

E, GHTH JUDICIAL DISTRICT

CLARK COUNTY, NEVA0A,

THE STATE OF NEVADA,

Plaintiff,

vs.

KIRSTIN BLAISE LOBATO,

Defendant.

CASE NO. C177394

DEPT. NO. II

Transcripts of  
Proceedings

BEFORE THE HONORABLE VALORIE J. VEGA, DISTRICT COURT JUDGE

**"ROUGH DRAFT"**

**JURY TRIAL - DAY 2  
VOLUME II**

**TUESDAY, SEPTEMBER 12, 2006**

**COURT RECORDER:**

**LISA LIZOTTE  
District Court**

**TRANSCRIPTION BY:**

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FOR THE DEFENDANT: DAVID M. SCHIECK  
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SHARI L GREENBERGER, ESQ.  
SARA ZALKIN, ESQ,  
506 Broadway  
San Francisco, California 94133

1 some objections to portions of it that we can take up before  
2 it's read to the jury. We have objections to some of the  
3 testimony. There were objections during his —

4 THE COURT: Okay. So you don't have any  
5 objection to the prior testimony of Mr. Shott and Mr. Davis  
6 being read to this jury with the caveat that there are some  
7 portions of Mr. Davis' that you -- that you wish to object to.  
8 Before we actually do the reading, the Court would need to  
9 rule on those?

10 MR. SCHIECK: Yes. And there were objections  
11 during Mr. Davis' testimony at the first trial and there was  
12 quite a bit of discussion that went on concerning those  
13 objections and, obviously, we need to redact those portions  
14 out, But I think we could — we could identify those specific  
15 questions in our objection and make them for the record for  
16 the Court for ruling.

17 THE COURT: Okay. So then before we -- before we  
18 actually read his testimony before the jury, well need to do  
19 that outside their presence and the State will need to provide  
20 the Court with a copy of —

21 MS. DiGIACOMO: Yes, Your Honor. And if Mr.  
22 Schieck could let us know ahead of time which pages, which  
23 lines he's specifically referencing, then we could be prepared.

24 MR. SCHIECK: I think I have the file here and we

1 LAS VEGAS, NEVADA TUESDAY, SEPTEMBER 12, 2006  
2 **PROCEEDINGS**

3 (THE PROCEEDINGS BEGAN AT 11:28:59)□  
4 (Prospective Jurors are not present)

5 THE BAILIFF: All rise, please. Department Ills now  
6 in session, the Honorable Valorie J. Vega presiding,  
7 Please be seated,

8 THE COURT: The record shall reflect we're  
9 convened outside the presence of the jury in State versus  
10 Lobato under d177394, in the presence of the defendant, her  
11 three counsel, and the two prosecuting attorneys.

12 Yesterday the State lodged a motion to admit prior  
13 testimony of Jeremy Davis and Richard Shott. Mr, Schieck  
14 wished to have the evening to review that,

15 MR. SCHIECK: Your Honor, it appears that,  
16 certainly, Mr. Shott is unavailable given his situation with active  
17 warrants out for him. We doubt very seriously he's going to  
18 be found,

19 Mr. Davis, we had actually found in Lake Havasu a  
20 year or so ago, which the last address we had on him was  
21 probably similar to the address the State came up through  
22 DMV records. And he's not — we haven't been able to re-find  
23 him and neither have they. So we have no objection to Mr.  
24 Davis testimony being read with the caveat that we do have

1 can do it at the break, Okay,

2 THE COURT: Very good. Okay. So the motion wig  
3 be granted pursuant to EDCR 3,,20.

4 We have the pending defense motion with regard to  
5 the photographs. Has -- have you been able to review the  
6 photographs and determine which exhibits it is that your  
7 motion is pertaining to?

8 MR, SCHIECK: Well, Your Honor, since we filed our  
9 motion we have had a number of experts look at the autopsy  
10 photographs. And we actually anticipate during the testimony  
11 of Dr. Laufer and Dr. Turvey of admitting or seeking to admit a  
12 number of photographs that they have reviewed and have  
13 incorporated into PowerPoint presentations for the jury. I  
14 have shown the State and we had sent over a CD. Friday to  
15 the State, which they haven't seen yet. Apparently, it takes a  
16 while for things to get delivered from the reception desk to  
17 their offices. So —

18 THE COURT: I think I can take judicial notice of  
19 that, actually,

20 MS, DiGIACOMO: Yeah, we're in a —

21 MR. SCHIECK: We could --

22 MS. DIGIACOMO: We're in a different building,

23 MR. SCHIECK: I can burn it. I can burn another  
24 copy and give that to them after lunch, if necessary,

1 THE COURT: Okay,  
 2 MR, SCHIECK: And I've shown them those pictures  
 3 and it -- I would surprised, that there was an objection at the  
 4 first trial to some of the photographs that we are intending to  
 5 introduce to show to Dr. Laufer, for sure, concerning some of  
 6 the injuries and the manner of infliction of those injuries. We  
 7 would want to admit those during the State's case in chief to  
 8 lay the foundation either through the crime scene analyst or  
 9 the person at the Coroner's Office that took those  
 10 photographs.. And so given that, that we are actually offering  
 11 photographs that probably would not have been admitted if we  
 12 didn't have an expert testifying concerning the injuries, we  
 13 probably don't have any further objection to the State's  
 14 photographs as admitted during the first trial.

15 THE COURT: Okay. So this is a change of trial  
 16 strategy for the second, for the second trial, that puts the  
 17 defense in a little bit different posture than during the first  
 18 trial. And what I understood then is any of the photographs  
 19 that were admitteEiih the first trial you are not objecting to?

20 MR, SCHIECK: Correct, The ones that --  
 21 MS.. DiGIACOMO: They have --  
 22 MR, SCHIECK: The ones that weren't admitted  
 23 probably we could -- if I recall, there were a few that the  
 24 objection was sustained to. We could probably look at those

1 THE COURT: So the defense isn't objecting to any  
 2 of the State's photos that were admitted at the first trial  
 3 coming into evidence in this trial?  
 4 MR, KEPHART: Correct,  
 5 THE COURT: The State is indicating that they will  
 6 not be offering what is marked as Number 39, Number 34,  
 7 Number 98 and Number 105,  
 8 The State is at this time moving for admission of 62,-  
 9 73, 81, 88, 93A, 97, 100, 101 and 102, and the defense is not  
 10 opposing, is that correct?

11 MR. SCHIECK: Correct, Your Honor, based on the  
 12 fact that we're having an expert testify to a number of those  
 13 Injuries.

14 THE COURT: Is that correct, State?  
 15 MS, DiGIACOMO: Yes.

16 THE COURT: Motion granted. Those will be  
 17 admitted.  
 18 (Plaintiff's Exhibit Nos, 62, 73, 81, 88, 93A, 97,  
 19 100, 101 and 102 admitted)

20 THE COURT: There are two photographs that are  
 21 still pending, so the motion will remain held in abeyance with  
 22 regard to those two. They are Number 69 and Number 70.  
 23 The State isn't sure if they're gonna offer them or not.  
 24 So once you've made that determination, let me

1 and agree that those are either covered by what Dr. Laufer  
 2 has in his PowerPoint or less prejudicial or less inflammatory  
 3 than the photographs that we intend to show to the jury to  
 4 make our point through the --

5 THE COURT: Well, let's take a look then at the  
 6 photographs that were marked but not admitted at the first  
 7 trial.

8 MS. DiGIACOMO: Great. Your Honor, I recall just  
 9 three, two of them have to deal with -- there's more?

10 MR. KEPHART: Yeah.

11 MS, DIGIACOMO: There's two of them that had to  
 12 do with the skull or the skin being pulled back and exposing  
 13 the skull, which they don't appear to be --

14 THE COURT: Well, let's look at them.

15 MS. DiGIACOMO: Okay.

16 THE COURT: And well go off the record at this  
 17 time,

18 MS. DiGIACOMO: And just also for the record,  
 19 before we do, the state is now --

20 THE COURT: We're off --

21 MS, DIGIACOMO: Oh.

22 THE COURT: -- the record at this time,  
 23 (Off-record bench conference at 11:34:47 until 11:49:01)

24 COURT RECORDER: On the record,

1 know and well come back and revisit those two.

2 Is there anything further that we need to address  
 3 outside the presence of the jury at this time?

4 MS,, DiGIACOMO: No, Your Honor.

5 THE COURT: The bailiff's gonna pick up the second  
 6 group at 1:00 o'clock, so I'm gonna ask that we return at 1:15  
 7 because it will take him a few minutes to group them  
 8 downstairs and bring them up the elevator. So we'll be in  
 9 recess 'til 1:15.

10 MS, GREENBERGER: Thank you.

11 MS, ZALKEN: Thank you,

12 (Court recessed at 11:51:13 until 13:31:03)

13 (Prospective jurors are present)

14 THE BAILIFF: All rise, please. Department II is now  
 15 in session, the Honorable Valorie J. Vega presiding.

16 Please be seated,

17 THE COURT: The record shall reflect that we're  
 18 resuming trial in State versus Lobato under Case Number  
 19 C177394, in the presence of the defendant, the defendant's  
 20 three counsel, the two prosecuting attorneys, and the ladies  
 21 and gentlemen of the second group of the second group of the  
 22 prospective jury panel.

23 Ladies and gentlemen, you're in Department II of  
 24 the Eighth Judicial District Court. My name is Valorie Vega and

1 I'm the presiding judge in this particular department,  
 2 You've been summonsed into court today to  
 3 potentially be selected to serve as a juror in a criminal case.  
 4 We initiated this trial yesterday with the group of jurors that  
 5 we had yesterday. Unfortunately, we ended up with too few  
 6 jurors at the end of the day to continue forward with jury  
 7 selection, so this is the second group being brought in which  
 8 will augment the first group, and from the two groups the jury  
 9 will be selected. The group that we began with yesterday will  
 10 be returning to the courthouse at 3:00 p.m. today to resume.  
 11 I'm going to introduce the court staff to you. To my  
 12 left is Lisa Lizotte. She's the court recorder for Department II.  
 13 All of our proceedings are both audio and visually recorded  
 14 and she monitors that system. If someone is speaking too  
 15 softly for their volume not to be captured in the recording, she  
 16 will bring our attention to that so that we can adjust the  
 17 speaker or adjust the position of the microphone, whatever is  
 18 needed, for it is most important that everything that transpires  
 19 during the trial is properly preserved for the record.  
 20 You'll notice throughout the courtroom that we have  
 21 microphones placed in various locations, Those microphones  
 22 are for the purpose of capturing the record and they do pick  
 23 up from quite a significant distance.  
 24 Also, I know that while we're eyeball-to-eyeball, as I

11-10

1 comes time for the jury to deliberate toward reaching a  
 2 verdict. The bailiff will be one of the officers to take charge of  
 3 the jury, to make sure that the jury has privacy for those  
 4 deliberations to occur.  
 5 We've received from the Office of the Jury  
 6 Commissioner a new listing of the prospective panel. The  
 7 group, the first group that we had with us yesterday, ended at  
 8 Number 278. And the new group starts with Number 322.  
 9 Does the State desire to present a challenge to this  
 10 second part of the jury panel?  
 11 MR. KEPHART: No, we do not, Your Honor.  
 12 THE COURT: Does the defense?  
 13 MR. SCHIECK: No, Your Honor,  
 14 THE COURT: Thank you  
 15 At this time the clerk is gonna take the computer  
 16 listing and do a roll call. As she calls your name, please  
 17 answer either present or here.  
 18 THE CLERK: Badge Number 322, Anthony Vergot,  
 19 PROSPECTIVE JUROR VERGOT: Here.  
 20 THE CLERK: 327, Marshall Everakes,  
 21 PROSPECTIVE JUROR EVERAKES: Here,  
 22 THE CLERK: 328, Robert Osborn.  
 23 PROSPECTIVE JUROR OSBORN: Here.  
 24 THE CLERK: 340, Vickie Bishop,

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1 just did a hand gesture, we have a tendency to nod our heads  
 2 up and down if we agree with something or to shake our head  
 3 from side to side if we disagree with something. And, of  
 4 course, those types of communication are not preserved on  
 5 the audio-recording. So please, if you are called upon to  
 6 respond to an answer, make sure that you verbalize your  
 7 response so that it can be taped.  
 8 To my right is Billie Jo Craig. She is a deputy court  
 9 clerk who has been assigned to Department II by Shirley  
 10 Parraguirre, the county clerk. It's the job of the clerk to  
 11 administer the oath to the ladies and gentlemen of the jury,  
 12 which she will also be administering the oath to all of the  
 13 witnesses who will be coming in to give testimony upon the  
 14 witness stand. She will keep track of all of the items of  
 15 physical evidence which may be marked and admitted during  
 16 the trial. And daily, she will prepare the minutes which are  
 17 kind of a summary of the day's events of the trial that is  
 18 maintained in the official file, kept in the Office of the County  
 19 Clerk.  
 20 To my far right is Officer Richard Burns, He is the  
 21 bailiff for Department II. It is his job to make sure that he  
 22 maintains security in the courtroom, He assists the Court  
 23 coming and going from the courtroom, and he will also be  
 24 assisting the ladies and gentlemen of the jury primarily when it

1 PROSPECTIVE JUROR BISHOP: Here.  
 2 THE CLERK: 342, Karen Deltoro.  
 3 PROSPECTIVE JUROR DELTORO: Here.  
 4 THE CLERK: 346, Anush Benham.  
 5 PROSPECTIVE JUROR BENHAM: Here.  
 6 THE CLERK: 347, Iredell Washington.  
 7 PROSPECTIVE JUROR WASHINGTON: Here.  
 8 THE CLERK: 350, Lacey Valdez.  
 9 PROSPECTIVE JUROR VALDEZ: Here.  
 10 THE CLERK: 355, Joan McCormick,  
 11 PROSPECTIVE JUROR McCORMICK: Here.  
 12 THE CLERK: 359, Ellen Wall.  
 13 PROSPECTIVE JUROR WALL: Here.  
 14 THE CLERK: 377, Martin Treese.  
 15 PROPELLINE JUROR TREESE: Here.  
 16  
 17 PROPELLIVE JUROR SWENSON: Here.  
 18  
 19 PROSPECTIVE JUROR BODAK: Here,  
 20 THE CLERK: 388, Thomas Dorsey.  
 21 PROSPECTIVE JUROR DORSEY: Here.  
 22 THE CLERK: 392, Donelle Pope.  
 23 PROSPECTIVE JUROR POPE: Here.  
 24 THE CLERK: 399, Junaid --

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1 PROSPECTIVE JUROR DASTAGIR: Dastagir.  
 2 THE CLERK: -- Dastagir.  
 3 PROSPECTIVE JUROR DASTAGIR: Yes, ma'am,  
 4 THE CLERK: Thank you,  
 5 402, Mary Volk,  
 6 PROSPECTIVE JUROR VOLK: Here.  
 7 THE CLERK: 404, David Smith.  
 8 PROSPECTIVE JUROR SMITH: Here.  
 9 THE CLERK: 405, Freddie Macklin,  
 10 PROSPECTIVE JUROR MACKLIN: Here,  
 11 THE CLERK: 408, Marcus Barber,  
 12 PROSPECTIVE JUROR BARBER: Here.  
 13 THE CLERK: 411, Juanna Jordan,  
 14 PROSPECTIVE JUROR JORDAN: Juanna. Here.  
 15 THE CLERK: I'm sorry. What?  
 16 PROSPECTIVE JUROR JORDAN: Juanna. Juanna,  
 17 THE CLERK: Juanna, Thank you. Sorry,  
 18 412, Telly, Morency.  
 19 PROSPECTIVE JUROR MORENCY: Morency. Here.  
 20 THE CLERK: Morency.  
 21 418, Roger Wayerski.  
 22 PROSPECTIVE JUROR WAYERSKI: Here.  
 23 THE CLERK: 422, Willie Craft.  
 24 PROSPECTIVE JUROR CRAFT: Here.

11-14

1 give testimony during the trial. Please listen to all of those  
 2 names as I am gonna be asking you if you are familiar with  
 3 any of those people,  
 4 The State may proceed,  
 5 MS. DiGIACOMO: Thank you, Your Honor,  
 6 Good afternoon. My name is Sandra DiGiacomo,  
 7 and this is William Kephart, and we're both deputy district  
 8 attorneys and we're assigned to prosecute this matter...  
 9 The charges in this case are murder with use of a  
 10 deadly weapon and sexual penetration of a dead human body.  
 11 The case arose from facts from 2001. On July 8,  
 12 2001, the victim, Duran Bailey, was found in a dumpster area  
 13 outside the Nevada State Bank located at 4240 West Flamingo  
 14 Road. He had blunt force trauma to his head, multiple stab  
 15 wounds, as well as his penis was severed off after he died.  
 16 The witnesses in this case that the State may call  
 17 are the following:  
 18 Diane Allen, Iain Anderson, Michele Austria, Paul  
 19 Rusty Brown, Richard Bywater, Crime Scene Analyst Jenny  
 20 Carr with the Las Vegas Metropolitan Police Department, Chris  
 21 Carrington, Christopher Collier, Sergeant Maribah Cowley with  
 22 the Lincoln County Sheriff's Department, custodian of records  
 23 for Cingular Wireless, the Grover C. Dils Medical Center and  
 24 Verizon Wireless, Jeremy Davis, Crime Scene Analyst Dan Ford

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1 THE CLERK: 424, Dayna Angelo.  
 2 PROSPECTIVE JUROR ANGELO: Here,  
 3 THE CLERK: Thank you.  
 4 THE COURT: Thank you, Ms. Clerk.  
 5 Is there anyone present wearing a juror's badge  
 6 whose name did not just called by the clerk? If so, please  
 7 raise your hand.  
 8 The record shall reflect no response.  
 9 At this time the clerk is going to be placing you  
 10 under oath, so would you all please stand and raise your right  
 11 hands to be sworn?  
 12 PROSPECTIVE JURORS SWORN  
 13 THE CLERK: Thank you. Please be seated.  
 14 THE COURT: Thank you, Ms. Clerk.  
 15 Ladies and gentlemen, I am shortly going to have  
 16 the individuals at the plaintiff's table, as well as the individuals  
 17 at the defendant's table, introduce themselves to you. The  
 18 attorneys will be giving you a very, very brief synopsis of what  
 19 the nature of this case is.. This is not the time for them to  
 20 make an opening statement to you. They will be making  
 21 opening statements after the jury selection process has been  
 22 completed.  
 23 The attorneys will be telling you the names of any  
 24 witnesses they believe will be called to the witness stand to

11-15

1 with the Las Vegas Metropolitan Police Department, Joe Geller  
 2 who's a latent print examiner with the Metropolitan Police  
 3 Department, Rebecca Hall who is a criminalist that's located  
 4 out of state, Laura Johnson, Detective James LaRochelle with  
 5 Metro, Crime Scene Analyst Teresa Main also with Metro,  
 6 Karinda Martin, Heather McBride, Kimberly Miller, Jean Page,  
 7 Kristina Paulette, criminalist with the Metropolitan Police  
 8 Department, Steve Pyszkowski, Christopher Reininger,  
 9 Catherine Reininger, Crime Scene Analyst Louise Renhard with  
 10 Metro, Zachary Robinson, Richard Shott, Dr. Lary Simms,  
 11 medical examiner with Clark County, Officer James Testa with  
 12 Metro, Crime Scene Analyst Maria Thomas also with the  
 13 Metropolitan Police Department, Detective Thomas Thowsen  
 14 with Metro, Dixie Tienken, Douglas Twining, Thomas Wahl,  
 15 also a criminalist, was formerly with the Metropolitan Police  
 16 Department, now located out of state, and Lueron Williams,  
 17 THE COURT: Defendant's counsel may proceed.  
 18 MR. SCHIECK: Thank you, Your Honor,  
 19 Good afternoon, ladies and gentlemen. My name is  
 20 David Schieck,, I'm an attorney here in Clark County, Nevada.  
 21 I am one of the defense attorneys that are defending this case  
 22 on behalf of Kirstin Blaise Lobato.  
 23 If you could stand, please. Thank you.  
 24 And assisting me, or I'm assisting them, is Shari

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1 Greenberger, an attorney from California.,  
 2 MS. GREENBERGER: Good afternoon,  
 3 MR. SCHIECK: And Sara Zalkin who is also from  
 4 California,  
 5 The defense has a number of witnesses that they  
 6 intend to call in support of an alibi in this case, read that  
 7 list to you. A number of the names are the same names that  
 8 are on the State's list, so there will be some repetition. The  
 9 fact that we read a witness's name does not mean,  
 10 necessarily, that we will be calling that witness, just a witness  
 11 that we possibly anticipate calling if the State does not call that  
 12 witness.  
 13 The names are James Aleman with the Federal  
 14 Public Defender's Office, Michelle Austria of Panaca, Nevada.  
 15 And I should pause at this point because it may  
 16 come up during questioning, Ms. Lobato lived in Panaca,  
 17 Nevada which is a small community in Lincoln County. It's —  
 18 there's two other cities in the area that involve a number of  
 19 witnesses in this case. That would be Pioche, Nevada and  
 20 Caliente, Nevada. So you will hear those names mentioned in  
 21 connection with a number of items in this case. Because they  
 22 are small towns, you may have some familiarity with the towns  
 23 or people who live in those locations.  
 24 Michelle Austria, who lives in Panaca, Nevada, B.

