

1 PROSPECTIVE JUROR FARIA: Does it?
2 THE COURT: Once you get to this point, the jurors are
3 going to decide the case.
4 PROSPECTIVE JUROR FARIA: Good. Good.
5 THE COURT: Yeah.
6 PROSPECTIVE JUROR FARIA: Okay.
7 THE COURT: You're not going to be here for three weeks
8 and then the case is decided.
9 PROSPECTIVE JUROR FARIA: That's good.
10 THE COURT: Yeah.
11 PROSPECTIVE JUROR FARIA: That is good.
12 THE COURT: I can assure you of that.
13 PROSPECTIVE JUROR FARIA: That's very good for the
14 defendant, I'm sure. Let's see. You always talk about 22 and
15 23.
16 THE COURT: Well, let me -- what about No. 8?
17 PROSPECTIVE JUROR FARIA: Oh, I missed 8?
18 THE COURT: Yeah, can you be a fair and impartial judge
19 of the facts?
20 PROSPECTIVE JUROR FARIA: Oh, yes. Yes. Sure. I --
21 THE COURT: Okay.
22 PROSPECTIVE JUROR FARIA: I didn't even see that, but I
23 will be like the rest of these folks.
24 THE COURT: Okay. And pages 3 and 4, any yes answers?
25 PROSPECTIVE JUROR FARIA: No.
26 THE COURT: All right. And I'll go through the same
27 questions here with you, Mr. Faria.
28 A defendant in a criminal case has a Constitutional

1 right to rely on the state of the evidence and, after consulting
2 with his or her attorney, may choose not to testify. Do you
3 have any problems or concerns with this rule?

4 PROSPECTIVE JUROR FARIA: No, sir.

5 THE COURT: And if you came to a conclusion that was
6 different than the conclusion of your fellow jurors, would you
7 change your mind only because you were in the minority?

8 PROSPECTIVE JUROR FARIA: That would never happen.

9 THE COURT: And if peace officers testified will you
10 apply the same standards in evaluating their testimony as you
11 would in evaluating the testimony of any other witness?

12 PROSPECTIVE JUROR FARIA: You know, I'm going to say
13 yes, but I think I can do that. But I must say to you and to
14 the other folks here, after having lived for 18 years with a
15 police officer father, who in my later -- 18, 17 was a desk
16 sergeant for the Haven Police Department in Massachusetts, and
17 both he and my Uncle Joe, his brother, were police officers.

18 And then after I went into the Air Force and left the
19 Air Force after four years, I was a police dispatcher-slash-
20 jailer as I attended college, and I did that in Weatherford PD,
21 Weatherford, Oklahoma. I can't sit here and say I don't lean
22 toward police authorities, because I was so close to them.

23 But I want to believe, I truly want to believe that I
24 can sit here and look at the evidence and testimony and do the
25 right thing.

26 THE COURT: All right. And I don't think that your
27 feelings differ much from the vast majority of individuals in
28 this courtroom when you came in this room, because look, I tend

1 to favor peace officers. I have a peace officer in my
2 courtroom, and he's a good man. So I'm just stating the
3 obvious.

4 But as a fair and impartial judge of the facts, when
5 you sit as a trier of facts in the case, you have to put on a
6 different hat. And as long as you understand and recognize your
7 bias towards police officers, but that you can set it aside and
8 say, you know what, Judge, I'll apply the same standard to
9 everybody, and that I'm going to use my critical thinking
10 capabilities and make a determination as to whether or not
11 they're telling the truth based on the convincing force of their
12 testimony. And I'll even keep an open mind until I talk to my
13 fellow jurors and hear what they have to say.

14 That's all I'm asking you to do, because no one comes
15 into this room in a vacuum. We all come through that door with
16 our life experiences. I just want to make sure that those life
17 experiences don't bleed into your ability to be a fair and
18 impartial judge of the facts, not only for Mr. Mickey, but also
19 for law enforcement for both sides. That's -- and if you can do
20 that, that's great.

21 PROSPECTIVE JUROR FARIA: I can do that.

22 THE COURT: Okay. And will viewing graphic photographs
23 of injuries and an autopsy of a child cause you difficulty in
24 rendering a fair decision?

25 PROSPECTIVE JUROR FARIA: No.

26 THE COURT: And as Mr. Mickey sits here now, do you
27 believe that he is not guilty, sir?

28 PROSPECTIVE JUROR FARIA: I believe he's not guilty.

1 THE COURT: Thank you, Mr. Faria.

2 Is it Ms. Osworth?

3 PROSPECTIVE JUROR OSWORTH: Yes.

4 THE COURT: Good morning, ma'am.

5 PROSPECTIVE JUROR OSWORTH: Good morning.

6 THE COURT: Good morning.

7 PROSPECTIVE JUROR OSWORTH: My name is Monica Osworth.

8 I live in Hemet. I work for U.S. Bank as like a bank auditor.

9 It is my second marriage. I've been a married about seven
10 years. I have no children.

11 I've been on two juries before. One, you were the
12 judge, and I believe Mr. Walsh was the attorney.

13 THE COURT: That's unusual.

14 PROSPECTIVE JUROR OSWORTH: And another one was in
15 Riverside.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR OSWORTH: Both were criminal cases.

18 THE COURT: And you reached verdicts?

19 PROSPECTIVE JUROR OSWORTH: Yes, we did. And I would
20 be fair and impartial.

21 I have to say I have a real difficulty doing a case
22 with a child. I really do. I would not be able to look at
23 pictures of child or an autopsy.

24 THE COURT: Okay. So if you actually saw a picture of
25 a child during an autopsy, and I can tell you that those
26 photographs can be graphic, it is -- it's one thing to see
27 something in a movie that's made up. It's another thing to see
28 a child on a table being opened up.

1 PROSPECTIVE JUROR OSWORTH: Right. I --

2 THE COURT: So that's why this question is there. You
3 have -- it will be difficult for everyone here to see it. But
4 you can't allow it to affect your ability to be fair and
5 impartial to both sides.

6 PROSPECTIVE JUROR OSWORTH: Yes, I --

7 THE COURT: That's just a part of the case.

8 PROSPECTIVE JUROR OSWORTH: I cannot watch anything on
9 TV with that in regard, and I do -- I don't read the newspaper,
10 anything with children involved. I just never have been able
11 to.

12 THE COURT: Okay. And you've sat as a trier of fact in
13 my courtroom, and I take it it's just the nature of this case
14 that you just --

15 PROSPECTIVE JUROR OSWORTH: Right.

16 THE COURT: -- it would be too difficult.

17 PROSPECTIVE JUROR OSWORTH: With a child involved, yes.

18 THE COURT: All right. Thank you, Ms. Osworth.

19 Is it Ms. Corzine?

20 PROSPECTIVE JUROR CORZINE: Yes, it is.

21 THE COURT: Good morning.

22 PROSPECTIVE JUROR CORZINE: Good morning. My name is
23 Celeste Corzine. I live in Murrieta. I am semiretired. I have
24 a small business. And I've been a substitute teacher here in
25 Murrieta. I am not single. I have a permanent partner.

26 I have -- I have three children but all above the age
27 of 25. They are -- my eldest son is self-employed, lives in
28 Coronado. My youngest son works for and runs my partner's

1 business here in Murrieta. And my daughter will now be heading
2 back to work. She's been a mom and raising four children. But
3 she's extremely talented and will be heading back to the work
4 force and in the national marketing.

5 I have had no previous experience. I can be fair and
6 impartial on both -- for both sides. As far as page 4, 23. I
7 have lived abroad for the last -- for 30 years. And I have been
8 a witness to many horrific crimes and bombings. I -- my -- I've
9 been -- robbed on numerous occasions. And I moved back here to
10 the States and immediately was robbed in Carlsbad. I cannot
11 believe it, but it occurred. I -- my son had his car stolen
12 recently. And that's about the extent of crimes. I mean, I've
13 had many crimes, witnessed many crimes.

14 THE COURT: Do you think any one of those instances
15 that would bleed into your ability to be fair and impartial
16 here, or can you set all of those aside and give both sides a
17 fair trial if they deserve it?

18 PROSPECTIVE JUROR CORZINE: Involving a child for me is
19 extremely difficult. I've been a teacher and I've had my own
20 business in Latin America, and I think my main problem here, one
21 of my main problems has to do with -- with a child being
22 involved, and --

23 THE COURT: And you've, you know, we've been doing this
24 now for a day and a half.

25 PROSPECTIVE JUROR CORZINE: Yes.

26 THE COURT: You've heard what I said, this is not a
27 referendum on child abuse.

28 PROSPECTIVE JUROR CORZINE: No, and I realize --

1 THE COURT: You know what the question is here.

2 PROSPECTIVE JUROR CORZINE: Yeah, and I realize --

3 THE COURT: I heard Ms. Osworth say, you know what, the
4 minute that you allow pictures on the overhead of a child on a
5 table being cut up, and that could be what it is, or opened up
6 to show different points of the body, I can't, I can't take it.
7 Is that what you're saying? Or are you saying that just because
8 it's a child that, just, my emotion would overwhelm my critical
9 thinking.

10 PROSPECTIVE JUROR CORZINE: I think it has to do with
11 the fact that all of us would find this extremely difficult.
12 I'm certainly no different than the rest. I would be -- I guess
13 I have another problem, too, that I need to advise you of that I
14 didn't realize the extent of the timing here. My problem is
15 that prior, in November, I made a business reservation for Latin
16 America, and that's the 15th of January. And I truly cannot let
17 any of these people down that will be awaiting me. I'm going to
18 Columbia and Peru. And I've paid for and I have this ticket,
19 and I didn't realize the extent of this trial. I think that it
20 would -- the duration.

21 THE COURT: All right. But you understand that --
22 well, remember, we went through that, and I -- I thought I said
23 how long the trial was going to last, and you had --

24 PROSPECTIVE JUROR CORZINE: I thought it would be
25 six weeks. I figured by the 15th of January it would be over.
26 But now you're talking about the 28th, and that for me would be
27 extremely difficult and impossible to change.

28 THE COURT: Okay. All right. Anything else? So if

1 you were seated as a juror, do you think that would make it
2 difficult for you knowing that you had to miss this trip?

3 PROSPECTIVE JUROR CORZINE: Absolutely.

4 THE COURT: Okay. Anything else?

5 PROSPECTIVE JUROR CORZINE: No.

6 THE COURT: Okay. Let me go over these other questions
7 with you.

8 A defendant in a criminal case has a Constitutional
9 right to rely on the state of the evidence and, after consulting
10 with his or her attorney, may choose not to testify. Do you
11 have any problems or concerns with this rule?

12 PROSPECTIVE JUROR CORZINE: No.

13 THE COURT: If you came to a conclusion that was
14 different than the conclusion of your fellow jurors, would you
15 change your mind only because you were in the minority?

16 PROSPECTIVE JUROR CORZINE: No.

17 THE COURT: And if peace officers testify will you
18 apply the same standards in evaluating their testimony as you
19 would in evaluating the testimony of any other witness?

20 PROSPECTIVE JUROR CORZINE: Yes.

21 THE COURT: And -- well, we've already talked about
22 that one. And as Mr. Mickey sits here now, do you believe he's
23 not guilty?

24 PROSPECTIVE JUROR CORZINE: I believe he's not guilty.

25 THE COURT: All right. Anything else, ma'am?

26 PROSPECTIVE JUROR CORZINE: No.

27 THE COURT: Thank you.

28 PROSPECTIVE JUROR CORZINE: Thank you.

1 THE COURT: [TJ10], good morning.

2 PROSPECTIVE JUROR [TJ10]: Good morning, your Honor.
3 My name is [TJ10]. I reside in Hemet.

4 I am married, and this is my second marriage of
5 29 years. I am retired from the glass container manufacturing
6 industry, retired as vice-president of engineering.

7 I have -- we have five children amongst us. They're
8 all over the years of -- age of 25. One of them works for a
9 solar installation company. One of them is the manager of the
10 maintenance side of a large taxi cab company in Orlando,
11 Florida. I have one that is self-employed in the home rebuild,
12 remodeling business. Our daughter is a -- supervises the
13 cleaning department of Marshal University. And the other one is
14 currently unemployed. He is a CNC operator for a manufacturing
15 company in Indiana and that just recently laid off due to the
16 economy.

17 I have been on two juries. The one was, I believe was
18 back in 1975 in Merced County. And the other one was in Fresno,
19 I going to tell you eight or nine years ago. It was federal.
20 And the first case, we did have a verdict. It was a hung jury
21 on the federal case. And I have no problem being fair and
22 impartial to both sides.

23 THE COURT: Pages 3 and 4?

24 PROSPECTIVE JUROR [TJ10]: One of our sons, and I
25 believe it was 10, 12 years ago, in Ohio was charged with
26 possession of marijuana. There was a fine and he did a
27 probation time and et cetera. I believe four, five years ago,
28 one of our sons had a little road rage situation, and he ended

1 up having a charge of assault against him, which if I remember
2 right, I believe it was a -- that it was a felony charge.

3 THE COURT: Did he do time?

4 PROSPECTIVE JUROR [TJ10]: No, he did not do time, but
5 he did anger management and a lot of other things. I was not
6 involved that much in it. But other than that, I've had a
7 couple of break-ins at our home and that's about it.

8 THE COURT: Anything about any of those experiences
9 that would make it difficult for you to be a fair and impartial
10 judge of the facts in our case here?

11 PROSPECTIVE JUROR [TJ10]: No, your Honor.

12 THE COURT: Again, I'm going to go through these
13 questions with you as well, [TJ10].

14 A defendant in a criminal case has a Constitutional
15 right to rely on the state of the evidence and, after consulting
16 with his or her attorney, may choose not to testify. Do you
17 have any problems or concerns with this rule?

18 PROSPECTIVE JUROR [TJ10]: No, sir.

19 THE COURT: And if you came to a conclusion that was
20 different than the conclusion of your fellow jurors, would you
21 change your mind only because you were in the minority?

22 PROSPECTIVE JUROR [TJ10]: No, sir.

23 THE COURT: If peace officers testify, will you apply
24 the same standards in evaluating their testimony as you would in
25 evaluating the testimony of any other witness?

26 PROSPECTIVE JUROR [TJ10]: Yes, sir.

27 THE COURT: And will viewing graphic photographs of
28 injuries and an autopsy of a child cause you difficulty in

1 rendering a fair decision?

2 PROSPECTIVE JUROR [TJ10]: No, sir.

3 THE COURT: And as Mr. Mickey sits here now, do you
4 believe he is not guilty, sir?

5 PROSPECTIVE JUROR [TJ10]: Yes, I do.

6 THE COURT: Thank you, [TJ10].

7 Is it Mr. Zalkins?

8 PROSPECTIVE JUROR ZALKINS: Zalkins, pretty close.

9 THE COURT: Zalkins. Good morning, sir.

10 PROSPECTIVE JUROR ZALKINS: Good morning.

11 James Edward Zalkins. I live in Hemet. I am a
12 mechanical technician. I am not married.

13 I have three children, one under the age of 25, 22, and
14 then a son that's just at 25, and a daughter that's 31. My
15 youngest works for a large corporation in Nevada. My oldest is
16 a housewife. And my son is looking for his spot in the sun, I
17 guess.

18 THE COURT: You know, I'm looking for that spot.

19 PROSPECTIVE JUROR ZALKINS: Me, too.

20 THE COURT: Yeah.

21 PROSPECTIVE JUROR ZALKINS: I have not had any previous
22 jury experience. And I believe I can be fair and impartial to
23 both sides.

24 THE COURT: Pages 3 and 4, Mr. Zalkins.

25 PROSPECTIVE JUROR ZALKINS: No. 22, in -- let's see --
26 I think about 35, 36 years ago, I got a DUI and never had a
27 drink since. And No. 23, I, two years ago, had a vehicle I
28 bought and had for less than 24 hours and somebody broke into it

1 in my driveway and stole the stereo out of it. And that's about
2 it.

3 THE COURT: Anything about those experiences make it
4 difficult for you to be a fair and impartial judge of the facts
5 in our case here?

6 PROSPECTIVE JUROR ZALKINS: No, your Honor.

7 THE COURT: Okay. A defendant in a criminal case has a
8 Constitutional right to rely on the state of the evidence and,
9 after consulting with his or her attorney, may choose not to
10 testify. Do you have any problems or concerns with this rule?

11 PROSPECTIVE JUROR ZALKINS: No, your Honor.

12 THE COURT: And if you came to a conclusion that was
13 different than the conclusion of your fellow jurors, would you
14 change your mind just because you were in the minority?

15 PROSPECTIVE JUROR ZALKINS: No, your Honor.

16 THE COURT: If peace officers testify will you apply
17 the same standards in evaluating their testimony as you would in
18 evaluating the testimony of any other witness?

19 PROSPECTIVE JUROR ZALKINS: Yes, your Honor.

20 THE COURT: And will viewing graphic photographs of
21 injuries and an autopsy of a child cause you difficulty in
22 rendering a fair decision?

23 PROSPECTIVE JUROR ZALKINS: No, your Honor.

24 THE COURT: And as Mr. Mickey sits here now, do you
25 believe he's not guilty, sir?

26 PROSPECTIVE JUROR ZALKINS: Yes, your Honor.

27 THE COURT: Thank you, Mr. Zalkins.

28 And is it Mr. Boulware, correct?

1 PROSPECTIVE JUROR BOULWARE: Yes, good morning.

2 THE COURT: Good morning.

3 PROSPECTIVE JUROR BOULWARE: My name is Sean Boulware.
4 I live in Temecula. I am a systems analyst at Abbott Vascular.

5 I am married. My wife is a planner for Hewlett
6 Packard.

7 I have two sons. One is five years old and the other
8 one will be two in March. No previous jury experience. And
9 yes, I can be fair and impartial.

10 THE COURT: Pages 3 and 4?

11 PROSPECTIVE JUROR BOULWARE: Nothing.

12 THE COURT: And I'm going to go through these questions
13 with you as well.

14 A defendant in a criminal case has a Constitutional
15 right to rely on the state of the evidence and, after consulting
16 with his or her attorney, may choose not to testify. Do you
17 have any problems or concerns with this rule?

18 PROSPECTIVE JUROR BOULWARE: No.

19 THE COURT: And if you came to a conclusion that was
20 different than the conclusion of the other jurors, would you
21 change your mind only because you were in the minority?

22 PROSPECTIVE JUROR BOULWARE: No.

23 THE COURT: And if peace officers testify, will you
24 apply the same standards in evaluating their testimony as you
25 would in evaluating the testimony of any other witness?

26 PROSPECTIVE JUROR BOULWARE: Yes.

27 THE COURT: And will viewing graphic photos of injuries
28 and an autopsy of a child cause you difficulty in rendering a

1 fair decision?

2 PROSPECTIVE JUROR BOULWARE: No.

3 THE COURT: As Mr. Mickey sits here now, do you believe
4 he is not guilty?

5 PROSPECTIVE JUROR BOULWARE: Yes, sir.

6 THE COURT: Okay. Thank you.

7 Counsel, can you approach sidebar?

8 (A DISCUSSION WAS HELD AT SIDEBAR, OFF THE RECORD.)

9 THE COURT: Ms. Osworth, thank you. Ms. Corzine, thank
10 you, ma'am.

11 Mr. Brown, do you stipulate they both can be dismissed
12 for cause?

13 MR. BROWN: Yes, your Honor.

14 THE COURT: Mr. Walsh?

15 MR. WALSH: Yes, your Honor.

16 THE COURT: Madam Clerk, call two new names.

17 You're going to see a little police action there. I
18 get to see it quite a bit.

19 COURT DEPUTY: Please, please, ma'am, don't make me
20 run.

21 (LAUGHTER.)

22 THE CLERK: Kenneth Paxton, P-a-x-t-o-n.

23 Joseph Garnevicus, G-a-r-n-e-v-i-c-u-s.

24 THE COURT: Okay. Gentlemen, I'm going to ask this
25 question to you. You've heard the names of the potential
26 witnesses. Did either one of you recognize those names?

27 PROSPECTIVE JUROR PAXTON: No.

28 PROSPECTIVE JUROR GARNEVICUS: No, sir.

1 THE COURT: Okay. I'll give you a chance to look at
2 those, and first one done raise your hand.

3 Okay. Mr. Paxton.

4 PROSPECTIVE JUROR PAXTON: Good morning. My name is
5 Kenneth Paxton. I live in the city of Menifee.

6 And I am retired, as well as -- I live there with my
7 wife, and we're both retired.

8 We have three children, a son that's 47, unemployed at
9 the moment living in Arizona, sales and sales. So it's the
10 economy thing. And a daughter that is a nurse here for one of
11 the local elementary schools. And my youngest son is a sergeant
12 for the California Highway Patrol in South Lake Tahoe.

13 I have had no previous experience this level in a jury.
14 And I feel I can be fair to both sides.

15 THE COURT: And pages 3 and 4, Mr. Paxton.

16 PROSPECTIVE JUROR PAXTON: I have been -- I've had two
17 DUIs back in '70 -- or no, '87. And they both were within a
18 year of each other, so I learned my lesson hard, well and fast.

19 THE COURT: I'll bet you did.

20 PROSPECTIVE JUROR PAXTON: Talk about the luck of the
21 draw. And on 23, a no answer to that.

22 THE COURT: Okay. Anything about your DUI experiences
23 that would make it difficult for you to be a fair and impartial
24 judge of the facts here?

25 PROSPECTIVE JUROR PAXTON: No, it was me and nobody but
26 me to blame for it.

27 THE COURT: All right. And any other yes answers?

28 PROSPECTIVE JUROR PAXTON: No.

1 THE COURT: Okay. I will go through these questions
2 with you. A defendant in a criminal case has a Constitutional
3 right to rely on the state of the evidence and, after consulting
4 with his or her attorney, may choose not to testify. Do you
5 have any problems or concerns with this rule?

