Yes, sir.

14 Q How -- how did you first come to meet Samantha?

15 A Samantha was introduced to me through a mutual friend that
16 we had at the time. Her name was Kristin and --

17 Q And when you met with Samantha, did she ask you to do
18 anything?

19 A Yes. I was asked to secure the front door that had been kicked
20 in.

21 Q Now, we're talking about, you know, a front door. Are you
22 changing the locks?

23 A Yes. I changed the locks and I put a plate on and I put a gutter
24 plate so that the door could remain secure.

25 Q Okay. So you kind of -- so you put, you know, a couple of

1 plates on but you also changed the locks. Do you remember
2 approximately when this occurred?

3 A It was probably about a year ago.

4 Q So you're saying around June of 2017?

5 A About in that area.

6 Q Okay. Do you remember the exact day?

7 A No, sir.

8 Q All right. Now, did you drive all the way down from Hawthorne
9 to come and do that?

10 A No, sir. I happened to be in Vegas at the time.

11 Q Okay. So prior to being asked to go change the locks on the
12 door, had you ever met Samantha?

13 A No, sir.

14 Q All right. So you go over, you change the locks on the door.
15 How is it that you know how to do that?

16 A Well, prior experience and from my dad and stuff. We used to
17 work on our own home at where I lived at.

18 Q And did you just happen to have all of the parts to do it?

19 A No, sir. I went to the Home Depot and bought them.

20 Q Okay. And then go over to Samantha's house?

21 A Yes, sir.

22 Q Replace the locks?

23 A Yes, sir.

24 Q Did she pay you for that?

25 A No, sir.

1 Q Did you come to learn why it was that you were being asked to
2 replace the locks?

3 A Yes, sir.

4 Q What was your motivation in replacing those locks?

5 A Secure, to make it more safe for the child and the mother.

6 Q Did you stick around after that?

7 A I was around for about an hour after that and then I left and
8 went back to my friend's house.

9 Q You said you went back to a friend's house. Is that here in
10 Vegas or is that back in Hawthorne?

11 A Oh, no, no, no. That's here in Vegas. That's over in North Las
12 Vegas.

13 Q All right. How long did you stay in Vegas?

14 A Approximately, about seven to ten business days.

15 Q And during those seven to ten business days, did you have any
16 additional contact with Samantha?

17 A Took her some place one time because there was, in fact, she
18 needed to go somewhere, but other than I took her back home and that
19 was it.

20 Q Did you ever receive any kind of text or cellular message from
21 Samantha?

22 A Yes, sir. I did.

23 Q Approximately how long after you replaced the locks on the
24 door did you get that message?

25 A It would be -- I really don't remember.

1 Q Okay. Do you know if it was the same day that you replaced
2 the lock?

3 A No, sir. I know that.

4 Q Do you know if it was the very next day?

5 A I vaguely don't think so.

6 Q Okay. So not necessarily the next day, but was it within that
7 seven to ten days that you were here in Vegas?

8 A That would be approximately, I think so, yes, sir.

9 Q Okay. And what was the nature of the message you received?

10 A The nature of the message that I had received was not very
11 good. It informed me that the individual who was inside the home had --
12 well, I'll just be blatant --

13 MS. MCNEILL: Your Honor, I'm going to object to hearsay at
14 this point.

15 THE COURT: Come on up.

16 [Bench conference transcribed at follows:]

17 MS. MCNEILL: I asked her about this. She's already --

18 THE RECORDER: Speak up.

19 MS. MCNEILL: -- testified about it. I don't think this -- I didn't
20 say anything she did for him is inconsistent, so they don't need to bring in
21 a prior inconsistent statement. So the substance of what she told him
22 about why he was there is hearsay.

23 MR. ROSE: It seems to be a couple of things, first of all, I think
24 his testimony is going to be consistent with hers. So I think that any kind
25 of prejudice from having it, is non-existent. Additionally, we now have

1 kind of an argument that she's simply making it up, right? That she simply
2 made it up. So in addition to having no prejudice, it also becomes a prior
3 consistent statement. Because if she's making it up at the time, it's
4 arising prior to her, you know, kind of having a reason to lie about it, then
5 that would make it a prior consistent statement.

6 And then, lastly, it's part of the 9-1-1 call because he actually
7 reads the thing out loud to the 9-1-1 dispatcher.

8 MS. MCNEILL: Well, just let me just cut you off so I can say
9 this --

10 MR. ROSE: Okay.

11 MS. MCNEILL: I think he's answering --

12 THE RECORDER: I can't hear you.

13 MS. MCNEILL: Sorry, I think he's answering about why he was
14 changing the locks. You're talking about the text messages of her calling
15 him over there.

16 THE COURT: Yes, he was asking about the nature of the text
17 message.

18 MR. ROSE: The text message.

19 MS. MCNEILL: Yeah, about changing the locks, that was what
20 I understood.

21 MR. ROSE: And just to be clear, because I think he has
22 indicated in the past that the first time that he was asked to go change the
23 locks was also through text message, so.

24 MS. MCNEILL: That's what I understood him to be going into,
25 which is why I stopped.

1 MR. ROSE: Right. My only intent was the one that prompted --

2 THE COURT: All right. Okay.

3 MR. ROSE: -- the 9-1-1 call.

4 MS. MCNEILL: Okay.

5 MR. ROSE: So I can --

6 MS. MCNEILL: Yeah, just --

7 MR. ROSE: If I limit it to that.

8 MS. MCNEILL: Yeah.

9 THE COURT: All right, thank you.

10 [End of bench conference.]

11 THE COURT: Go ahead and clarify.

12 MR. ROSE: Thank you, Your Honor.

13 BY MR. ROSE:

14 Q Mr. Denten, I asked a poorly worded question. After you
15 changed the locks and you got a call, sorry, you got a text message from
16 Samantha Weston, did you ultimately call 9-1-1?

17 A Yes, sir.

18 Q Okay. So only talking about that text message, what was the
19 nature of that text message such that it caused you to call 9-1-1?

20 A The nature of the text message itself informed me that she was
21 being held against her will, she had been raped, and that's pretty much
22 what caused me to go ahead and call 9-1-1.

23 Q And do you remember going and calling 9-1-1 at that point in
24 time?

25 A Yes, sir.

1 Q After you called 9-1-1, what did you do?

2 A I left my home and headed for the scene.

3 Q And why were you headed for the scene?

4 A Because I felt the nature to go ahead and protect a child and
5 her mother.

6 Q Did you arrive at the scene?

7 A Yes, sir.

8 Q Okay. Were the police already there?

9 A Yes, sir.

10 Q Okay. After, kind of, that day and after you arrived there and
11 the police were already there, does the police kind of take over and do
12 their jobs?

13 A Yes, sir.

14 Q Eventually you returned back to Hawthorne?

15 A No. I stayed in Las Vegas a little while longer.

16 Q Okay.

17 A Because I was asked to by the detective.

18 Q Okay.

19 MR. ROSE: Permission to publish State's Exhibit 100, Your
20 Honor? It's been admitted by stipulation.

21 THE COURT: Yes, go ahead.

22 [State's Exhibit 100 played for the jury]

23 BY MR. ROSE:

24 Q Now, I know the person on there just said their own name, but
25 did you also recognize your voice there?

1 A Yes, sir.

2 Q So is this that phone call that you made?

3 A Yes, it is.

4 [State's Exhibit 100 played for the jury]

5 BY MR. ROSE:

6 Q Mr. Denten, earlier I asked you if you thought that it was the
7 prior day that you had fixed the door and you indicated you didn't think it
8 was. Had you had the chance to listen to your 9-1-1 call prior to your
9 testimony today?

10 A No, sir.

11 MR. ROSE: I have no additional questions at this point in time.

12 THE COURT: Thank you.

13 Cross.

14 MS. MCNEILL: Thank you, Your Honor.

15 **CROSS-EXAMINATION OF LEROY DENTEN**

16 BY MS. MCNEILL:

17 Q You indicated that the day that you changed the locks was the
18 first time that you'd met Ms. Weston, correct?

19 A Yes, ma'am.

20 Q Okay. And you -- she didn't reimburse you for the cost of the
21 parts for the locks?

22 A No, ma'am.

23 Q And she didn't pay you for changing the locks?

24 A No, ma'am.

25 Q All right. And then you said some time after you changed the

1 locks you had an occasion to give her a ride to somewhere.

2 A Yes, ma'am.

3 Q Do you remember where that was?

4 A To a business.

5 Q Okay. And then do you remember the day that you ended up
6 calling the police you had invited her to go to a barbeque with you?

7 A I don't remember that.

8 Q You don't remember that? Would looking -- do you remember
9 talking to the police, you mentioned that you had talked to a detective,
10 correct?

11 A Yes, ma'am.

12 Q Okay. Were you aware that he had recorded your statement?

13 A Yes, ma'am.

14 Q Okay.

15 A That's the standard procedure.

16 Q Okay. Do you have some law enforcement background,
17 Mr. Denten?

18 A Yes, ma'am, I do.

19 Q What background is that?

20 A My law enforcement background happened to be I was a rookie
21 when I was 21 years old.

22 Q Okay. And I'm sorry, you're so quiet, Mr. Denten, or it's me, I
23 don't know.

24 A I'm sorry. I'm sorry. I was a rookie for six months when I was
25 21.

1 Q Okay. What --

2 A Okay, the second part of that is I grew up around law
3 enforcement because of my friends and my stepfather.

4 Q Okay. And you said you were a rookie when you were 21,
5 where -- what city?

6 A State of Nevada.

7 Q Oh, in Las Vegas or --

8 A No.

9 Q -- Northern Nevada?

10 A Northern Nevada.

11 Q Okay. Did you tell Ms. Weston about your law enforcement
12 background?

13 A No, ma'am.

14 Q Okay. And, I'm sorry, I'm going to go back to asking you if you
15 remember that you had invited her to go to a barbeque with you the day
16 of -- the day that you ended up having to call the police.

17 MS. MCNEILL: Court's indulgence.

18 Page 7, Counsel.

19 If I may approach, Your Honor?

20 THE COURT: Yeah.

21 BY MS. MCNEILL:

22 Q Okay. I'm showing you your statement and if you'll just read to
23 yourself this top part and let me know, does that help you remember what
24 you told the detective.

25 A No, I've not even got a chance to --

1 Q Oh, I'm sorry.

2 A That's okay.

3 Q Sorry. I just got excited.

4 A Okay.

5 Q Okay. Do you remember if you even invited her to go to a
6 barbeque with you the day of June 18th, 2017?

7 A Appears, according to me, what it says on the statement I
8 invited her to Raising Cane's.

9 Q Okay. And then maybe somewhere else in here where you
10 indicated barbeque.

11 A And the Raising Cane's would have been done as a Father's
12 Day thing.

13 Q I'm sorry, I can't --

14 A Raising Cane's would have been done as a Father's Day thing
15 because my kids aren't around.

16 Q Okay. And so you felt some sort of fatherly feelings towards
17 Ms. Weston?

18 A Yes, sir. I mean, yes, ma'am. Sorry.

19 Q That's okay. It's late.

20 I have nothing further, Mr. Denten.

21 THE COURT: Any redirect?

22 MR. ROSE: Not by the State, Your Honor.

23 THE COURT: All right. Thank you, sir. I appreciate you
24 coming down today.

25 THE WITNESS: You're welcome.

1 THE COURT: All right. Next?

2 MR. ROSE: The State calls Officer Gainey.

3 **ZACHARY GAINEY**

4 [having been called as a witness and being first duly sworn, testified as
5 follows:]

6 THE CLERK: Thank you. You may be seated.

7 Please state your complete name, spelling both your first and
8 last name for the record.

9 THE WITNESS: Zachary Gainey, Z-A-C-H-A-R-Y, last name
10 Gainey, G-A-I-N-E-Y.

11 THE CLERK: Thank you.

12 **DIRECT EXAMINATION OF ZACHARY GAINEY**

13 BY MS. LUZAICH:

14 Q Good afternoon, sir.

15 A Good afternoon, ma'am.

16 Q How are you employed?

17 A I'm employed with the Las Vegas Metropolitan Police
18 Department in the patrol division.

19 Q For how long have you been with Metro?

20 A Approximately two years now.

21 Q And as a patrol officer, what do you do on a daily basis?

22 A On a daily basis we respond to calls that are dispatched to us
23 through the dispatch center. We take enforcement action in traffic areas.
24 As well as just enforcing typical day-to-day laws.

25 Q Okay. Patrol the streets to try to keep us safe, correct?

1 A Exactly, that's it.

2 Q And as you patrol the streets on a daily basis are you in uniform
3 as you are today?

4 A In uniform just like this with a black-and-white police car.

5 Q Okay. I'm going to direct your attention, if I go to May 28th of
6 2017, were you working as a police officer on that date?

7 A Yes, I was.

8 Q And for how long had you been with Metro at that time?

9 A Including the academy time, about seven months.

10 Q Okay. So for how long is the academy about?

11 A The academy is six months of that.

12 Q When you get out of the academy, do you just get to go out on
13 your own or do you have some sort of on-the-job training?

14 A No. We have -- out of the academy we have another six
15 months of on-the-job training. During those six months we're with a field
16 training officer who has been on and taken all the courses to receive that
17 certification. So at that time I was with a field training officer.

18 Q And when you ride with a field training officer, what do you do?
19 How does that work?

20 A When I ride with a field training officer this -- this night is fairly
21 early in the field training process, I handle as much of the responsibilities
22 as he feels I can handle. His goal as a field training officer is to stand
23 back, watch, make sure I don't do anything wrong, not moral, not ethical,
24 and illegal, and make sure I don't do anything that would put the
25 department in jeopardy. So in reality, during the field training process, we

1 take over and take all responsibilities as a commissioned police officer,
2 we kind of just have a shadow to make sure we do it right.

3 Q Okay. So on May 28th of 2017, while you were on duty, what
4 shift were you working?

5 A I was working swing shift.

6 Q Which is what hours?

7 A It's approximate -- we show up at about 4:00 p.m., do our
8 briefing, and we work until about 1:00 in the morning.

9 Q Who was your field training officer on May 28th of 2017?

10 A Officer Frost.

11 Q And did you and Officer Frost respond to a domestic violence
12 call at 2686 Jennydiane here in Las Vegas?

13 A Yes, we did.

14 Q Around what time of day was it?

15 A I don't know -- recall the exact time. I know it was in the
16 evening.

17 Q Okay. So not quite -- or getting dark?

18 A It was getting, yeah, it wasn't dark but it was getting there.

19 Q What was the information that you had when you went?

20 A So the information that we had is we had a female who had
21 called into the dispatch center, said that she was in a domestic violence
22 situation with her at-the-time boyfriend. Our details said that she had
23 been beaten, there was a battery that had occurred during that incident.
24 The details in the event also said that the male had left. She identified
25 him through the -- through the -- in the call and he was no longer there,

1 but he was sending her threatening text messages and at that -- and she
2 told the dispatch center she was in fear.

3 Q Okay. So did you go to the address?

4 A Yes, we responded to that address.

5 Q When you, the collective you, Metro, responds to a call of
6 domestic violence, do you generally go as one unit or do multiple units
7 respond?

8 A So in a domestic violence call it's standard that two units are
9 dispatched to that call, if available.

10 Q So did another unit also show up?

11 A Yes.

12 Q And do you remember who the other unit was?

13 A Off the top of my head, I do not. I'd have to look.

14 Q Could it have been Officer Richards?

15 A Could have been -- it was Officer Richards and his trainee.

16 Q Okay. When you arrived at the location, tell me what
17 happened.

18 A We arrived at the location; we made contact with the female
19 who had called in. We immediately made sure the scene was safe before
20 we conducted any sort of investigation at that time.

21 Q How do you do that?

22 A We -- if we're at -- so if we're at an apartment building, we enter
23 inside the apartment building. We check the rooms, we check anywhere
24 that the -- a person could typically hide. We make sure that there's no
25 longer a threat. We make sure that the person who is identified as the

1 suspect in the call is no longer there. We make sure there's not any
2 weapons immediately accessible to the -- to anybody, including the victim
3 itself because these calls are generally very emotional. So we just -- we
4 make sure that everything's safe. We make sure that there's nobody
5 hiding, and then we conduct our investigation.

6 Q Okay. So did you go inside and make sure everything was
7 safe?

8 A Yes, we did.

9 Q Showing you State's Exhibit 103, is this the individual that you
10 contacted?

11 A Yes, that was the female who called it in.

12 Q And is that Samantha Weston?

13 A Yes, that is.

14 Q Did you talk to Samantha about the reason you were called
15 there?

16 A Yes, I did. I asked her about why we were there. I immediately
17 noticed certain things about her including injuries.

18 Q What injuries did you notice immediately?

19 A Immediately noticeable was a cut to her lower lip. It appeared
20 to be fresh in nature. It didn't appear to be scabbed over. It was still
21 bleeding, immediately noticed that. And then through speaking with her a
22 little bit more, I noticed that her hand was also injured.

23 Q I'm going to show you State's Exhibit 107, and can you
24 describe -- the cut lip, is that depicted in this photograph?

25 A This -- the photograph was taken towards the end of our

1 investigation, so this -- it's not as bloody as it was when I got there. There
2 was blood on it when I arrived, so that's what made it more noticeable.
3 But it is depicted in the photograph as you can see the swelling as well as
4 where the cut was on the front.

5 Q Okay. And then you mentioned that you also saw a cut to her
6 hand?

7 A Yes.

8 Q I'm going to show you State's Exhibit 104. Okay. Steve's gone.
9 Actually I'm going to --

10 MS. LUZAICH: May I approach?

11 THE COURT: Yep.

12 BY MS. LUZAICH:

13 Q Okay. I'm going to have you look at State's 104. Does it look
14 slightly different when you actually look at the photo than when you look at
15 the monitor?

16 A Slightly.

17 Q Is it more noticeable in the actual photograph than it is on the
18 monitor?

19 A Yes. The photograph makes it -- depicts it very well. The
20 reason that we were noticed -- we noticed that is she was nursing it as
21 well when we arrived, that's kind of what drew my attention to it.

22 Q Okay.

23 MS. LUZAICH: Can you make that look better?

24 MR. ROSE: I can try.

25 MS. LUZAICH: A little?

1 BY MS. LUZAICH:

2 Q And did she indicate to you how she got the cut hand and the
3 cut lip?

4 A Yeah, she did. Through the investigation we were able to find
5 out how that -- how those occurred.

6 Q Did you notice anything else?

7 A I noticed her demeanor. Her demeanor was she was -- she
8 was very scared. She was in fear. You could tell that she was
9 uncomfortable. She was nursing her wounds, her hand mainly.

10 Q Did she indicate how she got the wound to her hand?

11 A Yes.

12 Q How was that?

13 A Her hand was after she was struck in the face, an aerosol can
14 of Febreze was picked up and it was smashed on her hand by the
15 suspect.

16 Q Did she indicate how she got the wound to her face?

17 A Yes. She was --

18 Q How was that?

19 A She was hit in the face by the suspect.

20 Q Okay. Did she also show you some other wounds besides
21 her -- oh, and I'm sorry, you indicated that she was hit in the face,
22 showing you State's Exhibit -- oh, before I get to the next one -- 104, does
23 that look a little more accurate now?

24 A Yeah, that looks a little bit more clear and accurate.

25 Q Okay. And that was the hand, 104, for the record.

1 Showing you State's Exhibit 106, what are we looking at here?

2 A That is the side of her head. She said she was struck multiple
3 times, including the side and the back of her head.

4 Q And did you notice anything when you looked at the side of her
5 head?

6 A Not immediately anything that stood out, she did indicate that it
7 did hurt. She was -- kept holding it.

8 As far as swelling and cuts or anything like that, I did not notice
9 anything immediately.

10 Q Okay. You said not immediately, did you later?

11 A It reddened as the night -- as our investigation progressed,
12 that's why we did document it through photograph.

13 But as far as cuts or anything like that, that's -- that was the
14 extent that we were able to see.

15 Q Okay. And did she show you another injury? Specifically
16 State's Exhibit 105.

17 A Yes, the bruise -- she said that she received that from being
18 pushed and thrown to the ground.

19 Q And you documented that as well?

20 A We did document that as well.

21 Q Do you know for how long a period of time you were there with
22 her?

23 A We were there for approximately 45 minutes to an hour.

24 Q And while you were there, was the suspect ever present?

25 A He was not present.

1 Q Did she give you a name?

2 A She did.

3 Q What was the name?

4 A Trandon Green.

5 Q And did she give you a description of him?

6 A She did give us a description.

7 Q What was the description?

8 A It was a BMA, or black male adult, he was -- told us
9 approximately 6'2" to 6'4".

10 I'd have to look at my report to see exactly what else she told us
11 that night about him. But that's what I remember immediately from the
12 report.

13 Q Okay. Did she also indicate to you why this had occurred?

14 A She did.

15 Q What was -- what did she tell you about that?

16 A She indicated that he was upset because she received a text
17 message from him stating that he was bringing another female to the
18 apartment and he wanted her gone by the time he got there with that
19 other female.

20 Q And they had an argument about that?

21 A And they had it out and when he got there she was still there
22 and he did not like the fact that she was still there after he told her to
23 leave.

24 Q Okay. Now, while you were having this conversation with her,
25 you said you were there for around 45 minutes or so, was she getting

1 some messages?

2 A Yes. She -- her phone was still receiving phone calls and text
3 messages from the suspect.

4 Q How do you know that they were from the suspect?

5 A Well, the -- the name was saved in her phone as him and she
6 identified the number to be his. And --

7 Q I guess the better question is, did you look at her phone to see
8 what the messages were?

9 A Yes. The messages were very threatening.

10 MS. MCNEILL: And, Your Honor, I'm going to object. I don't
11 have the actual messages. So there's a best evidence problem.

12 THE COURT: Come on up, please.

13 [Bench conference transcribed as follows:]

14 THE COURT: Right. So the messages weren't preserved?

15 MS. LUZAICH: No, they were not.

16 THE COURT: And so -- so respond to the objection then.

17 MS. LUZAICH: Well, I think the officer can still testify to what
18 he personally observed.

19 MS. MCNEILL: Well, but he's basing it on what he saw on the
20 phone which --

21 THE RECORDER: Can't hear you.

22 MS. MCNEILL: He's basing it on what he saw which, one, was
23 hearsay; and, two, you'd have to lay foundation it was actually him that
24 was the sending messages; and, three, we have no way of looking at the
25 messages and verifying that's what they say.

1 THE COURT: And it's not hearsay because it's not for the truth.
2 MS. MCNEILL: They weren't preserved.
3 MS. LUZAICH: It's the defendant.
4 THE COURT: But --
5 MS. LUZAICH: And it's the defendant's statements.
6 MS. MCNEILL: But we don't see it --
7 THE COURT: And it's the defendant's statements, good point.
8 MS. MCNEILL: You'd have to lay a foundation that it was him
9 that was sending the messages. Just because it came from his phone
10 number and if he's -- I mean, it is offered for the truth because he's saying
11 they were threatening.
12 MR. ROSE: Except that whatever the threats are --
13 THE RECORDER: Speak up.
14 MR. ROSE: Whatever the threats are, it's not being offered for
15 the truth that he would actually do whatever it was he was threatening to
16 do, it was just the fact that it was being said.
17 Additionally, you have the, you know, in terms of authentication
18 of it, you have to have essentially a reason to believe that -- there was
19 substantial evidence to believe that the person -- that it is what you're
20 saying it is. He's indicated that she told him that you can see the number
21 that it was saved under and, you know, identify that to be his number.
22 Finally, with respect to the best evidence rule, the contents of
23 the messages, the actual ruling of the messages aren't at issue, it was
24 just the general nature. But we're not asking him specifically what did it
25 say because I don't think he can testify to that, I don't think he remembers

1 that.

2 THE COURT: Okay, so just have --

3 MR. ROSE: But I think he can give the general tenet.

4 THE COURT: -- him testify to the general nature and don't get
5 into the details of it.

6 MR. ROSE: Specific wording.

7 THE COURT: Right.

8 MS. MCNEILL: But, I mean, now it's come out that they're
9 threatening and --

10 THE RECORDER: Speak up.

11 MS. MCNEILL: I'll just deal with it on cross, Your Honor.

12 THE COURT: Okay. Go ahead.

13 [End of bench conference.]

14 THE COURT: All right. Counsel, go ahead.

15 BY MS. LUZAICH:

16 Q So, officer, generally, not specifically word for word, generally,
17 what were the messages saying?

18 A The messages were threatening in nature. Like I said, they're
19 not verbatim on what they were being said, they were about what would
20 happen if she would call the police. Like I said, I don't know verbatim. I
21 can't -- I do not recall. This is over a year ago. But they were very
22 threatening in nature. She was -- trying to invoke fear on her.

23 Q Okay. As you talked to her did you also talk to her about what
24 maybe she should do next?

25 A Yes.

1 Q And what did that entail?

2 A We talked to her about a plan, which we try -- we try to do that
3 with -- with all these domestic calls. We receive multiple of them every
4 day. We --

5 Q I'm sorry, when you say you receive multiple, you don't mean at
6 this home.

7 A Not -- not -- not at this home.

8 Q Just in general?

9 A Just in general. What we try and do in general, with females, is
10 we try and create a plan with them. We try and give 'em ideas on what
11 they could do to be safe. We try and help them out of a situation. And we
12 did that with this case, on -- back to this case, we tried to do that with her,
13 with our victim. We told her about options that she had.

14 Q For example, what kind of options would you have told her
15 about?

16 A We would have told her about SafeNest. We would have told
17 her about women's shelters. And then she actually brought up the fact
18 how she wanted to change the locks on her door. She wanted to take the
19 steps to end the relationship and be able to get out of there.

20 Q Okay.

21 A Sorry, go ahead.

22 Q In the time that you were there you said the suspect was never
23 there, did you look in the area for him?

24 A After we concluded at the scene, we did a general search of the
25 area. She did say he left on foot. We didn't have a vehicle description.

1 We had very vague description on who -- on him himself. We did do a
2 very -- a canvass of the area, the surrounding businesses, conveniences
3 stores, and the complex itself.

4 Q And did you ever find him?

5 A No. We were not able to locate him that night.

6 Q Did you ever go back and look for him again after that?

7 A Later that night after the report was complete, because it takes
8 us a little bit of time to type up the report, before we cleared off the call,
9 we drove through the complex again, my trainer and I.

10 Q And did you find him at that point?

11 A No. We did not.

12 Q Thank you, sir.

13 MS. LUZAICH: I pass the witness.

14 THE COURT: Cross.

15 MS. MCNEILL: Thank you, Your Honor.

16 **CROSS-EXAMINATION OF ZACHARY GAINEY**

17 BY MS. MCNEILL:

18 Q Officer, you indicated that on the night of May 28th, 2017, you
19 had been out of the academy for about three months, if I did my math
20 right?

21 A Little bit less.

22 Q Okay. So a little less than three months. I think you said you'd
23 been an officer for nine months including the academy?

24 A I believe I said about seven.

25 Q Okay. I did -- it is a seven. I can't read my writing. Thank you.

1 So you had been in the academy for six months, right?

2 A Yes.

3 Q And then you were in field training at this time for about a

4 month?

5 A Yes.

6 Q Okay. When you're in the academy you learn how to write

7 police reports, right?

8 A Yes.

9 Q And you learn that reports are important, right?

10 A Yes.

11 Q And they have to be thorough?

12 A Yes.

13 Q And accurate?

14 A Accurate.

15 Q And they have to contain all the important details?

16 A Yes.

17 Q And part of the reason is because it could be quite some time in

18 between the event and when you come to testify, right?

19 A As in this case.

20 Q As in this case, perfect example. And so, fresh out of the

21 academy, I imagine that as you wrote your reports you wanted them to be

22 thorough?

23 A Very.

24 Q And accurate?

25 A And accurate.

1 Q And detailed?

2 A Yes.

3 Q And your report in this case is thorough?

4 A Yes.

5 Q And accurate?

6 A Yes.

7 Q And detailed?

8 A Yes. And before I submitted it, it was looked over by my field
9 training officer.

10 Q Okay. And I was going to get to that next. And so there's
11 different phases of field training.

12 A Yes, ma'am.

13 Q Right? And so in the beginning you have a little more
14 supervision, whereas at the end they kind of let you fly a little more free,
15 right?

16 A Yep.

17 Q So in this phase of field training that you were in, anything that
18 you did kind of had to be run through your field training supervisor?

19 A Yes. And if he saw anything through the process of it, he would
20 have stopped me to correct me through the process as well, so that way
21 there was as minimal mistakes as possible.

22 Q Okay. And so we can be assured that not only do you say your
23 report is thorough, detailed, and accurate, your supervisor reviewed it for
24 the same?

25 A Yes. During the field training process every report we submit is

1 screened by our trainer as well as our sergeant, as well as the detective
2 that we submit it to.

3 Q Okay. And the trainer is actually at the scene with you, right?

4 A In the car with me the whole time.

5 Q Okay. And he's watching everything that you do?

6 A And very involved in the call.

7 Q Okay. And so I want to go to this call that you went on. You
8 indicated that -- I'm sorry, I have a cold -- you indicated that she told you
9 that she had been hit on the side of her face, in your report do you
10 remember saying that he hit her with an open hand on the face?

11 A I would have to review my report.

12 Q Okay.

13 MS. MCNEILL: If I may approach, Your Honor?

14 THE COURT: Yeah.

15 BY MS. MCNEILL:

16 Q And then, Officer, is that your report?

17 A Yes.

18 Q Okay. And does that refresh your recollection?

19 A Yes.

20 Q Okay. Let me just back up a little bit. The information that you
21 put in the report is information that you gather from speaking -- that you
22 gather from speaking with Ms. Weston, correct?

23 A Directly, yes.

24 Q Okay. And then some of the things that you wrote in there
25 would have been things you observed?

1 A Yes.

2 Q Okay. And so anywhere where it says that she told you
3 something was because she actually told you that?

4 A Yes.

5 Q Okay. And you wouldn't have put words in her mouth?

6 A No, and the report that -- unless it's in quotations on my report,
7 it's not necessarily a verbatim statement.

8 Q Okay.

9 A It is describing what she said throughout that report as well.

10 Q Okay. And if it's not verbatim, you still wouldn't say that she
11 said something that was different than what she said?

12 A Correct.

13 Q Okay. And so she told you that she'd been hit with an open
14 hand on the right side of her face, correct?

15 A Yes.

16 Q And she told you that the aerosol hand was -- the aerosol can
17 was used to hit her in the hand, correct?

18 A Yes.

19 Q Okay. And then your report said that Green also hit her on the
20 right side of the head and back, correct?

21 A Yes.

22 Q Okay. It does not say that she was hit in the head with an
23 aerosol can, correct?

24 A Correct.

25 Q And then you noted that you did not see any injuries on her

1 back or her head, correct?

2 A Correct.

3 Q Nowhere in your report do you indicate that she told you that
4 she'd been pushed down, correct?

5 A I do believe I put in there that she was shoved to the ground.

6 Q Okay. If I could show you your report.

7 MS. MCNEILL: If I may approach?

8 THE COURT: Yep.

9 BY MS. MCNEILL:

10 Q That's not in your report, correct?

11 A Correct. I believe that the part, her being shoved to the ground
12 was in the CAD details of the call as well when she called into the
13 dispatch center.

14 Q Okay. But that wasn't something that she told --

15 A Not in the report.

16 Q -- you, right? Okay. She also told you that she was three
17 months pregnant, right?

18 A She did state that.

19 Q Okay. I'm showing you what's marked as State's Exhibit 107,
20 and you indicated that when you arrived the cut on her lip was fresh,
21 right?

22 A Yes.

23 Q And you have a little bit of training from being in the academy
24 on sort of looking at wounds and being able to determine how fresh they
25 are, correct?

1 A Based on not how fresh they are, but if they're recent, not
2 recent. We're not doctors. We're not forensic scientists.

3 Q Sure.

4 A But it's pretty generally easy to tell if a cut's fresh or if a cut's
5 had time to heal a little bit.

6 Q Right. And, I mean, I think we probably all know that from our
7 own life experience, right, if you have a cut's that's actually bleeding and
8 it's red --

9 A Fairly recent.

10 Q -- you know that that's fresh?

11 A Correct.

12 Q Okay. And when you arrived you believed that that wound on
13 her lip was fresh?

14 A Was recent, yes.

15 Q Okay. Would it surprise you if she had waited hours between
16 when she said Mr. Green did that and calling the police? That wound
17 would be that fresh?

18 A With how it was and how red it was, fresh is within a couple
19 hours of that. I mean, it could have scab -- it couldn't have scabbed over
20 fairly recently. As far as being hours to a day, no, it couldn't have been
21 that long.

22 Q Okay. So your, I mean --

23 A But within that day --

24 Q Sure.

25 A -- it happened, yes.

1 Q Okay. But let me ask you this, you testified that it was fresh to
2 you, right, and that it was still bleeding and that's how it drew your
3 attention to it, right?

4 A Yes

5 Q Okay.

6 A You could tell, it was very obvious. It was swollen. There's still
7 blood on it.

8 Q Right. And it was your understanding after talking to her, that
9 the incident had just occurred when she called, right, it was sort of close in
10 time?

11 A It was recent.

12 Q Okay. You talked a little bit about the text messages that were
13 threatening in nature. You didn't document those text messages by taking
14 a photograph?

15 A I did not.

16 Q Okay. And you have -- some times the department will issue
17 cameras, right?

18 A We have body-worn cameras that we wear.

19 Q Okay. So you have body cameras, you also have a phone with
20 you, right?

21 A Yes.

22 Q Do you sometimes use your phone to take pictures at scenes?

23 A I do not use my personal cell phone to take pictures at scenes.

24 Q Okay. Do some officers?

25 A I do not know if some officers do.

1 Q Okay.

2 A Me personally, I do not.

3 Q You've not been trained on collecting evidence?

4 A We have been trained on collecting evidence, just not using our
5 personal cell phones to do so.

6 Q Okay. So you could have found some way to document those
7 text messages?

8 A With our MDT tablets we could have.

9 Q Okay. You didn't do that?

10 A We did not.

11 Q Okay. And you're sitting here a year later, right?

12 A Correct.

13 Q Okay. In your report is it fair to say that the only mention you
14 have is that he tried to contact her several times by calling her and texting
15 her, correct?

16 A Yes.

17 Q Okay. And you've been trained on how to respond to a
18 domestic violence call, right?

19 A Yes.

20 Q Threatening text messages would be important, correct?

21 A Yes.

22 Q Okay. But your report just simply says text messages, right?

23 A Yes.

24 Q Okay. And this was documented probably that night after the
25 call?

1 A Yes.

2 Q Okay. Prior to coming in here and testifying today, you've
3 spoken to the district attorneys?

4 A I have.

5 MS. MCNEILL: Nothing further, Your Honor.

6 THE COURT: All right. Redirect.

7 MS. LUZAICH: Can I get this marked next in order? All right.
8 Never mind, can I approach?

9 THE COURT: Yes.

10 **REDIRECT EXAMINATION OF ZACHARY GAINEY**

11 BY MS. LUZAICH:

12 Q Officer Gaaney, have you seen a CAD before?

13 A Yes.

14 Q What is a CAD?

15 A A CAD is a summary of the details as they come to the dispatch
16 center, so as the victim or person reporting or any other people calling
17 9-1-1, it goes through the call center. The call center then takes the
18 information, types it up onto a screen and that information is shown on to
19 my computer screen inside my patrol vehicle.

20 Q Is this a CAD from that day?

21 A This is.

22 Q And can you tell that because the event number is on it?

23 A Yep. Inside the CAD event it tells us what type of the event it is,
24 it tells us who the victim is or who the person calling is. It gives us their
25 contact information and also the event number to link everything together.

1 Q And just for the record, what is an event number?

2 A An event number is the number given to every call. So every
3 time a call is generated through the dispatch center, it is given a event
4 number.

5 Q Its given its own event number?

6 A Its own -- its own event number.

7 Q So everything that happens pursuant to that event can go back
8 to that particular number?

9 A Yes.

10 Q So if a detective in three months does something, he can go
11 back and link it all up?

12 A If -- all he has to do is --

13 Q Just for example.

14 A He can type into that event number into our CAD system and it
15 will pull up all the details, not only from the person who was reporting,
16 officers can add information to that call as well through our MDT or our
17 computer inside our patrol vehicle.

18 Q And how is an event number generated? Like, what do the
19 numbers mean, can you tell us?

20 A Yes. So the first two numbers are the year. The second two
21 numbers are the month, if it's a single digit month, for example, April, 04.
22 So there would be a zero and then the number. And then the second two
23 digits are the day of that month. The event number is then separated by
24 two additional zeros. Then the next four numbers after that are the actual
25 event generated by that call.

1 Q So 170528 because it's --

2 A 5-28.

3 Q -- 2017, May 28th?

4 A Yes.

5 Q And then zero, zero separates.

6 A That's a separator.

7 Q And then if it's 3401, that's the 3,401 call of the day.

8 A Yes.

9 Q Correct? Starting at midnight?

10 A Yep. Starting at midnight. That's the --

11 Q First call at midnight would 0001?

12 A Yes.

13 Q So in the CAD here, does it actually state something about text
14 messages?

15 A It does.

16 Q Can you tell us, what does it say?

17 A So in the event when their victim actually called it in, well, she
18 was -- so it says -- in this CAD detail, the dispatch center will often use
19 their own verbiage as well to make it easier to type.

20 So this one, Well, LL means well, landline, the male sent a text
21 sending PR, a person reporting, a text message that he is going to 420
22 her.

23 Q What does that mean?

24 A That's -- 420 is our 400 code for homicide or murder.

25 So it says that he is going to murder her or have his family

1 come after her.

2 Q Okay. And who does it say the person reporting is?

3 A The person reporting on this call is the caller name right here,
4 Samantha Weston.

5 Q Okay. Thank you.

6 MS. LUZAICH: I have nothing further.

7 THE COURT: Recross?

8 MS. MCNEILL: Yes, Your Honor. One area that I forgot to ask
9 on cross, hopefully the State will let me go into it.

10 **RECROSS-EXAMINATION OF ZACHARY GAINES**

11 BY MS. MCNEILL:

12 Q You did -- you indicated that Mr. Green was not present when
13 you arrived, correct?

14 A He was not.

15 Q If he had been present that would have been a whole different
16 interaction, right?

17 A If he had been present, we would have been able to possibly
18 get his side of the story.

19 Q Right.

20 A We would have been able to talk with him as well. We would
21 have been able to do all that.

22 Q Okay.

23 A Because he was not present we only had one story to go off of.

24 Q Sure.

25 A And the physical evidence that we had.

1 Q Okay. And in your report, you indicated that you got a
2 description from her. Do you also remember that in your report you got an
3 address for Mr. Green?

4 A We did.

5 Q Okay. And that's on Green Ice Avenue?

6 A Yes.

7 Q Okay. Did you follow up with that address?

8 A Personally I did not. I believe that it was in a different area that
9 we don't -- outside of my area command.

10 Q You personally, but other officers could get that information
11 through the CAD and go do that?

12 A Yes.

13 Q Okay. Do you -- did you make Ms. Weston -- did you indicate in
14 any way to Ms. Weston that you didn't want to help her?

15 A No.

16 Q Okay. In fact, it sounds like you spent a lot of time trying to give
17 her advice, right?

18 A Yes.

19 Q Okay. I want to go to this CAD that Ms. Luzaich just talked to
20 you about. This is information that comes in -- this is the dispatcher who
21 types this up?

22 A The call taker.

23 Q Okay. And you said that the person reporting, Ms. Weston,
24 says she has a text message that Mr. Green is going to 420 her, right?

25 A Yes.

1 Q Which is murder, right?

2 A Yes.

3 Q Okay. You would agree with me as a Metro police officer,
4 someone threatening to kill someone is a big deal?

5 A It is.

6 Q Okay. In fact, sometimes that actual threat to kill someone can
7 be a separate crime, right?

8 A It can.

9 Q Okay. And nowhere in your report did you document that you
10 saw a text message that said he wanted to kill her, right?

11 A Yes.

12 MS. MCNEILL: Okay. Nothing further.

13 THE COURT: Sorry. Any further direct?

14 MS. LUZAICH: Just based on one of her questions.

15 **FURTHER REDIRECT EXAMINATION OF ZACHARY GAINEY**

16 BY MS. LUZAICH:

17 Q The Green Ice address, that's in North Las Vegas; is that
18 correct?

19 A Yes, that's -- okay -- like I said, I didn't know exactly where that
20 address was.

21 Q Outside your jurisdiction?

22 A Yes, ma'am.

23 Q But it indicates that Trandon Green, the suspect, lives at 3325
24 Green Ice Avenue, correct?

25 A Yes.

1 MS. LUZAICH: Thank you.

2 MS. MCNEILL: Just briefly, Your Honor.

3 THE COURT: Yep.

4 **FURTHER RECROSS-EXAMINATION OF ZACHARY GAINES**

5 BY MS. MCNEILL:

6 Q Ms. Luzaich asked you, it says that he lives at that address,
7 correct?

8 A Yes.

9 Q Okay. You have a lot of training on responding to domestic
10 violence calls from the academy?

11 Q Yes.

12 A Right?

13 A Yes.

14 Q You were taught different laws on things you can and can't do
15 when you arrive to those scenes, right?

16 A Yes.

17 Q Okay. Are you trained on if you're allowed to remove someone
18 from a home, if that -- if they are living inside of that house?

19 A Yes.

20 Q Okay. Are you allowed to remove someone from a residence
21 absent some sort of crime being committed just because another person
22 wants you to have them removed?

23 A No, I can't --

24 MS. LUZAICH: Objection. Relevance.

25 THE COURT: Overruled.

1 MS. MCNEILL: Thank you.

2 BY MS. MCNEILL:

3 Q Are you allowed to do that?

4 A Not if there's not a reason to. I can't physically --

5 Q Okay.

6 A -- remove somebody or force somebody to leave their own
7 house.

8 Q Okay. And are you taught what a residence is? Do you have to
9 be on the lease to be a resident of an apartment?

10 MS. LUZAICH: Well, objection.

11 THE COURT: Come on up, please.

12 [Bench conference transcribed as follows:]

13 THE COURT: Okay.

14 MS. LUZAICH: That's a legal conclusion.

15 MS. MCNEILL: Well, I mean, there's laws on it. I mean, the
16 Nevada Revised Statutes in the landlord/tenant section define what a
17 resident is.

18 The reason that they're trained on it is because of that issue. If
19 you're a roommate. but not on the lease, it's still your home. They've
20 charged him with a burglary. They have to prove he didn't have the right
21 to be in there. And now, I mean, I think I get to go into it. He has the
22 training.

23 MS. LUZAICH: No. He doesn't -- he doesn't get to testify about
24 what the law is. The Court's going to give the law. He doesn't get to
25 testify about what the law is.

1 MS. MCNEILL: Okay. Then I will ask for an instruction on the
2 law.

3 MS. LUZAICH: Sustained?

4 MS. MCNEILL: Thank you.

5 THE COURT: Yes. Thank you.

6 [End of bench conference.]

7 MS. MCNEILL: Nothing further, Your Honor, of this officer.

8 THE COURT: Okay. Any further direct?

9 MS. LUZAICH: No, Judge.

10 THE COURT: Thank you, officer, appreciate your time.

11 THE WITNESS: Thank you, Your Honor.

12 MR. ROSE: I think we can squeeze the last one in, Judge.

13 THE COURT: Okay. Go ahead.

14 MR. ROSE: The State would call Officer Richards.

15 **JORDAN RICHARDS**

16 [having been called as a witness and being first duly sworn, testified as
17 follows:]

18 THE CLERK: Thank you. You may be seated.

19 Please state your complete name, spelling both your first and
20 last name for the record.

21 THE WITNESS: Jordan Richards, J-O-R-D-A-N,
22 R-I-C-H-A-R-D-S.

23 THE CLERK: Thank you.

24 MR. ROSE: May I proceed, Your Honor?

25 THE COURT: Yes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DIRECT EXAMINATION OF JORDAN RICHARDS

BY MR. ROSE:

Q Good afternoon, sir. I see that you're wearing a uniform. How are you employed?

A With Las Vegas Metropolitan Police Department as a police officer, field training officer for four years.

Q So you just said that you're a field training officer, can you give us a very quick run-down of what your job responsibilities as a field training officer include.

A Basically it's just training officers that come out of the six-month academy to apply what they've learned out on the streets.

Q And you indicated that you spent four years with Metro?

A Yes.

Q So is it fair to say that you were working with Metro on May 28th, 2017?

A Yes.

Q Were you a field training officer at that point in time?

A Yes.

Q Did you have reason on that particular day to respond to the address of 2686 Jennydiane, Apartment B, as in boy?

A Yes.

Q Just for the record, is that here in Las Vegas, Clark County, Nevada?

A Yes.

Q Were you the only officer that responded at the time?

1 A No.

2 Q Do you remember how many other officers responded?

3 A There was two.

4 Q And which other officers were they?

5 A Officer Gainey and Officer Frost.

6 Q That was Officer Gainey the officer that just left the courtroom
7 today?

8 A Yes.

9 Q Okay. When you got there, what was the nature of the call that
10 brought you?

11 A It was a family disturbance, which is usually a domestic
12 disturbance between intimate partners.

13 Q When you got there did you have the opportunity to speak with
14 the person reporting?

15 A Yes.

16 Q Okay. Do you remember who that was?

17 A It was last of Weston.

18 Q What was Ms. Weston's demeanor like when you got there?

19 A She was very nervous. She was kind of crying. Her -- the one
20 thing I can remember distinctly was her lower lip was quivering like she
21 just -- she's been crying for a little bit.

22 Q Now, you indicated that you're a field training officer. Did you
23 have a trainee with you that day?

24 A I did not.

25 Q What about Officer Frost? Did he have a trainee with him?

1 A Yes.

2 Q Okay. When you have a trainee with you, is it more important
3 for you to kind of take the lead or for you to sit back and let the trainee
4 kind of get the experience?

5 A Let the trainee take the lead to get the experience.

6 Q So who was kind of the primary person involved with speaking
7 with and documenting Ms. Weston?

8 A Officer Gainey.

9 Q Okay. But you were still there?

10 A Yes.

11 Q Able to see what was going on?

12 A Yes.

13 Q Do you remember speaking with Ms. Weston about kind of what
14 next steps she should take after you conducted your investigation?

15 A Yes.

16 Q Okay. And what, if anything, did you suggest to her?

17 A We suggested that we -- that she should speak with, if there
18 was an HOA representative or maintenance that she should change the
19 locks to her apartment.

20 Q Now, was the person that she'd indicated had caused her
21 injuries present at the time?

22 A No.

23 Q Did you find that unusual?

24 A No.

25 Q If the person's not there when you arrive, are you able to make

1 an arrest right then?

2 A No.

3 Q Did you have the opportunity to look in the area to see if the
4 person that she identified as the cause of the injuries was still present?

5 A Yes.

6 Q Any success?

7 A No.

8 Q Now, did you also have reason to respond back at that same
9 address on June 18th, 2017?

10 A Yes.

11 Q And what was the nature of the call that brought out you at that
12 point in time?

13 A Same thing, family disturbance, but the details were a little
14 different. Details were essentially that she was locked inside the
15 apartment with Mr. Trandon Green and it was a possible hostage
16 situation.

17 Q Now, were you the first officer to arrive on the scene on June
18 18th?

19 A No.

20 Q How many other officers were there when you got there?

21 A There was probably about three or four.

22 Q Had they arrived significantly before you?

23 A Yes.

24 Q Okay. So what was your role when you got there that day?

25 A So after I got there the scene was pretty much static, which

1 means everything dynamic has concluded and then we found out that
2 there was possibly evidence inside the apartment after everybody was
3 out, so the apartment was frozen and I was in charge of freezing the
4 apartment.

5 Q What do you mean by freezing the apartment?

6 A Making sure nobody else goes inside or outside once we deem
7 the scene safe.

8 Q Did anybody go inside or outside the apartment to the best of
9 your knowledge?

10 A No.

11 Q Would you have stopped them if they tried?

12 A Yes.

13 Q Did you have the opportunity to see Ms. Weston on the June
14 18th event as well?

15 A Yes.

16 Q Were you the primary person involved in speaking with her?

17 A No.

18 Q Okay. But you could still see her?

19 A Yes.

20 Q What was her demeanor like on that occasion?

21 A Pretty much like the first one, except for she was crying like --
22 physically crying, you could see the streams coming down her eyes. And
23 the one thing I distinctly remember is she had a pretty severe cut on one
24 of her fingers to the point where her fingernail was coming up.

25 Q Now, and to the best of your recollection, do you remember if

1 she was more -- which event was she more upset at?

2 A The second one.

3 Q The June 18th event?

4 A Yes, sir.

5 MR. ROSE: I have no additional questions at this time, Your
6 Honor.

7 THE COURT: Cross.

8 MS. MCNEILL: Yes, Your Honor, just briefly.

9 **CROSS-EXAMINATION OF JORDAN RICHARDS**

10 BY MS. MCNEILL:

11 Q Officer, you indicated that you gave Ms. Weston some advice
12 on things that she could do after you responded to that call, correct?

13 A Yes.

14 Q I imagine that as an officer you take your job seriously?

15 A Yes.

16 Q Okay. So you probably, I mean, when you get a call about a
17 domestic, you don't make a judgment call about whether or not they're
18 telling you the truth, you just respond to what the person's telling you,
19 right?

20 A Yes. Yes.

21 Q Okay. And when the person is telling you things that sound as
22 if they've been battered and they're crying, you don't make them feel as if
23 you don't care, right?

24 A Right.

25 Q Do you make them believe that you're not really going to do

1 anything about it?

2 A No.

3 Q Okay. You couldn't arrest anybody that day because nobody
4 was
5 there --

6 A Correct.

7 Q -- except Ms. Weston, right? Okay. But you did spend some
8 time with her advising her how, maybe, she could get her locks changed,
9 right?

10 A Yes.

11 Q Okay. And you did spend some time advising her on different
12 places that she could call?

13 A Yes.

14 Q Okay. And so you did everything that you could do to make her
15 feel secure that you as an officer of Metropolitan Police Department
16 wanted to help her?

17 A Yes.

18 Q Right? Okay. You indicated that the apartment was frozen,
19 that would have been after Ms. Weston left her apartment, right?

20 A Yes.

21 Q Okay. So prior to officers freezing that scene, Ms. Weston was
22 able to go into her home, correct?

23 A Prior? If -- I was the fourth one to arrive and everything was
24 static by then, so at that time, I don't know.

25 Q Okay. You weren't the -- you wouldn't know what happened

1 prior to your arrival?

2 A Yes.

3 Q Okay. Fair enough.

4 MS. MCNEILL: Nothing further.

5 THE COURT: Redirect?

6 MR. ROSE: Nothing further, Your Honor.

7 THE COURT: Thank you, officer, appreciate your time.

8 THE WITNESS: Thank you.

9 MS. LUZAICH: Good timing.

10 THE COURT: Yeah, good.

11 Okay. So we're going to call it a day at this point and we are
12 planning to start at 10:00 tomorrow morning, 10:00 o'clock. I know it's
13 been a different time each day, so I'm just reiterating, 10:00 a.m., if you
14 please be here at 10:00. And I guess the other thing I would tell you is, in
15 case you were concerned, we are still on the schedule that we told you
16 from the beginning. We will still be done by next Tuesday. So I don't
17 want you to be concerned about -- that things have changed in that
18 regard.

19 Between now and tomorrow at 10:00 you are admonished not
20 to talk or converse among yourselves or with anyone else on any subject
21 connected with this trial or to read, watch, or listen to any report of or
22 commentary on the trial or any person connected with this trial by any
23 medium of information, including without limitation, newspapers,
24 television, the internet, or radio or to form or express any opinion on any
25 subject connected with this trial until the case is finally submitted to you.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Have a good night.

THE MARSHAL: All rise. Court is now in recess.

[Jury Trial, Day 4, concluded at 4:58 p.m.]

* * * * *

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



SARA RICHARDSON
Court Recorder/Transcriber



RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,
Plaintiff,
vs.
TRANDON GREEN,
Defendant.

CASE#: C-17-325044-1
DEPT. VI

BEFORE THE HONORABLE ELISSA CADISH, DISTRICT COURT JUDGE
FRIDAY, JUNE 29, 2018

**RECORDER'S TRANSCRIPT OF PROCEEDINGS:
JURY TRIAL – DAY 5**

APPEARANCES:

For the State:

LISA LUZAICH, ESQ.
Chief Deputy District Attorney
STEVEN ROSE, ESQ.
Deputy District Attorney

For the Defendant:

MONIQUE A. MCNEILL, ESQ.

RECORDED BY: DE'AWNA CREWS, COURT RECORDER

1 **WITNESS INDEX**

2

3 **STATE'S WITNESSES:**

PAGE

4 **JERI DERMANELIAN**

5 Direct Examination by Ms. Luzaich 4

6 Cross-Examination by Ms. McNeill 40

7 Redirect Examination by Ms. Luzaich 52

8 Recross-Examination by Ms. McNeill 54

9 **AMANDA HENNINGS**

10 Direct Examination by Mr. Rose 55

11 Cross-Examination by Ms. McNeill 72

12 Redirect Examination by Mr. Rose 77

13 Recross-Examination by Ms. McNeill 78

14 **TYLER KNEPP**

15 Direct Examination by Ms. Luzaich 82

16 Cross-Examination by Ms. McNeill 91

17 Redirect Examination by Ms. Luzaich 93

18 **BRIANNE HUSEBY**

19 Direct Examination by Mr. Rose 94

20 Cross-Examination by Ms. McNeill 119

21 **LARA ALEXANDER**

22 Direct Examination by Ms. Luzaich 149

23 Cross-Examination by Ms. McNeill 175

24 **MATT CAMPBELL**

25 Direct Examination by Mr. Rose 184

Direct Examination by Ms. McNeill 212

Redirect Examination by Mr. Rose 240

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Las Vegas, Nevada, Friday, June 29, 2018

[Proceedings began at 10:04 a.m.]

[Outside the presence of the jury]

THE MARSHAL: All rise. District Court Department 6 is now in session, the Honorable Elissa Cadish presiding.

Please be seated. Come to order.

THE COURT: All right. Good morning.

MS. MCNEILL: Good morning, Your Honor.

MS. LUZAICH: Morning.

THE COURT: Ready to go?

MS. LUZAICH: Can I just make sure our witness is outside?

THE COURT: Uh-huh.

MS. LUZAICH: I'm sure she is.

THE MARSHAL: She is, Counselor.

MS. LUZAICH: Oh, she is?

THE MARSHAL: Uh-huh.

MS. LUZAICH: Then, yes, we're ready.

MR. ROSE: The State's ready, Judge.

THE COURT: Okay. Great.

THE MARSHAL: All rise.

[In the presence of the jury]

THE MARSHAL: Please be seated. Come to order.

THE COURT: All right, folks, appreciate everyone being on time this morning. Happy I was able to be on time as well.

1 So, Counsel, stipulate to the presence of the jury?

2 MS. LUZAICH: Yes, Judge.

3 MS. MCNEILL: Yes, Your Honor.

4 THE COURT: Okay. Great. So next witness.

5 MS. LUZAICH: State calls Jeri Dermanelian.

6 **JERI DERMANELIAN**

7 [having been called as a witness and being first duly sworn, testified as
8 follows:]

9 THE CLERK: Thank you. You may be seated.

10 Please state your complete name, spelling both your first and
11 last name for the record.

12 THE WITNESS: Jeri Dermanelian, D-E-R-M-A-N-E-L-I-A-N.
13 Jeri is J-E-R-I.

14 THE CLERK: Thank you.

15 MS. LUZAICH: May I?

16 THE COURT: Yes.

17 MS. LUZAICH: Thank you.

18 **DIRECT EXAMINATION OF JERI DERMANELIAN**

19 BY MS. LUZAICH:

20 Q Good morning, ma'am.

21 A Good morning.

22 Q How are you employed?

23 A I'm a sexual assault nurse examiner.

24 Q For our jury's edification, can you explain for them please what
25 is a sexual assault nurse examiner?

1 A It's a registered nurse that has specific training on how to
2 conduct sexual assault exams on pediatric adolescents and adults for
3 my practice.

4 Q For how long have you been a sexual assault nurse
5 examiner?

6 A Approximately ten years.

7 Q And is that all you've done in the nursing field or have you
8 done other things as well?

9 A I've done other things as well.

10 Q Can you describe for us what training and education you have
11 to be a nurse and what you have done?

12 A I have a bachelor's in nursing from University of Nevada Las
13 Vegas, Associate of Nursings prior to that from Lake Superior State in
14 Michigan, Sioux St. Mary, Michigan. I have a current license here in
15 Las -- in Nevada, And you're required to do continuing education units
16 to keep your nursing license present or active and that is every two
17 years you have to do 30, 30 hours of continuing education.

18 For sexual assault nurse examiner -- or my past history, I
19 worked at University Medical Center for approximately 30 years. Started
20 out as a staff nurse in the emergency department, ended up becoming
21 the charge nurse in the ER, then became an educator for the ER for
22 several years, ended up ultimately working in the coronary care unit and
23 the ER at the same time taking care of open hearts, doing my trauma
24 training. I ended up being a house supervisor and then on duty
25 administrator for the hospital.

1 In addition to that, I own a small company where I teach
2 educational programs called Academy for Career Enhancement. I teach
3 nurses how to advance cardiac life support, pediatric advance life
4 support, trauma nurse core courses. I've done the 40 hour sexual
5 assault nurse examination teaching, various other jobs that I've had. I
6 worked more than one most of my life.

7 To be a sexual assault nurse examiner I took a 40 hour course
8 and then I did like 300 hours with the doctors and the nurses who are
9 already trained to get hands on training. Then I took a certification
10 course from the International Association of Forensic Nursing. I certified
11 in pediatric arena, adolescents, and the adult arena. You're required to
12 continuing -- have continuing education for that certification.

13 I'm also a lifetime member of the International Association of
14 Forensic Nursing; a lifetime member of the Emergency Nursing
15 Association.

16 Q What does a sexual assault nurse examiner do on a daily
17 basis?

18 A You're on call and when the hospital calls you respond and
19 you offer a patient a sexual assault exam. They have choices to make.

20 In general you do a medical exam. You do a narrative. You
21 offer them their options and then you can perform a head to toe
22 assessment, pelvic exam, rectal exam. You give them antibiotics and
23 draw blood to treat for prophylactic treatments for sexually transmitted
24 infections.

25 You'll offer them the morning after medication potentially to

1 prevent pregnancy from occurring. You'll offer follow up in 12 weeks
2 and then you make sure that they're connected with the rape crisis
3 advocates.

4 If they require additional medical care, that I cannot provide,
5 then I'll have either the physicians or the mid-level practitioners see the
6 patient and provide additional treatment for the patient.

7 Q When you say that you're on call, are you kind of the only
8 game in town? Are you the only one who performs sexual assault nurse
9 exams here in Clark County?

10 A I have one other nurse that works part-time, very part-time
11 right now, and I just have a second nurse that's just been qualified but
12 we're waiting to get her credentialed. So right now I'm pretty much the
13 only person that does adolescents and adults.

14 Q How do you get called? Like describe for us what happens.

15 A If I'm not present at the hospital, then there's a schedule and
16 the nurses in triage will triage the patient and then contact me by
17 telephone and then I present to the hospital.

18 Q What does triage the patient mean?

19 A Triage means to sort the patient out. The triage nurses will
20 get a general narrative. You're here for a sexual assault exam. They'll
21 get vital signs. They'll take a basic history on the patient. They'll look at
22 the pulse oxygen levels, you know, look for any life threatening and
23 triage if they see any. They'll call me and then they'll escort the patient
24 into a medical area where they can be medically treated, if they have the
25 appearance of life-threatening injuries.

1 Q Is UMC the only hospital where sexual assault exams are
2 done on adults?

3 A Yes.

4 Q And in the -- did you say ten years that you have been doing
5 this, can you give us an approximation of how many sexual assault
6 exams you have either done yourself or participated in?

7 A I'm going to estimate approximately 7,000.

8 Q And of those 7,000 exams, you described that there are
9 options, do some of them do the option that requires everything and
10 some of them do slightly less?

11 A Yes.

12 Q And of those 7,000, I assume not all of them actually go to
13 court because of a prosecution; is that correct?

14 A Correct.

15 Q In fact, there are quite a few that do not.

16 A Correct.

17 Q Have you testified as an expert in the courts in the Eighth
18 Judicial District as an expert in the area of sexual assault examinations?

19 A Yes.

20 Q And do you know approximately how many times you've done
21 that?

22 A I'm going to estimate 80.

23 Q I'm going to direct your attention specifically, if I could, to
24 June 18th of 2017, were you called out to do a sexual assault exam on
25 an individual that became known to you as Samantha Weston?

1 A Yes.

2 Q And did you actually get called in? Were you already there?

3 A I believe I may have already been there when she arrived.

4 Q Now, when people arrive for a sexual assault exam, are there
5 different ways they can come to you?

6 A Yes.

7 Q Tell me about that.

8 A They can come in by ambulance. They can come in through
9 trauma resuscitation. They can come in through the pediatric ER, if
10 they're an adolescent. They can walk in through the front door of the
11 adult emergency department, if they can actually enter into the front
12 entrance of the building and walk down to the adult emergency
13 department. They can come in by ambulance. They can be escorted by
14 police, not escorted by police. They can come in with paramedics.
15 There's many different mechanisms and ways for them to enter into the
16 process.

17 Q So not everybody comes to you through the police?

18 A No.

19 Q Sometimes someone comes to you and then do you have to
20 notify police?

21 A Yes, if they are -- if I'm mandated to or if they chose to make a
22 report and want to go forward with a criminal investigation then I would
23 call.

24 Q Okay. Now, is it your understanding that Samantha came to
25 you through the police?

1 A Yes.

2 Q And when somebody comes to UMC for a sexual assault
3 exam, describe for me how the process begins? You said you talked
4 about sometimes, you know, the nurses triage, but once they get to you
5 tell me what happens.

6 A We have a -- at that time we had a room called the quiet room.
7 I presented to the quiet room and generally will introduce myself. From
8 the quiet room, generally, we'll go to the sexual assault exam room and
9 then we -- we'll go through the process of -- depending on how the
10 patient presents, I will ask for a medical history, a narrative, and then go
11 through the options with the patient.

12 Once they're clear on their choices as to which type of exam
13 they want, then we'll proceed from there. That kind of dictates what is
14 going to be done and not done.

15 Q What is the quiet room?

16 A Quiet room is a room specifically designed to take a patient
17 who has been a victim of a sexual assault so that they have privacy and
18 they're not in the main waiting area or the main waiting room. It's
19 designed so that they have some privacy so they don't have to have
20 grieving or whatever go on in front of other people.

21 Q So this doesn't happen in the middle of the emergency room?

22 A No.

23 Q When Samantha came to you, was she alone or was
24 somebody with her?

25 A She had her daughter Riley.

1 Q And did you see, not treat, see, physically see Riley?

2 A Yes.

3 Q And was Riley six at the time?

4 A I don't remember her specific age, but I know that I took her to
5 where I could keep her safe while I offered her mom an exam.

6 Q Where did you take her?

7 A I took her to the medical pod of the emergency department
8 and I had a conversation with the charge nurse and the clerk that sits
9 there to put in orders for the doctors. I asked if they could watch her
10 while I had offered her mom the exam.

11 We -- I got her crayons. We got her something to eat,
12 something to drink, and they pulled out a specific table for her to sit right
13 next to the clerk. And then the staff, the nursing staff, generally when
14 that happens, they all go over and spend a lot of time with the child.

15 Q Okay. So you met with Samantha, did you talk to her first in
16 the quiet room?

17 A Yes.

18 Q And did you bring her into the sexual assault exam room?

19 A Yes.

20 Q So tell us how it went with, specifically Samantha, what's the
21 first thing you did?

22 A Samantha, yeah, gave her medical history, then the narrative
23 of the event, and then I went specifically through the questions that I
24 needed to know. After I gave her her options, she picked the fourth
25 option, and then I went through specifically what pieces of the sexual

1 assault information that I needed.

2 And then I did a head to toe assessment. And as I'm doing
3 the head to toe assessment, I'm gathering the DNA evidence for the
4 sexual assault kit. And then we proceeded with the pelvic and then we
5 proceeded with the rectal. Labs were drawn. And then the antibiotics,
6 medications, were administered. And then the discharge instructions
7 were reviewed with her from the sexual assault standpoint.

8 And then I had her seen by the mid-level practitioner for the
9 injuries she sustained.

10 Q Okay. You said that the first thing you did was you kind of
11 asked her your narrative, what happened, what is the purpose behind
12 asking that?

13 A Narrative just tells me what, according to the patient, what,
14 what happened in their own words. It's not a forensic interview, it's just,
15 please, -- I tell them, tell me what you want to tell me, and start wherever
16 you want and I will follow you.

17 Q And do you ask that because you need to know where you
18 need to examine her?

19 A Yes.

20 Q And what you need to look for?

21 A Yes.

22 Q So what did Samantha tell you?

23 A She told me that she had been held against her will. That a
24 male had crawled through a window of her daughter's room. And that
25 she had been cut with a knife on her index finger. She had scissors held

1 to her throat. She stated she was held against her will. She told the
2 male she did not want to have intercourse. And she used some -- used
3 foul language when she told him that. She also indicated, no, that she
4 did not want to have intercourse.

5 She also stated that at one point her daughter was crying and
6 screaming. And the male told her if her daughter didn't shut up, that he
7 was going to hurt her. The patient stated that she had been sexually
8 assaulted, penetration was penis to vagina. Ejaculation took place. She
9 indicated four to five times during that period of time.

10 It started approximately 1500 until 2100, which is 3:00 p.m. to
11 9:00 p.m. She ended up getting her phone back. She stated she texted
12 a friend and asked the friend to call 9-1-1 and to have the police help
13 her.

14 Q As you're describing this, did she also tell you that she had
15 been hit with something?

16 A Yeah, she stated she kept a stick behind her door, and that
17 the stick was approximately 12 inches long, and she had been hit on her
18 head with a stick to the back of the head and to the front and the side of
19 her head. She also indicated that she had scissors held to her throat at
20 one point in time. And that her index finger had been cut with a knife.
21 And she described the knife as being a pocketknife that was brought
22 with the male to, to where the assault occurred.

23 Q Did she describe pain to another part of her body, besides her
24 head and her finger?

25 A She had diffuse abdominal and she told me her stomach was

1 upset. And when I did the head to toe assessment, when I palpated the
2 four quadrants of the abdomen, she had abdominal pain in all four
3 quadrants. So I requested the mid-level practitioner to see her for her
4 abdominal pain, the injuries she had on her index finger, and then the
5 head trauma that she sustained.

6 Q Do you also -- well, you said that you do the narrative and
7 then you ask medical history questions, what medical history questions
8 do you ask?

9 A The medical history drives a lot of what I'm doing when I'm
10 doing my head to toe assessment. So I need to know if I'm going to be
11 looking at two competing, you know, if an injury pattern has actually
12 occurred from trauma, from an energy force being applied to the body,
13 or if there's a medical condition that looks like possible trauma.

14 So you take a detailed medical history as to how often they've
15 been in the hospital, what type of medical history they have, have they
16 had any recent traumas. And we look at allergies, what medications
17 they take, what their social history is. So you try and do a complete
18 medical history that drives the medical decision making and then it also
19 assists with the forensics, the head to toe assessment.

20 Q And as you were talking to her about all these things, did it
21 appear to you that she was able to understand what you were saying to
22 her and able to have a, you know, a reasonable, rational conversation?

23 A Yes, one of the things that you do is you're evaluating the
24 person from the very start, that you start talking to them. You're
25 watching to see if they interact with you. One of the things I have to do

1 as a sexual assault nurse examiner is make sure I have a patient that's
2 competent to sign our consent and make a decision at that time.

3 If they appear to be altered or if they appear to not be able to
4 follow the commands that they're given and articulate and participate in
5 their care, then I have to make a decision as to whether I can actually
6 even do a sexual assault or offer a sexual assault exam, or if I have to
7 wait until medically that they're cleared and then go back and offer them
8 a sexual assault exam.

9 She was awake, alert and oriented to time, person, place. Her
10 Glasgow Coma Scale, which is a neurologic tool I use, was 15, which is
11 the highest that it could be. She followed all my commands. She had --
12 I did assessment of her eyes and neurologic function of her and she was
13 at the highest level of functioning.

14 Q And you mentioned that you offer your patients options about
15 what they want to do, can you tell the jurors what are the options that
16 you're discussing?

17 A Adults have four choices: One is to simply decline the exam
18 after they hear how invasive and intrusive the exams can be. Some
19 patients choose not to have an exam at all. So option one, they're in
20 control of their body, they need to know that, so I tell them that they can
21 decline the exam if they choose to.

22 Option two is the medical portion of the exam with no
23 forensics evidence collection, no photographs taken, and it's offered to
24 people that want to have the medical examination done for the exposure
25 of the sexual assault. But they may not want to participate with the legal

1 process or the law enforcement.

2 So the medical exam is the head to toe assessment, the pelvic
3 exam, evaluation of the anus, or any injuries that they may have. It
4 includes drawing bloods for the STIs, offering the treatments and the
5 morning after medication, any medical treatment that they need would
6 be offered too.

7 The third option is something called a Jane Doe sexual
8 assault exam for the females. That's an option where we do the forensic
9 sexual assault kit. We collect the DNA evidence. We take photographs
10 of their entire body including vagina, cervix, and rectum. And that
11 medical is included in that. With a Jane Doe they have 30 days to make
12 a decision whether they go forward with the law enforcement piece of
13 that.

14 The fourth option is the full forensic sexual assault kit with all
15 the forensics, the photographs, the DNA samples obtained. The medical
16 is included in that. And they're indicating when they take the fourth
17 option they want a criminal investigation to be initiated.

18 Q And which option did Samantha choose?

19 A She took the fourth, the full forensic.

20 Q So did you then go on to do the head to toe and everything
21 else thereafter?

22 A Yes, I -- before I did the head to toe I would have asked her
23 the questions that I specifically need to know what part of the body was
24 penetrated. I need to know about the number of ejaculations. Were
25 there condoms? Was there lubrication used? Was she kissed, licked,

1 or bit? I need to know specific information, like, had she urinated. Had
2 she changed her clothes? Has she bathed? Has she showered? Has
3 she ate? Has she drank?

4 I go through that process first so I get an idea of what to look
5 for and then I do the head to toe assessment.

6 Q All of those questions that you mentioned towards the end,
7 whether she's urinated or eaten or taken a bath, what is the purpose
8 behind those questions?

9 A To find out whether there'd be any loss -- potential loss of
10 DNA, or if there -- if the shower or the bath or eating or drinking may
11 have eliminated any potential DNA, possibly.

12 Q And had she indicated that she had done any of those things?

13 A She indicated that she had been told to take a bath prior to
14 coming -- prior to being released.

15 Q Told by whom?

16 A The person that she stated sexually assaulted her.

17 Q Okay. And then the questions about was she -- where was
18 she penetrated and things like that, what did she tell you?

19 A Penis to vagina. She indicated that there was four to five
20 ejaculations in the vagina. The period of time that the event occurred
21 was from 3:00 to 9:00 p.m., so.

22 Q Did she indicate that that was the only penetration, penis to
23 vagina?

24 A Yes, there was-- I asked her specifically if there was finger to
25 the vagina, tongue to the vagina, any other objects to the vagina. I

1 asked her specifically if there was penis to rectum, finger to rectum,
2 tongue to rectum, objects to the rectum. She indicated no.

