

DISTRICT COURT
COUNTY OF JEFFERSON
STATE OF COLORADO
100 Jefferson County Parkway
Golden, Colorado 80401

DATE FILED: February 25, 2019 4:53 PM

Plaintiff:
PEOPLE OF THE STATE OF COLORADO

^FOR COURT USE ONLY^

v.

Defendant:
ERIC JAMES ST. GEORGE

Case No. 16CR2509
Division 1

REPORTER'S TRANSCRIPT

The Jury Trial in the above-entitled matter commenced on February 1, 2018, before THE HONORABLE LILY OEFFLER, Judge of the District Court.

This is a full and complete transcript of the proceedings had on this date in the aforementioned matter.

A P P E A R A N C E S

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I N D E X

VOIR DIRE BY MR. FREEMAN	78
VOIR DIRE EXAMINATION BY MR. ST. GEORGE	141
OPENING STATEMENT BY MS. DECKER	197
OPENING STATEMENT BY MR. ST. GEORGE	211
WITNESSES	PAGE
For the People:	
EMILY ELLIOTT	
DIRECT EXAMINATION BY MR. FREEMAN	228

E X H I B I T S

People's Exhibits:		
NUMBER	DESCRIPTION	PAGE
None.		
Defendant's Exhibits:		
NUMBER	DESCRIPTION	PAGE
None.		

1 PROCEEDINGS, THURSDAY, FEBRUARY 1, 2018, 8:28 A.M.

2 (The following proceedings were had in open
3 court outside the presence and hearing of the prospective
4 jurors:)

5 THE COURT: So let's go on the record. This is
6 People versus St. George, this is 16CR2509.

7 Can I have appearances, please.

8 MR. FREEMAN: Good morning, Your Honor. Mike
9 Freeman and Katharine Decker on behalf of the People.
10 Also with us is our advisory witness, Detective Jeff
11 Larson, and our paralegal, Kirsten Lewis.

12 THE DEFENDANT: Eric St. George on my own
13 behalf.

14 MR. MENGES: Good morning, Your Honor. Peter
15 Menges appearing as advisory counsel for Mr. St. George.

16 MR. BURNETT: Ian Burnett, investigator.

17 THE COURT: All right. We're about ready to
18 start. As soon as we can get jury lists -- as indicated,
19 names are going to be supplied for the first two hours.
20 No one references a juror by name because we've assigned
21 them numbers and then we'll collect the name lists and we
22 stick with the numbered lists.

23 To give everyone a heads-up, when the jury comes
24 in, I'm going to welcome them. I am going to introduce
25 the district attorney's. I am going to introduce

1 Mr. St. George and Mr. Menges. If you want other people
2 introduced during that time, do it during your voir dire.

3 I tell them briefly what the case is about in
4 that I read them a copy of the information. There was an
5 objection to a synopsis. Then I give them some basic law.
6 I tell them how we're going to select the jury. Then I'll
7 ask them some questions about qualifications to sit as
8 jurors. If they obviously don't have qualifications say
9 for some reason they don't read, speak or understand
10 English -- and, really, Mr. St. George, you should kind of
11 listen to this because this might be -- some of this might
12 be new as, generally, it is something I do as a practice.

13 So I'll go through jury qualifications. If
14 somebody is unable to read, speak or understand English
15 and it is clear from my questioning of them, I won't
16 discuss it with counsel, I'll just excuse and will call
17 somebody else up from the array in the back. It is
18 a -- it is a qualification to sit as a juror in this
19 state. So same if they're not a resident of the county,
20 if for some reason they're 17, something like that, then
21 I'll excuse them at that point.

22 If they are currently being paid by law
23 enforcement, compensated employee of a public law
24 enforcement agency, if it is a non-traditional law
25 enforcement agency, I'll talk to them about it but

1 generally those individuals will be excused too because
2 that's not permitted.

3 I'm going to then talk to them about the number
4 of days, if there was anyone who would suffer an extreme
5 hardship in this case. We have a lengthier trial. My
6 guess is we'll get more people who would do that, I
7 generally listen -- and have them go downstairs and reset
8 if they cannot make it for the time period that we have.
9 But, generally, I do that on my own.

10 I'll read them -- then I go through, I ask them
11 if they know anybody seated at the tables, then I ask them
12 about prior jury service, I'll ask them about law
13 enforcement, just general questions.

14 Then we're going to go over here to the screen
15 and I ask the jurors just to give me a little bit about
16 themselves. Those are areas that you can follow-up on, if
17 you like in your voir dire.

18 I generally take a break with the jurors between
19 my questioning of the jurors and individual voir dire.
20 We'll see if somebody needed a break just before. I won't
21 take another break, but if we haven't had a break and it
22 is been an hour or so or longer, I'll take a break then.
23 We'll excuse everyone and then come back and do the
24 individual voir dire and then we'll do peremptory
25 challenges. Peremptory challenges, you stand and ask that

1 Juror Number X, whatever it is, be excused.

2 After we've selected our jury, we'll swear them
3 in. Depending on where we are in the case, we'll probably
4 have a break and then we'll start with opening arguments.

5 Okay. So are there issues that we have to deal
6 with now prior to going to trial?

7 MR. FREEMAN: Just a couple of housekeeping
8 matters, Judge. Jeff Larson, as I indicated, is our
9 advisory witness. He's also a witness in four other cases
10 that are going to be in trial probably at some point
11 during the next five to six days, so he's going to be
12 probably coming and going a lot.

13 I'm not asking the Court to do anything about
14 that, I just want to let the Court know that he's going to
15 be in and out of the courtroom quite a bit.

16 Also, we just found out, I think yesterday or
17 the day before, that Devon Trimmer, Agent Trimmer who is
18 the listed victim in a few of the counts as gotten married
19 and her last name is now Meyers. I think for simplicity,
20 we'll probably still refer to her as Agent Trimmer because
21 that's how the case is charged. We're not asking to amend
22 the complaint at this point, but I just want to let the
23 Court know that she now goes by Meyers.

24 And then, lastly, our investigator, Investigator
25 Kim Gallerani, she's not on the good faith witness list.

1 She's probably going to be coming and going as well.
2 She just wanted me to let the Court know in case the Court
3 has any concerns.

4 THE COURT: I do have her as number 8 on your
5 list.

6 MR. FREEMAN: On our good faith?

7 THE COURT: Well, the list I'm using is this
8 People's list of anticipated witnesses.

9 MR. FREEMAN: Okay.

10 THE COURT: If there are people you don't want
11 me to read to the jury, let me know because there's a lot
12 of names on the list.

13 MR. FREEMAN: I didn't realize she's on the
14 witness list, okay. I'll let her know.

15 THE COURT: She is, okay. Is there a question
16 for sequestration?

17 MR. FREEMAN: The People make that request, yes.

18 THE COURT: Okay. We'll impose that.

19 So, Mr. St. George, along with the district
20 attorney, you'll have to explain that to all of your
21 witnesses and to others what sequestration means and what
22 you can and can't do.

23 MR. ST. GEORGE: Understood, Your Honor.

24 THE COURT: Okay. Mr. St. George, do you have
25 any motions or issues to bring to the Court's attention?

1 MR. ST. GEORGE: I don't have anything at this
2 moment, Your Honor.

3 THE COURT: Okay. So we're going to get you
4 those lists of names for two hours and then we're going to
5 collect them and then we'll all just have the numbers,
6 please.

7 While the jurors -- the jurors are going to have
8 the numbers on their lanyards. And on the reverse side of
9 the lanyard is going to have that they're a juror, so that
10 when they're out and about in the courtroom, they can flip
11 the badge so everyone will know that they're a juror.

12 Okay. So we're ready to get our jurors. We'll
13 adjourn. It is going to take us about 15 minutes to get
14 them. So nobody gets the list before we have them.

15 MR. BURNETT: It is going to take about
16 15 minutes to get the jurors?

17 MR. ST. GEORGE: Thank you, Judge.

18 (A recess was taken.)

19 THE COURT: I'm taking a look at the exhibit
20 book that was handed up to me by the People, which is just
21 a copy, I think of the exhibits that are going to be shown
22 to witnesses and shown on the screen. Is there a copy
23 that we can put at the witness stand, potentially, because
24 we are going to be handing up all exhibits through
25 bailiffs?

1 MR. FREEMAN: I don't think we currently have
2 one. If the Court wants, we can try to generate one.

3 THE COURT: Or if necessary, you can use this
4 one and I can review from the projection.

5 MR. FREEMAN: Just to limit the trips back and
6 forth?

7 THE COURT: To limit the trips back and fourth.

8 MR. ST. GEORGE: Your Honor, I'm not in
9 possession of one of those booklets. I don't have one of
10 those. This is all I've been given.

11 THE COURT: Okay. You have seen all the copies
12 of the exhibits though?

13 MR. ST. GEORGE: If they're already included in
14 discovery, I can be sure that I've seen them. But I don't
15 have them at my table at the moment.

16 THE COURT: Right. It is generally the practice
17 for one side to show the other side the exhibits so they
18 know it and can take a look at it before it goes up. This
19 was prepared for me so if there's an argument about the
20 exhibits while we're doing it, I don't have them. You
21 know what it is, the prosecution knows what it is, but I
22 don't know what it is.

23 But my thought was perhaps we should have one up
24 here so we could limit the number of trips back and forth
25 showing the witness the exhibit.

1 MR. ST. GEORGE: Your Honor, let me just whisk
2 through this list real quick making sure there's nothing
3 on here that I can't -- some of these file names and
4 descriptions are a little bit nebulous, aerial photo one,
5 as an example. Without knowing what aerial photo that is,
6 I can't really make a determination whether or not I'm
7 familiar of what we're looking at.

8 THE COURT: Well, certainly, you can go ahead
9 and object if you feel that it hasn't been given to you in
10 discovery. What is the practice is that the People or
11 you, whichever side is introducing an article of evidence
12 or photograph, et cetera, shows the other side what it is,
13 and then the other side has the opportunity to object to
14 it. And so that's -- so you would see it before,
15 certainly, the witness sees it or the jury sees it.

16 MR. ST. GEORGE: Okay. We'll deal with these as
17 they come then, Your Honor.

18 THE COURT: Right. The witness lists have been,
19 I think, filed for a time -- I mean, the exhibit lists
20 have been filed for a time here. This book was given to
21 the Court because oftentimes, again, as I said, I don't
22 receive the exhibits so if there's an argument about the
23 exhibits, then I'll have it here and I can take a look at
24 it so I'm up to speed on what we're arguing about.

25 But my thought being that since we are going to

1 be handing up our exhibits up through bailiffs and it
2 looks like lots of photographs, et cetera, that my thought
3 was it would be helpful to have this on the stand and have
4 them turn to, say, for instance, People's Number 1 after
5 both sides have had the opportunity to review it.

6 Mr. St. George, then you'll be able to go ahead
7 and use -- and reference the exhibits that have been
8 admitted in that way too, and then if you wanted to
9 present -- have a book of your exhibits, you can do that
10 also.

11 MR. ST. GEORGE: All right. Thank you, Your
12 Honor.

13 THE COURT: And just a reminder, everybody have
14 their cell phones off in the courtroom and all spectators
15 have their cell phone offs. Attorneys or investigators
16 can keep them on mute if they're calling a witness, et
17 cetera.

18 (Pause in the proceedings.)

19 (The prospective jurors entered the courtroom.)

20 THE COURT: And then everyone else if you'd sit
21 in the rows behind and I need you to slide over pretty
22 closely. We're going to get to know our neighbors pretty
23 well.

24 (Pause in the proceedings.)

25 THE COURT: All right. Everybody be seated,

1 please.

2 Good morning, ladies and gentlemen. I want to
3 welcome you to Division 1. We're in district court. My
4 name is Lily Oeffler and I'm the Judge here.

5 Before we begin this trial, I'd like to tell you
6 about what will be happening. I want you to understand
7 the purpose of the trial. First, does anyone have
8 difficulty hearing me? We have some headsets. They are
9 tied into the sound system. So as long as people stay
10 fairly close to the microphones, they are a great help to
11 some people. So if you're having trouble hearing me, let
12 me know and we'll try one of these headsets to see if it
13 helps you in any way.

14 If you have trouble seeing, we can always adjust
15 where you are in the courtroom, move you forward. So
16 please just give me a hand and let me know and we can make
17 accommodations.

18 So the case we are about to try today is a
19 criminal case. In a criminal case the prosecution is
20 brought in the name of the People of the State of
21 Colorado. Today, the prosecution in this trial is
22 represented by Mike Freeman and Katharine Decker. They
23 are lawyers from the district attorney's office. I'll
24 sometimes refer to the district attorney as the
25 prosecution or the People.

1 The defendant in this case is Eric James
2 St. George. Mr. St. George has decided to represent
3 himself in this case. The individual seated next to him
4 is advisory counsel, Peter Menges. The defendant may
5 consult with Mr. Menges during the course of these
6 proceedings if he so wishes. Please note that
7 Mr. St. George's decisions regarding representation by
8 counsel have no bearing on whether he is guilty or not
9 guilty and it should not have any effect on your
10 consideration of this case.

11 The charges against the defendant are contained
12 in what is called an information. An information, ladies
13 and gentlemen, simply describes the charges made by the
14 prosecution against the defendant. The charges are merely
15 a vehicle to get into this courtroom. Remember, the
16 defendant is presumed innocent. The fact that charges
17 have been filed do not affect the presumption of innocence
18 in any way. The information is not evidence of anything.

19 The information in this case reads as follows:
20 Count 1, criminal attempt murder in the first-degree. On
21 July 31, 2016, Eric James St. George, by engaging in
22 conduct constituting a substantial step toward the
23 commission of murder in the first-degree, Eric James
24 St. George, unlawfully, feloniously after deliberation and
25 with the intent to cause the death of a person other than

1 himself, attempted to cause the death of Agent Devon
2 Trimmer. Further, the victim was a peace officer engaged
3 in the performance of her duties in violation of statute.

4 Count 2, criminal attempt, murder in the
5 first-degree. On July 31, 2016, Eric James St. George by
6 engaging in conduct constituting a substantial step
7 towards the commission of murder in the first-degree, Eric
8 James St. George unlawfully, feloniously, after
9 deliberation and with the intent to cause the death of a
10 person other than himself, attempted to cause the death of
11 Sergeant Jason Maines. Further, the victim was a peace
12 officer engaged in the performance of his duties in
13 violation of statute.

14 Count 3, criminal attempt, murder in the
15 second-degree. On July 31, 2016, Eric James St. George,
16 by engaging in conduct constituting a substantial step
17 towards the commission of murder in the second-degree,
18 Eric James St. George unlawfully, feloniously and
19 knowingly attempted to cause the death of Emily Elliott in
20 violation of statute.

21 Count 4, assault in the first-degree. On
22 July 31, 2016, Eric James St. George, with the intent to
23 cause serious bodily injury upon the person of Agent Devon
24 Trimmer, a peace officer, unlawfully and feloniously
25 threatened the peace officer with a deadly weapon, namely,

1 a gun, while Agent Devon Trimmer was engaged in the
2 performance of her duties and the defendant knew or
3 reasonably should have known that Agent Devon Trimmer was
4 a peace officer acting in the performance of her duties in
5 violation of statute.

6 Count 5, assault in the first-degree. On
7 July 31, 2016, Eric James St. George, with the intent to
8 cause serious bodily injury upon the person of Sergeant
9 Jason Maines, a peace officer, unlawfully and feloniously
10 threatened the peace officer with a deadly weapon, namely
11 a gun, while Sergeant Jason Maines was engaged in the
12 performance of his duty and the defendant knew or
13 reasonably should have know that Sergeant Jason Maines was
14 a peace officer acting in the performance of his duties in
15 violation of statute.

16 Count 6, menacing with a deadly weapon. On
17 July 31, 2016, Eric James St. George by any threat or
18 physical action unlawfully, feloniously and knowingly
19 placed or attempted to place Agent Devon Trimmer in fear
20 of imminent serious bodily injury by use of a deadly
21 weapon or any article used or fashioned in a manner to
22 cause a person to reasonably believe the article was a
23 deadly weapon, namely, a gun, in violation of statute.

24 Count 7, menacing with a deadly weapon. On
25 July 31, 2016, Eric James St. George, by any threat or

1 physical action unlawfully, feloniously and knowingly
2 placed or attempted to place Sergeant Jason Maines in fear
3 of imminent serious bodily injury by use of a deadly
4 weapon or any article used or fashioned in a manner to
5 cause a person to reasonably believe that the article was
6 a deadly weapon, namely, a gun, in violation of statute.

7 Count 8, menacing with a deadly weapon. On
8 July 31, 2016, Eric James St. George, by any threat or
9 physical action unlawfully, feloniously and knowingly
10 placed or attempted to place Emily Elliott in fear of
11 imminent serious bodily injury by use of a deadly weapon
12 or any article used or fashioned in a manner to cause a
13 person to reasonably believe the article was a deadly
14 weapon, namely, a gun, in violation of statute.

15 Count 9, illegal discharge of a firearm. On
16 July, 31, 2016, Eric James St. George, unlawfully,
17 feloniously, knowingly, or recklessly discharged a firearm
18 into a dwelling, other building, or occupied structure in
19 violation of statute.

20 Count 10, unlawful sexual contact. On July 31,
21 2016, Eric James St. George, unlawfully and knowingly
22 subjected Emily Elliott to sexual contact and the
23 defendant knew the victim did not consent in violation of
24 statute.

25 Ladies and gentlemen, the charges against the

1 defendant are not evidence. The charges against the
2 defendant are merely an accusation. The fact that the
3 defendant has been accused is not evidence that the
4 defendant committed any crime. No juror should assume
5 that the defendant committed any crime simply because
6 there are charges.

7 By pleading not guilty to the information,
8 Mr. St. George has told you he did not commit the crime.
9 He is presumed to be innocent and, therefore, the
10 prosecution has the burden of proving the charges beyond a
11 reasonable doubt.

12 Reasonable doubt means a doubt based upon reason
13 and commonsense which arises from a fair and rational
14 consideration of all the evidence or lack of evidence in
15 the case. It is a doubt which is not a vague,
16 speculative, or imaginary doubt, but such a doubt as would
17 cause reasonable people to hesitate to act in matters of
18 importance to themselves. The jury decides whether the
19 prosecution has proven beyond a reasonable doubt that the
20 defendant has done the things that are contained in the
21 information.

22 Ladies and gentlemen, in the outside world, we
23 oftentimes say, we want to hear from both sides. In a
24 courtroom, things are very different. In a courtroom the
25 prosecution has the burden to prove each and every element

1 of a crime beyond a reasonable doubt. And as such, it is
2 the burden of the prosecution to bring forth witnesses and
3 evidence.

4 The defendant need not bring forth any evidence,
5 need not testify, need not bring anything to you. It is
6 up to the prosecution to bring all of that evidence to
7 you. If they fail to bring that evidence to you, if they
8 fail to prove each and every element of every charge
9 beyond a reasonable doubt, the verdict is not guilty.

10 At this point in time, ladies and gentlemen, the
11 verdict is not guilty. The defendant is presumed to be
12 innocent. The charges mean nothing. As I've indicated to
13 you, they're merely a vehicle to bring us into this
14 courtroom.

15 So in this case we are selecting 12 jurors and 1
16 alternate, okay. They will consider all of the evidence
17 produced during the trial and it will be the soul
18 responsibility of jurors chosen to try this case to
19 determine the facts from all of the evidence received
20 during the trial. This will require your close attention,
21 absolute honesty, impartiality, and sound judgment.

22 It will not be necessary to keep jurors together
23 at noon or at night during the trial. If you're selected
24 as a juror, you'll be permitted to go home at night and
25 leave the courthouse during the noon recess, you just have

1 to promise to come back to us.

2 Okay. So when I get to this part of my
3 discussions with you as potential jurors, it used to be
4 the easiest part of my discussion. I used to say if
5 you're selected as a juror, don't talk about the case and
6 don't do any research about the case. I used to tell
7 people to not look up things in dictionaries, to not look
8 in encyclopedias. I think half of this jury has never
9 looked in a dictionary or an encyclopedia, so I've had to
10 change.

11 So when I say to you, you're not allowed to talk
12 about the case, this is what I mean. You're not allowed
13 to go on Facebook and say, Guess, what I'm on a jury, let
14 me tell you all about. Don't Snapchat from the courtroom.
15 Don't do any vehicle I don't understand. Just don't do
16 it. You're not allowed to talk about the case while the
17 case is ongoing. At the conclusion of the case, you can
18 talk about it as much or as little as you'd like. But
19 during the course of the case, you are not allowed to talk
20 about the case.

21 Is everybody with me?

22 (No verbal response.)

23 THE COURT: Okay. All right. So you're not
24 allowed to talk about the case, and that is old school,
25 physically talking about it, writing about it or

1 electronically writing about it. You're not allowed to do
2 any research about the case. So you're not allowed to
3 look up any words no matter how you do it.

4 You're not allowed to Google anything about the
5 case. You're not allowed to drive by any potential
6 scenes. It is something that I think we do almost
7 instinctively now. Someone says an address and you tend
8 to put it in -- everybody with me on the jury? Why don't
9 we stand up for a minute. Everybody stand up in the
10 courtroom quickly, stretch, it's been a long morning
11 already.

12 (The prospective jurors complied.)

13 THE COURT: Okay. Be seated. All right. So
14 don't put an address in your phone to say, let me look at
15 the satellite images of it. You can't do it. You can't
16 do any research on the Internet about this case either.
17 You can't look up any words, you can't research anything
18 about the case, you can't Google anything about the case.

19 Why is that? Because, first thing, every juror
20 has to receive the same evidence and the only way I can do
21 that is to make sure all the evidence comes before all the
22 jurors at the same time in the courthouse and in this
23 courtroom.

24 Also, the only way I can ensure the integrity of
25 what you consider to reach a decision in this case is to

1 have it come through this courtroom. So agree that if
2 you're selected as a juror and while we are selecting the
3 jury, please don't talk about the case in any way you can
4 possibly image, and don't do any research on the case,
5 okay?

6 (No verbal response.)

7 THE COURT: All right. Everybody's with me.

8 Okay. I want to explain briefly to you the
9 method we'll be using in selecting a jury in this case.
10 We have 25 already that have been randomly selected in the
11 jury box. We are now going to, in a few minutes, ask you
12 all to take an oath, -- those up here and those back
13 here -- that you each will answer your questions fully and
14 carefully as to your ability to serve as a juror in this
15 case.

16 Now, I'm going to ask you, as we question, my
17 questioning will start with the jurors up here. But I'm
18 going to ask you if you're seated back here to listen
19 carefully, because it is quite likely during the course of
20 this proceeding that you'll be called up here too to
21 answer questions. So if you listen carefully, then I can
22 catch you up on the questions a little sooner and quicker
23 and we can do this a little more efficiently.

24 So after the oath is administered, the Court and
25 each attorney are going to ask questions and the defendant

1 are going to ask questions concerning your ability to be
2 fair and impartial. Please answer fully all questions
3 asked by any one of the participants in the trial and
4 myself. Even though you may not be called forward
5 initially as I said, please listen closely to all that is
6 said because it is likely that you'll be called forward.

7 Okay. So I'm going to have everybody raise
8 their right hands, please.

9 (The prospective jurors were duly sworn.)

10 THE COURT: Okay. So right now I'm going to
11 turn my attention to those jurors that are up here in the
12 jury box. But as I said, if you could listen carefully,
13 when you're called forward, I'm going to individually take
14 you through these questions. So if you've listened to
15 them already it makes it a little easier, okay?

16 So I'm going to start by reading some lists of
17 grounds that may disqualify you as a juror. Please raise
18 your hand if any of these apply to you.

19 Okay. Look at the people seated here at the
20 tables. Does anybody know any of these people?

21 (No verbal response.)

22 THE COURT: Nobody knows any of the people
23 seated at any of the two tables here?

24 (No verbal response.)

25 THE COURT: Right. I'm assuming -- no one is

1 telling me they are, okay.

2 So is anyone here a compensated employee of a
3 public law enforcement agency?

4 (No verbal response.)

5 THE COURT: Okay. So Colorado law does set
6 forth certain qualifications for jury service and I'm
7 going to read to you the part of the law that deals with
8 jury qualifications. Please raise your hand if any of
9 these apply to you. Is anyone here not a citizen of the
10 United States, 18 years old, and a resident of the county?

11 (No verbal response.)

12 THE COURT: Is anyone unable to read, speak or
13 understand the English language?

14 (No verbal response.)

15 THE COURT: Is anyone incapable by reason of his
16 or her physical or mental disability of rendering
17 satisfactory jury service?

18 (No verbal response.)

19 THE COURT: Has anyone served as a trial or
20 grand juror within the preceding 12 months?

21 (No verbal response.)

22 THE COURT: Okay. So by law a jury consists of
23 12 persons. So we're selecting in this case 13 people
24 because we have 12 persons plus an alternate. Each side
25 may excuse up to 6 of you without stating a reason.

1 You should not be embarrassed or consider it a
2 reflection upon you if you're not one of those
3 excused -- if you are one of those excused. By using this
4 method of selecting a jury, both sides can participate
5 more freely in the jury selection of process.

6 Okay. At this time, I'm going to ask you some
7 questions to determine your qualifications to sit as
8 impartial jurors and then the other participants will be
9 allowed to ask you additional questions. If a particular
10 question applies to you, please raise your hand.

11 Ladies and gentlemen, we estimate how long we
12 think trials may take. At this point, we are estimating
13 that this trial will go through February 9th. Of course,
14 we don't work weekends. Is there anyone who feels that
15 they would suffer an extreme hardship if selected to serve
16 for this period of time?

17 (No verbal response.)

18 THE COURT: Okay. So we have a couple of people
19 with their hands raised. So let me call them. And who in
20 the back row, was it Juror Number 2. I'm going to ask
21 Juror Number 2. What is it that is the problem with
22 serving?

23 PROSPECTIVE JUROR 2: I'm self-employed and if
24 I'm -- I am the only one that works for my company, and if
25 I'm not there, my company is shut down and I have a lot of

1 things that need to be attended to within the next couple
2 of weeks.

3 THE COURT: Okay. So this is a situation I've
4 got to talk to you a little more about this. I'm not
5 allowed to excuse jurors simply because they're
6 self-employed because I would get rid of a whole category
7 of people that serve, and we do have the constitutional
8 right to trial by jury. So in regards to this, there's no
9 one else that can work with you or work for you during
10 this period of time?

11 PROSPECTIVE JUROR 2: I run my own company and
12 I'm the only one that works there.

13 THE COURT: Okay. So let me tell you, the best
14 I could do regarding that is to have you go down and reset
15 your jury service so you would have a heads-up as to when
16 it was. As I said, I can't excuse you from jury service
17 for that particular reason. There are certain payments
18 that can be requested for funds, certainly. Generally,
19 they don't replace income that would be earned, but there
20 are certain stipends and monies that can be applied for if
21 you're self-employed immediately, and three days
22 thereafter for others, and we would have you fill out that
23 form. But that's the best I could do.

24 So the best I could do is have you go downstairs
25 and reset and then you'd have to come back for your jury

1 service, but you'd simply be able to plan in advance. I
2 can't excuse you from jury service because of being
3 self-employed. So at this point in time, do you want to
4 take the option of resetting this because you're
5 self-employed or do you want to just do the service now?

6 PROSPECTIVE JUROR 2: What does resetting mean?

7 THE COURT: You'd go downstairs and talk to the
8 jury clerk's downstairs and they would give you another
9 date to come in to start your jury service.

10 PROSPECTIVE JUROR 2: I'll go downstairs.

11 THE COURT: Okay. We'll let them know that
12 you're coming downstairs to reset your jury service so I
13 can't excuse you from jury service. You're simply
14 resetting but you can go ahead and do that right now.

15 PROSPECTIVE JUROR 2: Thank you.

16 THE BAILIFF: Number 26. Juror Number 26 come
17 forward. I'll have you take his seat, please.

18 THE COURT: Good morning to our new juror and I
19 just wanted to take you through quickly the questions I
20 already asked. Did you know anybody at these tables?

21 PROSPECTIVE JUROR 26: No, ma'am.

22 THE COURT: No. Are you a compensated employee
23 of a public law enforcement agency?

24 PROSPECTIVE JUROR 26: No, ma'am.

25 THE COURT: No, okay. Do you have the

1 qualifications to sit as juror?

2 PROSPECTIVE JUROR 26: Yes, ma'am.

3 THE COURT: Okay. And so we are at that extreme
4 hardship question. Did you have a response for the Court?

5 PROSPECTIVE JUROR 26: No, I have no extreme
6 hardship.

7 THE COURT: Okay. So I think then I was on row
8 2, and I had some people. Did I have anyone raise
9 their -- okay. So it was Juror Number 6, did you have
10 your hand raised? What are we talking about here?

11 PROSPECTIVE JUROR 6: Well, I take care of my
12 mom and I thought this was going to be, like, for one day.

13 THE COURT: Okay. And what's the situation with
14 your mom?

15 PROSPECTIVE JUROR 6: She's 90 -- going to be
16 91 years old. She can barely walk. She needs assistance.
17 She wears a gait belt. If she has to go to the bathroom,
18 somebody has to be watching her pretty much every time.
19 My sister and my wife help, but my wife's at work now. My
20 sister is taking care of her now. But if it goes more
21 than a day, I don't think I will be able to make it.

22 THE COURT: Okay. And she needs constant care?

23 PROSPECTIVE JUROR 6: Constant care.

24 THE COURT: So I'm going to do the same thing
25 for you. I'm going to have you go down and reset your

1 jury service so you can make plans to have somebody come
2 in and watch your mom during the jury service, okay?

3 PROSPECTIVE JUROR 6: Okay.

4 THE COURT: So we'll tell them you're coming
5 down to reset your jury service.

6 PROSPECTIVE JUROR 6: Okay.

7 THE BAILIFF: Number 27.

8 THE COURT: All right. So to our new juror,
9 good morning. Did you take a look at the people at the
10 table here, did you know any of these people?

11 PROSPECTIVE JUROR 27: No.

12 THE COURT: Are you a compensated employee of a
13 public law enforcement agency?

14 PROSPECTIVE JUROR 27: No.

15 THE COURT: Do you have the qualifications to
16 sit as a juror in this case?

17 PROSPECTIVE JUROR 27: Yes.

18 THE COURT: And do you have anything to tell me
19 about extreme hardship?

20 PROSPECTIVE JUROR 27: No.

21 THE COURT: Okay. All right. I think we're on
22 the next row where I had a hand, okay. I think then I had
23 Juror Number 11?

24 PROSPECTIVE JUROR 11: Um-hum.

25 THE COURT: What --

1 PROSPECTIVE JUROR 11: I just had a question.
2 So I have college classes on every Wednesday and Thursday.
3 Would that affect it, from 12:00 to 2:45?

4 THE COURT: Well, then you -- every Tuesday and
5 Thursday?

6 PROSPECTIVE JUROR 11: Every Tuesday and
7 Thursday.

8 THE COURT: Okay. So that would require missing
9 class on Tuesday and Thursday. What happens -- what do
10 you do if you have to miss a class, if you're sick or
11 something like that?

12 PROSPECTIVE JUROR 11: It is a hands-on class
13 and I am required not to miss a class because of
14 a -- because we're there for three hours and we get all of
15 our work done within those three hours.

16 THE COURT: So what happens if you're ill?

17 PROSPECTIVE JUROR 11: If I'm -- if I'm ill, I
18 mean, I'd still have to come. I mean, like, I can't miss,
19 like, a class of it because then I'd be very far behind
20 from the next class and it would be hard to catch back up.

21 THE COURT: Okay. Well, it is the same
22 situation. I can't excuse you from jury service because
23 everybody here has -- they all have jobs and kids and all
24 kinds of commitments that they have to serve in this case.
25 I could have you reset your jury service but you would

1 have to be here. It could be -- I can't tell you how long
2 the trial's going to be either.

3 PROSPECTIVE JUROR 11: Okay, yeah, no, I'll just
4 stay here.

5 THE COURT: Okay. Okay.

6 PROSPECTIVE JUROR 11: I'll figure it out.

7 THE COURT: Then, okay. So then I was on Juror
8 Number 16?

9 PROSPECTIVE JUROR 16: Yes, I have a trip out of
10 the country on February 9th, so I don't know if I could be
11 reset. I'm happy to serve.

12 THE COURT: And February 9th is kind of up in
13 the air for us and this is a trip that you planned for a
14 while.

15 PROSPECTIVE JUROR 16: Yeah, I've had it planned
16 for a long time and it is out of the country.

17 THE COURT: Airfare?

18 PROSPECTIVE JUROR 16: Yes.

19 THE COURT: So with that, yes, I'm going to have
20 you go downstairs and reset. Those are generally the
21 one-time things that we try to accommodate, but they'll
22 expect you downstairs.

23 PROSPECTIVE JUROR 16: Okay. Thank you.

24 THE BAILIFF: Number 28, please come forward.

25 THE COURT: Good morning.

1 PROSPECTIVE JUROR 28: Good morning.

2 THE COURT: Did you take a look at everybody at
3 these tables to make sure you don't know anybody.

4 PROSPECTIVE JUROR 28: No, I do not.

5 THE COURT: Are you a compensated employee of a
6 public law enforcement agency?

7 PROSPECTIVE JUROR 28: No.

8 THE COURT: Do you have the requirements to sit
9 as a juror in this case?

10 PROSPECTIVE JUROR 28: I believe so. I have
11 just a question on hardship. Single-income family, being
12 out of income for possibly a week, just questions on that.

13 THE COURT: Again, it is the same thing that
14 I've had to tell others. We have forms that you can fill
15 out after a couple of days that will provide \$50 a day.
16 There are forms that you can fill out for the first days
17 if you're -- if you're self-employed, so we'll give you
18 all of those. So that's all I can do as far as funds.

19 I can't excuse you because of that, but I can
20 certainly have you reset and plan it in some way if you
21 want to do that. Otherwise, those are my parameters on
22 how I can work with that.

23 PROSPECTIVE JUROR 28: I think it would be best
24 that I reset, please.

25 THE COURT: Okay. So we will then have you go

1 downstairs and reset your service.

2 PROSPECTIVE JUROR 28: Yes, ma'am, thank you.

3 THE COURT: Surely.

4 THE BAILIFF: Number 29.

5 THE COURT: Just that second chair there, sir.

6 PROSPECTIVE JUROR 29: Right here?

7 THE COURT: All right. Did you take a look at
8 the people sitting at the tables, did you know any of
9 those people?

10 PROSPECTIVE JUROR 29: No, I don't.

11 THE COURT: Okay. Do you have the
12 qualifications to sit as a juror in this case?

13 PROSPECTIVE JUROR 29: Yes.

14 THE COURT: Are you a compensated employee of a
15 public law enforcement agency.

16 PROSPECTIVE JUROR 29: No, but my son is a cadet
17 at the Adams County Sheriff's Department.

18 THE COURT: Okay. And a lot of us, I think,
19 have friends, family, neighbors and whatever in law
20 enforcement. We're going to talk about that.

21 PROSPECTIVE JUROR 29: Okay.

22 THE COURT: But at this point, you're
23 not -- you're not being paid by law enforcement?

24 PROSPECTIVE JUROR 29: No, ma'am.

25 THE COURT: Okay. And do you have anything

1 about the hardship question that we're on right now?

2 PROSPECTIVE JUROR 29: It is debatable without
3 belaboring it. My wife has metastatic breast cancer. I'm
4 pretty much the primary caregiver. However, I think we
5 can make arrangements to cover her during the day. I had
6 raised my hand, but in thinking about it, I'm withdrawing
7 that concern.

8 THE COURT: All right. All right. Anybody else
9 in this front row? So I have Juror Number 17.

10 PROSPECTIVE JUROR 17: I also have a small
11 automotive business and I have clients' vehicles that are
12 already in the shop now that have -- I can't just put
13 people -- other people off. I can do it myself, but not
14 when I have other clients already at the shop.