11-18

1 Baggeh who lives in Caliente, Nevada, Phil Boucher who's with  
 2 the Nevada Department of Transportation in Panaca, Nevada,  
 3 Paul Brown from Panaca, Christopher Carrington who lives in  
 4 Las Vegas, Steve Choquer, that's C-H-O-Q-U-E-R, who's with  
 5 the Lincoln County Road Department in Caliente, Nevada,  
 6 Christopher Collier who resides in Arizona, Maribah Cowley  
 7 with the Lincoln County Sheriff's Office, JoAnn Dennert who  
 8 lived in Panaca, Nevada, Michele Dunder who is an  
 9 investigator, Steve Farris from Pioche, Nevada, Cindy Free with  
 10 the Lincoln County Road Department, Richard Gloeckner who  
 11 works for the Caliente Youth Center in Caliente, Nevada,  
 12 Kimberly Grindstaff who lived in Panaca, Nevada, Ken Hafen  
 13 from Panaca, Nevada, Clint and Connie Homan who also reside  
 14 in Panaca, Shirley Janson from Nevada State Bank, Dr. Syed  
 15 Kamal who was with the Lincoln County Medical Center in  
 16 Caliente, Nevada, Phil Kohn, Shayne Kraft and John Kraft who  
 17 resided in Panaca, Nevada, Sergeant Cary Lee with the Lincoln  
 18 County Sheriff's Office, Ashley Lobato who is the sister of the  
 19 defendant, Larry Lobato, the defendant's father, and Rebecca  
 20 Lobato, the defendant's stepmother, Jose Lobato, the  
 21 defendant's grandfather, Heather McBride in Caliente, Nevada,  
 22 Carrie McCarty with the Caliente Medical Clinic, she's a  
 23 custodian of records, Robert and Jeanette McCroskey from  
 24 Panaca, Nevada, Gloria Navarro, Marilyn Parker who resided in

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1 Panaca, Nevada, Shelley Pierce-Stauffer with the Clark County  
 2 Coroner's Office, Stephen Pyszkowski who lives here or lived in  
 3 Panaca, Nevada, Robert Reel with The Palms Casino, Catherine  
 4 Reininger who lives here in Las Vegas, Melissa Rowe with the  
 5 Caliente Medical Clinic, Brenda Self who lives here in Las  
 6 Vegas, Nevada, Detective Scott with the Metropolitan Police  
 7 Department, Jimmy Smith, a finger — excuse me, a  
 8 handwriting examiner with the Metropolitan Police Department;  
 9 Kendra Thunstrom from Caliente, Nevada, Douglas Twining in  
 10 Las Vegas, Robert Twining and Violet Twining also from Las  
 11 Vegas, Nevada.  
 12 In addition, you may hear testimony from a number  
 13 of expert witnesses in this case. Those expert witnesses  
 14 would include Mr. Bodsiaak -- if I can find my list -- William  
 15 Bodsiaak who testifies in a number of forensic areas, Brent  
 16 Turvey, a forensic expert, Charles Wetley, a pathologist,  
 17 Richard Leo, a social psychologist, and Dr. Laufer from  
 18 Stanford Medical Center,  
 19 Thank you to all counsel.  
 20 Ladies and gentlemen, we're about to commence  
 21 what's called the voir dire examination of the prospective jury  
 22 panel. And "voir dire" is a Latin term which, loosely translated,  
 23 means to tell the truth. During this voir dire process, you are  
 24 gonna be asked various questions that bear on your ability to

11-20

1 sit as a fair and impartial juror if selected to serve in this case.  
 2 To accomplish this result, it's necessary that various questions  
 3 be asked of you, first by myself and then by counsel, The  
 4 Court will initially question you, and then the questioning will  
 5 turn over to counsel and each side will have the opportunity to  
 6 pose additional questions.  
 7 On occasion, some of the questions will seem  
 8 somewhat personal. Please understand that we do not wish to  
 9 unnecessarily pry into your personal lives but the questions are  
 10 necessary so that Court and counsel can make intelligent  
 11 determinations as to your capabilities to serve. I want you to  
 12 understand that everyone involved in this case is deeply  
 13 concerned with having it tried by jurors who are completely  
 14 open-minded, who are neutral, objective and unbiased in their  
 15 thinking.  
 16 Wide discretion is vested in the trial judge as to the  
 17 method of examination of jurors. So, as I stated previously, I  
 18 will initially conduct the questioning but then counsel will have  
 19 that opportunity as well.  
 20 Counsel has been given some guidelines with the  
 21 last group as to what areas they're not to question in.  
 22 Ladies and gentlemen, it's important that you  
 23 understand the significance of providing full, complete and  
 24 honest answers to all of the questions. The Court cautions you

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1 not to try to hide or withhold anything that might touch upon  
 2 your qualifications for should you fail to answer truthfully or  
 3 should you hide or withhold anything that touches on your  
 4 qualifications to serve, that may contaminate the jury's verdict  
 5 and then, unfortunately, subject you individually to further  
 6 inquiry after discharge from jury service.

7 The decision of the jury in this case should be based  
 8 on all of the evidence that will be presented during this trial  
 9 and should not be based on any preconceived prejudice or  
 10 bias. A prejudice is a predisposition against something or  
 11 someone, and a bias is a predisposition in favor of something  
 12 or someone.

13 As I initiate the questioning of you, I'm gonna ask  
 14 group questions. If you wish to answer yes to any of the  
 15 Court's questions, please raise your hand and the Court will  
 16 call upon you. So that the tape-recording will be able to  
 17 reflect who is speaking, before you answer the question it is  
 18 necessary that you identify yourself. You do that by giving me  
 19 the last three digits of your badge number and then stating  
 20 your name and then, after that, giving your answer to the  
 21 question.

22 If more than one of you should raise your hand to  
 23 respond to a question, then I will call upon you in the order  
 24 provided by the jury commissioner's computer listing.

11-22

1 At some point during this process of jury selection,  
 2 the attorneys for both sides will have the right to ask that a  
 3 particular person not serve as a juror. These requests are  
 4 called challenges. There are two types of challenges. There  
 5 are challenges for cause and there are also peremptory  
 6 challenges. A challenge for cause means that a juror is being  
 7 excused because his or her answers to some of the questions  
 8 indicate that he or she would have a difficult time giving a fair  
 9 and impartial hearing to the case, A peremptory challenge,  
 10 however, means that a juror can be excused from duty without  
 11 counsel having to give any reason for the excusal. Please do  
 12 not be offended should you be excused by either of the  
 13 challenge procedures as they are simply a part of the  
 14 procedures designed to protect the rights of the parties under  
 15 our system of government.

16 The first question is have any of you ever been  
 17 convicted of a felony?

18 The record shall reflect no response.

19 Is there any one of you who is not presently a  
 20 citizen of the United States of America?

21 The record shall reflect no response.

22 Is there any one of you who has such a sympathy,  
 23 prejudice or bias that relates to age, religion, race, gender or  
 24 national origin that they feel would affect their ability to be

11-23

1 open-minded, fair and impartial as a juror?

2 The record shall reflect no response.

3 Are any of you acquainted with the defendant,  
 4 Kirstin Blaise Lobato?

5 The record shall reflect no response.

6 Are any of you acquainted with defendant's counsel,  
 7 Ms. Greenberger?

8 The record shall reflect no response.

9 Are any of you acquainted with defendant's counsel,  
 10 Ms. Zalkin?

11 The record shall reflect no response.

12 Are any of you acquainted with defendant's counsel,  
 13 Mr. Schieck?

14 The record shall reflect no response.

15 Are any of you acquainted with the counsel for the  
 16 State, Mr. Kephart?

17 The record shall reflect no response.

18 Are any of you acquainted with counsel for the  
 19 State, Ms. DiGiacomo?

20 The record shall reflect no response,  
 21 The Office of the District Attorney does employ  
 22 many deputies and other personnel. Is there anyone who has  
 23 such a close relationship with either the District Attorney, Mr.  
 24 David Roger, his deputies or other members of his staff that

11-24

1 you feel might affect your ability to serve as a fair and  
 2 impartial juror in this case?

3 The record shall reflect no response.

4 Is anyone acquainted with any of the witnesses  
 5 whose names were read by counsel for either side?

6 The record shall reflect no response.

7 We have a hand? I missed a hand,  
 8 MR. KEPHART: Right here. Right behind me,  
 9 Judge.

10 THE COURT: Yes, we do. Okay.

11 Would you please state the last three digits of your  
 12 badge number and your name?

13 PROSPECTIVE JUROR JORDAN: 411.

14 THE COURT: The computer list that we have has  
 15 you listed numerically, actually, by your badge numbers. So  
 16 when you give us your badge number it lets us find you on the  
 17 list.

18 You may be seated. Are you Suanna Jordan?

19 PROSPECTIVE JUROR JORDAN: I am.

20 THE COURT: Okay, Ms. Jordan, who is that you are  
 21 familiar with?

22 PROSPECTIVE JUROR JORDAN: I am familiar  
 23 through work, previous work, at the Division of Child and  
 24 Family as a mental health counselor, with Richard Gloeckner.

11-25

1 THE COURT: And you met him through your  
 2 employment?  
 3 PROSPECTIVE JUROR JORDAN: Yes.  
 4 THE COURT: Your past employment?  
 5 PROSPECTIVE JUROR JORDAN: Past employment.  
 6 I'm a mental health counselor currently with the State of  
 7 Nevada. However, I am no longer with the Division of Child  
 8 and Family Services. I am with the Division of Corrections with  
 9 Jean, Nevada with the Youthful Offender Program as a mental  
 10 health counselor.  
 11 THE COURT: Did you ever socialize with him outside  
 12 of work?  
 13 PROSPECTIVE JUROR JORDAN: No.  
 14 THE COURT: How long did you work with him?  
 15 PROSPECTIVE JUROR JORDAN: I've been a state  
 16 employee for eighteen years. However, I worked with Mr.  
 17 Richard Gloeckner for two years.  
 18 THE COURT: If he is a witness in this case and  
 19 comes in to give testimony, with what you know of him from  
 20 having worked with him for two years, do you think that you  
 21 will be able to keep an open mind and weigh his testimony like  
 22 you would any other witness?  
 23 PROSPECTIVE JUROR JORDAN: As a mental health  
 24 counselor and as a professional and as a person, I will be

11-26

1 weeks but will definitely be concluded by Friday, the 29<sup>th</sup> of  
 2 September.  
 3 So the next question is would serving during this  
 4 time frame pose an undue hardship upon any of you?  
 5 Okay, I want you to look around. There's only a  
 6 few of you who have not raised your hands. So you may put  
 7 your hands down. I will be calling on you in the order  
 8 provided by the Office of the Jury Commissioner. Similarly, we'  
 9 had this similar situation yesterday which is why we had to do  
 10 the second group. But, obviously, we cannot excuse everyone  
 11 from jury service or we would not be able to conduct any jury  
 12 trials in this courthouse,  
 13 Yesterday was the fifth anniversary of 9/11 and it  
 14 caused us to reflect upon all of the rights that we enjoy as U.S.  
 15 citizens and, of course, one of those is the right to have a trial  
 16 by one's peers, which is the cornerstone of what makes the  
 17 criminal justice system work which is the third branch of  
 18 government for which so many of our military are putting their  
 19 lives at risk overseas fighting for us, So I think a rearranging  
 20 of a couple of weeks time is not so significant a sacrifice to  
 21 make.  
 22 Beginning in the back row,, Who has their hand up  
 23 in the back row?  
 24 Yes, sir. I need you to state --

11-28

1 unbiased and open-minded.  
 2 THE COURT: So you would be able to do that?  
 3 PROSPECTIVE JUROR JORDAN: Yes,  
 4 THE COURT: Thank you.  
 5 Did I miss anybody else?  
 6 The record shall reflect no response,,  
 7 A little over a year ago, I came home from work one  
 8 day and I found an envelope sitting with the stack of mail that  
 9 was a summons for jury duty. The legislature, a couple years  
 10 ago, changed the state law and the only people who are not  
 11 subject to jury duty are legislatures and only when the  
 12 legislature is in session. Other than that, all of us get those  
 13 letters in the mail, as you did which brought you here today.  
 14 I, too, responded to my letter. I know that it is always a  
 15 surprise to get it. There's never a perfect time to do jury  
 16 service, Everybody has to rearrange their schedule and make  
 17 alternative arrangements, find their way downtown, find a way  
 18 to get parked and figure out how to get up sixteen floors in  
 19 the elevators. So doing jury service always poses some  
 20 challenges and some inconveniences,  
 21 So the next question the Court is gonna ask is not is  
 22 it inconvenient for you to be here, but the Court does advise  
 23 you that with the number of witnesses that will be called to  
 24 testify in this trial, this trial will last probably better than two

11-27

1 PROSPECTIVE JUROR EVERAKES: Badge 327,  
 2 Marshall Everakes. I would like to know if it's a sequestered  
 3 jury because I'm of the Jewish faith and the Jewish holidays  
 4 start next week or the week after,  
 5 THE COURT: The Court has no plans to sequester  
 6 the jury.  
 7 PROSPECTIVE JUROR EVERAKES: Okay. Then I'M  
 8 fine  
 9 THE COURT: Okay. I should tell you also that  
 10 because of the law and motion calendars which the Court has  
 11 and criminal sentencings of various matters, Monday through  
 12 Thursday the earliest we would start would be 10:30 in the  
 13 morning. We may start earlier on Fridays, but Monday  
 14 through Thursday we will not begin until 10:30 or maybe a  
 15 little bit later, depending on the Court's calendar from day to  
 16 day.  
 17 Continuing along that back row, who else wished to  
 18 raise their hand?  
 19 PROSPECTIVE JUROR OSBORN: You say its gonna  
 20 be concluded no later than the 29th?  
 21 THE COURT: Correct,  
 22 PROSPECTIVE JUROR OSBORN: What if it goes  
 23 over?  
 24 THE COURT: It may finish sooner. It won't -- it

11-29



1 won't go past that.  
 2 PROSPECTIVE JUROR OSBORN: Okay.  
 3 COURT RECORDER: What's your badge number?  
 4 PROSPECTIVE JUROR OSBORN: Oh, I'm sorry,  
 5 328, Osborn.  
 6 THE COURT: Thank you,  
 7 Continuing down that row.  
 8 Yes, ma'am.  
 9 PROSPECTIVE JUROR DELTORO: 342,  
 10 THE COURT: Karen Deltoro,  
 11 PROSPECTIVE JUROR DELTORO: Yes. For the last  
 12 few days I've been having trouble with my leg, painless  
 13 varicose veins. And I would serve except that I'm going on a  
 14 trip on the 291,  
 15 THE COURT: What time are you leaving on the  
 16 29th?  
 17 PROSPECTIVE JUROR DELTORO: In the morning,  
 18 THE COURT: Where are you going?  
 19 PROSPECTIVE JUROR DELTORO: To Canada,  
 20 THE COURT: Is there any reason why you can't  
 21 wait and leave that evening?  
 22 PROSPECTIVE JUROR DELTORO: It's all booked up.  
 23 And, furthermore, if my -- if I sit here --  
 24 THE COURT: What do you mean it's all booked up?

11,30

1 wondering, You said it might start about 10:30. What time  
 2 does it normally end or is there a --  
 3 THE COURT: 5:00,  
 4 PROSPECTIVE JUROR VALDEZ: And I'm really not  
 5 doing [unintelligible].  
 6 THE COURT: Okay, You're Ms. Valdez?  
 7 PROSPECTIVE JUROR VALDEZ: Yes.  
 8 THE COURT: Okay. 350.  
 9 Coming to the front row.  
 10 Yes, sir.  
 11 PROSPECTIVE JUROR TREESE: Yeah, 377, Martin  
 12 Treese, My wife is getting hip replacement surgery and she  
 13 has pre-op appointments and other doctor's appointments.  
 14 She works and she does not drive. She's got doctor's  
 15 appointments on the 22<sup>nd</sup> of September and the 25th.  
 16 THE COURT: Is there any reason why she can't do  
 17 those things in the morning hours?  
 18 PROSPECTIVE JUROR TREESE: She's already got  
 19 her appointments so --  
 20 THE COURT: Can she reset them?  
 21 PROSPECTIVE JUROR TREESE: Do you know how  
 22 hard it is when you're in an HMO to get a doctors appointment  
 23 and reschedule it? I've waited two months to see my doctor  
 24 one time,

11-32

1 PROSPECTIVE JUROR DELTORO: I've already made  
 2 arrangements to leave, so I can't change my plans,  
 3 THE COURT: Why?  
 4 PROSPECTIVE JUROR DELTORO: Because miss  
 5 the cruise. The point is I'm already having problems with my  
 6 legs, If I sit here for days with my legs down, it'll just get  
 7 worse. I did go to Urgent Care yesterday but I forgot to bring  
 8 the paper.  
 9 THE COURT: Are you able to reschedule your  
 10 cruise?  
 11 PROSPECTIVE JUROR DELTORO: No,  
 12 THE COURT: Is it prepaid?  
 13 PROSPECTIVE JUROR DELTORO: Yes.  
 14 THE COURT: Okay, Continuing down that row,  
 15 PROSPECTIVE JUROR WASHINGTON: 347. I don't  
 16 -- I can't be away from my job that long. I'm a supervisor at  
 17 the Bellagio in [unintelligible].  
 18 THE COURT: What does the Bellagio do when  
 19 you're out sick?  
 20 PROSPECTIVE JUROR WASHINGTON: Well, they  
 21 usually have someone to cover. But the person that's on  
 22 vacation now that I was covering for, he's having mouth  
 23 surgery,  
 24 PROSPECTIVE JUROR VALDEZ: 350. I was just

11-31

1 THE COURT: So you don't know?  
 2 PROSPECTIVE JUROR TREESE: No,  
 3 THE COURT: Do you know what time her  
 4 appointments are?  
 5 PROSPECTIVE JUROR TREESE: One of them is at  
 6 10:20 and the other one's at 9:40.  
 7 THE COURT: Okay, Yes, sir.  
 8 PROSPECTIVE JUROR SWENSON: 380, Roger  
 9 Swenson,  
 10 THE COURT: Yes, sir,  
 11 PROSPECTIVE JUROR SWENSON: Yeah. I'm a  
 12 nursing a dental problem now and having surgery on the 22<sup>nd</sup>  
 13 for a root canal,  
 14 THE COURT: The 27th?  
 15 PROSPECTIVE JUROR SWENSON: 22.  
 16 THE COURT: 22<sup>nd</sup>.  
 17 PROSPECTIVE JUROR SWENSON: This Friday I'm  
 18 going down to Laughlin or Boulder City for a marriage license,  
 19 and I work. And those other days, my fiancee is coming into  
 20 town for that, The 27<sup>th</sup>, I have an eye operation for cataracts  
 21 in the left eye. The 28<sup>th</sup>, I have an upper G.I, for acid reflux.  
 22 And then I have several annual to visit in that -- for an aircraft  
 23 [sic].  
 24 THE COURT: Do you have any documentation with

11-33

1 regard to your root canal and your surgery?  
 2 PROSPECTIVE JUROR SWENSON: Not on me.  
 3 THE COURT: Okay. Continuing down that row.  
 4 Yes, sir,  
 5 PROSPECTIVE JUROR BODAK: 383. I just got  
 6 through with non-Hodgkin's lymphoma and had radiation  
 7 therapy for twenty-three weeks. Constantly dry mouth,  
 8 constantly drinking. There's no cure for it 'til about a year or  
 9 two. And that's one of my problems. I constantly have to  
 10 have water. My throat gets very dry. And, plus, I have to go  
 11 for a CAT scan and a CT scan, a PET scan, in two days, Plus, I  
 12 watch my granddaughter. My son and daughter-in-law work  
 13 and I'm retired [unintelligible].  
 14 THE COURT: Your kids that are your responsibility  
 15 are all grown?  
 16 PROSPECTIVE JUROR BODAK: No. It's my son and  
 17 daughter-in-law, their child, my granddaughter,  
 18 THE COURT: Your son is an adult, correct?  
 19 PROSPECTIVE JUROR BODAK: Yeah, They both  
 20 work,  
 21 THE COURT: Okay. Continuing down that row.  
 22 Yes, sir.  
 23 PROSPECTIVE JUROR DASTAGIR: I have a  
 24 appointment, a job appointment, tomorrow,

11-34

1 THE COURT: I need your badge number and your  
 2 name,  
 3 PROSPECTIVE JUROR DASTAGIR: Oh, I'm sorry.  
 4 399, Junaid Dastagir,  
 5 THE COURT: Okay.  
 6 PROSPECTIVE JUROR DASTAGIR: And I have the  
 7 documentation. I have to be there.  
 8 THE COURT: The bailiff will retrieve that from you,  
 9 (Pause in the proceedings)  
 10 PROSPECTIVE JUROR DASTAGIR: And also, sorry  
 11 about that, and my wife's have a appointment. She's  
 12 pregnant, and the 15<sup>th</sup> they have to do ultrasound for -- to find  
 13 out if it's gonna be -- it's a boy or girl. So and I'm trying not  
 14 to make a excuse or anything, but I just can't picture that the  
 15 young lady sitting over there, I'm sorry, I don't know her  
 16 name, I can't remember, I just --  
 17 THE COURT: I'm gonna cut you off right here and  
 18 come back to you later. Thank you.  
 19 Going out into the audience, continuing with this  
 20 question.  
 21 In the red.  
 22 PROSPECTIVE JUROR VOLK: 402, Mary Volk. I  
 23 have three children I have to get back and forth to school. I'm  
 24 a widow. I'm currently unemployed. I have an interview

11-35

1 tomorrow. And this is the month my husband died, was killed,  
 2 actually,  
 3 THE COURT: How old are your children?  
 4 PROSPECTIVE JUROR VOLK: Fourteen, sixteen and  
 5 seventeen,  
 6 THE COURT: Do any of them drive yet?  
 7 PROSPECTIVE JUROR VOLK: One drives, but they  
 8 go to different schools.  
 9 THE COURT: Okay. Continuing down that row.  
 10 Yes, sir.  
 11 PROSPECTIVE JUROR SMITH: 404, David Smith.  
 12 I'm the assistant principal of a high school. The job, to be  
 13 gone that long is really tenuous on that, on my job.  
 14 THE COURT: You work for the Clark County School  
 15 District?  
 16 PROSPECTIVE JUROR SMITH: I do.  
 17 THE COURT: There are others in the first group.  
 18 Continuing down that row.  
 19 PROSPECTIVE JUROR MACKLIN: Badge Number  
 20 405, Freddie Macklin,. I'm currently employed at the  
 21 Stratosphere Hotel and I also work as a cab driver. I work  
 22 thirteen-hour days and I have a vacation planned,  
 23 THE COURT: Is there any reason why you can't  
 24 wait to go on the 29th?

11-36

1 PROSPECTIVE JUROR MACKLIN: Well, I don't feel  
 2 like I can give my full attention because I'm burning out on job  
 3 to job, So --  
 4 THE COURT: You didn't answer my question,  
 5 PROSPECTIVE JUROR MACKLIN: Pardon me?  
 6 THE COURT: Is there any reason why you can't  
 7 leave to go on your vacation on the 29th?  
 8 PROSPECTIVE JUROR MACKLIN: No, I could  
 9 reschedule it.  
 10 THE COURT: Okay. Continuing down that row.  
 11 Yes, sir.  
 12 PROSPECTIVE JUROR MORENCY: Yeah. Badge  
 13 Number 412, Telly Morency, Actually, I have two jobs. I work  
 14 security. And I go to -- I go to work from 2:00 to 10:00. But  
 15 also I do care-giver, I'm a care-giver. I take care of my mom  
 16 In the morning. And she has lupus, and I'm the only person  
 17 home. I have to help her get up. I have to feed her. You  
 18 know, she really can't move. She'll swell up. And by the time  
 19 like I go to work, my brother's already coming home from  
 20 school and he takes over the job that I do, and then I go to  
 21 my second job. So I think by me doing that, it's gonna be kind  
 22 of a -- kind of inconvenient. And that's the only reason why I  
 23 wouldn't.  
 24 THE COURT: What time does your brother come in?