3 I asked her if there was penis to mouth or objects to the
4 mouth. And she indicated no.

5 She indicated she thought she may have scratched the male.
6 She did not lose consciousness during the sexual assault events and
7 she indicated that she had been -- taken the bath.

8 Q And once you got your answers to all of those questions, did
9 you do the head to toe examination?

10 A I did.

11 Q What does that entail?

12 A Literally it's a head to toe assessment where you look, listen,
13 and feel and you literally start at the head and move on down. So when
14 you look at the head you're talking the whole time, you're looking, and
15 you're looking for any kinds of contusions, abrasions, erythema,
16 redness, swelling, divots, any, anything that you can physically see.

17 And normally with a head to toe, after I get done palpating,
18 pressing on the head, I normally have the patient come down and sit on
19 the little stool because the table is too high for me to see on the crown of
20 their head and whatnot.

21 I had her sit on a chair and then I literally went through the
22 planes of all of her hair, because she had indicated she had been hit on
23 the back of her head, into the front of her head and to the side. And she
24 was telling me she was having pain so I didn't want to miss anything so.
25 And I wanted to photograph an injury if it was present.

1 And then from that then you do the extraocular eye
2 assessment. You're looking at the eyes. You're asking her to follow
3 your finger. You're lifting the lids. You're looking for any kind of injuries
4 with, you know, subconjunctival hemorrhages, petechial hemorrhages.
5 And you look in the nares. You look in the ears. One of her ears had
6 wax in it; the other ear had some dry blood in it, but she had no blood
7 behind the tympanic membrane.

8 Look in her mouth. I'm looking for injuries up the -- upper lip,
9 the lower lip, the tongue. I'm looking at the back of the throat. I'm
10 palpating the nose, the bridge of the -- the orbits of the eyes, the bridge
11 of the nose, the mandible, the maxilla.

12 And then I come down to the neck, literally looking first and
13 then feeling, and then listening, if that's appropriate. You do the same
14 with the chest. You do the same with the abdomen. You do the same
15 with the extremities.

16 Neurologically are evaluating for numbness and tingling. You
17 palpate the spine. You have them squeeze your hands. You watch to
18 see how they're following your commands.

19 And then from there we'll move onto the pelvic exam. And
20 then from there we do the rectal.

21 Q And before we get to there, as you're looking from head to toe
22 for any injury, are you also taking photographs to document what you've
23 found?

24 A Yes, generally before I touch the patient I take a head to toe
25 photo, three sections. From the back of the room I take a head photo,

1 abdomen, and then the leg photo. And then I generally come up and
2 take a mid-level picture where I take more of just the face and then we
3 go from there with the exam. If there's clinical findings of injuries, I'll
4 photograph them.

5 Q I'm going to show you State's Exhibit 84, is this Samantha the
6 woman that we've been talking about?

7 A Yes.

8 Q And is this just the front view? You just mentioned that you
9 take a head to toe photo, top, middle and bottom, is this the front view?

10 A Yes.

11 Q Of her -- from the head to, I guess, under the chest; correct?

12 A Yes.

13 Q And then State's 85, just the next part of her body; correct?

14 A Yes.

15 Q State's 87, is that the bottom part of her body?

16 A Yes.

17 Q As you looked at her head, did you notice any injuries?

18 A She had no redness, no contusions, no abrasions. I couldn't
19 palpate any hematomas at that point.

20 Q What's a hematoma, just for the record?

21 A A hematoma is where you bleed underneath the skin and it
22 pops out so you can actually grab that piece.

23 Q All right. As you went down below her head, did you notice
24 any injuries to the upper portion of her body?

25 A On the back of her, right side of her -- back of the chest, it's

1 called the posterior thorax, she had a diffused redness on the right side.
2 She also had a contusion, abrasion on the right side. And then what I
3 call the posterior anterior axillary, which is the back part where the
4 armpit meets the chest, she had a contusion and an abrasion present
5 there also.

6 Q Okay. So I'm going to show you State's Exhibit 97, tell me
7 what are we looking at here?

8 A You're looking at her back and the part of her right, right arm,
9 the back part of the right arm, and you can see the tattoo on the right
10 arm. She has a contusion and an abrasion.

11 And this photo doesn't show it very well but the red diffused
12 area is also present there.

13 Q When you say a red diffused area, what's diffused mean?

14 A Just means that the pattern of injury is spread out, spread
15 over a period of the skin.

16 Q Okay.

17 MS. LUZAICH: And may I approach the witness?

18 THE COURT: Yes.

19 BY MS. LUZAICH:

20 Q I'm going to show you actually the photographs, State's
21 Exhibit 97, when you just looked at it in the monitor you said you couldn't
22 see very well, can you see better when you look at the actual
23 photograph?

24 A Yes.

25 Q Sadly, the equipment isn't what we would hope, but so you

1 can see it in the photograph?

2 A Yes.

3 Q Showing you State's Exhibit 95, what are we looking at?

4 A That is the -- above the tattoo on her arm, and that's the back
5 of her arm, and you can see the linear contusion, the red contusion
6 there.

7 Q If you touch the screen you can draw --

8 A Uh-huh.

9 Q -- can you show us the contusion that you're talking about?

10 A Yeah. So this area, I would -- okay, so this is part of -- wow,
11 I'm going to have a hard time I think here, doing this.

12 That's not what I was circling.

13 THE COURT: Right.

14 MS. LUZAICH: Okay. Try again.

15 THE COURT: Yeah, it may be -- coming up in a different
16 area.

17 THE WITNESS: Is it possible --

18 THE COURT: Do the best you can.

19 THE WITNESS: -- to do -- can I show --

20 BY MS. LUZAICH:

21 Q Oh, you know what, if you don't mind --

22 A Can I?

23 Q -- do you want to step down and --

24 THE COURT: No, that's fine. We'll just need to get you the
25 handheld.

1 MS. LUZAICH: Oh.

2 THE COURT: So you can talk over there --

3 THE WITNESS: Oh, okay.

4 THE COURT: -- it won't record it --

5 THE WITNESS: Thank you, ma'am.

6 THE COURT: -- but it's fine.

7 THE WITNESS: Okay. When you're looking at her arm here
8 you can see the linear, when I say linear it means a line.

9 So when you look here, that is the upper part of the arm.

10 You can also see part of the injury pattern here on the back of
11 her back.

12 The diffused area, when I look at this, excuse me, the diffused
13 area is this entire region here.

14 You can see the redness up here.

15 And that's what I was talking about with the diffused, you can
16 see the linear here and the abrasions and the contusion here.

17 BY MS. LUZAICH:

18 Q And as was State's 97, the photo before, when you looked at
19 the photo earlier, can you see it better in the photo than on the
20 monitors?

21 A Yes, ma'am.

22 Q And then State's Exhibit 96, what are we looking at?

23 A That's a close up of the linear contusion, abrasion here, that is
24 present here above her tattoo on the arm.

25 Q And for the record, in State's Exhibit 96, there's a ruler; is that

1 correct?

2 A Yes, that's to measure the length and the width of the injury
3 pattern.

4 Q And then State's 109, what are we looking at there?

5 A Again, that is more -- a different angle of that injury on the side
6 of her arm where you see the tattoo over here.

7 And that starts in this area here.

8 And, again, it's measuring the length and the width.

9 Q And then finally, State's 98, I'm not upside down, am I?

10 A No.

11 Q Okay.

12 A And so --

13 Q What do we see here?

14 A -- this is the back, this is the posterior portion of her back and
15 you can see the linear line, a contusion there.

16 And a little bit of the diffused area is going to be here and
17 above here.

18 And you can see some of the diffused, it looks like little red
19 dots here.

20 Q Okay. Thank you.

21 In addition to the injuries to her back and arm, you indicated
22 that there was injury to her fingers -- or finger, sorry, showing you State's
23 Exhibit 89.

24 A That's her --

25 Q Is that the finger that you're describing?

1 A Yeah, that's her left index finger.
2 Q And can you tell me what we're looking at?
3 A You're looking at an area of the nail that has been removed
4 and cut and you have -- the area where the nail connects to the area,
5 that's called the quick, has been removed.

6 Q I'm going to show you 90, is that a little bit more up close?

7 A Yes, that's the front part of the nail that's missing that the
8 patient indicated a knife had cut.

9 Q And then 92, kind of another angle?

10 A Yes.

11 Q You can see from the other side --

12 A Yes, ma'am.

13 Q -- correct?

14 A Yup.

15 Q And actually 93, up close, that other side; correct?

16 A Yes.

17 Q Did you also take a photograph of her other hands, State's
18 Exhibit 94?

19 A Yes.

20 Q And is that just to show that there was no injury there?

21 A Yes. Plus she also indicated she thought she may have
22 scratched the male, so I was trying to just show you whether I saw any
23 gross, other blood on that hand.

24 Q Okay. And you did not see any blood on the other hand;
25 correct?

1 A I did not.

2 Q In addition to those injuries, did you notice anything from the
3 waist down, and not to include the pelvis?

4 A She had came in -- she came in presenting with lower
5 abdominal pain. She said her stomach was upset. And so when I
6 palpated the four regions of the quadrants of the abdomen she had,
7 what I call, diffuse abdominal pain. So every quadrant that I was
8 pressing on, she was complaining of pain. So I asked the mid-levels to
9 see her and evaluate her.

10 I noted that they did tests that would indicate that they were
11 looking at what was going on with the abdomen.

12 Q And did you have the opportunity to review those tests?

13 A Yeah, I looked at what -- they did a CBC and they did a lipase
14 level and those -- white count was noted to be elevated. Patient
15 presented with a slightly elevated temperature and her lipase level was
16 normal.

17 Her kidney function looked like it was normal except for her
18 BUN was just a tad under normal, which could be her normal for her. So
19 her kidney function looked good.

20 Her lipase level was normal. And the white count was
21 elevated, which I, I see numerous times when patients have trauma
22 applied to their body. They can also develop a low temperature, or a low
23 grade temperature from trauma.

24 Q Okay. And then below the waist did you notice anything when
25 you examined her?

1 A Yes, on her right lower leg she had bruising, bleeding
2 underneath the skin and an abrasion on the side of, the right side of her
3 lower leg, which is tib-fib. And then on the back of that lower leg she
4 had a bruise, contusion, which is bleeding underneath the skin.

5 Q Showing you State's Exhibit 81, can you tell us what are we
6 looking at here?

7 A That is the bruise and contusion pattern noted on the right
8 side of the lateral or the side of the leg there. There's an abrasion in the
9 middle of that that you can see that's red and linear, it's a line. And that
10 abrasion is red and it is -- there's no -- it's a new abrasion because
11 there's no scabbing that has started to retract or remove. So that
12 abrasion tells me this is a new injury, not something that could be a
13 day -- or two days old.

14 Q Okay. So in your experience, based on what you have seen
15 over the 40 years that you've been doing this, today -- that day, is that
16 your opinion?

17 A Yes, ma'am.

18 Q And then also when you look at that injury, is that potentially
19 consistent with being hit with what's depicted in State's Exhibit 16?

20 A Yes, that is a stick. It looks to be approximately 12 inches
21 long. And if she was hit with that stick, that pattern of bruise was more
22 elongated and long. It's not a perfect match but it would be consistent if
23 you were hit in the leg with that stick, you could have bruise that
24 occurred being hit with that stick once or more than once.

25 Q Showing you State's Exhibit 79, what are we looking at here?

1 A That's a close up of that area, and we can see the abrasion in
2 the middle of that sector.

3 Q And State's Exhibit 80, is that that same injury with the ruler?

4 A Yes.

5 Q And when you are photographing, or documenting these
6 injuries, do you take a far away and then closer and closer and then with
7 a ruler?

8 A Yes.

9 Q Why do you do that?

10 A So that you can -- you can see what I saw. It's really for
11 documentation purposes, if the judge or the jury needs to see what
12 injuries I found, as well as the attorney.

13 Q And then State's Exhibit 82, oops, what are we looking at
14 here?

15 A That is additional bruising noted on the back of her tib-fib area.

16 Q So that's the other side of the same leg; is that correct?

17 A Yeah.

18 Q And can you describe for the record how it looks?

19 A So the bruise is purple and brown in color. There's numerous,
20 there's technically three bruises there, two are very small, oval shaped
21 irregularly and non-raised. The largest one is irregularly shaped and
22 non-raised also.

23 Q And the large bruise, is that consistent with potentially having
24 been hit with the item that's depicted in State's Exhibit 16?

25 A That could cause that bruise.

1 Q And then State's Exhibit 83, what is that?

2 A That is a close up of that bruising area.

3 Q With the ruler; correct?

4 A With the ruler.

5 Q So once you have taken the head to toe -- and I'm sorry, were
6 those all of the injuries that you documented?

7 A Yes.

8 Q So once you have done all that, is that when you go to the
9 pelvic exam?

10 A Yes.

11 Q Now earlier you talked about these exams, or the whole
12 procedure being intrusive and invasive, can you describe for the
13 individuals why you say that?

14 A The patients have a right to know what is going to be
15 expected, and to have a pelvic exam done immediately after a sexual
16 assault and have an anal scope introduced into your rectum, to have
17 somebody poke and prod and listen and touch you from head to toe, it's
18 invasive and intrusive to the point where some patients chose not to
19 have any exam done at all.

20 Q And can you explain for the members of the jury, who have
21 never had a pelvic exam, how you go about doing that?

22 A If the patient is able to tolerate it, you put them in what's called
23 a supine position, on their back, and we have stirrups that come out from
24 the end of the table and the stirrups are put into more of a diagonal
25 mode. The heels of the women's heels of her feet are put into the

1 stirrups and then that allows me access to visualize the vagina, the
2 external genitalia.

3 And then their knees are asked to be allowed to fall apart and
4 then a speculum is going to be placed ultimately after visual inspection,
5 after we use separation and traction to look at the external pieces of the
6 genitalia. There's technical terms like mons pubis, labia majora, labia
7 minora, posterior fourchette, fossa navicularis, hymen, urethra. We're
8 looking at all of that before we -- and we take photographs. And then we
9 proceed with a tool called a speculum, generally it's plastic nowadays.
10 It's a plastic tool that's placed in, looks almost like a little duck bill, and
11 it's placed into the vagina with sterile water, and then you open it up so
12 that you can actually see the walls, the top, bottom, and the side walls of
13 the vagina.

14 And then you have to find the patient's cervix, if they have
15 one. Sometimes the cervix is right there when you present the
16 speculum, you can see it. Sometimes you have to place the speculum
17 down to pop it up. Sometimes it's off to the side or up top. So you have
18 to find the cervix. And then you -- once you find that, then you take
19 swabs from the vaginal walls, then you take swabs from the cervical os
20 of the uterus, then you take additional swabs for -- to look for sperm on
21 the slide with a light -- staining microscope. And then you're going to
22 take a gonorrhea and chlamydia culture from the cervical os of the
23 uterus.

24 Take your photographs, tell the patient what you're doing, and
25 then you'll remove the speculum. And then you usually give them a

1 small break and tell them to prepare for the rectal exam.

2 Q Well, tell us about the rectal exam?

3 A The rectal exam is when you're placed into a knee-chest
4 position, if you can tolerate being on your knees. So the patient, this
5 patient was asked to stand up, turn around, put both of her knees on the
6 table, and then spread her knees as far apart on the table as she can,
7 and then bend over, put her head and her breasts on the table so her
8 butt is up in the air and her chest and her arms are flat on the table, and
9 that gives us access to the buttocks, the anus.

10 And then once we take a look at the buttocks, make sure that
11 if there's photos that need to be taken, there will be measurements that
12 need to be done. We'll spread the buttocks and take a look at the anus.
13 The perianal folds are like a little accordion that has little tissues that
14 have to be separated out, each individually, and so that you could find
15 little injuries there. And you photograph those, if necessary.

16 Once that's done then you prepare the patient for a scope. It's
17 approximately three and a half inches long. It's clear and it's a cylinder
18 and that cylinder is inserted into the rectum. And then once that's
19 inserted, then you take swabs from the rectum and you place the swabs
20 into the sexual assault kit in the box that's called "R" for rectal. You take
21 photographs. You let the patient know, you identify all of the landmarks
22 that I normally differentiate anus from rectum. And then if I see any
23 injuries, I decide what I need to do at that point in time. For example, if
24 there was a foreign body or something, you have to remove it.

25 And then you take the anal scope out and then you let the

1 patient know that's the worst part of the exam, everything else is, I
2 usually tell them, everything else is downhill. It's easier.

3 Q What you've just described it's not a very pleasant exam;
4 would you agree with that?

5 A I would agree with that.

6 Q And for somebody's who has just been sexually assaulted, it's
7 that much more unpleasant?

8 A Yes.

9 Q When you talked about the fact of the swabs that are all taken,
10 those swabs, with the exception of the chlamydia ones, that's the sexual
11 assault or the rape kit; is that correct?

12 A Yes.

13 Q And what do you do with that once you've collected all the
14 swabs?

15 A I put them in their individual envelopes, seal the envelopes,
16 and then each envelope goes into a larger sexual assault envelope that
17 kind of expands with the amount of evidence that you're placing in. And
18 then you ultimately seal the entire sexual assault kit with the evidence
19 tape that comes in the kit. And then I initial and put the dates that I seal
20 the kit. And then I lock it up.

21 Q And once it's all put together initialed and sealed, what do you
22 do with it?

23 A I lock it up and wait for the Las Vegas crime lab to come pick it
24 up.

25 Q So the crime lab actually comes to UMC to pick up the kits?

1 A Yes.

2 Q And while they're locked up, who has access to them?

3 A The sexual assault nurse examiner, so that would be myself
4 and Tina at this time.

5 Q Okay. So you have access to it, nobody else at the hospital?

6 A No.

7 Q And then Metro has the ability to access it?

8 A The crime lab.

9 Q Okay. When you examined Samantha, what, if anything, did
10 you notice?

11 A With the external genitalia, I found no signs of blunt force
12 trauma, no contusions, no abrasions, no cuts, lumps, bumps, or bruises.

13 When I did the speculum exam, I found no cuts, lumps,
14 bruises.

15 I found sperm in the vagina when I looked at the light staining
16 microscope.

17 The dye that we use on the posterior fourchette, technical
18 area, and fossa navicularis had no uptake.

19 Q What does that mean?

20 A Uptake is, usually occurs, when there's like a microscopic
21 abrasion or surface trauma, as we call it, where the skin's been
22 disrupted and the blue dye attaches to that skin that's been disrupted.

23 Q When you said, no blunt force trauma on visual inspection
24 externally, are you surprised by that?

25 A Not at all.

1 Q Why not?

2 A The majority of sexual assault victims have no signs of trauma
3 to their vagina, to the cervix, to the external genitalia.

4 Q And internally you said you didn't find any abrasions or
5 contusions or anything of that nature, were you surprised by that?

6 A No.

7 Q Why not?

8 A The vagina's job is to expand and contract and the vagina will
9 lubricate and start lubrication process immediately no matter what is put
10 in there. So if it's a finger, penis, hammer, whatever is put in the vagina,
11 the vagina doesn't know the difference and so it starts to produce
12 lubrication.

13 Q And of all of the exams that you've done, would you agree that
14 it's actually quite rare for you to find things like abrasions and contusions
15 within the vaginal area?

16 A Yes.

17 Q After you finished all of that, you talked about, generally, that
18 you then give medications?

19 A Yes.

20 Q Did you give Samantha medications?

21 A Yes.

22 Q What was she given?

23 A A gram of Azithromycin to prevent chlamydia and 250mg
24 injection of ceftriaxone or some people call it Rocephin. In the Rocephin
25 we put a little lidocaine to try and -- that's a tough shot to receive, it goes

1 in the gluteus maximus, and so we put the lidocaine in there to try and
2 minimize their discomfort that they're having.

3 Q What's the purpose behind the injection?

4 A To prevent gonorrhea.

5 Q Once you're done with the medications with Samantha, then
6 what?

7 A I would have offered her -- take -- draw blood, get a urine
8 sample, submit that for sexually transmitted infection blood testing, urine
9 pregnancy, urine drug screen would have been done. She would have
10 been offered the morning after pill. She would have been seen by the
11 rape crisis advocates. Discharge instructions would have been given to
12 her regarding the 12 week follow up for the second STIs testing that
13 needed to be done. And then I would have moved her to an area where
14 the mid-levels could treat and see her and fix her hand -- her finger.

15 Q And what did they actually have to do to her finger?

16 A They requested that they have a special doctor look at her
17 finger because of the -- nail bed had been disarticulated, which means it
18 had been cut off. And so they, the physician assistant, when I read his
19 notes, indicated that --

20 MS. MCNEILL: And I'm going to object at this point. This is
21 not -- doesn't sound like it's based on her personal knowledge.

22 MS. LUZAICH: She's an expert, she can rely on other
23 medical reports.

24 THE COURT: Oh, come on up.

25 [Bench conference transcribed as follows:]

1 THE COURT: All right. So, hold on, so I apologize, so I was
2 distracted for the moment because I've heard her testify many times.

3 So what are you covering?

4 MS. LUZAICH: The finger.

5 MS. MCNEILL: She was --

6 THE COURT: What was she testifying about?

7 MS. LUZAICH: What the doctor did to her finger to fix it.

8 THE COURT: Okay.

9 MS. MCNEILL: And she can testify about what other experts
10 did that help her form her conclusion, but what she's testifying is what
11 another doctor did. She didn't see it. She doesn't know it. I have a right
12 to cross-examine that doctor.

13 This isn't something she based her conclusion on. She asked
14 her, what did that doctor do? And she said, well, in reviewing his notes.

15 THE COURT: Right.

16 MS. MCNEILL: That's -- she's not forming any type of
17 conclusions, that does nothing to do with her conclusions as the SANE
18 examiner.

19 MS. LUZAICH: Right. But she looked at the finger. She saw
20 what was wrong with it. She can testify what was done to fix it, I mean,
21 there's no prejudice.

22 MS. MCNEILL: Well, potentially there is, if I wanted to
23 cross-examine the doctor who fixed it about issues that came up with the
24 finger. I mean, what's the point of getting it in through her?

25 THE COURT: Well, wait a minute, so she's just testifying

1 about what the doctor did, which is shown in the medical records?

2 MS. LUZAICH: Uh-huh.

3 THE COURT: Okay. So, so far you haven't introduced the
4 medical records; right?

5 MS. LUZAICH: Uh-uh.

6 THE COURT: Okay. That's a no; right, for the record?

7 MS. LUZAICH: Oh, sorry. No, that is a no, sorry about that. I
8 don't testify regularly.

9 THE COURT: Yes, that's a good thing.

10 Okay. And so the issue is whether it's --

11 MS. MCNEILL: Well, I mean, experts --

12 THE COURT: -- hearsay to repeat --

13 MS. MCNEILL: Sure.

14 THE COURT: -- what's in the medical records.

15 MS. MCNEILL: Yeah. And she can testify about things that
16 she used to form her conclusion as an expert. But she's not allowed to
17 testify about what other people did that she has no personal knowledge
18 of, if that's not being used to show anything that she did in her position
19 as the expert.

20 THE COURT: I'm just trying to think. So the statement the
21 doctor makes in the medical record -- well, I mean -- so it's not part of
22 what she reviewed in her role as an expert per se. I don't know.

23 I guess here's the thing though, they could, I mean, I think
24 they could probably introduce that page of the medical records if they
25 want to, which I -- which, you know, I suppose is their option.

1 Yeah, okay. So unless it's something she reviewed as -- in
2 her role as an expert.

3 Tell me what happened, did she -- how did she get these other
4 records?

5 MS. LUZAICH: You know, it's fine, I'll just -- I'll move on. I'll
6 ask a different question.

7 THE COURT: Go ahead.

8 [End of bench conference]

9 BY MS. LUZAICH:

10 Q Let me ask you a different question. The injury that you
11 observed to Samantha's finger, how painful would that be?

12 MS. MCNEILL: Objection. Speculation as to how another
13 person would perceive pain.

14 THE COURT: Establish foundation.

15 BY MS. LUZAICH:

16 Q Okay. Well, you're a nurse; right?

17 A Yes, ma'am.

18 Q And you know where nerve endings are and things of that
19 nature in the body?

20 A Yes.

21 Q And you looked at her finger --

22 A Yes.

23 Q -- and you described for us the damage that was done to her
24 finger.

25 A Yes.

1 Q -- how painful would that be?

2 MS. MCNEILL: And, again, Your Honor, everyone perceives
3 pain differently.

4 THE COURT: Overruled.

5 BY MS. LUZAICH:

6 Q That means you can answer.

7 A So the patient indicated the pain in her finger was -- she gave
8 me a pain scale of 8 out of 10. So it's on the severe side of pain.

9 And I will tell you that one of the tools we use when we're
10 trying to assess a patient that's unconscious, unresponsive, potentially,
11 when we're evaluating neurologic evaluations, we know that if we apply
12 pressure to that quick area where the nail and the nail bed ends, if we
13 apply pressure to that, that's -- it causes tremendous pain. And many
14 times that we will be able to evaluate a neurologic function on a patient
15 by pressing on that area.

16 It's very painful and patients will tell you, ow, what are you
17 doing, stop that. And then we say, oh, you are awake, you are here,
18 let's talk a little bit.

19 So it's one of the tools that we use. And we know that that is
20 very painful when we press there. It would be the equivalent to doing
21 a -- pressing on the sternum. That causes pressure too when you apply
22 direct pain here or at the quick.

23 So this patient had her nailbed taken off, and so that is painful,
24 it's bleeding, and there's a lot of nerve and blood function to that area.

25 So she gave a pain level of 8 out of 10.

1 Q Which, knowing what you know, makes sense?

2 A It correlates with her clinical history.

3 MS. LUZAICH: Thank you. I pass the witness.

4 THE COURT: Thank you.

5 Cross?

6 MS. MCNEILL: Thank you, Your Honor.

7 **CROSS-EXAMINATION OF JERI DERMANELIAN**

8 BY MS. MCNEILL:

9 Q When you do the interview for the sex assault exam, you do
10 that, I mean, you're trained on how to take those interviews; correct?

11 A Yes.

12 Q Okay. And your training is important when you do these
13 interviews because you need to gather information potentially for
14 prosecution; right?

15 A It's possible, yes.

16 Q Okay. And, in fact, when someone comes to you, brought by
17 the police, you are aware that you're gathering information that you're
18 going to be giving to the police; correct?

19 A To both sides; yes, ma'am.

20 Q Okay. But in that context at that moment the police have
21 brought them and they have requested this information; correct?

22 A Correct.

23 Q So it's your goal to get the person to a place of comfort where
24 they're able to give you accurate information; correct?

25 A I want the patient to be as comfortable as possible, yes.

1 Q Okay. You indicated that you do a Glasgow Coma score as
2 part of your evaluation, if a patient is going to be competent to provide
3 that information to you; right?

4 A The Glasgow Coma Scale will indicate a neurologic function
5 and we do use it a lot.

6 Q Okay. And, I'm sorry, but my question was: You use that in
7 your evaluating if the person's going to be competent to speak to you?

8 A It is one of the indicators I use, yes.

9 Q Okay. And you indicated that Ms. Weston's was 15, which is
10 the highest; correct?

11 A Yes.

12 Q Okay. If at any point you had believed that she was in a state
13 where she wasn't able to give accurate information, you wouldn't have
14 kept questioning her, would you?

15 A I don't know if I understand your question.

16 Q Which part was confusing?

17 A The part about whether I would continue to talk to the patient.

18 Q Okay. All right. I guess I don't know why that's confusing.

19 You -- if a patient came in and was hysterical and unable to
20 speak, would you keep questioning that person in that state?

21 A I would continue to work with that person, and I may use
22 silence for a while, that's one of the tools I will use to try and gain
23 confidence with that patient so that they feel comfortable with talking to
24 me. And I may continue to talk to them. I will use a soft tone of voice. I
25 may sit right next to them. It all depends on how the patient presents as

1 to which tools you use.

2 Q Okay. So the long answer is maybe?

3 A It's possible.

4 Q Okay. You would agree with me, based on all of your training
5 and experience and questioning sex assault victims, that if you kept
6 grilling a person who was in say, "crisis mode," you might not get
7 accurate information?

8 A It is possible when a patient has trauma that their answers
9 may change over time.

10 Q Okay.

11 A It's possible I may not get accurate information.

12 Q And just to be clear, nowhere in your report did you indicate
13 that she was unable to give you information; right?

14 A No.

15 Q In fact, she was at the highest level of cognitive functioning
16 that you could establish?

17 A Yes.

18 Q Okay. And the interview that you did with Ms. Weston was
19 after she'd been interviewed by the detective; correct?

20 A Yes.

21 Q Okay. So there'd been a little bit of time lag in between when
22 the police initially contacted her and when she came to you?

23 A Yes.

24 Q And she was brought to you by the detective; right?

25 A I actually know Detective Campbell was the detective, but I

1 don't know if he brought her or if a patrol officer brought her.

2 Q Okay. So an employee with the Las Vegas Metropolitan
3 Police Department escorted her to you?

4 A Yes.

5 Q Okay. When you spoke with her it was your goal to get all the
6 information that you would need to properly assess her?

7 A Yes.

8 Q Okay. And you've testified that she indicated to you that the
9 sex assault occurred over a period of six hours?

10 A Yes.

11 Q Okay. And that the perpetrator ejaculated four to five times;
12 correct?

13 A Yes.

14 Q Did she tell you at any time that the perpetrator had ejaculated
15 on her butt area?

16 A No.

17 Q Okay. If she had you would have noted that because that
18 could potentially be important; correct?

19 A Yes.

20 Q That would be an area you might want to see if you could still
21 collect any type of DNA evidence from; right?

22 A Yes.

23 Q You indicated that she gave you some details about the sex
24 assault, that her daughter at one point had come into the bedroom;
25 right?

1 A Not come into the bedroom --

2 Q Okay.

3 A -- she was standing by the door.

4 Q Right.

5 And what she actually told you was that her daughter was
6 standing by the door watching when she was penetrated; correct?

7 A That's correct.

8 Q Okay. The stick, that you were shown the pictures of, you
9 indicated that the stick looked to you as if it was about 12 inches long;
10 correct?

11 A Yes.

12 Q Okay. And you indicated that she told you that it was about 12
13 inches long; correct?

14 A Yes.

15 Q And based on the fact that she told you it was 12 inches long,
16 and you saw this picture of the stick that you believed was about 12
17 inches long, you -- that went into your conclusion that that might have
18 been the object she was hit with?

19 MS. LUZAICH: Well, objection, that misstates the testimony.

20 MS. MCNEILL: Well, I'm asking her --

21 THE COURT: Right.

22 MS. MCNEILL: -- if that's what she decided.

23 THE COURT: So overruled.

24 THE WITNESS: Could you restate the question, please.

25 MS. MCNEILL: Sure.

1 BY MS. MCNEILL:

2 Q Based on the fact that she told you that the stick that hit her
3 was about 12 inches long, and you saw a photo of a stick that seemed to
4 be about 12 inches long, that went into you determining that that was the
5 stick that hit her?

6 MS. LUZAICH: Well, and I'm sorry, that misstates the
7 testimony. She did not determine that was the stick. The testimony was
8 that it was consistent with.

9 THE COURT: Okay. All right. So --

10 MS. MCNEILL: Okay. So it's a --

11 THE COURT: -- why don't --

12 MS. MCNEILL: -- semantics issue.

13 THE COURT: So, I guess, I will --

14 MS. MCNEILL: Sure.

15 THE COURT: -- let her explain if that was accurate or not.

16 THE WITNESS: The patient indicated that a 12 inch stick had
17 hit her. I had not seen the stick until later after law enforcement had the
18 stick.

19 What my dictation and what I physically saw and what she told
20 me occur correlates, she was hit with a 12 inch stick. That is consistent
21 with what my clinical findings on her exam results are.

22 BY MS. MCNEILL:

23 Q Okay. And would those results be different if she had told you
24 that the stick was approximately five feet long?

25 A It would depend on what additional information I had besides a

1 five inch long stick.

2 Q Five feet.

3 A Or five feet long.

4 Q Okay. But it could potentially change your conclusion?

5 A It's possible if the -- yes, it's possible.

6 Q Okay. And then you indicated that she told you only that the
7 stick had been used on her head; correct?

8 A In my dictation, yes.

9 Q Okay. Well, is there something other than your dictation we
10 should be looking at?

11 A No.

12 Q Okay. The -- and then you said she had some pain to her
13 abdomen; correct?

14 A Yes.

15 Q Okay. And you indicated that her white blood cells were
16 elevated; right?

17 A Yes.

18 Q And that sometimes that can happen with trauma to the body?

19 A Yes.

20 Q White blood cells -- elevated white blood cells can also be
21 found in people who have infections?

22 A Yes.

23 Q Okay. Did she have any type of infection?

24 A She had no pain when she urinated. No gross blood when
25 she urinated. No pain when she defecated.

1 Q Okay. Did you do -- you indicated that you tested her for
2 sexually transmitted diseases; correct?

3 A I did.

4 Q Okay. Did you get the results of those?

5 A I did.

6 Q And what were those results?

7 MS. LUZAICH: Objection.

8 Can we approach?

9 THE COURT: Come on up.

10 [Bench conference transcribed as follows:]

11 THE COURT: What's the --

12 MS. LUZAICH: Are you really going to tell the jury she has
13 chlamydia?

14 MS. MCNEILL: Yeah, you opened the door to it by saying
15 white blood cell -- elevated white blood cells can be caused by trauma. I
16 get to --

17 THE COURT: What's the relevance?

18 MS. MCNEILL: Well, what they're trying to do is bolster
19 Samantha's testimony, that she must have been hit in the stomach
20 because she had white -- elevated white blood cells, which this nurse is
21 now saying can be because there's trauma to the body.

22 It can also be because of infection. And I think I need to bring
23 that out, that she did, in fact, have an infection.

24 THE COURT: You did reference infection.

25 What does chlamydia have to do with it?

1 MS. MCNEILL: Well, she did, in fact, have an infection.
2 THE COURT: Okay. But what does it --
3 MS. MCNEILL: It could be the cause of the elevated white
4 blood cells.
5 MS. LUZAICH: I don't know that it can. And I don't think
6 that --
7 MS. LUZAICH: It --
8 THE COURT: I don't think it's relevant. And it's substantially
9 more prejudicial than probative, sustained.
10 Go.
11 MS. MCNEILL: Okay.
12 [End of bench conference]
13 THE COURT: Go ahead.
14 MS. MCNEILL: Thank you, Your Honor.
15 BY MS. MCNEILL:
16 Q You said that Samantha had told you that she thought she
17 might have scratched the person who raped her; correct?
18 A Yes.
19 Q Okay. And so you actually collected fingernail scrapings from
20 her?
21 A I swabbed underneath her nails, yes.
22 Q Okay. And then you give those to the police department as
23 part of the rape kit; right?
24 A I placed them in the sexual assault kit for the scientists at the
25 Las Vegas crime lab to analyze.

1 Q Okay. Which is what I asked you, so that's a yes; right?

2 A I don't think the scientists at the crime lab are actually police
3 officers. I don't know that.

4 Q Okay. Fair enough.

5 You indicated that you offer people that you give exams to
6 Plan B; right?

7 A Yes.

8 Q What does Plan B do?

9 A Plan B stops an egg and a sperm from uniting to produce a
10 child.

11 Q Okay. So it prevents pregnancy?

12 A Yes.

13 Q And that is offered to women who come in after they say
14 they're sexually assaulted because they may not want to become
15 pregnant from that interaction?

16 A Or if they have any cultural or religious issues, they may not
17 be allowed to take that medication.

18 Q Okay. But Ms. Weston denied that Plan B option, didn't she?

19 A She did.

20 Q Ms. Weston also told you that she thought she was pregnant?

21 A She indicated she had not had a menstrual period for two
22 months.

23 Q Right.

24 Did she tell you that she'd taken a home pregnancy test?

25 A I don't remember that, no.

1 Q You would have probably indicated that in your report, in your
2 dictation; correct?

3 A If she had told me that, if that had come out, yes.

4 Q Okay. And that would be something that would be important
5 to know based on potentially medications that might be given to the
6 person and how they might affect a pregnancy?

7 A The Plan B would not have affected a pregnancy. But, yes, I
8 would want to know that information.

9 Q Right.

10 And I didn't mean the Plan B, I just meant if you're giving
11 someone antibiotics or other types of medications, you would want to
12 know if the person was pregnant?

13 A No, the two antibiotics I give can be given for pregnancy, so
14 that wouldn't correlate.

15 Q I didn't say the antibiotics you give her. I said, there are
16 antibiotics that could affect pregnancy; correct?

17 A Yes.

18 Q There are medical treatment that you might give someone that
19 you, say X-rays, that you might not want to do on a pregnant woman?

20 A That's possible.

21 Q Okay. So it would be important for you to know if someone
22 came in and was potentially pregnant?

23 A Yes.

24 Q And she didn't tell you that she'd taken a home pregnancy
25 test?

1 A Correct.

2 Q Okay. But you did a pregnancy test; correct?

3 A I did.

4 Q And she was not pregnant?

5 A It was negative.

6 MS. MCNEILL: Court's indulgence.

7 BY MS. MCNEILL:

8 Q You indicated that she had these contusions and abrasions on
9 the backs of her arms; right?

10 A Her right shoulder and her right arm.

11 Q Okay. She didn't indicate to you that she'd been hit in that
12 area; correct?

13 A I did not dictate that.

14 Q Which would mean that she didn't tell you that?

15 A No, she could have told me that, and I may have not included
16 it in my dictation.

17 Q Are you -- do you regularly leave details out of your dictation?

18 A I try not to.

19 Q You indicated that the majority of sex assault victims don't
20 show any trauma in the vagina; correct?

21 A That is true.

22 Q Okay. And so you can't get a lot of forensic evidence from
23 that vaginal exam; right? I mean, you can't look at that and say, "Oh,
24 they must have been raped"?

25 A No.

1 Q Right.

2 And DNA doesn't tell you if there was a rape; correct, just the
3 presence of DNA?

4 A Presence of DNA.

5 Q So a rape kit really just tells you potentially that there was
6 sexual intercourse?

7 A If there's sperm present, yes.

8 Q Okay.

9 A It tells me that there was intercourse.

10 MS. MCNEILL: Nothing further.

11 THE COURT: Redirect.

12 **REDIRECT EXAMINATION OF JERI DERMANELIAN**

13 BY MS. LUZAICH:

14 Q The Glasgow Coma Scale, a score of 15 deals with cognitive,
15 it doesn't mean she wasn't upset; correct?

16 A Correct.

17 Q It doesn't mean she didn't suffer trauma; correct?

18 A Correct.

19 Q And, at the risk of being insensitive, it doesn't measure
20 intelligence either, does it?

21 A Correct.

22 Q And the stick that she talked to you about, when she said 12
23 inches long, you don't know whether it was five feet before it was broken
24 over her head; right?

25 A Correct.

1 Q And you talked about when you examined her, through the
2 pelvic examination, you were able to actually see sperm?

3 A With the light staining microscope.

4 Q Does there have to be a certain amount before you can
5 actually see it?

6 A A normal ejaculate is three to five cc's. So if there's been a
7 recent ejaculation, there's generally fluid in the vaginal vault. And so
8 that's the fluid that would be used when we swab the cervical os of the
9 uterus.

10 Q With just one normal ejaculate, would you physically see the
11 fluid?

12 A Oh --

13 Q I guess I asked my question badly earlier, sorry.

14 A No, three to five cc's can be absorbed, or when a person
15 stands up the fluids could be dissipated.

16 Q In Samantha, were you actually able to see fluid?

17 A Yes.

18 Q And would that lead you to conclude something?

19 A Generally you'll have -- the more ejaculations that occur, the
20 higher the volume of fluid. When you take into account how soon the
21 patient comes in, so if they come in relatively soon after a sexual
22 assault, we are -- I am more likely to see fluid in the vagina or the
23 vaginal vault. If it's been days since the sexual assault, I may not see
24 the fluid.

25 Q What about hours?

1 A Hours, generally when they come in right after the event, I will
2 see the fluid.

3 Q Define "right after"?

4 A You know, within 8 to 12 hours I will see fluid in the vagina, in
5 the vault.

6 Q Okay.

7 MS. LUZAICH: Thank you.

8 THE COURT: Re-cross?

9 MS. MCNEILL: Court's indulgence.

10 **RE-CROSS EXAMINATION OF JERI DERMANELIAN**

11 BY MS. MCNEILL:

12 Q You talked about sort of, I guess, the volume of normal
13 ejaculate, every man differs in what the amount of normal is in their
14 ejaculate; correct?

15 A Yes, it's possible. Three to five cc's is the average.

16 Q Okay. And so some will be under that; right?

17 A Yes.

18 Q Some will be over that?

19 A Yes.

20 Q Okay. And then it's fair to say that if a man had ejaculated
21 four to five times within that time period, each one of those ejaculates
22 would contain a different volume likely?

23 A Possible, yes.

24 Q Okay.

25 MS. MCNEILL: Nothing further.

1 THE COURT: Anything further?

2 MS. LUZAICH: No, Judge.

3 THE COURT: Thank you. Appreciate your time.

4 THE WITNESS: Thank you.

5 THE COURT: Next?

6 MR. ROSE: The State will call Officer Tyler Knepp.

7 [Pause in proceedings]

8 MR. ROSE: The State will call Officer Hennings.

9 **AMANDA HENNINGS**

10 [having been called as a witness and being first duly sworn, testified as

11 follows:]

12 THE CLERK: Thank you. You may be seated.

13 Please state your complete name, spelling your both your first

14 and last name for the record.

15 THE WITNESS: Officer Amanda, common spelling;

16 Hennings, H-E-N-N-I-N-G-S.

17 THE CLERK: Can you spell your first name, please.

18 THE WITNESS: A-M-A-N-D-A.

19 THE CLERK: Thank you.

20 MR. ROSE: May I proceed, Your Honor?

21 THE COURT: Yeah.

22 **DIRECT EXAMINATION OF AMANDA HENNINGS**

23 BY MR. ROSE:

24 Q Good morning, ma'am.

25 I see that you're in uniform, how are you employed?

1 A The Las Vegas Metropolitan Police Department.

2 Q And how long have you been employed with Metro?

3 A I was hired in October of 2016.

4 Q So when you were hired in October 2016, what's the first thing
5 you did with Metro?

6 A I went to the police academy.

7 Q About how long does that last?

8 A Approximately six months.

9 Q Do you remember when you graduated from the academy?

10 A April 2017.

11 Q What do you do after you got out of the academy?

12 A I went into field training.

13 Q And what is field training?

14 A It's six more months of training. We ride around with another
15 officer and they -- basically they guide us and they teach us how to be
16 an officer out in the field.

17 Q The officer who's out there with you at the time, is that your
18 field training officer?

19 A Yes.

20 Q Also knowns as an FTO?

21 A Yes.

22 Q Okay. Who was your field training officer?

23 A Officer LeGrand.

24 Q Is it fair to say that you were working with Metro as a police
25 officer on June 18th, 2017?

1 A Yes.

2 Q Was that during that field training time period?

3 A Yes.

4 Q Okay. On June 18th, 2017, do you have reason to respond to
5 2686 Jennydiane?

6 A Yes.

7 Q Is that an apartment complex, a house, community, kind of
8 what are we talking about?

9 A It was an apartment complex.

10 Q Do you remember if you were going to any specific
11 apartment?

12 A We were.

13 Q And what was that apartment?

14 A I don't remember the apartment number but it was a
15 downstairs apartment.

16 Q Okay. Do you remember what kind of call it was that brought
17 you there?

18 A It was a disturbance call. It was a -- other disturbance call.
19 We didn't really know what it was.

20 Q Were you the only officer to arrive?

21 A No, I was not.

22 Q Who else showed up?

23 A Officer LeGrand was in the car with me and Officer Knepp was
24 my backup officer.

25 Q Was Officer Knepp in the car with you as well?

1 A No. He was in his separate car.

2 Q Now, when you're in this kind of field training phase, who kind
3 of takes primary responding to a call, the trainee or the trainer?

4 A The trainee.

5 Q Any particular reason for that?

6 A So that way we can learn.

7 Q Okay. Do you remember if you were the -- or, I'm sorry, you
8 and Officer LeGrand were the first two to arrive on scene?

9 A No, we were the second unit to arrive.

10 Q Who was first?

11 A Officer Knepp.

12 Q Okay. So he was in his separate car.
13 Was anybody else in the car with him that you remember?

14 A Not that I recall, no.

15 Q So what happens after you get to the apartment?

16 A We got out of our vehicles and walked to the front door of the
17 apartment.

18 Q Do you knock on the door?

19 A We did, yes.

20 Q Okay. The first time that you knocked on the door, do you
21 announce who you are?

22 A Not the first time, no.

23 Q Is there any particular reason for that?

24 A To see if somebody will open the door.

25 Q Okay. Did anybody open the door that first time?

1 A No.

2 Q So if you knock on the door, nobody answers, do you just
3 leave?

4 A No.

5 Q All right. What did you do next?

6 A We continued to knock on the door. I don't know how -- I don't
7 recall how many times, but we did knock on the door a few times. The
8 last time we knocked we announced ourselves.

9 Q And after you announced yourselves -- actually, let me ask
10 you this, what do you mean by you announced yourselves?

11 A We announced ourselves. I don't remember exactly what was
12 said. It was either Metro police or police officers.

13 Q Okay. So you let them know who it is who's at the door?

14 A Yes.

15 Q All right. After you announced yourselves, what happened?

16 A Shortly after Samantha and Riley came out the door saying
17 he's going out the window. And Officer LeGrand and I went to the rear
18 of the apartment.

19 Q Okay. Now you said Samantha and Riley opened the door,
20 did you know the people who lived there?

21 A No, not at the time.

22 Q Okay. So you're able to give us their names because you've
23 met them and spoken with them after they answered the door?

24 A Yes.

25 Q Okay. So Samantha -- actually let me ask you this, is

1 Samantha an adult or a child?

2 A An adult.

3 Q What about Riley?

4 A She's a child.

5 Q When Samantha came out and told you that, you know,
6 somebody was going out the back, what was her general demeanor
7 like?

8 A She was scared.

9 Q Okay. And what makes you say that?

10 A When she came out she rushed her speech, she was like,
11 he's going out the back, he's going out the back.

12 At that point Officer LeGrand and I ran around the back to the
13 rear of the apartment.

14 Q And are you able to see anybody at that point?

15 A We were not coming out of the window but we seen a black
16 male, bit of a distance. My -- Officer LeGrand asked if it was him. If he
17 lived at the apartment, he said no. And we continued to look for the
18 person going out the window.

19 Q Had you been given a description of the clothing of the person
20 who went out was wearing?

21 A No, we didn't get a clothing description. We just went around
22 back to see if we could get him.

23 Q So you said you see one person, they indicate to you they
24 don't live at that apartment, you kept on looking. Are you ever able to
25 find somebody associated with that apartment?

1 A Yes, Officer Knepp found him.

2 Q Okay. Were you present or did you personally also come in
3 contact with that individual?

4 A Yes, we approached when Officer Knepp was taking him into
5 custody.

6 Q You say you approached, how close did you get?

7 A We actually walked up to Officer Knepp when he took -- when
8 he put handcuffs on the subject.

9 Q Okay. So you actually got right up next to that person?

10 A Yeah.

11 Q Had a chance to actually look at him?

12 A Yes.

13 Q Do you see that person in the courtroom today?

14 A Yes, it's the Defendant in the white shirt.

15 Q Okay. Did -- so there are a couple of people sitting over here
16 in a white shirt, does he -- is he bald?

17 A No.

18 MR. ROSE: Let the record reflect identification of the
19 Defendant, Your Honor.

20 THE COURT: Yes, it will.

21 BY MR. ROSE:

22 Q What happened after you -- or after Officer Knepp, I should
23 say, took the Defendant into custody and you were kind of standing up
24 next to him?

25 A We walked him up to where Samantha and Riley were at. We

1 asked him if it was him. She said yes. And Officer Knepp took the
2 Defendant to his car.

3 Q So Officer Knepp put the Defendant into Officer Knepp's car?

4 A He was standing in front. He didn't go inside yet.

5 Q Okay. What did you do?

6 A I went to -- I stayed with Samantha and Riley.

7 Q Okay. And you said that Riley was a child, I mean, are we
8 talking a teenager, ten years old, under ten? Any idea?

9 A She was about six years old at the time.

10 Q And how did she react towards you?

11 A At first she was a little bit scared but she actually ended up
12 attaching herself to me.

13 Q Did she attach herself to any of the other officers who were
14 there?

15 A No, she was scared of the other officers.

16 Q Let me ask you this, how many other female officers are out at
17 the scene at that point in time?

18 A At that point there were none.

19 Q Now you indicated that kind of Riley was attached to you, did
20 you just stay outside hanging out with Riley?

21 A I did, yes.

22 Q Okay. Do you ever actually go into the apartment itself?

23 A Yes, I did.

24 Q Now what was the purpose of going into the apartment?

25 A To make sure nobody else was inside and to see where

1 evidence might be placed.

2 Q So when you say, we see where evidence might be placed, do
3 you, you know, digging through everything and kind of, you know, going
4 into drawers and whatnot?

5 A No.

6 Q Okay. Why not?

7 A Because that can disturb evidence.

8 Q Okay. So is it a visual inspection only?

9 A Yes.

10 Q All right. And the specific things that you're looking for, you're
11 just kind of like looking for anything that's there or are there specific
12 things you're looking for?

13 A There were some specific things. Officer LeGrand spoke with
14 Samantha and got a very basic story of what happened.

15 Q So you used that as a way to kind of direct where you're
16 looking?

17 A Yes.

18 Q Okay. Did you see anything in the apartment that was of note
19 to you?

20 A The scissors that he used to threaten them all day was on the
21 nightstand next to the bed. There was a broken stick that he hit her on
22 the head with that was in the bedroom. There was some blood. And
23 then she said there was some cleaned up blood in the trash can as well.

24 Q And that trash can, is that in the bathroom?

25 A Yes.

1 Q Okay. So after you kind of do your initial walk through, what
2 do you do?

3 A We close the door.

4 Q Now that's --

5 A No, we closed the front door, sorry.

6 Q Okay. And when you say that, what, do you close it while
7 you're inside or outside?

8 A Outside.

9 Q Okay. So after you close that front door, is there anybody left
10 inside the apartment?

11 A No.

12 Q Okay. Why do you close that door after you leave?

13 A Because it's a crime scene, we have to seal it.

14 Q Are there going to be other people coming out to kind of
15 process the scene?

16 A Crime scene analysts, yes.

17 Q So are you trying to preserve it for that?

18 A Yes.

19 Q Did anybody -- until crime scene arrived, to the best of your
20 knowledge, did anybody else enter that apartment?

21 A No.

22 Q Would you have stopped them if they tried?

23 A Yes.

24 Q Did anybody else come out of that apartment?

25 A No.

1 Q If they had, would you have asked them, like, hey, what are
2 you doing?

3 A Yes.

4 Q Okay. So after you closed the door, do you stick around until
5 the crime scene analysts arrive?

6 A No.

7 Q What do you do?

8 A We, me and Officer LeGrand, transported Samantha and Riley
9 to headquarters.

10 Q And why were they going to headquarters?

11 A To be interviewed by detectives.

12 Q Did you interview them?

13 A No.

14 Q All right. Did you stay at headquarters during the interview?

15 A Yes.

16 Q Were you actually in the interview room?

17 A No.

18 Q Okay. Do you know where they went after the interview?

19 A They went to UMC trauma.

20 Q How do you know that?

21 A We transported them.

22 Q Okay. So you were the ones who actually drove them over to
23 UMC?

24 A Yes.

25 Q Okay. Did you go with them into UMC?

1 A I did not, Officer LeGrand escorted them inside.

2 Q Okay. And what were you doing during that time period?

3 A I was finishing my report.

4 Q And where were you doing that?

5 A I was doing that inside my car.

6 Q Okay. Obviously the car's not inside UMC?

7 A No, it's not.

8 Q All right. After Samantha and Riley had been taken to

9 headquarters and then transported over to UMC, was there any change

10 in Riley's demeanor?

11 A She was a little less scared. She relaxed a little bit.

12 Q Now, Officer, do you wear body worn camera?

13 A Yes.

14 Q Okay. Are you wearing it today?

15 A No.

16 Q All right. Are you on duty right now?

17 A No.

18 Q Okay. When you're on duty, do you wear the body worn

19 camera?

20 A Yes.

21 Q Okay. Could you give us a quick rundown of how that body

22 worn camera actually works?

23 A It comes with a battery pack. I stick mine in my pocket, other

24 officers have it elsewhere. And it comes with a camera that's attached

25 to your collar. When it's -- you turn it on at the beginning of your shift

1 and it blinks green. When you activate it, when you go to a call or
2 initiate a car stop or person stop, you have to push the button twice and
3 it activates and the camera turns on.

4 Q Have you ever had the chance to see any of -- any body cam
5 footage?

6 A Of this call, no.

7 Q Generally speaking, have you had the chance to see any body
8 cam footage?

9 A Yes.

10 Q Are you aware that there are points in the body cam footage
11 that will be muted?

12 A Yes, about the first 30 seconds there's no audio transmission.

13 Q Okay. So there are certain points in there where you'll see a
14 picture but maybe not have any sound?

15 A Yes.

16 Q Okay. Were you wearing body cam on June 18th, 2017?

17 A Yes.

18 Q Did you activate it for this call?

19 A Yes.

20 Q Okay.

21 MR. ROSE: Permission to publish State's 102, Your Honor,
22 which has been admitted by way of stipulation.

23 THE COURT: Okay.

24 BY MR. ROSE:

25 Q Now, Officer, you indicated that the first 30 seconds are

1 always going to be muted; is that correct?

2 A Yes.

3 Q Okay.

4 MR. ROSE: So I'm going to actually skip ahead just
5 momentarily to make sure that the audio is working.

6 [State's Exhibit 102 played for the jury]

7 MR. ROSE: Got it to work.

8 BY MR. ROSE:

9 Q So now I'm going back to the beginning of -- Officer, while
10 we're in this first 30 seconds of -- with no volume, where do you wear
11 your body camera?

12 A I wear mine on my collar, my left side.

13 Q Are there other places that officers can wear them?

14 A Yeah, some people put them on their lapel, right here.

15 Q Will you occasionally, actually kind of catch perhaps part of
16 your own body, either your face, your arms, your hands in your own
17 body camera?

18 A Yes.

19 Q Pretty common?

20 A Yes.

21 Q Okay.

22 [State's Exhibit 102 played for the jury]

23 MR. ROSE: Just pausing it briefly at 1:28.

24 BY MR. ROSE:

25 Q Officer, would you agree with me that this looks to be primarily

1 black and white?

2 A Yes.

3 Q Now, do the body cameras actually record in black and white
4 or is that just because of the time of day that this particular video was
5 taken?

6 A It was the time of day.

7 Q So the cameras do actually pick up color?

8 A Yes.

9 Q Okay.

10 THE COURT: Can you turn it down a little bit?

11 MR. ROSE: Yes, Judge.

12 [State's Exhibit 102 played for the jury]

13 MR. ROSE: Just pausing it again briefly at 2 minutes and 9
14 seconds in.

15 BY MR. ROSE:

16 Q That officer off to the left-hand portion of the screen, is that
17 Officer Knepp?

18 A Yes.

19 [State's Exhibit 102 played for the jury]

20 MR. ROSE: Okay. Now pausing it briefly at 6 minutes, 11
21 seconds in.

22 BY MR. ROSE:

23 Q Where are you, Officer LeGrand, and Officer Knepp heading
24 at this point in time?

25 A We're heading back to Samantha and Riley.

1 Q And why are you doing that?

2 A To make sure we have the correct person in custody.

3 Q Okay. So if you were going to get there and Samantha said,
4 no, that's not the guy, what would you have done?

5 A We would have taken him out of cuffs and let him go.

6 [State's Exhibit 102 played for the jury]

7 BY MR. ROSE:

8 Q Officer Hennings, you made the statement on there that you're
9 not sure if Riley was old enough to talk to you, do you have department
10 policies on essentially who gets to speak to children under a certain
11 age?

12 A Yes.

13 Q Okay. And what are those policies?

14 A I don't know the policy numbers but it's -- patrol officers are
15 not allowed to interview children under -- I can't remember the exact
16 age, but I think it's eight or nine.

17 Q So if patrol officers can't interview children under that
18 particular age, who would be the people to do it?

19 A Detectives.

20 Q Now, if you turn the body cam off and then turn it back on, do
21 you know if it all gets saved as one video or as multiple videos?

22 A It -- I don't know. I think it gets saved as multiple videos. I
23 don't think it gets saved all under one. I don't remember.

24 Q Okay. Would it be all under one event number but different
25 actual video clips?

1 A Yes.

2 Q Okay.

3 MR. ROSE: Can we actually switch back.

4 THE COURT: Sorry, is this a different exhibit?

5 MR. ROSE: No, Your Honor. I apologize, Your Honor. It's
6 still Exhibit 102, which had two different files on it.

7 THE COURT: Okay. Thank you.

8 BY MR. ROSE:

9 Q And if it is then -- the body cam is reactivated, are you still
10 going to have that 30 second initial period that's muted?

11 A Yes.

12 [State's Exhibit 102 played for the jury]

13 BY MR. ROSE:

14 Q Officer, you indicated that after you got to UMC Officer
15 LeGrand walks Samantha and Riley into the hospital and you kind of
16 stayed in the car finishing up the reports.

17 A Yes.

18 Q Was that you -- the end of your involvement in this particular
19 call?

20 A Yes.

21 Q Okay

22 MR. ROSE: I have no further questions at this time, Your
23 Honor.

24 THE COURT: Cross?

25 MS. MCNEILL: Thank you.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CROSS-EXAMINATION OF AMANDA HENNINGS

BY MS. MCNEILL:

Q Good morning, Officer Hennings.

How are you?

A I'm good. How are you?

Q I'm good, thanks.

You indicated that you obviously went to the police academy to become an officer; right?

A Yes.

Q In the police academy you get training on all kinds of skills that you're going to need when you get out on the streets; right?

A Yes.

Q Okay. And one of the skills that you're going to need when you get out on the streets is how to question witnesses; right?

A Yes.

Q Okay. And so Metro has certain policies and procedures in place for when you're going to question witnesses; right?

A Yes.

Q And there's different kinds of questioning, when questioning witnesses, questioning suspects; fair to say?

A Yes.

Q Okay. When you arrive onto a scene and there's multiple witnesses, if you're not quite sure what happened you want to get accurate information; right?

A Yes.

1 Q And you don't want those witnesses to taint each other's
2 statements; correct?

3 A Correct.

4 Q And so it's Metro policy that you will, in fact, separate
5 witnesses to question them; right?

6 A Yes.

7 Q Okay. We saw -- and I know you indicated that you didn't
8 actually question Riley; right?

9 A Yes.

10 Q And that was also pursuant to your policy?

11 A Yes.

12 Q Okay. And part of that policy that you're trained on is that you
13 have to question kids in a certain way; right?

14 A Yes.

15 Q Okay. And so you leave that up to people who maybe have
16 training on how better to do that; right?

17 A Yes.

18 Q Okay. But that's just not something -- that you have time to
19 learn when you're out on the streets?

20 A No.

21 Q Okay. Would you agree with me that when you arrived to the
22 residence, and Samantha came out, that Riley came out shortly after
23 her?

24 A Yes.

25 Q Okay. And we just watched that body cam footage and you

1 can see that while you're not questioning Samantha she is giving you a
2 fair amount of information; correct?

3 A Yes.

4 Q And while she's telling you these things Riley is standing next
5 to her?

6 A Yes.

7 Q Okay. And that when you're in the house and Samantha is
8 giving you more information and more details, Riley is also present
9 during that; correct?

10 A Yes.

11 Q Okay. You said that when you arrived Riley seemed nervous
12 and scared.

13 A Yes.

14 Q Okay. Do you have any familiarity with autistic children?

15 A No.

16 Q Okay. So you can't speculate as to why she might have been
17 scared or nervous; right?

18 A I can tell you what Samantha told us --

19 Q Sure.

20 A -- on why she was scared.

21 Q Okay. So I'm guessing that what you want to say is that she
22 was scared and nervous because of what had happened inside the
23 home --

24 A Yes.

25 Q -- right?

1 But you only know that from what Samantha told you?

2 A Yes.

3 Q If what Samantha told you was not true, that would not be the
4 cause of Riley's nerves; correct?

5 A Yes.

6 Q Okay. Would it be fair to say that when you show up there
7 were multiple officers, they're knocking on the door, you come in, you're
8 in your uniforms, you've got badges and guns, you have no idea how an
9 autistic child might take in that information; right?

10 A Correct.

11 Q Okay. You said that Riley sort of attached to you --

12 A Yes.

13 Q -- right?

14 And we could see that on the body cam footage that a couple
15 times you had to tell her like go back to your mom; right?

16 A Yes.

17 Q 'Cause you're trying to do your job; right?

18 A Yes.

19 Q So she seemed more attached to you then she did to her
20 mother at that time?

21 A Yes.

22 Q You can see a few times on the video where Samantha is
23 telling you where to find certain items inside the house; correct?

24 A Yes.

25 Q She seemed to know exactly where to find those things; right?

1 A Yes.

2 Q Okay. She told you that she had just gotten her phone back;
3 right?

4 A Yes.

5 Q Right before you arrived?

6 A Yes.

7 Q Okay. When you first arrived didn't she initially tell you that
8 she had been cooking when you arrived?

9 A Yeah, she did.

10 Q Okay.

11 MS. MCNEILL: Court's indulgence.

12 BY MS. MCNEILL:

13 Q You can see that Samantha is trying to show you some things
14 on her phone at some point, did you ever ultimately look at what she
15 was trying to show you?

16 A She was showing me some pictures of a prior call that I was
17 not on, some bruises and cuts I think it was.

18 Q Okay. Did you -- my question is, she's showing you some
19 pictures and she's telling you what the pictures are from; right?

20 A Yes.

21 Q Did you collect those pictures from her phone?

22 A No, I did not.

23 Q Okay. And she's mentioning something about a Facebook
24 Live video, did you ever watch that?

25 A I don't remember.

1 Q Okay.

2 MS. MCNEILL: Nothing further.

3 THE COURT: Redirect?

4 MR. ROSE: Thank you, Your Honor.

5 **REDIRECT EXAMINATION OF AMANDA HENNINGS**

6 BY MR. ROSE:

7 Q Officer Hennings, do you remember the body cam that we just
8 watched?

9 A Yes.

10 Q Obviously I'm not going to play the whole thing all over again,
11 but do you remember Samantha when she says that she just got her
12 phone back, then saying that she just got it back when she messaged
13 for help?

14 A Yes.

15 Q Do you also remember her saying that it was when she was in
16 the bath that she messaged for help?

17 A Yes.

18 Q Now you were asked whether or not you collected things off of
19 her phone, would that have been part of your job responsibilities or
20 would that have been left up to a detective?

21 A A detective.

22 Q And I don't mean to be mean, but are you a detective yet?

23 A No, sir.

24 Q Okay.

25 MR. ROSE: No further questions.

1 MS. MCNEILL: Just briefly, Your Honor.

2 THE COURT: Go ahead.

3 **RE-CROSS EXAMINATION OF AMANDA HENNINGS**

4 BY MS. MCNEILL:

5 Q You indicated that that wouldn't have been your duties, the
6 detective would have done that; right?

7 A Yes.

8 Q But you are trained that you need to give information to other
9 officers who are responsible for that call; correct?

10 A Yes.

11 Q And one of the things you do in gathering information is
12 making sure the detectives or the crime scene analysts get that
13 information; right?

14 A Yes.

15 Q And so items of evidentiary value you would make sure the
16 detective was aware that they existed?

17 A Yes.

18 Q Okay.

19 MS. MCNEILL: Nothing further.

20 THE COURT: Anything further?

21 MR. ROSE: Not from the State.

22 THE COURT: Okay.

23 Thanks, Officer, appreciate your time.

24 THE WITNESS: Thank you.

25 THE COURT: Go ahead and take lunch?

1 MS. MCNEILL: Court's pleasure.

2 THE COURT: Okay. All right. Let's go ahead and take our
3 lunch break till 1 o'clock.

4 During this recess you're admonished not to talk or converse
5 among yourselves or with anyone else on any subject connected with
6 this trial or to read, watch, or listen to any report of or commentary on
7 the trial or any person connected with this trial by any medium of
8 information, including without limitation, newspapers, television, the
9 internet, or radio or to form or express any opinion on any subject
10 connected with this trial until the case is finally submitted to you.

11 See you back at 1:00.

12 THE MARSHAL: All rise. Court is now in recess.

13 [Recess taken 12:02 p.m.]

14 [Jury trial resumed at 1:05 p.m.]

15 [Outside the presence of the jury]

16 THE MARSHAL: All rise. District Court Department 6 is back
17 in session.

18 Please be seated. Come to order.

19 Have a seat for me, Mr. Green.

20 Have a seat. Thank you.

21 THE COURT: All right. So I don't know if we set a time for
22 Monday or --

23 THE CLERK: 11:00.

24 THE COURT: 11:00, good, 'cause that's about what -- it's a
25 pretty chunky criminal calendar, not much substantive but a lot of

1 matters, especially 'cause next Wednesday is a holiday so.

2 MS. MCNEILL: Right.

3 THE COURT: And I've got a guy trying to fire his lawyer, so
4 that'll take extra time at the end of the calendar. So I'm hoping to be
5 done by 11:00.

6 I guess we can have another chat at the time of our afternoon
7 break this after -- well, why don't we just do it now. Where -- how are we
8 looking schedule-wise for you guys?

9 MR. ROSE: We have, I believe, four witnesses left, that are
10 actually all here and ready to go, including Officer Knepp who wasn't
11 here before lunch. No, everybody's here and ready to go. I still think
12 that we are on track to rest the State's case in chief this afternoon.

13 THE COURT: Even with stopping it for a 15?

14 MR. ROSE: I believe so, Your Honor.

15 THE COURT: Okay. Good. But it sounds like we probably
16 won't be able to talk about instructions this afternoon.

17 MR. ROSE: Not in great length, if at all.

18 THE COURT: Okay. So we'll see where we are when we do
19 finish the witnesses, if we do finish the witnesses. And then we can
20 decide what to do. Because if we don't get to -- frankly, if we don't get to
21 instructions yet today, I may just have them come Monday afternoon and
22 just be able to talk about instructions, have them copied and ready, and
23 just start up in the afternoon.

24 MS. MCNEILL: Okay.

25 THE COURT: All right. We'll see where we are later.

1 MS. MCNEILL: Okay. I just need to know for my witnesses.

2 THE COURT: Right. Okay. So we'll address it again before
3 we depart for the day.

4 MS. MCNEILL: Okay. And I was thinking if we did have some
5 extra time at the end of the day, we may want to just admonish him now
6 and get that over with.

7 THE COURT: Good point. Yeah, we can do that later, yeah.
8 Okay.

9 All right. Let's go ahead and get the jurors.

10 THE MARSHAL: All rise.

11 [In the presence of the jury]

12 THE MARSHAL: Please be seated.

13 THE COURT: All right.

14 Counsel, stipulate to the presence of the jury.

15 MS. LUZAICH: Yes, Your Honor.

16 MS. MCNEILL: Yes, Your Honor.

17 THE COURT: All right. Next witness.

18 MS. LUZAICH: Officer Knepp.

19 **TYLER KNEPP**

20 [having been called as a witness and being first duly sworn, testified as
21 follows:]

22 THE CLERK: Thank you. You may be seated.

23 Please state your complete name, spelling both your first and
24 last name for the record.

25 THE WITNESS: It's Tyler Knepp, T-Y-L-E-R, K-N-E-P-P.

1 MS. LUZAICH: May I?

2 THE COURT: Yes. Go ahead.

3 **DIRECT EXAMINATION OF TYLER KNEPP**

4 BY MS. LUZAICH:

5 Q Good afternoon, sir.

6 A Good afternoon.

7 Q How are you employed?

8 A With -- police officer with Las Vegas Metro.

9 Q How long have you been with Metro?

10 A Three years.

11 Q And you're wearing a suit now, do you --

12 A Yes.

13 Q -- usually wear a uniform and drive in a patrol car?

14 A Yes, I do.

15 Q Okay. Today you're not on duty; correct?

16 A Correct.

17 Q In fact, did we just pull you out of training to come here?

18 A Yes.

19 Q I'm going to direct your attention, if I could, right to June 18th of
20 2017, were you on duty as a patrol officer on that date?

21 A Yes, I was.

22 Q And did you respond to a domestic violence or domestic
23 disturbance call at 2686 Jennydiane Drive, Apartment B?

24 A Yes, I did.

25 Q In your department, when you respond to domestic violence

1 calls, do you generally go like alone as a unit or are more units
2 assigned?

3 A No, generally a minimum of two units are assigned to every
4 domestic.

5 Q Okay. And that's an officer safety thing?

6 A Correct.

7 Q When you went to that location, were you the only unit there or
8 did other units respond as well?

9 A There was another unit there with me when I arrived.

10 Q Okay. When you were riding that night, were you riding
11 alone?

12 A Yes, I was.

13 Q The other unit, were there two people in the other unit that
14 arrived first?

15 A Yes, there was.

16 Q And do you remember who that was?

17 A Yes, I do.

18 Q Who was it?

19 A Officer Hennings and Officer LeGrand.

20 Q What did you do when you arrived?

21 A We arrived. We went up to the door, kind of looked through
22 the window to see if anybody was moving around, knocked on the door
23 to see if anybody would come and answer.

24 Q When you looked through the window to see if anybody was in
25 there, were you able to see anything?

1 A Yeah, we did see a male inside.

2 Q And can you kind of describe the window for me.

3 A The window had blinds, there was some little crack in the

4 blinds so that you could see partially through the window.

5 Q Okay. So you had to like look through the blinds, it wasn't just

6 an open window?

7 A Correct.

8 Q And you saw a male in there?

9 A Yes.

10 Q Was it you who knocked on the door?

11 A I don't recall.

12 Q Okay. Did anybody respond when there was at least a knock

13 on the door?

14 A No, no one responded.

15 Q So then what happened?

16 A We kind of -- we just kept knocking, announcing that we were

17 Metro police, eventually after, after like 30 seconds to a minute

18 someone -- a female came to the door.

19 Q When the female came to the door, how did she appear to

20 you?

21 A She appeared scared.

22 Q Okay. And was she alone?

23 A No, she was with her daughter.

24 Q Okay. And then what happened?

25 A She came out. She told us that -- he said he went around

1 the -- he went out the back window and is walking away around the
2 corner. He gave us -- she gave us his description.

3 Q What description did she give you?

4 A That he was a black male adult and he was -- I think he was
5 wearing white a t-shirt. And so we went around the corner to try to find
6 him.

7 Q And were you able to find somebody?

8 A Yes, we did.

9 Q Describe for me what you did, you went around the corner and
10 then what?

11 A We went around the corner. We noticed a black male adult
12 wearing a white t-shirt walking probably 50 to 75 yards away from us.
13 And we called out to him to come back to us, which he did.