15 THE COURT: Okay. So you're asking to reset
16 this jury service?

17 PROSPECTIVE JUROR 17: Yes.

18 THE COURT: All right. I'll go ahead and have
19 you go downstairs and we'll replace Juror Number 17's
20 spot.

21 THE BAILIFF: Number 30, please come forward.

22 THE COURT: Good morning. Did you take a look
23 at the tables to see if you knew anyone?

24 PROSPECTIVE JUROR 30: No I don't.

25 THE COURT: Do you have the qualifications to

1 sit as a juror in this case?

2 PROSPECTIVE JUROR 30: Yes.

3 THE COURT: Are you a compensate -- are you a
4 compensated employee of a public law enforcement agency?

5 PROSPECTIVE JUROR 30: No.

6 THE COURT: We are at the hardship question, is
7 there an issue?

8 PROSPECTIVE JUROR 30: No.

9 THE COURT: Okay. Where there others? We were
10 finishing out this very front row. Is there anyone else
11 who wanted to bring this to my attention? So 20, Juror
12 20, what did you want to tell me?

13 PROSPECTIVE JUROR 20: I have a wedding, I'm
14 leaving on the 8th, so just a conflict.

15 THE COURT: I guess they're just not going to
16 reschedule that for you?

17 PROSPECTIVE JUROR 20: I was expecting a shorter
18 trial, so it would have been if it was just a day or two,
19 but prolonging it out to be a week kind of conflicts.

20 THE COURT: I'm going to have you go downstairs
21 to see if you can reset.

22 PROSPECTIVE JUROR 20: Okay. That's fine.

23 THE COURT: And you have to give your name tag
24 up here.

25 PROSPECTIVE JUROR 20: Right.

1 THE BAILIFF: Number 31?

2 THE COURT: Good morning, sir.

3 PROSPECTIVE JUROR 31: Good morning.

4 THE COURT: Did you take a look at the People
5 seated at these tables.

6 PROSPECTIVE JUROR 31: Yep.

7 THE COURT: Do you know any of them?

8 PROSPECTIVE JUROR 31: Nope.

9 THE COURT: Do you have the qualifications to
10 sit as a juror in this case?

11 PROSPECTIVE JUROR 31: Yep.

12 THE COURT: Are you a compensated employee of a
13 public law enforcement agency?

14 PROSPECTIVE JUROR 31: No.

15 THE COURT: We are at the hardship question. Is
16 there anything you need to bring to my attention?

17 PROSPECTIVE JUROR 31: No.

18 THE COURT: Did I miss anyone down the line
19 here?

20 (No verbal response.)

21 THE COURT: Okay. Okay. So as I said, all
22 participants in the trial may be asking some questions of
23 you. You may think some of them are a personal nature
24 about you and your background and about various matters
25 involved in the case. If any of you, first, would like to

1 discuss something outside the presence of the rest of the
2 jury and the jury panel, if you'd raise your hand and let
3 me know, we can do that when we take a break and excuse
4 everyone.

5 Also, I'm going to tell you that if any of you
6 has a response that might prejudice our taint any other
7 member of the jury panel, you're going to let me know and
8 we'll hear that outside the presence of everyone else.

9 For instance, in a minute I'm going read you a
10 list of possible witnesses in this case. Say the second
11 witness is your next-door neighbor. You hate your
12 next-door neighbor. You have hated your next-door
13 neighbor for 25 years. You fight about the dog, the kids,
14 the driveway, the fence, everything. You're next-door
15 neighbor, you believe, is a total liar.

16 So if I say you're next-door neighbor's name,
17 please don't shout out, I hate that guy, he's a liar.
18 That may prejudice or taint the other members of the jury.
19 That would be something that you would tell me when we
20 took a break without the other members of the jury there.

21 Okay. So I already asked, nobody knows anybody
22 at these tables? I'm not going to belabor it, but one
23 time I had somebody a day or two into the trial say, hey,
24 I know that guy. So nobody knows any of that?

25 (No verbal response.)

1 THE COURT: So I am now going to read you the
2 list of possible witnesses. Doesn't mean everyone's going
3 to be called, but we like to run all the names by you in
4 case you do. Dawn Carlstrom, Betty Clark, Daniel
5 Dunnebecke, Brian Fox, Timothy Gideon, Dale Higashi,
6 Victoria Parker, Julia Rossi, Christopher Zaw-Mon, Jeffrey
7 Adams, Christopher Alfano, Eric Brennan, Todd Fahlsing,
8 Bryan Feik, Dawn Fink, Jason Frink, Kim Gallerani, Monique
9 Gilstrap, Gene Gray, Stephen Grisham, Joseph Lane, Jeffrey
10 Larson, Gordon Lawcock, Matthew Lebsack, Patrick Lone, Jay
11 Lopez, Jason Maines, Darren Maurer, Josephine McCormack,
12 Ryan McKalip, Nathan Muller, Michael Roemer, Jeromy
13 Rohling, David See, Sheri Shimamoto, Daniel Shube, Alan
14 Stevens, Devon Trimmer, David Waller, Brad With, Janet
15 Bal, Michael Berumen, Daundrea Bryant, Adam Carr, Jeffrey
16 Delgadillo, Lareina Jimenez, Elizabeth Jordan, Debbie
17 Malmsberry, Kelsie O'Shea, Keri Pokorny, Sharon Pokorny,
18 William Sanders, Cedric Williams, Eric Yingling, Rebecca
19 Gibson, Steven Kuntz. Does anybody know any of those
20 people?

21 (No verbal response.)

22 THE COURT: And, ladies and gentlemen, I
23 neglected to add Emily Elliott, okay.

24 Nobody knew any of those people?

25 (No verbal response.)

1 THE COURT: Who here has had previous jury
2 service? Has anyone had previous jury service?

3 (No verbal response.)

4 THE COURT: Okay. I'm going to start out in the
5 back and work my way up. Juror Number 4, you've had
6 previous jury service, where was that?

7 PROSPECTIVE JUROR 4: That was in the city of
8 Westminster.

9 THE COURT: Okay. And about how long as was
10 that?

11 PROSPECTIVE JUROR 4: That was five or six years
12 ago.

13 THE COURT: Okay. And do you remember if it was
14 a criminal case or a civil case?

15 PROSPECTIVE JUROR 4: It was a shoplifting case.

16 THE COURT: So a criminal case. All right. Was
17 there anything about your jury service in Westminster that
18 would keep you from being fair and impartial with us
19 today?

20 PROSPECTIVE JUROR 4: No.

21 THE COURT: And what I want to be certain is,
22 first, I want to thank everybody for prior jury service.
23 And, second, I want to make certain that there wasn't
24 anything so extraordinary or unusual that it would impact
25 jury service today. Certainly, every case rises and falls

1 on the facts as they're presented into the courtroom and
2 the evidence that's presented into the courtroom along
3 with the Judge's instruction. And I just want to make
4 sure that everybody can separate those things. So thank
5 you.

6 Anybody else, I saw a couple more hands go up
7 for prior jury service?

8 (No verbal response.)

9 THE COURT: So did I see Juror Number 15? Did
10 you raise your hand, sir?

11 (No verbal response.)

12 THE COURT: Okay. Juror Number 29, what kind of
13 service did you have? Where was it?

14 PROSPECTIVE JUROR 29: Well, there have been
15 multiples where I've been called and I was in this
16 position, but was dismissed for, you know, at the pleasure
17 of the prosecution or the defense. I did sit, ironically,
18 on a shoplifting case in the city of Concord, California.
19 I was at least 22 or 23 at the time.

20 THE COURT: So my guess is you remember every
21 word of that case?

22 PROSPECTIVE JUROR 29: To the letter, Your
23 Honor.

24 THE COURT: That's what I thought. Okay. So is
25 there -- was there anything about that case that would

1 keep you from being fair and impartial with us here today?

2 PROSPECTIVE JUROR 29: No, ma'am. Not at all.

3 THE COURT: So I saw some other hands here,

4 Juror Number 19?

5 PROSPECTIVE JUROR 19: Yes. Twenty-eight years
6 ago, Los Angeles, criminal, indecent exposure.

7 THE COURT: Anything about that case that would
8 keep you from being fair and impartial with us here today?

9 PROSPECTIVE JUROR 19: No.

10 THE COURT: And did I miss anybody?

11 (No verbal response.)

12 THE COURT: Okay. So I have Juror Number 21?

13 PROSPECTIVE JUROR 21: Yes, it was here and it
14 was a civil case and I don't remember exactly what it had
15 to do with, vehicular --

16 THE COURT: Sometimes civil cases blur together,
17 don't they?

18 PROSPECTIVE JUROR 21: But I was selected for
19 the jury, but then the defendant did a plea bargain and so
20 then --

21 THE COURT: They settled the case?

22 PROSPECTIVE JUROR 21: Before questions got in.

23 THE COURT: All right. All right. So before
24 you got -- you went and started the trial, really they
25 went ahead and settled the case so you didn't have to sit?

1 PROSPECTIVE JUROR 21: Exactly.

2 THE COURT: Is there anything about that case
3 that would keep you from being fair and impartial, the
4 little bit you heard?

5 PROSPECTIVE JUROR 21: No.

6 THE COURT: Okay. Okay. With regard to civil
7 cases, it is kind of interesting because civil cases are
8 different than criminal cases in that there's a whole
9 different burden of proof.

10 In civil cases we talk about preponderance of
11 the evidence, so that when we look at it, we start out one
12 side weighs a little heavier than the other. And that's
13 the burden of proof. In a criminal case, the burden of
14 proof is much higher. It is beyond a reasonable doubt.
15 So just as little difference in between a civil case and a
16 criminal case.

17 Was there anyone else here that I missed here?

18 (No verbal response.)

19 THE COURT: Juror Number 22?

20 PROSPECTIVE JUROR 22: It was dismissed from
21 that last round of jury selection for sexual rape case in
22 Denver.

23 THE COURT: Okay. Okay. But you didn't
24 actually sit and hear the evidence in that case?

25 PROSPECTIVE JUROR 22: Correct.

1 THE COURT: Anything about the process that
2 would keep you from being fair and impartial with us here
3 today?

4 PROSPECTIVE JUROR 22: I had a strong personal
5 reaction to that sexual assault portion they discussed,
6 but that's about as far as we've got.

7 THE COURT: Just as an aside, sometimes I will
8 have jurors say, well, I don't agree with stealing or I
9 have a big reaction to burglary and I think a lot of
10 people do. And what we're doing in this courtroom is not
11 wanting people to condone a charge, but to find whether or
12 not the elements of the offense have been met.

13 So, certainly, I think your reaction would be
14 the reaction of most people. What the defendant in this
15 case has said, is he is not guilty, he did not commit the
16 crime and, thus, that's what we're doing here today.

17 Okay. All right. So then how about Juror
18 Number 23?

19 PROSPECTIVE JUROR 23: Denver District, I
20 believe. It was 50 years ago. I was 21 and just pregnant
21 throwing up and they would not excuse me, and it went on
22 for a month and we had several different -- mostly illegal
23 things, we had interpreters.

24 THE COURT: So it was a complex case and it went
25 for a month?

1 PROSPECTIVE JUROR 23: Oh, no, no. Different
2 cases.

3 THE COURT: It was different cases?

4 PROSPECTIVE JUROR 23: We had to report for a
5 month.

6 THE COURT: Okay. So maybe it was grand jury.
7 Maybe it was grand jury that you sat on?

8 PROSPECTIVE JUROR 23: 50 years ago, \$40 a day
9 whether we served or not and that was big.

10 THE COURT: Anything about that experience other
11 than being sick the whole time part, that would keep you
12 from being fair and impartial with us here today?

13 PROSPECTIVE JUROR 23: No.

14 THE COURT: How about my last two jurors here.
15 Juror Number 24?

16 PROSPECTIVE JUROR 24: Two criminal, one civil.

17 THE COURT: Wow. Thank you, three juries.

18 PROSPECTIVE JUROR 24: One 40 years ago, and two
19 in the '90s.

20 THE COURT: And were they in Colorado?

21 PROSPECTIVE JUROR 24: Yeah, here in Jefferson
22 County.

23 THE COURT: Okay. All right. So three juries,
24 thank you so much. Anything about any of those that would
25 keep you from being fair and impartial with us here today?

1 PROSPECTIVE JUROR 24: No.

2 THE COURT: Okay. Anybody I missed?

3 (No verbal response.)

4 THE COURT: Juror Number 25?

5 PROSPECTIVE JUROR 25: Yes. It was about 30

6 years ago in Arvada, and it was an assault case.

7 THE COURT: Anything about that case that would
8 keep you from being fair and impartial with us here today?

9 PROSPECTIVE JUROR 25: No.

10 THE COURT: Okay. All right. So as I was
11 saying to, I think it was Juror Number 29, I'm going to
12 ask now about friends, family, close acquaintances,
13 whatever, who -- or yourself, who have ever been a law
14 enforcement officer.

15 And the reason I ask this question is this: Law
16 enforcement officers oftentimes testify in cases, and I
17 want to make certain that everybody can judge the
18 credibility of a law enforcement officer just as you would
19 any other person. Because they're people and your
20 obligation as jurors is to have the person take the stand
21 and judge their credibility as to what they're saying to
22 you and assess their credibility. And that's your
23 obligation with every single witness no matter what role
24 they play in the case.

25 So I want to be certain that everyone can judge

1 the credibility of a law enforcement officer just as you
2 would any other person, that would be the Court's
3 instruction, neither giving them a leg up or downward
4 feeling because they're law enforcement.

5 And so that being in mind, I want to talk to you
6 about who here -- a lot of us have friends, family,
7 acquaintances, neighbors, or whatever who have been or
8 were law enforcement officers, and that's what I want to
9 talk to you about. And I'll start in the back row first.

10 Anybody in the back row who has friends, family,
11 acquaintances in law enforcement?

12 (No verbal response.)

13 THE COURT: Okay. So Juror Number 4?

14 PROSPECTIVE JUROR 4: When I first moved into my
15 current residence, my neighbor, he was an Adams County
16 Sheriff, and his wife worked in the Westminster City court
17 system.

18 THE COURT: Okay. Okay. And do they still live
19 there now?

20 PROSPECTIVE JUROR 4: They have moved away.

21 THE COURT: Okay. Did you drive them away, is
22 this one of those neighbor situations?

23 PROSPECTIVE JUROR 4: That's up to them, not me.

24 THE COURT: All right. So did you know them
25 closely or were they just neighbors, whatever?

1 PROSPECTIVE JUROR 4: Lived with them closely
2 and watched their little girls grow up.

3 THE COURT: Okay. Anything about the fact that
4 they were your neighbors that would keep you from being
5 fair and impartial with us here today?

6 PROSPECTIVE JUROR 4: No.

7 THE COURT: Can you judge the credibility of a
8 law enforcement officer just as you would any other
9 person, neither giving them a plus or a minus because they
10 were law enforcement?

11 PROSPECTIVE JUROR 4: I believe so.

12 THE COURT: Okay. All right. Anybody else in
13 that back row?

14 (No verbal response.)

15 THE COURT: How about the next row?

16 (No verbal response.)

17 THE COURT: Juror Number 8?

18 PROSPECTIVE JUROR 8: I guess a couple things to
19 disclose. I have a couple good friends in law enforcement
20 both here in Jefferson County as well as Adams County. I
21 also know a number of the Colorado Attorney General --
22 Attorneys General. I was the state's expert witness
23 forensic accountant on a matter that went to trial in
24 Denver last January, so I know quite a few people there.

25 All that said, I don't believe it would keep me

1 from being a fair and impartial.

2 THE COURT: Okay. So let's look at this
3 carefully, so you're a CPA?

4 PROSPECTIVE JUROR 8: Yes, ma'am.

5 THE COURT: And so you were hired by the
6 prosecution to do a forensic analysis and testify?

7 PROSPECTIVE JUROR 8: Yes, I was retained by --
8 my firm and I were retained by the Attorney General, and I
9 did testify in the case.

10 THE COURT: Okay. All right. And so then you
11 testified it was a criminal case or civil case?

12 PROSPECTIVE JUROR 8: It was civil.

13 THE COURT: Civil case?

14 PROSPECTIVE JUROR 8: Yes, ma'am.

15 THE COURT: Okay. And are you getting ready for
16 tax season right now?

17 PROSPECTIVE JUROR 8: Thankfully. I only do
18 forensic work, so I don't do --

19 THE COURT: So you can take a breath there and
20 you're not quickly looking over this new legislation?

21 PROSPECTIVE JUROR 8: Well, I have done that to
22 maintain my education.

23 THE COURT: So because of this and because of
24 your personal life, you're friends with people at the
25 attorney's general office, and you're also friends with

1 some deputies here and you said deputies in Denver?

2 PROSPECTIVE JUROR 8: One of my friends is a
3 cadet in Adams County, training to be a police officer and
4 one of the deputies that works in Jefferson County
5 actually works in this building was my stepson's baseball
6 coach, and I've known him for a number of years.

7 THE COURT: Okay. So tell me if anything about
8 that keeps you from being fair and impartial with us here
9 today?

10 PROSPECTIVE JUROR 8: I don't believe so, Your
11 Honor.

12 THE COURT: So you wouldn't say from your
13 experience that I would automatically believe everything a
14 law enforcement officer said or I would automatically
15 disbelieve everything a law enforcement officer said?

16 PROSPECTIVE JUROR 8: No, ma'am. I would -- our
17 firm in particular represents both plaintiffs and
18 defendants, so I understand both sides.

19 THE COURT: Okay. All right. All right.

20 PROSPECTIVE JUROR 8: Works for us is the right
21 word, not represent.

22 THE COURT: Right. Right. And Juror Number 9,
23 did you have something, did you have law enforcement? Did
24 you raise your hand?

25 PROSPECTIVE JUROR 9: I didn't.

1 THE COURT: Okay. All right. Then we had the
2 next row. Anybody in the next row with friends and family
3 in law enforcement?

4 (No verbal response.)

5 THE COURT: So I'm looking at Juror Number 12
6 first.

7 PROSPECTIVE JUROR 12: Yes, just as a matter of
8 disclosure, I have a nephew who is in law enforcement in
9 another state.

10 THE COURT: Anything about that relationship
11 that would keep you from being fair and impartial with us
12 here today?

13 PROSPECTIVE JUROR 12: No.

14 THE COURT: Okay. And Juror Number 13, did you
15 raise your hand?

16 PROSPECTIVE JUROR 13: Yeah, my brother-in-law
17 is a police officer in New Jersey.

18 THE COURT: Okay. And anything about that
19 relationship that would keep you from being fair and
20 impartial with us here today?

21 PROSPECTIVE JUROR 13: No, I don't believe so.

22 THE COURT: Okay. So now we're on the front row
23 and I had some hands in the front row, I think, 31, you
24 raised your hand?

25 PROSPECTIVE JUROR 31: Yeah. My son was a

1 deputy here in Jefferson County for, I think, four or five
2 years, and then he's now a scientist at a lab.

3 THE COURT: Okay. And the fact that your son
4 was a deputy, does that keep you from being fair and
5 impartial with us here today?

6 PROSPECTIVE JUROR 31: No.

7 THE COURT: Can you judge the credibility of a
8 law enforcement officer just as you would any other
9 person?

10 PROSPECTIVE JUROR 31: Yes.

11 THE COURT: Okay. And I think was it, 18, who
12 had -- you had your hand raised?

13 PROSPECTIVE JUROR 18: Yes.

14 THE COURT: And --

15 PROSPECTIVE JUROR 18: My -- my sister's son is
16 going to be a law enforcement agent.

17 THE COURT: Okay. And he's in training right
18 now?

19 PROSPECTIVE JUROR 18: Yes, he is.

20 THE COURT: Is he at the academy.

21 PROSPECTIVE JUROR 18: He's at the academy.

22 THE COURT: And how about that, anything about
23 the fact that your nephew is in training to be a law
24 enforcement officer that would keep you from being fair
25 and impartial with us here today?

1 PROSPECTIVE JUROR 18: No.

2 THE COURT: Okay. And, certainly, I know Juror
3 Number 29, you told me about your son is a cadet.

4 PROSPECTIVE JUROR 29: Yes.

5 THE COURT: Anything about that that would keep
6 you from being fair and impartial with us here today?

7 PROSPECTIVE JUROR 29: I will be perfectly
8 honest, Your Honor. You know, police officers, sheriff's
9 swear to uphold the law of the country and the state and
10 the county, and I would listen to them before I would
11 listen to someone else. I really feel that --

12 THE COURT: Okay. I'm going to say this then,
13 it is the Court's instruction that you evaluate a law
14 enforcement officer as you would any other person. If you
15 feel you can't do that, then I'm going to have you go
16 downstairs and reset on a civil case where the situation
17 isn't the same. So if you feel that you can't judge the
18 credibility of a law enforcement officer just as you would
19 any other person, then I'll have you go downstairs and
20 reset.

21 PROSPECTIVE JUROR 29: Very good. I will take
22 that option, please.

23 THE COURT: Then we'll have you go downstairs to
24 sit, because everybody swears to tell the truth in the
25 courtroom.

1 THE BAILIFF: Number 32, hello.

2 THE COURT: Good morning.

3 PROSPECTIVE JUROR 32: Good morning.

4 THE COURT: Can you take a look at the people
5 seated at these tables?

6 PROSPECTIVE JUROR 32: I do not know any of
7 them.

8 THE COURT: Okay. Are you a compensated
9 employee of a public law enforcement agency?

10 PROSPECTIVE JUROR 32: No, I'm not.

11 THE COURT: Do you have the qualifications to
12 sit as a juror.

13 PROSPECTIVE JUROR 32: Yes, I do.

14 THE COURT: How about the issue of hardship?

15 PROSPECTIVE JUROR 32: No.

16 THE COURT: Now, I read a long list of
17 witnesses, did you know or recognize any of those names?

18 PROSPECTIVE JUROR 32: I did not.

19 THE COURT: Have you had prior jury service?

20 PROSPECTIVE JUROR 32: No, ma'am.

21 THE COURT: And we're at the police officer
22 question, do you have friends, family, acquaintances,
23 neighbors, et cetera, who are in law enforcement?

24 PROSPECTIVE JUROR 32: No.

25 THE COURT: Okay. Did I miss anybody here who

1 had their hand raised?

2 (No verbal response.)

3 THE COURT: So I have Juror Number 24?

4 PROSPECTIVE JUROR 24: I have a cousin that's a
5 retired Pueblo police officer and Department of
6 Corrections officer.

7 THE COURT: Okay. Anything about that
8 relationship which would keep you from being fair and
9 impartial with us here today?

10 PROSPECTIVE JUROR 24: No.

11 THE COURT: You could judge the credibility of
12 law enforcement just as you would any other witness?

13 PROSPECTIVE JUROR 24: Yes.

14 THE COURT: Okay. All right. So, and, again,
15 ladies and gentlemen, I ask that question because every
16 person who takes the stand has to be listened to. And as
17 jurors, you are the judges of the facts. I don't judge
18 anything about the facts. I just take care of the law in
19 the case.

20 But jurors, when they're sworn to sit on a jury,
21 are the judges of the facts and part of determining the
22 facts in the case, is assessing the credibility of each
23 witness as they come to the stand, okay?

24 All right. So everybody good? Can everybody
25 hear and see what's going on so far?

1 (No verbal response.)

2 THE COURT: Anybody have any issues with that?

3 (No verbal response.)

4 THE COURT: Because we can move you around, we
5 can try the headsets.

6 (No verbal response.)

7 THE COURT: Okay. Could you take a look around
8 and tell me if any panel members know each other. You
9 know, the other day we had cousins sitting in our jury,
10 and what was surprising, is they did not notice it until
11 the second day. So anybody have a cousins here, a
12 neighbor, do you see people?

13 (No verbal response.)

14 THE COURT: Okay Juror Number 9, who do you
15 know?

16 PROSPECTIVE JUROR 9: I know Number 3.

17 THE COURT: Okay. How do you guys know each
18 other? Do you work together?

19 PROSPECTIVE JUROR 9: We went to school
20 together.

21 THE COURT: You went to school together. Okay.
22 And were your close friends or did you just see each other
23 in school? How was that?

24 PROSPECTIVE JUROR 9: We, like, were in the same
25 classroom senior year most of the time.

1 THE COURT: Okay. All right. So tell me this,
2 what I need to know is would either of you be
3 uncomfortable in any way sitting as jurors together in
4 this case?

5 PROSPECTIVE JUROR 9: (The prospective shook her
6 head.)

7 PROSPECTIVE JUROR 3: (The prospective shook his
8 head.)

9 THE COURT: Both of you shaking your head "no"?

10 PROSPECTIVE JUROR 3: Yeah, I'm good.

11 THE COURT: Okay. So here's the scenario that
12 I'm going to give you. So say you both get selected as
13 jurors in this case, because we're just starting this
14 selection. Say you both get selected and you're back in
15 the jury room and you're making decisions in the case so
16 you have to go down through elements of the crime and make
17 decisions on all of these.

18 Say Juror Number 3 says guilty, Juror Number 9
19 says not guilty. Would both of you feel free in
20 expressing your views and opinions about the case with the
21 other person there?

22 PROSPECTIVE JUROR 9: Yeah.

23 PROSPECTIVE JUROR 3: Yes.

24 THE COURT: Both of you are shaking your head
25 "yes". So no reservations that you went to school

1 together, you didn't hate each other?

2 PROSPECTIVE JUROR 9: (The prospective shook her
3 head.)

4 THE COURT: No, okay. All right. Has it been a
5 while since you've been in high school?

6 PROSPECTIVE JUROR 9: We graduated in 2017.

7 PROSPECTIVE JUROR 3: Last year.

8 THE COURT: Last year, oh my goodness. All
9 right. Anybody else know each other?

10 (No verbal response.)

11 THE COURT: No, okay. If you were selected as a
12 juror in this case, would you be able and willing to
13 render a verdict solely on the evidence presented at trial
14 and the law as I give it to you in my instructions
15 disregarding any other ideas, notions or beliefs about the
16 law you may have encountered? Can all of you do that?

17 (No verbal response.)

18 THE COURT: Is there a reason, whether I've
19 asked the question or not, why, if you were selected as a
20 juror, you could not or would not be fair and impartial in
21 deciding the this case?

22 (No verbal response.)

23 THE COURT: What I need to tell you, ladies and
24 gentlemen, is that everybody comes into a courtroom with
25 life experiences. We want you to come into the courtroom

1 with life experiences. Of course, you're live human
2 beings, each one of you have had different life
3 experiences. We do not want you to put those life
4 experiences aside. We want you to use your commonsense,
5 your practical knowledge, the experiences you've had in
6 life.

7 What we don't want to happen is that your life
8 experiences keep you from being fair and impartial. We
9 want you to apply them, to use them, to use your
10 commonsense, and then go in and be fair and impartial to
11 both sides and look at the issue and reach a conclusion.

12 Okay. So now we're going to take a look at the
13 screen up here and can everyone see that?

14 (No verbal response.)

15 THE COURT: Tell me if you can't because I'll
16 just go through the question with you. But I'm going to
17 have you simply give me some information about yourself so
18 it is kind of an intro to having the district attorney and
19 Mr. St. George talk to you in what's called the voir dire
20 part of the selection.

21 So if you'd just go down the list and just give
22 me some responses to the questions, we'll get a little
23 information. And we're going to start out with Juror
24 Number 1.

25 PROSPECTIVE JUROR 1: Do you want me to go

1 ahead?

2 THE COURT: Please.

3 PROSPECTIVE JUROR 1: Hi, so my number is one.

4 I'm not married. I do have one child. I have a daughter.

5 She's three. Interests, I like to do a lot of outdoorsy

6 things when it is nice out. So I like the warm weather.

7 Don't really like the cold weather. I love country music

8 and I love, like, dramas on TV.

9 THE COURT: And what sort of business are you
10 in.

11 PROSPECTIVE JUROR 1: I just got a new job so I
12 work at a bank.

13 THE COURT: Okay. So you're in the banking
14 business. And how about your parent's, were they in a
15 similar business there?

16 PROSPECTIVE JUROR 1: My mom is a manager for a
17 retail place, and my dad is a boss for a distribution
18 center.

19 THE COURT: Okay. And how far did you get in
20 school?

21 PROSPECTIVE JUROR 1: I graduated and then I've
22 got -- I went a little for dental assisting so...

23 THE COURT: Okay.

24 PROSPECTIVE JUROR 1: So I got that certificate
25 and everything.

1 THE COURT: All right. So Juror Number 26?

2 PROSPECTIVE JUROR 26: I'm 26. I have lived
3 here almost my entire life. I am a legal administrative
4 assistant for a sole practitioner attorney.

5 THE COURT: What kind of law?

6 PROSPECTIVE JUROR 26: He does mostly land use
7 and he also represents special districts.

8 THE COURT: Okay. We're not going to be doing
9 that here.

10 PROSPECTIVE JUROR 26: No. He does no criminal
11 work. I have a college degree in music. I am married. I
12 have two sons, they are both in their 30s. One is a
13 forester and one works for the government in DC. My
14 parents, my dad was an airline pilot, my mother was a
15 homemaker. My husband is an aerospace engineer. I like
16 to go camping, fishing, scrapbooking. I do listen to
17 music, mostly contemporary music and some classical. And
18 I like to watch things like Chicago Fire on TV.

19 THE COURT: My next juror.

20 PROSPECTIVE JUROR 3: I'm Juror Number 3. I've
21 lived in Colorado and in the U.S. for my entire life, all
22 18 years. Finished high school.

23 THE COURT: You have to keep saying that to me.

24 PROSPECTIVE JUROR 3: Finished high school last
25 year. Not married, no kids. My parents, my dad works for

1 the City of Westminster, and my mom is a vet tech. I've
2 swam since I was, like, five and I enjoy doing that a lot,
3 especially in the summer. Don't necessarily like the cold
4 weather all too much. But I read whatever, listen to
5 whatever, watch whatever, it doesn't really matter.

6 THE COURT: So what's your favorite show on TV
7 right now on Netflix or whatever?

8 PROSPECTIVE JUROR 3: I couldn't tell you. I
9 don't really watch TV too much. I sold a lot of my stuff
10 because I don't like watching TV. I like getting out and
11 doing things rather than actually sitting at home and just
12 not doing anything at all.

13 THE COURT: Okay. Juror Number 4?

14 PROSPECTIVE JUROR 4: Juror Number 4. I was
15 born in Boulder, Colorado, if you consider that part of
16 Colorado. Moved to Jefferson County in '98 and I am
17 currently an unemployed accountant. Most recently I am a
18 home builder. I have a bachelor's and master's in
19 accounting from the University of Denver. Single. No
20 kids. My father was a mechanical engineer for the civil
21 service for the U.S. Army. And my mom was an elementary
22 school librarian.

23 I am an avid golfer, volunteered for a local
24 club. Also, like to get out and hike if I'm not golfing.
25 Have a black belt in Taekwondo. I like to read mystery

1 novels, listen to sport's radio, watch sports, watch
2 documentaries, nature shows.

3 THE COURT: And Juror Number 5?

4 PROSPECTIVE JUROR 5: I've been in Colorado for
5 35 years. I have a degree in interior design and that's
6 what my business is. I'm self-provided also. I'm
7 married. I've got two boys, one is 27, one is 24. They
8 both live in Colorado or in the metro area too. Both my
9 husband's parents and my parents were farmers. I like to
10 read, I read a lot of history, historical novels, watch
11 sports. We don't really watch any other television. Bike
12 and hike and don't ski much, it is too expensive. But
13 camping, and we're kind of foodies. That's why we can't
14 afford to ski because we go to restaurants.

15 THE COURT: All right. Juror Number 27?

16 PROSPECTIVE JUROR 27: I've lived in Jefferson
17 County most of my life. I am a stay-at-home mom and I
18 have an associate's degree in early childhood education.
19 I'm married. I have two kiddos. One is four and one is
20 nine. My dad was an engineer and my mom was a homemaker.
21 Spouse's industry, he is -- he works for Oricol, I'm not
22 really sure what he does. He does something with
23 technology, I have no idea.

24 And my interests are I love DIY projects,
25 crafts, play with the kids. I like to read classical

1 novels and historical novels and I love documentaries.

2 THE COURT: Juror Number 7.

3 PROSPECTIVE JUROR 7: I'm Number 7. Colorado

4 native. Been delivery driving, janitorial,

5 Warehousing, forklift. Graduated in '96. No degree.

6 Single. Have twin boys that are nine. My dad passed away

7 when I was 20. My mom's a cook at it a daycare center. I

8 like tattooing, oil painting, drawing, pretty much read

9 whatever. I don't watch TV. It is usually just sport's

10 radio and sport's on TV, really that's about it. If I do

11 watch TV but, yeah.

12 THE COURT: Do you have a favorite for Sunday?

13 PROSPECTIVE JUROR 7: Man, I don't like both

14 teams but it is good to see Brady do his thing. You know,

15 it is kind of like watching Michael Jordan back in the

16 day, I'm just kind of taking a lot in. A lot of Bronco

17 fans might be mad at me right now.

18 THE COURT: At the Nuggets game they put up the

19 picture of Tom Brady if they want people to boo.

20 Number 8?

21 PROSPECTIVE JUROR 8: I'm number eight,

22 Born and raised in Jeffco. Went to Columbine. As I said

23 earlier, I am a forensic accountant. I'm a CPA. Been

24 doing that for 17 years. I have a bachelor's in

25 economics, a master's in accounting from metro. I also

1 teach at metro as an affiliate in the graduate accounting
2 program there. Married. I have a 20-year-old stepson and
3 a seven-year-old and almost five-year-old. Five-year-old
4 is in charge of the house if there's any question.

5 My father is a geophysicist. My mother is a
6 teacher. I probably should have said earlier that my
7 mother-in-law was an Arapahoe County officer. Same answer
8 to the question we had earlier. Interests and clubs, I'm
9 active in the sailing club, treasurer of that. And love
10 sailing in the summer. I enjoy gardening, and I also
11 started a lego club at my son's school, I enjoy doing
12 that. I watch almost no television. Occasionally sports,
13 but even that infrequently at this point. I enjoy reading
14 both history and crime novels and listen to NPR.

15 THE COURT: Number 9.

16 PROSPECTIVE JUROR 9: I've lived in Colorado
17 most of my life. I'm Number 9. I've never been
18 out-of-state. I graduated in 2017. I'm not married and I
19 don't have kids. I don't really talk to either of my
20 parents and I don't really watch very much television. I
21 like to read Ellen Hopkins, and yeah.

22 THE COURT: Okay. Juror Number 10?

23 PROSPECTIVE JUROR 10: Number 10. I've been in
24 Colorado for about five years. I work as a warehouse
25 manager for an interior design company. I have a high

1 school diploma. Single, no kids. My mom is a bartender.
2 I like to snowboard, play basketball and fish. And I like
3 to read news articles here and there and I watch a lot of
4 stand-up comedy.

5 THE COURT: Juror Number 11?

6 PROSPECTIVE JUROR 11: I've lived in Colorado my
7 whole entire life. Grew up in Glenwood, came here about
8 five years ago. And I work at King Soopers and graduated
9 from high school last year and single. Have no children.
10 My dad is a merchandiser and my mom works at a bank. And
11 what I look doing, reading, drawing, and, yeah, hanging
12 out with people. And then what I like to read, nonfiction
13 and then watch it on TV. What have I been watching? That
14 '70s Show.

15 THE COURT: Ancient times.

16 Number 12?

17 PROSPECTIVE JUROR 12: I'm Juror Number 12.
18 I've lived in Colorado and in Jefferson County both for
19 almost 37 years. I'm in the banking industry. I have a
20 master's degree, an undergraduate degree in business. I'm
21 married. We have three children. The oldest is a medical
22 doctor. The second is a certified Rolfer, and the third
23 is in the fashion industry in San Francisco.

24 My wife is retired but spent at career in public
25 education as a school psychologist. And my interest is

1 avid road biker, very active in the community at various
2 levels and positions in various organizations in the
3 community. And I read mostly things involving American
4 history. I do read things involving, I suppose,
5 business-related things like economics and finance on a
6 have-to basis. But my fun thing is American history,
7 military history, that kind of thing. And I don't watch
8 much television. When I do, I watch American Pickers,
9 so...