6 PROSPECTIVE JUROR PAXTON: No, I don't.

7 THE COURT: If you came to a conclusion that was
8 different than the conclusion of your fellow jurors, would you
9 change your mind only because you were in the minority?

10 PROSPECTIVE JUROR PAXTON: No.

11 THE COURT: If peace officers testified, will you apply
12 the same standards in evaluating their testimony as you would in
13 evaluating the testimony of any other witness?

14 PROSPECTIVE JUROR PAXTON: Yes.

15 THE COURT: And will viewing graphic photos of injuries
16 and an autopsy of a child cause you difficulty in rendering a
17 fair decision?

18 PROSPECTIVE JUROR PAXTON: No.

19 THE COURT: And as Mr. Mickey sits here now, do you
20 believe he's not guilty, sir?

21 PROSPECTIVE JUROR PAXTON: I believe he's not guilty.

22 THE COURT: Thank you, sir. And is it Mr. Garnevicus?

23 PROSPECTIVE JUROR GARNEVICUS: Garnevicus.

24 THE COURT: How do you say it?

25 PROSPECTIVE JUROR GARNEVICUS: Garnevicus.

26 THE COURT: Good morning.

27 PROSPECTIVE JUROR GARNEVICUS: Thank you, sir.

28 My name is Joseph Garnevicus. I am from Hemet. I

1 manage a pizza restaurant, Chicago Pizza. I am single. I have
2 no kids.

3 I have never had jury experience. And I am not sure I
4 can be fair or impartial to this case because of -- I went
5 through four years of a -- my girlfriend was beaten and harassed
6 by her father for four years, and I recently had her move out
7 with me about a year ago, and we're no longer together, but for
8 four years I put up with her dad. I was also attacked by her
9 dad a few times also.

10 THE COURT: All right. And you think that will affect
11 your ability --

12 PROSPECTIVE JUROR GARNEVICUS: Because anything to do
13 with touching a girl or a child in my family, I'm old-fashioned.
14 My family is from the south. We don't take that kind of stuff,
15 touching women or touching children.

16 THE COURT: Right. But you understand Mr. Mickey says
17 he didn't do this. So depending on the evidence that is
18 presented, you know, you may find, you know what, he didn't
19 touch the child in a harmful manner whatsoever.

20 PROSPECTIVE JUROR GARNEVICUS: Yes, but you know --

21 THE COURT: Because, see, I agree what you're saying.

22 PROSPECTIVE JUROR GARNEVICUS: Yes, sir.

23 THE COURT: You should never lay your hands on a woman,
24 a child, another human being. That's my opinion.

25 PROSPECTIVE JUROR GARNEVICUS: Yes, sir.

26 THE COURT: But that -- but that's not the issue here.
27 That's turning the case into a referendum on hurting someone
28 else.

1 PROSPECTIVE JUROR GARNEVICUS: Uh-huh.

2 THE COURT: The question that you are going to answer
3 is whether or not Mr. Walsh meets his burden of proof with the
4 evidence that he presents and anything that the defense
5 presents.

6 PROSPECTIVE JUROR GARNEVICUS: Yes, sir.

7 THE COURT: You know, you're going to get the elements
8 of the charge and just make a decision. And you're not deciding
9 whether Mr. Mickey is a bad person. You're not going to go back
10 and talk about child abuse.

11 PROSPECTIVE JUROR GARNEVICUS: Yes, sir.

12 THE COURT: So seen through that prism, do you think
13 you can do this job, or do you just think that you couldn't do
14 it?

15 PROSPECTIVE JUROR GARNEVICUS: Give it a shot.

16 THE COURT: Well, I know, but you understand here this
17 is a serious case.

18 PROSPECTIVE JUROR GARNEVICUS: I would give it my best
19 judgment.

20 THE COURT: It has to be more than just --

21 PROSPECTIVE JUROR GARNEVICUS: I'd give it my best
22 judgment, yes, sir.

23 THE COURT: So if you had to answer "yes" or "no," what
24 do you think?

25 PROSPECTIVE JUROR GARNEVICUS: Yes, sir.

26 THE COURT: Well, hold on. Take a look at No. 8, why
27 don't you read it, think about it for a second, and how would
28 you answer that question?

1 PROSPECTIVE JUROR GARNEVICUS: Yes, sir.

2 THE COURT: Yes, what?

3 PROSPECTIVE JUROR GARNEVICUS: Yes, I could. Yes.

4 THE COURT: Well, why don't you tell me.

5 PROSPECTIVE JUROR GARNEVICUS: Pardon me?

6 THE COURT: Could you be a fair and impartial judge of
7 the facts in this case?

8 PROSPECTIVE JUROR GARNEVICUS: Yes, sir.

9 THE COURT: All right. I'm going to ask you the same
10 question. If you were the foreperson on the case and you
11 thought that, you know what, I think Mr. Mickey did this, but I
12 don't believe it beyond a reasonable doubt. Could you sign the
13 not guilty form?

14 PROSPECTIVE JUROR GARNEVICUS: Probably not, because if
15 I found out otherwise, I couldn't live with that.

16 THE COURT: Okay. So you're saying that if you
17 believed --

18 PROSPECTIVE JUROR GARNEVICUS: If I believed he did it.

19 THE COURT: Right, but not beyond a reasonable doubt.

20 PROSPECTIVE JUROR GARNEVICUS: Not --

21 THE COURT: You've talked to your fellow jurors, and
22 you're in the back in the deliberation room and you're thinking,
23 you know what, I think he did it, but I'm just not convinced
24 beyond a reasonable doubt. And your fellow jurors say, you know
25 what, Mr. -- is it Garnevicus?

26 PROSPECTIVE JUROR GARNEVICUS: Yes, sir.

27 THE COURT: -- we want you to be the foreperson and
28 here is the -- here is the not guilty verdict form, you need to

1 sign it. Would you sign it?

2 PROSPECTIVE JUROR GARNEVICUS: No, sir.

3 THE COURT: Okay. So given those particular
4 circumstances, you'd have a tough time?

5 PROSPECTIVE JUROR GARNEVICUS: Yes, sir.

6 THE COURT: Okay. Anything else?

7 PROSPECTIVE JUROR GARNEVICUS: No. Everything else
8 is --

9 THE COURT: Anything else on pages 3 or 4?

10 PROSPECTIVE JUROR GARNEVICUS: No, sir.

11 THE COURT: Okay. Let me go over these question with
12 you as well.

13 A defendant in a criminal case has a Constitutional
14 right to rely on the state of the evidence and, after consulting
15 with his or her attorney, may choose not to testify. Do you
16 have any problems or concerns with that rule?

17 PROSPECTIVE JUROR GARNEVICUS: No, sir.

18 THE COURT: And if you came to a conclusion that was
19 different than the conclusion of your fellow jurors, would you
20 change your mind only because you were in the minority?

21 PROSPECTIVE JUROR GARNEVICUS: No, sir.

22 THE COURT: And if police officers testify, will you
23 apply the same standards in evaluating their testimony as you
24 would in evaluating the testimony of any other witness?

25 PROSPECTIVE JUROR GARNEVICUS: Yes, sir.

26 THE COURT: And will viewing graphic photos of injuries
27 and an autopsy of a child cause you difficulty in rendering a
28 fair decision?

1 PROSPECTIVE JUROR GARNEVICUS: No, sir.

2 THE COURT: Okay. And this question is different than
3 what we've been talking about. As Mr. Mickey sits here now, and
4 you've heard no evidence, do you believe he's not guilty?

5 PROSPECTIVE JUROR GARNEVICUS: Yes, sir.

6 THE COURT: Okay. Thank you, Mr. Garnevicus.

7 Mr. Brown?

8 MR. BROWN: Thank you, your Honor.

9 Hi. Good morning. I know you're all getting tired. I
10 am too, so I'm going to try to get through this as quickly as I
11 can. Any comments -- you all have been real patient. We
12 appreciate it.

13 Any thoughts about some of the topics that I talked
14 about with everybody yesterday or this morning? Anything jump
15 out at you that you think I ought to know, because I can't
16 repeat everything that we've done obviously. If do you, please
17 let me know now. Otherwise, I'll move on.

18 Are you all --

19 PROSPECTIVE JUROR BOULWARE: You've asked if we've had
20 any medical training. At one point I was a certified EMT. I no
21 longer am practicing. Actually never really did. I did a stent
22 in the emergency room and ride a long but never worked as an
23 EMT. But I was certified.

24 MR. BROWN: Thank you for bringing that up. Any
25 experience with head injuries and stuff like that?

26 PROSPECTIVE JUROR BOULWARE: Yes.

27 MR. BROWN: Okay. Can you go over that experience real
28 quickly with me?

1 PROSPECTIVE JUROR BOULWARE: I've had my own head
2 injuries, crashing a motorcycle, dirt bike. I was knocked out,
3 unconscious.

4 MR. BROWN: How did that go?

5 PROSPECTIVE JUROR BOULWARE: It wasn't fun.

6 MR. BROWN: No?

7 PROSPECTIVE JUROR BOULWARE: No.

8 MR. BROWN: Kind of dazed for a little while?

9 PROSPECTIVE JUROR BOULWARE: I was kind of in and out
10 of consciousness, I remember little pieces but pretty blur for
11 that day and a half.

12 MR. BROWN: Took awhile to get through it? That's
13 Mr. Boulware?

14 PROSPECTIVE JUROR BOULWARE: Boulware.

15 MR. BROWN: Boulware. Thank you.

16 Anybody else, any thoughts like that? Yes, sir. If
17 you don't mind. All right. Thank you.

18 Pastor Anderson, yes, sir.

19 PROSPECTIVE JUROR ANDERSON: CPR, first aid certified
20 and coached at Great Oaks High School water polo.

21 MR. BROWN: Was Mr. Webster on one of your teams, got
22 knocked in the head?

23 PROSPECTIVE JUROR ANDERSON: No, he was not.

24 MR. BROWN: All right. I wanted to talk with you --
25 anybody else, real quickly, Mr. -- I've got to ask you, sir,
26 please come out of your shell.

27 PROSPECTIVE JUROR FARIA: Yeah. Okay, I'll try to do
28 that.

1 MR. BROWN: I have a hard time trying to understand
2 what you're telling us, sir.

3 PROSPECTIVE JUROR FARIA: One of the responsibilities
4 at Oak Grove Institute is you have CPR, First Aid training
5 yearly. That's a one-day training. I've never, thank God,
6 never had to experience anybody to that degree. I've never
7 performed it other than on the dummy.

8 MR. BROWN: Okay. All right.

9 PROSPECTIVE JUROR FARIA: But I am certified.

10 MR. BROWN: Okay. Thank you for sharing that, and I
11 appreciate it.

12 Anything else from any other panel members here that --
13 well, I don't -- your Honor? See I got the -- means I can't.
14 That's fine.

15 Thank you. Couple things, maybe I didn't artfully
16 express this earlier to the other panel. I want to try to do
17 that as artfully as I can right now.

18 You all know there is a child who died here? And I
19 think the easiest way for me to say this is that this case is
20 not about justice for that child. And that's hard for me to say
21 because I'm a father, and I have feelings and I have all this
22 things that go on. This case is justice for Ryan Mickey.

23 Does that cause any concern for anybody here?

24 PROSPECTIVE JUROR FARIA: You know, somewhat of a
25 concern. As the assessment of administrator at the school I
26 have 72 kids who live on the dorms, all of whom are either
27 mostly disturbed and/or some who are severely emotionally
28 disturbed. Probably 85 to 95 percent of those kids, and I don't

1 have the figures, they have been abandoned, abused, physically,
2 sexually abused, and I deal with them in my assessment.

3 So to sit here and say that isn't going to bother me,
4 when I deal with it every day, I want to believe that I can put
5 it out of my mind, because I don't think this gentleman is
6 guilty right now. But I work with it everyday. And I do have a
7 concern.

8 I've been a school teacher, counselor, administrator
9 for 30 years. And my main concern is protecting kids. And
10 every one of these kids are my kids. Not only the 72 that live
11 there, but also the 88 who come from group homes. And they all
12 have a story to tell, and I'm the one who deals with that
13 mostly, to assess it for our therapists and for counselors and
14 psychologists.

15 MR. BROWN: It's a tough job, a tough position that
16 you're in. I appreciate that.

17 PROSPECTIVE JUROR FARIA: I love it but it's not easy.

18 MR. BROWN: I can tell your passionate about it, and
19 that's -- I thank you for bringing this up. I mean, it's not --
20 I can't say it any straighter than this, this is not about
21 justice for that child. This is not the time and place for
22 that.

23 MR. WALSH: Object as improper voir dire at this point,
24 your Honor.

25 THE COURT: Overruled.

26 You can continue, Mr. Brown.

27 MR. BROWN: Thank you, your Honor.

28 It's about Ryan Mickey, and what he did or didn't do.

1 That's the -- that's where we are with this case right now.
2 Now, I say that as candidly as I can because some of you have
3 raised reservations about be able to put this kind of thing out
4 your mind. And so I ask you candidly, if you can't put it out
5 of your mind, all I ask you to do is just tell us and we can
6 move on.

7 Mr. Faria?

8 PROSPECTIVE JUROR FARIA: I will.

9 MR. BROWN: All right. Mr. Garnevicus?

10 PROSPECTIVE JUROR GARNEVICUS: I'm not sure, sir.

11 MR. BROWN: Yeah. I get that feeling. I understand.
12 Thank you for sharing that.

13 Anybody else down here on this panel here? Okay.

14 Pastor, judge not, lest you be judged? How are we
15 feeling about that? And I don't mean to sound flippant. I'm a
16 religious man myself, and I just need to kind of -- you're going
17 to be asked to judge somebody here.

18 PROSPECTIVE JUROR ANDERSON: Uh-huh.

19 MR. BROWN: And plus as a lawyer, I'm looking at this
20 as, I think your wife is a San Diego police officer. Did I
21 understand that correctly?

22 PROSPECTIVE JUROR ANDERSON: She works for Carlsbad PD
23 in the records department.

24 MR. BROWN: Still there is a connection there, and I
25 understand that you do have some association with some chaplain
26 kind of organization with the police and so forth. So we're
27 asking you to kind of put away a lot of things, I used the
28 pocket analogy earlier, I'd have that same kind of thought for

1 you, sir.

2 Thank you. Can I ask you to share your thoughts with
3 me on those?

4 PROSPECTIVE JUROR ANDERSON: I think part of the role
5 that I have as a lead pastor, you're always constantly
6 evaluating stories. So if you hear a wife who talks about how a
7 husband is mean, and you talk to the husband, you hear how the
8 wife is mean. And he's got to mediate that fine line. So I
9 think as a pastor you learn very quickly, there's always two
10 sides to every story. You've got to wait to hear both sides.

11 As a chaplain my role, quite honestly, is not to the
12 public. My role as a chaplain for San Diego Sheriff's
13 Department is specifically to law enforcement. So it's a little
14 different in that component of where I call -- I am called out
15 at critical instances to assist law enforcement in the process
16 of anything from the local fires to child abuse and domestic
17 violence, those kind of things, and components being --
18 comprised of the components of the situation, where the
19 detectives will take one party, myself as a chaplain will take
20 the other party, and just try to analyze it and offer that
21 normalization to the deputies.

22 THE COURT: And with that, Mr. Brown, we'll take our
23 noon recess. We'll reconvene at 1:30.

24 Remember the admonition. Please keep an open mind.
25 Don't draw any conclusions about the case. Please don't talk to
26 anyone about the case.

27 See you back at 1:30. Court's in recess.

28 (NOON RECESS.)

1 (OUTSIDE JURY PANEL PRESENCE:)

2 THE COURT: Okay. Let's go back on the record. We're
3 outside the presence of the panel.

4 MR. WALSH: I don't know if we have to get in depth
5 about this at sidebar. Basically, we have a gentleman here,
6 Mr. Faria, and he works at a facility that at one time, and
7 doesn't sound like it was at the same time. I don't think he
8 was working there at the time, that Mr. Mickey was an occupant
9 at that facility, a student, a patient, however you want to
10 describe it.

11 And there is a possibility, albeit a slight one, that
12 at some point during this trial that may come in. And for lack
13 of a better term, if this gentleman finds out that Mr. Mickey
14 somehow was a patient there, he will automatically probably know
15 some things about him, or it may change his opinion about
16 Mr. Mickey. And these aren't things we can really get into
17 during jury selection, because if we begin to talk about the
18 topic he will either catch on or others might. So it's kind of
19 a delicate juror based on his occupation with this particular
20 facility.

21 So I understand that nothing has risen to the level of
22 cause at this point, but the problem is there's not a lot we can
23 talk to him about on that subject without opening the door to
24 some issues that could be a problem for either the defendant or
25 the People, but primarily for the defendant.

26 THE COURT: The position of the Court would be then you
27 may just want to exercise one of your peremptories, even if he
28 gets up there. And but that's up to you. If you feel it's a

1 slight chance, doesn't appear that, at least, that he knows
2 Mr. Mickey. So you know, he works at the school, but -- I'm
3 just not sure what the grounds would be. You want me to dismiss
4 him unilaterally?

5 MR. WALSH: I think we might be willing to stipulate to
6 let him go. I don't know if I'm speaking out of both sides of
7 my mouth, but I think we are.

8 MR. BROWN: I don't have a problem with stipulating to
9 that. And just so the Court knows my feelings about it. I
10 think that the odds of getting to this Oak Grove issue is
11 probably zero, but if it did, then it creates two huge problems.
12 It puts the Court in a very difficult position. I think, you
13 know, that to make a ruling under these circumstances, that
14 we're describing now, has never been my intention to put a Court
15 in conflict on an issue that ought not to be before the Court in
16 that way.

17 Secondly, you know, I don't know about Mr. Walsh, but I
18 fight pretty hard for my credibility in front of the jury. And
19 if it comes up, you know, then I'm sitting here with a juror,
20 you know, you weren't honest and I don't want to go that way
21 with anybody. So --

22 THE COURT: All right. Well, why don't we do this.
23 Just don't address him any more. Obviously, you're going to
24 reserve for cause, I assume, on Mr. Garnevicus at this point.
25 I'll just dismiss him, too.

26 MR. WALSH: Okay.

27 THE COURT: All right. And, Mr. Brown, do you have
28 anything else you're going to talk to the jury about?

1 MR. BROWN: I do. If I could have a couple more
2 minutes. I just want to finish with the pastor and then I had a
3 couple questions for the folks down here. It's not nothing in
4 great detail.

5 THE COURT: I want to get this jury picked today,
6 especially because there's a rainstorm coming in. It will be a
7 mess out there.

8 So, okay. Let's bring in the jury, Deputy.

9 Yes. There are also two people, Danielle Gossett,
10 Diane Gibson, my clerk told me they called this morning and both
11 are sick with the flu. Is that correct, Madam Clerk? Yeah. I
12 allowed them not to come in, excused them. Is that agreeable,
13 Mr. Walsh?

14 MR. WALSH: Yes.

15 THE COURT: Mr. Brown?

16 MR. BROWN: Yes.

17 MR. WALSH: Could I get those names one more time? I'm
18 sorry, your Honor.

19 THE COURT: Ms. Gibson and Ms. Gossett.

20 MR. WALSH: Okay. Thank you.

21 THE COURT: Thank you.

22 (WITHIN JURY PANEL PRESENCE:)

23 THE COURT: All right. Let's go back on the record in
24 SWF-015286. The parties are present before the Court. We're in
25 the presence of the panel.

26 Good afternoon, everyone.

27 PROSPECTIVE JURORS (Collectively): "Good afternoon."

28 THE COURT: Mr. Brown?

1 MR. BROWN: Thank you, your Honor.

2 Okay. Home stretch. Sorry. Good afternoon. Hope you
3 all had a good lunch.

4 Mr. Anderson, I left off with you, and the question
5 that was coming to my mind, I appreciate you talking with me
6 about your thoughts and everything. I don't want to sound -- I
7 don't have much time here, so I'm just going to ask you a
8 question just flat out, if you don't mind. Can I do that?

9 PROSPECTIVE JUROR ANDERSON: Okay.

10 MR. BROWN: If this case becomes a problem for you, and
11 you have difficulty making a decision as to what you're going to
12 do, what you think the right decisions are going to be, are you
13 going to pray about it?

14 PROSPECTIVE JUROR ANDERSON: That's a first time for
15 me. Yeah. Yeah. I would pray about it.

16 MR. BROWN: Okay. And you get some divine intervention
17 or something that might help you understand what the right
18 decision would be made? I mean, how do you -- how are you going
19 to -- I guess where I'm headed with that is, you know, how are
20 you going to balance the two? Because I go back to the judge
21 not, lest you be judged. You know, we're not here to have the
22 Lord make a decision. We're here to have you make a decision.
23 And you've got two hats and that's why I'm asking you.

24 PROSPECTIVE JUROR ANDERSON: And I appreciate the
25 question and with the same directness, I'll respond to you.

26 MR. BROWN: Thank you.

27 PROSPECTIVE JUROR ANDERSON: In Romans, it's very clear
28 that the facts that are laid out before you determine the path

1 of which ones to go. So if there's a guilty plea, or a guilty
2 verdict, there will be a guilty decision. The clarity of which
3 one derives through prayer, in my personal case, will lead and
4 guide my personal convictions in what I hear and what I see as
5 evidence. It is not a platform in which to hide behind, rather
6 it's a platform from which to stand.

7 MR. BROWN: And draw strength?

8 PROSPECTIVE JUROR ANDERSON: No, to stand.

9 MR. BROWN: Okay. Thank you for your response. I
10 appreciate it very much.

11 The folks here real quickly, Mr. Boulware, Dr. Hurwitz
12 is your children's pediatrician?

13 PROSPECTIVE JUROR BOULWARE: Yes, sir.

14 MR. BROWN: And she may testify here. I don't know
15 what she's going to testify about. You trust her with your
16 children?