14 Q Okay. And what happened -- you keep saying we.

15 A Sorry.

16 Q Did you --

17 A Yes, I, yes, I called out to him to get him to come back and he
18 did.

19 Q At that point did you have a name?

20 A I believe we did.

21 Q Did you call the person that you saw by name or did you just
22 kind of yell to the person?

23 A No, I just yelled to him; I did not use a name.

24 Q Okay. And the person that you yelled to, what did that person
25 do?

Appellant's Appendix

Volume 5

Index of Appellant's Appendix

Court minutes of 07/17/2017	p. 7, 8
Findings of Fact, Conclusions of Law and Order	p. 1293-1296
Information.....	p. 1-6
Judgment of Conviction.....	p. 1277-1279
Notice of Appeal.....	p. 1300-1362
Notice of Entry of Findings of Fact, Conclusions of Law.....	p. 1296-1299
Order for Petition for Writ of Habeas Corpus.....	p. 1292
Petition for Writ of Habeas Corpus (Post Conviction).....	p. 1280-1291
Recorder's Transcript of Proceedings: Jury Trial – Day 1.....	p. 9- 160
Recorder's Transcript of Proceedings: Jury Trial – Day 2.....	p. 161-407
Recorder's Transcript of Proceedings: Jury Trial – Day 3.....	p. 408-702
Recorder's Transcript of Proceedings: Jury Trial – Day 4.....	p. 703-910
Recorder's Transcript of Proceedings: Jury Trial – Day 5.....	p. 911-1158
Recorder's Transcript of Proceedings: Jury Trial – Day 6.....	p. 1159-1271
Recorder's Transcript of Proceedings: Jury Trial – Day 7.....	p. 1272-1276

1 A He responded with, who, me? And I said, yes. And then he
2 came back.

3 Q All right. Came back towards you?

4 A Yeah, we kind of met in the middle.

5 Q Did you have contact with that person?

6 A Yes, I did.

7 Q And then what?

8 A We took him into custody and we walked him back to where
9 our patrol vehicles were located.

10 Q Did you ask a name at that point?

11 A Yeah, I believe I asked him what his name was.

12 Q And did the name that that person give you match the name
13 that you had received?

14 A Yes.

15 Q You said you walked him back to the patrol car, did you do
16 anything before you walked him back?

17 A Yeah, I kind of briefly asked the female, that answered the
18 door originally, if this was the right guy and she said yes.

19 Q Okay. But before you even walked him back, did you take him
20 into custody?

21 A Oh, yeah, sorry.

22 Q Okay. And at -- at the point that you did that, what did you
23 think had occurred?

24 A I believed it was just a domestic violence incident at that time.

25 Q Okay. So you took him into custody, brought him back, and

1 you said you asked somebody something?

2 A Yes, I asked the female victim that answered the door
3 originally if this was the right guy and she said yes.

4 Q Okay. Do you see the person that you took into custody here
5 in court today?

6 A Yes, I do.

7 Q Can you describe where he's sitting and an article of clothing
8 that he's wearing?

9 A Yes, he's sitting right there on the -- at the table. He's wearing
10 a white t-shirt and a tie.

11 Q A white t-shirt?

12 A Or a white collared shirt and tie.

13 MS. LUZAICH: Record reflect identification of the Defendant?

14 THE COURT: Yes, it will.

15 MS. LUZAICH: Thank you.

16 BY MS. LUZAICH:

17 Q What was the demeanor of the female when you brought the
18 Defendant back?

19 A I do not recall that. I just -- I know I asked her if this was the
20 right person and she said yes.

21 Q Okay. Did you ever go into the apartment?

22 A I did not.

23 Q Did you have any -- well, did you watch the other officers at
24 some point go into the apartment?

25 A Yes.

1 Q Did you have some conversation with the Defendant while you
2 were out there?

3 A Yes, I did.

4 Q And did you say anything to him about how he got to be out
5 back?

6 A I believe he said that he was already outside when we arrived.

7 Q Now, when you drove up were you the first one to arrive?

8 A Yes.

9 Q And once you got to the front door, did anybody leave the front
10 door before you went around back?

11 A No, they did not.

12 Q When the other two officers arrived, did you remain at the front
13 door?

14 A Yes.

15 Q And you said you saw a male inside?

16 A Yes.

17 Q Okay. When -- well, did you have any conversation with the
18 woman or the child?

19 A I did not.

20 Q Did you watch the child?

21 A I did not.

22 Q I mean, did you see her?

23 A Yes, I saw her; yes.

24 Q How did she appear to you?

25 A I do not recall that.

1 Q Okay. Did Officer Hennings have some contact with her?

2 A Yes.

3 Q Much more contact?

4 A Yes.

5 Q Okay. At the time that this was occurring, were you wearing
6 body worn camera?

7 A I was.

8 Q As far as you know, was Officer Hennings also wearing body
9 worn camera?

10 A Yes.

11 MS. LUZAICH: I have State's Exhibit 101 that I would ask to
12 publish to the jury, Your Honor.

13 THE COURT: Sure.

14 BY MS. LUZAICH:

15 Q And, Officer Knepp, when you wear your body worn camera,
16 where is yours?

17 A It's on my left -- at that time it was on my left collar of my shirt.

18 Q Okay. And when it's on the collar of your shirt, does it
19 sometimes show, oh, I don't know, maybe your body part or something?

20 A Yes.

21 Q Have you since moved it?

22 A Yes, I have.

23 Q Where do you wear it now?

24 A I wear it on my actual shoulder, farther away from --

25 Q And when you wear it on your --

1 A -- my neck.

2 Q -- oops, sorry.

3 A Sorry, farther away from my neck.

4 Q When you wear it on your actual shoulder, do you get a better
5 view when watching it?

6 A Yes, I do.

7 [State's Exhibit 101 played for the jury]

8 THE WITNESS: I'm sorry?

9 BY MS. LUZAICH:

10 Q What are we seeing in the top right corner?

11 A Oh, that's the side of my face and then also my earpiece for
12 my radio.

13 Q Okay. Thank you.

14 [State's Exhibit 101 played for the jury]

15 BY MS. LUAZIACH:

16 Q When you asked him if lives over there, did he just respond, I
17 used to live over there?

18 A Yes.

19 Q Thank you.

20 [State's Exhibit 101 played for the jury]

21 BY MS. LUZAICH:

22 Q So he denied jumping out the window to you?

23 A Correct.

24 [State's Exhibit 101 played for the jury]

25 BY MS. LUZAICH:

1 Q And, Officer, he was ultimately transported to Metro
2 headquarters; correct?

3 A Correct.

4 MS. LUZAICH: Thank you. I have nothing further.

5 THE COURT: Cross?

6 MS. MCNEILL: Just briefly, Your Honor. Thank you.

7 **CROSS-EXAMINATION OF TYLER KNEPP**

8 BY MS. MCNEILL:

9 Q Good afternoon, Officer.

10 A Good afternoon.

11 Q You really like country music, huh?

12 A I do.

13 Q You -- just a few questions for you, Officer, and we'll get you
14 out of here.

15 You indicated that when you arrived at the residence
16 Ms. Weston came outside and immediately gave you some details about
17 the man that she said had assaulted her; correct?

18 A Correct.

19 Q Did she tell you at any point that she had told the man to jump
20 out the window?

21 A No, she did not.

22 Q When you arrived you said you could see a male inside the
23 apartment; correct?

24 A Yes.

25 Q What was the male doing?

1 A He was just walking back and forth.

2 Q Okay. And when -- did you ever go into the apartment at any
3 time?

4 A I did not.

5 Q Okay. So you weren't aware what room that is --

6 A No, I'm --

7 Q -- up front?

8 A No.

9 Q Okay. You indicated that initially, when you made contact with
10 Mr. Green, he told you that he used to live there; correct?

11 A Correct.

12 Q Isn't it true that he -- when you collected information from him,
13 he gave you the address of 2686 Jennydiane?

14 A I do not recall that.

15 Q Okay. I think we saw that on the body cam -- at the initial -- it
16 must have been -- it might have been a different officer during that
17 interaction.

18 But when someone is arrested they provide information about
19 where they live to officers 'cause you have to put that in paperwork when
20 you're booking them in; correct?

21 A Correct.

22 Q Okay. You indicated that initially he denied that he lived there
23 and he denied that he jumped out the window; remember that?

24 A Yes.

25 Q Do you ever pull people over as part of your duties as an

1 officer?

2 A Like in a car?

3 Q Yeah, for like speeding?

4 A Yes.

5 Q Okay. Even on something minor like that, is it fair to say that
6 some people are just really nervous around police officers?

7 A Yes.

8 Q Okay. And sometimes you'll ask really minor questions, like,
9 do you know why I pulled you over, and they might deny that they were
10 speeding?

11 A Yes.

12 Q And you know they were 'cause you saw it; right?

13 A Yes.

14 Q But people just get nervous when someone with a badge and
15 a gun is right in their face questioning them; --

16 A Correct.

17 Q -- is that fair?

18 MS. MCNEILL: Nothing further.

19 THE COURT: Redirect.

20 **REDIRECT EXAMINATION OF TYLER KNEPP**

21 BY MS. LUZAICH:

22 Q You didn't interview the female, did you?

23 A I did not.

24 Q And, I'm sorry, did you say that he was 50 to 75 yards away
25 when you found him?

1 A That's what I said, yes.
2 MS. LUZAICH: Okay. Thank you.
3 Nothing further.
4 THE COURT: Any further cross?
5 MS. MCNEILL: No, Your Honor.
6 THE COURT: Thank you for coming in. I appreciate it.
7 THE WITNESS: Thank you.
8 THE COURT: All right. Next.
9 MS. LUZAICH: Can we have just one second, I'm sorry.
10 THE COURT: Uh-huh.
11 MR. ROSE: Your Honor, the State would call Ms. Huseby.

12 **BRIANNE HUSEBY**

13 [having been called as a witness and being first duly sworn, testified as
14 follows:]

15 THE CLERK: Thank you. You may be seated.
16 Please state your complete name, spelling both your first and
17 last name for the record.

18 THE WITNESS: Brianne Huseby, B-R-I-A-N-N-E,
19 H-U-S-E-B-Y.

20 MR. ROSE: May I proceed, Your Honor.

21 THE COURT: Yes, go ahead.

22 **DIRECT EXAMINATION OF BRIANNE HUSEBY**

23 BY MR. ROSE:

24 Q Good afternoon ma'am.

25 A Good afternoon.

1 Q What do you do for a living?

2 A I'm a forensic scientist in the biology DNA detail of the Las
3 Vegas Metropolitan Police Department, Forensic Laboratory.

4 Q You said that you're in the biology department there, what
5 specifically do you actually do?

6 A I examine crime scene evidence for the presence of body
7 fluids and DNA.

8 Q And what kind of training and background, educational
9 background, do you have that enables you to have that particular job?

10 A I obtained a bachelor's of science in zoology and a minor in
11 chemistry from the University of Washington in March 2001. This
12 included coursework in biology, statistics, physics, chemistry,
13 biochemistry.

14 During my time on campus, as well as about a year and a half
15 after I graduated, I worked at a research laboratory on the University of
16 Washington campus studying noise induced hearing loss in mice. While
17 the goal of this testing was much different than forensics, we used a lot
18 of the same laboratory techniques and instrumentation that I still use in
19 the laboratory today.

20 Q After you graduated from college, you got a degree, what did
21 you do?

22 A After I graduated I worked at the research laboratory for about
23 a year and a half, and then I gained employment at the Washington
24 State Patrol Crime Laboratory in Seattle where I worked for about 11
25 years.

1 Q And when you were working with the Washington State Patrol,
2 were you doing DNA there or something else?

3 A I was doing DNA there as well. So I've been doing forensic
4 DNA analysis for approximately 16 years.

5 Q So you said you've spent 11 years with Washington, obviously
6 you're here, you said that you're working with Metro now, when did you
7 come to Metro?

8 A In January of 2014.

9 Q So was it straight from Washington State Patrol to Metro or
10 was there something in between?

11 A No, I undid Washington State Patrol in December and started
12 here in January.

13 Q Could you give us kind of a quick breakdown of what your
14 actual daily responsibilities look like?

15 A Sure. I accept evidence from crime scenes and I examine that
16 evidence for the presence of body fluids and DNA. Once I've completed
17 my examinations, I write a laboratory report to issue to the requesting
18 agency. I also peer review other people's reports, so my other
19 colleagues that do their own analyses on different cases, I'm involved in
20 technical and administrative review of their case work as well.

21 I also can be called to court to testify. I have to maintain
22 proficiency in the field. And I also make sure I'm current on published
23 journal articles.

24 Q You said that you occasionally have to testify, do you
25 remember about how many times you've testified?

1 A About 42.

2 Q Now, you said that you'll look for the presence of DNA, can
3 you give us kind of a laymen's explanation of what is DNA?

4 A Sure. DNA stands for deoxyribonucleic acid and it's found in
5 the nucleus or the center of all the living cells in your body. And it's
6 basically the genetic blueprint for life.

7 It codes for all the proteins in your body and is what makes
8 you have blue eyes or brown eyes or blonde hair or brown hair. It
9 basically makes up all the physical traits that we possess.

10 Q Now, obviously you and I look a little bit different, we have
11 slightly different physical traits, would our DNA also be different?

12 A Yes.

13 Q Do two people share the same DNA?

14 A The only two people that have the same DNA is identical
15 twins.

16 Q Are you able to actually find the differences between two
17 different peoples' DNA?

18 A Yes.

19 Q Is that actually kind of what we ask you to do on a fairly
20 regular basis?

21 A Yes, it's really the purpose of forensic DNA analysis.

22 Q So how do you actually go about doing that?

23 A So generally speaking the laboratory process is that I examine
24 the item and I look for areas on the item that I might want to take a
25 sample of to get DNA from.

1 So generically speaking if I had a case that involved a gun, I
2 might use a swab, which is basically just a Q-tip, wet it with some water,
3 swab the handle in order to collect DNA from the handle.

4 Sometimes if we have a blood stain, we can just take a cutting
5 of that blood stain.

6 The next step in the process is to extract the DNA, or basically
7 break open the cell walls and release the DNA into solution. I then purify
8 the DNA.

9 The next step is quantitation or determining how much DNA
10 we have in that sample.

11 The next step is called PCR, which stands for polymerase
12 chain reaction. And that's basically just basically photocopying certain
13 sections of the DNA that are of interest for forensics.

14 So we can take a sample that's very limited, duplicate it
15 millions of times, and have enough sample for the next step, which is the
16 detection step of the testing process.

17 We put it onto an instrument called a capillary electrophoresis
18 and that basically will transfer the DNA that's not visible to the naked eye
19 into a printout of peaks onto a paper and we compare those peaks
20 between evidence samples and reference samples.

21 Q Now, I've seen CSI, where they just go and they drop the little
22 vial in the machine, they hit the button, the thing whirls around, all of
23 sudden it spits out a result that says, hey, this is person X.

24 Is that how it actually works?

25 A Not really.

1 Q Okay. So do you actually have to be doing something in
2 addition to just plugging the stuff into the machine?

3 A Yes, it's a very hands on procedure, there's a lot of human
4 manipulation in the steps to move the sample through each of the steps.
5 And then even at the end, when you're making your conclusions about
6 who could have possibly contributed that DNA, we lay eyes on that and
7 we make those conclusions.

8 Q So you're actually drawing the conclusions, not the machine?

9 A Correct.

10 Q Okay. What kind of method do you use right now to draw
11 those conclusions?

12 A We use an interpretation software called STRmix and that
13 basically helps us in the deconvolution or teasing apart of mixture
14 profiles. And it also has a secondary part that helps us with the -- or
15 performs the statistical calculations which allows us to apply a weight to
16 our findings.

17 Q And what do you mean by a weight to your findings?

18 A Well, right now we report out what's called a likelihood ratio
19 and that's basically the comparison of the probabilities of finding a
20 particular DNA profile on an evidence sample given one proposal versus
21 another.

22 So in forensics, if I obtain a DNA profile from a cup, the
23 likelihood ratio will tell you how much more likely it is that -- let me take a
24 step back.

25 I obtain a DNA profile from a cup and that DNA profile

1 matches John Doe. The likelihood ratio will tell you how much more
2 likely it is that the DNA profile matches John Doe because he donated
3 that profile versus a random person in the population.

4 Q Now, in order to compare the DNA from that cup to your John
5 Doe, do you have to have a reference sample?

6 A Yes, we do.

7 Q Okay. And so the reference sample would be the person that
8 you're comparing the DNA from the cup against?

9 A That's correct.

10 Q Now, who actually now tells you what things to test for DNA?

11 A The detective is typically the person that will submit the items
12 that he wants -- he or she wants tested in the case. And if they request
13 it and it meets our sample limits policy, then generally we will test all
14 those items.

15 Q So you don't just go rifling through stuff and say, hey, that
16 looks fun, I want to test that?

17 A No.

18 Q Okay. You also said that has to meet a sample policy, what is
19 that?

20 A Depending on the -- the type of case, whether it's a burglary,
21 like a property crime, burglary, or a homicide, we'll allow different
22 numbers of samples to be submitted. And it's just to be good stewards
23 of the public's money. You know, we can't test every item on every
24 case.

25 But, you know, just because you submit a few samples, if

1 those don't pan out to answer any questions, you can submit more. So
2 we do work to, you know, find the answers.

3 Q So if you do get the answers with that first batch, maybe not
4 have you guys do more from that same event?

5 A Correct.

6 Q Okay. Now, you mentioned that you're using a methodology
7 or a software called STRmix, has -- is that what you were using when
8 you started with the Washington State Patrol 16 years ago?

9 A No, the scientific field has evolved a lot since I first started. So
10 STRmix is what's called probabilistic genotyping and it's a very
11 sophisticated software that's -- that we didn't have back then. So
12 basically the field evolves and as it evolves we adopt new technologies,
13 put them through validation processes, and incorporate them into our
14 laboratory testing.

15 Q About when would you say did the Metro crime lab start using
16 STRmix, if you know?

17 A It was about a year ago. I can't remember the exact date that
18 we implemented it but.

19 Q Now, did they just kind of say, hey, that looks like fun, let's
20 start using that -- I know you said validation processes. Does that get
21 done before you're using it on actual cases or how does that part of it
22 work?

23 A Yes, validations are always performed prior to implementing
24 any technique into actual crime scene evidence. So that happens for
25 anything. If we're developing a new -- or not developing -- but if we're

1 going to implement a new chemical test to identify blood, it would go
2 through a validation. And basically a validation ensures that whatever
3 crime scene evidence we throw at it, it will get an accurate result.

4 Q Is Metro the only department using STRmix?

5 A No, there's crime labs all across the country and in other
6 countries, Australia, Hong Kong, various countries in Europe have
7 implemented the use of STRmix.

8 Q Now, obviously, you said that you moved to STRmix about a
9 year ago, does that mean that the old process was a bad process?

10 A No, in fact, a lot of crime laboratories are still using that
11 process. It's just that this new process allows us to make use of more
12 information in the profile. It allows us to use information in the heights of
13 the peaks or the height of the data that comes off the instrument and just
14 basically provides a platform to use more information.

15 Q So you do more with it than you could previously?

16 A Correct. Maybe a profile before would have been inconclusive
17 because there was only so much we can do with, you know, human
18 calculations. But by implementing a program that performs hundreds of
19 thousands of mathematical calculations, it increases the strength of the
20 conclusions that we can make.

21 Q Now, is it only crime labs that use STRmix or do others in the
22 forensic biology community use it?

23 A I believe only crime labs will use STRmix, but the scientific
24 principle behind STRmix is used in lots of different fields, such as
25 engineering, code breaking, stock market analysis. So the mathematical

1 basis of STRmix is a very robust mathematical theory.

2 Q Now, you mentioned previously that, you know, with the old
3 one you might have gotten an inconclusive result, but with STRmix you
4 might be actually be able to get another result. What do you mean by
5 inconclusive result?

6 A Inconclusive means that I can't say whether someone is part
7 of the profile or not, there's not enough evidence to support them being
8 part of it or to exclude them from being a part of it. So it's kind of, I
9 guess, a fancy way to say I don't know.

10 Q I say that all the time.

11 You said that you might be able to exclude somebody; what
12 does that mean to you?

13 A Exclude means that I've evaluated the crime scene profile and
14 then when I make my comparison to a reference sample, if I conclude
15 that that person cannot have contributed DNA to that profile, then they're
16 excluded as a possible contributor.

17 Q So you've got excluded and you've got inconclusive, do you
18 have any other potential results?

19 A The other one is included. So if I make the comparison
20 between a person and a crime scene sample and there's evidence that
21 correlates with their DNA and that shows that they could have
22 contributed that DNA, then they become -- the conclusion would be
23 included as a possible contributor. And then I would provide a statistical
24 weight to tell you how significant that inclusion is.

25 Q So just because somebody is included doesn't mean they're --

1 100 -- you're 100 percent certain that that is the person who did it?

2 A Right.

3 Q Or who put that DNA there?

4 A That's correct. We never -- we'll say at this point that
5 somebody did deposit their DNA.

6 Q And that's where you said that you kind of rely on your -- the
7 statistical comparison?

8 A Correct. For instance, if you have a really partial profile,
9 meaning you only have information that's, you know, three of the 21
10 areas we look at, then that weight of that conclusion can be very slim.
11 Because when you look at three areas, there's lots of people in the
12 population that could have contributed DNA to those particular three
13 areas.

14 Q Are there cut offs for how -- cut offs for how low the likelihood
15 ratio can go to where you will no longer be willing to stand by your
16 conclusion?

17 A Well, our conclusion would change at that point to
18 inconclusive. So it ranges from excluded, there's a gray zone in the
19 likelihood ratio that's been developed through our validation and
20 buffered. So that zone in the middle is inconclusive, so that would offer
21 no strength in either direction, whether the person could be included or
22 excluded. And then you would move into the included range.

23 Q So, if you know, kind of what's the start of the included range,
24 from a likelihood ratio perspective?

25 A It's, I believe, 1000. It's to the three, ten to the three, so 1000.

1 Q So it has to be 1000 times more likely that that particular
2 individual deposited that DNA before you are willing to say that that
3 person then can be included?

4 A Correct.

5 Q Is there an upper limit on it?

6 A No.

7 Q Okay. The numbers just get really, really big?

8 A They do.

9 Q Okay. The actual pieces of evidence that you are, you know,
10 determining if there's DNA on it and then analyzing that DNA, where do
11 you get that evidence?

12 A The actual items that we collect?

13 Q Okay.

14 A Those are generally collected by a crime scene analyst, but
15 they could be collected by a detective. But they're collected by someone
16 who was out in the field. I stay behind my lab bench and the samples
17 are submitted to the laboratory.

18 Q So do you ever see the parties involved?

19 A No.

20 Q And when they're submitted to you, either by a detective or a
21 CSA, are they identify -- or is there something to identify them, attach
22 them to a specific event?

23 A Yes.

24 Q And what is that?

25 A There's a label on the front of the packaging that gives

1 relevant information, like the event number that it's associated with, and
2 package numbers, item numbers, and generally there's a description of
3 what the item is or where it was collected from.

4 Q Now, when you perform your testing, do you have an
5 assumed contributor on certain tests?

6 A Yes, we do sometimes.

7 Q And what is an assumed contributor?

8 A When an item is collected from somebody's body, such as,
9 like a swab from their skin or a vaginal swab, or even if it's underwear
10 that's -- a nurse or a doctor has -- or a detective has witnessed be on
11 that person's body, we can assume that where -- or that person who the
12 swab is collected from to be a contributor to that DNA profile.

13 When something touches somebody you would expect their
14 DNA to be present. So we make assumptions in the interpretation of the
15 DNA, assuming that that person would be present. Of course, if for
16 some reason they're not present, you know, we would notice that and
17 not make that assumption.

18 So it's based on the documentation of where the item was
19 collected, as well as what we can visually see in the profile.

20 Q So if you take a swab from my mouth and you end up finding
21 my DNA on that swab, that's not surprised?

22 A Correct.

23 Q If you didn't find it, that would be a surprise?

24 A Correct.

25 Q Okay. Did you have occasion to perform a DNA analysis on

1 items that were logged under the event number 170618-3728?

2 A Yes, I did.

3 Q Okay. Submitted to you by Detective Campbell?

4 A I don't recall that off the top of my head.

5 Q Okay.

6 A I -- may I refer to my report to refresh my memory?

7 Q Did you prepare a report based upon your work on that

8 particular case?

9 A Yes, I did.

10 Q And would that report include, kind of, who it was who

11 submitted the items to you?

12 A Yes.

13 Q Okay. Would looking at that refresh your recollection?

14 A Yes, it would.

15 Q Do you have that report with you?

16 A Yes, I do.

17 MR. ROSE: Your Honor, may she refer to that report?

18 THE COURT: Yes.

19 BY MR. ROSE:

20 Q Please do.

21 A Yes, I see Matt Campbell.

22 Q So he was the requestor?

23 A That's correct.

24 Q What items were actually submitted to you for testing?

25 A There was a sexual assault kit reportedly collected from

1 Samantha Weston and black handled scissors and then a reference
2 sample from Trandon Green.

3 Q Now, I know you said before that typically you don't see, you
4 know, the parties involved, do you know Samantha Weston?

5 A No, I do not.

6 Q Okay. Do you know Trandon Green?

7 A I do not.

8 Q Okay. You said that you got a sexual assault kit collected
9 from Samantha Weston, what was actually involved in that sexual
10 assault kit that you received?

11 A I would have to refer further into my notes. My report only
12 documents the items that I tested. So if you'd like to know what other.

13 Q Well, so let me ask you this, what items from that kit did you
14 test?

15 A Okay. I tested the vaginal swabs, cervical swabs, and a
16 reference sample contained within the kit.

17 Q And you said that you also received some black handled
18 scissors, did you perform, you know, one or more tests on parts of those
19 scissors?

20 A Yes, I did.

21 Q Okay. And what parts of the scissors did you test?

22 A I did test some red brown staining that looked visually
23 consistent with rust on the blades of the scissors and that came up with
24 a negative presumptive test for blood. And then at that point I moved
25 forward to just two separate DNA tests on the scissors, one from a

1 general swabbing of the blades and one from a general swabbing of the
2 handles.

3 Q And then you said that there's a reference standard from
4 Trandon Green, what is the reference standard?

5 A It's a buccal swab which is basically just a single ended Q-tip
6 that's rubbed on the inside of someone's mouth in order to collect DNA
7 from that individual.

8 Q So you said that you did some testing on the swabs taken
9 from the sexual assault kit, the vaginal and cervical swabs, what, if any,
10 conclusions were you able to draw from that testing?

11 A From the vaginal cervical swabs the first step was to take
12 portions of those swabs and extract the cells on the swabs and look at it
13 microscopically to try to identify what kind of cells are present. So I
14 examined both of those different samples microscopically and observed
15 spermatozoa on both of those samples.

16 Because they're collected from the same orifice, it's typical for
17 us to just select the one with the most cells in it to take forward for DNA
18 testing, which is what I did in this case.

19 So I only took the vaginal swabs forward for DNA testing.

20 Q Now, you said that you saw spermatozoa, is that a form or a
21 kind of derivative of sperm cells?

22 A It's the technical term for sperm cells. So sperm is just
23 shortened version of spermatozoa.

24 Q Okay. And so you said that you -- were you able to look at
25 those cells, determine that they were spermatozoa, can you actually see

1 the DNA under the microscope?

2 A No, DNA is too small to see.

3 Q Are you going to find the same kinds of DNA in every type of
4 cell?

5 A This -- DNA is the same in every cell throughout your body,
6 cells in the cell walls themselves differ amongst different cells.

7 Q So just because it came from spermatozoa, and not from
8 blood or saliva or hair, it's still the same DNA?

9 A Correct. You would get the same DNA profile from blood as
10 you would from someone's semen, or spermatozoa.

11 Q So you said that you determined that it was spermatozoa,
12 what did you do next with it?

13 A The next step was called a differential extraction. So
14 remember earlier when I said that we break open the cell walls to
15 release the DNA into solution and purify it. For samples that are a
16 mixture of both skin cells and a mixture of spermatozoa we can use a
17 particular extraction method called a differential extraction because
18 sperm cells have a much heartier outer shell, we'll say.

19 So we can use a more gentle chemical, break open the
20 vaginal epithelial cells, or the vaginal skin cells, take that DNA out, put it
21 into one tube, and then I'm left with the sperm cells, and then I can use a
22 heartier chemical and break open those and get the DNA out of those.

23 So when you have a sample from -- a sample that originates
24 with those two mix cell types, you end up with two separate DNA
25 samples.

1 Q And were you able to then compare those two different DNA
2 samples to determine likely contributors?

3 A Yes, I was.

4 Q And when it comes to the spermatozoa cells, were you able to
5 include any individuals?

6 A Yes, I was.

7 Q And who was included?

8 A Because the sample came from, or reportedly came from
9 Samantha Weston's vaginal cavity, I assumed her to be a contributor, so
10 not making a further comparison to her. The other person I compared
11 was Trandon Green and he was included as a possible contributor.

12 Q Now, I know that that means that it's at least 1000 times more
13 likely that it was Trandon Green who was the person from whom that
14 DNA came, was that the actual likelihood ratio here?

15 A That was not the number for this sample.

16 Q Okay. What was the number from this sample?

17 A I'll give you the conclusion in the report. The probability of
18 observing this mixture DNA profile -- because it was a mixture, there
19 was evidence of two contributors -- this mixture DNA profile is at least
20 8.62 nonillion times more likely if it originated from Samantha Weston
21 and Trandon Green than if it originated from Samantha Weston and an
22 unknown contributor.

23 Q Now, you said 8.62 nonillion.

24 A Correct.

25 Q Given that it's been a long time since I was in engineering

1 school and taking any kind of math, how many zeros come after that?

2 A There's 30 zeroes in a nonillion.

3 Q Okay. Big numbers?

4 A That is a big number.

5 Q Now, you said that there was a mixture, do you mean that
6 there was a mixture within the spermatozoa or just within the whole
7 sample?

8 A There was a mixture within the sperm fraction, which is that
9 portion that -- it should at least be enriched with sperm cells. Sometimes
10 we do get mixtures, in either the epithelial fraction or the sperm fraction,
11 it's not a perfect separation always.

12 Q In this particular instance, were you able to determine the total
13 number of people who supplied DNA to the samples?

14 A Yes, it was consistent with originating from two individuals.

15 Q Now, you said that you were also able to perform tests on the
16 scissors and you said that the first test you did on the scissors was the
17 kind of red brown stain that looked kind of like rust. Did you end up
18 testing that to determine whose DNA was in there?

19 A No, I, -- I -- once I obtained a negative possible blood result, I
20 went on with testing of the other unstained areas.

21 Q Okay. So you say that you tested the handles of it, were you
22 able to determine any -- anything about the contributors to the handles?

23 A Yes, the DNA profile obtained from the handles was
24 consistent with originating from three individuals. And I did make
25 comparisons between Samantha Weston's reference profile and

1 Trandon Green's reference profile and found that they were both
2 included as possible contributors to that mixture.

3 Q Now, you said that there were three contributors -- or three
4 sets of DNA; is that correct?

5 A That's correct.

6 Q Are you able to determine the genders of any of the people
7 involved?

8 A Sometimes you can with mixture profiles. In this one I was
9 only able to conclude that there was at least one male present.

10 Q And how is it that you can tell that there's at least one male
11 present?

12 A There's two different markers in our DNA profile that show
13 gender. So one is called amelogenin and that's the X-Y location. So if
14 you have a Y present, then you know that you have at least one male
15 present.

16 There's also another marker that we look at that is present on
17 the Y chromosome and I did get a peek at that marker as well. So it was
18 consistent with at least one. It could have been more than one male but
19 at least one male.

20 Q Now, are you able to determine that the percentages of how
21 much each contributor has within that mixture?

22 A Yes, part of the STRmix calculations is coming up with mixture
23 proportions or the general -- out of 100 percent, how much does each of
24 the contributors add to the profile to make up 100 percent.

25 Q And were you able to determine the percentages in this

1 particular instance?

2 A Yes.

3 Q Okay. And what were those percentages?

4 A The percentages were 40, 33, and 27.

5 Q So one person contributed 40 percent of the DNA that was
6 found, one person contributed 33 percent, and the last person
7 contributed 27 percent?

8 A That's correct.

9 Q Okay. Are you able to determine which person contributed
10 which fraction?

11 A So after the first step of deconvolution, and STRmix breaks
12 the mixture into these three separate components, the next step is to
13 compare individual reference samples and STRmix will -- they'll show
14 you the best fit for each of those contributors. So it does correlate a
15 reference sample with which contributor or which percentage that person
16 fits best with.

17 Q Now, is it fair to say that in this particular instance there's a
18 likelihood ratio for Samantha Weston, for Trandon Green, and then for it
19 being both Samantha Weston and Trandon Green?

20 A That's correct.

21 Q Why do you have the different numbers?

22 A So it answers different questions. If you want to know just
23 individually what is the likelihood that Samantha Weston is contributing
24 DNA to this, not caring who else is contributing, then that's one number.
25 Same with the other reference samples. So we always provide an

1 individual likelihood ratio per contributor and then we look at the profile
2 as a whole and tell you what are the chances that it's these two people
3 contributing together versus two unknown people.

4 Q So what was the likelihood ratio for Samantha Weston
5 individually?

6 A It's at least 66.6000.

7 Q So it's 66.6000 times more likely that it's her than some
8 unknown other person?

9 A Correct, that she's a contributor versus a random person in
10 the population.

11 Q And what was the likelihood ratio for Trandon Green?

12 A 49.7000, at least 49.7000.

13 Q And then what was the likelihood ratio for it being both
14 Ms. Weston and Trandon Green?

15 A The probability of observing this mixture DNA profile is at least
16 66 -- 68.6 trillion times more likely if it originated from Samantha Weston,
17 Trandon Green, and one unknown person, rather than three unknown
18 people.

19 Q At least I've heard of a trillion, not nonillion.

20 Now, you said that that was for the handles of it, you also
21 tested the blades; is that correct?

22 A That's correct.

23 Q Okay. And were you able to determine how many contributors
24 there were on the blades?

25 A The blade also exhibited signs of three contributors.

1 Q And what were the mixture proportions for that?

2 A For that mixture it was 78 percent, 19 percent, and 2 percent.

3 Q Were you able to include anybody?

4 A Yes, I could.

5 Q And who did you include in that?

6 A I could include Samantha Weston.

7 Q And did you exclude anybody?

8 A No, I did not exclude anybody.

9 Q Okay. So do we have anybody kind of in that gray area we

10 just don't know enough?

11 A Yes.

12 Q Who is that?

13 A Trandon Green.

14 Q So with an inconclusive results, you can't say that he definitely

15 was, we also can't say that he definitely wasn't a contributor?

16 A That's correct.

17 Q You said there's a 78 percent, a 19 percent, and a 2 percent,

18 are you able to tell if Samantha Weston is the 78, the 19, or the 2?

19 A Her profile correlated best with the 19 percent.

20 Q Now, that 2 percent, is there a percentage at which you just

21 don't really have enough information?

22 A At 2 percent STRmix is not going to printout a distinct profile,

23 so that's a pretty low level. And it's not surprising to have -- if someone

24 is contributing at a low level like that, it's not surprising to not be able to

25 make a conclusion because 2 percent is a fairly low amount of DNA.

1 Q Too little data to be able to draw a conclusion?

2 A Right. And STRmix can't even tell you at any location that this

3 is what -- what that profile is at that particular location.

4 Q Now, are you able to -- you said that Samantha Weston was

5 included at the 19 percent, was -- what was the likelihood ratio for

6 Ms. Weston being a contributor?

7 A It's at least 145 quadrillion.

8 Q And that's with 15 zeroes?

9 A That's correct.

10 Q Okay. That 78 percent, do you know whose DNA that was?

11 A I do not.

12 Q Do you have any other reference samples to test it against?

13 A No, I did not.

14 Q Are you able to determine anything about that 78 percent

15 sample?

16 A The 78 percent sample did come out with a nearly complete

17 profile in the STRmix printout, so you do have -- it does show you what

18 that person's alleles or types are at each of the locations that we test or

19 nearly all of them.

20 Q So if you have a nearly complete DNA profile, do you have the

21 ability of comparing that profile to certain other profiles and making your

22 conclusions as well?

23 A Yes, I mean, I can look at the profile and see how it compares

24 to other profiles.

25 Q And did you do that with the 78 percent?

1 A I did look at it and can see correlations or similarities between
2 that profile and another profile.

3 Q And what was that other profile?

4 A It does share one allele at every locus for Samantha Weston's
5 profile. So locus means location. I mentioned that we test 21 different
6 locations. So at each of those locations this unknown contributor has
7 one allele in common with Samantha Weston.

8 Q Now, would it be fair to say that half of a person's alleles come
9 from each parent?

10 A Yes, we inherit half of our DNA from our mother and half from
11 our father.

12 Q So is it particularly likely that two unrelated people would
13 share one allele at every single locus?

14 A I can't really offer an opinion on the likelihood because it also
15 matters, you know, how rare or common those alleles are. But I would
16 say that it's not a very common thing that I see frequently. You know, I
17 look at a lot of profiles and people don't frequently share an allele at
18 each location.

19 Q And were you able to make any conclusions or was it
20 consistent with any kind of outcome to have that 78 percent sample
21 sharing an allele at every location with Samantha Weston?

22 A Right, I wouldn't make a conclusion about it. But I can
23 definitely say that just based on general biology for someone to share an
24 allele at every location, it's consistent with either a parent or a child of
25 that individual.

1 MR. ROSE: Brief indulgence, Your Honor.
2 No further questions at this time, Your Honor.
3 THE COURT: Thanks.
4 Cross?
5 MS. MCNEILL: Thank you.

6 **CROSS-EXAMINATION OF BRIANNE HUSEBY**

7 BY MS. MCNEILL:

8 Q Ms. Huseby, I want to start out with the report that I have, it
9 doesn't have anywhere in here where you made any type of comparison
10 with that 78 percent.

11 A It's --

12 Q So where's that report?

13 A It's not a report but it's just something that, you know, I can
14 visually observe in my case file and --

15 Q Okay. So it's in your case file?

16 A Uh-huh.

17 Q Did you provide --

18 THE COURT: Is that yes?

19 THE WITNESS: Yes, I'm sorry.

20 BY MS. MCNEILL:

21 Q -- did you provide that to the State?

22 A I don't handle discovery so I don't know what was provided to
23 the State.

24 Q He obviously had that information, you would agree with me,
25 because he was able to ask you that question; correct?

1 A Probably.

2 Q Okay. So it would seem to reason that someone provided that
3 information to the State at some point?

4 A Probably, yes.

5 Q Okay. But it's not in the report, which is the only report I have,
6 you would agree with me, that part about that 78 percent and you doing
7 the comparison?

8 A Correct.

9 Q Okay. The information -- the items that you get to test come
10 from generally a detective that's assigned to the case?

11 A Generally, yes.

12 Q Okay. You indicated that this report only indicates the items
13 that you tested, were you given items other than these?

14 A In sexual assault kits there's frequently additional items
15 collected in those kits and we select certain ones for testing.

16 Q Okay. Were you given any items -- you were given some
17 scissors. Were you given a stick?

18 A No.

19 Q Were you ever given a knife?

20 A No.

21 Q The red brown staining that you found on the blades, you
22 couldn't tell from the naked eye, or maybe you could, but just to be safe
23 you tested it to see if it was blood and it was not; correct?

24 A Correct. It looks more visually consistent with rust to me, but
25 just to be thorough I did go through the test.

1 Q Okay. And that was because sometimes something that is not
2 blood will look like it; correct?

3 A Correct.

4 MS. MCNEILL: Your Honor, can we approach?

5 THE COURT: Yeah, come on up.

6 [Bench Conference transcribed as follows:]

7 MS. MCNEILL: At no point was I given any information that
8 there was additional --

9 THE COURT: You need to speak a little more.

10 MR. ROSE: Hang on, she can't hear you.

11 MS. MCNEILL: At no point was I told that there was additional
12 information beyond that report. So the whole thing about it not matching
13 the mom is a complete shock to me.

14 MR. ROSE: So there are no additional reports from it. We
15 don't have the case file. Ms. Huseby and I spoke and it was yesterday
16 morning. When we had initially pretried about it, I asked her, can you
17 tell anything about that? And at that point in time she said no.

18 My understanding is that she went and back and looked back
19 at the original case file -- which again, I don't have. I never have it.
20 Went back and looked at it again and since that time went and
21 compared the two. And then when we spoke on the phone, that's when
22 she provided me the information.

23 MS. LUZAICH: We don't -- just for the record, we don't get
24 the entire case file. If the defense requests it, we put in the request to
25 Metro and it gets --

1 THE RECORDER: I can't hear you.

2 MS. LUZAICH: -- if the defense requests the entire case file,

3 we put in a request to Metro and it gets sent to the defense.

4 But it's my understanding there was no request for the entire

5 case file.

6 MS. MCNEILL: It's true. But you did get the information, I

7 mean, she told you this at some point that she'd gone back and done it.

8 MS. LUZAICH: Not done it, looked at it. I mean, it's --

9 MS. MCNEILL: Sure, it's --

10 MS. LUZAICH: -- she didn't do anything else.

11 MR. ROSE: There's no additional testing being done. The

12 data is all there. And she relayed that to us, and three days -- yesterday

13 morning that she had gone back and looked after I'd asked her the

14 question.

15 I did not ask her to go back and look. We were initially

16 pretrialing, I said, can you tell me anything about, kind of, these two

17 things? And she said, no.

18 I then get a text from her, I believe it was yesterday morning,

19 saying, hey, I went back, I looked at these things, I have something

20 additional to tell you. That's when we called her in. That's when I found

21 out.

22 MS. MCNEILL: And then the text would be -- stated that -- a

23 witness, that you called in your case in chief, was given to you. And at

24 no point was I told there's any information beyond what's in that report.

25 I'm ineffective in cross-examining her.

1 MR. ROSE: I can show you the text --

2 THE COURT: Okay.

3 MR. ROSE: -- right now.

4 THE COURT: You want to --

5 MR. ROSE: The text does not --

6 THE COURT: -- do you want to take a break?

7 MR. ROSE: Sure.

8 THE COURT: Do you?

9 MS. MCNEILL: Yes.

10 THE COURT: Okay.

11 [End of Bench Conference]

12 THE COURT: All right, folks, we're going to take a short
13 break.

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

21 We'll just take a few minutes.

22 THE MARSHAL: All rise. Court is now in recess.

23 [Recess taken at 2:18 p.m.]

24 [Jury trial resumed at 2:33 p.m.]

25 [Outside the presence of the jury]

1 THE MARSHAL: All rise. District Court Department 6 is now
2 in session.

3 Please be seated. Come to order.

4 THE COURT: All right. So, I guess, on the break,
5 Ms. McNeill, were you shown the text in question?

6 MS. MCNEILL: I was not.

7 MR. ROSE: Right here, Judge, sorry.

8 THE COURT: Okay.

9 [Colloquy between attorneys]

10 THE COURT: Okay.

11 MR. ROSE: Does Your Honor you want me to read the text
12 into the record or? I don't know what Your Honor wants. Or would
13 Ms. McNeill want to --

14 THE COURT: Not necessarily.

15 MR. ROSE: Okay.

16 THE COURT: So, Ms. McNeill, what, if anything, are you
17 asking for at this point?

18 MS. MCNEILL: Well, it's too late to have any type of curative
19 instruction, Your Honor, I mean, it's out there.

20 This is my position, I understand that I could have requested
21 the case file; however, based on the report I had, there would be -- have
22 been no need for me to do that based on the information I have.

23 The text messages indicate that Ms. Huseby went back and
24 reviewed some information. I'm not sure if what she means is that she
25 went back and looked at it and then did some other scientisy thing that I

1 don't know the words for --

2 THE COURT: Uh-huh.

3 MS. MCNEILL: -- and came up with the conclusion about the
4 78 percent. But that should have been provided to me once Mr. Rose
5 had the information that he was going to elicit testimony that is not
6 contained in this report that that 78 percent probably is Riley Weston's
7 DNA or at least someone who's related to Samantha Weston, the
8 inference being Riley Weston.

9 THE COURT: Right.

10 MS. MCNEILL: I should have been provided that.

11 Every -- many, not every, but a lot of the tactical decisions that
12 I've made up to this point are based on the information that I've been
13 given by the State.

14 THE COURT: Of course.

15 MS. MCNEILL: And so at this point Mr. Green has now been
16 placed in a situation where some of those decisions I would not have
17 made. And so I'm asking for a mistrial at this point.

18 THE COURT: Okay.

19 MR. ROSE: Your Honor, the State would oppose any request
20 for a mistrial. At the time that we first spoke with -- I first spoke with
21 Ms. Huseby, I don't believe she had that information about the 78
22 percent. It's when I asked her, can you tell me anything about that?
23 And she said, no.

24 I don't believe that I asked her -- and I'm happy to have her
25 give information to the Court in case my recollection is wrong. But I

1 don't believe I ever asked her to go back and perform any additional
2 testing or do any additional comparisons. I just kind of said, okay, and I
3 moved on.

4 So it was yesterday morning that I got the text message from
5 Ms. Huseby indicating that she had just, the day before, gone and
6 relooked at some of what was already in the file. I don't believe that any
7 additional testing or comparisons were done, but she then went and
8 said, I have something additional to tell you. We called her on the work
9 phone and that's when she told me about the fact that she'd gone back,
10 looked at it, and could say that it's at least consistent with a relative
11 either, you know, kind of one generation apart, either mother or
12 daughter, cannot say which one it is, does not have a reference sample
13 from Riley Weston.

14 THE COURT: Right.

15 MR. ROSE: That's when I learned that information. It was
16 just an hour or two before we came back into court and picked up with
17 Samantha.

18 I don't believe that -- and, again, I would actually asked if we
19 could have Ms. Huseby kind of fill us in on whether or not there's
20 additional testing that was done, and if that testing was -- if there was
21 any testing, if that was requested by the State. But even just that the
22 additional going back and looking at the file again was even requested
23 by the State.

24 I would ask actually that we have the answers to those
25 questions put on the record by Ms. Huseby.

1 MS. MCNEILL: And I don't know that it matters who
2 requested it, it was done, and it was information that was provided.

3 THE COURT: Okay. So what part of the discovery
4 requirements weren't met then?

5 MS. MCNEILL: Well, they have to provide not just exculpatory
6 information, but information that they're using in their case in chief.

7 And if --

8 THE COURT: Yes.

9 MS. MCNEILL: -- certainly if it's inculpatory, it's something
10 that I should have. Because if it exists and I operate under the
11 assumption it doesn't, then I am preparing my case in a very different
12 manner.

13 And so I think they haven't complied with the discovery
14 requirement that they provide information that they're going to use in
15 their case in chief. It's a statement of a witness. It's forensic testing that
16 was done. All those things required by statute.

17 MR. ROSE: And, Your Honor --

18 THE COURT: Written or recorded statements are required to
19 be disclosed by statute.

20 MS. MCNEILL: Yes.

21 THE COURT: Okay.

22 MS. MCNEILL: And I understand that the text -- I would -- the
23 text is clearly recorded, I would say a recorded statement. The text does
24 not actually give the information. They do it via telephone call, probably
25 for a reason, because then they get to say it's not recorded.

1 But I don't believe that any case law on discovery, *Brady*, any
2 of those, would say that the position that I'm in, having that question
3 come out in front of the jury, being completely unaware of it, at this point
4 isn't prejudicial to Mr. Green.

5 THE COURT: Right.

6 And I'm just thinking through what the discovery requirements
7 are. So on experts, obviously, there's certain disclosures that are
8 required, but it -- I'm just talking off the top of my head. I'll have to pull
9 up the statute perhaps. But that they're required to disclose any reports
10 they've prepared, which, I guess, the report was disclosed.

11 So let me take a look.

12 Okay. All right. Sorry, remind me where the discovery
13 statutes are.

14 MR. ROSE: 1 through 176.

15 MS. MCNEILL: Yeah, I was thinking 175, 176.

16 THE COURT: Right. I was looking at evidence --

17 MR. ROSE: I want to say it's 176.235 maybe.

18 THE COURT: Okay.

19 MS. MCNEILL: 4 maybe.

20 MR. ROSE: 234.

21 Sorry, Your Honor, it's 174, 174.233 through 295. I was a little
22 bit close.

23 THE COURT: So just so I'm clear, are you asserting that one
24 of the discovery statues was violated or is it like due process, or, you
25 know, what's the basis for --

1 MS. MCNEILL: Well, in candor to the Court, I think, and I
2 don't have the statute in front of me.

3 THE COURT: Yeah.

4 MS. MCNEILL: So I'm going to wing it a little.

5 THE COURT: Yup.

6 MS. MCNEILL: I think the discovery statute is pretty clear that
7 it's written or recorded --

8 THE COURT: Right.

9 MS. MCNEILL: -- statements and witnesses -- or reports
10 made by experts. And so I don't think it technically complies with that.
11 But this is my concern --

12 THE COURT: Right.

13 MS. MCNEILL: -- it's easy to skirt that by doing what
14 happened here. She texts and says I have some information and then
15 they make a phone call. So it makes it easy to skirt that.

16 So I don't know that it technically complies with the discovery
17 statute. So I would say that it's a due process violation. I would say --
18 *Brady* says evidence related to exculpatory as well as guilt and
19 punishment. So I would say that the -- that *Brady* and its progeny, as
20 well as due process.

21 And he's now put in the position of having ineffective counsel.

22 THE COURT: Okay. So -- you know what -- what would have
23 been different in your preparation then?

24 MS. MCNEILL: I probably wouldn't have cross-examined
25 Samantha the way I did about the blades going into Riley's mouth. I

1 probably would have kind of left it alone instead of trying to point out how
2 absurd it was to say that these things were done and point that out even
3 more to the jury had I known it was going to come out that that might be
4 her DNA on those scissors. And so just highlighted that area, now
5 where I probably would have left it alone.

6 THE COURT: Okay. So.

7 MR. ROSE: So, I guess, the State's position, Judge, is
8 obviously it is a written or recorded statement. I can tell you that I don't
9 believe that asking to be able to discuss fairly complicated, kind of -- the
10 explanation that was given to me, the scientific explanation that was
11 given to me was a fairly complicated one. I don't think it's one that's
12 easily sent via text. I think especially if you want to have a back and
13 forth about, well, what, you know, can you actually conclude from this,
14 what can't you conclude from this. If you want to have that conversation,
15 especially early in the morning when we're going to be going to trial not
16 long from then, it's best done over the phone.

17 So, obviously, I cannot put words in Ms. Huseby's mouth.

18 THE COURT: Right.

19 MR. ROSE: But my intent, when she indicated that she
20 wanted to talk to us, and I said, okay, well, call the phone, was to be
21 able to have that conversation --

22 THE COURT: Right.

23 MR. ROSE: -- so I can be doing other work at the same time
24 getting ready for the rest of the trial.

25 THE COURT: Right. Okay.

1 MR. ROSE: So, obviously, I'm not -- I can speak essentially
2 only for myself. But I can, you know, represent to this Court, as an
3 officer of the court, that it was not done as an attempt to try and skirt
4 any -- any discovery, you know, rules, or things like that.

5 I think we're kind of in a situation that's similar to when you
6 have a defense expert that doesn't prepare a report and -- for whatever
7 reason. I'm not saying that they're told not to, whatever. It's just
8 oftentimes it's the expense of writing a report is prohibited on. And the
9 only way that I could ever get information from that person is if they're
10 willing to talk to me on the phone. It's kind of like that.

11 Except that here it's not even as if it was intentionally being
12 kind of withheld from everybody for a long time. It's information that
13 wasn't known even to the analyst until, I believe, it was two days ago or
14 yesterday morning.

15 THE COURT: Is there a separate section about expert --
16 yeah, here.

17 MR. ROSE: Yeah, there's --

18 THE COURT: Sorry, I got it, 234.

19 [Pause in proceedings]

20 THE COURT: So, Ms. Huseby, when is it that you did
21 whatever examination you needed to do to draw this particular
22 conclusion or --

23 THE WITNESS: When I was reviewing my file in preparation
24 for testimony and thinking about the questions he'd ask is there, you
25 know, throughout our whole interview before pretrial, before, and he's

1 like, is there anything you can say about these unknown people? And
2 on the phone I told him, no, because I don't have references.

3 So going back and looking through it, I'm looking at those
4 profiles, and I can see from the electropherogram that it's a female. And
5 then looking more at the numbers I'm like, oh, well, these -- at that point
6 I realized that the numbers matched one number at each location
7 between the unknown and the reference sample.

8 So there's no further test. It's just a visual observation from
9 the case file.

10 THE COURT: And when did you look at that?

11 THE WITNESS: It would have been right before I sent the text
12 for him to call.

13 THE COURT: So yesterday?

14 THE WITNESS: I believe yesterday when I was preparing for
15 the file, yes -- or preparing for my testimony.

16 MR. ROSE: Your Honor, the text was at, that I received, was
17 at 8:16 a.m. yesterday.

18 THE WITNESS: I knew he was going to court quickly so I
19 tried to catch him.

20 MR. ROSE: Yesterday was also the day that I showed up late
21 because I was in court.

22 [Pause in proceedings]

23 MS. MCNEILL: Your Honor, I'm sorry, are you reading?

24 THE COURT: Hold on, --

25 MS. MCNEILL: I'm sorry.

1 THE COURT: -- I was trying to look at the witness
2 disclosures.

3 [Pause in proceedings]

4 THE COURT: The other -- all the other conclusions that she
5 mentioned were in her report, which was disclosed?

6 MS. MCNEILL: Yes, Your Honor.

7 THE COURT: So for the State, I got to ask, so NRS 174.234
8 requirements on expert disclosure, where a required disclosure not less
9 than 21 days before trial of a statement concerning the subject matter in
10 which the expert witness is expected to testify and the substance of the
11 testimony.

12 And when -- I'm looking at expert witness disclosure where
13 Ms. Huseby was disclosed, dated March 28th, so obviously several
14 months back now. And what it says that the substance of each expert
15 witness's testimony and a copy of all reports made has been provided in
16 discovery.

17 So I know you -- so the report was disclosed and you were
18 relying on that as disclosing the substance of the testimony.

19 MR. ROSE: Correct

20 THE COURT: Right.

21 So obviously this part of the substance wasn't disclosed. So
22 how do I deal --

23 Is that -- I mean, looking at the statute trying to figure out what
24 everyone's rights are here.

25 So, I guess, tell me did you comply with the disclosure

1 requirements or what do I need to do?

2 MR. ROSE: Your Honor, the State's position would be that we
3 did, particularly when we disclosed this particular information, it wasn't
4 known -- or -- the raw data itself was there.

5 THE COURT: Yes.

6 MR. ROSE: This -- it obviously wasn't in our file. It was --
7 have that underlying data been requested, we would have turned that
8 part over. But the conclusion drawn from the underlying data wasn't
9 known to anybody but literally until yesterday morning.

10 THE COURT: Right.

11 MR. ROSE: You know, so at this point I think the State did
12 comply, you know, kind of, what we knew at the time, when we made
13 our expert disclosure, everything was in there.

14 THE COURT: Sure. Right.

15 MR. ROSE: And it wasn't until kind of until yesterday morning
16 that we --

17 THE COURT: Right.

18 MR. ROSE: -- found out any of this.

19 Given kind of -- I think it's kind of a unique circumstance with
20 this particular, you know, with kind of looking back at like a DNA report,
21 while I don't think it's necessarily uncommon for people to go back and
22 look at their notes and look at other things and remember stuff that they
23 hadn't told us previously. I guess, that's kind of how I would analogize
24 this situation too. It certainly was not something that anybody was trying
25 to do. I would have loved to have had the information beforehand, you

1 know.

2 THE COURT: Right. No, no, no, I'm not accusing anybody,
3 anybody of purposely trying to, you know, sandbag. That's not what
4 I'm -- not what I'm saying.

5 MS. MCNEILL: Sure.

6 THE COURT: The question is --

7 MS. MCNEILL: Your Honor, I would --

8 THE COURT: -- though can you have someone draw new
9 conclusions in the middle of trial and disclose them at trial without some
10 discovery?

11 MS. MCNEILL: -- and I would say that if you look at the, the
12 statute, 174.234, and you go down to subsection 3(b) where it says: any
13 information relating to an expert witness that is required to be disclosed,
14 they should provide this information as soon as practicable after the
15 party obtains that information.

16 I read that as sort of giving an ongoing duty to, as new stuff
17 comes up, because that does happen with experts sometimes.

18 I mean, I've gotten reports where -- when they changed over
19 to STRmix, they had to redo some of their reports.

20 And so, yesterday when he got the information would have
21 been the time to tell me. I mean, it would have been too late in some
22 senses then, depending on if Samantha had already testified, but it's
23 certainly too late now.

24 THE COURT: Each party a continuing duty to file and serve
25 any information. The parties shall provide information pursuant to this

1 paragraph as soon as practicable after the party obtains that information.
2 The Court shall prohibit that -- the party from introducing that information
3 and evidence or shall prohibit the expert witness from testifying, if the
4 Court determines that the party acted in bad faith by not timely
5 disclosing that information pursuant to subsection 2.

6 Now, that would seem to indicate that unless it was bad faith I
7 don't exclude it. Let's see.

8 The Court shall prohibit the party from introducing that
9 information in evidence or shall prohibit the expert witness from
10 testifying, if the Court determines that the party acted in bad faith by not
11 timely disclosing that information pursuant to subsection 2.

12 Did you want to add something?

13 MR. ROSE: She's just got a doctor's appointment at 2:45.

14 THE WITNESS: Oh no, no, I don't. I cancelled it.

15 MR. ROSE: Oh, okay.

16 THE WITNESS: I mean, I guess I saw this as more of an
17 observation than a conclusion. It's not something that would ever be in
18 a report so.

19 THE COURT: So even if you had noticed it before --

20 THE WITNESS: It's not something --

21 THE COURT: -- it wouldn't have been in your report?

22 THE WITNESS: Right. It's something that, you know, we can
23 see. Like, just like I didn't conclude that the major -- the major, the 78
24 percent is a female. We never put that in our reports but it's something
25 that we can observe.

1 But I also, you know, expect on cross for things like that to be
2 able to say, I don't know who, you know, I cannot conclude who it is --

3 THE COURT: Right.

4 THE WITNESS: -- the DNA, even if it was hers, could have
5 been there before, so those kinds of things.

6 THE COURT: Right. Okay. Thank you.

7 So at the time the expert witness disclosure was made, and
8 even 21 days before trial, the State didn't have that information and so
9 couldn't have disclosed it.

10 So then it comes down to the continuing duty to disclose
11 under subsection 3.

12 And so this isn't an additional witness, so this comes down
13 new under 3(b) about whether this would have had to be disclosed as
14 part of the substance of the testimony and the requirement to disclose
15 as soon as practicable after the party obtains it.

16 So you said you got it, what, early yesterday morning?

17 MR. ROSE: The text that I got at -- the first text that I got was
18 at 8:16 a.m.

19 THE COURT: And then you called her is when you actually
20 got the information?

21 MR. ROSE: Right. I called at approximately 8:24 a.m.
22 yesterday morning.

23 THE COURT: Right.

24 MS. MCNEILL: And that would have been prior to
25 Ms. Weston's testimony, which, again, had I had it would have made a

1 difference in how I cross-examined her.

2 And I would point out that the statute says that you can prohibit
3 it if they acted in bad faith. That's assuming that you get the information
4 outside the 20 days is how I read it, that prohibit means "keep from
5 happening." We're in a position --

6 THE COURT: No, no, right.

7 MS. MCNEILL: -- where it's happened. I mean, so.

8 THE COURT: No, right. No I, I understand that.

9 MS. MCNEILL: Yeah. And so I don't know what the -- that's
10 the same -- quite the same analysis because we're here where it's --
11 certainly had they said this yesterday to me and I said, well, Your Honor,
12 I didn't get it in time. At that point you could say, well, I don't know that
13 they acted in bad faith, so I'm going to let it come in. But now we're in a
14 different position.

15 And we've sort of shifted into --

16 THE COURT: Right. So I -- right, I see.

17 MS. MCNEILL: -- a different analysis.

18 THE COURT: So if it's disclosed less than 21 days before,
19 then I have to look at whether it was bad faith by not disclosing it.

20 Now here -- right, I understand you didn't -- didn't know about
21 it in advance at all.

22 So it comes down to, I guess, the difference between
23 disclosing it yesterday versus just putting it out there.

24 [Pause in proceedings]

25 MR. ROSE: And, obviously, I don't mean to interrupt Your

1 Honor kind of taking a look at everything, but with respects to the
2 disclosure for the expert, the statute requires a brief statement regarding
3 the subject matter and the substance of the testimony. I don't know that
4 that would require going into every observation that the person, you
5 know, ever would have, especially if we have Ms. Huseby saying that
6 even if she had seen this months prior, that it would never have made it
7 into the report itself.

8 So I don't know that the brief statement regarding the subject
9 matter and the substance would require every observation.

10 [Pause in proceedings]

11 THE COURT: And so I'm just thinking about whether it should
12 have been disclosed yesterday morning when the State learned of it,
13 and, if so, and now that it's come out, of course, whether that warrants a
14 mistrial or not.

15 And so it seems to me that under NRS 174.234 3(b) that the
16 duty to disclose as soon as practicable after the party obtains that
17 information.

18 I think that this being, I guess, an additional opinion being
19 offered that it should have been disclosed as soon as practicable, which
20 at least was yesterday. I don't think that there was any bad faith on the
21 witness or the State's part.

22 And, obviously, now it's already come out in front of the jury.

23 So what I'm thinking about, I guess, the prejudice from it, from
24 what, you know, if it had been disclosed yesterday versus this afternoon
25 on the witness stand.

1 So, and going back through my notes, I do see there was,
2 among other things -- among other subjects during cross-examination of
3 Ms. Weston, there were a couple questions of her about the fact that
4 she's saying that the Defendant had Riley open her mouth, put the
5 scissors in, that they were closed and then opened. I see those
6 questions were asked.

7 MS. MCNEILL: Yes, Your Honor. I also asked her if Riley
8 had screamed or cried --

9 THE COURT: Right.

10 MS. MCNEILL: -- because I was later going to argue there
11 would likely be DNA from that on the scissors.

12 THE COURT: I do have note that she testified that Riley
13 wasn't screaming but she was crying.

14 MS. MCNEILL: Yes, Your Honor.

15 THE COURT: And so -- right; so your intention was to later
16 argue there's no DNA; right?

17 MS. MCNEILL: Yes.

18 THE COURT: Okay. I understand that, but the question is:
19 Now, that we have the testimony, is there a prejudice caused by the fact
20 that you asked those questions yesterday? In other words, that would
21 put you in a worse position then you would have been had you known
22 yesterday instead of today?

23 MS. MCNEILL: I think, yes. One, like I said, had I known, I
24 would have just left that alone and I may have cross-examined her
25 differently about the scissors; right? Did Riley ever play with the

1 scissors? Where were the scissors kept in the home? Could she have
2 just touched the scissors?

3 And so it affects Mr. Green in two ways. I've now highlighted
4 an area that inculcates him through my own questioning. No one wants
5 their lawyer to be the source of bad information. And I have not
6 engaged in a line of questioning that I would have engaged in that
7 potentially would have helped him.

8 I understand that the State may say, I can call Ms. Weston
9 back in and ask her those questions, but honestly at this -- I mean, you
10 saw how combative she was. I don't know at this point that it gets me
11 anywhere.

12 Additionally, I'm now in the position with the jury where one of
13 the concerns you always have as defense counsel is you have to be
14 credible to the jury and you have to seem like you know what you're
15 doing. And if you look like you don't, then that also affects the person
16 sitting over here who's charged with the crime. Any incompetence they
17 perceive on my part is imputed to him. And so he has been prejudiced
18 by that.

19 And I don't -- this is not a position that defense counsel wants
20 to be in where I'm standing here thinking, wow, I would have done things
21 a little differently and now can I fix it? That's not a position I want to be
22 in in the middle of his life sentence trial.

23 MR. ROSE: And, Your Honor, I obviously don't want to get
24 into kind of, you know, arguing our case, you know, as if we are arguing
25 it to the jury. But I'm not sure that the argument of, well, there wasn't her

1 DNA found on there, so it couldn't have been put into her mouth. I don't
2 know if that would have been ineffective argument anyways. Because
3 the testimony from Ms. Huseby, based solely upon the report, nothing to
4 do with the comparison, the observation that she made yesterday
5 morning, but just based upon the information that was in the report,
6 nobody was excluded from it.

7 She -- I specifically asked her if she was able to tell us that for
8 certain that Riley's DNA was or was not on there. She can't say either
9 way that for sure Riley's DNA wasn't on there.

10 So if we have the argument of, well, it couldn't have happened
11 because if it had happened, you would have found her DNA on there
12 and there was no DNA on there. The argument of there was no -- none
13 of Riley's DNA on there, wouldn't be consistent with the testimony of, I
14 can't simply tell you if it was on there or not.

15 MS. MCNEILL: Well, and the other issue is, Your Honor,
16 another line of questioning that I could have engaged in, without this
17 information, would be that they didn't collect a reference sample from
18 Riley, and that goes to bad police work, potentially if this is what they've
19 told them.

20 THE COURT: Right.

21 MS. MCNEILL: And, now, you know, it doesn't really matter
22 because she's gone back and been able to tell, okay, you know -- which
23 is a line of questioning I've engaged in with a lot of the officers is there
24 were certain things that you did that you shouldn't have done --

25 THE COURT: Oh, of course.

1 MS. MCNEILL: -- that you didn't do; right?

2 THE COURT: Of course.

3 MS. MCNEILL: And, now, I mean, I'm kind of limited to that as
4 well. And now I have to try to clean it up as much as possible on cross
5 and just sort of look like I'm this idiot who doesn't really know what I'm
6 doing with information that I probably should have had.

7 THE COURT: I mean, obviously you could cross-examine her
8 about the fact that, when was this work done? Oh, yesterday.

9 MS. MCNEILL: Sure. But, I mean, you know, it still puts me
10 in the position of a place I wouldn't have been in. Regardless of what he
11 thinks the effectiveness of that argument is --

12 THE COURT: No, of course, of course.

13 MS. MCNEILL: -- you know, I --

14 THE COURT: Right. It's not surprising that you have different
15 views of the evidence.

16 MS. MCNEILL: Sure.

17 THE COURT: I think it should have been disclosed yesterday.
18 I don't think it was bad faith. I don't think there is a -- such a prejudice
19 that would warrant a mistrial at this point on this issue.

20 I acknowledge, as we just discussed, that there were some
21 questions asked about the putting of the scissors in the mouth, but that
22 was, you know, part of a lengthy cross-examination about many
23 subjects. I don't think it was ever made like the focus of -- of the case
24 certainly other way -- there were charges obviously related to that and I
25 don't disregard that.

1 But ultimately I don't think that there was so much -- the
2 questions and focus that would have an irreversible prejudice that would
3 warrant a mistrial. I just don't -- I understand that you heard this for the
4 first time today and I'm sympathetic to that, but I don't think it warrants a
5 mistrial under the circumstances.

6 MS. MCNEILL: Just for purposes of record, Your Honor, I
7 understand you made your ruling, but I would just like the record to
8 reflect that he is charged with counts where Riley is listed as the victim.

9 THE COURT: Oh, no, clearly. No, I'm aware.

10 MS. MCNEILL: So I think that makes a difference as far as --
11 if it was just to point out that Samantha's not credible, I think it's
12 different --

13 THE COURT: No, no --

14 MS. MCNEILL: -- when this is a victim.

15 THE COURT: -- I -- there are clearly charges related to Riley,
16 clearly. And obviously you can cross-examine this witness about when
17 this was done. I don't need to tell you what you need to cross-examine
18 about. But, obviously, you can fully examine her about this subject and
19 what work was done and when it was done and how strong a conclusion
20 it is or whatever else you think is appropriate to question about.

21 And, yes, you could, if you wanted to bring back miss -- gosh,
22 I forgot her last name -- Weston. Obviously that's your strategic choice
23 whether you chose to do that or not. But obviously you have the
24 opportunity to do that.

25 And to the extent you have argued about that it makes you

1 look bad, I think the cross-examination that can be done about when this
2 analysis was done and when you learned about it, I think avoids you
3 looking bad under that circumstance so.

4 I just -- I -- I just -- I don't think there's prejudice that would
5 warrant a mistrial based on it. So I'm going to deny that.

6 Guess we'll go ahead and continue on with her. I don't know
7 how much longer that's going to cause this to be. And we'll have to talk
8 about our schedule for Monday when we're done for the day.

9 Let's go ahead and get the jurors.

10 THE MARSHAL: All rise.

11 [In the presence of the jury]

12 THE MARSHAL: Please be seated.

13 THE COURT: All right. Counsel, stipulate to the presence of
14 the jury.

15 MS. MCNEILL: Yes, Your Honor.

16 MS. LUZAICH: Yes, Judge.

17 MR. ROSE: We do, Your Honor.

18 THE COURT: Okay. You can continue your
19 cross-examination.

20 MS. MCNEILL: Thank you, Your Honor.

21 BY MS. MCNEILL:

22 Q Ms. Huseby, just going back to this information, and my next
23 series of questions is just going to be about this 78 percent that you
24 indicated you went back and looked at, you provided that information to
25 the State yesterday; correct?

1 A Which information, specifically?

2 Q This new information where you said you went back and
3 looked at the 78 percent, you were able to get almost a full profile from
4 that; right?

5 A Correct.

6 Q You provided that information to the State yesterday?

7 A Yes, I did.

8 Q Okay. And you testified that that 78 percent -- and I'm going
9 to apologize in advance, I'm not a scientist and so my -- the way I word it
10 may be meaningless to you, so let me know if it is.

11 That 78 percent that you looked at, you said you were able to
12 compare the alleles to Samantha Weston's full profile; correct?

13 A Correct.

14 Q And based on that you believed that they were related this --

15 A I don't believe they are. I would testify that they could be
16 based purely on the fact that they share an allele at every location.

17 Q Okay. So to you that means they might be related?

18 A Might be.

19 Q Okay. And that could be mother-daughter --

20 A Could be.

21 Q -- right?

22 Like Samantha Weston's mother?

23 A Correct.

24 Q Or Samantha Weston's daughter?

25 A Correct.

1 Q Are you aware that Samantha Weston has two daughters?

2 A No.

3 Q Okay. The DNA that you got off those scissors, would you

4 agree with me that there's different types of sources of DNA?

5 A Yes, there's different sources of DNA.

6 Q Okay. Skin can be a source of DNA --

7 A Correct.

8 Q -- right?

9 Saliva can be a source of DNA?

10 A Correct.

11 Q And body fluids; right?

12 A Correct.

13 Q Okay. I guess saliva's a body fluid; that's a bad question.

14 Fluids, other than saliva?

15 A Correct.

16 Q Okay. In doing your examining of that 78 percent, you cannot

17 tell us, as you sit here, what the source of that DNA was; correct?

18 A That's correct. I didn't do any body fluid testing on that

19 sample.

20 Q Okay. So we don't know if it's from skin or saliva or some

21 other fluid?

22 A That's correct.

23 Q Okay. DNA does not tell us when someone touches an item;

24 fair to say?

25 A That's fair to say.

1 Q Or how they touched the item --

2 A That's correct.

3 Q -- right?

4 If someone lives in a home with an item that they, they touch,

5 you wouldn't be surprised to see their DNA on it?

6 A That's correct.

7 Q And so scissors in a home, if a child is playing with the

8 scissors, you wouldn't be surprised to see DNA on the scissors --

9 A That's correct.

10 Q -- of that child?

11 A Yes, that's correct.

12 Q Okay.

13 MS. MCNEILL: Nothing further.

14 THE COURT: Okay. Any redirect?

15 MR. ROSE: Not from the State.

16 THE COURT: Thank you.

17 All right. Thank you for coming in today.

18 All right. Next witness.

19 MS. LUZAICH: The State calls Lara Alexander.

20 **LARA ALEXANDER**

21 [having been called as a witness and being first duly sworn, testified as

22 follows:]

23 THE CLERK: Thank you. You may be seated.

24 Please state your complete name, spelling both your first and

25 last name for the record.