10 THE COURT: All right. Number 13?

11 PROSPECTIVE JUROR 13: I'm Number 13. I've
12 lived in Jefferson County for three years. I'm retired or
13 unemployed or stay-at-home mom, whatever you want to call
14 it from the Apple development industry. I have a BS in
15 communications. I'm married. I have one son who is seven
16 months old. And my father's a retired engineer for the
17 Navy. My mother is a retired counselor. My husband is a
18 software engineer. And we have lots of interests, but
19 I'll save you. We like to ski, I guess that's a big one,
20 and very involved in the Japanese-American community
21 downtown at the Denver Buddhist Temple. I like to read a
22 lot of self-development books, like, I'm reading The Speed
23 of Trust by Stephen Covey right now. I don't listen to
24 the radio and I watch whatever my husband watches which is
25 soccer, football, Gotham, Game of Thrones, Walking Dead,

1 whatever it may be.

2 THE COURT: Gotcha. Number 14?

3 PROSPECTIVE JUROR 14: I'm number 14. I'm a
4 Colorado native. I've worked in Arvada my entire life. I
5 work for Bed Bath & Beyond. And I got my education at CSU
6 in psychology and in dietetics. I'm not married but I am
7 engaged. No children. My dad is retired and he was an
8 Air Force mechanic. And my mom was a bank accountant. I
9 like to swim, go hiking, garden, and I love all types of
10 music.

11 THE COURT: All right. So then I have Juror
12 Number 15?

13 PROSPECTIVE JUROR 15: Number 15. I've lived in
14 Colorado most of my life. I manage a hockey bar and
15 grill. I went to culinary school. Didn't graduate, I
16 felt it cost too much money for what you get for entry
17 level afterwards. Single. I have three boys, 8, 12 and
18 14. I'm not sure what my mom does. I don't know my dad.
19 I mostly hang out with my youngest, I have him full-time
20 and we just play, and play video games. And I watch and
21 read mostly sci-fi fantasy-type stuff.

22 THE COURT: Okay. 32?

23 PROSPECTIVE JUROR 32: I'm Juror 32. I came to
24 Colorado in 2007 and left for three years with -- my wife
25 was in grad school and came back in 2015. I've been in

1 Jefferson County for one year. I'm a registered nurse in
2 a hospital in downtown Denver. And I have a bachelor of
3 science in nursing. Like I said, I'm married. I have one
4 child, 17-month old little boy and he's not working yet.
5 My parents, my dad was in the car business and management
6 for his entire career. My mom was a homemaker. My
7 interests include skiing, camping, hiking, high fi audio.
8 I read *The Denver Post* weekly and I listen to NPR and some
9 regular FM radio stations sometimes. And my favorite
10 shows are stranger things and my wife and I like to watch
11 This is Us on TV.

12 THE COURT: Juror 30?

13 PROSPECTIVE JUROR 30: I've lived in Colorado
14 since 1973. I retired, I was a case manager with
15 Jefferson County Human Services. I have a bachelor's
16 degree in psychology. I'm divorced and have no children.
17 My parents are both deceased. My interests are, I enjoy
18 hiking, riding my bike and playing pickleball. I like to
19 read nonfiction and watch football and reality shows.

20 THE COURT: Number 18?

21 PROSPECTIVE JUROR 18: I'm Number 18. Colorado
22 native. Work for the Federal government, also former
23 Navy. I have a bachelor's in computer security. Single,
24 no children. My dad was an upholsterer, my mom was a
25 homemaker. Interests are hiking, skiing, golfing,

1 snowshoeing, cycling. Love to read science fiction,
2 fantasy novels. I think the Blacklist is what I watch.

3 THE COURT: Number 19?

4 PROSPECTIVE JUROR 19: Okay. 19. In Colorado
5 and Jeffco since 1996. I am in human resources for a
6 small software company. Bachelor's degree in business.
7 Married. One stepdaughter, 31, stay-at-home mom. And
8 parent's were teachers. My spouse is a retired journeyman
9 in HVAC. Interests, I volunteer mentoring at an
10 inner-city school. I also hike. My husband and I ride on
11 road/off road motorcycles. And I'm a history buff,
12 reading; television, documentaries. Pretty much it.

13 THE COURT: Number 31?

14 PROSPECTIVE JUROR 31: I'm 31. I was born in
15 St. Joseph's and lived here all my life. I've been in
16 Jefferson County since 1980. I was a drywall contractor.
17 My dad was a plaster and dry wall contractor. Mom was a
18 homemaker. I have two kids. I'm married and I got two
19 kids, 41 and 36. And they -- one's a scientist and the
20 other one works at a house cleaning service. And
21 interests are golf. I have a black belt in kung fu.
22 Tried a couple schools, nobody wants to pay. They all
23 want to learn. And do a little reading of fiction. And
24 stuff on TV, it is mostly sports and I record Price is
25 Right and the game shows and watch some of that, but

1 that's about it.

2 THE COURT: All right. Number 21?

3 PROSPECTIVE JUROR 21: I'm a semi-native. I've
4 been here since I was two years old and that's a long time
5 so I like to say I'm a native. I am retired. I have an
6 associate's degree in management information systems, and
7 I used to work in that industry. I'm married. I have two
8 children, three stepchildren, five grandchildren. My
9 spouse is a retired civil engineer. Our interests are
10 ballroom dancing and my exercise class and eating out.
11 And I like to watch -- read mysteries and I watch dramas
12 and football.

13 THE COURT: 22?

14 PROSPECTIVE JUROR 22: 22, I've been in Colorado
15 since '07. Been in Jeffco since '16. I work in marketing
16 and I have a side consulting business in marketing as
17 well. I have bachelor's degree in English. My wife is in
18 her eighth month of pregnancy, and so that takes care of
19 two in one, I think. My dad was in the Navy for 30 years.
20 My mom was a secretary. We were pretty active outdoors
21 people, snowboard. Member of my HOA. Rebuild motorcycles
22 on the side just for the heck of it. And we watch the
23 same kind of stuff everybody else does, Walking Dead, Game
24 of Thrones, all of that predictable stuff.

25 THE COURT: 23?

1 PROSPECTIVE JUROR 23: I'm a native. Been in
2 Jefferson County since second grade. Stay-at-home mom.
3 My dad was an electrician though he was self-employed. I
4 was a stay-at-home mom until I was 28. While I stayed at
5 home I was a foster parent for four years. Went into
6 nursing. Got my license practical nursing.

7 Went through a divorce so I had to get into
8 something other than -- I worked for a private practice
9 thoracic surgeon and he was new to practice and didn't
10 have insurance and I had three children. So went to work
11 for Mountain Bell and stayed there until -- well, I
12 remarried in '80 and he worked for Mountain Bell, and he
13 took early retirement, I helped him in his business.

14 We formed our own business so self-employed but
15 we're both retired now. We do some traveling, just
16 camping and fishing and have a place up in Wyoming pretty
17 frequently. Reading puts me to sleep so I don't. I,
18 like, watch the news to a point then it is off. But as
19 far as favorite channels, watch what he watches which is
20 no commercials so we're watching two or three shows, you
21 know, as the commercials come up. But it is usually the
22 NCIS and CSI and Blacklist.

23 THE COURT: Now, you know we're not quite as
24 good as NCIS and all of those shows? I think they get
25 done from maybe crime to the end in 48 minutes with the

1 commercials. So we try to be that efficient and, also,
2 you know, TV is TV. Really different and you never see
3 jury selection on those shows, do you?

4 PROSPECTIVE JUROR 23: I have seven
5 grandchildren and two great-grandchildren.

6 THE COURT: All right. 24?

7 PROSPECTIVE JUROR 24: Born and raised in
8 Golden. I've lived here all my life, obviously. And I
9 own a small construction company. High school diploma.
10 Married. Got three sons. They're all in construction,
11 32, 29 and 27. Mom was a lab technician at Denver
12 General. Dad was mostly a rancher. My wife works as an
13 optic assistant at Sam's Club. And don't have a lot of
14 time for hobbies, but we have horses and some rescue pit
15 bulls we take care of. And do a lot of reading of trade
16 industry stuff.

17 THE COURT: All right. Juror Number 25?

18 PROSPECTIVE JUROR 25: I'm 25 and I'm a Colorado
19 native. Lived here all my life and I work for United
20 States airlines as a mechanic. And I'm about to retire
21 any time now. And I have an associate's degree. I'm
22 married. My wife is retired now but she was a hairstylist
23 for 45 years. And I have one daughter who's a lawyer in
24 Dallas and two stepkids, one is an auto mechanic and the
25 other is a hairstylist following in her mom's footsteps.

1 And let's see, clubs and interests, I like to garden, and
2 on TV I like Big Bang Theory, comedies.

3 THE COURT: Okay. So, ladies and gentlemen,
4 from the responses of the other jurors, does anything come
5 to mind that you would like to share with us or that you
6 just forgot to share with us during the individual
7 questioning?

8 (No verbal response.)

9 THE COURT: Will each of you follow the Court's
10 instructions as to the law.

11 (No verbal response.)

12 THE COURT: Can everybody be fair and impartial
13 to both sides?

14 PROSPECTIVE JURORS: Yes.

15 THE COURT: All right. This is the time when we
16 allow both sides to inquire, but before we do that, we're
17 going to take a break. It is going to be about 15 minutes
18 so we will return at 11:15.

19 I need everybody out of the courtroom. I've got
20 to do a couple of things while you are out on another
21 matter so please wait to have somebody bring you back into
22 the courtroom.

23 (The prospective jurors left the courtroom.)

24 THE COURT: I'm going to tell you don't talk
25 about the case, keep an open mind.

1 (The jury left the courtroom.)

2 MR. FREEMAN: Judge, I just want to mention
3 something on the record. There was a name that I
4 recognized on here, Juror Number 69. I wasn't sure if it
5 was her until I turned around just now and saw her. She's
6 not in the presumptive 25 so it is not a big issue yet,
7 but I know her pretty well.

8 Our kids have played baseball together for the
9 last seven or eight years. Her husband has been my son's
10 coach for the last seven or eight years. If she makes it
11 up here, that may come up.

12 THE COURT: Okay. All right. So I'm making a
13 note of that. We're going to take a break and we're going
14 to have the individual voir dire.

15 MR. FREEMAN: Okay. We need to collect the
16 lists now.

17 MR. MENGES: Judge, one thing. I don't think it
18 is an issue. One of the jurors asked Mr. Burnett when she
19 was walking out the courtroom. Where's the defendant and
20 Mr. Burnett just said, I can't talk to you.

21 THE COURT: Okay.

22 MR. BURNETT: I assume everybody thinks it's me.

23 THE COURT: Okay. So 15 minutes. So I said
24 11:15, I think.

25 MR. MENGES: And then the DA is going to go and

1 then we are going to have a lunch break. I have a
2 scheduled phone call that has to be made over the lunch
3 hour.

4 THE COURT: Well, it all depends on what we do.
5 It was 45 minutes, so my thought is we're probably going
6 to have to break because -- you know, if it goes
7 seamlessly and there's no issues or whatever, we're still
8 going to end up right at noon and the cafeteria closes.

9 MR. MENGES: They've been here since eight
10 o'clock. So just for scheduling. That's what I told him.

11 THE COURT: That's my thought is that we're
12 going to break in between.

13 MR. MENGES: After Mr. -- or the district
14 attorney's voir dire?

15 THE COURT: Yeah.

16 MR. MENGES: Okay. Thank you.

17 THE BAILIFF: Judge, do you want me to collect
18 the list?

19 THE COURT: Yeah.

20 (A recess was taken.)

21 THE COURT: So, Mr. St. George, my understanding
22 is your parents are here?

23 MR. ST. GEORGE: Okay.

24 THE COURT: And you want to have somebody from
25 your team advise them they're not allowed to talk to

1 jurors.

2 MR. ST. GEORGE: Fair enough.

3 MR. MENGES: That's fine.

4 MR. FREEMAN: Judge, can we go on the record.

5 THE COURT: We can go on the record.

6 MR. FREEMAN: It came to our attention when you
7 were reading the information that we need to file a motion
8 to amend the dates. While some of the offenses occurred
9 on July 31st, some of the offenses, I think, occurred on
10 August 1st in the early morning hours.

11 Certainly, we think that's an amendment of form,
12 and not substance, Rule 7E allows us to at least make a
13 motion to amend all the way up until to verdict. I don't
14 know if defendant was going to latch onto that and argue
15 that we didn't prove that everything happened on
16 July 31st, but out of an abundance of caution, we are
17 going to file a motion to amend.

18 And that doesn't apply to all the counts. The
19 counts relating to Ms. Elliott occurred on the 31st. The
20 amendment would apply to Counts 1, 2, 4, 5, 6, 7, and 9.

21 THE COURT: Okay. So the allegation or the
22 theory by the prosecution is that these allegations began
23 on July 31st and ran through the early morning hours of
24 August 1st?

25 MR. FREEMAN: Correct. And so I think it should

1 properly read on and between July 31st and August 1st of
2 2016.

3 THE COURT: Response?

4 MR. ST. GEORGE: Your Honor, my knee-jerk
5 reaction is, of course, to object. These are not the
6 dates that I was bound over to in preliminary hearing. I
7 also understand that before the Court, this is probably
8 going to be something of a Sisyphean adventure here that
9 you're going to go ahead and overrule and allow them to
10 amend, so if that's the case, then I object.

11 THE COURT: Okay. All right. So the Court
12 looks at these amendments and the Court looks particularly
13 at whether or not there's a disadvantage or whether or not
14 there is an issue with regard to preparation, et cetera,
15 regarding the case.

16 I have heard motions in this case and been able
17 to read some of the information, read through the
18 affidavit. I just confirmed with the district attorney,
19 so it is the Court's impression, from what I have heard
20 and read that the allegations arise sometime during the
21 evening night hours of July 31st of 2016 and then
22 continued on through the early morning hours of August 1st
23 of 2016.

24 That is my understanding of the discovery and my
25 understanding of what has been presented to the Court.

1 And it is not my understanding that discovery would
2 provide any different dates for these occurring. Since
3 that has been the continuous course of conduct that's been
4 outlined in all the materials, I'm going to go ahead and
5 grant the amendment.

6 MR. FREEMAN: Thank you, Your Honor.

7 THE COURT: So it would be as amended right now.
8 If you could file the charges formally with that
9 amendment, then we would have that on -- in the electronic
10 file.

11 MR. FREEMAN: We will do that.

12 THE COURT: Okay. So are we ready? Everybody
13 ready?

14 MR. FREEMAN: The People are ready.

15 THE COURT: So 45 minutes I'll give you a
16 heads-up.

17 (Pause in the proceedings.)

18 (The prospective jurors entered the courtroom.)

19 THE COURT: Okay. Everybody be seated, please.

20 We are back, ladies and gentlemen, and we we're
21 ready for voir dire from both sides. This is the
22 opportunity for both sides to ask you some questions to
23 hone in on who they think would be the best jurors for
24 their particular side. So we're going to start on that.

25 One thing I did neglect to give you a heads-up

1 on, if you see people that are sitting at this
2 table -- these tables, walking around the courthouse, they
3 will run from you, and that is because I told them not to
4 have contact with any of the jurors, and they may not have
5 contact with any of the jurors.

6 Also, jurors can't have contact with spectators
7 or also witnesses in the case. So that's why. They're
8 not being rude, they're just following my instructions.

9 We'll start with voir dire.

10 MR. FREEMAN: Thank you, Your Honor.

11 VOIR DIRE

12 BY MR. FREEMAN:

13 Good morning, ladies and gentlemen. As the
14 Judge introduced me earlier, my name is Mike Freeman. I'm
15 a prosecutor with the Jefferson County District Attorney's
16 Office. My co-counsel is Katharine Decker. Together we
17 represent the state of Colorado in a case against
18 Mr. St. George. Also, with us at our table is Lakewood
19 police detective, Jeff Larson, and our paralegal, Kirsten
20 Lewis.

21 A few of you mentioned that you watch some of
22 the crime shows on TV, CSI shows, things like that. You
23 probably have figured out by now why jury selection is not
24 featured in those shows. It's a little dry, a little
25 boring, but it is a very important part of the trial

1 because we're trying to find out if you can be fair and
2 impartial.

3 You're probably all sitting there thinking, of
4 course I can be fair and impartial, I'm a reasonable
5 person. But like the Judge mentioned, all of you come
6 into the court with a set of life experiences, a set of
7 opinions about things and sometimes those things make it
8 hard for you to be fair and impartial.

9 For example. One of the charges in this case is
10 a charge of unlawful sexual contact. Maybe somebody has
11 been subjected to that in their life or someone close to
12 them has been subjected to that in their life and just
13 those charges and the idea about hearing evidence that
14 might support those charges, might cause an emotional
15 reaction that might make it difficult for you to be fair.

16 If that's the kind of thing you're thinking
17 about now, let us know. And those are the kind of things
18 we're trying to get at in jury selection. We're not
19 trying to embarrass anybody.

20 In a little bit I'm going to call on you just by
21 numbers, I'm not going to call your names out. But I'm
22 going to ask you how you feel about police or some of the
23 charges or certain principles of law that may come up. If
24 I call on you, please don't feel like I'm picking on you.
25 Please don't feel like you're being put on the spot. I

1 know it's not fun to speak in public. We really just want
2 to hear your candid, honest opinions about things.

3 There are no right or wrong answers. Nobody's
4 going to criticize you if you have certain strong opinions
5 one way or another about the questions you're being asked
6 so please don't hesitate to be candid with us. We just
7 kind of want to hear from you and hear you feel about some
8 of the principles that may come up.

9 So I'm going to ask a few questions about some
10 of those principles, but before I do that, I just want to
11 cover a couple of things that folks mentioned earlier.

12 Juror Number 11, you said you're studying in
13 college. What are you studying?

14 PROSPECTIVE JUROR 11: Graphic design.

15 MR. FREEMAN: Graphic design, okay. And you
16 mentioned that you might miss a couple classes that might
17 cause you some hardship. Are you going to be able to set
18 that aside, do you think, and focus on the evidence?

19 PROSPECTIVE JUROR 11: To be honest, not really.
20 It is pretty important to me.

21 MR. FREEMAN: Okay. As you're sitting here now,
22 are you kind of stressed out about it?

23 PROSPECTIVE JUROR 11: Yeah.

24 MR. FREEMAN: Okay. All right. Thank you, fair
25 enough.

1 Let me ask the whole group if anyone -- is there
2 anyone of you that has never heard the term "justice is
3 blind"? Has anyone never heard that phrase, "justice is
4 blind"?

5 Juror Number 9, you've never heard that term?

6 PROSPECTIVE JUROR 9: No.

7 MR. FREEMAN: Have you ever seen in a lot of the
8 courthouses or a lot of legal documents there's a symbol,
9 and it's a lady wearing robe and she's got a blindfold and
10 she's holding these scales of justice and that sort of
11 represents.

12 Anybody seen that, that statute or that symbol?

13 (No verbal response.)

14 MR. FREEMAN: Some folks are nodding their
15 heads. Let me just call on somebody.

16 Juror Number 8, have you ever heard the term
17 "justice is blind"?

18 PROSPECTIVE JUROR 8: Yes, sir.

19 MR. FREEMAN: Are you familiar with that sort of
20 statue, the lady with the blindfold?

21 PROSPECTIVE JUROR 8: Yes, sir.

22 MR. FREEMAN: What do you think that means?

23 PROSPECTIVE JUROR 8: Essentially you're
24 supposed to listen and understand the facts of the case
25 and apply the law as it's written, and you're not supposed

1 to look and form any kind of prejudgment as to what you
2 think, but weigh the scales based on the evidence
3 presented.

4 MR. FREEMAN: Okay. Sort of look blindly at the
5 evidence without any sort of preconceived notions, things
6 like that? Would you agree with me if I said, it's an
7 ideal that we should strive for in the criminal justice
8 system?

9 PROSPECTIVE JUROR 8: Yes, sir.

10 MR. FREEMAN: Would you agree if I said that we
11 should try to be blind to things like race, color,
12 religion, socioeconomic status, political status, things
13 like that?

14 PROSPECTIVE JUROR 8: That we should be blind to
15 those things? Yes.

16 MR. FREEMAN: That we should be blind to those
17 things.

18 Would you, as a juror, be offended if in my job
19 I looked at a file and in deciding how to prosecute a case
20 or what charges to file, I said, Oh, this person's black,
21 I should treat them differently than somebody who's white.
22 Or this person is a homosexual, I should treat them
23 differently than a heterosexual.

24 Would you be offended if I made those kind of
25 decisions as a public servant?

1 PROSPECTIVE JUROR 8: Yes.

2 MR. FREEMAN: Do you feel like a juror you
3 should try to avoid making decisions based on those kinds
4 of things as well?

5 PROSPECTIVE JUROR 8: Yes.

6 MR. FREEMAN: Does anybody disagree with that
7 ideal?

8 (No verbal response.)

9 MR. FREEMAN: Everybody agree that as jurors we
10 should at least strive to be blind to things like raise,
11 color, religion, things like that?

12 (No verbal response.)

13 MR. FREEMAN: Everybody's kind of nodding,
14 nodding off to sleep maybe.

15 What about the idea that trial is not a
16 popularity contest? You're going to probably get to know
17 us a little bit as attorneys over the next week or so.
18 You may get to know Mr. St. George as a defendant over the
19 next week or so.

20 By the end of this trial, you may have some
21 feelings about how you like or dislike -- you may already
22 have an opinion about me -- about how you like or dislikes
23 folks. Can everybody try their best to set those feelings
24 aside and decide the evidence and not let how you feel
25 about the attorneys or the parties try to get in the way?

1 (No verbal response.)

2 MR. FREEMAN: Juror Number 5, how do you feel
3 about that task?

4 PROSPECTIVE JUROR 5: I think I'm up for it,
5 yes.

6 MR. FREEMAN: Okay. Would you agree that a
7 trial should not be a popularity contest?

8 PROSPECTIVE JUROR 5: Absolutely.

9 MR. FREEMAN: Okay. Kind of along those lines,
10 one of the first things the Judge told you is that the
11 defendant, Mr. St. George, has chosen to represent
12 himself.

13 He has an absolute constitutional right to have
14 an attorney represent him at trial. But if he doesn't
15 want to take advantage of that right, he also has a
16 constitutional right to represent himself.

17 Juror Number 1, how do you feel about that? How
18 do you feel about the idea of him representing himself?

19 PROSPECTIVE JUROR 1: Totally up to him.

20 MR. FREEMAN: Okay.

21 PROSPECTIVE JUROR 1: I don't really -- I just
22 believe that's up to him.

23 MR. FREEMAN: Oak. You may feel by the end of
24 this trial, you may form an opinion that his decision to
25 represent himself was a good idea or a bad idea. Do you

1 think that you can set that opinion aside, or at least as
2 best you can, and try to decide the facts of the case in
3 his guilt or innocence aside about whether you thought it
4 was a good idea or bad idea for them to do that?

5 PROSPECTIVE JUROR 1: Yes.

6 MR. FREEMAN: You may surmise by the end of
7 trial that he hasn't been to law school and maybe he
8 doesn't have a lot of experience trying a case in a
9 courtroom. And hopefully, you will have surmised by that
10 time that Ms. Decker and I have been to law school and we
11 may know what we're doing a little bit.

12 Do you feel like if there's an imbalance in the
13 experience and the ability to sort of put on a case
14 between the two sides, do you think you might feel sorry
15 for him?

16 PROSPECTIVE JUROR 1: No.

17 MR. FREEMAN: Okay. If we treat him, because
18 we're entitled to treat him a like an attorney, and if we
19 treat him like an attorney and sort of do our best to hold
20 him to the rules of evidence and object when we think we
21 should, and if we, you know, if we win most of those
22 objections, do you think you might get the sense we're
23 sort of ganging up on him or beating up on him?

24 PROSPECTIVE JUROR 1: No.

25 MR. FREEMAN: Okay. Anyone feel that way?

1 Anyone concerned about that? Juror Number 26, how do you
2 feel about that?

3 PROSPECTIVE JUROR 26: I will not have a
4 problem. I think I can be fair.

5 MR. FREEMAN: Okay. You're going to not feel
6 sympathy for him if you think he does a bad job at
7 representing himself?

8 PROSPECTIVE JUROR 26: No, I don't think so.

9 MR. FREEMAN: He may do a great job, I don't
10 know.

11 But Juror Number 27, do you think if he does a
12 really bad job, do you think you're going to feel sorry
13 for him at the end of the trial?

14 PROSPECTIVE JUROR 27: No, because you have to
15 prove he's guilty so...

16 MR. FREEMAN: Okay. And it was his choice, he
17 could have had an attorney.

18 PROSPECTIVE JUROR 27: Yeah.

19 MR. FREEMAN: Anyone feel like they might feel
20 sorry for him? Again, he may do a great job, but he may
21 flounder. Anybody feel like they might feel sorry for
22 him? Anyone going to hold it -- Juror Number -- I'll get
23 it, 13?

24 PROSPECTIVE JUROR 13: Yes.

25 MR. FREEMAN: You raised your hand?

1 PROSPECTIVE JUROR 13: Yeah, I do feel like I
2 might feel sorry for him, but I don't think -- but is it
3 okay to have that sympathy? I'd be able to set that aside
4 and still make a clear decision based on the facts.

5 MR. FREEMAN: Okay. And that's the question, do
6 you think you'll be able to set that feeling aside and
7 decide the case independent of that?

8 PROSPECTIVE JUROR 13: Yeah, I think so. But I
9 wanted to be honest.

10 MR. FREEMAN: I appreciate that.

11 PROSPECTIVE JUROR 13: I've never been in this
12 setting and I could feel bad for him, who knows.

13 MR. FREEMAN: We don't ask you to come in like
14 robots and not have human emotions. But at the end of the
15 day, do you feel like you'll look at that -- if he does do
16 poorly, you'll look at him and say, you know, he could
17 have had an attorney and decided to represent himself,
18 Maybe that was a bad idea, but I'm going to look at the
19 evidence that was presented and decide the case on that?
20 Do you think you can do that?

21 PROSPECTIVE JUROR 13: Right. I think those are
22 two separate things, that you have an opinion on something
23 but then you're going to make a choice based on facts
24 presented.

25 MR. FREEMAN: Okay. Anybody else share that

1 feeling that even if they might feel sympathy, they can
2 still look at the evidence and sort of try to set that
3 aside?

4 (No verbal response.)

5 MR. FREEMAN: Okay. I want to talk to you about
6 the idea of penalty or punishment. One of the things that
7 you won't be asked in this case if you're chosen as the 12
8 jurors, is should you convict, what should happen to the
9 defendant. That is completely up to the Judge.

10 In fact, at the end of the case before you're
11 given the case to deliberate, the Judge gives you a set of
12 instructions that you will take an oath to apply. And the
13 very first one of those instructions, part of it says,
14 "You are not to consider penalty or punishment."

15 And what that means is not internally think
16 about it like, oh, gosh, if we convict this guy,
17 something's bad is going to happen to him, but also not
18 discuss it openly when you're discussing guilt or
19 innocence. Is everybody okay with that limitation on your
20 jury service?

21 (No verbal response.)

22 THE COURT: Sir, Juror Number 12, how do you
23 feel about that limitation on your jury service?

24 PROSPECTIVE JUROR 12: It was what I expected.

25 MR. FREEMAN: Okay. Do you think you can set

1 aside any thoughts about what might happen to him should
2 you convict from your deliberations?

3 PROSPECTIVE JUROR 12: Yes.

4 MR. FREEMAN: Anybody feel like they might have
5 a hard time doing that?

6 (No verbal response.)

7 MR. FREEMAN: You've heard some -- obviously,
8 some very serious charges. You may surmise that if the
9 defendant is convicted of one or more of those, there may
10 be some significant consequences to his life.

11 There are sometimes I've had jurors over the
12 years that just said, I don't want to be a part of a
13 process that leads to that kind of consequence to somebody
14 else. And that's fine if you're feeling that way, we just
15 like to know about I.

16 Anybody sitting here now feeling like that? Let
17 me ask, Juror Number 9, you raised your hand. How do you
18 feel about that?

19 PROSPECTIVE JUROR 9: I just feel like it's too
20 much of a, like, a decision that could be in my hands.

21 MR. FREEMAN: Too much responsibility?

22 PROSPECTIVE JUROR 9: Yeah.

23 MR. FREEMAN: Okay. Anybody else feel that way?

24 PROSPECTIVE JUROR 7: I could probably agree. I
25 have friends that are incarcerated, you know, the whole

1 thing.

2 MR. FREEMAN: And for the record you're Juror
3 Number 7?

4 PROSPECTIVE JUROR 7: Yes, sir.

5 MR. FREEMAN: Okay. So let me ask the two of
6 you. If I've proven the case to you, and I know you
7 haven't heard any evidence, just assume you're convinced
8 beyond a reasonable doubt that he's guilty. Do either of
9 you think you would hesitate to vote for guilt knowing
10 that that may lead to some significant negative
11 consequences for Mr. St. George? Would you hesitate?

12 PROSPECTIVE JUROR 7: Probably not.

13 PROSPECTIVE JUROR 9: Yes.

14 MR. FREEMAN: Juror Number 9, I think is saying
15 yes. And, sir, Juror Number 7, you're saying probably
16 not?

17 PROSPECTIVE JUROR 7: No, no.

18 THE COURT: Okay. Anybody feel like they would
19 hesitate to convict knowing that that might lead to some
20 significant negative consequences for the defendant other
21 than Juror Number 9?

22 (No verbal response.)

23 THE COURT: And, ladies and gentlemen, just
24 quickly to interject. I will give you an instruction on
25 there talking about should there be the need for

1 sentencing, that would be my job.

2 MR. FREEMAN: The reason we ask you not to
3 consider penalty or punishment is you would be guessing.
4 You would be speculating as to what might happen to the
5 defendant should you convict. And if you were to find out
6 after your verdicts were entered that you were wrong, we
7 can't go back and change the verdicts.

8 So does everybody understand why we don't want
9 you to guess or speculate as to what might happen?

10 (No verbal response.)

11 MR. FREEMAN: Everybody think they can do that?

12 (No verbal response.)

13 MR. FREEMAN: All right. Thank you. I want to
14 talk about credibility of witnesses. The Judge mentioned
15 this earlier, if you're chosen as jurors in this case, one
16 of your jobs, and really one of your most important jobs,
17 is to determine the credibility of witnesses, and there
18 will be instructions on that that will give you some
19 guidance and give you some factors to consider.

20 And part of that instruction says you can
21 believe all of a witness's testimony, some of it, or none
22 of it. That's your decision, it's up to you.

23 Let me ask, Juror Number 30, how do you feel
24 about your ability to judge the credibility of a witness
25 that's testifying in trial to decide if you believe them

1 or not?

2 PROSPECTIVE JUROR 30: I would think that would
3 be difficult to do not knowing a person or knowing whether
4 to believe them or not. I think it would be difficult.

5 MR. FREEMAN: Let me give you some factors that
6 the Judge is going to include in that instruction. Some
7 of the factors are whether the witness has a motive or
8 bias or interest in the outcome. Is that something that
9 you want to know?

10 PROSPECTIVE JUROR 30: Yes.

11 MR. FREEMAN: What about if the testimony on the
12 witness stand is consistent with or inconsistent with
13 prior statements they may have made, is that important?

14 PROSPECTIVE JUROR 30: Yes.

15 MR. FREEMAN: What about whether their testimony
16 on the stand is consistent or inconsistent with the
17 testimony of other witnesses.

18 PROSPECTIVE JUROR 30: Yes.

19 MR. FREEMAN: How about whether their testimony
20 on the stand is consistent or inconsistent with physical
21 evidence?

22 PROSPECTIVE JUROR 30: Yes.

23 MR. FREEMAN: Let me give you an example. Say a
24 witness testifies that they never touched a gun. There's
25 this gun that was used in the crime and the issue is

1 whether they've ever touched it or not. The witness says
2 under oath, "I've never touched that gun."

3 But then another witness comes up and says,
4 "Yes, we processed that gun for fingerprints and found a
5 latent print on it and it matches the defendant." Now
6 you've got the defendant's print on the gun.

7 Which would you feel is more reliable or more --
8 would carry more weight?

9 PROSPECTIVE JUROR 30: I would think the
10 physical finding of fingerprints.

11 MR. FREEMAN: And knowing that the defendant may
12 have a motive to distance themselves from that gun, would
13 you factor that in as well?

14 PROSPECTIVE JUROR 30: Yes.

15 MR. FREEMAN: Okay. So in light of some of
16 those factors, do you feel like you could apply some of
17 those factors and determine credibility of witnesses?

18 PROSPECTIVE JUROR 30: I still think it would be
19 difficult.

20 MR. FREEMAN: Yeah, sort of in a vacuum because
21 you haven't heard anything yet. Okay.

22 Let me ask somebody else. Who have I not called
23 on yet. Juror Number 15, how to you feel about that task?
24 How do you feel about your ability to do that?

25 PROSPECTIVE JUROR 15: I just would like to have

1 as much information as possible so I can figure this it
2 all out.

3 MR. FREEMAN: So there's the witness stand right
4 in front of you. You're going to watch people, at least
5 sort of from the shoulders up, and you're going to watch
6 them and listen to them testify. Is that important?

7 PROSPECTIVE JUROR 15: Uh-hum.

8 MR. FREEMAN: Why is that important?

9 PROSPECTIVE JUROR 15: Body language, maybe, you
10 know.

11 MR. FREEMAN: Okay.

12 PROSPECTIVE JUROR 15: How the answer questions.

13 MR. FREEMAN: Okay. How do you interpret a
14 witness who appears to be nervous? Do you automatically
15 think they're being dishonest or --

16 PROSPECTIVE JUROR 15: I'm nerve so...

17 MR. FREEMAN: You're nervous? I'm nervous too
18 and I've been doing this for a long time.

19 How do you deal with somebody who, maybe,
20 clearly is nervous just speaking in public? How do you
21 interpret that nervousness, being dishonest, nervousness
22 and I'm not comfortable up here?

23 PROSPECTIVE JUROR 15: I'm not sure how I'd be
24 able to differentiate that.

25 MR. FREEMAN: Is it kind of a gut feeling?

1 PROSPECTIVE JUROR 15: It's more -- yeah, it's
2 more the information then like just the evidence kind of
3 thing. I don't know.

4 MR. FREEMAN: Okay. What about the factors that
5 I discussed with Juror Number 30, that consistent or
6 inconsistent with their prior statements, other witnesses,
7 physical evidence, things like that, is that important?

8 PROSPECTIVE JUROR 15: Yeah.

9 MR. FREEMAN: Okay. I don't have a lot of time,
10 I know it seems like I have a lot of time, but it's going
11 to go quick. Let me talk about the use of alcohol by a
12 defendant. This should not come as a shock to you but
13 oftentimes when crimes are committed there's an allegation
14 that somebody was using alcohol, may have been under the
15 influence of alcohol.

16 Let me ask, who have I not called on? Juror
17 Number 4, sir, have I called on you yet? I don't think
18 so.

19 PROSPECTIVE JUROR 4: Not yet, no.

20 MR. FREEMAN: How do you feel about the use of
21 alcohol by a defendant, how does that affect their
22 responsibility for a crime?

23 PROSPECTIVE JUROR 4: It's, you know, there's a
24 question in my mind of, you know, a little bit versus too
25 much. Where's that line? You know, I've got friends that

1 are in the business of selling alcohol, making it, so
2 their livelihood depends on people do this, you know,
3 consume it at times in their life. You know, but at the
4 same time, a person is who they are.

5 MR. FREEMAN: Let me ask you this: Do you think
6 sometimes people that have been drinking too much make bad
7 decisions?

8 PROSPECTIVE JUROR 4: Yes, I think that's true.

9 MR. FREEMAN: Do you think they're still
10 accountable for those bad decisions even though part of it
11 was due to alcohol?

12 PROSPECTIVE JUROR 4: I think it creates a chain
13 of decisions that your responsible for links of the chain.

14 MR. FREEMAN: So let me ask you this: If
15 somebody is alleged to have committed a crime and they,
16 while under the influence of alcohol, in your mind, is
17 that -- is that an aggravating factor, is it a mitigating
18 factor, or does that simply sort of explain their conduct
19 better? What do you think?