17 PROSPECTIVE JUROR BOULWARE: Yes.

18 MR. BROWN: If there's some issue that I have to
19 examine her on and have to get pushy about it, are you going
20 to resent me if I do that?

21 PROSPECTIVE JUROR BOULWARE: No.

22 MR. BROWN: Because you find that maybe she made a
23 wrong -- and I'm not saying she has, just hypothetically. If
24 somehow it comes out maybe she made a decision somewhere along
25 the line that wasn't right, how would that effect you?

26 PROSPECTIVE JUROR BOULWARE: Everybody makes mistakes.
27 I wouldn't --

28 MR. BROWN: Okay. So you okay with that?

1 PROSPECTIVE JUROR BOULWARE: Yes.

2 MR. BROWN: And I have Mr. Zalkins and [TJ10], you both
3 have engineering backgrounds?

4 PROSPECTIVE JUROR ZALKINS: Yeah.

5 MR. BROWN: Okay. You're analytical in your approach
6 to things as Mr. Valdez was?

7 You're all right with doing that here, you can make a
8 decision without having a mechanical engineering, you know,
9 thought process going on listen to the facts.

10 PROSPECTIVE JUROR ZALKINS: That's all it takes.

11 MR. BROWN: Okay. I appreciate it. And I think I had
12 one question. Is there anyone -- last question, your Honor.
13 Has anyone here in the new group of folks that believe for any
14 reason whatsoever that just because Mr. Mickey's here he must
15 have done something wrong? Any one of you?

16 All right. You understand there's just been an
17 allegation made and he's denied that allegation, which is why
18 we're here? Okay. All right. Fair enough.

19 Thank you very much, your Honor.

20 THE COURT: Thank you, Mr. Brown.

21 Mr. Walsh --

22 MR. WALSH: Thank you.

23 THE COURT: -- want to address our new group?

24 MR. WALSH: Yes, please. Thank you.

25 THE COURT: Okay.

26 MR. WALSH: Good afternoon.

27 See if I can go after lunch, that's the slowest time of
28 my day. I still talk fast, don't I?

1 Few questions for you guys. I had a follow-up for --
2 let's see. [TJ10], I didn't hear what type of work your wife
3 does.

4 PROSPECTIVE JUROR [TJ10]: Oh, I'm sorry. She retired
5 from the school district.

6 MR. WALSH: Was she a teacher or administrator?

7 PROSPECTIVE JUROR [TJ10]: Food service.

8 MR. WALSH: Okay. And I think one question you weren't
9 asked, you told us a couple of the things about your children.
10 I think you said your sons, one of your sons and the other son,
11 both had some legal problems and did go through the criminal
12 justice system. Was that in our county, in Riverside County?

13 PROSPECTIVE JUROR [TJ10]: One was Riverside County,
14 the other was in Ohio. I don't know what county it was in Ohio.

15 MR. WALSH: Do you feel like either one of them were
16 treated unfairly in the process by either the police or the
17 prosecuting agency or anything like that?

18 PROSPECTIVE JUROR [TJ10]: I do not.

19 MR. WALSH: Okay. Mr. Paxton?

20 PROSPECTIVE JUROR PAXTON: Yes.

21 MR. WALSH: You said you're retired?

22 PROSPECTIVE JUROR PAXTON: Yes.

23 MR. WALSH: What type of work did you do before you
24 retired?

25 PROSPECTIVE JUROR PAXTON: In sales, electrical
26 supplies.

27 MR. WALSH: Okay. You said your wife is retired. Did
28 she work to full retirement?

1 PROSPECTIVE JUROR PAXTON: She worked for the school
2 district, clerical.

3 MR. WALSH: Okay. Thank you.

4 PROSPECTIVE JUROR PAXTON: Uh-huh.

5 MR. WALSH: And, Mr. Anderson, it's -- we're still
6 going through this process right now trying to find jurors who
7 can be fair and follow the law. I guess I have a slight
8 disagreement with Mr. Brown at this point. We're not asking you
9 to judge the person. And I think you actually just said it
10 quite well in the answer to Mr. Brown. We're going to ask you
11 and any other juror that you're serving with to judge the facts
12 and decide which facts you believe to be true, which ones you
13 don't, and in using the facts you believe to be true and the
14 testimony you believe to be true, to use that with the law and
15 give us your verdict as to what you think happened in this case.
16 Is that something you think you can do?

17 PROSPECTIVE JUROR ANDERSON: Absolutely.

18 MR. WALSH: And, Mr. Paxton --

19 PROSPECTIVE JUROR PAXTON: Yes.

20 MR. WALSH: -- I spoke with some other jurors a little
21 bit yesterday and today also about the fact that some jurors
22 today have commented on the fact that criminal cases they
23 followed either through their family or people they know were
24 victims of crime, some of them have commented on the punishment
25 that convicted people received.

26 Will you be able to make a decision in this case
27 without considering what punishment will be given out, if any?

28 PROSPECTIVE JUROR PAXTON: Yes, I can.

1 MR. WALSH: Okay. Does everyone in this group of seven
2 agree they can do that if selected? Nodding yes. Okay.

3 Mr. -- almost called you juror -- that's the football
4 player?

5 PROSPECTIVE JUROR GARNEVICUS: Garnevicus.

6 MR. WALSH: Garnevicus, the football player.

7 PROSPECTIVE JUROR GARNEVICUS: I'm related.

8 MR. WALSH: Are you?

9 PROSPECTIVE JUROR GARNEVICUS: Yes.

10 MR. WALSH: Just because of the last six letters?

11 PROSPECTIVE JUROR GARNEVICUS: Distant cousin. We
12 changed our name when we moved to California, the spelling.

13 MR. WALSH: Are you being serious with me?

14 PROSPECTIVE JUROR GARNEVICUS: Yes.

15 MR. WALSH: Oh, okay. Wow. I don't want to play poker
16 at Pechanga, I'd be in trouble.

17 Okay. Are you familiar with the TV show "Punked"?

18 PROSPECTIVE JUROR GARNEVICUS: Yes, sir.

19 MR. WALSH: I'm only picking on you because it's close,
20 but you look the youngest one in this group. Let's say you went
21 through this whole process, you've been here for almost two
22 complete days now.

23 PROSPECTIVE JUROR GARNEVICUS: Uh-huh.

24 MR. WALSH: And now you look in this courtroom and you
25 can see there's a seal behind the judge, a couple flags.
26 There's a plaque in front of the judge that says he is a judge,
27 he's wearing a black robe. We're here, the court reporter is
28 writing everything down. Right now, are you pretty confident

1 you're actually in a real jury trial right now?

2 PROSPECTIVE JUROR GARNEVICUS: Yes, sir.

3 MR. WALSH: Okay. Now, is it possible that all of a
4 sudden, you know, Ashton Kutcher and his cameras can jump out
5 from the back and say, ah-ha, you've been here for two days and
6 this is a big joke. It's possible, right?

7 PROSPECTIVE JUROR GARNEVICUS: It is possible.

8 MR. WALSH: But you're pretty confident you're here in
9 a real trial, right?

10 PROSPECTIVE JUROR GARNEVICUS: Yes.

11 MR. WALSH: In that framework, do you think you can
12 consider the facts in this case and decide if they've been
13 proved to you beyond a reasonable doubt?

14 PROSPECTIVE JUROR GARNEVICUS: Yes, sir.

15 MR. WALSH: Okay. Mr. Zalkins, you say you've been
16 sober for 35 years? Congratulations. Can't make it a week.
17 That sounds terrible. I mean, that's -- I really compliment you
18 on that. I'm saying too much, but it's a compliment on that. I
19 think you told us you felt like you were treated fairly in your
20 situation?

21 PROSPECTIVE JUROR ZALKINS: Yes.

22 MR. WALSH: Okay. The standard is beyond a reasonable
23 doubt. The judge has been talking about that over the last
24 two days. In my case, it has to be proved to you through
25 witnesses and through evidence, to you beyond a reasonable
26 doubt, not beyond all doubt. Do you think you could follow that
27 standard?

28 PROSPECTIVE JUROR ZALKINS: Absolutely.

1 MR. WALSH: Okay. Mr. Boulware, would you require this
2 case to be proved to you beyond all doubt?

3 PROSPECTIVE JUROR BOULWARE: No.

4 MR. WALSH: Okay. And let's see. [TJ10], I talked to
5 a couple of the other jurors earlier today, and we've lost our
6 red sweater. He's gone now. Even if you disagree with one of
7 the laws that you're asked to follow at the end of this case,
8 could you still follow that law?

9 PROSPECTIVE JUROR [TJ10]: Yes, I could.

10 MR. WALSH: And everyone in this group of seven, if you
11 were asked to follow a law that you maybe don't agree with and
12 don't like, could you still do that if you're asked to be a
13 juror in this case? Everyone agrees?

14 Okay. Thank you very much for your answers.

15 No additional questions, your Honor.

16 THE COURT: Thank you, Mr. Walsh.

17 Do you both reserve?

18 MR. BROWN: Yes.

19 MR. WALSH: Yes.

20 THE COURT: Can you approach sidebar?

21 MR. WALSH: Yes.

22 (A DISCUSSION WAS HELD AT SIDEBAR, OFF THE RECORD.)

23 THE COURT: Mr. Faria, thank you, sir. Have a good
24 rest of the day.

25 PROSPECTIVE JUROR FARIA: Thank you, sir.

26 THE COURT: And, Mr. Garnevicus, thank you, sir. Have
27 a good rest of the day.

28 Mr. Brown, do you pass?

1 MR. BROWN: Yes, your Honor.
2 THE COURT: Mr. Walsh?
3 MR. WALSH: Yes.
4 THE COURT: And, Mr. Brown, I believe the next pre-empt
5 lies with you, sir.
6 MR. BROWN: Your Honor, if I may have a moment, please.
7 THE COURT: Of course.
8 MR. BROWN: Your Honor, Mr. Mickey would thank and
9 excuse Ms. Swogger.
10 THE COURT: Who?
11 MR. BROWN: Ms. Swogger.
12 THE COURT: Ms. Swogger, thank you, ma'am. Have a good
13 rest of the day.
14 Mr. Paxton, you can take that seat, sir.
15 Mr. Walsh, the next pre-empt lies with you, sir.
16 MR. WALSH: Thank you, your Honor. At this time the
17 People would like to thank and excuse Juror No. 10,
18 Ms. Nickerson.
19 THE COURT: Ms. Nickerson, thank you. Have a good rest
20 of the day.
21 MR. BROWN: Your Honor, I have an objection to that.
22 THE COURT: Can you approach sidebar?
23 MR. BROWN: Please.
24 (A DISCUSSION WAS HELD AT SIDEBAR, OFF THE RECORD.)
25 THE COURT: And, Mr. Brown, you withdraw your
26 objection?
27 MR. BROWN: Well, I'd like to preserve my objection,
28 not withdraw it.

1 THE COURT: Okay, but at this time --
2 MR. BROWN: Subject to renewal.
3 THE COURT: Subject to renewal.
4 MR. BROWN: Yes. Thank you.
5 THE COURT: And I believe, Mr. Brown, the next pre-empt
6 lies with you.
7 And, [TJ10], take that seat.
8 MR. BROWN: Your Honor, I think the lady is waiting for
9 the Court.
10 THE COURT: Yes, you're excused. Have a good day.
11 Thank you, Mr. Brown.
12 MR. BROWN: Thank you, your Honor. Mr. Mickey would
13 thank and excuse Mr. Paxton, please.
14 THE COURT: Mr. Paxton, thank you. Have a good rest of
15 the day.
16 Mr. Zalkins, you can take that seat, sir.
17 Mr. Walsh, the next pre-empt lies with you.
18 MR. WALSH: Thank you, your Honor. The People accept
19 the panel as presently constituted.
20 THE COURT: Thank you, Mr. Walsh.
21 Mr. Brown, the next pre-empt lies with you, sir.
22 MR. BROWN: Your Honor, we thank and excuse
23 Mr. Anderson, please.
24 THE COURT: Mr. Anderson, have a good rest of the day.
25 Mr. Boulware, you can take that seat, sir.
26 Mr. Walsh, the next pre-empt lies with you.
27 MR. WALSH: Thank you, your Honor. The People accept
28 the panel as presently constituted.

1 THE COURT: Thank you, Mr. Walsh.

2 Mr. Brown, the next pre-empt lies with you, sir.

3 MR. BROWN: Your Honor, Mr. Mickey would thank and
4 excuse Mr. Howell.

5 THE COURT: Mr. Howell, thank you. Have a good rest of
6 the day.

7 Madam Clerk, could you call seven new names?

8 THE CLERK: Yes, your Honor.

9 [TJ08].

10 THE COURT: And, [TJ08], you may take that seat right
11 up there.

12 THE CLERK: [TJ11].

13 Nancy Brandt, B-r-a-n-d-t.

14 [TAJ1].

15 Carlos Duenas, D-u-e-n-a-s.

16 So Ling Chan, C-h-a-n.

17 And [TAJ2].

18 THE COURT: Thank you, Madam Clerk.

19 THE CLERK: You're welcome.

20 THE COURT: Okay. This question is for the group that
21 just joined us. You heard the names of the potential witnesses.
22 Does anyone recognize any of those names?

23 Not seeing any hands, why don't you go ahead and take a
24 look at the questionnaire and whoever finishes it first just go
25 ahead and raise your hand.

26 Okay. [TJ08], good afternoon, sir.

27 PROSPECTIVE JUROR [TJ08]: Good afternoon. My name is
28 [TJ08]. I am out of Temecula, California. I work for the State

1 of California in the unemployment department.

2 I am married. My wife is a third grade teacher in the
3 Temecula Valley School District. I have children ages four and
4 two.

5 I have had prior jury service. It was a civil trial
6 out of San Diego County, and we did not arrive at a verdict.
7 And I can be fair and impartial to both sides. And no answers
8 to pages 3 and 4.

9 THE COURT: Thank you, [TJ08].

10 And a defendant in a criminal case has a Constitutional
11 right to rely on the state of the evidence and, after consulting
12 with his or her attorney, may choose not to testify. Do you
13 have any problems or concerns with that rule?

14 PROSPECTIVE JUROR [TJ08]: No, your Honor.

15 THE COURT: And if you came to a conclusion that was
16 different than the conclusion of your fellow jurors, would you
17 change your mind only because you were in the minority?

18 PROSPECTIVE JUROR [TJ08]: No, your Honor.

19 THE COURT: If peace officers testify, will you apply
20 the same standards in evaluating their testimony as you would in
21 evaluating the testimony of any other witness?

22 PROSPECTIVE JUROR [TJ08]: Yes, your Honor.

23 THE COURT: Will viewing graphic photographs of
24 injuries and an autopsy of a child cause you difficulty in
25 rendering a fair decision?

26 PROSPECTIVE JUROR [TJ08]: No, your Honor.

27 THE COURT: And as Mr. Mickey sits here now, do you
28 believe he is not guilty?

1 PROSPECTIVE JUROR [TJ08]: I believe so.

2 THE COURT: Thank you so much, sir.

3 [TJ11], good afternoon.

4 PROSPECTIVE JUROR [TJ11]: [TJ11]. I live in the city
5 of Perris. Currently unemployed.

6 Married. My wife is retired from banking. I have two
7 daughters over 25. One is the school administrator, and one is
8 a school, elementary school teacher.

9 Not had any prior jury service. And I can be fair and
10 impartial to both sides.

11 THE COURT: Pages 3 and 4, [TJ11]?

12 PROSPECTIVE JUROR [TJ11]: Just 23. I've -- I've been
13 burglarized and had a car stolen in the past.

14 THE COURT: Anything about those experiences make it
15 difficult for you to be a fair and impartial judge of the facts
16 in our case here?

17 PROSPECTIVE JUROR [TJ11]: No, sir.

18 THE COURT: Anything else, sir?

19 PROSPECTIVE JUROR [TJ11]: No.

20 THE COURT: Okay. Same question. A defendant in a
21 criminal case has a Constitutional right to rely on the state of
22 the evidence and, after consulting with his or her attorney, may
23 choose not to testify. Do you have any problems or concerns
24 with that rule, sir?

25 PROSPECTIVE JUROR [TJ11]: No.

26 THE COURT: And if you came to a conclusion that was
27 different than the conclusion of your fellow jurors, would you
28 change your mind only because you were in the minority?

1 PROSPECTIVE JUROR [TJ11]: No.

2 THE COURT: If peace officers testify, will you apply
3 the same standards in evaluating their testimony as you would in
4 evaluating the testimony of any other witness?

5 PROSPECTIVE JUROR [TJ11]: Yes.

6 THE COURT: Will viewing graphic photographs of
7 injuries and an autopsy of a child cause you difficulty in
8 rendering a fair decision?

9 PROSPECTIVE JUROR [TJ11]: No.

10 THE COURT: And as Mr. Mickey sits here now, do you
11 believe he is not guilty, sir?

12 PROSPECTIVE JUROR [TJ11]: Yes.

13 THE COURT: Thank you, [TJ11].

14 Ms. Brandt, good afternoon.

15 PROSPECTIVE JUROR BRANDT: Good afternoon. My name is
16 Nancy Brandt. I live in San Jacinto.

17 I work for UPS, but I'm currently on Worker's Comp.
18 I'm married. My husband builds fences.

19 I have four children. My oldest is a high school
20 teacher. My second oldest is a -- 25 years old, is a
21 professional baseball player. My third son works for UPS in the
22 local parks and recreation district. And my daughter 21 is
23 currently a full-time student.

24 I have had previous jury experience about 25 years ago
25 in San Diego, and we did come to a verdict.

26 And I would like to believe that I can be fair and
27 impartial to both sides, but I'm not sure. I'm -- I hope I can.

28 And on 22, one of my sons was charged with, I don't

1 know exactly the outcome of the case, but with contributing to
2 the delinquency of a minor.

3 THE COURT: Anything about his experience that would
4 make it difficult for you to be a fair and impartial judge of
5 the facts here?

6 PROSPECTIVE JUROR BRANDT: No. Not at all, sir.

7 THE COURT: Any other yes answers on pages 3 or 4?

8 PROSPECTIVE JUROR BRANDT: No, sir.

9 THE COURT: Okay. Do you want to go back to No. 8 and
10 why there's some equivocation on your part here?

11 PROSPECTIVE JUROR BRANDT: Basically, like I hate to
12 say it, but pretty much like most of the women here, I have a,
13 you know, I understand -- it's a -- because of the child. And I
14 have a real problem with that.

15 But I would like to believe that I can be open-minded
16 enough to judge the facts and not the crime. Well, I guess the
17 crime, but just stand by the letter of law and judge the facts
18 as they are presented to me.

19 THE COURT: All right. It sounds like you have some
20 real questions in your mind, though, whether or not you can
21 carry that function out, am I right?

22 PROSPECTIVE JUROR BRANDT: Yes.

23 THE COURT: Does it help knowing that -- you're going
24 to be deciding whether or not Mr. Walsh proves his case beyond a
25 reasonable doubt. You're going to find the facts. You decide
26 what they are, and then you're going to apply them to the law
27 that I give you to try to reach a fair and just verdict.

28 PROSPECTIVE JUROR BRANDT: Yes, sir.

1 THE COURT: That's the only issue. You don't have
2 anything to do with punishment. You're not judging Mr. Mickey
3 one way or the other.

4 The case, I agree with Mr. Brown, it's not about the
5 child, as tragic as that is. The question here is whether or
6 not you believe that Mr. Walsh has proven his case beyond a
7 reasonable doubt. That's -- that's it.

8 PROSPECTIVE JUROR BRANDT: I understand.

9 THE COURT: So what do you think?

10 PROSPECTIVE JUROR BRANDT: If I have to render a
11 yes-or-no answer, then I would say no, I would not be able to do
12 that.

13 THE COURT: Okay. Thank you, Ms. Brandt.

14 Mr. -- is it [TAJ1]?

15 PROSPECTIVE JUROR [TAJ1]: [TAJ1].

16 THE COURT: [TAJ1]. Good afternoon, sir.

17 PROSPECTIVE JUROR [TAJ1]: Good afternoon. My name is
18 [TAJ1]. I live in Murrieta.

19 I'm self-employed, I'm a building designer. I am
20 married. My wife is a contract -- or yeah, contract supervisor
21 for a company that does build units for diabetes. I have or had
22 four boys, they're all over 25. The fourth one is a stepson.
23 The No. 3 son passed away four months ago. And the oldest son
24 he's 42. And he works in Los Angeles as an auto tech. My
25 second son is 41. He's in Reno, he's the manager of a store.
26 And my stepson works with his dad in Orange County. And they do
27 something like with lawyers where they look up new cases. I'm
28 not quite sure how that works, but any new cases that get filed.

1 And I have not had any previous jury experience. And I
2 can be fair and impartial to both sides.

3 THE COURT: And pages 3 and 4 --

4 PROSPECTIVE JUROR [TAJ1]: Oh, yeah.

5 THE COURT: -- [TAJ1].

6 PROSPECTIVE JUROR [TAJ1]: No. 22, let's see. I was,
7 many years ago when I was 21, arrested for speeding, and had my
8 license suspended for 30 days and spent five days in jail for
9 speeding. And but I was young and silly then.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR [TAJ1]: So let's see. My son, he
12 had a 502 and he did his thing. Let's see. I guess that's
13 about it on 22.

14 And 23, I had my Corvette stolen. Back then, right --
15 Corvette I had before the one I got the speeding ticket, that
16 was stolen. And my Camaro about 10, 12 years ago it was stolen.
17 But the Corvette was then, quite a long time later, totally
18 stripped. And the Camaro they found the next day in the process
19 of being stripped, but I got it back in pretty good shape.

20 I believe that's about it.

21 THE COURT: Anything about any -- anything about any of
22 those experiences that would make it difficult for you to be a
23 fair and impartial judge of the facts in our case here, [TAJ1]?

24 PROSPECTIVE JUROR [TAJ1]: Not at this time, no.

25 THE COURT: Let me ask you this, [TAJ1], instead of
26 going through now, because I've been doing this for a day and a
27 half, each of the five questions that I asked everyone else, do
28 you remember what they are?

1 PROSPECTIVE JUROR [TAJ1]: Pretty much, yeah.
2 THE COURT: Do you want me to go through these?
3 PROSPECTIVE JUROR [TAJ1]: No.
4 THE COURT: Any issues that you have with any of those?
5 PROSPECTIVE JUROR [TAJ1]: Not at all.
6 THE COURT: Okay. Anything else, [TAJ1]?
7 PROSPECTIVE JUROR [TAJ1]: No.
8 THE COURT: Thank you so much, sir.
9 PROSPECTIVE JUROR [TAJ1]: Uh-huh.
10 THE COURT: I'm sorry about your son.
11 PROSPECTIVE JUROR [TAJ1]: Thank you.
12 THE COURT: Is it Mr. Duenas?
13 PROSPECTIVE JUROR DUENAS: Yes.
14 THE COURT: Good afternoon, sir.
15 PROSPECTIVE JUROR DUENAS: Good afternoon.
16 THE COURT: Oh, hold on one second.
17 Yes, [TAJ1], is there one other thing you wanted to
18 say?
19 PROSPECTIVE JUROR [TAJ1]: I guess it's just nerves and
20 all that.
21 THE COURT: I understand.
22 PROSPECTIVE JUROR [TAJ1]: My son that did pass away,
23 he was arrested for sale of drugs, and he spent a year and a
24 half up north, and he is the one that passed way. So he did
25 he -- spent a year and a half, I can't remember, up there by
26 San Francisco.
27 THE COURT: In state prison?
28 PROSPECTIVE JUROR [TAJ1]: I believe so.

1 THE COURT: And was it -- was he prosecuted in this
2 county?

3 PROSPECTIVE JUROR [TAJ1]: Not -- no. It was up north.

4 THE COURT: Okay. Anything about his experience in
5 that case that would make it difficult for you to be a fair and
6 impartial judge of the facts?

7 PROSPECTIVE JUROR [TAJ1]: No. No. He was messing
8 around with drugs and got what he deserved at that point.

9 THE COURT: Anything else?

10 PROSPECTIVE JUROR [TAJ1]: No. That was it, I just
11 thought I should say that.

12 THE COURT: Thank you, sir.

13 Mr. Duenas?

14 PROSPECTIVE JUROR DUENAS: My name is Carlos Duenas.
15 I'm a student.

16 I'm not employed at the moment. I'm not married. I do
17 not have kids.

18 I do not have any previous jury experience. And yes, I
19 can be fair and impartial to both sides.

20 And on question 22, I was charged with a DUI in June of
21 '08, and also I have an uncle who is currently serving time in
22 state prison for possession of narcotics and possession of a
23 firearm.

24 THE COURT: You were charged in '08?

25 PROSPECTIVE JUROR DUENAS: Yes.

26 THE COURT: Did you plead guilty?

27 PROSPECTIVE JUROR DUENAS: Yeah.

28 THE COURT: Okay. You're on probation now?

1 PROSPECTIVE JUROR DUENAS: Yeah.
2 THE COURT: Out of Riverside County?
3 PROSPECTIVE JUROR DUENAS: Yeah.
4 THE COURT: Anything about that experience with law
5 enforcement that would make it difficult for you to be a fair
6 and impartial judge of the facts?
7 PROSPECTIVE JUROR DUENAS: No, sir.
8 THE COURT: Do you feel that you were treated fairly?
9 PROSPECTIVE JUROR DUENAS: Yes, sir.
10 THE COURT: Okay. You said your uncle is in state
11 prison?
12 PROSPECTIVE JUROR DUENAS: Yeah.
13 THE COURT: And --
14 PROSPECTIVE JUROR DUENAS: He was actually here a
15 couple weeks ago.
16 THE COURT: Okay.
17 PROSPECTIVE JUROR DUENAS: Yes.
18 THE COURT: Anything about his experience that would
19 make it difficult for you to be a fair and impartial judge of
20 the facts in our case here?
21 PROSPECTIVE JUROR DUENAS: No, sir.
22 THE COURT: Was he in my courtroom?
23 PROSPECTIVE JUROR DUENAS: I'm not sure if -- actually,
24 he was at Southwest.
25 THE COURT: One of the courtrooms here?
26 PROSPECTIVE JUROR DUENAS: Yeah.
27 THE COURT: All right. Anything else?
28 PROSPECTIVE JUROR DUENAS: The only thing I have a

1 concern with is for school, the semester will start on
2 January 4th.

3 THE COURT: Okay.

4 PROSPECTIVE JUROR DUENAS: And --

5 THE COURT: Where do you go to school?

6 PROSPECTIVE JUROR DUENAS: RCC.

7 THE COURT: Are you going to -- are you taking classes
8 at night?

9 PROSPECTIVE JUROR DUENAS: In the afternoon.

10 THE COURT: Okay. Are you already enrolled?

11 PROSPECTIVE JUROR DUENAS: Yeah.

12 THE COURT: What's going to happen with those classes?

13 PROSPECTIVE JUROR DUENAS: Well, that's -- that's my
14 main concern. I'm not sure if this case is going to go on for
15 so long, it's going to interfere with my schooling.

16 THE COURT: Okay. So you'd have to miss this semester,
17 is that what you're saying?

18 PROSPECTIVE JUROR DUENAS: Yeah, and I have to wait for
19 the whole semester to begin in April.

20 THE COURT: Okay. You heard the five questions that I
21 asked everyone else. Do you want me to go through those?

22 PROSPECTIVE JUROR DUENAS: No, sir.

23 THE COURT: Any issues with any of those questions?

24 PROSPECTIVE JUROR DUENAS: No, sir.

25 THE COURT: Okay. Anything else?

26 PROSPECTIVE JUROR DUENAS: That would be it.

27 THE COURT: Thank you, Mr. Duenas.

28 Ms. Chan, good afternoon.

1 PROSPECTIVE JUROR CHAN: Good afternoon. My name is So
2 Ling Chan.

3 And I live in Temecula. I'm a homemaker, and I also
4 have my birthday company.

5 I'm married for 35 years, and my husband is retired
6 two years ago. And we have our own business.

7 I have two children. My daughter is 31 years old, and
8 she sells in Hawaii. And my son is 27 years old, and he works
9 for a couple finance in Boston, but now he transferred to Hong
10 Kong.

11 And I don't have any experience for the jury service.
12 And again, I think I can be fair to both sides.

13 THE COURT: And pages 3 and 4, Ms. Chan, any yes
14 answers?

15 PROSPECTIVE JUROR CHAN: No, but I do have one concern.
16 If the case is too long, because we already purchase ticket to
17 Hong Kong for the Chinese New Year.

18 THE COURT: When?

19 PROSPECTIVE JUROR CHAN: February 6th.

20 THE COURT: The case will be finished by then.

21 PROSPECTIVE JUROR CHAN: Oh.

22 THE COURT: You won't miss your trip. Okay?

23 PROSPECTIVE JUROR CHAN: Uh-huh.

24 THE COURT: Any other issues?

25 PROSPECTIVE JUROR CHAN: No.

26 THE COURT: Ms. Chan, did you hear the five questions
27 that I asked everyone else?

28 PROSPECTIVE JUROR CHAN: Yes.

1 THE COURT: Do you want me to review those with you?
2 PROSPECTIVE JUROR CHAN: No.
3 THE COURT: Any issues with any of those questions?
4 PROSPECTIVE JUROR CHAN: No.
5 THE COURT: Do you want me to go through them with you?
6 PROSPECTIVE JUROR CHAN: Oh, no. It was fine.
7 THE COURT: Everything is okay?
8 PROSPECTIVE JUROR CHAN: Yes.
9 THE COURT: All right. Anything else, Ms. Chan?
10 PROSPECTIVE JUROR CHAN: No.
11 THE COURT: Thank you, ma'am.
12 [TAJ2], good afternoon.
13 PROSPECTIVE JUROR [TAJ2]: Hi. My name is [TAJ2]. I
14 live here in Temecula. I was an antique dealer. I'm retired.
15 My husband was a golf course superintendent. He's retired.
16 We had five children. We lost two as adults.
17 I have been on a jury before. I was foreman of the
18 jury in fact. But that was about 20 years ago.
19 THE COURT: Did you reach a verdict?
20 PROSPECTIVE JUROR [TAJ2]: Yes. I hate seeing a child
21 hurt, but I hate seeing somebody punished for something they
22 didn't do, so it's sort of equal. 22 and --
23 THE COURT: Let me go back, do you think you could be a
24 fair and impartial judge of the facts, then?
25 PROSPECTIVE JUROR [TAJ2]: I do.
26 THE COURT: And that's what I thought you were telling
27 me. I just wanted to make sure. And pages 3 and 4, ma'am?
28 PROSPECTIVE JUROR [TAJ2]: This was a long time ago. I

1 had a stepfather that was violent when he drank. He beat my
2 mother. He got me a couple of times. He didn't hurt me real
3 bad. He threatened to kill me.

4 I ran away. He got put in jail for a year. I was
5 friends with him when he wasn't drinking, but it was terrible
6 when he drank.

7 So I have opinions about drinking. But he walked me
8 down the aisle when I got married. So, sober, he was fine.

9 THE COURT: Okay. I don't know what facts you're going
10 to hear in this case, but if you hear anything about alcohol, is
11 that going to cloud your ability to be a fair and impartial
12 judge of the facts in our case here?

13 PROSPECTIVE JUROR [TAJ2]: No.

14 THE COURT: Okay. All right. Anything else?

15 PROSPECTIVE JUROR [TAJ2]: Well, we've had -- let's
16 see, my husband had his truck stolen. Being an antique dealer,
17 I had things stolen out of my shop. So I don't like people that
18 steal, but --

19 THE COURT: And I don't like people that steal either.

20 PROSPECTIVE JUROR [TAJ2]: I hate people that steal.
21 My husband's tools in the garage got stolen. One of my son's
22 bikes. Sears will replace all your tools without a receipt
23 even, those tools we bought.

24 THE COURT: Good. I need to know that. I didn't know
25 that.

26 PROSPECTIVE JUROR [TAJ2]: Yeah. So -- and the jury
27 was -- I was on was theft in a department store, and I said, I
28 hate people that steal, but still I got put on it, so figure

1 that out.

2 THE COURT: Well, same thing that I told everyone else.
3 That case was not a referendum on theft, because everybody hates
4 stealing. The question is whether or not the prosecutor can
5 meet --

6 PROSPECTIVE JUROR [TAJ2]: Right.

7 THE COURT: -- his burden of proof.

8 PROSPECTIVE JUROR [TAJ2]: Right.

9 THE COURT: Right. You didn't go back there and start
10 talking about the evils of theft.

11 PROSPECTIVE JUROR [TAJ2]: No.

12 THE COURT: All right. Anything about those
13 experiences that would make it difficult for you to be a fair
14 and impartial judge of the facts here?

15 PROSPECTIVE JUROR [TAJ2]: I know that you go by the
16 evidence, either, you know, it's there or it's not.

17 THE COURT: Correct.

18 PROSPECTIVE JUROR [TAJ2]: Yeah.

19 THE COURT: All right. And did you hear the five
20 questions I've asked everyone else?

21 PROSPECTIVE JUROR [TAJ2]: I did.

22 THE COURT: Any issues with any of the five questions?

23 PROSPECTIVE JUROR [TAJ2]: No.

24 THE COURT: Okay. Thank you, ma'am.

25 Counsel, can you approach sidebar?

26 (A DISCUSSION WAS HELD AT SIDEBAR, OFF THE RECORD.)

27 THE COURT: Mr. Brown, Mr. Walsh, do you both stipulate
28 that Ms. Brandt and Mr. Duenas can be dismissed for cause?

1 MR. WALSH: Yes, your Honor.

2 MR. BROWN: Yes, your Honor.

3 THE COURT: All right. Ms. Brandt, Mr. Duenas, thank
4 you. Have a good rest of the day.

5 PROSPECTIVE JUROR BRANDT: Thank you.

6 THE COURT: Madam Clerk, could you call two new names?

7 THE CLERK: [TJ03].

8 And Tina Young, Y-o-u-n-g.

9 THE COURT: Okay. [TJ03], Ms. Young, this question is
10 for you two, did you recognize any of those names?

11 PROSPECTIVE JUROR [TJ03]: No.

12 THE COURT: Okay. Give you a chance to -- and
13 Ms. Young, you don't recognize any of those names?

14 PROSPECTIVE JUROR YOUNG: No.

15 THE COURT: I'll give you a chance to read that
16 questionnaire.

17 PROSPECTIVE JUROR [TJ03]: My name is [TJ03], residing
18 at Menifee. I'm a naturalized citizen, a retired professor. So
19 is my husband. We have been married for 35 years.

20 I have two sons, born and grew up in this country.
21 They are working up in San Francisco. One is in computer area.
22 Second one is in nonprofit organization.

23 And I do not have any experience working on the jury.
24 And I can be impartial and fair.

25 THE COURT: And this might be your lucky day, since
26 you've never done it.

27 PROSPECTIVE JUROR [TJ03]: You never know.

28 THE COURT: Yes, ma'am. And do you have any yes

1 answers on pages 3 or 4?

2 PROSPECTIVE JUROR [TJ03]: All questions no.

3 THE COURT: Okay. And --

4 PROSPECTIVE JUROR [TJ03]: But I have one concern.

5 THE COURT: Yes, ma'am.

6 PROSPECTIVE JUROR [TJ03]: Apparently I have a slight
7 hard of hearing. Yesterday I sat in the front seat and I tried
8 to follow what was going on and it was very difficult to follow
9 what had been said. And everybody was very softly spoken. And
10 to hear your voice was okay, but the other people, I don't know
11 whether I should --

12 THE COURT: We have a hearing aid that you -- we
13 actually have a device.

14 PROSPECTIVE JUROR [TJ03]: I never used it, but here I
15 experience it.

16 THE COURT: That's okay. We have a device, if you're
17 selected, that we will give you to use throughout the entire
18 trial. Just -- well, hold on. Just to let you know, so you'll
19 be able to hear everything if you're selected.

20 PROSPECTIVE JUROR [TJ03]: Okay.

21 THE COURT: So we'll have something for you. Okay?

22 PROSPECTIVE JUROR [TJ03]: All right.

23 THE COURT: Okay. And, [TJ03], did you hear -- you
24 heard the five questions I asked everyone else?

25 PROSPECTIVE JUROR [TJ03]: Yes, I did.

26 THE COURT: Do you want me to go over those with you?

27 PROSPECTIVE JUROR [TJ03]: No, you don't have to.

28 THE COURT: Any issues with any of those questions?

1 PROSPECTIVE JUROR [TJ03]: No.

2 THE COURT: Okay. Anything else, [TJ03]?

3 PROSPECTIVE JUROR [TJ03]: No.

4 THE COURT: Thank you so much.

5 Ms. Young, good afternoon, ma'am.

6 PROSPECTIVE JUROR YOUNG: Hello. I'm Tina Lyn Young.

7 I live in the city of San Jacinto. I work as a claims
8 representative for the Social Security Office.

9 I am currently married. My husband is a sergeant with
10 the Hemet Police Department.

11 I have three stepchildren. They're all under the age
12 of 25. One of them is a college student, and she also works for
13 the Hemet Unified School District.

14 I have not had any prior jury experience. And I would
15 be fair and impartial to both sides.

16 THE COURT: And, Ms. Young, pages 3 and 4?

17 PROSPECTIVE JUROR YOUNG: For No. 22, my sister-in-law
18 has been arrested and her trial jury is supposed to start this
19 month for possession. For 23, I have, my house has been broken
20 into. When I was a senior in high school someone tried to
21 attack me, he later raped somebody else two weeks later.

22 THE COURT: Anything about either of those experiences
23 that's going to make it difficult for you to be a fair and
24 impartial judge of the facts in our case here?

25 PROSPECTIVE JUROR YOUNG: No.

26 THE COURT: Okay. Anything else on pages 3 or 4,
27 Ms. Young?

28 PROSPECTIVE JUROR YOUNG: No.

1 THE COURT: Okay. And did you hear the five questions
2 I asked everyone else? You want me to go through those with
3 you?

4 PROSPECTIVE JUROR YOUNG: No, you don't have to.

5 THE COURT: Any issues?

6 PROSPECTIVE JUROR YOUNG: I will be completely
7 impartial, but I do want to let you know that I do get upset
8 when people are critical of police officers.

9 THE COURT: All right. Well --

10 PROSPECTIVE JUROR YOUNG: Because of my husband.

11 THE COURT: I understand. Are you -- are you going to
12 have a difficult time if, let's say, Mr. Brown or Mr. Simowitz
13 is cross-examining in a vigorous manner a peace officer?

14 PROSPECTIVE JUROR YOUNG: You know, I don't think I
15 will have a problem with that.

16 THE COURT: Because that could happen.

17 PROSPECTIVE JUROR YOUNG: Uh-huh, I understand that.

18 THE COURT: These are skilled trial lawyers. They're
19 advocates. And they'll do what they need to do. They're still
20 officers of the court, but depending on what someone says, they
21 are going to probe potentially deeply into what's going on. And
22 that for some people can be uncomfortable.

23 Again, this is a stressful environment. So I want to
24 make sure that if you're seated as a juror, you're not going to
25 hold it against Mr. Simowitz or Mr. Brown because you think,
26 wow, you know what, these two individuals are really
27 browbeating, let's say, this officer over what he did or she did
28 or did not do.

1 PROSPECTIVE JUROR YOUNG: My main concern when people
2 are critical of officers are those who are not working with them
3 on a professional basis. The general public that have had no
4 professional experience with a police officer.

5 But the attorneys questioning, I'm perfectly fine with
6 that. It's when the general public with no training in law
7 enforcement or worked with them on a professional basis, that's
8 where I have the problem.

9 THE COURT: Okay. When you say you don't like it when
10 people are critical of police officers --

11 PROSPECTIVE JUROR YOUNG: It's mostly those who do not
12 work with them on a professional basis.

13 THE COURT: Okay. My last question would be this,
14 during their closing arguments, depending on what comes out,
15 Mr. Brown or Mr. Simowitz may or may not be critical of what the
16 officers testified to. Are you going to have problems with
17 that?

18 PROSPECTIVE JUROR YOUNG: No.

19 THE COURT: Okay. Then I'm going to ask you this one
20 question, though, given what you told me. If police officers
21 testify, will you apply the same standards in evaluating their
22 testimony as you would in evaluating the testimony of any other
23 witness?

24 PROSPECTIVE JUROR YOUNG: Yes, I would.

25 THE COURT: Okay. Anything else, Ms. Young?

26 PROSPECTIVE JUROR YOUNG: No.

27 THE COURT: Thank you, ma'am.

28 Mr. Brown?

1 MR. BROWN: Thank you, your Honor.

2 THE COURT: Thank you, Deputy.

3 (LAUGHTER.)

4 THE COURT: He is a great deputy.

5 MR. BROWN: I missed that one.

6 MR. WALSH: He said he hates cops.

7 MR. BROWN: Oh, he did?

8 It is a stressful thing that I do. If I told you I was
9 only 35, it might show you how it's worn me down over the years.
10 You know, I have a lot of respect for police officers as well.

11 And I direct this to you, Ms. Young. I've
12 cross-examined some of the highest ranking people in the federal
13 government. So I respect what they do. And I thank God that
14 they do what they do.

15 But at the same time, if something comes up, I'm going
16 to go after it, and I have to. And I don't mean that to be
17 mean. I don't mean it to be anything else.

18 But there are certain points that I have to be able to
19 make sure that I can articulate to whoever is sitting in this
20 panel. And if I do it sometimes, you know, I'm not the nicest
21 guy in the world sometimes the way things come across. And it's
22 not because I don't want to be, but if by some chance I get a
23 little heated, is that going to bother you?

24 PROSPECTIVE JUROR YOUNG: No.

25 MR. BROWN: Because that can happen sometimes in a
26 courtroom. I mean, I never met a shy police officer, ever. And
27 the bailiff here is a pretty good indication of that. They have
28 personalities as well. And sometimes, you know, whether it's a

1 police officer or someone else on the street, sometimes I don't
2 mix well with them. And I'm not saying that will happen, but in
3 the event that it did, would it bother you?

4 PROSPECTIVE JUROR YOUNG: No.

5 MR. BROWN: You wouldn't hold it against me for trying
6 to do what I think is the right thing for Mr. Mickey?

7 PROSPECTIVE JUROR YOUNG: No.

8 MR. BROWN: [TJ08] -- actually, excuse me one second.
9 I want to go, [TJ03]?

10 PROSPECTIVE JUROR [TJ03]: Yes.

11 MR. BROWN: Thank you for sharing, you know, your
12 comment that you didn't hear what was going on yesterday.
13 Did -- I was really good yesterday. Did you hear anything that
14 I was talking about? Were you able to hear me yesterday?

15 PROSPECTIVE JUROR [TJ03]: Yes. Yesterday was worse,
16 but today, maybe my mind was clearer, or your voice was clearer,
17 maybe both.

18 MR. BROWN: Okay. Then that's fine. I appreciate
19 that. But were you able to hear any of the issues that I was
20 talking with the folks in the panel yesterday?

21 PROSPECTIVE JUROR [TJ03]: Some of them. I tried to
22 follow.

23 MR. BROWN: I know, I bet you did, and I appreciate
24 that.

25 PROSPECTIVE JUROR [TJ03]: But I couldn't -- I couldn't
26 really follow what everyone said.

27 MR. BROWN: Did it make -- didn't make a lot of
28 sense -- well, let me -- did it -- double negative here, did it

1 not make sense. So that doesn't make sense.

2 Did it -- was what we were talking about make sense to
3 you at all?

4 PROSPECTIVE JUROR [TJ03]: Uh-huh.

5 MR. BROWN: Were you able to follow the scope of the --

6 PROSPECTIVE JUROR [TJ03]: Yes.

7 MR. BROWN: -- questions?

8 PROSPECTIVE JUROR [TJ03]: Yes, I do, uh-huh.

9 MR. BROWN: Based on the scope of the questions as you
10 understood them, is there any comment or anything that you would
11 like to share with us about anything that we talked about
12 yesterday?

13 PROSPECTIVE JUROR [TJ03]: Well, of course, this was
14 kind of learning experience for me about the due process, and of
15 course, because of my background of education and religious
16 stance, and when I am confident that I can be very fair. Of
17 course, sometimes I don't like some conservative Christians who
18 are judgmental. And so those kind of influence should not have
19 a place in the case like this. And I would -- I would
20 consciously try to be fair and follow the problem given to this
21 Court. That's what is the whole process is about.

22 MR. BROWN: Thank you. Thank you. Do you understand
23 that a child has died?

24 PROSPECTIVE JUROR [TJ03]: Huh?

25 MR. BROWN: Do you understand the child died?

26 PROSPECTIVE JUROR [TJ03]: Yes.

27 MR. BROWN: Okay. Do you understand that the case is
28 not about the child, but it's about providing a fair trial for

1 Mr. Mickey?

2 PROSPECTIVE JUROR [TJ03]: Uh-huh.

3 MR. BROWN: Okay. Now, you were a professor?

4 PROSPECTIVE JUROR [TJ03]: I am retired.

5 MR. BROWN: What subject?

6 PROSPECTIVE JUROR [TJ03]: Education.

7 MR. BROWN: Okay; all right. Thank you. I appreciate
8 you sharing with us.

9 [TJ08]?

10 PROSPECTIVE JUROR [TJ08]: Yes, sir.

11 MR. BROWN: I'll come back to you, sir. You had
12 indicated that you're a father of a four- and two-year-old?

13 PROSPECTIVE JUROR [TJ08]: Four-year-old and
14 two-year-old, yes.

15 MR. BROWN: And the child here was young. Are you
16 going to be able to separate yourself from --

17 PROSPECTIVE JUROR [TJ08]: Yes.

18 MR. BROWN: -- reflecting on your own children here in
19 this environment?

20 PROSPECTIVE JUROR [TJ08]: Yes.

21 MR. BROWN: You indicated, I believe, that you have
22 prior jury experience?

23 And, [TAJ2], you were also prior -- were you a
24 criminal -- you were criminal, yeah. You hate theft and you
25 gave us an ad for Sirius, so --

26 PROSPECTIVE JUROR [TAJ2]: Right.

27 MR. BROWN: Okay. And civil, San Diego, five years
28 ago.

1 All right. And do you both understand that the burden
2 is beyond a reasonable doubt in a criminal case, right? And
3 there was a comment here about evidence, the evidence is either
4 there or it's not, right? Now, the case that you were in has a
5 lesser standard of proof, correct?

6 PROSPECTIVE JUROR [TJ08]: Yes, sir.

7 MR. BROWN: All right. And it's more likely than
8 not --

9 PROSPECTIVE JUROR [TJ08]: Yes, sir.

10 MR. BROWN: -- the preponderance of the evidence. So
11 do you understand, the folks here, the difference between the
12 two?

13 In other words, in a civil case the standard is more
14 likely than not. It's anything greater than perhaps
15 50.1 percent, because then it's more likely not to occur, versus
16 somebody that's 49 or something, 49.9 percent, right? The odds
17 are kind of with you. Criminal case, that standard is way
18 higher, isn't it?

19 PROSPECTIVE JUROR [TAJ2]: Right.

20 MR. BROWN: So to say that either the evidence is there
21 or it's not, I'd like to explore that with you just a little
22 bit, because there can be some evidence of something happening,
23 but --

24 PROSPECTIVE JUROR [TAJ2]: We had a video of the girl
25 stealing. The problem was somebody on the jury that felt sorry
26 for what was going to happen. That only held us up a little
27 bit. Well, the thing is not what's going to happen to her.
28 It's did she do it or didn't she do it. So that settled it.

1 MR. BROWN: There's not going to be any who-done-it
2 videos here.

3 PROSPECTIVE JUROR [TAJ2]: I mean, we thought it was a
4 closed thing, because --

5 MR. BROWN: I understand how it goes sometimes.

6 But do you all understand the concept here that I'm
7 trying to get to is that you can have a little bit of evidence
8 that talks about some of these things, but that evidence, if it
9 doesn't rise to a standard of that abiding conviction that His
10 Honor has told us about, you've got to come back and say it's
11 not guilty. Even if you say it smells like it, it looks like
12 it, it walks like a duck, it ain't a duck, you've got to say no.
13 Do we all understand that?

14 Mrs. Young?

15 PROSPECTIVE JUROR YOUNG: Uh-huh.

16 MR. BROWN: Thank you. I appreciate it.

17 [TAJ1], you must have been going pretty quick.

18 PROSPECTIVE JUROR [TAJ1]: Yes.

19 MR. BROWN: Mr. Walsh, is he the one that prosecuted
20 you on that one?

21 PROSPECTIVE JUROR [TAJ1]: Where was he 41 years ago?

22 MR. WALSH: I'm not going to answer that.

23 MR. BROWN: Do you have any questions, sir, about some
24 of the issues that we talked about yesterday?

25 PROSPECTIVE JUROR [TAJ1]: No.

26 MR. BROWN: Are you okay with everything that we talked
27 about --

28 PROSPECTIVE JUROR [TAJ1]: Yes.

1 MR. BROWN: -- you can separate out that we're here for
2 Mr. Mickey, in a fair trial for Mr. Mickey?

3 PROSPECTIVE JUROR [TAJ1]: Sure.

4 MR. BROWN: Okay. And is any of the panel here, do you
5 have any idea or any thought in your mind -- and, [TJ11] --

6 PROSPECTIVE JUROR [TJ11]: Uh-huh.

7 MR. BROWN: I don't mean to exclude from you this, but
8 do all of you have any concern in your mind that just because
9 he's sitting here, that he must have done something? You all
10 right with the fact that maybe he didn't do anything?

11 Okay. All right. I appreciate it.

12 Thank you, your Honor.

13 THE COURT: Thank you, Mr. Brown.

14 Mr. Walsh?

15 MR. WALSH: Thank you, your Honor.

16 Good afternoon, everyone. A few questions. I think
17 you've heard most of what I had to say already, probably.

18 And, [TJ03], you taught education. How about your
19 husband, what did your husband teach?

20 PROSPECTIVE JUROR [TJ03]: Sociology.

21 MR. WALSH: Sociology?

22 PROSPECTIVE JUROR [TJ03]: Uh-huh.

23 MR. WALSH: And was that at college level?

24 PROSPECTIVE JUROR [TJ03]: Excuse me?

25 MR. WALSH: Was that in college, college professor?

26 PROSPECTIVE JUROR [TJ03]: Yes, we both were. Uh-huh.

27 MR. WALSH: Okay. [TAJ2], I've talked to several
28 different jurors so far during this process about if witnesses

1 come in and testify here, and if you are listening to what
2 they're talking about, and you either disagree with their
3 choices, you would have done things differently if you were in
4 their position, or maybe just find yourself kind of not enamored
5 with that person testifying, not liking that person and their
6 life choices. Can you, using the instructions the judge gives
7 you, still evaluate that witness as to whether or not you
8 believe what they're saying?

9 PROSPECTIVE JUROR [TAJ2]: I can.

10 MR. WALSH: Regardless of how you feel about them
11 personally?

12 PROSPECTIVE JUROR [TAJ2]: Right.

13 MR. WALSH: Ms. Chan, you think you can do that as
14 well?

15 PROSPECTIVE JUROR CHAN: Yes.

16 MR. WALSH: Anyone in this group of seven think they
17 can't do that? Again, nobody is jumping.

18 Let's see. Ms. Young, I heard what you said. The --
19 you said there was a case, your sister-in-law?

20 PROSPECTIVE JUROR YOUNG: Yes.

21 MR. WALSH: Is pending, is that in this county?

22 PROSPECTIVE JUROR YOUNG: Yes.

23 MR. WALSH: Anything about that bother you about how my
24 office has handled it?

25 PROSPECTIVE JUROR YOUNG: No.

26 MR. WALSH: Okay. I talked to a couple jurors
27 yesterday about that hypothetical case where a burglary happens
28 and the victim of the burglary might have had some contraband of

1 his own. I asked the jurors yesterday if they would be able to
2 separate those cases and just try the cases in front of them,
3 that means the burglary case. Do you think you could do that?

4 PROSPECTIVE JUROR YOUNG: Yes.

5 MR. WALSH: [TAJ1]?

6 PROSPECTIVE JUROR [TAJ1]: Yes.

7 MR. WALSH: I spoke with a couple jurors yesterday
8 about court TV shows, and specifically I talked about CSI, and
9 we talked about some of the evidence that TV seems to indicate
10 that we just always have at our disposal. And I may not give
11 you that kind of evidence in this case. I mean, this --
12 there's -- there's evidence in this case. There's testimony and
13 there's some physical evidence. But you may not have all the
14 things that maybe you want.

15 But you're going to be asked to make a decision based
16 on what you see and hear only in this courtroom. Do you think
17 you can do that?

18 PROSPECTIVE JUROR [TAJ1]: Sure. I don't watch any of
19 those shows.

20 MR. WALSH: All right. Anyone in this group of seven
21 feel any differently about it? Anyone in this group of seven
22 think I need to have that stuff?

23 Let's see. [TJ11], I spoke with --

24 PROSPECTIVE JUROR [TJ11]: Yes.

25 MR. WALSH: -- a juror who was in this group a few
26 minutes ago about, you go through this process for two days, and
27 you probably weren't there when Judge Dickerson was sworn in,
28 were you?

1 PROSPECTIVE JUROR [TJ11]: I might have been.
2 MR. WALSH: Might have been?
3 PROSPECTIVE JUROR [TJ11]: No.
4 MR. WALSH: Okay. I don't think I was.
5 PROSPECTIVE JUROR [TJ11]: No.
6 MR. WALSH: But in all indications, this looks like a
7 real courtroom and everything, right? In other words, you
8 probably assume, you decide based on beyond a reasonable doubt
9 this is actually a real courtroom, right?
10 PROSPECTIVE JUROR [TJ11]: Yes.
11 MR. WALSH: Everything you see here makes it seem real?
12 PROSPECTIVE JUROR [TJ11]: Yes.
13 MR. WALSH: Okay. Now, is it possible that it all
14 could be fake?
15 PROSPECTIVE JUROR [TJ11]: Not to me.
16 MR. WALSH: Okay; all right. But the standard the
17 judge has explained, I mean, it's kind of in legalese, you know,
18 an abiding conviction of the truth of the charges, and they've
19 worked on making that instruction, you know, understandable and
20 livable and workable. Do you think you can follow that standard
21 of beyond a reasonable doubt?
22 PROSPECTIVE JUROR [TJ11]: Yes.
23 MR. WALSH: You're not going to hold me to absolute
24 certainty, are you?
25 PROSPECTIVE JUROR [TJ11]: Reasonable doubt.
26 MR. WALSH: Okay. Beyond a reasonable doubt, right?
27 PROSPECTIVE JUROR [TJ11]: Right.
28 MR. WALSH: Anyone have a problem with that standard in

1 this group of seven? Okay.

2 And [TJ08].

3 PROSPECTIVE JUROR [TJ08]: Yes, sir.

4 MR. WALSH: There might be -- this is a little bit like
5 the question I asked [TAJ1], but if there's some other evidence
6 that you think we should have, or that you'd want to know about,
7 or, you know, why don't they have this or this person, you might
8 wonder about that, but can you agree to make your decision in
9 this case only based on what you see and hear in this courtroom?

10 PROSPECTIVE JUROR [TJ08]: Only on the evidence
11 presented, yes.

12 MR. WALSH: I don't have any other questions. Thank
13 you very much, everyone.

14 THE COURT: Thank you, Mr. Walsh.

15 Mr. Brown, you pass or reserve for cause?

16 MR. BROWN: Thanks for waking me up, your Honor.

17 THE COURT: Okay.

18 MR. BROWN: Getting -- I think that we pass.

19 THE COURT: Okay. Mr. Walsh, pass?

20 MR. WALSH: People pass.

21 THE COURT: All right. Mr. Walsh, the next pre-empt
22 lies with you, sir.

23 MR. WALSH: Thank you, your Honor. People would like
24 to thank and excuse Juror No. 11, Mr. Zalkins.

25 THE COURT: Mr. Zalkins, thank you, sir. Have a good
26 rest of the day.

27 [TJ11], you can take that seat, sir.

28 Mr. Brown, the next pre-empt lies with you.

1 MR. BROWN: Thank you, your Honor. Mr. Mickey would
2 thank and excuse Mr. Boulware.

3 THE COURT: Mr. Boulware, thank you. Have a good rest
4 of the day.

5 [TJ03], you can take that seat right up there. My
6 deputy was getting antsy there with that questionnaire.

7 COURT DEPUTY: I gave her the benefit of the doubt,
8 maybe she didn't hear yesterday, so --

9 THE COURT: Mr. Walsh?

10 MR. WALSH: Thank you, your Honor. At this time the
11 People would accept the panel as presently constituted.

12 THE COURT: Thank you, Mr. Walsh.

13 Mr. Brown, the next pre-empt lies with you, sir.

14 MR. BROWN: Your Honor, Mr. Mickey would accept the
15 panel as presently constituted as well.

16 THE COURT: All right. Counsel, can you approach
17 sidebar?

18 MR. BROWN: Yes.

19 (A DISCUSSION WAS HELD AT SIDEBAR, OFF THE RECORD.)

20 THE COURT: Okay. Mr. Brown, is [TAJ1] acceptable as
21 Alternate Juror No. 1? Mr. Brown, is [TAJ1] acceptable
22 Alternate Juror No. 1?

23 MR. BROWN: It is, your Honor. Thank you.

24 THE COURT: Mr. Walsh?

25 MR. WALSH: Yes.

26 THE COURT: Okay. [TAJ1], you're going to be
27 designated Alternate Juror No. 1. Doesn't mean that you're the
28 first one to be called, but that's going to be your designation

1 with the court. Do you understand, sir?

2 PROSPECTIVE JUROR [TAJ1]: Yes.

3 THE COURT: And [TAJ1], could you please take a seat
4 next to [TJ04] up there?

5 All right. Mr. Brown, is Ms. Young acceptable as
6 Alternate Juror No. 2?

7 MR. BROWN: We would thank and excuse her, your Honor.

8 THE COURT: All right. Ms. Young, have a good rest of
9 the day. Thank you, ma'am.

10 Mr. Walsh, is Ms. Chan acceptable as Alternate Juror
11 No. 2?

12 MR. WALSH: Yes.

13 THE COURT: Mr. Brown?

14 MR. BROWN: Your Honor, we would thank Ms. Chan.

15 THE COURT: Ms. Chan, thank you. Have a good rest of
16 the day.

17 Mr. Brown, is [TAJ2] acceptable as Alternate Juror
18 No. 2?

19 MR. BROWN: Yes, your Honor.

20 THE COURT: Mr. Walsh?

21 MR. WALSH: Yes.

22 THE COURT: Okay. [TAJ2], you're going to be
23 designated Alternate Juror No. 2. It does not mean that you're
24 No. 2 in the box, but that's your designation with this court.
25 Do you understand, ma'am?

26 PROSPECTIVE JUROR [TAJ2]: Yes.

27 THE COURT: Why don't you have a seat next to [TJ08].
28 And, Madam Clerk.

1 And all of you thought we were done. You know what,
2 we're not even close. Just kidding. I do that to people all
3 the time. Drives them crazy. All right. I'm just kidding. I
4 kept my promise. It was two days.

5 All right. Madam Clerk, would you please call six new
6 names?

7 THE CLERK: Terri Contreras, C-o-n-t-r-e-r-a-s.

8 Theresa Parsons, P-a-r-s-o-n-s.

9 Beverly Palmer, P-a-l-m-e-r.

10 Melvin Swancy, S-w-a-n-c-y.

11 Kim King, K-i-n-g.

12 And Susan Hussey, H-u-s-s-e-y.

13 THE COURT: Thank you, Madam Clerk. Thank you, Deputy.

14 Okay. This question is for the group that just joined
15 us. You heard the names of those potential witnesses. Anyone
16 recognize any of those names?

17 Yes, is it Ms. Hussey.

18 PROSPECTIVE JUROR HUSSEY: Yes.

19 THE COURT: Yes, ma'am.

20 PROSPECTIVE JUROR HUSSEY: My husband served on this
21 case for the District Attorney's Office.

22 THE COURT: All right. Do you both stipulate she can
23 be excused for cause?

24 MR. WALSH: Yes.

25 MR. BROWN: Yes, your Honor.

26 THE COURT: Thank you, Ms. Hussey.

27 Madam Clerk, could you call one more name?

28 THE CLERK: Yes, your Honor.

1 [TAJ4].

2 THE COURT: And, [TAJ4], you are the only one that I
3 haven't asked. Do you recognize any of the potential witnesses?

4 PROSPECTIVE JUROR [TAJ4]: I know several Dr. Dunn's.
5 You didn't say a first name, so I don't know if it's the same
6 people.

7 THE COURT: Okay. And you've heard the question I've
8 asked everyone else. If the Dr. Dunn testified that you know,
9 would that impact your ability to be a fair and impartial judge
10 of the facts?

11 PROSPECTIVE JUROR [TAJ4]: No.

12 THE COURT: Okay. Anyone else?

13 Okay. Whoever finishes with the questionnaire first,
14 let me know.

15 MR. WALSH: Your Honor, can we inquire at sidebar real
16 quick, just one quick question?

17 THE COURT: Yes, sir.

18 (A DISCUSSION WAS HELD AT SIDEBAR, OFF THE RECORD.)

19 THE COURT: All right. I -- what we're going to do at
20 this point, is we're going to take our afternoon recess. And
21 let me tell everyone, we're very close obviously to being
22 finished with the case. We're going to reconvene in 15 minutes.

23 Remember the admonition. Please keep an open mind.
24 Don't draw any conclusions about the case. Please don't talk to
25 anyone about the case.

26 We'll see you back in 15 minutes.

27 And, [TJ03], did you get the earpiece?

28 PROSPECTIVE JUROR [TJ03]: It's squeaking.

1 MR. WALSH: Feedback.

2 THE COURT: What's that?

3 PROSPECTIVE JUROR [TJ03]: It's squeaking.

4 THE COURT: It's squeaking. See if we can get another
5 one. Okay. I can only do so much.

6 (OUTSIDE JURY PANEL PRESENCE:)

7 THE COURT: Okay. The record should reflect the jury
8 has left the courtroom.

9 Mr. Brown, do you withdraw any objection you had?

10 MR. BROWN: Yes, your Honor.

11 THE COURT: Thank you so much. All right. Court's in
12 recess.

13 (RECESS TAKEN.)

14 THE COURT: Back on the record in SWF-015286. The
15 parties are present before the Court. We're in the presence of
16 the panel.

17 And, Ms. Contreras, good afternoon.

18 PROSPECTIVE JUROR CONTRERAS: Good afternoon.

19 THE COURT: Are you ready?

20 PROSPECTIVE JUROR CONTRERAS: Yes. My name is Terri
21 Irene Contreras. I reside in Lake Elsinore, California. I'm a
22 construction coordinator for a Fed-Ex Office.

23 I'm married. My husband works for Orange County Title
24 Asset Management Group.

25 I have three children. I have a 23-year-old that works
26 for Menifee Lakes Country Club. He's an assistant. And also
27 part time for the Christmas, works at J.C. Penney's. I have
28 boy-girl twins that are 16, both students.

1 And let's see here. I have not had any previous jury
2 experience. And I feel that I could be fair and impartial.

3 THE COURT: And pages 3 and 4, ma'am?

4 PROSPECTIVE JUROR CONTRERAS: No, to either one.

5 THE COURT: Okay. And you heard the five questions I
6 asked everyone else. Do you want me to go through those with
7 you?

8 PROSPECTIVE JUROR CONTRERAS: No.

9 THE COURT: Any issues?

10 PROSPECTIVE JUROR CONTRERAS: No.

11 THE COURT: Okay. Thank you.

12 Ms. Parsons?

13 PROSPECTIVE JUROR PARSONS: Yes.

14 THE COURT: Good afternoon.

15 PROSPECTIVE JUROR PARSONS: Good afternoon. My name is
16 Theresa Marie Parsons. I live in Temecula. I'm an estimator
17 and project manager for an electrical construction company that
18 builds schools and hospitals and courthouses. I have been
19 separated for 11 years, and I'll come back to that.

20 I have two children. My son is 27 and unemployed, and
21 my daughter is 17 and a senior at Great Oaks High School.

22 I've never had any previous jury experience. And I'm
23 not sure about No. 8.

24 No. 10 is yes. No. 22 and 23 and 24 are yes.

25 My estranged husband was abusive physically and
26 mentally, verbally. I'm not a small person, as you can tell,
27 but he beat me up twice before I left him. And when I left him,
28 my parents helped me leave. He told my dad he was going to kill

1 him. My dad got a restraining order against him. This makes me
2 very nervous to talk about, but bear with me here.

3 I got an apartment in town with my two children, and
4 shortly after -- I've been there a couple months and my husband
5 found out where I was at. And he came and got into the house.
6 Before -- he ripped the phone off the wall before I could get
7 out to the front room where he took the phone and started
8 hitting me in the head with it and beating me up again.

9 And the neighbors called the police, and he was
10 arrested, and the justice for that was he picked up trash for 18
11 months.