1 THE WITNESS: Lara Alexander. L-A-R-A,
2 A-L-E-X-A-N-D-E-R.

3 THE CLERK: Thank you.

4 THE COURT: Go ahead.

5 MS. LUZAICH: Thank you.

6 **DIRECT EXAMINATION OF LARA ALEXANDER**

7 BY MS. LUZAICH:

8 Q Good afternoon, ma'am.

9 A Good afternoon.

10 Q How are you employed?

11 A I'm a crime scene analyst with the Las Vegas Metropolitan
12 Police Department.

13 Q How long have you been with Metro?

14 A Three years.

15 Q Can you describe for us please what is a crime scene analyst?

16 A We go out to scenes. We take notes. We document through
17 photos in order to complete a report. We collect evidence and process
18 evidence.

19 Q Can you describe also for us what training and education you
20 have that qualifies you to do that?

21 A I have a master's degree in forensic science and through the
22 LVMPD I went through a 11 week academy and then 12 weeks of field
23 training.

24 Q And at the academy, what do they teach you?

25 A They teach us everything, so from photos, how to take good

1 notes, how to write reports, how to properly collect and preserve
2 evidence, and how to package it.

3 Q And then when you go into field training, how does that work?

4 A So we ride with a senior crime scene analyst and they teach
5 us the ways of -- the policies and how to be better at our jobs basically.

6 Q Okay. And when you're in your field training, are you doing
7 the work and they're kind of watching what you do to make sure you do
8 it properly?

9 A Correct, yes.

10 Q Okay. I'm going to direct your attention, if I could, to
11 June 17th -- or sorry, 18th of 2017, were you sent to a scene at 2686
12 Jennydiane Drive, Apartment B, like boy?

13 A Yes.

14 Q What was the purpose of your going there?

15 A It was in reference to a sexual assault investigation.

16 Q And when -- do you know around what time it was that you
17 arrived there?

18 A It was about midnight 45.

19 Q When you went there who was already present?

20 A There were patrol officers and sexual assault detectives.

21 Q When you arrived to a scene of a sexual assault one would
22 assume that at some point there had been a victim there; correct?

23 A Correct.

24 Q But the victim was not present when you arrived?

25 A No, she was not.

1 Q And was it your understanding that they had authority to go
2 into the apartment and process the scene?

3 A Yes, it was.

4 Q So what do you do when you first arrive at a scene? How do
5 you go about figuring out what you're going to do?

6 A I speak with the detectives and the patrol officers and get a
7 briefing from them, because at that point they've already talked to the
8 victim and done their interviews. So I get a briefing from them and then I
9 go into the apartment and basically do a walk through and take notes,
10 and see what items of evidence that I'm going to process and collect.

11 Q And during your conversation with patrol and detectives, you
12 said that they've already spoken to a victim, so they kind of have an idea
13 of what they want you to collect?

14 A Correct. Because in most times I will talk to the victim out at a
15 scene, but in these cases she's already been transported.

16 Q So, for example, if it's a burglary, you might talk to a victim?

17 A Correct, yes.

18 Q When you went to this scene you said you go and you take
19 photographs?

20 A Yes, I do.

21 Q Do you take photographs of the entire location?

22 A Yes.

23 Q And what's the purpose for that?

24 A To fairly and accurately represent what that scene looked like
25 at the time that I got there.

1 Q And before you photograph, you don't touch anything; correct?

2 A No, I do not.

3 Q You don't move anything?

4 A No.

5 Q And as far as you know, police ensure that the scene is
6 preserved so that nothing has been altered from when the event
7 occurred; correct?

8 A Correct.

9 Q So did you walk through the entire apartment and take
10 photographs before you started looking for or moving things?

11 A Yes, I did.

12 Q So let's look first, I'm going to show you State's Exhibit 1, is
13 this the apartment that -- ooh, Anthony, is the TV on?

14 THE COURT: Yeah, it's on now. It's --

15 MS. LUZAICH: No.

16 THE COURT: -- coming on, maybe.

17 THE MARSHAL: It gets tired, tired of people talking too much.
18 I'll fix it though.

19 There it is.

20 MS. LUZAICH: Thank you.

21 THE COURT: Thank you, Anthony.

22 THE MARSHAL: You're welcome all.

23 THE COURT: Go on.

24 BY MS. LUZAICH:

25 Q Okay. Ma'am, this is State's Exhibit 1, is this the apartment

1 that we're talking about?

2 A Yes, it is.

3 Q And as we look at the --

4 THE COURT: Whoops.

5 MS. MCNEILL: Oh, sorry, Judge.

6 THE COURT: It's okay.

7 MS. MCNEILL: I'm sorry, Ms. Luzaich.

8 MS. LUZAICH:

9 Q -- sidewalk --

10 THE COURT: No problem.

11 You okay?

12 MS. MCNEILL: Yeah.

13 THE COURT: Okay. All right.

14 BY MS. LUZAICH:

15 Q As we look up the sidewalk, is there an open door?

16 A Yes, there is.

17 Q And is that the front door to the apartment?

18 A Correct.

19 Q Showing you State's Exhibit 2, is this the -- whoops -- the front
20 door as you're looking in?

21 A Yes.

22 Q And then finally, State's Exhibit 3, is there something about
23 the front door that we're looking at here?

24 A Just the lock mechanism.

25 Q And what is it showing?

1 A Just the -- the frame of the door, you can't really tell.

2 Q For example, if you are responding to a home invasion --

3 A Right.

4 Q -- and somebody has kicked the door in, you would want to

5 see --

6 A There's damage.

7 Q -- is there damage.

8 A Right.

9 Q And here are you depicting the fact that there was not damage

10 to it?

11 A Correct, yes.

12 Q Okay. Once you go inside the apartment, did you take

13 photographs as you walked through?

14 A Yes.

15 Q Showing you State's Exhibit 4, what are we looking at?

16 A This is from the front door towards the bedrooms and part of

17 the living room.

18 Q Okay. And as you look to the left, would that be the kitchen?

19 A Correct, that's --

20 Q As you look to the right, would that be kind of the front room

21 with the couch?

22 A Yes.

23 Q And specifically on the couch, is there a bag there?

24 A Yes, there's a white bag with clothing inside.

25 Q Did you ultimately collect that bag?

1 A Yes, I did.

2 Q Do you know why?

3 A That was what the victim was wearing at the time, that I was
4 told.

5 Q And when I say, do you -- did you collect, if there are items of
6 evidence that need to either be looked at or tested or just, you know,
7 taken, what do you do with them specifically?

8 A So we'll photograph them in place and then we'll individually
9 package them after we photo them.

10 Q And when you say, individually package, what do you do?

11 A So each item of clothing will go into its own paper bag. That
12 will be then closed with staples. The event number will be placed on it,
13 my initials and P number, the date, and the item number will be placed
14 on the exterior of the bag. And then that bag will be placed in an outer
15 package and that will have a label on it depicting what's inside as well.

16 Q And you do all that; correct?

17 A Yes, I do.

18 Q Now, we had heard a little bit of testimony earlier about an
19 event number, that every incident has its own number and it starts with
20 the year, the month, the date, and then a four digit, this is the first call of
21 the day, second call --

22 A Correct.

23 Q -- et cetera.

24 Can you tell us what is the event number that you responded
25 to at this incident?

1 A 170618-3728.

2 Q Showing you State's Exhibit 5, what are we looking at?

3 A This is into the bedroom, the southeast bedroom.

4 Q And would you call that the master bedroom?

5 A Yes.

6 Q And in the doorway, what are we seeing on the floor?

7 A There's some tissues on the floor and there's also some blood
8 on the floor as well.

9 Q Okay. And then is there a bag on the floor?

10 A Yes, there's a duffle bag.

11 Q In the room; correct?

12 A Yes.

13 Q And what color just for the record?

14 A Blue with pink straps.

15 Q Thank you.

16 Okay. So then you walk into the room, State's Exhibit 6, does
17 this depict the master bedroom?

18 A Yes.

19 Q And just for the record can you describe what's in the
20 bedroom?

21 A So we have the bed off of the east wall with two nightstands
22 on either side and then a dresser is on the north wall.

23 Q And then all the way to the right is there a window?

24 A Yes, there is.

25 Q With a sheet over it?

1 A Yes.

2 Q State's Exhibit 7, is this still the master bedroom?

3 A Yes.

4 Q And the dresser that you had mentioned, can you see it a little
5 bit closer?

6 A Correct, yes.

7 Q And what's depicted on the dresser kind of in the front?

8 A There is a glove on top of the dresser.

9 Q And can you describe what color?

10 A It's a black mechanic's brand glove.

11 Q State's Exhibit 8, is this as we're just moving around the
12 bedroom?

13 A Correct.

14 Q And then 9, is this a close up of the bed?

15 A Yes.

16 Q And the items on either -- or sorry, are there items on either
17 side of the bed?

18 A Yes, there are.

19 Q What items are on either side of the bed?

20 A So the bedding is on the bed. There is another glove on the
21 floor to the north of the bed, so to the left. And then on the right hand, or
22 the south side of the bed, there is a piece of wood on the ground.

23 Q And then are there nightstands on either side of the bed?

24 A Yes, there are.

25 Q State's Exhibit 10, is this more of a close up of the bed?

1 A Correct.

2 Q And what, if anything, do we see on the floor?

3 A There's blood on the floor.

4 Q Can you describe for the record where on the floor the blood
5 is?

6 A It's kind of in -- on the left-hand side of the pink blanket there's
7 blood and on the right-hand side and on the foot of the bed there's also
8 blood.

9 Q And if you touch the screen --

10 A Oh, sorry.

11 Q -- you can show us.

12 A Oh.

13 THE COURT: I understand it --

14 THE WITNESS: It's all off.

15 THE COURT: -- kind of -- is off, yes.

16 THE WITNESS: Okay. So right there.

17 There.

18 BY MS. LUZAICH:

19 Q Exhibit 11, what do we see?

20 A This is the south side of the bed with the stick on the floor or
21 the piece of wood on the floor.

22 Q Can you circle the piece of wood on the floor.

23 A [Witness complies.]

24 Q And do we also see blood on the floor?

25 A Yes, there is.

1 Q Exhibit 12, is that a close up of the blood?
2 A Yes.
3 Q And 13, even closer; correct?
4 A Yes.
5 Q And are you trained to take pictures from far away and then as
6 you see things that are important to kind of zero in on them closer,
7 closer?
8 A Correct.
9 Q So specifically 14, is that the side of the bed with the stick?
10 A Yes.
11 Q And then 15, is that up close of the stick?
12 A Yes.
13 Q 16?
14 A Yes.
15 Q The stick with what?
16 A A scale.
17 Q Why do you do that?
18 A To show what general size it is.
19 Q 17, what is that?
20 A That's just the other side of the stick.
21 Q So you would be -- you would take photos of both sides?
22 A Yes.
23 Q 18?
24 A This is the north wall, so that's the same dresser and a trash
25 can to the west of it, and then there's two sticks on the floor.

1 Q Okay. So those two pieces of stick are in addition to the one
2 that we just talked about on the other side of the bed?

3 A Correct.

4 Q Exhibit 19, is that closer of the sticks?

5 A Yes, it is.

6 Q And 20, even closer?

7 A Yes.

8 Q 21 with the scale; correct?

9 A Correct.

10 Q And just for the record, did you collect all of these sticks as
11 well?

12 A Yes, I did.

13 Q 22, what are we looking at?

14 A That's the floor with more blood on the floor.

15 Q And then -- and that's blood in addition to what we talked
16 about earlier; correct?

17 A Yeah, that's just to the -- on the left side of the bed. It's --

18 Q Closer towards the two sticks; right?

19 A Correct.

20 Q And then 23, is that just up close of the blood?

21 A Yes.

22 Q 24, what is that?

23 A The north dresser with the black glove on top.

24 Q And do you see another black glove in the photo?

25 A Yeah, it's at the bottom right corner.

1 Q On the floor?

2 A Yes.

3 Q Next to the bed?

4 A Yes.

5 Q 25, is that just up close of the dresser?

6 A Yes, it is.

7 Q With the glove?

8 A Correct.

9 Q And then, sorry, 26, with -- even closer with the glove?

10 A Sorry, the glove with a scale next to it.

11 Q 27?

12 A The glove on the floor.

13 Q 28?

14 A The glove on the floor with a scale.

15 Q Okay. State's Exhibit 29?

16 A This is the north nightstand, so the one to the left of the bed.

17 Q And are there items on it?

18 A Yes, there's a pair of black handled scissors on the

19 nightstand.

20 Q And is that something that you had also heard about?

21 A Yes.

22 Q State's Exhibit 30?

23 A Closer up of the scissors.

24 Q And 31?

25 A Again, closer up of the scissors.

1 Q Really close?

2 A Yes.

3 Q 32?

4 A With the scale.

5 Q 33?

6 A This is the duffle bag near the entrance and the closet.

7 Q 34?

8 A And blood on the duffle bag.

9 Q 35?

10 A This is the bed, again, with the bedding shown.

11 Q Do you make any marks on bedding?

12 A Yes. So we'll do kind of the same thing as packaging. We'll
13 put the event number or our initials and P number which -- and
14 directionality, kind of which way is north, which way is to the head of the
15 bed, and what side is the top.

16 Q As we're looking at State's Exhibit 51, have I zoomed in so
17 that we can see what you've just discussed?

18 A Yes.

19 Q And that's on the pink, light pink bedding; correct?

20 A It's on all of the bedding. So --

21 Q Right.

22 But in this photo --

23 A Yeah, yes, sorry.

24 Q -- we can see the light pink --

25 A Yes.

1 Q -- is that correct?

2 A Yes.

3 Q And then Exhibit 52, what do we see here?

4 A The blue blanket and the black and white blanket with the
5 markings on it.

6 Q And just for the record, these markings that we're talking
7 about right now, you put the -- when, at what point in time, did you put
8 those markings on?

9 A This is as about -- as I am about to collect it, I will put the
10 marking in a -- try and do it in a corner where it'll not disrupt any
11 evidence.

12 Q And then finally Exhibit 53, from that bedroom?

13 A Yes --

14 Q Is the --

15 A -- the markings on the --

16 Q -- more markings on the bedding?

17 A Yes.

18 Q In addition to the bedroom, did you walk through the
19 bathroom?

20 A Yes.

21 Q State's Exhibit 35, what are we looking at?

22 A A view from the southeast bedroom into the north bathroom.

23 Q What did you notice in the north bathroom?

24 A There was blood on the towel that you can see here on the
25 floor, there's blood on the sink, and several opened and unopened

1 bandages.

2 Q State's Exhibit 36, is that a little bit closer of the towel?

3 A Yes.

4 Q And then 37, even closer?

5 A Correct.

6 Q 38, just so that we don't miss any blood; correct?

7 A Yes, the towel on the floor.

8 Q And then 39?

9 A Showing the trash can with blood inside and the sink also that

10 has blood on top of it.

11 Q What's on the sink that we're looking at?

12 A A towel with blood on it.

13 Q And what is next to the towel with blood on it?

14 A There's bandages and then the large toilet paper roll I believe

15 that is.

16 Q Okay. Exhibit 40?

17 A The trash can with blood on paper towels and toilet paper

18 inside.

19 Q Sorry, that's kind of sideways.

20 Is that better?

21 A Yeah, sorry.

22 Q 41?

23 A That's the views of the sink with the bandages on the left-hand

24 side and the towel with blood on the right-hand side.

25 Q Are there two towels with blood?

1 A Yes.

2 Q And some open bandages?

3 A Correct.

4 Q And does it appear that there's blood on the actual sink as

5 well?

6 A Yes.

7 Q And then 42?

8 A The towels with blood on them on the sink.

9 Q Up close?

10 A Yes.

11 Q In addition to the master bedroom and the bathroom, did you

12 see another bedroom?

13 A Yes, there was another bedroom.

14 Q And did it appear that a child stayed in that bedroom?

15 A I believe so.

16 Q Showing you Exhibit 43.

17 A A view into the room from the hallway.

18 Q And are we looking at a window as well?

19 A Yes.

20 Q And is there something over the window?

21 A A blanket.

22 Q And, then, are there toys on the floor?

23 A Yes.

24 Q Exhibit 44?

25 A The same room with the toys on the floor and the --

1 Q Just moving around to the other way?

2 A Correct.

3 Q And then 45?

4 A This is the other side of the room with the bedding on the floor.

5 Q 46?

6 A The closet and the window.

7 Q And 47?

8 A This is the window with the blanket pulled back.

9 Q Okay. And was there any significance to that window that

10 you're aware of?

11 A That the suspect might have come in through that window or

12 exited through that window.

13 Q Did you do any processing on the window?

14 A No, I did not.

15 Q Why not?

16 A Because I was told that he had been wearing gloves and then

17 the -- I found gloves inside the master bedroom.

18 Q Okay. Did he also stay there periodically, as far as you knew?

19 A Yes. As far as I knew, they were on again off again, and he

20 had stayed there previously.

21 Q Did you also look around the main area of the home, State's

22 Exhibit 48?

23 A Yes.

24 Q What is that?

25 A That's the living room.

1 Q And is that the couch that we discussed earlier?

2 A Yes, it is.

3 Q 49?

4 A The same couch.

5 Q Up close with the bag on it?

6 A Yes.

7 Q And then State's Exhibit 50.

8 A That's what's -- the contents of the bag.

9 Q And would that, sorry, would that be your hand showing that?

10 A Yes, it is.

11 Q Did you conduct any testing on anything within the home?

12 A Yes, I did.

13 Q What did you do?

14 A I did presumptive tests on the, what I believed could be blood,

15 on two pieces of stick that were against the north wall. And I also

16 fingerprint processed them.

17 Q When you say you did presumptive blood tests, what -- can

18 you describe what you mean by that?

19 A So it's a phenolphthalein test. It's a presumptive test for the

20 presence of blood. So a swab, we can take the swab and put

21 phenolphthalein, it's a dye stain, a clear dye stain on it, and then it will

22 react with the hemoglobin that is present in blood.

23 Q And what happened when you conducted the test?

24 A The one stain on the one piece of wood was positive and the

25 other one was negative.

1 Q Did you also collect the wood?

2 A Yes, I did.

3 Q You said that you did fingerprint processing on the wood, how
4 did you go about doing that?

5 A It's fingerprint powder. So use a brush and brush on the
6 powder to try and stick to any oils left behind that -- from a fingerprint.

7 Q Are some surfaces more susceptible to being able to obtain
8 fingerprints --

9 A Yes.

10 Q -- than others?

11 A Yes, they are.

12 Q So, for example, if I put my finger on my computer here, would
13 you be fairly confident that you'd be able to get some sort of result?

14 A Possibly, yes, because it is a smooth flat surface.

15 Q What about wood?

16 A It's very difficult to get fingerprints off because of how porous it
17 is and the texture of it.

18 Q Were you able to get any fingerprints off the wood sticks?

19 A No, I was not.

20 Q Did you do anything else within the home?

21 A I don't believe so.

22 Q I just wanted to make sure.

23 A All right.

24 Q Once you left the home, did you go somewhere else?

25 A Yes, I went to headquarters.

1 Q What were you asked to do at headquarters?

2 A To photograph and collect items from the suspect.

3 Q And did you meet with the suspect at headquarters?

4 A Yes, I did.

5 Q Do you see him here in court today?

6 A Yes, I do.

7 Q Can you describe where he's sitting and an article of clothing
8 that he's wearing?

9 A He's wearing a white shirt and gray tie over here at the
10 Defendant's table.

11 MS. LUZAICH: Record reflect identification of the Defendant.

12 THE COURT: Yes, it will.

13 BY MS. LUZAICH:

14 Q When you went to headquarters, where did you meet with
15 him?

16 A In the interview rooms at Building A.

17 Q And what did you do when you first met with him?

18 A I photographed him, all four sides, his face, and then I had him
19 remove his shirt to look for any injuries, photographed his hands for any
20 injuries as well.

21 Q Showing you State's Exhibit 54, is that the photo that you took
22 of him head to toe?

23 A Yes.

24 Q Exhibit 55, what are we looking at?

25 A His hands -- or forearms.

1 Q His hands --

2 A And forearm.

3 Q -- face up?

4 A Yeah.

5 Q 56?

6 Whoops, sorry.

7 A The backs of his hands.

8 Q 57?

9 A The palms of his hands and forearms.

10 Q And 58?

11 A The palms of his hands.

12 Q Up close?

13 A Yes.

14 Q You indicated that you looked all over, had him even take off
15 his shirt looking for injuries, did you find injuries anywhere on the
16 Defendant?

17 A No, I did not.

18 Q Did you do something else or cause something else to be
19 done with the Defendant?

20 A I took swabs from his hands and from his penis and collected
21 his clothing.

22 Q Why did you take swabs from his hands and his penis?

23 A Because it's a sexual assault, hands are used to touch and
24 penis is obviously used for sexual intercourse, so that is why, the
25 possible DNA transfer.

1 Q You're looking for potential DNA?

2 A Yes.

3 Q Okay. Did you actually swab his penis yourself?

4 A No, I have him do it himself. I give him gloves and he is able
5 to do it himself. I'm there to watch. If he doesn't do it himself, then I will
6 step in and do it. But if they're cooperative and they do a good job, then
7 I let them do it themselves.

8 Q Okay. And was he cooperative?

9 A Yes, he was.

10 Q And did he do it?

11 A Yes.

12 Q And once you collect those swabs, what do you then do with
13 them?

14 A They're individually packaged in envelopes, again, with the
15 event number, my initials and P number, the item number, and then
16 those are individually packaged into a larger package.

17 Q Okay. Did you collect anything else from him?

18 A His clothing.

19 Q Showing you State's Exhibit 59, is that the shirt that he was
20 wearing?

21 A Yes.

22 Q Where is this being photographed?

23 A Back at the lab on butcher paper, clean butcher paper.

24 Q Why do you do that?

25 A So I'm able to set it out and there's no cross contamination.

1 Q So all of the evidence that you collect, do you then bring it
2 back to the lab and set it down like this and photograph it?

3 A If I am not able to photograph it like this out at the scene, yes.

4 Q Okay. So State's 59, that's the front of his shirt; is that
5 correct?

6 A Correct.

7 Q 60, what is that?

8 A The back of the same shirt.

9 Q 61?

10 A Close up of the back of the shirt with apparent blood.

11 Q And a scale?

12 A And a scale, yes.

13 Q Okay. Exhibit 62, what is that?

14 A This is one of the gloves that was found on the floor of the
15 bedroom and the scale.

16 Q And, as I indicated, all of these that we're about to talk about
17 are on butcher paper at the lab?

18 A Correct.

19 Q And do you write on here where the things are found?

20 A Yes.

21 Q So on 62?

22 A The floor of the southeast bedroom.

23 Q 63?

24 A Again, the same glove from the floor of the southeast
25 bedroom, just the other side.

1 Q The other side of the glove?

2 A Yes.

3 Q Okay. 64?

4 A This is the glove from the top of the dresser in the southeast
5 bedroom.

6 Q 65?

7 A A close up of the outside with apparent blood on the outside of
8 it.

9 Q 66?

10 Oh, is that just a repeat of 65? Sorry about that.

11 67?

12 A This is the underside of the same glove from the top of the
13 dresser.

14 Q 68?

15 A The tag showing size of the glove.

16 Q And do you do that just out of habit?

17 A Yes.

18 Q 69?

19 A A close up of the scissors from the north nightstand in the
20 southeast bedroom.

21 Q With a scale?

22 A Yes, with a scale.

23 Q 70?

24 A Same, just flipped over.

25 Q The other side?

1 A Yeah.

2 Q Okay. 71?

3 A These are the two pieces of stick from the north floor and the

4 scale.

5 Q 72?

6 A A closer up of the two.

7 Q 73?

8 A The stain, which I swabbed.

9 Q Okay. In 73, just for the record, are there two different

10 pieces?

11 A Yes.

12 Q The one on the bottom, is that the one with the stain?

13 A Yes.

14 Q And then the two pieces, can you describe the end of them?

15 A They are broken.

16 Q Both of them?

17 A Yeah, they're both broken.

18 Q And then 74?

19 A Same view of both pieces of wood.

20 Q The other side?

21 A Yes.

22 Q 75?

23 A This is the south one, the one at the south end of the bed.

24 Q The one that was found on its own?

25 A Correct.

1 Q So one stick was found on one side of the bed and then two
2 sticks were found on the other side of the bed?

3 A Correct.

4 Q 76, what are we looking at?

5 A These are the pair of shorts that were in the plastic bag on the
6 couch.

7 Q 77?

8 A And this is the tank top that was found with the shorts in the
9 plastic bag.

10 Q And then 78?

11 A The front of the tank top from the same bag.

12 Q And all of those items were marked, tagged, and placed into
13 evidence by you?

14 A Correct.

15 MS. LUZAICH: Thank you. I'd pass the witness.

16 THE COURT: Cross?

17 MS. MCNEILL: Thank you, Your Honor.

18 **CROSS-EXAMINATION OF LARA ALEXANDER**

19 BY MS. MCNEILL:

20 Q Ms. Alexander, you indicated that when you arrive to a scene
21 it's important to know if anybody has manipulated or touched any of the
22 items before your arrival; correct?

23 A Correct.

24 Q And so when officers arrive they do their best to make sure
25 that nobody's touching or moving anything; right?

1 A Correct.

2 Q But prior to your arrival, and prior to the police arriving, you
3 have no idea what someone's doing with items that they later claim have
4 evidentiary value; correct?

5 A No, I do not.

6 Q Okay. You would agree with me that --

7 MS. MCNEILL: If I may approach the clerk, Your Honor?

8 THE COURT: Yeah.

9 MS. MCNEILL: He'd just gotten back from taking.

10 BY MS. MCNEILL:

11 Q -- that the -- and I'm sorry, let me back up.

12 You are directed to certain items of evidentiary value by
13 officers on the scene because they've collected information from
14 witnesses; correct?

15 A Correct.

16 Q Okay. And if I can just go through these photos.

17 If I can get to the right photos.

18 You indicated that -- so you -- when you came into the
19 bedroom you'd been told that you were looking for scissors; correct?

20 A Correct.

21 Q Okay. And a stick?

22 A Yes.

23 Q Okay. Would you agree with me that that stick is just kind of
24 right out there in the open?

25 A Yes.

1 Q And it was these pieces that one of the stick had the blood
2 and one had the stain; correct?

3 A Correct.

4 Q Looking at this photo one of the pieces is over the other;
5 correct?

6 A Correct.

7 Q Do you know which one of those pieces had the blood on it?

8 A From this photo, no.

9 Q Okay. I'm showing you State's -- and I should have -- this was
10 State's Exhibit 19.

11 Showing you State's Exhibit 28, you photographed items the
12 way that you find them; correct?

13 A Correct.

14 Q Okay. Would you agree with me then in this photo the sock is
15 on top of the glove?

16 A Yes.

17 Q Okay. And based on, I guess, your experience as a human,
18 you could probably conclude that the glove hit the floor before the sock?

19 A Possibly.

20 Q Okay. This glove, in State's 26, is just right out there on the
21 dresser in the open; correct?

22 A Correct.

23 Q It makes it easier to find evidence when it's right out in the
24 open; right?

25 A Can.

1 Q And the scissors, in State's 30, you'd agree with me that it's
2 pretty apparent, in looking at that photo, that there's a pair of scissors on
3 it; correct?

4 A Yes.

5 Q You said that you tested some of the areas of apparent blood
6 with the phenyl -- and I'm not going to pronounce it right --
7 phenolphthalein

8 A Correct.

9 Q Is that close?

10 A Yes.

11 Q Okay. Did you test all of the areas of apparent blood?

12 A Not inside the room. I did the testing back at the lab.

13 Q Okay. So the items in the room, such as the carpet and those
14 things that stayed in the room, you didn't test those?

15 A No.

16 Q Okay. You -- the stain that we saw on the shirt that you said,
17 you photographed that because it looked like apparent blood.

18 A Right.

19 Q Did you test that?

20 A No, I did not.

21 Q There was also a pair of boxer shorts that had a, also a stain
22 on them; do you remember that?

23 A Yes.

24 Q You did test that; correct?

25 A Correct.

1 Q And that was negative for blood?

2 A It's negative for the phenolphthalein test.

3 Q Okay.

4 A The presumptive test, yes.

5 Q Right, sorry.

6 And that generally tells you it's probably not blood?

7 A Probably, yes.

8 Q Okay. The stain on the glove that you indicated was apparent

9 blood, that you did not test; correct?

10 A Correct.

11 Q The items that you impounded are then secured so that others

12 can do more testing, if necessary; right?

13 A Correct.

14 Q DNA examiners can get those items and test --

15 A Correct.

16 Q -- correct?

17 So they could have tested that glove to see if there was DNA

18 in it --

19 A Correct.

20 Q -- right?

21 They could have tested the blood to see if it contained DNA?

22 A Correct.

23 Q The items of apparent blood to find out if it was in fact blood --

24 A Correct.

25 Q -- correct?

1 Okay. And as far as you know, the only testing that was done
2 you've documented in your report?

3 A Yes.

4 Q Okay.

5 MS. MCNEILL: Nothing further, Your Honor.

6 THE COURT: Thanks.

7 Any redirect?

8 MS. LUZAICH: No, Judge.

9 THE COURT: All right. Thanks, ma'am. Appreciate your
10 time.

11 Next?

12 MR. ROSE: The State calls Detective Campbell.

13 THE COURT: Okay. Counsel, can you come on up while
14 he's coming in.

15 [Bench conference transcribed as follows:]

16 THE COURT: Is this your last witness?

17 MR. ROSE: Yes.

18 THE COURT: Okay. And so it's the detective obviously.

19 MR. ROSE: Yeah.

20 THE COURT: Okay. So you're the one with the time issue
21 today, not me so.

22 MS. LUZAICH: I'm not going to -- sorry, I'm not going to --

23 MS. MCNEILL: I mean, It's obviously your witness.

24 MS. LUZAICH: It's his.

25 MS. MCNEILL: Oh, okay.

1 MS. LUZAICH: -- I'm not going to worry about the time. I'm
2 not going to leave.

3 THE COURT: Okay.

4 MS. MCNEILL: But you could leave, I mean, it's Steve.

5 MS. LUZAICH: I wouldn't do that.

6 MR. ROSE: She's been dying to leave.

7 MS. MCNEILL: Are we trying to get all the way through this
8 witness tonight?

9 MS. LUZAICH: Yes, that would be good.

10 THE COURT: I have no idea.

11 MS. MCNEILL: Okay. Because I really have to go to the
12 bathroom.

13 THE COURT: Sorry what?

14 MS. MCNEILL: I said I'm going to have to go the bathroom.

15 THE COURT: Oh.

16 MR. ROSE: We can take like a quick restroom break, if Your
17 Honor wants.

18 THE COURT: Wait. How long do you think he's going to
19 take?

20 MR. ROSE: H'm?

21 THE COURT: How long is he going to take? Because I also
22 made plans for this evening expecting to finish at 4:15.

23 MS. MCNEILL: Oh, okay.

24 MR. ROSE: Oh, sorry judge.

25 20 minutes

1 THE COURT: Oh, I'm good then.

2 MR. ROSE: I can try and roll through him pretty quick.

3 MS. MCNEILL: Did you say you can or you can't?

4 MR. ROSE: Can.

5 THE COURT: So, so -- you need a bathroom break?

6 MS. MCNEILL: I do. If we -- I mean, I'm a big girl --

7 THE COURT: I understand.

8 MS. NCNEILL: -- I can try not, you know --

9 THE COURT: Right, that's fine.

10 Okay. We're going to have to do it then, let's make it quick.

11 [End of Bench Conference]

12 THE COURT: You know what, I'm very sorry now that we

13 called you I, we've sort of been a little off schedule because of the break

14 we had earlier. So we're going to need to take just a short, facilities

15 break, we'll call it.

16 During this recess you're admonished not to talk or converse

17 among yourselves or with anyone else on any subject connected with

18 this trial or to read, watch, or listen to any report of or commentary on

19 the trial or any person connected with this trial by any medium of

20 information, including without limitation, newspapers, television, the

21 internet, or radio or to form or express any opinion on any subject

22 connected with this trial until the case is finally submitted to you.

23 Let's try to keep it quick, everyone use the facilities, and get

24 right back.

25 THE MARSHAL: All rise. Court is now in recess.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

[Recess taken at 3:56 p.m.]

[Jury trial resumed at 4:00 p.m.]

[Outside the presence of the jury]

THE MARSHAL: All rise. District Court Department 6 is back
in session.

THE COURT: All righty, let's --

THE MARSHAL: Please be seated.

THE COURT: -- get the jurors and then we'll swear him in.

THE WITNESS: Can I be seated?

THE COURT: Yeah, sure, come on up. Thanks.

THE MARSHAL: All rise.

[In the presence of the jury]

THE MARSHAL: Please be seated.

THE COURT: All right. Do Counsel stipulate to the presence
of the jury?

MR. ROSE: Yes, Your Honor.

MS. MCNEILL: Yes, Your Honor.

THE COURT: All right. Oh, so now we need you to go ahead
and stand to be sworn in.

MATT CAMPBELL

[having been called as a witness and being first duly sworn, testified as
follows:]

THE CLERK: Thank you. You may be seated.

Can you state your complete name, spelling both your first
and last name for the record.

1 THE WITNESS: Matt Campbell, M-A-T-T, C-A-M-P-B-E-L-L.

2 THE CLERK: Thank you.

3 THE COURT: Go ahead.

4 MR. ROSE: May I proceed, Your Honor?

5 THE COURT: Yeah.

6 MR. ROSE: Thank you.

7 **DIRECT EXAMINATION OF MATT CAMPBELL**

8 BY MR. ROSE:

9 Q Good afternoon, sir.

10 A Hello.

11 Q How are you employed?

12 A I'm a detective with Las Vegas Metropolitan Police
13 Department.

14 Q How long have you been with Metro?

15 A Almost 18 years.

16 Q And how many of those 18 years have you been a detective?

17 A Almost ten.

18 Q Are detectives, do they work in kind of -- in divisions or areas?

19 A Yes, sir.

20 Q And what division or area are you a detective in?

21 A Sex crimes.

22 Q So how is it that you will come onto a particular case?

23 A We normally get a call from patrol, after they've arrived at a
24 scene, and then they call us and let us know what we have.

25 Q Were you working as a sex crimes detective with Metro on

1 June 18th, 2017?

2 A Yes, sir.

3 Q Did you get a call from patrol regarding an alleged sexual
4 crime?

5 A I did.

6 Q Okay. When you get that call, what's, kind of, typically the first
7 couple things that you do?

8 A We ask them to explain what are the details of the call are and
9 see if we need to respond or not.

10 Q Okay. When you say, see if we need to respond, do you
11 mean actually go to the scene?

12 A Either go to the scene or have -- meet the victim or potential
13 victim at his -- at either the hospital or at our headquarters.

14 Q And with respect to the call that you got on -- or actually let me
15 ask you this, did you get a call on June 18th, 2017?

16 A Yes.

17 Q And when you got that call and kind of found out about that
18 situation, what, if anything, did you do?

19 A We -- it was an acute call meaning it happened then. It was
20 within the timeframe of what we would need. So I asked the patrol to
21 bring everybody involved down to headquarters.

22 Q And who all was brought down to headquarters?

23 A Our suspect, our victim -- or two victims, a mother and a
24 daughter.

25 Q Now, are they being transported in the same car?

1 A All three?

2 Q Correct.

3 A No.

4 Q Okay. Who would be in each car?

5 A The suspect would be in one and the victim would be in the
6 other.

7 Q So mom and daughter in one car and then the suspect in the
8 other car?

9 A Yes, sir.

10 Q Okay. And are you at headquarters at that point?

11 A Yes.

12 Q Okay. What time of day, if you remember, did the call come
13 out?

14 A In the evening time, so it was some time, I believe some time
15 around after 8:00, 8:00,8:30.

16 Q And do the mother and the daughter and also the -- the
17 suspects; do they get brought to headquarters?

18 A Yes.

19 Q What happens after they get brought to headquarters?

20 A We have two different areas where we interview victims and
21 witnesses in one area of the building and suspects in another area.

22 Q And is it safe to assume then that you put the mom and the
23 daughter in one area and the suspect in the other area?

24 A Yes.

25 Q Okay. The mom and the daughter, were they put in the same

1 room?

2 A No.

3 Q Were they put in different rooms in the same area?

4 A Yes.

5 Q Okay. Are those rooms connected by a door or anything?

6 A The individual rooms?

7 Q Right.

8 A No, they're separated rooms. So we have one, two, three -- at
9 the time we had four different victim interview rooms.

10 Q When you're working on a case, or when you think that a case
11 is going to be assigned to you, is it going to just come to you or are there
12 other detectives involved?

13 A It depends on the magnitude of the case. So if it's one
14 person, like one victim, one suspect, a lot of times it just goes to me.

15 Q And with this particular case, when it appears that there might
16 be two victims and one suspect, was it just you or were you working with
17 anybody?

18 A I had a partner.

19 Q Okay. And who was that?

20 A Detective Todd Katowich.

21 Q When you have the mother and the daughter in kind of the
22 separate rooms, in the same area, did -- who did you speak to?

23 A I spoke with Samantha, the mom.

24 Q Did you talk to Riley, the daughter at all?

25 A No, my partner, Detective Katowich, interviewed her.

1 Q Okay. So you spoke with Samantha and then after that did
2 you speak with the suspect?

3 A Yes.

4 Q Do you see the suspect in the courtroom today?

5 A Yes.

6 Q Could you point to him and describe something that he's
7 wearing today?

8 A The gentleman there, white shirt and a dark tie.

9 MR. ROSE: Will the record reflect identification of the
10 Defendant, Your Honor?

11 THE COURT: Yes, it will.

12 BY MR. ROSE:

13 Q When you spoke to him, what was kind of the first couple of
14 things that you did?

15 A Introduced myself, introduced Detective Katowich, and then
16 read him *Miranda*, asked him -- if we're going to talk to him, read him
17 *Miranda*.

18 Q Now, you indicated that you spoke with Samantha, and that
19 Detective Katowich spoke with Riley, but that both of you spoke with the
20 Defendant. Is there a reason why the both of you were there to speak to
21 the Defendant?

22 A Protocol dictates us having two in a room at a time for officer
23 safety reasons.

24 Q And is that specifically with suspects as opposed to victims?

25 A No, just suspects.

1 Q Those interviews with suspects, are those recorded?

2 A Yes.

3 Q Now, you indicated that you read the Defendant the *Miranda*

4 rights, do you remember if you did that from memory or off a card or how

5 did you do that?

6 A No, I read it off of a card. I don't have that good of a memory.

7 Q Okay. So is that actually a preprinted card?

8 A Yes.

9 Q Okay. And after you read him those rights, did he continue to

10 speak with you?

11 A Yes.

12 Q Okay. Do you remember approximately what time your

13 interview with the Defendant started?

14 A A little before midnight.

15 Q Just generally speaking, what did you ask him about?

16 A What did I ask the -- the suspect about?

17 Q The Defendant about; correct?

18 A What took place that night between him and his girlfriend.

19 Q Do you remember what, if anything, the Defendant told you

20 about his relationship with Samantha?

21 A They had met on a dating site called Plenty of Fish.

22 Q Did he indicate how long he had known her?

23 A I believe it was roughly six, eight months.

24 Q And did he indicate to you have -- how the relationship

25 started?

1 That was a poor question. Let me rephrase that.

2 Did the Defendant indicate to you whether or not it was
3 immediately romantic, immediately sexual, how did he characterize kind
4 of the nature of the relationship at first?

5 A He said they talked online at first, but then it was -- when they
6 did meet, it was sexual.

7 Q And did he ever indicate to you whether or not it became a
8 more serious relationship?

9 A Yes.

10 Q And when did he say that that happened?

11 A Shortly thereafter because she became pregnant, they were
12 dating, she became pregnant.

13 Q Did he indicate to you where he was staying?

14 A He gave us the address there.

15 Q The address there being the 2686 Jennydiane address?

16 A Yes.

17 Q Okay. Did he tell you whether or not he stayed there full-time,
18 part-time, or something else?

19 A He said several days a week he would stay at his mom and
20 dad's or at a friend's house.

21 Q So did he ever indicate to you that he lived there permanently
22 full-time?

23 A No.

24 Q You stated that the Defendant told you that he would spend,
25 you know, several days a week elsewhere, did the Defendant indicate to

1 you whether the few days immediately prior to June 18th, 2017, if he had
2 been staying at that address or at a different address?

3 A His answers were very -- kind of -- it was hard to pin down.
4 He was gone with his mom and dad. He also stayed at a friend's house,
5 at an apartment complex a couple days prior. So I don't -- he was kind
6 of all over the place.

7 Q Do you remember if he indicated to you whether or not he
8 returned to the apartment to find the locks changed?

9 A He did.

10 Q And you indicated that he kind of first told you -- or he was
11 telling you that he was staying at either a parent's or at, you know, a
12 friend's apartment, did he ever give you a name for that friend?

13 A Vince or Vinnie.

14 Q Was he able to give you more than just Vince or Vinnie?

15 A No. He couldn't give me a last name. He couldn't give me a
16 phone number.

17 Q Could he give you an apartment complex or --

18 A He said it was a couple --

19 Q -- an actual address?

20 A No, not an exact address.

21 Q And specifically did he indicate to you that he had been
22 staying with Vinnie the night before June 18th?

23 A That's what he'd said, yes.

24 Q Did he indicate to you whether or not he had any contact with
25 Samantha Weston during kind of the night in between June 17th into the

1 morning of June 18th?

2 A He did.

3 Q And what was the nature of the contact that he described to
4 you?

5 A He said he'd tried to go over there, back to the house, but the
6 doors were locked.

7 Q Did he tell you whether or not he stayed there? Whether he
8 came and went? Kind of what was the nature of his comings and goings
9 at the house that morning?

10 A The morning he went there and tried to get in and they had an
11 argument.

12 Q Do you remember if he told you that he kind of first got to the
13 house about 7:00 that morning?

14 A Yes.

15 Q And that morning, I apologize, being the morning of June 18th?

16 A Yes, he did say 7:00, 8 o'clock.

17 Q At that point in time had you had the chance to talk to
18 Samantha?

19 A I did.

20 Q Okay. So you spoke with Samantha first and then with the
21 Defendant?

22 A Correct.

23 Q When you spoke with Samantha, had you had the opportunity
24 to look at her phone?

25 A I did.

1 Q Okay. And when you looked at her phone, did you have the
2 opportunity to look at messages on the phone back and forth between
3 her and Trandon Green?

4 A Yes.

5 Q Okay. And, Detective, were there, to the best of your
6 knowledge, any messages back and forth between them prior to
7 7:00 a.m.?

8 A Yes, quite a bit.

9 Q I know you say, quite a bit, what do you mean by quite a bit?

10 A It was -- almost an ongoing conversation.

11 Q And do you remember approximately what time the
12 conversation started?

13 A 3:12 in the morning.

14 Q In the morning.

15 So the morning of June 18th there's messages from 3:12?

16 A Yes.

17 Q You said it was kind of an ongoing conversation, did you ask
18 the Defendant about kind of his statement that he had arrived there at
19 7:00 versus the text messages that you saw?

20 A Yes.

21 Q Okay. And, specifically, kind of, what were you asking about
22 with relation to his story versus what you'd seen?

23 A I'm sorry?

24 Q That was a really bad question. I'll re-ask it.

25 The information the Defendant gave you about kind of coming

1 and going to the house, did it -- was the Defendant telling you that he
2 was there constantly that morning or that he was coming and going?

3 A No, he's coming and going.

4 Q The text messages that you saw, were they consistent with
5 that representation?

6 MS. MCNEILL: Your Honor, I'm going to object to what the
7 text messages said because we don't have the text messages and so
8 there's no way to examine them.

9 THE COURT: Why don't you come on up, please.

10 [Bench conference transcribed as follows:]

11 THE COURT: Okay. So go ahead and respond.

12 MR. ROSE: So it's actually in -- either his -- I think it's actually
13 in the transcript of his statement with the Defendant where he's telling
14 him, look, these messages say X, Y, and Z.

15 Additionally, Ms. McNeill had the opportunity to go and get the
16 Defendant's cell phone out of property and view it. So whatever
17 messages were on there, she's had the opportunity to view.

18 If you want to bring in copies of those messages, I'm happy to
19 admit those.

20 MS. MCNEILL: Well, there were no text messages, that's why
21 I put the phone back in his property.

22 THE RECORDER: I can't hear her.

23 MS. MCNEILL: There were no text messages --

24 MR. ROSE: Oh.

25 MS. MCNEILL: -- that's why I put the phone back in his

1 property.

2 MR. ROSE: Okay. I didn't realize that. I never had a chance
3 to see what was on the Defendant's phone.

4 THE COURT: H'm.

5 MR. ROSE: But I think it's kind of mentioned in the -- and I
6 could just ask him any kind of -- or I can kind of use the quotes from the,
7 you know, transcript where he's talking to the Defendant and saying,
8 look, these messages say X, Y, and Z, and that's not what you're telling
9 me.

10 THE COURT: So is everything you're talking about now --let
11 me back up. Is the interview in evidence?

12 MR. ROSE: No, his --

13 THE COURT: Okay.

14 MR. ROSE: -- his statement is in evidence.

15 THE COURT: Too much

16 MR. ROSE: There's a lot of redactions --

17 THE COURT: Got it.

18 MR. ROSE: -- that would have to come out.

19 THE COURT: Okay.

20 MS. LUZAICH: Way too much.

21 THE COURT: Got it. Okay.

22 MR. ROSE: Yeah.

23 THE COURT: Okay.

24 MR. ROSE: And one other thing, Your Honor, I did not
25 depend on asking him the specific wording of the messages

1 themselves --

2 THE COURT: Right.

3 MR. ROSE: -- just whether or not they were consistent with
4 what the Defendant was telling him about his actions that morning.

5 THE COURT: Okay.

6 MR. ROSE: And I can try to be very careful to avoid asking
7 about the actual contents of that --

8 THE COURT: So don't ask him about what's in the
9 messages, just about what he said.

10 MR. ROSE: Is it -- just because I don't want to --

11 THE COURT: Yeah.

12 MR. ROSE: -- kind of violate any court rulings or --

13 THE COURT: Right.

14 MR. ROSE: -- can I ask him if it's consistent?

15 THE COURT: Yes.

16 MR. ROSE: Okay.

17 THE COURT: Go ahead.

18 MR. ROSE: Then I'll just stick to that.

19 THE COURT: Okay. Thanks.

20 [End of Bench Conference]

21 THE COURT: All right. Go ahead, Counsel.

22 MR. ROSE: Thank you, Your Honor.

23 BY MR. ROSE:

24 Q Detective, was what the Defendant was telling you about his --
25 his kind of comings and goings that morning, consistent with what you

1 had seen in the messages that you saw?

2 A No.

3 Q Did you ask him about that?

4 A I did.

5 Q When you asked him about that, kind of, what was his
6 reaction?

7 A Again, his statement was pretty inconsistent. He would
8 change his story throughout his interview. So his -- his statement of why
9 he was there, if he was there, sometimes it -- it was that done earlier
10 time, than sometimes he said he didn't do it. So it was just -- he is
11 inconsistent in his statement.

12 Q Did the Defendant ever tell you how he made it into
13 Samantha's apartment?

14 A Initially?

15 Q Yes.

16 A Initially he said he came through the door.

17 Q Now, had you at that point in time seen the apartment?

18 A I did not. My sergeant, who actually went to the scene.

19 Q And was your sergeant going out to the scene at the same
20 time that you were interviewing Samantha and then the Defendant?

21 A Yes.

22 Q Okay. Are you aware of how many exterior doors there are to
23 that apartment?

24 A Yes, I am.

25 Q And how many exterior doors are there?

1 A One.

2 Q Did the Defendant tell you -- so he tells you that he got into the
3 apartment through the front door, did he tell you how he left the
4 apartment?

5 A Yes, through the front door.

6 Q So he actually told you that he left through the front door?

7 A Initially, yes.

8 Q Okay. Had you had the opportunity to review any reports from
9 the initially responding officers at that point?

10 A I spoke with him.

11 Q Okay.

12 A The officer.

13 Q And was what the responding officer you spoke to, was --
14 what he said, was that consistent with what the Defendant was telling
15 you about leaving through the front door?

16 A No, sir.

17 Q Okay. Did you ask the Defendant about that discrepancy?

18 A I did.

19 Q And what was his response to it?

20 A Initially he stuck with the -- stated that he left through the front
21 door. Eventually he changed his statement.

22 Q Did he first tell you that he was actually already outside when
23 the officers arrived?

24 A He did.

25 Q Now, you said that eventually he kind of changed his

1 statement, what did he change his statement to?

2 A Eventually he told me had left through the window.

3 Q Okay.

4 A The bedroom window.

5 Q When he tells you that he goes through the bedroom, is that
6 kind of the usual way that people get in and out of apartments?

7 A No.

8 Q Did he describe for you, you know, why he went out the
9 window?

10 A He told me that's his normal way of coming in and out of the
11 apartment.

12 Q So initially that he told you that he'd gone out the front door,
13 that he was outside, you know, when officers arrived, and then he told
14 you that he went out through the back window, did he ever express to
15 you whether or not he was simply, you know, mistaken about the first
16 statement or whether or not he had actually said it intentionally?

17 A He said it intentionally.

18 Q And he told you that he said it intentionally?

19 A [No audible response.]

20 Q And, I apologize, is that a yes?

21 A Oh, I'm sorry, yes.

22 Q Okay.

23 A I apologize.

24 THE COURT: It's okay.

25 BY MR. ROSE:

1 Q Now, at that point you said that you had the chance to speak
2 with not only Samantha but also one of the first responding officers, do
3 you have kind of a basic overview of everything that happened that
4 night?

5 A Yes.

6 Q So are you aware of, you know, why gloves might be
7 important?

8 A Yes.

9 Q Okay. Are you aware of whether or not gloves were found at
10 the apartment?

11 A Yes.

12 Q Okay. Did you ask the Defendant about the gloves?

13 A Yes, I did.

14 Q What did he tell you about the gloves?

15 A He said he wears them to workout, to do push-ups and
16 sit-ups, and then also if he's outside the apartment he wears them
17 because he lives in a bad neighborhood and he might get into a fight.

18 Q So he told you that he was wearing these -- he would wear
19 these gloves in order to do sit-ups and push-ups?

20 A Yes, sir.

21 Q Okay. Did he tell you where he did those sit-ups and
22 push-ups?

23 A I believe it was the living room where he normally said he
24 does them.

25 Q And then he -- you said that he told you both that he wore

1 them to do, to workout and also if he's going outside, were those two
2 statements back to back?

3 A I don't recall specifically. It was in the general timeframe of
4 when -- when he was speaking about the gloves.

5 Q Now, did you ask him about whether or not he put on the
6 gloves in the bedroom?

7 A We did. We talked about that.

8 Q And what did he tell you about that?

9 A I believe he made some type of reference to working out. He
10 didn't really say why he initially put them on in the bedroom. We'd ask
11 him --we asked him if it was -- was he working out? Was he getting into
12 fight? But he didn't -- wasn't really clear on why he was wearing them
13 inside the bedroom.

14 Q Did he tell you anything else that he would kind of wear
15 whenever he was working out?

16 A I believe he referenced a wrist -- like a bracelet or not a
17 bracelet, a brace, I believe he wore underneath the gloves he said.

18 Q Do you know if a wrist brace was ever found?

19 A I don't recall.

20 Q Was he wearing a wrist brace when you found him -- or when
21 you saw him?

22 A I don't believe he was.

23 Q Did Defendant ever indicate to you kind of when he put on
24 those gloves?

25 A I would have to go back through my -- the statement, I'm

1 sorry.

2 Q So that statement, you indicated that was recorded, was that
3 statement ultimately transcribed?

4 A Yes.

5 Q Would looking at a portion of that statement help to refresh
6 your recollection as to -- as to what he told you when he put those
7 gloves on?

8 A Yes, sir.

9 MR. ROSE: Page 34, towards the top.

10 May I approach the witness?

11 THE COURT: Yes.

12 BY MR. ROSE:

13 Q And -- I'm just going to ask you to look at it, kind of the top of
14 this page, the first half of that, and read that to yourself, not out loud, and
15 then look at me when you're done.

16 A Oh, yes.

17 Q Okay. Did that refresh --

18 A Yes.

19 Q -- looking at that refresh your recollection as to when he told
20 you that he put the gloves on?

21 A Yes, sir.

22 Q And when was it that he told you he put the gloves on?

23 A He was having an argument with Samantha and she had
24 asked him to leave.

25 Q So that's when he puts the gloves on?

1 A Yes.

2 Q Now, you'd indicated that you were familiar with kind of the
3 course of events throughout the night, did you have reason to ask the
4 Defendant about either a stick or a piece of wood?

5 A I did.

6 Q Okay. And who was the source of information as to why you'd
7 ask about a stick or a piece of wood?

8 A Samantha.

9 Q Okay. Did you ask the Defendant about that stick or that
10 piece of wood?

11 A I did.

12 Q Okay. And what did he tell you about it?

13 A He said he -- it had broken. He had hit it or he hit it on a
14 dresser or -- out of anger. And he smashed it and it broke into pieces.

15 Q And -- when you met Samantha, do you meet her face to
16 face?

17 A I did. I interviewed her face to face.

18 Q Did you have the opportunity to observe injuries on her?

19 A I did.

20 Q Okay. Did you have the chance to see an injury to her finger?

21 A I did.

22 Q Did she provide you with one explanation as to how she got
23 that injury?

24 A Yes.

25 The finger?

1 Q Yes.

2 A Yes, sir.

3 Q Okay. Did you ask the Defendant about how Samantha would
4 have gotten that injury?

5 A Yes, I did.

6 Q Initially when you asked him about that, did he tell you
7 whether or not he knows how she got the injury?

8 A He Initially said he did not.

9 Q Okay. He did not know?

10 A Correct.

11 Q Okay. Does he eventually give you an explanation as to how
12 she got that injury?

13 A He gave me an explanation how she may have got that injury.

14 Q Okay. So is he ever able to tell you for certain how she got
15 that injury?

16 A No.

17 Q Okay. What was the potential explanation that he gave you?

18 A He said he was -- had some scissors in his hands and he was
19 trying to scare her.

20 Do you want me to use the words he used?

21 Q If you remember them.

22 A He said he was f -- he was fucking with her.

23 Q Okay.

24 A And he was swinging the scissors and it may have cut her
25 then.

1 MS. MCNEILL: I'm sorry, did he say fucking her or fucking
2 with her?

3 MR. ROSE: With her.

4 THE WITNESS: Fucking with her.

5 THE COURT: Thank you.

6 BY MR. ROSE:

7 Q So the Defendant tells you that he's kind of swinging these
8 scissors around, they may have cut her, did he ever indicate to you
9 when he saw the cut?

10 A I believe he said it was about an hour after -- or an hour later.

11 Q So his indication to you is that that cut was there for an hour or
12 so before he ever saw it?

13 A Yes.

14 Q Okay. Did he tell you whether or not -- or where he ever
15 placed the scissors?

16 A I think it was on the dresser.

17 Q Do you remember him actually using the word "counter"?

18 A Yes, yes. So -- yeah.

19 Q And do you know whether or not he indicated that he put
20 those scissors down inside the bedroom or outside the bedroom?

21 A The counter may have been in the kitchen.

22 Q We're looking it up.

23 A So may -- if -- if it was his kitchen, then it was outside of the
24 bedroom.

25 Q Would looking at a different portion of that statement refresh

1 your recollection as to exactly where he said he put the, the scissors?

2 A Yes, sir.

3 MR. ROSE: May I approach again, Your Honor?

4 THE COURT: Yes.

5 MR. ROSE: Page 69, Counsel.

6 BY MR. ROSE:

7 Q If you look at the bottom half of that page, just read it to
8 yourself, then look back when you're done.

9 A Yes.

10 Q Okay. Does looking at that refresh your recollection as to
11 where the Defendant told you he placed the scissors?

12 A Yes, sir.

13 Q Where did he tell you he put the scissors?

14 A He said he walked out of the bedroom and put them on the
15 counter.

16 Q And is that the last time he indicated to you he ever had those
17 scissors?

18 A Oh, gosh. I don't know if that's -- I can't remember if it's the
19 last time he used them.

20 Q Okay. Did you ever ask the Defendant whether or not he
21 threatened Riley with the scissors?

22 A Yes, I did ask him.

23 Q And what was his response?

24 A He said he did not.

25 Q Do you ever ask him about kind of particular threats that he

1 may have made?

2 A Yes.

3 Q And what were those particular threats?

4 A I asked him if he had threatened to cut her tongue out.

5 Q And you said that he initially told you that he never said that?

6 A Correct.

7 THE COURT: Sorry, whose tongue?

8 THE WITNESS: The little -- Riley, I'm sorry.

9 THE COURT: Okay.

10 MR. ROSE: My apologies, Your Honor. Thank you for the
11 clarification.

12 BY MR. ROSE:

13 Q Did he remain consistent in denying that he ever said that?

14 A No, he was not consistent.

15 Q What do you mean he was not consistent?

16 A Because at the end he said that he may have -- he didn't
17 recall exactly what he said, but he may have said something as he was
18 trying to intimidate Samantha. I don't know if the word "intimidate" was
19 the word, but threat --

20 Q When he was fucking with Samantha?

21 A -- when he was talking to Samantha, yes.

22 Q Okay. Now, obviously, you know, we found out there being a
23 number of changes to the Defendant's version of events as he's talking
24 with you, did he ever, kind of, give you an explanation of why his version
25 of events was changing?

1 A I don't know if he gave me a reason why. He just said that he
2 doesn't remember a lot of times, when he gets mad he doesn't
3 remember what he says exactly.

4 Q Would looking at one last page of the interview refresh your
5 recollection as to whether he tells you, kind of, why his story is not 100
6 percent consistent?

7 A Yes.

8 MR. ROSE: On page 1.

9 MS. MCNEILL: Thank you.

10 MR. ROSE: May I approach again?

11 THE COURT: Yes.

12 MR. ROSE: Thank you, Your Honor.

13 BY MR. ROSE:

14 Q I'd like you to read through, kind of, just this area here.

15 A Okay.

16 Q Have you had a chance to read through that?

17 A Yes.

18 Q So does looking at that refresh your recollection as to, kind of,
19 why the Defendant told you things were changing?

20 A Yes.

21 Q What did he tell you?

22 A He said he was trying to just get his story together to make it
23 add up.

24 Q He told you he just wanted to make his story add up?

25 A Yes.

1 Q So you meet with Samantha, where does Samantha go after
2 you interview her?

3 A She goes to UMC to meet the SANE nurse.

4 Q And you go over there?

5 A No, sir.

6 Q Did you collect a reference sample from Samantha?

7 A I did not.

8 Q Okay.

9 A The nurse did.

10 Q The SANE nurse did?

11 A At UMC.

12 Q Did you collect a reference sample from Riley?

13 A I did not.

14 Q Did you ever meet Riley?

15 A I did not.

16 Q Okay. Is there a specific reason that you personally didn't
17 collect a reference sample from Riley?

18 A There is no reason.

19 Q Other than you never met her?

20 A I -- right, I didn't come in contact with her; Detective Katowich
21 did.

22 Q Did you collect a reference sample from -- and, I apologize,
23 what I mean -- when I say, reference sample, I mean, a reference
24 sample, other person's DNA.

25 Did you ever collect a reference sample from the Defendant?

1 A Yes, we did ask him if he would give one.

2 Q And did he agree to give one?

3 A Did.

4 Q How do you actually get that reference sample?

5 A We had -- we had CSI or we did. We have a buccal kit that
6 has a -- two long, basically, Q-tips where you take -- rub it on the inside
7 of his cheeks, one Q-tip on each one, seal it, and then send it to the lab.

8 Q And did you direct at some point in time the crime lab to test
9 the DNA that both you collected and also what was collected from the
10 SANE nurse?

11 A Yes, we did.

12 Q Okay. Were there other potential things that could have been
13 tested?

14 A Yes.

15 Q Did you have all of them tested?

16 A We didn't have all of them tested. The protocol for the lab is
17 once they do a SANE exam, they find DNA, they stop their testing.
18 That's their protocol. And that is what they have told us directly. And
19 this -- since I've been up there, this is what they do.

20 Q Now, you're a sexual assault detective, can you just override
21 what the crime lab policies are?

22 A No.

23 Q Okay. Have you had the opportunity to, kind of, review all of
24 the reports and other things related to this case?

25 A I did not see the crime lab reports.

1 Q Okay.

2 A I have not seen them.

3 Q Had you had the chance to look at, kind of, the officer's report
4 from that first responding officer?

5 A I have not.

6 Q Did you have a chance to look at the CAD?

7 A Yes.

8 Q Okay. Did you have the opportunity to look at a CAD from
9 June 17th?

10 A I did.

11 Q Do you know whether or not that CAD indicates that police
12 ever responded out there that day?

13 A It did.

14 Q Okay.

15 MR. ROSE: Court's brief indulgence, Your Honor.

16 BY MR. ROSE:

17 Q Do you remember what time they responded out on
18 June 17th?

19 A I know it was a swing shift, because it was a swing shift
20 officer, so that had to be after 3:00 p.m. and about 4:10, because 10:00
21 graveyard comes on and it was a swing shift guy that was doing it.

22 Q Okay.

23 A Specifically, I do not have that exact time.

24 MR. ROSE: Brief indulgence, Your Honor.

25 I have no additional questions at this time, Your Honor.

1 THE COURT: Thank you.

2 Cross?

3 MS. MCNEILL: Thank you, Your Honor.

4 **CROSS-EXAMINATION OF MATT CAMPBELL**

5 BY MS. MCNEILL:

6 Q Good afternoon, Detective.

7 A Hello.

8 Q Sorry, I just need to get my stuff together here for a second.

9 You had -- you indicated that you spoke to a few people who
10 you believe were important to this case, you spoke with Mr. Green, you
11 also spoke with Ms. Weston; correct?

12 A Yes, ma'am.

13 Q Okay. And the statement that you took from Ms. Weston, was
14 done at the Metro substation; correct?

15 A Headquarters.

16 Q Okay. And that was done after uniformed officers had brought
17 her from the scene; right?

18 A Yes, ma'am.

19 Q Okay. And you -- she -- you explained to her who you were
20 and what you were doing and why you were questioning her; correct?

21 A Yes, ma'am.

22 Q Okay. And, in fact, you gave her sort of a lengthy explanation
23 that it was important for her to give you details because she would have
24 to testify later; right, potentially?

25 A Yes, ma'am.

1 Q Okay. And you ever sort of prepped her, like, I'm going to
2 question you the way a defense attorney would so that there's no
3 problems with this statement; right?

4 A I say I may ask you some questions that a defense attorney
5 may ask --

6 Q Okay.

7 A -- if this is to go to trial.

8 Q Okay.

9 A That's normally how you would do it.

10 Q Right.

11 So your goal is to simultaneously make the person feel
12 comfortable enough to talk; right?

13 A Yes, ma'am.

14 Q Okay. People who aren't comfortable don't want to talk to
15 strangers; right?

16 A Sometimes.

17 Q Okay. And so prior to becoming a detective you receive lots
18 of training on how to question witnesses, suspects; correct?

19 A Yes, ma'am.

20 Q And then when you become a sex assault detective you
21 probably have to get additional training on how to question sex assault,
22 potential sex assault victims; right?

23 A In forensic; yes, ma'am.

24 Q Okay. And so you utilized that training when you were
25 questioning Samantha?

1 A Yes.

2 Q Okay. Is it fair to say that talking about the stick, when
3 Samantha told you that Trandon had hit her with a stick, do you
4 remember her telling you that the stick had shattered into three pieces
5 when he hit her?

6 A I believe so. I believe it was the three pieces.

7 Q Okay. Would looking at that statement refresh your
8 recollection?

9 A Yes, ma'am.

10 Q Okay.

11 MS. MCNEILL: And it's page 20, Counsel.

12 If I may approach, Your Honor.

13 THE COURT: Yes.

14 THE WITNESS: Yes, ma'am.

15 BY MS. MCNEILL:

16 Q Okay. Do you now remember that she told you that the stick
17 shattered into three pieces when he hit her in the head?

18 A Yes, ma'am.

19 Q Okay. And I'm going to leave this on here in case you don't
20 remember this next part. Don't refer to it.

21 If you remember, do you remember her after she told you that
22 making it clear that an officer had seen that stick?

23 A I don't remember her saying that.

24 Q Okay. If you could look at that statement and see if that
25 refreshes your recollection.

1 A Oh, here?

2 Q Up here.

3 A Oh, I'm sorry.

4 Q It's all right.

5 A Okay, yes, I -- okay.

6 Q Okay. And so do you remember her making it clear to you
7 that another officer had seen that stick?

8 A Yes, ma'am.

9 Q Okay. So it was clear that she wanted you to know that the
10 police had seen this and it was important --

11 A Yes, ma'am.

12 Q -- right?

13 Okay. You asked her some questions about the sex assault
14 that she reported, did she ever tell you at any time that Trandon said to
15 her, you were raped as a child, I'm going to show you how to do it -- how
16 it should have been done?

17 A I don't remember that.

18 Q Does that statement seem -- I mean, that, kind of, hits you
19 right in the gut; right, to hear somebody mention to a person that they're
20 sexually assaulting that this happened to you before and I'm going to do
21 it again; right?

22 A That's pretty harsh.

23 Q Okay. Do you remember Samantha telling you that Trandon
24 ripped her clothes off?

25 A I do not.

1 Q I'm sorry, you do not?

2 A I do not.

3 Q Okay.

4 MS. MCNEILL: Need to find the page.

5 Sorry, Court's indulgence.

6 THE COURT: Okay.

7 MS. MCNEILL: While I'm looking for that, I'll move to another
8 line of questioning.

9 BY MS. MCNEILL:

10 Q You mentioned that you had talked to her about how her finger
11 got cut; correct?

12 A Yes, ma'am.

13 Q Do you remember her telling you the details and then being a
14 little bit confusing to you?

15 A Of how the finger got cut?

16 Q Yes.

17 A Yeah, because she was talking about a knife.

18 Q Okay. But my question is, when she was giving you the
19 details about how the cut happened, do you remember having to ask her
20 multiple times: I'm sorry, can you explain again what happened?

21 A I probably did because I want the details.

22 Q Do you remember her response to that being that honestly
23 she can't even remember?

24 A That sounds right.

25 Q Okay.

1 MS. MCNEILL: And I'm sorry, it's page 25, Counsel.

2 BY MS. MCNEILL:

3 Q I'm going show you her statement on -- if you remember her
4 saying he ripped his clothes off.

5 A Okay.

6 Q And this one is highlighted.

7 A Okay.

8 Q It should be easy for you.

9 A Okay.

10 Q Does that refresh your recollection?

11 A Yes, ma'am.

12 Q Okay. And so you now remember that she told you that he
13 had ripped her clothes off?

14 A Uh-huh, yes, I'm sorry.

15 Q All right. You indicated that -- I'm sorry, I'm going to move to
16 the interview you did with Mr. Green. When you did that interview he
17 had been arrested by patrol officers out at the Jennydiane address;
18 correct?

19 A He'd been detained; yes, ma'am.

20 Q Okay. And then brought to the Metro headquarters?

21 A Yes, ma'am.

22 Q And put into an interview room --

23 A Yes, ma'am.

24 Q -- right?

25 Prior to becoming -- you were -- a detective, you were a patrol

1 officer?

2 A Yes.

3 Q Okay. Would you agree with me that patrol officers tend to
4 arrest people on minor offenses and transport them to jail, they don't
5 bring them down to headquarters for interrogation a lot; right?

6 A Unlike misdemeanors?

7 Q Yeah.

8 A Yes, ma'am.

9 Q Okay. And so being put into an interrogation room at Metro
10 headquarters is probably suggestive that something serious has gone
11 on?

12 MR. ROSE: Objection, Your Honor. Can we get some
13 clarification as suggested to who and if --

14 MS. MCNEILL: Well, to the person that you're interviewing.

15 MR. ROSE: Well, then I would object as to speculation as to
16 the state of mind of another human being. He can't possibly know that.

17 MS. MCNEILL: I'll --

18 THE COURT: Sustained.

19 MS. MCNEILL: Sure.

20 BY MS. MCNEILL:

21 Q People that you encounter, in the course of your work, would
22 you agree with me that people tend to be nervous when they're speaking
23 with police?

24 A Sometimes they are.

25 Q Okay. And that can be on something ranging from just a

1 traffic citation; right?

2 A Sure.

3 Q Okay. And so Mr. Green was handcuffed by patrol officers at
4 the scene; right?

5 A Yes, ma'am.

6 Q Put into a patrol car, transported to Metro headquarters; right?

7 A Yes, ma'am

8 Q Taken in through headquarters in handcuffs?

9 A Uh-huh.

10 Q Right?

11 A Yes, ma'am.

12 Q Taken to an interrogation room --

13 A Interview room.

14 Q -- right?

15 Okay. Well, okay, interview room.

16 And in the interview rooms, and I haven't seen the, the new
17 building ,but there used to be a bar that you would handcuff the person
18 to when you're questioning them?

19 A In the old one, yes.

20 Q Okay.

21 A The old one, yes.

22 Q Is that still in the --

23 A It's a table.

24 Q Okay.

25 A And there's a -- there is a bar on the table.

1 Q Okay. That you then handcuff the person to?

2 A Yeah, we release one of his hands so he has a free hand and
3 then he's handcuffed to -- what -- so his left hand, I believe his left hand
4 would have been --

5 Q Okay.

6 A -- handcuffed to the table.

7 Q And then you were in the room and you identified yourself as a
8 sex assault detective?

9 A Yes, ma'am.

10 Q And Detective Campbell -- I'm sorry, Katowich was in the
11 room; right, and he also identifies himself as a sex assault detective?

12 A Yes.

13 Q Okay. So you would agree with me that that environment lets
14 a person know that something serious has gone on?

15 A Yes.

16 Q Okay. You indicated that Trandon's story seemed to be
17 inconsistent and confusing; right?

18 A Yes.

19 Q Okay. Do you know Trandon very well?

20 A No, that's the first night I'd met him.

21 Q Okay.

22 A That's the first time.

23 Q So what you might read as being inconsistent, is it fair to say it
24 could just be confusion?

25 A It didn't seem that way that night.

1 Q Okay. But, again, you don't know him --

2 A No, I don't know him.

3 Q -- correct?

4 Do you have any idea how intelligent he is?

5 A No, ma'am.

6 Q Okay. Over the course of questioning him, did you gain an
7 idea about -- if he seemed like an intelligent guy?

8 MR. ROSE: Objection as to relevance.

9 THE COURT: Come on up.

10 [Bench conference transcribed as follows:]

11 MS. MCNEILL: They have suggested that he was inconsistent
12 and sort of lying. I think I can count it up with maybe he's just dumb.

13 MS. LUZIACH: That's also speculation

14 MS. MCNEILL: Well, I mean, if he knows, if he gained
15 another opinion, it's his opinion.

16 MR. ROSE: But his personal opinion is irrelevant.

17 MS. MCNEILL: But it was his personal opinion about whether
18 or not he was trying to confuse him or mislead him.

19 MR. ROSE: It's that he stated that the defendant told him that
20 he had lied previously in his statement, this was specifically about the
21 window.

22 MS. MCNEILL: Okay.

23 MR. ROSE: And he can clarify it because that's in the
24 transcript itself.

25 MS. MCNEILL: Okay. I think it's relevant and the detective

1 believed that he was under --

2 THE COURT: All right. Overruled.

3 Go ahead. Let's move on.

4 [Bench conference ends]

5 BY MS. MCNEILL:

6 Q Detective, did you get an impression about Mr. Green's
7 intelligence through questioning him?

8 A An impression?

9 Q Yeah.

10 Did he seem like the --

11 A He was -- he was articulate.

12 Q Okay. If he was -- okay. I'm going to move past that.

13 You said that Mr. Green, on direct, made it sound as if he was
14 just a, sort of, frequent overnight visitor at the Jennydiane address,
15 remember that?