20 PROSPECTIVE JUROR 4: Being a numbers guy, it's
21 kind of hard for me. I mean, everybody's going to react
22 differently, every individual is unique. So some people
23 alcohol turns them into a more outspoken person and
24 sometimes less outspoken. There are all kinds of
25 different reactions.

1 MR. FREEMAN: Let me ask you something, a bank
2 robbery, something totally unrelated to this case. If
3 somebody's alleged to have committed a bank robbery and it
4 turns out they're under the influence of alcohol. In your
5 mind, does that aggravate their conduct? Does it
6 mitigate -- do you know what I mean by aggravate? Does it
7 make it worse? Does it make it sort of like are you less
8 outraged by their conduct or does it simply explain why
9 they would do something that stupid?

10 PROSPECTIVE JUROR 4: Yeah, that's hard for me
11 to answer.

12 MR. FREEMAN: Okay. Let me ask somebody else.
13 Who can I not see. Sir, Number 10, how do you feel about
14 that?

15 PROSPECTIVE JUROR 10: Sorry what was the
16 question again?

17 MR. FREEMAN: Alcohol, and how do you view it in
18 relation to somebody committing a crime. Are they -- is
19 somebody who commits a crime under the influence of
20 alcohol, are they more responsible, are they less
21 responsible, how do you feel about that?

22 PROSPECTIVE JUROR 10: I think they are equally
23 as responsible. You know, they knew that they were
24 drinking before and they commit this sort of crime and
25 they should take full responsibility.

1 MR. FREEMAN: So do you think that somebody who
2 commits a crime under the influence of alcohol in your
3 mind are they more responsible for their conduct or less
4 responsible?

5 PROSPECTIVE JUROR 10: I'd say more.

6 MR. FREEMAN: Okay. Does anybody disagree with
7 Juror Number 10? Anybody feel like they're less
8 accountable, less responsible?

9 (No verbal response.)

10 MR. FREEMAN: Juror Number 14, how do you feel
11 about that?

12 PROSPECTIVE JUROR 14: I think that they're
13 responsible for their own behavior.

14 MR. FREEMAN: Let me ask, are you more likely to
15 excuse someone's bad decisions, bad conduct if they were
16 drunk --

17 PROSPECTIVE JUROR 14: No.

18 MR. FREEMAN: -- versus if they were sober?

19 PROSPECTIVE JUROR 14: No.

20 MR. FREEMAN: Anybody feel like they would be
21 more likely to excuse somebody's bad decision if they were
22 drunk?

23 PROSPECTIVE JUROR 7: Yes.

24 MR. FREEMAN: Juror Number 7?

25 PROSPECTIVE JUROR 7: Yes, sir. Yeah, I mean,

1 it explains, you know, if I had a friend that threw a rock
2 and broke a window just because he was drunk, do you know
3 what I mean?

4 MR. FREEMAN: Got in a bar fight?

5 PROSPECTIVE JUROR 7: Yeah, something, you know.
6 It explains he was faded, he was drunk, probably the main
7 reason why he did that.

8 MR. FREEMAN: Do you view that as maybe
9 something they wouldn't have done if they were sober?

10 PROSPECTIVE JUROR 7: Yeah.

11 MR. FREEMAN: If during that drunkenness if they
12 commit a crime, do you feel like they are just as
13 accountable for that crime if they were sober or do you
14 feel like it excuses them a little bit?

15 PROSPECTIVE JUROR 7: It's kind of like that
16 borderline, kind of depends really, you know. It's kind
17 of hard to say. You know, at the same time, you know,
18 you're at that level, you're at that point but some people
19 forget, they black out. Some people you got to excuse.

20 MR. FREEMAN: And you know they're not thinking
21 correctly?

22 PROSPECTIVE JUROR 7: Exactly, it's hard to say.
23 But once you find someone drinking or under the influence,
24 it kind of explains the act of what they're doing.

25 MR. FREEMAN: Explains their conduct a little

1 bit?

2 PROSPECTIVE JUROR 7: Yeah.

3 MR. FREEMAN: I want to talk about this concept
4 of attempt, attempt to commit a crime. The Judge read the
5 counts against the defendant. The first three involve an
6 attempt, meanly that the allegation is that he tried to do
7 something but he wasn't successful. So let's talk about
8 that.

9 The law criminalizes attempts to commit crimes
10 regardless of whether the person was successful or not.
11 If they were successful, it would be a different crime,
12 right? If someone tries to kill someone else and they're
13 successful, we call that murder. We don't call it
14 attempted murder.

15 Does anybody people like the law should not
16 criminalize attempts to commit a crime?

17 (No verbal response.)

18 MR. FREEMAN: Juror Number 31, how do you feel
19 about that? An unsuccessful attempt to commit a crime.

20 PROSPECTIVE JUROR 31: That's a good one.
21 Because it depends on what it was and how long he thought
22 about doing it, okay? If there was a premeditated then
23 he's, I'd say guilty, yeah.

24 MR. FREEMAN: Okay. Let me give you an example.
25 Say I decide I want to kill Fred. I don't like Fred, I've

1 had it with Fred, I'm going to kill Fred. And I decide
2 I'm going use a baseball bat. So I get a baseball bat and
3 I go looking for Fred. And when I see Fred, I sneak up
4 behind Fred and I swing that bat as hard as I can at his
5 head. But at the last second, Fred is very crafty and
6 sees me out of the corner of his eye and ducks and I miss.
7 People grab me and I'm arrested. What crime do you think
8 I'm guilty of, if any?

9 PROSPECTIVE JUROR 31: Attempted murder.

10 MR. FREEMAN: Why, Fred wasn't even hurt?

11 PROSPECTIVE JUROR 31: You attempted to swing
12 the bat at his head. He just -- Fred got lucky and didn't
13 get hit.

14 MR. FREEMAN: Okay. Anybody disagree? Anybody
15 feel like I'm not guilty of attempted murder?

16 (No verbal response.)

17 MR. FREEMAN: Fred wasn't hurt.

18 PROSPECTIVE JUROR 7: I'd say attempted assault.

19 MR. FREEMAN: Okay. But I'm guilty of
20 something?

21 PROSPECTIVE JUROR 7: Yeah, guilty of something
22 for sure. But, you know, you didn't hit him so if you did
23 hit him, you're not sure whether's going to die or
24 something. Do you know what I mean?

25 MR. FREEMAN: Okay. But under my hypo I just

1 gave, I said I want to kill Fred, so there's my intent to
2 kill.

3 PROSPECTIVE JUROR 7: I see what you're saying.

4 MR. FREEMAN: Now do you think I'm guilty of
5 attempted murder? Still struggling?

6 PROSPECTIVE JUROR 7: Still kind of struggling
7 because there is really no --

8 MR. FREEMAN: Fred's not hurt.

9 PROSPECTIVE JUROR 7: Exactly. He's not hurt.
10 Not injured. I mean, I think if he was injured -- but I
11 think, you know, with the intent and then not completing
12 it and the guy, you know, ducked or whatever, I'd still
13 say probably not really attempted murder.

14 MR. FREEMAN: So let me change the facts a
15 little bit. Exact same scenario, I want to kill Fred, I'm
16 sick of Fred. I get in the back, I go looking for Fred.
17 I sneak up behind him. This time poor Fred doesn't see me
18 coming, I whack him good in the head. Fred goes down.
19 Fred is severely injured but Fred doesn't die. And in
20 fact, eventually, Fred makes a full recovery. What crime
21 do you think I'm guilty of?

22 PROSPECTIVE JUROR 7: Oh, man, I'd say assault,
23 attempted murder if you were intending to kill him. It
24 would be total assault and attempted murder on top of
25 that, that's what you were going for but unsuccessful.

1 MR. FREEMAN: Right, I whacked him.

2 Anybody think again, not going to disagree with
3 you, nobody's going to criticize you, but does anybody
4 think in this second scenario where I gave Fred a good
5 whack, I'm not guilty of attempted murder? Anybody
6 hesitate to convict me? You guys all probably look
7 forward to it, right? I'm a rotten guy, I whacked Fred.
8 Anybody feel like I'm not a guilty of attempted murder?

9 (No verbal response.)

10 MR. FREEMAN: Juror number 27 you're scowling at
11 me.

12 PROSPECTIVE JUROR 27: I just had Botox, that's
13 normal. I'm just kidding.

14 MR. FREEMAN: What do you think?

15 PROSPECTIVE JUROR 27: I think if the intent is
16 there, the intent is there.

17 MR. FREEMAN: Okay. Okay. Under both scenarios
18 where I swing and miss, where I swing and whack Fred, am I
19 guilty under both in your mind?

20 PROSPECTIVE JUROR 27: I think so. I mean, if
21 you can prove the intent, yeah.

22 MR. FREEMAN: And, again, just for the sake of
23 my hypo, I said I want to kill Fred. That's the proof
24 that Mr. Freeman wanted to kill Fred. So that's what you
25 got, my intent was to kill Fred.

1 PROSPECTIVE JUROR 27: That you just said that?

2 MR. FREEMAN: Yep, so am I guilty?

3 PROSPECTIVE JUROR 27: I've said that I wanted
4 to kill my husband.

5 MR. FREEMAN: Yeah, but did you ever act on it.

6 PROSPECTIVE JUROR 27: No.

7 MR. FREEMAN: So I acted on it, and I, like I
8 said, I selected a weapon that could have done the job and
9 I went looking for the guy and then I did what I did.

10 Under either scenario, where I swing and I miss or I swing
11 and I hit Fred, do you think you would struggle to convict
12 me?

13 PROSPECTIVE JUROR 27: I don't believe so, no.
14 If the intent is there and it's a proven intent, I --

15 MR. FREEMAN: Okay. Okay. Anybody would
16 struggle under either scenario?

17 PROSPECTIVE JUROR 7: My question is, you know,
18 say you like you're intending to hurt him, do you know
19 what I mean, you're saying, I want to kill Fred. You
20 know, are you telling yourself that or are you letting
21 people know that you want to kill him, that's the
22 question.

23 MR. FREEMAN: I'm an idiot, I posted it on
24 Facebook. It's there in writing, okay. All right.

25 So let me ask -- let's see, who have I not

1 called on yet. Everybody's covering up their thing.

2 Juror Number 32, do you think the evidence, the
3 strength of one of those cases is stronger than the other
4 where I swing and I miss versus I swing and I hit Fred?
5 Is one case a better case than the other?

6 PROSPECTIVE JUROR 32: It might be a better case
7 that you actually went through with what you say you were
8 going to do with the --

9 MR. FREEMAN: Where I actually hit Fred?

10 PROSPECTIVE JUROR 32: Where you actually took
11 the action of striking the man with what could be called a
12 deadly weapon, a bat to the head. So I think that one is
13 little bit stronger.

14 MR. FREEMAN: But in both scenarios, I swung at
15 the same part of his body, his head. I swung with equal
16 strength. I swung with the same intent, and I made my
17 best efforts to kill Fred. In one I was unsuccessful
18 simply because Fred got out of the way. The other one I
19 was unsuccessful just because Fred's got a rock head and
20 didn't die.

21 PROSPECTIVE JUROR 32: I think you have to look
22 at all the factors, look at the history of you and Fred.
23 Look at did you say you were going to kill him. Did you
24 say like that's a joke, like, I'm going kill that dude if
25 he comes near me again.

1 MR. FREEMAN: I put it on Facebook, I'm going to
2 go kill Fred.

3 PROSPECTIVE JUROR 32: I think that's a clear
4 intent.

5 MR. FREEMAN: Are the cases equally strong in
6 your mind or do you still think the one where I whack Fred
7 is a stronger case?

8 PROSPECTIVE JUROR 32: I think that you went
9 through with the act and actually did do harm to him is a
10 stronger case because you prove that what you were saying
11 is what you were going to do, what you were willing and
12 you were able and did follow through with it.

13 MR. FREEMAN: Okay. What if I said that the
14 cases are equally strong, but you just might feel stronger
15 about the second scenario where I whack Fred because your
16 sense of outrage for me actually hurting Fred and your
17 sense of sympathy for Fred is stronger than when Fred
18 walks away unharmed?

19 Would you agree or disagree with that that they
20 are equally strong but you just feel emotionally stronger
21 about one because poor Fred got clobbered?

22 PROSPECTIVE JUROR 32: Probably emotionally
23 strong because I saw the result of what happened, your
24 action, and your stated intent to do -- to do the harm. I
25 would feel stronger about that.

1 MR. FREEMAN: Okay. Does anybody disagree that
2 the cases are relatively equal in strength and that you
3 just might feel stronger about one than the other?

4 Juror Number 19?

5 PROSPECTIVE JUROR 19: Yeah, I just feel like
6 they're equal. I don't think one is stronger than the
7 other because the intent was there, the action was taken
8 by you.

9 MR. FREEMAN: Okay. Okay. Juror Number 21, how
10 do you feel about those two, equally strong or do you feel
11 like one is stronger than the other?

12 PROSPECTIVE JUROR 21: I feel like one is a
13 little stronger because he was hurt but your intent was
14 the same, so it's equal in that way.

15 MR. FREEMAN: Okay. Juror number 22, what do
16 you think?

17 PROSPECTIVE JUROR 22: They are both strong on
18 that account, you did also assault him so, there's more --

19 MR. FREEMAN: Yeah. Sometimes one act can be
20 sort of multiple crimes.

21 PROSPECTIVE JUROR 22: Right. If there was any
22 doubt about it, you're probably more likely to go towards
23 the way of any doubt about whether or not you were
24 swinging and missing because maybe the last second or
25 whatever, but if you didn't hit and connect, you're

1 obviously assaulting him on top of that.

2 MR. FREEMAN: Right. Right. Let me ask -- let
3 me tweak this a little bit more and I'll get to you last
4 folks. I don't want to ignore you.

5 Same scenario, but I don't post on Facebook that
6 I want to kill Fred. I don't say anything about what I
7 want to do to Fred, but my actions are exactly the same.
8 I grab a baseball bat, I go looking for Fred. When I see
9 Fred, I sneak up behind him and I whack him in the head.
10 What crime -- juror 23, what crime do you think I
11 committed?

12 PROSPECTIVE JUROR 23: Well, would there be
13 witnesses?

14 MR. FREEMAN: Yeah, let's just say this is the
15 undisputed evidence, I'm on video. I'm a dummy, I'm on
16 video. I'm in Starbucks or someplace where they got video
17 everywhere.

18 PROSPECTIVE JUROR 23: They found the weapon,
19 they found --

20 MR. FREEMAN: No question on what I did. The
21 only question is what was my intent? Did I intend to hurt
22 Fred? Did I intend to kill Fred?

23 What I'm getting at is in a situation where me,
24 as the defendant, doesn't state what their intentions are,
25 can you determine, can you infer what my intentions are

1 from my actions?

2 PROSPECTIVE JUROR 23: I would say so.

3 MR. FREEMAN: Okay. So do you think under this
4 scenario where I select a baseball bat, say a nice 33-inch
5 Louisville Slugger, you know, not a little toy bat, a real
6 bat. I swing it hard. I swing as hard as I can. I swing
7 at his head. I don't swing at his knees or his shoulder,
8 I swing at hit his. Under that scenario can you infer the
9 intent to kill?

10 PROSPECTIVE JUROR 23: I would, yeah.

11 MR. FREEMAN: Would you be convinced beyond a
12 reasonable doubt?

13 PROSPECTIVE JUROR 23: Yes.

14 MR. FREEMAN: Juror Number 24, how do you feel?

15 PROSPECTIVE JUROR 24: I'd look at the evidence.
16 If that video, if you could tell you swung as hard as you
17 could at his head --

18 MR. FREEMAN: Yeah, I really lined up.

19 PROSPECTIVE JUROR 24: You know, that's evidence
20 you have to go with that. If you didn't get a clear
21 vision of how hard he was swinging, the intent is very
22 hard to determine.

23 MR. FREEMAN: Okay. What about the fact that I
24 choose a baseball bat as a weapon as opposed to a ruler or
25 an umbrella. Is that significant to my intent?

1 PROSPECTIVE JUROR 24: That's significant,
2 absolutely.

3 MR. FREEMAN: What about the fact that I swing
4 at his head as opposed to some other part of his body?

5 PROSPECTIVE JUROR 24: That's significant, yeah.

6 MR. FREEMAN: What about the fact that I appear
7 to swing with all the force I could muscle --

8 PROSPECTIVE JUROR 24: Yeah, that makes a
9 difference.

10 MR. FREEMAN: -- as opposed to maybe a
11 one-handed kind of whack?

12 PROSPECTIVE JUROR 24: Yeah, makes a difference.

13 MR. FREEMAN: Okay. I'm trying to see your
14 number there at the end, sir. 25. How do you feel about
15 that scenario? Would you be able to infer an intent to
16 kill on my part?

17 PROSPECTIVE JUROR 25: Yeah, I think with the
18 evidence that you're going after his head.

19 MR. FREEMAN: What about my selection of that
20 weapon, that baseball bat?

21 PROSPECTIVE JUROR 25: That's a very dangerous
22 weapon.

23 MR. FREEMAN: As opposed to something that would
24 be less lethal?

25 PROSPECTIVE JUROR 25: Yeah.

1 MR. FREEMAN: And the fact that I swung at his
2 head?

3 PROSPECTIVE JUROR 25: (The prospective juror
4 nodded his head.)

5 MR. FREEMAN: Anybody here, the rest of you, any
6 of you would struggle with finding an intent to kill on my
7 part under those facts?

8 (No verbal response.)

9 PROSPECTIVE JUROR 10: I think I would.

10 MR. FREEMAN: For the record, Juror Number 10?

11 PROSPECTIVE JUROR 10: Yes. I don't know if you
12 could infer an intent to kill, but definitely some type of
13 assault or battery charge. Like if you swing the bat and
14 kept going, definitely an intent to kill.

15 MR. FREEMAN: Okay. So a stronger case?

16 PROSPECTIVE JUROR 10: Yeah, but if it's just
17 one swing, you don't know if it's intent to kill or just
18 hurt the guy. I don't know.

19 MR. FREEMAN: Okay. It's great if defendants
20 tell us what they had in mind when they commit assaults,
21 but they don't always tell us. And even if they do, you,
22 as jurors, can believe or not believe them.

23 So in a situation where we don't have the
24 benefit of a defendant telling you what they had in mind
25 or telling you what they intended, do you think you could

1 ever infer what somebody intended from their actions?

2 PROSPECTIVE JUROR 10: From the actions, yes.

3 MR. FREEMAN: Okay. So let me make this
4 statement and let me ask you if you agree with it, do you
5 think most people intend the natural consequences of their
6 actions?

7 PROSPECTIVE JUROR 10: I'm not sure.

8 MR. FREEMAN: That's kind of a tough one. Maybe
9 a little too philosophical.

10 PROSPECTIVE JUROR 10: Yeah.

11 MR. FREEMAN: Do you think that -- do you think
12 the natural and probable consequences of hitting someone
13 in the head with a baseball bat would be death?

14 PROSPECTIVE JUROR 10: Like I said, if it was --

15 MR. FREEMAN: Could be death?

16 PROSPECTIVE JUROR 10: Like I said, if it was a
17 repetitive swing and for sure trying to kill somebody.

18 MR. FREEMAN: So you'd want a little stronger
19 evidence?

20 PROSPECTIVE JUROR 10: Yeah. Like I said, I
21 think it would definitely be some sort of assault,
22 battery, the highest degree, and attempt to kill, not
23 sure.

24 MR. FREEMAN: Okay. And I understand that.
25 I've got to move on because I don't have that much time

1 left. I want to talk a little about the law of
2 self-defense.

3 THE COURT: I'm just going to give you a
4 heads-up of ten minutes.

5 MR. FREEMAN: Thank you, Your Honor.

6 The law of self-defense is a law of
7 justification. The person that is claiming self-defense
8 basically admits the underlying assault but they seek to
9 justify it and to avoid any criminal responsibility by
10 saying it was self-defense.

11 Does everyone agree that it would be logically
12 inconsistent for a person to say, I didn't assault that
13 guy but if I did, it was self-defense? Everybody follow
14 me, that's logically inconsistent? Where it's like saying
15 I wasn't there but if I was, it was self-defense?
16 it would Be kind of difficult for you to buy as jurors,
17 everybody with me so far?

18 (No verbal response.)

19 MR. FREEMAN: So I want to talk to you. Before
20 somebody can be -- their assault or attempted assault and
21 someone else can be justified and they can be fully
22 exonerated, certain things have to exist. The jury would
23 have to find that the person used physical force in order
24 to defend himself from what he reasonably believed to be
25 the use or imminent use of physical -- unlawful physical

1 force by another person, and that he used a degree of
2 force which he reasonably believed to be necessary for
3 that purpose.

4 Both of those elements have the word
5 "reasonable," and that means that not only, me, the actor
6 or the defendant, have an actual belief and the need to
7 defend and the actual belief that the degree of force that
8 he used were necessary, but you as jurors viewing it from
9 the outside think it was reasonable. Everybody with me so
10 far?

11 (No verbal response.)

12 MR. FREEMAN: Let's see, who can I -- who hasn't
13 been called on? Have I skipped anybody?

14 (No verbal response.)

15 MR. FREEMAN: Juror Number 18, I apologize. How
16 do you feel about the law of self-defense?

17 PROSPECTIVE JUROR 18: I think it all depends on
18 intent. You say he chose a bat but was at it a random
19 chance he picked up a bat on the way or was it
20 aforethought?

21 MR. FREEMAN: Do you think that all people have
22 a basic human right to defend themselves?

23 PROSPECTIVE JUROR 18: Yes.

24 MR. FREEMAN: Everybody agree with that, that's
25 a basic human right we all have?

1 (No verbal response.)

2 MR. FREEMAN: Do you think that that use of
3 force against another to defend yourself has to be
4 objectively reasonable, objectively meaning viewed from
5 the outside?

6 PROSPECTIVE JUROR 18: Yeah. You go to
7 basically the stopping of the violence or whatever. If
8 you're defending yourself, you don't go beyond where the
9 other person is down and, you know, you just basically
10 stop the violence, basically is what it is.

11 MR. FREEMAN: Let me give you an example. Say
12 years ago I got beat up by a bunch of bikers and now I'm
13 terrified of bikers. I'm walking down the street one and
14 I see a guy ride up on his Harley and he's all leathered
15 out and he gets off and comes walking towards me.

16 Doesn't have anything in his hands. I don't
17 recognize him as one of those guys, but shoot there's a
18 bikers coming at me. So I pull out a gun and I shoot this
19 guy, is that reasonable?

20 PROSPECTIVE JUROR 18: No.

21 MR. FREEMAN: Okay. Even though I sincerely was
22 terrified of this guy and sincerely believed that he was
23 about to assault and maybe kill me?

24 PROSPECTIVE JUROR 18: No, it's not reasonable.

25 MR. FREEMAN: Why not?

1 PROSPECTIVE JUROR 18: Because there's no -- I
2 don't believe that that person could be, you know, subject
3 to, you know, the other people who assaulted me or
4 whatever. Yeah, there's no proof. There's no -- it
5 doesn't matter what I would do, no, I wouldn't.

6 MR. FREEMAN: So you're saying that even though
7 I have a sincere belief and the need to defend myself, you
8 don't view that as reasonable?

9 PROSPECTIVE JUROR 18: No, because I don't think
10 there was the intent there.

11 MR. FREEMAN: I was being paranoid, right?

12 PROSPECTIVE JUROR 18: Yeah, paranoid, it could
13 be any biker.

14 MR. FREEMAN: Anybody disagree with that?
15 Everybody agree that my use of that force against this
16 poor biker was unreasonable even though I had a sincere
17 belief that he was going to attack me?

18 (No verbal response.)

19 MR. FREEMAN: Juror Number -- can you hold your
20 card up, ma'am?

21 PROSPECTIVE JUROR 13: 13.

22 MR. FREEMAN: 13, what do you think about that?

23 PROSPECTIVE JUROR 13: I think that there's
24 some -- it depends, right, if this person has a mental
25 health issue, then maybe it was reasonable, but you don't

1 know unless you have that other piece of information.

2 MR. FREEMAN: Well, and that's why there's sort
3 of a subjective and objective element. The subjective
4 means I have to actually believe it. I can't just make it
5 up because I wanted to whack Fred, right? I can't say,
6 Oh, I snuck up behind Fred because I was acting in
7 self-defense.

8 So I have to have an actual belief, but it also
9 has to be reasonable, objectively looking at it from the
10 outside from the position of sort of a reasonable juror or
11 reasonable person. So under the hypo that I gave, even if
12 I might have had an actual fear of this person in leather,
13 would you find or do you think you could find that my
14 actions were objectively reasonable?

15 PROSPECTIVE JUROR 13: Right. If you would
16 prove that that was your actual thinking, then yes.

17 MR. FREEMAN: Okay. Does anybody disagree with
18 Juror Number 13 on that?

19 (No verbal response.)

20 PROSPECTIVE JUROR 7: I just feel like they need
21 to do something to you, self-defense, you know, for you to
22 defend yourself. Do you know what I mean?

23 MR. FREEMAN: What do you mean?

24 PROSPECTIVE JUROR 7: Just because the guy is
25 wearing leather and you're afraid, doesn't give you the

1 right to shoot the guy?

2 MR. FREEMAN: Not enough?

3 PROSPECTIVE JUROR 7: Not at all.

4 MR. FREEMAN: Unreasonable fear?

5 PROSPECTIVE JUROR 7: Even if it was mental
6 health, come on, man.

7 MR. FREEMAN: The law also says that somebody
8 who is the initial aggressor in this fight, in this
9 confrontation, does not have the right of self-defense
10 unless they do what is called withdrawing and communicate,
11 and this is a goofy legal thing so let me give you an
12 example.

13 We're at a bar, Mr. Freeman's drunk again,
14 Saturday night. I see Fred, I don't have a bat. But I go
15 up and I start assaulting Fred, and Fred fights back.
16 And, you know, it's on video, the police come. I get
17 charged with assault. I claim self-defense.

18 The law would say under that scenario, I don't
19 have the right to claim self-defense because I was the
20 initial aggressor. I started the fight with Fred.
21 Everybody agree with that? Anybody disagree with that?

22 (No verbal response.)

23 MR. FREEMAN: Juror Number 4, how do you feel
24 about that? Should I have the right of self-defense if
25 I'm the initial aggressor?

1 PROSPECTIVE JUROR 4: No. But I do have a
2 disclosure. A friend of mine was -- a home invasion and
3 ended up shooting somebody in his house.

4 MR. FREEMAN: Is that in Golden here?

5 PROSPECTIVE JUROR 4: In Boulder.

6 MR. FREEMAN: In Boulder, okay.

7 PROSPECTIVE JUROR 4: So just a touchy -- I
8 think about him when I hear this conversation.

9 MR. FREEMAN: Okay. This idea of an aggressor
10 not having a right to self-defense, do you agree with
11 that? Do you think that's a fair limitation on the right
12 of self-defense?

13 PROSPECTIVE JUROR 4: Yes.

14 MR. FREEMAN: Somebody that goes looking for a
15 fight shouldn't be able to claim self-defense?

16 PROSPECTIVE JUROR 4: I think that's reasonable.

17 MR. FREEMAN: Anybody disagree with that?

18 (No verbal response.)

19 MR. FREEMAN: This idea of withdrawing and
20 communicating would come up, if I start the bar fight with
21 Fred and Fred starts kicking my butt and I withdraw. I
22 say, Hey, Fred, I'm done, I'm not going to fight anymore,
23 and, in fact, I'm going to leave. And then Fred keeps
24 attacking me, at that point, my right of self-defense may
25 kick back in because I've withdrawn and I've communicated.

1 And this almost never happens, but it's in the law.
2 That's what you have to do if you're an initial aggressor.

3 I kind of call it the bully rule. You can't be
4 a bully and go pick a fight with somebody and then pummel
5 them and then say, well, it's self-defense, otherwise I
6 would have gotten beaten up a lot.

7 Does everybody agree that that's a fair
8 limitation, that initial aggressors generally don't have
9 this right of self-defense?

10 (No verbal response.)

11 MR. FREEMAN: Really quickly, I've got about a
12 minute left. You've heard from the allegations that a
13 couple of the alleged victims are police officers. You
14 heard one is an agent, Lakewood Agent Trimmer, the other
15 is Sergeant Maines.

16 Just simply hearing that, does that cause
17 anybody to have a strong emotional reaction that causes
18 you to have any concerns about your ability to be fair,
19 that officers may have had force, may have had violence
20 directed at them.

21 (No verbal response.)

22 MR. FREEMAN: A lot of stuff in the news lately.

23 (No verbal response.)

24 MR. FREEMAN: Is this causing anybody to have
25 any concerns about your ability to be fair?

1 (No verbal response.)

2 MR. FREEMAN: Nope. Juror Number 22, you're
3 kind of on the fence maybe?

4 PROSPECTIVE JUROR 22: Well, I mean, it's pretty
5 obvious to me if you're assaulting an officer of the law,
6 that you kind of know what you're getting into. It's not
7 like you can -- I don't know, you put the aggressor
8 comment out there earlier, I mean, if you assault an
9 officer of the law, you probably expecting to get a lot of
10 force back and it seems like it's a pretty obvious and
11 blatant thing in most cases.

12 MR. FREEMAN: Okay.

13 PROSPECTIVE JUROR 22: I mean, it doesn't
14 seem -- it's seems more black and white as opposed to any
15 other mitigating circumstances when you deal with Fred or
16 whomever else.

17 MR. FREEMAN: Okay. And I know it's hard
18 because I can't talk to you about the facts of the case
19 and what happened and what they were wearing and lighting
20 and things like that, those are things you'll hear at
21 trial. But just hearing that the allegations are
22 attempted murder of two police officers, does that cause
23 you any concern about your ability to be fair and
24 impartial?

25 PROSPECTIVE JUROR 22: I mean, I would do my

1 best.

2 MR. FREEMAN: Okay. All right. Everybody else
3 in the same boat? I know I can't tell you about the
4 facts, so just hearing that, does that cause anybody
5 concern like, do you know what, this is not the right case
6 for me.

7 (No verbal response.)

8 MR. FREEMAN: Okay. All right. Thank you.

9 THE COURT: Okay. So we're going to break for
10 lunch right now. Ladies and gentlemen, everybody who is
11 in the courtroom, I'm going to ask you and give you your
12 first admonition. Everyone who is in the courtroom,
13 whether you've been called forward or not, you may not
14 talk about the case. You need to keep an open mind. You
15 can't do any research remember about the case. Remember
16 again, no contact for anyone that's participating at these
17 tables or any spectators, et cetera.

18 I'm going to take care of some other matters
19 over this lunch hour. So I'm going to ask that you gather
20 in the hallway, don't come into the courtroom. We'll see
21 you back here at 1:30.

22 If you could turn your jury badges over to --
23 they say juror on the other side so people -- no, they
24 don't say juror on the other side. Well, surprise. Just
25 wear them like that. Thanks very much. We'll see you at

1 1:30.

2 (The prospective jurors left the courtroom.)

3 THE COURT: All right. So we've had voir
4 dire --

5 MR. FREEMAN: Judge, I do have a couple
6 challenges of cause.

7 THE COURT: And that's what I was going to say.
8 We've had voir dire by the prosecution and I'll hear any
9 challenges for cause at this point responses.

10 MR. FREEMAN: Judge, Juror Number 9, I think,
11 has been sleeping on and off throughout the morning
12 throughout voir dire, seems very disengaged. I would ask
13 the Court to excuse her. It's very clear that she doesn't
14 want to be here.

15 Juror Number 11 indicated in my questioning that
16 he is very stressed about his school situation, can't
17 focus and doesn't think that he can put that aside in
18 listening to the case, so I'd ask that he be excused for
19 cause.

20 Juror Number 4 indicated some strong feelings I
21 think were brought up and he mentioned a friend or a close
22 person that someone close to him that used self-defense in
23 a home invasion scenario in Boulder. I think he indicated
24 he was touchy on that. I don't have much time to
25 follow-up on that. I'm not asking at this point to excuse

1 him for cause, but I would ask the Court to possibly
2 inquire along those lines to see if he could be fair.

3 THE COURT: Response?

4 MR. ST. GEORGE: Your Honor, I have no objection
5 to neither 9 nor 11.

6 THE COURT: Okay. Regarding Number 9, Number 9
7 is complex. Initially I had thought she was napping and
8 it is why I asked the jury to stand up -- you can sit
9 down -- why I asked the jury to stand up right away and
10 stretch and then -- because she has a habit of putting her
11 head in her hand and rest it on her elbow and then look
12 down and close her eyes, open her eyes, whatever.
13 However, then she responded appropriately to the Court's
14 questioning and she also was quick to respond to
15 Mr. Freeman's question regarding whether or not she felt a
16 weight or she felt that this case was difficult for her, a
17 decision that was difficult for her.

18 And so with the objection that she was sleeping
19 and disengaged, I can't really say I don't -- I agree, I
20 don't think she's tremendously engaged in the process, but
21 I don't see that as a significant objection. I, too, was
22 thinking that she was napping, sleeping, whatever, but
23 when she was quick to respond to the prosecution's
24 questioning, I --

25 (A conversation between the Court and the

1 Bailiff were had off the record.)

2 THE COURT: Okay. All right. So she has
3 indicated that she has some other issues, she would like
4 to share with us, so maybe we can hear those issues and
5 make a decision.

6 With reference to Number 11, he is stressed
7 about school. We talked about school. We talked about
8 the ability to go down and reset. So understanding that I
9 had already talked to him about that and that he would
10 have had the opportunity to go downstairs, we talked about
11 school, he told me he -- it was certainly a lot of hours
12 condensed, he's in graphic design, it's hands-on while he
13 does that, and I told him the best I can do is go
14 downstairs and reset. And he said no.

15 So I think if we asked individual people if they
16 were stressed about missing working, et cetera, that they
17 would give us an affirmative to that, also, he was singled
18 out. So since the Court already gave him the opportunity
19 to go down and reset for jury service and he didn't want
20 to do that and I think four people ahead of him had done
21 that, then I cannot excuse him.

22 Number 4 indicated that he said that he wanted
23 to disclose that a friend of his in Boulder had shot
24 somebody in a home invasion in self-defense, then the
25 questions afterward, if I check my notes -- the question

1 afterward went back to the initial aggressor, went back to
2 the use of self-defense, and he was able to respond
3 affirmatively. I think he was just letting us know that a
4 friend of his shot somebody in self-defense during a home
5 invasion. Certainly I'm not going to excuse or question
6 him about that because his answers were appropriate
7 afterwards, he just felt that it was appropriate to bring
8 that to our attention because the issue was self-defense.

9 So we have Juror Number 9 waiting outside who
10 would like to address the Court, so we're going to bring
11 Juror Number 9 in and I think she's going to give us some
12 more information about her state of mind.

13 (Juror Number 9 entered the courtroom.)

14 THE COURT: Hi, and do you want to come in and
15 just sit on any one of these chairs in the front.

16 PROSPECTIVE JUROR 9: Yeah.

17 THE COURT: Okay. So I excused you for lunch
18 and then you got a hold of Ms. Downey, one of our bailiffs
19 here, and you said you wanted to explain that you might
20 not be the best juror for today or you wanted to say
21 something, and what did you want to tell me?

22 PROSPECTIVE JUROR 9: I am currently trying to
23 get off drugs and I'm coming down and I'm just not very
24 present right now as far as being a juror, and I'm trying
25 to see if I could possibly reschedule for a further date

1 out or if there's any other options as far as that.

2 THE COURT: Are you having difficulty
3 concentrating today?

4 PROSPECTIVE JUROR 9: Yes.

5 THE COURT: Okay. Do you understand what's
6 going on right now?

7 PROSPECTIVE JUROR 9: As far as?

8 THE COURT: What's going on with this selection,
9 have you been able to track?

10 PROSPECTIVE JUROR 9: Honestly, no. I just -- I
11 know that we're on lunch right now and I just don't think
12 I'm appropriate for being a juror right now.