11-37

1 PROSPECTIVE JUROR MORENCY: He comes home  
 2 around 1:30. And I generally leave the house around 1:15 to  
 3 go to work to be there at 2:00 'cause I live in Henderson.  
 4 THE COURT: Is there anyone else in the family that  
 5 could come be with your mom  
 6 PROSPECTIVE JUROR MORENCY: The only person I  
 7 can think of is maybe her boyfriend, but I don't know if he's in  
 8 town or not 'cause he has a job also.  
 9 THE COURT: Okay. Anyone else in that row?  
 10 Going behind them?  
 11 Yes, sir.  
 12 PROSPECTIVE JUROR CRAFT: Badge 422, Willie  
 13 Craft.  
 14 THE COURT: **Yes**, sir.  
 15 PROSPECTIVE JUROR CRAFT: I have a financial  
 16 hardship. I work on a tipping job and I'm losing money today.  
 17 And I just can't afford to take that much time off my job.  
 18 THE COURT: Without your tips, will you be able to  
 19 pay your bills?  
 20 PROSPECTIVE JUROR CRAFT: No,  
 21 THE COURT: Do you have a savings account?  
 22 PROSPECTIVE JUROR CRAFT: Yes, I do.  
 23 THE COURT: Anybody else?  
 24 I have a couple of late bloomers.

11-38

1 PROSPECTIVE JUROR DORSEY: Okay,, 38 -- 388,  
 2 Thomas Dorsey. I'm a teacher with the Clark County School  
 3 District,  
 4 THE COURT: Hold on a second. I've got to flip back  
 5 to find you. Okay, Mr. Dorsey,  
 6 PROSPECTIVE JUROR DORSEY: My classes start at  
 7 6:00. They're -- I'm finished teaching at 11:00, but that's not  
 8 the time school is over. So two weeks out of the program,  
 9 probably set the students back, But I could work until 10:00  
 10 and then come here, if that's allowable.  
 11 THE COURT: I guess it depends on your boss,  
 12 PROSPECTIVE JUROR DORSEY: Okay,  
 13 THE COURT: The Clark County School District does  
 14 provide for substitute teachers when teacher are doing jury  
 15 service,  
 16 PROSPECTIVE JUROR POPE: 392, Donelle Pope, I  
 17 have a mandatory training for my full division of my company  
 18 in California next Tuesday, Wednesday and Thursday, full-day  
 19 trainings those days.  
 20 THE COURT: If you fail to attend, will you be  
 21 terminated from your employment?  
 22 PROSPECTIVE JUROR POPE: Probably not, but I  
 23 can't say for sure,  
 24 THE COURT: I don't think they can terminate you

11-39

1 when you're doing jury service. So —  
 2 MR, KEPHART: No.  
 3 PROSPECTIVE JUROR POPE: I'm a single parent,  
 4 single-income family,  
 5 THE COURT: Did I skip over or miss anybody else?  
 6 The record shall reflect no further response.  
 7 Is there anyone who has any problems with the  
 8 English language that you feel would preclude you from being -  
 9 able to participate in this trial?  
 10 The record shall reflect no response!  
 11 Other than some of the information that we've  
 12 already been provided, is there anyone who has a medical  
 13 condition that they feel would preclude them from participating  
 14 in this case? Other than what we've already discussed  
 15 previously. We don't need to repeat what we've already  
 16 heard. But is there anything else that has not yet been told?  
 17 The record shall reflect no response,  
 18 Would counsel please approach?  
 19 (Off-record bench conference at 14:15:52 until 14:24:09)  
 20 THE COURT: At this time there are a few of you  
 21 who are gonna be thanked and excused for cause. As your  
 22 badge number and name is read, you may stand, exit through  
 23 the rear doors, and you will need to report back to the Office  
 24 of the Jury Commissioner,

11-40

1 :342, Karen Deltoro, 377, Martin Treese, 380, Roger  
 2 Swenson. 383, Robert Bodak, 399, Junaid Dastagir. 402,  
 3 Mary Volk.  
 4 The Court's gonna **ask** Mr. Telly Morency, who is  
 5 Badge Number 412, to place a phone call on the next break to  
 6 see if the mother's boyfriend is in town and if he would be able  
 7 to assist or if there's someone else that could assist or if your  
 8 mom would be okay to be left alone for a few hours between  
 9 the time --  
 10 PROSPECTIVE JUROR MORENCY: Okay,  
 11 THE COURT: — you'd need to come to court and  
 12 your brother would arrive home,  
 13 PROSPECTIVE JUROR MORENCY: Okay.  
 14 THE COURT: Have any of you ever been employed  
 15 in law enforcement work?  
 16 Yes, sir.  
 17 PROSPECTIVE JUROR DORSEY: Badge 388,, Retired  
 18 correction officer for the State of California.  
 19 THE COURT: Thomas Dorsey, How many years did  
 20 you work corrections?  
 21 PROSPECTIVE JUROR DORSEY: Ten,  
 22 THE COURT: When did you leave that employment?  
 23 PROSPECTIVE JUROR DORSEY: 1994, No, Excuse  
 24 me. I'm sorry. That's when I started, 2004.

11-41

1 THE COURT: How long have you been teaching?  
 2 PROSPECTIVE JUROR DORSEY: I've been teaching  
 3 on and off since '98 but I've been teaching full-time now since  
 4 I retired from corrections.  
 5 THE COURT: Okay, Let me ask you this. If during  
 6 this trial a member of law enforcement comes in and takes the  
 7 stand and testifies, will you be able to keep an open mind and  
 8 judge that witness's testimony like you would any other  
 9 witness or do you think you would have a tendency to judge  
 10 them differently because you used to be a corrections officer?  
 11 PROSPECTIVE JUROR DORSEY: I would remain with  
 12 an open mind,  
 13 THE COURT: Okay. Thank you.  
 14 Anyone else?  
 15 I believe we had one person who has a job in  
 16 security, That's Mr. Morency, 412.  
 17 PROSPECTIVE JUROR MORENCY: Yes,  
 18 THE COURT: Who is your employer?  
 19 PROSPECTIVE JUROR MORENCY: I work downtown  
 20 over there at the California Hotel & Casino.  
 21 THE COURT: How long have you had that  
 22 employment?  
 23 PROSPECTIVE JUROR MORENCY: It'll be three  
 24 years in January.

11-42

1 THE COURT: Where does your nephew work?  
 2 PROSPECTIVE JUROR WASHINGTON: A  
 3 [unintelligible].  
 4 THE COURT: And what does he do?  
 5 PROSPECTIVE JUROR WASHINGTON: He's, I guess,  
 6 a deputy.  
 7 THE COURT: Is he a police officer or a deputy  
 8 sheriff or a corrections officer?  
 9 PROSPECTIVE JUROR WASHINGTON: He's a police  
 10 officer.  
 11 THE COURT: A police officer. Do you know what  
 12 his assignment is? Is there anything about your nephew's  
 13 employment that might affect you here for any reason?  
 14 PROSPECTIVE JUROR WASHINGTON: No.  
 15 THE COURT: Okay. Thank you,  
 16 Anyone else?  
 17 Yes, sir,  
 18 PROSPECTIVE JUROR WAYERSKI: 418, Robert  
 19 Wayerski,  
 20 THE COURT: Yes, sir.  
 21 PROSPECTIVE JUROR WAYERSKI: I have a close  
 22 friend from high school, childhood, who's an officer with Metro.  
 23 And my cousin, he works. He does computer work for Metro.  
 24 THE COURT: What does your friend do with Metro?

11-44

1 THE COURT: In your position, do you interface with  
 2 the members of the Las Vegas Metropolitan Police  
 3 Department?  
 4 PROSPECTIVE JUROR MORENCY: Yes, we do. Yes.  
 5 THE COURT: Okay. So kind of the same question  
 6 for you that I just asked. If a member of law enforcement  
 7 comes in and testifies, will you be able to keep an open mind  
 8 and judge their testimony as you would any other witness?  
 9 PROSPECTIVE JUROR MORENCY: Yes,  
 10 THE COURT: Okay, Anyone else had any similar  
 11 job, training or work experience?  
 12 Is there anyone whose spouse is employed in law  
 13 enforcement?  
 14 The record shall reflect no response.  
 15 Is there anyone who has a close family member or  
 16 close personal friend that works in law enforcement?  
 17 Yes, ma'am.  
 18 PROSPECTIVE JUROR WASHINGTON: I have a  
 19 nephew.  
 20 THE COURT: I need you to identify yourself.  
 21 PROSPECTIVE JUROR WASHINGTON: 347, I have  
 22 a nephew but he's not in Las Vegas.  
 23 THE COURT: Ms, Washington?  
 24 PROSPECTIVE JUROR WASHINGTON: Yes.

11-43

1 PROSPECTIVE JUROR WAYERSKI: He's a police  
 2 officer,  
 3 THE COURT: Is he a patrol officer?  
 4 PROSPECTIVE JUROR WAYERSKI: You know, I'm  
 5 not actually sure,  
 6 THE COURT: You guys don't talk about work a  
 7 whole lot?  
 8 PROSPECTIVE JUROR WAYERSKI: No, not too  
 9 much.  
 10 THE COURT: Would either your cousin or your  
 11 friend's employment have any affect on you if you're selected  
 12 to serve here?  
 13 PROSPECTIVE JUROR WAYERSKI: No.  
 14 THE COURT: Thank you,  
 15 Anyone else?  
 16 The record shall reflect no response.  
 17 Have any of you ever had any law-related training or  
 18 work experience either as a legal secretary, a paralegal, an  
 19 attorney, anything along those lines?  
 20 The record shall reflect no response.  
 21 MS. GREENBERGER: Excuse me, Judge, There --  
 22 THE COURT: Did I miss a hand?  
 23 PROSPECTIVE JUROR JORDAN: Badge 4 --  
 24 THE COURT: I did,

11-45

1 PROSPECTIVE JUROR JORDAN: 411, Jordan. Just  
 2 going to —  
 3 THE COURT: It's 'cause she's sitting behind Mr.  
 4 Kephart.  
 5 MR, KEPHART: Okay,, I guess I better move.  
 6 PROSPECTIVE JUROR JORDAN: That's right.  
 7 THE COURT: And he's a little tall,  
 8 PROSPECTIVE JUROR JORDAN: He's real tall. I'm  
 9 too short. That's okay.  
 10 MR, KEPHART: Is that better, Judge?  
 11 PROSPECTIVE JUROR JORDAN: Okay. Just when I  
 12 was in graduate school, this training, like internship.  
 13 THE COURT: Okay.  
 14 PROSPECTIVE JUROR JORDAN: That was in '83,  
 15 THE COURT: Okay.  
 16 PROSPECTIVE JUROR JORDAN: '81, '83.  
 17 THE COURT: '81 to '83. And what did you study?  
 18 PROSPECTIVE JUROR JORDAN: My master's in  
 19 counseling, educatr6ii and psychology. So when I was doing  
 20 my internship, then I had to do a training with juvenile justice  
 21 services at Clark County Detention Center. And also at the  
 22 schools, the sixth grade/middle school centers, doing  
 23 psychology there. That was in '83, around graduation,  
 24 THE COURT: Okay. Thank you.

11-46

1 reasonable doubt.  
 2 Is there anyone who does not understand or who  
 3 does not believe in these basic precepts of American justice?  
 4 The record shall reflect no response..  
 5 Did anybody have any prior knowledge about this  
 6 case, know anything about it before you walked into the  
 7 courtroom here today?  
 8 Okay. I've got a couple of hands up.  
 9 At this time I'm just gonna take your names and I'm  
 10 gonna come back to you on this particular question later,  
 11 PROSPECTIVE JUROR WASHINGTON: 347,  
 12 THE COURT: And the other one?  
 13 PROSPECTIVE JUROR EVERAKES: 327, Marshall  
 14 Everakes,  
 15 THE COURT: Thank you,  
 16 Is there any reason why any of you could not be a  
 17 completely fair and impartial juror if selected to serve in this  
 18 case?  
 19 The record shall reflect no response.  
 20 Is there anyone who cannot wait in forming their  
 21 opinion as to the guilt or innocence of the defendant until after  
 22 all of the evidence has been heard?  
 23 The record shall reflect no response.  
 24 Have any of you ever been arrested for a crime?

11-48

1 Anyone else?  
 2 The record shall reflect no further response.  
 3 Does anybody have any medical or nursing training,  
 4 anything in the healing arts?  
 5 The record shall reflect no response.  
 6 The ladies and gentlemen who are selected to serve  
 7 as jurors in this case will sit collectively to judge the questions  
 8 of fact in the case. As the presiding judge, I am the judge on  
 9 the questions of law and it's my responsibility to give to the  
 10 jury all of the applicable law for this case. Bearing that in  
 11 mind, it would be a violation of a juror's duty if he or she tried  
 12 to render a judgment based upon what he or she believed the  
 13 law to be, if that differed from the instructions given by the  
 14 Court,  
 15 Is there anyone who feels that they cannot act as  
 16 fact-finder and follow the Court's instructions on the applicable  
 17 law in this case?  
 18 The record shall reflect no response.  
 19 Under our system there are certain principles of law  
 20 which apply for every criminal trial, including this one. They  
 21 are that the charging document filed by the prosecution carries  
 22 forth but a mere accusation and that document, itself, is not  
 23 evidence of guilt.. Also, the defendant is presumed innocent  
 24 and the State bears the burden of proof, which is beyond a

11-47

1 The record shall reflect no response.  
 2 Have any of you ever had a close family member or  
 3 a close personal friend that's been arrested for a crime?  
 4 We've got a few hands up.  
 5 Okay. In the back row in the center,  
 6 PROSPECTIVE JUROR BISHOP: :340, Vickie Bishop,  
 7 THE COURT: Yes, ma'am.  
 8 PROSPECTIVE JUROR BISHOP: Oh. My daughter  
 9 was convicted of drug possession.  
 10 THE COURT: About what year?  
 11 PROSPECTIVE JUROR BISHOP: Oh, she gets  
 12 sentenced October 5th,  
 13 THE COURT: October 5<sup>th</sup> of this year?  
 14 PROSPECTIVE JUROR BISHOP: Mm-hmm,  
 15 THE COURT: Okay,  
 16 COURT RECORDER: Is that a yes?  
 17 THE COURT: You said "Mm-hmm" and nodded --  
 18 PROSPECTIVE JUROR BISHOP: Oh, I'm sorry, I'm  
 19 sorry,  
 20 THE COURT: — your head up and down,. So that's  
 21 why she's questioning you.  
 22 PROSPECTIVE JUROR BISHOP: Yes, ma'am.  
 23 THE COURT: Unfortunately, when we go back and  
 24 we listen to tape-recordings, if you do a mm-hmm --

11-49

1 PROSPECTIVE JUROR BISHOP: I'm sorry.  
 2 THE COURT: -- or a hmm-mm, they sound very,  
 3 very similar,  
 4 PROSPECTIVE JUROR BISHOP: Oh,,  
 5 THE COURT: So please answer yes or no,  
 6 PROSPECLWE JUROR BISHOP: Yes, ma'am.  
 7 THE COURT: Thank you, Have you been in court  
 8 with your daughter?  
 9 PROSPECTIVE JUROR BISHOP: Once.  
 10 THE COURT: Okay. Do you know what courthouse  
 11 you went to?  
 12 PROSPECTIVE JUROR BISHOP: It's here in this  
 13 building. I believe that it was on the third or fourth floor,  
 14 THE COURT: Okay. Do you recall which judge it  
 15 was in front of?  
 16 PROSPECLIVE JUROR BISHOP: It was when they  
 17 were arraigning her. A lady judge. I'm not sure. I was only  
 18 in there for just a few minutes,  
 19 THE COURT: Okay. Do you know who arrested  
 20 your daughter, what department they were with?  
 21 PROSPECTIVE JUROR BISHOP: It was right down  
 22 here on Fremont Street. Would it be Metro?  
 23 THE COURT: If --  
 24 PROSPECTIVE JUROR BISHOP: Is that right?

11-50

1 THE COURT: You think it was Metro?  
 2 PROSPECTIVE JUROR BISHOP: I think so.  
 3 THE COURT: Is there anything about your  
 4 daughter's case that you think might affect you here?  
 5 PROSPECTIVE JUROR BISHOP: No.  
 6 THE COURT: Okay, Anyone else in that back row?  
 7 Yes. Yes, ma'am,  
 8 PROSPECTIVE JUROR BENHAM: 346, Anush  
 9 Benham. And my brother was arrested in 1994 for possession.  
 10 THE COURT: In what state?  
 11 PROSPECTIVE JUROR BENHAM: In Illinois.  
 12 THE COURT: Is there anything about your brother's  
 13 case that might affect you here for any reason?  
 14 PROSPEC\_iVE JUROR BENHAM: No,,  
 15 THE COURT: Okay.  
 16 PROSPECTIVE JUROR WASHINGTON: 347, Iredell  
 17 Washington. My brother was arrested in Houston in, I think,  
 18 '89. They thought he hit a little child, but they wouldn't listen  
 19 to him. They took him to jail. And they found out that he was  
 20 at work when it happened,  
 21 THE COURT: So it was dismissed?  
 22 PROSPECTIVE JUROR WASHINGTON: Yes.  
 23 THE COURT: Is there anything about that case  
 24 involving your brother that might affect you here for any

11-51

1 reason?  
 2 PROSPECTIVE JUROR WASHINGTON: Well, I felt  
 3 like they didn't listen to him because he was black. I don't  
 4 know if that was -- I don't know.  
 5 THE COURT: So you have some anger with the  
 6 Texas authorities?  
 7 [REDACTED]  
 8 THE COURT: Okay. You can take that up with  
 9 them,  
 10 Continuing down that row.  
 11 Along the front.  
 12 Yes, sir,,  
 13 PROSPECTIVE JUROR DORSEY: My brother and —  
 14 THE COURT: I need you to identify yourself,  
 15 PROSPECTIVE JUROR DORSEY: Oh, I'm sorry, 388,,  
 16 Badge Number 388. My brother spent time in prison for  
 17 armed robbery in New Jersey,  
 18 THE COURT: That's Mr., Dorsey. Is there anything  
 19 about your brother's case that might affect you here for any  
 20 reason?  
 21 PROSPECTIVE JUROR DORSEY: No,  
 22 THE COURT: Thank you,  
 23 Yes, ma'am,  
 24 PROSPECTIVE JUROR POPE: 392. In 2004 my son

11-52

1 was convicted of drug possession,  
 2 THE COURT: Where did this happen?  
 3 PROSPECTIVE JUROR POPE: California.  
 4 THE COURT: Is there anything about your son's  
 5 case that might affect you here for any reason?  
 6 PROSPECTIVE JUROR POPE: No.  
 7 THE COURT: Going out to the audience.  
 8 Yes, ma'am.  
 9 PROSPECTIVE JUROR JORDAN: It's me again, 411.  
 10 THE COURT: This time I could see your hand,  
 11 PROSPECTIVE JUROR JORDAN: Yeah, My niece's in  
 12 the State of California, Kerns County, pending, I think, federal  
 13 charges. I'm not real sure because our communications aren't  
 14 open to that discussion.  
 15 THE COURT: You communication with your niece or  
 16 with your niece's parents?  
 17 PROSPECTIVE JUROR JORDAN: With my -- with my  
 18 niece. They're in California.  
 19 THE COURT: Okay,  
 20 PROSPECTIVE JUROR JORDAN: In Kerns County.  
 21 THE COURT: Okay,  
 22 PROSPECTIVE JUROR JORDAN: And I don't —  
 23 'cause I don't know if there's really any charges.  
 24 THE COURT: Okay, So you heard kind of about it

11-53

1 through the family?  
 2 PROSPECTIVE JUROR JORDAN: I've heard about it  
 3 through other family members.  
 4 THE COURT: I see.  
 5 PROSPECTIVE JUROR JORDAN: And they're not  
 6 forthright in disclosing with me totally.  
 7 THE COURT: Maybe because of your employment?  
 8 PROSPECTIVE JUROR JORDAN: The less I know,  
 9 the better, they told me. I don't know,  
 10 THE COURT: And you're trusting their judgment on  
 11 that?  
 12 PROSPECTIVE JUROR JORDAN: I do not trust their  
 13 judgment. I know that, No. I'm still auntie.  
 14 THE COURT: Okay. Is there anything about your  
 15 niece's case or situation that might affect you here for any  
 16 reason?  
 17 PROSPECTIVE JUROR JORDAN: No.  
 18 THE COURT: Thank you.  
 19 Anyone else in that section?  
 20 Yes, sir.  
 21 PROSPECTIVE JUROR WAYERSKI: My uncle's  
 22 currently in prison,  
 23 THE COURT: We need you to identify yourself,  
 24 PROSPECTIVE JUROR WAYERSKI: Oh. 418, Robert

11-54

1 Wayerski.  
 2 THE COURT: Yes, sir,  
 3 PROSPECTIVE JUROR WAYERSKI: I have an uncle  
 4 in prison currently for kidnaping and attempted murder in  
 5 Utah.  
 6 THE COURT: Do you know who the alleged victim  
 7 was?  
 8 PROSPECTIVE JUROR WAYERSKI: No, I don't,  
 9 Well, it was -- it was his girlfriend but I had never met her,  
 10 THE COURT: Okay. Is there anything about his  
 11 case that might affect you here for any reason?  
 12 PROSPECTIVE JUROR WAYERSKI: No, ma'am.  
 13 THE COURT: Thank you.  
 14 Anything else that I've missed?  
 15 All the way in the back.  
 16 PROSPECTIVE JUROR CRAFT: I have two nephews  
 17 and —  
 18 THE COURT: I need you to identify yourself,  
 19 PROSPECTIVE JUROR CRAFT: Oh. 422, Willie Craft,  
 20 THE COURT: Yes, sir.  
 21 PROSPECTIVE JUROR CRAFT: I have two nephews  
 22 in the Clark -- in the State of Nevada prison system and a  
 23 cousin,  
 24 THE COURT: Okay, What is the first name of your

11-55

1 two nephews?  
 2 PROSPECTIVE JUROR CRAFT: The first name?  
 3 THE COURT: The first name.  
 4 PROSPECTIVE JUROR CRAFT: Oh. One's name is  
 5 Willie like mine and the other one's name is Rodney,  
 6 THE COURT: Okay, Do you know what Willie was  
 7 accused of?  
 8 PROSPECTIVE JUROR CRAFT: Oh, shucks. Theft, I -  
 9 believe. I'm not sure. I'm not sure what it is. I know he's in  
 10 there for -- he's been in there for a while. Both of them.  
 11 THE COURT: Was Rodney also having to do with  
 12 theft?  
 13 PROSPECTIVE JUROR CRAFT: I guess. I don't  
 14 really know what he went in there for. It might have been  
 15 drugs or theft, I don't know. I really don't know, But I know  
 16 they're in the -- I know they're in prison, though, been in there  
 17 for a while.  
 18 THE COURT: Is that -- are you in kind of the same  
 19 boat that she was in, that you're hearing about it from other  
 20 family members but you —  
 21 PROSPECTIVE JUROR CRAFT: No.  
 22 THE COURT: — don't know the details?  
 23 PROSPECTIVE JUROR CRAFT: I know about it, but I  
 24 don't -- I don't remember. I can't -- it's been a while, but I

11-56

1 don't know what, exactly what they went for,  
 2 THE COURT: Okay.  
 3 PROSPECTIVE JUROR CRAFT: But I know they're  
 4 there.  
 5 THE COURT: Okay. And what about the cousin?  
 6 PROSPECTIVE JUROR CRAFT: I know what he went  
 7 there for. Murder.  
 8 THE COURT: Okay. Do you know where he is?  
 9 PROSPECTIVE JUROR CRAFT: Probably in, what is  
 10 it, upstate I guess, I don't know. Like Carson City, I guess, or  
 11 whatever.  
 12 THE COURT: But you're not sure?  
 13 PROSPECTIVE JUROR CRAFT: No. I thought it was  
 14 Carson City but I'm not sure,  
 15 THE COURT: Okay. Is there anything about any of  
 16 your cousin's, Willie or Rodney's cases that might affect you  
 17 here for any reason?  
 18 PROSPECTIVE JUROR CRAFT: I don't think so.  
 19 Maybe not,  
 20 THE COURT: Okay. Anyone else?  
 21 The record shall reflect no response.  
 22 Have any of you ever been a victim of a crime?  
 23 The record shall reflect I have a hand up.  
 24 Yes, ma'am.

11-57

1 PROSPECTIVE JUROR WASHINGTON: Home  
 2 invasion.  
 3 THE COURT: I need you to identify yourself.  
 4 PROSPECTIVE JUROR WASHINGTON. Oh. 347,  
 5 Home invasion,  
 6 THE COURT: That's Ms. Washington,  
 7 When were you a victim of home invasion?  
 8 PROSPECTIVE JUROR WASHINGTON: In Arizona,  
 9 That was --  
 10 THE COURT: When?  
 11 PROSPECTIVE JUROR WASHINGTON: I'm trying to  
 12 think of the year now, 1980.  
 13 THE COURT: Is there anything about that case that  
 14 might affect you here for any reason?  
 15 PROSPECTIVE JUROR WASHINGTON: No. They got  
 16 the guy that did it.  
 17 THE COURT: Anyone else?  
 18 The record shall reflect no response.  
 19 Do any of you have a close family member or a close  
 20 personal friend that's been a victim of a crime?  
 21 In the back row in the plaid.  
 22 PROSPECTIVE JUROR OSBORN: 328. My niece was  
 23  
 24 THE COURT: Mr. Osborn?

11,58

1 THE COURT: You'd be able to set that aside as a  
 2 separate event and keep an open mind and listen to all of the  
 3 evidence in this case to reach a decision here?  
 4 PROSPECTIVE JUROR OSBORN: Yes,  
 5 THE COURT: Thank you.  
 6 I believe I had another hand up in that area, in --  
 7 I've had a -- I had a few people, I guess, now thinking about  
 8 that question that have come up with a response.  
 9 Did you -- were you gonna raise your hand?  
 10 PROSPECTIVE JUROR VALDEZ: Yeah. 350.  
 11 THE COURT: Lacey Valdez. Yes, ma'am.  
 12 PROSPECTIVE JUROR VALDEZ: Last month my  
 13 nephew had his -- some man jumped into his car and he --  
 14 and robbed him here in Las Vegas, He's referred it to Metro, □  
 15 THE COURT: Was anybody apprehended?  
 16 PROSPECTIVE JUROR VALDEZ: No.  
 17 THE COURT: Is your nephew okay?  
 18 PROSPECTIVE JUROR VALDEZ: Yes.  
 19 THE COURT: Is there anything about that situation  
 20 with your nephew that might affect you here for any reason?  
 21 PROSPECTIVE JUROR VALDEZ: No,  
 22 THE COURT: Okay. Coming along the front.  
 23 Yes, ma'am.  
 24 PROSPECTIVE JUROR POPE: 392, Donelle Pope.

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1 PROSPECTIVE JUROR OSBORN: Yes. My niece was  
 2 kidnaped and murdered in 1986 in LA,  
 3 THE COURT: Was this reported to the authorities?  
 4 PROSPECTIVE JUROR OSBORN: Pardon?  
 5 THE COURT: Was it reported to the authorities?  
 6 PROSPECTIVE JUROR OSBORN: Yes.  
 7 THE COURT: Was it --  
 8 PROSPECTIVE JUROR OSBORN: Yes.  
 9 THE COURT: Do --  
 10 PROSPECTIVE JUROR OSBORN: Yes,  
 11 THE COURT: Do you know which authorities?  
 12 PROSPECTIVE JUROR OSBORN: San Bernardino  
 13 Sheriff's Department, I think.  
 14 THE COURT: Okay.  
 15 PROSPECTIVE JUROR OSBORN: Placentia Police  
 16 Department. There was three or four different agencies that  
 17 were involved in it.  
 18 THE COURT: Was a suspect identified?  
 19 PROSPECTIVE JUROR OSBORN: He was eventually  
 20 caught and went to prison,  
 21 THE COURT: Is there anything about your niece's  
 22 situation with her -- with her murder case that might affect  
 23 you here for any reason?  
 24 PROSPECTIVE JUROR OSBORN: No,

11-59

1 My daughter was sexually assaulted in 1999.  
 2 THE COURT: In what state/  
 3 PROSPECTIVE JUROR POPE: California.  
 4 THE COURT: Is there anything about your  
 5 daughter's case or situation that might affect you here for any  
 6 reason?  
 7 PROSPECTIVE JUROR POPE: No.  
 8 THE COURT: Thank you.  
 9 Anyone out in the audience?  
 10 Yes, sir.  
 11 PROSPECTIVE JUROR MORENCY: Badge Number  
 12 412, Telly Morency. My younger brother, it's not really he was  
 13 a victim but he kind of was. He was at the bank in -- during  
 14 an armed robbery and he was pretty much traumatized. That  
 15 was about it. But he did do a report and eventually they did  
 16 catch the guy later on.  
 17 THE COURT: So he was a witness to it?  
 18 PROSPECTIVE JUROR MORENCY: Yeah, more of a  
 19 witness. But at the same time, the guy did point the gun at  
 20 him and tell him to get on the floor. So it's kind of both,  
 21 THE COURT: Yeah,  
 22 PROSPECTIVE JUROR MORENCY: But he did -- he  
 23 was traumatized.  
 24 THE COURT: So he's kind of a victim of an assault

11-61



1 with a deadly weapon?  
 2 PROSPECTIVE JUROR MORENCY: Yeah, that's  
 3 pretty much more of what it is.  
 4 THE COURT: Okay. Is there anything about that  
 5 situation with your brother that might affect you here for any  
 6 reason?  
 7 PROSPECTIVE JUROR MORENCY: No.  
 8 THE COURT: Thank you.  
 9 Anyone else?  
 10 The record shall reflect no response.  
 11 Each and every time we take a recess, the law  
 12 requires that I read to the jury an admonishment, which is  
 13 essentially a warning. I have a few jurors that I have some  
 14 followup questions for that I'm gonna ask to remain in the  
 15 courtroom, but the rest of you will be getting a ten-minute  
 16 stretch break,  
 17 Also, the Court wishes to advise you before we do  
 18 that stretch break that all of these individuals who are seated  
 19 at the plaintiff's table and at the defendant's table are not  
 20 allowed to speak with the ladies and gentlemen of the jury. If  
 21 they speak with you, it may contaminate the jury's verdict and  
 22 cause significant legal difficulties to occur. So please  
 23 understand that if they're coming and going with you on the  
 24 elevator or walking down the hallway and they're not greeting

11-62

1 bailiff will meet you there to return you to the courtroom.  
 2 (A portion of the prospective jurors recessed at 14:53:39)  
 3 THE COURT: Okay, Ms, Washington, I'm gonna ask  
 4 that you step out and be right outside the door in the hallway.  
 5 The bailiff will come get you in just a minute after I finish  
 6 speaking with the other juror.  
 7 Mr. Marshall Everakes is Badge Number 327, and he  
 8 remains in the courtroom.  
 9 You indicated that you had some prior knowledge  
 10 about this case, and I wanted to query you about that outside  
 11 the presence of the other jurors. Can you tell me what that  
 12 consisted of?  
 13 PROSPECTIVE JUROR EVERAKES: Just through the  
 14 media, I heard of the case being prosecuted,  
 15 THE COURT: What form of media?  
 16 PROSPECTIVE JUROR EVERAKES: Through the  
 17 television.  
 18 THE COURT: Okay. Was it just that you heard that  
 19 the trial was coming up or —  
 20 PROSPECTIVE JUROR EVERAKES: No. I heard of  
 21 the case prior to the trial, I think when it was discovered,  
 22 THE COURT: Okay, Do you have a detailed  
 23 memory about that newscast or just kind of a —  
 24 PROSPECTIVE JUROR EVERAKES: It's just a -- I just

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1 you with a hello or a good morning or a good afternoon or  
 2 recognizing you in any way, they're not being antisocial but,  
 3 rather, are bound by ethics and law not to communicate with  
 4 you.  
 5 The Court's gonna ask that the following jurors  
 6 remain with us:  
 7 Iredell Washington, 347. And Marshall Everakes,  
 8 327, Actually, it's just those two.  
 9 The third -- the third juror is Mr. Telly Morency, 412.  
 10 I don't wish him to remain, rather, I wish him to make that  
 11 phone call and then I can talk to him after the break about  
 12 that.  
 13 During this recess you're admonished you are not to  
 14 talk or converse among yourselves nor with anyone else on  
 15 any subject connected with this trial, and you cannot read,  
 16 watch or listen to any report of or commentary on the trial or  
 17 any person that's connected with the trial, by any medium of  
 18 information, including, without limitation, newspaper,  
 19 television, radio and Internet, and you cannot form or express  
 20 any opinion on any subject connected with the trial until the  
 21 case is finally submitted to you,  
 22 So I'm gonna have those two jurors that I named  
 23 remain, The rest of you are excused.  
 24 In ten minutes, please be out in the hallway. The

11-63

1 remember it 'cause I had heard of the case itself at the time.  
 2 THE COURT: Okay. Will you be able to set aside  
 3 what you heard on the T.V. news broadcast and listen to all of  
 4 the evidence in this case and base your decision on the  
 5 evidence presented at trial?  
 6 PROSPECTIVE JUROR EVERAKES: Yes.  
 7 THE COURT: Okay, Any questions by the State?  
 8 MR. KEPHART: No, Your Honor,  
 9 THE COURT: Any questions by the defense?  
 10 MR. SCHIECK: Just a couple, Your Honor,  
 11 You said you had heard of the case when the body  
 12 was discovered?  
 13 PROSPECTIVE JUROR EVERAKES: That is correct.  
 14 MR. SCHIECK: Okay. So we're talking back in  
 15 2001?  
 16 PROSPECTIVE JUROR EVERAKES: Yes,  
 17 MR. SCHIECK: Okay. Since then, have you followed  
 18 or seen anything on the news about the case?  
 19 PROSPECTIVE JUROR EVERAKES: No,  
 20 MR. SCHIECK: So all that -- the only media you saw  
 21 was that the body was discovered and you know nothing else  
 22 other than that?  
 23 PROSPECTIVE JUROR EVERAKES: That is correct.  
 24 MR. SCHIECK: And if you were to recall anything

11-65

1 during the course of the trial that you might have forgotten  
 2 that you saw in the news, would you be able to put that aside  
 3 and just judge the case on what you hear in court here?  
 4 PROSPECTIVE JUROR EVERAKES: Yes.  
 5 MR. SCHIECK: Thank you.  
 6 No further questions, Your Honor.  
 7 THE COURT: Okay. Any followup questions by the  
 8 State?  
 9 MR. KEPHART: No, Your Honor.  
 10 THE COURT: Okay. Mr. Everakes, you remain  
 11 under the admonishment of the Court, and you may step  
 12 outside. And in ten minutes, well, actually, about nine minutes  
 13 now, you need to be in the hallway and the bailiff will meet  
 14 you there.  
 15 The bailiff will bring Ms. Washington in.  
 16 Ms, Washington, I wanted to allow a few questions  
 17 of you outside the presence of the other jurors as you  
 18 responded to the Court's question about having prior  
 19 knowledge about the case. Can you tell me what that  
 20 knowledge was?  
 21 PROSPECTIVE JUROR WASHINGTON: Well, I  
 22 believe I seen it on or heard about it on television,  
 23 THE COURT: Okay.  
 24 PROSPECTIVE JUROR WASHINGTON: You know,

11-66

1 we talked about it, my family and I.  
 2 THE COURT: This was like a T.V. newscast?  
 3 PROSPECTIVE JUROR WASHINGTON: Yeah. And,  
 4 yeah, the paper. The newspaper.  
 5 THE COURT: Do you recall about when this was?  
 6 PROSPEL.' NE JUROR WASHINGTON: This was  
 7 when it happened, you know, where the body — when it  
 8 happened.  
 9 THE COURT: Okay. At this point in time, do you  
 10 have a real clear memory of all of the details or -- from what  
 11 you heard in the media or is it just kind of fuzzy?  
 12 PROSPECTIVE JUROR WASHINGTON: It's -- it's  
 13 fuzzy.  
 14 THE COURT: Okay, Will you be able to set aside  
 15 what you heard in the media if you're selected to serve here  
 16 and make your decision based on the evidence that will be  
 17 presented in this trial?  
 18 PROSPECTIVE JUROR WASHINGTON: Well, I think  
 19 so. I don't know.  
 20 THE COURT: You're not sure?  
 21 PROSPECTIVE JUROR WASHINGTON: I'm not sure.  
 22 I'm not gonna say yes. I'm not really sure because at the time  
 23 when we discussed it, we said the guy was guilty and he  
 24 should be put away, So I don't know if I can -- I'm not gonna

11-67

1 say, yes, I can do that. I really don't know.  
 2 THE COURT: So you had formed an opinion about  
 3 the case sometime back, and you think that you may be —  
 4 PROPEL' IVE JUROR WASHINGTON: Right. I don't  
 5 -- I don't --  
 6 THE COURT: You may be sticking to that opinion?  
 7 PROSPECTIVE JUROR WASHINGTON: I can't say I  
 8 won't. I'm not really sure.  
 9 THE COURT: Okay.  
 10 PROSPECTIVE JUROR WASHINGTON: I'm not sure.  
 11 THE COURT: Questions by the State?  
 12 MR. KEPHART: I don't have any questions, Your  
 13 Honor,  
 14 MS. ZALKIN: I have a few questions, Your Honor.  
 15 THE COURT: Ms. Zalkin.  
 16 MS. ZALKIN: Good afternoon.  
 17 PROSPECTIVE JUROR WASHINGTON: Hello.  
 18 MS. ZALKIN: When you said you discussed the case  
 19 with your family, are those family members that are still  
 20 residing with you?  
 21 PROSPECTIVE JUROR WASHINGTON: Yeah, my  
 22 husband and sister. Yeah.  
 23 MS. ZALKIN: Okay,, And I know it was a while ago,  
 24 but your comment was that you had thought that the guy was

11-68

1 guilty. But our client is a female defendant. Is that —  
 2 PROSPECTIVE JUROR WASHINGTON: Well, we said  
 3 whoever did — well, we didn't really think that she did it by  
 4 herself. We thought she might have had help.  
 5 MS. ZALKIN: And if you recall, was it that you had  
 6 watched something about this case when the decedent was  
 7 discovered or after —  
 8 PROSPECTIVE JUROR WASHINGTON: When he was  
 9 discovered. Right. And it was, you know —  
 10 MS. ZALKIN: It was memorable?  
 11 PROSPECTIVE JUROR WASHINGTON: Yeah.  
 12 MS. ZALKIN: But then you didn't have any — you  
 13 didn't happen to catch anything further on the news within a  
 14 few weeks afterward?  
 15 PROSPECTIVE JUROR WASHINGTON: I can't  
 16 remember because so much happens, you know. I really can't  
 17 say. I don't remember.  
 18 MS. ZALKIN: That's okay.  
 19 The Court's indulgence.  
 20 THE COURT: Yes.  
 21 MS. ZALKIN: Just is -- in your heart of hearts, do  
 22 you feel that you can put aside, disregard or compartmentalize  
 23 what you have previously thought so that you can listen to all  
 24 of the evidence, in your heart of hearts?

11-69

1 PROSPECTIVE JUROR WASHINGTON: I will try to,  
 2 but I'm not sure. I really don't know,  
 3 MS. ZALKIN: Have you at this moment in time  
 4 formed any impression or opinion one way or the other about  
 5 my client, knowing that she is charged with this crime?  
 6 PROSPECTIVE JUROR WASHINGTON: Well, I didn't  
 7 really give a thought Ill I got here and found out what it was  
 8 about. So it's kind of hard to -- it's kind of hard to say what,  
 9 you know, how I would react because I really don't know. I  
 10 don't have the whole story of what will be presented here.  
 11 You understand? So I really don't -- I really don't know. I  
 12 can't answer yes or no to that,  
 13 MS. ZALKIN: Do you -- do you think that you can be  
 14 fair and impartial?  
 15 PROSPECTIVE JUROR WASHINGTON: I will try to  
 16 be, That's what I -- that's the only thing I can say. I can try.  
 17 MS. ZALKIN: But you have some concern over —  
 18 PROSPECTIVE JUROR WASHINGTON: Murder, I  
 19 don't approve of murder, I've said that from the beginning,  
 20 because that person is still dead. So regardless if she was  
 21 upset, or whatever, the person is still dead, So I don't -- I  
 22 don't know. I don't know how I would, I don't know.  
 23 MS. ZALKIN: Okay. I appreciate your honesty.  
 24 Nothing further, Your Honor.

11-70

1 MR, KEPHART: So --  
 2 THE COURT: Very good. Thank you for making  
 3 that record.  
 4 And well see everybody in ten minutes.  
 5 And well go off the record 'til then,  
 6 (Court recessed at 15:07:22 until 15:40:08)  
 7 (Prospective jurors are present)  
 8 THE BAILIFF: All rise, please, Department Ills now  
 9 in session, the Honorable Valorie 1 Vega presiding.  
 10 Please be seated,,  
 11 THE COURT: We've received a note that the Court  
 12 and counsel have reviewed in chambers, which will be marked  
 13 as Court's Number 2.  
 14 And at this time the Court will thank and excuse for  
 15 cause Juror Badge Number 197, Edric Tong, He may report  
 16 back to the Office of the Jury Commissioner.  
 17 PROSPECTIVE JUROR TONG: I guess —  
 18 THE BAILIFF: You can exit now.  
 19 THE COURT: Juror Badge Number 412, Telly  
 20 Morency. Where is Mr. Morency now?  
 21 PROSPECTIVE JUROR MORENCY: I'm right over  
 22 here.  
 23 THE COURT: Okay. Were you able to place a call?  
 24 PROSPECTIVE JUROR MORENCY: Yes. I got a hold

11-72

1 THE COURT: Counsel, approach.  
 2 (Off-record bench conference at 15:03:36 until 15:06:00)  
 3 THE COURT: Ms. Washington, the Court is at this  
 4 time going to thank you for your honest response to the  
 5 questions that have been posed to you and thank you for  
 6 doing your service to your community, but the Court is going  
 7 to excuse you for cause at this time. You may report back to  
 8 the Office of the Jury Commissioner,  
 9 PROSPECTIVE JUROR WASHINGTON: Okay.  
 10 THE COURT: We're gonna be taking a stretch  
 11 recess. When we come back, the bailiff is going to be  
 12 reseating the first group with the second group as a tail, and  
 13 we'll be proceeding forward with the voir dire,  
 14 Mr. Kephart.  
 15 MR. KEPHART: Judge, yesterday we had taken out  
 16 of evidence Exhibit 125A, I believe it is. It's that tape-  
 17 recording that was redacted.  
 18 THE COURT: Yes,  
 19 MR. KEPHART: I provided a copy of that to Mr.  
 20 Schieck today and I provided the original back to the court  
 21 clerk.  
 22 THE COURT: And did the State keep a copy as well?  
 23 MR, KEPHART: Yeah, I have a copy.  
 24 THE COURT: Okay,,

11-71

1 of my mom. She did state her boyfriend's in Illinois 'cause he  
 2 works for a company where he lays like slip-resistant stuff on  
 3 floors. And I called -- I called his phone and I asked him when  
 4 he was gonna come back. He said between the 23 and 24th,  
 5 so.  
 6 THE COURT: Okay. Is your mom able to stay alone  
 7 for a few hours?  
 8 PROSPECTIVE JUROR MORENCY: Not really. Like  
 9 she has a hard time walking. Sometimes I have to help her in  
 10 the shower. I have to help her downstairs. I have to put the  
 11 [unintelligible].  
 12 THE COURT: I'm gonna thank and excuse you for  
 13 cause then at this time. Please report back to the Office of the  
 14 Jury Commissioner.  
 15 PROSPECTIVE JUROR MORENCY: Okay.  
 16 THE COURT: Okay. The record shall reflect that the  
 17 defendant is present, her three counsel are present, the two  
 18 prosecuting attorneys are present, and the ladies and  
 19 gentlemen both from yesterday's group and from today's  
 20 group who are potential jurors are present and have been  
 21 reseated in the courtroom by the bailiff.  
 22 I'm going to be proceeding forward with additional  
 23 voir dire questioning at this time of all of you, Well proceed in  
 24 the same fashion with the Court asking group questions,

11-73

1 The next question is have any of you ever come into  
 2 a courtroom, been placed under oath and given testimony as a  
 3 witness? Has anybody had that experience?  
 4 We have a few hands up.  
 5 In the front row in the green.  
 6 PROSPECTIVE JUROR MOIR: Michelle Moir, 235. It  
 7 was a domestic violence. It was the same case that I was a  
 8 victim of,, And also the burglary charges,  
 9 THE COURT: Were both of those here in Clark  
 10 County?  
 11 PROSPECTIVE JUROR MOIR: Yes, they were.  
 12 THE COURT: Okay, Thank you.  
 13 And I had some hands up out in the audience. In  
 14 the front row,  
 15 PROSPECTIVE JUROR McKEEVER: 238, Carol  
 16 McKeever. In, I think, '87 I testified in the — Dr, McNair's trial.  
 17 THE COURT: Thank you,  
 18 Continuing down that row.  
 19 Yes, sir;  
 20 PROSPECTIVE JUROR ROBERT MILLER: 247.  
 21 THE COURT: Yes, sir,  
 22 PROSPECTIVE JUROR ROBERT MILLER: Many times  
 23 over the twenty-five years that I worked.  
 24 THE COURT: Was it in conjunction with your

11-74

1 employment with Metro?  
 2 PROSPECTIVE JUROR ROBERT MILLER: Yes.  
 3 THE COURT: Okay, Anyone else?  
 4 I've got a hand up.  
 5 PROSPECTIVE JUROR ARIENO: Would bankruptcy  
 6 court —  
 7 THE COURT: I need you to identify yourself.  
 8 PROSPECTIVE JUROR ARIENO: 196, Frank Arieno,  
 9 THE COURT: Yes, sir. You testified in bankruptcy  
 10 court?  
 11 PROSPECTIVE JUROR ARIENO: Yes, just for myself.  
 12 I mean, I had to go under oath.  
 13 THE COURT: Okay. About what year?  
 14 PROSPECTIVE JUROR ARIENO: In '97.  
 15 THE COURT: And was that at the Federal  
 16 Courthouse here in Clark County?  
 17 PROSPECTIVE JUROR ARIENO: It was in New York.  
 18 THE COURT: In New York?  
 19 PROSPECTIVE JUROR ARIENO: Yes.  
 20 THE COURT: Okay. Thank you,  
 21 Yes, sir.  
 22 PROSPECTIVE JUROR SNOWDEN: 259, Michael  
 23 Snowden. It was a wrongful termination case in '03 against  
 24 Harrah's.

11-75

1 THE COURT: Was it here in Las Vegas?  
 2 PROSPECTIVE JUROR SNOWDEN: Yes, ma'am,  
 3 THE COURT: I had another hand, couple of hands  
 4 up in this section. The fellow with the glasses, next to him.  
 5 PROSPECTIVE JUROR TAYLOR: Yeah, 261.  
 6 THE COURT: Lloyd Taylor?  
 7 PROSPECTIVE JUROR TAYLOR: Yes, ma'am. While  
 8 I was at the sheriff's office, several times,  
 9 THE COURT: That's with your employment in  
 10 Virginia?  
 11 PROSPECTIVE JUROR TAYLOR: Yes, ma'am,  
 12 THE COURT: Another hand? Yes, sir,  
 13 PROSPECTIVE JUROR VERGOT: 322, Anthony  
 14 Vergot.  
 15 THE COURT: You're the first person in group two.  
 16 PROSPECTIVE JUROR VERGOT: Yes.  
 17 THE COURT: Yes, sir.  
 18 PROSPECTIVE JUROR VERGOT: It was with Blue  
 19 Man Group and Local 720, the — with the NLRV. It was  
 20 basically discussing what my job was with the Blue Man Group.  
 21 THE COURT: Okay, So you were employed with  
 22 Blue Man Group or are you still?  
 23 PROSPECTIVE JUROR VERGOT: I was.  
 24 THE COURT: Okay,, What did you do with them?

11-76

1 PROSPECTIVE JUROR VERGOT: Prop master,  
 2 THE COURT: Pardon?  
 3 PROSPECTIVE JUROR VERGOT: Prop master. And  
 4 that was 2006, April.  
 5 THE COURT: And did you give that testimony  
 6 before them here in Las Vegas?  
 7 PROSPECTIVE JUROR VERGOT: It was in Las  
 8 Vegas. Yes.  
 9 THE COURT: Okay. Thank you.  
 10 PROSPECTIVE JUROR VERGOT: Mm-hmm.  
 11 THE COURT: I have another hand up. Yes, sir,  
 12 PROSPECTIVE JUROR EVERAKES: 327, Marshall  
 13 Everakes,  
 14 THE COURT: Yes, sir,  
 15 PROSPECTIVE JUROR EVERAKES: A small claims  
 16 court case in Southern California in 1984.  
 17 THE COURT: Thank you.  
 18 Anyone else?  
 19 Yes, sir.  
 20 PROSPECTIVE JUROR DOBYNE: Doug Dobyne, 252.  
 21 I've been in three or four small claims courts, small claims  
 22 cases I worked, my career,,  
 23 THE COURT: 252, Were they all here in Las Vegas?  
 24 PROSPECTIVE JUROR DOBYNE: Yes, ma'am. I

11-77

1 have to think about that for a minute.  
 2 THE COURT: Okay. Anyone in this section?  
 3 Any further response to that question?  
 4 The record shall reflect no further response.  
 5 There are a few of you who indicated that you had  
 6 prior jury service when you responded to the telephone survey  
 7 that came along with your responding to your summons.  
 8 When you got your summons, it gave you a number to call in.  
 9 And then when you called in, the number tells you — gives you  
 10 instructions and asks you questions and tells you to push 1 if  
 11 yes and 2 if no, that kind of thing. And some of you had  
 12 indicated that you had previously served as jurors, so I have a  
 13 few questions for those of you who indicated that you had.  
 14 PROSPECTIVE JUROR GRAHAM: Your Honor, I  
 15 never received any phone call like that but I was also —  
 16 THE COURT: It would have been a phone call that  
 17 you placed.  
 18 PROSPECTIVE JUROR GRAHAM: Okay. I  
 19 THE COURT: That you called in on your summons.  
 20 When you got your summons in the mail —  
 21 PROSPECTIVE JUROR GRAHAM: Right,  
 22 THE COURT: -- it had a phone number for you to  
 23 call in to contact. And at that point —  
 24 PROSPECTIVE JUROR GRAHAM: I think I called in

11-78

1 the jury,  
 2 THE COURT: Please answer just yes or no. Did the  
 3 jury reach a verdict?  
 4 PROSPECTIVE JUROR GRAHAM: Yes, ma'am.  
 5 THE COURT: The second time that you served was  
 6 when?  
 7 PROSPECTIVE JUROR GRAHAM: I think a couple of  
 8 years later, probably about 2000, 2001, That was civil,  
 9 THE COURT: Was this also in Texas?  
 10 PROSPECTIVE JUROR GRAHAM: Yes, ma'am, For  
 11 Bing County, I do believe.  
 12 THE COURT: Were you a member or a foreperson?  
 13 PROSPECTIVE JUROR GRAHAM: Member.  
 14 THE COURT: Yes or no, was a verdict reached?  
 15 PROSPECTIVE JUROR GRAHAM: Yes, ma'am.  
 16 THE COURT: Are you aware that the laws of the  
 17 State of Nevada differ from the laws of the State of Texas?  
 18 PROSPECTIVE JUROR GRAHAM: Yes, ma'am.  
 19 THE COURT: Will you be able to set aside what you  
 20 learned about Texas law and listen to the Court's instructions  
 21 on Nevada law?  
 22 PROSPECTIVE JUROR GRAHAM: Yes, ma'am.  
 23 THE COURT: Also from the two times that you  
 24 served, you're aware that there are differences between the

11-80

1 on that. I believe I did, A lot of -- I called —  
 2 THE COURT: That's how they —  
 3 PROSPECTIVE JUROR GRAHAM: --I called —  
 4 THE COURT: That's how they schedule you,,  
 5 PROSPECTIVE JUROR GRAHAM: Well, that — 'cause  
 6 each time I called someone, I talked to someone on the  
 7 phone. I never talked to a recording. 'Cause that was the first  
 8 time I had to reschedule,  
 9 THE COURT: What is your name and badge  
 10 number, please?  
 11 PROSPECTIVE JUROR GRAHAM: I'm sorry. 236,  
 12 Robert Graham.  
 13 THE COURT: Mr. Graham, have you ever been  
 14 previously selected and seated to serve as a juror and  
 15 deliberated toward reaching a verdict?  
 16 PROSPECTIVE JUROR GRAHAM: Yes, ma'am, twice.  
 17 THE COURT: The first time about what year?  
 18 PROSPECTIVE JUROR GRAHAM: It was, I do  
 19 believe, '98 in Houston.  
 20 THE COURT: Was it a civil or a criminal case?  
 21 PROSPECTIVE JUROR GRAHAM: Criminal.  
 22 THE COURT: Were you a member of the jury or  
 23 were you the foreperson?  
 24 PROSPECTIVE JUROR GRAHAM: I was a member of

11-79

1 civil system and civil law versus the criminal system and  
 2 criminal law, correct?  
 3 PROSPECTIVE JUROR GRAHAM: Yes, ma'am.  
 4 THE COURT: Will you be able to set aside what you  
 5 learned about civil law and listen to the Court's instructions on  
 6 criminal law?  
 7 PROSPECTIVE JUROR GRAHAM: Yes, ma'am.  
 8 THE COURT: Is there anything about either of your  
 9 prior times of service in Texas that you think might affect you  
 10 here for any reason?  
 11 PROSPECTIVE JUROR GRAHAM: No, ma'am,  
 12 THE COURT: Thank you.  
 13 PROSPECTIVE JUROR MOIR: Excuse me, Your  
 14 Honor. Michelle Moir, 235, I also did not call the number  
 15 because I had to reschedule and I spoke with someone.  
 16 THE COURT: Okay,  
 17 PROSPECTIVE JUROR MOIR: And I've never served  
 18 on a jury before,  
 19 THE COURT: You never served. Okay. I just need  
 20 to know who has,, Thank you, Ms. Moir,  
 21 209, Gary Wilcox,  
 22 PROSPECTIVE JUROR WILCOX: Yes, ma'am.  
 23 THE COURT: On how many occasions have you  
 24 served?

11-81

1 PROSPECTIVE JUROR WILCOX: None, ma'am,  
 2 THE COURT: None? Okay.  
 3 PROSPECTIVE JUROR WILCOX: No.  
 4 THE COURT: Well, they've got you marked down as  
 5 yes. So, obviously, I've got -- I've got some cleanup to do on  
 6 this,  
 7 Mr, Sharpe, 210,  
 8 PROSPECTIVE JUROR SHARPE: Yes,  
 9 THE COURT: Have you previously served?  
 10 PROSPECTIVE JUROR SHARPE: One time,  
 11 THE COURT: And when was that?  
 12 PROSPECTIVE JUROR SHARPE: Oh. I'd say around  
 13 2000,  
 14 THE COURT: Okay.  
 15 PROSPECTIVE JUROR SHARPE: I think it was.  
 16 THE COURT: Was it a civil or a criminal case?  
 17 PROSPECTIVE JUROR SHARPE: Criminal,  
 18 THE COURT: Was it here in Las Vegas?  
 19 PROSPECTIVE JUROR SHARPE: Yes,,  
 20 THE COURT: Were you a member of the jury or the  
 21 foreperson?  
 22 PROSPECTIVE JUROR SHARPE: Well, I was an  
 23 alternate.  
 24 THE COURT: Okay. Did you deliberate toward

11-82

1 PROSPECTIVE JUROR GIARDINA: Once,  
 2 THE COURT: When was that?  
 3 PROSPECTIVE JUROR GIARDINA: I believe it was  
 4 either '91 or 1992,  
 5 THE COURT: In what state?  
 6 PROSPECTIVE JUROR GIARDINA: Nevada, It was  
 7 Douglas County.  
 8 THE COURT: Was it a civil or a criminal case?  
 9 PROSPECTIVE JUROR GIARDINA: Criminal case.  
 10 THE COURT: Were you a member or the  
 11 foreperson?  
 12 PROSPECTIVE JUROR GIARDINA: I was a member,  
 13 THE COURT: Yes or no, verdict reached?  
 14 PROSPECTIVE JUROR GIARDINA: Yes,  
 15 THE COURT: Will you be able to set aside what you  
 16 learned about criminal law from '91 or '92 and listen to the  
 17 Court's instructions on the current law?  
 18 PROSPECTIVE JUROR GIARDINA: Yes.  
 19 THE COURT: Is there anything about your prior  
 20 service that might affect you here for any reason?  
 21 PROSPECTIVE JUROR GIARDINA: No.  
 22 THE COURT: Thank you,  
 23 221, Pamela Bailes. Where is she?  
 24 PROSPECTIVE JUROR BAILES: Here I am.

11-84

1 reaching a verdict?  
 2 PROSPECTIVE JUROR SHARPE: Yes.  
 3 THE COURT: You're aware that in Nevada the  
 4 legislature meets biannually. Did you know that?  
 5 PROSPECTIVE JUROR SHARPE: No.  
 6 THE COURT: Okay, The legislature meets every  
 7 other year. And when they meet, they delete some laws, add  
 8 new laws or take some of the existing laws and modify them,  
 9 so the law is always changing because of that. Plus, the  
 10 Supreme Court, both the United States and the Nevada  
 11 Supreme Court, issue new case decisions which also change  
 12 the law. Will you be able to set aside what you learned about  
 13 law in the year 2000 and listen to the Court's instructions on  
 14 the current law?  
 15 PROSPECTIVE JUROR SHARPE: Yes,  
 16 THE COURT: Is there anything about your prior  
 17 service that might affect you here for any reason?  
 18 PROSPECTIVE JUROR SHARPE: I couldn't quite hear  
 19 that,  
 20 THE COURT: Is there anything about your prior  
 21 service that might affect you here for any reason?  
 22 PROSPECTIVE JUROR SHARPE: No,  
 23 THE COURT: Okay. 215, Karen Giardina. On how  
 24 many occasions have you served?

11-83

1 THE COURT: Okay.  
 2 PROSPECTIVE JUROR BARES: I never served on a  
 3 jury.  
 4 THE COURT: You never served?  
 5 PROSPECTIVE JUROR BAILES: No.  
 6 THE COURT: Okay. 229, Suzanne Racel, Did you  
 7 serve?  
 8 PROSPECTIVE JUROR RACEL: Yes,  
 9 THE COURT: On how many occasions?  
 10 PROSPECTIVE JUROR RACEL: Once,  
 11 THE COURT: When?  
 12 PROSPECTIVE JUROR RACEL: I'd have to say like  
 13 1990 or '91. It was before I had kids, so that would be my  
 14 guess,  
 15 THE COURT: Okay. Civil or criminal?  
 16 PROSPECTIVE JUROR RACEL: Criminal.  
 17 THE COURT: Were you a member or the  
 18 foreperson?  
 19 PROSPECTIVE JUROR RACEL: A member,,  
 20 THE COURT: Yes or no, verdict reached?  
 21 PROSPECTIVE JUROR RACEL: Yes,  
 22 THE COURT: You'd be able to set aside what you  
 23 learned about law in '90 or '91 and listen --  
 24 PROSPECTIVE JUROR RACEL: Yes.

11-85

1 THE COURT: -- to the Court's instructions on the  
 2 current law?  
 3 PROSPECTIVE JUROR RACEL: Yes.  
 4 THE COURT: The kids and everything going on in  
 5 life has put that in the past for you?  
 6 PROSPECTIVE JUROR RACEL: Yeah,  
 7 THE COURT: Is there anything about your prior  
 8 service that might affect you here for any reason?  
 9 PROSPECTIVE JUROR RACEL: No.  
 10 THE COURT: Okay. 231, Karl Cantor,  
 11 PROSPECTIVE JUROR CANTOR: Never served.  
 12 THE COURT: Never served. Okay.  
 13 238, Carol McKeever,  
 14 PROSPECTIVE JUROR McKEEVER: I think it was in  
 15 the early nineties and it was a -- I know it was a misdemeanor  
 16 shoplifting case.  
 17 THE COURT: In what state?  
 18 PROSPECTIVE JUROR McKEEVER: Here in Las  
 19 Vegas.  
 20 THE COURT: Must not have been a misdemeanor.  
 21 PROSPECTIVE JUROR McKEEVER: It was -- it was a  
 22 shoplifting case. I'm not sure.  
 23 THE COURT: Okay. We do bench trials on  
 24 misdemeanors in the State of Nevada. So it would have been

11-86

1 PROSPECTIVE JUROR EVERAKES: Yes.  
 2 THE COURT: On how many occasions have you  
 3 previously served?  
 4 PROSPECTIVE JUROR EVERAKES: As a juror, none,  
 5 THE COURT: None. Okay.  
 6 392, Donnelle Pope.  
 7 PROSPECTIVE JUROR POPE: Yes.  
 8 THE COURT: Have you previously served?  
 9 PROSPECTIVE JUROR POPE: Yes.  
 10 THE COURT: On how many occasions?  
 11 PROSPECTIVE JUROR POPE: One,  
 12 THE COURT: When was it?  
 13 PROSPECTIVE JUROR POPE: About 1995 in  
 14 California, a criminal case.  
 15 THE COURT: Were you a member or the  
 16 foreperson?  
 17 PROSPECTIVE JUROR POPE: Member.  
 18 THE COURT: **Yes** or no, verdict reached?  
 19 PROSPECTIVE JUROR POPE: No.  
 20 THE COURT: Will you be able to set aside what you  
 21 learned about California law and listen to the Court's  
 22 instructions on Nevada law?  
 23 PROSPECTIVE JUROR POPE: Yes.  
 24 THE COURT: Anything about your prior service that

11-88

1 -- it may have been a gross misdemeanor or it -- or it would  
 2 have been a felony, one of those two.  
 3 PROSPECTIVE JUROR McKEEVER: It's so long ago, I  
 4 just can't remember.  
 5 THE COURT: Okay, Were you a member or the  
 6 foreperson?  
 7 PROSPECTIVE JUROR McKEEVER: Member,  
 8 THE COURT: Yes or no, was a verdict reached?  
 9 PROSPECTIVE JUROR McKEEVER: Yes.  
 10 THE COURT: Is there anything about that prior  
 11 service that might affect you here for any reason?  
 12 PROSPECTIVE JUROR McKEEVER: None  
 13 whatsoever,  
 14 THE COURT: You'd be able to set aside what you  
 15 learned about criminal law in the nineties and listen to the  
 16 Court's instructions on current law?  
 17 PROSPECTIVE JUROR McKEEVER: Yes.  
 18 THE COURT: Thank you.  
 19 278, Elisa Miguel, Okay. Did you previously do jury  
 20 service?  
 21 PROSPECTIVE JUROR MIGUEL: No.  
 22 THE COURT: No?  
 23 PROSPECTIVE JUROR MIGUEL: No,  
 24 THE COURT: Okay. 327, Marshall Everakes.

11-87

1 might affect you here for any reason?  
 2 PROSPECTIVE JUROR POPE: No.  
 3 THE COURT: Thank you,  
 4 405, Freddie Macklin,  
 5 PROSPECTIVE JUROR MACKLIN: Okay,  
 6 THE COURT: Where is she? Okay.  
 7 Did you previously serve as a juror?  
 8 PROSPECTIVE JUROR MACKLIN: Yes, I did.  
 9 THE COURT: On how many occasions?  
 10 PROSPECTIVE JUROR MACKLIN: One.  
 11 THE COURT: Where?  
 12 PROSPECTIVE JUROR MACKLIN: Here.  
 13 THE COURT: Civil or criminal?  
 14 PROSPECTIVE JUROR MACKLIN: Civil.  
 15 THE COURT: Were you a member or the  
 16 foreperson?  
 17 PROSPECTIVE JUROR MACKLIN: Member,  
 18 THE COURT: Yes or no, verdict reached?  
 19 PROSPECTIVE JUROR MACKLIN: Yes.  
 20 THE COURT: Will you be able to set aside what you  
 21 learned about civil law and listen to the Court's instructions on  
 22 Nevada criminal law?  
 23 PROSPECTIVE JUROR MACKLIN: Yes,  
 24 THE COURT: About what year was it that you

11-89

1 served?  
 2 PROSPEC.11.VE JUROR MACKLIN: The early nineties.  
 3 THE COURT: Early nineties?  
 4 PROSPEC. NE JUROR MACKLIN: Mm-hmm. Yes.  
 5 THE COURT: Anything about that prior experience  
 6 that might affect you here for any reason?  
 7 PROSPECTIVE JUROR MACKUN: No,  
 8 THE COURT: No, Thank you.  
 9 Is there anyone else who has previously deliberated  
 10 as a juror?  
 11 I've got two.  
 12 Yes, sir,  
 13 PROSPECTIVE JUROR TAYLOR: 261, Lloyd Taylor.,  
 14 THE COURT: Lloyd Taylor?  
 15 PROSPECTIVE JUROR TAYLOR: Yes.  
 16 THE COURT: Okay. On how many occasions have  
 17 you served?  
 18 PROSPECTIVE JUROR TAYLOR: Once,  
 19 THE COCAT: Where was it?  
 20 PROSPECTIVE JUROR TAYLOR: That was in  
 21 Virginia.  
 22 THE COURT: Was it civil or criminal?  
 23 PROSPECTIVE JUROR TAYLOR: Criminal.  
 24 THE COURT: Were you a member or the

11-90

1 PROSPECTIVE JUROR SMITH: No.  
 2 THE COURT: Thank you, sir.  
 3 Anyone else?  
 4 The record shall reflect no further response.  
 5 I believe that the bailiff has divided you into the first  
 6 group of thirty-three.  
 7 THE BAILIFF: That is correct, Your Honor,  
 8 THE COURT: And a second group. And does the  
 9 thirty-three cut off on this side?  
 10 THE BAILIFF: Yes, it does.  
 11 THE COURT: Who's the last person in the group of  
 12 thirty-three?  
 13 THE BAILIFF: Mr. Everakes, Badge 327,  
 14 THE COURT: Okay. At this time the bailiff is going  
 15 to place a board up on this easel, and we're gonna go through  
 16 an exercise with you giving us a little bit of information about  
 17 yourself. At this point, now that you are divided into two  
 18 groups, the Court's gonna proceed forward with additional  
 19 questioning of those of you that are Number 1 through 33 in  
 20 this first group,  
 21 Those of you on this side of the room in the second  
 22 group, please listen to all of the questions because if any of  
 23 the seats in the first group are vacated you'll be moved up  
 24 from the second group into the first group and then you're

11-92

1 foreperson?  
 2 PROSPECTIVE JUROR TAYLOR: I was a member,  
 3 THE COURT: Yes or no, was a verdict reached?  
 4 PROSPECLIVE JUROR TAYLOR: Yes.  
 5 THE COURT: Will you be able to set aside what you  
 6 learned about Virginia law and listen to the Court's instructions  
 7 on Nevada law?  
 8 PROSPECTIVE JUROR TAYLOR: Yes,  
 9 THE COURT: Anything about your prior service that  
 10 might affect you here for any reason?  
 11 PROSPECTIVE JUROR TAYLOR: No.  
 12 THE COURT: Thank you,  
 13 I had a hand up on this side, I believe,  
 14 Yes.  
 15 PROSPECTIVE JUROR SMITH: 404, David Smith.  
 16 THE COURT: Yes, sir.  
 17 PROSPECTIVE JUROR SMITH: Nevada, civil, 2000,  
 18 foreman, a verdict was reached,  
 19 THE COURT: Will you be able to set aside what you  
 20 learned about civil law and listen to the Court's instructions on  
 21 criminal law?  
 22 PROSPECTIVE JUROR SMITH: Yes,  
 23 THE COURT: Anything about your prior experience  
 24 that might affect you here for any reason?

11-91

1 gonna be asked the very same questions.  
 2 Beginning with 196, Frank Arieno. Would you please  
 3 go through those categories and give us a little information  
 4 about yourself?  
 5 PROSPECTIVE JUROR ARIENO: Sure. My name is  
 6 Frank Arieno., Occupation, fix and repair treadmills, fitness  
 7 equipment. I am married. I have a daughter. My wife works  
 8 for Nextel Partners. She's a customer service representative.  
 9 We've been in Clark County for six years, moved from  
 10 Rochester, New York, Education is high school graduate.  
 11 Training, just in fitness equipment. No military service.  
 12 THE COURT: Okay. Thank you.  
 13 To his right.  
 14 PROSPECTIVE JUROR ANDERSON: Okay, 198, Tai  
 15 Anderson. I'm in sales. I sell classroom products. I work for  
 16 Earnest Communications. I am married. I have no children.  
 17 My husband works for ADP, Automatic Data Processing, I  
 18 have lived in Clark County for three years. I moved here from  
 19 Kansas City, Kansas. My education, I have a graduate degree  
 20 or I almost have my graduate degree and I have my  
 21 undergraduate. And I have no military service.  
 22 THE COURT: What's your undergraduate degree in?  
 23 PROSPECTIVE JUROR ANDERSON: Elementary  
 24 education.