16 A No, I didn't --

17 Q That he would sort of stay at his --

18 A -- I didn't imply that. I just said he had told me he stayed with
19 his mom and dad or with friends several days out of the week.

20 Q Okay.

21 A He told me that.

22 Q Do you remember him telling you though that he moved in
23 with Samantha --

24 MR. ROSE: Your Honor, can we approach?

25 THE COURT: Yes.

1 [Bench conference transcribed as follows:]

2 MR. ROSE: Your Honor, I object at this point in time on
3 hearsay grounds.

4 THE COURT: I can't hear you.

5 MR. ROSE: I would object at this point in time on hearsay
6 grounds.

7 THE COURT: Okay.

8 MS. MCNEILL: Okay. Well, Your Honor, they've now brought
9 in the statement, and if they introduce pieces of that statement to
10 suggest one thing, I'm allowed to be bringing in cases with that
11 statement to clarify if it's misleading.

12 THE COURT: Right.

13 So you brought out -- you brought out that he said he would
14 stay, you know, whatever, that he stayed there sometimes. That he also
15 stayed with some others.

16 MR. ROSE: Correct.

17 THE COURT: So you're saying she can't follow up what he
18 said about that?

19 MR. ROSE: Correct. I don't think there's anything misleading
20 about the portions that were brought out. And the, you know,
21 completeness doctrine does get around the rest of the hearsay rules.

22 Again, it's not as if we cut him off mid-sentence --

23 THE COURT: All right.

24 MR. ROSE: -- on a --

25 THE COURT: What are you trying to get in?

1 MS. MCNEILL: Well, he actually said that he's lived there
2 since January of this year. What they brought out was that he said he
3 kind of comes and goes.

4 THE COURT: Overruled.

5 Go.

6 MR. ROSE: Thank you.

7 [End of Bench Conference]

8 BY MS. MCNEILL:

9 Q Do you remember him telling you that he had lived -- that he
10 moved in in January of this year, meaning 2017?

11 A Yes.

12 Q You testified that he told you that he had been at some guy
13 named Vinnie's house; correct?

14 A It was either Vince or Vinnie. I don't remember which it was.

15 Q And you indicated that he didn't provide you with an address
16 for Vinnie?

17 A Correct.

18 Q Did you ask him for one?

19 A I asked him where he lived.

20 Q And he did provide you with that general information; correct?

21 A He said a complex -- a couple of complexes over.

22 Q Okay. I asked you if you asked him where Vinnie lives; right?

23 A Yes.

24 Q Do you remember that your question was actually: Where did
25 you spend last night?

1 A Oh, yes, ma'am.

2 Q Okay. And his answer was, and a friend who lives two
3 complexes over?

4 A Yes, ma'am.

5 Q And at no point did you then ask him for Vinnie's actual
6 address; correct?

7 A No, I did not.

8 Q Okay. In fact, you moved onto a different set of questions?

9 A Yes.

10 Q Okay. You talked some about text messages that you
11 indicated that you'd seen in Samantha's phone; correct?

12 A Yes.

13 Q You have the ability to preserve those text messages as a
14 detective; right?

15 A Yes.

16 Q Correct.

17 You didn't do that?

18 A I did not.

19 Q You did ask Samantha questions about these text messages
20 that she says she sent to Leroy Denten; right?

21 A Will you repeat that?

22 Q You did ask Samantha about text messages that she sent to
23 Leroy Denten, the man who is the one who called 9-1-1; right?

24 A I believe I did; yes.

25 Q And do you remember that Samantha had deleted those text

1 messages?

2 A I don't remember that.

3 Q And I'll find -- as he's looking for that, I'll ask you some
4 questions about some other things.

5 You said -- there was some testimony about this conversation
6 that you had with Mr. Green where you were sort of arguing, well, I
7 wouldn't say arguing, where you two were disagreeing where he was
8 saying that he had started texting Samantha at 7:00 a.m.; right?

9 A Yes.

10 Q And you -- you had told him, well, in fact, I've seen messages
11 and they start at 3:12 a.m.--

12 A Yes.

13 Q -- right?

14 And he was sort of indicating that that didn't mean that he was
15 necessarily outside at the time?

16 A Yes.

17 Q Okay. You would agree with me that I can send a text
18 message from anywhere at any time that says anything --

19 A Yes.

20 Q -- right?

21 And so I could be nearby but I'll send a text message saying,
22 why don't you let me in?

23 A Sure.

24 Q The State asked you a question about Mr. Green's
25 explanation being about why his story was changing, and you said his

1 answer was that he was trying to make it so it all added up; correct?

2 A Yes, ma'am.

3 Q I want to put some context to that, would you agree with me at
4 a prior -- that prior to asking him that statement you had confronted him
5 with some -- I don't want to say facts, with some evidence that you --
6 well, I'm going to try and word this in a way that makes sense to all of
7 us.

8 You had confronted him with some pieces of evidence that
9 may or may not have been true but that were designed to elicit some
10 information from him; correct?

11 A What are you speaking of specifically?

12 Q When you question a suspect you're allowed to sort of
13 make-up facts about forensics, for example.

14 A Use a ruse; yes, ma'am.

15 Q Right, okay.

16 And you're allowed to say things, for example, like, well, we
17 have your fingerprints; right? And maybe you don't have them; right?
18 But you're allowed to do that because the thinking is, at that point, they'll
19 be a blank, well, you got me, I might as well tell you what happened;
20 right?

21 A Yes.

22 Q Okay. And so you used some of those ruses with Mr. Green;
23 right?

24 A Yes.

25 Q Okay. You talked to him about the fact that there would be

1 splinters in Samantha's head from being hit with a stick?

2 A I believe that was Detective Katowich.

3 Q Okay. But you were present for that line of questioning.

4 Okay. And you had confronted him with the fact that you'd
5 seen these text messages?

6 A Yes.

7 Q Okay. And you had, I think, one of you mentioned to him
8 something about, well, we have these machines that can map out a
9 wound and tell us exactly what item cut -- made the cut?

10 A I don't remember that, but if it's in the transcripts.

11 Q If it's in the transcripts, you'll reemphasis it; okay.

12 And, again, those were designed to sort of get him to think,
13 they've got me; right?

14 A It's designed to --

15 Q Okay.

16 A -- try and get him to talk.

17 Q And that line of questioning you're sort of doing before you get
18 to this point where he says, I'm trying to get it so my story adds up;
19 right?

20 A Yes.

21 Q Okay.

22 MS. MCNEILL: Court's indulgence.

23 BY MS. MCNEILL:

24 Q In fact, towards the end of the interview, would you agree with
25 me, that he became fairly insistent about what he could do to help prove

1 his innocence?

2 A I don't recall that.

3 Q Around the point where he said he was trying to think of how
4 he could get his story to add up, he -- he did admit to you that he had
5 lied about going into the window; correct?

6 A Yes, ma'am.

7 Q And he admitted that he would sometimes say not very nice
8 things to Samantha; correct?

9 A Yes.

10 Q You asked him if he would consent to giving DNA and he
11 agreed to do that; right?

12 A Yes.

13 Q Okay. Not everybody consents to giving their DNA; right?

14 A Yes, ma'am.

15 Q Sometimes you have to get a warrant?

16 A Correct.

17 Q And you indicated that this story -- this statement about getting
18 his story to add up, do you remember prior to that him indicating to you
19 that what he was trying to do was convince you because he was telling
20 the truth?

21 A I don't remember. But I mean, if it's in --

22 Q Okay. Would looking at this --

23 A -- again, if it's in the transcript.

24 Q -- statement refresh your recollection?

25 MS. MCNEILL: 116.

1 If I may approach, Your Honor?

2 THE COURT: Yeah.

3 BY MS. MCNEILL:

4 Q Okay. Do you remember him indicating that he was trying to
5 convince you, not necessarily convince you, but he wanted you to know
6 that he was telling the truth?

7 A Yes, ma'am.

8 Q All right. Would you agree with me that being confronted by a
9 detective who's telling you that he has certain forensic information, such
10 as, you're going to find splinters in her head, you're going to map this
11 wound out and know exactly what caused it, could be fairly confusing if
12 you knew you didn't do those things?

13 MR. ROSE: Objection as to speculation.

14 BY MS. MCNEILL:

15 Q Well, I mean, that's the point of the ruse; right, is that a guilty
16 person will then frequently confess; right?

17 A The point of the ruse is just trying to get the truth.

18 Q Well, how are you going to get the truth if the person isn't
19 aware that it's a lie?

20 A That wasn't the only piece of evidence we had was the ruse.

21 Q Sure.

22 But my questions are about the ruse; right, because you're
23 indicating that he's sort of saying, I got to get my story to add up.

24 What I'm asking is this: If I told you that your fingerprints were
25 on my phone, you might be confused about that; right?

1 A No, I would not be confused.

2 Q Okay. If you were not a sex assault detective, if you were a
3 lay person and I said, your fingerprints are on my phone, I've processed
4 it.

5 A I've never --

6 Q I went to the D -- I went to the fingerprint lab and I processed
7 it.

8 A Okay.

9 Q You would know that your fingerprints couldn't be on that
10 phone; right?

11 A 100 percent.

12 Q Because you would know you hadn't touched it; right?

13 A Yes, correct.

14 Q But if a detective was insisting to you that they had all of this
15 evidence, would you might be a little confused?

16 A No.

17 Q Do you think people who are less savvy than you might be?

18 A I'm not savvy. I know I didn't touch your phone.

19 Q Okay. Well, let me ask you this, there are rules that you have
20 to follow when you're questioning suspects; right?

21 A Yes, ma'am.

22 Q And one of the things that you have to be careful about is
23 getting false confessions; right?

24 A Yes.

25 Q And those happen; right?

1 A They have.

2 Q Okay. And so people react to questioning in all kinds of ways;
3 right?

4 A Yes.

5 Q Some people will confess to something they didn't do because
6 they're just worn down, I guess, or confused, whatever their reasoning
7 is; right?

8 A Okay.

9 Q Okay. So you could see how giving someone information that
10 they know doesn't exist might be confusing?

11 A I don't know if it's going to be confusing on that aspect. He
12 answered all my questions for the hour, however long the interview was.
13 He had certain information on, that he was dialed in on, and there was
14 some that he was not.

15 Q Sure.

16 A And it was contradicting.

17 Q Okay. And I understand that you don't want to answer my
18 question in the way that I think you should, but we'll have to --

19 MR. ROSE: I would object to that as, --

20 MS. MCNEILL: -- disagree.

21 MR. ROSE: -- A, not being a question.

22 THE COURT: All right.

23 MR. ROSE: B, being argumentative.

24 MS. MCNEILL: I'll withdraw it.

25 THE COURT: The jury will disregard the comments of

1 counsel.

2 BY MS. MCNEILL:

3 Q When you indicated that he gave you some information but
4 didn't want to give you other information; right?

5 A [No audible response.]

6 Q Okay. You're assuming that Samantha Weston was telling
7 you the truth; right?

8 A The evidence pointed that way; yes, ma'am.

9 Q Okay. Well, you don't actually know the state of the evidence
10 at this point, do you?

11 A I know the injury to her hand and to her head.

12 Q Okay. Were you aware that --

13 A And I knew the statement that --

14 Q I'm sorry?

15 A -- I know the statement that Todd told me that Riley --

16 Q Okay. Well --

17 A -- was consistent --

18 Q -- let -- let's -- no one asked you a question about that. But
19 since --

20 A Okay.

21 Q -- you bring it up, let's do this. You are aware, based on what
22 you were told about Riley's statement, would you agree with me Riley's
23 statement was a little inconsistent to what Samantha said?

24 A I don't know all of her statement.

25 Q Okay. So you just told me that you knew what Riley had said?

1 A What Todd had told me prior to going into interview Mr. Green.

2 Q Okay. And Todd gave you information about --

3 A It was not verbatim.

4 Q -- I'm sorry, Detective , can I finish my question --

5 A Oh, I'm sorry.

6 Q -- before you answer.

7 A Yes, ma'am.

8 Q Thank you.

9 You indicated that you went -- that Todd told you what Riley

10 had said; right?

11 A In a nutshell; yes, ma'am.

12 Q Okay. Were you aware that what Riley had said is

13 inconsistent to what Samantha said?

14 A I was not.

15 Q Okay. Are you aware -- you knew that Samantha told you that

16 she was pregnant when you interviewed her; correct?

17 A Yes.

18 Q Are you aware that she's not, in fact, pregnant?

19 A I was not.

20 Q So my point is, you believe you knew what happened based

21 on what Samantha told you; right?

22 A And the injuries she had, yes.

23 Q Okay. And the injuries that she had.

24 But you weren't in the apartment that night?

25 A No.

1 Q Okay. And -- but you believed, when you were sitting in the
2 interview room with Trandon Green, that you knew what happened;
3 right?

4 A I -- yes.

5 Q Okay. And that's how you're approaching him when you're
6 questioning him; right?

7 A No. I didn't go in the room initially thinking he was guilty,
8 that's not my job.

9 Q Okay.

10 MS. MCNEILL: Court's indulgence.

11 BY MS. MCNEILL:

12 Q Did you tell him multiple times that he was lying?

13 A Yes.

14 Q That would sort of suggest that you thought he was lying;
15 right?

16 A I didn't think on some of those questions.

17 Q Correct.

18 A I knew the facts.

19 Q Okay. Well, you knew the facts as they'd been reported to
20 you, Detective; right?

21 A Reported by who?

22 Q Samantha Weston.

23 A No.

24 Q Okay.

25 A I knew the facts reported to me from a police officer --

1 Q Okay.

2 A -- who was at the front door.

3 Q Sure.

4 Okay. Let me just ask you this, if I told you that Samantha
5 had admitted lying about certain pieces of her statement --

6 MR. ROSE: Your Honor, could we approach briefly?

7 MS. MCNEILL: -- you would now have to agree with me --

8 THE COURT: Hold -- hold on. Come up.

9 MS. MCNEILL: -- that the --

10 THE COURT: Please stop. Come on up.

11 [Bench conference transcribed as follows:]

12 MR. ROSE: I'm going to be objecting to asking this particular
13 question. First off, we don't have any indication as to when Ms. Weston
14 supposedly admitted to lying about certain things and whether it was
15 today or to the detective or to anybody else.

16 Additionally, we're getting really close to even commenting on
17 the credibility about the witnesses, which, obviously, no witness is
18 allowed to do. And I think it's an improper question.

19 MS. MCNEILL: I'm not asking him to comment on anyone's
20 credibility. But I'm trying to get him to admit that when he went into that
21 room he believed Trandon was guilty.

22 MR. ROSE: I think he was just --

23 THE COURT: Okay. So what -- but the question you were
24 just asking was about --

25 MS. MCNEILL: Right. Because he's saying, well, no, I knew

1 what happened because other people had told me. And your
2 information is only good as the person who reports it to him.

3 THE COURT: Okay. But that -- let's talk about the question
4 you asked him.

5 MS. MCNEILL: Okay. The question I asked him was if I told
6 you that Samantha was -- had admitted lying about certain pieces of her
7 interview, would you then agree with me that your information wasn't
8 very good when you went into that room.

9 THE COURT: About being pregnant?

10 MS. MCNEILL: Yes.

11 THE COURT: Okay. Just ask about that then.

12 MS. MCNEILL: Okay. Well, I'll just --

13 [End of bench conference]

14 BY MS. MCNEILL:

15 Q Detective, your information is only as good as the veracity of
16 the person it comes from; right?

17 A That can be proved, yes.

18 MS. MCNEILL: Court's indulgence.

19 BY MS. MCNEILL:

20 Q I'm going to go back. I'd asked you if Samantha had admitted
21 to deleting text messages from Mr. Denten and you said you didn't
22 remember, would showing you that statement refresh your recollection?

23 A Yes, ma'am.

24 MR. ROSE: What page?.

25 MS. MCNEILL: Oh, I'm sorry, 47.

1 THE WITNESS: That he texted?

2 MS. MCNEILL: Sorry. Oh.

3 THE WITNESS: Yes.

4 BY MS. MCNEILL:

5 Q Okay. So she told you that she had deleted those text
6 messages?

7 A Yes, ma'am.

8 Q And did Mr. Denten provide those text messages to you from
9 his phone?

10 A I don't recall.

11 Q Okay. If he had provided those to you, you would have
12 provided them to the State in your discovery packet --

13 A Yes.

14 Q -- correct?

15 Okay. So we can assume by the fact that they don't have
16 them, that you did not collect them?

17 A Yes.

18 Q At any point did you ask to go through Mr. Green's phone
19 while you were interviewing him?

20 A I don't believe I did.

21 Q Okay.

22 MS. MCNEILL: Court's indulgence.

23 BY MS. MCNEILL:

24 Q I asked you if Mr. Green, sort of towards the end of the
25 interview, was offering to do basically anything he could to help prove

1 his innocence.

2 Remember those questions?

3 A Yes, ma'am.

4 Q Okay. And you said that he offered up his DNA; right?

5 A Yes.

6 Q In fact, he came in and the crime scene examiner came in and
7 he cooperatively swabbed his own penis for you; correct?

8 A I stepped out.

9 Q Okay.

10 A I think --

11 Q Well, maybe you got to --

12 A -- I think Katowich was -- may have been.

13 Q -- miss that part..

14 A I think Katowich may have been in there when that happened.

15 Q Okay. Was there anything else that he offered to do for you to
16 prove his innocence?

17 MR. ROSE: Your Honor, can we approach?

18 THE COURT: Yes.

19 [Bench conference transcribed as follows:]

20 THE COURT: Are we close to being done?

21 MS. MCNEILL: Yes.

22 THE COURT: Asking for a friend.

23 MS. MCNEILL: Yes, sorry, Your Honor, yes.

24 MR. ROSE: Yeah, and it should be brief --

25 THE COURT: Okay. I understand it's the detective.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Go ahead.

MR. ROSE: -- to be brief, two things. First off, it's hearsay --

THE COURT: Right.

MR. ROSE: -- there's nothing relating between this or anything else that would allow that part of it.

Additionally, if I remember correctly, one of the things that he offers to do is to take a polygraph. And my concern is that the detective might mention that. And obviously results of those aren't inadmissible.

MS. LUZAICH: If he offered to take it is also inadmissible.

MS. MCNEILL: Okay. I'll move on, Your Honor.

THE COURT: Okay. Thank you.

[End of bench conference]

MS. MCNEILL: Detective, I have nothing --

THE WITNESS: I'm sorry, I didn't --

THE COURT: She has nothing else.

THE WITNESS: Oh, okay.

THE COURT: All right. Redirect.

MR. ROSE: I'll be quick, Judge.

THE COURT: Thank you.

Go.

REDIRECT EXAMINATION OF MATT CAMPBELL

BY MR. ROSE:

Q Detective, you were asked about confronting with the Defendant and telling him that he was lying about certain things.

Do you remember that question on cross?

1 A Yeah, yes, I do.

2 Q Okay. Do you remember confronting him and telling him that
3 he was lying to you about the fact that he -- when he said that he went
4 out the front door?

5 A Yes.

6 Q Okay. At that point in time, had you had the opportunity to talk
7 to the officers who were outside of the front door prior to approaching
8 the door?

9 A Yes, I did.

10 Q Okay. So based on your conversations with them, that's why
11 you told him that he was lying about going out the front door?

12 A Yes, sir.

13 Q Okay. And did he also, later on, admit to you that he had lied
14 about going out the front door?

15 A Yes, he did.

16 Q Okay. So after you tell him that he's lying, he admits to you
17 that he lied?

18 A Yes.

19 Q Okay. And maybe I misunderstood kind of the timing of this,
20 but does he tell you first that he's trying to convince you he's telling the
21 truth and then tell you he's changing his story to make that all that up?

22 A I don't -- I don't remember the sequence that he did.

23 Q But if it were in the transcript that way, that's how it would
24 have happened?

25 A Yes.

1 Q Okay.

2 MR. ROSE: Brief indulgence, Your Honor.

3 We have no further questions, Judge.

4 THE COURT: Any recross?

5 MS. MCNEILL: No, Your Honor.

6 THE COURT: Thank you, Detective.

7 THE WITNESS: Thank you, ma'am.

8 THE COURT: Appreciate your time.

9 Okay, folks, so -- well, hold on.

10 So, State, anything else?

11 MR. ROSE: Not at this time, Your Honor.

12 MS. LUZAICH: Can we just check with your clerk and make

13 sure all of our evidence is admitted that we want in?

14 THE COURT: Yes.

15 [Pause in proceedings]

16 MR. ROSE: Your Honor, at this point in time the State would

17 rest.

18 THE COURT: Okay. Thank you.

19 All right, folks, so we are going to break for the weekend at

20 this point. I need you back -- oh.

21 MR. ROSE: You want us to approach?

22 THE COURT: Yeah. Come on up

23 Sorry, give me one second so I can tell you what time to come

24 Monday.

25 [Bench conference transcribed as follows:]

1 MS. LUZAICH: Well, I sure worked off that itty-bitty piece of
2 chocolate I ate this morning.

3 THE COURT: So we still need to deal with instructions.

4 MR. ROSE: Correct.

5 THE COURT: I don't know how much -- there's probably not a
6 lot of dispute about State's proposed but there are defense proposed
7 and I don't know if you're going to have anything additional to add to it.

8 MR. ROSE: My --

9 THE COURT: At this point, I'm thinking about just having
10 them come at 1:00 or something.

11 MS. LUZAICH: Yeah.

12 MR. ROSE: That would be my suggestion because that way
13 we can settle the jury instructions and also we can canvass the
14 defendant about --

15 THE COURT: Well, I think I'm going to quickly canvass him
16 right now.

17 MR. ROSE: Oh, okay.

18 MS. MCNEILL: Okay. Sorry.

19 MR. ROSE: Whatever Your Honor wants.

20 THE COURT: I'm already here.

21 MS. LUZAICH: Do you still think you're calling witnesses?

22 MS. MCNEILL: Yeah.

23 MS. LUZAICH: Okay.

24 THE COURT: Yeah, okay, so just 1 o'clock tell them.

25 MS. MCNEILL: Yeah.

1 MR. ROSE: Perfect.

2 Thank you, Judge.

3 THE COURT: All right. Thank you.

4 [End of bench conference]

5 THE COURT: All right, folks, so I'm not going to be able to
6 start with you guys on Monday until 1 o'clock in the afternoon. So you
7 get to sleep late on Monday, just make sure you're here at 1:00, and
8 we'll get going and be pretty close to finishing up, if not, completely done
9 on Monday.

10 So -- during -- I may need you on Tuesday. Don't start making
11 other plans for Tuesday.

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

19 Jurors are excused.

20 Counsel, stay a minute.

21 THE MARSHAL: All rise.

22 [Jury panel exits the courtroom]

23 THE MARSHAL: Please be seated.

24 THE COURT: You know what, actually I need, Mr. Green, if
25 you can please stand for a moment.

1 MS. MCNEILL: Can I just tell him what you're going to talk to
2 him about?

3 THE COURT: Yes.

4 [Colloquy between defense counsel and the Defendant]

5 THE COURT: All right. So, Mr. Green, under the constitution
6 of the United States, and under the constitution of the State of Nevada,
7 you cannot be compelled or forced to testify in this case.

8 You understand that?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: Okay. And you may at your own request give
11 up this right and take the witness stand and testify. If you do, you'll be
12 subject to cross-examination by the State, and anything you say on
13 direct or cross-examination would be the subject of fair comment when
14 State argues to the jury at the end of the case.

15 You understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: Okay. And also, if you choose not to testify, I
18 won't allow the State to make any comments to the jury about the fact
19 that you have exercised your right not to testify.

20 Do you understand that?

21 THE DEFENDANT: Yes.

22 THE COURT: Now, also, if you elect not to testify, and if your
23 attorney requests, I will actually instruct the jurors that they're not to
24 discuss or consider the fact that you've exercised your right not to testify
25 when they're back deliberating

1 Do you understand that?

2 THE DEFENDANT: Yes.

3 THE COURT: Okay. Now, if you do testify, then the State will
4 be allowed to mention that a felony convictions in the last ten years, and
5 without getting into the details of it, they'll be allowed to ask you whether
6 you've been convicted of a felony and what the felony was and when it
7 happened

8 Do you understand that?

9 THE DEFENDANT: Yes.

10 THE COURT: And it's my understanding there are felony
11 convictions in the last ten years, they'd be able to cross-examine you
12 and bring that up if you do testify

13 Do you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: Now, the decision whether to testify or not is
16 one that is up to you because you're the Defendant here; you're the one
17 facing the charges

18 You understand that?

19 THE DEFENDANT: Yes.

20 THE COURT: So there are lots of decisions that the attorney
21 makes about strategy and questioning during the course of trial, but this
22 decision about whether to testify or not is one that you get to make the
23 final decision on

24 Do you understand?

25 THE DEFENDANT: Yes.

1 THE COURT: Now, of course, your Counsel is experienced
2 and you should certainly talk to your Counsel before making that
3 decision and consider your Counsel's advice, but ultimately it's left up to
4 you.

5 So it appears that that decision will have to be made on
6 Monday. So you should have that conversation and be ready to act one
7 way or the other when -- when it's Defense's turn to present evidence on
8 Monday

9 Okay?

10 THE DEFENDANT: Okay.

11 MS. MCNEILL: We've talked about it. I think we've made the
12 decision, but we can put it on the record Monday.

13 THE COURT: Sure.

14 Or, you know, you can just put him on or not at the time.

15 MS. MCNEILL: Thank you, Your Honor.

16 THE COURT: All right. Have a good weekend. See you
17 Monday.

18 So you guys, to be clear, you guys are coming at 11:00 and
19 we'll discuss instructions then, and we'll start up with the jury at 1:00.

20 MS. MCNEILL: Yes, Your Honor.

21 THE CORRECTIONS OFFICER: Do you need us again back
22 at 11:00, Judge, or do you want him at 1:00?

23 THE COURT: I need -- good question.

24 [Colloquy between defense counsel and the Defendant]

25 MS. MCNEILL: Yes, okay.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: Okay. So, yes, at 11:00.

Thank you.

MS. MCNEILL: Thank you, Your Honor.


MR. ROSE: Thank you, Your Honor.

THE MARSHAL: All rise. Court's in recess.

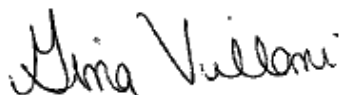
[Jury trial, Day, 5 concluded at 5:13 p.m.]

* * * * *

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


Kerry Esparza
Court Recorder/Transcriber

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


Gina Villani
Court Recorder/Transcriber
District Court Dept. IX



1 RTRAN

2
3
4
5 DISTRICT COURT
6 CLARK COUNTY, NEVADA

7
8 THE STATE OF NEVADA,
9 Plaintiff,

10 vs.

11 TRANDON GREEN,
12 Defendant.

)
) CASE#: C-17-325044-1
)
) DEPT. VI
)
)
)
)
)

13
14 BEFORE THE HONORABLE ELISSA F. CADISH, DISTRICT COURT JUDGE
15 MONDAY, JULY 2, 2018

16 **RECORDER'S TRANSCRIPT OF PROCEEDINGS:**
17 **JURY TRIAL - DAY 6**

18 APPEARANCES:

19 For the State:

LISA LUZAICH, ESQ.
Chief Deputy District Attorney
STEVEN ROSE, ESQ.
Deputy District Attorney

22 For the Defendant:

MONIQUE A. MCNEILL, ESQ.

23
24
25 RECORDED BY: DE'AWNA CREWS, COURT RECORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX OF WITNESSES

<u>WITNESS:</u>	<u>PAGE</u>
MARILYN GREEN	
Direct Examination by Ms. McNeill	14
Cross-Examination by Mr. Rose	19
Redirect Examination by Ms. McNeill	24
CLOSING BY THE STATE	31
CLOSING BY THE DEFENSE	63
REBUTTAL BY THE STATE	94

1 Las Vegas, Nevada, Monday, July 2, 2018

2
3 [Case called at 12:59 p.m.]

4 [Outside the Presence of the Jury]

5 THE MARSHAL: All rise. District Court Department VI is now
6 in session. The Honorable Judge Elissa Cadish presiding. Please be
7 seated come to order.

8 THE COURT: Okay. So --

9 [Colloquy between the Court and the Marshal]

10 THE COURT: All right. So, we had -- I see that the State sent
11 a revised set of instructions.

12 MS. LUZAICH: Yes, Judge, yesterday.

13 THE COURT: And what was changed?

14 MR. ROSE: So, we added in the *Mendoza* instruction with
15 regard to finding both the first-degree kidnapping the sexual assault and
16 everything that they would need to find in order to return verdicts on both
17 of those. And then the second one that I sent over yesterday. That has
18 in was a flight instruction.

19 THE COURT: Okay. Ms. McNeill, have you had an
20 opportunity to review the State's proposed instructions?

21 MS. MCNEILL: I have, Your Honor, including the added
22 *Mendoza* and flight instructions. And I don't have any objection.

23 THE COURT: Okay. There was one -- does it include a right
24 not to testify?

25 MR. ROSE: It does.

1 THE COURT: It does.

2 MR. ROSE: Obviously if counsel doesn't want that --

3 THE COURT: Obviously we'll only give that --

4 MR. ROSE: Right.

5 THE COURT: -- if he chooses not to testify. I thought -- I was

6 trying to find. I thought there was one instruction that had the wrong

7 gender.

8 MS. MCNEILL: Oh, there was one. I can't remember which

9 one is it was.

10 MR. ROSE: Oh, what did I do?

11 THE COURT: So now I'm trying to find my notes to see --

12 And of course I can't find it. I guess that's the way today is. Ah, in fact it

13 was the right not to testify. She is instead of he is. Now I haven't looked

14 in the new set to see.

15 MS. MCNEILL: It's still there.

16 MR. ROSE: No, it would still be the same thing.

17 THE COURT: Yeah.

18 MR. ROSE: Sorry, about that, Judge.

19 THE COURT: That's okay. So, I'm just going to ask Tim to

20 go ahead and change on that one the shes to hes. Other than that

21 though, so --

22 [Colloquy between counsel]

23 THE COURT: All right. So, then in terms of the -- sorry,

24 before I leave the State proposed, is there any issues with the verdict

25 form?

1 MS. MCNEILL: No, Your Honor.

2 THE COURT: Okay. Thank you. All right. Defense
3 proposed instructions, so what I got a proposed credibility instruction
4 which is I guess expanded from what the State has submitted.

5 Are you -- so are you arguing to give that one instead of the
6 other one?

7 MS. MCNEILL: Yes, Your Honor.

8 THE COURT: So is State objecting to the defense proposed
9 credibility.

10 MS. LUZAICH: Well the issue that I have and always or
11 generally do have with the one the defense proposes is they make it --
12 this instruction sounds like that's the only thing that they can consider in
13 assessing the credibility of witnesses. The way the State's instruction is
14 they can consider that and other things.

15 MS. MCNEILL: Your Honor, did you want me to respond?

16 THE COURT: Yes.

17 MS. MCNEILL: It's clear from my instruction that it says
18 among the factors that you may consider. So, it's clearly not an
19 exhaustive list of things they can consider. I've been allowed this
20 instruction before in cases. It's not an inaccurate statement of the law.
21 I'm entitled to a jury instruction on the theory of my defense. Where
22 credibility is the heart of our defense, and so I would ask that we be
23 given this instruction.

24 THE COURT: So, the second paragraph, this one sentence
25 paragraph, you do not believe a witness' testimony that he or she no

1 longer remembers something, that testimony is inconsistent with the
2 witness' earlier statement on that subject. So, you're talking -- like trying
3 to give them an evidentiary rule on like --

4 MS. MCNEILL: Well --

5 THE COURT: -- so I mean, that's sort of like the inconsistent -
6 - the case law interpreting the prior inconsistent statement rule. Is that
7 where you're going?

8 MS. MCNEILL: Well, yeah, I've taken this from the Ninth
9 Circuit Jury Instructions, Your Honor. The -- I mean, I think if you testify
10 that you don't remember something anymore that is inconsistent to
11 statements that you've given. I'd be happy to take that sentence out if
12 that's a problem for the Court.

13 MS. LUZAICH: It just kind of leaves it hanging out there.
14 Because in truth and in fact what the statute and case law says is if you
15 believe that somebody no longer remembers something it's inconsistent.
16 And then it tells you what you can do next. This just kind of ends there,
17 that sentence.

18 THE COURT: Right, because what it means is then you can
19 bring in the prior -

20 MS. LUZAICH: Prior --

21 THE COURT: -- statement as inconsistent.

22 MS. LUZAICH: Correct. And consider it as substantive
23 evidence as well as impeachment evidence.

24 THE COURT: All right. So, let me read the rest of it then.
25 I've read it before. I'm just going over it again. And this is -- this

1 language is from the Ninth Circuit Model Instruction?

2 MS. MCNEILL: Yes, Your Honor. Like I said, I'd be happy to
3 take out that sentence.

4 THE COURT: Right, yeah,

5 MS. MCNEILL: Just have my block with then the last part
6 about if you believe that a witness has lied.

7 THE COURT: Oh, yeah, yeah. That's -- that should definitely.
8 Okay. Anything further from either of you before I rule --

9 MS. LUZAICH: No, Judge.

10 THE COURT: -- on this particular instruction?

11 MS. MCNEILL: No, Your Honor.

12 MR. ROSE: No, Your Honor.

13 THE COURT: I guess I'm okay with giving the defense
14 proposed instruction except for that one sentence. I just I don't like it.
15 So that'll have to replace the State's proposed credibility instruction.

16 MR. ROSE: Yes, Your Honor.

17 THE COURT: Oh, any -- the whole thing is his or her. Yes,
18 his or her. Okay, now let's talk about the defense proposed instruction
19 on burglarizing your own home.

20 So, I did read the *White* case from 2014, which was cited. So,
21 is State objecting to this instruction?

22 MR. ROSE: To the -- to lines 7 and 8. I think it's lines 4
23 through 6 are an accurate statement of law and 9 and 10 obviously an
24 accurate statement of the law. But lines 7 and 8, I don't know that that
25 was part of the holding that was in *White*. Kind of what they talk about is

1 that although, you know, possessory interest is one aspect of it, you kind
2 of have to consider other aspects. But I didn't read anywhere in there
3 specifically any statement that, you know, leaving the home for a few
4 days doesn't equal the relinquishment of rights.

5 Now looking as some of the California cases that *White* cited
6 to, one of those actually did involve somebody who just the night before
7 had voluntarily left the residence and handed his keys back to the owner
8 of the particular -- the resident of that particular apartment. And in that
9 particular instance the California court found it -- kind of distinguished it
10 from cases more similar to *White* where the person still is an ongoing
11 renter with that. So, I think with the exception to 7 and -- lines 7 and 8
12 we don't object. But to 7 and 8 I don't know if that was supported by
13 *White*.

14 MS. MCNEILL: And, Your Honor, I actually took that
15 language, while the specific language wasn't in *White*, in *White*, in that
16 case, they indicated that even though the defendant orally agreed to
17 stay somewhere else during the week, he still maintained an absolute
18 right to the residence and did not forfeit any possessory right that he had
19 in it. And so --

20 THE COURT: Well, right, but in that case it was that -- like, he
21 was staying elsewhere during every week and still staying there on the
22 weekends with the kids and had a key. I -- at least there was some
23 reference in there --

24 MR. ROSE: He had a key and was also listed as a co-tenant.

25 MS. MCNEILL: Well and I mean, other than instructing the

1 jury on the entirety of landlord/tenant law, Your Honor, the testimony
2 was inconsistent as far as whether or not Mr. Green was actually a
3 resident. As you know, you don't have to be on the lease to be
4 considered a resident.

5 THE COURT: Right.

6 MS. MCNEILL: And he certainly had his belongings still inside
7 the apartment. He told the police that he'd been living there since
8 January. She changed the locks, but again that doesn't mean that he
9 didn't have a lawful right to live there. She would have had to evict him
10 if she didn't want him living there. And so, I think that they're allowed to
11 be instructed that just because he would go stay at his parents for a few
12 days at a time doesn't mean he relinquished any right he had to the
13 residence.

14 THE COURT: Right, so it's not -- I mean, the court in *White*
15 didn't adopt some Black letter rule of law that says, you know, if you
16 leave for a few days you don't relinquish your right. It basically said
17 under all the circumstances there, he didn't relinquish his right.

18 MS. MCNEILL: Sure, but I don't think -- I don't think my
19 sentence is inconsistent with the law. I mean, leaving a home for a few
20 days does not equal relinquishing possessory rights. I think that's
21 common sense. I don't think that's a misstatement of the law. It's up to
22 the jury to decide, I guess, if that was his home before she changed the
23 locks. And her self-remedy movement to kick him out of the house
24 doesn't equate to him relinquishing his rights. I think it's up for the jury
25 to decide. But it's not an inaccurate statement of the law to say that

1 leaving a home for a few days does not equal relinquishing your
2 possessory rights.

3 THE COURT: Okay, so here's what I'm going to do on that
4 sentence is because the -- looking at the language in *White* and here,
5 instead of the language you have I would change to staying elsewhere
6 for a few days does not necessarily relinquish any possessory right in
7 the home but is one factor to consider. Okay, that's -- I guess that's my
8 ruling. You don't necessarily have to agree, but that's where I am.

9 MS. MCNEILL: Yes, Your Honor.

10 THE COURT: Because I want the does not necessarily
11 relinquish a right, and because the language up above talks about
12 ownership being one factor to consider, so I'm saying this is also a factor
13 to consider. And I changed leaving a home to staying elsewhere, which
14 is the language that was used in the *White* case.

15 MS. MCNEILL: Yes, Your Honor.

16 THE COURT: So just one more time and then -- so let me re-
17 read this. So, staying elsewhere for a few days does not necessarily
18 relinquish any possessory right in the home but is one factor to consider.
19 And then up above on the first paragraph it should be take -- there
20 shouldn't be the word right between absolute and unconditional right.
21 So, it be had an absolute unconditional right to enter the home.

22 MS. MCNEILL: I'm sorry.

23 THE COURT: That's just proofreading.

24 MS. MCNEILL: Yes. Thank you.

25 THE COURT: Okay. No other instruction issues?

1 MS. MCNEILL: No, Your Honor. Oh, sorry.

2 MR. ROSE: None by the State.

3 MS. MCNEILL: None for me.

4 THE COURT: Oh, so where -- it should go I would think after

5 --

6 MR. ROSE: Shortly after burglary --

7 THE COURT: -- burglary instructions wherever they are.

8 Okay, so let me take a look here. It looks to me, looking at the State's --
9 the current version of the States, so page 14 is the consent to enter is
10 not a defense. It seems to me maybe right after that is where this would
11 go.

12 MS. MCNEILL: That's fine, Your Honor.

13 MR. ROSE: Fine for the State.

14 THE COURT: Makes sense, after 14. Okay, so we're giving
15 the defense proposed credibility with the changes we discussed and that
16 proposed instruction with the changes I just made.

17 We're going to try to -- we're going to take a period of time
18 now for everyone to at least have something for lunch. We've told the
19 jurors it would be at least 1:30; it may be a little after that. I do have to
20 give my staff some time to eat something.

21 MS. MCNEILL: Yes, Your Honor.

22 THE COURT: Sorry for the delays this morning.

23 THE MARSHAL: All rise.

24 MS. MCNEILL: Not your fault, Your Honor.

25 [Lunch break taken at 1:16 p.m.]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

[Trial resumed at 1:57 p.m.]

[Outside the presence of the jury]

THE MARSHAL: All rise. District Court Department VI is
back in session. Please be seated.

THE COURT: All right. So, when we wrapped up on Friday
the State rested. So, we're ready to start with defense case, correct?

MS. MCNEILL: Yes, Your Honor.

THE COURT: Okay. And Ms. Luzaich alluded to a possible
issue about one of the witnesses you want to call.

MS. MCNEILL: We resolved the issue, Your Honor.

THE COURT: Great. Fabulous.

MS. MCNEILL: It's no longer an issue.

THE COURT: So, we ready for the jurors.

MS. MCNEILL: We are.

THE COURT: Good, let's get them then. If I don't have to
resolve it that's a good thing.

MS. MCNEILL: Right.

[Inside the presence of the jury]

THE MARSHAL: All rise. Please be seated.

THE COURT: All right. Counsel, stipulate to the presence of
the jury?

MR. ROSE: We do, Your Honor.

MS. LUZAICH: Yes, Judge.

THE COURT: All right. Thank you.

Ladies and gentlemen, I'm apologizing yet again for keeping

1 you waiting. I'm sorry that you had that inconvenience. Unfortunately,
2 my 8:30 morning calendar didn't finish until almost 1, and then we had to
3 have at least a few minutes to grab a quick lunch. So, I do apologize for
4 keeping you waiting. It's not my intention. I'm just not always very good
5 at estimating how long a calendar is going to take, so I am sorry about
6 that.

7 All right. So, State has rested and so defense call your first
8 witness.

9 MS. MCNEILL: Your Honor, at this time the defense would
10 call Marilyn Green.

11 THE MARSHAL: If you could follow me. Do me a favor,
12 make your way up into the box. Remain standing for a second.

13 THE WITNESS: Okay.

14 THE MARSHAL: Raise your right hand and face that
15 gentleman right there for me.

16 **MARILYN GREEN**

17 [Having first been called as a witness and being duly sworn, testified as
18 follows:]

19 THE CLERK: Thank you. Please be seated.

20 Please state your complete name, spelling both your first and
21 last name for the record.

22 THE WITNESS: Marilyn Evon Green. Marilyn, M-A-R-I-L-Y-
23 N, Evon, E-V-O-N, Green, G-R-E-E-N.

24 THE CLERK: Thank you.

25 THE COURT: Go ahead.

1 MS. MCNEILL: Thank you, Your Honor.

2 **DIRECT EXAMINATION**

3 BY MS. MCNEILL:

4 Q Ms. Green.

5 A How you doing?

6 Q How do you know Trandon Green?

7 A He's my son.

8 Q Okay. Do you know someone by the name of Samantha
9 Westin?

10 A I do.

11 Q Okay, and how do you know Ms. Westin?

12 A Him and her was involved. They had a relationship together
13 and they lived together.

14 Q Okay, did you ever meet Ms. Westin?

15 A Yes, I did.

16 Q Okay, what was your relationship with her like?

17 A Me and her got along very well. We went shopping together.
18 She would come over into my house and visit, spend the night. She
19 would help me prepare my diabetic medicine, my diabetic food, and
20 different stuff. We did different activities together.

21 Q Okay, and you said she would help you prepare your diabetic
22 food. Why did she help you prepare that?

23 A Because when I first got diagnosed, January 9th, as being a
24 diabetic, I didn't know how to process it well when I come home out of
25 hospital. And she said she was a nurse's aide and that she had

1 experience in the field.

2 Q Okay.

3 A So she decided -- she asked if could she come over and she
4 would help me get situated and I agree -- I agreed and told yeah it was
5 okay, because I was willing to learn.

6 Q Okay, and then --

7 A So she came over -- I'm sorry.

8 Q Sorry, I'm going to stop you there. We can't give long
9 answers --

10 A Okay.

11 Q -- just answer the questions. Did Samantha and Trandon,
12 prior to Trandon's arrest, ever come stay at your house together?

13 A Yes.

14 Q Okay, did they ever spend the night at the house?

15 A Yes.

16 Q Okay. Do you remember about when Trandon moved in with
17 Samantha?

18 A I can't give you an estimate of date, a time, a month, it was I'd
19 say prior to somewhere in February or March.

20 Q Okay, of 2017?

21 A -- of 2017, sorry, that they moved in together.

22 Q Okay. And so, you remember it being sort of the early part of
23 --

24 A Yes, early part of it.

25 Q I want to go back to the sort of spring 2016. After Trandon

1 was arrested, did you have to go to the apartment to get some of his
2 clothing and items back?

3 A Samantha called me on several occasions. No, I never went
4 to the apartment --

5 Q Okay.

6 A -- to get anything. I -- my oldest son went and achieved his
7 belongings from over there --

8 Q Okay.

9 A -- from her house.

10 Q So you send your son over to get Trandon's clothing?

11 A Correct.

12 Q Okay. Was that something that Trandon wanted you to do or
13 that Samantha wanted you to do?

14 A Trandon wanted me to get his stuff from over there, but she
15 didn't want to let it go.

16 Q Okay.

17 A But Trandon wanted his stuff.

18 Q I want to take you back to before -- right before Father's Day
19 of 2017.

20 MS. MCNEILL: And, Your Honor, if we could take judicial
21 notice that that was on June 8th of 2017?

22 THE COURT: Uh.

23 MS. MCNEILL: June 18th, sorry. I --

24 MS. LUZAICH: Okay.

25 MR. ROSE: Okay.

1 MS. MCNEILL: June 18th, sorry.

2 THE COURT: June 18th, 2017.

3 MS. MCNEILL: 2017.

4 THE COURT: And it was Father's Day?

5 MS. MCNEILL: Father's Day.

6 THE COURT: Hold on.

7 MR. ROSE: We have no objection to that.

8 THE COURT: Okay, so I will take judicial notice that June
9 18th, 2017 was Father's Day.

10 MS. MCNEILL: Thank you, Your Honor.

11 BY MS. MCNEILL:

12 Q Okay, so taking you back to Father's Day of 2017.

13 A Uh-huh.

14 Q Thinking about that date, was there an incident where
15 Samantha came to your house prior to that date?

16 A Yeah, she came that Wednesday prior to Father's Day.

17 Q Okay. And what happened when she came to your house?

18 A Well Trandon came to babysit. I'm going to try to make this as
19 brief as possible. Trandon came to babysit and Samantha showed up.
20 My husband had called and told Trandon to tell Samantha, since they
21 had already been arguing not to stay at the house that she was to go
22 back home, but --

23 Q Okay. And let me stop you there. Did -- were you there at
24 that point when Trandon was there babysitting?

25 A I was at work. That's why he was babysitting.

1 Q What time did you get home from work?

2 A I got home say right at 11:45, right at 12.

3 Q Okay, p.m.?

4 A P.M., yes.

5 Q When you arrived was Samantha still at the house?

6 A Correct, she was.

7 Q Okay. And then what did you do at that point?

8 A Well I took her home. I took her to her apartment, her and
9 Trandon. I told Trandon not to go, but him and Samantha wanted to go.
10 They said that he'll be fine. They wanted to go to her house. So, it was
11 about 12 - 12:30, I took them to -- I don't know her apartment address,
12 so I can't give you that address.

13 Q Okay, that's okay. But you were -- so as far as you know
14 Samantha was at your house all day, that day?

15 A All day.

16 Q Okay. After Trandon was arrested, did you have any contact
17 with Samantha?

18 A Yes, I talked to Samantha it was July 1st when she contacted
19 me and asked could I come pick her up and take her grocery shopping.

20 Q Okay.

21 A So I went take her grocery shopping and we had a
22 conversation in the prior of going grocery shopping.

23 Q Okay. Did Samantha ever explain to you her state of mind
24 about why she had Trandon arrested?

25 A She was mad at Trandon because Trandon had got one of her

1 best friends pregnant.

2 Q Okay.

3 A She was going to make him pay, I'm sorry.

4 Q Okay.

5 A That's what she told me.

6 Q Was that a quote from her?

7 A That was a quote from her.

8 MS. MCNEILL: Your Honor, I have nothing further.

9 THE COURT: Cross.

10 MR. ROSE: Thank you, Your Honor.

11 **CROSS-EXAMINATION**

12 BY MR. ROSE:

13 Q Ms. Green, during kind of the latter part of 2017, sorry latter
14 part of 2016, your son was living with you, wasn't he?

15 A Yes, he was.

16 Q Okay, and into 2017 he was still spending multiple days a
17 week living with you?

18 A No, he wasn't.

19 Q Okay.

20 A Because multiple days a week he was with Samantha. In
21 2017 him and -- beginning to three months prior to '17 him and
22 Samantha had -- were living together.

23 Q Okay, but you said multiple days a week he was living with
24 Samantha. Where was he the rest of the week?

25 A He would come -- he was at her house.

1 Q Okay, but if you're saying that multiple days a week he was at
2 her house. On the days where he wasn't at her house, he was at your
3 house, wasn't he?

4 A That's correct.

5 Q Okay. And that was 3 to 4 times a week, right, he was at your
6 house?

7 A Let me see. It all depends though, because I'm off Thursday
8 and Friday. He would come on Tuesdays, and Wednesdays, and
9 Mondays. My husband was off Sunday and Monday.

10 Q So he was there Monday, Tuesday, Wednesday?

11 A Nope, not Monday; Tuesday and Wednesday.

12 Q Okay.

13 A I'm off Thursday and Friday.

14 Q I guess my question for you is how many days a week was
15 Trandon staying at your house?

16 A I'd say 3.

17 Q 3 days a week?

18 A Correct.

19 Q And spending 4 days a week, to the best of your knowledge,
20 at Samantha's?

21 A That's correct.

22 Q Okay. But his name wasn't on Samantha's lease?

23 A I have no idea how they worked that out.

24 Q Okay. Did Trandon move back in with you in June 2017?

25 A No.

1 Q So if he told the police that he had used to live with Samantha,
2 then where would he be living at that point?

3 A He was living with one of his other friends.

4 Q Okay, so it was either with you, or with Samantha, or with
5 another friend?

6 A Correct.

7 Q Okay. Do you know who that other friend was?

8 A Trandon grown. I don't get up into my kid's business. I can't
9 really answer that, because I don't know. You know, some days he was
10 studio doing his music. I can't say I know exactly who he was living with
11 though.

12 Q Okay, that's fair. You said that you sent your son over to
13 Samantha's to go pick up some -- to pick up some clothing. Do you
14 know how much clothing or property was taken?

15 A His stuff is still in my garage right now. I have two --

16 THE COURT: Sorry, hold on just a moment. Come on up.

17 [Bench conference transcribed as follows:]

18 THE COURT: Maybe it's just me, but I don't want her to start
19 saying that he's in jail and that's why she still has his clothing.

20 MR. ROSE: Oh --

21 MS. MCNEILL: I'm not all that worried about it if it comes out.

22 THE COURT: All right. Okay.

23 MR. ROSE: That was certainly not my intention.

24 THE COURT: No, no, it wasn't your question --

25 MR. ROSE: I can clarify --

1 THE COURT: -- it was sort of where she started going, so --

2 MR. ROSE: I gotcha.

3 THE COURT: -- okay.

4 MR. ROSE: Thank you, Judge.

5 THE COURT: Uh-huh.

6 [End of bench conference]

7 BY MR. ROSE:

8 Q Ms. Green, I may have asked a poorly worded question. Just
9 with regard to the exact amount of stuff. How many boxes of stuff was
10 brought back from the apartment?

11 A Two.

12 Q Okay. And are we talking like big boxes, small boxes, how big
13 of boxes are we talking about?

14 A About that big.

15 Q Maybe two feet across?

16 A About this -- it's more like a basket with a lid that goes over it.
17 There's two of those, one blue, one red.

18 Q Okay, like the Rubbermaid ones?

19 A The Rubbermaid ones, yeah.

20 Q Okay.

21 A Medium size ones, yeah.

22 Q Furniture involved?

23 A No, no furniture.

24 Q Okay, cutlery, dishes?

25 A No cutlery, no dishes.

1 Q Okay, basically just clothes and maybe some hygiene?

2 A Just his belongings, yeah, just clothes.

3 Q Okay.

4 A Uh-huh.

5 Q Now, you were not over at Samantha's apartment the night of
6 May 28th, 2017, right?

7 A No, I was not.

8 Q You also were not over at the apartment the night of June 17th
9 into the day of June 18th, right?

10 A Correct.

11 Q Okay, so you have no idea what went on at that apartment
12 those days?

13 A I have no idea.

14 Q Easy question, not a trick one, but you love your son, right?

15 A Of course.

16 Q Don't want to see him get in any trouble, right?

17 A I don't.

18 Q And in fact, didn't the two of you have a phone conversation
19 last night?

20 A Yes, we did.

21 MR. ROSE: I have no additional questions at this time,
22 Judge.

23 THE COURT: Redirect.

24 MS. MCNEILL: Just briefly.

25

1 **REDIRECT EXAMINATION**

2 BY MS. MCNEILL:

3 Q The State asked you some questions about how many days
4 Brandon was at your house. When Trandon came to your house in
5 2017 before his arrest, what did he do at your house? Because you kind
6 of gave us your work schedule, so why was your work schedule
7 important and why he was there?

8 A Because I have a 9-year old daughter --

9 Q Okay.

10 A -- that he comes over to babysit -- well granddaughter, but
11 she's my daughter because I adopted her.

12 Q Okay.

13 A So he comes over to babysit.

14 Q So the days that you were talking him being there, you were
15 talking about him coming over to babysit?

16 A Yeah, he would come the night before and he would stay and
17 he --- then when he get done. And then when my Friday come then he
18 would go back to Samantha house.

19 Q Okay, and sometimes you indicated Samantha would spend
20 the night at your house with Trandon?

21 A That's correct.

22 MS. MCNEILL: Okay. Nothing further, Your Honor.

23 THE COURT: Anything further?

24 MR. ROSE: Not by the State, Your Honor.

25 THE COURT: Okay. Thank you, ma'am, I appreciate your

1 time.

2 THE WITNESS: Appreciate it.

3 THE COURT: Okay, next witness.

4 MS. MCNEILL: Your Honor, at this time the defense would
5 rest.

6 THE COURT: Okay, then. Counsel, come on up for just a
7 sec then.

8 [Bench conference transcribed as follows:]

9 THE COURT: I suppose I should have asked in open court if
10 there's any rebuttal, but I'm assuming no.

11 MS. LUZAICH: Yeah -- oops, sorry. I thought you were on
12 that side. No.

13 MR. ROSE: No.

14 THE COURT: Okay. So, I don't know if Tim had gotten you
15 any copies of the instructions.

16 MR. ROSE: Yeah.

17 MS. LUZAICH: He did.

18 THE COURT: So, have you already reviewed them?

19 MR. ROSE: I mean, --

20 THE COURT: Probably not --

21 MS. LUZAICH: No, but I'm sure they're fine.

22 THE COURT: So, do I need to send them out for another few
23 minutes?

24 MS. LUZAICH: Oh, no.

25 MR. ROSE: No.

1 MS. LUZAICH: But can you read instructions and then take a
2 break in between so we can set up?

3 THE COURT: Oh, right, so a break after reading before
4 closings?

5 MS. LUZAICH: If you don't mind, that makes --

6 THE COURT: No, I can do that.

7 MR. ROSE: I did have a chance to review the two that were --

8 MS. LUZAICH: Fixed.

9 MR. ROSE: -- amended and fixed. And they all look fine.
10 The ordering looks fine for the State.

11 THE COURT: Okay.

12 [Colloquy]

13 THE RECORDER: On the record.

14 MS. LUZAICH: Oh, it's not important. I'm sorry.

15 THE COURT: Sorry, that's okay.

16 [Colloquy]

17 THE COURT: Okay, so we will hand them out and get going
18 on instructions.

19 MS. LUZAICH: Okay.

20 [End of bench conference]

21 THE COURT: Okay. Folks, so we are now done with all of
22 the evidence for the case. So, Anthony is going to hand out the jury
23 instructions at this point for you, so you can read long as I read them to
24 you.

25 Okay, folks, now is the time that we had talked about, you

1 know, from the beginning when you were here during jury selection,
2 when I instruct you on the law that applies to the case. So, I would like
3 to just be able to, I guess, have a little conversation with you. But as
4 you can see, there are fairly lengthy and detailed instructions which
5 have been prepared. So, I will need to read the instructions.

6 You've each now been given a copy so you can read along
7 with them. And you'll also be able to bring those copies back with you to
8 the jury room when you go back to deliberate. So, if it seems like I'm
9 going through it kind of fast or if you think I really need to read that
10 again, don't worry because you will have that opportunity back in the jury
11 room to go back over them as well. So, at this time I am going to begin
12 reading the instructions then.

13 [The Court reads the jury instructions to the Jury]

14 THE COURT: So, counsel, you want a short break?

15 MS. LUZAICH: So, we can set up if you would, Judge.

16 THE COURT: Okay. All right, so first I realized that when the
17 jury came back, I didn't ask the counsel to stipulate the presence of the
18 jurors. Will you stipulate that they were all here during that?

19 MS. LUZAICH: Yes, Judge.

20 MR. ROSE: Yes, Your Honor.

21 MS. MCNEILL: Yes, Your Honor.

22 THE COURT: Okay. So, folks, we're going to take a short
23 break and then we will proceed with the closing arguments.

24 During this recess still, you are admonished not to talk or
25 converse among yourselves or with anyone else on any subject

1 connected with this trial or to read, watch, or listen to any report of or
2 commentary on the trial or any person connected with this trial by any
3 medium of information, including without limitation, newspapers,
4 television, the internet or radio, or to form or express any opinion on any
5 subject connected with this trial until the case is finally submitted to you.
6 Take about 10 minutes.

7 THE MARSHAL: All rise. Court is now in recess.

8 [Recess taken at 2:59 p.m.]

9 [Trial resumed at 3:08 p.m.]

10 [Outside the presence of the Jury]

11 THE MARSHAL: Please be seated, come to order.

12 THE COURT: All right. We're ready to go. Let's get the
13 jurors.

14 MS. LUZAICH: I don't know why when he says be seated I
15 listen.

16 THE COURT: Yeah, I know. You just have to stand up again.

17 MR. ROSE: I don't why we bother, you know, following the
18 Marshal's directions.

19 MS. MCNEILL: Right. Who's he to tell us what to do.

20 THE COURT: Uh-huh. I don't necessarily recommend that.

21 MS. MCNEILL: No, I'm kidding.

22 THE COURT: Well, we're still on the record, right?

23 MS. MCNEILL: Yeah.

24 THE RECORDER: Yes.

25 THE COURT: Okay, beautiful.

1 MR. ROSE: Oops. Just kidding, Anthony.

2 THE COURT: Yeah, I'm sure he's going to go back and read
3 the transcript.

4 MS. MCNEILL: Yes, living it wasn't enough. He's got to read
5 the transcript.

6 MS. LUZAICH: And you'll let us go. You won't stop and finish
7 tomorrow, right?

8 THE COURT: No, we're definitely finishing arguments.

9 MS. MCNEILL: Okay.

10 MS. LUZAICH: Just checking.

11 THE COURT: And then just so it's -- what I intend to do is
12 whenever we do get it to them tonight. I'm going to let them decide if
13 they want to stay for a while and deliberate tonight or just come back
14 and deliberate in the morning. Kind of -- tomorrow, I mean, I'll be here in
15 the morning anyway. I have a morning calendar.

16 MS. LUZAICH: You'll have them come back at 9 though,
17 right?

18 THE COURT: Something like that. Right, so they can
19 deliberate while I'm in court during my calendar, yeah.

20 MS. LUZAICH: Right. I have a clean computer --

21 THE COURT: We're on the record, right?

22 MS. LUZAICH: Oh.

23 THE RECORDER: We are.

24 THE COURT: Okay, so we can't have two conversations,
25 sorry.

1 MS. LUZAICH: I have a clean computer coming for them at 9
2 in case they want to watch stuff.

3 MR. ROSE: Yeah.

4 THE COURT: Well we may need the clean computer tonight
5 if they --

6 MS. MCNEILL: If they want to stay.

7 THE COURT: -- decide to stay and deliberate.

8 MS. LUZAICH: Oh, I didn't think of that.

9 MR. ROSE: We'll get one that's clean.

10 MS. LUZAICH: Yeah.

11 MR. ROSE: We'll get one, Judge.

12 MS. LUZAICH: I can't imagine --

13 THE COURT: Okay, and I just intend to leave it to them to
14 decide after --

15 MS. LUZAICH: Right.

16 MS. MCNEILL: And ask --

17 THE COURT: -- I've been messing with them the last week
18 and a half, so --

19 MS. MCNEILL: I have a feeling they'll probably want to leave.

20 MR. ROSE: I don't know if you've been messing with them,
21 Judge.

22 THE COURT: Well it's all of our schedule. Certainly, I haven't
23 intentionally messed with them.

24 MS. MCNEILL: Right.

25 THE COURT: I know if I go off the record they're going to

1 come walking in.

2 MS. LUZAICH: Of course.

3 MS. MCNEILL: Yeah, absolutely.

4 MR. ROSE: Either that or three of them have just wandered
5 off.

6 [Inside the presence of the Jury]

7 THE MARSHAL: All rise. Please be seated in the right chairs
8 this time.

9 THE COURT: What took so long?

10 THE MARSHAL: They were trying to play games with me,
11 Judge.

12 THE COURT: Okay. We are not missing one.

13 So, counsel, stipulate to the presence of the Jury?

14 MS. MCNEILL: Yes, Your Honor.

15 MR. ROSE: Yes, Your Honor.

16 THE COURT: Okay. Great. All right, so State, closing
17 argument.

18 MR. ROSE: Thank you, Your Honor.

19 **CLOSING ARGUMENT BY THE STATE**

20 MR. ROSE: I'm just trying to make my story add up. That's
21 what the Defendant was trying to do when he spoke with the police.
22 That's what he told them he was trying to do, just whatever it took to
23 make his story add up. But that's not what we're here to do, ladies and
24 gentlemen. We're not here to make up a story and force it to fit the
25 facts. What we're here to do is to take the evidence and apply it to the

1 law as given.

2 To every single case, from a trespassing to a first-degree
3 murder, the State has essentially two things that they have to prove.
4 First, that the crimes that we've charged have actually been committed.
5 Then secondly, the person who committed those crimes is the
6 Defendant.

7 Well, there really isn't much debate in this case as to the
8 parties who were involved. Nobody is saying, no all of this happened it
9 just wasn't him who did it. It's not a who done it. So that kind of second
10 question of who did it, the fact that it was the Defendant who do it, isn't
11 really in front of us. Really what we have is, were the crimes that we
12 charged actually committed? I suggest to you that they all were.

13 What actual crimes do we have charged? Well, you'll notice
14 that some of them are going to be repeated, so I'm going to lay out for
15 you what I'm talking about in each one.

16 Count 1 is battery constituting domestic violence. That count
17 is the only count that relates to the May 28th. All of the rest of the counts
18 relate to June 18th. In the June 18th you have the burglary, two different
19 counts of first-degree kidnapping. And the reason why it's important to
20 differentiate between the two is because the actual manner in which
21 those crimes were committed changes if it's an adult versus a child. So,
22 you have one count for Samantha, one count for Riley.

23 You have battery with intent to commit sexual assault, that
24 actual sexual assault itself; a very long one, battery with use a deadly
25 weapon resulting in substantial bodily harm constituting domestic

1 violence. It's going to be a hard one to say multiple times. A second
2 battery constituting domestic violence charge. This one is specifically
3 only for the actions on June 18th. Assault with a deadly weapon. Child
4 abuse, neglect, endangerment with a deadly and preventing or
5 dissuading a witness from testifying.

6 Now, we all kind of come into a courtroom for the first time
7 with our own ideas of, you know, what do we mean by evidence, right?
8 Because sometimes we come and say a number of jurors said early on,
9 if I don't have the evidence, I want, you know, something tangible, right, I
10 need something tangible. Well the evidence isn't just tangible things.
11 It's actually testimony by witnesses and then any exhibits. And in this
12 particular case there was also one stipulation, which was that June 18th,
13 2017 was Father's Day.

14 So, when you go back and you're considering what the
15 evidence is, it's not just the pictures, and the video, and the 9-1-1 call.
16 It's also what you heard throughout last week and today from the stand.
17 So, some of the evidence that you saw were the photographs.

18 Now you'll have all of these back there. I know a couple of
19 different times when they were put up on the Elmo it was kind of hard to
20 see what they were talking about. Several times the witness had said
21 yeah, but if you actually look at the photo you can see it a little bit more
22 clearly. You're not just going to have to work off of your memory of what
23 it looked like. You'll have all the photographs back there. You'll be free
24 to look through them. Take a look again and see what it is that you can
25 see there that didn't show up as clearly on the Elmo.

1 Now you're also given a very long instruction that kind of talks
2 about what you consider when you're thinking about the testimony.
3 Because let's face it, the pictures by themselves they lay out certain
4 facts, but they don't give -- they don't have context within them. You
5 need the testimony of the witnesses to understand photographs, to
6 understand the bodycam, to understand the 9-1-1.

7 Now every day we talk to other people, we kind of get a sense
8 for, you know, is this person telling you the truth? Do I believe what this
9 person is saying? And you are told that you are supposed to use your
10 common sense. You bring your life experiences with you. You don't
11 leave them outside. So, all the things that you normally do to say do I
12 trust this person, do I think they're telling me the truth? Still consider all
13 of those same things.

14 But the law also gives some other things that you think about.
15 How were they on the stand? What was their demeanor like? What's
16 the relationship to the parties? Obviously, you've got a mother and a
17 daughter here. You've also got somebody who used to date the
18 Defendant. What motivated them to testify the way they did? What
19 were their fears? What interests do they have in the outcome of the
20 case?

21 How well could they see the events that occurred? Obviously
22 if somebody can't see it, you know, and they come in trying to describe
23 the events that went on, maybe that's something you consider.

24 Is what they said reasonable? Person comes in, testifies
25 really well but he says you know what the sky was bright green. That

1 might not be reasonable. But just the same way you do it in the rest of
2 your life, you consider that. How well did they remember things? Are
3 they picking and choosing what they can remember? Do they just not
4 remember at all?

5 Now the bottom portion of that is an instruction that tells you
6 that if you find that one of the witnesses lied to you about any material
7 fact you can disregard their entire testimony or just anything thing that
8 wasn't corroborated by other evidence. I want you to think back to kind
9 of what we talked about in jury selection, all three days of jury selection,
10 right? There is a difference between lie and mistake, right? I think a
11 number of jurors gave the example of, you know, in a lie you're trying to
12 deceive the person. With a mistake it's unintentional. You just happen
13 to get it wrong.

14 The other thing I would like you to consider as part of that
15 instruction is it's not just a lie about anything, alright. Person comes in
16 and says no, I mean, I was on a diet but no I didn't cheat on my diet
17 ever. And do you think they lied about that? But if that has nothing to
18 do with the case, how does that effect the way that you see the rest of
19 their testimony? It says if they lied about a material thing within the case
20 that you can disregard all their testimony or anything that's not proved by
21 other evidence.

22 I anticipate that you're going to hear, you know, that, you
23 know, Samantha got up here and told you that, you know, she lied to
24 people when she told them that she was pregnant at the time. Okay, but
25 is that material? What does that have to do with any of the charges that

1 are actually in the case? What does that have to do with Defendant's
2 conduct?

3 On the other hand, when you have somebody who tells the
4 police originally, no, I didn't go out the back window, I went out the front
5 door. I'm already outside. And then when confronted with the fact that
6 that's not true, eventually admits to lying about it. Is that a bit more
7 material to the case?

8 Now, as I mentioned, you're going to have to kind of consider
9 the credibility of a number of witnesses. Most of the witnesses, if not all,
10 are kind of listed up here for you. But who is kind of the main witness
11 that we've talked about? Who's been the main witness so far in this
12 case? Samantha.

13 Now let's be very clear here. Nobody is trying to hand her an
14 award for mother of the year. Nobody is trying to say that she's a saint
15 or that she is perfect. We're not asking you to like her. We're not asking
16 you to approve of all of her life choices. We're not asking anything other
17 than you evaluate her testimony in light of all of the evidence. Because
18 you got the chance to see her up on the stand. You got the chance to
19 see how she reacted, how she felt about having to go through this entire
20 process.

21 A number of you were asked do you think that it would
22 embarrassing or difficult to have to get up in front of perfect strangers
23 and describe for them intimate sexual details. And not a single juror said
24 no I don't think it would be. Not only does she have to stand up there --
25 sit up there, I should say, and share intimate sexual details and recount

1 everything that she has spent a year trying to forget in front of 14
2 complete strangers, she had to do it 20 feet from the man who did it to
3 her.

4 Remember she also had to do this after going through that
5 SANE exam. After having to explain all of this to the first officers when
6 they arrived. After having to explain all of it to detectives again later that
7 night. For the fourth time she had to go and relive each every one of
8 those events, each time to a new face or faces. Sometimes with
9 badges, sometimes nurses, this time complete strangers.

10 We also do just have to look at she was like on the stand, you
11 also got to see a bit of how she was the night that it happened.

12 [Video plays]

13 MR. ROSE: What do you hear in her voice when the police
14 finally arrive at her door? What's the first thing that she does? She can
15 barely get the words out. That's the night that it happened.

16 [Video plays]

17 d MR. ROSE: You'll have all the bodycam. You can watch it all
18 again. You can ride alone with Officer Knepp and jam out to 10 minutes-
19 worth of, you know, country music again. But remember the bodycam
20 tells a lot. It captures the good, the bad, and the ugly. It shows exactly
21 how people were at that time, and what they were saying, what their
22 behavior is like.

23 Now one of the things I would like you to note in there, as
24 she's giving them the rundown of everything that happened through the
25 day, compare that. Compare her first statement to the officers about

1 what happened to what she said on the stand. Were they consistent? I
2 submit to you they were. She told you on the stand, that he came over,
3 he held them in the house. They tried to get out through the windows
4 and he wouldn't let them, that he hit here with the stick.

5 And no, she doesn't say that, you know, the stick gashed open
6 her head. The officer asks, are you injured. She says oh just a few little
7 bumps in the back of the head, not trying to go on and exaggerate
8 anything else. She says no, just a couple of bumps. Then you're going
9 to have the injury to the hand and you have the sexual assault.

10 And then the part where she really starts getting emotional is
11 when, as you saw on the stand, she's talking about what happened with
12 Riley, her then 6-year old.

13 [Video plays]

14 MR. ROSE: Listen to what she's saying and how she's saying
15 it. Does that sound to you like a person who's simply making it all up? I
16 submit to you.

17 You have an instruction that says that if you believe beyond a
18 reasonable doubt the testimony of a sexual assault victim you don't need
19 anything else. But this case, ladies and gentlemen, isn't just
20 Samantha's testimony. There's testimony of a number of other
21 witnesses, more than enough other evidence in the case, right.

22 Think about Mr. Denton. We all remember him, kind of a
23 colorful guy. The 9-1-1 call. You'll have that 9-1-1 call that you can
24 listen to. What are his motivations to lie? What is his interest in the
25 case? Or is he just a person who thought he could help out. He's asked

1 to change the locks. He goes over and says he specifically installs
2 hardware so the door can't be kicked in. And the very next day he gets
3 a text message that he finds so disturbing he goes and reads it out to
4 the 9-1-1 operator. So disturbing, so afraid of what's happening that he
5 goes and gets into his own car and drives over to the scene packing
6 heat.

7 What about the officers? What's their interest in any of this?
8 What about Nurse Dermanelian, she came in here and she told you this
9 is what she does for a living. She does sexual assault examinations.
10 She takes photographs. She does the exam. She explains to the
11 person how intrusive it can be and then gives them the option.

12 Here, Samantha took that fourth option to get a full exam
13 done. I'm not going to go into the full details that Jeri went into in terms
14 of how exactly that happened and what Samantha had to go through
15 again just a few hours later. Consider Nurse Dermanelian. What about
16 CSA Alexander or Brianne Huseby, who did the DNA comparison?
17 What about Detective Campbell?