13 THE COURT: Okay. Can you step out for a minute
14 and wait in the hallway.

15 PROSPECTIVE JUROR 9: Yes.

16 THE COURT: Thank you.

17 (Juror Number 9 left the courtroom.)

18 THE COURT: Okay. So this explains, I think,
19 perhaps the head in the hand and the looking up and
20 whatever situation. She has indicated that she has this
21 physical issue which is interfering with her ability to
22 concentrate if she is coming down from drugs.

23 Any comments from either side?

24 MR. FREEMAN: Judge, I would renew our motion to
25 excuse her for cause. I think that may explain some of

1 her behavior, but it seems pretty clear that she's having
2 difficulty concentrating, following what's going on. I'm
3 concerned that if her behavior remains the same throughout
4 the day and throughout the trial, that we're always going
5 to be looking over at her to see if she's awake or if
6 she's concentrating and sort of trying to monitor her, and
7 I just don't think that's a good idea. So I would ask to
8 excuse her for cause.

9 THE DEFENDANT: I've got no objection, Your
10 Honor --

11 THE COURT: Okay.

12 THE DEFENDANT: -- to her being released for
13 cause, unless you wanted to reset her. I have no opinion
14 one way or the other.

15 THE COURT: No, I'm just going to go ahead and
16 excuse her for cause. I think that at this point in time,
17 if she had given me a heads-up when I said is anyone
18 incapable by reason of physical or mental disability at
19 this point of rendering satisfactory jury service and she
20 told me that there was difficulty in concentrating right
21 now, then I would have gone ahead and released her. I'm
22 going to release her right now, and I'm just going to
23 excuse her from service. She does not have to come back
24 after lunch. She's free to go.

25 THE BAILIFF: Thank you.

1 THE COURT: We'll just go ahead and replace her
2 seat then. What we'll do is -- that is Juror Number 9, so
3 we're going to replace Juror Number 9 when we get back and
4 then, Mr. Freeman, I'm going to give you a few minutes,
5 like, five minutes to talk to new Juror Number 9.

6 MR. FREEMAN: Okay.

7 THE COURT: Who will be whatever -- what number
8 are we at now, 33, I think. And at that point, I'll give
9 you a couple of minutes to speak with that juror because
10 you already spoke with our Juror Number 9 that we struck.

11 And then, Mr. St. George, unless there's an
12 issue with Juror Number 33, I think it's going to be --
13 then Mr. St. George, you'll have to opportunity to speak
14 with all of these and then along with that new juror.

15 We'll see you back here at 1:30.

16 MR. MENGES: Thank you, Judge.

17 (A recess was taken.)

18 THE COURT: We've had jurors out in the hall.
19 We've excused Juror Number 9. My thought is we would
20 bring the jurors in, seat the jurors, call a new juror,
21 which I think is 33 for Juror Number 9, and then,
22 Mr. St. George -- I would give, rather the district
23 attorney about five minutes to talk to that juror and then
24 if there's no issue with that juror, we'll go right to
25 Mr. St. George.

1 If that juror says they need to be excused for
2 some kind of reason, they know somebody or something like
3 that, then I'll just excuse them and we'll continue with
4 the process until we get a juror seated in that ninth
5 seat, and then we'll go to you, Mr. St. George, for your
6 voir dire, okay?

7 MR. ST. GEORGE: Yes, Your Honor.

8 THE COURT: So we're going to bring the jury in,
9 everybody's ready?

10 MR. FREEMAN: Yeah, the People are ready.

11 (Pause in the proceedings.)

12 (The prospective jurors entered the courtroom.)

13 THE COURT: Everybody be seated, please.
14 Welcome back everyone. We've had to replace Seat Number
15 9, and so I think then our next juror is Juror Number 33.
16 Juror Number 33. And it's up here in this Seat Number 9
17 right up here in the box.

18 Okay. So I'm going to ask you a couple of
19 questions to get caught up and go through some of the
20 questions that we asked initially. And so I wanted to ask
21 you if you knew anybody seated at the these tables?

22 PROSPECTIVE JUROR 33: No.

23 THE COURT: Are you a compensated employee of a
24 public law enforcement agency?

25 PROSPECTIVE JUROR 33: I'm not.

1 THE COURT: Do you have those qualifications to
2 sit as a juror, do you remember those?

3 PROSPECTIVE JUROR 33: Yeah, I do.

4 THE COURT: Okay. And would you suffer an
5 extreme hardship if selected to serve for this period of
6 time.

7 PROSPECTIVE JUROR 33: No.

8 THE COURT: Have you had previous jury service?

9 PROSPECTIVE JUROR 33: Just to this point, then
10 I was excused a couple years ago.

11 THE COURT: Okay. And do you have friends or
12 family in law enforcement?

13 PROSPECTIVE JUROR 33: One friend in Littleton's
14 academy. My grandfather was a Denver police officer for
15 30 years, I believe. Retired as a lieutenant. That's it.

16 THE COURT: Okay. Now, the fact that you have
17 friends, family in law enforcement, does that impact your
18 ability to be fair and impartial with us here today?

19 PROSPECTIVE JUROR 33: I don't believe so.

20 THE COURT: Can you judge the credibility of a
21 law enforcement officer just as you would any other
22 person?

23 PROSPECTIVE JUROR 33: Yes.

24 THE COURT: Okay. Difficulty hearing or seeing?

25 PROSPECTIVE JUROR 33: No.

1 THE COURT: Do you know anybody else on the
2 panel?

3 PROSPECTIVE JUROR 33: I don't.

4 THE COURT: If you were selected as a juror in
5 this case, would you be able and willing to render a
6 verdict solely on the evidence presented at trial and the
7 law as I give it to you in my instructions disregarding
8 any other ideas, notions or beliefs about the law you may
9 have encountered?

10 PROSPECTIVE JUROR 33: Yes.

11 THE COURT: Okay. Is there anything that came
12 up or came to your attention that if you were selected as
13 a juror, you could not or would not be fair and impartial
14 in deciding this case?

15 PROSPECTIVE JUROR 33: No.

16 THE COURT: Okay. Could you --

17 PROSPECTIVE JUROR 33: So I'm 33.

18 THE COURT: Okay.

19 PROSPECTIVE JUROR 33: I've lived in Jeffco for
20 30-plus years. I have a bachelor's degree in finance.
21 I'm in the oil and gas industry right now working. Not
22 married, no kids. My father was self-employed in the
23 landscape industry. Mother was or is in Jeffco Public
24 Schools. Interests, anything sport's related, outdoors,
25 skiing, snow or water. Don't really like to watch a lot

1 of TV but listen to sport's radio --

2 THE COURT: Okay.

3 PROSPECTIVE JUROR 33: -- and news.

4 THE COURT: So I am now going to let Mr. Freeman
5 ask -- come up and just ask a few questions, and you're
6 kind of on the hot seat here.

7 PROSPECTIVE JUROR 33: Great.

8 THE COURT: You're the only juror he's able to
9 talk to.

10 MR. FREEMAN: Thank you, Judge.

11 Welcome. Just a few questions, just kind of
12 along the same lines I asked all the other jurors. Have
13 you heard that term "justice is blind"?

14 PROSPECTIVE JUROR 33: Yeah, earlier today.

15 MR. FREEMAN: Earlier today, so you were paying
16 attention.

17 PROSPECTIVE JUROR 33: Yep.

18 MR. FREEMAN: Do you agree that it's an ideal
19 that a jury should strive for to be, as much as you can,
20 to be blind to things like race, color, religion,
21 socioeconomic status.

22 PROSPECTIVE JUROR 33: I do believe they should.
23 I think it's human that they aren't.

24 MR. FREEMAN: Right. That we all come in with
25 biases and life experience?

1 PROSPECTIVE JUROR 33: Right.

2 MR. FREEMAN: Would you try your best to try to
3 reach that ideal?

4 PROSPECTIVE JUROR 33: Absolutely.

5 MR. FREEMAN: Along those similar lines, the
6 defendant has chosen to represent himself. If you decide
7 at some point that you think that was a bad idea for him,
8 do you think that you might feel sorry for him?

9 PROSPECTIVE JUROR 33: No. I mean, like you
10 said, he made his own choice.

11 MR. FREEMAN: His choice, okay.

12 If, Ms. Decker, and I, you know, we don't pull
13 any punches and we object and we put on our case just as
14 vigorously as we would if he was a trained attorney, are
15 you going to look badly upon us, like we're beating up on
16 him or ganging up on him?

17 PROSPECTIVE JUROR 33: I would assume you would
18 just do your job the best you could, so nope.

19 MR. FREEMAN: Do our jobs, okay. Thank you.

20 What about this concept we ask you, in fact, the
21 Court will instruct you not to consider penalty or
22 punishment in your deliberations so, therefore, you should
23 not consider what might happen to the defendant if he's
24 convicted of one or more of the charges, is that something
25 you think you could try to set aside?

1 PROSPECTIVE JUROR 33: I believe so.

2 MR. FREEMAN: Okay. If you're convinced of his
3 guilt beyond a reasonable doubt, do you think you would
4 hesitate to vote for guilt knowing that there might be
5 some significant consequences to him?

6 PROSPECTIVE JUROR 33: I don't think so.

7 MR. FREEMAN: What about this idea that if
8 you're chosen as a juror, one of your jobs is to determine
9 credibility of witnesses, whether to believe all of a
10 witness's testimony, some of it or none of it? Do you
11 think that's something that you can sort of try to do?

12 PROSPECTIVE JUROR 33: Yeah, I can try my best
13 for sure.

14 MR. FREEMAN: Right. And I can't -- you know, I
15 can't tell you what you're going to hear, but the Judge is
16 going to give you those factors to guide you. Whether
17 it's consistent with other witnesses, whether the
18 testimony is consistent with the physical evidence, things
19 like that.

20 What about if somebody has an interest in the
21 outcome of the case, is that a factor you think that's
22 fair to consider?

23 PROSPECTIVE JUROR 33: What do you mean?

24 MR. FREEMAN: Well, so, let me give you an
25 example. Mr. St. George does not have to testify and if

1 he does not testify, the Court will instruct you at the
2 end of the trial that you cannot hold that against him,
3 you cannot consider that as evidence of guilt in any way.
4 But if he does decide to testify and take an oath and get
5 on the witness stand, he will have an interest in the
6 outcome, would you agree?

7 PROSPECTIVE JUROR 33: Yes.

8 MR. FREEMAN: He has a strong interest in being
9 found not guilty --

10 PROSPECTIVE JUROR 33: Right.

11 MR. FREEMAN: -- so that he could avoid those
12 potential consequences. Do you think that's fair to
13 consider whether you're deciding to believe his testimony
14 or not?

15 PROSPECTIVE JUROR 33: I don't know. I guess
16 for that purpose, yes.

17 MR. FREEMAN: Okay. Let's talk about use of
18 alcohol during a crime. How do you view somebody who
19 commits a crime while they're under the influence of
20 alcohol or maybe even intoxicated?

21 PROSPECTIVE JUROR 33: To go along the lines
22 with what was already said. I kind of believe everyone's
23 responsible for their actions no matter what.

24 MR. FREEMAN: Okay. Are you -- are you less
25 likely to hold somebody accountable because they were

1 intoxicated when they committed a crime?

2 PROSPECTIVE JUROR 33: Slightly.

3 MR. FREEMAN: Okay. Why?

4 PROSPECTIVE JUROR 33: Majority not.

5 MR. FREEMAN: Why do you think that?

6 PROSPECTIVE JUROR 33: Just from some of the
7 examples that were said earlier. Depends on the
8 situation, the person, the relationship, et cetera.

9 MR. FREEMAN: Okay. If you think somebody made
10 a bad decision, in part because they were intoxicated, and
11 maybe you even surmised that it's a decision they might
12 not have made if they were sober, but nevertheless, they
13 commit a crime while under that condition. Are you likely
14 to not hold them fully accountable for that crime?

15 PROSPECTIVE JUROR 33: I don't think so. I
16 think that they should be held accountable.

17 MR. FREEMAN: Okay. What about my discussion
18 about attempts to commit a crime. Do you agree that
19 people who attempt but are unsuccessful to commit a crime
20 should still be held accountable for that attempt?

21 PROSPECTIVE JUROR 33: I do.

22 MR. FREEMAN: Do you remember my goofy example
23 I'm going after Fred?

24 PROSPECTIVE JUROR 33: Right.

25 MR. FREEMAN: I want to kill Fred, I posted on

1 Facebook. And two examples, one I swing and miss because
2 Fred ducks, and the other one I swing and I whack Fred.
3 Do you think one of those cases is stronger than the
4 other?

5 PROSPECTIVE JUROR 33: I don't, given that
6 you're trying to kill Fred and because he was quicker,
7 it's still the same.

8 MR. FREEMAN: So you're saying they are about
9 the same weight and same strength. Would you agree that
10 in the instance that I actually hit Fred and severely
11 injured Fred, that's maybe a more egregious example that a
12 court should take into account at sentencing, but it has
13 nothing to really do when whether I'm guilty or not?

14 PROSPECTIVE JUROR 33: Right.

15 MR. FREEMAN: Okay. Lets talk about
16 self-defense. Would you agree that everybody sort of has
17 a human right to defend themselves?

18 PROSPECTIVE JUROR 33: Absolutely.

19 MR. FREEMAN: And we talked about this idea that
20 has to be subjected, meaning the person has to have an
21 honest belief in the need to defend themselves. But,
22 also, there's an objective side, that it has to be
23 objectively reasonable from sort of people watching from
24 the outside. Does that make sense?

25 PROSPECTIVE JUROR 33: Yes.

1 MR. FREEMAN: Do you agree that somebody who is
2 an initial aggressor should not have the right of
3 self-defense unless they withdraw and communicate that
4 withdrawal to the person. I know it's kind of a goofy
5 example.

6 PROSPECTIVE JUROR 33: Perhaps to some degree.

7 MR. FREEMAN: Okay. What do you think about
8 that?

9 PROSPECTIVE JUROR 33: I think if anyone's
10 starting the interaction, they lose a lot of that, you
11 know, initial ability to claim self-defense because --

12 MR. FREEMAN: Okay.

13 PROSPECTIVE JUROR 33: -- they initiated it to
14 start off with, so I think they are kind of giving up that
15 right to that.

16 MR. FREEMAN: Okay. Let me give you that
17 example. Say, I'm at the bar. I see Fred, I don't have a
18 bat so I just go up and I just start punching Fred. Fred
19 fights back, kicks my butt. I'm down on the ground,
20 helpless in the fetal position and then Fred really puts
21 the beaten on me. I'm no threat to him at that point.
22 I'm begging for mercy. Does Fred have a right to
23 self-defense?

24 PROSPECTIVE JUROR 33: I think there's a moral
25 obligation to understand the situation to be protecting

1 yourself, but then about going above and beyond after that
2 fact.

3 MR. FREEMAN: Yeah.

4 THE COURT: Mr. Freeman, we're right there.

5 MR. FREEMAN: Okay. If I could just finish this
6 thought?

7 THE COURT: Yes.

8 MR. FREEMAN: That's sort of what I was getting
9 at, is even though Fred might have initially had that
10 right of self-defense, self-defense would not allow you to
11 exact vengeance, would you agree with that?

12 PROSPECTIVE JUROR 33: Yeah, I mean depends on
13 the situation, of course.

14 MR. FREEMAN: Right. Everything is different.

15 Just really quick, lastly, that idea that we got
16 police officers that are charged as victims of violence.
17 Does that fact alone cause you to have any concern about
18 your ability to be fair?

19 PROSPECTIVE JUROR 33: I don't think so.

20 MR. FREEMAN: Okay. All right. Thank you, sir.

21 PROSPECTIVE JUROR 33: Yep, thank you.

22 MR. FREEMAN: Thanks, Judge.

23 THE COURT: Mr. St. George?

24 MR. ST. GEORGE: Thank you, Your Honor. Your
25 Honor, all things considered, do you mind if I take an

1 extra five minutes as well?

2 THE COURT: I'll give you an extra three.

3 MR. ST. GEORGE: Thank you.

4 VOIR DIRE EXAMINATION

5 BY MR. ST. GEORGE:

6 Firstly, I appreciate everybody being here
7 today. My name is Eric St. George. These are my team
8 over here. These men have given me a lot of their time
9 and their talent, so I am not without help.

10 I'm going to try to do the best to spend more of
11 my time up here listening and less of it talking. I'm not
12 that interested in the sound of my own voice. I really
13 want to know more what you-all think. Second person,
14 plural, use guys, if you understand that better.

15 So I'd like to first start by talking about the
16 fact that I am representing myself, and do any of you
17 guys, for example, have a financial advisor but you also
18 have an account that you do your trading online? Anyone
19 in here?

20 (No verbal response.)

21 MR. ST. GEORGE: Yeah, why do you do that?

22 PROSPECTIVE JUROR 33: Practice.

23 MR. ST. GEORGE: Practice?

24 PROSPECTIVE JUROR 33: Hobby.

25 MR. ST. GEORGE: Okay. How about you 32?

1 PROSPECTIVE JUROR 32: I like to be somewhat in
2 control of my own finances, and I'll seek the advice of an
3 expert but I like to do my own research and think about
4 what's going on with my money, my finances.

5 MR. ST. GEORGE: Because at the end of the day,
6 it's your money, isn't it?

7 PROSPECTIVE JUROR 32: Right. I have more at
8 stake whether to lose or gain.

9 MR. ST. GEORGE: Right. And if, you know,
10 during the trial if you see me consulting my counsel,
11 getting that advice, do you think we can all be fair and
12 understand that that's what I'm doing?

13 (No verbal response.)

14 MR. ST. GEORGE: Yeah, great. So it's already
15 been mentioned that this particular case does involve
16 police officers. And we all have seen the news. There's
17 terrible tragedies in the news regularly. Police are
18 shooting civilians. Now there are civilians shooting
19 police. We know that those stories are sensationalized.

20 This incident isn't necessarily one of those
21 stories. Does anyone have an opinion on -- are you going
22 to be able to set aside what you may have seen in the
23 news, what you may have heard in some other situation and
24 think discreetly about this situation, about evidence that
25 you're going hear in this case?

1 (No verbal response.)

2 MR. ST. GEORGE: I see you nodding, Number 19.

3 PROSPECTIVE JUROR 19: Yeah. Yeah, that's the
4 reason I don't watch the news because there's
5 sensationalized and it has a point of view I feel that
6 they are trying to get across to me versus truly the
7 facts.

8 MR. ST. GEORGE: Yeah, anyone else brave enough
9 to venture an opinion on this too?

10 (No verbal response.)

11 MR. ST. GEORGE: Maybe you Number 8?

12 PROSPECTIVE JUROR 8: I would reiterate what she
13 says, I don't watch a lot of television news for that
14 exact reason. I like to read the news and weigh and
15 evaluate the facts and merits of each situation.

16 MR. ST. GEORGE: Very good. So we know that
17 that -- we're not going to bring in outside facts from
18 some other story into this one. We're going to do our
19 best to be fair and judge this based on the evidence
20 that's brought forth.

21 So on the subject of evidence, is there one type
22 of evidence that maybe carries more merit than the other?
23 Do we have an opinion on that subject? If you have a
24 piece of physical evidence and it kind of goes against
25 what's been testified to or if you've got testimony from

1 one person that goes against what you've seen otherwise,
2 would we have an opinion as to which one we might give
3 more credibility to, which one we may weigh more?

4 (No verbal response.)

5 MR. ST. GEORGE: Maybe you, Number 12?

6 PROSPECTIVE JUROR 12: I don't have an opinion
7 because I don't have the specifics. I think I'd have to
8 know more about your question before I could answer it.
9 I think what you're asking is does physical evidence
10 outweigh or not testimonial, is that what you're saying?

11 MR. ST. GEORGE: Yeah, I think that's a good
12 thing to talk about. Let's talk about that.

13 PROSPECTIVE JUROR 12: I would say there's no
14 absolutes without specifics, but physical evidence would
15 be pretty compelling to overcome but not absolute.

16 MR. ST. GEORGE: Okay. Does anyone else have an
17 opinion on that subject?

18 (No verbal response.)

19 MR. ST. GEORGE: 15, I see you nodding your
20 head.

21 PROSPECTIVE JUROR 15: I agree.

22 MR. ST. GEORGE: Yeah. All right.

23 So this case also does involve guns and guns is
24 kind of a hot button thing that people talk about. Who
25 among us own guns?

1 (No verbal response.)

2 MR. ST. GEORGE: Yeah. And among us, who has a
3 concealed carry permit, they carry their weapon? Number
4 24?

5 PROSPECTIVE JUROR 24: 24.

6 MR. ST. GEORGE: Tell me how do you -- how do
7 you feel regarding a person if they carry a weapon and
8 using that weapon when it comes necessary?

9 PROSPECTIVE JUROR 24: You'd have to be awfully
10 careful and you can't -- I'm just talking about my own
11 personal thing, you can't take it lightly. I've been to
12 class to get trained for it because there's that big of a
13 concern. Just because I carry a weapon doesn't mean
14 anything other than I want to defend myself and family.
15 So I don't feel I have the right to judge any situation
16 more just because I carry a weapon.

17 MR. ST. GEORGE: Okay. Anyone else -- anyone
18 else carry? Anyone else have an opinion on being a
19 concealed carry?

20 PROSPECTIVE JUROR 19: I don't carry, but my
21 husband has his license. The only time we use it is when
22 we're going back country and those types of things, but
23 that said --

24 MR. ST. GEORGE: That's a good place to have --

25 PROSPECTIVE JUROR 19: Yeah, but that said, we

1 also know if something were to happen he's ready to
2 protect us.

3 MR. ST. GEORGE: Tough decision, isn't it?

4 PROSPECTIVE JUROR 19: Uh-hum.

5 MR. ST. GEORGE: Anyone among us feel that
6 people do not have a right to own weapons? The Second
7 Amendment there's another one of those hot button subjects
8 that gets discussed in the media and people have very
9 strong opinions. Does anyone here feel that they could
10 not be fair because they definitely in their hearts
11 believe people, private citizens, that is, should not have
12 weapons and should definitely not be using them for any
13 reason whatsoever?

14 (No verbal response.)

15 MR. ST. GEORGE: Maybe you Number 7, do you have
16 an opinion?

17 PROSPECTIVE JUROR 7: I think everybody should
18 be allowed to carry.

19 MR. ST. GEORGE: Yeah.

20 PROSPECTIVE JUROR 7: Yeah, it is a right to,
21 you know --

22 MR. ST. GEORGE: It is a right, it's given to us
23 by the Second Amendment, that's right.

24 And how about you Number 8, you mentioned
25 earlier that you're an NPR listener, that may -- you may

1 have an opinion on the subject regarding guns.

2 PROSPECTIVE JUROR 8: I'm not sure I agree with
3 Number 7's carte blanche, but I think there are situations
4 where there's appropriate and I think there are situations
5 where it isn't.

6 MR. ST. GEORGE: Do you personally feel that
7 given -- given the evidence that may come out in this
8 case, that you could make a fair decision, regardless, if
9 it say, for example, something came out in this case that
10 went against your deeply felt beliefs, would you be able
11 to fairly and honestly give a verdict?

12 PROSPECTIVE JUROR 8: I believe so.

13 MR. ST. GEORGE: Yeah. Everyone else agree that
14 they could do that?

15 (No verbal response.)

16 MR. ST. GEORGE: So there's another -- another
17 hot button subject that's going to be brought out in this
18 case, that's the one of sexual contact. And right now in
19 the media, we've got a lot of people who are finally
20 getting the strength to come forth and they're saying, "Me
21 to." And, you know, that takes a lot of courage and
22 there's hard.

23 Of course, there's the flip side of that coin
24 that there may be some people in this world who aren't
25 honest on that subject, that they use it as a tool or they

1 take advantage. Does anyone have an opinion regarding
2 that? Could you be fair, could you -- could you hear
3 someone's testimony and decide whether they're being
4 truthful or not?

5 (No verbal response.)

6 MR. ST. GEORGE: Number 19, I see you nodding.
7 I appreciate you doing so, too, by the way.

8 PROSPECTIVE JUROR 19: Well, yeah, again, I
9 think it gets back to all of, not just the testimony, but
10 all the evidence and even how the person is, you know, how
11 they, I'll use the word "read" when they're giving their
12 testimony. I think there's a big task to take into
13 consideration their testimony any other evidence that
14 there is.

15 MR. ST. GEORGE: Okay. Does anyone here maybe
16 had something horrible happen to them in their lives that
17 they don't feel like they could be fair because -- or
18 maybe for one reason or another, maybe it was someone
19 close to them, maybe there was some incident, I don't
20 know, but because of that, hearing someone else give a
21 testimony might perhaps make you feel in a way that would
22 make it difficult for you to render a fair verdict based
23 strictly on the evidence itself?

24 (No verbal response.)

25 MR. ST. GEORGE: Yeah.

1 PROSPECTIVE JUROR 18: Yep, I would have that
2 issue.

3 MR. ST. GEORGE: That would be tough for you?

4 PROSPECTIVE JUROR 18: Yes.

5 MR. ST. GEORGE: Thank you for your honesty. I
6 won't ask you for anything personal or for anything deeper
7 than that.

8 Anyone else here feel like that would be
9 something that would be a problem?

10 (No verbal response.)

11 MR. ST. GEORGE: Go ahead, 24, is it -- 33, I'm
12 sorry.

13 PROSPECTIVE JUROR 33: Yeah, I wouldn't like to
14 get into it myself, but there was a family issue regarding
15 some of that that's a little difficult to talk about.

16 MR. ST. GEORGE: There's a super touchy subject.

17 PROSPECTIVE JUROR 33: For sure.

18 MR. ST. GEORGE: And here's the thing, we're
19 going to talk about it here. There's going to be wide
20 open in an open court, and if anyone feels that they may
21 have trouble being able to be fair, they would say, I have
22 serious doubts about being fair. You know, we would need
23 to know that. Go ahead, 22.

24 PROSPECTIVE JUROR 22: I'm just agreeing with
25 what they're talking about. I mean, I really don't want

1 to get into it, but it would be a challenge.

2 MR. ST. GEORGE: Okay. So that having been
3 said, is there anything else that, you know, from the
4 limited amount that we -- that we know here so far, anyone
5 have any other personal reasons why they don't think they
6 can be a juror because they have deep felt opinions? I
7 mean, we kind of touched on the, you know, the police
8 issue, you know, people -- people being shot by police and
9 police being shot, it happens. We talked about guns. We
10 talked about concealed carrying. We talked about sexual
11 contact. Anything else about the charges that you heard
12 read that might prejudice what's -- what you feel, what
13 you think in your mind.

14 PROSPECTIVE JUROR 7: I have to be honest this
15 whole sexual contact thing, you know, I have a situation
16 in my family too where there's kind of hard to hear and,
17 you know, there's -- I just have a little bit of a problem
18 with it. There's somebody that I want to go after for
19 doing something. Do you know what I mean? But at the
20 same time there's, you know, I just have to -- yeah, it is
21 a touchy subject, you know.

22 MR. ST. GEORGE: It is a touchy subject, that's
23 why we're talking about it now. So do you -- do you feel
24 that you could still be a fair juror? Do you think that
25 you could -- you could hear testimony from both sides of

1 an issue like that and render a fair verdict?

2 PROSPECTIVE JUROR 7: I could try my hardest, do
3 you know what I mean? I mean, it guess it just really
4 depends on what it is, you know.

5 MR. ST. GEORGE: Okay. How about the use of
6 alcohol. Who all amongst us drinks.

7 (No verbal response.)

8 MR. ST. GEORGE: Yeah. Is anyone here a
9 teetotaler, someone who doesn't drink at all?

10 PROSPECTIVE JUROR 31: Water, that's all they'll
11 let me have.

12 MR. ST. GEORGE: So you might have preferred a
13 cold beer if you were allowed to have one?

14 PROSPECTIVE JUROR 31: I never liked beer or
15 alcohol, never did.

16 MR. ST. GEORGE: Okay. Does anyone -- if
17 evidence is brought forth that someone's intoxicated,
18 they've been drinking, would it be -- would you have any
19 difficulty weighing a fair opinion on what -- on the
20 evidence? Would that color your opinion of what occurred
21 if, say, someone said that person was drunk? Does being
22 drunk completely preclude someone from being able to make
23 decisions?

24 I mean, sometimes you're drunk and, say, your
25 spouse wants to have an argument with you. You could have

1 been more tactful if you hadn't have been drinking, but it
2 happened when it happened? I saw you nodding your head 3,
3 how about you?

4 PROSPECTIVE JUROR 3: I've just had a really
5 rough time with it as far as family goes when I was
6 growing up. When I was really young, my dad would drink a
7 lot and he would get verbally and physically abusive, so
8 there's difficult for me to be around. That's why I don't
9 like drinking, period. I don't go to parties or anything
10 that reason. I strongly dislike being around alcohol,
11 period, because there's been such a hard thing for me to
12 deal with as I was growing up. Like, there's just not
13 something I take lightly too much.

14 MR. ST. GEORGE: I'm sorry for your -- your
15 experience.

16 PROSPECTIVE JUROR 3: That's okay, it's not
17 anyone's fault.

18 MR. ST. GEORGE: Would anyone have any problem
19 agreeing that there's different kinds of drunks? Some
20 people are kiddy drunks, some people are belligerent
21 drunks, some people are just sloppy, stupid drunks. Would
22 anyone have a problem with that being possible?

23 (No verbal response.)

24 MR. ST. GEORGE: No? 27, what do you think on
25 the subject?

1 PROSPECTIVE JUROR 27: There's all sorts of
2 drunks, absolutely. Yeah. Some get mean, some get happy.
3 Yeah.

4 MR. ST. GEORGE: So we're going to have -- we're
5 going to talk about drinking, that's going to happen in
6 this case. You know, I just want to see that everyone can
7 render a fair judgment and not have alcohol color their
8 judgment one way or the other.

9 How about the presumption of innocence? The
10 idea that someone's had criminal charges put against them
11 but that doesn't necessarily mean they're guilty
12 automatically. No, this is going to be the first time
13 that any of this evidence has been brought forth is going
14 to happen. No judgment has been made on this.

15 Those of you who are impaneled on this jury are
16 going to be the ones who have to make that judgment.

17 What do you think, Number 21, about the
18 presumption of innocence?

19 PROSPECTIVE JUROR 21: That's what our system
20 says that you're presumed innocent until proven guilty.

21 MR. ST. GEORGE: What do you think it means?

22 PROSPECTIVE JUROR 21: I think it means we don't
23 take the defendant and assume guilt unless it is proven.

24 MR. ST. GEORGE: What does everyone else think
25 about that, does that sound about right?

1 (No verbal response.)

2 MR. ST. GEORGE: And does it -- how about
3 reasonable doubt. Reasonable is using your reason and
4 your commonsense. So we're going to have to determine, I
5 think the Judge was pointing out the difference between
6 this side of the scale is just a little heavier beyond a
7 reasonable doubt.

8 Does anyone have any question -- or, I'm sorry,
9 does anyone have an opinion, rather, on reasonable doubt?
10 What they think that means or how that would -- if they
11 could be fair regarding reasonable doubt, 11?

12 PROSPECTIVE JUROR 11: I'm sorry, can you repeat
13 it?

14 MR. ST. GEORGE: Reasonable doubt, we were -- we
15 were saying that the idea that we have to use or
16 commonsense and our reason and we have to make the
17 determination of something beyond a reasonable doubt.
18 Do you feel like you could render that kind of a decision?
19 Could you -- could you look at the evidence, hear the
20 testimonies, weigh it all out, and determine whose made a
21 stronger case?

22 PROSPECTIVE JUROR 11: Uh-hum. Yeah, I believe
23 I can.

24 MR. ST. GEORGE: You too, 10?

25 PROSPECTIVE JUROR 10: Yeah, I would agree.

1 MR. ST. GEORGE: And then there's the subject of
2 the burden of proof. The burden of proof is on the
3 prosecution or the State's side. They will have to bring
4 the evidence forth in order to prove beyond that
5 reasonable doubt that what they have alleged is true.

6 Does anyone have -- have an opinion, do they see
7 one side as one way or the other regarding that subject of
8 burden of proof, understanding that the -- as the
9 defendant is presumed innocent, burden of proof must be
10 brought forth by the prosecution? Number 28 -- 6, rather,
11 26?

12 PROSPECTIVE JUROR 26: No, I think you have to
13 listen to the evidence and if they prove it, then you
14 decide which way you think it goes. So I don't have any
15 question on that.

16 MR. ST. GEORGE: Pete, do you have any other
17 questions that I can ask?

18 (Pause in the proceedings.)

19 MR. ST. GEORGE: So Number 3, you were talking
20 about the -- about your family history with the alcohol.

21 PROSPECTIVE JUROR 3: Yeah.

22 MR. ST. GEORGE: As a juror, that having been
23 said, do you absolutely think that you can -- you can be
24 fair that you can --

25 PROSPECTIVE JUROR 3: I mean, I totally

1 understand, like, drinking to an extent. Like, certain
2 people drink because of certain things and I totally
3 understand that. But I think that they have
4 every -- like, they can control their actions based on
5 what they're doing. So if they want to drink and they
6 want to do that, I think that people have every mind state
7 to drink to an extent and understand when that extent like
8 runs out.

9 And that's just -- I think people have every
10 choice in the world to do whatever they want and drink
11 whatever they want whenever they want but to an extent.

12 MR. ST. GEORGE: Okay. Number 33, you
13 had -- you had mentioned something regarding sexual
14 contact. Tell me -- tell me a little more about how you
15 would be able to be fair and judge that without having
16 your personal --

17 THE COURT: Mr. St. George, I think perhaps
18 we're going to reserve that to the end and talk outside
19 the presence of the other jurors from what was discussed
20 already by these jurors.

21 MR. ST. GEORGE: All right.

22 THE COURT: Okay.

23 MR. ST. GEORGE: I wasn't going to go into any
24 deeper into his personal business allowed. I'm sorry if
25 you felt like that was the direction I was heading. I was

1 going to ask if he felt that he could be fair.

2 THE COURT: Okay. Go ahead.

3 PROSPECTIVE JUROR 33: I mean, this is a new
4 experience for me, obviously. I can only tell you I'll
5 try.

6 MR. ST. GEORGE: Okay.

7 PROSPECTIVE JUROR 33: That's -- until it
8 happens, I don't know.

9 MR. ST. GEORGE: Sure. You haven't heard any of
10 the statements or the evidence yet.

11 PROSPECTIVE JUROR 33: Right.

12 MR. ST. GEORGE: But you feel like you could --

13 PROSPECTIVE JUROR 33: Try, yes.

14 MR. ST. GEORGE: -- try? Okay.

15 And number 22, you were also saying -- tell me
16 if you could be fair regarding allegations of, you know,
17 illegal sexual contact?

18 PROSPECTIVE JUROR 22: You're asking if I could
19 be fair?

20 MR. ST. GEORGE: If you could be fair in
21 rendering a decision? You could hear the evidence and you
22 could weigh a verdict based on the letter of the law, the
23 way the law is written and based on the instructions that
24 is you'll be discharged with?

25 PROSPECTIVE JUROR 22: In terms of this matter,

1 there's hard to know what you're going to think or feel or
2 the images that are going to come into your head when the
3 topic comes up. So I can't promise anything on what's in
4 my head, I can just promise to try and work around it, I
5 guess.

6 MR. ST. GEORGE: Okay. And on that subject,
7 jury instructions. At the end of -- at the end of closing
8 arguments, you'll get instructions from the Judge
9 regarding how to interpret the law, how the law is spelled
10 out. And if you were to find that a verdict -- that based
11 on the law, based on the evidence that you were -- that
12 you heard or saw may go against your own personal feelings
13 or opinions, would you be able to render a verdict that
14 went against your own personal feelings or opinions on a
15 subject? How about you Number 1?