12 I wound up with going to counseling, and they told me I
13 had post traumatic stress disorder. And the counselor suggested
14 that I wait before I filed for a divorce, because my husband
15 believed that when he was married that was forever, and I didn't
16 have enough faith in the system that I would be safe.

17 THE COURT: Let me ask you this, Ms. Parsons. Given
18 that Count 2 alleges child abuse, do you think this case would,
19 even though the abuse involved your husband, do you think this
20 case would hit too close to home for you to be able to sit for a
21 number of weeks and listen to some very difficult evidence
22 potentially?

23 PROSPECTIVE JUROR PARSONS: I didn't sleep last night
24 tossing and turning just from what I've heard in the heard in
25 the courtroom yesterday all day. I just don't think this case
26 is for me. You know, to be honest with you.

27 THE COURT: All right. Mr. Brown, Mr. Walsh, do you
28 stipulate Ms. Parsons can be dismissed for cause?

1 MR. WALSH: Yes.

2 MR. BROWN: Absolutely.

3 THE COURT: Thank you, ma'am. Have a good rest of the
4 day.

5 Ms. Palmer? Good afternoon.

6 PROSPECTIVE JUROR PALMER: Hi. Good afternoon. I'm
7 Beverly Kay Palmer. I live in Winchester. I work as an
8 administrative assistant at an aerospace company.

9 I have four children, three of which are under 25. One
10 is 32, she's a stay-at-home mom. I have one that's 21, she is a
11 waitress and a student. One works for a data management
12 company. And one goes to high school here at Chaparral.

13 I've never had any other jury duty experience. And I
14 could be fair and impartial to both sides.

15 THE COURT: And pages 3 and 4, Ms. Palmer?

16 PROSPECTIVE JUROR PALMER: The answer is no to all of
17 them.

18 THE COURT: Same thing, do you want me to go through
19 the five questions that I've asked everyone else?

20 PROSPECTIVE JUROR PALMER: No.

21 THE COURT: Any issues with those?

22 PROSPECTIVE JUROR PALMER: No, I don't.

23 I do have one issue. After I came in on Thursday, I
24 went to my HR department at work. They only pay for 15 days of
25 jury duty. So it could be a financial hardship for the rest of
26 the days.

27 THE COURT: Okay. What would happen if you're here
28 until the end of January, financially?

1 PROSPECTIVE JUROR PALMER: I just wouldn't get paid,
2 and since I'm divorced, I am the only one that brings in money.

3 THE COURT: And would that make it difficult for you to
4 focus on the facts, knowing that you're sliding financially?

5 PROSPECTIVE JUROR PALMER: Yes, it would.

6 THE COURT: Mr. Walsh, Mr. Brown, stipulate?

7 MR. WALSH: Yes.

8 MR. BROWN: Yes.

9 THE COURT: Thank you, ma'am. You're excused.

10 PROSPECTIVE JUROR PALMER: Thank you.

11 THE COURT: Madam Clerk, could you call two new names?

12 THE CLERK: Yes, your Honor.

13 Eduardo Arteaga, A-r-t-e-a-g-a.

14 And [TAJ3].

15 THE COURT: Okay. Mr. Arteaga, Mr. -- is it [TAJ3]?

16 PROSPECTIVE JUROR [TAJ3]: [TAJ3], sir.

17 THE COURT: Sir, you heard the names of the witnesses.
18 Do either one of you recognize those names?

19 PROSPECTIVE JUROR [TAJ3]: No, sir.

20 PROSPECTIVE JUROR ARTEAGA: No, sir.

21 THE COURT: I will give you a chance to look at the
22 questionnaire.

23 Is it Mr. Swancy?

24 PROSPECTIVE JUROR SWANCY: Yes, sir.

25 THE COURT: Good afternoon, sir.

26 PROSPECTIVE JUROR SWANCY: Good afternoon, your Honor.

27 My name is Melvin Swancy. And I live in Lake Elsinore,
28 California. And I'm a poker dealer at Lake Elsinore Casino.

1 I'm single. And I have four kids, three over 25, one
2 15. And this is as far as I ever got on jury duty. And I can
3 be fair and impartial to both sides.

4 THE COURT: And, sir, what do your children do, the
5 three that are over 25?

6 PROSPECTIVE JUROR SWANCY: Well, my daughter is a
7 nurse, and the two boys in Louisiana, I'm not sure what they're
8 doing right now.

9 THE COURT: Okay. And you said you could be a fair and
10 impartial judge of the facts?

11 PROSPECTIVE JUROR SWANCY: Yes.

12 THE COURT: Any yes answers on pages 3 or 4, sir?

13 PROSPECTIVE JUROR SWANCY: 22, I had a DUI in '91 and
14 '94.

15 THE COURT: Anything about those experiences make it
16 difficult for you to be a fair and impartial judge of the facts?

17 PROSPECTIVE JUROR SWANCY: No.

18 THE COURT: Anything else, sir?

19 PROSPECTIVE JUROR SWANCY: Yeah. I have a son that was
20 charged in Louisiana for firearms and drugs. I'm not sure if it
21 was a federal or misdemeanor offense. I know he did do some
22 time and a pretty big fine. But other than that ...

23 THE COURT: Anything about your son's experience that
24 would make it difficult for you to be a fair and impartial judge
25 of the facts?

26 PROSPECTIVE JUROR SWANCY: No.

27 THE COURT: Anything else on pages 3 or 4?

28 PROSPECTIVE JUROR SWANCY: No.

1 THE COURT: Sir, did you hear the five questions I
2 asked everyone else?

3 PROSPECTIVE JUROR SWANCY: Yes.

4 THE COURT: Want me to go over those with you?

5 PROSPECTIVE JUROR SWANCY: No.

6 THE COURT: Any issues?

7 PROSPECTIVE JUROR SWANCY: No.

8 THE COURT: Okay. Thank you, sir.

9 Ms. King, good afternoon.

10 PROSPECTIVE JUROR KING: Good afternoon. My name is
11 Kim King. And I'm a resident of Temecula. I'm employed as a
12 product developer and project manager for a global training and
13 development company, currently responsible for completing and
14 launching two new product lines between now and the end of
15 February.

16 I am single. I have three children, ages 25, 22 and
17 20. My daughter is a resident of San Diego, and she is a
18 trainer for a global cosmetic firm in Orange County. My other
19 son, the older son, part-time employed in manufacturing. And my
20 younger son is a student. I do not have any previous jury
21 experience. And I feel I can be fair and impartial to both
22 sides.

23 THE COURT: Pages 3 and 4, Ms. King?

24 PROSPECTIVE JUROR KING: Yes. I do you have a yes
25 answer to No. 10.

26 THE COURT: Yes, ma'am.

27 PROSPECTIVE JUROR KING: No. 22, I have a niece in
28 Missouri who was convicted of vehicular manslaughter.

1 THE COURT: Did she serve time?

2 PROSPECTIVE JUROR KING: Uh-huh.

3 THE COURT: All right. Anything about her experience
4 that would make it difficult for you to be a fair and impartial
5 judge of the facts in our case here?

6 PROSPECTIVE JUROR KING: I don't think so.

7 THE COURT: Okay. Now, let me go back to No. 10, did
8 you read about this case?

9 PROSPECTIVE JUROR KING: Yes.

10 THE COURT: Don't tell me what you read.

11 PROSPECTIVE JUROR KING: I won't.

12 THE COURT: Do you think you can set that aside, keep
13 an open mind, apply the facts as you find them to the law that I
14 give you to try to reach a fair and just verdict, if you can,
15 after deliberating with your fellow jurors?

16 PROSPECTIVE JUROR KING: Yes, I think I've kind of
17 changed my attitude since coming into your courtroom, and when
18 you said the other day that this is a closed universe, and if it
19 didn't happen, if we don't hear it here, then it didn't happen.
20 So I'm -- I understand that I need to change my mindset to
21 having the prosecutor prove his case.

22 THE COURT: Right. Because you know, as the trier of
23 fact, you want to hear and see the evidence. That's what you
24 need to judge. Not a newspaper reporter or someone on a blog,
25 you know, telling you what they think after they filtered it
26 through their own mind, right?

27 PROSPECTIVE JUROR KING: Yes. Correct. I recall
28 hearing about this story several years ago, and I remember how

1 it affected me, so -- but I understand the task --

2 THE COURT: Okay.

3 PROSPECTIVE JUROR KING: -- before me.

4 THE COURT: Okay; very good. Anything else on pages 3
5 or 4?

6 PROSPECTIVE JUROR KING: No. 23. There's been a couple
7 of -- there's been an instance of theft and vandalism. My
8 middle son was mugged at knifepoint a couple of years ago. My
9 daughter in elementary school was molested by a employee of the
10 school, elementary school.

11 THE COURT: Anything about those experiences that would
12 make it difficult for you to be a fair and impartial judge of
13 the facts in our case here?

14 PROSPECTIVE JUROR KING: I don't believe so.

15 THE COURT: All right. Anything else, Ms. King?

16 PROSPECTIVE JUROR KING: No.

17 THE COURT: Okay. Did you hear the five questions I
18 asked everyone else?

19 PROSPECTIVE JUROR KING: Yes, I did.

20 THE COURT: Any issues with those?

21 PROSPECTIVE JUROR KING: No, sir.

22 THE COURT: Thank you so much.

23 Is it [TAJ4]?

24 PROSPECTIVE JUROR [TAJ4]: Yes.

25 THE COURT: Good afternoon.

26 PROSPECTIVE JUROR [TAJ4]: Hi. My name is [TAJ4]. And
27 I live in Hemet. I work for Hemet Unified School District. I
28 provide the health services for the special education students

1 at one of our high schools.

2 I've been married for 23 years. And we have three
3 daughters. Oldest daughter is 20, and she attends college out
4 of the state. We have an 18-year-old daughter that also attends
5 college out of state, and a 15-year-old daughter.

6 And I have no previous jury experience. And yes, I can
7 be fair and impartial to both sides.

8 THE COURT: Pages 3 and 4, [TAJ4]?

9 PROSPECTIVE JUROR [TAJ4]: No.

10 THE COURT: Okay. And you heard the five questions I
11 asked everyone else, any issues with those?

12 PROSPECTIVE JUROR [TAJ4]: No.

13 THE COURT: Want me to go over those with you?

14 PROSPECTIVE JUROR [TAJ4]: No.

15 THE COURT: Thank you, ma'am. If you could hand the
16 microphone down to Mr. Arteaga.

17 Mr. Arteaga, are you ready?

18 PROSPECTIVE JUROR ARTEAGA: Yes.

19 THE COURT: Okay. Good afternoon, sir.

20 PROSPECTIVE JUROR ARTEAGA: Good afternoon. My name is
21 Eduardo Arteaga. And I'm self-employed. I got five kids. And
22 my youngest kid is 4 and then 7, 12 and 17 and 18, and my oldest
23 kid works part time at Home Depot. And he also goes to college.
24 And my wife she is a housewife.

25 THE COURT: So she is the hardest worker.

26 PROSPECTIVE JUROR ARTEAGA: I don't know. I'm the only
27 provider of my house, so --

28 THE COURT: All right. Well, sometimes I hear that and

1 I understand. She's providing something as well, but --
2 PROSPECTIVE JUROR ARTEAGA: Right.
3 THE COURT: -- that's a different issue for a different
4 day.
5 Go ahead.
6 PROSPECTIVE JUROR ARTEAGA: And --
7 THE COURT: Have you ever been on a jury before?
8 PROSPECTIVE JUROR ARTEAGA: Yes, sir. I was on a jury
9 last year, but I got sent home.
10 THE COURT: Okay. How about No. 8?
11 PROSPECTIVE JUROR ARTEAGA: No. 8?
12 THE COURT: Can you be a fair and impartial judge of
13 the facts?
14 PROSPECTIVE JUROR ARTEAGA: Yes, I can.
15 THE COURT: Okay. Give both sides a fair trial?
16 PROSPECTIVE JUROR ARTEAGA: Yes, sir.
17 THE COURT: And, sir, what about pages 3 and 4, any yes
18 answers?
19 PROSPECTIVE JUROR ARTEAGA: On 20 -- 3, 4?
20 THE COURT: Yes, sir.
21 PROSPECTIVE JUROR ARTEAGA: I'm married. Right here.
22 3 and 4?
23 THE COURT: Yeah, pages 3 and 4.
24 PROSPECTIVE JUROR ARTEAGA: Oh, okay.
25 THE COURT: Did you get a chance to review those
26 questions?
27 PROSPECTIVE JUROR ARTEAGA: Yeah. Yeah.
28 THE COURT: Do you have any yes answers?

1 PROSPECTIVE JUROR ARTEAGA: Yes, I got one yes on 22.
2 THE COURT: Yes, sir.
3 PROSPECTIVE JUROR ARTEAGA: I was arrested about
4 six years ago for spousal abuse, or what is it called? Domestic
5 violence.
6 THE COURT: Domestic violence?
7 PROSPECTIVE JUROR ARTEAGA: Yeah.
8 THE COURT: Okay. And what was the outcome? Were you
9 prosecuted?
10 PROSPECTIVE JUROR ARTEAGA: Yes, I was.
11 THE COURT: Okay. Was it in Riverside County?
12 PROSPECTIVE JUROR ARTEAGA: Right here. I think it was
13 your court, too.
14 THE COURT: Okay.
15 PROSPECTIVE JUROR ARTEAGA: Yeah.
16 THE COURT: You know, that's an issue I don't deal with
17 that much. Is it going to be difficult to be a fair and
18 impartial judge of the facts knowing that I was -- that I
19 presided over the case that involved domestic violence on you
20 against your wife?
21 PROSPECTIVE JUROR ARTEAGA: Well, you know, it's
22 nothing to do with this case.
23 THE COURT: Right.
24 PROSPECTIVE JUROR ARTEAGA: With you it was not true
25 what -- the domestic violence wasn't true, though.
26 THE COURT: Well, let's --
27 PROSPECTIVE JUROR ARTEAGA: I know.
28 THE COURT: Here is what I don't want to do, because

1 everything is on the record.

2 PROSPECTIVE JUROR ARTEAGA: Right.

3 THE COURT: I don't want you to incriminate yourself.

4 PROSPECTIVE JUROR ARTEAGA: Right. Right.

5 THE COURT: So I don't want you to tell me about the
6 facts.

7 PROSPECTIVE JUROR ARTEAGA: And there's also, my wife,
8 she got arrested about a month ago, too, for the same thing.

9 THE COURT: She's not in my court, is she?

10 PROSPECTIVE JUROR ARTEAGA: No, she's gone.

11 THE COURT: Okay. Counsel, will you both stipulate
12 that Mr. Arteaga can be dismissed for cause?

13 MR. WALSH: Yes.

14 MR. BROWN: Yes, your Honor.

15 THE COURT: Mr. Arteaga, thank you, sir. You're
16 excused. Good luck.

17 PROSPECTIVE JUROR ARTEAGA: Okay. Thank you.

18 THE COURT: Okay. And is it [TAJ3]?

19 PROSPECTIVE JUROR [TAJ3]: [TAJ3], sir.

20 THE COURT: Good afternoon.

21 PROSPECTIVE JUROR [TAJ3]: Good afternoon, sir.

22 THE COURT: Are you ready?

23 PROSPECTIVE JUROR [TAJ3]: I'm ready.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR [TAJ3]: My name is [TAJ3]. I live
26 in Murrieta. I work with Lowe's as a customer sales
27 representative.

28 I also deal outside sales for my wife's business. We

1 do digital, basically we do multimedia, do anything from
2 one-size business cards -- sorry, I didn't mean to do a
3 paycheck.

4 I am married. I've been married for about six years
5 now. I have a five-year old daughter.

6 Let's see. No jury experience. And I can be fair and
7 impartial.

8 THE COURT: [TAJ3], pages 3 and 4, any yes answers,
9 sir?

10 PROSPECTIVE JUROR [TAJ3]: Yes, I do. I was actually
11 quite surprised you didn't get some sort of a message or
12 something. My family -- well, I have somewhat of an extensive
13 history in my family, both my stepfathers when I was young were
14 in jail. My second stepfather, he did time for manslaughter.

15 Let's see, my youngest brother, it was a child abuse
16 case. I don't want to go too far into that, but he was
17 prosecuted, served four years in jail. My younger brother, one
18 older than that, was prosecuted for domestic violence and a
19 couple of issues with his fiance.

20 And then myself, I got a DUI about five years ago and a
21 domestic violence charge as well. I was prosecuted, served
22 time. And I'm better, obviously, but it is a little nerve
23 wracking talking about it because it is an extensive history.

24 THE COURT: You said you were surprised I didn't
25 preside --

26 PROSPECTIVE JUROR [TAJ3]: It was a joke. I apologize,
27 sir.

28 THE COURT: Okay. That's all right. I thought, that

1 can't happen, two people in a row.

2 PROSPECTIVE JUROR [TAJ3]: I understand.

3 THE COURT: So okay. Well, let me ask you this. Do
4 you think that because you've had -- you've been involved in the
5 criminal justice system and you've been prosecuted --

6 PROSPECTIVE JUROR [TAJ3]: Yes, sir.

7 THE COURT: -- for DUI, you have relatives that have
8 been prosecuted as well, served time, correct?

9 PROSPECTIVE JUROR [TAJ3]: Yes, sir.

10 THE COURT: Was that in Riverside County?

11 PROSPECTIVE JUROR [TAJ3]: No, sir.

12 THE COURT: Okay. Do you think they were treated
13 fairly by law enforcement?

14 PROSPECTIVE JUROR [TAJ3]: Absolutely.

15 THE COURT: Okay. And anything about their experiences
16 that's going to make it difficult for you to be a fair and
17 impartial judge of the facts?

18 PROSPECTIVE JUROR [TAJ3]. Certainly not, sir.

19 THE COURT: So you can give both sides a fair trial,
20 because remember, it's not just Mr. Mickey. It's also law
21 enforcement that deserves a fair trial as well. And as a fair
22 and impartial judge of the facts, I'm the judge of the law, like
23 I told you, but you are the judge of the facts, and you have to
24 make a determination based on the evidence that you hear, not
25 sympathy, prejudice, bias, public opinion, anything like that.
26 You look at the evidence, and then you make the call, and the
27 chips fall where they may.

28 PROSPECTIVE JUROR [TAJ3]: Yes.

1 THE COURT: Can you give both sides a fair trial?
2 PROSPECTIVE JUROR [TAJ3]: Yes.
3 THE COURT: Okay. Anything else?
4 PROSPECTIVE JUROR [TAJ3]: I do have a minor traffic
5 fine that I have to appear in court at the end of the month, but
6 other than that, no.
7 THE COURT: Okay. Is that going to affect your ability
8 to --
9 PROSPECTIVE JUROR [TAJ3]: No, sir.
10 THE COURT: Okay. Anything else?
11 PROSPECTIVE JUROR [TAJ3]: No, sir.
12 THE COURT: Okay. Did you hear the five questions I
13 asked everyone else, [TAJ3]?
14 PROSPECTIVE JUROR [TAJ3]: Yes, sir.
15 THE COURT: Any issues with those?
16 PROSPECTIVE JUROR [TAJ3]: No, sir.
17 THE COURT: Okay. Anything else?
18 PROSPECTIVE JUROR [TAJ3]: No, sir.
19 THE COURT: Thank you.
20 Mr. Brown, would you like to address the group?
21 MR. BROWN: Thank you, your Honor.
22 Good afternoon. We are interviewing you now, talking
23 to each of you, because you're likely to be a alternate juror.
24 And the best way that I was ever able to figure out how to
25 approach this is it's kind of like a baseball analogy. You're
26 kind of like relief pitchers. You may never get in the game,
27 you know, but you have to be ready to go if you are.
28 So what that means is that for as long as this trial

1 is, you're going to have to sit here and you're going to have to
2 listen to it and listen to it and listen to it and not talk to
3 anybody about it and not formulate opinions about it, and then
4 come time to, when the jury is charged, you may not get to
5 participate in the deliberations. I just kind of wonder how you
6 feel about that.

7 PROSPECTIVE JUROR [TAJ3]: Fine.

8 MR. BROWN: You all right with that?

9 Just go down the line here. I guess, for the record, I
10 should state your names, at least.

11 [TAJ4]?

12 PROSPECTIVE JUROR [TAJ4]: Yes.

13 MR. BROWN: Are you okay with that?

14 Mrs. King?

15 PROSPECTIVE JUROR KING: It's a little bit of a
16 let-down, but yeah.

17 MR. BROWN: Okay. That's what I'm saying, it could be.
18 I know other jurors that were, you know, wanting to dread it,
19 like the marshal had to drag them out because they wanted to get
20 back in there. At times it can get emotional when they, you
21 know, people want to have a say about things. So you're all
22 right with that?

23 PROSPECTIVE JUROR KING: Uh-huh.

24 MR. BROWN: All right.

25 Mr. Swanson?

26 PROSPECTIVE JUROR SWANSON: Yeah, I don't have --

27 MR. BROWN: You are okay with that? All right. Thank
28 you.

1 [TAJ3]?

2 PROSPECTIVE JUROR [TAJ3]: [TAJ3]. Yes, sir.

3 MR. BROWN: Are you okay with that as well?

4 PROSPECTIVE JUROR [TAJ3]: Yes, sir.

5 MR. BROWN: And, Mrs. Contreras, you okay with that?

6 PROSPECTIVE JUROR CONTRERAS: Yes.

7 MR. BROWN: All right. I just had a couple real quick
8 questions. The global question, and I know you were joking, I
9 couldn't help speak up very well, I guess. It was kind of flat
10 and monotonous or whatever. Hopefully, it's not monotonous, but
11 I know it's really low sometimes.

12 But I talked with everybody for quite awhile yesterday
13 about these global kind of thoughts, you know, about leaving
14 the -- your feelings about protecting children out of this
15 decision. Is that something that if you get into the mix here
16 and actually deliberate on the panel, is it something that each
17 one of you could do? Are you all right, everybody is okay with
18 that?