18 What about the Defendant's mom? No one will ever blame a
19 parent for trying to protect their child. But what were Mrs. Green's
20 interests and motivations and fears in coming here and testifying? She
21 loves her son. No one is faulting her for that. She spoke to him just last
22 night. But what can she actually tell us? Well he's spending a few
23 nights a week over there, apparently a few nights a week at Samantha's,
24 and then maybe a few nights a week at some friends. She specifically
25 said when I asked her, do you know the friend? She says my son is a

1 grown man. I'm not, kind of, up in his business. I honestly can't tell you
2 where he was living.

3 Now what about the Defendant, because you got to hear his
4 statements to the police. What are his motivations at the time?
5 Remember back in jury selection when people we're asked why do
6 people lie? I think the most common response that was given was to
7 protect yourself. It's a natural reaction, I guess. But how does that
8 influence the way that you see his statements to the police?

9 Remember he tells them right up front, the first couple
10 questions they asked, how did you leave the apartment? And he starts
11 out that entire conversation with what he later admits is a lie. Oh, I went
12 out the front door.

13 Well again, go back and watch the bodycam. Officer Knepp is
14 sitting there listening to his music for several minutes before he gets out
15 of the car. Do you see anybody outside of the residence? As they walk
16 up towards the apartment do you see anybody walking out, just hanging
17 out up front? No.

18 What's the first thing that Samantha says when she's comes
19 out? He just jumped out the back window. Where is the Defendant
20 found? Walking away out behind the apartment. Now, he gets
21 confronted with all of this and eventually he admits you know what I lied
22 about that.

23 There's a lot of talk about the gloves. Well, no, I just wear
24 these gloves, you know, to exercise. I do my push-up and my sit-ups
25 with them. But I wear them in the house. Well, you know, maybe I'll

1 wear them outside of the house too in case I need to get into a fight. But
2 what fighting was going on outside the house that night?

3 He cannot give a consistent story to the police. When he's
4 asked about that he's being pressed on that he's just trying to convince
5 them of the truth, trying to say whatever he needs to say to make his
6 story add up.

7 Now before we really dive into the charges themselves, what
8 they actually mean, I want to kind of touch on an important distinction
9 here, specific versus general intent. Because what the crimes are and
10 what we need to prove for each crime will depend on a specific general
11 intent crime. So, a general intent crime is an intention do an act that
12 happens to be prohibited. You don't need to specifically intend the
13 precise outcome or harm that results from it.

14 So, for battery, which I'll put up in a moment, is a general
15 intent crime. I hit a person in the face. I can't come back and say oh,
16 no, no, no, I just meant to hit them in the arm, so I'm not guilty. It
17 doesn't work like that. As long as you intended to take the act which is
18 prohibited, hitting that other person, a specific harm or result from it
19 doesn't matter. It doesn't matter what you intended. It doesn't matter
20 what you didn't intend. So, battery constituting domestic violence also
21 tacking on the deadly weapon enhancement or the substantial bodily
22 harm, doesn't change it. It still means general intent.

23 Second-degree kidnapping, sexual assault, and child abuse,
24 and again tacking on the deadly weapon enhancement for the child
25 abuse, they're all general intent crimes. As long as he took an act that

1 was prohibited, he intended to take the act, the fact that he didn't intend
2 the exact result doesn't matter.

3 So, what's on the other side of that? Well that's the intent to
4 accomplish the precise thing which is being prohibited. The burglary,
5 first-degree kidnapping, battery with intent to commit sexual assault,
6 assault with the use of a deadly weapon, and preventing or dissuading a
7 witness from testifying are all specific intent crimes. That means not
8 only did he have to take the action; he had to intend a particular result.

9 So for example, consider the very last one, persuading --
10 preventing or dissuading a witness from testifying. Chatting with
11 somebody, you tell them hey I hear Tahiti is really nice this time of year.
12 The person says, you know what, it is. Sounds nice. They take off to
13 Tahiti. Now he had no idea that person was a witness in the case or that
14 he would miss, you know, the court date if he goes there now to Tahiti.
15 It wasn't your intention to do that. You would not be guilty of preventing
16 or dissuading a witness from testifying.

17 Now if you know that person is a witness, you don't want them
18 there to testify and you go up to them and you say hey, you know, I hear
19 that you're testifying in that case. I hear Tahiti is really nice this time of
20 year. Planning on a trip? And you intend for them to then take that
21 action, the specifically prevented by the law, that would be specific
22 intent.

23 Now, no one here is a mind reader. Okay, we went through all
24 of the list of what people did for a living, what their spouses did, what
25 they did before they retired. Not a single person in here said, you know

1 what, I'm a clairvoyant. We're not asking you to be. We're not asking
2 you to try to read the mind of the Defendant or anybody else. We're
3 asking you to do what you do every single day, to look at a person, to
4 look at their actions and to make an inference based upon their actions,
5 what they wanted to do, what they intended to do.

6 So, we have our first count, battery constituting domestic
7 violence. We have these kind of broken down into two things, a battery
8 and domestic relationship. So, battery is any willful and unlawful use of
9 force or violence upon the person of another. It does not need to violent
10 or severe. A punch is just as much a battery as a poke or spitting on
11 someone. There is no necessity for bodily harm or even pain. Any
12 slight touch is enough as long it was willfully done and unwanted.

13 Now what domestic relationship are we talking about here?
14 Because it gives you a whole big long list in the instructions of what is a
15 domestic relationship. We're talking about a dating relationship, okay.
16 Frequent intimate associations, not a casual business or social
17 relationship.

18 I don't think anybody here is going to tell you that this was not
19 a dating relationship. They met online. They starting hanging out. She
20 starts -- she describes it as they started dating. He was coming over
21 and living there, multiple times a week. He thought for a time that she
22 was pregnant with his child. We can read his letter where he's
23 expressing his love for her, telling her that he loves her and he will
24 cherish her. Whether or not he did is another question, but clearly in the
25 minds of both people this was a dating relationship

1 So, Count 1 is, as I mentioned, that's the one count that
2 relates to May 28th, 2017. They had that domestic relationship where
3 they met on the website. He's spending several days a week there. If
4 you listen to the bodycams when the officers are trying to talk to Riley as
5 she's still in shutdown mode, you can hear Samantha tell them, well she
6 refers to Trandon as dad. Try that. That might help.

7 Remember it's a dating relationship. No relationship is
8 perfect. They don't need a perfect relationship. It doesn't have to be all
9 hunky dory in order to have a dating relationship for these purposes.
10 And in fact, if they were perfect, we probably wouldn't be here.

11 So, what's a battery. Well Samantha came in and testified
12 that they got into an argument, because this person who just a few
13 weeks, maybe a month or two before had proposed to her is now telling
14 her that she needs to leave because he wants to bring another woman
15 over. You'll have his letter in the back as well. And you'll catch some
16 references in the letter to other women. She's upset. She tells him no.

17 She's still there by the time he gets back and they get into an
18 argument. What does he do when his fiancé won't leave the home so
19 that he can have sex with another woman? He smacks her. He throws
20 a can of air freshener at her. You've got the pictures back there. You
21 can see her face. You can see her leg. You can see the cut on her
22 hand from that night.

23 Now Count 2 is the first count and the rest of the counts
24 including Count 2 all relate to June 18th, it's the burglary count. Now
25 when you hear the term burglary, kind of the idea of a person in a black

1 ski mask kind of peering through the window might pop to mind. But
2 that's not what it is in Nevada. That's not how it's defined under the law.
3 Essentially what it boils down to is entry with intent. You enter into
4 essentially any building, right. Here specifically we're talking about 2686
5 Jennydiane, Apartment B, Las Vegas, Clark County, Nevada. But when
6 you enter you have a specific intent in mind.

7 In this case we charged the Defendant with assault, or batter,
8 or to commit any felon. And I don't think it's a surprise to anyone in
9 Nevada sexual assault is a felony. So as long as a person enters any
10 home, room, apartment building with those intents, with anyone of those
11 intents, they're guilty of the burglary.

12 Now because it's when they enter, you don't have to actually
13 commit it. You break into a bank intending to steal all the money and
14 you get busted before you get a dime, you don't get to turn around and
15 say oh nope, didn't complete it, didn't actually get the money, not guilty.
16 Doesn't matter. The moment you enter that building with that intent in
17 mind you have committed that burglary.

18 Also, you don't need to go smashing windows, it's not
19 breaking and entering. You have a specific instruction on that. Force is
20 not necessary. Additionally, consent to enter aren't a defense. If you
21 walk into that bank, the bank's open. You walk in there; guy holds the
22 door open for you. You walk in you pull out a gun, you say everybody
23 get down, give me your money. The fact that they let you in doesn't
24 matter. You entered with the prohibited intent. That's a burglary.

25 Now there is an instruction that you have about an unqualified

1 right to enter. If a person has an absolute right, an unqualified right to
2 enter the apartment, or the house or the room, they cannot burglarize it.
3 Well what evidence do you have of an unqualified right to enter by the
4 Defendant? Samantha said his name wasn't on the lease, it never was.
5 She said that she never gave him a key. He just kind of took one. She
6 went so far as to go and have basically a complete stranger come and
7 change out the locks specifically in order to keep him out.

8 What does he do? Did he call the police and say hey I've
9 been locked out of my apartment, my girlfriend won't let me in, come
10 give me a hand? No, he goes and he breaks into the apartment through
11 the window.

12 What does mom tell us? She doesn't tell us oh he was
13 certainly living there. It was, I can't tell you where he was living. Some
14 nights he was with me. Some nights he was with her. Some nights he
15 was with another friend. Does that mean that he has an unqualified right
16 to enter the friend's place too?

17 What about what he had there? Samantha described it as a
18 couple changes of clothes, maybe some toiletries. Well what's in the
19 photographs? See what's in there that's clearly his. Because Samantha
20 told you, it wasn't -- you know all the furniture, hers, all the cutlery, all the
21 kitchenware, hers. What's sitting in mom's garage now? Two
22 Rubbermaid containers with clothes. I submit to you, ladies and
23 gentlemen, that does not constitute an unqualified right to enter.
24 Particularly when you've already been locked out because you never on
25 the lease and you were never given a key.

So, we have to prove to you what the intent was. Again, you can determine that intent by looking at his actions on all of the surrounding circumstances. But we've alleged that the intent of the Defendant had when he entered that apartment was to assault or battery or sexually assault.

What did he do? He climbs in through the window. It's not just that he comes in and climbs through the window, but he spends the entire morning banging on the door and texting her to let him in. And he is consistently told for hours, no, I'm not letting you in. Go away. So, what does he do? He goes in through the window. Remember she had the locks specifically changed to keep him out.

When he gets in the first thing he does, he goes and confronts Samantha. I think the most telling thing is what did he actually do while inside that apartment was tell her that he was going to kill her, kill her 6-year old Riley, that the only way that they were living was in body bags. To stand in front of the door to not let them leave, keep them from climbing out the windows. He tells you through what he does what his intent was when he climbed in through that window.

Oh, and one last thing. He even tells you he doesn't live there anymore.

[Video plays]

MR. ROSE: He used to live over there. Not oh yeah, I still live there. I used to live over there. He knows that she didn't want him there. He went in anyways.

Count 3, is the kidnapping count. And remember I told you

1 that it was kind of important that we differentiate between Samantha
2 versus Riley. Because if you go back and if you look at the information
3 which is kind of listed in there in jury instruction number three, it kind of
4 tells you exactly what it is that we've charged with regard to each of
5 these things. And the first count specifically is for Samantha, SW. Well
6 kidnapping is defined as anybody who willfully seized, confines,
7 inveigles, entices. You have the whole thing. It's in your instructions.

8 I kind of want to narrow our focus. Because quite honestly the
9 only person I've ever met who knows the definition of the term inveigles
10 is my co-counsel. So, I'm not going to ask you to find that he inveigled
11 her. I can't ask you that. But what did he actually do? He kept her in
12 that house. He confined her to that house. So, I want you to focus on
13 the confinement portion of it.

14 And then remember first-degree kidnapping is one of our
15 specific intent. He had to do that with the intent of committing sexual
16 assault or inflicting substantial bodily harm upon her. There's no need to
17 -- you know, kidnapping is not grabbing her, throwing her in the trunk of
18 the car, and driving her somewhere. You don't have to move anybody
19 anywhere. You're just confining them is enough.

20 And then kind of like burglary as long as you broke in with the
21 intent, you don't have to actually carry it out. As long as he held her
22 there with the intent of either inflicting substantial bodily harm or sexually
23 assaulting her, even if he hadn't followed through with it, he would still
24 be guilty. But in this case, he followed through on both, because he
25 caused her substantial bodily harm and he sexually assaulted her.

1 Right, after that instruction is another long semi-confusing
2 instruction. It says that if you're going to convict for both first-degree
3 kidnapping and sexual assault, there's certain other things you have to
4 also parse out. That the movement of the victim was not incidental. But
5 any incidental movement substantially increased the risk of harm to the
6 victim, that exceeded that substantially required for the sexual assault or
7 physical restraint that substantially increased the risk of harm to the
8 victim.

9 Ladies and gentlemen, obviously we're not talking about a
10 case where he throws her in the trunk and kind of takes her somewhere.
11 He keeps her inside that home. Any movement within, telling her that
12 she needs to go take a bath or keeping her from getting out of the
13 apartment, preventing her from going out the window, I submit to you
14 that it substantially increases the likelihood of harm when you won't let
15 the person leave and go get help. When you've already taken away
16 their only ability to call for help from within the apartment. And now
17 every time she tries to go she's told she better not do that again. She
18 needs to stay there. What kind of evidence do we have on that?
19 Not just what she told you, because she said on the stand, every time I
20 would try to leave, he would get in front door. Well how does that match
21 up with what she said previously?

22 [Video plays]

23 MR. ROSE: We tried to leave through the door, tried hopping
24 windows. Apparently, that escape route is only available to the
25 Defendant. He wouldn't let her use it. He wouldn't let Riley use it.

1 What's he doing that entire day? First few words out of her mouth when
2 the cops arrived, he's held us here all day.

3 And how do you know what his intent is? Again, we all know
4 kind of that common phrase, actions speak louder than words. What did
5 he do? He threatened to kill them the entire day. Then he eventually
6 sexually assaults Samantha and goes and inflicts substantial bodily
7 harm on her. He didn't have to actually do either to be guilty of it but he
8 did.

9 Now, the reason why I kind of have it broke up into two
10 different slides is because not only is it two different people, but the law
11 is actually different on kidnapping when it comes to an adult versus a
12 child. You have the instruction in there that defines kidnapping and what
13 it actually is. But for a minor it's slightly different, leads takes, entices,
14 carries away or detains any minor. You've got a whole list of various
15 intents that could be used. And obviously nobody is arguing that he was
16 trying to keep her away from her mom. He wanted her in the same
17 house, the same apartment. Nobody is arguing that he was trying to
18 hold her for unlawful service.

19 Now what are we actually talking about? He kept her in that
20 apartment with the intent to inflict any unlawful act upon, specifically the
21 child abuse. Why does he want her in that apartment? So, he knows
22 exactly where she is so that she can't go get help. So that when he
23 needs to, he can control mom by threatening Riley. And that's exactly
24 what he did. Threatens her with the scissors. Tells her that she and her
25 mom are going to die that day. When she gets upset, not only did he put

1 them to her throat, he puts them in her mouth.

2 So, you have in your instruction first-degree kidnapping. Well,
3 it's not just kidnapping, it's first-degree kidnapping, right. Which kind of
4 implies that there's most likely a second-degree kidnapping. And if you
5 guessed that you guessed right. Second-degree kidnapping is kind of
6 what we call a lesser included offense. If you can't commit one offense
7 without at the same time committing a lower offense, it's considered a
8 lesser included.

9 I like to analogize it to the Russian nesting dolls. If you've got
10 your hands around the big one, you've also got your hands around each
11 and every one inside it. If you're holding on to the biggest of the
12 charges, every other one inside it that fits within it, you're also holding on
13 to that too.

14 So, if you go back and you determine that you have a
15 reasonable doubt as to whether or not the Defendant committed first-
16 degree kidnapping, that's not the end of the story. Maybe you're not
17 holding onto that biggest one. You're holding onto the one inside it. You
18 go back and you look at well what if it's second-degree kidnapping?

19 What is second-degree kidnapping? It's actually very similar
20 to first-degree kidnapping, but the big distinction is that this one is a
21 general intent crime. You don't plead that specific intent of holding the
22 person for the purpose of committing sexual assault or for the purpose of
23 inflicting substantial bodily harm. All you need to do is hold that person
24 against their will. So, if you have any reasonable doubt about the
25 Defendant's intent at the time, I suggest to you that you look at second-

1 degree kidnapping where you don't need that intent.

2 Next thing is battery with intent to commit sexual assault.

3 Again, this one can kind of be broken down in just two things, like the
4 burglary was entry plus intent. This one is battery plus intent. Well
5 we've already talked about what the battery is. I'm not going to run you
6 through that one again. You've heard me talk way more than you
7 probably want to. But what about the intent? This is another one of
8 those specific intent crimes. You just take a swing at the person, you
9 happen to hit them, just a battery. But when you swing at the person,
10 when you make contact with the person and you have the specific intent
11 to commit sex assault upon that person, that turns into this, the battery
12 with intent to commit sexual assault, kind of self-explanatory title.

13 Now battery with intent to commit sexual assault, kind of boils
14 down to two things, battery, intent, burglary again two things. Sexual
15 assault, we'll talk about this more in just a minute. Kind of also really
16 only boils down to two things. It's not, you know, this big involved thing
17 like you might see in crime shows. All it is penetration without consent.

18 So, what evidence do we have of it? Well this one was the
19 Defendant was demanding sex from Samantha. She told him no over
20 and over again, before and during the assault itself. But what did he do
21 when she tells him no? He testifies that he hits her with a stick, with his
22 hands. What evidence do we have? We've got the stick broke into
23 three pieces just the way she says. And we've got the bruises that
24 Nurse Dermanelian said were these were consistent with being hit with a
25 stick of that size. Go back and take a look at the bruises, do they kind of

1 match up?

2 Now Samantha got on that stand at the time and said that the
3 stick was, you know, taller than she was. She described it initially as
4 coming off of the door. Well you saw her. She's not the tallest person in
5 the world. And I don't really get to talk about that very often. But she
6 says that it comes off the door. He hits her with it. She also mentions
7 that he breaks it beforehand. So, with the question about exactly how
8 long the stick is, it doesn't really matter. You're not going to get 5 feet
9 worth of bruising on a calf that size. And you have injuries not just the
10 lower leg but on top as well.

11 I just kind of want to mention a few other things with this. With
12 both the battery with intent to commit sexual assault and with the sexual
13 assault, many of you were asked do you believe that a person has an
14 absolute right to say no to another person's sexual advances. And
15 every single juror said yes. You were asked if you believe that a person
16 ever gives up that right and every single person said, no, we don't.
17 That's exactly what Samantha did. She exercised that right to say no.

18 You were also asked, well does it change if you're in a
19 relationship, if you're dating the person, if you're married to the person?
20 And every single person asked said no. We had no potential jurors said
21 nope my wife says no and no still means no even when married. Just
22 because they were dating maybe they had consensual sex plenty of
23 times before that. It does not matter. That night she said no and she
24 deserved to have that be respected.

25 So, what is that sexual assault? You have the instruction it

1 talks about subjecting the person to sexual penetration against their will.
2 That's all it is, penetration without consent. You don't have to hold the
3 person down, do anything like that. All you need is any penetration,
4 however slight. You don't need physical force. You don't have to hold a
5 person down. You don't have to beat them into it. Any penetration,
6 however slight.

7 This is one of your instructions and I put it up here kind of in its
8 own context, because I think it's a very important instruction. And you're
9 specifically instructed they're all important. I'm not asking you to look at
10 this one and none of the others. I just want you to take a close look at
11 this one. Submission is not the equivalent of consent. Consent never
12 involves submission and submission does not inevitably involve consent.

13 Yes, Samantha testified that she took her own pants off. She
14 testified that she told him no, but she never said that, you know, she
15 fought back. She thought she scratched him but no injuries were found
16 on him. She doesn't have to. The fact that she submitted to him after
17 having him break into the home, terrorize her and her child, beat her with
18 his hands and a stick. The fact that she eventually gives in to him
19 doesn't excuse his conduct. It doesn't suddenly somehow turn into
20 anything other than what it is, which is sexual assault. I want you to
21 keep that one in mind.

22 Defendant demanded sex. She tells him no. He has sex with
23 her anyways. Nobody is going to be able to get up here and tell you that
24 they didn't have sex, right. Because when she got that rape kit done,
25 she tells the officers right up front. I'm most interested right now in going

1 and getting a rape kit, because I'm terrified. She goes, she hears
2 exactly how intrusive it's going to be. She goes through it anyways.

3 And what does it say? It says that it's more likely that the
4 DNA found in that rape kit came from Trandon and Samantha than it did
5 from others. Now they can't say that unless it's at least a thousand
6 times more likely that it was those two individuals. But it wasn't just a
7 thousand times more likely. It was 8.62 nonillion times more likely. I
8 went to an engineering school. I did a lot of math growing up. Oddly I
9 wasn't exactly sure how big 8.62 nonillion is. Is 8.62 times ten to the
10 third. That's how many times more likely it is that the DNA in that rape
11 kit came from Samantha and Trandon than it did from other people. She
12 tells him no. He has sex with her anyway. Penetration without consent;
13 that's all it is.

14 Now this one is Count number 7, battery with use of a deadly
15 weapon resulting in substantial bodily constituting domestic violence.
16 It's a very long count, long enough that I can barely get the title on the
17 screen. Well what does that one turn into? Battery. Was there a deadly
18 weapon used? Did it result substantial bodily harm? And did it
19 constitute domestic violence? Again, I'm not going to put that up on
20 every slide otherwise I'd have a thousand slides just for this count.

21 We already talked about what the battery is. No need for
22 harm. What about a deadly weapon? Well the law defines for you a
23 deadly weapon in kind of two different ways. One of them is in the
24 manner that's it's designed to be used or we got a second way, the way
25 it's actually used is capable of causing substantial bodily harm.

1 So, as an example, a bomb, the way that a bomb is designed
2 to be used the ordinary usage of it is capable of causing substantial
3 bodily harm. Deadly weapon, a hammer, a hammer is designed to build
4 things, right. Sometimes break them if it's a sledge hammer. But in the
5 ordinary course of usage, the way it's designed to be used, it's not really
6 designed to cause substantial bodily harm. But if you go and you take
7 that same hammer and you bash somebody's skull in with it, darn right
8 that's now a deadly weapon, because in the manner that you used it or
9 the way that you threatened to use it was readily capable of causing
10 substantial bodily harm.

11 One very important thing here is the State does not need to
12 find the weapon. You're specifically instructed, we don't need to find the
13 weapon. Now why is that important? Well a person goes and robs a
14 bank. They take off. Toss the gun out the window of the car. Guess
15 what guys, can't find the weapon, can't charge me, ha-ha. That's not the
16 way the law works. That's particularly important in this case too,
17 because Samantha describes that pocket knife. She told the detective
18 about the pocket knife, she told you about the pocket knife. You saw the
19 result of the pocket knife, but no pocket knife. But why not?

20 Think about this, where is the Defendant found? Fifty to
21 seventy-five yards away, out the back of the apartment, going through
22 the neighborhood. There's cars and dumpsters, and there's tons of free
23 space around him. How easy would it be to take that pocket knife and
24 toss it? Does that allow you to escape liability for using it? No, the law
25 says it doesn't.

1 What about substantial bodily harm? I thought about that
2 when it relates to the deadly weapon. It's also part of this charge. It's a
3 bodily injury, which not -- which has a significant risk of death or cause a
4 serious disfigurement or loss of bodily member or prolonged physical
5 pain.

6 Now prolonged can mean a lot of things to a lot of different
7 people. Fortunately we're not asking you to supply your own definitions
8 of it, because when have 14 different definitions of it. The law says
9 prolonged physical pain is any pain lasting longer than the pain
10 immediately resulting from the act.

11 Well what evidence do we have? Cut open her finger,
12 Defendant will tell you, you know, well it might have happened. I'm not
13 really how that happened. It might have happened when I was swinging
14 the scissors around just kind of fucking with her. Well not what she
15 says. She says it was a knife. She described it very particularly. Kind
16 of -- she doesn't use the term Swiss Army Knife, but what does she
17 describe? A little pocket knife with a whole bunch of little attachments in
18 it. The one that got folded out happened to be the blade. Then it came
19 down and it went through her nail.

20 They told you that nail had to be completely removed after the
21 surgery, or after the treatment I should say. It was in a cast and she was
22 in pain for weeks. Now, what did Nurse Dermanelian tell us? Well
23 they're welcome to see if, you know, potentially unconscious person is
24 responsive they press down right on that area at the base of the nail.
25 Because there is enough pain that they can cause a reaction in the

1 person. Samantha had to have knife blade go right through it, took
2 months for the nail to grow back.

3 You don't have to think about it or imagine it. You can see it.
4 Taken that same night that wound went right through that nailbed. Now
5 you won't just have to, you know, be sitting in the back here hoping that
6 you get a good look at this. You'll have all the pictures. You can take a
7 close look if you'd like.

8 Count 8, assault with a deadly weapon, like a lot of them it
9 really just boils down to two things, assault and deadly weapon. Well it's
10 the same definition of deadly weapon that we just talked about. I'm not
11 going to run through that with you all again. But what about the assault,
12 what is that? Well it can be done in one of two ways, either you
13 unlawfully attempt to use physical force on another person or you
14 intentionally put the other person in reasonable apprehension of
15 immediate bodily harm. You only need one of two ways. You don't
16 need both.

17 But we've alleged based upon the evidence, the second one,
18 that the Defendant intentionally put Riley in fear of eminent bodily harm.
19 Now it's a fear of eminent bodily harm. She didn't have to get hurt. You
20 don't get to say, well yeah, I scared the living daylights out of person, I
21 wanted them to be afraid but I didn't actually touch them. That's not a
22 defense.

23 So what are we talking about? We're talking about those
24 scissors. I submit to you, ladies and gentlemen, that with ordinary
25 kitchen shears the way that they're intended to be used it's not going to

1 do be readily capable of causing substantial bodily harm except maybe
2 to the chicken that you're cutting up. But that's not the only definition
3 offered.

4 Remember it's not just how they are intended to be used, but
5 how the person actually uses or threatens to use them. So you go and
6 take those same pair of kitchen scissors out of the kitchen and you put
7 them to a little 6-year old's throat and tell her that you're going to kill her
8 and kill her mother, I submit to you that is capable of causing substantial
9 bodily harm and putting that child in fear of it.

10 She told you that she was afraid -- I apologize -- Samantha
11 told you that Riley was afraid. Go back and look at the way that Riley
12 behaved after the police arrived. When they first come up and they try
13 and talk to her, head straight down. She can't even look them in the
14 eye. Eventually she kind of warms up a little bit to Officer Hennings,
15 kind of tags along with her, bouncing around a little bit more. But what
16 else is she asking? Where is he? Which car is he in? Can he get over
17 here? And Officer Hemmings has to go tell her no, no, no, you can trust
18 me. Don't worry we got lots of big guys all around. He's not going to get
19 to you.

20 That little girl was so afraid that even hours later after the
21 officers are there and they had the defendant in custody, she's still afraid
22 that he's going to be able to get to her. He put those scissor to her neck,
23 telling her that he was going to kill her and kill her mother. And I submit
24 to you, ladies and gentlemen, that that would not only put basically
25 anyone in fear of harm but it put Riley in fear of harm.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

[Video plays]

MR. ROSE: Remember, you don't just have to go based off of that. Remember the Defendant's DNA is also found on the handles of those scissors.

[Video plays]

MR. ROSE: Would that put a 6-year old in fear? I submit to you it would and it did.

Now child abuse, your child abuse instruction is a very long instruction. It has in there a lot of different ways that you can commit it. You can actually take most of those and kind of ignore them, because we haven't alleged them. I submit to you there's been no evidence that most of those actually happened. So what I want you to focus on is willfully causing a child under 18 years of age to suffer unjustifiable physical pain or mental suffering or putting them in a position where they could suffer those things as a result of abuse or neglect.

What is abuse or neglect? It can be -- again a whole lot of different things, physical injury of a non-accidental nature, which is then defined as a permanent or temporary disfigurement or impairment of bodily function. Or the element that we've alleged is negligent treatment or maltreatment. Well we may have differing opinions on what constitutes maltreatment of a child, but our opinions of it don't really matter because we have the definition in the law. It's harmful behavior that is terrorizing, degrading, painful, or emotionally traumatic.

Is it terrorizing to have scissors put to your throat and be told that you're going to be killed? Is it emotionally traumatic to be -- have

1 those scissors up against your throat and be told that your mother, who
2 is just a few feet away from you, is also going to be killed? Is it painful to
3 have to go through those things and be put through those things by the
4 person that you referred to as dad? I suggest to you that it is.

5 Obviously is known as Riley. She was 6 at the time, 7 now.
6 She was and is a special needs child. She had those scissor put to her
7 throat and in her mouth and is threatened to kill her and her mother. Think
8 back to her behavior. Look back on her behavior in that bodycam.

9 Then we get to our last count, dissuading. A person by who
10 exclusion, force, threaten, deception, or otherwise prevents or attempts
11 to prevent another person from appear before any in court as a witness
12 or induces them to be absent from a court proceeding. Now it's
13 important here that it's causes or attempts to cause that person to be
14 absent. Because if you're only guilty of it, if the person didn't actually
15 showed it would be very hard to prove. So the fact that Samantha was
16 here, the fact that she came to court previously, that she was in court
17 before you last week, doesn't mean that he didn't try to keep her from
18 coming.

19 What did she tell you? That the Defendant called and wrote to
20 her shortly after these things happened right up until the first court date
21 in July, asking her not to be there, telling her that if she came, he'd be
22 convicted and if she wasn't there the charges would be dropped. You
23 don't get to scare or intimidate the witnesses to then get off of the case.
24 You're not allowed to do that, ladies and gentlemen.

25 But you don't just have to take her word for it. You can take

1 his. These are the charges I'm faced with and will be convicted of if you
2 come to court. Would you be willing to not show up in court please, I'm
3 begging you with all my heart and soul. I'm asking you to trust me,
4 because I know if you show up to court I'll be convicted and sentenced
5 to life in prison. And if you don't show up, I'll be given a chance at life
6 again. The charges will be dropped. What has to be running through
7 the mind of a person to go and write all of that out? And you don't get to
8 go and convince the person that you have victimized not show up in
9 order to get away Scott free.

10 Ladies and gentlemen, I want you to take a look for a moment
11 at the very last instruction in the instruction book. It's an important one.
12 It tells you what it is that you are here to do as jurors. You are not here
13 to pass judgment on whether or not the Defendant is a good person or a
14 bad person. You're not here to pass judgment upon Samantha, whether
15 or not she's a good person or a bad person. And no one is winning
16 mother or the year awards. We're not asking you to. What you are
17 being asked to do, what you are instructing to, what your job is as jurors
18 is to do equal and exact justice, because everyone is entitled to
19 protection of the law.

20 The people that we don't like are protected too. The people
21 whose life choices we disagree with, they're protected too. No one
22 deserves to have these things happen to them. No one deserves to say
23 no and yet be forced into sex. No one deserves what happened to
24 Samantha and Riley Weston. What we are asking you to do is to go
25 back to look all the evidence, consider all of the law, and at the end of

1 the day to come and back and tell the Defendant what he already
2 knows, that he's guilty of each and every one of the charges.

3 THE COURT: Thank you. All right. Defense, argument.

4 MS. MCNEILL: Could I get the Elmo, switched over to the
5 Elmo please. Thank you.

6 **CLOSING ARGUMENT BY THE DEFENSE**

7 MS. MCNEILL: Jury instruction number 44 tells you that a
8 verdict may never be influenced by sympathy, prejudice, or public
9 opinion. Your decision should be the product of sincere judgement and
10 sound discretion in accordance with these rules of law.

11 Now the State is going to tell you multiple times that they are
12 not asking you to be sympathetic to anyone, certainly not Samantha or
13 Riley. But the problem with that is that's really all they have isn't it?
14 How much did hear about what Samantha really said in his closing
15 argument versus how much did you hear about how intrusive the exam
16 was and how scared Riley was. That was the substance of his closing.

17 Because here's what happened, on the night of June 18th,
18 when officers responded to the call, they just phoned it in at a certain
19 point. And you know that because you can watch the bodycam where
20 Officer Knepp and Officer Hemmings are having a conversation and she
21 says something like well Samantha ID'd Trandon. Not a surprise, that's
22 her boyfriend. And Officer Knepp says piece of cake, case closed.

23 It's not really quite that simple, because that would mean that
24 you just decided that whatever Samantha told you was the truth. And
25 then Detective Campbell says well I knew I had Samantha's story and

1 then I had this forensic evidence and so therefore I knew the truth. The
2 problem with that is that Detective Campbell doesn't know how many of
3 the details that Samantha gave were inconsistent. He doesn't know that
4 she lied about whether or not she was pregnant. And they can tell you
5 that it's not a material fact but it's still a lie. And he didn't know those
6 things. He also didn't know some of the problems with the injuries. So
7 he had her version of events and then he had DNA in the form of his
8 semen. And he decided that anything that Trandon said to him was
9 therefore a lie. And that's how we end up here.

10 And so clearly the State has some problems with Samantha
11 as a witness. She's not consistent. She's not honest. I don't have any
12 idea if she's a good mother. I'd never comment on that. She's certainly
13 wasn't a good witness. And a lot of what she said just wasn't the truth,
14 from minor details to big details.

15 And they know there's a problem with that, so now they have
16 to bring in Riley. And they have to bring the detective and they have to
17 bring the SANE nurse. And then they put up this instruction about
18 credibility and why would these people lie? They don't have to be lying
19 to be wrong, right? They asked you all about that in voir dire, about well
20 how can two people perceive things -- or how can two people give
21 different versions of events. And the answers seem to be well it's how
22 you perceive things.

23 How the detective perceived what happened that night doesn't
24 mean he's lying when he told you that's what he thought happened. It
25 just means he's wrong, right? What Jerry Dermanelian believes about

1 her exam and what her conclusions might have been doesn't mean
2 she's lying. You can tell she's very dedicated to her job. But she didn't
3 actually tell you anything other than they had sex.

4 And then they bring in Riley. Why? You have to ask yourself
5 why would you put that child up there knowing she's not going to be able
6 to talk to you. Because she's really, really cute, right? She's a little doll.
7 And every single one of you felt bad. You felt bad because it seemed
8 like this guy big bad monster and must have hurt her and that's why she
9 can't talk. It distracts from the fact that they cannot prove to you with
10 any real credible evidence, anything that Samantha said happened.

11 And Samantha preys on people's sympathy. Samantha you
12 can tell sort of by her demeanor and the way that she talked to you. You
13 can tell that she's used to saying what she needs to say in the moment
14 and figuring out how it plays out later. And you could see it when she
15 testified. She would give an answer and then upon further inquiry
16 completely change the answer, right? From tiny things that they're going
17 to say don't matter, but you have to ask yourself what would then be the
18 point of lying.

19 When asked about her relationship with Trandon, Samantha
20 told the State while she was testifying that they met in 2016 and a few
21 months later it was very serious and he proposed. That's not what she
22 told the detective back in 2017, when arguably she probably would have
23 remembered better. She told the Detective that they'd been dating for
24 close to 3 years and that they'd been official for 9 months.

25 Now again, they may say why -- that's not a material issue.

1 Here's what it shows. Why might you want to tell the detective that
2 you've been dating for 3 years and that you've been official for 9 month?
3 Do you think people are judgmental of women who say I met this guy in
4 December and by February I'd moved him into my house with me and
5 my kid? Yeah, probably. She probably knows that. I'm guessing
6 Samantha is the kind of person who has been judged before and she
7 knows what it feels like. So she's willing to say whatever she needs to
8 say in the moment to the person she's talking to, to influence how they
9 think about her.

10 She lied about being pregnant. On May 28th she tells the
11 police she's 3 months pregnant. Again, that gets sympathy. She told
12 Detective Campbell that she had taken a home pregnancy test and was
13 a week pregnant. She didn't tell Jeri Dermanelian that she thought she
14 was pregnant and had taken a home pregnancy test. She admitted that
15 Trandon thought she was pregnant. And if you look at this letter that he
16 wrote, she told him that she lost the baby. But she admitted to you guys
17 there was no baby. So she says what she needs to say when she
18 needs to say it. And that's who we're dealing with.

19 You can also sort of tell that she sort of collects and recycles
20 evidence. When you watch her on the bodycam, she's desperate to kind
21 of show the officer look at all the stuff I've got, right, look at all the stuff
22 on my phone. I've got all these pictures. And she wants to show the
23 officer those things. And anytime she sort of got confronted on the stand
24 -- and by the way, again they're going to tell you that she was terrified
25 and that it was hard to come in her and testify because these are sexual

1 details. I don't think that anybody would find it easy. But again take into
2 consideration the actual words that she used. This wasn't a shrinking
3 wallflower who didn't know how to describe these things. Ma'am, which
4 part of his body did he penetrate you with? His dick. Where did he
5 finish when the sex was over? On my ass. This isn't somebody who
6 shies away from talking about sex. Again, they have to make you feel
7 so bad so they can get their burden lower and lower because they know
8 there's a problem with facts.

9 So think about how she changed stories in the middle on little
10 things, like did he buy you dishes, did he buy dishes for the apartment?
11 First she said to me well if you want to call going to the Dollar Store and
12 buying cups, buying dishes, then yes. Okay, well I would call that buying
13 dishes. And then she changed it. Actually no he didn't buy them,
14 because never had a job. Well that's weird because she also told you
15 that he paid utilities because she couldn't and they got cut off. Then she
16 changed it to well he just came with me and I bought them at the Dollar
17 Store. So keep in mind Samantha's ability to change information in real
18 time when confronted with facts that don't make sense.

19 They tried to make it sound as if he was just a sometime
20 overnight visitor at the apartment and just kept a few things there.
21 Those are men's clothes hanging up, men's shoes. In fact it seems as if
22 on this side of the closet it's just men's clothing. The nightstands sure
23 do look like two people are living there. And they kind of said well he
24 wears gloves to work out. He's got Gold's gym workout equipment on
25 the nightstand. Sure does look like a man lives in that apartment.

1 So we get to May 28th, and Samantha says he calls her and
2 tells her that he wants to bring another woman to the house. And then
3 they got in a fight and then he beat her up. But the details that Mr. Rose
4 didn't talk about that also came from Samantha were this. That they got
5 in a fight earlier in the day and it was evening by the time she called the
6 police. She said that they got in this fight. She went to aunt's, right?
7 Why didn't she call the police right after the fight or during the fight?
8 Why didn't she tell her aunt? Why didn't her aunt call the police? And I
9 know that they're going to say that well she didn't call the police because
10 every time the police came they didn't do anything. But there's problems
11 with that too.

12 I believe that Trandon probably was with another woman on
13 May 28th. And I think that's probably what she found out. And I think
14 that's probably why she --

15 MS. LUZAICH: Well objection.

16 MS. MCNEILL: -- was upset.

17 MS. LUZAICH: It's improper for her to say what she thinks.

18 MS. MCNEILL: Okay, well I don't have to think.

19 THE COURT: So -- ladies, and gentlemen, counsel can't
20 express their personal opinion about those issues. But it's up to you to
21 decide on credibility. Go ahead.

22 MS. MCNEILL: It doesn't matter what I think. Samantha
23 herself told you, he was with another woman that day. Just remember,
24 any bitch before me was a mistake and any bitch after me is a
25 downgrade. And that's May 28th, 2017, the day she claims he tried to

1 bring another woman over to the house. She said no, so he beat her up.
2 What's more likely, that she found out he was with another woman and
3 got angry and posted this on Facebook and got angry enough to call the
4 cops? Because what does she really want when she called the police?
5 She wanted them to help her change her locks. She doesn't want this
6 guy living with her anymore. She's sleeping with other women.

7 She tells the officer, and remember that officer he was so
8 sweet and so new and genuine. And he told you, Officer Gainey, my
9 report is so accurate and so detailed because I'm right out of the
10 academy and that's what I learned. But don't take my word for it,
11 because my field training officer who was right there watching the exact
12 same things that I was watching, read it and read it for accuracy and
13 then signed off on it and gave it to my sergeant who signed off on it as
14 well.

15 And nowhere in that report did he talk about how he -- she
16 was hit in multiple places with the aerosol can. What he said was that
17 she reported being hit in the face with his hand, hit on the hand with the
18 aerosol can, and then hit on the head. She didn't have any injuries on
19 her head. But she had that fresh cut and the bruise on her leg.

20 What was interesting about the cut is that she claims that it
21 was hours in between the fight and when she called the police. She
22 spent the whole day at her aunts. But he was -- he saw immediately that
23 cut. He said it was fresh, it was bleeding. He was drawn to it.

24 And then he takes a picture of her leg. She didn't tell him that
25 he -- she was struck in the leg. He thought maybe that came over the

1 dispatch. Does that look like a fresh bruise? You'll have this back there
2 and you're be able to see that this area, one, I don't know if it looks like a
3 bruise, but two, it's not fresh. There's an instruction that says you get to
4 use your common sense and all of the knowledge that you have as
5 grown people who've lived lives and had things happen to them. You
6 know what a bruise looks like when it's new and you know what it looks
7 like when it's old.

8 And then the State tried their best to get in the fact that these -
9 - that Trandon was sending her threatening text messages. Officer
10 Gainey, on the day that it happened, his report triple checked for
11 accuracy simply wrote in his report that he had received text messages
12 from Trandon. Now it did come out over the dispatch, which by the way,
13 the dispatcher is reporting what Samantha is telling them. So Samantha
14 tells the dispatcher that Trandon had sent her messages threatening to
15 kill him -- her. Officer Gainey admitted if somebody is sending
16 somebody else messages threatening to kill them, that's potentially a
17 separate crime and he wouldn't documented that. His report would've
18 said threatening text messages. And I can guarantee you it would have
19 said that those messages said that he wanted to kill her. So she's using
20 things that she knows will get sympathy for herself.

21 And then she tells him she just want him to help her change
22 the locks. But she couldn't even keep that part straight because Steve
23 Rose asked her at that time, May 28th, did he have a key to your
24 apartment? She says no. And then I was the one that said, do you --
25 well then why did you need the officers to help you change the locks.

1 And she was a little bit flummoxed. And then she said something along
2 the lines of because I didn't trust him. And that's probably the key.

3 If you listen carefully to the things that Samantha said and you
4 listen carefully to things that the all of the witnesses says you can kind of
5 get an idea about what really happened. So the real issue on May 28th
6 is that she's mad. She's mad and rightly so. Any bitch before me is a
7 mistake and any bitch after me is a downgrade. And that's the key to
8 what happened on May 28th.

9 And now, remember she testified that after May 28th she was
10 just so desperate to have him away from her, right? She's got to get
11 these locks changed. What does she do a few days before Trandon is
12 arrested? Refuses to leave his mom's house. Went over there, they
13 said you gotta go because you two are arguing all the time. She's gotta
14 leave. You're babysitting. Mom comes back at 11 o'clock at night and
15 Samantha is still there. And so remember this is the word of a woman
16 whose been convicted of felony harassment and domestic violence.
17 She's still at the mom's house. Mom takes them both back to their
18 place. That's not a woman who is desperate to be away from Mr.
19 Green.

20 And the State may try to tell you, well this is how women act
21 when they're in abusive relationships and most of this was driven by
22 fear. Well let's remember that this is all just the work of a woman who
23 knows how to manipulate people for sympathy. Remember the very first
24 moment when they called her name and we all looked at the door and
25 no one came in? And we waited and we waited and we waited and then

1 they had to go get her. And she had the tears.

2 How fast did the tears turn off when I started questioning her?
3 I literally said, good morning Ms. Weston, and the switch flipped. She
4 couldn't answer my questions. It was very different from how she
5 answered their questions. There was an instant attitude. Well if you say
6 so. Is that someone who is terrified or is that someone who just
7 manipulates situations when she needs to?

8 After May 28th, again, she's saying she's so desperate to be
9 away from him. On June 7th she posts my only relationship goal is for us
10 to make this last. I want forever to actually be forever. That doesn't
11 sound like she's desperate to get away from him. It kind of sounds like
12 she's desperate for him to stop cheating.

13 She's also desperate because she knows that Trandon's
14 gotten another woman pregnant and people are talking about it on
15 Facebook and she can see those comments. People are talking about
16 the fact that this man, her boyfriend, who had proposed to her, had
17 gotten another woman pregnant. And it's all over social media and
18 that's got to be really embarrassing. And I don't fault a woman for being
19 embarrassed about that. Most of us would be. But she's also really
20 angry. In fact she tells mom she's going to get him back. She's going to
21 get back at him.

22 The key in her plan again, the State to you said well what
23 motive would Mr. Denton have to come in and lie? Well he wouldn't,
24 right? I mean, we're all smart enough to understand that Leroy Denton,
25 just a nice guy who happened to make acquaintance with Samantha.

1 The officers who Samantha kept telling you didn't want to help
2 or wouldn't help or wouldn't do anything, they actually tried. They told
3 her how she could get her locks changed. They told her shelters that
4 she could go to. Officer Gainey said he even drove by before his shift
5 was over to see if Trandon had come back. It wasn't that the police
6 didn't want to help her. That wasn't the real issue. Because there
7 wasn't a lot they could do with what they had.

8 So she says that she goes on Facebook and makes this post
9 about having her locks changed and somebody connects her with Leroy.
10 And he's just a nice guy, right? He says he feels bad for her. He clearly
11 does. And you can tell he had that sort of protector instinct. He wanted
12 to be a police officer but whatever reason didn't make it. But you can tell
13 that he's just that kind of guy that if some stuff goes down, Leroy's
14 getting his gun and he's heading to the scene. And he told you, I felt
15 bad for her. I didn't even charge her for the supplies and I didn't even
16 charge her to fix the lock. And then she called me later a few days and
17 asked for a ride to somewhere and I took her. And then I invited her to
18 come out to eat with me on Father's Day. We weren't saying he's lying.
19 He's just a piece of puzzle.

20 The only real important part about Leroy is this, Samantha
21 tells the detective, and you can hear it on the bodycam, I even had to
22 have my friend fix the window because he'd busted it, the same guy that
23 fixed the lock on the door. Leroy never told you he fixe da window. He
24 fixed -- changed locks, that's it. And these things kind of stuck in his
25 head because he felt bad for her. If he'd also had to fix a window

1 because this guy had broken it he probably would have remembered
2 that too.

3 So on June 18th after Samantha has decided that this is the
4 day it's all coming to an end, that's the person that she texts. It's a
5 hostage situation, the cops will have to bust down the door. Because
6 when they've come any other time she's called there's been some sort
7 of problem. He wasn't there. But bear in mind she told you that on May
8 28th, he actually was there and then left after the cops arrived. Even
9 though Officer Gainey said if I get there and the guy is there, that's a
10 whole different scene right?

11 So she reaches out to Leroy who she can tell is a protector,
12 women know that. You get the father figure vibe from Mr. Denton and
13 that's who she has call the police, because it's going to be serious now.
14 A third party calls and says there's a hostage situation and you're going
15 to have to bust down the door, it's going to be a big deal.

16 So let's get to June 18th. Samantha says that Trandon was
17 outside banging on the door for hours. She tells the police, in the
18 bodycam, 2 a.m. she tells the detective it started at 3 a.m., and she told
19 all of you it happened at 10 -- it started at 10 p.m. the night before.

20 So she tells us that for 8 to 12 hours he's outside banging on
21 the windows, banging on the doors, throwing rocks, for 8 to 12 hours.
22 And not one other person called the police? And 8 to 12 hours he's
23 banging on the door. That's kind of weird, right, because the State tells
24 you the next morning he breaks in. Why didn't he do it before, at any
25 time before? Who would stand outside and bang on the windows and

1 bang on the doors and throw rocks for 8 to 12 hours in June when he
2 could have just popped the window gone in? And then he waits until
3 broad daylight, right? Because if he's out there in the middle of the night
4 that's probably the best time if your intent is to go inside and commit a
5 crime, versus waiting until broad daylight, in the middle of the day, and
6 then climbing in the window.

7 So Samantha's story doesn't really make sense. And then
8 remember that the officer claims to have seen all of these messages on
9 Samantha's phone, but it wasn't important enough to take pictures of
10 them or take them off the phone to present them to you about what time
11 this happened. Well here's what we do know. He said, yeah I was
12 texting her. And the officer said well why would you be texting her if you
13 weren't there? Well I was at my friend Vinney's around the corner in the
14 complex, which by the way, they didn't ask him where Vinney lived, they
15 never went to find Vinney. And then he says well I was texting her like
16 let me in.

17 So what makes more sense? That he's outside banging for 8
18 to 12 hours and then I guess after 12 hours of banging he's like oh okay,
19 I'm just going to have to go in through the window. Or he shows up,
20 she's changed locks, right. Samantha, let me in. She's not going to let
21 him in. He goes to Vinney. He's still texting her, are you going to let me
22 in? Can I come get my stuff? Are you going to let me in? Doesn't that
23 make more sense? And then the next day when everyone's up he goes
24 over again and he goes in through the window.

25 Well he can't go in, because she's -- any other way because

1 she won't let him in and she's changed the locks. So he goes in through
2 the window where all of his stuff is that he's gotta get packed. And they
3 try to make an issue of the fact that is' not very much stuff. He's a 20
4 something dude, how much furniture do you think the guy has that he's
5 moving around town?

6 They didn't ask his mom, they said how much stuff did he --
7 did you get from Samantha's, right. She's say a couple boxes. They
8 didn't - mom didn't say well and then I had all his furniture, you know, in
9 the bedroom. He didn't take that. No, all his stuff. That's all his stuff.
10 And now he's been locked out. And he knows she's really, really, really
11 made because he cheated on her. So he goes in through window.

12 Now she says that when he first came in he said to her,
13 remember she told you guys he just stared at her and he said we need
14 to go talk. But she told the police that he said why the fuck wouldn't you
15 let me in. I live here. That's what she tells the police on June 18th. Why
16 the fuck wouldn't you let me in. I live here. She says leave. He says if
17 you want me to leave you're going to have to call the cops, right? Okay.

18 This is another one of those instances where you can kind of
19 tell what really happened. He's been locked out. She's pissed off at
20 him. He has to go inside through the window. Why the fuck wouldn't
21 you let me in. I live here. Now she's says that point she's so afraid for
22 her life that she was afraid for her life all night. Remember she testified
23 that him banging 8 to 12 hours on the door and hitting the window,
24 throwing the rocks. She's terrified for her life, even though she's inside.
25 And clearly for 8 to 12 hours he couldn't get in. He had no way of

1 thinking of the window. And she has her phone and she never called the
2 police in any of those times.

3 Then she says when he comes in she's terrified for her life.
4 But then what does she say? Again this is one of those instances where
5 she kind of gives away what really happened. She says that she got
6 really smartassy with him, right? Probably not what you're going to do if
7 you're terrified for your life.

8 She told you when she testified this week that Trandon had
9 changed his clothes before he fled out the window that night. He
10 changes his clothes in the middle of a hostage situation? She couldn't
11 remember the gloves when she testified now this week. They were kind
12 of a non-issue. The State asked her about it and she was kind of like
13 hmmm, the gloves, hmmm. But the gloves were a big deal back then
14 and now I know that she said that some of the details were fuzzy
15 because she blocked it out, which is weird because if you've blocked
16 something out you just don't remember them. You don't remember
17 different things and you don't add things.

18 Because again when she's preying on your sympathy they
19 showed you a picture of the bedroom and said, do you recognize this as
20 being the room that you lived in back then? And she said I don't know I
21 was too shaken up. Okay, you don't know now a year later if that was
22 the room you live in for a 6-month period of time because on one night
23 something happened that shook you up?

24 And then what's interesting is the first word out of her mouth to
25 the police are go get him, right? And then what does she start doing. I

1 can tell you exactly where the scissors are. I can tell you where the stick
2 are. I can tell you where the gloves are. I can tell you where everything
3 is that's going to be a key piece of my story. And everything, remember
4 the CSA said was really easy to find. Everything was just sort of right
5 out there in the open. And she's a nurse's assistant, Samantha. And
6 yeah, her nail had come off, but I imagine she probably knows how to
7 cover up a wound better than this. Everything just right out there, easy
8 to collect.

9 The State says when you watch that bodycam footage that
10 she looks scared. She's out of breath for sure. Is it fear or is she
11 determined to make sure she gets everything? So the finger she says
12 that there was blood everywhere and there was. And then she told you
13 that they put a cast on it. Well it wasn't broken. And that it kept
14 bleeding. Nobody fixed that for her? Nobody sewed it up? I mean, she
15 was at the hospital. Again, she says things to you to try to get you to
16 feel sorry for her so you don't spend a lot of time thinking about the
17 actual details.

18 Because when asked multiple times in June of 2017, and this
19 week, how the cut happened, all she says is with a knife. Well there's
20 more to something happening than that, right? Did he grab your hand?
21 Did he shove it down on the bed? Did he slice you like this? Did he
22 slice you like that? Did the knife come from up here? Did he pull the
23 knife out of his pocket? There's more to it than just he cut my hand with
24 a knife. And she couldn't tell you any of those details about how that
25 happened.

1 But don't worry, because if it's because she blocked it out it's
2 a good thing the police recorded her interview, right? What did she tell
3 the police? You know what to be honest, I don't really know how it
4 happened. Because the detective had a little bit of confusion over how
5 she was relaying it to her. And when he confronted her with that, she
6 said I honestly don't know how it happened. It just happened that night.

7 And then the sex assault, same thing, where are the details
8 about that? How did it happen? And I don't just mean functionally,
9 penis into vagina. I mean did he push you down? Did he hold you down?
10 Was he on top of you? Was he behind you? Not one detail, not one
11 from her this week about the mechanics of how it happened? And they
12 didn't ask her what she told the detective about how it happened. So
13 what are the details of that?

14 She did tell you that he ejaculated on her butt one time. And
15 then she dropped the bomb of, when asked what did he say to you while
16 it happened? He told me you were raped as a small child and I'm going
17 to show you how it should have been done. That's kind of a kick in the
18 teeth to hear, right, that's -- that someone would say something like that
19 while raping someone would stick in your head. Bu the problem is she
20 didn't tell the detective that. And the detective admitted that had he
21 heard that that's kind of a kick in the gut, right?

22 And they even try to say well, you know, she was emotional,
23 all of these things. But that's a big deal. So why would she suddenly
24 remember after she's worked of a year to block all these details out in
25 front of you, because it tugs at your heartstrings. Because it makes it

1 easier to check the guilty box on this guy when the rest of her story is
2 just weird and doesn't make sense.

3 And that brings us to the SANE nurse. Again, I'm not going to
4 tell you that she's lying. I mean, what would she be lying about? But
5 that doesn't mean the information that she gave you is completely right if
6 it's just based on what Samantha told her, right? If what Samantha told
7 is a lie, she doesn't have any way of knowing that. That's not her job.
8 She's not a lie detector. She's not here to you I determined that she was
9 telling you the truth. Her job is just to collect what she sees, what she
10 hears and give it to you.

11 But what was interesting about her was also her demeanor,
12 because you have to look how people testify. Again, she didn't want to
13 talk to me. She did not make eye contact with me the entire time I
14 questioned her. It was a little off putting. She also couldn't give a yes or
15 no to save her life. And I get it; she's invested in what she does. And
16 women are brought to her by the police and she's told that they've been
17 raped. And what did the State tell you? That's all she does. So in her
18 world everyone is a sex assault victim. And that's got to be rough. But it
19 doesn't mean that what Samantha told her or what she told you is the
20 truth. Again, it's all designed because they know there's a problem with
21 their case to just make you hate this guy.

22 And she, the SANE nurse, said that Samantha told her that
23 she'd been raped four to five times that night. She never told the police
24 about that that night. And she didn't tell you that when she testified this
25 week. And again, I understand that Samantha kept saying that she was

1 in crisis mode. I understand that. But the officer had her in the police
2 station surrounded by cops in a room as safe as she could be. And she
3 didn't tell him that. And he even said, I need to get all of these details
4 from you. They're going to be important later. She didn't say she'd
5 been raped 4 to 5 times.

6 She told Jeri Dermanelian that it happened over a period of 6
7 hours, the rape. She told you this week that the rape happened
8 between 7 and 8 p.m. She didn't tell Jeri Dermanelian that she had
9 taken a pregnancy test and believed that she was pregnant. And it
10 turned out that when they did their own that she was not pregnant. And
11 when I asked her a question about well why didn't you tell them, you
12 know, if you'd been struck in the stomach since you thought you were
13 pregnant. And her answer was to sit and glare at me for what seemed
14 like 30 seconds, it was probably less, and then to say I didn't want his
15 baby anyway.

16 Well if you didn't want his baby why were you telling
17 everybody you were pregnant with it? And if you didn't want his baby,
18 why did you refuse Plan B. Because if he had gotten you pregnant that
19 night, because remember there was his semen inside of her, and she
20 knew that because she knew they had sex. If you didn't want his baby,
21 why wouldn't you take the Plan B which would prevent you from having
22 that baby? She says what she needs to say when she needs to say it to
23 get a response.

24 Samantha's details about the rape, additionally she said this
25 week, I took off my own pants. But that's not what she told the police.

1 She told the police he literally ripped my clothes off. This is what she
2 provided to the police that night that she was wearing. Those don't look
3 like they were ripped off, and neither does this. He literally ripped her
4 clothes off. The State talks about the stick.

5 She said when the police arrived, on the bodycam, that he hit
6 her over the head and it broke into three pieces. Okay. You've seen
7 pictures of the stick. It's pretty thick. If she -- he had hit that over her
8 head hard enough to break it, I cannot imagine that she wouldn't have
9 had any injuries. And on the bodycam she says she has some bumps.
10 But what did Jeri Dermanelian tell you, not a single injury on her head.
11 No bump, no bruise, no contusion, nothing. But he hit it hard enough to
12 break it over her head.

13 And then she told all of you that he also hit her in other places
14 on her body and the State kind of seized on that because they have
15 these other pictures of these injuries that Jeri Dermanelian say are --
16 make it consistent with what Samantha reported. But let's look at those.
17 It could have been done with a stick that night. But again, you'll have a
18 picture of this and you can kind of tell that that bruise looks kind of old.
19 The scratch looks new. But I don't know how it would have been
20 scratched by the stick. The bruise looks old.

21 So are those bruises from that night? Or does Samantha,
22 who know that she collects all of these pictures on her phone that the
23 State -- that the cops couldn't be bothered to look at know that she has
24 these marks on leg, because what do they take pictures of? And there's
25 a picture that the State has back there. You can kind of see it here.

1 This is a V shape. It's not a stick shape. It's a V. The other interesting
2 thing about the pictures of the bruise on her legs, look familiar? This
3 was May 28th. This was June 18th.

4 Again, if you really listen to Samantha or you watched her you
5 can get a sense of what really happened that night. She told you, when
6 she was talking about the stick and how it broke, she actually took her
7 hands, and I watched her because I talk with my hands a lot and
8 sometime sit will give you away. And she said yeah I broke the stick and
9 she went like this. [Gestures breaking over knee] That's probably how
10 the stick got broken, probably not on her head.

11 The other interesting part about the stick is that we learned
12 what? It had blood on it. She claimed that she got hit in the head with
13 the stick first. So the CSA told you that it had some staining on it that
14 wasn't blood but looked like blood and then some actual blood. Looks
15 an awful lot like a fingerprint. Well Mr. Green wasn't bleeding. The only
16 person that was bleeding was Samantha. Why would there be a bloody
17 fingerprint on the stick if the stick was used before she was cut? Could it
18 be that she was moving things around that night to make it really easy to
19 corroborate her story?

20 The interesting thing about the blood too is the crime scene
21 analyst said she didn't even really process most of this stuff to see if it
22 was blood, right? Somebody went to a lot of work to make sure that the
23 carpet had all those red stains on them. And the interesting thing is that
24 she -- the CSA said that it looked like blood. But remember there were
25 two other times that she thought she saw blood. Once on part of the

1 stick and one on the scissors. And when she tested those things they
2 weren't blood.

3 Wouldn't you like to know if the stain on the floor was blood?
4 Wouldn't you like to know if the stain on the glove is blood, because they
5 showed it to you for a reason. Again, they can't tell you that it's blood.
6 They want you to think it's blood, because it sure makes you hate this
7 guy. But they didn't even bother to test it. They didn't bother to do a lot
8 of things, because Detective Campbell kind of already made up his
9 mind. In fact he didn't even get Riley's DNA.

10 Samantha says that afterwards -- again remember she's
11 telling everybody where everything is. The scissors are on the
12 nightstand. And she said that he held the scissors to her throat. That he
13 put the scissors to Riley's throat and that he put them in Riley's mouth.
14 If you look really closely at the blade of these scissors, there are
15 fingerprints all over the blades of those scissors that are apparent to me
16 through a photograph. Why weren't they fingerprinted? Wouldn't that
17 have told you more than potentially DNA? I mean, we would know for
18 sure if that were his, or Riley's, or Samantha's on the blade.

19 Because the only thing they told you about the blade of the
20 scissors was that Riley's DNA is a suggestion. We know Samantha was
21 included. He couldn't be included or excluded. And the report that the
22 DNA examiner wrote said that there's this other person, third person,
23 and in her report she can't identify him. But low and behold, after
24 Samantha testifies and she's kind of a mess, we get this suddenly she's
25 compared the alleles in this DNA and the person whose DNA is on it is

1 related to Samantha Weston.

2 Well great but what does that really tell you? Again if you look
3 critically at what they've presented to you it doesn't actually tell you
4 anything. Okay, first of all the DNA examiner said I didn't examine it to
5 see if it was skin from skin or saliva. That might make a difference,
6 right? You don't know when it was put there. How it was put there.
7 There's a child and there's scissors and it's on the blade, which is also
8 covered with fingerprints. So the DNA doesn't tell you anything. It tells
9 you they had sex and that's it.

10 When the police arrive Samantha says he suddenly just gave
11 me my phone back because he said you haven't gone anywhere all day
12 so I can trust you. But didn't she also say that he wouldn't let her go
13 anywhere all day. So why would he not going anywhere suddenly mean
14 she could be trusted? Her details don't make any sense.

15 When the police arrive and they make contact with Mr. Green,
16 he's walking through the complex. He's not running. He doesn't run
17 from the police. And now the State says if you listen to that audio from
18 the bodycam he says I used to live there. And they're hinging on that
19 statement. Okay, but he also says, immediately when they say
20 Apartment A he says no B, my girlfriend. Something wrong with my
21 girlfriend, what happened? Right? And then he says I used to live
22 there. Well she changed locks. He'd gone to get his stuff out. And
23 some stuff went down in the apartment that day. At that point he
24 probably did think I no longer live there.

25 He also says and you'll hear it, Officer Knepp says to him

Appellant's Appendix

Volume 6

Index of Appellant's Appendix

Court minutes of 07/17/2017	p. 7, 8
Findings of Fact, Conclusions of Law and Order	p. 1293-1296
Information.....	p. 1-6
Judgment of Conviction.....	p. 1277-1279
Notice of Appeal.....	p. 1300-1362
Notice of Entry of Findings of Fact, Conclusions of Law.....	p. 1296-1299
Order for Petition for Writ of Habeas Corpus.....	p. 1292
Petition for Writ of Habeas Corpus (Post Conviction).....	p. 1280-1291
Recorder's Transcript of Proceedings: Jury Trial – Day 1.....	p. 9- 160
Recorder's Transcript of Proceedings: Jury Trial – Day 2.....	p. 161-407
Recorder's Transcript of Proceedings: Jury Trial – Day 3.....	p. 408-702
Recorder's Transcript of Proceedings: Jury Trial – Day 4.....	p. 703-910
Recorder's Transcript of Proceedings: Jury Trial – Day 5.....	p. 911-1158
Recorder's Transcript of Proceedings: Jury Trial – Day 6.....	p. 1159-1271
Recorder's Transcript of Proceedings: Jury Trial – Day 7.....	p. 1272-1276

1 what's going on? What were you two arguing about? And he says, oh,
2 you know, she's insecure and she's jealous. And Officer Knepp says oh
3 you guys don't trust each other, there's a lot of jealousy? That's what
4 you also hear him say.

5 So did he lie about going out the window? Sure. Did -- and
6 you heard the officer say people lie to the police about how much they
7 were speeding. He knows what went down in the apartment that day.
8 He's not worried that he's going to be charged with kidnapping, rape,
9 sex assault, child abuse, all of these crimes. He does know what
10 happened. And he tells you what happened. And that's the only piece
11 of this case where you have actual proof of a crime that was committed.

12 They can't give you beyond a reasonable doubt on any of the
13 charges except the one that he admits that he committed. In his letter
14 he says to Samantha, I'm sorry I hit you. So find him guilty of a battery.
15 I'm sorry I hit you and made you scared. And the rest of that letter is him
16 saying I didn't do these things. Don't come to court and say that I did
17 these things.

18 And you can tell there's been back and forth communication
19 by the things that he says. You can tell that she's been telling him that
20 she doesn't want to come to court because they've threatened to put her
21 in jail. And she told you that. She tried to spin that too, that yeah she
22 did come to court back then and she did tell his prior attorney that the
23 State had threatened her with CPS if she didn't come to court and she
24 came. But then she tried to say well I think they sent CPS because I
25 was suicidal. When did anybody tell you that she was suicidal?

1 So if you read between the lines in that letter, he's sorry for
2 what he did. And he told Detective Campbell I said some not nice
3 things. He told you that he said some mean things to her that night.
4 And he tells her in that letter he's sorry for hitting her. That doesn't
5 equal beyond a reasonable doubt on any of the other crimes.

6 And so then what they do is they bring in Riley. And they're
7 going to tell you and they told you multiple times, look at how scared she
8 is on the bodycam. Please do look at her on the bodycam. They told
9 you that Riley has autism and that she has some other special needs.
10 Do you have any way of knowing how a child with those needs responds
11 in a situation where the police come to her house, at night and they're
12 banging on the door? He's jumping out a window. From Samantha's
13 own admissions and his, they've been yelling at each other all day.
14 Does the fact that she's nervous about that equate the fact that she's
15 nervous of this man?

16 And then they say you can hear her say I don't want that man
17 to come back. Well the entire time that Riley is present Samantha is
18 talking in front of her. And the police even told you, we don't do that.
19 We separate witnesses. We don't want them to taint each other. And
20 you can't question kids the way you question adults, because again it's
21 easy to suggest things to them. But Riley is standing there the whole
22 time and Samantha starts giving this story about he's breaking sticks
23 over my head. He's holding things to my throat. He's holding thing to
24 her throat. That doesn't mean it happened. She knows her child better
25 than anyone, right? She knows what her child -- what information her

1 child is capable of giving and capable of not giving. But do you think that
2 Riley might have been scared about that and the presence of all the
3 police officers?

4 And then they said, they brought in Officer Hennings to say oh
5 you know she was terrified of all the men at the scene. You know who
6 else she didn't want to be around? Her mom. Remember Officer
7 Hennings said that. And you saw her kept saying no honey, you got to
8 go over to your mom and try to do my police job now. And I said she
9 didn't want to be around her mom either? No, she didn't. Was she
10 scared of her mom or is this just how she behaves? And it's pretty ugly
11 to bring in that kid and put on the witness stand and I guess try to
12 suggest that she's so terrified of Trandon that she couldn't talk. That's a
13 ploy for your sympathy. Don't fall for it.

14 And Matt Campbell tried to tell you that Trandon was lying and
15 that he changed his story. But this is what else we learned. The State
16 says that Trandon said well I'm just trying to get things to add up. But
17 then I asked him, well didn't he really say I'm not trying to convince you
18 of anything because I'm not lying, right?

19 And this is what Detective Matt Campbell who went into it
20 thinking that he knew the truth, right? Because Samantha had surely
21 told him the truth and everything she said had to have happened and
22 then he had forensics. He didn't know at the time that the forensics
23 don't really match, because what -- he doesn't know that Samantha told
24 you things that were very different from what she told him. He didn't
25 know that she lied about being pregnant. He didn't bother collecting

1 Riley's DNA. He didn't bother having most of the items in the home
2 tested. He didn't bother collecting text messages from her. She
3 admitted that she'd been deleting text messages that night. Why would
4 she delete her messages to Denton? He didn't collect the message
5 from Denton's phone. He just didn't care enough to put in any extra
6 effort, because she said that he did it and here's this guy and let's all
7 move on without lives. Piece of cake, case closed.

8 And then they want to say that he was lying and changing his
9 story and they like to get up in rebuttal and say deny what you can't
10 admit and admit what you can't deny. But here's what happened.
11 Detective Campbell told you what? We get to engage in this little tactic
12 called a ruse. And we get to give them evidence that isn't always true
13 sometimes. Sometimes it is, sometimes it isn't. The thinking is that a
14 guilty person will then confess, right? We have your fingerprints. Oh no,
15 you've got my fingerprints. Okay, I might as well tell you I did it.

16 So, he tells him we know you didn't go out the front door.
17 Because we saw inside the house and we saw you and there's no way
18 you could have come out because we were there. And this guy does
19 what? Exactly that what they tell you a guilty person is going to do. He
20 says yeah, I lied about that I did go out the window.

21 And then what happened? Oh, and we're going to take
22 splinters out of her head. That's what's going to happen, because you
23 hit her over the head with that stick and we're going to take splinters out
24 of her head and we're going to prove that you did it. Did you hear them
25 say that after that he said okay you're right I hit her with the stick? No.

1 And then he said we have these fancy machines we can do
2 this wound map. And we're going to look at that cut and we're going to
3 know exactly what you used to cut her so you want to tell us what you
4 did? I don't know if anything happened. It was probably when I was
5 fucking around with the scissors. So, yeah, he admitted it. He's fucking
6 around with the scissors. He doesn't really know how that cut
7 happened. And by the way, remember neither does she.

8 So what parts of his story changed? The one part that we all
9 knew, he went out the window. Does any of that add to him being guilty
10 of anything other than the thing he told you did, that he told her he did,
11 that he hit her that night? He says I'm not trying to explain, because I
12 didn't do it. And then he offered to give his DNA. He offered to do
13 anything he could to prove that to them.

14 June 30th, after June 18th, this is still what she's pissed about.
15 Look at the date. This isn't -- this is a woman who says that she was
16 held hostage, beaten, her child threatened, raped repeatedly. This is
17 what she's pissed off about. This is what she's still thinking about.

18 So if you listen to what she said about that night and what he
19 said about that night and subtract all the things that you really don't
20 know, this was a relationship and there was a lot of insecurity and there
21 infidelity and you had two people who love each other. But if you take
22 Samantha's demeanor that, you know, she said she got smartassy and
23 she fought back, I would imagine it's not hard to guess what might have
24 happened that night. She's angry he cheated on her. She's changed
25 the locks. He's mad. He wants in. He gets in. They yell, they scream,

1 they fight. He hits her. She's really mad now. She's even madder
2 because he's cheated on her.

3 And it all just goes sideways. And she knows that she can call
4 the police and say all kinds of thing and they don't seem to do anything
5 and they don't seem to care. So she texts her friend, it's a hostage
6 situation. Break down the door. That's going to get him arrested.
7 That's going to take care of the problem. And you saw by the way that
8 she changed her answers when she was being questioned. She doesn't
9 think long-term. She thinks short-term. She wanted to make him pay.
10 She wanted to make him hurt that night. She just wanted him out of the
11 house. She wanted him to go to jail. She wanted him to pay for every
12 second of her humiliation of being cheated on and having everybody
13 know about it.