11-93



1 THE COURT: And what are you working on your  
 2 graduate degree in?  
 3 PROSPECTIVE JUROR ANDERSON: Becoming a  
 4 reading specialist.  
 5 THE COURT: Thank you.  
 6 To her right.  
 7 PROSPECTIVE JUROR LA CHANCE: Paul La Chance,  
 8 I'm a driver for Bill's Friends. Single, no children. I've been  
 9 here for four and a half years, and I came from Custer Valley,  
 10 California. Two years of college and no military,  
 11 THE COURT: Your two years college, was it in  
 12 general ed?  
 13 PROSPECTIVE JUROR LA CHANCE: No, like  
 14 classification,  
 15 THE COURT: Thank you,  
 16 To his right.  
 17 PROSPECTIVE JUROR WILLSON: Greg Willson. I'm  
 18 a superintendent for Bomel Construction Company, I'm  
 19 married, with three children. My wife's the president of Blood  
 20 Bank Network, part owner of the business. I've been in Clark  
 21 County for fourteen years, moved from California, A high  
 22 school education. Training, some EMT training. I was in the  
 23 Riverside County Volunteer Fire Department before I moved to  
 24 Vegas. And no military service,

11-94

1 THE COURT: Thank you,  
 2 To his right,  
 3 PROSPECTIVE JUROR WILCOX: Did you say 209,  
 4 Your Honor?  
 5 THE COURT: Yes.  
 6 PROSPECTIVE JUROR WILCOX: My name is Gary  
 7 Wilcox. I'm a slot technician at the Four Queens. Marital  
 8 status. I am married and I have three children. My wife is a  
 9 manager and she is employed by McDonald's Corporation, I  
 10 am coming up on four years in Clark County, My last place of  
 11 home of record would be California. I have numerous  
 12 education and training, and most of that is on the military side,  
 13 And I just completed thirty-two years I've been with the  
 14 [unintelligible] Service in the Marine Corps.  
 15 THE COURT: What did you do in the Marine Corps?  
 16 PROSPECTIVE JUROR WILCOX: I was a weapons  
 17 maintenance [unintelligible] man.  
 18 THE COURT: Is that why you said you most recently  
 19 moved from California when you came here?  
 20 PROSPECTIVE JUROR WILCOX: Yes, ma'am. My  
 21 last duty station was back home in California where I retired  
 22 from.  
 23 THE COURT: Okay. Where did you grow up?  
 24 PROSPECTIVE JUROR WILCOX: Walthill, Nebraska,

11-95

1 ma'am, and I came out to California in 1956 and I did my high  
 2 school and some college here, and then in 1965 was enlisted  
 3 into the Marine Corps,  
 4 THE COURT: Thank you.  
 5 To his right,  
 6 PROSPECTIVE JUROR SHARPE: Yes. My name is  
 7 Robert Sharpe, I'm married, have three daughters,. My wife  
 8 and I are both retired. We've lived here —  
 9 THE COURT: What did you retire from?  
 10 PROSPECTIVE JUROR SHARPE: Painting.  
 11 THE COURT: Okay.  
 12 PROSPECTIVE JUROR SHARPE: My wife and I are  
 13 from Las Vegas originally, And I have a —  
 14 THE COURT: Were you born here?  
 15 PROSPECTIVE JUROR SHARPE: Yes.  
 16 THE COURT: Okay.  
 17 PROSPECTIVE JUROR SHARPE: So was my wife,  
 18 both of us, in 1941. I have an eleventh-grade high school and  
 19 no service.  
 20 THE COURT: Thank you,  
 21 To his right.  
 22 PROSPECTIVE JUROR FROSCHEUSER: Randall  
 23 Froschheuser, I'm a managing partner for Chill's Restaurants,  
 24 which is owned by Brinker International, I'm married, no

11-96

1 children, My wife is a project manager for Ethan Allen Home  
 2 Interiors. I've been in Clark County ten years. Prior residence  
 3 was in Charleston, South Carolina. I'm a high school graduate,  
 4 no military service.  
 5 THE COURT: Where did you grow up?  
 6 PROSPECTIVE JUROR FROSCHEUSER: Milwaukee,  
 7 Wisconsin.  
 8 THE COURT: Thank you.  
 9 To his right.  
 10 PROSPECTIVE JUROR DELGADO: 213, Courtney  
 11 Delgado. I'm a receptionist at Northern Pacific Mortgage. My  
 12 husband is in customer service at [unintelligible] A-Bet. I've  
 13 been here for five years. I moved from North Augustus, South  
 14 Carolina. A high school graduate, and no military.  
 15 THE COURT: Thank you.  
 16 In front of her.  
 17 PROSPECTIVE JUROR GIARDINA: My name is Karen  
 18 Giardina, I am a middle school teacher for Clark County  
 19 School District, I am married, with one child. My husband  
 20 owns his own business, [unintelligible] Pool Service. I have  
 21 been in Clark County for six years. I moved here from Zephyr  
 22 Cove, Nevada, which is Lake Tahoe. I have both a bachelor's  
 23 degree and a master's degree in education. And I have never  
 24 served in the military,

11-97

1 THE COURT: I didn't know people ever left Zephyr  
 2 Cove, I thought it was a one-way road there.  
 3 PROSPECTIVE JUROR GIARDINA: Get out of the  
 4 snow,  
 5 THE COURT: Oh, okay. In the winter they leave,  
 6 right? Now you said you're a middle school teacher. What  
 7 areas do you teach?  
 8 PROSPECTIVE JUROR GIARDINA: Sixth grade  
 9 English,  
 10 THE COURT: Thank you.  
 11 To her left,  
 12 PROSPECTIVE JUROR TOTARO: Joann Totaro, I'm  
 13 retired. I'm married,  
 14 THE COURT: What are you retired from?  
 15 PROSPECTIVE JUROR TOTARO: A food broker.  
 16 THE COURT: Okay.  
 17 PROSPECTIVE JUROR TOTARO: Married, with five  
 18 children. My husband's also retired, retired from gaming. I've  
 19 been in Clark County for seventeen years, moved from  
 20 Pennsylvania. A high school graduate, and no military service,  
 21 THE COURT: Thank you,  
 22 To her left.  
 23 PROSPECTIVE JUROR CICIJANO: Thomas Ciciliano.  
 24 I work for the Clark County Fire Department. I'm a captain as

11-98

1 a -- as a firefighter. I am married, have two children. My wife  
 2 is a homemaker. I have been in Clark County for forty-nine  
 3 years. I was born in Ely, Nevada but I've live here my whole  
 4 life. Two years of college earlier, and then another year and a  
 5 half at community college in fire science. No military training.  
 6 I do have EMTI training, fire training, tech rescue training and  
 7 fire service,  
 8 THE COURT: In what year did you go on the Clark  
 9 County Fire Department?  
 10 PROSPECTIVE JUROR CICILIANO: '82,  
 11 THE COURT: Thank you.  
 12 To his left,  
 13 PROSPECTIVE JUROR BAILES: Okay. My name is  
 14 Pamela Banes, I'm a medical biller for Option Care, I am  
 15 married, have one grown son. My husband is a  
 16 hypnotherapist He's self-employed, We've been in Clark  
 17 County about twenty years. We moved here from San Diego.  
 18 I have an A.S. degree in horticulture. And, yes, I did four  
 19 years in the U.S. Navy,  
 20 THE COURT: What did you do in the Navy?  
 21 PROSPECTIVE JUROR BAILES: What did I do?  
 22 Records. I did records,  
 23 THE COURT: Okay. Thank you.  
 24 To her left.

11-99

1 PROSPECTIVE JUROR RACEL: I'm Suzanne Race!.  
 2 I'm an office manager for Dr. Maureen Mackey. She's a  
 3 physical medicine and rehab doctor. I'm married, have three  
 4 children. My husband is a computer manager. He works for  
 5 Bectel SCIC. We've lived in -- I've lived in Clark County for  
 6 thirty-four years, moved from Hoffman Estates, Illinois, I have  
 7 high school and three years of college, basically in general —  
 8 or in general education stuff and then the medical training,  
 9 records and billing, And I've never served in the military.  
 10 THE COURT: Thank you,  
 11 To her left,  
 12 PROSPECTIVE JUROR CANTOR: My name is Karl  
 13 Cantor. I'm a customer service manager for Pageantry  
 14 Homes,, I'm married, with two children. My wife is  
 15 unemployed at the time. She's a CNA. We've here fifteen  
 16 years from California. I'm a high school graduate. I had a  
 17 contractor's license in California when I was there, and no  
 18 military service.  
 19 THE COURT: Thank you,  
 20 PROSPECTIVE JUROR MOIR: Michelle Moir, 235.  
 21 I'm a registered nurse. I work at Sunrise Hospital Medical  
 22 Center. I'm divorced, with two children. I've been here for  
 23 fifteen years and I moved from Fort Lauderdale, Florida. My  
 24 education is I have three years of college. And then when I

11-100

1 went for my nursing degree, I went part-time so it took me  
 2 five years. And no military service,, Training. I'm trained in  
 3 critical care and also continue CEUs for that.  
 4 THE COURT: Okay. Thank you.  
 5 To her left.  
 6 PROSPECTIVE JUROR GRAHAM: Yes. Robert  
 7 Graham, 236. A respiratory therapist at Saint Rose Hospital, I  
 8 am married. I have three kids, a three-year-old and two nine-  
 9 week-olds,  
 10 THE COURT: Two nine-week-olds?  
 11 PROSPECTIVE JUROR GRAHAM: Yes, ma'am,  
 12 THE COURT: Okay. Congratulations.  
 13 PROSPECTIVE JUROR GRAHAM: Thanks. My wife is  
 14 a domesticated engineer and —  
 15 MR. KEPHART: Good guess.  
 16 THE COURT: And a busy one,  
 17 PROSPECTIVE JUROR GRAHAM: She likes to be  
 18 called that. We have -- our time in Clark County has been  
 19 about two years, moved from Houston. Education is general,  
 20 two years of college and then two years of respiratory therapy.  
 21 And no military service.  
 22 THE COURT: Thank you.  
 23 Going out in the audience to 237.  
 24 PROSPECTIVE JUROR ISOM: Greg Isom, I'm a

11-101

1 carpenter, I do certain phases of installing hardware in tract  
 2 homes. I work for RPM Construction Company. I'm not  
 3 married. I've been in Clark County my whole life. I have  
 4 equivalency training, I have training in electronics and certain  
 5 phases of gaming in a casino, Never been in the military,  
 6 THE COURT: Thank you,  
 7 To his left.  
 8 PROSPECTIVE JUROR McKEEVER: 238, Carol  
 9 McKeever, I retired last year from the federal government, the  
 10 Bureau of Reclamation in Bolder City. My husband's also  
 11 retired from the National Park Service. I'm married and have  
 12 three children. We've lived in Clark County for twenty-eight  
 13 years. We moved here from Alamogordo, New Mexico. I have  
 14 one year of college and no military service,  
 15 THE COURT: Was your one year in college general  
 16 ed?  
 17 PROSPECTIVE JUROR McKEEVER: Yes,  
 18 THE COURT: Thank you.  
 19 To her left.  
 20 PROSPECTIVE JUROR TORGERSON: Janel  
 21 Torgerson. I'm a pharmacist for The Nevada Corporation, I'm  
 22 married, with one child. My husband is a special agent for the  
 23 Liquor and Gaming for Clark County. We've been here for  
 24 seven years. We moved from Minnesota, And I have a

11-102

1 doctorate of pharmacy, no military service.  
 2 THE COURT: Thank you.  
 3 To her left.  
 4 PROSPECTIVE JUROR CHRISTINE MILLER: Christine  
 5 Miller, Number 244. I'm a paralegal with the law firm of Atkin,  
 6 Winner & Sherrod. I am married, with no children. My  
 7 husband is a superintendent with Helix Electric, I have lived in  
 8 Clark County for seventeen years. I moved here from  
 9 Tonopah, Nevada, I am just about to get my bachelor degree  
 10 from UNLV in criminal justice. And I've had no military service.  
 11 THE COURT: Thank you.  
 12 To her left.  
 13 PROSPECTIVE JUROR ROBERT MILLER: Bob Miller.  
 14 Retired Metro, Married, with one child. Spouse's occupation,  
 15 she's retired, too, from the spring [sic]. Length of time in  
 16 Clark County is forty-two years, moved from Salt Lake City.  
 17 Education, about fourteen years, high school plus two.  
 18 Training in construction, refrigeration, plumbing, CSI-type stuff  
 19 from the police department. Military service, I got two  
 20 honorable discharges,  
 21 THE COURT: From which branches?  
 22 PROSPECTIVE JUROR ROBERT MILLER: Marines  
 23 and Air Force,  
 24 THE COURT: What did you do in the Marines?

11-103

1 PROSPECTIVE JUROR ROBERT MILLER: Combat. It  
 2 was six months active duty,  
 3 THE COURT: And in the Air Force?  
 4 PROSPECTIVE JUROR ROBERT MILLER:  
 5 Refrigeration.  
 6 THE COURT: Thank you, sir.  
 7 To his left.  
 8 PROSPECTIVE JUROR DOBYNE: Doug Dobyne, I'm  
 9 a controller for Jacob Transportation. Single, Been here for  
 10 about twelve years, moved from Southern California, I have a  
 11 degree in business management, a bachelor's degree in  
 12 business management, and no military service.  
 13 THE COURT: Thank you.  
 14 To his left,  
 15 PROSPECTIVE JUROR ESTRADA: 254, Emigdio  
 16 Estrada. I'm a automotive technician for Findlay Automotive.  
 17 Single, no children. I have been here for eleven years in Clark  
 18 County, moved from Southern California, I have two months  
 19 of community college, CCSI, one year of UTI, and no military  
 20 service,  
 21 THE COURT: What did you study at WI? Auto?  
 22 PROSPECTIVE JUROR ESTRADA: Automotive.  
 23 THE COURT: Okay. And how long have you worked  
 24 for the Findlay Auto Group?

11-104

1 PROSPECTIVE JUROR ESTRADA: One year.  
 2 THE COURT: Thank you.  
 3 COURT RECORDER: I didn't hear that. I'm sorry.  
 4 THE COURT: One year.  
 5 259.,  
 6 PROSPECTIVE JUROR SNOWDEN: Michael  
 7 Snowden. I'm a synthetic curtain [sic] installer. I'm married,  
 8 one child. My wife is a recreation programmer for the City of  
 9 North Las Vegas. Been in Clark County six years, moved from  
 10 Banner Elk, North Carolina. Bachelor's degree, double major  
 11 ornamental horticulture and golf course management. No  
 12 military service.  
 13 THE COURT: Thank you.  
 14 To his left.  
 15 PROSPECTIVE JUROR TAYLOR: 261, Lloyd Taylor. I  
 16 am a slot technician at Lake Las Vegas. I am married. I have  
 17 no children. My spouse works for the Clark County School  
 18 District, I have been living here since 1993. I moved here  
 19 from Portsmouth, Virginia. I have -- education was high  
 20 school graduate and training through the Department of  
 21 Criminal Justice in Virginia. And I have no military experience.  
 22 THE COURT: What did the training for the  
 23 Department of Criminal Justice consist of?  
 24 PROSPECTIVE JUROR TAYLOR: It was like the --

11-105

1 like a police academy.  
 2 THE COURT: Okay, Will you be able to set aside  
 3 what you learned about Virginia law and listen to the Court's  
 4 instructions on Nevada law?  
 5 PROSPECTIVE JUROR TAYLOR: Yes, ma'am,  
 6 THE COURT: Thank you,  
 7 To his left.  
 8 PROSPECTIVE JUROR REAL: Wendy Real, I work  
 9 for Terry [sic] Jones full-time. I'm married, with one five-  
 10 month-old. My husband works for -- he's a machinist at Cal's  
 11 Automotive. We have lived here two and a half years, from  
 12 San Fernando Valley, California, A high school education and  
 13 one semester of business class at Mission College in California,  
 14 And no military,  
 15 THE COURT: Thank you.  
 16 To her left.  
 17 PROSPECTIVE JUROR ROMNEY: 268, Lesa Romney,  
 18 I'm employed with Hanger Prosthetics and Orthotics, Married,  
 19 I have two childreiV My spouse is self-employed with  
 20 [unintelligible] Roofing. I've lived here approximately  
 21 eighteen, nineteen years, moved here from Salt Lake City,  
 22 Utah, I have about a year at community college, phlebotomy  
 23 training and soft goods for the mastectomy fittings and collars  
 24 and those kind of items. And my father served twenty-three

11-106

1 One year of college, accounting major, no military service.  
 2 THE COURT: I'm sorry. I didn't catch what you said  
 3 you do with the Clark County School District.  
 4 PROSPECTIVE JUROR EASTBURN: Service worker.  
 5 THE COURT: Service worker?  
 6 PROSPECTIVE JUROR EASTBURN: Yeah,  
 7 THE COURT: Okay, How long have you had that  
 8 employment?  
 9 PROSPECTIVE JUROR EASTBURN: Two and a half  
 0 years.  
 1 THE COURT: Okay, Thank you,  
 2 To her left.  
 3 PROSPECTIVE JUROR MIGUEL: I'm Elisa Miguel.  
 4 I'm employed at Mountain View Hospital as a registered nurse.  
 5 I'm married, with two children, and my husband is a retired  
 6 Navy accountant and in real estate, working for Liberty Realty.  
 7 And I've been here in Clark County for ten years, and I moved  
 8 from Honolulu, Hawaii. I have a degree in bachelor's of  
 9 science in nursing and I'm trained to take care of three health  
 10 care patients. And I have no military service,  
 11 THE COURT: Thank you.  
 12 322.  
 13 PROSPECTIVE JUROR VERGOT: Anthony Vergot, I  
 14 work for -- I'm a stage carpenter for Cirque de Soleil at MGM

11-108

1 years in the military which makes me feel like I served in it.  
 2 THE COURT: What branch was your father with  
 3 PROSPECTIVE JUROR ROMNEY: Air Force,  
 4 THE COURT: Okay. To her left.  
 5 PROSPECTIVE JUROR GLYNN: Lori Glynn, Number  
 6 274. I am a cocktail waitress at the Longhorn Casino. I'm  
 7 married, six children. My spouse is a service manager for  
 8 Rapid Mechanical. I've been in Clark County since 1987. I  
 9 moved here from California, I have a high school education  
 10 and no militati service,  
 11 THE COURT: Thank you,  
 12 To her left.  
 13 PROSPECTIVE JUROR SKILBRED: 275, Sara  
 14 Skilbred. I work at Bellagio as a business center  
 15 representative. Single, no children, I've lived in Clark County  
 16 for fifteen years, moved from Del Rio, Texas. I have a high  
 17 school education, no military service.  
 18 THE COURT: Thank you,  
 19 To her left,  
 20 PROSPECTIVE JUROR EASTBURN: 277, Eva  
 21 Eastburn. I'm a service worker at the Clark County School  
 22 District. Married, two children. My husband's a general  
 23 manager for Krispy Kreme Donuts. We've been in Clark  
 24 County for four years. We moved from SeIden, New York.

11-107

1 Grand. I am married, no children. My wife works for Susan B.  
 2 Coleman Breast Cancer, She works for the :3-day walks [sic].  
 3 I have lived here for three -- two and a half years, theatrical  
 4 touring for six years. And education, BFA in technical direction  
 5 and scene design, and no military service.  
 6 THE COURT: Where did you grow up?  
 7 PROSPECTIVE JUROR VERGOT: Michigan.  
 8 THE COURT: Who was your employer when you  
 9 were on tour for those six years?  
 10 PROSPECTIVE JUROR VERGOT: Sesame Street,  
 11 [unintelligible] Entertainment,,  
 12 THE COURT: Thank you,  
 13 And 327.  
 14 PROSPECTIVE JUROR EVERAKES: 327, Marshall  
 15 Everakes, A salesman for Macy's Department Store. I'm  
 16 married. My wife is self-employed as a real estate agent. W;2.  
 17 have three children. We've been in Clark County sixteen  
 18 years, moved from California. I have two years of education in  
 19 college, a math major. And I was in the military as an  
 20 administrative assistant,  
 21 THE COURT: Which branch of the military?  
 22 PROSPECTIVE JUROR EVERAKES: U.S. Army.  
 23 THE COURT: How long were you in the Army?  
 24 PROSPEL\_iVE JUROR EVERAKES: Two years,

11-109

1 THE COURT: Thank you,  
 2 That concludes the questions which the Court wish  
 3 to pose and the questioning will now turn over to counsel.  
 4 The State may begin.  
 5 MR. KEPHART: Thank you, Your Honor.  
 6 Ladies and gentlemen, I'm gonna ask you as a  
 7 whole, basically, and depending on your response, just like the  
 8 Court was doing it, raising your hand, then I will -- I will  
 9 question you further.  
 0 Is there anyone here that does not know what  
 1 methamphetamine is, has never heard the term  
 2 "methamphetamine?"  
 3 For the record --  
 4 THE COURT: The record shall reflect no response.  
 5 MR. KEPHART: Thank you.  
 6 Is there anyone here that's used methamphetamine?  
 7 THE COURT: The record shall reflect no response.  
 8 MR. KEPHART: Is there anyone here that has any  
 9 family members? We had some individuals indicate earlier that  
 10 some of their family members had been arrested before and  
 11 actually some of them have actually been charged and maybe  
 12 even convicted. Is there anyone that's here that has family  
 13 members that they know have used methamphetamine and  
 14 that they have attempted to try to help them get off of

II-110

1 going to Gamblers Anonymous. But the drug itself wouldn't let  
 2 him get that far, I divorced him before,  
 3 MR. KEPHART: Okay, Okay. Thank you, Ms. Moir.  
 4 Down here, Ma'am, what's your name?  
 5 PROSPECTIVE JUROR BARES: Pamela Bailes, 221.  
 6 MR. KEPHART: 231?  
 7 MS. DiGIACOMO: 221.  
 8 PROSPECTIVE JUROR BAILES: 221.  
 9 MR. KEPHART: Okay.  
 10 PROSPECTIVE JUROR BAILES: 221,,  
 11 MR. KEPHART: Okay. And you knew somebody or  
 12 you had helped somebody?  
 13 PROSPECTIVE JUROR BAILES: Well, my son. You  
 14 know, I help him as much as I can, But he's recovering. He's  
 15 doing quite well,  
 16 MR. KEPHART: Okay.  
 17 PROSPECTIVE JUROR BARES: He did it on his own,  
 18 MR. KEPHART: Okay. And you said that your son  
 19 had been arrested for --  
 20 PROSPECTIVE JUROR BAILES: He was arrested for  
 21 theft.  
 22 MR. KEPHART: Okay.  
 23 PROSPECTIVE JUROR BARES: Stealing copper wire  
 24 off a jobsite.

11-112

1 methamphetamine?  
 2 Okay. And the -- bear with me when I go through  
 3 this. But in, I guess, in the front row. Right here, ma'am.  
 4 PROSPECTIVE JUROR MOIR: 235, Michelle Moir. An  
 5 ex-husband.  
 6 MR. KEPHART: Okay, While we're talking about  
 7 that, you had indicated earlier that you were a victim of  
 8 domestic violence.  
 9 PROSPECTIVE JUROR MOIR: Correct,  
 10 MR. KEPHART: Would it have been from the same  
 11 ex-husband?  
 12 PROSPECTIVE JUROR MOIR: Yes,  
 13 MR. KEPHART: How long did you know him to use  
 14 methamphetamine?  
 15 PROSPECTIVE JUROR MOW: I only caught him  
 16 once.  
 17 MR. KEPHART: Okay. And my question was is that  
 18 you knew somebody and was trying to help him get off of  
 19 methamphetamine. Is that -- are you answering that you  
 20 were trying to help him get off methamphetamine?  
 21 PROSPECTIVE JUROR MOIR: Not necessarily off the  
 22 methamphetamine. He was also a gambler.  
 23 MR. KEPHART: Okay,  
 24 PROSPECTIVE JUROR MOIR: And so he had started

1 MR. KEPHART: Okay. Do you know if that was  
 2 associated at all with his use of methamphetamine?  
 3 PROSPECTIVE JUROR BAILES: No, I don't believe it  
 4 was. He was out of work at the time.  
 5 MR. KEPHART: Okay, How old was he when he  
 6 was using methamphetamine?  
 7 PROSPECTIVE JUROR BARES: I'd say -- he's thirty-  
 8 seven now. Probably about the last ten years off and on.  
 9 MR. KEPHART: Okay, Thank you, ma'am.  
 10 Anyone else back here?  
 11 PROSPECTIVE JUROR ISOM: My younger brother  
 12 was --  
 13 MR. KEPHART: Can you tell us your name and your  
 14 badge?  
 15 PROSPECTIVE JUROR ISOM: Oh. 237, Greg Isom,  
 16 MR. KEPHART: Okay.  
 17 PROSPECTIVE JUROR ISOM: My younger brother  
 18 was addicted for quite a while, and he was never arrested for  
 19 it. We got him off by reading the Bible to him. He didn't join  
 20 any groups. He's been free from it for about six years.  
 21 MR. KEPHART: Okay. How long was he on  
 22 methamphetamine as far as you know?  
 23 PROSPECTIVE JUROR ISOM: About two years, I  
 24 guess.

11-113

1 MR. KEPHART: Okay. Was that here in Las Vegas?  
 2 PROSPECTIVE JUROR ISOM: Yes, sir.  
 3 MR. KEPHART: Okay, Thank you, sir.  
 4 And anyone else?  
 5 Ma'am.  
 6 PROSPECTIVE JUROR ROMNEY: 268.  
 7 MR. KEPHART: Okay.  
 8 PROSPECTIVE JUROR ROMNEY: Lesa Romney. I  
 9 have a son who's twenty-five. He was on methamphetamine  
 10 probably a year -- like probably started out of high school, my  
 11 guess is, And I think he was finished in -- when he was  
 12 twenty-four, so he's been off probably for a year,  
 13 MR, KEPHART: So sometime around eighteen years  
 14 old, or whatever, he was using?  
 15 PROSPECTIVE JUROR ROMNEY: I would say, yeah.  
 16 Because, you know, they don't -- you don't know. They don't  
 17 let you know,  
 18 MR. KEPHART: Okay,  
 19 PROSPECTIVE JUROR ROMNEY: Until it's -- until,  
 20 yeah, if it's a --  
 21 MR. KEPHART: Was he living with you?  
 22 PROSPECTIVE JUROR ROMNEY: Yes.  
 23 MR. KEPHART: At the whole -- during the whole  
 24 time?

11-114

1 PROSPECTIVE JUROR ROMNEY: Yes.  
 2 MR. KEPHART: Did you -- and you found that in  
 3 your son?  
 4 PROSPECTIVE JUROR ROMNEY: Definitely. There  
 5 was always someone out there or someone trying to get in or  
 6 something.  
 7 MR. KEPHART: Anyone else?  
 8 Thanks, ma'am.  
 9 Anybody else in this group? Okay.  
 10 PROSPECTIVE JUROR TORGERSON: 239, Janel  
 11 Torgerson. I didn't really help him because he was in  
 12 Minnesota, my older brother. I would say probably four years,  
 13 same deal, car accident. Every time I'd come home for  
 14 vacation, he'd continuously, you know, every year he'd be a  
 15 little skinnier. And I tried to explain to my parents what was  
 16 happening, but they were in denial. He just finally got  
 17 arrested in December, stolen property, and they found meth  
 18 on him,  
 19 MR, KEPHART: Okay. Did you ever see him, do you  
 20 think, personally? Did you ever see him when he was under  
 21 the influence of methamphetamine?  
 22 PROSPECTIVE JUROR TORGERSON: No.  
 23 MR. KEPHART: Okay.  
 24 PROSPECTIVE JUROR TORGERSON: I have seen

11-116

1 PROSPECTIVE JUROR ROMNEY: No, not at the end.  
 2 MR, KEPHART: Okay.  
 3 PROSPECTIVE JUROR ROMNEY: He was living with  
 4 us and then he moved out. But then he was in a car wreck  
 5 and then everything had to -- everything switched.  
 6 MR, KEPHART: Okay. Tell me how you found out  
 7 that he was using methamphetamine.  
 8 PROSPECTIVE JUROR ROMNEY: Well, I speculated  
 9 it only because I'm a light sleeper. And when he lived at  
 10 home, I'd get 15p and he'd be so paranoid. He'd be like at the  
 11 door, just knowing someone was stealing his car or something.  
 12 You know, it's like, he's -- oh, I was sleepwalking, you know.  
 13 MR. KEPHART: Okay.  
 14 PROSPECTIVE JUROR ROMNEY: Just different  
 15 things, just things you would find in his room, his --  
 16 MR. KEPHART: Did you associate his paranoia with  
 17 the use of methamphetamine?  
 18 PROSPECTIVE JUROR ROMNEY: Well, we also have  
 19 a really good friend who helped us get him to where he would  
 20 go get help.  
 21 MR. KEPHART: Mm-hmm.  
 22 PROSPECTIVE JUROR ROMNEY: He told us the  
 23 things that to look for, so yes.  
 24 MR. KEPHART: Was paranoia one of them?

11-115

1 people under the -- you know, under the influence. They  
 2 come in my pharmacy.  
 3 MR, KEPHART: Okay, All right.  
 4 PROSPECTIVE JUROR TORGERSON: But him, no,  
 5 MR, KEPHART: Okay. Thank you.  
 6 Is there anyone in this group right here, or the  
 7 courtroom here, that feels that there is no problem with  
 8 methamphethmine in the State of Nevada, in Las Vegas?  
 9 Anyone?  
 10 THE COURT: The record shall reflect no response.  
 11 MR, KEPHART: Is there anyone here that feels that  
 12 a person that is under the influence of methamphetamine  
 13 should be held accountable for their --  
 14 MR. SCHIECK: Objection, Your Honor, that's calling  
 15 for a legal conclusion.  
 16 THE COURT: Sustained,  
 17 MR. KEPHART: Is there anyone here that, maybe  
 18 some of you carpenters or whatever, that carry a knife? Okay,  
 19 PROSPECTIVE JUROR ISOM: Yes,  
 20 MR. KEPHART: Okay. So for the record state your  
 21 name,  
 22 PROSPECTIVE JUROR ISOM: Greg Isom, 237,  
 23 MR, KEPHART: Okay, Anyone else?  
 24 PROSPECTIVE JUROR ISOM: I carry a knife.

11-117

1 MR, 'KEPHART: Okay.  
 2 PROSPECTIVE JUROR ISOM: But I have to use it to  
 3 cut wood, do some trimming.  
 4 MR. KEPHART: Okay. Anyone else?  
 5 PROSPECTIVE JUROR ARIENO: At work,  
 6 MR. KEPHART: Let me -- let me just start over here.  
 7 Okay. I'll get -- and, okay, and your —  
 8 PROSPECTIVE JUROR ARIENO: Generally, at work,  
 9 Frank Arieno, 196.  
 10 MR. KEPHART: Okay. You don't carry it on your  
 11 person other than at work?  
 12 PROSPECTIVE JUROR ARIENO: Just at work, yeah.  
 13 MR, KEPHART: Okay. Thanks.  
 14 And, okay, your name and number.  
 15 PROSPECTIVE JUROR SHARPE: Robert Sharpe,  
 16 Number 210.  
 17 MR, KEPHART: Okay.  
 18 PROSPECTIVE JUROR SHARPE: I carry a knife,  
 19 MR. KEPHART: All the time?  
 20 PROSPECTIVE JUROR SHARPE: Yeah,  
 21 MR. KEPHART: Pocketknife?  
 22 PROSPECTIVE JUROR SHARPE: Yeah, a pocketknife.  
 23 MR. KEPHART: Okay,  
 24 PROSPECTIVE JUROR SHARPE: It's a small one,

11-118

1 PROSPECTIVE JUROR TORGERSON: No.  
 2 MR. KEPHART: Okay.  
 3 PROSPECTIVE JUROR TORGERSON: Not usually,  
 4 PROSPECTIVE JUROR ROBERT MILLER: A  
 5 pocketknife,  
 6 MR. KEPHART: And for the record, your name and  
 7 your number?  
 8 PROSPECTIVE JUROR ROBERT MILLER: Miller, 247  
 9 MR. KEPHART: Okay. You carry a little pocketknife?  
 10 PROSPECTIVE JUROR ROBERT MILLER: Yeah,  
 11 MR. KEPHART: Okay. Anyone else in the front row  
 12 here? Okay.  
 13 PROSPECTIVE JUROR ESTRADA: 254, Emigdio  
 14 Estrada. Just at work,  
 15 MR. KEPHART: Okay. Thanks.  
 16 PROSPECTIVE JUROR SNOWDEN: 259, Michael  
 17 Snowden. All the time,  
 18 MR. KEPHART: All the time?  
 19 PROSPECTIVE JUROR SNOWDEN: Yes.  
 20 MR, KEPHART: What do you carry?  
 21 PROSPECTIVE JUROR SNOWDEN: Just a  
 22 pocketknife.. I'm a landscaper and I always need it.  
 23 MR. KEPHART: Okay. All right. Anyone else?  
 24 PROSPECTIVE JUROR SKILBRED: 275, Sara

11-120

1 MR. KEPHART: Okay, Anyone else in the back row?  
 2 No.  
 3 The front row, coming this way? You,  
 4 PROSPECTIVE JUROR CICILIANO: 220, Thomas  
 5 Ciciliano. I do carry a knife at work,  
 6 MR. KEPHART: And not --  
 7 PROSPECTIVE JUROR CICILIANO: I don't carry it,  
 8 MR. KEPHART: Not off work?  
 9 PROSPECTIVE JUROR CICILIANO: No,  
 10 MR. KEPHART: Okay. Anyone else?  
 11 I think you had your hand up.  
 12 PROSPECTIVE JUROR CANTOR: I've got it. It's at  
 13 work, though.  
 14 MR. KEPHART: Okay.  
 15 PROSPECTIVE JUROR CANTOR: Yeah,  
 16 MR, KEPHART: For work?  
 17 PROSPECTIVE JUROR CANTOR: Just for work.  
 18 MR, KEPHART: Okay,  
 19 COURT RECORDER: What's your badge number  
 20 PROSPECTIVE JUROR CANTOR: Oh, I'm sorry,, 231.  
 21 MR. KEPHART: In the front row there,  
 22 PROSPECTIVE JUROR TORGERSON: 239, Janel  
 23 Torgerson. I have one in my truck.  
 24 MR. KEPHART: Okay. You carry it on your person?

11-119

1 Skilbred. It's actually a box cutter for work,  
 2 MR. KEPHART: And anyone else here?  
 3 In the back row.  
 4 THE COURT: 279?  
 5 PROSPECTIVE JUROR SKILBRED: 275,  
 6 THE COURT: 275. Thank you.  
 7 PROSPECTIVE JUROR VERGOT: 322, Anthony  
 8 Vergot For work.  
 9 MR, KEPHART: Okay. Has anyone here ever heard  
 10 of people carrying knives for protection?  
 11 Just without, okay, without -- I don't need to go into  
 12 everybody. But I would say for the record, Judge, probably  
 13 everybody, close to everybody, has raised their hand.  
 14 Is that fair to say? Everybody raise their hand that  
 15 did.  
 16 THE COURT: The record —  
 17 MR. KEPHART: That's heard of somebody carrying a  
 18 knife for protection.  
 19 THE COURT: The record shall reflect the vast  
 20 majority raised their hand,  
 21 MR. KEPHART: Okay. Thanks, Judge.  
 22 You heard when — when Ms. DiGiacomo got up and  
 23 talked to both groups in the beginning, she basically gave you  
 24 somewhat of a -- of an idea of what the case was about, And

11-121

1 when she told you that it was a murder, then when she told  
 2 you that it was a murder involving an individual that cut an  
 3 individual's penis off, a lot of you kind of looked over this way  
 4 at the defendant over here. I saw that. You see she's a  
 5 young female. She was eighteen years old when this crime  
 6 occurred.

7 Is there anyone here right now that formed an  
 8 opinion simply based on the fact that what Ms. DiGiacomo told  
 9 you, and you looked over and you saw this young female  
 10 sitting right here, did anyone form an opinion about, one way  
 11 or the other, about this case? Anybody in this group?

12 This gentleman here is laughing.

13 PROSPECTIVE JUROR ESTRADA: I'm not laughing.  
 14 MR. KEPHART: He's got a smile on his face. Mr.  
 15 Estrada, is it not?

16 PROSPECTIVE JUROR ESTRADA: 254, Emigdio  
 17 Estrada.

18 MR. KEPHART: Okay. And did I -- did I characterize  
 19 you correctly, that you were smiling about that or --

20 PROSPECTIVE JUROR ESTRADA: Not about that,  
 21 MR. KEPHART: Have any opinion about that?  
 22 PROSPECTIVE JUROR ESTRADA: No.  
 23 MR. KEPHART: Okay. Anyone else, anyone else in -  
 24 - Mr. Miller.

11-122

1 guess, guilt by association type thing.

2 MR. KEPHART: Guilty because she's sitting here?

3 PROSPECTIVE JUROR SNOWDEN: Yeah, you know,  
 4 MR. KEPHART: Okay. Now you know the Court  
 5 asked about that, about the fact that you know there is a  
 6 presumption of innocence that the State, Ms. DiGiacomo and I,  
 7 have to overcome in order to be successful, so to speak, in this  
 8 case. And the Court said that they would -- she would be  
 9 instructing you on the law and asked everyone if they had a  
 10 problem with the fact that there's a presumption of innocence.  
 11 She's presumed innocent until I prove otherwise. Do you have  
 12 a problem with that?

13 PROSPECTIVE JUROR SNOWDEN: No, It was just,  
 14 like I say, she got a quick opinion, you know, I'm not that  
 15 familiar with --

16 MR. KEPHART: Okay. Just your reaction?

17 PROSPECTIVE JUROR SNOWDEN: Yeah.

18 MR. KEPHART: Okay. Was there anybody here  
 19 when they first heard that it involved a murder case, did  
 20 anyone immediately say I don't want anything to do with this?

21 PROSPECTIVE JUROR ARIENO: Me.  
 22 MR. KEPHART: Okay. We've got in the back row --  
 23 PROSPECTIVE JUROR ARIENO: 196.  
 24 MR. KEPHART: Mr. Arieno.

11-124

1 PROSPECTIVE JUROR ROBERT MILLER: Well, an  
 2 opinion.

3 MR. KEPHART: Yeah, Did you form an opinion?  
 4 Did you reach a --

5 PROSPECTIVE JUROR ROBERT MILLER: Yeah. I  
 6 thought it must have hurt.

7 MR. KEPHART: Okay, That's fine.  
 8 MS. DIGIACOMO: Right here, Bill.  
 9 MR. KEPHART; Okay. Mr. Cantor.

10 PROSPECTIVE JUROR CANTOR: 231. I suspected  
 11 it, that she was involved with it. That was my opinion.  
 12 MR. KEPHART: Okay.  
 13 PROSPECTIVE JUROR CANTOR: That's what I  
 14 thought.

15 MR. KEPHART: Okay. Anybody else? You heard  
 16 Mr. Cantor's response. You heard Mr. Miller's response. Okay.

17 PROSPECTIVE JUROR SNOWDEN: I agree, I agree  
 18 with that. I mean, automatic --

19 MR. KEPHART: Just so we know your name and  
 20 your number.  
 21 PROSPECTIVE JUROR SNOWDEN: I'm sorry, 259,  
 22 Michael Snowden.  
 23 MR. KEPHART: Okay,  
 24 PROSPECTIVE JUROR SNOWDEN: I kind of, I

11-123

1 PROSPECTIVE JUROR ARIENO: Mem Yes.  
 2 MR. KEPHART: Arieno. Okay. And the only reason  
 3 I said that was because murder cases last two to three weeks  
 4 and I just can't afford to be off.

5 MR. KEPHART: Okay. Okay. Well, the reason I  
 6 asked that is because I want to -- I want to follow up with this.  
 7 Both the defense and the State here deserve your attention  
 8 during this case. And if you don't believe that you can give us  
 9 your attention during this case because there's something else  
 10 going on in your life right now that will keep your attention  
 11 from here, you need to let us know. Because if we look up  
 12 and we see you sleeping or we -- or we see you daydreaming  
 13 or see you looking at something else because something else  
 14 is going on in your life, then you're not -- you're not being fair  
 15 to either the State or the defendant here.

16 PROSPECTIVE JUROR ARIENO: Yes.  
 17 MR. KEPHART: Do you think that that's gonna be a  
 18 problem for you?  
 19 PROSPECTIVE JUROR ARIENO: No, I can be fair.  
 20 MR. KEPHART: Okay, You think you'll give us your  
 21 attention?  
 22 PROSPECTIVE JUROR ARIENO: Yes.  
 23 MR. KEPHART: Is there anybody here that doesn't  
 24 think that they could give us their attention?

11-125



1 Okay. In the front row. I'll get to you. In the front  
 2 row.  
 3 PROSPECTIVE JUROR CANTOR: 231. I've already  
 4 been -- I said my employment is already saying if I take this  
 5 off they're gonna replace me. So, of course, my attention --  
 6 I'm the sole provider for my house.  
 7 MR. KEPHART: Okay.  
 8 PROSPECTIVE JUROR CANTOR: I don't know what  
 9 else to say. I bring in the money. I can't -- I can't help the  
 10 way I feel,,  
 11 MR. KEPHART: No, that's fair. That's fair. I mean,  
 12 there's no wrong answers here, Okay,,  
 13 Now back here. Let's just start down there and  
 14 work my way that way.  
 15 PROSPECTIVE JUROR SNOWDEN: 259, Michael  
 16 Snowden,  
 17 MR. KEPHART: Okay.  
 18 PROSPECTIVE JUROR SNOWDEN: I just started a  
 19 new business, I've got a six-week-old baby, a very sick  
 20 grandmother. The list goes on. And it's just it's not that I  
 21 couldn't give you my attention. I couldn't give you my  
 22 undivided attention,  
 23 MR. KEPHART: Okay. Okay, Thank you, Mr.  
 24 Snowden\_

11-126

Eastburn,  
 2 MR. KEPHART: Uh-huh.  
 3 PROSPECTIVE JUROR EASTBURN: I'm the only one  
 4 that can take care of my kids after school. My husband works  
 5 different hours every day, so there's no one else there.  
 6 MR. KEPHART: Okay. Now I'll follow up with this.  
 7 Every one of you, and the Judge has already talked to you,  
 8 every one of you have a very unique situation living in the  
 9 United States, more unique than any other country, and part  
 10 of it is because of this system right here. And sometimes we  
 11 have to say it's unfortunate that we're in a situation where we  
 12 need people to come down here and do this because you're  
 13 not -- if you were given the opportunity to do it and volunteer  
 14 for it, it'd be a very limited number. So we have to find  
 15 people. Can everyone kind of accept that? Okay.  
 16 And for you that do have issues, and that, we've  
 17 noted that and so well keep that in mind and we will work  
 18 with that. Okay. All right.  
 19 Now, is there anyone here that watches the show  
 20 CSI? Besides the ones shaking their heads no, I mean, I'll just  
 21 start down the back row there.  
 22 THE COURT: The record shall reflect about two-  
 23 thirds raised their hands.  
 24 MR. KEPHART: Let me -- let me stretch it even

11-128

Ma'am,  
 2 PROSPECTIVE JUROR REAL: I would still have to  
 3 work on the weekends,  
 4 MR. KEPHART: What's your number and --  
 5 PROSPECTIVE JUROR REAL: 265,  
 6 MR. KEPHART: Okay.  
 7 PROSPEL\_IIVE JUROR REAL: Wendy Real. I would  
 8 still have to work on Saturdays and Sundays ten hours a day.  
 9 I had already worked Thursday through Monday, Tuesday and  
 10 Wednesday off, so I would still have to work on Saturday and  
 11 Sunday.  
 12 MR. KEPHART: Okay. All right. Thanks.  
 13 Ma'am.  
 14 PROSPECTIVE JUROR GLYNN: Lori Glynn, Number  
 15 274.  
 16 MR. KEPHART: Okay.  
 17 PROSPECTIVE JUROR GLYNN: If I had to appear on  
 18 the jury, it would just cause such a financial hardship to my  
 19 family and my children.  
 20 MR. KEPHART: Okay.  
 21 PROSPECTIVE JUROR GLYNN: It'd be devastating.  
 22 MR. KEPHART: Okay. Thanks.  
 23 Ma'am,  
 24 PROSPECTIVE JUROR EASTBURN: 277, Eva

11-127

1 further since the Judge has already recognized that almost the  
 2 whole panel has said yes. Is there anyone here that believes  
 3 that CSI -- I mean, who does not recognize CSI as something  
 4 for entertainment?  
 5 Okay. There's no answer, Judge, so I could say that  
 6 no one would say that it's not just entertainment,  
 7 THE COURT: The record shall so reflect,  
 8 MR. KEPHART: Is there anyone here that has  
 9 watched CSI and has -- and will accept what you see on CSI  
 10 as the truth, that that is -- that's how the real world is? Is  
 11 there anyone that recognizes and believes that?  
 12 MR. SCHIECK: I'm gonna object, Your Honor.  
 13 There are portions of CSI that are quite accurate.  
 14 MR. KEPHART: Oh, I --  
 15 MR. SCHIECK: I could say that the whole show --  
 16 THE COURT: Would --  
 17 MR. KEPHART: I think we could fight about that  
 18 one, Judge,  
 19 THE COURT: Would --  
 20 MR. SCHIECK: -- is entertainment and not accurate.  
 21 THE COURT: Would counsel approach?  
 22 (Off-record bench conference at 16:42:47 until 16:44:21)  
 23 THE COURT: The Court's gonna sustain the  
 24 objection and Mr. Kephart is gonna proceed forward.