19 You understand that this is a case where we're
20 concerned about the fairness of the trial for Mr. Mickey, and
21 it's not -- we're not here for justice for this child. And as
22 much as we -- our heart might want to pull for that, it's not
23 the time and place for that. All okay with that?

24 All right. Now, ma'am, I just had one area here for
25 you on the -- you said you had read some things and so forth,
26 and now, you understand now that everything is within the four
27 walls of this room, correct?

28 PROSPECTIVE JUROR KING: Yes, is it.

1 MR. BROWN: All right. The only question I had come
2 out of that really is, you know, the prosecution, we've gone
3 over this, we beat this horse pretty good by now, but we --
4 Mr. Walsh has the burden of proof. Now, that means
5 theoretically that I could sit here for a week, two weeks,
6 three weeks, Mr. Simowitz and I, four weeks, and I might say, I
7 don't have any questions. I'm not saying that'll happen, but if
8 I choose to do that, that's what I can do. And would any of you
9 be disappointed if this is the last time you get to talk with me
10 until I stand in front of you on closing? Would that disappoint
11 you if I didn't do anything?

12 PROSPECTIVE JUROR KING: No.

13 MR. BROWN: Are you all right with the fact that, as
14 far as the law is, and I'm not saying that I would do this, but
15 as far as the law is concerned to each of you, I don't have to
16 do a darned thing. If I don't think something is going on or
17 even if I did think something is going on, the law is that
18 strict where I don't have to do anything. You all okay with
19 that concept?

20 And if I do decide to do something are you going to go
21 the other way and say, Brown must think they're proving
22 something, so maybe he ought to get up and say it? Do you
23 understand what I'm saying? You know, I have an obligation to
24 defend him and make sure that certain points are being brought
25 out. If I think the points are being brought out by Mr. Walsh
26 and I decide not to follow up on it, I can do that. You okay
27 with that?

28 If I think Mr. Walsh is bringing those points out, I

1 have the opportunity to stand up, do you see what I mean? You
2 all okay with that concept?

3 Thank you. I appreciate it. Thank you very much.

4 THE COURT: Thank you, Mr. Brown.

5 Mr. Walsh?

6 MR. WALSH: Thank you, your Honor.

7 Good afternoon, everyone. Just a couple questions.

8 [TAJ3], you knew I was going to ask you questions, right?

9 PROSPECTIVE JUROR [TAJ3]: Yes, sir.

10 MR. WALSH: Okay. So you -- and I'm not trying to -- I
11 always say that I'm not trying to put you on the spot, but
12 that's exactly what I'm doing. You had -- you said you were
13 tried or you were at least arrested or dealt with some issues in
14 the legal system with regard to domestic violence and DUI; is
15 that right?

16 PROSPECTIVE JUROR [TAJ3]: Yes, sir.

17 MR. WALSH: Okay. And was that in this county?

18 PROSPECTIVE JUROR [TAJ3]: No, sir.

19 MR. WALSH: That was elsewhere?

20 PROSPECTIVE JUROR [TAJ3]: San Diego County.

21 MR. WALSH: Okay. That process -- I know the judge has
22 already asked you if you can be fair and keep an open mind in
23 this case. Do you have any bad memories from that experience,
24 other than the experience itself?

25 PROSPECTIVE JUROR [TAJ3]: That was, yes.

26 MR. WALSH: Anything leave a bad taste in your mouth?

27 PROSPECTIVE JUROR [TAJ3]: No, sir. I honestly believe
28 that I did the time for what I deserved. I did something wrong

1 on both cases, and I served my time. I learned my lesson
2 ultimately.

3 MR. WALSH: And how long ago was this?

4 PROSPECTIVE JUROR [TAJ3]: This was about,
5 approximately five years ago.

6 MR. WALSH: Okay. And let's see here.

7 [TAJ4], I didn't hear what your husband does?

8 PROSPECTIVE JUROR [TAJ4]: I'm sorry, he is a UPS
9 driver.

10 MR. WALSH: Okay. You know, kind of just, the topic of
11 just has kind of come up a little bit today during the
12 discussions we've been having with all of you. What we're
13 asking you to do, if you're selected as a juror, as an
14 alternate, or if you replaced as a regular juror during the
15 course of this, is we're asking you to help us carry out
16 justice. That's what jurors are here to do.

17 You're the final piece of the puzzle. I call
18 witnesses, the defense calls witnesses, the judge gives you the
19 law. He decides which law should come in front of you and
20 ultimately the jurors are what carry out justice for this whole
21 system, the justice system.

22 And that's the big responsibility we're asking you to
23 do. We're asking you to pay attention to the entire case,
24 almost two months of it over the holidays, and you may or may
25 not be a juror in this case. Is there anyone amongst the five
26 of you prepared to do something like that?

27 [TAJ4], I've asked a lot of questions today of a lot of
28 different jurors, given a lot of different examples ranging from

1 silly to serious. Can you follow the law in this case whether
2 you agree with it or not?

3 PROSPECTIVE JUROR [TAJ4]: Yes.

4 MR. WALSH: Ms. King, can you do that as well?

5 PROSPECTIVE JUROR KING: Yes.

6 MR. WALSH: Mr. Swancy, can you follow the law in this
7 case, confine your decisions to the evidence that you hear
8 inside this courtroom?

9 PROSPECTIVE JUROR SWANCY: Yes. Yeah.

10 MR. WALSH: [TAJ3], can you do that as well?

11 PROSPECTIVE JUROR [TAJ3]: Yes, sir.

12 MR. WALSH: Ms. Contreras, can you do that?

13 PROSPECTIVE JUROR CONTRERAS: Yes.

14 MR. WALSH: Anyone amongst the five of you have any
15 issue coming up in the next seven or eight weeks that we haven't
16 heard about yet, that might prevent you from being a juror?

17 All right. Thank you very much, everyone.

18 THE COURT: Thank you, Mr. Walsh.

19 Mr. Brown, do you pass or reserve?

20 MR. BROWN: Reserve, your Honor.

21 THE COURT: Okay.

22 MR. WALSH: People pass.

23 THE COURT: Okay. Counsel, can you approach sidebar?

24 (A DISCUSSION WAS HELD AT SIDEBAR, OFF THE RECORD.)

25 THE COURT: Ms. Contreras, thank you, ma'am. And,
26 Ms. King, thank you. Have a good rest of the day.

27 And, Mr. Walsh, do you pass for cause?

28 MR. WALSH: Yes, your Honor.

1 THE COURT: And, Mr. Brown, do you pass for cause?

2 MR. BROWN: Yes, your Honor.

3 THE COURT: And, Mr. Brown, is [TAJ3] acceptable as
4 Alternate Juror No. 3?

5 MR. BROWN: He is, your Honor.

6 THE COURT: Mr. Walsh?

7 MR. WALSH: Yes.

8 THE COURT: Okay. [TAJ3], you're going to be
9 designated Alternate Juror No. 3. I'm going to have you take a
10 seat next to [TJ12] there. Doesn't mean you're No. 3 in the
11 box, that's just your designation before the court. Do you
12 understand?

13 PROSPECTIVE JUROR [TAJ3]: Yes, sir.

14 THE COURT: All right.

15 And, Mr. Walsh, is Mr. Swancy acceptable as Alternate
16 Juror No. 4?

17 MR. WALSH: People thank and excuse Mr. Swancy.

18 THE COURT: Mr. Swancy, have a good rest of the day.

19 PROSPECTIVE JUROR SWANCY: Thank you, sir.

20 THE COURT: Thank you for your time.

21 Mr. Brown, is [TAJ4] acceptable as Alternate Juror
22 No. 4?

23 MR. BROWN: Yes, your Honor.

24 THE COURT: Mr. Walsh?

25 MR. WALSH: Yes.

26 THE COURT: All right. And at this time, [TAJ4],
27 you're going to be designated Alternate Juror No. 4. Why don't
28 you have a seat in the far seat over there. I think my deputy

1 will move you around a little bit.

2 And guess what, for everyone else this concludes the
3 jury. We're going to go with four alternates. We don't need
4 any more.

5 Let me tell everyone this. You have been here for two
6 days. You were also here last week. So this isn't just like
7 you were here one day. All of you have participated, you've
8 been patient. I really appreciate it. Hopefully you've learned
9 something about our criminal justice system and how important
10 your participation is in this. And you know, we're working very
11 hard to make it work for you. And obviously, without your
12 participation, we would have no criminal justice system. So I
13 want to thank all of you for being here the last couple days.

14 Have a great holiday season, and I'm sure a lot of you
15 I'll see you in the future, because I can't retire for a long
16 time. So thank you, everyone. Have a good rest of the day.

17 Okay. Record should reflect that the panel has left
18 the courtroom. We are now in the presence of our jury.

19 Madam, Clerk, could you please swear in our jury. And
20 this is just for the 12. The four alternates will remain
21 seated.

22 THE CLERK: Could you please all stand to be sworn and
23 raise your right hand.

24 You and each of you understand and agree that you will
25 accurately and truthfully answer under penalty of perjury all
26 questions that -- that's not the right one, your Honor. I'm
27 sorry.

28 I'm sorry about that.

1 THE COURT: Why don't you start over.

2 THE CLERK: Yes.

3 THE COURT: Okay.

4 THE CLERK: You and each of you do understand and agree
5 that you will well and truly try the cause now pending before
6 this Court and render a true verdict according only to the
7 evidence presented to you and the instructions of the Court? If
8 you understand and agree, please say "I do."

9 (JURORS ANSWERED IN THE AFFIRMATIVE.)

10 THE CLERK: Thank you. Please be seated.

11 THE COURT: Okay. And the four alternates, go ahead,
12 if you can stand.

13 THE CLERK: Do you solemnly state that you will act as
14 an alternate juror in the cause now pending before this Court,
15 by listening attentively to the evidence and the instructions of
16 the Court, and that you will act as a juror when called upon by
17 the Court, so help you God?

18 (ALTERNATE JURORS ANSWERED IN THE AFFIRMATIVE.)

19 THE CLERK: Thank you. Please be seated.

20 COURT DEPUTY: At this point, would you like me to seat
21 them in the spots?

22 THE COURT: Yes, you could. That's fine, Deputy. Go
23 ahead and do that right now.

24 COURT DEPUTY: Okay. Alternate No. 1, you will be on
25 the second bench, top row, all the way in. Alternate No. 2,
26 same row you're in but on this side. Alternate No. 3, same row
27 that you're in on this side close to the bench. And Alternate
28 No. 4, the next available seat in the top row.

1 And these will be your spots for the remainder of the
2 trial, unless you're replaced for somebody else.

3 (END OF AUGMENTED TRANSCRIPT FOR 12/9/09.)
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1 You're going to hear from a lot of different witnesses
2 during this case. You're going to hear from civilians. You're
3 going to hear from family members. You're going to hear from
4 law enforcement. You're going to hear medical evidence.

5 You're going to get a lot of information during this
6 case. But the facts that will shine through and the facts that
7 will lead you to the truth is that these injuries happened
8 suddenly, in a determinate period of time, and in the time where
9 the defendant was the only one with access to Kerianne to
10 inflict those injuries.

11 Now, the life of Kerianne Bradley, the short life of
12 Kerianne Bradley, 16 months, 517 days, is a tragic and sad one.
13 She was born to a father she never really knew. She was born to
14 a mother who is immature, unprepared to be a mother.

15 The primary love and support and caring that she
16 received was from other family members, her grandmothers, from
17 babysitters, and sometimes from the defendant. But nothing that
18 you'll hear about any of these people will indicate that anyone
19 else inflicted any injuries on Kerianne that caused her death.

20 You're going to hear from Jennifer Bradley, you're
21 going to hear from the mother of Kerianne. You're going to hear
22 a lot of different things about her. And it's going to be your
23 responsibility as jurors to decide if you believe what she has
24 to say and evaluate her testimony for what it is, and evaluate
25 the testimony of all the witnesses.

26 You're going to hear that Jennifer was at times not a
27 good mother, at times resented Kerianne for being an
28 inconvenience on her life. But you're never going to hear

1 evidence that Jennifer inflicted injuries on Kerianne.

2 You're going to hear that Jennifer met the defendant,
3 Mr. Mickey, August of 2005. They hit it off. They moved in
4 together shortly thereafter, lived in a couple different places,
5 finally moving into an address on Broken Arrow Way where this
6 happened in December of 2005.

7 You're going to hear that, in the weeks preceding
8 Kerianne's murder, she was cared for by a combination of her
9 grandmothers, by a babysitter, by the defendant and by Jennifer.

10 You're going to hear that Kerianne got sick the week
11 before she was murdered. She had a fever and she went and saw
12 the doctor on February 2nd, two days before she was murdered.
13 She was diagnosed with a fever and flu-like symptoms.

14 MR. BROWN: Objection. It's argumentative, murder,
15 your Honor.

16 THE COURT: Overruled.

17 MR. WALSH: You're going to hear that on the very
18 morning of February 4th, 2006, the defendant's own mother saw
19 Kerianne that morning in the company of the defendant, and she
20 exhibited no injuries, no visible injuries, no bruises, she was
21 alive and awake when the defendant left with her at about 11:30
22 or 12:00 midday on February 4th.

23 You're going to hear that about 90 minutes after the
24 defendant leaves his mother's home with Kerianne, he calls for
25 help. He calls for help because Kerianne is not breathing.

26 You're also going to hear that 14 minutes before he
27 called 9-1-1, he called his mother. And he also called
28 Jennifer. But not -- the 14 minutes after those calls to his

1 mother and Jennifer, did he actually call 9-1-1 and ask for
2 help.

3 You're going to hear that medics arrived at the scene
4 and found Kerianne exhibiting these injuries on her face, not
5 breathing. They were able to resuscitate her and they took her
6 to the hospital.

7 You're going to hear that after being treated initially
8 at Rancho Springs Hospital, and you'll hear from Dr. Murillo who
9 treated her, he will tell you that these injuries were fresh and
10 that they were dramatic. That they were serious.

11 And Kerianne was then life-flighted down to San Diego
12 Children's Hospital where she was treated by Dr. Kuelbs, who
13 you'll also hear from. He will also tell you these injuries
14 were fresh and they were deadly. And that they were a result of
15 blunt force trauma to Kerianne's body.

16 You'll hear from the medical examiner, Dr. Swalwell,
17 who did an autopsy and medical examination on Kerianne after she
18 passed on February 5th. He will also tell us that these
19 injuries were fresh and new and happened during this period of
20 time immediately before the emergency personnel were called when
21 she was in the hands of Ryan Mickey.

22 That's some of the evidence that you're going to hear
23 in this case. And at the end of this case, after hearing all
24 the evidence, and all these witnesses, and after all this time
25 that you're going to spend here, I will stand up again and ask
26 you to look, think, listen and use everything that you saw and
27 heard within these four walls during this trial. And then use
28 the law that the judge gives you.

1 And when you put those things together, and you
2 consider the facts and the evidence in this case, I'm going to
3 ask you to find the defendant, Ryan Mickey, guilty of the murder
4 of Kerianne Bradley.

5 Thank you.

6 THE COURT: Thank you, Mr. Walsh.

7 Mr. Brown, would you like to make your opening
8 statement at this time?

9 MR. BROWN: I would, your Honor. Thank you for the
10 opportunity.

11 THE COURT: Yes, sir.

12 MR. BROWN: Good morning, folks.

13 THE JURORS (Collectively): "Good morning."

14 MR. BROWN: When I was sitting here listening to
15 Mr. Walsh talk to you all, it came to my mind that sometimes
16 when you listen to somebody as articulate as he is, and as
17 educated as he is, and professional as he is, you kind of lose
18 sight of the fact, sometimes even lose track of the fact that
19 not everything that he's told you is really what happened here.

20 Ryan Mickey was alone with this child for about an
21 hour, hour and a half before she passed away. But the evidence
22 is going to show you that every single thing that occurred after
23 that point in time is a product of trying to back into a theory
24 to show that he must have done it, because he was alone with
25 that child.

26 Now, we agree with the People on two issues and two
27 issues only. Kerianne Bradley, this child, has passed away.
28 And we agree that Ryan Mickey was alone with this child for the

1 last hour or so of its life.

2 But the evidence as we have seen it, and as other
3 people have looked at it, and as other people have explained to
4 us, allow us to come before you in this courtroom and make
5 certain allegations of our own.

6 Now, you all heard about a complaint that was filed
7 against Ryan Mickey where they've accused him of murder and
8 child abuse. And that's a formal process that gets us here. An
9 individual doesn't get a chance to make a formal allegation
10 until he gets in front of folks like you that are going to be
11 entitled to hear what happened in this case and then make an
12 educated decision of what the truth is.

13 Now, the evidence allows Mr. Mickey to stand in front
14 of you and make four real strong assertions and allegations of
15 his own. And those allegations are, and I'm going to tick them
16 off for you real quick. One, Kerianne Bradley was not fine, was
17 not doing well, and was not normal in the days preceding her
18 passing.

19 Two, the police officers that investigated this case
20 ignored critical evidence, didn't follow up on critical
21 evidence, and didn't heed the very words of Mr. Mickey that
22 something else had to have happened to this child. And they did
23 not pass on to the very doctors that they were relying upon
24 critical information that ought to have been provided to them in
25 order to allow those folks to make the decisions that they made.

26 Three, the doctors that these folks were relying upon
27 did not have critical information provided to them and,
28 unfortunately, had critical information available to them that

1 they did not share with the police. And in certain
2 circumstances those doctors didn't even follow their own
3 protocol, their own protocol that they say they have to follow
4 in order to properly evaluate a case like this.

5 And the fourth assertion is, Mr. Mickey did not kill or
6 intentionally harm nor abuse that child.

7 Now, at this stage of this trial it's my privilege to
8 give you this opening statement. Now, it's one of two times
9 that myself and Mr. Simowitz are going to have the opportunity
10 to speak directly to you, because throughout the balance of this
11 case, throughout the rest of this trial we're going to be
12 limited to asking questions of folks that are going to take this
13 witness stand and give you information, and give you the kind of
14 evidence that they have to help you correctly decide this case.

15 But as you know, not any one witness has all the facts
16 or all the evidence that you need. You get it in bits and
17 pieces, because it's going to come through a lot of different
18 people.

19 So I'm hoping that I can give you this opening
20 statement in such a coherent and understandable way that you're
21 going to be able to be in a better position to judge and gauge
22 the importance of all this information as it's being provided to
23 you.

24 And I want to give you two examples of that while I'm
25 talking on the issue, so that you can kind of understand where
26 I'm coming from in this particular situation.

27 You heard Mr. Walsh tell you that this child was fine,
28 there was no bruises, life seemed to be fine for this girl,

1 other than it had the flu for a couple days preceding its
2 passing.

3 But the evidence is going to show you that this child
4 was vomiting. This child had a fever. This child was
5 lethargic. This child was sluggish. This child was
6 nonresponsive to people that had care and custody of it.

7 This child was taken outside, fell to the ground, lied
8 on the ground, slept for almost 24 hours straight, had ice put
9 on its face for 10 minutes, didn't even wake up out of that.
10 All these symptoms can -- are consistent with a prior head
11 injury and a concussion.

12 Now, if you had just heard what Mr. Walsh told you,
13 that the child was fine, that the child was responsive and the
14 child was doing the things he mentioned, you might look at this
15 case in a different light. But now, knowing what the evidence
16 is going to really show you about these issues, you are going to
17 be in a much better position to judge and gauge the importance
18 of this stuff as it's coming towards you from the witnesses that
19 are going to share it with you.

20 I want to share another example that I was talking to
21 you about a minute ago. Mr. Walsh told you that this child died
22 from massive blunt force trauma.

23 Now, the evidence is going to show you that this child
24 had a prior head injury. A head injury that occurred before
25 Mr. Mickey had this child within an hour or hour and a half time
26 period. It's going to show you that the skull, the brain, is
27 encapsulated, and has to have constant pressure. It's called
28 venous pressure. It's called intracranial pressure. And it's a

1 very, very delicate balance.

2 And when you have a prior head injury, it throws this
3 balance out of sync, which makes you more susceptible when
4 another situation occurs to throw the venous pressure, the
5 intracranial pressure, completely out of whack, keeping it from
6 being able to absorb the spinal fluid that's generated on an
7 everyday basis, making you more susceptible, and can cause it to
8 fall out of sync, out of the range that it's supposed to be, and
9 it can lead to sudden, prompt collapse of the entire system of
10 this child.

11 Now, if you just only heard that this child suffered
12 from blunt force trauma, then you might look at it in a
13 completely different light. But now that I've shared with you
14 the information that's going to come from these folks on this
15 witness stand, you're going to be in a much better position to
16 gauge the importance of this information as it's being provided
17 to you.

18 Now, I also kind of want to start at the beginning of
19 this situation as well, because you were told about Kerianne
20 Bradley being born to the union of Jennifer Bradley and Nicholas
21 Bradley. Nicholas Bradley was no emotional support, no
22 financial support, had nothing to do with the family, had
23 nothing to do with this child.

24 And Jennifer Bradley was living with her mother for a
25 period of time after the child was born. Ultimately, signed --
26 and I don't know what she signed, but she's told people that she
27 signed away a document, giving legal custody of the child to her
28 mother, Denise.

1 Now, the evidence is going to show you that Jennifer
2 didn't particularly care for this child. And I need to be
3 honest with you about what the evidence is going to show, what
4 people are going to likely talk about in this case. She said
5 the child had ruined her life, the child -- that she wished the
6 child was dead. She wished the child had never been born.

7 She would leave the child unattended on top of kitchen
8 countertops and walk away while the child was lying there
9 unattended. And that's the circumstance that Ryan Mickey walked
10 into.

11 Now, Ryan was living in Costa Rica for a couple years
12 before he ever met this woman, down there working, down there
13 surfing, down there enjoying life the way a young man ought to
14 be enjoying life before things start getting a little serious.
15 He left Costa Rica, came back to the area here and spent a
16 couple days with his mother and father, Gary and Rosan Mickey,
17 because he was going to go to Hawaii, get a job, resume surfing,
18 play some music and have some fun.

19 While he was here for that short, very, very short
20 period of time, he met Jennifer Bradley, and they exchanged
21 phone numbers. He went to Hawaii with his parents. He got a
22 job, got a place to live, was starting to move on. For reasons
23 that I have no explanation for, matters of the heart, caused him
24 to come back here.

25 Before he came back, he got a call from Jennifer,
26 because apparently there were quite a few calls during this time
27 period. Before he came back, Jennifer said, hey, I have to tell
28 you something I haven't told you before, and that's that I have

1 a child. And Ryan said, that's fine.

2 Because we're going to come to find out Ryan loves
3 children. And he wanted to be with this woman so badly that he
4 was welcoming, and wanted to have a child.

5 And the evidence is going to show you he wanted to
6 marry Jennifer, he wanted to adopt the child, and the evidence
7 is going to show you that he was the primary caretaker of this
8 child when they had the child from Thursdays to Sundays.

9 When Jennifer was working, Ryan took care of the child.
10 He fed her. He clothed her. He bathed her. He did everything
11 for this child. And yet its own mother, Jennifer, is going to
12 tell you, he's the best thing that ever happened to them.

13 And when she's getting pressured by the police to say
14 something negative about him, she can't do it. She says, you
15 have no idea how good he was to that girl, how much he loved
16 that girl, how good he was to both of them. To both of them.

17 Come about a couple days before this child passed, she
18 was picked up at the babysitter's, and they were told, Jennifer
19 and Ryan picked the child up, they were told the child had
20 103-degree temperature. No rush to take the child to the
21 doctor. Took the child home.

22 Ryan, by that time, had a job, and I want to tell you
23 something about -- kind of slipped my mind here a little bit.

24 I said some things about Jennifer that aren't that
25 complimentary. And I know what's good for the goose is good for
26 the gander sometimes.

27 Now, Ryan Mickey is no big bargain either. You're
28 going to see photographs of this house they were living in, and

1 I'm here to tell you there ain't no -- a child has no, shouldn't
2 be subjected to the living conditions that the child was in. So
3 I'm not here to blast one person. I want you to understand what
4 the evidence is going to show about both these people.

5 So anyway, Ryan has a job now. He's an electrician by
6 trade. And he's got to get up come 4:00 o'clock in the morning
7 or so, and Jennifer is going to take him to the AM/PM where he
8 has to go in order to meet his boss, because his boss drives him
9 out to the job site to go to work.

10 My understanding, this Wednesday or Thursday, Friday,
11 is the first time that Jennifer has actually been alone with
12 this child for quite a period of time. She drops -- she's got
13 the baby with her. They drop Ryan off.

14 And come 5:00 o'clock in the morning, Jennifer shows up
15 at Denise's house, says the baby is sick. So they make a bed
16 for it on the floor. The baby wants to be held. The baby is
17 upset. The baby is crying. And it's all those things that you
18 might think that a child is going to do under these
19 circumstances.

20 And they make a call to the doctor. I guess Denise
21 did. They called the doctor to make an appointment about 3:30
22 that afternoon.

23 So you see the record, you don't hear much about the
24 child from that time period, about 5:00 o'clock to 9:00 o'clock
25 in the morning, until you hear the -- you get the medical
26 report. Now, the child never saw a doctor. The child saw a
27 physician's assistant.

28 And the medical record that the physician's assistant

1 created showed the child had been vomiting, and had a fever.
2 There were no vitals taken of the child. There were no labs
3 taken of the child. We don't know if it was viral or a
4 bacterial infection, or any of those kind of things.

5 But there is some evidence that the child was
6 responsive to some things that was going on. The child was
7 crying. But there's no diarrhea. There's no runny nose.

8 And the physician's assistant diagnosed, I think it's
9 lack of a medical term for it, I think it's stomach flu. No
10 dairy, take the kid home. Doesn't even tell them to bring the
11 kid back. Never saw the doctor, saw the physician's assistant.

12 So there's some evidence to suggest that Thursday
13 evening the child is crying. Ryan is not home. The child is
14 crying and Jennifer won't let anybody in the bedroom.
15 Apparently some people knocked on the door, tried to get in, and
16 she wouldn't let them in.

17 Ryan comes home. You don't hear anything until the
18 next morning, which is Friday morning. Ryan has already gone to
19 work. There's some evidence to show to us that Jennifer tells
20 people that the child was doing better on Friday morning. And
21 then we hear nothing about this child until about 3:00 o'clock
22 in the afternoon on this Friday.

23 That's when Jennifer has taken the child over to
24 Rosan's house. Now, Rosan is the mother of Ryan. You'll hear
25 about Gary Mickey and Rosan Mickey, the mother and father of
26 Ryan. So Jennifer has got to go to work. She drops the child
27 off at Rosan's house about 3:00 o'clock in the afternoon. The
28 child is apparently upset.

1 Jennifer makes a phone call to Ryan, because that's
2 what -- Ryan had called trying to get ahold of her. Rosan asked
3 her to call Ryan back. She does. She leaves, apparently
4 doesn't pay much attention to the child when she leaves.

5 Rosan has the child. And she takes this child, and the
6 evidence is going to show you, before now, this child was one of
7 those kids you put it on the ground it was gone. It ran. It
8 was, you know, active. It was everything that you would expect
9 a 15-year-old kid -- 15-year-old -- 15-month-old child to do.

10 She takes the child out onto the back slab, got this
11 little patio area, concrete slab, and you see all the
12 stamped-off and such. She takes the child, puts the child on
13 the cement, thinking it's going to start running, and the child
14 goes immediately down on the cement and lies down on the cement.
15 In February. She picks the child up, takes it to the bedroom,
16 and the child just goes to sleep.

17 The child doesn't wake up when Gary comes home about an
18 hour later, the grandfather -- not the grandfather. Excuse me.
19 I absolutely misspoke. But Ryan's father. The child doesn't
20 wake up.

21 They take the child, put it into the car seat. The
22 child hasn't woken up. They take it and put it in the car seat,
23 because Rosan is going to take the child go pick up Ryan at the
24 AM/PM, because now he's off work.

25 They're going to drive over to the Red Lobster where
26 Jennifer was working, so Ryan can get the car, get the baby,
27 have the car, so he can go back later that evening and pick up
28 Jennifer.

1 There is nothing that suggests that the child woke up
2 until about 2:00 o'clock in the morning when they heard it
3 crying. Jennifer went down and got a bottle, came back
4 upstairs, apparently threw the bottle into the playpen where
5 they kept the child asleep, told the baby shut up, you little,
6 bitch. Went and got back in the bed, and the next thing you
7 hear it's like 10:30 in the morning, and Ryan has to arouse the
8 child from its sleep.

9 Wakes the child up, gets the child dressed, takes the
10 child, puts it in the car seat, the child goes sound asleep.
11 Drives Jennifer to Red Lobster. The child is still asleep.

12 There's some evidence to tell us that when Jennifer was
13 being interviewed by the police officers, she tells them when
14 she got out of the car she said the child slept all the way. So
15 you got a child who's basically slept pretty much from 3:00
16 o'clock in the afternoon until 10:30 the next morning, has to be
17 aroused.

18 Then Jennifer tells the police officers when she got
19 out of the car, she turned around and she looked and she thought
20 see saw a bruise along the left side, some red mark along the
21 left side of the child's face. And she tells the officers, the
22 child always gets this petechiae, these little red splotches on
23 its body. That's under pressure from these police officers,
24 pushing and pushing and pushing, until she finally tells them
25 this.

26 Ryan drops her off, then goes over to his mother's
27 house, Rosan. The part of the story I didn't tell you, they're
28 both broke, don't have a lot of money. They rent a car. Their

1 credit is so bad. They have to go rent a car for \$800 a month.

2 So he's going over to have his mom, Rosan, to help him,
3 try to find a car so he can get something to start driving
4 around to save a couple dollars.

5 So he gets out of the car, and where he parks the car
6 on their driveway is a very slanted driveway. I'm going to show
7 you pictures of all of this.

8 The baby's in the back right passenger seat, in the car
9 seat. Walks around the car, opens up the door, reaches in,
10 grabs the baby, drops the bottle, reaches down, grabs the
11 bottle, stands up, and the car door by its own momentum, shuts
12 and hits the child on the right side of the head.

13 Now, he -- Ryan is, oh, my God, the door hit the kid in
14 the head. He was originally -- the child was whimpering a
15 little bit originally, not a lot of reaction to it. The more he
16 gets pressured by the police, okay, the kid is screaming, the
17 kid raised both arms. We'll find out where the truth lies in
18 that statement there.

19 Takes the child inside. The child goes asleep again,
20 and the child was asleep in the car all the way over, I told you
21 that already. Gets hit in the head with a car door, goes
22 inside. The kid is again sleeping on the bed, not aroused. He
23 goes and gets ice. His mother Rosan is sitting there. And they
24 put ice on this child's forehead for 10, 15, 20 minutes.

25 And for purposes of just not anywhere near embellishing
26 this thing, I'll leave it at 10 minutes, the child doesn't even
27 wake up. There is a little towel or something around the ice,
28 but the child doesn't wake up after having ice put on its

1 forehead for about 10 minutes.

2 Now, Rosan Mickey is going to tell you she saw a red
3 spot up there consistent with what Ryan was saying. She didn't
4 actually see it happen. She heard it contemporaneous with him
5 announcing what had happened, went in and got the ice. Ryan's
6 grandmother, 98-year-old woman, to this day still remembers
7 going in and getting one of those blue igloo kind of things,
8 because they thought the ice was too much, she got one of those
9 little blue cubes and put that on the child's forehead, and
10 didn't wake up.

11 Didn't eat. They had a bottle for her. Rosan Mickey
12 told the first officer, Anderson, that she couldn't tell if the
13 child ate or not. And the child didn't eat.

14 In fact, the evidence is going to show you that the
15 child hasn't eaten, which is another one of the symptoms
16 consistent with a preexisting head injury.

17 Ryan takes the child home, leaves, drives over to
18 AM/PM -- excuse me, Chevron station. Gets out, you will see
19 photographs of it, buys a beer, gets some gas.

20 Jennifer told him to get some gas in the car earlier,
21 because the car doesn't have any gas. And he goes home. Takes
22 the baby out and takes the baby upstairs, bathes the child. The
23 evidence is going to show you, bathed the child at Jennifer's
24 request to bathe the child.

25 The child is lethargic in the bathtub, not splashing
26 around like you normally expect a 15-month-old child to do.
27 Takes the child out, dries it off, dresses it and puts it in its
28 playpen. Goes back in the shower to draw a shower for himself.

1 He comes back out while the water is running, turns and looks at
2 the playpen. He sees this child wheezing, gasping for air,
3 lips turning blue. He runs over and picks it up and the child is
4 limp. It's lifeless.

5 And the panic starts. And he picks up the phone. He
6 doesn't know what to do. The child had previously been
7 diagnosed with asthma. He's running around looking for asthma
8 medication. He calls his mom. What do I do? What do I do?
9 Where is the asthma medication? Panicked. She tells him to
10 call 9-1-1.

11 He tries to call Jennifer. Jennifer hangs up the phone
12 on him, doesn't even help him with the asthma medication. Later
13 on she says, oh, yeah, I forgot, she did have asthma, but the
14 medication was over at my mother's house, Denise's house.
15 Doesn't even talk to him on the phone about it.

16 And he starts calling 9-1-1. Now, there's a lot of
17 problems with this call, because there's no cell reception at
18 this house. There's dropped calls, and there's calls to --
19 9-1-1 is trying to call him. They just moved in, they've only
20 been there for a month. He doesn't know the address. He knows
21 the name of the street. And he's screaming into this phone, my
22 baby can't breathe. He's screaming into the phone and the 9-1-1
23 people are telling other people, this guy is hysterical. He's
24 frantic. They're trying to find this guy.

25 And he's saying, my baby can't breathe. He's not
26 saying, I'm here with some kid. He's not saying I'm here with
27 my girlfriend's kid. He's saying, my baby can't breathe. What
28 do I do? Do I do CPR?

1 And he starts doing CPR, and he starts flipping this
2 kid around, because the kid has bile coming out of its nose and
3 its mouth, and he's blowing into its mouth, and he's freaking
4 out, and he's calling 9-1-1. He's running downstairs, trying to
5 find the address so he can share it with these people. He's
6 calling his mom, his mom has got no idea where he lives. His
7 mom is running over to pick up Jennifer.

8 They grab Jennifer. Jennifer gets out of the car a
9 block away because she doesn't want to see what's going on, and
10 this is the scene that they walk into. This is the scene that
11 he's trying to deal with.

12 And the emergency personnel find the place. The
13 emergency personnel come into this home, and the child is
14 lifeless on the floor, and they resuscitate it. They get a
15 pulse back. They put an endotracheal tube in this child, and
16 they get it breathing, not necessarily on its own, but they
17 bring it back. They bring it back.

18 And you're going to hear about inconsistencies. But as
19 this case goes on, you're going to hear that these
20 inconsistencies are not really inconsistencies, because's talked
21 to four or five or six different people. One guy writes down
22 car door, asthma. Another guy writes down kid quit breathing.
23 Another one writes wheezing. All these different things are
24 being said, but when things calm down, there's a consistency and
25 a cohesiveness of it, because when he's sitting in this
26 interview room with these police officers --

27 MR. WALSH: Objection as argumentative at this point,
28 your Honor.

1 THE COURT: Overruled.

2 You can continue.

3 MR. BROWN: When he's sitting in these interview rooms,
4 and you're going to hear that these cops surreptitiously
5 recorded conversations with him and Jennifer to try and hear if
6 he's going to confess, do whatever. There's no confession from
7 Ryan Mickey.

8 He said the car door hit the kid. It was asthma. He's
9 telling his girlfriend Jennifer, I saved this child's life, I
10 did CPR on this child.

11 And none of these people ask him, how long did you do
12 the CPR for? How did you do it? How did you flip the kid
13 around? What was coming out of its mouth? No one was asking
14 these questions.

15 There were bruises on this child, there's no question,
16 but the bruises are a byproduct of the resuscitation efforts, a
17 byproduct of the paramedics' efforts, and they're a byproduct of
18 the time, because the child when they've taken to Children's
19 Hospital, they find out the child is coagulopathic, which
20 causes -- it's a blood thinning problem, which causes the
21 child's blood to thin and go directly to these bruises which
22 cause the bruises to look worse quicker.

23 And they're not looking at any of this. And they got
24 Ryan in this room, and you killed this kid, you did this, you
25 did this. And he's screaming, I didn't kill this kid. I didn't
26 do this. Something else must have happened to this kid.
27 Something else is going on. You've got to look to find out
28 what's going on. And these officers are telling him, no, no,

1 these doctors are telling us you killed this kid. You're the
2 only one with this kid. Explain how this happened. Explain
3 what happened.

4 And Ryan is telling them, I can't explain what
5 happened. I don't know what happened. I didn't kill this kid.
6 I did not kill this kid.

7 What about the retinal hemorrhages in here? Retinal
8 hemorrhages are caused by increased cranial pressure. You've
9 got a prior head injury, nobody is going to be able to tell you
10 there wasn't retinal hemorrhages caused by the prior head
11 injury. Retinal hemorrhages are caused by CPR. The guys that
12 did CPR, the 220-some-odd man, whatever he is, six-foot-two,
13 trying to do CPR untrained on a 15-month-old child.

14 The literature supports retinal hemorrhages under that,
15 and the doctor's support retinal hemorrhages under that
16 circumstance. And increased pressure causes retinal hemorrhages
17 under those circumstances.

18 And the officers are not telling the doctors, hey, you
19 did CPR for 20 minutes. You had to flip the kid around when you
20 had to do these things. They're not sharing that information
21 with these doctors. They're not telling these doctors, hey, the
22 kid collapsed -- or not collapsed. I don't want to make this
23 bigger than what it is. But the kid went to the ground outside
24 on the patio and didn't wake up for 24 hours. And they're not
25 sharing this information with the doctors.

26 They're saying, the people we talked to said the child
27 was fine. The child was alert, the child was responsive.
28 That's what the doctors are getting over at Children's Hospital.

1 And the doctor at Children's Hospital is Dr. Kuelbs,
2 and she's a child abuse expert by training. And she is going to
3 come in here and she's going to tell you all about her training.

4 She's going to tell you, I wasn't told about CPR. She
5 is going to tell you, they never told me about CPR. She
6 testified to that earlier. Didn't even know that it had been
7 done.

8 And she is going to tell us she didn't follow her own
9 protocol. She didn't get to talk to the people that were with
10 that child right before the time when all these things started
11 happening.

12 She didn't talk to Rosan Mickey. She didn't talk to
13 Ryan Mickey, and Ryan would have been plenty available. There
14 were three or four interviews with these police officers. He
15 never once denied to answer any question up until to the point
16 in time where he said, hey, I've had enough. I want a lawyer.

17 He was available to talk to this woman. She never
18 talked to him. And she never talked to Jennifer. Jennifer
19 never went to the hospital.

20 And when I first heard that, I was thinking, what's up
21 with that? Come to find out the evidence is likely to suggest
22 the cops wouldn't let her go to the hospital. And Dr. Kuelbs
23 doesn't know this, and doesn't even follow her own protocol,
24 because she comes in and says these injuries are fresh, this had
25 to happen. She doesn't even wait for the autopsy report. In
26 three and a half hours she comes up with this opinion, doesn't
27 even have the autopsy report.

28 Dr. Swalwell, the medical examiner, does the autopsy,

1 and he finds evidence of a prior head injury. And he ignores
2 it, doesn't say anything about it, doesn't consider it. He says
3 it's unrelated to these -- this trauma that I see. And the
4 trauma they see, the subdurals on the top of the head, nobody
5 saw the bruising on top of the head. Not Ryan, not the
6 paramedics. I don't think it's even mentioned in Children's --
7 excuse me, it is mentioned at Children's. I'm not sure it's
8 mentioned at Rancho Springs, which is another thing, too, I tell
9 you.

10 This the child had a lacerated liver. They don't even
11 see that at Rancho Springs. She's bleeding out, hemoglobin,
12 blood level is dropping, it's down to like a level nine, which
13 is low. This child is bleeding out, they don't even treat that
14 at Rancho. They send her off by Life Flight down to Children's
15 Hospital. The evidence is going to show you to that CPR can
16 cause lacerated liver under these circumstances, and the
17 literature supports it.

18 Dr. Swalwell ignores this prior head injury, and he
19 says there's no inflammatory response to these particular areas
20 where he sees the subdural hematomas. Because he says, I'm
21 timing these things within this hour or two window, because you
22 would expect to see inflammatory response, it means a healing
23 response, within four to six hours after these injuries
24 occurred. And he says because there isn't any inflammatory
25 response, these injuries have to be recent in time.

26 But the problems with that are many. This child
27 was coagulopathic. This child had sudden rapid decrease in its
28 body temperature, which is indicative of a prior head injury.

1 The CT scans can't be used for dealing with subdural
2 hematomas, because you're going to hear that even blood a week
3 old can look fresh on a CT scan, and you're going to hear that
4 these subdural hematomas were not the direct cause of this
5 child's passing. And you're going to hear that the liver
6 laceration is lacerated as a result of CPR.

7 You're going to hear other things related to those
8 issues. And I already told you about the retinal hemorrhages
9 and the bruising and so forth. You're going to hear about that.

10 And you're going to hear that a prior head injury makes
11 a person susceptible to this cascading issue, to this cascading
12 collapse of a body, and that there is evidence to show that
13 there was a prior head injury, and there's evidence to show that
14 there indeed was an inflammatory response three to five days
15 prior to this event happening with Ryan Mickey.

16 And it may sound crass to say this, but the evidence is
17 going to show you that Ryan Mickey had a time bomb on his hands
18 that day. That's what the evidence is going to show you.

19 And people are going to come in and talk to you about
20 these issues, and they're going to share these issues with you,
21 and they're going to share the facts and the knowledge that they
22 have, and the kind of detail that you're going to need in order
23 to correctly decide this case.

24 And I heard Mr. Walsh tell you that he was going to ask
25 you to find Mr. Mickey guilty. And I'm here to tell you, this
26 child's life and this child's memory is not honored nor
27 respected by convicting an innocent man.

28 Mr. Mickey is here for one thing, ladies and gentlemen.

1 He's not here for sympathy, because everybody knows what's
2 happening and feels sorry for him. Everybody does. He's here
3 for one thing and one thing only, and that is justice. Nothing
4 more and nothing less.

5 I thank you very much for your time.

6 THE COURT: Thank you, Mr. Brown.

7 (END OF AUGMENTED TRANSCRIPT FOR 12/10/09)

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REPORTER'S CERTIFICATE

THE PEOPLE OF THE STATE OF CALIFORNIA,)	DCA No. D-057966
)	
Plaintiff,)	
vs.)	Case No. SWF-015286
RYAN CHRISTOPHER MICKEY,)	
)	(Augment)
Defendant.)	

I, SANDRA C. WALKER, Certified Shorthand Reporter No. 6977, do hereby certify:

That on December 2, 3, 8; 9 and 10, 2009, in the County of Riverside, State of California, I took in shorthand a true and correct report of the testimony given and proceedings had in the above-entitled cause, and that the foregoing, pages 1 through 420, is a true and accurate transcription of my shorthand notes, taken as aforesaid, and is the whole thereof.

DATED: Murrieta, California, October 20, 2010.



SANDRA C. WALKER, CSR NO. 6977
Certified Shorthand Reporter
Official Court Reporter
Riverside County