14 They had sex that night. I imagine, again it's not about what I
15 imagine, but you all have had friends. You've been in these
16 relationships. You've know people who have. There's fighting on and
17 off all day. They're making up. They're fighting again. They're making
18 up and then she just loses it. Because she still wants forever to be
19 forever, but it's hard to have forever when all these other bitches keep
20 coming along and one of these bitches is having his baby. And she can
21 say all day long she didn't want his baby but why else does a woman tell
22 a man she's pregnant when she's not if not to make him stay?

23 So you cannot be swayed by your sympathy for Riley about
24 how cute she is. How nervous you think that she was that night because
25 of him. You cannot by swayed by the fact that they kept telling you oh

1 that sex assault exam is so intrusive and she felt like she'd been raped
2 ten times over again. You cannot swayed by those things. And you
3 cannot lessen their burden of proof when they are trying to convict a
4 man of multiple counts of felony crimes. Just like you can't be swayed
5 by his desperation to save himself from a life in prison, do not let her.

6 What you have to look at is what facts did they actually
7 present to you? How credible are those facts? What are the motives of
8 the person who gave them to you? What's the honesty of the person
9 who gave them to you? What does that person want when they tell you
10 these things? The only thing, the only person who can tell you what he's
11 guilty of is him in his letter that he hit and he's sorry. And he's guilty of a
12 battery.

13 Thank you.

14 THE COURT: Counsel, come on up for just a sec, please.

15 [Bench conference transcribed as follows:]

16 MS. LUZAICH: My legs are numb. I've been sitting so long.

17 THE COURT: How long do you think your rebuttal is?

18 MS. LUZAICH: 20, maybe 30.

19 THE COURT: We better take a short break. We've been in
20 here two hours.

21 MS. LUZAICH: That would be great. Thank you.

22 [End bench conference]

23 THE COURT: All right, folks, so the State still makes the final
24 argument called a rebuttal, but we're going to go ahead and take a short
25 break before we do that because we've been in here for a couple hours

1 now.

2 So, you still can't talk about it. During this recess you're
3 admonished not to talk or converse among yourselves or with anyone
4 else on any subject connected with this trial or to read, watch, or listen to
5 any report of or commentary on the trial or any person connected with
6 this trial by any medium of information including without limitation,
7 newspapers, television, the internet, or radio, or to form or express any
8 opinion on any subject connected with this trial until the case is final
9 submitted to you. So, take just a few minutes to use the facilities.

10 THE MARSHAL: All rise. Court is now in recess.

11 [Recess taken at 5:16 a.m.]

12 [Trial resumed at 5:23 a.m.]

13 [Outside the presence of the Jury]

14 THE MARSHAL: All rise. District Court Department 6 is back
15 in session. Please be seated.

16 THE COURT: All right, so after the rebuttal I'll have them go
17 back. You know, they'll need to at select a foreperson. I'm actually kind
18 of hoping that they'll at least start deliberating tonight, because I think it
19 may take them some time to go through all the counts. But anyway,
20 we'll --

21 MS. MCNEILL: How late will you let them stay if they want to
22 stay?

23 THE COURT: I mean, I don't really have a particular time in
24 mind. I obviously don't plan to stay all night with them.

25 MS. MCNEILL: Sure, right.

1 THE COURT: I mean, so probably if it got to be, you know, 9-
2 ish or something, I might talk about coming tomorrow at 9 and keep
3 going. But I don't -- you know, ultimately I'll sort of take a que from them
4 as well.

5 MS. MCNEILL: Okay.

6 MR. ROSE: Once, we're done with rebuttal I can go get a
7 clean laptop.

8 THE COURT: Okay.

9 MR. ROSE: And provide it to the Court.

10 THE COURT: So there's one will be available. Thank you.
11 All right, let's go ahead and get the jurors.

12 [Colloquy]

13 THE COURT: Still on the record.

14 MR. ROSE: Thank you, Judge.

15 [Inside the presence of the Jury]

16 THE MARSHAL: All rise. Please be seated.

17 THE COURT: Counsel, stipulate to the presence of the jury?

18 MR. ROSE: We do, Your Honor.

19 MS. MCNEILL: Yes, Your Honor.

20 THE COURT: Okay, so State rebuttal argument.

21 MS. LUZAICH: Thank you.

22 **REBUTTAL ARGUMENT BY THE STATE**

23 MS. LUZAICH: Wouldn't it be nice if we lived in a perfect
24 world and in our perfect world if the police did everything we wanted
25 them to do in every single event they responded to. Wouldn't that be

1 nice? Sadly, we do not live in a perfect world. And very, very
2 unfortunately the police did not do everything we would have liked them
3 to do in this particular case. That doesn't mean the Defendant did not
4 commit the crimes that he is charged with.

5 It's nice also that Ms. McNeill has her theories about how
6 everything went down. But please remember her theories are not
7 evidence. What we say, all of us, Mr. Rose, myself, Ms. McNeill, is not
8 evidence. The only evidence that you can consider is what came from
9 here when people raised their right hand swear to tell the truth and then
10 explained for you thereafter. That is all that you can consider.

11 Ms. McNeill talked to you about her theories. Please
12 remember that they are speculation. And she specifically told you, and I
13 agree and so will Mr. Rose, and the Judge told you cannot speculate.

14 You can't engage in sympathizing either. And when she tells
15 you why did we call Riley? We called Riley to tear at your heartstrings.
16 No, we called Riley because Riley was a witness. Our hope was that
17 Riley would be able to come in here and we would be able to qualify her
18 as a witness and that she would have been able to explain to you. But
19 as the law provides, if we cannot qualify her to demonstrate to you and
20 the Court that she's a competent witness, we can't ask her any
21 questions.

22 It is unfortunate that we were not able to qualify her. I am
23 absolutely not going to stand here and tell you that I couldn't qualify her
24 because she was afraid of him. There could have been any one of a
25 number of reasons I couldn't qualify her on that day. If I had brought her

1 back again and again and tried again and again, that would be tearing at
2 your heartstrings and shame on me if I had tried that. But she was a
3 witness. I tried, it didn't work and we moved on. Sympathy has nothing
4 to do with it.

5 Remember, you must consider what you heard here. While
6 we're talking about what you heard here, who is on trial here anyway?
7 Is Samantha Weston on trial here, no she is not. Trandon Green, the
8 Defendant, is the only person who is on trial here. And while Ms. McNeil
9 spent the last hour or so trying to tell you every reason why you can't
10 believe anything Samantha said, please remember that Samantha is the
11 witness here who is corroborated. Samantha is the one who we saw
12 injuries.

13 Remember from May 28th when Officer Gainey came in and
14 described for you what he saw, not only did you hear from Samantha
15 about what happened on May 28th, you heard from Officer Gainey and
16 he described for you the injuries that -- oops -- that he saw.

17 When you look at her leg, Ms. McNeill talked to you about well
18 you can tell that that's old. Well no you can't tell that that's old. And
19 what Officer Gainey described for you was that she said that it happened
20 when she was pushed down. That's what happened to her leg.

21 And what she described for you about him throwing the
22 aerosol can at her face or her head, Officer Gainey specifically told you
23 well no, you know, I can't see it in that picture. But as we stood there,
24 over the course of time, the reddening developed.

25 And Officer Gainey described for you the text messages that

1 were coming in. And while they may not have been in his report, you
2 know, oops. His training officer clearly wasn't listening to everything that
3 was being said. So when he wrote or checked off whether or not the
4 report was accurate, you know, who knows what the training officer
5 thought. And oops it wasn't in there, but Officer Gainey remembered for
6 you that while he was standing there, there were texts coming in. They
7 were from the Defendant and they were threatening in nature. Just
8 because it's not in the report doesn't mean it didn't happen.

9 And when Ms. McNeill tells you about how well she waited
10 hours before she called. There was no testimony about how long after
11 she called. Samantha did say that she went to her aunt's and then that
12 she called. But there's no testimony about it was hours later. It was just
13 later.

14 And the testimony wasn't that he was there, the Defendant,
15 I'm sorry, the Defendant was there when the officers arrived. The
16 Defendant was there at some point and he may have come there. But
17 they officers didn't see him. If they had, yes, it would have been entirely
18 different. So Samantha is corroborated with what occurred on the 28th of
19 May.

20 On June 17th, you know, it's very interesting that the
21 Defendant's mom came in here and said that she knows for a fact that
22 that Defendant and Samantha were at her house all day and all night on
23 June 17th.

24 MS. MCNEILL: Objection, misstates the evidence.

25 THE COURT: Okay. So ladies and gentlemen, ultimately as

1 Ms. Luzaich said, her argument is not evidence. You'll have to rely on
2 your recollection of what the testimony was. Go ahead.

3 MS. LUZAICH: Sorry, I remembered her saying that
4 Samantha was at her house all day and all night on the 17th and that she
5 drove her back with the Defendant after midnight. But we know that
6 that's not accurate, because we know that the police talked to Samantha
7 at her address on Jennie Diane on June 17th. And we know that
8 because there's a CAD, Computer Aided Dispatch, remember the piece
9 of paper that describes that the police went there and they spoke to
10 Samantha about the Defendant on June 17th.

11 We also know that Leroy Denton was at her home for quite
12 some time on the 17th, changing the locks. So clearly Samantha was
13 not at Trandon Green's mother's house.

14 MS. MCNEILL: And, Your Honor, I'll object again. The
15 testimony was that it was the Wednesday before Father's Day, not the
16 day before.

17 THE COURT: So that's what I recall. But ultimately, ladies
18 and gentlemen, it's up to you to remember.

19 MS. LUZAICH: Okay, sorry. I didn't hear that. Either way, on
20 the 17th, Samantha described for you the police came to her home. We
21 know that that's true because of the CAD. And we know that Leroy
22 Denton was there and changed the locks. So Samantha is corroborated
23 there.

24 Again, on June 18th, the incident that we're here to talk about,
25 Samantha described for you the injury to her finger. We see it. We see

1 the injury to the finger. We saw the pictures of blood all over the house.
2 She described for you the injuries that she sustained. And there the
3 injuries are.

4 Ms. McNeill talks about the photo on the right being a V. I
5 don't see a V. That's up to you. But when you look at the stick it is
6 completely consistent with the size and the shape of the injury to her leg,
7 both -- and those two different areas of her leg. Remember that stick is
8 broken into three pieces. So even if one them was like this, one of them
9 over her head. Three pieces, not just two, three pieces. And two are
10 found in one place and one in the other, again consistent with him using
11 it and repeatedly hitting her again thereafter.

12 Samantha is corroborated. She talked about he was wearing
13 the gloves. And look there's blood on the gloves. And it's blood on the
14 glove that was on the dresser. Ms. McNeill, whoops, Ms. McNeill talked
15 to you about seeing blood on the stick-- whoops-- or a bloody fingerprint
16 she said on the stick. Well we know there's no bloody fingerprint on the
17 stick because the crime scene analyst did the phenolphthalein test and
18 there's no blood. So I don't know why she talked to you about she
19 thought she --

20 MS. MCNEILL: Objection, misstated the evidence again, Your
21 Honor.

22 THE COURT: And I don't recall personally. So again, folks,
23 listen to the argument but rely on your recollection of the testimony.

24 MS. LUZAICH: Well you heard the testimony or the
25 phenolphthalein was negative.

1 Samantha is also corroborated, she talks about the scissors,
2 the location of the scissors. They're sitting on the edge of the dresser
3 next to her bed. Her DNA and the Defendant's DNA are on the handle.
4 Her DNA is included on the blades, but you know what, they're her
5 scissors in her house. The Defendant's DNA we wouldn't expect to be
6 on the blades, because he was holding the scissors by the handles with
7 the blades to Riley's throat.

8 The broken window, you hear in Officer Hemming's bodycam,
9 and as you've heard all along you're going to have all of those
10 bodycams and pictures, everything back there. Go back and listen to
11 them. Officer Hennings shines the flashlight on the window and
12 specifically says you can see here this is where he tried to break the
13 window. And remember he crawled in through Riley's window, not
14 Samantha's bedroom window, Riley's.

15 But again Samantha talks about the fact that he assaulted her
16 and there was sexual intercourse and sure enough his DNA is inside
17 her. The Defendant attempts every which way to explain away the
18 evidence and the fact that he can't further corroborates Samantha.

19 Riley's behavior. Look, she's looking her head's down. She's
20 upset. Riley's behavior is consistent with -- or corroborates Samantha.

21 Samantha is not only corroborated, she's been consistent in
22 her overall description of what happened. From the very beginning
23 when she --

24 [Video plays]

25 MS. LUZAICH: That's what she told Leroy while she was still

1 inside the home and the Defendant was there. Then the police come.
2 And here just I wasn't sure if that was going to work, but what she tells
3 them is that he's been abusing her and her child all day. That it's a
4 hostage situation -- she's got -- or he's got her in the bath, her daughter
5 in the living room. She's scared for their lives. He told me you bitches
6 will die tonight. He has weapons and he's using them. He raped her
7 and they need help.

8 Then patrol gets there and what does she say? She says that
9 the police have been there before. She tried to get a restraining order
10 but the Defendant was gone.

11 You know the defense tells you that well she doesn't -- she's
12 just using them as an excuse. Samantha doesn't know what the police
13 did. We know that the police looked for him. We know that what else
14 can they do but tell her hey go to a shelter, you know, call for help or
15 something. But she doesn't know that. All she knows is on May 28th
16 she called the police for help and he didn't get arrested. She says he
17 beat me, he hit me, he hurt me. She showed them injuries and he didn't
18 get arrested. So on June 18th, when she thinks that she's not gotten any
19 help before, that doesn't make -- it's not out of the realm of possibility
20 that Samantha is going to think like that.

21 So she tells them immediately that he came at 2 a.m. and he
22 held her all fucking day. And he raped her. Those are the first things
23 she said. He kidnapped me and he raped me. Obviously, my word,
24 kidnapped. She tells them right away they were trying to hop out the
25 window. That she tried to leave and every time she did he would close

1 the door. She said he cut his hand. He hit her in the back of her fucking
2 head. She said there was blood everywhere. He raped me. He put the
3 scissors to my daughter's throat. He said he was going to kill her and kill
4 me. He took the stick from the bedroom door, broke it upside my head.
5 More than anything right now I want to rape kit. Those are the first thing
6 she says to them when they get there. So the big picture isn't changing.
7 She tells Leroy. She tells the patrol officers.

8 The defense makes a big deal out of inconsistencies. In jury
9 selection we talked about this a lot that, you know, can two people
10 perceive the same events differently? Well maybe not two different
11 people here, but until you've walked a mile in somebody's shoes you
12 can't necessarily understand what they've been through and how they're
13 going to react subsequently.

14 Samantha described for you she was in crisis. She'd been
15 through a horrible experience. She's doing the best she can. Now a
16 year later she's still doing the best she can. Samantha is clearly not the
17 most intelligent person we've ever met. But is she smart enough to
18 make up this huge conspiracy basically is what the defense is trying to
19 convince you of.

20 But remember we also talked about, in jury selection, what's
21 important to one person when they're viewing something is not
22 necessarily important to somebody else. So when Samantha is asked
23 questions, for example, by the detective, you know, how did the cut
24 occur? She doesn't remember was she on the bed, next to the bed,
25 because that part is not important to her. The important part is he took a

1 knife. He cut through her finger. Her nail was gone. It was bleeding all
2 over. Imagine how painful that is. And this is what she is feeling while
3 she's trying to describe first to patrol officers, then to the detective, and
4 then to a nurse what she had just been through. When you're in bad
5 pain like that it is excusable that you are not going to get every single
6 detail down perfectly.

7 One of the things that they brought up inconsistencies, when
8 did she meet him 2016 versus 3 years ago? Does it matter when they
9 met? I mean, if she's incorrect or not completely honest about that, is
10 that a material fact, does that matter?

11 They asked about the fact that she originally said that he didn't
12 have cutlery and plates or anything over there. And Ms. McNeill asked
13 her did he get a cup or something. Today Ms. McNeil is telling you that
14 he's -- she said he paid for the cup. And that's not how it came out. She
15 never said he paid for the cup. She said he got a cup. They went to the
16 cup together. He picked out a cup. She paid for it, because she
17 explained because he never worked. She had money. He may have
18 picked it out. She never said he paid for it.

19 Additionally, they paid utilities. Ms. McNeill says the utilities
20 that he paid for. She never said he paid for any of the utilities. What
21 she said was the power got cut off in her name so he put it in his name.
22 She never said that he paid for any of it.

23 When you look at the apartment in the closet she said well this
24 clearly looks like a man lived here. No, some of his clothes are in the
25 closet, a little bit. And some of his toiletries or what Samantha called

1 hygiene items are sitting on the counter, the dresser. It looked like a
2 man stayed there periodically, but not that he necessarily lived there.
3 And technically whether or not he lived there is really only relevant when
4 it comes to the burglary. Because you and I all now know that if he lives
5 there he can't burglarize his own home. Do you really think that
6 Samantha knew that? That she was smart enough to research the law
7 and say well he doesn't live here therefore he burglarized the house.
8 Let's be realistic here.

9 When she was -- Ms. McNeill, talking about how long was the
10 Defendant outside? You know, Samantha at one point said --
11 Ms. McNeill said she said 10 to 12 hours. She never said he was
12 outside for 10 to 12 hours. She was talking about when he got there.
13 She was talking about when he may have come in. But she never gave
14 a time, he was out there for 8 hours, 10 hours, 14 hours. She described
15 he was out there, quote: all night. That she was -- he was blowing up
16 her phone. He was trying to -- he was texting her. He was calling. He
17 was trying to Facetime with her, doing all those things, let me in. She
18 never actually said he was out there for 8 to 10 hours. But she did say
19 that he was repeatedly banging on the door and things of that nature.
20 There's no evidence to the contrary, none. No evidence to the contrary.

21 She talked about -- Ms. McNeill talked about the fact that
22 Samantha told the Defendant or the detective he literally ripped off my
23 clothes. Today -- or today -- this week she described that he helped her
24 take the clothes off. Is that a big difference? Maybe --- does that mean
25 it didn't happen? Absolutely not.

1 One of the things that Ms. McNeill is talking to you about is
2 consent. Was there consent here? There's no evidence whatsoever
3 that there was consensual sex, none. In her opening she talked to you
4 about the fact that that's what you were going to hear, but failed to
5 substantiate that theory. There is no evidence whatsoever that there
6 was consensual sex.

7 And just for a second let me talk about there is an instruction
8 in there that says if you believe that the Defendant had a reasonable and
9 good faith belief that there was consent that you can find him not guilty.
10 But a reasonable and good faith belief cannot be based on the product
11 of force, violence, duress or anything of those natures. So there is no
12 evidence here, there is no way that you can find that he reasonable or in
13 good faith believed that she wanted to have sex. She was very clear
14 that she kept saying no, no, no, no, no, I don't want you to.

15 Ms. McNeill said that she didn't explain how the sex occurred.
16 That is not accurate. She did. She described for you how she was
17 laying there and he was behind her and she was staring --

18 MS. MCNEILL: Objection, Your Honor.

19 MS. LUZAICH: -- at the wall crying.

20 MS. MCNEILL: That misstates the testimony. There was no
21 testimony about that.

22 THE COURT: All right. I remember part of her saying about
23 looking at the door. But again, folks, and I'm sorry that I'm not more
24 helpful on this, but ultimately you have to rely on your recollection of the
25 evidence. Go ahead.

1 MS. LUZAICH: Thank you. We do know however for a fact
2 that the Defendant was dishonest. We know that because we saw it in
3 the bodycam. So on that day we know that Defendant went out the
4 window. We know that for several reasons. You know, you heard it all
5 during the trial and in Mr. Rose's closing. But, you know, the officers
6 were there. We know he didn't go out the front door. We know he went
7 out the window. Yet he still -- he tells detective -- or Officer Knepp that
8 he was already outside. He actually argues with Officer Knepp about
9 where he was earlier, that he was outside and that he has no idea why
10 the police are there. Yet he tells Samantha, right before he runs out the
11 window, tell them nothing happened. Tell them nothing happened.

12 When he talks to Detective Campbell, he tells Detective
13 Campbell also that he entered through the front door, which we know
14 isn't true. He entered through Riley's window. He tells Detective
15 Campbell he left through the front door, which we know isn't true. He
16 tells Detective Campbell that he was already outside when the officers
17 arrived. We know that's not true. He tells Detective Campbell the
18 normal way that he gets in and out of the apartment is through the
19 window. Do you really think that's not true?

20 [Sneeze]

21 MS. LUZAICH: Bless you.

22 He says he doesn't know how Samantha got the injury to his
23 [sic] finger. But then after that he talks about well I may have been --
24 you know, when I was fucking with her, swinging the scissors around.
25 Actually fucking with her and swinging the scissors around is an assault

1 with a deadly weapon. But he knows that he only put the scissors to
2 Riley's throat, so he knows there's not going to be any blood on the
3 scissors so he can say that.

4 He also tells them that he got there at 7 a.m., which was
5 inconsistent with the text messages that Detective Campbell saw on
6 Samantha's phone from the Defendant. So the Defendant again and
7 again -- and then he actually tells Detective Campbell -- well before that
8 he -- the gloves, he tells him that he puts them on to workout in the living
9 room and he was doing push-ups and sit-ups or he wears them to go
10 outside. But he's actually never clear when he puts them on or when he
11 took them off. What we do know is that we found them on the dresser --
12 one on the dresser, one on the floor with blood.

13 He tells Detective Campbell that he walked out in the bedroom
14 and put the scissor on the counter. Well we know they're not on the
15 counter, because we see them in the photos on the nightstand next to
16 the bed, in the bedroom not out on the kitchen. But, I mean, the bottom
17 line is he admitted to Detective Campbell that he lied.

18 In the statement that he gave to Detective Campbell what we
19 heard from Detective Campbell was that he was insistent on proving his
20 innocence to the detectives, yet he was unable to do that. He was trying
21 to convince them that he was telling the truth. He was trying to make his
22 story add up. That's what he was trying to do. He knew what
23 happened. He was trying to make his story add up in a way that it's
24 going to make him look less bad. Instead, what Detective Campbell told
25 you was his story was inconsistent and confusing. But the truth isn't

1 inconsistent or confusing.

2 The Defendant is not corroborated. Nothing the Defendant
3 said to the police is corroborated. Most of what Samantha said to the
4 police was corroborated. Nothing the Defendant said was. Specifically
5 the scissor, the way he describes it, it was completely the opposite. The
6 only thing that was corroborated of the Defendant is consciousness of
7 guilt. When you know you're guilty and you say and do things that are
8 consistent with that.

9 The letter, and take the letter and go back and read it.
10 Because nowhere does it say he didn't do these things. But what it says
11 is I'm sorry for hitting you and scaring you, scaring you by putting a
12 scissor to your 6-year old daughter's throat and threatening to kill you
13 both, scaring you by telling you that you bitches are going to out in body
14 bags, that I'm going to kill you both.

15 He says -- and Ms. McNeill says that he doesn't say anything
16 about the charges and him doing anything except for the battery. Very
17 specifically he says first-degree kidnapping, burglary, sexual assault,
18 battery with intend to commit sexual assault, assault with a deadly
19 weapon, regular sexual assault, and child abuse. Those are the charges
20 I'm faced with and will be convicted of if you come to court. What he's
21 telling her there is, I know I committed all of those offenses so please
22 don't come to court because if you do, I'm going to get convicted of
23 them. That's what he's telling her there, not I didn't do anything.

24 Would you be willing to not show up in court please? I'm
25 begging you with all my heart and soul, with all my tears flowing. I'm

1 asking you to trust me because if -- I know if you show up to court I will
2 be convicted and sentenced to life in prison. But if you don't show up, I
3 would be given a second chance at life again and the charges will be
4 dropped. He's telling her and he's telling you that he did commit these
5 charges and that he knows that if she comes to court and tells the truth
6 that he's going to get convicted of them. Please once again, I beg of
7 you not to show up for court.

8 Throughout that letter he's also saying I love you, I love you, I
9 love you. We're going to be together. I love you. I cherish you. Sadly,
10 you're going to see the letter that she wrote him. And in the letter that
11 she wrote him she tells him how much she loves him and that came out
12 wrong. I didn't mean, sadly you're going to see the letter. You are going
13 to see the letter. Sadly, in the letter, she talks about how much she
14 loves him too.

15 That, ladies and gentlemen, is the nature of domestic
16 violence. Love the abuser, hate the abuse. Domestic violence victims
17 go back to their abuser all the time. Every day of the week that ends in
18 Y. It happens all the time. He's writing her letters, I love you, I love you.
19 She's thinking, oh he's changed. It's not going to happen again. They
20 get back together; it happens again. Such is the nature of life. But he is
21 making all the admissions.

22 But when you look at the letter that she wrote, and remember
23 the letter came from Ms. McNeill on cross-examination. Ms. McNeill
24 showed her the letter and on the one side you can see how she's writing
25 all the, you know, I love you, whatever, your wifey Sammie. And then

1 she turned it over and Samantha looked at the other side and said I
2 didn't write that. That's not me. Interestingly on the other side it said
3 something to the effect of I know I lied, blah, blah, blah.

4 But look at it. And take it back there and look at it carefully
5 because the letter she wrote and her signature are entirely different from
6 the other side. Who do you think wrote that? Him. Talk about
7 consciousness of guilt. And take the letter back there and look at the
8 two different sides, because it's not just the signatures that are different,
9 so is all the wording. So she's writing I love you, I love you. But he's
10 writing I lied. Thinking that oh wait, great, she's going to say yes I wrote
11 that, not looking at the other side carefully, and that my attorney will be
12 able to argue to the jury that she lied. So oh now you can't believe her.
13 Those are the lengths that he will go.

14 Additionally Instruction Number 47 tells -- 37, sorry, something
15 else that you can consider as consciousness of guilt, flight. Why did he
16 leave? Why did he run from the police, because he knew he was guilty.

17 You sat here through well more jury selection than evidence.
18 But you sat through all of the evidence and all of the testimony. You
19 heard Samantha. Obviously she's not mother of the year. You don't
20 have to like her to believe her. But remember the pledge of allegiance.
21 When I was young we said it every morning before school started. What
22 is the very last line? With liberty and justice for all. Just because you
23 don't like Samantha, just because you don't like her life choices, just
24 because she's previously been convicted of a felony, does not mean that
25 she isn't entitled to the same protection under the law that you and I are.

1 Riley too. Just because Riley is Samantha's daughter and is
2 subject to poor decisions that Samantha made, like being involved with -
3 - doesn't mean that Riley isn't entitled to the same protection under the
4 law that you and I are. Because no matter how much you might not like
5 Samantha, Riley did not have to experience what went on that day.

6 Samantha, whether you like her or not, did not deserve to be
7 held hostage. Samantha did not deserve to be beaten. Samantha did
8 not deserve to have her finger stabbed and her nail cut off. Samantha
9 did not deserve to be sexually assaulted. He did it. The evidence
10 shows that he did it, so find him guilty of the charges.

11 Thank you.

12 THE COURT: Thank you. The Clerk will now swear in the
13 Marshal and my assistant to take charge of the jurors. Go ahead and
14 take down the computer.-

15 [The Clerk swears the Marshal and the Judicial Executive Assistant to
16 take charge of the jurors during deliberation]

17 THE COURT: All right, so folks, in a moment you're all going
18 to go in the back. So, Mr. Gross and Ms. Newton in seats 13 and 14,
19 you folks are the alternates for this trial. So when you all go in the back
20 in a moment. The two of you are going to go the right and we're going to
21 get your contact information. The other 12 of you are going to go to the
22 left toward the jury room.

23 So the two of you who will be alternates, we're getting your
24 contact information and you'll be free to go home. But you still can't talk
25 about the case, because we still may need to call you back if one of the

1 other 12 can't complete the deliberations for any reason. We might still
2 need to get you back here to deliberate. So you have to continue to
3 honor these admonitions until you get a phone call that says okay
4 there's a verdict and you're excused form the case. All right? You can't
5 talk about it until you get a phone call that says it's okay to do so.

6 We'll also give you a call if -- when in --when the jury reaches
7 a verdict, because most people after sitting through a trial would want to
8 know what the outcome is as well. So we'll call you if there's a verdict or
9 if we need you back. But until you get either of those calls no talking
10 about the case or doing any independent research or experiments.

11 Okay, as to the other 12 of you, so you'll go back to the jury
12 room. You'll go back and pick a foreperson. I think it may be a good
13 idea to start talking about the case for some time. I'm not going to keep
14 you until all hours of the night. And we can, if we need it, have you
15 come back tomorrow morning say about 9 to deliberate as well. But
16 perhaps if you get started tonight -- now I should say I can also have
17 dinner ordered for you, so we're not trying to starve you out back here.
18 So if you're going to be here a little while talking about the case we will
19 make those arrangements as well.

20 With that the jurors are excused to the back. Counsel, stay.

21 THE MARSHAL: All rise. Folks, grab all your belongings,
22 your pad and papers and go out that way.

23 [Jury began deliberations at 6:02 p.m.]

24 [Outside the presence of the jury]

25 THE MARSHAL: Please be seated.

1 THE COURT: Okay, so just a couple quick things. One, you
2 guys, Mr. Rose and Ms. Luzaich, are going to arrange to get a clean --

3 MS. LUZAICH: Yes.

4 THE COURT: -- laptop down here.

5 MR. ROSE: Yes, Your Honor.

6 THE COURT: That's fine. Obviously Keith will work on
7 getting the exhibits together to go back to them. We obviously will need
8 your contact information to let you know if there's a question, if there's a
9 verdict, or if they're going home for the evening. Anyone of those, we
10 will let you know and confirm when they're coming tomorrow if that were
11 to happen.

12 I also want to mention -- I hadn't mentioned earlier and maybe
13 Keith talked to you about it because he knows what I want. But make
14 sure any PowerPoints that you used in opening or closing that we get a
15 hard copy of to mark as a court exhibit so there's a record of what was
16 shown during those presentations to the jurors.

17 All right. So we'll be in touch.

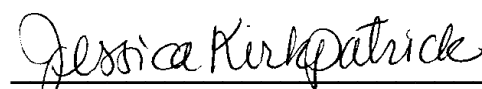
18 MS. MCNEILL: Thanks, Your Honor.

19 THE MARSHAL: All rise. Court is now in recess.

20 [Jury trial, Day 6, concluded at 6:04 p.m.]

21 * * * * *

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

24 

25 Jessica Kirkpatrick
Court Recorder/Transcriber

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

THE STATE OF NEVADA,
Plaintiff,
vs.
TRANDON GREEN,
Defendant.

CASE#: C-17-325044-1

DEPT. VI

**RECORDER'S TRANSCRIPT OF HEARING:
JURY TRIAL - DAY 7**

For the State:

For the Defendant:

MONIQUE A. MCNEILL, ESQ.

001272

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Las Vegas, Nevada, Tuesday, July 3, 2018

[Case called at 1:41 p.m.]

[Court at ease outside the presence of the Jury]

[Inside the presence of the Jury]

THE MARSHAL: All rise. Please be seated.

THE COURT: State of Nevada versus Trandon Green, case number C325044. Let the record reflect the presence of parties, and counsel, and all of the members of the jury.

Ladies and gentlemen, hi my name is Linda Bell. I'm another judge in this court. Judge Cadish had a meeting outside of the office and she didn't want to hold you all up any more than necessary, so I'm going to take the verdict today. Did the jury select a foreperson?

THE JURY: Yes.

THE COURT: All right, sir, was the jury all to reach a verdict?

THE FOREPERSON: Yes, they were.

THE COURT: Could you please hand the verdict form to the Marshal? Ms. McNeill, if you and your client will please stand, the Clerk will read the verdict out loud.

THE CLERK: Yes, Your Honor.

District Court, Clark County, Nevada, State of Nevada, Plaintiff versus Trandon Green, Defendant. Case number C-17-325044-1, Department VI.

Verdict: We the jury in the above titled case find Defendant Trandon Green as follows:

1 Count 1, battery constituting domestic violence, not guilty.
2 Count 2, burglary, not guilty.
3 Count 3, first-degree kidnapping SW, not guilty.
4 Count 4, first-degree kidnapping RW, not guilty.
5 Count 5, battery with intent to commit sexual assault, guilty of
6 battery.
7 Count 6, sexual assault, not guilty.
8 Count 7, battery with use of a deadly weapon resulting in
9 substantial bodily harm constituting domestic violence, not guilty.
10 Count 8, battery constituting domestic violence, guilty of
11 battery constituting domestic violence.
12 Count 9, assault with use -- excuse me, assault with a deadly
13 weapon, not guilty.
14 Count 10, child abuse, neglect, or endangerment with use of a
15 deadly weapon, guilty of child abuse, neglect, or endangerment.
16 Count 11, preventing or dissuading witness from testifying or
17 producing evidence, guilty of preventing or dissuading witness from
18 testifying or producing evidence.
19 Dated this 3rd day of July, 2018, Foreperson.
20 Ladies and gentlemen of the Jury, are these your verdicts as
21 read, so say you one so say you all?
22 THE JURY: Yes.
23 THE CLERK: Thank you.
24 THE COURT: Does -- go ahead and have a seat. Does
25 either side wish to have the jury polled?

1 MS. MCNEILL: No, Your Honor.

2 MR. ROSE: No, Your Honor.

3 THE COURT: The Clerk will now record the verdict in the
4 minutes of the court.

5 Ladies and gentlemen, thank you so much for your time in this
6 trial. I know I wasn't with you for the whole time, but I know Judge
7 Cadish and the attorneys really appreciate your time and your attention
8 to the case. And I want to thank you on behalf of the Court, and the
9 parties, and counsel for being here today and being here through trial.

10 Now you can talk to anyone you like about the trial. I'm not
11 going to read you that admonishment again that you probably already
12 heard 100 times. You don't have to if you don't want to either.
13 Sometimes it's very helpful to the attorneys if you're willing to give them
14 a little bit of feedback. But if you're ready to get on with your Fourth of
15 July plans you're free to do that as well. Everyone have a good evening.
16 Have a really safe and good day tomorrow.

17 THE MARSHAL: All rise. Folks, leave your blue badges on
18 your chairs and step out towards Tim. Blue badges, leave them on your
19 chair.

20 [Colloquy between the Judicial Executive Assistant and the Jury]

21 [Outside the presence of the Jury]

22 THE MARSHAL: Please be seated.

23 THE COURT: Do we need to order a Presentence Report and
24 set a sentencing date?

25 THE CLERK: Yes, Your Honor.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MS. LUZAICH: Yes, Judge.

MS. MCNEILL: Yes, Judge.

THE CLERK: Sentencing August 22nd, 8:30.

MS. MCNEILL: Thank you, Your Honor.

THE COURT: And Mr. Green is in custody?

MS. MCNEILL: He is.

THE COURT: Yeah, so he'll be held without bail pending,
remaining with no bail pending the sentencing.

MS. LUZAICH: Thank you, Judge.

MR. ROSE: Thank you, Your Honor.

THE COURT: Thank you.


THE CLERK: All rise.

THE COURT: I have to go now?

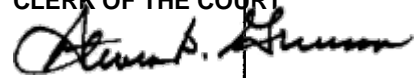
[Trial concluded at 1:51 p.m.]

* * * * *

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



Jessica Kirkpatrick
Court Recorder/Transcriber



JOC

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

TRANDON GREEN, aka
Trandon Tekario Green
#2633490

Defendant.

CASE NO. C-17-325044-1

DEPT. NO. VI

JUDGMENT OF CONVICTION

(JURY TRIAL)

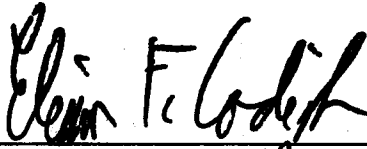
The Defendant previously entered a plea of not guilty to the crimes of COUNT 1
– BATTERY CONSTITUTING DOMESTIC VIOLENCE (Category C Felony) in violation
of NRS 200.481, 200.485.1C, 33.018; COUNT 2 – BURGLARY (Category B Felony) in
violation of NRS 205.060; COUNT 3 – FIRST DEGREE KIDNAPPING (Category A
Felony) in violation of NRS 200.310, 200.320; COUNT 4 – FIRST DEGREE
KIDNAPPING (Category A Felony) in violation of NRS 200.310, 200.320; COUNT 5 –
BATTERY WITH INTENT TO COMMIT SEXUAL ASSAULT (Category A Felony) in

1 violation of NRS 200.400.4, of COUNT 6 – SEXUAL ASSAULT (Category A Felony)
2 in violation of NRS 200.364, 200.366; COUNT 7 – BATTERY WITH USE OF A
3 DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM CONSTITUTING
4 DOMESTIC VIOLENCE (Category B Felony) in violation of NRS 200.481, 200.485,
5 33.018; COUNT 8 – BATTERY CONSTITUTING DOMESTIC VIOLENCE (Category C
6 Felony) in violation of NRS 200.481, 200.485.1C, 33.018; COUNT 9 – ASSAULT WITH
7 A DEADLY WEAPON (Category B Felony) in violation of NRS 200.471; COUNT 10 –
8 CHILD ABUSE, NEGLECT, OR ENDANGERMENT WITH USE OF A DEADLY
9 WEAPON (Category B Felony) in violation of NRS 200.508, 193.165; and COUNT 11 –
10 PREVENTING OR DISSUADING WITNESS FROM TESTIFYING OR PRODUCING
11 EVIDENCE (Gross Misdemeanor) in violation of NRS 199.230, and the matter having
12 been **tried before a jury** and the Defendant having been found guilty of the crimes of
13 COUNT 5 – BATTERY (Misdemeanor) in violation of NRS 200.481; COUNT 8 –
14 BATTERY CONSTITUTING DOMESTIC VIOLENCE (Category C Felony) in violation of
15 NRS 200.481, 200.485.1C, 33.018; COUNT 10 – CHILD ABUSE, NEGLECT, OR
16 ENDANGERMENT (Category B Felony) in violation of NRS 200.508; and COUNT 11 –
17 PREVENTING OR DISSUADING WITNESS FROM TESTIFYING OR PRODUCING
18 EVIDENCE (Gross Misdemeanor) in violation of NRS 199.230; thereafter, on the 22nd
19 day of August, 2018, the Defendant was present in court for **sentencing** with counsel
20 MONIQUE MCNEILL, ESQ., and good cause appearing,

21
22 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in
23 addition to the \$25.00 Administrative Assessment Fee, \$500.00 Indigent Defense Civil
24 Assessment Fee, \$35.00 Domestic Violence Fee plus \$3.00 DNA Collection Fee, the
25
26
27
28

1 Defendant is SENTENCED as follows: **COUNT 5** - SIX (6) MONTHS in the Clark
2 County Detention Center (CCDC); **COUNT 8** - a MAXIMUM of THIRTY-SIX (36)
3 MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS in the Nevada
4 Department of Corrections (NDC), CONCURRENT with COUNT 5; **COUNT 10** - a
5 MAXIMUM of THIRTY-SIX (36) MONTHS with a MINIMUM Parole Eligibility of TWELVE
6 (12) MONTHS in the Nevada Department of Corrections (NDC), CONSECUTIVE to
7 COUNT 8; **COUNT 11** – THREE HUNDRED SIXTY-FOUR (364) DAYS in the Clark
8 County Detention Center, CONCURRENT with COUNT 10; with FOUR HUNDRED
9 THIRTY-ONE (431) DAYS credit for time served. As the \$150.00 DNA Analysis Fee
10 and Genetic Testing have been previously imposed, the Fee and Testing in the current
11 case are WAIVED. The AGGREGATE TOTAL sentence is SEVENTY-TWO (72)
12 MONTHS MAXIMUM with a MINIMUM PAROLE ELIGIBILITY OF TWENTY-FOUR (24)
13 MONTHS.
14
15

16
17 DATED this 24 day of August, 2018.

18
19
20
21 
22 ELISSA F. CADDISH
23 DISTRICT COURT JUDGE
24
25
26
27
28

A-19-789657-W

Case No. ~~C-17-3250441~~
Dept. No. ~~V.I.~~

Dept. ~~VI~~
EIGHTH

FILED 7

FEB 19 2019

CLERK OF COURT

IN THE JUDICIAL DISTRICT COURT OF THE
STATE OF NEVADA IN AND FOR THE COUNTY OF Clark

Trandon T. Green
Petitioner,

v.

PETITION FOR WRIT
OF HABEAS CORPUS
(POSTCONVICTION)

State of Nevada
Respondent.

INSTRUCTIONS:

- (1) This petition must be legibly handwritten or typewritten, signed by the petitioner and verified.
- (2) Additional pages are not permitted except where noted or with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.
- (3) If you want an attorney appointed, you must complete the Affidavit in Support of Request to Proceed in Forma Pauperis. You must have an authorized officer at the prison complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.
- (4) You must name as respondent the person by whom you are confined or restrained. If you are in a specific institution of the Department of Corrections, name the warden or head of the institution. If you are not in a specific institution of the Department but within its custody, name the Director of the Department of Corrections.
- (5) You must include all grounds or claims for relief which you may have regarding your conviction or sentence. Failure to raise all grounds in this petition may preclude you from filing future petitions challenging your conviction and sentence.
- (6) You must allege specific facts supporting the claims in the petition you file seeking relief from any conviction or sentence. Failure to allege specific facts rather than just conclusions may cause your petition to be dismissed. If your petition contains a claim of ineffective assistance of counsel, that claim will operate to waive the attorney-client privilege for the proceeding in which you claim your counsel was ineffective.
- (7) When the petition is fully completed, the original and one copy must be filed with the clerk of the state district court for the county in which you were convicted. One copy must be mailed to the respondent, one copy to the Attorney General's Office, and one copy to the district attorney of the county in which you were convicted or to the original prosecutor if you are challenging your original conviction or sentence. Copies must conform in all particulars to the original submitted for filing.

PETITION

1. Name of institution and county in which you are presently imprisoned or where and how you are presently restrained of your liberty: High Desert State Prison
2. Name and location of court which entered the judgment of conviction under attack: District court Department 6
3. Date of judgment of conviction: 8/22/2018
4. Case number: C-17-3250441
5. (a) Length of sentence: twelve to thirty-six months Aggravated with a twelve to seventy-two month sentence

RECEIVED

FEB 19 2019

CLERK OF THE COURT

004280

A-19-789657-W
IPW/C
Inmate Filed - Petition for Writ of Habeas
4817235



(b) If sentence is death, state any date upon which execution is scheduled:....

6. Are you presently serving a sentence for a conviction other than the conviction under attack in this motion?

Yes ☒ No

If "yes," list crime, case number and sentence being served at this time: Battery -
case C-17-325044-1 12 to 36 months

7. Nature of offense involved in conviction being challenged: Child Abuse and/or
Neglect or endangerment

8. What was your plea? (check one)

☒ (a) Not guilty

(b) Guilty

(c) Guilty but mentally ill

(d) Nolo contendere

9. If you entered a plea of guilty or guilty but mentally ill to one count of an indictment or information, and a plea of not guilty to another count of an indictment or information, or if a plea of guilty or guilty but mentally ill was negotiated, give details: N/A

10. If you were found guilty or guilty but mentally ill after a plea of not guilty, was the finding made by: (check one)

(a) Jury ☒

(b) Judge without a jury

11. Did you testify at the trial? Yes No ☒

12. Did you appeal from the judgment of conviction? Yes No ☒

13. If you did appeal, answer the following:

(a) Name of court: N/A

(b) Case number or citation: N/A

(c) Result: N/A

(d) Date of result: N/A

(Attach copy of order or decision, if available.)

1 14. If you did not appeal, explain briefly why you did not: I did not appeal because

2 my attorney on record failed to meet the time frame of the direct appeal
3 application, but I did want to appeal, but my attorney was ineffective, in
4 following the procedure to do so.

5 15. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any
6 petitions, applications or motions with respect to this judgment in any court, state or federal? Yes No ☒

7 16. If your answer to No. 15 was "yes," give the following information:

8 (a) (1) Name of court: N/A

9 (2) Nature of proceeding: N/A

10 (3) Grounds raised: N/A

11 (4) Did you receive an evidentiary hearing on your petition, application or motion? Yes No ☒

12 (5) Result: N/A

13 (6) Date of result: N/A

14 (7) If known, citations of any written opinion or date of orders entered pursuant to such result:

15 N/A

16 (b) As to any second petition, application or motion, give the same information:

17 (1) Name of court: N/A

18 (2) Nature of proceeding: N/A

19 (3) Grounds raised: N/A

20 (4) Did you receive an evidentiary hearing on your petition, application or motion? Yes No ☒

21 (5) Result: N/A

22 (6) Date of result: N/A

23 (7) If known, citations of any written opinion or date of orders entered pursuant to such result:

24 N/A

25 (c) As to any third or subsequent additional applications or motions, give the same information as above, list
26 them on a separate sheet and attach.

(d) Did you appeal to the highest state or federal court having jurisdiction, the result or action taken on any petition, application or motion?

(1) First petition, application or motion? Yes No ☒

Citation or date of decision: N/A

(2) Second petition, application or motion? Yes No ☒

Citation or date of decision: N/A

(3) Third or subsequent petitions, applications or motions? Yes No ☒

Citation or date of decision: N/A

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

I did not appeal on any matter due to the ineffectiveness of my counsel to apply in the allotted direct appeal time frame.

17. Has any ground being raised in this petition been previously presented to this or any other court by way of petition for habeas corpus, motion, application or any other postconviction proceeding? If so, identify:

(a) Which of the grounds is the same: NA

(b) The proceedings in which these grounds were raised: N/A

(c) Briefly explain why you are again raising these grounds. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

18. If any of the grounds listed in Nos. 23(a), (b), (c) and (d), or listed on any additional pages you have attached, were not previously presented in any other court, state or federal, list briefly what grounds were not so presented, and give your reasons for not presenting them. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

19. Are you filing this petition more than 1 year following the filing of the judgment of conviction or the filing of a decision on direct appeal? If so, state briefly the reasons for the delay. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.) NO

20. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack? Yes No ☒

If yes, state what court and the case number: N/A

21. Give the name of each attorney who represented you in the proceeding resulting in your conviction and on direct appeal: Monique A. McNeill

22. Do you have any future sentences to serve after you complete the sentence imposed by the judgment under attack? Yes No ☒

If yes, specify where and when it is to be served, if you know: N/A

23. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary you may attach pages stating additional grounds and facts supporting same.

1 (a) Ground ONE: My first ground is do to ineffectiveness to
2 counsel, I was unable to direct appeal my judgement
3 of conviction, do to the fact my attorney of record did not
4 file for an appeal in the time frame of the courts.

5 Supporting FACTS (Tell your story briefly without citing cases or law.):

6 Please see attached page
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

AFFIDAVIT OF MONIQUE MCNEILL, ESQ.

COUNTY OF CLARK }
STATE OF NEVADA } ss:

I, MONIQUE MCNEILL, ESQ., being first duly sworn on oath, deposes and states as follows:

1. That I am a licensed attorney, licensed to practice in the State of Nevada.
2. That I was appointed to represent Trandon Green and did so through a trial in District Court.
3. That after his trial and subsequent conviction, the members of the firm had a death in one of their respective families and the office was closed for two weeks and calendaring was an issue. I failed to properly calendar the due date for the Notice of Appeal
4. That as a result of this, I failed to file a Notice of Appeal after his conviction, even though he expressly requested I do so.
5. That I was utterly ineffective for doing so and I believe he has solid issues for appeal, which would have been successful, if pursued.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this 22 day of October, 2018.



MONIQUE MCNEILL, ESQ.

1 (b) Ground TWO:

5 Supporting FACTS (Tell your story briefly without citing cases or law.):

1 (c) Ground THREE:

5 Supporting FACTS (Tell your story briefly without citing cases or law.):

1 (d) Ground FOUR:

5 Supporting FACTS (Tell your story briefly without citing cases or law.):

WHEREFORE, petitioner prays that the court grant petitioner relief to which petitioner may be entitled in this proceeding.

EXECUTED at High Desert State Prison on the 7th day of the month of January, 2019.

Trandon Green 1104426

High Desert State Prison
Post Office Box 650
Indian Springs, Nevada 89070
Petitioner in Proper Person

VERIFICATION

Under penalty of perjury, the undersigned declares that the undersigned is the petitioner named in the foregoing petition and knows the contents thereof; that the pleading is true of the undersigned's own knowledge, except as to those matters stated on information and belief, and as to such matters the undersigned believes them to be true.

Trandon T. Green

High Desert State Prison
Post Office Box 650
Indian Springs, Nevada 89070
Petitioner in Proper Person

AFFIRMATION (Pursuant to NRS 239B.030)

The undersigned does hereby affirm that the preceeding PETITION FOR WRIT OF HABEAS CORPUS filed in District Court, Case Number C-17-325044-1 Does not contain the social security number of any person.

Trandon Green 1104426

High Desert State Prison
Post Office Box 650
Indian Springs, Nevada 89070
Petitioner in Proper Person

CERTIFICATE OF SERVICE BY MAIL

I, Trandon T. Green, hereby certify pursuant to N.R.C.P. 5(b), that on this January day of the month of January, 2019, I mailed a true and correct copy of the foregoing PETITION FOR WRIT OF HABEAS CORPUS addressed to:

Warden High Desert State Prison
Post Office Box 650
Indian Springs, Nevada 89070

Attorney General of Nevada
100 North Carson Street
Carson City, Nevada 89701

Clark County District Attorney's Office
200 Lewis Avenue
Las Vegas, Nevada 89155

Trandon Green

High Desert State Prison
Post Office Box 650
Indian Springs, Nevada 89070
Petitioner in Proper Person

Print your name and NDOC back number and sign

Trandon Green 1104426

Trandon Green 1104426

TEANDON GREEN 1104424
High Desert State Prison
P.O. Box 650
Indian Springs, NV 89070

H D S P
2/14/19



Steven D. Grierson
Clerk of The Court
200 Lewis Avenue, 3rd floor
Las Vegas, NV 89155

PPOW

FILED

MAR 06 2019

DISTRICT COURT
CLARK COUNTY, NEVADA

Alvin L. Blum
CLERK OF COURT

Trandon Green,
Petitioner,
vs.
State of Nevada,
Respondent,

Case No: A-19-789657-W
Department 6

ORDER FOR PETITION FOR
WRIT OF HABEAS CORPUS

Petitioner filed a Petition for Writ of Habeas Corpus (Post-Conviction Relief) on February 19, 2019. The Court has reviewed the Petition and has determined that a response would assist the Court in determining whether Petitioner is illegally imprisoned and restrained of his/her liberty, and good cause appearing therefore,

IT IS HEREBY ORDERED that Respondent shall, within 45 days after the date of this Order, answer or otherwise respond to the Petition and file a return in accordance with the provisions of NRS 34.360 to 34.830, inclusive.

IT IS HEREBY FURTHER ORDERED that this matter shall be placed on this Court's Calendar on the 24th day of April, 2019, at the hour of

8:30 o'clock for further proceedings.

RECEIVED

[Signature]
District Court Judge
Bar

25 Feb 20 19

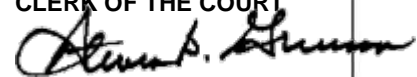
DEPARTMENT VI
NOTICE OF HEARING
DATE 4-24-19 TIME 8:30
APPROVED BY *TJM*

001292

A-19-789657-W
OPWH
Order for Petition for Writ of Habeas Corpus
4820672



CLERK OF THE COURT
MAR 06 2019



FCL
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
STEVEN J. ROSE
Deputy District Attorney
Nevada Bar #013575
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-

CASE NO: A-19-789657-W

TRANDON GREEN, aka,
Trandon Tekario Green, #2633490

DEPT NO: VI

Defendant.

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER**

DATE OF HEARING: SEPTEMBER 18, 2019
TIME OF HEARING: 9:30 AM

THIS CAUSE having come on for hearing before the Honorable JACQUELINE BLUTH, District Judge, on the 18th day of September, 2019, the Petitioner not being present, Represented by Jeannie Hua, Esq., the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through STEVEN J. ROSE, Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT, CONCLUSIONS OF LAW

Before the Court is a Post-Conviction Petition for Writ of Habeas Corpus filed by Trandon Green (Petitioner), alleging a single claim of appeal-deprivation. On June 25, 2018, the jury trial for Petitioner began, and on July 3, 2018, the jury returned a verdict of guilty on

1 Counts 8, 10, and 11. Petitioner was sentenced on August 22, 2018, and the Judgment of
2 Conviction was filed August 29, 2018. No notice of appeal was filed. Subsequently,
3 Petitioner filed a pro per Post-Conviction Petition for Writ of Habeas Corpus. The sole
4 allegation in the Petition was that he asked his trial counsel to file a notice of appeal on his
5 behalf, and that she failed to do so. Attached to his Petition was an affidavit from trial
6 counsel, in which she affirmed that she failed to file the notice of appeal due to a death in the
7 family of a member of her firm. At the hearing on September 18, 2019, the State represented
8 to the Court that it did not file an opposition to the Petition, and was conceding that it did not
9 have a basis to oppose the single issue of appeal-deprivation. Accordingly, the Court makes
10 the following findings.

11 Petitioner filed a timely Petition for Writ of Habeas Corpus in accordance with the
12 provisions of NRS 34.720 and 34.830. In his Petition, Petitioner alleges that he was
13 unlawfully deprived of his right to appeal from the Judgment of Conviction and sentence. In
14 support of his claim, he attached an affidavit from his trial counsel. It is undisputed that an
15 attorney has a duty to perfect a notice of appeal when a defendant expresses a desire to
16 appeal, or indicates dissatisfaction with the conviction. Lozada v. State, 110 Nev. 349, 354,
17 871 P.2d 944, 947 (1994) *rejected on other grounds by* Rippo v. State, 134 Nev. 411, 423
18 P.3d 1084 (2018). Further, prejudice may be presumed for establishing ineffective assistance
19 of counsel when an attorney completely denies a defendant his or her right to a direct appeal.
20 Lozada, 110 Nev. at 358, 871 P.2d at 949. Both the deficient performance and prejudice
21 required for a finding of ineffective assistance have been shown. Thus, the Court finds that
22 Petitioner has established a valid appeal-deprivation claim, and is thus entitled to a direct
23 appeal with the assistance of appointed counsel. See NRAP 4 (C).

24 ORDER

25 THEREFORE, IT IS HEREBY ORDERED that the Petition for Writ of Habeas
26 Corpus shall be, and it is, hereby GRANTED, to the extent that it entitles Petitioner to
27 exercise his right to a direct appeal.
28

1 IT IS FURTHER ORDERED that currently appointed counsel be appointed for
2 purposes of perfecting the appeal.

3 IT IS FURTHER ORDERED the District Court Clerk shall, within 7 days of entry of
4 this order, prepare and file a notice of appeal from Petitioner's Judgment of Conviction and
5 Sentence in case C-17-325044-1.

6 DATED this 21st day of July, 2020.

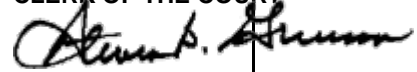
7
8 
DISTRICT JUDGE

9
10 STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

11
12 BY 

13 STEVEN J. ROSE
Deputy District Attorney
Nevada Bar #013575

14
15
16
17
18
19
20
21
22
23
24
25
26 sr/dvu
27
28



NEFF

**DISTRICT COURT
CLARK COUNTY, NEVADA**

TRANDON T. GREEN,

Petitioner,

vs.

STATE OF NEVADA,

Respondent,

Case No: A-19-789657-W

Dept No: VI

**NOTICE OF ENTRY OF FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER**

PLEASE TAKE NOTICE that on July 28, 2020, the court entered a decision or order in this matter, a true and correct copy of which is attached to this notice.

You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is mailed to you. This notice was mailed on July 30, 2020.

STEVEN D. GRIERSON, CLERK OF THE COURT

/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk

CERTIFICATE OF E-SERVICE / MAILING

I hereby certify that on this 30 day of July 2020, I served a copy of this Notice of Entry on the following:

☒ By e-mail:

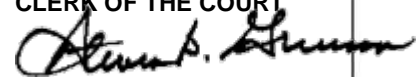
Clark County District Attorney's Office
Attorney General's Office – Appellate Division-

☒ The United States mail addressed as follows:

Trandon Green # 1104426	Jeannie N. Hua, Esq.
P.O. Box 650	5550 Painted Mirage Rd., #320
Indian Springs, NV 89070	Las Vegas, NV 89149

/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk



FCL
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
STEVEN J. ROSE
Deputy District Attorney
Nevada Bar #013575
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-

CASE NO: A-19-789657-W

TRANDON GREEN, aka,
Trandon Tekario Green, #2633490

DEPT NO: VI

Defendant.

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER**

DATE OF HEARING: SEPTEMBER 18, 2019
TIME OF HEARING: 9:30 AM

THIS CAUSE having come on for hearing before the Honorable JACQUELINE BLUTH, District Judge, on the 18th day of September, 2019, the Petitioner not being present, Represented by Jeannie Hua, Esq., the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through STEVEN J. ROSE, Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT, CONCLUSIONS OF LAW

Before the Court is a Post-Conviction Petition for Writ of Habeas Corpus filed by Trandon Green (Petitioner), alleging a single claim of appeal-deprivation. On June 25, 2018, the jury trial for Petitioner began, and on July 3, 2018, the jury returned a verdict of guilty on

1 Counts 8, 10, and 11. Petitioner was sentenced on August 22, 2018, and the Judgment of
2 Conviction was filed August 29, 2018. No notice of appeal was filed. Subsequently,
3 Petitioner filed a pro per Post-Conviction Petition for Writ of Habeas Corpus. The sole
4 allegation in the Petition was that he asked his trial counsel to file a notice of appeal on his
5 behalf, and that she failed to do so. Attached to his Petition was an affidavit from trial
6 counsel, in which she affirmed that she failed to file the notice of appeal due to a death in the
7 family of a member of her firm. At the hearing on September 18, 2019, the State represented
8 to the Court that it did not file an opposition to the Petition, and was conceding that it did not
9 have a basis to oppose the single issue of appeal-deprivation. Accordingly, the Court makes
10 the following findings.

11 Petitioner filed a timely Petition for Writ of Habeas Corpus in accordance with the
12 provisions of NRS 34.720 and 34.830. In his Petition, Petitioner alleges that he was
13 unlawfully deprived of his right to appeal from the Judgment of Conviction and sentence. In
14 support of his claim, he attached an affidavit from his trial counsel. It is undisputed that an
15 attorney has a duty to perfect a notice of appeal when a defendant expresses a desire to
16 appeal, or indicates dissatisfaction with the conviction. Lozada v. State, 110 Nev. 349, 354,
17 871 P.2d 944, 947 (1994) *rejected on other grounds by* Rippo v. State, 134 Nev. 411, 423
18 P.3d 1084 (2018). Further, prejudice may be presumed for establishing ineffective assistance
19 of counsel when an attorney completely denies a defendant his or her right to a direct appeal.
20 Lozada, 110 Nev. at 358, 871 P.2d at 949. Both the deficient performance and prejudice
21 required for a finding of ineffective assistance have been shown. Thus, the Court finds that
22 Petitioner has established a valid appeal-deprivation claim, and is thus entitled to a direct
23 appeal with the assistance of appointed counsel. See NRAP 4 (C).

24 ORDER

25 THEREFORE, IT IS HEREBY ORDERED that the Petition for Writ of Habeas
26 Corpus shall be, and it is, hereby GRANTED, to the extent that it entitles Petitioner to
27 exercise his right to a direct appeal.
28

1 IT IS FURTHER ORDERED that currently appointed counsel be appointed for
2 purposes of perfecting the appeal.

3 IT IS FURTHER ORDERED the District Court Clerk shall, within 7 days of entry of
4 this order, prepare and file a notice of appeal from Petitioner's Judgment of Conviction and
5 Sentence in case C-17-325044-1.

6 DATED this 21st day of July, 2020.

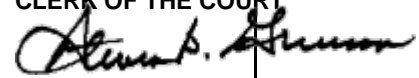
7
8 
DISTRICT JUDGE

9
10 STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

11
12 BY 

13 STEVEN J. ROSE
Deputy District Attorney
Nevada Bar #013575

14
15
16
17
18
19
20
21
22
23
24
25
26 sr/dvu
27
28



1 NOASC

Electronically Filed
Jul 31 2020 01:19 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

2
3
4
5
6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**

9 THE STATE OF NEVADA,

10 Plaintiff,

11 vs.

12
13 TRANDON GREEN
aka TRANDON TEKARIO GREEN,

14 Defendant,

Case No: C-17-325044-1

Consolidated with A-19-789657-W

Dept No: VI

15
16
17 **NOTICE OF APPEAL**

18
19 Notice is hereby given that the Defendant above named, hereby appeals to the Supreme
20 Court of Nevada from the Judgment of Conviction (Jury Trial) entered in this action on August
21 29, 2018.

22 STEVEN D. GRIERSON, CLERK OF THE COURT

23 /s/ Heather Ungermann

24 Heather Ungermann, Deputy Clerk

25
26 CERTIFICATE OF E-SERVICE / MAILING

27 I hereby certify that on this 30 day of July 2020, I served a copy of this Notice of Entry on the following:

28 ☒ By e-mail:

Clark County District Attorney's Office

Attorney General's Office – Appellate Division-

☒ The United States mail addressed as follows:

Trandon Green # 1104426

Jeannie N. Hua, Esq.

P.O. Box 650

5550 Painted Mirage Rd., #320

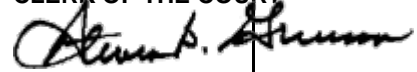
Indian Springs, NV 89070

Las Vegas, NV 89149

☒ This appeal was electronically submitted to the Clerk of the Supreme Court.

/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk



1 ASTA

2
3
4
5
6 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE**
7 **STATE OF NEVADA IN AND FOR**
8 **THE COUNTY OF CLARK**
9

10 STATE OF NEVADA,

11 Plaintiff(s),

12 vs.

13 TRANDON GREEN
14 aka TRANDON TEKARIO GREEN,

15 Defendant(s),

Case No: C-17-325044-1

Related Case A-19-789657-W

Dept No: VI

16
17 **CASE APPEAL STATEMENT**
18

19 1. Appellant(s): Trandon Green

20 2. Judge: Elissa F. Cadish

21 3. Appellant(s): Trandon Green

22 Counsel:

23 Trandon Green #1104426
24 P.O. Box 650
Indian Springs, NV 89070

Jeannie N. Hua, Esq.
5550 Painted Mirage Rd., #320
Las Vegas, NV 89149

25 4. Respondent: The State of Nevada

26 Counsel:

27 Steven B. Wolfson, District Attorney
28 200 Lewis Ave.

Las Vegas, NV 89101
(702) 671-2700

5. Appellant(s)'s Attorney Licensed in Nevada: N/A
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes
Permission Granted: N/A

6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis: N/A

9. Date Commenced in District Court: July 13, 2017

10. Brief Description of the Nature of the Action: Criminal

Type of Judgment or Order Being Appealed: Judgment of Conviction

11. Previous Appeal: No

Supreme Court Docket Number(s): N/A

12. Child Custody or Visitation: N/A

Dated This 30 day of July 2020.

Steven D. Grierson, Clerk of the Court

/s/ Heather Ungermann

Heather Ungermann, Deputy Clerk
200 Lewis Ave
PO Box 551601
Las Vegas, Nevada 89155-1601
(702) 671-0512

cc: Trandon Green
Jeannie N. Hua, Esq.

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY**CASE NO. C-17-325044-1**

State of Nevada
vs
Trandon Green

§ Location: **Department 6**
 § Judicial Officer: **Bluth, Jacqueline M.**
 § Filed on: **07/13/2017**
 § Case Number History:
 § Cross-Reference Case Number: **C325044**
 § Defendant's Scope ID #: **2633490**
 § ITAG Booking Number: **1700158988**
 § ITAG Case ID: **1890710**
 § Lower Court Case # Root: **17F11093**
 § Lower Court Case Number: **17F11093X**
 § Metro Event Number: **1706183728**

CASE INFORMATION

Offense	Statute	Deg	Date	Case Type:	Felony/Gross Misdemeanor
Jurisdiction: District Court					
1. BATTERY CONSTITUTING DOMESTIC VIOLENCE PCN: 0025692318 ACN: 1706183728 Arrest: 06/18/2017 MET - Metro	200.485.1c	F	05/28/2017	Case Status:	10/01/2018 Closed
2. BURGLARY	205.060.2	F	06/18/2017		
3. FIRST DEGREE KIDNAPPING	200.310.1	F	06/18/2017		
4. FIRST DEGREE KIDNAPPING	200.310.1	F	06/18/2017		
5. BATTERY <i>Filed As:</i> BATTERY WITH INTENT TO COMMIT SEXUAL ASSAULT	200.481.2a	M	06/18/2017		
6. SEXUAL ASSAULT	200.366.2b	F	06/18/2017		
7. BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM CONSTITUTING DOMESTIC VIOLENCE	200.481.2e	F	06/18/2017		
8. BATTERY CONSTITUTING DOMESTIC VIOLENCE	200.485.1c	F	06/18/2017		
9. ASSAULT WITH A DEADLY WEAPON	200.471.2b	F	06/18/2017		
10. CHILD ABUSE, NEGLECT, OR ENDANGERMENT <i>Filed As:</i> CHILD ABUSE, NEGLECT, OR ENDANGERMENT WITH USE OF A DEADLY WEAPON	200.508.1b1	F	06/18/2017		
11. PREVENTING OR DISSUADING WITNESS FROM TESTIFYING OR PRODUCING EVIDENCE	199.230.2	G	06/18/2017		

Related Cases

A-19-789657-W (Writ Related Case)

Statistical Closures

10/01/2018 Jury Trial - Conviction - Criminal

DATE**CASE ASSIGNMENT****Current Case Assignment**

Case Number C-17-325044-1
 Court Department 6
 Date Assigned 04/29/2019
 Judicial Officer Bluth, Jacqueline M.

PARTY INFORMATION*Lead Attorneys*

CASE SUMMARY

CASE NO. C-17-325044-1


Defendant **Green, Trandon**


Plaintiff **State of Nevada**


Wolfson, Steven B
702-671-2700(W)


DATE	EVENTS & ORDERS OF THE COURT	INDEX
	<u>EVENTS</u>	
07/13/2017	 Criminal Bindover Packet Las Vegas Justice Court	
07/13/2017	 Criminal Bindover - Confidential	
07/14/2017	 Information <i>Information</i>	
07/14/2017	 Notice of Witnesses and/or Expert Witnesses Filed By: Plaintiff State of Nevada <i>Notice of Expert Witnesses</i>	
08/07/2017	 Consent <i>Consent to Service by Electronic Means</i>	
08/25/2017	 Supplemental Witness List <i>State's Supplemental Notice Of Expert Witnesses</i>	
08/25/2017	 Notice of Witnesses and/or Expert Witnesses <i>State's Notice Of Witnesses</i>	
03/01/2018	 Motion Filed By: Defendant Green, Trandon <i>Motion for Release on Own Recognizance or Setting of REasonable Bail</i>	
03/28/2018	 Supplemental Witness List <i>State's Second Supplemental Notice Of Expert Witnesses</i>	
04/13/2018	 Notice of Witnesses and/or Expert Witnesses Filed By: Defendant Green, Trandon <i>Notice of Witnesses and Expert Witnesses</i>	
05/08/2018	 Order Filed By: Defendant Green, Trandon <i>Order for Release of Property</i>	
06/27/2018	 Jury List	
06/28/2018	 Notice of Witnesses and/or Expert Witnesses Filed By: Defendant Green, Trandon <i>Supplemental Notice of Witness</i>	
07/02/2018	 Amended Jury List	
07/03/2018	 Instructions to the Jury	


CASE SUMMARY
CASE NO. C-17-325044-1


07/03/2018  Verdict

08/02/2018  PSI


08/29/2018  Judgment of Conviction
JUDGMENT OF CONVICTION (JURY TRIAL)


10/01/2018  Criminal Order to Statistically Close Case
Criminal Order to Statistically Close Case


01/24/2019  Motion
Filed By: Defendant Green, Trandon
Motion to Withdraw Counsel

01/24/2019  Notice of Motion
Filed By: Defendant Green, Trandon

04/29/2019 Administrative Reassignment - Judicial Officer Change
To Judge Jacqueline M. Bluth

05/29/2019  Petition for Writ of Habeas Corpus

07/30/2020  Notice of Appeal (criminal)
Party: Defendant Green, Trandon
Notice of Appeal

07/30/2020  Case Appeal Statement
Filed By: Defendant Green, Trandon
Case Appeal Statement

DISPOSITIONS

07/17/2017 **Plea** (Judicial Officer: Cadish, Elissa F.)

1. BATTERY CONSTITUTING DOMESTIC VIOLENCE
Not Guilty
PCN: 0025692318 Sequence:
2. BURGLARY
Not Guilty
PCN: Sequence:
3. FIRST DEGREE KIDNAPPING
Not Guilty
PCN: Sequence:
4. FIRST DEGREE KIDNAPPING
Not Guilty
PCN: Sequence:
5. BATTERY
Not Guilty
PCN: Sequence:
6. SEXUAL ASSAULT
Not Guilty
PCN: Sequence:

CASE SUMMARY

CASE No. C-17-325044-1

7. BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM
CONSTITUTING DOMESTIC VIOLE

Not Guilty

PCN: Sequence:

8. BATTERY CONSTITUTING DOMESTIC VIOLENCE

Not Guilty

PCN: Sequence:

9. ASSAULT WITH A DEADLY WEAPON

Not Guilty

PCN: Sequence:

10. CHILD ABUSE, NEGLECT, OR ENDANGERMENT

Not Guilty

PCN: Sequence:

11. PREVENTING OR DISSUADING WITNESS FROM TESTIFYING OR PRODUCING EVIDENCE

Not Guilty

PCN: Sequence:

07/05/2018 **Disposition** (Judicial Officer: Cadish, Elissa F.)

1. BATTERY CONSTITUTING DOMESTIC VIOLENCE

Not Guilty

PCN: 0025692318 Sequence:

2. BURGLARY

Not Guilty

PCN: Sequence:

3. FIRST DEGREE KIDNAPPING

Not Guilty

PCN: Sequence:

4. FIRST DEGREE KIDNAPPING

Not Guilty

PCN: Sequence:

6. SEXUAL ASSAULT

Not Guilty

PCN: Sequence:

7. BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM
CONSTITUTING DOMESTIC VIOLE

Not Guilty

PCN: Sequence:

9. ASSAULT WITH A DEADLY WEAPON

Not Guilty

PCN: Sequence:

08/22/2018 **Disposition** (Judicial Officer: Cadish, Elissa F.)

5. BATTERY

Guilty

PCN: Sequence:

8. BATTERY CONSTITUTING DOMESTIC VIOLENCE

Guilty

PCN: Sequence:

CASE SUMMARY
CASE NO. C-17-325044-1

10. CHILD ABUSE, NEGLECT, OR ENDANGERMENT

Guilty

PCN: Sequence:

11. PREVENTING OR DISSUADING WITNESS FROM TESTIFYING OR PRODUCING EVIDENCE

Guilty

PCN: Sequence:

08/22/2018 **Adult Adjudication** (Judicial Officer: Cadish, Elissa F.)

5. BATTERY

06/18/2017 (M) 200.481.2a (DC50212)

PCN: Sequence:

Sentenced to CCDC

Term: 6 Months

08/22/2018 **Adult Adjudication** (Judicial Officer: Cadish, Elissa F.)

8. BATTERY CONSTITUTING DOMESTIC VIOLENCE

06/18/2017 (F) 200.485.1c (DC50239)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections

Term: Minimum:12 Months, Maximum:36 Months

Concurrent: Charge 5

08/22/2018 **Adult Adjudication** (Judicial Officer: Cadish, Elissa F.)