16 PROSPECTIVE JUROR 1: I'm sorry, could you
17 repeat it?

18 MR. ST. GEORGE: No problem. So what we're
19 saying is, the jury will be given instructions and these
20 instructions will explain precisely how the law is to be
21 measured and in what instances you would render a verdict
22 of guilty and in what instances you would render a verdict
23 of not guilty. And if the evidence, according to the jury
24 instructions, you were to -- you had to render a verdict
25 that was contrary to your own personal beliefs or the way

1 you feel, would you be able to do that?

2 PROSPECTIVE JUROR 1: I would be able to go by
3 how I read it as either not guilty or guilty, so if
4 there's guilty, of course, there's guilty. But
5 what -- because you're saying we're getting papers of
6 instructions, correct?

7 MR. ST. GEORGE: The Judge will read them out
8 and I believe you'll have them.

9 PROSPECTIVE JUROR 1: Yeah, so with the evidence
10 given, I'll be able to tell if there's guilty or not
11 guilty.

12 MR. ST. GEORGE: Okay. Number 4, I can't recall
13 whether or not you raised your hand on the subject of gun
14 ownership?

15 PROSPECTIVE JUROR 4: I did.

16 MR. ST. GEORGE: You do own guns?

17 PROSPECTIVE JUROR 4: Yes.

18 MR. ST. GEORGE: And your feelings on the use of
19 guns and carrying of guns and self-defense with guns.
20 Tell me where do you fall on that?

21 PROSPECTIVE JUROR 4: I definitely do believe
22 the Second Amendment right. I think there's a lot of
23 problems in society about how people take that right and
24 act out on it. I personally believe we should probably
25 have a system in this country of different laws around gun

1 rights and gun ownership. But since we don't have those
2 different rules, I don't get to make those. I believe I
3 can follow and render a verdict based on what we do have
4 in place today.

5 MR. ST. GEORGE: Okay. How about you 27.

6 PROSPECTIVE JUROR 27: I personally don't like
7 guns, but I'm not going to infringe on somebody
8 else's -- I come from a long line of gun owners, and I
9 wouldn't take that right away from somebody else.

10 MR. ST. GEORGE: Okay. And Number 3, how do you
11 sit on the gun owning?

12 PROSPECTIVE JUROR 3: I have a lot of crappy
13 things happen with guns in my family as well. But, I
14 mean, I can't make that decision for anybody else. I
15 think that they have every right in the world to own a gun
16 and do as they please with it, as long as it is --

17 MR. ST. GEORGE: Legal?

18 PROSPECTIVE JUROR 3: Yeah, good way to put it.

19 But I mean, no, I would not think of anybody as
20 in the wrong for having a concealed carry in that respect
21 at all.

22 MR. ST. GEORGE: Number 15, are you personally a
23 gun owner?

24 PROSPECTIVE JUROR 15: No.

25 MR. ST. GEORGE: How do you feel about people

1 who own guns and carry guns for self-protection.

2 PROSPECTIVE JUROR 15: I think it carries a lot
3 of responsibility and people -- I think there could be
4 more done with the way gun ownership is, but I'm not
5 opposed to people having weapons for self-defense and
6 hunting, for example.

7 MR. ST. GEORGE: How about you 30?

8 PROSPECTIVE JUROR 30: I believe in the right to
9 own guns. I have some problems with carry to conceal
10 weapons and what the purpose of that would be and why
11 people would feel the need to have to do that and what
12 their -- what their -- what they might do, their drinking
13 to have a concealed weapon, whatever.

14 MR. ST. GEORGE: You raise a good issue. Does
15 someone who -- does one who carries a concealed weapon,
16 are they out looking for a fight? Are they deliberately
17 looking to use their weapon by virtue of the fact that
18 they carry or do you have no opinion one way or the other
19 on the subject?

20 PROSPECTIVE JUROR 30: I don't know why people
21 carry concealed weapons or what their purpose is for doing
22 that.

23 MR. ST. GEORGE: Because there's, I mean, maybe
24 there's different for everyone, right?

25 PROSPECTIVE JUROR 30: Uh-hum.

1 MR. ST. GEORGE: Anyone who carries a weapon,
2 they have their reason and they choose to do that.

3 How about you number 12, regarding carrying
4 concealed. Do you think that people who carry concealed
5 are out looking for trouble?

6 PROSPECTIVE JUROR 12: Not inherently, but I
7 think that whoever does, carries themselves in a different
8 way at a different standard with accountability.

9 MR. ST. GEORGE: How do you mean?

10 PROSPECTIVE JUROR 12: If you have a gun, you
11 have to make a judgment that people who don't carry a
12 weapon, you make a different kind of judgment. You're
13 exposed to the opportunity to make a judgment that puts
14 everything, including yourself, at risk and others and
15 whatever led up to that.

16 I don't carry one. I don't have to make that
17 determination. If you do or did, if that's what this is
18 about, you have an extra layer of responsibility.

19 MR. ST. GEORGE: There's a big responsibility,
20 isn't it?

21 PROSPECTIVE JUROR 12: Uh-hum.

22 MR. ST. GEORGE: How about the fact that police
23 carry guns?

24 PROSPECTIVE JUROR 12: That's their job.

25 MR. ST. GEORGE: Okay. Do you think that

1 police, by virtue of carrying guns, do they automatically
2 have any disposition one way or the other regarding those
3 guns?

4 PROSPECTIVE JUROR 12: I would say any time
5 someone by measure of career puts themselves in harm's
6 way, they hopefully, and I would believe, do believe, have
7 been at least trained for those kinds of situations. But
8 I think it would be very difficult to judge someone in
9 that situation who carries a weapon to protect society or
10 themselves as opposed to someone who is a civilian and
11 carries a concealed weapon. There are two different
12 things in my opinion. That's overall, my conclusion.

13 MR. ST. GEORGE: Does anyone else share that
14 opinion?

15 (No verbal response.)

16 MR. ST. GEORGE: Yeah. I see you nodding, 22
17 and 21. In that order then, we'll start with you 22.

18 PROSPECTIVE JUROR 22: Ditto on that and the
19 responsibility layer for having a concealed weapon is much
20 higher. There are a lot more restrictions on it. You're
21 not allowed to be in bars and banks and other places,
22 school, et cetera, which means that you can't be -- you
23 can't engage in a lot of the behaviors that warrant why
24 you shouldn't be in those places.

25 So if you have a concealed weapon on you, you

1 shouldn't be drunk. You shouldn't be in situations where
2 you might be tempted to use that weapon without a clear
3 head and proper judgment. You have that -- you absolutely
4 have that responsibility and you pick that up when you put
5 that gun in the holster, which is to say that everyone
6 absolutely has a right to wear it, wear the weapon with
7 them, wherever they please within the letter of the law.
8 Totally fine, I know lot of people that do. Some of them
9 are itching to catch bad guys and some of them are doing
10 it for their own self-defense and to each their own. But
11 they all have to be held to a higher standard.

12 And as part of what a peace officer's job is,
13 they have to be able to protect themselves and others and
14 that's the purpose for their weapon. Whether they choose
15 to carry one outside is probably a decision that wouldn't
16 be a hundred percent amongst all the officers. So I would
17 image when they are non-uniform, they would have to be in
18 the same letter of the law as everyone else that has a
19 CTW.

20 MR. ST. GEORGE: How about guns in the home.
21 What if they were walking around with guns, what if it was
22 at home?

23 PROSPECTIVE JUROR 22: You can walk around with
24 a gun as much as you'd like, I'm not sure I understand
25 your question.

1 MR. ST. GEORGE: Does a purpose have the right
2 to defend themselves in their home with a their gun?

3 PROSPECTIVE JUROR 22: Absolutely.

4 MR. ST. GEORGE: How about you 21?

5 PROSPECTIVE JUROR 21: I agree with that. I
6 don't own a gun and I don't care to. People that do, as
7 long as they're responsible about it, I don't have an
8 issue. But, yeah, in your home, if somebody breaks in, I
9 don't know. If it becomes just an argument that's where I
10 have a problem if somebody has guns and they get angry
11 about something, it could escalate.

12 MR. ST. GEORGE: Right. I keep omitting you
13 over there number -- are you 14?

14 PROSPECTIVE JUROR 14: Yep.

15 MR. ST. GEORGE: Tell me your opinion on guns
16 and what we've been talking about here and tell me if you
17 could render a verdict one way or the other if you were to
18 hear the evidence?

19 PROSPECTIVE JUROR 14: I personally don't like
20 guns, but I accept them and I think that it's okay for
21 anybody to have them if they want to but the law does to
22 apply to them. I also think that there needs to be
23 further education about gun enforcement and how to
24 properly use a gun when it is necessary.

25 And as far as police officers, I believe that

1 it's their in line of duty and it's their protection for
2 citizens and for themselves.

3 MR. ST. GEORGE: Okay. How about you, 13, over
4 there?

5 PROSPECTIVE JUROR 13: I think I'm in agreement
6 with a lot of the stuff that people are saying. I
7 personally will probably never own a gun, and I don't say
8 I agree the law, but it is the law that people are allowed
9 to have guns and allowed to conceal carry.

10 If you want to talk about people who drink with
11 guns, I mean, definitely what Juror Number 12 was saying,
12 if you think about it, right, a law enforcement officer
13 would never be drunk on a job with a gun, so that's
14 something to consider. Is that enough?

15 MR. ST. GEORGE: Okay.

16 PROSPECTIVE JUROR 13: Kind of just the stuff I
17 was thinking about as everyone else was talking.

18 MR. ST. GEORGE: And that's why, you know, we're
19 talking about guns here because for people who are not gun
20 owners and don't like guns, would they be able to look at
21 someone who does have a gun and did have the unfortunate
22 circumstance of using it, would you be able to look at it
23 based just on the law as the law is written and render a
24 verdict based on that law. And because that's -- that's
25 going to be tough.

1 You know, there's going -- should someone try to
2 color your judgment, will you be able to look at strictly
3 the law?

4 PROSPECTIVE JUROR 13: Yeah, for sure. And I
5 think if the law is provided by the Judge and I can say,
6 okay, this is what the law is, because honestly I don't
7 know all the laws. I'm completely honest. I assume most
8 of us don't know all the laws. But if I have, like, you
9 know, the law from somebody that's a credible source
10 saying this is the law and then I have the other pieces of
11 information, then I can make a sound judgment based on
12 that.

13 MR. ST. GEORGE: Okay. Number 5, I've omitted
14 you as well. How do you feel on this subject of guns and
15 the law?

16 PROSPECTIVE JUROR 5: We own guns. I'm not
17 really sure about shooting them, but I absolutely believe
18 that we have that right and I think there is an absolute
19 responsibility. Like everyone's been saying, that guns
20 and alcohol very much like cars and alcohol don't really
21 mix. Obviously, what people do in their own homes, that's
22 your own thing unless someone else is pulled in but...

23 MR. ST. GEORGE: Yeah, would perhaps be poor
24 judgment to get drunk and go play with your guns.

25 PROSPECTIVE JUROR 5: (The prospective juror

1 nodded her head.)

2 MR. ST. GEORGE: But what if the trouble came to
3 you?

4 PROSPECTIVE JUROR 5: Yeah, and you didn't plan
5 ahead of time to not drink because there might be trouble
6 coming, yeah, so...

7 MR. ST. GEORGE: And who sits around thinking
8 and hoping for trouble, right?

9 PROSPECTIVE JUROR 5: Yep.

10 MR. ST. GEORGE: So what about you, Number 7, I
11 don't think you and I talked about guns much.

12 PROSPECTIVE JUROR 7: No, man, but I'm on the
13 same thing. There are a lot of peace officers that never
14 use their guns, you know, the way they're supposedly to.
15 You know, I mean, I've seen a whole bunch of videos and
16 stories of cops just pulling out their guns shooting
17 people without even -- do you know what I mean?

18 I don't know, it's -- like I said, I feel like
19 we all should have a right to own a gun and everything,
20 but at the same time, you talk about police officers, I
21 feel like they don't use their guns the way they're
22 supposed to.

23 MR. ST. GEORGE: It's unfortunate when that
24 happens, isn't it?

25 PROSPECTIVE JUROR 7: Definitely. And I -- I

1 don't know. I just -- yeah.

2 MR. ST. GEORGE: That having been said though,
3 this case is not necessarily one that you've seen on the
4 news.

5 PROSPECTIVE JUROR 7: No.

6 MR. ST. GEORGE: It's not -- would you be able
7 to render a fair judgment in this trial with these facts
8 that would come out?

9 PROSPECTIVE JUROR 7: I guess I have to hear
10 more of what's relatively going on with the whole thing,
11 you know. I mean it's pretty well, with the whole sexual
12 activity and the guns and everything, it's --

13 MR. ST. GEORGE: It's a scary world out there,
14 isn't it?

15 PROSPECTIVE JUROR 7: Definitely.

16 MR. ST. GEORGE: Guns and booze and -- yeah.

17 And on that subject of self-defense, how
18 would -- if you heard evidence regarding self-defense and
19 you had to make the decision was this self-defense or was
20 this something else, how would you go about making that
21 decision?

22 PROSPECTIVE JUROR 7: Man, well, you know, when
23 the cops are tagged to do something they have to do it.
24 If you're sitting fighting back, that's on you. Do you
25 know what I mean? That's going to be your issue, your

1 problem. Because first thing you do is obey the law.
2 You've got to do what they say, do you know what I mean?
3 If they said, Stop, put your hands up, just listen to
4 them.

5 For the most part, if you don't listen, they are
6 going to end up shooting you. I just feel like nowadays
7 cops, they just shoot you. They just shoot, man, they
8 don't care. I don't think they want to just Tase anybody
9 or try to handcuff, I think they are out to kill people
10 sometimes.

11 MR. ST. GEORGE: It's a harsh condemnation of
12 law enforcement, but it's been in the news, hasn't it?

13 PROSPECTIVE JUROR 7: Yeah, yeah. And I've had
14 friends that have situations with cops, it goes a little
15 deep, you know.

16 MR. ST. GEORGE: Right. I understand.

17 How about you, 32, you heard what, 7, was
18 saying?

19 PROSPECTIVE JUROR 32: I don't feel like overall
20 that cops are out to just kill and shoot people. I know
21 that does happen sometimes. Just like any other
22 profession, there's good ones and bad ones. And,
23 unfortunately, with bad cops, you know, that use their gun
24 inappropriately, maybe the testosterone level gets in
25 front of them and they make a bad decision, like, that

1 does happen. But I don't think that's all of them, no.

2 MR. ST. GEORGE: Being a cop's probably a hard
3 job, isn't it?

4 PROSPECTIVE JUROR 32: Definitely. It's a lot
5 of pressure and it's easy for us, a society, to sit back
6 on a comfortable couch and watch the news and say, He
7 should have done this and that and, like, you know, Monday
8 morning quarterbacking. But it's just different when
9 you're in that position when the tensions are high on both
10 sides. Both sides may or may not have weapons. Sometimes
11 the cops know if they do or don't have a weapon, you know,
12 if the other person does or doesn't have a weapon, I don't
13 know so...

14 MR. ST. GEORGE: And in hindsight --

15 PROSPECTIVE JUROR 32: It's scary.

16 MR. ST. GEORGE: You mention hindsight --

17 PROSPECTIVE JUROR 32: Hindsight is 20/20.

18 MR. ST. GEORGE: What you think about hindsight,
19 do you think you could hear the testimony or see the
20 evidence that's going to come out in this case and sort of
21 put yourself in that position? Place yourself there in
22 that moment and try to image what that person was seeing,
23 hearing, feeling, and render a judgment based on that and
24 not on the hindsight, not on the 20/20 looking back now
25 that all the facts are spelled out and laid out? I mean,

1 it's much easier to see it that way, isn't it? Do you
2 think you could be fair?

3 PROSPECTIVE JUROR 32: Yeah, I think I could be
4 fair and objective in that sense because with my job, I've
5 also been put in some tense situations and, you know,
6 looking back, you can say, I would have done this
7 different or that different or taken a deep breath
8 beforehand or whatever.

9 So I know that -- what it's like to be in those
10 kinds of situations that, you know, life happens all the
11 time, and so, yeah, I believe I can fairly look at that
12 situation and try to deconstruct it and come up with a
13 fair decision based on the fact and evidence.

14 MR. ST. GEORGE: Anyone else venture an opinion
15 on hindsight, seeing it from the beauty of looking back?

16 (No verbal response.)

17 MR. ST. GEORGE: I saw you kind of nodding your
18 head, Number 1.

19 PROSPECTIVE JUROR 1: I'm sorry, I was yawning.

20 MR. ST. GEORGE: I apologize, I didn't mean to
21 call you out then.

22 PROSPECTIVE JUROR 1: It's okay.

23 MR. ST. GEORGE: But since I did pick on you,
24 how do you feel about being able to -- can you see
25 yourself kind of putting yourself in someone's else's

1 shoes walking around in it for a minute and making a
2 judgment based on that.

3 PROSPECTIVE JUROR 1: I can put myself in
4 someone else's shoes, yeah. You're asking me if I can
5 make a --

6 MR. ST. GEORGE: A fair and balanced decision of
7 one that's based strictly on the law?

8 PROSPECTIVE JUROR 1: Yeah.

9 MR. ST. GEORGE: How about you, 8, I see you
10 looking up.

11 PROSPECTIVE JUROR 8: Yeah, I mean, I think
12 there's a balance between understanding what the person or
13 people may have been thinking at the time versus what the,
14 you know, other contemporaneous facts are and what the law
15 says. And I think it's a balance of understanding all of
16 those elements together.

17 MR. ST. GEORGE: Great use of the vocabulary,
18 contemporaneous, too, I like that. So, yeah.

19 PROSPECTIVE JUROR 13: Can I ask a question of
20 you?

21 MR. ST. GEORGE: Sure.

22 PROSPECTIVE JUROR 13: I think I'm confused by
23 your question. Is that allowed?

24 MR. ST. GEORGE: Your Honor?

25 THE COURT: Go ahead.

1 PROSPECTIVE JUROR 13: I sounds to me if we can
2 judge something based on a state that you were pretending
3 to be somebody else back then. But the fact is, we're
4 here and now today and there are facts, right? I mean,
5 there's a law, we're going to be presented with evidence
6 and then we make a judgment based on that?

7 THE COURT: Okay. And I'm going to jump in.
8 Yes, you are jurors here. You have not -- you weren't
9 present at the scene when alleged events occurred, and we
10 don't speak about what would be heard in the courtroom
11 during the course of the trial during voir dire.

12 But you, as jurors, are going to listen to the
13 testimony and you're going to review physical pieces of
14 evidence if produced or photographs or whatever is
15 produced in this case. You're going to listen to the
16 arguments that are made in front of you, then you are
17 going to make decisions about facts from your perspective
18 as jurors reviewing it after the fact.

19 PROSPECTIVE JUROR 13: Okay.

20 THE COURT: And then you will get law that I
21 give you in instructions. I'll read that law to you and
22 you'll have copies of the law back in the jury room to be
23 able to review. And then you'll take the facts and you'll
24 filter it through the law and you'll make a decision
25 whether or not the People have met their burden of proof.

1 And that's how you'll decide.

2 PROSPECTIVE JUROR 13: Okay. Thank you for the
3 clarification.

4 THE COURT: Okay. Go ahead.

5 MR. ST. GEORGE: As well, Your Honor, thanks.

6 So we talked about people who are interested in
7 the outcome of this case, and we suggested that, you know,
8 whether I do or do not take the stand, that I would have a
9 pretty serious interest in the outcome. I mean, obviously
10 I'm interested in being not guilty because I wouldn't have
11 pled that way otherwise.

12 But do you think other parties might be
13 interested in the outcome? Perhaps some of the witnesses?
14 Perhaps the law enforcement? Would anyone have a -- would
15 you be able to see everyone's interest in the outcome and
16 that everyone involved in this case has their own
17 self-interest and may give their testimony based on that
18 self-interest?

19 (No verbal response.)

20 MR. ST. GEORGE: 21, I kind of saw you nodding a
21 little bit.

22 PROSPECTIVE JUROR 21: I agree with that. I
23 think it's quite possible. I would hope that I could
24 determine from what they said.

25 MR. ST. GEORGE: It's going to be

1 something -- you're going to have to look at the people
2 who are giving the testimony and kind of judge from their
3 faces and the way they're carrying themselves and, you
4 know, what their choice of words exactly what they say.
5 And you think you could absolutely render a fair judgment
6 based on that?

7 PROSPECTIVE JUROR 21: I'm not sure I could
8 absolutely, but I would hope I could do my best.

9 MR. ST. GEORGE: We do it all day every day,
10 don't we? We do it in our personal lives. I mean, we
11 have to take account of what's going on around us and
12 render some opinions on what's happening.

13 I mean, how about you, 12, what do you think
14 about what some of the -- some of the other parties, what
15 they might think? What they're interests and outcome
16 might be?

17 PROSPECTIVE JUROR 12: I'm not being
18 disrespectful. I'm having a hard time keeping up with
19 your question. Any time either side, both sides take time
20 to be in court, of course, they have an interest. So I
21 don't understand. If I just stand back and as fairly and
22 objectively as possible based on my experiences in life
23 and what I've heard and seen, could I be objective and not
24 be predisposed to whatever interest either side has? If
25 that's your question, yes.

1 But to say one side's ahead of time being unfair
2 or not, I don't have an opinion on that. You wouldn't be
3 here if you didn't have both sides, an interest in this,
4 so I'm having trouble following your question.

5 MR. ST. GEORGE: Let's make it more pointed
6 then.

7 PROSPECTIVE JUROR 12: Yep.

8 MR. ST. GEORGE: Police. Do you think law
9 enforcement has a vested interest in the outcome of
10 trials?

11 PROSPECTIVE JUROR 12: Yes.

12 MR. ST. GEORGE: And do you think that when you
13 hear a member of law enforcement giving testimony stating
14 what they saw or what they think they saw or what they
15 felt or mentioning a piece of physical evidence and trying
16 to make some judgment as to what that piece of physical
17 evidence may mean, do you think that they have a
18 predetermined opinion, they have an interest in the
19 outcome? I mean, certainly, they don't want to see their
20 cases fall apart on them, do they?

21 PROSPECTIVE JUROR 12: That's was my point, they
22 wouldn't be here if they didn't have an opinion and a
23 point of view that they were convinced is right.

24 MR. ST. GEORGE: Okay.

25 PROSPECTIVE JUROR 12: That's my point.

1 MR. ST. GEORGE: And do you think that you can
2 incisively see that in them and perhaps weigh their
3 testimony based on that.

4 PROSPECTIVE JUROR 12: I think the only way I
5 can answer your question is that if you're looking for an
6 answer that says can I analyze based on degrees of life
7 experience and what was said and the law with the help
8 from Judge, I think I have the capability of doing that.
9 But I just don't understand your question, it's
10 too -- it's too inclusive.

11 MR. ST. GEORGE: Okay. I apologize if I'm being
12 a little too vague. And necessarily so because we can't
13 talk about any specific evidence at this juncture. We
14 have to choose our jury and then we'll share all the
15 evidence then.

16 PROSPECTIVE JUROR 12: Right.

17 MR. ST. GEORGE: So that was all I was asking
18 is, you know, the idea that there is an interest in the
19 outcome was brought forth before and we wanted to, you
20 know, discuss -- it's on both sides.

21 PROSPECTIVE JUROR 12: Right.

22 MR. ST. GEORGE: And can we weigh that equally,
23 can we look at, well, they have an interest, they have an
24 interest. And how are there -- how is there testimony
25 going to be given based on their interest?

1 PROSPECTIVE JUROR 12: I think if you're still
2 talking to me, I think that's how we began the
3 conversation with justice is blind. I mean, that's what
4 we're go back to.

5 MR. ST. GEORGE: Fair. Thank you.

6 Your Honor, I really don't have anymore. I'd
7 like to yield back the rest of my time.

8 THE COURT: Okay.

9 MR. ST. GEORGE: Thank you.

10 THE COURT: At this point in time it's a good
11 point for us to take a break, so I'm going to ask
12 everybody to exit the courtroom.

13 Keep an open mind. Don't do any investigation.
14 Don't discuss the case, and we'll have you back here in
15 ten minutes.

16 (The prospective jurors left the courtroom.)

17 THE COURT: Okay. All right. So we have all of
18 our jurors out of the courtroom and we are finished then
19 with voir dire right now.

20 And, Mr. St. George, is there anything you'd
21 like to address me on with regard to this?

22 MR. ST. GEORGE: Bear with me one moment, Your
23 Honor.

24 (Pause in the proceedings.)

25 THE COURT: Do you know what, I'm going to give

1 you a couple minutes.

2 MR. MENGES: We're good. Judge, we're done.

3 MR. ST. GEORGE: Your Honor, I'm thinking of
4 Juror Number 33, and I think he was reasonably clear that
5 he couldn't be fair. I'll try to be fair is not I can be
6 fair. I think there's case law in regards to that and he
7 specifically did use the word that he would try to be
8 fair. He specifically had mentioned an issue regarding
9 the sexual contact, and so I think I would like to strike
10 him for cause based on his using the words "try to be
11 fair."

12 THE COURT: Any response?

13 MR. FREEMAN: Judge, I'm not aware of any case
14 law that says that a juror's representation that they're
15 going to try to be fair is insufficient. In fact, I think
16 that's all we can ask of jurors, and he made it clear that
17 he was going to do his best to be fair and without going
18 into any more specifics about what his issues were,
19 there's simply not anywhere close to a challenge for cause
20 with him at this point.

21 MR. ST. GEORGE: Your Honor, that case law would
22 be *People v. Sandoval*, Colorado Appellate 1985.

23 THE COURT: What's the citation?

24 MR. ST. GEORGE: It's 706 P.2d 802, and
25 specifically they said, "I guess I could be fair" is not

1 good enough to ensure fair and impartial. And I
2 would -- I would tend to agree and that would be the
3 language that he was using.

4 THE COURT: Okay. So I'm taking a look at that
5 case right now. Page 203, the Court gives us some facts
6 about the case during jury selection when one of the
7 venireman was being interrogated by the prosecutor, he
8 indicated his reluctance to serve on the jury and stated
9 that he thought these feelings would affect how he would
10 deliberate and listen to testimony. When pressed by the
11 district attorney as to whose side of the case would be
12 effected by this attitude, he stated that he, quote,
13 guessed, unquote, he would be a fair juror.

14 But when asked that he understood that fairness
15 applies both to the defendant and to the state he
16 responded, quote, The defendant ain't fair to me because I
17 have had him wreck my vacation to come over here, end
18 quote.

19 In that respect, I think we're in a quite
20 different situation. I receive a lot of comments from
21 jurors, some jurors just say, yes, I can be fair, other
22 jurors sometimes say they can't be fair or they can't give
23 me any assurances at all.

24 In this case we heard "I'll try to be fair." I
25 can't -- I have nothing else to say that this juror wasn't

1 fair in any respect, and "I'll try to be fair" is actually
2 what we can ask of juries. I think some people say, I'll
3 absolutely be fair -- "I'll try to be fair," I find to be
4 a good faith effort by the juror to follow the rules that
5 the Court lays out for them. So I'm not seeing that the
6 *Sandoval* case would control under these situation.

7 You know, whether or not you deny a challenge
8 for cause is always within the sound discretion of the
9 Court. And, certainly, finding that "I'll try to be fair"
10 is insufficient is not something that I can do. So I'll
11 deny the challenge for cause with regard to Juror Number
12 33 based on his statement, "I'll try to be fair."

13 Okay. If that's where we are then, we will
14 continue -- we will take a break and then come back and do
15 peremptory challenges.

16 Are people ready for peremptory challenges?

17 MR. FREEMAN: We should be by the time we get
18 back.

19 THE COURT: Okay.

20 MR. ST. GEORGE: As well, Your Honor.

21 THE COURT: Okay. All right.

22 MR. MENGES: What time, Your Honor?

23 THE COURT: I told them about ten minutes, which
24 is probably unrealistic because there are a lot of jurors
25 to use the restroom. I would say a couple minutes before

1 three.

2 MR. MENGES: Couple minutes before three, okay.

3 THE COURT: Just so we're ready to go at three.

4 And then everybody should know we will go
5 through peremptory challenges and I guess we'll just take
6 them back for five minutes and clean the courtroom up a
7 bit, but go right into opening statements.

8 MR. FREEMAN: And we have a couple witnesses
9 here.

10 THE COURT: Okay. All right.

11 (A recess was taken.)

12 THE COURT: So we're going to be back on the
13 record. We had one challenge for cause. Nobody asked the
14 Court to talk to jurors outside the presence of other
15 jurors, there's no other requests, additions, et cetera,
16 in this case. So we're ready to go for peremptory
17 challenges.

18 MR. FREEMAN: The People are ready.

19 THE COURT: Are you ready to go for peremptory
20 challenges?

21 MR. ST. GEORGE: Yes, I am, Your Honor.

22 THE COURT: Okay.

23 MR. ST. GEORGE: Thank you.

24 THE COURT: Remember, we're going to strike from
25 the 13. We are not going to tell the person who is in

1 seat number 13 that they are the alternate but they would
2 be the alternate so you know who everyone is.

3 Everybody, we're bringing the jury in now,
4 right?

5 MR. FREEMAN: Yep.

6 MR. ST. GEORGE: Yes.

7 THE COURT: Okay. Okay. Six challenges.

8 (The prospective jurors entered the courtroom.)

9 THE COURT: All right. Everybody be seated.

10 So, ladies and gentlemen, we are ready now for
11 peremptory challenges, we begin peremptory challenges with
12 the prosecution.

13 MR. FREEMAN: Honor, the People would thank and
14 excuse Juror Number 11. Thank you, sir.

15 PROSPECTIVE JUROR 11: Okay. Where do I go?

16 THE COURT: Thanks so much for your service with
17 us here today.

18 THE BAILIFF: Juror Number 14, can I have you
19 take his spot, please.

20 THE COURT: We need all the badges then.

21 MR. ST. GEORGE: Your Honor, I would like to
22 thank and excuse Number 33.

23 THE COURT: Thanks so much for your service with
24 us today.

25 THE BAILIFF: Number 15, can I have you take his

1 spot, please.

2 MR. FREEMAN: Judge, the People would thank and
3 excuse Juror Number 7. Thank you, sir.

4 THE COURT: Thank you so much for your service
5 with us here today.

6 PROSPECTIVE JUROR 7: No problem.

7 THE BAILIFF: Number 32.

8 THE COURT: Mr. St. George?

9 MR. ST. GEORGE: Your Honor, I would like to
10 thank and excuse Number 1.

11 THE COURT: Thank you so much for your service
12 with us here today.

13 THE BAILIFF: Number 30, can I have you take her
14 spot, please.

15 MR. FREEMAN: Judge, the People would thank and
16 excuse Juror Number 3. Thank you, sir.

17 PROSPECTIVE JUROR 3: Thank you.

18 THE COURT: Thank you so much for your service
19 with us here today.

20 THE BAILIFF: Number 18, can I have you take his
21 spot, please.

22 (Pause in the proceedings.)

23 MR. ST. GEORGE: Your Honor, I would like to
24 thank and excuse Number 12.

25 THE COURT: Thank you so much for your service

1 with us here today.

2 THE BAILIFF: Number 19, I'm going to have you
3 take his spot, please.

4 MR. FREEMAN: Judge, I'm going thank and excuse
5 Juror Number 19.

6 THE COURT: Thank you so much for your service
7 with us here today. Good hesitation.

8 THE BAILIFF: Number 31, can you go to that
9 spot.

10 (Pause in the proceedings.)

11 MR. ST. GEORGE: Your Honor, I'd like to thank
12 and excuse the juror seated in Seat Number 1. I can't see
13 your number.

14 THE COURT: Number 30?

15 MR. ST. GEORGE: Yes, Number 30, Your Honor.

16 THE COURT: Thank you so much for your service
17 with us here today.

18 THE BAILIFF: Ma'am, can I have you take her
19 seat, Number 21.

20 MR. FREEMAN: Judge, we are going to thank and
21 excuse Juror Number 13. Thank you, ma'am.

22 PROSPECTIVE JUROR 13: Thank you.

23 THE COURT: Juror Number 13, thanks so much.

24 THE BAILIFF: Number 22.

25 (Pause in the proceedings.)

1 MR. ST. GEORGE: Your Honor, I would like to
2 thank and excuse Juror Number 22.

3 THE COURT: Thank you so much for your service
4 with us here today.

5 THE BAILIFF: Juror Number 23.

6 MR. FREEMAN: Judge, we would like to thank and
7 excuse Juror Number 4. Thank you, sir.

8 THE COURT: Thanks so much for your service with
9 us here today.

10 THE BAILIFF: 24.

11 MR. ST. GEORGE: Your Honor, I would like to
12 thank and excuse Juror Number 21.

13 THE COURT: Thanks so much for your service with
14 us here today.

15 THE BAILIFF: Juror Number 25, sir. I'll have
16 you in the back row.

17 THE COURT: Thank you. We try to make it as
18 cumbersome as we can.

19 All right, then. Ladies and gentlemen, we have
20 our jury for this case. Can everyone sit with us and be
21 fair and impartial?

22 PROSPECTIVE JURORS: Yes.

23 THE COURT: Can everyone follow the Court's
24 instructions with regard to the law?

25 PROSPECTIVE JURORS: Yes.

1 THE COURT: All right, then.

2 I'm going to swear you in as jurors in this
3 case. I'm going to excuse all of the jurors in the array
4 then. Thank you so much, we could not have done this
5 without you.

6 THE BAILIFF: Make sure you give your lanyards
7 to the law clerk that's out there.

8 THE COURT: Yeah, you have to give your badges
9 up.

10 (Pause in the proceedings.)

11 THE COURT: We're going excuse you for a couple
12 of minutes so that we can clean up the courtroom. You'll
13 have a moment to put those on.

14 Okay. I'm going to ask everyone then to raise
15 their right hand. You are the jury, and you have been
16 selected in the case of People versus St. George.

17 (The jury was duly sworn.)

18 THE COURT: All right. So you are our jury in
19 this case selected to consider this. What I'm going to do
20 is excuse you for a couple of minutes so you can go back
21 to the jury room. We're going to clean up the courtroom a
22 bit and get it set up.

23 You're going to come back. I'm going to give
24 you some basics as to instructions, then we're going to
25 begin with opening arguments and potentially a witness or

1 two. All right. We'll see you back here in just a
2 minute.

3 (The jury left the courtroom.)

4 THE COURT: Mr. St. George, you're ready on your
5 opening and you have everything you need for that?

6 MR. ST. GEORGE: I am, Your Honor. Thank you.
7 If you would just afford my team to say hello to my
8 gallery.

9 (Pause in the proceedings.)

10 THE COURT: Our jurors are just about ready to
11 come out, and everybody's back in the courtroom. So it is
12 my understanding that the prosecution gave Mr. St. George
13 a copy of exhibits, right?

14 MR. FREEMAN: I showed him the few exhibits, at
15 least photographs, that we plan to show to Ms. Elliott who
16 is the first witness.

17 THE COURT: Okay. So ahead of time and
18 then -- is there -- and he has a notebook of them, right?

19 MR. FREEMAN: Yeah, he's got a whole book of
20 them.

21 THE COURT: Okay. So he has the notebook of
22 them. Did you want to use my copy up here so that the
23 witness can just open it up after and look at it as
24 opposed to walking back and forth?

25 MR. FREEMAN: Are your -- I mean, I'm assuming

1 the exhibits are in plastic sleeves? So we would just
2 have the witness --

3 THE COURT: I don't -- you gave me this
4 notebook.

5 MR. FREEMAN: Right. Yeah. Can I approach?

6 THE COURT: Sure. They're just paper. And if
7 we do do that -- I have a notebook here if Mr. St. George
8 wants to do the same thing with his exhibits, that's just
9 a plain empty notebook.

10 MR. FREEMAN: Judge, my only concern is these
11 are hole-punched and I just would rather not have the
12 official exhibits have whole punches in them.

13 THE COURT: Okay. Okay.

14 MR. FREEMAN: I can hand them -- or have the
15 bailiff hand them to them in a bunch.

16 THE COURT: Okay.

17 MR. FREEMAN: So there's not a lot of back and
18 forth. Do you guys want these?

19 MR. MENGES: No, we've got one. I'll punch them
20 tonight.

21 THE COURT: All right. So, everybody, we're
22 going to bring out the jury. I'm going to give them some
23 brief instructions.

24 (Pause in the proceedings.)

25 THE COURT: Okay. We're ready for the jury?

1 MR. FREEMAN: Yes.

2 MR. ST. GEORGE: Yes, Your Honor.

3 THE COURT: We'll bring the jury in.

4 (Pause in the proceedings.)

5 (The jury entered the courtroom.)

6 THE COURT: Okay. As soon as everyone's in.

7 THE BAILIFF: Judge, I'm going to have him sit
8 here because he has a knee problem.

9 THE COURT: Absolutely. Be seated. Everybody
10 be seated.

11 And, ladies and gentlemen, if for some
12 reason -- if something -- if you have a knee that's a
13 problem or a back that's a problem and it helps to stand
14 up or whatever, it's fine to do that. If you need a
15 break, just give me a sign and we'll watch for that and
16 we'll accommodate that too. It's perfectly okay.

17 So before we begin the trial, I'd like to tell
18 you about the procedures we'll be following. I'd like to
19 explain how the trial will be conducted.

20 The first step in the trial will be opening
21 statements. Either attorney may make -- either attorney
22 and Mr. St George may make an opening statement if they
23 choose to do so. Mr. St George may reserve opening
24 statement until later in the trial or may elect not to
25 make an opening statement at all.

1 Ladies and gentlemen, opening statements are not
2 evidence. Their purpose is only to help you to understand
3 what the evidence will be.

4 Next, the prosecution will offer evidence.
5 Evidence consists of the sworn testimony of witnesses,
6 exhibits received in evidence, and stipulated, admitted or
7 judicially noticed facts.

8 After the prosecution's evidence, the defendant
9 may present evidence in his own behalf but he is not
10 required to do so. I want to remind you that the
11 defendant is presumed to be innocent. The prosecution
12 must prove the guilt of the defendant beyond a reasonable
13 doubt. The defendant does not have to prove his
14 innocence, call any witnesses, or introduce any evidence.

15 Ladies and gentlemen, as we've discussed before,
16 you're going to have to decide what testimony to believe.
17 You should carefully consider all of the testimony given
18 and the circumstances under which each witness has
19 testified. Consider each witness's knowledge, motive,
20 state of mind, demeanor, and manner while on the stand.
21 Consider the witness's means of knowledge, ability to
22 observe, and strength of memory. Consider, also, any
23 relationship each witness may have to either side of the
24 case, the manner in which each witness might be affected
25 by the verdict and the extent to which, if at all, each

1 witness is either supported or contradicted by other
2 evidence in the case.

3 You should consider all facts and circumstances
4 shown by the evidence which affects the credibility of the
5 witness's testimony. You may believe all of the testimony
6 of a witness, part of it or none of it, it is up to you.

7 At the conclusion of the evidence, I'll tell you
8 the rules of law which you are to use in reaching your
9 verdict. I'll read those rules of law and you'll be
10 allowed to take them with you to the jury room during your
11 deliberations.

12 After you've heard all the evidence and the
13 instructions, the prosecution and the defendant may make
14 their closing arguments. And like opening statements,
15 closing arguments are not evidence. The prosecuting
16 attorney will have the opportunity to reply to the closing
17 argument made by the defendant. That's when you go to the
18 jury room to deliberate on a verdict. Your purpose as
19 jurors is to decide what the facts are and your decision
20 must be based solely upon the evidence and the law I give
21 you in my instructions.

22 At times during the trial, both sides are going
23 to make objections. This simply means that the individual
24 making the objection is requesting that I make a decision
25 on a particular rule of law. It is the duty of a party to

1 object to evidence which he or she believes may not
2 properly be offered. Do not draw any conclusions from the
3 objections or from my rulings on the objections.

4 If I sustain an objection to a question, the
5 witness cannot answer it. If I override or overrule an
6 objection or say I'll allow it, that means the witness can
7 answer it. If I've sustained an objection, you must draw
8 no inference from the question or speculate as to what the
9 witness would have said if I permitted that witness to
10 answer.

11 At other times, I might instruct you not to
12 consider a particular statement that has been made. You
13 must not consider any evidence to which an objection has
14 been sustained or which I've instructed you to disregard.
15 Such evidence is to be treated as if you have never seen
16 or heard it.

17 It's my job to decide what rules of law apply to
18 the case. You must follow all the rules as I explain them
19 to you and you may not follow some and ignore others.
20 Even if you disagree or don't understand the reasons for
21 some of the rules, you must follow them.

22 You'll then apply these rules to the facts which
23 you've determined from the evidence, and this is the way
24 you'll determine whether the prosecution has proven the
25 guilt of the defendant beyond a reasonable doubt.

1 During the trial I may need to talk with the
2 parties outside of your hearing about questions of law.
3 Sometimes you may ask be asked to leave the courtroom
4 while I discuss such matters. We'll try to limit these
5 interruptions as much as possible. We understand that you
6 are giving the gift of your time to us and we understand
7 the sacrifice you are making to sit on this jury, so we
8 are respectful of your time. We'll monitor your time and
9 we'll try to keep any interruptions as brief as possible.

10 So everybody has a notepad?

11 (No verbal response.)

12 THE COURT: Okay. So everybody has received
13 notepads. You may use these notepads to take notes during
14 the trial, you're not required to do so. Some people are
15 notetakers, other people don't like to take notes. If you
16 take notes, don't allow the note taking to detract from
17 your close attention to the testimony and conduct of each
18 witness and all other evidence received during the trial.

19 You can't possibly summarize all the testimony
20 in the case on notes, so take notes of issues you find to
21 be the most important. You do not receive a transcript of
22 this hearing and that's just for your edification.
23 Whether you take notes or not, you should rely on your
24 memory as much as possible or not upon your note and notes
25 of other jurors. Any notes you take are to refresh your

1 own memory.

2 Notepads can be used in the courtroom and back
3 in the jury room. They can't be taken home or can't be
4 taken any place else in the building. At the end of the
5 trial, we tear the notes off and we shred them so no one
6 else looks at your notes, those notes are for you.

7 In this case we're going to allow questions for
8 the jury. I can't allow jurors to ask questions directly
9 of the witness, so this is what we're going to do. Either
10 side can call a witness if they choose and then both sides
11 would have the opportunity to question that witness.

12 After both sides have had the opportunity, if they wish,
13 to question the witness, then I will look at you and say,
14 does anyone on the jury have a question for this witness.
15 If you do, those are preprinted forms there on the bar in
16 front of the jury, pick one of those out and fill it out.
17 You have to write out your question. Don't put your name
18 on it.

19 Keep in mind, please, that I must apply the same
20 legal rules to your questions that I apply to questions
21 asked by the parties. The rules of evidence and other
22 rules of law may prevent some questions from being asked.
23 If the language of a jury question is just a little off,
24 if I'm not allowed to ask it because of some rule of
25 evidence or rule of law, I might change the wording of the

1 question a little bit and then I can go ahead and ask it.
2 Sometimes I'm just not allowed to ask the question.

3 Please note that my decision not to ask a
4 question proposed by a juror is not a reflection on the
5 juror who submitted it, and you should not attach any
6 significance of my failure to ask a question proposed by
7 any juror. My decision whether or not to allow a question
8 is based on the applicable rules of evidence and other
9 rules of law, and not on the facts of this case. You must
10 not speculate about a question that is not asked nor about
11 what the answer might have been.

12 Finally, please don't discuss the questions with
13 any of the other jurors because you're not allowed to talk
14 about the case until the case -- until you're in the
15 deliberation room ready to go.

16 So enough law right now, we're ready for opening
17 statements so I'll hear from the People.

18 Ms. Decker?

19 MS. DECKER: Thank you, Judge.

20 OPENING STATEMENT

21 BY MS. DECKER:

22 The defendant wants it his way. The defendant
23 wants to have sex with a woman who is repeatedly telling
24 him no, but he gropes her repeatedly anyway. The
25 defendant wants her money as she's trying to get away from

1 him so he shoots with his gun twice. The first time to
2 scare, the second time to kill. The defendant wants to
3 get away with it so when the police arrive to investigate,
4 he tries to kill them too.

5 You've already met the defendant, Eric
6 St. George. On this night, he was very different. He was
7 not calm and soft spoken. He was drinking, he was
8 threatening, and he was violent.

9 He's charged with three counts of attempt
10 murder. And attempt murder, because lucky for his three
11 victims, he was a bad shot. But you will see through the
12 evidence what he was aiming at, three people. You will
13 hear why he was angry, and you will know what he was
14 intending to do. And that was to kill.

15 The defendant wanted it his way that night. But
16 he doesn't get it his way because you will hear the facts
17 and you will learn the law, and the facts and the law are
18 not on his side and that's why you're here to hold him
19 accountable.

20 So let's go back to the night of July 31, 2016
21 going into the early morning of August 1, 2016. It's the
22 defendant's birthday, so he wants to celebrate a little
23 that night and he wants some female attention, so he calls
24 an escort service, Denver Ladies, and he picks out on
25 website a girl name Effy. You'll meet her. Her real name

1 is Emily Elliott.

2 He arranges for her to come over to his
3 apartment, and so she does. She arrives at about
4 9:02 p.m. And once she arrives to his apartment they meet
5 and she explains to him first, she's not a full-service
6 escort, meaning she's not going to have sex with him.
7 She'll provide a dance and things like that.

8 But when he hears he's not allowed and not going
9 to have sex with her, he says, Well, that's a problem. So
10 as per protocol, she gets on the phone with her dispatcher
11 who speaks with the defendant and says, You've got this
12 girl there, are you sure you want to let her go now?
13 She's already there. She's not going to have sex with
14 you. And he says, Okay, I'll keep her. Agreeing to the
15 terms of the service.

16 So, Ms. Elliott item goes into the defendant's
17 bedroom, he gets down into his boxer shorts and she
18 provides a dance, or, at least, she beings providing this
19 dance until the defendant starts touching her
20 inappropriately.

21 He touches her on her vagina first, and she says
22 watch your hands. The defendant touches her on her vagina
23 again. She says, if you're going to do that another time,
24 I'm leaving. The defendant then grabs her waist and
25 kisses her stomach. She pushes him away and says you

1 can't do that. He says, You're no fun, reaches around and
2 touches her vagina again and that's the end of it and she
3 says, Okay. I'm done here. I'm leaving.

4 But the defendant isn't happy because he already
5 paid her over \$200 once he agreed to her terms of service,
6 i.e. not having sex. He says you can't leave, I've
7 already paid you. But she pushes past him and pushes out
8 his apartment door and she gets outside. The defendant's
9 mad.

10 Emily Elliott immediately, per protocol, gets on
11 the phone with her dispatcher and says, Hey, I'm ending
12 this call. Because he had been groping her, touching her
13 inappropriately. She's going out to her car and at that
14 time hears a gunshot. It's the defendant who's behind her
15 and who fires a shot up into the air. You'll hear this
16 recording.

17 Then the defendant levels his handgun at her and
18 shoots at her as she's trying to get into her car. She
19 makes it out of there alive, nearly hitting the defendant
20 who's behind her in the parking area outside of this
21 complex. Squeals out of there.

22 She's on the phone with her dispatcher and then
23 gets on the phone with her boss who says she's the one who
24 needs to call it into 911. You'll hear the phone call
25 between her and her dispatcher as she's calming down.

1 You'll hear her say, Oh, my God, he has a gun.

2 She leaves there at about 9:45 p.m. and calls
3 911 at 10:12 p.m., close to a half an hour later.
4 She'd been on the phone with her own dispatcher unsure if
5 they were going to call 911 for her in that time frame.

6 So given that this isn't an emergency, police
7 don't role up with lights and sirens. They want to figure
8 out and asses the situation. But what was going on as
9 police are learning about this incident, about half an
10 hour later, is that the defendant leaves his apartment and
11 goes to a bar about a half mile away, the Rusty Bucket.

12 He has a couple shots. He has a couple beers.
13 You'll hear from the bartender, Adam Carr, about what he
14 had to drink and that he appeared distraught. The
15 defendant didn't tell Adam Carr why he was distraught, but
16 that's how he seemed.

17 Around the time the defendant gets home, shortly
18 thereafter, police arrive to his complex and they don't
19 know this complex, they don't know where the defendant
20 lives, his exact amount. They do know that there are
21 allegations of a weapon, so they want to make sure that
22 they stay safe.

23 They get to the apartment complex, and I'll show
24 it to you here on People's Exhibit 3. Here is the
25 defendant's apartment, Unit 103 in the middle of this

1 exhibit. Officers arrive on scene and congregate to the
2 southwest corner of his building determining what to do.
3 What they need to do to find the defendant, to speak with
4 him, to just get his side of the story.

5 So Sergeant Maines walks around the backside of
6 defendant's apartment right here to the backdoor. The
7 lights are on and he can see there's an aquarium in there
8 and there's a tent that's apparently drying in the
9 apartment, which Emily Elliott had described to Sergeant
10 Maines as being the defendant's apartment.

11 So Sergeant Maines identifies where the
12 defendant lives. He goes back to where the other officers
13 are at the corner of the apartment building. Then
14 Sergeant Maines and Agent Trimmer go behind the
15 defendant's apartment again. They're trying to get at
16 this apartment and view it from all angles. Because this
17 person's who's just committed a crime, they don't know if
18 he's going to flee. And as you can see, there's a lot of
19 open space to the north side of the defendant's apartment.
20 They also want to make sure that they have all windows and
21 doors covered, in case this person, who used a handgun
22 earlier in the evening, is dangerous to them or anyone
23 else.

24 So while Sergeant Maines and Agent Trimmer go to
25 the backyard again of the defendant's unit, Officers

1 Brennan and Muller, are looking at the defendant's front
2 door and get the defendant on the phone.

3 They make five calls to the defendant. Agent
4 Brennan first leaves a voicemail, identifies himself as a
5 Lakewood police officer, says we just need to speak with
6 you, would you come out. Agent Brennan calls a second
7 time and gets the defendant on the phone. Again, Agent
8 Brennan identifies himself and others as Lakewood police
9 officers there to talk to him asking him to come out. But
10 the defendant doesn't. Doesn't want to speak to them.
11 The call has ended. Agent Brennan calls again, leaves
12 another voicemail with the same information.

13 Agent Muller calls and tries to reach the
14 defendant several times. Again, giving the same
15 information that we're here, we are Lakewood police. You
16 can call dispatch to verify that we are who we say we are,
17 that is Lakewood police officers, and we just want to get
18 your side of the story about what happened tonight. We
19 heard there was a shooting.

20 The defendant did not come out, at least not
21 then. Sergeant Maines and Agent Trimmer are behind his
22 unit, they see lights go out. They're standing without
23 protective cover behind a skinny tree but they're shrouded
24 in darkness. There isn't much light back there where they
25 were at that time.

1 The defendant comes out his backdoor with his
2 cell phone and they don't announce themselves because
3 they're not protected. They don't know if the defendant
4 is armed. They don't want him to flee.

5 The defendant goes back into his apartment and
6 they get into a better position to be able to see him and
7 to keep themselves safe. They go to the northeast corner
8 of the defendant's apartment complex.

9 Once there, they hear the unmistakable sound of
10 a shotgun wracking. The defendant wracks his shotgun,
11 meaning it's ready to fire. Knowing that this is a very
12 dangerous sound, Sergeant Maines immediately calls out a
13 Code 1. All Lakewood officers who are available, please
14 come to this residence now.

15 Sergeant Maines and Agent Trimmer, knowing how
16 close they are to the defendant with this loaded shotgun
17 that is ready to fire, try and find a safer position.
18 Agent Trimmer and Sergeant Maines go to this -- where this
19 truck is on the east side of the building. Sergeant
20 Maines decides to get a better position so that at least
21 one officer has a view of the backyard to watch what the
22 defendant is doing back here.

23 So Sergeant Maines leaves Agent Trimmer here on
24 the driver's side of this truck and walks around the other
25 building and winds up on the north side of the next door

1 building. That's where Sergeant Maines is able to watch
2 what the defendant is doing, and the defendant is just
3 walking around the back of his apartment. But then
4 Sergeant Maines sees him walk with purpose and more
5 quickly.

6 He airs to Agent Trimmer who is still at that
7 driver's side of that truck, he's coming toward you.
8 Agent Trimmer, at this point, is crouched behind the
9 engine of this Dodge pickup truck. She's covered in light
10 because, unlike the backyard where there's hardly any
11 light, she's under spotlights of this garage area.

12 So she huddles in close to that driver's side
13 tire protecting herself with the engine of the truck and
14 also crouching in so that she doesn't create much of a
15 shadow next to her so that if the defendant sees her, it's
16 harder to see her so that she's protected there.

17 She hears gravel, someone walking on gravel and
18 you'll see that that's right about here. So the
19 defendant, she hears, is coming towards her. This is the
20 truck in exhibit 125 where Agent Trimmer was hiding on the
21 left side of that truck, the driver's side. The defendant
22 walks on this gravel, she hears and he walks around to the
23 back of that truck.

24 UNIDENTIFIED JUROR: We can't see your laser
25 pointer at all.

1 UNIDENTIFIED JUROR: I thought maybe it was me,
2 your laser isn't working on the screen.

3 THE COURT: And we also have that.

4 MS. DECKER: I'll try not to blind anyone with
5 this one. Thank you.

6 Agent Trimmer is here, the defendant walks from
7 here around. When the defendant gets to the backside of
8 the truck, he immediately squares and points his shotgun,
9 levels it at Agent Trimmer and he fires first. Agent
10 Trimmer immediately fires back. She runs to the passenger
11 side of that truck and the defendant mirrors her movement
12 and follows her. Again, he shoots and she shoots back.
13 That second time she thinks, "I missed."

14 She tries to get away from him for the third
15 time and runs to the driver's side of that truck. The
16 defendant, for the third time, follows Agent Trimmer with
17 his shotgun and Agent Trimmer fires again, then losing
18 sight of the defendant.

19 Sergeant Maines who is still back here, hears
20 all this but doesn't have a view of what's going on and he
21 wants to help Agent Trimmer not knowing whether she or
22 anyone had just been shot. Sergeant Maines sees the
23 defendant walking back towards his apartment.

24 And thanks to Sergeant Maines' flashlight on his
25 gun, the defendant sees him. The defendant fires around

1 at Sergeant Maines. Sergeant Maines ducks behind some
2 bushes, peeks out again. The defendant fires again at
3 Sergeant Maines. Sergeant Maines is checking to see
4 whether he's been shot because the shots were so close.
5 The defendant fires a third time at Sergeant Maines and
6 then they hear him go back into his apartment.

7 Agents are now arriving on scene and hear three
8 more shots coming from within the defendant's apartment
9 about 20 seconds apart. They then get a call from
10 dispatch saying the defendant has called 911, he's been
11 shot in the legs and they instruct him, okay, come out.
12 We will help you. Don't bring a gun.

13 The defendant does come out but with a .380
14 handgun. He comes out of his front door. Officers kick
15 it away so that they can get him help and they immediately
16 apply tourniquets to his legs and get him to the hospital.

17 So let's talk about the physical evidence that
18 you have up to this point. You have physical evidence
19 that you will see and hear and you have the testimony of
20 not just the direct witnesses, Emily Elliott, Sergeant
21 Maines, Agent Trimmer, but the neighbors in the area and
22 other officers who are arriving on scene because of that
23 Code 1.

24 So let's talk about that physical evidence
25 first. With relations to the guns, you'll have several

1 spent casings --

2 THE COURT: Ms. Decker, are we done with this?

3 MS. DECKER: Yes, thank you.

4 You'll have several spent casings pertaining to
5 the shooting with Emily Elliott. So while Emily Elliott
6 will tell you she thinks that he shot up in the air
7 farther out, closer to her car, what you can see in the
8 first slide that was shown in this parking area to the
9 right bottom side of the slide. While she thinks that he
10 shot up in the air more towards her car the first time,
11 there is a bullet trajectory in his breezeway of his
12 apartment. You have that.

13 You have two spent casings consistent with the
14 Ruger that he fired first up into the air, and then his
15 Taurus handgun that he fired directly at Emily Elliott and
16 bullets that match those two guns.

17 As for shooting at Agent Trimmer, Agent Trimmer
18 will tell you she shot at the defendant three times and
19 her spent 9-millimeter casings are right around that
20 truck, consistent with where she was hiding from the
21 defendant. The defendant shot first at Agent Trimmer.
22 Shot at her again and then shot three times at Sergeant
23 Maines, and you will see a trail of five spent shotgun
24 casings matching that shotgun from that truck all the way
25 back to his apartment.

1 You have three shots that were in his apartment.
2 Once he got inside, he decided to shoot in there as well.
3 You'll have impact patterns of those shots as well as
4 three additional spent casings from that .380 Ruger. You
5 also have -- speaking of impact patterns, the impact
6 pattern that was directly above Agent Trimmer's head in
7 the garage right to the left of the driver's side of that
8 truck. You have another impact pattern of the defendant's
9 shotgun over her head at that second shot. Consistent
10 with one of the shots fired at Sergeant Maines, you have a
11 shot on that neighboring building. The other two shots
12 got too close to Sergeant Maines to leave impact patterns
13 because they hit the bushes nearly missing him.

14 In addition to all this physical evidence that
15 corroborates what all of these victims will tell you, you
16 have what the neighbors will say and what the officers who
17 are arriving on scene will say. There was no 911 call
18 with that first series of gunshots with Emily Elliott.

19 You'll hear from, for example, Keri Pokorny who
20 is a neighbor who lives nearby. She'll tell you that she
21 went out for a smoke around 9:00-ish and she sees this car
22 that she doesn't recognize, Emily Elliot's car. And that
23 she hears what's going on. She think some girl's talking
24 outside, as Emily Elliot's on her phone with her
25 dispatcher explaining I'm leaving this call because of

1 what he's doing to me. And then she hears Emily Elliott
2 says, Oh, my God, he has a gun. And then she hears Emily
3 Elliott squeal out of there in that car.

4 But she doesn't call 911 because, as some of the
5 neighbors say, it's still July, first day of August, fire
6 works, a car backfiring and then it was quiet. It was
7 quiet in the apartment complex after that. So you don't
8 have any initial 911 calls, but these neighbors did hear
9 what happened. Keri Pokorny even sees the defendant still
10 in his boxers walking back towards his apartment building.

11 You have other officers who arrive on scene, and
12 they'll tell you they hear the big boom of a shotgun
13 first. Several officers will tell you boom first, the
14 defendant's shotgun, a series of smaller pops, boom,
15 another shotgun. Now, the testimony on this with officers
16 arriving on scene, with neighbors who aren't familiar with
17 guns, it will be a little bit inconsistent, but there is a
18 consistent theme. Boom, series of shots, boom.

19 There's also some cell phone evidence in this
20 case. The defendant's texts with Emily Elliott, so we
21 know the time frame that she arrives there at 9:02 p.m.
22 When the defendant goes to the bar, he knows he's in
23 trouble, so he texts his friend Eric Yingling and he says,
24 I can't go home. He then texts with Eric Yingling trying
25 to set up an alibi, okay. Eric, I was with you tonight.

1 So you'll have that evidence as well.

2 At the end of this case, the defendant doesn't
3 get it his way. That night, the defendant was violating,
4 threatening and tried to kill. That's why at the end of
5 this case, we are going to ask you to find the defendant
6 guilty.

7 THE COURT: Mr. St George?

8 OPENING STATEMENT

9 BY MR. ST. GEORGE:

10 We are here today because the State has alleged
11 that I have attempted to murder three people. The
12 evidence throughout this trial will show that I am
13 categorically not guilty of all of the charges that the
14 State has levied against me.

15 I did use deadly force in defense against two
16 people. This is absolutely true. I did use non-deadly
17 force in defense of myself against a third. This, too, is
18 absolutely true. I am not denying my use of force. The
19 evidence will show that my use of force was authorized, it
20 was completely legal, it was reasonable, and it was
21 justified; albeit, incredibly unfortunate. A man's right
22 to act in self-defense is a natural, essential, and
23 inalienable right protected by the constitution of this
24 state.

25 The charges against me include allegations made

1 by an escort, Emily Elliott, allegations that are false.
2 And that she knew to be false at the time that she made
3 them. In a recorded telephone call, you will hear her
4 tell you with her own voice that she knows her allegation
5 is not true. You will hear her say when she didn't know
6 that she was being recorded, that I did not shoot a gun at
7 her. You will hear her say that she believed I shot in
8 the air to scare her.

9 There will be no physical evidence to support
10 her allegation that I shot at her after shooting in the
11 air. There will be no physical evidence to support her
12 allegation that I sexually assaulted her. The evidence
13 will show that her allegation of my having touched her
14 illegal -- illegally was a tool to manipulate law
15 enforcement into doing what she wanted them to do.

16 She may have felt disrespected, as she claims.
17 Feeling disrespected is subjective and cannot be either
18 proved nor disproved using evidence. And disrespecting an
19 escort is not a crime. This disastrous series of events
20 would have never occurred if Ms. Elliott had not lied.

21 The charges also include those allegations made
22 by two members of the Lakewood Police Department. The
23 evidence will show that I did not know nor could any
24 reasonable person have known, using their commonsense and
25 reason that these individuals were police officers. The

1 evidence will show that they did not identify themselves.

2 Private citizens are not allowed to have
3 vehicles that are marked up to resemble police
4 departments. This is so that you can be sure that when
5 you see a police vehicle, you know the identity as a
6 police officer of the person inside of it. Private
7 citizens are not allowed to have red or blue flashing
8 lights mounted on their vehicles. This is to ensure that
9 when you see red and blue flashing lights mounted on
10 vehicles, the identity is a police officer who is flashing
11 them.

12 Private citizens are not allowed to wear a
13 police uniform or impersonate an officer with a badge.
14 This is to ensure that when you see a police uniform or a
15 badge, you can be reasonably sure the identity as a police
16 officer of the person wearing them.

17 The evidence will show that none of these
18 devices were used to identify those people who are outside
19 of my home at 12:17 in the morning in the dark, in the
20 silence.

21 The State will present a case wherein they will
22 tell you that these officers identified themselves through
23 a series of telephone calls. There is a means by which
24 you can possibly identify who is calling you on the phone.
25 It's through caller ID, a little piece of 1990s technology

1 that forever ended the prank phone call, ruined part of my
2 teenage years.

3 The evidence will show that even this form of
4 identification was disabled. The officers blocked their
5 caller IDs when they were placing their phone calls.
6 There was no way to know who was making these calls.

7 Also, when given the opportunity to shout, to
8 speak, to use their voices directly to identify themselves
9 to me, they did not. They remained mute. They hid
10 themselves. This entire tragedy could have been avoided
11 if a police officer had just shouted out, "Lakewood
12 police," but it never happened.

13 These police may not have intended the
14 consequences of their actions. They were surely clueless
15 to the way that their actions or their lack thereof would
16 have been perceived from my point of view. Their greatest
17 failure on this night in question was that they did not
18 put themselves into another person's shoes. They did not
19 consider what I was seeing. They did not consider what I
20 was hearing. They did not consider what I was thinking or
21 what I was feeling.

22 They work as police officers every day or night
23 as it may be. They take for granted various aspects of
24 their jobs as just normal, things that we common, private
25 citizens would feel frightening or threatening. Parking

1 their marked police vehicles away from us and sneaking up
2 to his on foot covertly under the cover of dark, this
3 wouldn't seem like something that police would do to us
4 common citizens.

5 When we get pulled over for speeding, a marked
6 police car with flashing red and blue lights move us to
7 the side of the road. An officer in a uniform with a
8 badge comes up to your window. We might presume the same
9 if we were suspected of a crime and an officer contacted
10 you at home. Perhaps they'd knock on your front door and
11 then talk you. Perhaps they'd call you on the phone and
12 ask you to come outside, and then they talk to you.
13 Perhaps they'd call out to you on a bullhorn and ask you
14 to come outside.

15 MS. DECKER: Your Honor, I'm going to object to
16 argumentative. This is opening statements and should be
17 just a recitation of the facts. I believe this is
18 argument.

19 MR. ST. GEORGE: Your Honor, this is --

20 THE COURT: All right. Let's just continue and
21 you can present your options as you go along, but this
22 isn't closing argument.

23 MR. ST. GEORGE: I understand that, Your Honor.

24 The evidence will show that they would then talk
25 to you perhaps. Regardless, if they were police, you'd

1 see the familiar marked police car, flashing red and blue
2 lights, you'd see a uniformed police officer. All
3 assuring to you that this contact is legitimate, genuine
4 and legal. More so, that it is safe. Police would never
5 initiate physical harm against one of us, us common
6 citizens.

7 July 31, 2016, I woke up above 10,000 feet. The
8 best time of a Colorado morning. It had hailed over night
9 south of Kenosha pass, wetting my tent, my bed roll, and
10 my backpack. It's not a crisis, nothing I'm not prepared
11 to handle. Not the first time and probably won't be the
12 last. I love the adversity the back country deals me. It
13 provides a challenge, an opportunity to succeed, and goals
14 to achieve. Most importantly, I get to see the views that
15 you don't see unless you get yourself out there.

16 It was my second night out. I'd hiked 20 miles
17 over the course of the first two days.

18 MR. FREEMAN: Your Honor, I'm going to object to
19 relevance.

20 MR. ST. GEORGE: It's absolutely relevant, Your
21 Honor, this is what I was doing that morning.

22 THE COURT: Okay.

23 MR. ST. GEORGE: And I'll make it short.

24 THE COURT: Okay. We can briefly talk about
25 what you were doing that morning.

1 MR. ST. GEORGE: My muscles were sore and there
2 were miles between me and the truck. I had my coffee and
3 my breakfast, packed my gear, headed out of camp. A few
4 hours later, I was at the trailhead in the truck heading
5 home.

6 This was my 39th birthday. I had no clue what
7 was going to happen to me later that night. Never in my
8 worst nightmares could I have envisioned my night would
9 end up in an outright gunfight leaving me with potentially
10 mortal wounds. Never in my worst nightmares could I have
11 foreseen that I would be charged with attempting to murder
12 anyone, anyone.

13 It was my 39th birthday. I was glad to be
14 spending the weekend out on the trail hiking with friends.
15 Once back in town, we went out to celebrate my birthday
16 over lunches and some cocktails.

17 The evidence will show that later that evening,
18 I made the decision to buy a risqué and adult and
19 indulgent little birthday gift to myself. I went to
20 backpage.com. A notoriously seedy website that deals in
21 these sort of transactions. I browsed in the
22 advertisements under the heading of "female escorts."
23 Escort is the euphemism used to describe what I was
24 shopping for.

25 I found an add that I estimated to be the

1 sleaziest one, a neck down photo of an attractive looking
2 young woman in black lingerie posing in front of a bed.
3 The ad was naughty. It appeared to be what I was looking
4 for.

5 I called the number and I invited the female
6 voice that answered to come over to my apartment. The
7 evidence will show that this indulgent little birthday
8 gift to myself is going to go completely awry. I probably
9 wasn't completely comfortable with what I was doing to
10 begin with. It was immorally, objectionable as all hell.

11 The cliché that if you don't want to tell your
12 mother about it, you probably shouldn't be doing it. It
13 still has merit even at my grown age. I had invited a
14 stranger from a questionable website, backpage.com, into
15 my home.

16 We'll hear testimony that during this
17 encounter -- we'll hear testimony regarding this
18 encounter. The State is going to try to present a case to
19 you that I behaved as a petulant boy. That this escort
20 denied me sexual services and so that I acted violently.

21 They'll try to find the evidence to support the
22 statements made by Emily Elliott, that I assaulted her
23 sexually. But it doesn't exist. They'll claim that I
24 then chased her out into the parking lot menacing her with
25 a gun firing it into the air. They'll try to find

1 evidence to support Ms. Elliott's report that I then
2 levelled my arm toward her and I fired a gunshot directly
3 at her with the intent to kill her. The State will fail
4 in this endeavor.

5 The physical evidence doesn't exist to support
6 their story. The evidence that does exist tells a
7 different story. The witnesses that we'll hear from,
8 their testimonies will tell a different story. The truth
9 is a different story.

10 The story of the escort ends at 9:47 p.m. with
11 the taillights of her car rounding the corner at the end
12 of my street and leaving my view. The next story begins
13 two-and-a-half hours later at 12:17 in the morning. This
14 story ends even worse than the first. This story includes
15 me experiencing the most horrible terror of my life. A
16 potentially lethal pair of wounds, the threat to the lives
17 of two feckless innocent police officers.

18 The State is going try to present to you that a
19 reasonable person in my place would have known that the
20 people in my backyard were police officers. The State is
21 going try to persuade you into believing that I actually
22 did know that the people in my backyard were police
23 officers.

24 It will be argued that I should have expected
25 police to show up because I had shot at someone. But the

1 evidence will show that I didn't shoot at someone. I put
2 a gunshot into the air to scare away a Backpage escort
3 that I thought might have mace or pepper spray or worse, a
4 gun herself.

5 I shouldn't have expected police because escorts
6 don't call police. Escorts generally fall on the wrong
7 side of law enforcement.

8 MS. DECKER: I'm going to object, again, Your
9 Honor, this is argument.

10 THE COURT: Okay. You can go on and explain the
11 facts and circumstances as you see them arguing though
12 with regard to that would be speculative.

13 MR. ST. GEORGE: Understood, Your Honor.

14 There's evidence in the case to demonstrate
15 this, but I'll go on from where I left off. Thank you.

16 If I thought anyone would call police, it would
17 have been a neighbor reporting a loud noise in the parking
18 lot. But it was July. If police had come out, they
19 probably would have concluded it must have been a bottle
20 rocket or a fire cracker.

21 They're going to try to make the evidence appear
22 as though I willfully menaced these two people with a
23 big-ass shotgun, as they'll call it. They're going to try
24 and convince you that I assaulted this pair of people,
25 knowing that they were police officers. They're going to

1 do everything that they can to make you believe that I
2 went out into the dark of night and intentionally,
3 deliberately and knowingly attempted to murder two
4 Lakewood police officers. The State will fail.

5 The State is going to try and convince you that
6 you don't like me. They need you to dislike me. Feelings
7 cloud judgment. The State needs you to ignore the
8 objectivity of evidence and make a feeling judgment of me.
9 They're going to tell you that I was soliciting sex from
10 an escort. I'm not charged with solicitation though.

11 They're going to present evidence to you that I
12 was drinking. They're going to tell you I was slurring my
13 speech, that I was drunk. I'm not charged with being
14 drunk though. They're going to tell you that I'm a pro
15 Second Amendment gun carrying, Southerner redneck.
16 I'm not charged with being a redneck.

17 The district attorney may parade around the
18 courtroom with a mock-up version of my shotgun pumping
19 shells out through it and trying to scare you. My shotgun
20 is scary. It's a dangerous weapon. It's meant to be
21 scary. I'm not dangerous or scary. I've not been charged
22 with being scary either.

23 The evidence will show that after repeated phone
24 calls and no signs of police, I got frightened. I thought
25 that someone was outside who wanted to hurt me. The

1 evidence is that I had reason to think that someone might
2 be out to hurt me. The unknown callers were luring me
3 out, and when I went out unarmed, I couldn't see anyone.
4 There were no signs of police. If the callers were not
5 police, then it would be reasonable to think that the
6 callers were someone sent by the escort.

7 I did scare her off with a gunshot. It would be
8 reasonable to think that someone might come out for some
9 payback. The evidence will show that then and only then,
10 did I go fetch up my big-ass scary shotgun. Evidence will
11 show that I went out to my back porch and I made a sound
12 that translates into every human language, the loud
13 echoing crack of a shotgun being racked. In every
14 language known to man, that sound means leave. And all
15 signs showed that the message was heard loud and clear.

16 I didn't receive anymore phone calls from
17 blocked IDs, there was nobody there. There was no sounds
18 but the loud din of summer, air and crickets in it. The
19 evidence is that I stood there with only the sound of
20 crickets for six long minutes. For six long minutes I
21 convinced myself that whoever was here, whoever was
22 calling, who was scaring me, they've left and I would have
23 no reason to think that they had been police.

24 Police don't get scared and leave. Had these
25 calls really been police, they would have been -- they

1 would have happened two hours ago. Not now, half past
2 midnight, but they didn't leave. They were hiding.
3 Evidence will show that I started to walk around the
4 building headed towards the front of my apartment.

5 It makes sense to think that if these people had
6 left, I should be able to go out front and see that there
7 are no unfamiliar cars out there. It's almost quarter to
8 one in the morning. There shouldn't be anyone walking
9 around. Even if there is a late night dog walker, I'll
10 probably recognize them. It's a little neighborhood. I
11 know most of the dog walkers from seeing them around.

12 I never make it to the front of that building.
13 There's someone hiding. They're hiding behind a truck.
14 That person knows I'm coming. That person has been
15 watching me all night. That person was looking through my
16 back windows. That person knows I have a shotgun. They
17 heard me wrack it. That person is crunched down low so as
18 not to be seen. That person is hiding behind a truck
19 tire. That person has a gun too. That person has the gun
20 drawn up and as it pointed at me when I come around the
21 south side of the pickup truck.

22 As the jury, I ask you to pay special close
23 attention to the following facts as they're brought out in
24 testimony and in evidence. My neighbors will all testify
25 to having heard one loud sound around 9:45, if they heard

1 any sound at all. Nobody will testify to having heard two
2 sounds around that time. The physical evidence will show
3 that only one gunshot in the parking lot, not two. Only
4 one bullet casing was found in the street. Only one round
5 was missing from the gun that fired it.

6 Police detectives attempt to confuse the four
7 rounds missing from one gun with the single round missing
8 from another. The one gunshot at 9:45 p.m. and the four
9 gunshots at 1:00 a.m. are completely separated events,
10 separated by more than three hours.

11 My neighbors did not know that there were police
12 in the area. They called 911 to report the gunfire at
13 12:45 a.m. Had they known there were police in the area,
14 they would have had no reason to call 911. I did not know
15 there were police in the area and I called 911 to report
16 that I've been shot at the 12:45 in the morning.

17 My neighbors report that they did not hear any
18 sounds of police. Never once did anyone hear, "Lakewood
19 police. Hands up. Drop your weapon." Not until after
20 1:00 a.m. after all the gunfire did they hear police. The
21 police will, themselves, testify that they never shout
22 out, Mr. St George, we're over here. We're the ones who
23 have been calling you. We need to talk.

24 The police detectives who investigated this case
25 have omitted that I exited my house two separate times to

1 look for identification of the unknown callers. They omit
2 this part so that they can imply that I was immediately
3 hostile and that I was threatening police with a weapon
4 without looking first.

5 Police investigator's seized my computer and my
6 cell phone. You'll hear testimony that they searched
7 those for evidence of aggression towards police. They
8 interrogated my friends, asking if I was overtly
9 aggressive toward police. Detectives wanted to bring to
10 trial the evidence that I hate police, that I'm biased
11 against police. They ignore the evidence on my computer
12 that I have clientele that are military and police.

13 MR. FREEMAN: Your Honor, I'll object.

14 MR. ST. GEORGE: Military and police --

15 THE COURT: Sustained.

16 MR. ST. GEORGE: The evidence will show they
17 ignored the policemen that are my friends on Facebook.
18 The evidence will show they ignored my search history.

19 MR. FREEMAN: Your Honor, I'm going to object to
20 argument.

21 THE COURT: I'll sustain this objection.

22 MR. ST. GEORGE: This evidence is on the record,
23 Your Honor.

24 THE COURT: I'm sustaining the objection. This
25 is opening.

1 MR. ST. GEORGE: You on the jury will take note
2 that Devon Trimmer's account of the gunfight is not
3 supported by physical evidence, by forensic evidence or by
4 witness statement. Her account is a deliberate
5 fabrication intended to convince you that I ought to have
6 known that she was a police officer. It is false and the
7 evidence show it.

8 Jason Maines' account of the gunfight will
9 demonstrate that it was difficult to see due to lack of
10 lighting. His testimony will be that he was hiding in the
11 shadows or behind bushes the entire night, that he was
12 never able to be seen as a uniformed police officer. He
13 will even testify that at one point he mistook me to be
14 one of his officers. He was not able to clearly discern
15 that I was not.

16 The testimony of additional police officers will
17 show that I immediately stood down once a clear police
18 presence was known. Matt Lebsack, Dan Shube, Chris
19 Alfano, Ryan McKalip, Jason Frink, these Lakewood police
20 officers will all testify that when they shouted to me to
21 put my hands up, I put my hands up. When they ordered me
22 to drop my weapon, I dropped my weapon.

23 When I saw their uniforms, saw their badges
24 heard their police commands, that I immediately submitted
25 to them. When they communicated with me, I clearly

1 communicated back. I repeated their orders and complied
2 with them making it clear to them that I was hearing and
3 complying with their orders.

4 There will be a lot of information presented
5 throughout this case. It may seem overwhelmingly
6 difficult or complex. It may be, at first glance, an
7 overload of testimonies, statements, physical evidence,
8 and experts, competing voices.

9 It could have all been avoided. There was no
10 reason for this to have ever happened. However, members
11 of the jury, you will look to the evidence which distills
12 down to two quite simple facts in order to render a
13 verdict. There was only one gunshot early in the night,
14 not two. And that the police did not properly identify
15 themselves in order that a reasonable person could
16 conclude that they were police. That's all. The whole
17 case comes down to one gunshot and that I did not believe
18 that they were the police.

19 Once the evidence of those two facts are
20 thoroughly demonstrated, once the false stories are
21 dispelled, we have one more story to write together. This
22 one is going to be a different story, a story with a happy
23 ending. The story begins here in this court today and it
24 ends with, 'And then he went back to his life, to his
25 friends and to his family. He went home not guilty.'

1 Thank you.

2 THE COURT: You may call your first witness.

3 MR. FREEMAN: Judge, I just need a moment to
4 speak with her.

5 THE COURT: Surely.

6 (Pause in the proceedings.)

7 MR. FREEMAN: Judge, we'll call Emily Elliott.

8 EMILY ELLIOTT,

9 having been called as a witness on behalf of the People,
10 being first duly sworn, testified as follows:

11 THE COURT: Have a seat, please.

12 THE WITNESS: Thank you.

13 DIRECT EXAMINATION

14 BY MR. FREEMAN:

15 Q Good afternoon. Would you please state your
16 full name and spell your last name for us?

17 A Emily Katherine Elliott, E-l-l-i-o-t-t.

18 Q And, Ms. Elliott, without telling us your date
19 of birth, can you tell us how old you are?

20 A I'm 24 years old.

21 Q And without telling us your address, can you
22 tell us what city you live in?

23 A I live in Parker, Colorado.

24 Q What do you currently do for a living?

25 A I'm a pharmacy technician.

1 Q For about how long have you been a pharmacy
2 tech?

3 A About six months now.

4 Q Okay. I want to draw your attention back to the
5 evening of July 31st of 2016. Did you do a different kind
6 of work back then?

7 A I did, yeah.

8 Q And what did you do?

9 A Basically an exotic dancer, private exotic
10 dancer.

11 Q Okay. And as of that date, as of July 31st of
12 2016, about how long had you been doing that kind of work?

13 A Maybe about eight months.

14 Q Okay. Did you work for a particular company or
15 a particular service?

16 A Yes, I did, I worked for Denver Ladies.

17 Q Okay. Describe how you would -- how you would
18 meet clients, how you would go about doing that sort of
19 employment?

20 A They made my ads for me. I never had anything
21 to do with my ad books. They would take my phone calls
22 for me and screen the callers. They would then decide if
23 it was okay, safe enough for me to go over there and then
24 they would call me and give me a name and a location to be
25 at and when to be there.

1 Q Okay. And when you responded to those sorts of
2 dispatches, to a location, what sort of services did you
3 provide? What did you do?

4 A It was a full striptease. It went into a body
5 massage and kind of what was called, like, a body glide,
6 which is where I would rub my body on your body.

7 Q Okay.

8 A Yeah.

9 Q Did you provide sexual services?

10 A Absolutely not.

11 Q Okay. Was that made clear on the advertisement
12 that was posted?

13 A That's the thing my company was never very up
14 front with that, so that was one of the first
15 conversations that I would have with every client right
16 when I walked in the door. These were my services I
17 provide, sorry if that was a misunderstanding so on.

18 Q And did you find at times that some clients were
19 expecting or hoping for sexual services?

20 A Yes, definitely.

21 Q When that came to your attention, that's at
22 least what they were hoping for or expecting, how did you
23 deal with that?

24 A Well, I mean, in situations like that, I was
25 mostly just concerned about my safety at that point

1 because I'm not going to do nothing that I don't feel
2 comfortable doing. So I just found it to be the best way
3 to be very up front and just tell them right off the bat
4 before -- you know, usually before any money was
5 exchanged, before anything was exchanged, it was very
6 clear that, look, I may not be exactly what you're looking
7 for tonight.

8 Q Okay. And were there times that when you
9 determined that the client was wanting sexual services
10 that you left, you didn't get any money, you didn't do
11 anything?

12 A I'm sorry, one more time?

13 Q Did it ever occur that when you showed up and
14 met a client and you determined that they wanted sexual
15 services, that you just left without doing anything?

16 A Yeah, a lot of the times, I did. My company
17 asked for a cancellation fee but, you know, sometimes it
18 just didn't work out that way. And like I said, I'm more
19 concerned about my safety in situations like that so...

20 Q Okay. Were there ever times when you got there
21 and in speaking with a client, it was determined that they
22 wanted some sort of sexual services and you got your
23 dispatcher or somebody from Denver Ladies involved to sort
24 of mediate the situation?

25 A Yes. I was not allowed -- under my company's

1 guidelines, I was not allowed to leave a call empty handed
2 without calling them first to let them know that this was
3 going on so they can try to kind of mediate and maybe get
4 the client to end up keeping me anyway despite the lack of
5 services.

6 Q So sometimes somebody from Denver Ladies would
7 be put on the phone with your clients --

8 A Yeah. Yeah, very often.

9 Q -- and try to talk to them?

10 A Yeah, and I always had to call and check in just
11 for my safety and all that.

12 Q Okay. And you mentioned your safety a couple of
13 times. Did you go to these calls by yourself?

14 A Yeah, a lot of the times I did. After this
15 whole ordeal, I did have my brother start driving me. But
16 he never had any contact with any of my clients ever,
17 so...

18 Q Prior to this event, did you ever have anybody
19 come with you, a body guard, security, boyfriend?

20 A No, I always felt like I was okay enough if I
21 just checked in, you know, and, like, if they asked if I
22 needed coffee, which was the code word or are you okay, do
23 you need us to call you back. If I told them I needed
24 coffee, that I felt pretty confident that they would call
25 me back with it and I would be okay.

1 Q Okay. And I might ask you about that a little
2 bit later.

3 Let's go back to your ad, did your ad have a
4 picture of you?

5 A Yes, they had several pictures of me.

6 Q Were they sort of sexy picture?

7 A Yeah.

8 Q Did it describe some of the services that you
9 might be able to provide to somebody who is interested?

10 A I mean it basically, from what I remember, the
11 few that I have seen from the company. It was more like,
12 Oh, I'm just there to keep you company, there to you give
13 you a good time. You know, like, I'm beautiful, whatever.
14 You know all that kind of stuff was said in the ad, but
15 never really full disclosure on, like, what's to be
16 offered and what's not.

17 Q Okay. How about cost, was cost in the ad?

18 A I don't recall if cost was ever in the ad, but
19 it was also discussed at least with a client from the
20 operators end. That was something that they always
21 discussed before I got there and met the client. Just so
22 that I wasn't the one having to have that conversation
23 with them.

24 Q How many did you charge for the type of services
25 you described, the striptease?

1 A \$220 an hour.

2 Q And were you to be paid in cash.

3 A You could pay me in cash. I also could take an
4 imprint of your card and give that to my company later to
5 give to their accountant.

6 Q Okay. And I want to talk to you about -- a
7 little bit more about the ad. Did it have a name for you
8 on the ad?

9 A Yeah, my stage name was Effy.

10 Q And how is that spelled?

11 A E-f-f-y.

12 Q You didn't have your real name on the ad?

13 A No, of course not.

14 Q Okay.

15 MR. FREEMAN: Judge, I've got a few photos I'd
16 like to have given to Ms. Elliott.

17 THE COURT: All right.

18 MR. FREEMAN: Do you know what, I'm sorry. I
19 don't know why that one was set aside.

20 Q (BY MR. FREEMAN) So I think the first couple
21 might be in relation to that ad. Can you take a look at
22 just those first two and see if you recognize what is
23 depicted?

24 A Yeah, this one, this is my ad, one of them.

25 THE COURT: Could I get the number?

1 Q (BY MR. FREEMAN) Can you read the numbers off
2 the bottom of those on that sticker?

3 A Yeah, it's Exhibit 8, and then do you need me to
4 read the case number?

5 Q No, what's the next one?

6 A Exhibit 82 and Exhibit 9.

7 Q (BY MR. FREEMAN) I'm sorry, let's just talk
8 about 8 and 9. I think I handed them to you a little bit
9 out of order. Do you recognize what's depicted in 8 and
10 9?

11 A I don't know if Colorado Beauties was a
12 different site that my former employer Cedric used, but I
13 was only ever advertised on Denver Ladies and Backpage to
14 my knowledge.

15 Q Okay. And do you recognize the ad as being
16 either one of those?

17 A Not this particular ad. At least not at the top
18 here. But these are the pictures that they usually used
19 for me.

20 Q Are these the type of ads that were put on the
21 Internet for you by Denver Ladies?

22 A Yeah, yeah.

23 Q Similar to those?

24 A Yeah, this is basically a standard ad for me.

25 Q And you said you recognize those pictures as

1 being the same?

2 A Yeah, these pictures used in the ad, those are
3 my pictures.

4 Q Okay. Drawing your attention back to that
5 evening, July 31st, were you working as --

6 A Yes.

7 Q For Denver Ladies?

8 A Yeah.

9 Q I want to make sure I use your job title right.
10 How did you want to be job titled, dancer, entertainer?

11 A Yeah, entertainer.

12 Q Were you working as an entertainer that evening?

13 A Yes. Yes, I was. Yeah.

14 Q At some point did you get a call from your
15 dispatcher indicating you that you had somebody named Eric
16 who was interested in you and they lived in Lakewood?

17 A Yes. I did receive a phone call about that.
18 Usually they would just call and say, Hey, I had a call
19 for you and I would say okay, get off the phone and text
20 me the information.

21 Q And by texting you the information, the address?

22 A Yeah.

23 Q And do you remember the particular address that
24 you were sent to in Lakewood that evening?

25 A Not the number, but I do remember West Eastman

1 Place or something to that effect.

2 Q Is that a part of town that you were familiar
3 with back then?

4 A No, I mean, I kind of drove all over the place
5 with that job. So I kind of knew about the area, like,
6 towards the highway, but not anywhere near his
7 neighborhood.

8 Q Okay. And had you ever been dispatched to this
9 specific address and this person Eric before?

10 A No, this was the first time I ever met him.

11 Q And do you recall about what time it was that
12 you were told that you were to meet Mr. Eric?

13 A I don't recall.

14 Q Okay. Was it evening? Was it afternoon?

15 A It was evening, yeah.

16 Q Okay. And did you go to that address?

17 A I did, yes.

18 Q And prior to getting there, did you speak over
19 the phone with Eric, with the client?

20 A No, I did not. My operator only took my calls.
21 So first initial contact that I had with any of my clients
22 was meeting face-to-face.

23 Q Okay. And when you met face-to-face, was that
24 at the address at the unit that was texted to you by your
25 dispatcher?

1 A Yeah. Yeah, sometimes it was a house or
2 apartment, a restaurant even, it didn't matter, but that's
3 where I would go.

4 Q Okay. On this particular evening, you said the
5 first time you spoke to him is when you met him
6 face-to-face?

7 A Yes.

8 Q Do you remember the type of residence, the type
9 of complex it was that you went to?

10 A It was like, it was kind of like a duplex-style
11 apartment.

12 Q Okay.

13 A Doors on either end.

14 Q Did you have any trouble finding his particular
15 door or his particular unit?

16 A I think I wandered for a second, but I ended up
17 finding it so...

18 Q What kind of vehicle were you driving back then?

19 A I think I had my Volkswagen Passat back then.

20 Q Do you remember what color it was?

21 A It was gray.

22 Q Just so we're clear, did you arrive alone?

23 A Yes, I did, yeah.

24 Q Do you remember where you parked?

25 A If his door -- if you're facing this way, that's

1 his door, then I parked more towards the right end of the
2 apartment.

3 Q A short walking distance from his apartment?

4 A Yeah. A short walk, yeah.

5 Q When you got there, just when you were outside,
6 could you hear anything going on or was it quiet?

7 A It was quiet.

8 Q You knocked on the door?

9 A Um-hum.

10 Q Somebody answered?

11 A Yes, he answered.

12 Q When you say "he"?

13 A Eric St. George.

14 Q Do you see him in court today?

15 A Yes.

16 Q Okay. And can you tell us where he's sitting
17 and what he's wearing?

18 A He's sitting right there (indicated) and wearing
19 that suit.

20 Q I've got three guys in suits. Can you tell me
21 what shirt, what color shirt?

22 A Blue shirt, dark tie, dark coat.

23 Q A little bit longer hair than the other two?

24 A Yes, yes.

25 MR. FREEMAN: Judge, may the record reflect

1 she's identified the defendant.

2 THE COURT: The record reflects.

3 Q (BY MR. FREEMAN) When you went to is apartment,
4 was anybody else there. I'm going to call him the
5 defendant from now on. Was there anybody else there
6 besides the defendant?

7 A No, it was just me and him.

8 Q Okay. Did he invite you in?

9 A Yeah.

10 Q And what was the initial conversation?

11 A Well, I always, you know, was really friendly
12 when I walked into a client's house. So I was very
13 friendly with him. I gave him a hug, you know, asked him
14 how he was and all that, and we walked into his kitchen
15 and we began talking, kind of about, what I offered and
16 what I don't.

17 Q Okay. And during that conversation, was there
18 any point at which you became concerned that he might want
19 sexual services that you weren't willing to provide?

20 A Yeah. Not initially when I kind of described
21 what it was that I did offer and that my, you know,
22 operators, unfortunately, we're not always very up front.
23 That's when I kind of realized that he was looking for
24 something a bit more than what I was willing to offer.

25 Q And how did you deal with that?

1 A I described to him, you know, what I do offer.
2 I asked him if he wanted to keep me. He said, No. I said
3 then I do have to call my agency and let them know that
4 this was going on and that they were going to try and kind
5 of coax him into keeping me, you know, and that's what we
6 did. We called my agency.

7 Q Okay. Did you use your cell phone?

8 A Yes. I did, yes.

9 Q Was it on speakerphone?

10 A Yeah, I did put it on speakerphone at one point.
11 Kind of at the beginning of the initial conversation.
12 From the tapes that I had, it sounds like I took it off of
13 speakerphone and that sounds about right to me. I usually
14 would put it on speakerphone after they, you know, said
15 what they needed to say to them, and it was more of a
16 private conversation between me and her at that point.

17 Q Okay. Do you remember the name of the
18 dispatcher that was on the phone with you that night?

19 A Daundrea Bryant. I never really met any of my
20 operators so...

21 Q Was that somebody that you had dealt with in
22 that line of work?

23 A Yeah, she had booked calls for me before.

24 Q Okay. So did you participate, or at least,
25 listen in to the defendant's call with Daundrea?

1 A No, no, no. I never heard it until I was shown
2 it later.

3 Q Okay. During that call, did it appear that she
4 was able to convince him to keep you?

5 A Yes, uh-hum, yeah.

6 Q And did he indicate to you that he was willing
7 to keep you?

8 A Yes.

9 Q Despite your representation that you would not
10 provide any sexual services?

11 A Yes.

12 Q You mentioned earlier this sort of safety
13 protocol that you had about asking for coffee. Can you
14 explain a little bit more about that?

15 A Yes. So basically once I checked in and, you
16 know, I let me company know that I was there, that I was
17 with a client, that I collected my money and all that kind
18 of stuff. They asked, would you like any coffee, which
19 was code for, do you want me to call you in 10 or 15
20 minutes and check on you. And that night I did request
21 coffee so...

22 Q Why is that?

23 A Because I felt uncomfortable. There was just
24 something very off about the environment and just
25 something not right.

1 Q Can you explain what was it about the
2 environment that made you uncomfortable?

3 A I mean, there was like a full tent set up in the
4 living room. He had already expressed what he was looking
5 for and, you know, even though -- just because you're
6 going to keep the girl in front of you, doesn't mean
7 you're not going to try something later. So, you know,
8 just for my own safety, I wanted to get that second call
9 back.

10 Q Okay.

11 A Yeah.

12 Q You just said that he expressed what he was
13 looking for. What did he say he wanted?

14 A He used the words "full-service," which was kind
15 of the terminology that one would use for, like, a full --
16 like an escort, like a prostitute, I guess. That's the
17 services that they provide.

18 Q Okay. So did you take his request for
19 full-service to mean that he wanted sexual intercourse?

20 A Yes. Or any kind of sexual contact, you know,
21 rather to touch me or to -- for me to touch him, something
22 like that but, no.

23 Q Okay. Now, let's back up a little bit.

24 A Yeah.

25 Q When you first walked into the apartment,

1 describe what he's wearing?

2 A He had on, like, a light pare of shorts. I
3 don't remember what color his shirt was.

4 Q Okay. Dressed casually?

5 A Yeah, very casual.

6 Q Do you recall if he was drinking any alcohol?

7 A I do recall him taking, like, a couple sips of
8 wine out of a glass, but nothing that would make me think
9 that he was, you know, overly intoxicated.

10 Q Okay. Did you drink any alcohol when you were
11 there?

12 A No.

13 Q Had you drank any alcohol or taken any drugs
14 before you got to his unit?

15 A No, I do not get intoxicated. I would never get
16 intoxicated doing that type of work that I was doing.

17 Q Okay. Have you been around people that are
18 intoxicated?

19 A Oh, yeah.

20 Q Do you know some of the outward symptoms that
21 people display who are intoxicated?

22 A Yeah, slurring, can't stand very well, kind of
23 doesn't make a lot of sense.

24 Q Okay.

25 A Rambling, that kind of thing.

1 Q When you were in the defendant's unit, did he
2 appear to be intoxicated to you?

3 A Not -- not like overly intoxicated. I can't
4 really say that he was or wasn't, but not outwardly, like,
5 blatantly.

6 Q Okay. I know it's hard to quantify, I'm not
7 asking like how many drinks he had or something like that.

8 A Yeah.

9 Q But maybe on a scale of one to ten, one being
10 completely sober, ten being like passed out drunk? Just
11 give us an idea.

12 A Maybe two or three.

13 Q Okay.

14 A He really didn't strike me as intoxicated.

15 Q But drinking a little bit but not intoxicated?

16 A Yeah.

17 Q So you're there, you describe the services
18 you're going to provide. You said there was a tent in the
19 living room. Did you also see a very large aquarium?

20 A Yes, I did, yeah.

21 Q Did you notice when you were in his unit any
22 firearms, and when I say "firearms," handguns, rifles?

23 A No, that was usually something that I looked for
24 right off the bat, and I never saw anything like that. I
25 mean, once we were in the bedroom, I was more concerned

1 about watching his hands than anything else so...

2 Q Okay. Did you have any weapons with you?

3 A No.

4 Q Anything like pepper spray or a gun or anything?

5 A I might have had mace on me at the time but I
6 didn't use it at all.

7 Q Okay. And where would you carry it?

8 A It was on my keys is always usually where I keep
9 it.

10 Q Like one of those little canisters?

11 A Yeah, like the little things, yeah.

12 Q Do you know for sure if you had it that night?

13 A I don't. I don't, but at that time I did have a
14 mace back then but I could have had it.

15 Q All right. You talked about the bedroom. Once
16 he agreed to keep you and you started -- you decided to
17 stay, did you move to the bedroom?

18 A Yes, yeah.

19 Q Okay. And can you describe the bedroom?

20 A Just a bed with no bed frame. Just very simple
21 basic room. Just very plain.

22 Q Okay. Did you notice any firearms when you got
23 into that room?

24 A No.

25 Q What did you do when you got in the bedroom?

1 A Well, you know, we're talking, I'm kind of like,
2 you know, trying to joke around and everything like
3 lighten the mood because that was obviously just a very
4 awkward phone call me and him just went through. Yeah --
5 no, then I guess I began my show, so I started the
6 striptease.

7 Q Okay. And where were you when you did that?

8 A He was laying on the bed and then I was on top
9 of him.

10 Q Okay. And so were you physically touching him?

11 A I was like straddling him, you know, kind of
12 like rubbing his chest and stuff like that, and, yeah,
13 that's kind of the position.

14 Q Before you started doing this striptease, did
15 you ever tell him any do's and don'ts or lay any ground
16 rules?

17 A I mean, I made it very clear that
18 during -- before the whole phone conversation with my
19 operator had happened, that, like, I'm not going to touch
20 you down there, you're not going to touch me down there.
21 That's not going to happen.

22 Q Okay.

23 A So, I mean, I feel like I set the ground rules
24 not in the bedroom but prior to that.

25 Q That was out in the kitchen?

1 A Yes, yeah.

2 Q Okay. And what happened as you started doing
3 the striptease?

4 A You know, he's got his hands on my thighs and
5 stuff like that, which, you know, is okay with me, that's
6 fine. That's something that I'm okay with. And then his
7 hands started to wander towards my genitals, I guess, and
8 I pulled his hand back once and was like, no, we're not
9 going to do that. And he seemed okay with it, and he was
10 like, okay, whatever.

11 And, you know, just went on about the show and
12 he proceeded to do it again. And I told him that I didn't
13 want to have to warn him again, that please don't do that,
14 like I don't want that. And then he got a little bit more
15 aggressive and really grabbed me that time, you know, on
16 my genitals, and then I pushed him off and let him know
17 that I was leaving.

18 Q Okay. Let me back up a little bit. When you
19 started the striptease, was he still wearing the same
20 clothes that he answered the door in?

21 A I took off his shirt, and I believe he took off
22 his pants before he got onto the bed, so he was in his
23 boxers.

24 Q What color were the boxers?

25 A Black.

1 Q So he's just wearing boxers, not wearing
2 anything else?

3 A No.

4 Q Okay. And you describe you're sort of
5 straddling him, his hands on your thighs. The first time
6 he touches your genital area, what are your wearing at
7 that point?

8 A I'm wearing a bra and my panties because I only
9 had a dress on. So it was very quick to come off, I
10 guess.

11 Q Okay. Does he touch in your genital area over
12 your panties?

13 A Yes, yeah.

14 Q Okay. And do you recall which hand he used to
15 do that and how he did that?

16 A I don't really --

17 Q I don't want to embarrass you, but it's
18 important.

19 A I don't recall which hand he used.

20 Q What did you tell him when he did that?

21 A No, that's not allowed, that's against the
22 rules.

23 Q Do you recall telling him to watch his hands?

24 A Yeah.

25 Q How long until he touched you the second time

1 down there?

2 A Not long, like, maybe about five, ten minutes.

3 Q Okay. And did he do it in the same way or a
4 different way?

5 A Well, they started wandering again, and then I
6 kind of caught them and was, like, I told you that's
7 against the rules, we're not going to do that, yeah.

8 Q Okay. So the second time, did he actually touch
9 you genital area?

10 A No, he got very close to it and then the third
11 time was the actual grab.

12 Q Okay. And, I'm sorry, again, can you describe
13 what he did the third time?

14 A It was like a serious grab, like grabbed my
15 whole panties, like the whole panty area and it wasn't
16 cool.

17 Q Okay. Okay. Did it cause you any pain?

18 A No, it just, like, was very shocking and very
19 uncomfortable, and just kind of, like, Oh, my gosh. So
20 we're not going to let this go any further at this point.

21 Q So what did you say to him?

22 A Excuse my language, I said, Fuck you, I'm
23 leaving.

24 Q And what did he say?

25 A He said, "No, you can't leave. You can't

1 leave," and, you know, he's saying, "Effy, Effy, please
2 wait, please wait." I put my dress on and he said, "Well,
3 you can't leave," and I'm like, "Well, I'm leaving." And
4 he said, "Well, you still have my money." And I said, "I
5 don't care."

6 And I walked -- and I started to try and leave
7 the door. He walked in front of the doorway, and I had to
8 push past him.

9 Q So you said you had his money, how much had he
10 paid you?

11 A He paid me the 220 for the hour.

12 Q And that was in cash?

13 A Yes.

14 Q And what part of the unit did that take place?

15 A That happened in the kitchen.

16 Q Okay.

17 A Yeah.

18 Q And before there was any striptease or anything,
19 he pays you up front?

20 A Yeah, that's the way it works, yes.

21 Q Okay. So then you go to leave and he says, You
22 can't leave, you've got my money?

23 A Yeah, and in my mind, you know, the show is
24 pretty much halfway over anyway and you're inappropriate,
25 so I don't care if that's your money, it's mine now.

1 Q And I was going to ask you, do you know about
2 how long you had been there when you got up to leave?

3 A About half an hour.

4 Q And you said that he sort of stood in the
5 doorway, is this the doorway --

6 A To his bedroom.

7 Q Okay.

8 A Yeah.

9 Q That leads out into the hall?

10 A That leads out in the hallway to the kitchen
11 area toward the front door.

12 Q Did he physically block you from leaving his
13 bedroom?

14 A He stood in front of the doorway and I pushed
15 past him. I wouldn't say he got physical with me.

16 Q So you didn't have to use a lot of force to get
17 by?

18 A No.

19 Q What did you do once you got out of the bedroom?

20 A I went straight for the door and then started to
21 go to my car and I began to call my agency and let them
22 know that this was not a safe place and I was leaving.

23 Q And you might have mentioned this, but before
24 you left his bedroom, did you put your dress back on?

25 A Yeah, I did.

1 Q Did you have all your personal -- like your
2 purse, like, cell phone and things?

3 A Um-hum, yeah.

4 Q You said you called your dispatcher, do you know
5 about at what point you called?

6 A As I was walking out of the door to leave,
7 that's when I was on the phone with her. She answered
8 about the time that I got out the door.

9 Q Okay. The area just outside his front door, can
10 you describe that area?

11 A It's like here's the front door, and it's kind
12 of like this little, like, weird turndown like this
13 hallway.

14 Q Okay. Is it like an outdoors -- it's outside
15 his unit, but is it sort of a covered hallway?

16 A Yeah, it's a covered hallway and then a walkway
17 that leads into this covered hallway.

18 THE COURT: Mr. Freeman, we're going to have to
19 stop for a second. I'm going to ask the jury to step out
20 for just a minute so we can discuss an issue.

21 MR. FREEMAN: Okay. Do you want Ms. Elliott to
22 remain?

23 THE COURT: It's fine.

24 (The jury left the courtroom.)

25 THE COURT: I really just needed to discuss the

1 timing and the long day that the jury has had today.

2 MR. FREEMAN: Okay.

3 THE COURT: So my thought is we're not going to
4 be able to complete this witness today?

5 MR. FREEMAN: No, not unless we stay until,
6 like, seven o'clock.

7 THE COURT: I was thinking that it would be a
8 lengthy time and I wanted to find a good place for you to
9 stop. So my thought was we invite the jury back in,
10 perhaps a couple more questions and then I'm going to tell
11 them that we're going to stop for the evening.

12 MR. FREEMAN: Judge, it's fine. We've already
13 broken, if you want to call it right now. I don't know
14 that there's a better place to stop, that's fine.

15 THE COURT: Okay. Then we'll have you step
16 down.

17 THE WITNESS: Thank you.

18 THE COURT: So we're going to stop for the
19 evening. I'm going to give -- the jury is going to come
20 back -- you can go ahead. We're going to give -- I'm
21 going to give the jury instructions, and then I'm going to
22 have the jury back here at 8:30 tomorrow morning so...

23 MR. FREEMAN: All right.

24 THE COURT: The witness can be excused.

25 (The witness was excused.)

1 THE COURT: All right. Mr. St George?

2 MR. ST. GEORGE: I'm fine, Your Honor.

3 THE COURT: Okay. I just didn't want to do that
4 all in front of the jury. So we'll bring the jury back
5 out.

6 (The jury entered the courtroom.)

7 THE COURT: Everybody be seated, please.

8 Ladies and gentlemen, I'm sorry for the
9 interruption we just had. I needed to speak with the
10 attorneys a little bit about scheduling and it's really a
11 good time to stop for the evening. It's been a very long
12 day.

13 So this is what's going to happen, you're going
14 to go home, people are going to say to you, You were there
15 all day. You must be on a jury. If you could tell them,
16 yes, and I'll tell you all about it at the conclusion of
17 the case.

18 Please don't discuss the case with anyone in any
19 way you could consider, electronically, old school
20 speaking, don't discuss the case in any way. Don't do any
21 research about the case. Don't take a drive to any
22 locations you've heard about. Keep an open mind and we
23 will begin at 8:30 tomorrow morning.

24 If you would gather at the area by the elevator
25 overlooking the atrium, we'll take you into the courtroom.

1 I generally have other matters at eight o'clock, so we'll
2 bring you back. So if you could be here at 8:30, we'll
3 resume testimony. Thanks so much.

4 (The jury left the courtroom.)

5 THE COURT: Okay. Is there anything -- any
6 issues we need to deal with right now?

7 MR. FREEMAN: Judge, just one concern.
8 Defendant mentioned in his opening statement that they
9 apparently have some recorded phone call with Ms. Elliott.

10 I don't know what his intention is, whether he
11 intends to play it or not. Obviously, we don't have a
12 copy. I would object to it being played unless we get a
13 chance to hear it first. So just to bring that to the
14 Court's attention. I don't know what they've got and I
15 don't know what they're intentions are.

16 MR. ST. GEORGE: Wow. Your Honor, the recording
17 that I mentioned is in discovery. It was one of the very
18 first items that was ever given to me. We have a copy.
19 We're more than welcome to return a copy back to the
20 People if they need one, and I have no intentions of
21 playing it unless I need it in order to impeach the
22 witness.

23 THE COURT: Okay. So, Mr. St George, what
24 you're saying is the recording that you referenced was in
25 discovery?

1 MR. ST. GEORGE: Yes, Your Honor.

2 MR. FREEMAN: All right. No worries, I thought
3 they that had something they made up on their own.

4 THE COURT: Okay. All right. So if we could
5 have Mr. St George back here about 8:20 tomorrow morning,
6 that would be great. We're going to start testimony at
7 8:30.

8 MR. ST. GEORGE: Your Honor, I have one other
9 question I was going to ask. Is it possible, I can't
10 foresee that we're going to spend the entirety of tomorrow
11 working with Ms. Elliott. Could we have an idea of who we
12 intend to call afterwards?

13 THE COURT: Do you have the next witness,
14 Mr. Freeman, after Ms. Elliott?

15 MR. FREEMAN: Let's see. I think I've got it up
16 right here. So probably we'll go to Agent Brennan,
17 Sergeant Muller, Sergeant Maines, I think we've got Agent
18 Lawcock as well for tomorrow. Possibly we'll get to Agent
19 Trimmer/Meyers.

20 THE COURT: Okay. Thanks very much. We'll see
21 everyone back here tomorrow morning.

22 MR. MENGES: 8:30, Judge?

23 THE COURT: 8:20 for us.

24 MR. MENGES: 8:20.

25 (The proceedings concluded at 5:03 p.m.)

1 REPORTER'S CERTIFICATE

2
3 The above and foregoing is a true and accurate
4 transcription of my stenotype notes taken in my capacity
5 as the Court Reporter for the First Judicial District
6 Court, County of Jefferson, State of Colorado.

7 Dated at Golden, Colorado this 10th day of
8 February, 2019.
9

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11 

12 RICHAEAL M. SILVIA
13 Registered Professional Reporter
14 Certified Realtime Reporter
15 Colorado Realtime Certified Reporter
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*This is an electronically signed transcript.