11-129

1 MR. KEPHART: I guess what I'm getting at, ladies  
 2 and gentlemen, is there anybody here that will not accept the  
 3 proposition that CST is put out there for purposes of your  
 4 entertainment?  
 5 THE COURT: The record shall reflect no response,  
 6 MR. KEPHART: For the people, there's a lot -- quite  
 7 a few people here that live, have -- one gentleman has lived  
 8 up to sixty-four years, sixty-five years. Is anyone familiar with  
 9 the State of Nevada and has anyone ever heard of the town  
 10 Panaca before?  
 11 THE COURT: The record shall reflect about half of  
 12 the hands were raised.  
 13 MR., KEPHART: Has anyone in this group ever been  
 14 to the town of Panaca? Okay.  
 15 PROSPECTIVE JUROR CICILIANO: 220,  
 16 MR., KEPHART: 220, Why is that you had been to  
 17 Panaca?  
 18 PROSPECTIVE JUROR CICILIANO: I do a lot of  
 19 hunting and I've hunted in the State of Nevada near Panaca.  
 20 MR. KEPHART: Okay,  
 21 PROSPECTIVE JUROR CICILIANO: I've driven  
 22 through there,  
 23 MR. KEPHART: Okay.  
 24 PROSPECTIVE JUROR CICILIANO: Along with the

11-130

1 PROSPECTIVE JUROR SHARPE: No  
 2 MR. KEPHART: Thank you.  
 3 Anyone else in this group here?  
 4 Anybody else out here?  
 5 Sir.  
 6 PROSPECTIVE JUROR ISOM: Yeah, I used to drive  
 7 through there when I was a kid, used to go north to go deer  
 8 hunting,  
 9 MR. KEPHART: Okay.  
 10 PROSPECTIVE JUROR ISOM: I never stopped there.  
 11 MR., KEPHART: Okay.  
 12 COURT RECORDER: Badge number?  
 13 MR. KEPHART: Badge number?  
 14 PROSPECTIVE JUROR ISOM: Oh, 237,  
 15 MR. KEPHART: Mr. Miller,,  
 16 PROSPECTIVE JUROR ROBERT MILLER: 247. Deer  
 17 hunting several times up there, east --  
 18 MR. KEPHART: Mm-hmm.  
 19 PROSPECTIVE JUROR ROBERT MILLER: -- of the  
 20 town, but don't know anybody,  
 21 MR. KEPHART: Okay. All right, Thank you.  
 22 May I have the Court's indulgence, Your Honor?  
 23 THE COURT: Yes,  
 24 (Off-record colloquy)

11-132

1 other areas.  
 2 MR. KEPHART: You've traveled from here to  
 3 Panaca?  
 4 PROSPECTIVE JUROR CICILIANO: Yes,  
 5 MR. KEPHART: Drove through. Okay. Do you have  
 6 family or anybody that lives in Panaca?  
 7 PROSPECTIVE JUROR CICILIANO: No.  
 8 MR. KEPHART: Okay, Any relations that live in  
 9 either Pioche or Caliente?  
 10 PROSPECTIVE JUROR CICILIANO: No,  
 11 MR. KEPHART: Okay. Anyone else?  
 12 Ma'am.  
 13 PROSPECTIVE JUROR RACEL: 229, Suzanne Racel.  
 14 Just the same thing, camping and there's fishing and stuff up  
 15 there in Caliente and Pioche, and we've been up through  
 16 there.  
 17 MR. KEPHART: Okay, Have you been -- do you  
 18 have family or anybody that lives up there?  
 19 PROSPECTIVE JUROR RACEL: No,  
 20 MR. KEPHART: Okay, Okay. In the back row?  
 21 PROSPECTIVE JUROR SHARPE: 210, Robert Sharpe,  
 22 I've been through those areas.  
 23 MR. KEPHART: Okay, You don't have any family or  
 24 anybody that lives up there, friends or anybody?

11-131

1 MR. KEPHART: Judge, may we approach the bench  
 2 real quick?  
 3 THE COURT: Yes, you may.  
 4 (Off-record bench conference at 16:47:08 until 16:49:55)  
 5 MR. KEPHART: Now many of you when we were  
 6 discussing yesterday and today with these individuals over  
 7 here, many of you had indicated that you'd been charged with  
 8 a crime or arrested for certain crimes. I want to know, is there  
 9 anyone here that felt that they were treated unfairly in their  
 10 arrest or charge or anything with reference to the crime that  
 11 they were involved with? Anybody?  
 12 Okay. In the back row.  
 13 PROSPECTIVE JUROR WILLSON: 205, Greg Willson.  
 14 MR. KEPHART: Uh-huh,, Okay. You indicated that  
 15 you had been arrested for sale of controlled substance,  
 16 marijuana, in 1970.  
 17 PROSPECTIVE JUROR WILLSON: Correct, Right  
 18 around there,  
 19 MR. KEPHART: And then that case got dismissed?  
 20 PROSPECTIVE JUROR WILLSON: Yes, it did.  
 21 MR. KEPHART: Tell me,  
 22 PROSPECTIVE JUROR WILLSON: Well, they -- I was  
 23 in high school and they had planted some undercover narcotics  
 24 agents in the school. And they weren't having too much

11-133

1 success, and there was one individual that I knew that was  
 2 selling marijuana. He, you know, tried befriended me or  
 3 coming up to me and making friends with me and then he  
 4 said, hey, Rick told me to have you take me up to his house,  
 5 it's -- I need to go get a little dime bag of pot. And I says,  
 6 well, I don't have a ride home. If you give me a ride home.  
 7 He says surer And I drove up to the house with him. He got  
 8 out, went in the house. I didn't go in the house or anything.  
 9 He came back, did — you know, he did his business, he  
 10 dropped me off. And then about a month later I got picked up  
 11 at night, you know, at my parents' house. And by the time we  
 12 got to court, it was a whole different story, that I was bragging  
 13 to him that! had all these connections and I could get him this  
 14 weed from this guy.

15 MR. KEPHART: Mm-hmm,,

16 PROSPECTIVE JUROR WILLSON: Which was totally  
 17 untrue,, So my parents had got a counsel. We went to court,  
 18 and I didn't even actually have to go appear. It ended up  
 19 being dismissed 6ftir about two or three days.

20 MR. KEPHART: Okay.

21 PROSPECTIVE JUROR WILLSON: And I got kicked  
 22 out of the school district. I got reinstated, But, yeah, it left  
 23 kind of a bad taste in my mouth,

24 MR. KEPHART: Okay, With regards to what

1M34

1 the -- it was Monday afternoon before I got out.

2 MR. KEPHART: Okay.

3 PROSPECTIVE JUROR FROSCHEUSER: Of course,  
 4 computers then weren't what they are now but —

5 MR, KEPHART: So that, I guess, left a bad taste for  
 6 you.

7 PROSPECTIVE JUROR FROSCHEUSER: Well, not —  
 8 well, I mean, looking back on it, no, I understand how it would  
 9 happen. What happened afterwards was that I was brought  
 10 into the Racine County Sheriff's Office and I was made to sign  
 11 a release releasing them of responsibility for locking me up.

12 MR. KEPHART: Okay.

13 PROSPECTIVE JUROR FROSCHEUSER: When I  
 14 said I wouldn't sign it, the -- I was bounced around a little bit  
 15 by a deputy and told I was gonna go to jail if I didn't sign it,  
 16 So —

17 MR, KEPHART: So that left a bad taste in your  
 18 mouth?

19 PROSPECTIVE JUROR FROSCHEUSER: Oh, sure,  
 20 Absolutely,,

21 MR. KEPHART: Okay.

22 PROSPECTIVE JUROR FROSCHEUSER: You know,  
 23 but I'm old enough and a little stronger. I was —

24 MR. KEPHART: Is there any --

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1 occurred there, do you feel like that had — you have any  
 2 animosities towards the police department here or the District  
 3 Attorney's Office here in Las Vegas?

4 PROSPECTIVE JUROR WILLSON: I just don't, you  
 5 know, have the trust that I would have if it wouldn't have  
 6 happened here,

7 MR. KEPHART: Okay. And how old were you when  
 8 it happened?

9 PROSPECTIVE JUROR WILLSON: Approximately  
 10 fifteen,

11 MR. KEPHART: Okay. Thank you, Mr. Willson.  
 12 Three more down,

13 PROSPECTIVE JUROR FROSCHEUSER: Randall  
 14 Froschheuser, 212. I was arrested when I was eighteen. I  
 15 was on my way in to work and I was pulled over and told that  
 16 there was a warrant out for my arrest for not paying a  
 17 speeding ticket,

18 MR. KEPHART: Okay. Yeah,

19 PROSPECTIVE JUROR FROSCHEUSER: And it was  
 20 a speeding ticket from like eight months earlier. And I said,  
 21 well, actually that has been paid. And he said, well, do you  
 22 have a receipt. And I said, oh, no, not eight months later I  
 23 don't But I ended -- it was a Friday afternoon, and I ended  
 24 up going to jail that afternoon, not going in to work and spent

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1 PROSPECTIVE JUROR FROSCHEUSER: I was  
 2 eighteen years old.

3 MR, KEPHART: Anything about that that you think  
 4 would cause you concerns with —

5 PROSPECTIVE JUROR FROSCHEUSER: No, No, It  
 6 was just, you know one sheriff in one small town, along that  
 7 [unintelligible]. But it wasn't fair,,

8 MR, KEPHART: Yeah, Okay. Anybody else in this  
 9 group?

10 Anyone else out here? Okay.

11 THE COURT: The record shall reflect no further  
 12 response.

13 MR, KEPHART: Okay. Now a lot of you talked about  
 14 being the victim of a crime, that either your car was broke  
 15 into, your home was broke into, to the point of even having  
 16 friends and family that had been involved in even kidnappings  
 17 and that, the victims of kidnapping. I think one gentleman  
 18 talked about a murder. And is there anyone here that feels  
 19 like with respect to their cases or what they know of their case  
 20 that the police did what they could, did a decent job, did what  
 21 they did with their cases? Is there anybody here that feels,  
 22 no, they didn't do enough, they didn't -- they didn't do this,  
 23 they didn't do -- they didn't find my car, they didn't find the  
 24 person that committed the crime or anything like that? Is

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1 there anybody here?  
 2 Okay. Let me start out in the back here and then I'll  
 3 go over there.  
 4 PROSPECTIVE JUROR ARIENO: 196. They never  
 5 found the car,  
 6 MR. KEPHART: Okay. Yeah, you said you were a  
 7 victim of an auto theft in New York,  
 8 PROSPECLIVE JUROR ARIENO: In New York, yeah.  
 9 MR. KEPHART: Okay. Do you feel like they could  
 10 have done something more or —  
 11 PROSPECTIVE JUROR ARIENO: No, I mean, there's  
 12 just so many --  
 13 MR. KEPHART: Okay.  
 14 PROSPECTIVE JUROR ARIENO: — people that --  
 15 MR. KEPHART: Okay.  
 16 PROSPELIVE JUROR ARIENO: -- they couldn't find  
 17 it,  
 18 MR. KEPHART: Do you have any particular opinions  
 19 about police officers or —  
 20 PROSPECTIVE JUROR ARIENO: No.  
 21 MR. KEPHART: -- police agencies because of that?  
 22 PROSPEC IVE JUROR ARIENO: No, I don't,  
 23 MR, KEPHART: Okay. Anyone else in -- okay,  
 24 PROSPECTIVE JUROR WILLSON: 205, Greg Willson.

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1 MR, KEPHART: Uh-huh.  
 2 PROSPECTIVE JUROR WILLSON: When I was about  
 3 seventeen I had a street rod stolen. We lived by a military  
 4 base. And we were out street racing about a month later,  
 5 found out this guy was bragging about this car that he had,  
 6 described it as mine. So we got his phone number, told him  
 7 we wanted to buy some parts off him, called up the Tustin  
 8 Police Department, And this guy was living in Anaheim so he  
 9 said, well, there's nothing I can really do about it right now,  
 10 but you got to go to Anaheim. So they went back and forth,  
 11 finally got my car back about six weeks later, but it indicated  
 12 to me that he says, his exact words is, "Hey, I got good news  
 13 and bad news," He says, "I got your car back but it's  
 14 stripped." And I said, all right. You know, I says, well, what  
 15 are you gonna do, are you gonna press charges on this guy?  
 16 And he says, "You know, he's in the military, he's getting ready  
 17 to get deployed," He says, "I really don't advise it."  
 18 MR. KEPHART: Okay.  
 19 PROSPECTIVE JUROR WILLSON: And I was like,  
 20 you know, okay, I'm out, You know, I had a fairly nice car.  
 21 And he took the motor out of it, all the rims and tires. And I  
 22 just couldn't understand why he did this or, you know, why  
 23 they wouldn't pursue it.  
 24 MR. KEPHART: Mm-hmm.

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1 PROSPECTIVE JUROR WILLSON: Especially when I  
 2 went out and found the guy. So —  
 3 MR. KEPHART: Did you do anything beyond that or  
 4 is that as far as it went?  
 5 PROSPECTIVE JUROR WILLSON: That was as far as  
 6 it went. I got the car back from impound,  
 7 MR, KEPHART: Stripped?  
 8 PROSPECLIVE JUROR WILLSON: Stripped, yeah,  
 9 MR. KEPHART: Okay. Is there anything about that  
 10 that, I mean, you've --  
 11 PROSPECTIVE JUROR WILLSON: Well, I didn't  
 12 understand their -- I didn't understand the way they  
 13 proceeded with it after we found the car.  
 14 MR. KEPHART: Mm-hmm.  
 15 PROSPECTIVE JUROR WILLSON: And, you know,  
 16 they didn't bother to press charges on this individual —  
 17 MR. KEPHART: Okay,  
 18 PROSPECTIVE JUROR WILLSON: -- on account that  
 19 he was getting ready to get deployed, And I'm not sure you  
 20 would know how they go through with it. It didn't make sense  
 21 to me, though.  
 22 MR. KEPHART: Okay. Thank you, Mr, Willson.  
 23 PROSPECTIVE JUROR WILLSON: Yeah.  
 24 MR. KEPHART: Anyone else in this group here?

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1 Someone out here. What's your name and number?  
 2 PROSPELIVE JUROR DOBYNE: Doug Dobyne, 252.  
 3 MR. KEPHART: Okay,  
 4 PROSPECTIVE JUROR DOBYNE: When I had my car  
 5 stolen a few years ago, it was actually on a consignment lot  
 6 here in town. They took several cars. They stole them one  
 7 evening. My entire involvement with Metro was they were  
 8 asking the owner, who was on the phone with me, did I have  
 9 insurance. That's all the contact I had with Metro for a car  
 10 stolen. I thought that was not appropriate behavior,  
 11 MR. KEPHART: When?  
 12 PROSPECTIVE JUROR DOBYNE: Now the car was  
 13 found about three weeks later.  
 14 MR. KEPHART: When did that -- this occur?  
 15 PROSPECTIVE JUROR DOBYNE: It was back in, I  
 16 believe, oh, geez, it has to be close to ten years ago..  
 17 MR, KEPHART; Oh, okay,  
 18 PROSPECTIVE JUROR DOBYNE: It was quite a while  
 19 ago. Yeah. They had a good result at the end. I'm fine with  
 20 it.  
 21 MR. KEPHART: But you weren't too happy with the  
 22 way the police were handling things?  
 23 PROSPECTIVE JUROR DOBYNE: I would think, you  
 24 know, I had, you know, a nice car stolen. And to not even,

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1 you know, been asked by a police officer anything --  
 2 MR. KEPHART: Mm-hmm.  
 3 PROSPECTIVE JUROR DOBYNE: — with regards to it  
 1 other than did I have insurance.  
 5 MR. KEPHART: Okay. Anything about that that you  
 6 think that you would have some concerns with sitting here as a  
 7 juror?  
 8 PROSPECTIVE JUROR DOBYNE: No. Not at all.  
 9 MR. KEPHART: Would it affect your deliberation or  
 10 anything?  
 11 PROSPECTIVE JUROR DOBYNE: Not at all.  
 12 MR. KEPHART: Anyone else?  
 13 THE COURT: The record shall reflect no further  
 14 response.  
 15 MR. KEPHART: I got a few more. Do you want me  
 16 to stop?  
 17 THE COURT: We're just about at 5:00 o'clock so  
 18 we'll let you resume tomorrow,  
 19 MR. KEPHART: Okay, Judge. Thanks.  
 20 THE COURT: Ladies and gentlemen, we'll be taking  
 21 our evening recess and resuming tomorrow at 10:30. At  
 22 10:30, please be in the hallway. The bailiff will meet you there  
 23 to return you to your seats in the courtroom  
 24 During this evening recess you're admonished not to

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1 talk or converse among yourself nor with anyone else on any  
 2 subject connected with this trial, and you're not to read, watch  
 3 or listen to any report of or any commentary on the trial or any  
 4 person connected with the trial, by any medium of information,  
 5 including, without limitation, newspaper, television, radio and  
 6 Internet, you're not to form or express any opinion on any  
 7 subject connected with the trial until the case is finally  
 8 submitted to you.  
 9 This pertains to all of the potential jurors. We will  
 10 see everybody tomorrow at 10:30, and you may exit at this  
 11 time,  
 12 (Prospective jurors recessed at 16:59:20)  
 13 MS. DiGIACOMO: Your Honor, I do have my stuff  
 14 here.  
 15 THE COURT: Okay. At the last sidebar, we had a  
 16 discussion about jury voir dire on the issue of punishment.  
 17 There's been an issue that's come up that we had discussed in  
 18 chambers and, I think, while we were off the record  
 19 previously, in that at the prior trial the parties stipulated to  
 20 waive the imposition of sentence or determination on  
 21 punishment by the jury, and the Court did the sentencing. At  
 22 this trial, this retrial, the defense wanted some parameters put  
 23 on to such a waiver. The State didn't want to agree to any  
 24 waiver. So there has not been one. And at this juncture it

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1 appears then that the jury will be making the determination on  
 2 penalty should this case go to a penalty phase.  
 3 The State had made inquiry of the Court with regard  
 4 to voir dire questions on the penalty phase. I did not ask any  
 5 questions on that as I believed the State was going to cover  
 6 that. Mr. Schieck then at that point said that before we went  
 7 there, he had some case law that he wished to provide to the  
 8 Court that he believes would limit the maximum exposure to -  
 9 his client as to what the extent of the punishment On the first  
 10 trial was, in the event of a conviction upon retrial. The State  
 11 had some points and authorities to the contrary for the Court  
 12 to consider as well.  
 13 MS. DIGIACOMO: That's true. This was actually  
 11 written to me by a law clerk in our office, and I have all the  
 15 case law supporting it,  
 16 THE COURT: Okay.  
 17 MS. DIGIACOMO: If the Court would like to read  
 18 this.  
 19 THE COURT: Okay.  
 20 MS. DiGIACOMO: I don't have an extra copy of it,  
 21 though.  
 22 THE COURT: Okay. Mr. Schieck, you had some  
 23 copies of cases that you wanted to provide to me?  
 24 MR. SCHIECK: I have a case. I have a case for the

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1 Court, Your Honor. It's flobbrook vs. Statg. It's a 1974  
 2 Nevada Supreme Court case, 90 Nevada 95. And that case  
 3 cites to U.S. Supreme Court case Ivorth Carolina vs. Pierce.  
 4 And I'll provide this to the Court, a copy to the Court. I've  
 5 provided —  
 6 THE COURT: Thank you.  
 7 MR. SCHIECK: -- a copy to the State,  
 8 THE COURT: Okay. And then Ms. DiGiacomo may  
 9 provide her copy. And I'll review these this evening and we  
 10 will visit this issue at 10:00 o'clock tomorrow morning outside  
 11 the presence of the jury.  
 12 MR. SCHIECK: We're going to be arguing it. I'd like  
 13 a copy of their authorities, Your Honor.  
 14 MS. DiGIACOMO: The Court has the only copy, So -  
 15  
 16 THE COURT: It looks like it's a research  
 17 memorandum with backup case law,,  
 18 MS., DIGIACOMO: That's correct,  
 19 THE COURT: It's —  
 20 MS, DiGIACOMO: It's all the case law cited in there,  
 21 behind it.  
 22 THE COURT: It's a couple of inches thick, so it's not  
 23 something that can be photocopied readily. The memorandum  
 24 itself —

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1 MS. DiGIACOMO: That could probably be copied for  
 2 them. I think that's only —  
 3 THE COURT: Is nine pages long. So all the cases  
 4 cited, you would be able —  
 5 MR. SCHIECK: The memo would be fine.  
 6 THE COURT: -- to pull up on the LEXIS, Okay. So  
 7 we'll have Ms. DiGiacomo make a copy of the research  
 8 memorandum then,  
 9 MR. KEPHART: Okay,,  
 0 MS. DiGIACOMO: Is there a machine here I could  
 1 do it with because we —  
 12 THE COURT: Yeah, it's right outside here in the  
 13 hallway.  
 14 MS. DiGIACOMO: Thank you, Your Honor.  
 15 THE COURT: I've got a staple puller, too.  
 16 MS. DiGIACOMO: Oh, that's fine.  
 17 THE COURT: We'll go off the record while the copy  
 18 is being made.  
 19 (Off fecord at 17:04:25 until 15:05:42)  
 20 THE COURT: Ms, DiGiacomo has made a copy for  
 21 Mr. Schieck and provided that to him.  
 22 On a separate issue, I was unclear. Are the parties  
 23 going to stipulate to the admission of all of the photographs  
 24 that were admitted in the prior trial or are we going to lay

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**AFFIRMATION**   
 Pursuant to NRS 239B4030

The undersigned does hereby affirm that the preceding Transcript filed in District Court, Case No. C177394 does not contain the social security number of any person,

Lin Dunbar  
 Transcriber

4/29/07  
 Date

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1 foundation for all of those during the trial?  
 2 MR, SCHIECK: Well, I still think we're probably  
 3 gonna have to lay the foundation so the jury understands what  
 4 they're looking at anyway, But I don't anticipate any, right off  
 5 the top of my head, any conditional objections,  
 6 THE COURT: All right, Thank you,  
 7 MR, SCHIECK: I mean, there were some made at  
 8 the first trial that were overruled that we would probably want  
 9 to preserve for any possible appellate purposes. I don't see  
 10 anything out of the ordinary, I mean, in that regard,  
 11 THE COURT: Okay. Well, make your objection  
 12 where appropriate and we'll cross that bridge when we get  
 13 there, I guess,  
 14 Is there anything else that we need to make a  
 15 record at this point?  
 16 MR. SCHIECK: No, Your Honor,  
 17 MS. DiGIACOMO: No, Your Honor.  
 18 THE COURT: Okay, Well see everybody at 10:00  
 19 o'clock tomorrow.  
 20 Well go off the record 'til that time.  
 21 (COURT ADJOURNED AT 17:07:01, UNTIL THE FOLLOWING  
 22 DAY, SEPTEMBER 13, 2006)  
 23 \*\*\*\*\*  
 24

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