10. CHILD ABUSE, NEGLECT, OR ENDANGERMENT

06/18/2017 (F) 200.508.1b1 (DC55226)

PCN: Sequence:

Sentenced to Nevada Dept. of Corrections

Term: Minimum:12 Months, Maximum:36 Months

Consecutive: Charge 8

08/22/2018 **Adult Adjudication** (Judicial Officer: Cadish, Elissa F.)

11. PREVENTING OR DISSUADING WITNESS FROM TESTIFYING OR PRODUCING EVIDENCE

06/18/2017 (G) 199.230.2 (DC52983)

PCN: Sequence:

Sentenced to CCDC

Term: 364 Days

Concurrent: Charge 10

Comments: Aggregate Sentence 24 months Minimum and 72 months Maximum

Fee Totals:

AA Fee - Battery

Domestic Violence

35.00

\$35

Administrative

Assessment Fee

25.00

\$25

DNA Analysis Fee

150.00

\$150

Genetic Marker

Analysis AA Fee

3.00

\$3

Indigent Defense

Civil Assessment

500.00

Fee - ASK

Fee Totals \$






713.00

HEARINGS

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. C-17-325044-1

07/17/2017	 Initial Arraignment (10:00 AM) (Judicial Officer: De La Garza, Melisa) Trial Date Set; Journal Entry Details: <i>DEFT. GREEN ARRAIGNED, PLED NOT GUILTY, and INVOKED the 60-DAY RULE. COURT ORDERED, matter set for trial. Counsel has 21 days from today for the filing of any Writs; if the Preliminary Hearing Transcript has not been filed as of today, Counsel has 21 days from the filing of the Transcript; further, Counsel has an obligation under case law, statute and rules regarding discovery. CUSTODY 9/11/17 9:30 AM CALENDAR CALL (DEPT. 6) 9/18/17 10:00 AM JURY TRIAL (DEPT. 6);</i>
09/11/2017	 Calendar Call (9:30 AM) (Judicial Officer: Cadish, Elissa F.) Trial Date Set; Journal Entry Details: <i>Ms. McNeil advised she was recently assigned the case and had just received the file and requested a continuance. Ms. Rhoades noted no objection to a continuance. Ms. Rhoades advised Deft has been in contact with the victim in this case. At the request of Ms. Rhoades, Court ADMONISHED Deft. to refrain from contacting the named victim in this case. Upon Court's inquiry, Deft confirmed he will waive his right to a speedy trial. COURT ORDERED, trial VACATED and RESET. CUSTODY 2/5/18 9:30 AM CALENDAR CALL 2/12/18 10:00 AM JURY TRIAL;</i>
09/18/2017	CANCELED Jury Trial (10:00 AM) (Judicial Officer: Cadish, Elissa F.) <i>Vacated</i>
02/05/2018	 Calendar Call (9:30 AM) (Judicial Officer: Cadish, Elissa F.) Matter Heard; Journal Entry Details: <i>On behalf of Ms. McNeill, Ms. Waldo requested a continuance of the trial, advising Ms. McNeill is in trial and has investigations to complete; Ms. McNeill has spoken with the Defendant. Mr. Portz stated there's no opposition to a continuance. Defendant stated he told Ms. McNeill he would like to proceed with trial; there are certain motions that would like to deal with that's she's not done; trying to get counsel to work with me on the case, and have got nothing. Ms. Waldo stated Ms McNeill has conflicting trial dates and is aware of the Defendant's desire to go forward as soon as possible. Colloquy regarding the continuation of the non over flow eligible trial. COURT ORDERED, trial CONTINUED; counsel is to make sure Ms. McNeill knows to meet with the Defendant in regards to what needs to be done, and she's to do all that's possible to revolve the case, or proceed to trial as scheduled. Defendant requested he be released on his own recognizance with electronic monitoring. COURT ORDERED, oral request DENIED; Defendant to speak with counsel in regards to the basis to file a motion seeking what's been requested. CUSTODY 4-16-18 9:30 AM CALENDAR CALL 4-23-18 10:00 AM JURY TRIAL;</i>
02/12/2018	CANCELED Jury Trial (10:00 AM) (Judicial Officer: Cadish, Elissa F.) <i>Vacated</i>
03/07/2018	 Motion for Own Recognizance Release/Setting Reasonable Bail (8:30 AM) (Judicial Officer: Cadish, Elissa F.) <i>Defendant's Motion for Release on House Arrest, or, in the Alternative, Setting of Reasonable Bail Denied;</i> Journal Entry Details: <i>Mr. Rose requested he be allowed to respond orally. COURT SO ORDERED. Argument in opposition of Defendant's motion by Mr. Rose, requesting there be no change in the Defendant's custody status and the bail to remain the same. Upon the inquiry of the Court, Ms. McNeill stated she's appointed private counsel. Argument in support of Defendant's motion by Ms. McNeill requesting house arrest, or bail of \$20,000.00. COURT ORDERED, Defendant's Motion for an Own Recognizance Release with house arrest DENIED; bail REDUCED to \$200,000.00 with house arrest; if released, there is to be no contact with the named victim. CUSTODY 4-16-18 9:30 AM CALENDAR CALL 4-23-18 10:00 AM JURY TRIAL;</i>
04/16/2018	 Calendar Call (9:30 AM) (Judicial Officer: Cadish, Elissa F.) 04/16/2018, 04/18/2018 Continued; Matter Heard; Journal Entry Details: <i>Ms. McNeill and Mr. Rose announced they are ready for trial. CONFERENCE AT BENCH. Although parties are ready for trial, Court stated it's been discussed about 1 outstanding issue in regards to retrieving and looking at information on the Defendant's cell phone at the Clark County Detention Center (CCDC); parties have agreed the phone can be returned to defense counsel or an investigator retained by defense counsel to look at the information on the phone and that in formation be reported to both sides, seeking potentially exculpatory evidence on there that both</i>

CASE SUMMARY

CASE NO. C-17-325044-1

side agree should be looked at to determine what is available there; an order will be signed after parties have looked at the language to be released and analyzed. Court state this Court is only available for trial 2 days next week, noting time is needed for the phone and analysis and there being no opposition ORDERED, trial CONTINUED one last time; if the case does not negotiate, it will be made sure it proceeds to trial. CUSTODY 6-18-18 9:30 AM CALENDAR CALL 6-25-18 10:00 AM JURY TRIAL;

Continued;

Matter Heard;

Journal Entry Details:

Ms. Luzaich advised Mr. Rose is out of the country and requested a continuance until Wednesday. Court informed parties that this Court will likely not preside over the trial and should the case proceed to trial, this Court will work on having another Court cover this case and ORDERED, proceedings CONTINUED. CUSTODY 4-18-18 8:30 AM CALENDAR CALL 4-23-18 10:00 AM JURY TRIAL;

04/23/2018 **CANCELED Jury Trial** (10:00 AM) (Judicial Officer: Cadish, Elissa F.)
Vacated

06/18/2018  **Calendar Call** (9:30 AM) (Judicial Officer: Cadish, Elissa F.)

Matter Heard;

Journal Entry Details:

Mr. Rose advised Ms. McNeill was present and received a text from Judge Eric Johnson's Department to appear, where she's in trial; both parties anticipate being ready and Ms. McNeill would like the Court to know the Defendant has informed her he's looking into obtaining other counsel. Court stated the basis for new counsel will need to be heard. Mr. Rose advised that's his best understanding of where proceedings are; trial should take 6-7 days. Colloquy regarding the continuation of proceedings. COURT ORDERED, case to trial June 25, 2018 @ 1:30 PM; matter SET for status check counsel; should the Defendant wish to dismiss counsel, a hearing will be held at the end of the calendar. Mr. Rose stated he will pass the information on to Ms. McNeill. CUSTODY 6-20-18 8:30 AM STATUS CHECK: COUNSEL 6-25-18 1:30 PM JURY TRIAL;

06/20/2018  **Status Check** (8:30 AM) (Judicial Officer: Cadish, Elissa F.)


Status Check: Counsel

Matter Heard;

Journal Entry Details:

Defendant stated he will proceed to trial with Ms. McNeill. COURT ORDERED, case to trial June 25th @ 1:30 PM. Mr. Rose advised the trial is expected to go into the next Monday. Court stated the trial is to be completed by Tuesday afternoon; counsel is directed to contact the Clerk in advance in regards to exhibits. Mr. Rose advised an exhibit list will be provided. Court directed counsel provide the proposed Jury Instructions by tomorrow, if possible; agreed and disputed provided electronically to the Judicial Executive Assistant (JEA) in word, with and without citations. CUSTODY 6-25-18 1:30 PM JURY TRIAL ;

06/25/2018 **CANCELED Jury Trial** (10:00 AM) (Judicial Officer: Cadish, Elissa F.)
Vacated - per Judge

06/25/2018  **Jury Trial** (1:30 PM) (Judicial Officer: Bell, Linda Marie)

06/25/2018-06/29/2018, 07/02/2018-07/03/2018

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

Jury Deliberating. IN THE PRESENCE OF THE JURY: At the hour of 1:45 PM, the Jury returned with a verdict as follows: COUNT 1- BATTERY CONSTITUTING DOMESTIC VIOLENCE - NOT GUILTY COUNT 2 - BURGLARY - NOT GUILTY COUNT 3 - FIRST DEGREE KIDNAPPING (S.W.) - NOT GUILTY COUNT 4 - FIRST DEGREE KIDNAPPING (R.W.) - NOT GUILTY COUNT 5 - BATTERY WITH INTENT TO COMMIT SEXUAL ASSAULT - GUILTY OF BATTERY COUNT 6 - SEXUAL ASSAULT - NOT GUILTY COUNT 7 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM CONSTITUTING DOMESTIC VIOLENCE - NOT GUILTY COUNT 8 - BATTERY CONSTITUTING DOMESTIC VIOLENCE - GUILTY OF BATTERY CONSTITUTING DOMESTIC VIOLENCE COUNT 9- ASSAULT WITH A DEADLY WEAPON - NOT GUILTY COUNT 10 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT WITH USE OF A DEADLY WEAPON - GUILTY OF CHILD ABUSE, NEGLECT OR ENDANGERMENT COUNT 11 - PREVENTING OR DISSUADING WITNESS

CASE SUMMARY

CASE NO. C-17-325044-1

FROM TESTIFYING OR PRODUCING EVIDENCE - GUILTY OF PREVENTING OR DISSUADING WITNESS
FROM TESTIFYING OR PRODUCING EVIDENCE Court thanked and excused the Jury. OUTSIDE THE PRESENCE
OF THE JURY: COURT ORDERED, Defendant REMANDED to custody WITHOUT bail; matter REFERRED to the
Division of Parole and Probation and SET for sentencing. CUSTODY 8-22-18 8:30 AM SENTENCING;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY: Instructions settled. IN THE PRESENCE OF THE JURY: Testimony and
Exhibits Presented (See Worksheet). Defendant REST. Jury instructed as to the law by way of the Court's reading of
the Jury Instructions. Closing arguments on behalf of the State by Mr. Rose and on behalf of the Defendant by Ms.
McNeill. Closing rebuttal arguments on behalf of the State by Ms. Luzaich. At the hour of 5:59 PM the Jury retired to
commence with deliberations; Alternate Jurors identified, admonished and released. OUTSIDE THE PRESENCE OF
THE JURY: Colloquy. 7-3-18 9:00 AM JURY TRIAL;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

IN THE PRESENCE OF THE JURY: Testimony and Exhibits Presented (See Worksheet). OUTSIDE THE PRESENCE
OF THE JURY: Colloquy regarding scheduling for the remainder of the trial. IN THE PRESENCE OF THE JURY:
Testimony and Exhibits Presented (See Worksheet). OUTSIDE THE PRESENCE OF THE JURY: Ms. McNeill moved
for a mistrial based upon the failure to comply with discovery requirements, Brady and due process violations, which
place counsel in the position of being ineffective, and presented argument in support thereof. Argument in opposition
of mistrial by Mr. Rose; the discovery requirements have been complied with. Continued argument for mistrial by Ms.
McNeill. Colloquy between Court and witness Huesby. Continued arguments by Ms. McNeill and Mr. Rose as to their
respective positions. Court stated findings and ORDERED, request for mistrial DENIED; there's no bad faith and no
prejudice to the Defendant to warrant a mistrial. Record made by Ms. McNeill. IN THE PRESENCE OF THE JURY:
Testimony and Exhibits Presented. (See Worksheet). State REST. CONFERENCE AT BENCH. COURT ORDERED,
proceedings CONTINUED; Jurors admonished and released. OUTSIDE THE PRESENCE OF THE JURY: Court
advised the Defendant of his constitutional rights as to any testimony. 7-2-18 11:00 AM JURY TRIAL;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE JURY: Colloquy regarding exhibits, stipulations and potential curative
instructions. Reading of the Information by the Clerk and Defendant's plea thereto announced. Exclusionary rule
INVOKED. Opening statements on behalf of the State by Mr. Rose and on behalf of the Defendant by Ms. McNeill.
Testimony and Exhibits Presented (See Worksheet). OUTSIDE THE PRESENCE OF THE JURY: Colloquy regarding
evidence and what's permissible during the examination of the witness. IN THE PRESENCE OF THE JURY:
Testimony and Exhibits Presented (See Worksheet). COURT ORDERED, proceedings CONTINUED; Jurors
admonished and released. 6-29-18 10:00 AM JURY TRIAL;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

IN THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Voir Dire. OUTSIDE THE PRESENCE OF THE
PROSPECTIVE JURY PANEL: Court and counsel addressed Prospective Juror #455 in regards to the Prospective
Jurors scheduled appointment(s). COURT ORDERED, Prospective Juror #455 EXCUSED. IN THE PRESENCE OF

CASE SUMMARY

CASE NO. C-17-325044-1

THE PROSPECTIVE JURY PANEL: Voir Dire. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy regarding trial logistics. IN THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Voir Dire. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Peremptory Challenges exercised. Colloquy regarding Peremptory Challenges. IN THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Jury impaneled. Court thanked and excused the Prospective Jurors. IN THE PRESENCE OF THE JURY: Jury panel sworn by the Clerk. COURT, thanked, admonished and excused the Jurors. 6-28-18 10:30 AM JURY TRIAL ;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Outside the presence other Prospective Jurors, Court and counsel addressed Prospective Juror #508 in regards to language issues. Outside the presence of all Prospective Jurors, COURT ORDERED, Prospective Juror #508 EXCUSED. IN THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Voir Dire. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Court addressed counsel in regards to an e-mail received in regards the jury service of Prospective Juror Miller, which will be marked as a Court's Exhibit. IN THE PRESENCE OF THE JURY: Voir Dire. COURT ORDERED, proceedings CONTINUED; Prospective Jurors admonished and released. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy regarding scheduled medical appointment of Prospective Juror #455. 6-27-18 10:30 AM JURY TRIAL;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Trial Continues;

Verdict;

Journal Entry Details:

OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy regarding Jury selection process and scheduling. Mr. Rose advised the Court of the offer extended to Defendant. Ms. McNeill stated she reached out to the State in regards to the offer and discussed it with the Defendant. Upon the inquiry of the Court, Defendant acknowledged his rejection of the offer. Mr. Rose advised the Defendant's counter offer was rejected. IN THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Introductory comments by the Court. Roll of prospective Jurors called and sworn by the Clerk. Party introductions. Voir Dire. OUTSIDE THE PRESENCE OF THE JURY: Colloquy regarding prospective Jurors to be excused. IN THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Court noted the prospective Jurors to be excused. Voir Dire. COURT ORDERED, proceedings CONTINUED; prospective Jurors admonished and released. 6-26-18 11:0 AM JURY TRIAL;

08/22/2018



Sentencing (8:30 AM) (Judicial Officer: Cadish, Elissa F.)

Defendant Sentenced;

Journal Entry Details:

Mr. Rose requested the Court sit as a Magistrate on the misdemeanor. By virtue of the verdict of the Jury, Defendant GREEN ADJUDGED GUILTY OF COUNT 5, BATTERY (M), COUNT 8, BATTERY CONSTITUTING DOMESTIC VIOLENCE (F), COUNT 10, CHILD ABUSE, NEGLECT, OR ENDANGERMENT (F), and COUNT 11, PREVENTING OR DISSUADING WITNESS FROM TESTIFYING OR PRODUCING EVIDENCE (GM). Court noted the evaluation from Dr. Harter finds the Defendant to be a moderate risk to reoffend. Arguments by counsel. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, \$150.00 DNA Analysis fee WAIVED, \$3.00 DNA Collection fee, \$35.00 Domestic Violence fee and \$500.00 Indigent Defense Civil Assessment fee, as to COUNT 5, Defendant SENTENCED to SIX (6) MONTHS in the Clark County Detention Center (CCDC), as to COUNT 8, a MAXIMUM OF THIRTY-SIX (36) MONTHS AND A MINIMUM OF TWELVE (12) MONTHS in the Nevada Department of Corrections (NDC) CONCURRENT WITH COUNT 5, as to COUNT 10, a MAXIMUM OF THIRTY-SIX (36) MONTHS AND A MINIMUM OF TWELVE (12) MONTHS in the Nevada Department of Corrections (NDC) CONSECUTIVE TO COUNT 8, and as to COUNT 11, THREE HUNDRED SIXTY-FOUR (364) DAYS in the Clark County Detention Center (CCDC) CONCURRENT WITH COUNT 10; AGGREGATE SENTENCE of a MAXIMUM OF SEVENTY-TWO (72) MONTHS AND A MINIMUM OF TWENTY-FOUR (24) MONTHS in the Nevada Department of Corrections (NDC); FOUR HUNDRED THIRTY-ONE (431) days credit for time served. NDC;

02/20/2019



Motion (8:30 AM) (Judicial Officer: Bonaventure, Joseph T.)

Motion to Withdraw Counsel

Granted;

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. C-17-325044-1

Journal Entry Details:

Defendant not present. Ms. McNeill stated the Defendant's in the Nevada Department of Corrections (NDC), there's no opposition to the motion and the file will be mailed to the Defendant. COURT ORDERED, Motion To Withdraw Counsel GRANTED. NDC;

DATE

FINANCIAL INFORMATION

Defendant Green, Trandon

Total Charges

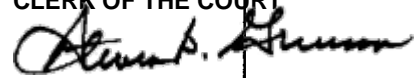
713.00

Total Payments and Credits

0.00

Balance Due as of 7/30/2020

713.00



JOC

DISTRICT COURT

CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

TRANDON GREEN, aka
Trandon Tekario Green
#2633490

Defendant.

CASE NO. C-17-325044-1

DEPT. NO. VI

JUDGMENT OF CONVICTION

(JURY TRIAL)

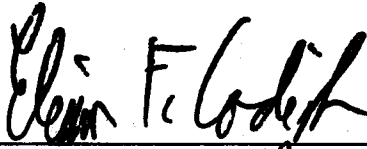
The Defendant previously entered a plea of not guilty to the crimes of COUNT 1
– BATTERY CONSTITUTING DOMESTIC VIOLENCE (Category C Felony) in violation
of NRS 200.481, 200.485.1C, 33.018; COUNT 2 – BURGLARY (Category B Felony) in
violation of NRS 205.060; COUNT 3 – FIRST DEGREE KIDNAPPING (Category A
Felony) in violation of NRS 200.310, 200.320; COUNT 4 – FIRST DEGREE
KIDNAPPING (Category A Felony) in violation of NRS 200.310, 200.320; COUNT 5 –
BATTERY WITH INTENT TO COMMIT SEXUAL ASSAULT (Category A Felony) in

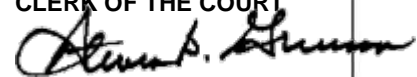
1 violation of NRS 200.400.4, of COUNT 6 – SEXUAL ASSAULT (Category A Felony)
2 in violation of NRS 200.364, 200.366; COUNT 7 – BATTERY WITH USE OF A
3 DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM CONSTITUTING
4 DOMESTIC VIOLENCE (Category B Felony) in violation of NRS 200.481, 200.485,
5 33.018; COUNT 8 – BATTERY CONSTITUTING DOMESTIC VIOLENCE (Category C
6 Felony) in violation of NRS 200.481, 200.485.1C, 33.018; COUNT 9 – ASSAULT WITH
7 A DEADLY WEAPON (Category B Felony) in violation of NRS 200.471; COUNT 10 –
8 CHILD ABUSE, NEGLECT, OR ENDANGERMENT WITH USE OF A DEADLY
9 WEAPON (Category B Felony) in violation of NRS 200.508, 193.165; and COUNT 11 –
10 PREVENTING OR DISSUADING WITNESS FROM TESTIFYING OR PRODUCING
11 EVIDENCE (Gross Misdemeanor) in violation of NRS 199.230, and the matter having
12 been **tried before a jury** and the Defendant having been found guilty of the crimes of
13 COUNT 5 – BATTERY (Misdemeanor) in violation of NRS 200.481; COUNT 8 –
14 BATTERY CONSTITUTING DOMESTIC VIOLENCE (Category C Felony) in violation of
15 NRS 200.481, 200.485.1C, 33.018; COUNT 10 – CHILD ABUSE, NEGLECT, OR
16 ENDANGERMENT (Category B Felony) in violation of NRS 200.508; and COUNT 11 –
17 PREVENTING OR DISSUADING WITNESS FROM TESTIFYING OR PRODUCING
18 EVIDENCE (Gross Misdemeanor) in violation of NRS 199.230; thereafter, on the 22nd
19 day of August, 2018, the Defendant was present in court for **sentencing** with counsel
20 MONIQUE MCNEILL, ESQ., and good cause appearing,

21
22 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offenses and, in
23 addition to the \$25.00 Administrative Assessment Fee, \$500.00 Indigent Defense Civil
24 Assessment Fee, \$35.00 Domestic Violence Fee plus \$3.00 DNA Collection Fee, the
25
26
27
28

1 Defendant is SENTENCED as follows: **COUNT 5** - SIX (6) MONTHS in the Clark
2 County Detention Center (CCDC); **COUNT 8** - a MAXIMUM of THIRTY-SIX (36)
3 MONTHS with a MINIMUM Parole Eligibility of TWELVE (12) MONTHS in the Nevada
4 Department of Corrections (NDC), CONCURRENT with COUNT 5; **COUNT 10** - a
5 MAXIMUM of THIRTY-SIX (36) MONTHS with a MINIMUM Parole Eligibility of TWELVE
6 (12) MONTHS in the Nevada Department of Corrections (NDC), CONSECUTIVE to
7 COUNT 8; **COUNT 11** – THREE HUNDRED SIXTY-FOUR (364) DAYS in the Clark
8 County Detention Center, CONCURRENT with COUNT 10; with FOUR HUNDRED
9 THIRTY-ONE (431) DAYS credit for time served. As the \$150.00 DNA Analysis Fee
10 and Genetic Testing have been previously imposed, the Fee and Testing in the current
11 case are WAIVED. The AGGREGATE TOTAL sentence is SEVENTY-TWO (72)
12 MONTHS MAXIMUM with a MINIMUM PAROLE ELIGIBILITY OF TWENTY-FOUR (24)
13 MONTHS.
14
15

16
17 DATED this 24 day of August, 2018.

18
19
20
21 
22 ELISSA F. CADDISH
23 DISTRICT COURT JUDGE
24
25
26
27
28



FCL
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
STEVEN J. ROSE
Deputy District Attorney
Nevada Bar #013575
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-

CASE NO: A-19-789657-W

TRANDON GREEN, aka,
Trandon Tekario Green, #2633490

DEPT NO: VI

Defendant.

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER**

DATE OF HEARING: SEPTEMBER 18, 2019
TIME OF HEARING: 9:30 AM

THIS CAUSE having come on for hearing before the Honorable JACQUELINE BLUTH, District Judge, on the 18th day of September, 2019, the Petitioner not being present, Represented by Jeannie Hua, Esq., the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through STEVEN J. ROSE, Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT, CONCLUSIONS OF LAW

Before the Court is a Post-Conviction Petition for Writ of Habeas Corpus filed by Trandon Green (Petitioner), alleging a single claim of appeal-deprivation. On June 25, 2018, the jury trial for Petitioner began, and on July 3, 2018, the jury returned a verdict of guilty on

1 Counts 8, 10, and 11. Petitioner was sentenced on August 22, 2018, and the Judgment of
2 Conviction was filed August 29, 2018. No notice of appeal was filed. Subsequently,
3 Petitioner filed a pro per Post-Conviction Petition for Writ of Habeas Corpus. The sole
4 allegation in the Petition was that he asked his trial counsel to file a notice of appeal on his
5 behalf, and that she failed to do so. Attached to his Petition was an affidavit from trial
6 counsel, in which she affirmed that she failed to file the notice of appeal due to a death in the
7 family of a member of her firm. At the hearing on September 18, 2019, the State represented
8 to the Court that it did not file an opposition to the Petition, and was conceding that it did not
9 have a basis to oppose the single issue of appeal-deprivation. Accordingly, the Court makes
10 the following findings.

11 Petitioner filed a timely Petition for Writ of Habeas Corpus in accordance with the
12 provisions of NRS 34.720 and 34.830. In his Petition, Petitioner alleges that he was
13 unlawfully deprived of his right to appeal from the Judgment of Conviction and sentence. In
14 support of his claim, he attached an affidavit from his trial counsel. It is undisputed that an
15 attorney has a duty to perfect a notice of appeal when a defendant expresses a desire to
16 appeal, or indicates dissatisfaction with the conviction. Lozada v. State, 110 Nev. 349, 354,
17 871 P.2d 944, 947 (1994) *rejected on other grounds by* Rippo v. State, 134 Nev. 411, 423
18 P.3d 1084 (2018). Further, prejudice may be presumed for establishing ineffective assistance
19 of counsel when an attorney completely denies a defendant his or her right to a direct appeal.
20 Lozada, 110 Nev. at 358, 871 P.2d at 949. Both the deficient performance and prejudice
21 required for a finding of ineffective assistance have been shown. Thus, the Court finds that
22 Petitioner has established a valid appeal-deprivation claim, and is thus entitled to a direct
23 appeal with the assistance of appointed counsel. See NRAP 4 (C).

24 ORDER

25 THEREFORE, IT IS HEREBY ORDERED that the Petition for Writ of Habeas
26 Corpus shall be, and it is, hereby GRANTED, to the extent that it entitles Petitioner to
27 exercise his right to a direct appeal.
28

1 IT IS FURTHER ORDERED that currently appointed counsel be appointed for
2 purposes of perfecting the appeal.

3 IT IS FURTHER ORDERED the District Court Clerk shall, within 7 days of entry of
4 this order, prepare and file a notice of appeal from Petitioner's Judgment of Conviction and
5 Sentence in case C-17-325044-1.

6 DATED this 21st day of July, 2020.

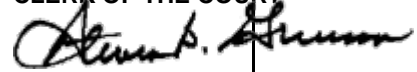
7
8 
DISTRICT JUDGE

9
10 STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

11
12 BY 

13 STEVEN J. ROSE
Deputy District Attorney
Nevada Bar #013575

14
15
16
17
18
19
20
21
22
23
24
25
26 sr/dvu
27
28



1 NEFF

2 **DISTRICT COURT**
3 **CLARK COUNTY, NEVADA**

4 TRANDON T. GREEN,

5
6 Petitioner,

Case No: A-19-789657-W

Dept No: VI

7 vs.

8 STATE OF NEVADA,

9 Respondent,

**NOTICE OF ENTRY OF FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER**

10
11 **PLEASE TAKE NOTICE** that on July 28, 2020, the court entered a decision or order in this matter, a
12 true and correct copy of which is attached to this notice.

13 You may appeal to the Supreme Court from the decision or order of this court. If you wish to appeal, you
14 must file a notice of appeal with the clerk of this court within thirty-three (33) days after the date this notice is
15 mailed to you. This notice was mailed on July 30, 2020.

16 STEVEN D. GRIERSON, CLERK OF THE COURT

17 /s/ Heather Ungermann

18 Heather Ungermann, Deputy Clerk

19 **CERTIFICATE OF E-SERVICE / MAILING**

20 I hereby certify that on this 30 day of July 2020, I served a copy of this Notice of Entry on the following:

21 ☒ By e-mail:

22 Clark County District Attorney's Office
Attorney General's Office – Appellate Division-

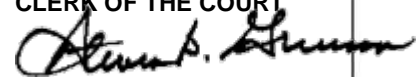
23 ☒ The United States mail addressed as follows:

24 Trandon Green # 1104426
25 P.O. Box 650
Indian Springs, NV 89070

Jeannie N. Hua, Esq.
5550 Painted Mirage Rd., #320
Las Vegas, NV 89149

26
27 /s/ Heather Ungermann

28 Heather Ungermann, Deputy Clerk



FCL
STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
STEVEN J. ROSE
Deputy District Attorney
Nevada Bar #013575
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-

CASE NO: A-19-789657-W

TRANDON GREEN, aka,
Trandon Tekario Green, #2633490

DEPT NO: VI

Defendant.

**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER**

DATE OF HEARING: SEPTEMBER 18, 2019
TIME OF HEARING: 9:30 AM

THIS CAUSE having come on for hearing before the Honorable JACQUELINE BLUTH, District Judge, on the 18th day of September, 2019, the Petitioner not being present, Represented by Jeannie Hua, Esq., the Respondent being represented by STEVEN B. WOLFSON, Clark County District Attorney, by and through STEVEN J. ROSE, Deputy District Attorney, and the Court having considered the matter, including briefs, transcripts, arguments of counsel, and documents on file herein, now therefore, the Court makes the following findings of fact and conclusions of law:

FINDINGS OF FACT, CONCLUSIONS OF LAW

Before the Court is a Post-Conviction Petition for Writ of Habeas Corpus filed by Trandon Green (Petitioner), alleging a single claim of appeal-deprivation. On June 25, 2018, the jury trial for Petitioner began, and on July 3, 2018, the jury returned a verdict of guilty on

1 Counts 8, 10, and 11. Petitioner was sentenced on August 22, 2018, and the Judgment of
2 Conviction was filed August 29, 2018. No notice of appeal was filed. Subsequently,
3 Petitioner filed a pro per Post-Conviction Petition for Writ of Habeas Corpus. The sole
4 allegation in the Petition was that he asked his trial counsel to file a notice of appeal on his
5 behalf, and that she failed to do so. Attached to his Petition was an affidavit from trial
6 counsel, in which she affirmed that she failed to file the notice of appeal due to a death in the
7 family of a member of her firm. At the hearing on September 18, 2019, the State represented
8 to the Court that it did not file an opposition to the Petition, and was conceding that it did not
9 have a basis to oppose the single issue of appeal-deprivation. Accordingly, the Court makes
10 the following findings.

11 Petitioner filed a timely Petition for Writ of Habeas Corpus in accordance with the
12 provisions of NRS 34.720 and 34.830. In his Petition, Petitioner alleges that he was
13 unlawfully deprived of his right to appeal from the Judgment of Conviction and sentence. In
14 support of his claim, he attached an affidavit from his trial counsel. It is undisputed that an
15 attorney has a duty to perfect a notice of appeal when a defendant expresses a desire to
16 appeal, or indicates dissatisfaction with the conviction. Lozada v. State, 110 Nev. 349, 354,
17 871 P.2d 944, 947 (1994) *rejected on other grounds by* Rippo v. State, 134 Nev. 411, 423
18 P.3d 1084 (2018). Further, prejudice may be presumed for establishing ineffective assistance
19 of counsel when an attorney completely denies a defendant his or her right to a direct appeal.
20 Lozada, 110 Nev. at 358, 871 P.2d at 949. Both the deficient performance and prejudice
21 required for a finding of ineffective assistance have been shown. Thus, the Court finds that
22 Petitioner has established a valid appeal-deprivation claim, and is thus entitled to a direct
23 appeal with the assistance of appointed counsel. See NRAP 4 (C).

24 ORDER

25 THEREFORE, IT IS HEREBY ORDERED that the Petition for Writ of Habeas
26 Corpus shall be, and it is, hereby GRANTED, to the extent that it entitles Petitioner to
27 exercise his right to a direct appeal.
28

1 IT IS FURTHER ORDERED that currently appointed counsel be appointed for
2 purposes of perfecting the appeal.

3 IT IS FURTHER ORDERED the District Court Clerk shall, within 7 days of entry of
4 this order, prepare and file a notice of appeal from Petitioner's Judgment of Conviction and
5 Sentence in case C-17-325044-1.

6 DATED this 21st day of July, 2020.

7
8 
DISTRICT JUDGE

9
10 STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

11
12 BY 

13 STEVEN J. ROSE
Deputy District Attorney
Nevada Bar #013575

14
15
16
17
18
19
20
21
22
23
24
25
26 sr/dvu
27
28

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 17, 2017

C-17-325044-1 State of Nevada
vs
Trandon Green

July 17, 2017 10:00 AM Initial Arraignment

HEARD BY: De La Garza, Melisa

COURTROOM: RJC Lower Level Arraignment

COURT CLERK: Kristen Brown

RECORDER: Kiara Schmidt

REPORTER:

PARTIES

PRESENT:	Green, Trandon	Defendant
	Oliver, Melissa	Attorney
	Special Public Defender	Attorney
	State of Nevada	Plaintiff
	Vail, Alexander R.	Attorney

JOURNAL ENTRIES

- DEFT. GREEN ARRAIGNED, PLED NOT GUILTY, and INVOKED the 60-DAY RULE. COURT ORDERED, matter set for trial. Counsel has 21 days from today for the filing of any Writs; if the Preliminary Hearing Transcript has not been filed as of today, Counsel has 21 days from the filing of the Transcript; further, Counsel has an obligation under case law, statute and rules regarding discovery.

CUSTODY

9/11/17 9:30 AM CALENDAR CALL (DEPT. 6)

9/18/17 10:00 AM JURY TRIAL (DEPT. 6)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

September 11, 2017

C-17-325044-1 State of Nevada
vs
Trandon Green

September 11, 2017 9:30 AM Calendar Call

HEARD BY: Cadish, Elissa F.

COURTROOM: RJC Courtroom 15B

COURT CLERK: Aja Brown

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

PRESENT:	Green, Trandon	Defendant
	McNeill, Monique A.	Attorney
	Rhoades, Kristina A.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Ms. McNeil advised she was recently assigned the case and had just received the file and requested a continuance. Ms. Rhoades noted no objection to a continuance. Ms. Rhoades advised Deft has been in contact with the victim in this case. At the request of Ms. Rhoades, Court ADMONISHED Deft. to refrain from contacting the named victim in this case. Upon Court's inquiry, Deft confirmed he will waive his right to a speedy trial. COURT ORDERED, trial VACATED and RESET.

CUSTODY

2/5/18 9:30 AM CALENDAR CALL

2/12/18 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****February 05, 2018**

C-17-325044-1 State of Nevada
vs
Trandon Green

February 05, 2018 9:30 AM Calendar Call

HEARD BY: Cadish, Elissa F.**COURTROOM:** RJC Courtroom 15B**COURT CLERK:** Keith Reed**RECORDER:** De'Awna Takas**REPORTER:****PARTIES**

PRESENT:	Green, Trandon	Defendant
	PORTZ, KENNETH	Attorney
	State of Nevada	Plaintiff
	Waldo, Jennifer M.	Attorney

JOURNAL ENTRIES

- On behalf of Ms. McNeill, Ms. Waldo requested a continuance of the trial, advising Ms. McNeill is in trial and has investigations to complete; Ms. McNeill has spoken with the Defendant. Mr. Portz stated there's no opposition to a continuance. Defendant stated he told Ms. McNeill he would like to proceed with trial; there are certain motions that would like to deal with that's she's not done; trying to get counsel to work with me on the case, and have got nothing. Ms. Waldo stated Ms McNeill has conflicting trial dates and is aware of the Defendant's desire to go forward as soon as possible. Colloquy regarding the continuation of the non over flow eligible trial. COURT ORDERED, trial CONTINUED; counsel is to make sure Ms. McNeill knows to meet with the Defendant in regards to what needs to be done, and she's to do all that's possible to revolve the case, or proceed to trial as scheduled. Defendant requested he be released on his own recognizance with electronic monitoring. COURT ORDERED, oral request DENIED; Defendant to speak with counsel in regards to the basis to file a motion seeking what's been requested.

CUSTODY

PRINT DATE: 07/30/2020

Page 3 of 24

Minutes Date: July 17, 2017

C-17-325044-1

4-16-18 9:30 AM CALENDAR CALL

4-23-18 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****March 07, 2018**

C-17-325044-1 State of Nevada
vs
Trandon Green

**March 07, 2018 8:30 AM Motion for Own
Recognizance
Release/Setting Reasonable
Bail**

HEARD BY: Cadish, Elissa F.**COURTROOM:** RJC Courtroom 15B**COURT CLERK:** Keith Reed**RECORDER:** De'Awna Takas**REPORTER:****PARTIES**

PRESENT:	Green, Trandon	Defendant
	McNeill, Monique A.	Attorney
	Rose, Steven	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Rose requested he be allowed to respond orally. COURT SO ORDERED. Argument in opposition of Defendant's motion by Mr. Rose, requesting there be no change in the Defendant's custody status and the bail to remain the same. Upon the inquiry of the Court, Ms. McNeill stated she's appointed private counsel. Argument in support of Defendant's motion by Ms. McNeill requesting house arrest, or bail of \$20,000.00. COURT ORDERED, Defendant's Motion for an Own Recognizance Release with house arrest DENIED; bail REDUCED to \$200,000.00 with house arrest; if released, there is to be no contact with the named victim.

CUSTODY

4-16-18 9:30 AM CALENDAR CALL

PRINT DATE: 07/30/2020

Page 5 of 24

Minutes Date: July 17, 2017

C-17-325044-1

4-23-18 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

April 16, 2018

C-17-325044-1 State of Nevada
 vs
 Trandon Green

April 16, 2018 9:30 AM Calendar Call

HEARD BY: Cadish, Elissa F. **COURTROOM:** RJC Courtroom 15B

COURT CLERK: Keith Reed

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT:	Green, Trandon	Defendant
	Luzaich, Elissa	Attorney
	McNeill, Monique A.	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Ms. Luzaich advised Mr. Rose is out of the country and requested a continuance until Wednesday. Court informed parties that this Court will likely not preside over the trial and should the case proceed to trial, this Court will work on having another Court cover this case and ORDERED, proceedings CONTINUED.

CUSTODY

4-18-18 8:30 AM CALENDAR CALL

4-23-18 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****April 18, 2018**

C-17-325044-1 State of Nevada
vs
Trandon Green

April 18, 2018 8:30 AM Calendar Call

HEARD BY: Cadish, Elissa F.**COURTROOM:** RJC Courtroom 15B**COURT CLERK:** Keith Reed**RECORDER:** De'Awna Takas**REPORTER:****PARTIES**

PRESENT:	Green, Trandon	Defendant
	McNeill, Monique A.	Attorney
	Rose, Steven	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Ms. McNeill and Mr. Rose announced they are ready for trial. CONFERENCE AT BENCH. Although parties are ready for trial, Court stated it's been discussed about 1 outstanding issue in regards to retrieving and looking at information on the Defendant's cell phone at the Clark County Detention Center (CCDC); parties have agreed the phone can be returned to defense counsel or an investigator retained by defense counsel to look at the information on the phone and that information be reported to both sides, seeking potentially exculpatory evidence on there that both side agree should be looked at to determine what is available there; an order will be signed after parties have looked at the language to be released and analyzed. Court state this Court is only available for trial 2 days next week, noting time is needed for the phone and analysis and there being no opposition ORDERED, trial CONTINUED one last time; if the case does not negotiate, it will be made sure it proceeds to trial.

CUSTODY

PRINT DATE: 07/30/2020

Page 8 of 24

Minutes Date: July 17, 2017

C-17-325044-1

6-18-18 9:30 AM CALENDAR CALL

6-25-18 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 18, 2018

C-17-325044-1 State of Nevada
 vs
 Trandon Green

June 18, 2018 9:30 AM Calendar Call

HEARD BY: Cadish, Elissa F. **COURTROOM:** RJC Courtroom 15B

COURT CLERK: Keith Reed
Dauriana Simpson

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT:	Green, Trandon	Defendant
	Rose, Steven	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Rose advised Ms. McNeill was present and received a text from Judge Eric Johnson's Department to appear, where she's in trial; both parties anticipate being ready and Ms. McNeill would like the Court to know the Defendant has informed her he's looking into obtaining other counsel. Court stated the basis for new counsel will need to be heard. Mr. Rose advised that's his best understanding of where proceedings are; trial should take 6-7 days. Colloquy regarding the continuation of proceedings. COURT ORDERED, case to trial June 25, 2018 @ 1:30 PM; matter SET for status check counsel; should the Defendant wish to dismiss counsel, a hearing will be held at the end of the calendar. Mr. Rose stated he will pass the information on to Ms. McNeill.

CUSTODY

6-20-18 8:30 AM STATUS CHECK: COUNSEL

6-25-18 1:30 PM JURY TRIAL

PRINT DATE: 07/30/2020

Page 10 of 24

Minutes Date: July 17, 2017

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 20, 2018

C-17-325044-1 State of Nevada
vs
Trandon Green

June 20, 2018 8:30 AM Status Check

HEARD BY: Cadish, Elissa F.

COURTROOM: RJC Courtroom 15B

COURT CLERK: Keith Reed

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT:	Green, Trandon	Defendant
	McNeill, Monique A.	Attorney
	Rose, Steven	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Defendant stated he will proceed to trial with Ms. McNeill. COURT ORDERED, case to trial June 25th @ 1:30 PM. Mr. Rose advised the trial is expected to go into the next Monday. Court stated the trial is to be completed by Tuesday afternoon; counsel is directed to contact the Clerk in advance in regards to exhibits. Mr. Rose advised an exhibit list will be provided. Court directed counsel provide the proposed Jury Instructions by tomorrow, if possible; agreed and disputed provided electronically to the Judicial Executive Assistant (JEA) in word, with and without citations.

CUSTODY

6-25-18 1:30 PM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 25, 2018**

C-17-325044-1 State of Nevada
vs
Trandon Green

June 25, 2018**1:30 PM****Jury Trial****HEARD BY:** Cadish, Elissa F.**COURTROOM:** RJC Courtroom 15B**COURT CLERK:** Keith Reed**RECORDER:** De'Awna Takas**REPORTER:****PARTIES**

PRESENT:	Green, Trandon	Defendant
	Luzaich, Elissa	Attorney
	McNeill, Monique A.	Attorney
	Rose, Steven	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy regarding Jury selection process and scheduling. Mr. Rose advised the Court of the offer extended to Defendant. Ms. McNeill stated she reached out to the State in regards to the offer and discussed it with the Defendant. Upon the inquiry of the Court, Defendant acknowledged his rejection of the offer. Mr. Rose advised the Defendant's counter offer was rejected. IN THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Introductory comments by the Court. Roll of prospective Jurors called and sworn by the Clerk. Party introductions. Voir Dire. OUTSIDE THE PRESENCE OF THE JURY: Colloquy regarding prospective Jurors to be excused. IN THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Court noted the prospective Jurors to be excused. Voir Dire. COURT ORDERED, proceedings CONTINUED; prospective Jurors admonished and released.

6-26-18 11:0 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 26, 2018**

C-17-325044-1 State of Nevada
vs
Trandon Green

June 26, 2018**11:00 AM****Jury Trial****HEARD BY:** Cadish, Elissa F.**COURTROOM:** RJC Courtroom 15B**COURT CLERK:** Keith Reed**RECORDER:** De'Awna Takas**REPORTER:****PARTIES**

PRESENT:	Green, Trandon	Defendant
	Luzaich, Elissa	Attorney
	McNeill, Monique A.	Attorney
	Rose, Steven	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Outside the presence other Prospective Jurors, Court and counsel addressed Prospective Juror #508 in regards to language issues. Outside the presence of all Prospective Jurors, COURT ORDERED, Prospective Juror #508 EXCUSED. IN THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Voir Dire. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Court addressed counsel in regards to an e-mail received in regards the jury service of Prospective Juror Miller, which will be marked as a Court's Exhibit. IN THE PRESENCE OF THE JURY: Voir Dire. COURT ORDERED, proceedings CONTINUED; Prospective Jurors admonished and released. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy regarding scheduled medical appointment of Prospective Juror #455.

6-27-18 10:30 AM JURY TRIAL

PRINT DATE: 07/30/2020

Page 14 of 24

Minutes Date: July 17, 2017

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

June 27, 2018

C-17-325044-1 State of Nevada
 vs
 Trandon Green

June 27, 2018

10:30 AM

Jury Trial

HEARD BY: Cadish, Elissa F.

COURTROOM: RJC Courtroom 15B

COURT CLERK: Keith Reed

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT:	Green, Trandon	Defendant
	Luzaich, Elissa	Attorney
	McNeill, Monique A.	Attorney
	Rose, Steven	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- IN THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Voir Dire. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Court and counsel addressed Prospective Juror #455 in regards to the Prospective Jurors scheduled appointment(s). COURT ORDERED, Prospective Juror #455 EXCUSED. IN THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Voir Dire. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Colloquy regarding trial logistics. IN THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Voir Dire. OUTSIDE THE PRESENCE OF THE PROSPECTIVE JURY PANEL: Peremptory Challenges exercised. Colloquy regarding Peremptory Challenges. IN THE PRESENCE OF THE PROSPECTIVE JURY PANEL. Jury impaneled. Court thanked and excused the Prospective Jurors. IN THE PRESENCE OF THE JURY: Jury panel sworn by the Clerk. COURT, thanked, admonished and excused the Jurors.

6-28-18 10:30 AM JURY TRIAL

PRINT DATE: 07/30/2020

Page 15 of 24

Minutes Date: July 17, 2017

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 28, 2018**

C-17-325044-1 State of Nevada
vs
Trandon Green

June 28, 2018**10:30 AM****Jury Trial****HEARD BY:** Cadish, Elissa F.**COURTROOM:** RJC Courtroom 15B**COURT CLERK:** Keith Reed**RECORDER:** De'Awna Takas**REPORTER:****PARTIES**

PRESENT:	Green, Trandon	Defendant
	Luzaich, Elissa	Attorney
	McNeill, Monique A.	Attorney
	Rose, Steven	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY: Colloquy regarding exhibits, stipulations and potential curative instructions. Reading of the Information by the Clerk and Defendant's plea thereto announced. Exclusionary rule INVOKED. Opening statements on behalf of the State by Mr. Rose and on behalf of the Defendant by Ms. McNeill. Testimony and Exhibits Presented (See Worksheet). OUTSIDE THE PRESENCE OF THE JURY: Colloquy regarding evidence and what's permissible during the examination of the witness. IN THE PRESENCE OF THE JURY: Testimony and Exhibits Presented (See Worksheet). COURT ORDERED, proceedings CONTINUED; Jurors admonished and released.

6-29-18 10:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****June 29, 2018**

C-17-325044-1 State of Nevada
vs
Trandon Green

June 29, 2018**10:00 AM****Jury Trial****HEARD BY:** Cadish, Elissa F.**COURTROOM:** RJC Courtroom 15B**COURT CLERK:** Keith Reed**RECORDER:** De'Awna Takas**REPORTER:****PARTIES**

PRESENT:	Green, Trandon	Defendant
	Luzaich, Elissa	Attorney
	McNeill, Monique A.	Attorney
	Rose, Steven	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- IN THE PRESENCE OF THE JURY: Testimony and Exhibits Presented (See Worksheet). OUTSIDE THE PRESENCE OF THE JURY: Colloquy regarding scheduling for the remainder of the trial. IN THE PRESENCE OF THE JURY: Testimony and Exhibits Presented (See Worksheet). OUTSIDE THE PRESENCE OF THE JURY: Ms. McNeill moved for a mistrial based upon the failure to comply with discovery requirements, Brady and due process violations, which place counsel in the position of being ineffective, and presented argument in support thereof. Argument in opposition of mistrial by Mr. Rose; the discovery requirements have been complied with. Continued argument for mistrial by Ms. McNeill. Colloquy between Court and witness Huesby. Continued arguments by Ms. McNeill and Mr. Rose as to their respective positions. Court stated findings and ORDERED, request for mistrial DENIED; there's no bad faith and no prejudice to the Defendant to warrant a mistrial. Record made by Ms. McNeill. IN THE PRESENCE OF THE JURY: Testimony and Exhibits Presented. (See Worksheet). State REST. CONFERENCE AT BENCH. COURT ORDERED, proceedings CONTINUED; Jurors admonished and released. OUTSIDE THE PRESENCE OF THE JURY: Court advised the Defendant of his constitutional rights as to any testimony.

PRINT DATE: 07/30/2020

Page 17 of 24

Minutes Date: July 17, 2017

7-2-18 11:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****July 02, 2018**

C-17-325044-1 State of Nevada
vs
Trandon Green

July 02, 2018**11:00 AM****Jury Trial****HEARD BY:** Cadish, Elissa F.**COURTROOM:** RJC Courtroom 15B**COURT CLERK:** Keith Reed**RECORDER:** De'Awna Takas**REPORTER:****PARTIES**

PRESENT:	Green, Trandon	Defendant
	Luzaich, Elissa	Attorney
	McNeill, Monique A.	Attorney
	Rose, Steven	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- OUTSIDE THE PRESENCE OF THE JURY: Instructions settled. IN THE PRESENCE OF THE JURY: Testimony and Exhibits Presented (See Worksheet). Defendant REST. Jury instructed as to the law by way of the Court's reading of the Jury Instructions. Closing arguments on behalf of the State by Mr. Rose and on behalf of the Defendant by Ms. McNeill. Closing rebuttal arguments on behalf of the State by Ms. Luzaich. At the hour of 5:59 PM the Jury retired to commence with deliberations; Alternate Jurors identified, admonished and released. OUTSIDE THE PRESENCE OF THE JURY: Colloquy.

7-3-18 9:00 AM JURY TRIAL

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

July 03, 2018

C-17-325044-1 State of Nevada
 vs
 Trandon Green

July 03, 2018

9:00 AM

Jury Trial

HEARD BY: Bell, Linda Marie

COURTROOM: RJC Courtroom 15B

COURT CLERK: Keith Reed

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT:	Green, Trandon	Defendant
	Luzaich, Elissa	Attorney
	McNeill, Monique A.	Attorney
	Rose, Steven	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Jury Deliberating. IN THE PRESENCE OF THE JURY: At the hour of 1:45 PM, the Jury returned with a verdict as follows:

COUNT 1- BATTERY CONSTITUTING DOMESTIC VIOLENCE - NOT GUILTY

COUNT 2 - BURGLARY - NOT GUILTY

COUNT 3 - FIRST DEGREE KIDNAPPING (S.W.) - NOT GUILTY

COUNT 4 - FIRST DEGREE KIDNAPPING (R.W.) - NOT GUILTY

COUNT 5 - BATTERY WITH INTENT TO COMMIT SEXUAL ASSAULT - GUILTY OF BATTERY

COUNT 6 - SEXUAL ASSAULT - NOT GUILTY

PRINT DATE: 07/30/2020

Page 20 of 24

Minutes Date: July 17, 2017

COUNT 7 - BATTERY WITH USE OF A DEADLY WEAPON RESULTING IN SUBSTANTIAL BODILY HARM CONSTITUTING DOMESTIC VIOLENCE - NOT GUILTY

COUNT 8 - BATTERY CONSTITUTING DOMESTIC VIOLENCE - GUILTY OF BATTERY CONSTITUTING DOMESTIC VIOLENCE

COUNT 9- ASSAULT WITH A DEADLY WEAPON - NOT GUILTY

COUNT 10 - CHILD ABUSE, NEGLECT, OR ENDANGERMENT WITH USE OF A DEADLY WEAPON - GUILTY OF CHILD ABUSE, NEGLECT OR ENDANGERMENT

COUNT 11 - PREVENTING OR DISSUADING WITNESS FROM TESTIFYING OR PRODUCING EVIDENCE - GUILTY OF PREVENTING OR DISSUADING WITNESS FROM TESTIFYING OR PRODUCING EVIDENCE

Court thanked and excused the Jury.

OUTSIDE THE PRESENCE OF THE JURY: COURT ORDERED, Defendant REMANDED to custody WITHOUT bail; matter REFERRED to the Division of Parole and Probation and SET for sentencing.

CUSTODY

8-22-18 8:30 AM SENTENCING

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor**COURT MINUTES****August 22, 2018**

C-17-325044-1 State of Nevada
vs
Trandon Green

August 22, 2018 8:30 AM Sentencing

HEARD BY: Cadish, Elissa F.**COURTROOM:** RJC Courtroom 15B**COURT CLERK:** Keith Reed**RECORDER:** De'Awna Takas**REPORTER:****PARTIES**

PRESENT:	Green, Trandon	Defendant
	Luzaich, Elissa	Attorney
	McNeill, Monique A.	Attorney
	Rose, Steven	Attorney
	State of Nevada	Plaintiff

JOURNAL ENTRIES

- Mr. Rose requested the Court sit as a Magistrate on the misdemeanor. By virtue of the verdict of the Jury, Defendant GREEN ADJUDGED GUILTY OF COUNT 5, BATTERY (M), COUNT 8, BATTERY CONSTITUTING DOMESTIC VIOLENCE (F), COUNT 10, CHILD ABUSE, NEGLECT, OR ENDANGERMENT (F), and COUNT 11, PREVENTING OR DISSUADING WITNESS FROM TESTIFYING OR PRODUCING EVIDENCE (GM). Court noted the evaluation from Dr. Harter finds the Defendant to be a moderate risk to reoffend. Arguments by counsel. COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, \$150.00 DNA Analysis fee WAIVED, \$3.00 DNA Collection fee, \$35.00 Domestic Violence fee and \$500.00 Indigent Defense Civil Assessment fee, as to COUNT 5, Defendant SENTENCED to SIX (6) MONTHS in the Clark County Detention Center (CCDC), as to COUNT 8, a MAXIMUM OF THIRTY-SIX (36) MONTHS AND A MINIMUM OF TWELVE (12) MONTHS in the Nevada Department of Corrections (NDC) CONCURRENT WITH COUNT 5, as to COUNT 10, a MAXIMUM OF THIRTY-SIX (36) MONTHS AND A MINIMUM OF TWELVE (12) MONTHS in the Nevada Department of Corrections (NDC) CONSECUTIVE TO COUNT 8, and as to COUNT 11, THREE HUNDRED SIXTY-FOUR (364) DAYS in the Clark County

PRINT DATE: 07/30/2020

Page 22 of 24

Minutes Date: July 17, 2017

Detention Center (CCDC) CONCURRENT WITH COUNT 10; AGGREGATE SENTENCE of a MAXIMUM OF SEVENTY-TWO (72) MONTHS AND A MINIMUM OF TWENTY-FOUR (24) MONTHS in the Nevada Department of Corrections (NDC); FOUR HUNDRED THIRTY-ONE (431) days credit for time served.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Felony/Gross Misdemeanor

COURT MINUTES

February 20, 2019

C-17-325044-1 State of Nevada
 vs
 Trandon Green

February 20, 2019 8:30 AM Motion

HEARD BY: Bonaventure, Joseph T. **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Keith Reed

RECORDER: Sandra Pruchnic

REPORTER:

PARTIES

PRESENT: Clowers, Shanon Attorney
 McNeill, Monique A. Plaintiff
 State of Nevada

JOURNAL ENTRIES

- Defendant not present.

Ms. McNeill stated the Defendant's in the Nevada Department of Corrections (NDC), there's no opposition to the motion and the file will be mailed to the Defendant. COURT ORDERED, Motion To Withdraw Counsel GRANTED.

NDC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

April 24, 2019

A-19-789657-W Trandon Green, Plaintiff(s)
vs.
State of Nevada, Defendant(s)

April 24, 2019 8:30 AM All Pending Motions

HEARD BY: Bixler, James **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Keith Reed

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT: Rose, Steven Attorney

JOURNAL ENTRIES

- PETITION FOR WRIT OF HABEAS CORPUS...MOTION FOR APPOINTMENT OF COUNSEL

Plaintiff not present.

Court noted the petition is in association with criminal case C-17-325044-1; Plaintiff's in the Nevada Department of Corrections (NDC). Mr. Rose advised the State takes no position on the petition; alternative counsel needs to be appointed to file the actual appeal. COURT ORDERED, proceedings CONTINUED and SET for confirmation of counsel.

5-1-19 9:30 AM CONFIRMATION OF COUNSEL...PETITION FOR WRIT OF HABEAS CORPUS

CLERK'S NOTE: Drew Christensen notified of calendared proceedings.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

May 01, 2019

A-19-789657-W Trandon Green, Plaintiff(s)
vs.
State of Nevada, Defendant(s)

May 01, 2019 9:30 AM All Pending Motions

HEARD BY: Bluth, Jacqueline M. **COURTROOM:** RJC Courtroom 10C

COURT CLERK: Keith Reed

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT: Hua, Jeannie N Attorney
 Luzaich, Elissa Attorney
 Rose, Steven Attorney

JOURNAL ENTRIES

- CONFIRMATION OF COUNSEL...PETITION FOR WRIT OF HABEAS CORPUS

Defendant not present.

Ms. Hua advised the Defendant's in the Nevada Department of Corrections (NDC) and she's present for confirmation. COURT ORDERED, Attorney Jeannie Hua will take over the petition. Upon the inquiry of the Court, Ms. Hua stated she does not have discovery and requested a May 29th status check. Mr. Rose stated that's fine, noting the petition is not a traditional post conviction petition. Ms. Hua requested a status check to review discovery prior to briefing. COURT ORDERED, matter CONTINUED and SET for status check..

NDC

5-29-19 9:30 AM STATUS CHECK: DISCOVERY/BRIEFING...PETITION FOR WRIT OF HABEAS CORPUS

PRINT DATE: 07/30/2020

Page 2 of 7

Minutes Date: April 24, 2019

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

May 29, 2019

A-19-789657-W Trandon Green, Plaintiff(s)
vs.
State of Nevada, Defendant(s)

May 29, 2019 9:30 AM Status Check

HEARD BY: Bluth, Jacqueline M. **COURTROOM:** RJC Courtroom 10C

COURT CLERK: April Watkins
Imelda Murrieta
Carolyn Jackson

RECORDER: De'Awna Takas

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- See all pending motions dated May 29, 2019

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

May 29, 2019

A-19-789657-W Trandon Green, Plaintiff(s)
vs.
State of Nevada, Defendant(s)

May 29, 2019

9:30 AM

Petition

HEARD BY: Bluth, Jacqueline M.

COURTROOM: RJC Courtroom 10C

COURT CLERK: April Watkins
Imelda Murrieta
Carolyn Jackson

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- See all pending motions dated May 29, 2019.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

May 29, 2019

A-19-789657-W Trandon Green, Plaintiff(s)
vs.
State of Nevada, Defendant(s)

May 29, 2019 9:30 AM All Pending Motions

HEARD BY: Bluth, Jacqueline M. **COURTROOM:** RJC Courtroom 10C

COURT CLERK: April Watkins
Imelda Murrieta
Carolyn Jackson

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT: Hua, Jeannie N Attorney
Rose, Steven Attorney

JOURNAL ENTRIES

- PETITION FOR WRIT OF HABEAS CORPUS...STATUS CHECK: DISCOVERY/BRIEFING

Petition for Writ of Habeas Corpus (Post-Conviction) FILED IN OPEN COURT.

Ms. Hua stated that she has received the discovery, saw Deft and did file Post-Conviction Writ. COURT ORDERED, the following briefing schedule set: State's Opposition due by August 7, 2019, Deft's Reply due by September 6, 2019 and matter set thereafter.

NDC

9/18/19 9:00 AM PETITION FOR WRIT OF HABEAS CORPUS (POST CONVICTION)

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Habeas Corpus

COURT MINUTES

September 18, 2019

A-19-789657-W Trandon Green, Plaintiff(s)
vs.
State of Nevada, Defendant(s)

September 18, 2019 9:30 AM Petition

HEARD BY: Bluth, Jacqueline M.

COURTROOM: RJC Courtroom 10C

COURT CLERK: Keith Reed
Shannon Reid

RECORDER: De'Awna Takas

REPORTER:

PARTIES

PRESENT:	Clowers, Shanon	Attorney
	Hua, Jeannie N	Attorney
	Rose, Steven	Attorney

JOURNAL ENTRIES

- Court noted the Defendant's in the Nevada Department of Corrections (NDC). Ms. Hua stated it's not believed there's an opposition and she would like to do a Lazada appeal; the writ was filed to file an appeal on the case. Ms. Clowers stated a return was filed and advised the case is Mr. Rose's. Ms. Hua argued nothing was filed. COURT ORDERED, proceedings TRAILED for the presence of Mr. Rose.

MATTER RECALLED:

Mr. Rose stated he'd not had a chance to speak with the appellant division to determine why nothing was filed and advised the petition is based on the failure to file the appeal after there was a request to do so; the deadline was missed and there's no grounds to oppose. Mr. Rose stated that perhaps the petition can be granted to allow appellant counsel to file the appeal past the 30 day deadline. Ms. Jua stated that's what's wanted. COURT ORDERED, Petition For Writ of Habeas Corpus (Post Conviction) GRANTED under those limited grounds. Mr. Rose stated an order will be prepared and run by the counsel prior to submission.

PRINT DATE: 07/30/2020

Page 6 of 7

Minutes Date: April 24, 2019

A-19-789657-W

NDC

STATE'S EXHIBIT LIST

TRIAL DATES: 6/25/2018 -

Case No. C-17-325044-1	Clerk: KEITH REED
Dept. 6 Judge: E. Cadish	Recorder: DE'AWNA CREWS
Pltf(s): State of Nevada	Plt's Counsel: DDA Steven Rose CDDA Lisa Luzaich
Deft(s): Trandon Green	Deft's Counsel: Monique McNeil & Melissa Oliver (SPD)

Exhibit No.	Description	Date Offered	Obj.	Adm.	Date Admitted
1	Photo - Outside of Apartment	6-28-18	STP	✓	6-28-18
2	Photo - Front Door	↓	↓	↓	↓
3	Photo - Front Door Frame Latch	↓	↓	↓	↓
4	Photo - Kitchen & Hallway	↓	↓	↓	↓
5	Photo - Hallway into Samantha's Room	↓	↓	↓	↓
6	Photo - Interior of Samantha's Room	↓	↓	↓	↓
7	Photo - Samantha's bed and dresser	↓	↓	↓	↓
8	Photo - Samantha's room toward hallway	↓	↓	↓	↓
9	Photo - Samantha's bed with blankets	↓	↓	↓	↓
10	Photo - Samantha's bed mid-range	↓	↓	↓	↓
11	Photo - Samantha's bed corner and floor	↓	↓	↓	↓
12	Photo - Floor with apparent blood - mid-range	↓	↓	↓	↓
13	Photo - Floor with apparent blood - close-up	↓	↓	↓	↓
14	Photo - Samantha's room - wood piece 1	↓	↓	↓	↓
15	Photo - wood piece 1 - close-up	↓	↓	↓	↓
16	Photo - wood piece 1 with scale	↓	↓	↓	↓
17	Photo - wood piece 1 (rotated) with scale	↓	↓	↓	↓
18	Photo - Samantha's room - trash can and wood pieces	↓	↓	↓	↓
19	Photo - Samantha's room - wood pieces - mid-range	6-28-18	STP	✓	6-28-18

Exhibit No.	Description	Date Offered	Obj.	Adm.	Date Admitted
20	Photo - Wood pieces 2 & 3 - close-up	6-28-18	STP	✓	6-28-18
21	Photo - Wood pieces 2 & 3 - close-up with scale	↓	↓	↓	↓
22	Photo - Samantha's floor, wood pieces and apparent blood	↓	↓	↓	↓
23	Photo - Samantha's floor, apparent blood - close-up	↓	↓	↓	↓
24	Photo - Samantha's dresser 001355	6-28-18	STP	✓	6-28-18

25	Photo – Samantha's dresser top with glove	6-28-18	STP	✓	6-28-18
26	Photo – Right hand glove with scale				
27	Photo – Floor with left hand glove				
28	Photo – Left hand glove close-up with scale				
29	Photo – Samantha's nightstand				
30	Photo – Scissors on nightstand				
31	Photo – Scissors close-up				
32	Photo – Scissors close-up with scale				
33	Photo – Blue gym bag with apparent blood				
34	Photo – Blue gym bag with apparent blood – close-up				
35	Photo – Hallway into bathroom				
36	Photo – Hallway into bathroom mid-range				
37	Photo – Bathroom tub and towel with apparent blood				
38	Photo – Towel with apparent blood – close-up				
39	Photo – Toilet and trash can with bloody paper				
40	Photo – Trash can with bloody paper close-up				
41	Photo – Bathroom vanity with bloody rag				
42	Photo – Bloody rag close-up				
43	Photo – Entrance to Riley's room				
44	Photo – Interior of Riley's room				
45	Photo – Interior of Riley's room, opposite angle				
46	Photo – Interior of Riley's room with closet				
47	Photo – Window in Riley's room				
48	Photo – Living room interior				
49	Photo – Living room couch with bag				
50	Photo – Contents of bag on couch in living room				
51	Photo – Samantha's bed with blankets, CSA markings				
52	Photo – Blue and black blankets with marking – close-up				
53	Photo – Grey and purple blankets with marking – close-up				
54	Photo – Trandon Green				
55	Photo – Trandon Green – focus on arms				
56	Photo – Trandon Green hands, palms down				
57	Photo – Trandon Green – arms, palms up				
58	Photo – Trandon Green hands, palms up	✓	✓	✓	✓
59	Photo – Trandon Green shirt on paper (front) 001356	6-28-18	STP	✓	6-28-18

AB	60	Photo – Trandon Green shirt on paper (back)	6-28-18	STP	✓	6-28-18
AB	61	Photo – Trandon Green shirt – close up on apparent blood				
AB	62	Photo – Left hand glove on paper (palm down)				
AB	63	Photo – Left hand glove on paper (palm up)				
AB	64	Photo – Right hand glove on paper (palm down)				
AB	65	Photo – Right hand glove on paper apparent blood focus				
AB	66	Photo – Right hand glove on paper, close-up on blood				
AB	67	Photo – Right hand glove on paper (palm up)				
AB	68	Photo – Right hand glove on paper – focus on tag				
AB	69	Photo – Scissors on paper				
AB	70	Photo – Scissors on paper (turned over)				
AB	71	Photo – Wood pieces 2 & 3 on paper				
AB	72	Photo – Wood pieces 2 & 3 on paper (close-up)				
AB	73	Photo – Wood pieces 2 & 3 - focus on broken end				
AB	74	Photo – Wood pieces 2 & 3 – mid-range				
AB	75	Photo – Wood piece 1 on paper, with scale				
AB	76	Photo – Pink & Black shorts				
AB	77	Photo – Black tank-top, inside out				
AB	78	Photo – Black tank-top, right-side out				
AB	79	Photo – Bruise to lower right leg, close-up				
AB	80	Photo – Bruise to lower right leg, close-up with scale				
AB	81	Photo – Bruise to lower right leg, far away				
AB	82	Photo - Bruise to lower right leg (inside)				
AB	83	Photo – Bruise to lower right leg (inside), close up with scale				
AB	84	Photo – Samantha Weston at UMC (head and shoulders)				
AB	85	Photo – Samantha Weston at UMC (chest and waist)				
AB	86	Photo – Samantha Weston at UMC (legs and feet)				
AB	87	Photo – Samantha Weston at UMC (right hand palm)				
AB	88	Photo – Samantha Weston at UMC (back of left hand)				
AB	89	Photo – Samantha Weston at UMC (close up on injury with scale)				
AB	90	Photo – Samantha Weston at UMC (back of left hand, mid-range)				
AB	91	Photo – Samantha Weston at UMC (left hand, palm up)				
AB	92	Photo – Samantha Weston at UMC (left hand, palm up, close-range)				
AB	93	Photo – Samantha Weston at UMC (back of right hand)				
AB	94	Photo – Samantha Weston at UMC (right shoulder)	6-28-18	STP	✓	6-28-18

AB	95	Photo - Samantha Weston at UMC (right shoulder with scale)	6-28-18	STP	✓	6-28-18	
AB	96	Photo - Samantha Weston at UMC (R shoulder with scale, close)	↓	↓	↓	↓	
AB	97	Photo - Samantha Weston at UMC (back of right shoulder)	↓	↓	↓	↓	
AB	98	Photo - Samantha Weston at UMC (back of R shoulder with scale)	6-28-18	STP	✓	6-28-18	
X	99	UMC Records	NOT PROVIDED W/D				X
AB	100	Audio - Leroy Denten 911 Call	6-28-18	STP	✓	6-28-18	
AB	101	Video - Officer Knepp Body Cam	↓	↓	↓	↓	
AB	102	Video - Officer Hennings Body Cam	↓	↓	↓	↓	
AB	103	Photo - Samantha profile 5/28/17	↓	↓	↓	↓	
AB	104	Photo - Samantha right hand 5/28/17	↓	↓	↓	↓	
AB	105	Photo - Samantha lower right leg 5/28/17	↓	↓	↓	↓	
AB	106	Photo - Samantha right side of face 5/28/17	↓	↓	↓	↓	
AB	107	Photo - Samantha right side of face upward angle 5/28/17	↓	↓	↓	↓	
AB	108	Photo - Samantha straight on view 5/28/17	↓	↓	↓	↓	
AB	109	PHOTO - SCALE	6-28-18	STP	✓	6-28-18	
AB	110	LETTER: I LOVE YOU SO MUCH	6-28-18	STP	✓	6-28-18	
	111						
	112						
	113						
	114						
	115						
	116						
	117						
	118						
	119						
	120						
	121						
	122						
	123						
	124						
	125						
	126						
	127						
	128						
	129						

EXHIBIT(S) LIST

Case No.: C325044

Date: JUNE 25, 2018

Dept. No.: VI

Judge: ELISSA F. CADISH

Court Clerk: KEITH REED

Recorder: DE'AWNA CREWS

Counsel for Plaintiff: ELISSA LUZARCH &

vs.

Defendant: TRAN DON GREEN

STEVEN ROSE

Counsel for Defendant: MONIQUE MCNETT

TRIAL BEFORE THE COURT

DEFENDANT'S EXHIBITS

[illegible]

EXHIBIT(S) LIST

Case No.: C325044

Date: JUNE 25, 2018

Dept. No.: VI

Judge: ELISSA F. CADISH

Court Clerk: KEITH REED

Recorder: DE'AWNNA CREWS

Counsel for Plaintiff: ELISSA LUZAICH

VS.

Defendant: TRANDON GREEN

Counsel for Defendant:

MONIQUE MCNEILL

TRIAL BEFORE THE COURT

COURT'S EXHIBITS

[illegible]

EXHIBIT(S) LIST

Case No.: C 325044

Hearing Date: AUGUST 22, 2018

Dept. No.: VI

Judge: ELISSA F. CADISH

Court Clerk: KEITH REED

Recorder: DE'AWNNA CREWS

Counsel for Plaintiff: ELISSA LUZAICH
STEVEN ROSE

VS.

Defendant: TRANDON GREEN

Counsel for Defendant: MONIQUE MCNEEL

HEARING BEFORE THE COURT

STATE'S EXHIBITS

[illegible]

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; JUDGMENT OF CONVICTION (JURY TRIAL); FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER (FROM RELATED CASE A-19-789657-W); NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER (FROM RELATED CASE A-19-789657-W); DISTRICT COURT MINUTES; DISTRICT COURT MINUTES FROM A-19-789657-W; EXHIBITS LIST

STATE OF NEVADA,

Plaintiff(s),

vs.

TRANDON GREEN
aka TRANDON TEKARIO GREEN,

Defendant(s).

Case No: C-17-325044-1
Related Case A-19-789657-W
Dept No: VI

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 30 day of July 2020.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk